

**39402**

DATE: April 1, 2014

TO: Honorable Members of the Board of Acquisition and Contract

FROM: Mae Carpenter, Commissioner  
Department of Senior Programs and Services

RE: Authority to amend an agreement with Legal Services of the Hudson Valley for the provision of legal assistance for elderly Westchester County residents, 60 and over, in order to:

- 1) exercise the County's first renewal option and thereby extend the term of the agreement for one additional year for an amount not-to-exceed \$315,157; and
- 2) add certain provisions required by the New York State Office for the Aging ("NYSOFA") concerning equal access to services, non-discrimination and concentration of services on target populations

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By resolution approved on July 11, 2013, your Honorable Board authorized the County of Westchester (the "County"), acting by and through the Department of Senior Programs & Services (the "Department") to, *inter alia*, enter into an agreement with Legal Services of the Hudson Valley ("LSHV"), pursuant to which LSHV was to provide legal assistance for elderly Westchester County residents, 60 and over, for an amount not-to-exceed \$305,978, for the period commencing January 1, 2013 and terminating December 31, 2013, with the County having the sole option to renew the agreement for up to five (5) additional one-year periods, on the same terms and conditions as the initial term, subject to the availability of funds, acceptable past performance and the further approval of your Honorable Board (the "Agreement"). The Agreement was subsequently executed.

The County now seeks authority to amend the Agreement with LSHV in order to exercise the first of its five renewal options thereunder for a term commencing January 1, 2014 and continuing through December 31, 2014 at the rate of \$72.85 per hour of legal services, not-to-exceed the sum of \$315,157, comprised of \$123,404 in Federal funds and \$191,753 in County matching funds to be paid pursuant to an agreed upon unit cost (the "Amendment").

Since this contract is paid for with funds subject to the Federal Common Grant Rules, 45 CFR 92.36 (f) requires grantees to perform a price or cost analysis in order to test the market before such an option may be exercised. In an effort to comply with this requirement, my office

emailed five (5) agencies and called ten (10) agencies/attorneys to solicit hourly price quotations for legal services for seniors. In addition, Nonprofit Westchester sent out an email blast to their members in which they requested price quotes for various services, including legal assistance. Despite these efforts, the Department was able to obtain an hourly rate quote from only one attorney who quoted a rate of \$375 per hour for similar services. In addition, for the sake of comparison, LSHV quoted us a “market” rate of \$300.00 per hour for legal assistance. It should be noted that several agencies, including Pace Women's Justice Center and Merrick Birnbaum, a New York Legal Assistance Group, informed us that instead of hourly rates, they use line item budgets and track RTE and effort.

Given the poor response during the initial RFP process (only 2 proposals received), coupled with the poor response during the Department's most recent solicitation (only one price quote of \$375 was obtained) and the fact that LSHV currently charges only \$72.85 per hour for its services, I have determined that exercising the renewal option is the most economically prudent way to procure the services.

Authority is also requested to amend the Agreement with LSHV to add certain new provisions required by NYSOFA concerning equal access to services, non-discrimination and concentration of services on target populations. By way of background, on July 17, 2012 NYSOFA issued its revised Equal Access and Targeting Policy (12-PI-08) clarifying the responsibilities of New York State's Aging Network Providers under Federal and State laws regarding equal access to services and nondiscrimination in serving all cohorts of New York's older adults and caregivers. The program Instruction also addressed the Federal and State requirements for targeting activities to reach those unserved and underserved groups that are in greatest social and/or economic need. The Area Agencies on Aging (“AAAs”) were instructed that they are responsible for requiring all aging service providers under their respective planning and service area to comply with requirements for equal access (including language accessibility), nondiscrimination and concentration of services on target populations as required in the Older Americans Act (OAA), NYS regulations, other relevant laws, and NYSOFA policies. The AAAs were further instructed to include these requirements in each agreement made with such providers (OAA §306[a][4][A]) and to specify how the provider intends to meet specific objectives for satisfying the service needs of, and providing services to, low-income minority individuals, older individuals with limited English proficiency, and older individuals residing in rural areas (OAA §306[a][4][A]). Accordingly, these requirements will be added to the Amendment in the form of an appendix.

Except as specifically provided hereunder, all remaining terms and conditions of the Agreement shall remain in full force and effect.

Accordingly, approval of the attached resolution is most respectfully recommended.

MC/MJ/jpg

**RESOLUTION**

Upon a communication from the Commissioner of the Westchester County Department of Senior Programs and Services, be it hereby:

**RESOLVED**, that the County of Westchester (the "County") is hereby authorized to amend an agreement with Legal Services of the Hudson Valley ("LSHV"), pursuant to which LSHV was to provide legal assistance for elderly Westchester County residents, 60 and over, for an amount not-to-exceed \$305,978, for the period commencing January 1, 2013 and terminating December 31, 2013, with the County having the sole option to renew the agreement for up to five (5) additional one-year periods, on the same terms and conditions as the initial term (the "Agreement"), by exercising the first of its five renewal options thereunder for a term commencing January 1, 2014 and continuing through December 31, 2014 for an amount not-to-exceed \$315,157, comprised of \$123,404 in Federal funds and \$191,753 in County matching funds to be paid pursuant to an agreed upon unit cost; and be it further

**RESOLVED**, that the County is hereby further authorized to amend the Agreement with LSHV to add certain new provisions required by the New York State Office for the Aging ("NYSOFA") concerning equal access to services, non-discrimination and concentration of services on target populations; and be it further

**RESOLVED**, that except as specifically amended hereby, all remaining terms and conditions of the Agreement shall remain the same; and be it further

**RESOLVED**, that the County Executive or his authorized designee is hereby authorized to execute all instruments and take all actions reasonably necessary to implement this Resolution.

Account to be Charged/Credited

	Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub-Object	Trust Account	Dollars
Charge	263	85	686P	4380	T686	\$315,157

Budget Funding Year(s) 2014 Start Date 1/1/2014 End Date 12/31/2014  
 (must match resolution)

Funding Source	Tax Dollars <u>\$191,753</u>
<u>\$ 315,157</u>	State Aid _____
(must match resolution)	Federal Aid <u>\$123,404</u>
	Other _____