



COUNTY OF NEVADA COUNTY EXECUTIVE OFFICE

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MEETING DATE: July 17, 2018
TO: Board of Supervisors
FROM: Martin Polt, Deputy County Executive Officer
SUBJECT: Resolution Directing the Purchasing Agent to Issue a Request for Proposals for Conflict Indigent Legal Defense Services

RECOMMENDATION: Adopt the resolution.

FUNDING: There is no fiscal impact from this resolution. Conflict Indigent services are funded by General Fund dollars and the budget for 18/19 includes funding for the estimated costs of those services. If a vendor or vendors are selected as a result of this Request for Proposals (RFP) and a budget amendment is needed, a resolution will be brought to the Board of Supervisors for consideration at that time.

BACKGROUND: The Constitution of the United States and California statutory provisions guarantee the right to legal representation for those facing criminal charges for any person who is not financially able to retain counsel.

In California, the responsibility for providing and funding legal representation for those who cannot afford counsel falls to each individual county. The County meets this responsibility primarily through the County Public Defender's Office. However, when a conflict of interest is present or when the Public Defender's Office is otherwise unable to represent an indigent client, legal representation must be provided by an outside attorney.

While the Superior Court is ultimately responsible for case assignment, the Court and County have a Memorandum of Understanding (MOU) with provisions for coordination of conflict indigent case assignment and management, including that the Court will assign cases to contracted attorneys whenever possible (as it is in the County's best interest to have these services under contract), and agreed upon rates for conflict attorney and other related services. The County maintains contracts with a few conflict attorneys, and the Court gives priority to those attorneys and also assigns cases to other individual attorneys when the contract attorneys are not available. The Court and County work together to process attorney and other related professional service invoices and the invoices are paid by the County through the Conflict Indigent budget, which is funded by the General Fund.

A number of issues have arisen with the current Conflict Indigent model, including:

- No centralized management of the overall process
- Less than clear procedure for the Courts to follow when assigning conflict cases
- Not all cases accepted by contract attorneys
- Billing process is problematic and cumbersome
- Costs are highly variable and difficult to predict
- No participating attorneys in Truckee, low participation in Western County

With the intent of improving the Conflict Indigent program, the County Executive Office conducted a research project to identify models in use in other Counties and whether or not they could be applied here to address some of the current challenges. The attached RFP is the result of this research and the combined efforts of a cohort including County Executive Office staff, County Counsel, the Public Defender's Office and Purchasing, and is intended to award a contract to a consortium of attorneys or a firm that provides the following:

- Central management of the overall process
- Clear procedure for Courts when assigning conflict cases
- 100% case acceptance within contract(s)
- Fee collection from clients who are deemed able to pay
- Streamlined billing process and expense stability
- Coverage for cases originating in Truckee

Understanding that the RFP represents a change to historical practices, County staff has engaged in and will continue stakeholder outreach, including the following key activities:

- Met with Superior Court CEO and presiding judge to gather feedback and buy-in
- Current contract attorneys and other local attorneys notified of coming change and proposed timeline
- Draft of RFP presented to Superior Court judges meeting
- Nevada County Defense Bar notified that an RFP will be forthcoming
- Criminal Court Committee will be notified of RFP timeline at July 10 meeting

Additionally, the attached RFP is proposed to run for six weeks – longer than usual – in order to maximize responses and to give local attorneys sufficient time to organize into a consortium if they are interested in participating.

The next steps are to issue the RFP, select a panel and review proposals (the panel is expected to include a Judge and possibly another representative of the Court), and then bring a proposal to the Board of Supervisors for consideration, along with any budget amendment that may be required.

Item Initiated and Approved by: Martin Polt