



March 11, 2024

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street Los Angeles, California 90012

Re: Contract with Accenture for Pretrial Services Strategic Planning, Design and Implementation

Dear Board of Supervisors,

We write as a national civil rights organization with expertise litigating issues involving the pretrial legal system. The information below is relevant to the contract between the County of Los Angeles and Accenture, LLP for Pretrial Services Strategic Planning, Design and Implementation (the Contract). Despite dozens of community groups coming together in 2018 to create the seminal Care First, Jails Last report, which laid out a vision and 114 recommendations for pretrial services and alternatives to incarceration—which this Board has adopted—the County entered into a contract with Accenture to develop pretrial strategy. This contract is a massive boondoggle benefitting a for-profit company that should not receive taxpayer dollars to redo the work that community groups completed years ago. Unlike the workgroup that generated the Care First, Jails Last report, which considered community input and sought to avoid incarceration, the Accenture team consists of 12 consultants with ties to police and ICE, who will work behind closed doors to design LA's pretrial strategy. Worse yet, the County entered the Contract without conducting a competitive bidding process, instead awarding the \$8.6 million Contract to Accenture through a backroom deal.

Policy considerations aside, as this letter explains below, the County's contract with Accenture is illegal under state and County law. These illegalities expose the County to litigation on several fronts. Illegal and wasteful spending like the Accenture contract is a prime target for taxpayer litigation, pursuant to CCP § 526a. Moreover, many parties could likely assert public-interest standing to pursue a mandamus action to terminate this contract.¹ We urge the Board to exercise its authority to terminate the Contract before more funds are wasted on this duplicative and harmful Contract.

¹ Cf. *Weiss v. City of Los Angeles*, Cal.App.5th 194 (2016) (granting public-interest standing and affirming writ of mandamus to stop the city's unlawful delegation of inherently governmental responsibilities to a private company).

I. The Contract with Accenture unlawfully circumvented the competitive bidding process.

Most contracts Los Angeles County enters must undergo a competitive solicitation and bidding process to provide transparency to the residents of Los Angeles, ensure the county receives fair and competitive prices, and protect against corrupt bid fixing.² Chapter 2.121 of the Los Angeles County Code establishes the procedures for this competitive bidding process, including the procedural steps that must be taken to circumvent the process when necessary, none of which were taken here.³ Only in rare circumstances does the County pursue sole-source contracts, which are generally advised against contracts that are granted approval by the Board of Supervisors to circumvent the competitive bidding process. When the County makes the uncommon decision to pursue a sole source contract, it is most often because there is only one vendor who can provide the proposed services.⁴ Further, any service contracts above \$200,000 must receive approval from the Board of Supervisors.⁵ And yet the \$8.6 million contract with Accenture was negotiated behind closed doors without a competitive bidding process or any Board of Supervisors vote or approval.

A. Either the Contract unlawfully evaded Competitive Bidding and Sole Source Requirements, or it is unlawfully using Care First Community Investment funds.

The Contract claims to be insulated from the County's competitive bidding requirements because it uses Care First Community Investment (CFCI) funds, but if that were the case, the Contract would be using CFCI funds for unlawful purposes, a legal violation in itself. A recital on the first page of the Contract states that where CFCI funds are spent, the Board of Supervisors has delegated authority to waive the County's standard open competitive solicitation or bidding requirements, the County's Sole Source Policy, and other County standard terms and conditions for contracting.⁶ This recital shows that in entering into the Contract with Accenture, the County likely (1) failed to engage in the County's standard open competitive solicitation or bidding requirements, (2) failed to comply with the County's Sole Source Policy, and (3) waived standard terms and conditions for the contract. While the Contract seems to justify skirting these legal requirements because it uses CFCI funds, the substance of what Accenture was hired to do would amount to an unlawful use of CFCI funds.

Los Angeles County voters created CFCI funding when they passed Measure J, an amendment to the County Charter designed to address the disproportionate impact of racial injustice through community investment and alternatives to incarceration. The Contract with Accenture does not fund community

² See Los Angeles County Board of Supervisors Policy Manual § 5.100 (“It is the policy of the Board that County departments solicit the maximum number of bids/proposals for a service from the largest relevant market and select contractors on a competitive basis.

³ See Los Angeles County Code § 2.121.320 (“Contracts shall be awarded by competitive sealed bidding unless it is determined *in writing* by the department recommending the award of a contract that this method is not practicable.”) (emphasis added).

⁴ See Los Angeles County Purchasing Policy & Procedure Manual (Policy and Procedure Manual), § 6.7.

⁵ See *id.* at § 4; see also California Government Code §25502.5.

⁶ See Contract By and Between County of Los Angeles and Accenture LLP for Pretrial Services Strategic Planning, Design and Implementation (henceforth, Contract), Contract Number JC-10002, p. 1 (“**WHEREAS**, on August 10, 2021, the County Board of Supervisors (Board) delegated authority to the Chief Executive Officer or designees, to **waive the County's standard open competitive solicitation or bidding requirements, the need to comply with the County's Sole Source Policy, and waive any other County standard terms and conditions for contracts using Care First Community Investment (CFCI) funds;**”) (emphasis in original). *See also*, Motion, Approval for the Chief Executive Officer to Implement Necessary Processes to Manage and Disburse Care First, Community Investment Funds (Also Known as Measure J), August 10, 2021.

investment, nor alternatives to incarceration, yet apparently uses CFCI funding regardless. Measure J set aside at least ten percent of the County's locally generated unrestricted revenues for the primary purposes of "Direct Community Investment" and "Alternatives to incarceration."⁷ Direct Community investment is described as including "Community-based youth development programs", "Capital funding for transitional housing, affordable housing, [and] supportive housing", and other examples of putting funds *directly* into services for the community. Alternatives to Incarceration are similarly described as direct investments into "programs," "services," "treatment," "housing," and "counseling." Measure J says nothing about using such funds to hire consultants to determine where such funds should go, but that is precisely what the Contract does, with not a single deliverable that the Contract describes relating to *running* programs or *funding* programs.⁸ Indeed, the Board's own motion has previously endorsed the idea that no more than \$1 million, or 1% of total CFCI funding, should go towards administrative costs.⁹ Therefore, the Contract claims to simultaneously be using CFCI funds without actually spending those funds on the purposes for which Los Angeles County voters created the funds, a clear violation of the law. Worse yet, Accenture appears to be considering punitive and ineffective conditions of release such as extensive electronic monitoring, a blatant rejection of the Measure J requirement that funds "not be used for any carceral system."¹⁰

Accordingly, the Contract is either using CFCI funds unlawfully, thereby violating Measure J, or the Contract is *not* using CFCI funds, and was entered into unlawfully by skirting standard open competitive solicitation or bidding requirements and the County's Sole Source Policy. Either way, the Contract is in violation of the County Charter and should be immediately terminated to avoid legal liability.

B. The Contract is further invalid because it exceeds the Justice Care and Opportunities Department's contracting powers and otherwise relies on an unlawful delegation of authority.

In addition to circumventing the competitive bidding requirements in § 2.121 of the Los Angeles County Charter, the Contract with Accenture is also unlawful because it (a) exceeds the contracting authority that was delegated and (b) moreover was based on unlawfully delegated authority. As background, in November 2022, the Board of Supervisors adopted a motion delegating part of its contracting authority of to the newly formed Justice Care and Opportunities Department (JCOD). The November Motion included clearly defined parameters concerning how that authority was being delegated. The motion authorized a contract for "program implementation and management support personnel to help implement the independent pretrial services unit within JCOD" with a contract spending cap of \$3 million from JCOD funds and a term limit for the contract of one year, with an option to extend

⁷ In November 2020, Los Angeles County voters passed Measure J. In June 2021, a trial court struck down Measure J. In August 2023, despite the decision invalidating Measure J, the Board moved forward with instituting Measure J as Board Policy 4.031, the Care First Community Investment Budget Policy (CFCI Policy). On July 28, 2023, the Court of Appeals reversed the trial court and upheld Measure J. The California Supreme Court denied review, making Measure J permanent. The text of the Ordinance stated that the Proposition "shall become effective only if it is submitted to the voters at the election [] and is approved. The Charter Amendment shall become operative on July 1, 2021." Because the voters passed Measure J and the Court of Appeals has upheld it, Measure J is now part of the County Charter. *See* LOS ANGELES, CAL., CODE OF ORDINANCES, No. 2020-0040 (2020) (henceforth Measure J). Since Measure J has been put back in effect, Accenture has been paid over \$1.56 million dollars in CFCI funds, per the Contract's Pricing Schedule. Accenture will continue to be paid \$179,541.66 each month in 2024.

⁸ See Contract, Exhibit A § 10.9, p. 28.

⁹ See August Motion at 9 ("The CEO recommends that \$1.0million or one percent of the CFCI budget be allocated as an administrative carveout to support the CFCI workload consistent with County precedent.")

¹⁰ Measure J.

up to one additional year with approval from County Counsel.¹¹ The Contract with Accenture is for “Pretrial Services Strategic Planning, Design and Implementation,” thus falling within the November Motion’s purview. However, the Contract with Accenture exceeds the Authority that the Board delegated in the November Motion, and additionally was based on unlawfully delegated authority.

- i. The Contract exceeded the contracting authority the Board granted in the November Motion by exceeding the caps on spending and duration.

The Contract exceeds JCOD’s contracting power by exceeding both the cost limitations and the duration limitations imposed by the Board of Supervisors’ motion. The Contract totals \$8.6 million, more than double the authorized \$3 million dollars in the motion.¹² Moreover, the Contract is for a term of 2.5 years, exceeding both the allowed length of the contract *and* the permissible extension, which can only be authorized by County Counsel.¹³ Accordingly, the Contract is invalid because it exceeds the parameters that JCOD was given to enter into a limited contract for support in implementing pretrial services programs.

- ii. The Contract exceeded the Board’s delegation authority under the Los Angeles County Purchasing Policy & Procedure Manual and California Government Code § 25502.5.

Second, the Contract may have been entered into through an unlawful delegation of authority, since the November Motion authorized a prospective contract in an amount that exceeded legal limits. As recognized in the Los Angeles County’s Purchasing Policy & Procedure Manual, California Government Code § 25502.5 permits counties with populations larger than 200,000 people to delegate a “purchasing agent to engage independent contractors to perform services for the county. . . .”¹⁴ However, such delegation is only permissible “when the aggregate cost does not exceed two hundred thousand dollars (\$200,000).”¹⁵ Accordingly, by delegating authority to enter into a contract of up to \$3 million, the November Motion far exceeded what the Los Angeles Purchasing Policy & Procedure Manual and California law allows. Rather, the “agreements should have been considered and executed by the Board of Supervisors.”¹⁶

- iii. The Contract exceeded the Board’s delegation authority by failing to comply with the County Charter and County Code, which jointly require an ordinance to waive contracting procedures.

Finally, apart from this state-law limitation, the Board of Supervisors’ November 2022 motion was of questionable legality under the County Charter. Pursuant to Section 44.7 of the Charter, the County must comply with its own ordinances in contracting for services. The Board of Supervisors has recognized, in the past, that waivers of its contracting procedures must be enacted through ordinances.¹⁷ The November 2022 motion did not satisfy the procedural requirements of an ordinance, which entail

¹¹ Motion, Program Implementation Support for Pretrial Services, November 2022.

¹² See Contract, Exhibit B.

¹³ See Contract at 4. (Describing Contract as running from June 12, 2023 to December 1, 2025)

¹⁴ Policy and Procedure Manual, § 4.1; *see also* Cal. Govt. Code § 25502.5.

¹⁵ Cal. Govt. Code § 25502.5.

¹⁶ *Advance Med. Diagnostic Lab’ys v. Cnty. of Los Angeles*, 58 Cal. App. 3d 263, 272 (Ct. App. 1976).

¹⁷ See L.A. Cnty. Code ch. 2.300 (establishing certain waivers for contracting policies for projects funded by the American Rescue Plan).

more extensive deliberation and opportunity for public input.¹⁸ Problematically, however, the Contract did not comply with the requirements of the existing Code of Ordinances.

Accordingly, JCOD exceeded the limited authority the Board of Supervisors had granted to enter into a contract of up to \$3 million, and may have entirely lacked the legal authority to enter into a contract above \$200,000 under California law and the County Charter. Instead, JCOD entered into a contract totaling \$8.6 million dollars over 2.5 years, violating the November motion, California law, and the Charter.

II. Regardless of its illegality, the contract with Accenture is not sound pretrial policy.

The Contract commits millions of taxpayer dollars to (re-)create plans that have already been developed. Those resources would be better spent on programs here in Los Angeles, not a multinational consulting company. Indeed, the Alternatives to Incarceration (ATI) pretrial roadmap already exists and provides a clear vision for the County on how to increase community safety and reshape the pretrial system to be more fair and equitable.

Troublingly, the Accenture Contract is taking the County away from a Care First, Jails Last vision and towards carceral policies. Already, Accenture has concluded that electronic monitoring is a “favorable alternative” to incarceration,¹⁹ ignoring the reality that electronic monitoring is expensive, unsupported by social science, and demonstrably racially biased as applied in Los Angeles.²⁰ This is unsurprising: the consultants working on the Contract have deep ties to police departments and prisons. Even if it were entered into legally—which it was not—the Contract is duplicative, wasteful, and harmful to Los Angeles and should be canceled on policy grounds alone.

The County retains the authority to unilaterally terminate the Contract at any time. The Contract’s “Termination for Convenience” section gives the County the ability to terminate the Contract in whole or in part, “in its sole discretion.”²¹ Upon the County giving notice of termination to Accenture, Accenture will complete performance of any part of the work not completed by the notice, but it must otherwise stop work on the Contract.²² As such, there is no legal barrier preventing the County from immediately and unilaterally terminating the Contract.

The Contract removes community control of the future of pretrial services in Los Angeles County and hands it to a private firm with a history of supporting carceral, counterproductive, and empirically

¹⁸ See Cal Gov’t Code § 25131 (establishing procedural requirements for an ordinance).

¹⁹ See JCOD Pretrial Services Steering Committee Meeting Slidedeck, August 16, 2023, available at <https://publuu.com/flip-book/343630/788928/page/10>.

²⁰ See generally, Alicia Virani, Pretrial Electronic Monitoring in Los Angeles County, UCLA School of Law Criminal Justice Program available at https://law.ucla.edu/sites/default/files/PDFs/Criminal_Justice_Program/Electronic_Monitoring_in_Los_Angeles_Report-FINAL.pdf.

²¹ Contract, § 8.42.1, p. 38. (“This Contract may be terminated, in whole or in part, from time to time, when such action is deemed by the County, in its sole discretion, to be in its best interest.”). “Contract” is defined within the Contract as follows: “This agreement executed between County and Contractor. Included are all supplemental agreements amending or extending the service to be performed. The Contract sets forth the terms and conditions for the issuance and performance of all tasks, deliverables, services, and other work.” *Id.* at § 2.1.1, p. 3.

²² See Contract § 8.42.2, p. 38.

unsupported policies. Moreover, the Contract's irregular formation and terms violate Measure J, the Los Angeles County Purchasing Policy & Procedure Manual, California Government Code § 25502.5, the County Charter, the County Code, and the parameters this very Board set when delegating authority to enter into a contract. These numerous violations of the law open the County to legal liability. Accordingly, the County should exercise its authority to cancel the Contract with Accenture immediately.

Sincerely,

A handwritten signature in black ink, appearing to read "Danielle Dupuy-Watson".

Danielle Dupuy-Watson, Ph.D.
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Civil Rights Corps

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