

INITIAL STATEMENT OF REASONS

CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT DIVISION OF CODES AND STANDARDS

MOBILEHOME RESIDENCY LAW PROTECTION PROGRAM

CALIFORNIA CODE OF REGULATIONS

TITLE 25 HOUSING AND COMMUNITY DEVELOPMENT

DIVISION 1. CHAPTER 3.5

SECTION 4916

The California Department of Housing and Community Development (HCD) mission is to promote safe, affordable homes and vibrant, inclusive, sustainable communities for all Californians. HCD's Division of Codes and Standards (Codes) is responsible for the development, administration, adoption, and enforcement of uniform statewide standards for manufactured housing, mobilehomes, mobilehome parks, special occupancy parks, and employee housing facilities. Codes ensures the health and safety of Californians, protects consumers from fraud and abuse, and safeguards the availability and affordability of housing.

The Mobilehome Residency Law Protection Act (Act)¹, establishes the Mobilehome Residency Law Protection Program (MRLPP), which connects mobilehome homeowners, as defined in the Act, with legal resources for assistance related to alleged violations of the Mobilehome Residency Law (MRL)². The MRL governs the landlord-tenant relationship between mobilehome homeowners and mobilehome park owners and covers issues such as rental agreements and termination of tenancy. MRL disputes are handled in the civil court system and the consequence of improper application of the MRL by mobilehome park owners can lead to the loss of property and/or tenancy by mobilehome homeowners. The MRLPP provides another avenue for mobilehome homeowners to receive legal assistance to secure their property and housing stability.

HCD proposes to adopt regulations that, if approved, would create and implement procedures for selecting and executing nonprofit legal services provider (LSP) contracts to which HCD refers MRLPP complaints for possible enforcement action.

INFORMATIVE DIGEST

SUMMARY OF EXISTING LAWS AND REGULATIONS

Mobilehome Residency Law Protection Act

The Act establishes the MRLPP with the purpose of investigation or pursuit of

1 Mobilehome Residency Law Protection Act (commencing with section 18800) of Part 2.2 Division 13 of Health and Safety Code.

2 Mobilehome Residency Law Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code.

conciliation or remedy arising from a complaint alleging a violation of the Mobilehome Residency Law. HCD aids in taking complaints related to the MRL and in helping to resolve and coordinate the resolution of these complaints. HCD administers the MRLPP through contracted LSPs and refers MRL complaints for evaluation and possible enforcement action to contracted LSPs. LSPs have sole authority to determine which complaints are addressed or pursued, based on resources provided pursuant to the contract with HCD.

SUMMARY OF SECTIONS AFFECTED

Amend: 4916

AUTHORITY AND REFERENCE

The authority and reference for this action occurs through both implied and expressed as described below:

Authority

HCD has express and implied rulemaking authority as provided in:
Sections 18802 and 50406(n), Health and Safety Code

Reference

HCD is implementing, interpreting, and making specific the sections noted below:
Sections 18802 and 18803, Health and Safety Code

SUMMARY OF EFFECT OF PROPOSED REGULATORY ACTION

The proposed regulations repeal the requirement for HCD to utilize a Request for Proposal (RFP) to secure contracts; relocates and renumbers the subsection that allows HCD to award contracts to one or more LSPs if it determines that coverage of the state requires multiple contractors; and renumbers the subsection that notes contracts are subject to compliance with all California contracting requirements. Reference to contracting requirements in the Act are added for clarity.

1. Amend Section 4916

HCD proposes to amend section 4916 subsection (a) paragraph (1) to remove the requirement that HCD issue an RFP and relocate and to amend the requirement in subsection (f) that HCD shall award contracts subject to compliance with California contracting requirements to subsection (a). The State Contracting Manual indicates that an RFP takes between three to eight months from the time the advertisement is placed until the award is made. Removing the requirement to use the RFP process to secure LSPs allows HCD to use other, possibly more expedited, methods to secure services and provide continuity of services to mobilehome homeowners that utilize the MRLPP. Reference to contracting requirements in the Act is added for clarity because HSC section 18803 outlines specific requirements for contracting with LSPs.

HCD proposes to relocate section 4916 subsection (e) to subsection (a) paragraph (2) for ease of the reader and renumber remaining paragraphs (2) and (3).

HCD proposes to repeal paragraph (4) which requires each contract to be three years with the option to extend for a year. This requirement may conflict with State Contracting Manual section 7.80 which outlines requirements and approval needed for multiple year contracts beyond three years. Repealing this paragraph still requires HCD to follow all state contracting requirements for multi-year contracts.

HCD proposes to repeal paragraph (5) which explains HCD's payment process, anticipated procedures for review of contract performance, the requirements of contractor reporting, and deliverables. These regulations are unnecessary, as the State Contracting Manual 5.15 clarifies the RFP process and what must be contained in the RFP; section 5.35 outlines that RFPs should include a description of work, deliverables, performance timelines, standards the agency is using to evaluate proposals, and information on how the state will select the winning proposal. HCD is mandated to follow the Public Contract Code (PCC) and all California contracting requirements. Having duplicative and possibly conflicting requirements is unnecessary and confusing to potential bidders.

POLICY STATEMENT OVERVIEW

Current regulations require HCD to execute LSP contracts utilizing the RFP contracting method, a competitive bidding process that limits the ability to utilize other contract processes allowable under the California state contracting process. Current LSP contracts expired between February and May of 2024 and three LSPs have declined to extend contracts by one year, as permitted by Section 4916. Proposed amendments to Chapter 3.5 are necessary to provide continuity of service to mobilehome homeowners that submit MRL complaints for referral to contracted LSPs. Amending Section 4916 is necessary to remove the requirement to use RFP contracting method. According to the Department of General Services, the RFP bidding process often takes three to eight months from the time the advertisement is placed until the award is made. Resolution of protests may add a delay of one to three months. Currently, 30 counties are without LSP coverage. As a result, HCD is unable to fulfill statutory requirements of referring MRLPP complaints to LSPs in those areas. As of September 2024, 52 complaints have been held due to lack of LSP coverage. Inability to refer complaints to LSPs may result in the lack of legal representation of mobilehome homeowners which could further result in legal and financial harm to those owners, including termination of tenancy and/or loss of property. The proposed regulations are necessary to execute LSP contracts in a timely manner to minimize lapse of LSP services and comply with the Act's statutory requirement that HCD refer complaints to contracted LSPs.

COMPARABLE FEDERAL STATUTES OR REGULATIONS

HCD has determined that these proposed regulations are not inconsistent or incompatible with existing regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

- Mandate on local agencies and school districts: None
- Costs or savings to any state agencies: None
- Costs or savings to local agencies or school districts, which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of

Division 4 of the Government Code: None

- Other nondiscretionary costs or savings imposed on local agencies: None
- Costs or savings in federal funding to the state: None

BUSINESS IMPACT STATEMENT

HCD has made an initial determination that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California and will not result in the elimination of existing businesses nor create or expand businesses in the State of California.

SMALL BUSINESS IMPACT STATEMENT

HCD has made an initial determination that small businesses will not be adversely affected by this proposed regulatory action because this regulatory action does not increase or decrease business but allows HCD to utilize various contract methods beyond the RFP Method. This rulemaking does not increase or decrease the number of complaints referred to contract Legal Services Providers.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS

HCD has made an initial determination that the proposed regulatory action will not have a significant adverse effect on private individuals or small businesses as the proposed amendments do not create or eliminate business.

ECONOMIC IMPACT ANALYSIS-ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

HCD has determined that this proposed regulatory action will not have a significant impact on the creation or elimination of jobs in the State of California and will not result in the elimination of existing businesses nor create or expand businesses in the State of California by allowing HCD to utilize various public contracting methods to secure LSP contracts. It does not change the total contracted amount or increase or decrease the work referred to LSPs.

HEALTH AND WELFARE BENEFITS FOR CALIFORNIA RESIDENTS, WORKER SAFETY AND THE STATE'S ENVIRONMENT

HCD has determined that these proposed regulations present no benefits to worker safety or the state's environment.

CONSIDERATION OF ALTERNATIVES

HCD has determined that there was no alternative considered, identified, or brought to attention that would be more effective in carrying out the purpose for which the action is proposed. HCD continues to support the statement made in the Notice of Proposed Action that "no reasonable alternative will be more effective in carrying out the purpose for which this regulatory action is proposed" or "will be as effective as, and equally effective in to affected private persons than the proposed action." HCD has determined that this proposed regulatory action represents the most cost-effective, efficient, and practical process achievable.

ANTICIPATED BENEFITS OF THE PROPOSAL

California Code of Regulations, title 25, section 4916 clarifies and makes specific the selection procedures for nonprofit LSPs. Current regulations require that HCD issue an RFP to contract with one or more LSPs to provide legal advice and representation to MRLPP complainants. An RFP is one means of awarding contracts allowable under the Public Contract Code (PCC) (commencing with section 10335 of chapter 2 of part 2 of the PCC), but the PCC authorizes alternative contracting procedures for certain types of contracts, including legal services contracts pursuant to PCC section 10335.5(c)(4).

The PCC governs the public contract process. The purpose of the PCC is to ensure full compliance with competitive bidding as a means of protecting the public from misuse of funds and provide qualified bidders with a fair opportunity to enter the bidding process and eliminate favoritism, fraud, and corruption in awarding public contracts. The State Contracting Manual provides the policies, procedures, and guidelines to promote sound business decisions and practices in securing necessary services for the State. HCD is mandated to abide by the PCC and the State Contracting Manual to obtain contracts, and current regulations unnecessarily limit the means HCD may take to procure contracts.

Current regulations unnecessarily limit HCD by requiring the use of the RFP process. Proposed amendments remove this limitation by allowing HCD to use all established contracting methods as promulgated in the PCC and the State Contracting Manual to secure contracts with LSPs to provide legal advice and representation for mobilehome homeowners referred as part of the MRLPP.

Proposed regulations repeal the requirement to utilize an RFP to secure contracts allowing HCD to execute LSP contracts in a timely manner utilizing non-competitive acquisition methods allowable under the PCC, such as the legal services exemption, without loss of service and comply with statutory requirements of the Act to refer complaints to contracted LSPs.

STUDIES, REPORTS, AND SIMILAR DOCUMENTS

State Contracting Manual, June 2023 edition.

SPECIFIC TECHNOLOGIES AND EQUIPMENT

No specific technologies or equipment is required by the proposed rulemaking.