

4/24/81

Memorandum 81-17

Subject: Consultants Contracts

The Commission's Handbook of Practices and Procedures provides:

The Executive Secretary is to submit for Commission review approximately every six months the status of each research study being prepared by an outside research consultant.

This provision was added to the Handbook in 1971 because the Commission was concerned that some studies had not been delivered on the schedule called for in the contract and wished to be advised periodically as to the status of work on each contract. The following is a report on the status of each existing research consultant contract and staff recommendations as to additional research consultant contracts for the current fiscal year.

EXISTING RESEARCH CONSULTANT CONTRACTS

CONTRACTS COVERING TRAVEL EXPENSES ONLY

The following contracts cover travel expenses only:

Riesenfeld - Creditor's Remedies. This contract expires on June 30, 1981. There are sufficient funds to cover attendance by contractor at the June 1981 meeting at which time the Commission will consider the comments and suggestions of interested persons and organizations concerning the bills introduced to effectuate the Commission's recommendation relating to enforcement of judgments.

Elmore - Real Property. Expires June 30, 1982 (\$750.00).

Blawie - Real Property. Expires June 30, 1982 (\$1,500.00).

Basye - Real Property. Expires June 30, 1982 (\$1,500.00).

Dankert - Eminent Domain, Inverse Condemnation, Evidence. Expires June 30, 1982 (\$300.00).

Wolk - Community Property. Expires June 30, 1982 (\$500.00).

Dukeminier - Real Property and Probate. Expires June 30, 1983 (\$1,500.00).

Niles - Real Property and Probate. Expires June 30, 1983 (\$1,500.00).

French - Real Property and Probate. Expires June 30, 1983 (\$1,500.00).

CONTRACTS FOR RESEARCH STUDY AND TRAVEL

Elmore - Dismissal For Lack of Prosecution. This contract expires on June 30, 1981. The research study was delivered on time. The travel expenses of the consultant in attending meetings when this

study is discussed will be covered under this contract and another existing contract.

Bruch - Community Property. This contract expires on June 30, 1981.

The background study is to be completed in two portions. The first portion has been received and is being considered by the Commission. The second portion--which was due on January 15, 1981--is not yet complete. The Executive Secretary plans to approve for payment a claim for the second portion upon receipt of the text of the second portion (which will not include all of the footnotes) by June 1, 1981. Receipt of the text of the study by June 1, 1981, will permit submission of a claim which can be processed and paid by June 30, 1981. If the funds are not actually paid out of the State Treasury by June 30, 1981, the funds will revert and no longer be available.

The travel expenses for the consultant will cover the attendance of the consultant at the May 1981 meeting. A new contract (hereinafter recommended) will cover travel expenses for meetings after the May 1981 meeting.

Reppy - Community Property. This contract called for two research studies. Both have been received. The legislation recommended in one has been enacted. A tentative recommendation on the other study has been prepared and distributed for comment, but preparation of a final recommendation was deferred until the second portion of Professor Bruch's study was received and considered.

We have almost enough money to cover the travel expenses of consultant attending one more meeting. A new contract (hereinafter recommended) will be needed to cover travel expenses of consultant in attending meetings.

NEW RESEARCH CONSULTANT CONTRACTS

The staff has made a careful review of the expenditures to date and anticipated expenditures for the remainder of the 1980-81 fiscal year. We have concluded that we could expend \$5,500 for research consultants this fiscal year. We believe that this amount should be allocated to the study of community property because this study is the most complex and difficult one under active consideration and the one on which we need expert consultants.

New Contract with Professor Bruch

We need a new contract to cover Professor Bruch's travel expenses in attending meetings after the May 1981 meeting. The staff recommends that the Commission make a contract with Professor Bruch to cover travel expenses in attending Commission meetings and legislative hearings, when requested by the Commission, at the rate allowed for travel expenses of state employees. The total amount of the contract would be \$1,500. The

contract would expire on June 30, 1983. This contract is necessary to complete our consideration of the first and second portions of the consultant's study on community property.

New Contract with Professor Reppy

Professor Reppy is one of the outstanding community property law experts in the United States. Not only is Professor Reppy familiar with the community property law of California, but he also is familiar with the community property law of other states. The casebooks Professor Reppy has prepared are excellent. We believe he can make a substantial contribution in assisting the Commission on the community property law project. It is expensive to have him attend meetings because he must travel from North Carolina. However, we believe it will be of great value to have him attend some meetings and also we believe that we can benefit greatly if he will review and comment in writing on various proposals and tentative drafts. Accordingly, we recommend that we make a contract with Professor Reppy which would require him, upon request, to review and send us written comments on proposals and tentative drafts which we will send to him from time to time and to attend meetings at which the community property study is considered if convenient to do so when we request his attendance. The contract would provide compensation of \$2,000 for reviewing and commenting upon material submitted for comment and \$2,000 for travel expenses in attending meetings. After discussing the matter with Professor Reppy, we recommend that the compensation for reviewing and submitting written comments be paid in two payments: \$1,000 on December 15, 1981, and \$1,000 on December 15, 1982.

Respectfully submitted,

John H. DeMouilly
Executive Secretary