



INDIANA OFFICE OF ENVIRONMENTAL ADJUDICATION

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To: Adam Horst
State Budget Director

From: Mary L. Davidsen
Director, Chief Environmental Law Judge
Office of Environmental Adjudication

Subject: FY 2012 and FY 2013 Biennial Budget Proposal

I am pleased to submit the Biennial Budget Proposal for the Office of Environmental Adjudication (OEA). With a permanent, full-time staff of five (5) persons and intermittent support from unpaid interns, OEA serves as the Ultimate Authority (the final Administrative Authority) by reviewing challenges to permitting, enforcement, and other regulatory final agency actions taken by the Commissioner of the Indiana Department of Environmental Management (IDEM), and some specified local government environmental agencies. Last calendar year, OEA quasi-judicially reviewed approximately 105 new cases and has reviewed 73 new cases in CY2010. All of these cases originated from over 60 technical subject matters under the jurisdiction of IDEM and others assigned to review by OEA.

A. MISSION STATEMENT

The Office of Environmental Adjudication was created per P.L. 41-1995, Ind. Code §4.21.5-7, *et seq.* and is entrusted by the citizens of Indiana to provide an impartial statewide forum in which petitioning parties who believe they may be adversely affected by the permitting, enforcement, and other determinations of the Commissioner of the Indiana Department of Environmental Management may be timely heard and their objections fairly considered. As ultimate authority in the review of these regulatory decisions, the OEA must ensure compliance with its statutory mandates while providing its services in a fiscally responsible manner in order to safeguard the best interests of the public.

B. ACCOMPLISHMENTS AND CHALLENGES

The major challenge facing OEA is managing its caseload with limited resources due to ongoing budget limitations. Limited resources have impacted two key functions:

- First, OEA's anticipated database conversion project and its case authority index continue, but at a pace which staff can perform without incurring additional expenses for enhanced computer needs or fees for an available independent contractor to assist with programming issues (which IOT is not equipped to perform). OEA continues to work at expanding its case authority index to provide online access to its non-confidential public data records.
- Second, with the launch of Encompass and other internal financial controls, and with an office relocation, OEA developed its administrative support for financial duties. These financial duties

are also performed for office-suite mate State Employees Appeals Commission (SEAC). Per MOU, OEA provides accounting services for OEA, CPE, and SEAC; human resource and clerical services are provided to OEA and SEAC. As OEA understands that the State cannot function efficiently with every small agency having its own administrative support, OEA is developing these functions to meet the State's overall accountability and efficiency goals as well as deadlines and requirements at the agency level. Additionally, these functions will allow OEA to provide support for other similarly-situated small agencies.

OEA's accomplishments include staff stability, outreach, increased mediation for efficient case management, case backlog elimination, and current case management. OEA's primary accomplishments focus on fulfilling its statutory duties to Indiana's corporate and individual citizens as a judicial forum. Primarily, from the time Key Performance Indicators were tracked for OEA, no OEA decisions have been overturned on appeal by higher courts for avoidable error. Usually, reviewing courts sustain OEA's decisions in full. In very limited circumstances, a reviewing court expanded OEA's jurisdiction to allow OEA to determine corporate responsible partner issues. OEA also accomplished its judicial duties to Indiana citizens while meeting its obligations to the State general fund. Additional obstacles overcome include moving offices, reorganizing staff, and providing administrative support to SEAC.

A database platform conversion project with IOT was able to proceed despite financial challenges and OEA computer equipment and programming failure. OEA's independent contractor remains available to supplement the tasks needed to collate and deliver its Final Orders to *in.gov* in a searchable, indexed form available for public inspection and copying as required by Ind. Code § 4-21.5-3-32. OEA's effectiveness is measured in terms of its consistency in complying with the procedural requirements set for it by statute and by judicial case law.

C. NEW AGENCY INITIATIVES

OEA continues to improve its case authority index and is reinstating internships for law students to aid in the quality of legal research and writing; as well as to provide opportunities for high quality students to pursue opportunities in Indiana as part of a well-qualified work force. These initiatives require no additional funds.

D. CURRENT ORGANIZATIONAL CHART

OEA's Director and Chief Environmental Law Judge currently supervises a full-time environmental law judge, two administrative assistants, and a secretary-receptionist. Intermittent interns serve as needed.

E. PLANNED REDUCTIONS

Per OEA's statutory mandates, there are no current programs available to be reduced, eliminated, and/or replaced by other programs.

Please contact me at your convenience if I can provide further information.