

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

A. GENERAL INFORMATION

1. Date

August 2, 2019

2. Department

Department of FI\$Cal

3. Organizational Placement (Division/Branch/Office Name)

Legal and Communications Office

4. CEA Position Title

Chief Counsel

5. Summary of proposed position description and how it relates to the program's mission or purpose. (2-3 sentences)

Under the administrative direction of the Director, the Chief Counsel, CEA B, serves as the principal legal advisor to the Department of FI\$Cal and the Director. The Chief Counsel provides general direction to the department's attorneys; provides advice, counsel, and specialized legal services to the department on the most complex legal issues related to IT contracts, conflicts of interest, human resources, and regulations and policies. This position will oversee the negotiation of contracts, oversees procurements, handles confidential personnel matters, drafts department policies and works with the legislative office.

6. Reports to: (Class Title/Level)

Director

7. Relationship with Department Director (Select one)

- Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain):

8. Organizational Level (Select one)

- 1st
- 2nd
- 3rd
- 4th
- 5th (mega departments only - 17,001+ allocated positions)

B. SUMMARY OF REQUEST

9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

Under the administrative direction of the Director, the Chief Counsel, CEA B, serves as the principal legal advisor to the Department of FI\$Cal and the Director. The Chief Counsel provides general direction to the department's attorneys; provides advice, counsel, and specialized legal services to the department on the most complex legal issues related to IT contracts, conflicts of interest, human resources, and regulations and policies. This position will oversee the negotiation of contracts, procurements, handles confidential personnel matters, drafts department policies and works with the legislative office.

The Chief Counsel will report directly to the Director and will be responsible for supervising and managing the Legal and Communications Office.

The Chief Counsel plans assigns, directs and monitors the work of FI\$Cal's legal staff and is responsible for formulating/developing policies; provides legal advice on administrative and departmental programs, conducts legal research and analysis on complex contract law; interacts with other California state departments and other public and private entities; and reviews employee disciplinary matters as related to employee disciplinary investigations, hearings before the State Personnel Board and administrative law judges. The Chief Counsel will represent the Department before the Equal Employment Opportunity Commission, Department of Fair Housing and Employment, Victim Compensation and Government Claims Board, and the Fair Political Practices Commission.

The Chief Counsel has full management responsibility over the Communications Office in providing oversight and guidance on departmental communication, oversees responses to Public Records Act requests, and maintains effective relations with the Governor's Office and legislature. This position will also evaluate proposed legislation affecting matters within FI\$Cal's jurisdiction and develop policies and recommendations for management action.

B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: The mission of the Legal and Communications office (LCO) is to provide quality legal advice to FI\$Cal's leadership and to ensure that the FI\$Cal system is in compliance with state and federal laws and regulations. This position will provide legal interpretations, analysis, and advice to the Director on legal issues as they affect the overall policies of FI\$Cal. The Chief Counsel will review legislation and guidelines for legal and system impact and assists in drafting legislation. The Chief Counsel is also responsible for overseeing all the inter-agency agreements and memorandum of understanding as related to the FI\$Cal system.

B. SUMMARY OF REQUEST (continued)

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

The request for this CEA is part of a larger proposed reorganization of FI\$Cal. As FI\$Cal transitions to a maintenance and operations phase, a robust Legal and Communications Office is needed to support to the department.

In August of 2016, the Department of FI\$Cal entered into an inter-agency agreement with the Department of General Services to hire an Attorney IV to serve as FI\$Cal's General Counsel. Through this inter-agency agreement, the Attorney IV administratively reported to the Department of General Services, but took daily direction from FI\$Cal's Director. The Attorney IV provided specialized legal advice in public contracting law and state and federal government procurement law relating to information technology (IT) procurements. In November of 2018, this position was vacated and it has not been refilled. This position will provide continuity of services that will provide management oversight for the Legal and Communications Office.

C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

The Chief Counsel will provide legal insight on all personnel/employment matters, execution and negotiation of contract/procurements and legislative changes. Additionally, the Chief Counsel will oversee the legal interpretations of state and federal statutes and regulations related to the implementation and adoption of the FI\$Cal system. The Chief Counsel will also provide direction to legal counsel and other professional staff for particular cases of a complex nature.

FI\$Cal System Policy - Develop and enforce policies, related data disclosure, and the security and confidentiality of the FI\$Cal system. The Chief Counsel will take legal courses of action against departments for system security breaches that may jeopardize the integrity of the FI\$Cal system and its data. Additionally, the Chief Counsel will review and develop policies related to the protection of Personal Identifiable Information (PII) housed in the FI\$Cal system to ensure compliance with all state and federal rules and regulations. Finally, the Chief Counsel will develop policies and oversee FI\$Cal system licensing requirements.

Legislative Policy - Oversee the development of policy proposals for legislative action as it relates to the FI\$Cal system. Serve as the primary legal policy advisor and provide legal advice to the Director, executive staff, and other staff on legal issues.

Personnel/Employment Policy - Work with the California Department of Human Resources (CalHR) and four partner agencies to establish policies for approximately 100 matrix employees. Reviews Departmental personnel policies to ensure compliance and consistency with FI\$Cal's organizational goals and objectives while meeting federal and state laws, and the rules of the CalHR, State Personnel Board (SPB), and other state business partners.

Contract/Procurements Policy - Oversee \$328M in contract deliverables (main contract) in addition to all other contracts executed for legal and policy compliance and consistency. Ensure FI\$Cal's contract/procurement policies are in compliance and consistent with the Department of General Services' contracting rules and regulations.

C. ROLE IN POLICY INFLUENCE (continued)

13. What is the CEA position's scope and nature of decision-making authority?

The scope and decision-making authority of the Chief Counsel is broad and sensitive which may impact FI\$Cal system end-users, departments, agencies and the public. The Chief Counsel will also work closely with the Director, senior leaders, and Partner Business Executives in developing policies and procedures resulting in impacts to the statewide use of the FI\$Cal system.

This position independently anticipates and solves major challenges and addresses strategic policy matters associated with changes in statute and regulations that have an impact on the FI\$Cal system statewide. Additionally, this position represents the Department while partnering with the Attorney General's Office on litigation strategy on the most complex legal issues facing FI\$Cal.

The Chief Counsel is the highest level of review for matters within all legal components.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

The Chief Counsel is responsible for developing and implementing new policy, as well as interpreting and implementing existing policy. For example, the Chief Counsel will interpret personnel policies to ensure compliance with state and federal laws, the rules of CalHR, SPB, and other state business partners while developing new FI\$Cal departmental policies. The Chief Counsel will also oversee the legal interpretations of state and federal statutes and regulations related to the adoption of the FI\$Cal system and implement policy changes as appropriate.