



SUMMARY REPORT

Agenda Date: 9/27/2022

To: Board of Supervisors of the County of Sonoma, Board of Directors of the Sonoma County Water Agency, Board of Commissions of the Community Development Commission, and Board of Directors of the Sonoma County Agricultural Preservation and Open Space District

Department or Agency Name(s): Human Resources

Staff Name and Phone Number: Victoria Willard, 707-565-2955

Vote Requirement: Majority

Supervisory District(s): Countywide

Title:

Workplace Investigation Service Agreements

Recommended Action:

Authorize County Counsel and the Director of Human Resources to execute agreements with six (6) firms specializing in workplace investigations for contract periods October 1, 2022 through September 30, 2025 for \$375,000 per contract year per agreement, with two, one year options to renew for total contract periods not to exceed five years, with the following firms: Ellis Investigations Law Corporation, Jackson Lewis P.C., Kronick Moskowitz Tiedemann & Girard, Oppenheimer Investigations Group LLP, Sloan Sakai Yeung & Wong LLP, and Van Dermiden Makus Law Corporation.

Executive Summary:

The Department of Fair Employment & Housing (State) and Equal Employment Opportunity Commission (Federal) require employers to conduct timely and thorough workplace investigations on situations involving potential discrimination, harassment, retaliation, and misconduct. Although the County Equal Employment Opportunity Unit of the Human Resources Department typically conducts investigations internally with qualified staff, there are often circumstances that warrant the use of an external investigator to complete investigations. The County has had master agreements with a pool of qualified investigation firms for many years which are due to expire on September 30, 2022. The requested Board action authorizes the County Counsel and the Director of Human Resources to execute new master agreements for workplace investigation services with six (6) individuals/firms, selected through a Request for Proposal (RFP) process conducted in July 2022.

Discussion:

Employers are responsible for promptly and appropriately investigating matters that come up in the workplace, and in order for employers to take any legally defensible, corrective action in response to workplace conduct, the investigation and report are essential to support the action. The County has had a longstanding practice of having master agreements with external investigation firms to ensure the County quickly responds to workplace matters that may require an external investigator.

The Equal Employment Opportunity (EEO) Unit of the Human Resources (HR) Department is responsible for providing consultation and support to County departments and agencies on employment-related matters.

Typically, these consultations are in the areas of equal employment opportunity (harassment, discrimination, retaliation), hostile work environment, hiring and promotion practices, but could also include other areas affecting the employment relationship or which may place the County at risk. In some cases, presenting circumstances require the need to conduct an investigation.

It is the intent for the Human Resources EEO Unit to continue to conduct most investigations. Under some circumstances, however, investigations are assigned to an outside investigative firm. Reasons may include: high risk of future litigation; large investigations which will require extensive time to complete due to a high number of witnesses and particularly complex situations; the need to maintain the integrity of the investigation where the use of internal County personnel may pose a conflict of interest. Outside investigators are expected to be credible, thorough, impartial, and act as neutral fact finders. Additionally, Departments may also have the need to conduct personnel investigations by utilizing an outside investigator. These requests are filtered through Human Resources and paid for out of the Department's budget.

Human Resources has conducted Request for Proposals in 2008, 2013, and 2017. The current agreements will expire on September 30, 2022.

To ensure the County continues to have sufficient resources to conduct timely and thorough investigations and to ensure the County receives services at the most competitive rates, Human Resources conducted a Request for Proposal in July 2022. The Request for Proposal was widely circulated to numerous employment investigative firms, and was posted on the County's purchasing portal/website. Ten proposals were received and a comprehensive evaluation was conducted involving representatives of Human Resources. The proposals were evaluated on the firm's expertise of performing investigations and related work that may cover a broad range of issues, including but not limited to equal employment opportunity (EEO), discipline, and liability.

As a result of the selection process, Human Resources recommends the County execute agreements with six firms. The evaluation process identified these firms as being well-qualified and most appropriate to meet the needs of the County. The County has experience with all of these firms and is satisfied with services rendered. The firms are as follows: Ellis Investigations Law Corporation, Jackson Lewis P.C., Kronick Moskowitz Tiedemann & Girard, Oppenheimer Investigations Group LLP, Sloan Sakai Yeung & Wong LLP, and Van Dermyden Makus Law Corporation. Departments will be required to contact Human Resources for advice regarding the use of employment investigative services and to receive authorization to utilize one of the selected firms.

These agreements are all fee for service contracts with no minimum amount of work guaranteed to the firm. Fees range from \$215 to \$520 per hour, depending upon level of expertise, experience and area of specialty. Implementation of these agreements will not change the County's approach of doing investigations internally if appropriate and possible, and does not preclude HR or County departments from contracting with other employment investigative firms.

Strategic Plan:

N/A

Prior Board Actions:

9/09/2008 - Approved initial master service agreements with (6) firms.

9/27/2011 - Approved 2-year amendments to master services agreements with (6) firms.

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9/24/2013 - Approved agreements with (14) selected investigative firms.

8/09/2016 - Approved amendments to increase contract maximum agreements with (14) selected investigative firms from \$100,000 maximum per contract year to \$175,000 maximum per contract year.

9/12/2017 - Approve agreements with (9) selected investigative firms.

FISCAL SUMMARY

Expenditures	FY 22-23 Adopted	FY23-24 Projected	FY 24-25 Projected
Budgeted Expenses	200,000	200,000	200,000
Additional Appropriation Requested			
Total Expenditures	200,000	200,000	200,000
Funding Sources			
General Fund/WA GF			
State/Federal	200,000	200,000	200,000
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources	200,000	200,000	200,000

Narrative Explanation of Fiscal Impacts:

Cost for services requested by the Human Resources Department Equal Employment Opportunity Unit is administered within the Liability Internal Services Fund (ISF). Separately, should departments request to utilize investigative services, the costs will be paid for directly from their respective operational budgets.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Draft Agreements

Related Items "On File" with the Clerk of the Board:

N/A