

## **AWARDING CONTRACTS FOR PROFESSIONAL LEGAL SERVICES**

The Commission on Legal Counsel may contract with attorneys for services to be provided on cases in which persons who are deemed indigent apply for counsel. The Executive Director and/or designee shall have the authority to contract with private attorneys as necessary during the biennium, subject to review by a designated Commissioner. These attorneys are considered independent contractors and not employees of the agency. The contractor shall be paid either a flat fee for a monthly contract, or an hourly fee at a rate set by The Commission. Any attorney contracting with the agency shall be a licensed attorney in North Dakota and shall provide proof of malpractice insurance upon entering into a written contract. No contract shall be for a period of in excess of a biennium.

The following factors shall be considered when entering into a contract for services:

- 1) Competency of the attorney considering the types of cases he/she may be assigned;
- 2) Professional discipline history;
- 3) Probability of conflicts arising with types of cases he/she is expected to be handling;
- 4) Complaints that have been received by the agency about the attorney;
- 5) Past dealings of the attorney or his/her firm(s) with the agency and/or agency cases;
- 6) Years of experience in the practice of criminal, juvenile, or appellate law and any specialized training for those areas of law, and
- 7) Recommendations of peers, court personnel, and other collateral sources.

All contracts for professional services shall be in writing, and said contract shall cover issues of remuneration, duties, and termination.

The Commission on Legal Counsel shall make an attempt to notify potential applicants for an open contract slot in as many public venues as possible, depending on the immediacy of the need. Methods may include advertisement in local newspapers, sending out letters or emails to bar members, posting the position on the Supreme Court webpage, contacting individuals who have expressed a desire to be considered for a contract in the past, or a combination of the above.

*Adopted at the December 18th, 2008 Meeting*