APM 0308

Policy Memorandum No. 3 -FY 2008

TO: Elected Officials, Agency Directors and Personnel Officers State Agencies

FROM: Don Thompson
State Personnel Director

DATE: April 25, 2007

SUBJECT: LEGAL SERVICES CONTRACT POLICIES AND ADMINISTRATIVE PROCEDURES FOR FISCAL YEAR 2008

This memorandum provides the policy and administrative procedures for submitting required documentation to implement Fiscal Year 2008 Contract Requests for Legal Services within state service agencies. These policies and procedures have been promulgated pursuant to Sections 25-9-133 and 27-104-105 Mississippi Code of 1972, Annotated, as amended. These provisions shall supersede all conflicting policies and procedures for administration of contracts for legal services published in the Mississippi State Personnel Board Policy and Procedures Manual, any additional or replacement manuals, and all subsequent changes to the manual, effective close of business June 30, 2007, and shall become an official attachment to the Mississippi State Personnel Board Policy and Procedures Manual for Fiscal Year 2008.

The following guidelines incorporate a single set of procedures which are designed to assist state agencies in compliance with requirements of state law prescribing the process for payment of legal services performed by attorneys and their assistants.

A. Legal Services Contracts - Authority

This policy is promulgated in accordance with Senate Bill 2512 of the 1991 Mississippi Legislative Session and Section 27-104-105. Mississippi Code of 1972, Annotated, as amended.

1. Senate Bill 2512, General Laws of Mississippi, 1991 states, in part:

> SECTION 1. The Department of Finance and Administration shall not process any warrant requested by any state agency for payment of legal services without first determining that the services and

contract were approved by the Attorney General and the State Personnel Board. The State Auditor shall test for compliance with this section.

SECTION 2. The State Auditor shall, when conducting agency audits, test to determine whether or not the state institutions of higher learning and any state agency which does not draw warrants on the Treasury have received approval of the Attorney General for any contract for legal services.

SECTION 3. This act shall take effect and be in force from and after its passage. Approved: March 29, 1991 [1991 Miss. Leg. Sess., Chap. No. 473]

2. **Section 27-104-105** of the Mississippi Code of 1972, Annotated, as amended, **Senate Bill 2512** and states as follows:

> The Department of Finance and Administration shall not process any warrant requested by any state agency for payment for legal services without first determining that the services and contract were approved by the Attorney General and the State Personnel Board. The State Auditor shall test for compliance with this section.

B. Scope and Application of Policies Regarding Legal Services Contracts

1. These policies will be applied by the State Personnel Board in the enforcement of **Section 27-104-105, Mississippi Code of 1972, Annotated, as amended.** The policies are intended to be consistent with existing law.

2. These policies apply to personal and professional agreements made between State agencies and persons for **legal services** to be rendered during Fiscal Year 2008. The term "agreements" means written or oral contracts which involve process of payment for legal services by the Department of Finance and Administration. The term "persons" means attorneys, law firms, and other individuals who would perform legal services for an attorney or law firm.

3. For the timely, effective and efficient implementation of the State Personnel System, the State Personnel Board has delegated to the State Personnel Director the authority to review and approve or disapprove legal services contracts in an amount not to exceed a total of $100,000 per contract, including modifications thereto within the fiscal year. Legal services contracts in an amount exceeding a total of $100,000 per contract, including modifications thereto within the fiscal year, must be presented to the State Personnel Board for approval or disapproval.

4. Legal services contracts entered into by the Mississippi Department of Transportation and approved by the State Attorney General involving eminent domain activities are not affected by these policies.

5. Legal services contracts entered into by the Office of Attorney General and state agencies for special assistant attorneys general are not affected by these policies.

C. Administrative and Processing Procedures Regarding Legal Services Contracts

1. Procedures

   a. Requests to enter into contracts for legal services, including renewals and modifications, for Fiscal Year 2008 shall be submitted to the Office of the Attorney General prior to submission to the State Personnel Board.

   b. All agencies online to SPAHRS shall have an authorized representative trained by Mississippi Management Reporting Systems (MMRS) representatives on the relevant screens, navigational procedures, and routing processes. The agency representatives will also receive a SPAHRS manual delineating online contractual request procedures to be used as a guide for all requests made online.

   Online agencies should print out one screenprint of all relevant screens from the SPAHRS system and submit this screenprint, along with the proposed contractual agreement signed by the agency head, at the same time the request is transmitted for approval online through SPAHRS. Relevant screenprints can be made by using the Request For Contract Personnel Services Approval Report option found under the Miscellaneous Contracts Report Menu within the Contract Segment of SPAHRS [also known as SPB 620-88 Request for Contract Personnel Services Approval Form (Rev 5/1/97)]. SPB 620-88 hard copies may be used in the place of SPAHRS screenprints by Agencies

which are not online SPAHRS. Printed hard copies will include space for the requesting agency's authorized signature and required signatures from the Attorney General and the State Personnel Board/Director. The section outlining the agency justification for legal services and the consequences of disapproval must be completed prior to submission. The SPAHRS Request For Contract Personnel Services Approval Report should have all authorized agency signatures.

c. The contract proposed to be executed by State agencies and the screenprint of the SPAHRS "Request For Contract Personnel Services Approval Report" [also known as SPB 620-88 Request for Contract Personnel Services Approval Form (Rev 5/1/97)] shall be made a part of the request for legal services.

d. **All contractual agreements must be signed by the appropriate state government authorities.** NOTE: The signature of the contracting vendor should not be obtained until after the proposed contract is approved by the Office of the Attorney General and the State Personnel Board. Agencies which are **NOT** also online SAAS users must forward to DFA a hard copy of a screenprint which indicates that SPB has approved the contract.

e. The Office of the Attorney General will forward the contractual documents (the proposed original contract and Request For Contract Personnel Services Approval Report) to the State Personnel Board following approval by the Attorney General. After the proposed contract has been reviewed and approved by the State Personnel Board/Director, it will be returned to the requesting agency for final execution along with a signed screenprint of the SPAHRS Request for Contract Personnel Services Approval Report. A copy of the proposed contract as approved by the Office of the Attorney General and State Personnel Board will be forwarded to the Office of the Attorney General.

2. Renewals, amendments or modifications of existing legal services contracts that will be effective **July 1, 2007** shall be handled in accordance with the above procedural section C.1. Submission of a new screenprint of the SPAHRS Request for Contract Personnel Services Report is required for the new fiscal year. A copy of the previously approved request and any other relevant supporting documentation, including a copy of an existing multi-year contractual agreement shall be attached to

the request and submitted by **Friday, May 25, 2007.** The original contractual agreement should not be submitted for request for renewals or modifications.

3. Contracts proposed to be entered into at other times during Fiscal Year 2008 shall be subject to procedure C.1. and should normally receive State Personnel Board consideration at a next regularly scheduled Board Meeting. Documents received by the State Personnel Board less than (10) working days prior to a scheduled Board meeting will be considered by the State Personnel Board at a subsequent meeting, in absence of submission and acceptance of evidence which substantiates an emergency.

4. Accordingly, all Fiscal Year 2008 requests for legal services shall contain the minimum following materials:

   a. The original contract approved by the Office of the Attorney General. The proposed contract should be submitted to the Office of the Attorney General and the State Personnel Board prior to execution by the legal services contractor.

   b. Identification of the attorneys and other legal professionals by name, address, telephone number and employer identification number of the individual(s) who will perform the legal services.

   c. **Justification of need for legal services including a description of the scope of services and a certified listing of funds expended for legal fees and expenses by the State agency for the previous fiscal year FY 2007. (This listing should also contain the information required in section C.4.b above.)**

5. The agency shall notify the State Personnel Board upon termination of previously approved contracts for legal services or the completion of the performance of services prior to the original terms of the contract (expiration date) in accordance with the following provisions:

   a. The original approved "Request for Contract Personnel Services Approval Report" [or SPB Form 620-88 (Rev 5/1/97)] shall be submitted to the State Personnel Director specifying the termination of services and effective date.

b. The State Personnel Director shall acknowledge the termination of services submitted and return the original processed "Request for Contract Personnel Services Approval Report" to the agency.

c. The Department of Finance and Administration shall be notified to this action.

Should you require assistance or have questions concerning this Policy Memorandum, please contact Bob Fagan, Office of General Counsel, Mississippi State Personnel Board at 601.359.2704.