

36099

September 17, 2013

To: The Honorable Board of Acquisition and Contract

From: Kevin M. Cheverko  
Commissioner, Department of Correction

Re: Authority for the County of Westchester to enter into an agreement with Pre-Trial Services Institute of Westchester, Inc. to provide pre-trial programs to evaluate criminal defendants for potential pre-trial release from prison and ensure their return for future court appearances; for a term January 1, 2014 through December 31, 2014 and for a not-to-exceed amount of \$457,089.00, payable pursuant to an approved budget

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Authority of your Honorable Board is requested for the County of Westchester (the "County") to enter into an agreement (the "Agreement") with Pre-Trial Services Institute of Westchester, Inc. ("PTSI") for PTSI to provide pre-trial programs to evaluate criminal defendants ("defendants") for potential pre-trial release from prison and ensure their return for future court appearances through PTSI's structured follow up with them during their pre-trial release period; for a term January 1, 2014 through December 31, 2014 and for a not-to-exceed amount of \$457,089.00, payable pursuant to an approved budget.

**The proposed Agreement serves a public purpose** as it shall allow certain qualifying defendants, pursuant to PTSI's evaluation, to obtain pre-trial release from prison pursuant to a release on their own recognizance ("ROR") arrangement that shall thereby reduce 1) the necessity for costly and administratively disruptive arrest warrants and 2) the significant expense of unnecessary pre-trial detention. The proposed agreement also serves a public purpose by enabling defendants qualifying for pre-trial release who have only been charged and therefore not convicted, with the ability to maintain their family and community relationships as well as their employment during such time period.

**This proposed Agreement's goals and objectives** shall be to:

1. Identify which defendants are acceptable risk candidates for pre-trial release from prison without bail pursuant to a ROR arrangement;
2. Reduce the number of outstanding arrest warrants for defendant failures to appear in court by ensuring their reappearance through PTSI's structured follow-up services with the defendants;

3. Provide County residents with a more equitable alternative to the bail system; and
4. Promote a more streamlined and efficient movement of the court calendar.

PTSI conducts interviews with defendants awaiting arraignment to verify their community ties, which has been proven to be a more reliable predictor of a defendant's return to attend future court appearances as opposed to a defendant's ability to post bail.

PTSI then utilizes an objective measure based upon the interview findings to arrive at a ROR recommendation which it then provides to the presiding judge, assistant district attorney and the defendant's attorney. Upon the court granting pre-trial release to a defendant pursuant to PTSI's recommendation, PTSI shall then provide ongoing follow-up services with the defendant to ensure that said defendant will attend all future scheduled court appearances.

In addition to PTSI assisting the criminal justice system by reducing the necessity for arrest warrants and pre-trial detention, PTSI assists defendants by 1) giving those who are of low-income an equal opportunity to secure pre-trial release; 2) providing follow-up services to help them overcome obstacles to court appearances, as well as 3) providing release recommendations to permit defendants, if released, to maintain family and community relationships and their employment.

**The proposed Agreement is in the County's best interests regarding fiscal responsibility** as the appropriately determined pre-trial release of defendants and the subsequent ensuring of their attendance at future court appearances through PTSI structured follow up, reduces the necessity for costly and administratively disruptive arrest warrants as well as the significant expense of unnecessary detention.

**The proposed Agreement is also in the County's best interests regarding public health and safety** by fostering social stability as the pre-trial release of qualifying defendants shall allow them to maintain their family and community relationships and employment during the pre-trial time period as well as fortify their ability to re-obtain employment, if necessary, upon conclusion of their involvement with the criminal justice system upon warranted circumstances. The proposed agreement also provides County residents with a more equitable alternative to the bail system as PTSI's evaluative services focusing on a defendant's ties to his or her family and community and employment status enables a more detailed analysis of defendant flight risk than the bail system's reliance on a defendant's incentive to return to court to avoid bail forfeiture. Such services are therefore crucial to lesser economic resource defendants who may be unjustly denied pre-trial release solely due to economic circumstances when their release may be justified by having a behavioral disposition non-conducive to flight risk that is evidenced from the PTSI evaluation interview.

From January 1, 2013 to August 8, 2013 PTSI has seen the recommended release of 908 individuals. The average length of stay for this population is 31.7 days. Theoretically, this could mean a cost saving of over \$9,561,331.00 to Westchester County. PTSI's return to court rate for this population is currently 97%.

**The proposed Agreement's goals and objectives shall be tracked and monitored** by PTSI tracking each case and submitting a report to the County Department of Correction stating the number of defendants screened, the number of defendants interviewed, the number of defendant's released and the number of warrants issued. The report also includes male and female demographics, a breakdown of program participant ages at program entry as well as their ethnicity and race. Categories of criminal charges against the program participants are also included.

The County receives financial assistance for the aforementioned pre-trial program pursuant to a grant from the New York State Department of Criminal Justice Services (the "DCJS").

As PTSI is a vendor of record with the DCJS pursuant to its submission to the County of a pre-trial program Services Plan that comprises part of the County's DCJS grant application, the County would be ineligible for such grant from the DCJS if a vendor other than PTSI provided such services. Additionally, the County must be in compliance with all pre-trial standards as designated by the DCJS's Division of Probation and Correctional Alternatives as a condition to obtaining such grant proceeds.

Therefore, this Agreement is exempt from the Westchester County Procurement Policy (the "Policy") pursuant to Policy Section 3(a)(xii) providing for an exception to Policy requirements for procurements involving the expenditure of federal or state assistance where and to the extent that federal or state rules or regulations conflict with the Policy.

Accordingly, I recommend adoption of the annexed Resolution.

**RESOLUTION**

Upon a communication from the Commissioner of Correction, be it hereby

**RESOLVED**, that the County of Westchester is authorized to enter into an agreement with Pre-Trial Services of Westchester, Inc. ("PTSI") for PTSI to provide pre-trial programs to evaluate criminal defendants for potential pre-trial release from prison and ensuring their return for future court appearances through PTSI's structured follow up with them during their pre-trial release period; for a term January 1, 2014 through December 31, 2014 and for an amount not-to-exceed \$457,089.00, payable pursuant to an approved budget; and be it further

**RESOLVED**, that this Agreement is subject to County Appropriations; and be it further

**RESOLVED**, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice; and be it further

**RESOLVED**, that the County Executive or his duly authorized designee is hereby authorized to execute any documents and take any actions reasonably necessary and appropriate to effectuate the purposes of this Resolution.

Account to be Charged/credited	Fund	Agency	Capital Project Or Org	Object/ Sub Object	Trust Account	Activity	Dollars
	101	35	1000	4944			\$457,089

Budget Funding Year(s) 2014 Start Date 1/1/2014 End Date 12/31/2014  
 (must match resolution)  
\$457,089

Funding Source: Tax Dollars: \$389,305  
 State Aid: \$67,784  
 Federal Aid: \_\_\_\_\_  
 Other: \_\_\_\_\_