



Board Agenda Item 33

DATE: June 6, 2017

TO: Board of Supervisors

SUBMITTED BY: Jean M. Rousseau, County Administrative Officer

SUBJECT: Agreement with Richard A. Ciummo and Associates for Alternate Indigent Defense Services

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute an Agreement with Richard A. Ciummo and Associates for the provision of Alternate Indigent Defense Services effective July 1, 2017, not to exceed five consecutive years, which includes a three-year base contract and two optional one-year extensions, total not to exceed (\$22,733,760).

There is an increase in Net County Cost associated with the recommended action. However, the increase will be included in the FY 2017-18 Recommended Budget and future recommended budgets. The current agreement for Alternate Indigent Defense (AID) ends June 30, 2017. A Request for Proposal (RFP) was issued to prospective bidders on January 6, 2017. One proposal was submitted and a review committee evaluated and rated Richard A. Ciummo and Associates' (Ciummo) proposal as responsive and meeting the County's needs and administrative requirements for AID Services. After the committee evaluated the proposal and provided their recommendation, staff initiated negotiations with Ciummo and is now presenting an agreement for AID Services for your Board's consideration.

ALTERNATIVE ACTION(S):

Non-approval of the recommended action will allow the current agreement for AID Services to expire June 30, 2017 and cause a disruption in the ability for the County to provide these mandated services.

FISCAL IMPACT:

The recommended action results in a Net County Cost increase of 12% (\$432,747) for FY 2017-18 AID services over the current fiscal year cost. The recommended agreement provides for an increase of 5% (\$201,948) for year two, and an additional 5% (\$212,040) in year three. The two optional one-year extensions are as follows: 4% (\$178,116) in year four and 3% (\$138,936) in year five with a maximum cap of \$22,133,760 for the five-year term of the agreement. In addition, the recommended agreement includes funding for ancillary expenses in the amount of \$600,000 (\$120,000 per year), which is an increase of \$30,000 per year over the current agreement. Ancillary costs are paid out on a reimbursement basis. Sufficient appropriations will be included in the FY 2017-18 Recommended Budget for Org 2875 and in future recommended budgets.

It should be noted the AID RFP requested an hourly rate in the event the Public Defender declares unavailability. Ciummo proposed a rate of \$60 per hour (25% less than Court's rate of \$80 per hour for appointed attorneys). This option is included in the recommended agreement and could result in Ciummo charging the County for additional time, but it is unlikely based on prior history. Therefore, no costs associated with this option are included in the recommended agreement. However, should this occur, an amendment to the agreement may be necessary to fund these additional costs.

DISCUSSION:

Mr. Richard A. Ciummo has provided AID services to the County of Fresno since 1992, formerly as part of Barker and Associates and currently as President of Richard A. Ciummo and Associates. On June 5, 2012, the Board approved the current five-year agreement with Ciummo, which will expire on June 30, 2017.

On January 6, 2017, the County released RFP 17-044, AID Services with a closing date of February 9, 2017. The County solicited proposals to provide appropriate and competent alternate indigent defense services (conflict counsel) and associated legal defense services to financially eligible persons accused of crime in Fresno County. The Fresno County Public Defender is generally appointed as the attorney of record for qualified indigent defendants, but should it be determined that there is a conflict of interest, the conflict counsel provides up to seven levels of conflict counsel for any single case. The County received one proposal from Ciummo.

A bid review committee met on February 22, 2017 to evaluate the proposal for compliance with the RFP. The committee was comprised of representatives from the Fresno County Superior Court, the Kings County Administrative Office, the Fresno County Auditor-Controller/Treasurer-Tax Collector's Office, the Fresno County Administrative Office, and the Public Defender's Office with oversight by the Purchasing Division.

The committee found the proposal to be comprehensive as it described all aspects of the services offered including detailed descriptions of the roles and responsibilities of administration, management, and each level of Conflict Counsel; personnel qualifications (including resumes); job descriptions; strategies for personnel and caseload distribution; and the oversight of training, fees and reimbursement, and claims payment.

Ciummo proposed continuing a direct service model combined with using independent contractor (Wheel) attorneys for seven levels of conflict counsel. The Fresno Office of Ciummo would continue as the first level of conflict counsel, with the Alternate Defense Office, an attached, yet stand-alone office of attorneys and support personnel, as the second level, and independent or Wheel attorneys providing representation for levels three to seven of conflict counsel.

The evaluation team found the proposal by Ciummo to be responsive and responsible. Considering all the factors presented in the RFP, the recommendation of the committee was to enter into negotiations and award the contract to Ciummo for AID services.

The recommended agreement also includes funding for ancillary services that cover such expenses as expert witness fees and specialized services necessary for an adequate defense, which cannot reasonably be provided by Ciummo and Associates. Ancillary funds are drawn down on a reimbursement basis. The recommended increase in funding for ancillary services is based on the current trend in Court appointed claims. Any funds not utilized from the ancillary service fund within any year revert to the County.

During the economic downturn, Ciummo reduced, or held their costs even in order to assist the County with its fiscal constraints. In addition, as part of the negotiation process for the recommended agreement before your Board, Ciummo reduced their cost proposal by approximately \$700,000.

REFERENCE MATERIAL:

BAI #48 June 5, 2012

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement with Richard A. Ciummo and Associates

CAO ANALYST:

Samantha Buck