

DRAFT

MONTANA PUBLIC DEFENDER COMMISSION
2019 BIENNIUM
EXECUTIVE PLANNING PROCESS (EPP)

FEBRUARY 26, 2016 (1ST DRAFT)

2019 Biennium Executive Planning Process

Commission Duties: Title 47-1-105 (3)

- Review and approve the strategic plan and budget proposals submitted by the Chief Public Defender, the Chief Appellate Defender, and the Administrative Director.
- Review and approve any proposal to create permanent staff positions.
- *Note: should add “Conflict Coordinator” to the first item.*

2019 Biennium Executive Planning Process

There are seven deliverables to the Office of Budget and Program Planning (OBPP) as part of the EPP process:

1. A budget request
2. Agency goals and objectives
3. Draft legislation
4. Identification of program managers
5. An information technology strategic plan
6. Request for reorganizations
7. Emergency 5% reduction plan

2019 Biennium Executive Planning Process

Key Dates:

- February 26, 2016 - Agency personnel provide EPP instruction and dates of items due to the Commission.
- March to May 2016 – Two options: (1) the Commission may have its committees (Budget, Legislative and Strategic Planning) meet to develop and review detailed budget items, legislation, and reorganization plans, (2) or they can ask agency personnel to bring plans to the full Commission.
- April 1, 2016 – Agency provides any reorganization requests to OBPP.
- April 15, 2016 – Agency forwards prioritized draft legislation to OBPP.
- Before May 30, 2016 – the Commission hears budget recommendations from the Program Managers and/or Committees, approves a budget submission, and provides it to OBPP.
- June 2016 – Agency discusses draft legislation with the Interim Law and Justice Committee.
- Before August 31, 2016 – The Commission approves final budget proposals and develops a priority ranking. This product is submitted to OBPP. Goals and objectives are also submitted.
- Between April and September, 2016: The Agency and Commission have discussions with OBPP and the Governor’s policy staff about budget proposals, legislation, and reorganizations.
- November/December, 2016: Governor submits a budget to the 2017 Legislature.
- January – April 2017: The Legislature conducts hearings and approves an appropriation and legislation.

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The remainder of this presentation will focus on:

- The budget process
- Reorganizations
- A 5% reduction plan

Legislation and goals and objectives will be addressed in other venues

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Executive Planning Process – The Budget Proposals

STEP 1: Prepare a Zero Based Budget

- The 2015 Legislature made the agency’s funding “one-time only.” The agency will need to prepare a zero based budget. We expect to use as a starting point the resources authorized for FY 2016 and build from there.
- Resources include FTE, rents, contractor costs, supplies, travel, training, etc.
- We assume that these will be in the form of decision packages.

2019 Biennium Executive Planning Process – The Budget Proposals

STEP 2: OTHER EPP ITEMS

- Will there be increases/decreases requested by other agencies that provide services to OPD and will OPD be funded for these increases?
- Will there be general pay increases for our employees?
- Will OPD receive inflation/deflation adjustments for certain purchases?
- These amounts are traditionally added by the Executive during the budget process.

2019 Biennium Executive Planning Process – The Budget Proposals

STEP 3: DECISION PACKAGES

- These are separate budget requests that are developed by the agency under the direction of the Commission and submitted to the Executive.
- The Executive can approve them as is, adjust them, or disapprove them.
- These are items that were not in the funding for FY 2016.

2019 Biennium Executive Planning Process – The Budget Proposals

STEP 4: FUNDING

- The agency determines what kind of funding is needed to support the entire budget submission.

- The agency has traditionally used:
 - General Fund (mostly income and property taxes)
 - State Special Revenue (fees from clients)

2019 Biennium Executive Planning Process – The Budget Proposals

STEP 5: EXECUTIVE SETS TARGETS

- The Executive estimates the amount of revenue available during the biennium for its use and sets allocations or targets for each agency.
- OBPP meets with agency representatives to communicate the target and speak about any operational challenges.

2019 Biennium Executive Planning Process – The Budget Proposals

STEP 6: EXECUTIVE SENDS A BUDGET FOR THE BIENNIUM TO THE
LEGISLATURE

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Executive Planning Process – The Budget Proposals

STEP 7: THE LEGISLATURE MEETS TO REVIEW AND APPROVE OR ADJUST THE EXECUTIVE'S BUDGET

- The Legislature forms Appropriation and Budget Subcommittees to hear testimony.
- Testimony is heard from many sources including: the Executive's representatives, commissioners and board members, elected officials, agency directors and their employees, vendors, contractors, interested parties, and the general public.

2019 Biennium Executive Planning Process – The Budget Proposals

STEP 8: THE LEGISLATURE ALSO HEARS NEEDS FROM AGENCIES FOR SUPPLEMENTAL FUNDING FOR THE PRIOR BIENNIUM

AGENCY FUNDING HISTORY

Funding History – 2007 Biennium

- Agency began operations on July 1, 2006 (FY 2007)
- The Commission and agency were formed during FY 2006
- 2005 Legislature provided the agency's first funding:
 - FY 2006 \$0.6 million
 - FY 2007 \$13.8 million and 90.25 FTE
- This funding was based on current costs that entities paid for public defense prior to the establishment of the system, plus the establishment of a central office for system administration.

2007 Biennium – Actual Expenditures

- FY 2006 - the agency expended about \$800,000 or \$200,000 more than funded.
- FY 2007 – the agency expended about \$19.4 million or about \$5.6 million more than funded.
- During FY 2007 the agency was approved to bring on 192.5 FTE or 102.25 more than the original 90.25 to support its strategic plan.
- The agency reported 25,549 new cases entering the system – there was no accurate information for the number of cases worked by the prior entities.

The 2009 Biennium

- The agency received its entire funding request from the executive and legislative branches of:
 - \$19.8 million for FY 2008 with 192.50 FTE, and
 - \$20.1 million for FY 2009
- This funding was based on the information in the Agency Strategic Plan as approved by the Commission.

2009 Biennium – Actual Expenditures

FY 2008 - the agency expended all of its \$19.8 million appropriation.

The agency reported 26,556 new cases entering the system which is a 4% increase from FY 2007

FY 2009 – the agency expended about \$20.5 million or about \$400,000 more than funded.

The agency reported 27,898 new cases entering the system which is a 5% increase from FY 2008

During the biennium the agency was approved to have 192.50 FTE. Near the end of the biennium the agency was approved to use 8.00 “modified” or temporary FTEs to handle the case load growth and system stress.

The 2011 Biennium

- The Commission submitted to the Executive:
 - \$24.4 million for FY 2010 and 217.50 FTE, and
 - \$24.5 million for FY 2011 and 217.50 FTE.
- This was an increase of about \$4.7 million and 25.00 new FTE over the FY 2008 base budget.

The 2011 Biennium

- The Executive approved:
 - \$20.4 million for FY 2010 and 200.50 FTE, and
 - \$20.4 million for FY 2011 and 200.50 FTE.
- This was an increase of about \$600,000 and 8.00 new FTE over the FY 2008 base budget. It also included an additional 3% vacancy savings that cost the agency about \$400,000 per fiscal year.
- However, it was \$4 million less than requested.

The 2011 Biennium

- The Legislature cut the Executive approved budget to:
 - \$20.0 million for FY 2010 and 200.50 FTE, and
 - \$20.0 million for FY 2011 and 200.50 FTE.
- This was an increase of about \$200,000 and 8.00 new FTE over the FY 2008 base budget BUT about \$500,000 less than was expended in the most current fiscal year (FY 2009).
- It was also \$4.4 million less than the agency proposed budget.

The 2011 Biennium

- During FY 2010 and FY 2011 the agency needed to fund past promised pay increases to its employees, pay increased amounts to other state agencies for services, make the modified employees permanent, and pay for the Executive-approved Attorney Union pay ladder.
- The agency came in about \$1.8 million short for FY 2011 which was covered by supplemental funding and other reserves.

The 2013 Biennium

- The Commission submitted to the Executive:
 - \$24.3 million for FY 2012 and 217.50 FTE, and
 - \$24.7 million for FY 2013 and 217.50 FTE.

- This was an increase of about \$3.7 to \$4.1 million and 17.00 new FTE over the FY 2010 base budget.

The 2013 Biennium

- OBPP approved the following for inclusion in the Governor's budget:
 - \$21.8 million for FY 2012 and 216.50 FTE, and
 - \$21.7 million for FY 2013 and 216.50 FTE.

- This was an increase of about \$1.2 million and 16.00 new FTE over the FY 2010 base budget.

The 2013 Biennium

- The 2011 Legislature approved the following:
 - \$23.0 million for FY 2012 and 208.50 FTE, and
 - \$23.0 million for FY 2013 and 209.50 FTE.
- This was an increase of about \$2.4 million and 8.00 to 9.00 new FTE over the FY 2010 base budget.
- This budget increase included \$800,000 one time money for FY 2012 and \$700,000 for FY 2013. Of this \$500,000 and \$400,000 were to pay for capital defense (death penalty cases) and \$300,000 per year was to pay for technology purchases and support increased contractor costs.
- The agency came in about \$3.4 million short for the biennium which was covered by supplemental funding and other reserves.

The 2015 Biennium

- The Commission submitted to the Executive:
 - \$34.8 million for FY 2014 and 286.50 FTE, and
 - \$34.1 million for FY 2015 and 286.50 FTE.
- This was an increase of about \$12.6 million and 77.00 new FTE over the FY 2012 base budget.
- During a five year period, the agency experienced a 3.7% average increase in new cases. Caseloads of the majority of FTE attorneys were above target levels.

The 2015 Biennium

- OBPP approved the following for inclusion in the Governor's budget:
 - \$27.0 million for FY 2014 and 246.50 FTE, and
 - \$27.2 million for FY 2015 and 246.50 FTE.

- This was an increase of about \$ 5.0 million and 37.00 new FTE over the FY 2012 base budget.

The 2015 Biennium

- The 2013 Legislature approved the following:
 - \$26.4 million for FY 2014 and 217.50 FTE, and
 - \$26.5 million for FY 2015 and 217.50 FTE.

- This was an increase of about \$5.0 million and 8.00 new FTE over the FY 2012 base budget.

- This budget increase included:
 - \$500,000 one time money for capital defense (death penalty cases).
 - \$1.3 million per year to fund the attorney career ladder.
 - \$1.8 million per year for additional contract expense.

- The agency came in about \$7.2 million short for the biennium which was covered by supplemental funding and other reserves.

The 2017 Biennium

- The Commission submitted to the Executive:
 - \$ 42.5 million for FY 2016 and 307.00 FTE, and
 - \$ 42.6 million for FY 2017 and 307.00 FTE.

- This was an increase of about \$14.0 million and 89.5 new FTE over the FY 2014 base budget.

- During a five year period, the agency experienced a 4.2% average increase in new cases. Caseloads of the majority of FTE attorneys were above target levels.

The 2017 Biennium

- OBPP approved the following for inclusion in the Governor's budget:
 - \$34.0 million for FY 2016 and 256.00 FTE, and
 - \$34.2 million for FY 2017 and 256.00 FTE.

- This was an increase of about \$5.5 million and 38.50 new FTE over the FY 2014 base budget.

The 2017 Biennium

- The 2015 Legislature approved the following:
 - \$32.9 million for FY 2016 and 235.94 FTE, and
 - \$32.9 million for FY 2017 and 235.94 FTE.
- This was an increase of about \$6.5 million and 18.44 new FTE over the FY 2014 base budget.
- This budget increase included:
 - \$250,000 per year one time money discretionary funding.
 - \$1.8 million per year for additional contract expense.
 - \$638,000 per year for the non-attorney salary market adjustment.

The 2017 Biennium

- The Governor's Office provided additional funding for the following items:
 - \$1.2 million for FY 2016 and
 - \$1.3 million for FY 2017 to hire additional FTE.
 - \$600,000 per fiscal year to fund the attorney career ladder.

- TOTAL FUNDING (not including 50 cent per hour wage increase)
- FY 2016 \$34.7 million
- FY 2017 \$34.8 million

2019 Biennium – Decision Packages

THE DECISION PACKAGES

2019 Biennium – Decision Packages

SAMPLE
FOR
ALL PROGRAMS

2019 Biennium – Decision Packages

FIRST, DEFINE CHALLENGES FACING THE PROGRAM

EXAMPLE: Challenge-Staffing Needs

- A substantial increase in new cases assigned to Program X has not been matched by a commensurate increase in staff and resources. As a result, attorneys are burdened with excessive workloads, which may result in representation lacking in quality or in a breach of professional obligations.
- Program X lacks sufficient administrative staff to adequately support attorneys (which would allow attorneys to focus on providing representation), or to perform other vital administrative tasks and enhance the agency's productivity.
- Program X lacks the resources to provide appropriate investigative services in felony or misdemeanor cases, or in the various types of civil cases to which OPD is assigned. The state's investigative resources typically far outmatch the resources OPD can provide in a case.

2019 Biennium – Decision Packages

SECOND, DEFINE THE NEED (QUANTITY AND COST)

EXAMPLE: Staffing Needs

ADD STAFFING TO ADDRESS INCREASED

AND/OR EXCESSIVE CASELOAD

Add _____ new FTE positions.

<u>Position</u>	<u>No.</u>	<u>Cost</u>
Attorney	____ FTE	\$ _____
Admin	____ FTE	\$ _____
Investigator	____ FTE	\$ _____

2019 Biennium – Decision Packages

EXAMPLES OF OTHER CHALLENGES

- *Salary adjustments to address recruitment and retention*
- *Capital defense costs and resources*
- *Increased use of contract services to address caseloads*
- *Address eligibility determination to limit intake*
- *Address managers' caseloads to allow for more management time*
- *Rent adjustments to current facilities*
- *Add new offices to address caseloads*
- *Address technology needs*

Reorganizations

Address changes to the agency's organizational structure

5 % Reduction Plan

Develop a plan that reduces the agency's base funding by 5%