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Commissioner, District 5

Gregory S. Shaffer
County Manager

MEMORANDUM FOR FILE

DATE: April 3, 2026

TO: File

FROM: Bill Taylor, Procurement Manager *BT*

RE: **Sole Source Determination Pursuant to NMSA 1978, 13-1-126; Continuation of Legal Representation Services with Durham Pittard and Spalding Involving Litigation Against Opiate Manufacturers, Distributers and Others.**

BACKGROUND

In 2018, Santa Fe County issued a competitive sealed proposal procurement (RFP) for determining qualified Offerors to represent Santa Fe County in litigation against opiate manufacturers, distributors and others. The County selected and entered into Agreement No. 2018-0236-AT/MM with Durham Pittard and Spalding as the most qualified legal firm to provide these services.

ISSUE

Pursuant to NMSA 1978, 13-1-150. B. Multi-term contracts; specified period. *“A contract for professional services may not exceed four years, including all extensions and renewals...”*

The subject Agreement is set to expire in May of 2026, as the maximum allow term for a contract for professional services. The County and Legal Firm desire to continue the services, citing the ongoing litigation that is currently underway in federal court and bankruptcy court against opiate manufacturers, distributors and others, requires representation from the same legal firm to avoid any court delays or stays.

DETERMINATION

Based on the very specific intent of the original competitive procurement for these services and the uniqueness related to the intended purpose of the contract, to the litigation undertaken by Durham, Pittard and Spalding on behalf of Santa Fe County, the effort to change counsel in this prolonged litigation, would be disruptive to the County and potentially to litigants throughout the country.

It is therefore the determination, as Chief Procurement Officer for Santa Fe County, that the County may enter into a new four-year contract with Durham Pittard and Spalding involving litigation against

opiate manufacturers, distributors and others, pursuant to 13-1-126, NMSA 1978. Sole source procurement.

Contract Information:

Vendor: Durham Pittard and Spalding
505 Cerrillos Road, Suite A209
Santa Fe, New Mexico 87501

Scope of Professional Litigation Services:

1. Evaluate the merits of and, to the extent desired by the County, initiate and pursue litigation against opiate manufacturers, distributors and others related to the impact of the opiate epidemic and crisis on Santa Fe County. Contractor shall collaborate with other public entities if the County, in consultation with the Contractor, determines such collaboration to be in the best interest of the County.
2. Be responsible for legal research, advice and representation concerning the marketing, advertising, distribution, and manufacture of opiates and the impact of opiates on Santa Fe County.
3. Brief County officials and the County Attorney on all matters related to this Scope of Work.
4. Provide copies of all litigation correspondence and pleadings produced and received in connection with litigation on behalf of the County and give timely written notice to the County Attorney on any and all pleadings, dispositive motions, rulings, hearings, trials, mediations or settlement negotiations and any other legal events relevant to this Scope of Work.
5. Meet, coordinate with and submit interim reports to the County Attorney on a basis to be determined by the County Attorney, but not less than monthly.
6. Refrain from making any settlement or compromise of any nature of any of the County's claims without the County's prior approval. The County has the absolute right to accept or reject any settlement or compromise. The County agrees to seriously consider any settlement offer Contractor recommends before making a decision to accept or reject such offer.

There is no fee for representation unless a monetary recovery is acceptable by Santa Fe County, that is obtained by the Contractor.