

Questions and Answers

Sargent Shriver Civil Counsel Act

Request for Proposals # CFCC-201002-CT

Bidders' Conference Call January 18, 2011

Email Questions Received by January 21, 2011

1. Question. Will the AOC contract only with the lead legal services agency (lead agency) or will there be a separate contract with the courts?

AOC Response: The AOC will enter into a separate Intra branch Agreement (IBA) with each court for the services for each pilot project that the court will deliver.

2. Question. Can a lead agency submit more than one proposal?

AOC Response: Yes. An agency can submit more than one proposal.

3. Can a court partner with more than one lead agency on separate proposals?

AOC Response: Yes. A court may partner with different lead agencies on separate proposals.

4. Question. Can the pilot program in the proposal be different than the pilot program that was envisioned in the Letter of Interest (LOI)?

AOC Response: Yes. The program in the proposal may be different than the program that was specified in the Letter of Interest provided that the proposed program meets the requirements of AB 570 and the Request for Proposal.

5. Question. The Letter of Introduction (Appendix A) has a signature line for the President of the Board of Directors. Does the President of the Board of Directors have to sign anywhere else in the proposal?

AOC Response: No. The Board President's signature on the Letter of Introduction (Appendix A) is sufficient.

6. Question. Is the signature of the Executive Director and Board President of each partner agency required?

AOC Response: No. The proposal must be signed only by the Executive Director and Board President of the lead agency. If the proposal results in contract award, the lead agency will be expected to enter into written agreements with the other participating legal services providers. The proposal must also be signed by the Court Executive Officer and the Presiding Judge of the Superior Court partner.

7. Question. Can there be multiple lead agencies for a single pilot project.

AOC Response: No. AB 590 (Government Code section 68651(b)(4)) contemplates one Lead Legal Services Agency and defines the role of the Lead legal Services Agency. The AOC will contract with only one lead agency.

8. Question. If the AOC will contract with only one lead agency, can the lead agency subcontract some of the functions of the lead agency to one of the partner agencies?

AOC Response: Yes. But the statute only contemplates an agency other than the lead legal services agency providing intake, screening and eligibility determination when the lead agency has a conflict. Government Code section 68651(b)(7)states: “ To ensure the most effective use of the funding available, the lead legal services agency shall serve as a hub for all referrals ,and the point at which decisions are made about which referrals will be served and by whom. Referrals shall emanate from the court, as well as from the other agencies providing services through the program, and shall be directed to the lead legal services agency for review. That agency, or another agency or attorney in the event of conflict, shall collect the information necessary to assess whether the case should be served...”

9. Question. At the Bidders’ Conference, it was stated that a joint proposal among more than one legal service provider in addition to the Court should identify a single agency to be the lead agency with which the AOC would make the contract, with other collaborating agencies being identified as subcontractors.

The statute (Government Code section 68651(b)(7)) provides for the lead legal services agency to serve as a hub for all referrals and the point at which decisions are made about which referrals will be served and by whom. The reason for setting it up this way, according to the statute, is to “ensure the most effective use of the funding available.” The statute also provides that another agency or attorney in the event of conflict may collect the information necessary to assess whether the case should be served instead of the lead agency.

It would seem reasonable, consistent with the statute’s mandate to ensure the most effective use of the funding, to allow the lead agency to work with its partners to establish a protocol by which a collaborating agency might be significantly involved with the collection of information, decision-making, and referrals. In a case where pro per assistance at the outset of the case is currently provided by one of the collaborating agencies, rather than the lead agency, it doesn’t make sense to require the client to make another trip to the lead agency in order to make the appropriate referral. (The proposal, in this example, is to provide representation for those for whom it would make the biggest difference after the initial response is filed. Unlawful detainer defense, in particular, demands a quick turn-around on the initial response because of the five-day summons.)

Provided the collaborating agency and the lead agency work together on the protocols and the referral decisions, it would be consistent with the statute to allow a certain amount of delegation on the part of the lead agency to a collaborating agency.

To require a second trip for the client and a second assessment by the lead agency would not be consistent either with effective service provision or with the statute's mandate to "ensure the most effective use of the funding."

It is in this context that the question arises as to how best to interpret the requirement in the RFP that the lead agency "provide case assessment," "be the central point of contact for referrals," and "make determinations of an individual's eligibility for services based on uniform criteria." A certain amount of collaboration and delegation in this process would maximize effective service provision, consistent placement decision, and effective use of funding. How much of that collaboration and delegation is permitted?

AOC Response: The Legislature's determination of what structure would be the most effective use of funding is expressed in the legislation. In addition to the provisions in Government Code section 68651(b)(7), Government Code section 68651(b)(4) provides:

*"Each project shall be a partnership between the court, a qualified legal services project, as defined by subdivision (a) of Section 6213 of the Business and Professions Code, that shall serve as the lead agency for case assessment and direction, and other legal services providers in the community who are able to provide the services for the project. **The lead legal services agency shall be the central point of contact for receipt of referrals to the project and to make determinations of eligibility based on uniform criteria. The lead legal services agency shall be responsible for providing representation to the clients or referring the matter to one of the organization or individual providers with whom the lead legal services agency contracts to provide the service...**" Emphasis added.*

The lead agency and the partner providers are encouraged to collaborate and coordinate their efforts so that intake and eligibility determinations are as convenient as possible for the clients while still complying with the express requirements of the statute. The statute requires that the lead agency must "be the central point of contact for receipt of referrals and to make determinations of eligibility based on uniform criteria." These functions may not be delegated. Referral protocols developed by all of the providers can ensure that clients are not inconvenienced or subjected to multiple assessments to determine eligibility. See answer to question 10 below for examples of how referral protocols might work.

10. Question. The statute requires that the lead agency be responsible for referrals. On the bidders' conference call, a participant asked if the intake function could be delegated to another provider. We would like to clarify whether the all partner providers may do intake under AB 590 or whether that function should be designated solely to the lead agency.

AOC Response: Pilot programs should strive to make the intake and eligibility determination functions as convenient as possible for the clients while still complying with the requirements of the statute. For example, applications for pilot project services may be made available at all pilot project providers. All providers may screen the applications to make sure that they are complete before forwarding the applications to the lead legal services agency to determine whether the client will receive representation and which agency or individual will provide representation. If the lead agency needs additional information for intake, applicant interviews could be by telephone. If the lead

agency needs to review documents during the intake process, partner providers could fax or email the documents to the lead agency. However, the statute is clear that the lead agency should receive all of the referrals and should make the determination about which individuals receive pilot project services.

11. Question. Can there be a different lead agency than the one specified in the LOI?

AOC Response: Yes. The proposal may specify a different lead agency than the one that was specified in the LOI, provided the different lead agency meets the requirements set forth in Section 3.1 of the RFP.

12. Question. Page two of the RFP specifies that up to twenty (20) percent of available funding will be allocated for pilot projects that provide representation in child custody cases. Should each pilot project designate up to twenty (20) percent to child custody representation?

AOC Response: No. The designation of up to twenty (20) percent of funding for child custody pilot projects applies to the total funding available statewide. A proposed pilot project is not required to have a child custody representation component.

13. Question. If the state budget is not in place by October 1, 2011, do you expect the programs to start providing services on that date?

AOC Response: No. We do not expect the programs to start providing services prior to entering into a contract with the AOC. The AOC cannot sign contracts nor provide funding in the absence of a state budget. This means that AOC cannot enter in to the initial contact until there is a state budget for fiscal year 2011-2012. The RFP requires proposers to certify that they are capable of supporting the pilot project for 75 days without funding. See section 5.6.6 on page 11 of the RFP. In subsequent years the AOC will not be able to pay claims until there is a state budget.

14. Question. We have a question about the revenue and expense budgets for the Shriver RFP. Do you want the proposed budget (for both expenses and revenue) to reflect all of an organization's relevant services, not just those that will be specifically covered by the AB590 funding? In other words, if an organization currently provides housing services in a number of different capacities, but is proposing to add to those services significantly with the Shriver funds, should the budget encompass the expenses and revenue for all of those housing services (even though some of those services are already covered by other funding sources), or do you just want information on the pieces funded by the Shriver funds?

AOC Response: Appendix C, Forms C-1 and C-1A requests only AB590 expenses. Form C-2 requests revenue from all sources for the AB 590 pilot project only. A proposal that expands existing services must be able to clearly delineate funding for existing services and funding for AB 590. Please see the RFP section 5.6.3M, which asks for an estimate of the number of clients that the pilot project anticipates serving, the types of services, which will be provided and the number of clients who will receive each type of service. RFP section 5.6.3N asks for the number of clients the lead agency and the partner agency served in the past year (use the last full year for which statistics are available) in the areas of law proposed for the pilot project as well as a description of the types of services currently provided and the amount of money expended for those services.

15. Are the Budget, Staffing and Case Services forms (appendix C) required for each case type in the proposed project plus one overall package of information?

AOC Response: The Appendix C forms C1, C1A, C2, C3, and C3A are for the entire pilot project. Separate forms for each case type are not required. Proposals that are seeking funding for more than one case type should indicate the percentage of cases for each case type in the project narrative under section 5.6.3A. The Appendix C forms C4, C4A, C5, and C5A must be completed for each case type.

16. Question. Section 3.3 of the RFP on page 4 refers to a “local advisory committee”. What is the role of the local advisory committee?

AOC Response: Government Code section 68651(b)(10) requires each pilot project to form a local advisory committee. It states:

“A local advisory committee shall be formed for each pilot project, to include representatives of the bench and court administration, the lead legal services agency, and the other agencies or providers that are part of the local project team. The role of the advisory committee is to facilitate the administration of the local pilot project, and to ensure that the project is fulfilling its objectives. In addition, the committee shall resolve any issues that arise during the course of the pilot project, including issues concerning case eligibility, and recommend changes in project administration in response to implementation challenges. The committee shall meet at least monthly for the first six months of the project and no less than quarterly for the duration of the pilot period. Each authorized pilot project shall catalog changes to the program made during the three-year period based on its experiences with best practices in serving the eligible population.”

17. Question. In a county in which there are no existing legal aid providers in family law, and the lead agency contracts with private attorneys to provide representation, how can the lead agency ensure quality services consistent with confidentiality?

AOC Response: There are a number of steps that the lead agency can take to help ensure quality representation by private attorneys with whom the lead agency contracts that is consistent with confidentiality and the lawyer-client privilege. The lead agency may wish to set up a mentoring program where experienced family law attorneys are made available to the contract attorneys to answer any questions they may have. Training programs in family law for the contract attorneys may be offered. The lead agency can review the court files, which are public records, to determine whether the contract attorneys have filed the appropriate pleadings or have taken the actions necessary to complete a case. A client satisfaction survey may be developed and distributed to clients. The advisory board that is required by Government Code section 68651(b)(10) can be a valuable resource in designing an appropriate quality control program.

18. Question. Currently, interpreters are not provided by the court in civil actions. Instead, parties needing interpreters retain their own and bring them to court to assist in the proceeding(s), and the court ensures that the interpreters are qualified as specified in Government Code sections 68560, et seq. May lead agencies budget for interpreter services

at the court in addition to interpreter services between the attorneys and clients, which would mirror current practice?

AOC Response: The lead agency may budget for the costs of a translator or interpreter that are necessary to communicate with a client and to present the client's case in court. The cost of an interpreter that allows the attorney and the client to communicate in the office or in court is an allowable cost.

The court may budget for the cost of a translator or interpreter to assist the court in conducting a hearing or trial of a party who is represented as part of the pilot project. The court may also budget for the cost of a translator or interpreter to provide assistance to those persons who remain unrepresented in the case types in which the pilot project is providing representation in the court location(s) in which the pilot is being offered. This could be considered a best practice to ensure unrepresented parties meaningful access to justice, to guard against the involuntary waiver of rights, as well as to encourage fair and expeditious voluntary dispute resolution, consistent with principles of judicial neutrality.

19. Question. Will the proposal receive fewer points, if the proposed pilot project would provide services in a particular area of the law in which one side would remain unrepresented?

AOC Response: The project will be expected to provide representation to all eligible parties in a matter if they request services.

20. Question. Often at temporary restraining order hearings, legal service providers will not know if respondents are represented until moments before the hearing begins. Are services (representation or pro per assistance) required on both sides for all Sargent Shriver Civil Counsel Act cases?

*AOC Response: The project will be expected to provide representation to all eligible parties in a matter **if they request services**. In domestic violence or civil harassment restraining orders, both the person seeking protective orders and the restrained person should be provided with representation if they request services and are otherwise eligible for services. Outreach materials that are distributed about the pilot project's services should emphasize that legal representation is available to both parties. However, if the other party in a restraining order does not request services prior to the court hearing, the legal service provider may proceed with the hearing representing only the party who requested services. If the other party requests legal representation at the hearing, he or she should be referred to the lead legal services agency for intake and eligibility determination.*

The intention of this program is not to increase the number of cases where one side is represented and the other side is not. Thus, proposals that anticipate providing services to petitioners or plaintiffs should be very mindful of ensuring that they are able to provide services to respondents or defendants as well through their cooperating relationships with other legal services providers.

21. Question. Will the proposal receive fewer points based on whether the case type and model proposed is a good fit with the evaluation criteria and design?

AOC Response: No. The implementation committee will evaluate your proposal based only on the criteria set forth in section 7.0, Evaluation of Proposals, of the RFP. The final evaluation design for the evaluation required in AB 590 will not be considered

22. Question. Will the committee consider the existence of a strong self-help program in the county be a plus or a minus when deciding which pilot projects to select?

AOC Response: It depends on the specifics of the proposal and the extent to which the pilot project and existing self help services will coordinate their services.

23. Question. Where do we put the value of in-kind contributions from pro bono attorneys in the budget forms in Appendix C?

AOC Response: Section 5.6.4 B requires that a budget narrative be attached to Appendix C. There is no form for the budget justification narrative in Appendix C. Proposers should complete the budget narrative on a separate sheet by listing each budget line item and providing an explanation of the expenditure in that line item. The value of in-kind contributions should be put in the budget narrative under "Other." Proposers may also wish to identify the anticipated value of in-kind contributions from pro bono attorneys in the project narrative in section 5.6.3 S.

24. Question. Is it possible for a court to receive funding for more than one pilot project?

AOC Response: Yes, but any funding will be project-specific only. The court may be partners with different lead legal services agencies on different proposals and it is possible that more than one of the pilot projects from the same organization will be funded. The use of funds will be specified in each IBA executed between a court and the AOC. Should a court have multiple pilot projects, funds set forth in one IBA for a specific pilot project cannot be used interchangeably between other IBAs for other specific pilot projects.

25. Question. The RFP section 5.6.3 U on page 8 asks for the organization and staffing plan. Do you want the organizational and staffing plan for just the lead agency or for all partner agencies?

AOC Response: Just the lead agencies. Staffing information on all other providers should be provided on Form C3a in Appendix C. Total staffing for all agencies and courts participating in the pilot project should be provided on Form C3 in Appendix C.

26. Question. For section U of the narrative, if we need to include information on the courts, should we provide all of the information required in the section? If just some elements, which elements must the court provide?

AOC Response: Court staffing information should not be included in your response to Section 5.6.3.U. Court staffing information must be provided on Form C-3 per the instructions in Appendix C as part of your Cost Proposal and Budget submission specified in 5.6.4.A.

27. Question. Is the selection committee reserving the right to negotiate the scope of the program and the size of the budget?

AOC Response: Yes. It is likely that there will not be enough funding to fund all of the proposals that are worthy of funding. The selection committee needs the flexibility to fund a portion of any given proposal and may have to negotiate the scope and funding of successful proposals.

28. Question. Are multiple proposals more desirable if the proposed pilot project would provide services in multiple areas of law?

AOC Response: Not necessarily. It depends on the type of pilot project that is being proposed. Proposers should consider whether a single or multiple proposals is the best way of presenting their proposed pilot project. For example, proposals that provide representation in multiple areas of the law with different partner agencies in each area may want to consider submitting separate proposals. If a single proposal provides for representation in multiple areas of the law, the committee may decide to fund all or part of the proposal.

29. Question. If the LOI proposed one pilot project, can we now do two proposals?

AOC Response: Yes. As long as an LOI was submitted, multiple proposals from the same lead agency will be accepted.

30. Question. Is software modification need to extract information from an automated system for the evaluation an allowable cost?

AOC Response: No. Depending on the evaluation design, the AOC may provide software or a web based program for data collection. Agencies and courts are not expected to modify their automated systems for purposes of the evaluation.

31. Question. What kind of software will the evaluation consultant be using? What kind of data will need to be inputted by court staff and at what intervals? To what extent will local configuration of CCMS V-3/V-4 or Fastrack be required to interact with the evaluation software?

AOC Response: Presently, there is a consultant who is working on the evaluation design. Once the design is determined, the AOC will release an RFP for the evaluation consultant. The software that will be used will not be determined until an evaluation consultant has been awarded the contract. The types of data that staff will need to input

and the intervals for data entry have likewise not been determined. Any software in addition to a court or program's case management system will be provided by the AOC at no cost. The AOC does not anticipate the need to change case management systems to interact with evaluation software. If local configurations of case management systems become necessary for the evaluation, the AOC will pay for those costs separate from the grant. Section 5 of Attachment D of the RFP gives guidance for the staff costs for the evaluation which should be budgeted each year.

32. Question. Who is the contractor for the evaluation design?

AOC Response: This information is not relevant to the RFP phase of the project. Prospective proposers should note the AOC's policy regarding contacting the AOC or its personnel or consultants set forth in Section 8.C of Attachment C, Administrative Rules Governing Requests for Proposal, of the RFP.

33. Question. What should agencies budget for the evaluation?

AOC Response: Section 5 of Attachment D of the RFP provides guidance on the costs for the evaluation which should be budgeted each year.

34. Question. In the response to the Letters of Interest and in the recent conference call, the AOC has provided some guidance regarding expectations of costs of clerk and other support services that will be incurred by courts participating in the grant project without reference to the size of the intended caseload in which representation will be provided. Is the AOC interested in considering grant applications from large counties with proposals which are designed to serve large qualifying populations that would necessarily involve proportionally higher staffing costs than those previously indicated?

AOC Response: The guidance in Section 5 of Attachment D of the RFP sets forth the clerk and support services costs, which should be budgeted each year only for the evaluation. If pilot programs believe that these personnel are insufficient for the evaluation, they may include additional costs for staff in their proposal. Proposers should identify in the project narrative at 5.6.3Z, any evaluation costs that are in addition to those costs suggested in the guidance and provide an explanation, such as the anticipated size of the program and the expected number of clients to be represented, for the additional costs. Proposals will not be penalized for requesting additional staffing for the evaluation and the justification for the additional staffing will be considered.

The guidance in Section 5 of Attachment D of the RFP does not apply to clerk or other support services that are needed to provide legal representation or court services.

35. Question. Do we need to separate out the evaluation staff from the regular staff in the budget? For example, if we hire 1 FTE attorney, who is 50% dedicated to the evaluation. Should we separate out 50% program time vs. 50% evaluation time even though it will be one person?

AOC Response: Staff costs for evaluation activities do not need to be separated from other staff costs in the budget. Section 5 of Attachment D of the RFP gives guidance for the costs for the evaluation which should be budgeted each year. Pilot programs should

estimate their costs for the evaluation based upon that guidance. Proposers should identify in the project narrative at 5.6.3Z, any evaluation costs that are in addition to those costs suggested in the guidance and provide an explanation for the additional costs. Proposals will not be penalized for requesting additional staffing for the evaluation and the justification for the additional staffing will be considered.

36. Question. Can you provide a breakdown of the number of proposed pilot projects by case type in the Letters of Interest?

AOC Response: There were 21 LOIs submitted by 19 organizations, however, as noted in the AOC's response to Question #4, that program(s) in the proposal may be different than the program that was specified in the LOI, the breakdown set forth in the following may change. Two LOIs proposed pilot projects that would provide services in all of the case types that are specified in Government Code section 68651(b)(1). A number of other LOIs proposed pilot projects that would provide representation in more than one case type. There were:

- 1) Fifteen (15) LOIs proposed housing related services;*
- 2) Eight (8) LOIs had a domestic violence and/or civil harassment restraining order component;*
- 3) Three (3) LOIs proposed probate conservatorship services;*
- 4) Six (6) LOIs proposed probate guardianship services;*
- 5) Six (6) LOIs proposed Elder Abuse services; and*
- 6) Nine (9) LOIs proposed contested child custody services.*

END OF QUESTIONS AND ANSWERS