

# Office of the State Public Defender Administrative Policies

Subject: <b>Pre-Approval of Client Costs</b>	Policy No.: <b>125</b>
Title:	Pages: <b>2</b>
Section:	Last Review Date: <b>4-29-13</b>
Effective Date: <b>5-1-07</b>	Revision Date: <b>5-8-13</b>

## 1.0 POLICY

- 1.1 The Office of the State Public Defender (OPD) requires pre-approval of all client costs expected to exceed \$200 per task in all cases.
- 1.2 All cases involving salaried (FTE), contract and conflict attorneys, including appellate and Major Crime Unit cases, are subject to this policy.

## 2.0 DEFINITIONS

- 2.1 Client costs, hereinafter called costs, shall be defined as all monies to be expended in the preparation, investigation and litigation of public defender cases.
- 2.2 A task shall be defined as work performed by a non-attorney in the preparation, investigation and litigation of a public defender case.

## 3.0 PROCEDURE

### 3.1 All Costs Exceeding \$200

- 3.1.1 The pre-approval process for all costs expected to exceed \$200 per task shall commence with the completion of the appropriate Request for Pre-approval of Costs form by the attorney assigned to the case. There are separate forms and procedures for mental health and investigative services (see below), and for all other services on the OPD website.
- 3.1.2 Requests for pre-approval of costs that include travel must separate travel costs from the task costs.
- 3.1.3 The pre-approval request form must be signed and dated by the requesting attorney and forwarded to one of the following persons for approval:
  - 3.1.3.1 For non-conflict cases assigned to an FTE or contract attorney, submit the request to the Regional Deputy Public Defender (RDPD) assigning the case;
  - 3.1.3.2 For Major Crime Unit cases, submit the request to the Major Crime Unit Manager;
  - 3.1.3.3 For all conflict cases, whether FTE or contract, submit the request to the Conflict Coordinator;
  - 3.1.3.4 For appellate cases, submit the request to the Chief Appellate Defender. Appellate transcript requests are exempt from this policy.
- 3.1.4 Alternative, fiscally responsible options will be explored with the attorney before approving or denying the request.
- 3.1.5 The RDPDs and Major Crime Unit Manager may approve all requests within their expenditure authority. Non-conflict requests exceeding the expenditure authority will be submitted to Central Services for final approval. The Chief Public Defender will review FTE requests. The Contract Manager will review contract attorney requests.
- 3.1.6 The original form is to be retained by the person approving or denying the request and a copy thereof forwarded to the requesting attorney.

**3.2 Pre-approval of Costs for Mental Health Services**

**3.2.1** The requesting attorney will consult with the OPD Mental Health Consultant regarding any proposed mental health service regardless of cost prior to initiating the pre-approval request.

**3.2.2** If the Mental Health Consultant concurs, the attorney will complete the Mental Health pre-approval form and submit it to the appropriate person for approval, as per sections 3.1.3 through 3.1.5 above.

**3.3 Pre-approval of Costs for Investigative Services**

**3.3.1** The requesting attorney will consult with the OPD Investigator Supervisor regarding the proposed service prior to initiating the pre-approval request.

**3.3.2** If the Investigator Supervisor concurs, the attorney will complete the Investigator pre-approval form and submit it to the appropriate person for approval, as per sections 3.1.3 through 3.1.5 above.

**3.4** The requesting attorney is responsible for keeping the pre-approved costs within the pre-approved amount. He or she must be familiar with the task being provided and the cost of the task as funds are being expended. If costs are anticipated to exceed the pre-approved amount, the task must be resubmitted for approval of the new amount prior to incurring any costs on the appropriate Supplemental Request form.

**3.5** Post-approval of costs will not be granted except in extraordinary circumstances.

**3.6** The original pre-approval forms are to be used to track the pre-approved costs, and are to be attached to the claim form when they are forwarded to Central Services or the Conflict Office for final payment. Tasks that are billed incrementally are to have a copy of the pre-approval attached with a notation indicating the remaining funds available.

**3.7** Costs incurred without pre-approval will not be paid. Costs that exceed the pre-approved amount without a supplemental approval will not be paid.

**4.0 CLOSING**

Questions about this policy should be directed to:

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Central Services Division  
44 West Park  
Butte, MT 59701  
Phone 406-496-6080