

**Date:** February 8, 2016  
**To:** Board Members  
**From:** Enforcement Unit  
**Subject:** Expert Reviewer Program Changes for 2015

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Below are some of the changes that are being made to the Expert Reviewer Program ("Program").

- 1) The contract term for the BOP's experts will be reduced from four years to two years.
- 2) Training used to be held annually at the CPA convention until 2010, when budget constraints prevented staff from attending. Training resumed again this year and will be held biennially from now on.
- 3) In the past, training was held over a three-hour period, for which experts received three hours of CE credit. Beginning this year, training was expanded to include morning and afternoon sessions, for which experts receive five hours of CE credit.
- 4) Training has been expanded from just one date at which all of the BOP's experts were invited to attend, to numerous dates held in both Northern and Southern California. Additional dates allow for smaller groups (no more than 20 participants per session), enabling opportunity for more interaction between the experts, DAGs, BOP staff and other presenters.
- 5) In past years, training was primarily conducted by the BOP's Enforcement Coordinator, one expert and one DAG. Now, training is conducted by the BOP's Enforcement Program Manager, the BOP's DAG Liaison, two additional DAGs and a Supervising Investigator from HQUI. Written input has also been obtained from a Board expert, which is included with other reference material in the Expert Reviewer Guidelines binder.
- 6) One of the biggest changes to the Program is that experts will now serve in one of two roles – as either an Expert Consultant or a Trial Expert.
  - a. The Expert Consultant will be selected by the BOP analyst assigned to the case, and will conduct an initial review of the materials gathered to see whether any departures from the standard of care may have occurred. They will record their findings on a newly-developed checklist form provided to them by the BOP analyst, being careful to not state their opinion concerning the level of any possible departures. If possible departures exist, the case will be forwarded to HQUI for further investigation. The Expert Consultant will be available to assist the investigator during the investigation phase, including the subject interview, if necessary.

- b. The Trial Expert will be selected by the BOP analyst assigned to the case, and will receive the file from HQIU after the subject interview and investigation are completed. They will review all of the materials gathered, including the transcript from the subject interview, and then write their report in a prescribed format, identifying any violations by level of departure (*no departure, simple* or *extreme*). If *extreme* departures are found, then the case is usually transmitted to the DAG for prosecution. The Trial Expert will be available to the DAG during the prosecution phase, up to and including a hearing if the case does not settle.
- 7) Beginning this year, DAGs will be asked to complete an evaluation of the Trial Experts who served in the cases they have prosecuted. This information will be helpful to the BOP by identifying changes that should be made to future trainings. Constructive criticism received from the DAGs may be shared with the experts so that they may be given the opportunity to attend courses that address any deficiencies that have been identified.
- 8) Expert fees will be increased after all of the BOP experts have received training and begin serving in their respective roles.
  - a. Expert Consultants will be paid at a rate of \$100/hr., up from \$90/hr.
  - b. Trial Experts will be paid at a rate of \$150/hr., up from \$90/hr. Should the case proceed to a hearing, Trial Experts will be paid \$200/hr. for their testimony, up to \$1,600/day.
- 9) The Expert Guidelines are being thoroughly updated to reflect current enforcement practices and procedures.