



Agenda Date: 6/12/2007
Agenda Placement: 6D

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Shelli Brobst for Randolph F. Snowden - Director
Health & Human Services
REPORT BY: Shelli Brobst, Contracts Analyst, 253-4720
SUBJECT: Renewal of Revenue Agreement with the Department of Alcohol and Drug Programs

RECOMMENDATION

Director of Health and Human Services requests approval of and authorization for the Chair to sign the renewal of revenue Agreement No. 3579 with the California Department of Alcohol and Drug Programs for a maximum of \$3,505,746 for the term July 1, 2007 through June 30, 2010 to provide funding for outpatient treatment, residential treatment, and prevention services for both Drug Medi-Cal and non-Drug Medi-Cal clients.

EXECUTIVE SUMMARY

Approval of the requested action will provide state and federal funding for most of the County's alcohol and drug programs. **The renewal of this multi-year agreement**, which covers both Drug Medi-Cal and non-Drug Medi-Cal clients, includes funding for outpatient treatment, residential treatment, and prevention services.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Substance Abuse Services
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	This agreement is discretionary in that Napa County may choose not to accept the state and federal revenue that funds a large portion of the County's substance abuse programs. The County's required matching funds of \$23,826 per year are included in the Fiscal Year 2007-2008 proposed budget.

Is the general fund affected?	Yes
Future fiscal impact:	This is a multi-year revenue agreement ending June 30, 2010.
Consequences if not approved:	The County will not receive the revenue that funds most of its substance abuse programs.
Additional Information:	This new three-year agreement for Fiscal Years 2007-2008 through 2009-2010 is budgeted at \$1,203,126 per fiscal year, to be amended annually based on federal and state budget actions.

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

Agreement No. 3579 (referred to as the "Negotiated Net Amount" or NNA Agreement) provides most of the state and federal funding for the Substance Abuse Services Programs provided by the Health and Human Services Agency.

The NNA agreement consists of three parts:

- | Initial three-year NNA agreement
- | Annual fiscal year agreement (NNA Amendment No. 1)
- | Revised fiscal year agreement (NNA Amendment No. 2)

Renewal of this Agreement will provide a new three-year NNA agreement for residential treatment, outpatient treatment and prevention services in Fiscal Years 2007-2008 through 2009-2010. The Agreement includes discretionary funds that can be used for a variety of substance abuse services, Drug Medi-Cal funds that support narrowly defined outpatient treatment services for Medi-Cal eligible clients, and categorical funds that can only be spent on specific services and/or clients. The categorical funds can be used for prevention services, services for pregnant or parenting women, services for parolees, youth treatment, and HIV early intervention services for clients engaged in treatment.

The renewal of this three-year Agreement is essentially a placeholder until state and federal budgets are finalized. The state regularly updates allocation numbers and provides them to the County so that the actual allocations can be accounted for in the county budget; however, the changes are not reflected in the NNA Agreement until late in the fiscal year in the form of amendments to the multi-year Agreement.

Note that on May 22, 2007, the Board approved Amendment No. 1 to the Fiscal Year 2004-2005 through 2006-2007 NNA agreement decreasing Fiscal Year 2006-2007 funding. Amendment No. 2 to the Fiscal Year 2006-2007 agreement will be presented to the Board at a future meeting.

Contractor's Exhibit 1, prepared by County Counsel, is made part of this Agreement for the purpose of putting the State Department of Alcohol and Drug Programs (ADP) on notice that the County does not intend to be bound by certain elements of the Agreement as currently written. ADP has defined the contractual relationship between the County and ADP as constituting a HIPAA Business Associate relationship and included Business Associate

Agreements within this Agreement. It is the opinion of County Counsel and the County Privacy Officer, however, that no such relationship exists. Further, it is their contention that those Agreements contain provisions that are not applicable to the contractual activities, are excessive, preclusive and not compatible with current capabilities, do not conform with the letter or the spirit of the HIPAA regulations, and are inappropriate to this Agreement. Negotiations between ADP and several counties that share this opinion are being initiated with the expectation that, like the Department of Mental Health has recently done, ADP will concede that the disputed provisions are inappropriate and agree to amend its boilerplate agreement with counties. Intended as an interim measure, Exhibit 1 sets forth the County's position in order to allow the contract to be finalized immediately. While the Exhibit reflects language agreed upon by the parties to previous negotiations, it should be noted that in the unlikely event of a legal challenge the exceptions may not be binding. Yet, the small risk of a dispute, and even smaller risk of a successful contest, is heavily outweighed by the fact that failure to execute the contract at this time could result in interruption of services or funding.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Lorenzo Zialcita