

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 10/20)

Fiscal Year 2023-24	Business Unit 5225	Department California Department of Corrections and Rehabilitation	Priority No.
Budget Request Name 5225-304-BCP-2023-MR		Program Various	Subprogram Various

Budget Request Description
 eDiscovery Ongoing Needs

Budget Request Summary

The California Department of Corrections and Rehabilitation requests an increase of \$391,000 General Fund in 2023-24, and a reduction of \$2.8 million in 2024-25 and ongoing to reflect the revised need associated with the development and expansion of the eDiscovery program.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO Kristin Montgomery	Date 5/12/2023

For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), and the approval date.

Project No. 5225-174 **Project Approval Document:** Stage 2 Business Analysis (S2AA)

Approval Date: 1/23/2023

If proposal affects another department, does other department concur with proposal? Yes No
Attach comments of affected department, signed and dated by the department director or designee.

Prepared By Edmond Blagdon	Date 5/12/2023	Reviewed By Madelynn McClain	Date 5/12/2023
Department Director Kristin Montgomery	Date 5/12/2023	Agency Secretary Jeff Macomber	Date 5/12/2023

Department of Finance Use Only

Additional Review: Capital Outlay ITCU FSCU OSAE Dept. of Technology

PPBA Allison Hewitt	Date submitted to the Legislature 5/12/2023
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A. Budget Request Summary

The California Department of Corrections and Rehabilitation requests an increase of \$391,000 General Fund in 2023-24, and a decrease of \$2.8 million in 2024-25 and ongoing to reflect the revised need associated with the development and expansion of the eDiscovery program.

B. Background/History

Per federal and state law and policy, CDCR oversees, manages, and is responsible for retaining electronically stored information (ESI) for all end user and system data. Data, data retention, evidence management, and the discovery thereof is paramount to appropriately placing exemptions on confidential data and to respond to discovery and Public Records Act (PRA) requests in a timely manner.

It is imperative that CDCR knows the full scope of its discoverable data to protect, classify, categorize, and effectively manage digital evidence. However, as CDCR moves to a computer-centric environment, it is essential the Department implement a comprehensive eDiscovery program to manage its electronic data.

The 2023-24 Governor's Budget provided CDCR 11.0 positions and a placeholder amount totaling \$10 million ongoing General Fund beginning in 2023-24 to continue the development and implementation of an appropriate eDiscovery platform to centrally retrieve, manage, and store various forms of ESI and enable secure delivery to both internal and external entities that are part of the litigation, discovery, and PRA processes. Since that time, CDCR has continued to work through the California Department of Technology's (CDT) Project Approval Lifecycle process to identify the suite of solutions necessary for the eDiscovery project.

This request is an update to the 2023-24 Governor's Budget proposal to account for revised resource needs and overall contract funding to reflect estimates after further evaluation of contract costs.

C. State Level Consideration

State and federal law and policy requires CDCR to impose record retention and ensure that data is appropriately discoverable across all of its systems and solutions. Below is a list of governing statutes and policies imposed by federal and state law and CDT:

- Government Code (GC) 832.7
- Senate Bill 1421 (Skinner, Chapter 988, Statutes of 2018)
- Assembly Bills AB 748 (Ting, Chapter 960, Statutes of 2018)
- California Public Records Act (CPRA) GC 6250
- Data Retention Policy GC12270-12279
- Data Destruction Policy CDT.ISG. 20-4.4
- eDiscovery and Litigation Hold Policy CDT.ISG. 20-4.5
- Privacy Protection Policy CDT.ISG.20-4.7

D. Justification

This proposal is in alignment with the priorities of CDCR's Office of the Secretary to develop an information technology retention strategy and implement systems capable of managing both current data and anticipated growth to headquarters and all institutions in the California Public Records Act team (CPRA) and legal retention action items as a result of, among other things, implementation of new fixed camera technology at all institutions. CDCR, in collaboration with

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CDT, has identified and is implementing an eDiscovery and data storage solution that meets the current and future needs of the Department.

Costs associated with this project will be higher than anticipated in 2023-24 and lower in subsequent years, therefore the Department requests an Increase of \$391,000 General Fund in 2023-24 and a decrease of \$2.8 million in 2024-25 and ongoing. See table below for additional detail.

Comparison	2023-24 Gov Bud	2023-24 MR	2024-25	2025-26 and Ongoing
Software Licensing & Storage				
Department's ability to store and retain video content.	\$6,020,000	\$3,750,000	\$2,500,000	\$2,500,000
Enterprise Legal Matter Management System (ELMMS) Department's ability to identify, gather, and review data.	\$315,000	\$942,000	\$562,000	\$635,000
Forensic Software Needs				
Cell Forensics - allows the ability to extract data or digital evidence from devices	\$1,800,000	\$3,000,000	\$1,800,000	\$1,800,000
Positions	\$1,865,000	\$1,865,000	\$1,842,000	\$1,842,000
CDT, DGS, & Sales Tax - not specifically identified in GovBud	\$-	\$834,000	\$457,000	\$464,000
Total	\$10,000,000	\$10,391,000	\$7,161,000	\$7,241,000
	Difference GB/MR	\$391,000	(\$2,839,000)	(\$2,759,000)

Current Project Status – Positions

With the one-time resources provided in the 2022 Budget Act, CDCR was able to begin working through the Information Technology (IT) procurement process in collaboration with CDT. The 2023-24 Governor's Budget included making these positions permanent for ongoing support.

To date, CDCR has hired 10 of 11 IT positions included in the 2022 Budget Act, with the final position pending completion of the hiring process. No additional funding or position authority changes are included in this request.

The 2022 Budget Act also provided 10 permanent positions for PRA Unit (PRAU) expansion to allow the Division of Adult Institutions (DAI) to have a centralized management and storage location for all DAI PRA requests, and sufficient staff to manage workload closely associated with litigation. The PRAU has hired all 10 of the positions, and these staff function as the Department's subject matter experts in redaction software programs used for the processing of PRA requests.

Establishing an eDiscovery platform will allow CDCR to properly preserve digital evidence information in a timely manner, including data that does not travel over email such as contract documents; invoices; and data on computers, cell phones, servers, and databases. This proposal also supports CDCR's Security Initiative and the Office of Legal Affairs' (OLA) objectives by improving existing processes. It will allow CDCR to build or procure expertise and critical

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infrastructure systems vital to meet current and projected needs, while implementing a proper managerial workflow and the minimum resources required to meet present organizational demands. This request implements a more automated eDiscovery process, which has many benefits, including creating significant efficiencies for litigation and PRA request response processes and expanding the available services to prepare for the ever-evolving mobile workforce.

CDCR will leverage best practices and technologies in use by other collaborating partners such as the CDT and DOJ, allowing the Department to draw upon expertise to procure best-in-class solutions for public and private sectors.

Current Project Status – Software Licensing and Storage

CDCR has contracted with NICE Investigate to establish a Digital Evidence Management (DEM) system that will store and manage all digital evidence including video content. The DEM team continues to conduct discovery sessions with business stakeholders and enterprise architects to develop the platform to meet business, regulatory, and legal needs of the Department.

CDCR anticipates a baseline need of approximately 345,000 cases, compared against the 250,000 estimated at time of the release of the 2023-24 Governor's Budget. The number of cases has continued to grow during the time CDCR developed interfaces to the existing case management systems and introduced the new Enterprise Legal Matter Management System (ELMMS), and shown a steady increase of approximately 163,000 cases in 2019-20 to 396,000 in 2021-22. The 345,000 estimate is based on a three-year average of 300,000 with an assumed baseline growth of 15 percent for the 2023-24 fiscal year.

Despite an increase in the number of anticipated cases, which was expanded to include rules violation report cases, cell phone interdiction data, allegations against staff cases, and PRA requests, continued exploration of software requirements and a revised licensing need result in a reduction of ongoing costs needed for this purpose.

The ELMMS project team has identified software that provides case assessment, fact management, review, production, analytics and legal hold functionalities. The cost associated with ELMMS licensing and storage are slightly higher than the initial estimate included in the 2023-24 Governor's Budget because the new amount includes additional environments and training.

This comprehensive eDiscovery process allows OLA to process, review, tag, and produce electronic documents as part of a lawsuit or investigation and will enable attorneys to discover valuable information regarding legal matters while reducing costs, speeding up resolutions, and mitigating risks. ELMMS is used to identify, gather and review data, and DEM is used for storage and data sharing. DEM can be expanded and used to store and share data, beyond eDiscovery requests.

Current Project Status – Forensic Software Needs

CDCR entered into contracts with Cellebrite Premium and Cellebrite Universal Forensics Extraction Device to extract data or digital evidence from devices, regardless of whether they are locked, encrypted, or password protected. Retrieved data is then stored with NICE Investigate, where it is regarded as a case.

The Department also intends to use a new tool, Pathfinder, in conjunction with Cellebrite to expand these existing processes to compile and identify patterns within the extracted data to analyze connections and linkages between data and digital evidence extracted from multiple devices. Without the use of an analytical tool, such as Pathfinder, CDCR would need to dedicate a significant number of staff hours to manually identify and establish these types of connections. Cellebrite is used to extract data from mobile devices and Pathfinder helps review and conduct advanced analytics on the data. The cost associated with forensic software is higher than the 2023-24 Governor's Budget because new servers are needed to host the solution.

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E. Outcomes and Accountability

CDCR will continue implementing a comprehensive ELMMS and DEM that, once fully implemented, will allow internal and external collaborators to request litigation hold, eDiscovery, and PRA data from a single electronic platform.

F. Analysis of All Feasible Alternatives

Alternative #1: Increase CDCR's budget by \$391,000 General Fund in 2023-24 and reduce CDCR's budget by \$2.8 million in 2024-25 and ongoing to reflect the revised need associated with the development and expansion of the eDiscovery program.

Pros:

- Provides for comprehensive coverage of disparate data where data is required for retention, and is responsive to legal or investigative production.
- Minimizes or eliminates redirecting staff to manual data entry and redaction efforts.
- Provides an objective, forensically intact record of case activity and data that can be used in litigation defense for CDCR and its personnel.
- Establishes a portfolio of solutions towards an eDiscovery Program for other units to collaborate and leverage accordingly.
- Allows CDCR to implement a centralized, end-to-end retention and case management solution to retaining data in its proper state for legal and investigative needs.

Cons:

- Will require ongoing monitoring of needs to accomplish project in phased approach.
- Results in additional General Fund expenditures.

Alternative #2: Do not provide ongoing resources to establish an eDiscovery platform.

Pros:

- Does not require additional General Fund expenditures.

Cons:

- Ceases the phased approach initiated through the one-time resources provided in the 2022 Budget Act.
- Risks delays or incompleteness to establish CDCR's comprehensive eDiscovery platform.
- CDCR could remain out of compliance with statutory and legal mandates.
- CDCR could still require additional General Fund resources to fund multiple discovery program objectives in a bifurcated and disparate manner by different units throughout the Department, potentially implementing the same business need multiple times over.

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G. Implementation Plan

The following table identifies the high-level EIS milestones associated with this project:

Task	Estimated Completion Date
Complete Hiring Process	May 2023
Procurement Completion	May 2023
Configure, install, test systems and validate workflows	August 2023
Complete Administrator and Trainer Training (CPRA units, OLA, DOJ)	October 2023
Operationalize ELMMS	December 2023
Operationalize redaction automation modules (Text, Video)	December 2023
Operationalize extensible integration modules (OneDrive, OneNote, M365.)	December 2023
All modules operationalized	December 2023

The implementation of the timetable will cover the following items, and will meet all necessary compliance gaps from previous audits, assessments, observations, and best practices leveraged throughout the industry for ESI retention:

- Case Management Platform
- Platform Monitoring
- Notification of tasks
- Escalation process workflows
- Case management procedures
- Workflow handbook
- Metrics
- Compliance monitoring
- Report development
- Dashboard development
- Audit readiness
- Training
- Key Performance Indicators

H. Supplemental Information

N/A

I. Recommendation

Increase CDCR's budget by \$391,000 General Fund in 2023-24 and reduce CDCR's budget by \$2.8 million in 2024-25 and ongoing to reflect revised eDiscovery development costs.

BCP Fiscal Detail Sheet

BCP Title: eDiscovery Ongoing Needs

BR Name: 5225-304-BCP-2023-MR

Budget Request Summary

Operating Expenses and Equipment

Operating Expenses and Equipment	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
539X - Other	0	391	-2,839	-2,759	-2,759	-2,759
Total Operating Expenses and Equipment	\$0	\$391	-\$2,839	-\$2,759	-\$2,759	-\$2,759

Total Budget Request

Total Budget Request	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
Total Budget Request	\$0	\$391	-\$2,839	-\$2,759	-\$2,759	-\$2,759

Fund Summary

Fund Source

Fund Source	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
State Operations - 0001 - General Fund	0	391	-2,839	-2,759	-2,759	-2,759
Total State Operations Expenditures	\$0	\$391	-\$2,839	-\$2,759	-\$2,759	-\$2,759
Total All Funds	\$0	\$391	-\$2,839	-\$2,759	-\$2,759	-\$2,759

Program Summary

Program Funding

Program Funding	FY23 Current Year	FY23 Budget Year	FY23 BY+1	FY23 BY+2	FY23 BY+3	FY23 BY+4
4500039 - Information Technology	0	391	-2,839	-2,759	-2,759	-2,759
Total All Programs	\$0	\$391	-\$2,839	-\$2,759	-\$2,759	-\$2,759