Board Agenda Item 80

DATE: June 24, 2025

TO: Board of Supervisors

SUBMITTED BY: Sanja Bugay, Director, Department of Social Services
David Tan, Executive Director, IHSS Public Authority

SUBJECT: Specialized Legal Services Agreement for the In-Home Supportive Services Public Authority

RECOMMENDED ACTION(S):

Sitting as the Fresno County Board of Supervisors:

1. **Under Administrative Policy No. 34, for competitive bids or requests for proposals (AP 34), determine that an exception to the competitive bidding requirement under AP 34 is satisfied and a suspension of competition is warranted due to unusual or extraordinary circumstances, and that the best interests of the County would be served by entering into an agreement with Liebert Cassidy Whitmore as competitive bidding is not required to engage specialized legal counsel; and**

2. **Approve and authorize the Chairman to execute an Agreement with Liebert Cassidy Whitmore for specialized legal services, effective July 1, 2025, not to exceed five consecutive years, which includes a three-year base contract and two optional one-year extensions, total not to exceed $175,000.**

Sitting as the In-Home Supportive Services Public Authority Governing Board:

1. **Under Administrative Policy No. 34, for competitive bids or requests for proposals (AP 34), determine that an exception to the competitive bidding requirement under AP 34 is satisfied and a suspension of competition is warranted due to unusual or extraordinary circumstances, and that the best interests of the County would be served by entering into an agreement with Liebert Cassidy Whitmore as competitive bidding is not required to engage specialized legal counsel; and**

2. **Approve and authorize the Chairman to execute an Agreement with Liebert Cassidy Whitmore for specialized legal services, effective July 1, 2025, not to exceed five consecutive years, which includes a three-year base contract and two optional one-year extensions, total not to exceed $175,000.**

There is no additional Net County Cost associated with the recommended actions, which will allow the In-Home Supportive Services Public Authority (Public Authority) to continue to receive specialized legal services from Liebert Cassidy Whitmore (LCW) for negotiations and communication with the In-Home Supportive Services (IHSS) provider bargaining unit. Liebert Cassidy Whitmore has supported the County through the previous negotiations as well as the most current negotiation processes. This item is

countywide.

ALTERNATIVE ACTION(S):

Should your Board choose not to approve the recommended actions, the Department of Social Services (Department) will request support directly from County Counsel and/or take the services out to bid. This could cause significant delays in acquiring specialized counsel which may impact needed support through the Memorandum of Understanding (MOU) negotiation process.

SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

It is requested that the County find under AP 34 that an exception to the competitive bidding requirement is satisfied, and a suspension of competition is warranted due to unusual or extraordinary circumstances, as competitive bidding is not required under AP 34 to engage specialized legal counsel as the competitive recruitment process, annual performance evaluation, and periodic salary surveys conducted are equivalent to competitive bids for independent law firms and attorneys contracting with the County on a fee for service basis. The General Services Department - Purchasing concurs with the Department's assessment that this satisfies the exception to the competitive bidding process required by AP 34.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The cost of the recommended agreement ($175,000) will be offset with the State General Fund Allocation for Public Authority Administration ($175,000). Sufficient appropriations and estimated revenues are included in the IHSS - Public Authority's Org 5611 FY 2025-26 Recommended Budget and will be included in subsequent budget requests.

DISCUSSION:

The IHSS Public Authority is the employer of record for IHSS Providers and is a local agency legally separate from the County. As authorized through Welfare and Institutions Code Section 12302.25, County boards of supervisors are required to establish a Public Authority, by ordinance, or contract with a Nonprofit Consortia (NPC) to serve as the IHSS employer of record. Fresno County Ordinance Chapter 2.80.030 establishes a public authority for Fresno County.

Pursuant to Welfare and Institutions Code 12301.6, for the purposes of collective bargaining, the Public Authority is the employer of In-Home Supportive Services personnel. The Public Authority is thus in need of specialized legal services for the purpose of negotiating and developing a MOU with any bargaining unit(s) representing in-home supportive services personnel.

On May 21, 2013, the Board entered into an agreement, No. A-13-270 with the Public Authority which established the relationship between the County and the Public Authority, including that the County, through the Department, would provide contract development services.

The Department, on behalf of the Public Authority, had previously acquired LCW's services through a separate purchasing agreement, County No. P-23-381, which is set to expire June 30, 2025. LCW has provided these services to the Public Authority since 2016 and has been found to have performed in a satisfactory manner. The County General Services Department, Purchasing division has advised the Department that a board agreement is necessary to continue services.

LCW is uniquely qualified to provide these services as they are recognized as one of the foremost authorities in labor relations and collective bargaining. LCW has previously represented the County as a whole in numerous legal matters. The Department believes that it is in the best interest of the Public Authority to utilize these services.

REFERENCE MATERIAL:

BAI #22, May 21, 2013

ATTACHMENTS INCLUDED AND/OR ON FILE:

Suspension of Competition Acquisition Request
On file with Clerk - Agreement with Liebert Cassidy Whitmore

CAO ANALYST:

Ron Alexander