

## **NATIONAL HABEAS ASSISTANCE AND TRAINING COUNSEL**

### **A. DEFINITION**

Section 3599(a)(2) of Title 18 of the United States Code requires the federal judiciary to appoint counsel for indigent individuals seeking to set aside a state court sentence of death pursuant to §2254 of Title 28 (§2254). These capital habeas corpus matters are, both substantively and procedurally, among the most complex proceedings brought in federal courts.

In some jurisdictions, there are Capital Habeas Units (CHUs) within the federal defender office that provide representation in capital §2254 habeas corpus matters. In other jurisdictions, or when a CHU is unable to take a case, private attorneys are appointed by the federal court and compensated on an hourly basis. Many of these private counsel lack prior capital habeas experience, and are required to spend substantial amounts of time familiarizing themselves with the intricacies of habeas corpus and death penalty law so that they can provide effective representation. In order to limit duplication of effort, conserve financial resources and ensure that representation in federal capital habeas corpus cases is provided in the most cost-effective manner possible, the Federal Defender Program Inc. (Federal Defender), a non-profit Georgia Corporation located at 101 Marietta Street, N.W., Suite 1500, Atlanta, Georgia 30303, is seeking to contract with an experienced federal capital habeas corpus practitioner to provide, on a part-time and limited basis, consulting, training, and related services to Criminal Justice Act (CJA) panel attorneys, to Capital Habeas Units within the federal defender offices as requested, and to the federal judiciary on a national basis. This practitioner would join the National Habeas Assistance and Training Counsel Project, or HAT, which currently has four (4) other contractors.

### **B. PRIMARY DUTIES**

Contractor will provide assistance to the federal judiciary in fulfilling its obligations in §2254 cases under the CJA, 18 U.S.C. § 3006A, the Anti-Drug Abuse Act of 1988, re-codified as 18 U.S.C. §3599, and related provisions, by performing the following tasks pursuant to the contract:

- ◆ Assist the federal courts in recruitment of qualified, competent capital habeas corpus counsel;
- ◆ Advise the judiciary on policy and procedure relating to federal capital habeas corpus representation in particular regions on a national basis;
- ◆ Assist individual federal defender organizations with issues that arise in connection with their representation of petitioners in capital habeas corpus cases, particularly in circumstances where the federal defender lacks capital habeas experience and expertise;

- ◆ Assist appointed attorneys providing, or being recruited to provide, representation to petitioners in capital habeas corpus cases in federal court;
- ◆ Assist federal defender organizations and CJA panel attorneys providing representation in state clemency proceedings;
- ◆ When requested, coordinate research on common issues in capital habeas corpus cases; maintain a “brief bank” to avoid duplication of effort by counsel;
- ◆ Develop, implement, and participate in authorized national, regional, and local capital habeas corpus training programs for individuals providing §2254 and clemency representational services under the CJA and where appropriate for CHU counsel;
- ◆ Provide material and content for an Internet site dedicated to providing assistance to counsel and others involved with federal capital habeas corpus cases;
- ◆ Draft and distribute capital §2254 habeas corpus training materials, manuals, and other resources (e.g., sample federal pleadings such as petitions for a writ of habeas corpus, motions for appointment of counsel, stays of execution, evidentiary hearings, discovery, briefing on common habeas issues, etc.);
- ◆ Monitor: (a) capital §2254 habeas corpus cases entering the federal courts; (b) habeas corpus legal developments, including preparation of legal and resource impact analyses; and (c) on both a state-by-state and national basis, the need for appointed counsel in capital §2254 habeas corpus cases;
- ◆ Promote the exchange of information and ideas on how to best facilitate the appointment of counsel in capital §2254 habeas corpus cases;
- ◆ Respond to legislative inquiries concerning federal capital §2254 habeas corpus issues; and
- ◆ Provide expert assistance to the United States Judicial Conference Committee on Defender Services and the Administrative Office of the United States Courts, as well as to judicial councils and other judiciary entities.

## **C. Organizational Relationships**

**1. Employment Status:** National HAT are independent contractors who provided services on a part-time, hourly, basis.

**2. Hiring:** National HAT are selected by a Capital Habeas Hiring Committee comprised of the chair or designee of the Death Penalty

Working Group (DPWG--an advisory group convened by the Administrative Office of the United States Courts), one representative of the Defender Services Office, the National Mitigation Coordinator, at least one current member of National HAT, and Federal Defender. Another member or members may be designated by the Chair of DPWG.

3. **Oversight and Supervision:**

- a. **In general:** National HAT are supervised by Federal Defender and the Director of the National HAT Project with respect to all administrative matters including time and expense records. Detailed billing is required monthly under the terms of the HAT contract.
- b. **Travel:** Travel in connection with the performance of National HAT duties is reimbursed at applicable government rates.

**D. QUALIFICATIONS AND COMPENSATION**

**1. Qualifications:** National HAT counsel must be a licensed attorney in good standing in at least one United States District Court and one United States Court of Appeals; have substantial experience in the representation of individuals in capital 28 U.S.C. Section 2254 proceedings and appeals; and have the experience and skills necessary to the development and delivery of legal training and to consulting with appointed counsel. Extensive travel is required.

**2. Compensation:** National HAT counsel are compensated at the rate of \$156.00 per hour, plus authorized expenses. Individual contracts may vary in amount depending on National HAT needs.