



Policy Type: Board

Category: Procurement

Policy Name: Legal Services Contracts - Board Policy 5.12

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5.12 LEGAL SERVICES CONTRACTS

5.12.1 Overview

This policy addresses the legal services procured by the County from outside legal counsel.

5.12.2 Policy

It is the policy of the Board that the County enters into contracts for legal services under certain circumstances and that certain conditions may be placed on the outside legal counsel providing such services.

5.12.3 Background

The County contracts with outside legal counsel for legal services when issues pertinent to a negotiation, arbitration or litigation are specialized in nature that cannot be handled by the Office of the County Counsel, or when a legal conflict merits the retention of outside counsel, or when the existing workload of the County's attorneys renders it impractical to assign County staff to undertake a particular matter. A court may also order the retention of a court-appointed counsel, which generally will result in a contract for the services of an outside legal counsel to represent a County party for the duration of a particular court case.



5.12.4 Purpose

The purpose of Section 5.12 is to establish the policy of the Board related to the retention of outside legal counsel and the conditions governing such an arrangement.

5.12.5 Application of Policy

5.12.5.1 Approval Process

Prior to retaining outside legal counsel, agencies and departments must first ask County Counsel to prepare a written certification to the County Executive that the Office of the County Counsel is unable to provide legal services to the agency or department on the matter at issue and it has no objections to the Agency/Department hiring the proposed outside legal counsel.

5.12.5.2 Pro Bono Policy

- (A) A contract for legal services with the County must include a written representation by the contracting firm that the firm will make a good faith effort to provide at least 12 hours of pro bono legal services, during each year of the contract, multiplied by the number of full time attorneys in the firm. The number of hours can be pro-rated on a calendar day basis for any contract period that is less than a full year.
- (B) For the purpose of this policy, pro bono legal service means:
 - (1) Provision of legal services without fee or expectation of fee:
 - (a) to low-income individuals, or



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- (b) to charitable, civic, community, governmental or educational organizations in matters that are designed primarily to address the needs of low- income individuals;
 - (2) Provision of legal services without a fee or with a substantially reduced fee to groups or organizations seeking to secure or protect civil rights, civil liberties or public rights; or
 - (3) Participation in activities without a fee to improve the law, the legal system or the legal profession.
- (C) Contracting firms are encouraged to provide pro bono legal services through the Pro Bono Project (which provides pro bono legal services to low-income individuals with civil disputes in the County of Santa Clara), or to individuals or organizations within the County of Santa Clara.
- (D) Each contracting firm must provide the County Counsel with a report on the firm's pro bono activities within 30 days of the end of each contract year, or contract term if less than a year, and again when submitting the firm's final invoice to the County. The report must include the number of full-time attorneys in the firm, the number of pro bono hours provided by the firm, and, if appropriate, the nature of the pro bono legal services provided.
- (E) If a contracting firm fails to make a demonstrated good faith effort to meet the requirements of this policy, such a failure constitutes a breach of the agreement and may also be considered by the County in determining whether to renew the firm's existing contract, or whether to award the firm any future contracts.



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- (F) This policy is not applicable to contracts with a maximum amount payable of less than \$50,000 for each year of the contract.
- (G) This policy is not applicable to contracts with, or appointments made by, the judiciary for the purpose of providing legal representation to low or middle-income persons, in civil, criminal, or administrative matters.
- (H) These services cannot include the representation of a client, directly or indirectly, in any action or complaint filed in any forum against the County or its agents or employees. This restriction does not apply to administrative proceedings to obtain or maintain public benefits or services for clients.

5.12.6 Applicable Legal Authority

The applicable legal authority for this Section includes, but is not limited to:

County of Santa Clara Ordinance Code Section A22-16

Related Policies

None.

Related Forms and Information

None.

History

Date	Changes Made
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