



COUNTY OF HUMBOLDT

AGENDA ITEM NO.
C20

For the meeting of: June 5, 2018

Date:
To: Board of Supervisors
From: Connie Beck, Director
Department of Health and Human Services

Subject: Agreement with the California Department of Social Services Regarding the Provision and Receipt of Legal Consultation and Legal Representation Associated with the Resource Family Approval Program

RECOMMENDATIONS:

That the Board of Supervisors:

1. Approve, and authorize the Chair of the Board to execute, the attached agreement with the California Department of Social Services ("CDSS") regarding the provision and receipt of legal consultation and legal representation associated with the Resource Family Approval program for approval of homes for Humboldt County foster children;
2. Authorize the Department of Health and Human Services ("DHHS") – Child Welfare Services ("CWS") Director to exercise the options to extend the agreement on behalf of DHHS – CWS, under the same terms and conditions;
3. Authorize the DHHS – CWS Director to amend and execute program elements of the agreement as necessary after review and approval by County Counsel and Risk Management; and
4. Direct the Clerk of the Board to return three (3) fully executed original copies of the attached agreement to the DHHS Contract Unit for forwarding to DHHS – CWS for further processing;

Prepared by Katie Collender Staff Services Analyst - SSB

CAO Approval

REVIEW: Auditor CD County Counsel SSB Personnel _____ Risk Manager Kles Other _____

TYPE OF ITEM:
 Consent
 Departmental
 Public Hearing
 Other _____

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor Wilson Seconded by Supervisor Bass
Ayes Bass, Fennell, Sundberg, Bohn, Wilson
Nays _____
Abstain _____
Absent _____

PREVIOUS ACTION/REFERRAL:

Board Order No. _____
Meeting of: _____

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: 6/5/18
By:
Kathy Hayes, Clerk of the Board

SOURCE OF FUNDING:

Social Services

DISCUSSION:

The attached agreement with the California Department of Social Services (“CDSS”) provides for the legal consultation and legal representation associated with the Resource Family Approval (RFA) program in DHHS - Child Welfare Services (“CWS”) and the State of California, pursuant to California Welfare and Institution Codes section 16519.5 et seq.

Resource Family Approval went into effect statewide on January 1, 2017. The RFA process replaces the multiple approval processes of relative/non-related extended family member homes, guardian homes, foster family homes, and adoptive homes into one unified approval process.

Pursuant to Government Code section 30029.7, subdivision (a), the county and CDSS may enter into an agreement for CDSS to provide services or activities related to RFA. The CDSS Legal Division is experienced in the matters of legal consultation and legal representation that may be required through the provision of RFA services by the county.

The services provided pursuant to the terms and conditions of the attached agreement include consultation and legal representation regarding matters of RFA criminal records exemption, denial, appeal, rescission, and exclusion actions of prospective or approved RFA homes.

FINANCIAL IMPACT:

Approval of the Agreement with the California Department of Social Services Regarding the Provision and Receipt of Legal Consultation and Legal Representation Associated with the Resource Family Approval Program has no dollars attached to the service provision of the agreement. There is no anticipated impact to the County General Fund.

The agreement with the California Department of Social Services supports the Board of Supervisors strategic framework by providing for and maintaining laws and regulations to protect vulnerable populations.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to approve the attached agreement with CDSS regarding the provision and receipt of legal consultation and representation for the RFA program. However, this alternative is not recommended due to the need for legal services.

ATTACHMENTS:

1. Agreement with the California Department of Social Services (3 originals)

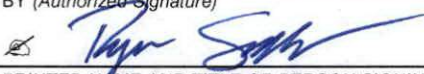

AGREEMENT NUMBER 16-5017
REGISTRATION NUMBER

- This Agreement is entered into between the State Agency and the Contractor named below:
STATE AGENCY'S NAME
California Department of Social Services
CONTRACTOR'S NAME
County of Humboldt
- The term of this Agreement is: **January 1, 2017 through June 30, 2019**
- The maximum amount of this Agreement is: **\$0.00**
Zero Dollars and 00/100
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work	8 pages
Exhibit A, Attachment 1 – General Terms and Conditions	6 pages
Exhibit A, Attachment 2 – Information Security Requirements	2 pages
Exhibit A, Attachment 3 – State of California Public Liability and Workers' Compensation Insurance	1 page
Exhibit A, Attachment 4 – State of California Automobile Liability/Physical Damage	1 page

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
 These documents can be viewed at www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) County of Humboldt		
BY (Authorized Signature) 	DATE SIGNED (Do not type) 6/5/18	
PRINTED NAME AND TITLE OF PERSON SIGNING Chair, Board of Supervisors		
ADDRESS 2430 6th Street, Eureka, California 95501		
STATE OF CALIFORNIA		
AGENCY NAME California Department of Social Services		
BY (Authorized Signature) 	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Deborah Pearce, Chief, Contracts and Purchasing Bureau		
ADDRESS 744 P Street, M.S. 8-14-747, Sacramento, California 95814		

Exempt per: SCM Vol. 1 4.04(A)(2)

**EXHIBIT A
(Standard Agreement)**

SCOPE OF WORK

This agreement is entered into by and between the California Department of Social Services, hereinafter referred to as the CDSS, and the County of Humboldt, hereinafter referred to as the County, for the purpose of establishing the responsibilities of the CDSS and the County in the provision and receipt of legal consultation and legal representation in administrative action appeals as described within Section III of this agreement, associated with the Resource Family Approval (RFA) program of the County child welfare services agency and the State of California, pursuant to California Welfare and Institutions Code section 16519.5 et seq. Hereinafter, the County and CDSS may be referred to collectively as the "Parties", or individually as a "Party".

I. Background

The RFA program was created to provide a unified, family friendly, and child-centered resource family approval process to replace multiple processes for licensing foster homes, approving relatives and nonrelative extended family members as foster care providers, and approving adoptive families; establish a single set of standards for resource family approvals which allow for the safety, permanence, and well-being needs of the children who have been victims of child abuse and neglect; reduce the use of congregate care placement settings; and decrease the length of time for each child to obtain permanency. Pursuant to Government Code section 30029.7, subdivision (a), the County and CDSS may enter into an agreement for CDSS to provide services or activities related to RFA. The County and CDSS have identified certain services or activities to be provided by CDSS in order to expedite the delivery of services to children and nonminor dependents who reside or may reside in an approved resource family home.

II. Definitions

- A. "Resource Family Approval" means an applicant successfully meets the home environment assessment and permanency assessment standards of the State of California as set forth by CDSS with an approval provided by the County or applicable Foster Family Agency. This approval is in lieu of the existing foster care license, relative or nonrelative extended family member approval, and the adoption home study.
- B. "Respondent" means an applicant, Resource Family parent, or individual who has been served with a Notice of Action and is the subject of an administrative action. For matters that shall be heard by the CDSS State Hearing Division, a "Respondent" also means a "claimant," as defined in CDSS Manual of Policy and Procedures section 22-001.
- C. "Written Directives" (WDs)¹ means the written processes, standards, and requirements issued by the Department to implement the RFA Program. (See WDs § 3-01(a)(81).) The WDs have the same force and effect as regulations; ensure that a county uses the same standards for RFA; and ensure that a county does not implement policies or procedures that conflict with or attempt to supersede the WDs. (WDs § 2-01.)

III. Legal Consultation and Legal Representation on Appeals/SHD and OAH Hearings

- A. Role of the CDSS Legal Division in the Provision of Legal Consultation and Legal Representation on Appeals:

¹ Version 4 of the Written Directives was used as a reference in creating this agreement. The Written Directives may be revised by CDSS during the term of this agreement.

EXHIBIT A
(Standard Agreement)

1. The CDSS Legal Division shall act as the sole legal representative on behalf of the County in the provision of legal consultations and legal representation on appeals to an RFA Notice of Action. The County is the client and is the final decision maker on decisions affecting the legal rights of the County.
 - a. The Parties shall maintain confidentiality in all communications in accordance with any applicable confidentiality laws, privacy laws, and laws governing attorney-client relationships.
 - b. For purposes of this subdivision, "Parties" shall include agents of the County who conduct RFA activities as described in Welfare and Institutions Code section 16519.5 et seq. on behalf of the county. The County shall ensure that agents of the county who conduct such RFA activities on behalf of the county are familiar with any applicable confidentiality laws, privacy laws, and laws governing attorney-client relationships, including, but not limited to, Evidence Code section 952.
 2. The CDSS Legal Division shall represent the County on all appeals to an RFA Notice of Action for denial or rescission of resource family approval, denial or rescission of a criminal record exemption, or exclusion of an individual and shall appear on behalf of the county at all proceedings related to such actions that are heard by the State Hearings Division (SHD) or the Office of Administrative Hearings (OAH).
 3. Nothing in this section shall preclude a County representative from being present at an RFA hearing. In addition, a County hearing representative instead of the CDSS Legal Division attorney may represent the County at hearings before the SHD with the prior written agreement of the CDSS Legal Division for each individual action, provided the hearing representative follows the direction of the CDSS Legal Division.
 4. The Parties agree that CDSS Legal Division's scope of work shall not include legal consultation or representation regarding the following:
 - a. Writs or lawsuits or similar actions against the County or its agents, except that the CDSS Legal Division shall be available to consult with the county on any such actions arising out of an RFA action as described herein;
 - b. Requests for information or documents from the county such as Public Records Act requests or subpoenas;
 - c. Placement of a dependent child or nonminor dependent;
 - d. Relative or non-relative extended family member approvals pursuant to the "*Harris*" case;
 - e. Child Abuse Central Index grievance hearings;
 - f. Dependency or delinquency matters; and
 - g. Any other matter within the authority and direction of the County Counsel.
- B. Duties of the County and the CDSS Legal Division Regarding Consultation:
1. In compliance with the WDs or regulations, the County is required to consult with the CDSS Legal Division prior to service of a Notice of Action for denial or rescission of resource

**EXHIBIT A
(Standard Agreement)**

family approval, denial or rescission of a criminal record exemption, or exclusion of an individual. (See, Welf. & Inst. Code § 16519.5, subd. (f).) The County may also request a legal consultation regarding legal or evidentiary issues related to an investigation, psychosocial assessment or other matter affecting the approval.

- a. If the County seeks a temporary suspension order (TSO) against a resource family's approval, in addition to consulting with the CDSS Legal Division on the matter, the County shall consult with county counsel prior to service of a TSO.
2. The County shall work with the CDSS County Liaison to schedule a regular monthly legal consult meeting. If a matter is urgent, such as a situation warranting the immediate exclusion of an individual or a TSO, the County may contact their CDSS County Liaison and request an urgent consult with their assigned CDSS Legal Division consulting attorney (consulting attorney) by phone or email.
3. The County shall prepare a confidential legal consultation memo and include each matter upon which legal advice is sought through a consult with the CDSS Legal Division. A copy of the RFA legal consult memo form can be obtained through the CDSS County Liaison. Upon request, the CDSS County Liaison will provide technical assistance to the County regarding the consult procedures, the evidence, or how to draft the Notice of Action or legal consult memo. Both Parties shall maintain the confidentiality of the legal consult memo or emails during any transmission of the form or emails in any files maintained by the Parties.
4. Using a secure or encrypted format, or a secure file transfer protocol, the County shall email a properly completed consult memo, the draft Notice of Action, as well as relevant attachments related to the request for consult including, but not limited to, investigations, court records or arrest reports. These documents shall be sent to the CDSS County Liaison and the consulting attorney at least three (3) business days prior to the date of the regularly scheduled consult.
5. The consult meeting is an opportunity for the consulting attorney to discuss the information in the consult memo provided by the County with the appropriate County staff. Accordingly, the County should make its best efforts to have the assigned County resource family approval worker or probation officer with knowledge of the facts described in the consult memo present at the consult. If the approval worker or probation officer cannot attend in person, the worker or probation officer should attend by teleconference. If that is not possible, the supervisor who is familiar with the facts of the matter shall attend.
6. If a matter to be discussed at the consult involves a recommendation for an exclusion action, a psychosocial assessment conducted by CDSS, an investigation conducted by CDSS, or the matter involves dual or multiple programs (e.g., resource family approval and a child care license), the County shall identify and request the appropriate CDSS RFA staff, CDSS adoptions staff or CDSS Community Care Licensing Division (CCLD) staff to attend or teleconference into the consult.
 - a. The County may request the CDSS County Liaison to assist in arranging for the necessary CDSS staff to attend.
 - b. The County and CDSS shall share evidence and information regarding related investigations, assessments or actions, as required by the WDs.
 - c. Agents of the county who conduct activities as described in Welfare and Institutions Code section 16519.5 on behalf of the County may be present during that portion of a consultation that is applicable to a matter for which the agent acted on behalf of the

**EXHIBIT A
(Standard Agreement)**

County, and for which the agent's presence is needed to discuss the information in the consult memo provided by the County.

7. The consulting attorney shall review the legal consult memo, the draft Notice of Action and attachments and shall advise the County regarding the Notice of Action, the proper hearing forum, and any other matter related to an investigation or proposed action.
 8. The consulting attorney shall document the legal advice in writing within 3 to 5 business days, or as agreed upon at the consult, and submit the documentation to the County and the CDSS County Liaison. If the matter involves dual or multiple programs or an exclusion action, the consulting attorney shall provide the relevant CCLD or CDSS Program staff with a copy of the consult memo and legal advice.
 9. If the advice of the consulting attorney is to proceed with an action that affects the approval, the County should notify the child(ren)'s placement worker, as applicable.
- C. County Duties Regarding Processing the Notice of Action and Appeal:
1. The County shall serve the Notice of Action in accordance with Welfare and Institutions Code section 16519.6 and the WDs or regulations. The County shall ensure the file contains adequate documentation regarding service of the Notice of Action to the correct address, such as certified mail receipts, and/or a proof of service in accordance with WDs, Article 12: (Due Process).
 2. If the matter includes an exclusion action or CCLD action, the County shall coordinate administrative actions, including service of the Notices of Action, notice of a related licensing action by CCLD, an exclusion order, or the filing of formal pleadings, with CDSS. (WDs, Article 12.)
 3. If an appeal is filed, the County is responsible to comply with the law and the WDs or regulations, including, but not limited to, the following:
 - a. Date-stamp the appeal and envelope;
 - b. Update the appeal status in the Notice of Action database;
 - c. For OAH cases, immediately send the acknowledgment of appeal to Respondent and begin preparing the case for the Legal Division; and
 - d. For SHD cases, begin preparing the case to be sent to the Legal Division at the same time the appeal is forwarded to the SHD.
- D. Preparing the Case to Send to the CDSS Legal Division After Receipt of an Appeal:
1. The County shall prepare a Statement of Facts for the CDSS Legal Division using the following confidential attorney-client forms:
 - a. Form RFA-9029: Statement of Facts Summary Sheet – Resource Family
 - b. Form RFA- 9029C: Complaint and Immediate Deficiencies Log Continuation
 - c. Form RFA-9029D: RFA Statement of Facts Dividers
 - d. Form RFA-9029W: Witnesses Continuation
 2. For SHD cases the County shall prepare the Statement of Facts, a draft position statement, and copies of all approval file documents within ten (10) business days of receipt of an appeal. The documents shall be sent electronically to the CDSS Legal Division by encrypted email or Secure File Transfer at the same time the appeal is forwarded to SHD

**EXHIBIT A
(Standard Agreement)**

(WDs, Article 12). The County shall maintain the confidentiality of the attorney-client privileged Statement of Facts forms during any transmission of the forms or in any files maintained by the County. The County shall use the draft position statement template provided by CDSS when drafting the position statement.

3. For OAH cases that involve a TSO or immediate exclusion action, the County shall prepare the Statement of Facts forms and copies of the RFA documents and evidence identified in the RFA 9029D: RFA Statement of Facts Dividers and send to the CDSS Legal Division by encrypted email or Secure File Transfer within ten (10) business days of receipt of the appeal. Hard copies of the original documents shall also be sent by mail.
 4. For all other OAH cases, the County shall prepare and mail to the CDSS County Liaison the Statement of Facts forms and originals of all relevant documents within thirty (30) days of receipt of the appeal. The CDSS County Liaison will be responsible to review the documents, provide any technical assistance necessary, and then forward to the CDSS Legal Division.
 5. The County shall make its best efforts to obtain certified court and law enforcement or other relevant records prior to sending the case to the CDSS Legal Division. If certified records are received after the case has been forwarded, then the County shall forward them to the CDSS Legal Division.
 6. Prior to finalizing the Statement of Facts the County shall verify that the witness list contact information in Form RFA-9029W: Witness Continuation is current and updated, including the current placement and placement worker information for any child or nonminor dependent victim or witness.
 7. The County shall assist the CDSS Legal Division, if necessary, in locating witnesses, with the service of subpoenas, and with the transportation of witnesses to the hearing. The County shall notify the assigned CDSS Legal Division hearing attorney (hearing attorney) if there are concerns about the testimony of a child or similarly vulnerable witness at hearing as specified in WD, Article 12. The County shall assist the hearing attorney in providing information or facilitating contact with the witness's placement worker or treatment provider if a motion to protect the witness is determined to be necessary. The County shall provide for the use of one-way closed-circuit television or video in accordance with WDs, section 12-16 (Conduct of Hearing; Confidentiality and Procedures), as applicable.
- E. Duties of the County and CDSS Legal Division after the CDSS Legal Division Receives the Case:
1. Upon receipt of the case file, the CDSS Legal Division shall be responsible for the following:
 - a. Logging the case into the Legal Case Tracking System (LCTS) and immediately assigning the case to a hearing attorney.
 - b. Preparing a new case memo identifying the hearing attorney and the hearing attorney's contact information and emailing it to the County staff identified on the Statement of Facts and the CDSS County Liaison.
 2. The hearing attorney will review the complete file to determine if the evidence is sufficient to go forward with the requested administrative action. If not, the County will be consulted and the file may be closed without filing and sent back to the County for an informal resolution or to obtain more evidence.

EXHIBIT A
(Standard Agreement)

3. For cases to be heard at SHD, the hearing attorney will review the draft Position Statement prepared by the County and work with the County to finalize it. Provided that the County provides the necessary and relevant information in a timely fashion, the CDSS Legal Division is responsible for filing the Position Statement and exhibits with SHD, and for ensuring the documents are made available to the Respondent.
4. For cases to be heard at OAH, the CDSS Legal Division will prepare, sign and file the Accusation or Statement of Issues in accordance with the County's request in the Statement of Facts case summary and serve on the Respondent(s).
 - a. A final Accusation or Statement of Issues shall be provided to the County welfare director, chief probation officer or designee. A copy of the filed Accusation or Statement of Issues will be emailed to the County and the CDSS County Liaison.
 - b. If there are any substantive changes to the allegations at issue that were identified in the Statement of Facts case summary provided by the County, the CDSS Legal Division shall consult the County welfare director, chief probation officer, or designee for approval prior to filing the Accusation or Statement of Issues.
 - c. A CDSS Legal Division attorney may sign an amended Accusation or Statements of Issues on behalf of the County, if the amendment is approved by the welfare director, probation officer or designee. The CDSS Legal Division shall file a copy of the amended pleading with OAH, as applicable.
5. If a resolution is sought prior to hearing, the CDSS Legal Division will discuss settlement options with the County, Respondent, CCLD or CDSS Program if applicable, draft the settlement agreement, and supervise its finalization. The County shall have the final decision on whether to approve a settlement. If a Respondent seeks to withdraw the appeal or notice of defense, the CDSS Legal Division shall prepare a written withdrawal for Respondent to sign, and if the matter has been set for hearing, submit a copy to the Administrative Law Judge.
6. For OAH cases, the CDSS Legal Division will prepare and serve discovery.
7. While the RFA administrative action is pending, the County shall keep the assigned hearing attorney informed of new developments that occur prior to the hearing (e.g., new arrests or new evidence), and of any changes in the Respondent's address or other contact information. The County shall timely forward any phone calls or correspondence from Respondent or their authorized representative to the hearing attorney.
8. The CDSS Legal Division will represent the County at the prehearing conference, settlement conference, and hearing before SHD or OAH, and prepare any necessary motions, briefs, subpoenas or other hearing documents.
9. Following the SHD or OAH hearing, the CDSS Legal Division will ensure that the proposed decision is forwarded to the CDSS Director or designee for adoption or rejection. The final decision to adopt or reject the proposed decision rests with the CDSS Director or designee. If the decision is rejected, the CDSS Legal Division or SHD shall review the record and prepare the final decision and order, in accordance with the established standard.
10. For matters that were heard by OAH, the CDSS Legal Division will serve the final decision and order on all parties, including the County.

**EXHIBIT A
(Standard Agreement)**

11. The CDSS Legal Division shall represent the County in a request for reconsideration of the decision and order, a request for rehearing, or a request to set aside a default decision and order.
12. The CDSS Legal Division shall update the statewide data system (i.e., LAARS) with the final order or resolution.

F. Conflict Resolution:

1. If the County and the consulting or hearing attorney disagree with how to proceed on a matter, the matter shall be elevated to the supervisor level for discussion. If no agreement is reached, the matter shall be elevated to the next supervisor or manager level. If still no agreement is reached, the matter shall be elevated to the CDSS program manager and the equivalent county RFA program manager level. The County has the final decision on how to proceed on a matter, which shall be consistent with ethical duties regarding the minimum standards of evidence necessary to proceed with an action and the considerations identified below in item F.2.
2. The discussion shall include consideration of the minimum legal requirements for an action in the applicable statutes and WDs or regulations, any risks attendant to administrative litigation including a negative outcome at hearing, any risks to the health and safety of a child or nonminor dependent that may be caused by a failure to take action, and CDSS oversight responsibilities as mandated by law.
3. Nothing in this section shall interfere with the Parties' termination rights under this agreement.

IV. Project Representatives for CDSS and the County

CDSS Program Representative:

Name: Kathi Gilmour-Benner
Title: Assistant Chief Counsel
Address: 744 P Street, MS 8-5-161
Sacramento, CA 95814
Phone: (916) 657-2123
Fax: (916) 657-2470
Email: Kathi.Gilmour@dss.ca.gov

County of Humboldt Representative:

Name: Deb Engs
Title: Program Manager
Address: Humboldt County DHHS, Child Welfare
2430 6th Street
Eureka, CA 95501
Phone: (707) 388-6454
Fax: Not Applicable
Email: Dengs@co.humboldt.ca.us

Changes to the project representative information may be made by written notice to the other Party and shall not require an amendment to this agreement.

EXHIBIT A
(Standard Agreement)

V. Authority to Enter into This Agreement

Each Party entering into this agreement warrants the existence of the authority to enter into this agreement on behalf of the named Party.

**EXHIBIT A, ATTACHMENT 1
GENERAL TERMS AND CONDITIONS**

A. Term

The initial term of this agreement shall commence on January 1, 2017, and shall terminate on June 30, 2019 (the "**Initial Term**"). This agreement may be renewed by written amendment on a year-to-year basis for each one-year renewal period, upon its commencement, to constitute part of the "**Term**" for all purposes hereunder.

B. Termination

1. Termination without Cause: Each Party reserves the right to terminate this agreement at any time and for any reason upon provision of ninety (90) days' advance written notice to the other Party in accordance with Paragraph O (Notices).
2. Termination for Cause: Each Party reserves the right to terminate the agreement for cause. In addition, if either Party defaults under this agreement, the agreement may be terminated by the non-defaulting Party effective upon provision of forty-five (45) days advance written notice of termination provided to the defaulting Party in accordance with Paragraph O (Notices).
3. Default Costs: In the event of termination of this agreement due to a default by either Party, the non-defaulting Party shall not be liable for any costs incurred by the defaulting Party in connection with such termination.
4. Return of Materials: Upon the expiration or earlier termination of this agreement, each Party shall return to the other Party any and all materials, equipment or documents provided by the other Party in connection with the activities governed by this agreement within ten (10) business days of written demand therefor.

C. Ineligible for Federal Assistance

This agreement is void or voidable if the either Party receives reliable information that the other Party has been debarred, suspended, proposed for debarment, excluded or disqualified under the non-procurement common rule, or otherwise declared ineligible from receiving Federal agreements, certain sub-agreements, and certain Federal assistance and benefits.

D. Amendments

This agreement may be modified, amended, or supplemented only by a written amendment, signed by a Representative from each Party, who has the authority to act on behalf of their respective Party. Each Party is responsible for obtaining the necessary approval(s) before entering into any amendment.

E. Time

1. Time is of the essence for the performance of the services of this agreement. Each Party shall promptly comply with the terms of this agreement and in the performance of the activities described in Exhibit A, Section III. If a Party is unable to comply with a term or requirement of this agreement, it shall promptly notify the other Party's Project Representative of the inability to comply with the particular requirement or term.
2. Each Party to this agreement shall devote such time to the performance of the activities described in Exhibit A as may be reasonably necessary for the satisfactory performance of the obligations of this agreement.

**EXHIBIT A, ATTACHMENT 1
GENERAL TERMS AND CONDITIONS**

3. The Party failing to meet the timelines described in the services in Exhibit A, Section III of this agreement shall be responsible for any fees or costs imposed by the applicable law which result due to the other Party.

F. Default

Neither party shall be considered to be in default of this agreement to the extent the performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the Party.

G. Conflict of Interest

The Parties agree to enforce the requirements of the California Govt. Code, § 1090 et seq. and §§ 87100 through 87105 to prevent a public officer or employee, including a subcontractor, from participating in an activity that would constitute a conflict of interest.

H. Nondiscrimination

The Parties shall not discriminate in the employment of persons necessary to perform this agreement on any legally impermissible basis, including on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

1. The Parties represent that each is aware and shall follow:
 - a. Title VII of the Civil Rights Act of 1964, including subsequent amendments (42 USC § 2000e et seq.);
 - b. The Age Discrimination Act of 1967 (29 USC 621 et seq.);
 - c. Title I of the Americans with Disabilities Act of 2008 (42 U.S.C §12101 et seq.)
 - d. The California Fair Employment and Housing Act (Govt. Code, § 12900 et. seq.), including the related regulations commencing at 2 CCR § 11006 et seq.
2. In the provision of services each Party shall be responsible for the actions of its employees, directors or officers so that employees and applicants for employment and any member of the public are free from any unlawful discrimination.
3. The Parties agree to include the non-discrimination and compliance provision of this paragraph in all sub-agreements, if any, to perform services under this agreement.

I. Change in Statutes or Regulations

If there is a change of statute or regulations, including the WDs, applicable to the performance of this agreement, both Parties agree to be governed by the new provisions, unless either party gives notice to terminate pursuant paragraph O (Notices) of this agreement or identifies through written correspondence that the changes in law require negotiation of the responsibilities or terms of the agreement.

**EXHIBIT A, ATTACHMENT 1
GENERAL TERMS AND CONDITIONS**

J. Assignment

Except as specifically authorized within the agreement, no rights may be assigned and no duties under this agreement may be delegated by a Party without the prior written consent of the other, and any attempted assignment or delegation without such consent shall be void. Each successor or assignee of the applicable Party to this agreement shall be held jointly and severally liable under this agreement.

K. Responsibility of Project Representatives

All matters concerning the administration of this agreement, which are within the responsibility of the Parties shall be under the direction of, or shall be submitted to, the respective Project Representative or the party's employee specified, in writing, by the Project Representative. A Party may, in its sole discretion, change its designation of its Project Representative upon providing written notice to the other Party at least ten days prior to such change in accordance with paragraph O (Notices). The Project Representatives for the Parties are specified in the Exhibit A, Page 7, in Section IV.

L. Waiver

1. Any waiver shall be memorialized in writing, and signed by the Project Representative of each Party. However, neither Party may waive provision or right in the agreement that is a required act specified in the WDs.
2. The failure of either Party to enforce any right or provision of this agreement shall not be construed as a waiver by the other Party of its rights under the agreement and shall not prevent the other Party from subsequently enforcing such right or provision.

M. Cumulative Rights

The rights and remedies of the Parties herein are cumulative and are in addition to any other rights or remedies that the Parties may have at law or in equity.

N. Severability

Should any part, term, portion, or provision of this agreement be finally decided by a court of competent jurisdiction to be in conflict with any law of the United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions will be deemed severable and will not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the Parties intended to enter into in the first place.

O. Notices

A notice to the other Party in the administration of this agreement shall be given to the Party's Project Representative by regular mail, by facsimile transmission, or by email as more particularly specified in this paragraph. Any such notice will be deemed given on:

1. Personal Service: The day the notice is personally delivered to the Party's Project Representative.
2. United States Mail: Five days after the date the notice is deposited in the United States mail, addressed to a Party's Project Representative with first-class postage fully prepaid;

**EXHIBIT A, ATTACHMENT 1
GENERAL TERMS AND CONDITIONS**

3. Facsimile: On the day the notice is transmitted by facsimile to the facsimile number specified as specified in Exhibit A, Section IV, provided that an original of such notice is deposited in the United States mail, addressed to the Party's Project Representative on the same day as the facsimile transmission is made; or
4. Email: On the day the notice is transmitted by email to the email address of the Party's Project Representative.

P. Continuation of Services

In the event this agreement expires or is terminated with open Legal Consultations or Legal Representation on Appeals, CDSS may complete such actions in accordance with the terms of this agreement.

Q. Compliance with Applicable Laws

The Parties shall comply with all applicable federal, state and local laws now, or hereafter, in force, and with any applicable regulations, in performing the work and providing the service specified in this agreement. This obligation includes, without limitation, the acquisition, and maintenance of any permits, licenses, or other entitlements necessary to perform the duties imposed expressly or impliedly under this agreement.

R. Negotiated Agreement

This agreement was negotiated between the Parties. Neither Party is deemed to be the Party which prepared this agreement within the meaning of California Civil Code, section 1654.

S. Independent Advice

Each Party represents and warrants that in executing this agreement it does so with full knowledge of the rights and duties it may have with respect to the other Party. Each Party also warrants and represents that it has received independent legal advice from its attorney with respect to the matters set forth in this agreement and the rights and duties arising out of this agreement, or that such Party willingly foregoes any such consultation.

T. Information Subject to a Business Associate Agreement

The Parties agree to identify for the other Party protected health information in the records that was provided through a business associate agreement of a covered entity, as required by 42 U.S.C 1320d and its implementing regulations at 45 CFR Parts 142, 160, 162, and 164, collectively referred to as the Health Insurance Portability and Accountability Act Privacy Rule.

U. Conflicting Disclosure Laws

The Parties agree to follow the requirements of the law for the disclosure of confidential records. When in doubt as to whether a record in its possession should be disclosed or withheld, each Party agrees to contact its Legal Counsel for direction.

**EXHIBIT A, ATTACHMENT 1
GENERAL TERMS AND CONDITIONS**

V. Mailing of Confidential Information

The Parties may use the United States Postal Service to deliver records containing personal or confidential information to the other provided that the record(s) are double enveloped with the interior envelope identified as confidential with the name of the recipient of the mail on the interior envelope. Additionally, each shall require that the records being delivered shall only be delivered to the addressee with an acknowledgement of receipt. The Party sending the records is responsible for obtaining a copy of the signed receipt and maintaining it.

W. Transporting Records

The Parties agree that all records containing personal or confidential information shall be transported in a secure manner. When using a third party who is not a Party to this agreement to transport records to the other Party, the Parties each agree to notify the other before sending records to the other containing personal or confidential information, as defined in law. Notice may be provided electronically, but receipt of the message must be confirmed before commencing the transport of the records to the other Party. Additionally, except for personal delivery by a representative of the Parties a bonded courier service shall be used. The records shall be securely double-enveloped or boxed with the interior envelope or box identified as confidential and properly addressed to the intended recipient/employee. Upon delivery, the courier shall obtain a signed acknowledgement of receipt from the entity receiving the documents. The Party sending the records is responsible for obtaining a copy of the signed receipt and maintaining it.

X. Indemnification

1. Claims Arising from Acts or Omissions of the County

The County hereby agrees to defend and indemnify the CDSS, its agents, officers, and employees (hereinafter collectively referred to as the CDSS), from any claim, action or proceeding against the CDSS, arising out of acts or omissions of the County in the performance of this agreement. At its discretion, the CDSS may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve the County of any obligation imposed by this Agreement. The CDSS shall notify the County promptly of any claim, action or proceeding and cooperate fully.

2. Claims Arising from Acts or Omissions of the CDSS

The CDSS hereby agrees to defend and indemnify the County, its agents, officers, and employees (hereinafter collectively referred as the COUNTY), from any claim, action, or proceeding against the COUNTY arising out of the acts or omissions of the CDSS in the performance of this agreement. At its discretion, the COUNTY may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve the CDSS of any obligation imposed by this agreement. The County shall notify the CDSS promptly of any claim, action or proceeding and cooperate fully.

Y. Relationship of the Parties

The CDSS is acting as a contractor for the delivery of the services; this is not a joint venture agreement between the Parties. It is understood by both Parties that this agreement does not create an employer-employee relationship between the Parties. Each Party agrees that it shall not enter into agreements or make representations or promises on behalf of the other Party, except as identified in Exhibit A.

**EXHIBIT A, ATTACHMENT 1
GENERAL TERMS AND CONDITIONS**

Z. Bankruptcy

The Parties shall immediately notify the other in the event that either ceases conducting business in the normal manner or becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business on assets, or avails itself of, or becomes subject to, any proceeding under the Federal Bankruptcy Act or any other statute of this state relating to insolvency or protection of the rights of creditors.

AA. Insurance Requirements

The CDSS is a self-insured public entity, which possesses the ability to cover liabilities, including general, professional, motor vehicle, and workers' compensation liabilities arising from or connection with the performance of services under this agreement by CDSS, its employees, officers, or directors. Evidence of self-insurance is provided with Exhibit A, Attachment 3, incorporated herein by reference. Evidence of CDSS' self-insurance for liabilities, from the use of motor vehicles includes owned, non-owned, and hired vehicles used by CDSS employees in the performance of services, is provided with Exhibit A, Attachment 4, and incorporated by reference.

BB. Title to Documents; Copyrights

The reports, forms and other materials produced by the CDSS pursuant to this agreement are the property of the CDSS and shall not be subject to any copyright claimed by the County, its employees, subcontractors or agents. However, the County may use for administrative purposes completed materials developed or produced by the CDSS. Incomplete documents or projects may not be used without the prior written consent of the CDSS. Records, reports, or documents containing personal or confidential information shall not be used for any commercial purpose and shall not be copyrighted by either Party, including the employees, officers, directors, or agents of each Party.

CC. Venue

It is agreed by the Parties to this agreement that, unless expressly waived by CDSS, any action brought to enforce provisions of this agreement for declaratory relief shall be filed and remain in a court of competent jurisdiction in the County of Sacramento in the State of California.

DD. Controlling Law

The validity, interpretation and performance of this agreement shall be construed under the laws of the State of California, or when applicable federal law.

EE. Entire Agreement

This agreement is the entire agreement of the Parties for the performance of the services described in Exhibit A. There are no understandings or agreements pertaining to this agreement except as are expressly stated in writing in this agreement or in any document attached hereto or incorporated by reference. It is the intention of the Parties hereto that this agreement shall supersede any prior agreements, discussions, commitments, representations, agreements, written, or oral, between the parties.

**Exhibit A, Attachment 2
Information Security Requirements**

I. Information Security Incidents and/or Breaches

- A. Discovery and Notification of Incidents and/or Breaches.** CDSS shall be responsible for facilitating the Incident and/or Breach response process as described in California Civil Code 1798.29(e), California Civil Code 1798.82(f), and SAM 5340, Incident Management. CDSS shall notify the CDSS Program Contract Manager and the County Information Security and/or Privacy Officer within one working day by telephone call and email upon the discovery of the Incident and/or Breach affecting the security of County Confidential, Sensitive, and/or Personal (CSP) Information if the County CSP was, or is reasonably believed to have been, acquired by an unauthorized person, or there is an intrusion, potential loss, or unauthorized use or disclosure of the County CSP is in violation of the Agreement, this provision, the law, or potential loss of the County CSP that is in violation of this Attachment 2. CDSS shall take:
1. Prompt corrective action to mitigate any risks or damages involved with the Incident and/or Breach and to protect the operating environment;
 2. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.
- B. Isolation of System or Device.** A system or device, containing County CSP, compromised by an Incident and/or Breach involving an exploitation of a technical vulnerability, shall be promptly disconnected from CDSS' production environment with access to only individuals who are participating in the investigation, mitigation, and remediation of the Incident and/or Breach. Such system or device shall remain disconnected from the production environment until the risk from the exploited vulnerability has been adequately mitigated. The County must be contacted prior to placing the previously compromised system or device, containing County CSP, back in the production environment. The affected system or device, containing County CSP, shall not be returned to operation in the production environment until the County Information Security and/or Privacy Officer gives its approval.
- C. Investigation of Incidents and/or Breaches.** CDSS shall promptly investigate such Incidents and/or Breaches.
- D. Updates on Investigation.** CDSS shall provide regular (at least once a week) email updates on the progress of the Incident and/or Breach investigation to the CDSS Program Contract Manager and the County Information Security and/or Privacy Officer.
- E. Written Report.** CDSS shall provide a written report of the investigation to the CDSS Program Contract Manager and the County Information Security and/or Privacy Officer within fifteen (15) working days of the discovery of the Incident and/or Breach. To the extent CDSS has such information, the report shall include but not be limited to the following:
1. CDSS point of contact information;
 2. Description of what happened, including the date of the Incident and/or Breach and the date of the discovery of the Incident and/or Breach, if known;
 3. Description of the types of County CSP that were involved and the extent of the information involved in the Incident and/or Breach;
 4. A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed County CSP;

Exhibit A, Attachment 2
Information Security Requirements

5. A description of where the County CSP is believed to have been improperly transmitted, sent, or utilized;
 6. A description of the probable causes of the improper use or disclosure;
 7. Whether Civil Code sections 1798.29 or 1798.82 or any other federal or state laws requiring individual notifications of breaches are triggered; and
 8. Full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the Incident and/or Breach.
- F. Notification of Individuals.** CDSS shall notify individuals of the breach or unauthorized use or disclosure when notification is required under applicable state or federal law as determined by the County. CDSS shall pay any costs of such notifications, as well as any costs associated with the breach. The CDSS Program Contract Manager and the County Information Security and/or Privacy Officer shall promptly approve the time, manner and content of any such notifications, and such approval shall not be unreasonably withheld.



Governor Edmund G. Brown Jr.

February 14, 2017

**STATE OF CALIFORNIA
PUBLIC LIABILITY AND WORKERS' COMPENSATION INSURANCE
FISCAL YEAR JULY 1, 2017 / JUNE 30, 2018**

To Whom It May Concern:

In accordance with Government Code section 11007.4, the State of California has elected to be self-insured for liability exposures. Under this form of insurance, the State and its employees acting in the course and scope of their employment are insured for tort liability arising out of official State business. All claims against the State of California based on tort liability should be presented as a government claim to the Government Claims Program, P.O. Box 989052 MS 414, West Sacramento, CA 95798-9052. (Gov. Code section 900, et. seq.) Internet link: <http://www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx>.

The State of California has also elected to be insured for its motor vehicle liability exposures through the State Motor Vehicle Liability Self-Insurance Program (VELSIP). This program provides liability coverage arising out of the operations of motor vehicles used by state employees for official state business (California Vehicle Code Sections 17000 and 17001). Motor vehicle liability claims against the State of California should be presented to the Office of Risk and Insurance Management, P.O. Box 989052 MS-403, West Sacramento, CA 95798-9052, (800) 900-3634, claims@dgs.ca.gov. If your motor vehicle liability claim is not resolved within six months from the date of loss, California law requires you to file a formal claim with the Government Claims Program, P.O. Box 989052 MS 414, West Sacramento, CA 95798-9052. (Gov. Code section 900, et. seq.) Internet link: <http://www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx>.

The State of California has a Master Agreement with the State Compensation Insurance Fund regarding workers' compensation benefits for all state employees, as required by the Labor Code.

Sincerely,

A handwritten signature in black ink, appearing to read "Trevor DeAnda", is written over a white background.

Trevor DeAnda, CRIS
Associate Risk Analyst
(916) 376-5305
Trevor.DeAnda@dgs.ca.gov



Governor Edmund G. Brown Jr.

February 14, 2017

**STATE OF CALIFORNIA
AUTOMOBILE LIABILITY / PHYSICAL DAMAGE
FISCAL YEAR JULY 1, 2017 / JUNE 30, 2018**

To Whom It May Concern:

Please accept this letter as certification that the State of California has elected to be self-insured for liability and physical damage arising out of the ownership, maintenance, and operation of land motor vehicles.

Under this program, the Office of Risk and Insurance Management administers liability claims arising out of the operation of the vehicle. Physical Damage to such vehicle may be reimbursed by the Employing State Agency in accordance with State Administrative Manual (SAM) sections 2420 and 4116.

Sincerely,

A handwritten signature in black ink, appearing to read "Trevor DeAnda", is written over a light blue horizontal line.

Trevor DeAnda, CRIS
Associate Risk Analyst
(916) 376-5305
Trevor.DeAnda@dgs.ca.gov

BOS AGENDA ITEM SUMMARY

Item reviewed and approved by:



Name of designated attendee for BOS meeting: Julie Perata

BOS Meeting Date: June 5, 2018

Subject:

Agreement with the California Department of Social Services ("CDSS") for the provision and receipt of legal consultation and legal representation associated with the Resource Family Approval program

What is the main purpose of this agenda item?

The main purpose of this agenda item is to approve the agreement between CDSS and the county for the provision and receipt of legal consultation and legal representation associated with the Resource Family Approval (RFA) program for January 1, 2017 through June 30, 2019.

Program Title: Resource Family Approval

Program Highlights:

The CDSS Legal Division shall act as the legal representative on behalf of the county in the provision of legal consultations and legal representation on appeals to an RFA Notice of Action ("NOA"). The county is the client and is the final decision maker on decisions affecting the legal rights of the county.

The CDSS Legal Division shall represent the county on all appeals to an RFA NOA for the denial or rescission of resource family approval, the denial or rescission of a criminal record exemption, or the exclusion of an individual; and shall appear on behalf of the county at all proceedings related to such actions that are heard by the State Hearings Division (SHD) or the Office of Administrative Hearings (OAH).

This agreement shall be retroactive to January 1, 2017, due to delays in the provision of the agreement and services, and shall remain in full force and effect until June 30, 2019, unless terminated sooner. This agreement may be renewed by written amendment on a year-to-year basis for each one-year renewal period

How long has this program been in effect? January 1, 2017

Is it a state mandated program? No

Is this program part of a larger program? Yes, this program is a part of the larger Child Welfare Services program.

Is this a subcontract? If yes, why? No

Items of interest: (primary funding, program mission etc.)

This agreement provides CDSS legal services regarding the approval, denial, rescission, or exclusion of resource family homes, or resource family approval applicants.

The RFA program was created to provide a unified, family friendly, and child-centered resource family approval process to replace multiple processes for licensing foster homes, approving relatives and nonrelative extended family members as foster care providers, and approving adoptive and guardian families; establish a single set of standards for resource family approvals which allow for the safety, permanency, and well-being needs of the children who have been victims of child abuse and neglect; reduce the use of congregate care placement settings; and decrease the length of time for each child to obtain permanency. Pursuant to Government Code section 30029.7, subdivision (a), the county and CDSS may enter into an agreement for CDSS to provide services or activities related to RFA. The CDSS Legal Division is experienced in the matters of legal consultation and legal representation that may be required through the provision of RFA services by the county.

This agreement will have no impact on the General Fund as there are no funds attached to it.