

8/26/74

Memorandum 74-49

Subject: Consultants and Contractual Services

Compensation of Consultants Generally

During the last few years, the Commission has used two types of consultants:

(1) Consultants who have been required to prepare background studies (often in the form of articles that could be published in law reviews) and to attend meetings when those studies were discussed. Generally, we have paid these consultants a sum that took into account the substantial amount of work involved in the research and writing required to prepare the background study.

(2) Consultants whose primary function has been to attend meetings and to provide expert advice. Generally, we have paid these consultants on the same basis as members of the Commission itself--\$20 per day for attending meetings plus travel expenses. It is recognized that these consultants have had to devote time to preparation before the meeting, but we have not compensated them for that time.

Compensation for both types of consultants has not purported to be anything more than an honorarium. They have assisted the Commission primarily as a public service.

The staff recommendations below are based on a continuation of past practice as outlined above. We have not discussed the terms of any of the contracts recommended below with the consultants involved.

Contract With Professor Kanner

Gideon Kanner has left the firm of Fadem and Kanner and is joining the faculty of Loyola University School of Law. Accordingly, we will be

unable to pay his travel expenses in attending future Commission meetings since the contract under which he has been attending meetings was with the firm of Fadem and Kanner. We will use the existing contract to cover the meeting attendance by Mr. Fadem.

The staff recommends that the Commission direct the Executive Secretary to execute an agreement with Professor Kanner to provide for his attending meetings of the Commission and legislative hearings when requested to do so by the Commission through its Executive Secretary in connection with the Commission's study of eminent domain. The compensation would be \$20 per day attending Commission meetings plus necessary travel expenses subject the same regulations that apply to Commissioners. We would limit the total payable under the contract to not more than \$500.

Contract With Jerry Davis

Jerry Davis has been a consultant to the Commission in connection with the study of nonprofit corporation law. The amount available for payment under the existing contract with Mr. Davis is exhausted. (In fact, it was necessary to transfer some of the funds provided for compensation under the contract to travel expenses in order to pay the travel expenses actually incurred by Mr. Davis.)

Unless the Commission contemplates that Mr. Davis will be required to prepare written background studies, the staff recommends that we make a contract with him along the same lines as suggested for Professor Kanner-- \$20 per day for attending Commission meetings plus travel expenses in attending meetings subject to the same limitations as apply to Commissioners. We would limit the amount payable under the contract to \$1,000. (We look on this nonprofit corporation study as a long-range project and we have to submit this contract to the State Personnel Board for approval;

accordingly, we want to encumber enough to cover the anticipated expenses for the time we expect the study to be under active consideration.)

Index for Volume 11

About one year ago, the Commission determined that Volume 11 should have an index. Pursuant to this determination, we made a contract with the same indexer we used for previous volumes. The compensation for the indexing was \$950 (including an additional amount of \$200 because the volume was increased in size over what was originally anticipated).

The contract required that the index "shall be completed by March 1, or within one month after the last of the copy to be indexed is supplied to Contractor, whichever is the later time." We delivered the last of the copy to the indexer on March 4 but have not received the index. On numerous occasions we have called the indexer who each time promised we would have the index a few days thereafter but each time failed to keep the promise. The volume has been ready to print (except for the index) since March 4, and we are terminating the contract if we do not receive the index by August 28, 1974.

We plan to use an intermittent entry level lawyer to prepare an index for us. The index will be the best the lawyer can prepare in not more than 20 working days. The indexing should cost approximately what we would have paid under the contract, but the quality may be somewhat less. Unfortunately, the \$950 we encumbered from last year's budget to pay for the indexing will revert to the General Fund, and we will have to pay the cost of indexing by a temporary staff member out of this year's budget.

Respectfully submitted,

John H. DeMouilly
Executive Secretary