

CONTRACT COMMITTEE MEETING REPORT

TO: Montana Public Defender Commission

FROM: Charles E. Petaja, Chairman of Contract Process Committee

RE: Report for Contract Committee Meeting on 12/20/10

ATTENDANCE: Chairman, Charles Petaja, Ken Olson, and Ray Kuntz

SUBJECT: Transparency in Contracting Process and American University
Recommendation No. 12

TRANSPARENCY IN CONTRACTING PROCESS

The Committee discussed factors to be considered for appointment of contracting attorneys and issues to ensure fairness in the contract process. Currently, there is a contract attorney pool for each region. Regional Managers exercise discretion for the selection of contract attorneys for each particular case. Larry Murphy, from the Central Office, reviews the work of contract attorneys and has the discretion to trump any appointment by Regional Managers.

In order to be included in the contract attorney pool, the contract attorney is required to sign a Memorandum of Understanding, which is a six (6) page document that sets forth the terms and conditions of employment as an independent contractor. All contract attorneys are required to comply with PD Commission standards for representing individuals. The issue of fairness and transparency in the contracting process (Item 17 of the Memorandum of Understanding) specifically prohibits discrimination.

After further discussion, the Committee asked Larry Murphy to prepare a proposed website posting, which explains in more detail the contract process. The OPD requires discretion in the appointment and selection of contract attorneys from the attorney pool. There have been very few complaints (2) throughout the state that the appointment process has not been fair. Therefore, the Committee does not recommend adoption of the protocol rules for appointment of contract attorneys. The process requires discretion by Regional Managers for the selection of legal representatives and consultants best qualified for each particular case. It is not in the best interests of the OPD contract selection process to remove discretion at both the Central Office and Regional levels without further evidence of discrimination or a lack of fairness in the contracting process.

The proposed website will be for informational purposes and will be further discussed in detail at a future Committee meeting, following the January 10, 2011, Commission meeting.

AMERICAN UNIVERSITY RECOMMENDATION - ITEM 12 (Evaluation of Contract Attorneys)

Mr. Murphy has reviewed all self evaluations forms from contracting attorneys and is currently in the process of completion of evaluations of contracting attorneys by each Regional Manager. The evaluation process is ongoing and is expected to be completed by next year (2012) for all contract attorneys currently working as independent contractors for the OPD. (See attached minutes).

DATED this 10 day of January, 2011.



Charles E. Petaja, Chairman
Contract Process Committee