MEMORANDUM

To: Joint Fiscal Committee Members
From: Nathan Lavery, Fiscal Analyst
Date: May 25, 2012
Subject: Grant Request

Enclosed please find one (1) limited service position request.

JFO #2565 – One (1) limited service position in the Department of Environmental Conservation (DEC). The position will be funded through grant funds included in the FY2013 budget (Act 162 of 2012). The purpose of this position is to provide administrative and paralegal support for five attorneys within DEC. Previously, this work was assigned to interns or temporary staff. DEC is requesting a limited service position in response to increased caseload.

[JFO received 5/16/12]

Please review the enclosed materials and notify the Joint Fiscal Office (Nathan Lavery at (802) 828-1488; nlavery@leg.state.vt.us) if you have questions or would like an item held for Joint Fiscal Committee review. Unless we hear from you to the contrary by June 8 we will assume that you agree to consider as final the Governor’s acceptance of these requests.
TO: Jeb Spaulding, Secretary, Agency of Administration

THRU: Jim Reardon, Commissioner, Dept. of Finance & Management

THRU: Jason Aronowitz, Budget Analyst, Dept. of Finance & Management

THRU: Molly Paulger, Director Employment Services, Dept. of Human Resources

FROM: David Mears, Commissioner, Dept. of Environmental Conservation

DATE: April 16, 2012

SUBJECT: Dept. of Environmental Conservation Limited Service Position Request

I am forwarding for your approval a completed limited service grant funded position request form along with the required supporting documentation. This request is for a limited service position that would be funded with our federal indirects earned from our Performance Partnership Grant (PPG) which is an ongoing grant that DEC has received for almost two decades now. This grant was included in our Department’s SFY’12 budget which was approved by the legislature under Act 63 (H.441), and is also included in our current SFY’13 budget which is in the legislature at this time.

Over the last several years we have relied on using interns and temporary employees in an attempt to manage our growing legal caseload and related administrative filings. Based on our continued funding and our increased legal caseload volume including the workload associated with the review of the Entergy Nuclear Vermont Yankee thermal discharge permit renewal application, the permit decision making process, and the likely permit appeals this paralegal assistance is absolutely crucial to our staff to ensure sound and consistent process. It is extremely unmanageable to navigate this type of work with the inconsistencies that unfortunately derive from the use of interns and temporary employees. At this point in time it would be much more beneficial to the various programs and caseload data management integrity if this work could be accomplished with a limited service position. Should you have any questions on this request, or require additional information please do not hesitate to contact me.

Thank you.

Attachment

Cc: Joanna Pallito, DEC Financial Director
STATE OF VERMONT
Joint Fiscal Committee Review
Limited Service - Grant Funded Position Request Form

This form is to be used by agencies and departments when additional grant funded positions are being requested. Review and approval by the Department of Human Resources must be obtained prior to review by the Department of Finance and Management. The Department of Finance will forward requests to the Joint Fiscal Office for JFC review. A Request for Classification Review Form (RFR) and an updated organizational chart showing to whom the new position(s) would report must be attached to this form. Please attach additional pages as necessary to provide enough detail.

Agency/Department: Natural Resources/Environmental Conservation
Date: 4/16/2012

Name and Phone (of the person completing this request): Joanna Pallito, Financial Director (802) 583-7111

Request is for:
- Positions funded and attached to a new grant.
- Positions funded and attached to an existing grant approved by JFO (Legis. Act 63)

1. Name of Granting Agency, Title of Grant, Grant Funding Detail (attach grant documents):
   U.S. Environmental Protection Agency, Performance Partnership Grant (PPG). The VT DEC is awarded this funding to administer a number of environmental programs for air, water and waste with flexibility to direct resources where they are most needed to address environmental and public health priorities.

2. List below titles, number of positions in each title, program area, and limited service end date (information should be based on grant award and should match information provided on the RFR) position(s) will be established only after JFC final approval:

<table>
<thead>
<tr>
<th>Title of Position(s) Requested</th>
<th># of Positions</th>
<th>Division/Program</th>
<th>Grant Funding Period/Anticipated End Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paralegal Technician II</td>
<td>1 position</td>
<td>Commissioner's Office -- Grant is a base federal funded program which runs in 5 year &quot;blocks&quot; &amp; has been in place for almost 2 decades now. Is renewed each year and assigned a new grant award number every 5 yrs. Current PPG grant period runs through 9/30/12 plus new federal fiscal year 2013 to be applied for and is in SFY13 budget which will run through 9/30/13.</td>
<td></td>
</tr>
</tbody>
</table>

*Final determination of title and pay grade to be made by the Department of Human Resources Classification Division upon submission and review of Request for Classification Review.

3. Justification for this request as an essential grant program need:

   See attached justification memo.

I certify that this information is correct and that necessary funding, space and equipment for the above position(s) are available.

Signature of Agency or Department Head
Date: 4/16/12

Approved/Denied by Department of Human Resources
Date: 4/18/12

Approved/Denied by Finance and Management
Date: 5/4/12

Approved/Denied by Secretary of Administration
Date: 5/6/12

Comments:

DHR - 11/7/05
MEMORANDUM

To: David Mears, Commissioner, DEC
From: Catherine Gjessing, DEC Associate General Counsel
Date: April 16, 2012
Subject: Request to establish a limited service paralegal technician II position

The purpose of this memo is to request establishment of a position within the Commissioner’s Office dedicated to the legal services unit and the management of an increasing work load. Provided in the following is background, a statement and substantiation of need, suggested position title and organizational placement, and recommended funding source.

Background
This position is necessary because there is no dedicated administrative support for 5 attorneys within the Department. As a consequence, these attorneys spend a significant amount of their work time performing clerical or basic legal work. These tasks are performed at the expense of other pressing legal projects, such as rule making and timely legal review of critical program and permitting issues. The workload of legal staff has increased significantly over the last decade but the Department has not acquired any new legal or administrative staff. In addition, there is a significant workload associated with the review of the Entergy Nuclear Vermont Yankee thermal discharge permit renewal application, the permit decision making process, and the likely permit appeals. We need paralegal assistance now to ensure that the permit is legally sound and that we are prepared for the inevitable litigation associated with the permit.

Estimated Costs & Source of Funds
The estimated cost of a Paralegal Technician II (PG 20) is estimated to be approximately $52,000 annually, based on salary at step one, plus 50% fringe and indirect costs. These federal indirect funds are available from out U.S. Environmental Protection Agency, Performance Partnership Grant. For several years now, the Department has been receiving these grant funds. Typically these funds support interns and various temporary staff, however as described above the current legal caseload and related administrative duties are no longer manageable through these options and thus we are requesting a limited service position to help meet our needs.

Thank you for your support in this regard.
Hello Jason – great question and here is our assessment and why we still felt comfortable putting forth this limited service position request:

Our federal indirects which are the planned source of funds for this limited service position are in large part earned off many our EPA grants as well as other federal agency grants we receive (FEMA, Army Corps, US F&W, etc.). At this point in time, we still have not learned of the actual cuts to any particular grant, but these funds were anticipated in building our FY12 and FY13 budgets except that they’ve been historically used to fund temporaries and interns to help manage this legal work as detailed in our back-up documentation. With that said, we feel that although there is some uncertainty of what we’ll experience in federal funding cuts we do believe we’ll still be able to manage this limited service position. In addition, we also have our fee bill which appears to be intact for the most part as it comes close to a final vote out from this legislative session. As you know we had built increases within this fee bill in anticipation the potential federal cuts which will aid our budget in dealing with these should they fully materialize.

Please let me know if you have any further questions and we truly appreciate your assistance on this position request.

Thank you,

Joanna Pallito

Financial Director

Department of Environmental Conservation
103 South Main Street, Building 1 South
Waterbury, VT 05671-0401
(802) 241-3810 Phone
(802) 583-7111 Waitsfield Phone
Physical Location: Waitsfield, VT
joanna.pallito@state.vt.us

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I have one question on this one, otherwise it looks good.

Question: How does this request relate to possible EPA cuts, and if it is tied into that, what is the backup plan? Thanks - Jason

Oh thank you so much Molly! Jason, can you please let me know the status of our request?
Request for Classification Action

New or Vacant Positions

EXISTING Job Class/Title ONLY

Position Description Form C/Notice of Action

For Department of Personnel Use Only

Notice of Action #

Action Taken:

New Job Title

Existing Job/Class Title:

Current Class Code

New Class Code

Current Pay Grade

New Pay Grade

Current Mgt Level

B/U

OT Cat.

EEO Cat.

FLSA

New Mgt Level

B/U

OT Cat.

EEO Cat.

FLSA

Classification Analyst

Date

Date Received (Stamp)

Effective Date:

Date Processed:

Willis Rating/Components:

Knowledge & Skills:

Mental Demands:

Accountability:

Working Conditions:

Total:

Position Information:

Incumbent: Vacant or New Position

Position Number: Current Job/Class Title: Paralegal Technician II

Agency/Department/Unit: Department of Environmental Conservation (DEC)  GUC: 66042


Position Type: ☐ Permanent  ☑ Limited Service (end date ) Indefinitely - at least until a final decision is rendered on the Entergy Nuclear Vermont Yankee thermal discharge renewal permit and all appeals are concluded.

Funding Source: ☑ Core  ☐ Sponsored  ☐ Partnership. For Partnership positions provide the funding breakdown (% General Fund, % Federal, etc.) Federal Indirect funds

Supervisor’s Name, Title and Phone Number: Catherine Gjessing DEC Associate General Counsel 802-583-7115

Check the type of request (new or vacant position) and complete the appropriate section.

☒  New Position(s):

a.  REQUIRED: Allocation requested: Existing Class Code

   Existing Job/Class Title:

b.  Position authorized by:
Joint Fiscal Office – JFO # Approval Date:

☐ Legislature – Provide statutory citation (e.g. Act XX, Section XXX(x), XXXX session)

☐ Other (explain) -- Provide statutory citation if appropriate.

Vacant Position:

a. Position Number:

b. Date position became vacant:

c. Current Job/Class Code: Current Job/Class Title:

d. REQUIRED: Requested (existing) Job/Class Code: Requested (existing) Job/Class Title:

e. Are there any other changes to this position; for example: change of supervisor, GUC, work station? Yes ☐ No ☐ If Yes, please provide detailed information:

For All Requests:

1. List the anticipated job duties and expectations; include all major job duties: Specialized legal and technical work involving legal research, interpretation, analysis, and drafting; case organization and investigation; document management and and other forms of assistance for attorneys of the department or agency. Duties include handling public document requests; case document organization; case preparation; statutory and caselaw research, interviewing witnesses; preparation of legal documents such as, court notices, discovery requests and responses, and motions; monitoring the progress of legal and quasi-legal hearings, and liaison with other departments, agencies or private legal firms. Work is performed under the supervision of an attorney.

Examples of work performed represent the range of duties typically performed by paralegal positions in this class. Assists attorneys with preparation of legal documents, legal opinions, filings in administrative and court hearings, and trial or hearing preparation. Assists with discovery requests/responses. Schedules depositions and client and witness meetings. Assists with witness interviews and witness preparation. Meets with parties and interview involved parties to gather information and evidence. Facilitates settlement discussions. Interprets assembled information, makes recommendations for legal action, drafts motions and other legal documents, prepares paper and electronic trail exhibits and prepares cases for trial or hearing. May handle an individual caseload with considerable independence. Conducts correspondence with parties, attorneys and the public which may require creating and maintaining databases to track requests and replies. Serves as liaison with other state agencies. Organizes and maintains case and research files, public document and records management; and assists attorneys and technical staff with the development of environmental program policies, procedures, rules and legislative initiatives. Conducts legal research and analyzes legal issues and environmental caselaw. Drafts legal memorandum, reviews and drafts contract language, researches legal issues to find supportive arguments, case documentation, and law library references. Evaluates, selects and compiles legal opinions, documents, and synopses of statutes. Performs related duties as required. Must have excellent legal analytical, writing, communication, organizational skills and the ability to work independently. Must have a paralegal degree and training or, a JD. Must be familiar with court procedures and rules and legal ethical standards. Must be able to adhere to deadlines. Position entails some overtime and travel.
2. Provide a brief justification/explanation of this request: This position is necessary because there is no dedicated administrative support for 5 attorneys within the Department. As a consequence, these attorneys spend at least 25% of their work time performing clerical or basic legal work which could be performed by a paralegal at a lower salary. These tasks are performed at the expense of other pressing legal projects, such as rule making and timely legal review of critical program and permitting issues. The workload of legal staff has increased significantly over the last decade but the Department has not acquired any new legal or administrative positions (in fact we have lost at least one legal position). In addition, there is a significant workload associated with the review of the Entergy Nuclear Vermont Yankee thermal discharge permit renewal application, the permit decision making process, and the likely permit appeals. We need paralegal assistance now to ensure that the permit is legally sound and that we are prepared for the inevitable litigation associated with the permit.

3. If the position will be supervisory, please list the names and titles of all classified employees reporting to this position (this information should be identified on the organizational chart as well). N/A

Personnel Administrator's Section:

4. If the requested class title is part of a job series or career ladder, will the position be recruited at different levels? Yes ☐ No ☐

5. The name and title of the person who completed this form: Catherine Gjessing DEC Associate General Counsel

6. Who should be contacted if there are questions about this position (provide name and phone number): Catherine Gjessing 802-583-7115

7. How many other positions are allocated to the requested class title in the department: None

8. Will this change (new position added/change to vacant position) affect other positions within the organization? (For example, will this have an impact on the supervisor's management level designation; will duties be shifted within the unit requiring review of other positions; or are there other issues relevant to the classification process.) This will not change or impact on the supervisor's management level designation as Catherine already has 4 direct reports and this position will simply bring that number to 5.

Attachments:

☒ Organizational charts are required and must indicate where the position reports.

☐ Class specification (optional).

☐ For new positions, include copies of the language authorizing the position, or any other information that would help us better understand the program, the need for the position, etc.

☐ Other supporting documentation such as memos regarding department reorganization, or further explanation regarding the need to reallocate a vacancy (if appropriate).

Barbara Mosway
Personnel Administrator's Signature (required)*

4/10/12
Date
Appointing Authority or Authorized Representative Signature (required)*

Date

* Note: Attach additional information or comments if appropriate.