

647

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



FROM: EXECUTIVE OFFICE

SUBMITTAL DATE:
August 17, 2005

SUBJECT: Response to Recommendations Presented in the Report, Use of Outside Legal Counsel.

RECOMMENDED MOTION: That the Board of Supervisors receive and file the attached response.

BACKGROUND: On February 15, 2005, the Executive Office presented a report entitled, Use of Outside Legal Counsel, which discussed the use of outside counsel by county departments, and analyzed County Counsel workloads. Since the presentation of the report, County Counsel has implemented many of the changes in the recommendations contained within the report. One of the key points presented to the Board was that the county currently spends more on outside counsel for civil matters than on staff attorneys, primarily in the personnel and risk management areas. Efforts continue to reduce costs where practical, and to achieve uniformity in the administration of outside legal services contracts.

Kathryn Field
KATHRYN FIELD
Principal Management Analyst

Lisa Brandl
LISA BRANDL
Senior Management Analyst

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	05-06

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

Henry M. Christman

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

Dep't Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: 3.3 2/15/05; 3.4 10/19/04 | **District:** ALL | **Agenda Number:**

The Department of County Counsel is currently in the stage of transition, as the department head retired in July 2005. The newly-appointed County Counsel is currently evaluating the current department structure and flow of work assignments. During the FY 2005-06 budget hearings, four new Deputy County Counsel positions were added to assist in work assignments.

Executive Office staff, in conjunction with the departments of Human Resources and County Counsel, have prepared the responses below:

Management Audit Recommendations

- 1) County Counsel revise its hourly rates for FY 2005-06 based on anticipated costs during that year.

The Department of County Counsel, in conjunction with the Executive Office and the Auditor-Controller, are currently in the final review stages for the hourly attorney billable rate. The rate revision is based on anticipated costs during FY 2005-06. It is anticipated the revised rates will be submitted to the Board before December 2005.

- 2) County Counsel, Employee Relations, Workers Compensation and General Liability staff improve communication by holding regular meetings to discuss the status of pending cases, and employment issues relevant to all.

Communication with County Counsel and the Human Resources risk management division is ongoing, however regular meetings have not been scheduled due to the recent change in leadership and the current review/restructure of work assignments.

- 3) County Counsel present to departmental staff regular training sessions on managing outside counsel and reviewing invoices.

Given the unique nature of outside representation of county departments and districts, County Counsel has been working directly with those individuals who regularly handle outside billings. County Counsel also reviews and approves a significant number of billings by outside counsel.

- 4) County Counsel underfill vacant attorney positions that are hard to recruit for with temporary paralegals on a trial basis.

Four new Deputy County Counsel positions were added to the department budget for FY 2005-06. One position was added to support DPSS and the other three were added for code enforcement. The department head retired in July 2005, and a new one has been appointed. The new County Counsel is currently conducting an internal review of work assignments to gauge the effect of the new positions and the retirement of some employees. This evaluative process will also include the need (if any) for additional supporting staff positions, such as paralegals.

- 5) County Counsel track abatement case timelines for a sample period this spring, and submit an analysis of the results to the Board.

County Counsel reports that since the preparation of this management audit, Building and Safety has implemented a process of voluntary compliance for the majority of abatement cases. Therefore, fewer cases are entering into the administrative abatement process, which significantly reduces the amount of cases requiring County Counsel participation. A timeline analysis is, therefore, of little value.

- 6) County Counsel investigate the purchase of case tracking software, or convert mail and case logs to software more conducive to ongoing analysis.

County Counsel has been reviewing existing case tracking procedures, as well as exploring available software for a more comprehensive tracking system. New spreadsheets have been developed that allow for determination of the status of individual cases in chronological, subject matter and staff order. Appointments are being arranged to review law office software in both a clinical and practical (on the job) setting.

- 7) Consider a gradual phase-in of the workers' compensation and/or disability retirement claim function to County Counsel by hiring staff attorneys capable of providing legal services for injured worker cases, and beginning to shift caseload.

As stated in item 4 above, there is a current internal review of work assignments to gauge the effect of the new positions and the retirement of some employees.

- 8) County Counsel prepare a plan to bring into the office legal representation in employee discipline cases, with the plan to include staffing, budget and space requirements, as well as a system of tracking performance.

As stated in item 4 above, there is a current internal review of work assignments to gauge the effect of the new positions and the retirement of some employees.

- 9) All departments and divisions employing outside counsel be provided with Litigation Management Guidelines similar to those in use in Risk Management and Workers' Compensation.

On February 24, 2005, the Executive Office distributed a memo to all departments, districts and agencies using outside legal services, which included recommendations on contracting with outside legal counsel. The Litigation Management Guidelines were also included with the memo.

- 10) All departments and divisions employing outside counsel develop or clarify approval authority levels for the payment of legal bills.

As stated in item 9 above, the distribution of the memo from the Executive Office instructed all departments to comply and follow the Litigation Management Guidelines. The Human Resources Department reports that approval authority levels have been revisited and clarified. Other departments coordinate their use of outside counsel with County Counsel.

- 11) All departments and divisions employing outside counsel maintain logs of current litigation, and provide monthly reports to County Counsel on cases for which legal services have exceeded \$50,000.

As stated in item 9 above, the distribution of the memo from the Executive Office instructed all departments to comply and follow the Litigation Management Guidelines. The only department that anticipates exceeding the \$50,000 threshold is Human Resources, which has designed a regular monthly report, and has improved communication channels with County Counsel on high-risk litigation cases.

- 12) Right-to-audit clauses be included in all contracts with outside legal counsel.

As stated in item 9 above, the memo from the Executive Office instructed all departments to comply and follow the Litigation Management Guidelines. The right-to-audit clause has been included in the litigation management guidelines which are incorporated in the contract requirements for outside legal counsel. As contracts are submitted for Board approval, they are reviewed to ensure that this clause is included.

- 13) On a trial basis, per-product or per-case rates be developed for payment to outside legal firms for certain routine, recurring matters.

Human Resources contracts with several firms to assist the county in various litigation. The contracts provide standard hourly rates for the defense attorneys. Human Resources expects to review methods used by other agencies to determine the feasibility of negotiating a flat rate per case or per product, or a "not-to-exceed" rate, although difficulty lies in determining before a case develops whether it will be simple or complex.

- 14) Human Resources enter into contracts with all firms they expect to pay more than \$25,000 to in a single fiscal year.

Human Resources will ensure contracts are entered into with firms they expect to pay more than \$25,000.

- 15) Human Resources maintain and distribute to key staff current listings of contracted attorneys, their rates, and the expiration dates of their contracts.

Human Resources has implemented this recommendation.