



OFFICE OF THE STATE PUBLIC DEFENDER STATE OF MONTANA

MEMORANDUM

TO: Strategic Planning Committee

FROM: Harry Freebourn

DATE: March 4, 2014

RE: PROGRAM 3 – CONFLICT COORDINATOR – DISCUSSION PAPER

Issue

During fiscal 2013 the Strategic Planning Committee reviewed the agency's organizational structure to assess if it best served the needs of the system and its clientele. The committee noted that SB 187 had passed and was approved during the 2011 legislative session. This legislation created a Conflict Coordinator function that reports directly to the Montana Public Defender Commission. The Conflict Coordinator reviews requests from both the Public Defender Program (program 1) and the Appellate Defender Program (program 2) to receive cases in which a potential conflict exists. If the Coordinator accepts the case based on clearly defined criteria for a "conflict case," counsel is assigned to work it. The Coordinator also supervises staff, monitors contractor work, reviews and approves contractor claims, sets policy and procedure, coordinates with program 1 and 2 management, and briefs and advises the commission and its committees. In essence the Conflict Coordinator operates as a separate program, however it uses program 1 and 2 funds to pay for its activities.

This paper discusses issues related to establishing a new program (program 3) to segregate costs, resources, and management for the Conflict Coordinator function away from other activities in the existing programs. 17-7-102-11, MCA "Program" is defined as a principal organizational or budgetary unit within an agency.

Advantages

1. Greater financial and operating control as it will have separate "required reporting" to the executive and the legislative branch.
2. Programs 1 and 2 believe that they have no control over a case once it is accepted by the Coordinator but the costs hit their appropriations. This separation will segregate funds.

Disadvantages

1. Less flexibility to use resources as the agency deems fit as a movement of resources among programs requires approvals and oversight from both the executive and legislative branches.
2. If the program runs out of funds it will need to ask programs 1 and 2 for transfers and if funds are unavailable, it will then go through the supplemental process.

FTE/Financial Issues

1. The program currently has 3.00 FTE
 - a. 1.50 are modified that will be part of the 2017 EPP process.
 - b. 1.00 is funded by state special revenue. The agency will need to decide if this funding is appropriate for this program.
2. FTE will need to be transferred from Program 1 to Program 3
3. Contract funds
 - a. Program 1 funds, in the amount of \$4.2 million will need to be transferred to Program 3.
 - b. Program 2 funds, in the amount of \$80,000 will need to be transferred to Program 3.
4. Other funds: include rent, supplies, etc. from Program 1 to Program 3.

Process

1. Approve plan by Strategic Planning Committee
2. Approve plan by full commission
3. Approve transfer by Governor's office

If approved, the program will be effective July 1, 2014 for all of fiscal 2015. It will be a separate budget in the 2017 legislative submission.