

823

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



**FROM:** County Counsel

**SUBMITTAL DATE:**  
January 12, 2015

**SUBJECT:** Revisions to Board of Supervisors Policy A-18: Procedures for Contracting for Professional or Personal Services [District -ALL] [Total Cost-\$0] [Source of funds - N/A]

**RECOMMENDED MOTION:** That the Board of Supervisors:

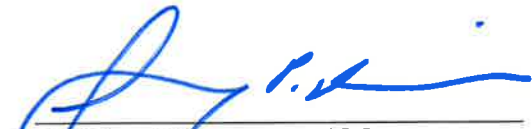
1. Approve revisions to Board Policy A-18: Procedures for Contracting for Professional or Personal Services (Attachment A).

**BACKGROUND:**

**Summary**

On July 29, 2014 former District 3 Supervisor Jeff Stone introduced Safeguard County of Riverside Against Preventable Expenses (SCRAPE) II. As part of that initiative, Supervisor Stone recommended fully utilizing the Law Offices of the County Counsel versus going out of the County for legal professional services and allowing County Counsel's office the ability to review legal service needs of the departments. He also stated that Board Policy A-18 needs more specific language on the use of outside counsel.

(continued next page)

  
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 GREGORY P. PRIAMOS  
 County Counsel

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ N/A	\$ N/A	\$ NA	\$ N/A	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ N/A	\$ N/A	\$ N/A	\$ N/A	
<b>SOURCE OF FUNDS:</b> Not Applicable				<b>Budget Adjustment:</b> No	
				<b>For Fiscal Year:</b> 2014/2015	

**C.E.O. RECOMMENDATION:**

APPROVE

County Executive Office Signature

BY:   
 Denise C. Harden

**MINUTES OF THE BOARD OF SUPERVISORS**

- A-30
- Positions Added
- 4/5 Vote
- Change Order

Prev. Agn. Ref.:

District:

Agenda Number:

3-2

Departmental Concurrence

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA  
FORM 11: Revisions to Board of Supervisors Policy A-18: Procedures for Contracting for  
Professional or Personal Services [District –ALL] [Total Cost-\$0] [Source of funds – N/A]**

**DATE: January 12, 2015**

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**BACKGROUND:**

**Summary (continued)**

Board Policy A-18 sets forth the County of Riverside's policy and procedure for contracting with third parties for the provision of professional and personal services. Pursuant to California Government Code sections 26526 and 26529, the Office of County Counsel (County Counsel) serves as legal counsel for the County as well as its agencies, special districts, officers and employees. Over the years, County Counsel has enhanced the level of expertise in the office to increasingly handle a greater range of legal services for the County including but not limited to contract services, CEQA, construction, real property, tax issues, healthcare, bankruptcy and litigation.

Moreover, pursuant to the direction of the Board of Supervisors, the County Counsel's Office has recently increased its ability in these and other legal areas by hiring four new lawyers with specific training and expertise in public agency litigation. This effort has been driven by the goal of providing better service to the County and the various client departments, agencies and districts; and to reduce the County's reliance on the services of outside counsel. While County Counsel recognizes the need to use of specialized counsel based upon the expansive array of legal issues facing the County, it is the role of County Counsel to make the determination that the office lacks the specific expertise and/or internal capacity and, thus, that a matter is better suited for handling by outside counsel. There may also be instances where special counsel must be retained due to a conflict of interest as defined in Rule 3-310 of the Rules of Professional Conduct of the State Bar of California, as construed for public lawyers. This procedure would maximize the use of the County Counsel's office, while limiting the use of outside counsel to those instances where County Counsel has determined that the use of such counsel is necessary and appropriate. This procedure will help decrease the overall outside legal cost to the County.

The proposed revision to Board Policy A-18 clarifies the role of County Counsel in review and approval of requests to retain legal services from outside counsel and ensures compliance with the statutory duties of the County Counsel under the California Government Code. The proposed revision is also consistent with Board Policy B-2 concerning suits against County employees and officials, as well as the Board's recent policy direction on November 24, 2014 for reducing claims and lawsuits against County agencies.

Review and approval by County Counsel will not cause unnecessary delays in hiring outside counsel in appropriate cases. County Counsel will continue to work directly with the Executive Office and County departments, agencies and districts to review their legal requirements to ensure that they are receiving the highest quality legal services. Additionally, County Counsel will work with the appropriate staff to identify available legal counsel with the specialized expertise required for the particular engagement.

**Impacts on Residents and Business**

There are no impacts on Residents or Businesses.

**ATTACHMENT:**

Board Policy A-18

COUNTY OF RIVERSIDE, CALIFORNIA  
BOARD OF SUPERVISORS POLICY

**Subject:**

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**PROCEDURES FOR CONTRACTING FOR**  
**PROFESSIONAL OR PERSONAL SERVICES**

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**Policy:**

Department heads contemplating the procurement of professional or personal services by contract shall adhere to the following guidelines and procedures:

**1. DEFINITIONS**

- a. **Professional.** A professional with whom the County of Riverside may contract for professional services can generally be described as one whose vocation, calling, occupation or employment involves specialized knowledge, labor or skills, and such labor or skill is predominantly mental or intellectual rather than physical or manual. Professional services may only be rendered pursuant to a license, certification or registration authorized by the Business and Professions Code or the Chiropractic Act.
  
- b. **Personal Services.** A personal services contract is a contract whereby one of the contracting parties, as consideration or part consideration, is to perform a service for the county as provided in the contract and such services may not be provided by substitution or contracted out to a third party. Such service must be provided personally by the contracting individual.

**2. QUALIFICATIONS**

The contractor must be a person specially trained, experienced, expert and competent to perform the service and, if a professional, he must be duly licensed or certified as such.

**3. LIMITATIONS**

Professional or personal services contracts shall only be rendered under one or more of the following circumstances:

- a. The required services are outside the scope of the duties of county employees.
  
- b. The required services must consist of services, advice, education or training for the county or its employees. The services must be in financial, economic, accounting, engineering, legal, medical, therapeutic, administrative, architectural, security matters, and laundry and linen services. They may consist of maintenance or custodial services upon the making of appropriate findings in compliance with Government Code Section 31000.

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Notwithstanding the exception set forth in Section 4, retention of any legal counsel services shall be subject to the prior review and approval of County Counsel.

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BOARD OF SUPERVISORS POLICY

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- c. There is no public agency available and presently able to provide the services.
- d. There are no existing county employees who are equally trained, experienced, and able to perform the service.
- e. Severe time constraints are imposed on completing a project within a time frame required by statutory and regulatory requirements that reasonably could not be anticipated so that completion could be accomplished by existing local government staff.

**4. EXCEPTIONS TO POLICY**

This policy shall not apply to contracts covered under other county, state or federal policies or regulations, nor to:

- a. Agreements for construction soils and materials testing laboratories of construction contract inspectors;
- b. Contracts for shelter home and youth home services;
- c. Workers compensation services, malpractice liability services, and liability insurance services, including legal, investigative and rehabilitation services.;
- d. Agreements for architectural and engineering services. Procedures for contracting for these services are established by Board of Supervisors Policy H-7.

**5. PROCEDURES**

All recommendations to the Board of Supervisors for contracts for professional or personal services shall comply with the following procedures, except as expressly provided elsewhere in this policy:

- a. Subject to the availability of funds, the department head shall prepare a request for proposal, which shall include specifications, conditions and any other requirements deemed necessary for the provision of such services;
- b. The department head shall distribute copies of the request for proposal to as many prospective bidders as will ensure a sufficient number of competitive bids. In no event shall the number of RFP's distributed be less than three unless the department head certifies that three bidders are not available; and

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- c. The department head shall review and rank in order ranging from "most responsive" to "least responsive" all proposals received from responsible offerors. Based on services being requested and the quality of the specification provided, each criteria listed below will be assigned a weighting factor or a percentage of the total weight. The proposals will be evaluated utilizing this predetermined weighing factor in establishing a ranking for each proposal.

Therefore, by using the evaluation criteria, cost is only one element of the overall evaluation and establishing price reasonableness through due diligence, award recommendations may be made to other than the initial low cost offerors. The following section guidelines shall be used in recommending to the Board of Supervisors the award of a contract to the most responsive bidder:

1. Actual capability to complete the project in conformance with the specifications, conditions and other requirements of the County of Riverside;
  2. Demonstrated ability to prepare or deliver professional, accurate and timely finished products or services irrespective of unusual or difficult circumstances;
  3. A reasonable contract price in relationship to the size, quality and time constraints of the proposed project with due consideration of competitive proposals;
  4. Satisfactory experience and performance on similar types of services;
- d. Requests for approval of contracts for the employment of persons to furnish maintenance and custodial services to a county facility shall also contain a recommendation and recitation of facts to enable the Board to make appropriate findings in compliance with Section 31000 of the Government Code.
- e. All proposed contracts must be reviewed and approved as to form by the County Counsel in compliance with Policy A-5. All legal counsel service contracts shall be first approved by County Counsel, regardless of the contract amount. Appropriate standard contract forms should be obtained from County Counsel and included with Requests for Proposals. No such contract shall be submitted to the Clerk of the Board of Supervisors without the review and recommendation of the County Executive Officer.

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**BOARD OF SUPERVISORS POLICY**

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- f. Pursuant to Government Code Section 25502.5(a), the County Purchasing Agent may process and execute contracts for personal and professional services, which do not exceed, in aggregate, the appropriate statutory limit, currently \$100,000. This policy, however, shall limit such contracting authority of the Purchasing Agent to \$25,000 without prior Board approval if the contract was not competitively bid.
- g. Request for contract approval, which must go to the Board will be clearly identified as Request for award of a contract to the most responsive offeror." All requests for award to other than the most responsive offeror, regardless of dollar value, must go to the Board and be fully justified.

**6. CONTRACT ADMINISTRATION:**

- a. **Department Head** - The department head shall be responsible for the satisfactory performance of the contract requirements by the contractor. This includes contract monitoring, ~~(that process which determines if the contractor is performing the contracted services,)~~ and contractor evaluation. The evaluation process will determine the effectiveness of the contractor's service delivery process and, to the extent possible, whether the delivered service is accomplishing that which the County intended. The establishment of a quantifiable objective is an essential element of the contract development process to enable evaluation.
- b. **Program Manager** - The program manager is responsible for contract administration; i.e., the day-to-day operation of the contract which includes, but is not limited to, insuring compliance with the technical requirements of the contract and processing of contract payments.
- c. All amendments to contracts approved in compliance with this policy shall require the approval of the Board of Supervisors after review and recommendation by the County Counsel and County Executive Officer.

**7. PROVISION FOR WAIVER:**

Upon request of a department head, setting forth good cause, the Board of Supervisors may approve a contract for special services without compliance with procedures set forth in this policy.

- 8. This policy supersedes revised Policy A-18 approved by the Board of Supervisors on April 13, 1993.

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**BOARD OF SUPERVISORS POLICY**

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**Reference:**

Minute Order 6.9 of 11/03/1981

Minute Order 3.36 of 04/13/1993

Minute Order 3.5 of 04/08/1997

Minute Order 3.7 of 02/01/2000 (supersedes Policy A-18 adopted 11/03/1981)

Minute Order 3.7 of 11/07/2006