

# Office of the State Public Defender Administrative Policies

Subject: <b>Witness Fees</b>	Policy No.: <b>140</b>
Title <b>26</b>	Pages: <b>5</b>
Section: <b>2-501 through 2-503</b>	Last Review Date: <b>09-27-17</b>
Effective Date: <b>2-20-09</b>	Revision Date: <b>11-1-17</b>

## 1.0 POLICY

- 1.1 The Office of the State Public Defender (OPD) will pay witnesses a fee of \$10 per day plus mileage as required by state law.
- 1.2 OPD will also pay other expenses incurred by witnesses, including lodging, commercial transportation and per diem, in accordance with State of Montana travel policy.
- 1.3 This policy applies to witnesses that testify voluntarily at the request of OPD, and to witnesses that appear to testify because they were issued a subpoena by OPD.

## 2.0 PROCEDURES

- 2.1 A witness is entitled to \$10 per day plus mileage at the current state rate.
- 2.2 The witness must complete the Witness Fee and Travel Information form (Attachment A) for payment to be processed.
- 2.3 The Witness Fee and Travel Information form, along with a completed W-9 form (Attachment B), the subpoena if applicable, and receipts for any additional expenses are to be mailed to the Central Services Division.
- 2.4 Each individual OPD office is responsible for providing the required forms to each witness testifying at the request of that office, and for verifying the witness's appearance in court.
- 2.5 Contract attorneys are responsible for providing the required forms to each witness testifying at the request of their office, and for verifying the witness's appearance in court.

## 3.0 Cross-Reference Guide

MCA 26-2-501, et seq.  
MOM 1-0300, Travel Policy

## 4.0 CLOSING

This policy shall be followed unless it conflicts with specific statutes, which shall take precedence to the extent applicable.

Questions about this policy should be directed to:

Office of the State Public Defender  
Central Services Division  
44 West Park, Butte, MT 59701  
Phone: 406-496-6080

**ATTACHMENT A**

OFFICE OF THE STATE PUBLIC DEFENDER  
 44 West Park Street ▪ Butte, Montana 59701  
 406.496.6080

**Witness Fee and Travel Information**

If you have appeared to testify at the request of the Office of the State Public Defender, the following information is needed to process your \$10/day witness fee and travel claim.

- Please complete this form and the attached W-9 immediately after attending the court proceeding at which you testified. **Please print legibly.**
- Attach your subpoena unless you testified voluntarily.
- Attach *original* receipts for expenses purchased *by you* (motel room, airline or bus ticket, rental car, airport parking, etc.)
- Meal receipts are not required; however, if you are claiming meals, you *must* include departure/return times. You will be reimbursed at the prevailing state rate, not at actual cost.
- Mail both forms and all attachments to:  
 Office of the State Public Defender  
 44 W. Park  
 Butte MT 59701

<b>NAME</b>	<b>MAILING ADDRESS</b>
<b>PHONE NUMBER</b>	<b>DATE(S) OF TESTIMONY (ATTACH SUBPOENA)</b>
<b>DATE OF DEPARTURE</b> (MONTH/DAY/YEAR)	<b>TIME OF DEPARTURE</b> (A.M./P.M.)
<b>DEPARTURE AND DESTINATION CITIES</b>	
<b>DATE OF RETURN</b> (MONTH/DAY/YEAR)	<b>TIME OF RETURN</b> (A.M./P.M.)
<b>MODE OF TRAVEL</b>	
<input type="checkbox"/> Private Car (total number of miles) _____ <input type="checkbox"/> Commercial Transportation (attach receipt) _____ <input type="checkbox"/> Other (please explain) _____ _____ _____	
<input type="checkbox"/> <b>MEALS:</b> Please indicate by date which meals you would like to be reimbursed for (B) Breakfast, (L) Lunch, (D) Dinner, _____ _____ <p align="center"><i>You must indicate departure/return times above so it can be determined whether you are eligible for meal reimbursement.</i></p>	
<b>SIGNATURE (please sign in ink)</b>	<b>DATE</b>

State of Montana  
 Department of Administration  
 SW9 (4/2009)



**Return to**  
 Office of the State Public Defender  
 Central Office  
 44 W. Park Street  
 Butte, MT 59701  
 Phone: 406-496-6080  
 Fax: 406-496-6098

Substitute **W-9**

**DO NOT send to IRS**

**Taxpayer Identification Number (TIN) Verification**

*Print or Type*

Please see attachment or reverse for complete instructions.

<p><b>Legal Name</b>                  (as entered with IRS) If Sole Proprietorship, enter your Last, First, MI</p> <hr/> <p><b>Trade Name</b>                  If doing business as (DBA) or enter business name of Sole Proprietorship</p> <hr/> <p><b>Primary Address</b> (for 1099 form)                  PO Box or Number and Street, City, State, ZIP + 4</p> <hr/> <p><b>Remit Address</b> (where payment should be mailed, if different from Primary Address) PO Box or Number and Street, City, State, ZIP + 4</p>	<p><b>Entity Designation</b> (check only one type)</p> <p><input type="checkbox"/> Corporation                      <input type="checkbox"/> S-Corp <input type="checkbox"/> C-Corp                  Do you provide medical services?                      <input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p><input type="checkbox"/> Individual</p> <p><input type="checkbox"/> Sole Proprietorship</p> <p><input type="checkbox"/> Partnership                      <input type="checkbox"/> General    <input type="checkbox"/> Limited                      <input type="checkbox"/> LLC (for federal tax purposes taxed as)                          <input type="checkbox"/> S-Corp    <input type="checkbox"/> C-Corp</p> <p><input type="checkbox"/> Estate/Trust</p> <p><input type="checkbox"/> Other Groups of Individuals</p> <p><input type="checkbox"/> Organization Exempt from Tax                  (under Section 501 (a)(b)(c)(d)(e))</p> <p><input type="checkbox"/> Government Entity</p> <p><b>Exempt from Backup Withholding</b>  <input type="checkbox"/> Yes      <input type="checkbox"/> No</p>
--	--

**Taxpayer Identification Number (TIN)** (Provide Only One) (If sole proprietorship provide FEIN, if applicable)

Social Security Number	Federal Employer Identification No
------------------------	------------------------------------

**Certification**  
 Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number, AND
2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.
3. I am a U.S. person (including a US resident alien).

Printed Name	Printed Title	Telephone Number
Signature		Date

**Optional Direct Deposit Information (used at agency discretion) (all fields required to receive electronic payments)**  
**(Must Include a Voided Check, No Direct Deposit Slips Accepted)**

Your Bank Account Number	<input type="checkbox"/> Checking <input type="checkbox"/> Savings	Name on Bank Account	Bank Routing No. (ABA)
--------------------------	---	----------------------	------------------------

THIS IS A:

New Direct Deposit       Change of Existing       Additional Direct Deposit       Email Change Only

Email Address (Please make this LEGIBLE)

If you provide bank information and an email address, we will send a message notifying you when an electronic payment is issued. We will **NOT** share your email address with anyone or use it for any other purpose than communicating information about your electronic payments to you. **If you have questions about completing this form, please call the Warrant Writer Unit at 406-444-3092.**

## Instructions for Completing Taxpayer Identification Number Verification (Substitute W-9)

**Legal Name** As entered with IRS

Individuals: Enter Last Name, First Name, MI  
 Sole Proprietorships: Enter Last Name, First Name, MI  
 LLC Single Owner: Enter owner's Last Name, First Name, MI  
 All Others: Enter Legal Name of Business

certain other payments to a payee who does not furnish a TIN to a payer. Certain penalties may also apply.

**Trade Name**

Individuals: Leave Blank  
 Sole Proprietorships: Enter Business Name  
 LLC Single Owner: Enter LLC Business Name  
 All Others: Complete only if doing business as a D/B/A

**Primary Address**

Address where 1099 should be mailed.

**Remit Address**

Address where payment should be mailed. Complete only if different from primary address.

**Entity Designation**

Check **ONE** box which describes the type of business entity.

**Taxpayer Identification Number**

**LIST ONLY ONE:** Social Security Number OR Employer Identification Number. **See "What Name and Number to Give the Requester" at right.**

If you do not have a TIN, apply for one immediately. Individuals use federal form SS-05 which can be obtained from the Social Security Administration. Businesses and all other entities use federal form SS-04 which can be obtained from the Internal Revenue Service.

**Certification**

You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN.

**Privacy Act Notice**

Section 6109 of the Internal Revenue Code requires you to furnish your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, or contributions you made to an IRA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and

**What Name and Number to Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual no the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or Single-Owner LLC	The owner <sup>3</sup>
For this type of account:	Give name and EIN of:
6. Sole Proprietorship or Single-Owner LLC	The owner <sup>3</sup>
7. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district or prison) that receives agricultural program payments	The public entity

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.  
<sup>2</sup> Circle the minor's name and furnish the minor's SSN.  
<sup>3</sup> **You must show your individual name**, but you may also enter your business or "DBA" name. You may use either your SSN or EIN (if you have one).  
<sup>4</sup> List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

**NOTE:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Taxpayer Identification Request

In order for the State of Montana to comply with the Internal Revenue Service regulations, this letter is to request that you complete the enclosed Substitute Form W-9. Failure to provide this information may result in delayed payments or backup withholding. This request is being made at the direction of the Montana Department of Administration, State Accounting Division, in order that the State may update its vendor file with the most current information.

Please return or FAX the Substitute Form W-9 even if you are exempt from backup withholding within (10) days of receipt. Please make sure that the form is complete and correct. **Failure to respond in a timely manner may subject you to a 28% withholding on each payment, or require the State to withhold payment of outstanding invoices until this information is received per Internal Revenue Code 3406(a).**

We are required to inform you that failure to provide the correct Taxpayer Identification Number (TIN) / Name combination may subject you to a \$50 penalty assessed by the Internal Revenue Service under Section 6723 of the Internal Revenue Code.

Only the individual's name to which the Social Security Number was assigned should be entered on the first line.

The name of a partnership, corporation, club, or other entity, must be entered on the first line exactly as it was registered with the IRS when the Employer Identification Number was assigned.

DO NOT submit your name with a Tax Identification Number that was not assigned to your name. For example, a doctor MUST NOT submit his or her name with the Tax Identification Number of a clinic he or she is associated with.

Thank you for your cooperation in providing us with this information. Please return the completed form to:

Office of the State Public Defender  
Central Office  
44 W. Park Street  
Butte, MT 59701  
Phone: 406-496-6080  
Fax: 406-496-6098