

POSITION DESCRIPTION

SUPERVISORY TRIAL ATTORNEY, GS-0905-15

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| SETID | HUD01 | JOB CODE | FC0060 | DATE | 01/27/2012 | OPM CERT # | | | |
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| WORK TITLE | ASSOC REG CNSL FOR LITIGATION | | | | | | | | |
| SPVY LEVEL | Other | POSITION SENSITIVITY | NCrit Sens | LEO POSITION | N/A | MEDICAL CHECK REQ | No | BUS CODE | 8888 |
| FLSA | Exempt | PATCOB | Professnl | EXECUTIVE | No | EMPL/FIN INTEREST | Yes | FUND SOURCE | Approp Fnd |
| CLASSIFIER | Joanne C Anderson | | | | | | | | |
| CLASS STANDARD | GS-0905 GENERAL ATTORNEY STANDARD | | | | | | | | |
| DATE CLASSIFIED | 01/27/2012 | | | | | | | | |

SUPERVISORY TRIAL ATTORNEY, GS-0905-15
ASSOCIATE REGIONAL COUNSEL FOR LITIGATION

INTRODUCTION

The Associate Regional Counsel is responsible for providing legal counsel, review, and assistance to the Regional Administrator, field office directors and program office directors operating within the jurisdiction. The Associate Regional Counsel advises and counsels on a variety of complex issues with respect to all programs within the jurisdiction. The Associate Regional Counsel provides expert guidance with respect to highly complex and/or politically-sensitive defensive litigation matters, personnel law matters, ethics opinions and advice, fair housing enforcement and other enforcement activities, and administrative law. Litigation responsibilities include assisting with the representation of the Department in state court lawsuits filed against the Department, responding to summons and subpoenas issued to the Department and/or Departmental employees acting in their official capacities, and representing the Department in personnel and labor law matters filed before the Merit Systems Protection Board, the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, as well as assisting the United States Attorney’s Office in its representation of the Department’s interest in matters filed in federal district court. Enforcement responsibilities include assisting FHEO in identifying and enforcing Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 Rehabilitation Act of 1973, and Title VII of the Civil Rights Act of 1964. Effective representation of the Department in these matters requires extensive knowledge of federal and Departmental litigation processes, fair housing and equal employment opportunity law, and other Departmental enforcement remedies. Litigation and enforcement actions involving the Department implicate laws and issues related to housing and community development, contracts, real property, constitutional law, corporations, associations, partnerships, agency, foreclosures, torts, employee and labor relations, taxation, negotiable instruments, municipal corporations, municipal and private financing, environmental law, creditors' rights, bankruptcy, civil procedure, fair housing, equal employment opportunity, ethics, and information disclosure laws and regulations. The Associate Regional Counsel is a recognized expert in several of these areas.

DUTIES AND RESPONSIBILITIES

The Associate Regional Counsel actively participates in setting policy in all matters affecting HUD programs and administration in the field office jurisdiction and exercises independent judgment and discretion in formulating responses to legal issues. The Associate Regional Counsel frequently responds to legal issues which are novel, of first impression, and/or involve large sums of money. The Associate Regional Counsel renders advice and recommendations at all levels of the organization on behalf of the Regional Counsel, from the General Counsel and Assistant Secretaries to field managers and directors. On behalf of the Regional Counsel, Associate Regional Counsel plans, directs, coordinates, and reviews the operation of a staff of attorneys and support staff in carrying out the following activities:

LITIGATION

Participates with U.S. Attorneys in preparing and handling cases involving HUD and participates with private attorneys in handling cases involving HUD-funded activities. These litigation activities require cross collaboration with several program offices, including the Office of Housing, the Office of Public and Indian Housing, the Office of Community Planning and

Development, Office of Chief Procurement Officer, Office of Departmental Equal Employment Opportunity, Office of Fair Housing and Equal Opportunity, etc. On assigned litigation, the incumbent provides professional and administrative legal assistance as appropriate to protect the interests of the United States and promote the priorities of the Department in lawsuits in all courts and in proceedings before administrative or quasi-judicial bodies, usually involving situations where the United States or Departmental personnel is named a party. The incumbent works independently, and contributes as part of a highly functioning team consisting of other attorneys and legal support professionals from regional offices, field offices, HUD headquarters and/or the Department of Justice. Duties may involve any and all aspects of litigation including investigation and analysis of facts and law, formulation of strategy or tactics, discovery, and determining the appropriate personnel to be involved in a particular action. Other cases may involve the preparation of detailed litigation reports, drafting of affidavits, answers to interrogatories, or other documents or pleadings.

Defends the agency in state court proceedings and before the Merit System Protection Board, Equal Employment and Opportunity Commission, and the Federal Labor Relations Authority, Board of Contract Appeals, Government Accountability Office, and other administrative bodies and tribunals. Represents HUD before administrative law judges in civil rights enforcement actions alleging violations of Title VIII of the Civil Rights Act of 1968. The Associate Regional Counsel personally attends to the most complex and controversial legal problems that arise incident to the litigation activities of the Office. For matters related to defensive litigation, personnel law, and fair housing, the Associate Regional Counsel functions as the office's liaison with the U.S. Department of Justice, meeting frequently with representatives of that agency, including the U.S. Attorney and Assistant U.S. Attorneys. These representational activities frequently will affect the course of litigation which may be precedent setting and affect the operation of the Department, a particular program, or perhaps the state or federal government in general, and the outcomes of the cases often involve multi-million dollars claims and have significant impact on the administration of Departmental programs.

- > Prepares all pleadings, motions, briefs, and memorandum of law to be filed in cases. These documents are invariably used without detailed review or alteration.
- > Performs legal research, often on novel and difficult questions of law, and prepares memoranda of law based upon the products of his or her research.
- > Presents the Department's position before federal courts or assists the Department of Justice in doing so at hearings and trials, which includes conducting the examination and cross-examination of witnesses and making opening and closing arguments..
- > Incumbent conducts discovery, including examination or cross-examination of witnesses by deposition.
- > Incumbent prepares documentary evidence and testimony for witnesses for use in support of dispositive motions or a trial on the merits; prepares affidavits and extracts of information from the files of the Department in legally admissible form; interviews and prepares witnesses; and directs investigations for the purpose of developing additional evidence in pending cases.
- > Incumbent evaluates recommendations received from the offices within the jurisdiction concerning the institution or defense of litigation, termination or compromise and settlement of litigation, and appeal or other disposition of matters determined against the Secretary or the Department.
- > Incumbent negotiates settlements determined to be in the interest of the Government, and prepares recommendations and memoranda in support of those settlements.
- > In cases handled by the Department of Justice attorney, incumbent participates in conferences for the purpose of instructing the U.S. Attorney's Office and the Department of Justice concerning the Department's position and the legal and factual defenses that should be presented in the court.
- > Incumbent advises the Regional Counsel or the Deputy Regional Counsel and the responsible program officials concerning all aspects of pending and threatened litigation, and the policy and operational implications of particular pieces of litigation.
- > Incumbent prepares appellate briefs and presents oral arguments to appellate courts.
- > Incumbent makes proposals for changes in policies and regulations as well as operating procedures, when dictated by litigation experience and to obviate litigation problems.
- > At the request of the Regional Counsel, or the Deputy Regional Counsel, the incumbent assists junior members of the staff in the performance of their duties and reviews their work product for accuracy and completeness.

The incumbent may be appointed by the Justice Department as a Special Assistant United States Attorney to represent the United States in civil actions at the trial or appellate levels from time to time. The incumbent is responsible for counseling various clients regarding ways to minimize the chance of litigation or the cost of litigation when appropriate to protect the

interest of the United States. The incumbent is expected to make decisions to pursue, defend or appeal cases which may arise from activities which impact the field office or its programs. The incumbent may be called upon to negotiate or participate in negotiations for settlement.

In support of the Chief Financial Officer and the Federal Housing Commissioner, the Associate Regional Counsel prepares HUD and FHA legal letters, above multi-million dollar thresholds, to assist auditors to annually prepare HUD's consolidated financial statements and financial statements of the Federal Housing Administration.

PROGRAM ADVICE AND COUNSELING

Renders formal opinions, which are controlling within the jurisdiction, and provides advice on legal questions which arise in connection with the program responsibilities of the Department. These include, but are not limited to, questions related to insurance of mortgages, provision of subsidy assistance, loan and mortgage servicing, and property acquisition and disposition under numerous discrete programs under the National Housing Act; the provision of loan and subsidy assistance for the development and operation of public and assisted housing under the U.S. Housing Act of 1937; the provision of community development assistance under Title I of the Housing and Community Development Act of 1974; and meeting the requirements of State law and cross-program federal laws such as the Uniform Relocation and Real Property Acquisition Policies Act of 1970, the National Environmental Policy Act of 1969, and the Administrative Procedures Act. Such opinions may involve almost all fields of law and frequently involve controversial issues.

PROGRAM ASSISTANCE

Ensures that program actions are undertaken in a legally sound manner through such activities assisting the Office of Housing and the Office of Public and Indian Housing clients to defend lodged claims, including multifamily claims and litigation, single family claims and litigation and public housing litigation; advises the Office of Fair Housing and Equal Opportunity on jurisdictional issues, investigative matters, and prepares fair housing charges; supplies advice and counsel on personnel and labor law matters, and prepares opinions with respect to administrative and information law matters, including the Standards of Ethical Conduct for Executive Branch employees, the Privacy Act of 1974, and the Freedom of Information Act.

PROGRAM ENFORCEMENT

Furnishes legal services with respect to the investigative and audit functions exercised by the Regional Inspector General Offices, including any work related to suspensions and debarments. Provides legal advice and assistance with respect to issuance of Departmental sanctions, including, most notably, limited denials of participation. Reviews and analyzes cases to ascertain all relevant facts and identify all legal issues. Incumbent prepares all pleadings, motions, briefs, and memoranda of law to be filed in cases. Incumbent conducts discovery, including examination or cross-examination of witnesses by deposition. Prepares interrogatories, requests for admissions, and requests for production of documents. Incumbent prepares documentary evidence and testimony of witnesses for use in support of dispositive motions and for a trial on the merits; prepares affidavits and extracts of information from the files of the Department in legally permissible form; interviews and prepares witnesses; and directs investigations for the purpose of developing additional evidence in pending cases. Incumbent engages in oral advocacy including the conduct of direct and cross-examination and the making of opening and closing argument. Incumbent submits real evidence, primarily documentary in form, and prepares written stipulations and settlements. Reviews proposals for affirmative litigation not handled by the Enforcement Center and prepares and handles such cases in accordance with outstanding guidance and instructions.

ETHICS LAW

As requested by the General Counsel and/or Regional Counsel, the incumbent renders advisory services to field office employees in matters pertaining to the Standards of Conduct and other ethics matters and assists the appropriate Departmental Ethics Officer in the preparation of formal ethics opinions. Consistent with delegated authority, assists in rendering advice to Departmental employees in matters concerning Executive Branch and HUD Standards of Conduct, the Hatch Act, the Procurement Integrity Act and federal criminal conflicts of interest statutes.

FAIR HOUSING AND EQUAL OPPORTUNITY ENFORCEMENT

Consistent with delegated authority, furnishes requisite legal services and representation with respect to the Office's civil rights enforcement activities under Title VI (nondiscrimination in federally assisted programs), Title VII (nondiscrimination in federal employment) of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, as amended (Fair Housing), and other applicable laws and executive orders. The incumbent provides advice and assistance to investigators and their supervisors, reviews investigative reports, prepares charges, handles trials before HUD Administrative Law Judges, and provides assistance to the Department of Justice in the conduct of trials and handling of these cases in federal court.

PROCUREMENT LAW

Consistent with delegated authority, furnishes requisite legal services and representation with respect to the Department's acquisition and acquisition related matters, including litigation activities, bid protests, and contract appeals.

INFORMATION LAW

Provides legal advice and assistance with respect to Freedom of Information and Privacy Act issues. Reviews and approves requests seeking testimony from HUD employees and/or the production of documents.

OTHER DUTIES

The Associate Regional Counsel carries out a wide variety of administrative and management responsibilities with or on behalf of the Regional Counsel, including assigned tasks relating to IT systems, electronic discovery, personnel management, performance evaluation, space and file management, training and orientation, management plans and studies, reports, and service on task forces and working groups. In addition, the incumbent is responsible for other duties as assigned.

SUPERVISION OF FIELD COUNSEL

On behalf of the Regional Counsel, provides professional supervision and directs the activities of regional and field office attorneys, para-professionals, and clerical personnel with respect to the above-described duties and responsibilities to be carried out in those respective offices. Conducts periodic monitoring of field counsel activities through performance reviews. Provides specialized training and guidance with respect to the implementation of new programs inaugurated by the enactment of federal housing legislation and new policies or interpretations of requirements of existing programs. Provides administrative and information law guidance and training within the region. Demonstrates leadership and management skills and effectively implements EEO policies of the Department, thereby ensuring a motivated and engaged workforce.

SUPERVISORY RESPONSIBILITIES

Directs and reviews the work of subordinate attorneys in the discharge of the functions assigned to the Office of Counsel; provides advice, assistance, and guidance to Associate Regional Counsel within the region; reviews work for proper application of professional judgment, conformity with established HUD policy, and compatibility with overall Departmental mission and goals.

SUPERVISION RECEIVED

The Associate Regional Counsel reports to the Regional Counsel and carries out assignments with little or no supervision. Determinations, approvals, and other decisions of the Associate Regional Counsel shall be considered actions of the Regional Counsel, except insofar as such decisions involve matters reserved specifically to the Regional Counsel by delegated authority. However, the Associate Regional Counsel consults with the Regional Counsel on matters of special significance or interest to the General Counsel. Decisions of the Regional Counsel and Associate Regional Counsel shall be subject to reconsideration and re-determination by the General Counsel to the extent authorized and appropriate.

GUIDELINES

Guidelines for some of the Associate Regional Counsel's work consist of statutes, regulations, handbooks and policy memorandums, frequently, however, no guidelines exist or the guidelines are not clear. The Associate Regional Counsel independently formulates, determines or effectively influences the Department's policies and actions. The Associate Regional Counsel is frequently recognized as a technical authority in the development and interpretation of guidelines regarding his/her area of expertise.

COMPLEXITY

The matters on which the Associate Regional Counsel works involve extremely complex and difficult legal or policy questions or factual issues for which no clear precedent exists. The Associate Regional Counsel must extensively probe and research to define the problem and craft a strategy or policy to guide decision makers and legal staff to resolving the problem. Resolution of these matters requires the Associate Regional Counsel to extensively research, analyze, investigate and evaluate expert testimony or information in controversial or highly technical areas, including environmental science, medicine, statistics, finance and engineering. When solving such problems, the Associate Regional Counsel must engage in a high level of independent, original and creative thought to balance conflicting interests.

SCOPE AND EFFECT

Through the rendering of precedent-setting decision affecting the Office of General Counsel and Departmental policies and procedures, the Associate Regional Counsel's work has a major impact on the activities of the Department with respect to client agencies and the general public. It may also have the effect of broadening or restricting the Department's activities or have an important impact on the real estate industry or other major industries whose economic position affects the health and stability of the general economy. The incumbent's program legal work usually involves considerable sums of money, often running into the tens of millions of dollars. The Associate Regional Counsel's work involves problems of unusual delicacy, such as multifamily or community development block grant fraud or fair housing cases.

PERSONAL CONTACTS

The Regional Counsel's field office jurisdiction contacts ordinarily include the Regional Administrator, Field Office Directors, program directors, top field Office of Inspector General staff; United States Attorneys, federal court and administrative law judges; city and county attorneys; general counsel for state housing finance agencies, state and local community development agencies and public housing authorities; counsel for developers, sponsors, contractors, lenders, housing providers, fair housing respondents and employees. HUD headquarters contacts include the General Counsel, Deputy General Counsel, Associate and Assistant General Counsel, Deputy Assistant Secretaries and Special Assistants. The Associate Regional Counsel communicates directly with such officials and attends inter-agency and intra-agency conferences and meetings as HUD's legal representative.

PURPOSE OF CONTACTS

The Associate Regional Counsel confers and negotiates with regard to important management, legal and policy questions which are of considerable consequence or importance to the Agency. The Associate Regional Counsel also responds to inquiries from local entities undertaking activities with federal assistance. He or she works in close harmony with program managers, providing legal advice to assist them in making determinations by advising them of the legal effects of alternative courses of action. The Associate Regional Counsel also tries cases before courts and administrative bodies.

PHYSICAL DEMANDS

This position entails no unusual physical demands. Although the work is primarily sedentary, the Associate Regional Counsel may be required to travel within the United States.

WORK ENVIRONMENT

No unusual risks are associated with the work environment. The position requires a private work area and access to a law library.

OTHER SIGNIFICANT FACTS

The Associate Regional Counsel has professional relationships with leading public and private attorneys in the jurisdiction and from time-to-time throughout the country. He or she must possess the requisite legal expertise and talent to advocate the legal position of the Federal Government. The complex nature and broad impact of Departmental programs, coupled with the lack of specific or detailed guidelines in applicable federal statutes, regulations, and policy issuances affords wide latitude to incumbent and imposes unusual judgment requirements.

The position requires graduation from an accredited law school with admittance to the bar of a state or territory and specialized experience with legal aspects of economic development, community planning and development, real estate development and management, fair housing, and litigation.