Part III Chapter 13 Procedure for Selection of Counsel and Litigation Consultants by the Office of General Counsel

A. General. This procedure may be used by agencies to procure the services of attorneys and litigation consultants through appointment by the Office of General Counsel.

B. Agency Procedures.

1. Agency.

- **a.** Determines need for legal services or litigation consultant services.
- **b.** Estimates costs and obtains internal agency approval.
- c. Prepares Request for Appointment of Legal Counsel/Litigation Consultant form and submits to the Office of General Counsel. If the agency needs the selected legal counsel/litigation consultant to begin work upon appointment (and prior to full execution of the contract), seeks authorization from the Office of General Counsel.

2. Office of General Counsel.

- **a.** Reviews submitted Request for Appointment of Legal Counsel/Litigation Consultant.
- **b.** Selects counsel/litigation consultant.
- **c.** Establishes compensation.
- **d.** Authorizes agency chief counsel to permit legal counsel/litigation consultant to commence work immediately upon appointment.

Agency.

- a. Determines that the law firm/consultant is responsible in accordance with Management Directive 215.9, Contractor Responsibility Program, Amended. The date of determination should be recorded for future reference.
- **b.** Prepares the contract using the template specified by the Office of General Counsel.
- **c.** Obtains internal approvals of contract.
- **d.** Sends the contract to selected law firm/litigation consultant for signature.
- e. If the Office of General Counsel has authorized, the agency chief counsel shall permit the selected legal counsel/litigation consultant to commence work immediately upon appointment (before full execution

of the contract with the understanding that counsel will not receive payment until after the contract is fully executed). **NOTE:** If payment to counsel must be made prior to full execution of the contract, the agency will need to process an emergency purchase order for the initial payment amounts (using the OGC appointment letter as the authorization for the emergency).

- **f.** Upon return of the contract signed by the law firm/litigation consultant, signs the contract.
- **4. Agency Comptroller.** Reviews for fiscal responsibility, budgetary appropriateness and availability of funds and encumbers the necessary funds.

5. Agency.

- **a.** Obtains signature of agency counsel, Office of General Counsel, and Office of Attorney General as required.
- **b.** Determines that law firm/litigation consultant is responsible in accordance with Management Directive 215.9 if more than two months have passed since the date of the original confirmation.
- **c.** Sends copy of contract to the agency, contractor, agency comptroller, and Treasury.
- **d.** Sends the contractor a notice to proceed. Sends a copy of the notice to proceed to the agency comptroller.
- **e.** Monitors contractor's performance.
- **f.** Approves/disapproves contractor's invoices. If approved, forwards to agency comptroller for processing payment. Invoices for work done prior to full execution of the contract should not be approved until after the contract is fully executed.
- **6. Agency Comptroller.** Processes invoice for payment.

7. Agency.

- **a.** Evaluates completed work against contract to ensure all terms and conditions have been met and all services have been provided to the agency's satisfaction prior to final payment.
- **b.** Maintains complete contract file and submits required information to DGS.

References:

1. Request for Appointment of Legal Counsel/Litigation Consultant form