

**MPERA Executive Director Hiring Process
SAVA Committee
March 6, 2006**

Melanie Symons, MPERA Legal Counsel

Lawsuit filed and served on November 15, 2005

Governor's Complaint requests Court to void the selection process, including the offer of employment made pursuant to the process.

November 21, 2005, Board voided the employment contract and moved to reopen the hiring process

November 25, 2005, Board filed motion to dismiss on the basis of mootness

Governor's Office concurred, if dismissal is without prejudice. Governor contends that under relevant case law [Schuster v. Northern Co.] , an order pursuant to a motion to dismiss with prejudice would be regarded as a judgment against the Governor.

Governor asks that record reflect that the complaint was meritorious and the Board had violated open meeting and public participation laws.

Board replied that the cited case was not relevant when a defendant acquiesces to the relief requested in the Complaint. A controversy no longer exists – the matter should be dismissed.

District Court has taken no action as of yet. The parties may try to fashion an order that meets both parties' needs.

Grievance

Successful applicant filed a grievance against the Board. It was denied.

Grievant then filed a public information request with the Board, DOA and the Governor's office.

No further action has occurred.

New Selection Process

November 21, 2005 – Board Meeting

After voiding the previous selection process, President Carey appointed a new Hiring Committee – Betty Lou Kasten, Chair, Jay Klawon and John Paull.

The Board also agreed to contact CMS, Communication and Management Services, Inc., regarding their willingness to assist with the hiring process. CMS had assisted the Board when it moved to Pay Plan 20 – Broadband.

Melanie Symons, the Board's legal counsel, will be relied on for legal advice and to act as an intermediary between the outside consultant, the Hiring Committee, the Board and the Governor's Office.

December 7, 2005 – Governor's Report

Governor's Office investigation resulted in a December 7, 2005, Report criticizing the initial hiring process. The Governor then directed the Board to submit to him a selection plan containing the following:

1. Scope of the outside human resource consultant
2. Executive Director job description
3. Recruitment process
4. All application materials, including but not limited to:
 - a. educational requirements
 - b. experience requirements
 - c. professional credentials
 - d. supplemental questions
5. Screening of applicants – criteria and methodology
6. Interview – questions and methodology
7. Scoring matrix
8. Salary range
9. Timetable of Events

The Governor also directed that Janet Kelly, Director of the Department of Administration, be on the Board's Hiring Committee.

December 8, 2005 – Hiring Committee Meeting.

The Hiring Committee met with Kristin Jacobson and Jim Kerins of CMS to determine whether to enter into a consulting contract with CMS. Janet Kelly, attended the meeting.

The Committee determined to recommend that: (1) the Board contract with CMS.; (2) CMS work on the job profile and a time table for the hiring process; (3) the Board update the market survey for the Executive Director position; and (4) the Board hire an interim Executive Director.

December 9, 2005 – Board Meeting

The Board accepted the above recommendations, appointed Janet Kelly to the Hiring Committee, and appointed Roxanne Minnehan Interim Executive Director.

The Board agreed to comply with the Governor's requests, with one modification. The Board requested that it submit the selection process in 2 parts – with the interview questions and model answers to be developed after the position is readvertised.

December 13, 2005 – Governor's Letter

The Governor agreed with the Board's request to submit the process in 2 steps.

December 28, 2005 – Hiring Committee Meeting

The Hiring Committee met to determine process issues, including:

1. Legal Counsel, not CMS, to Board on right to know/privacy issues.
2. Job Announcement will be advertised nation-wide.
3. Four Application Supplemental Questions
4. Screening and Rating Criteria
5. Minimum Education and Experience required
6. Minimum Qualification Screening
7. Reimbursement of Transportation Costs related to Interview
8. Reimbursement of Relocation Costs
9. Behavioral Interviews
10. Decision process
11. Timeframe
12. Reporting to the Governor

January 11, 2006 – Hiring Committee Meeting

The Hiring Committee met to review CMS's material regarding the above-listed matters. The following **recommendations** were made for Phase 1:

1. Rate education and experience separately, but combine when determining whether minimum qualifications are met.
2. College transcripts will be required.
3. Job Announcement will state that if candidate is chosen for interview, their name and biographical data will become public
4. Committee will consider offering a salary above the minimum if circumstance dictate
5. CMS and Job Service will collect job applications [later amended to be Melanie Symons and Job Service]
6. Hiring Committee will screen for minimum qualifications.
7. Application Supplement questions are OK – 400 word limit except question 1 which has several parts.
8. Score applications separate from supplemental questions
9. Board interviews top 3 to 5 candidates – Ms. Kelly may participate and provide input, but can not vote
10. Background checks will be done prior to interviews
11. Top 3 candidates will give presentations to the Board and the public.
12. Items available to the public?
 - Applications – no
 - Responses to supplemental questions – no
 - Identity of applicants – no
 - Identity of applicants who meet minimums – no
 - Review of applications/supplemental responses – no
 - Initial interview screening – no
 - Interviews – no
 - Presentations – yes

Melanie Symons and CMS will present Phase 1 to the Governor's Office.

January 17, 2006 – Meeting with Governor's Office representatives

David Ewer, Ann Brodsky, Vivian Hammill – Governor's Office
Jim Kerins and Kristin Jacobson - CMS
Melanie Symons – MPERA

The timeline was discussed. They would prefer 8 rather than 6 weeks.

Nationwide job announcement was amended to focus more on the job and less on Montana; use print, not just internet resources.

Send letters to previous applicants telling them the job is being readvertised.

Work on balancing education and experience with respect to minimums.

The Application Supplement Questions were amended to be more behavioral in nature – “tell us about a time when”; to be more balanced between private and public sector experience; to focus less on media and more on public constituents.

The Application Supplement Questions Screening Document was amended to be more specific.

Reached agreement on what is public and what is private and on travel/relocation costs.

January 19, 2006 – Board Meeting

Board met for 6 hours to discuss the above recommendations, after which most were approved.

The following topics were agreed upon for the Application Supplement:

- Education – business/public administration related
- Administrative or executive experience (7 years, in or out of state)
- Retirement system experience
- Fiscal administration
- Legislative relations
- Personnel management
- Media/Public Relations
- Written Communication

Screening Document to go on website.

Salary increased to \$81,505 - \$101,882 (entry to market)

Interviewees names will be public.

Interviewees reimbursed at state rate for travel, lodging and meals.

Relocation expenses will be subject to negotiation.

Discussed Governor's request to extend deadline – no

Close 3/2

Screen 3/14 – 3/16

Interviews/presentations/tentative decision – 3/29 – 3/31

Add language regarding credit checks

Approved \$6,000 advertising budget

January 20, 2006 – Job Posted and Advertised (closes March 2, 2006)

February 6, 2006 – Hiring Committee Meeting

The Committee spent four hours discussing the timeline and Phase 2 (Interview Questions/Presentation Topic[s] and Model Responses). The following recommendations resulted:

TimeLine

March 31 – final recommendation contingent on reference checks

April 6th – confirm selection

April 10th – announce decisions

Negotiations to be conducted by Board President.

Revisited and approved Open/Closed decisions.

Closed Meeting to Discuss Interview Questions –

CMS listed the competencies contained in the Job Profile

CMS developed 2 to 4 questions for each competency

Committee selected 11 questions.

Communications – 2 questions

Leadership – 2 questions

Networking – 2 questions

Planning/Organization Skills – 1 question

Perseverance/Achievement – 1 question

Innovation – 1 question

Administration – 1 question

Technical – 1 question

Presentation Topic was discussed

February 21st – Meeting with David Ewer/Conversation with Ann Brodsky

Jim Kerins of CMS and Melanie Symons of MPERA met with David Ewer – he had no problem with the questions. The presentation topic was discussed and some changes were made.

Ann Brodsky called Melanie Symons with several comments regarding the questions. Comments were brought to the Board and some changes resulted.

February 23rd – Board Meeting

Board discussed extending CMS contract and amending the timeline. Currently, interviews and presentations will occur on March 31st.

Board discussed interview questions and presentation topic in closed session. Board also considered whether to allow “probing questions” under CMS guidance. The Board determined to have probing questions available for the President, if she believes them to be necessary. CMS will ensure questions will be used fairly, if at all.

Board determined to add a 12th interview question.

March 2 – Position Closed

Information Released to a Previous Candidate

Copies of others' applications – no
Copy of evaluation criteria used to score original applications – yes
Copies of applicants' scores – only the individual's scores, not others
Copies of notes, summaries, comments regarding weaknesses of application and comparison to others – comparisons (no); comments (yes)
Explanation of why not granted an interview – OK if due to minimum qualifications, but not if information involves comparisons with other applicants
Copies of interview questions – denied per 2.21.3727 and 2.21.3728

2.21.3727 ACCESS TO SELECTION MATERIAL (1) The amount of detail an agency chooses to release regarding rating questions and criteria depends on agency policy, anticipated need to reuse the materials, and resources available to develop new materials.

2.21.3728 CONFIDENTIALITY (1) All application and selection materials shall be confidential.

(2) An agency may withhold personal information relating to any applicant from any person not involved in administering the hiring process. An agency shall release materials relating to selection decisions to other parties upon the receipt of a properly executed administrative or judicial order.

Similar to employee records – confidential

Process needed to be confidential to protect integrity of process