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June 21, 2017

The Honorable Mike McGuire  
Chair, Senate Governance and Finance Committee  
State Capitol Building, Room 408  
Sacramento, CA 95814

Subject: **Assembly Bill 1250. Counties: Contracts for Personal Services - Notice of Opposition**

Dear Senator McGuire:

MuniServices respectfully opposes AB 1250 (Jones-Sawyer) which will impose unprecedented restrictions on a county's ability to contract for services. AB 1250 (amendments pending) will apply to all counties, which means it will have a statewide impact. Despite recent amendments, our concerns with AB 1250 continue, including the increased costs for delivery of county services throughout the state. There is no precedent in California law for the scope and scale of the complex procurement requirements that would be imposed on even minor consulting agreements. *These **unprecedented requirements** substantially exceed even any state or federal requirements for awarding major public works contracts.* Our primary concerns include the following:

**AB 1250 Will Increase Costs For County Services:** AB 1250 purports to require a county to demonstrate "overall cost savings" before awarding a service contract. But its mandates will tip the scales to disfavor service contracts - regardless of the actual cost impact or local needs. The requirements for a short-term service agreement with a financial or environmental consultant will be substantially costlier and more demanding than any current state law requirements for contracts to design or construct major infrastructure projects.

**Counties Will Be Forced To Reduce Service Levels To Offset Increased Pension And Benefit Costs:** Counties are already struggling with escalating pension costs and unfunded liability. By forcing counties to choose between higher costs for service contracts or increasing long-term costs for permanent staff, this bill will make matters worse. Counties will be forced to reduce services that they can no longer afford to pay for.

**Communities Will Suffer From Service Reductions:** Counties have historically contracted out for services that cannot be provided by county staff, including legal, financial, medical, therapeutic, and other special services. Counties are expressly authorized to do so by Government Code section 31000, et seq. Service contracts are particularly critical for small and rural counties which cannot staff full-time employees for all county services. This bill will obstruct delivery of essential county services, with a disproportionate impact on small and rural communities.

**AB 1250 Is Inconsistent With Established Law and May Violate Constitutional Privacy Guarantees:** The requirements mandated by this bill differ in nature and scope from any existing service procurement requirements in the state, including state and local agencies. AB 1250 is inconsistent with longstanding provisions of Government Code section 31000 et seq. These provisions provide broad discretion for counties to contract for a wide range of services based on *specific local needs and resources*. This bill would undermine and conflict with these long-established laws. AB 1250 also threatens constitutional privacy rights by requiring publication of financial information about private individuals.

**Counties And Courts Will Be Burdened By Litigation:** AB 1250 is certain to generate costly disputes and litigation, including constitutional challenges. Its core provisions are open to conflicting interpretations and are inconsistent with established laws. For example, the bill applies to “personal services contracts,” but provides no definition for this term. There is no objective basis to determine which contracts are “customarily performed by city employees,” or even which are the “same services,” given degrees of specialization. It will be left to the courts to untangle the many ambiguities and conflicts, imposing new burdens on the court system. Meanwhile, public funds will be diverted to pay for litigation costs instead of county services.

**AB 1250 Will Hurt Local Businesses:** By obstructing service contracts, AB 1250 will hurt local businesses that depend on county contracts. Even for contracts that can clear the bill’s hurdles, the intrusive and unjustifiable requirements for publishing private financial information and the threat of litigation will discourage many qualified service providers from considering future county contracts.

MuniServices for nearly 40 years has worked *exclusively* as partner to California’s local governments in developing thoughtful revenue enhancement programs that work in conjunction with existing public services. We take pride in the relationships we establish with our local government partners and their highly skilled employees. It is only through our cooperation that we deliver our services to the benefit of both the employees and the community. It is our position that municipal agencies are unique and must retain the flexibility to make decisions and adopt policies that best meet the respective service needs.

For the reasons stated above, MuniServices respectfully remains opposed to AB 1250 and requests a “No” vote when the bill is before the Committee. If you have any questions regarding MuniServices position on this bill please do not hesitate to contact me. Clare Gibson, an attorney at Jarvis, Fay, Doporto & Gibson, LLP, who specializes in public contract and procurement law for California cities and local agencies, is also available to address the legal issues raised in this communication. Ms. Gibson can be reached at (510) 238-1400 or via email at [cgibson@jarvisfay.com](mailto:cgibson@jarvisfay.com).

Respectfully,



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CC: Members, Senate Governance and Finance Committee  
Assembly Member Reginald Jones-Sawyer