

Effective 5/13/2014

67-5-32 Rulemaking authority regarding the procurement of outside counsel, expert witnesses, and other litigation support services.

- (1)
 - (a) The attorney general shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish public disclosure, transparency, accountability, reasonable fees and limits on fees, and reporting in relation to the procurement of outside counsel, expert witnesses, and other litigation support services.
 - (b) On or before May 30, 2014, the attorney general shall submit to the Business and Labor Interim Committee, for its review, comment, and recommendations, the attorney general's proposed rules under Subsection (1)(a) relating to fee limits for outside counsel, including any provisions relating to exceptions to or a waiver of the fee limits.
 - (c) Before September 1, 2014, the Business and Labor Interim Committee shall include the attorney general's proposed rules described in Subsection (1)(b) on a committee agenda for the purpose of allowing the committee to review, comment, and make recommendations on the proposed rules.
- (2) The rules described in Subsection (1) shall:
 - (a) ensure that a procurement for outside counsel is supported by a determination by the attorney general that the procurement is in the best interests of the state, in light of available resources of the attorney general's office;
 - (b) provide for the fair and equitable treatment of all potential providers of outside counsel, expert witnesses, and other litigation support services;
 - (c) ensure a competitive process, to the greatest extent possible, for the procurement of outside counsel, expert witnesses, and other litigation support services;
 - (d) ensure that fees for outside counsel, whether based on an hourly rate, contingency fee, or other arrangement, are reasonable and consistent with industry standards;
 - (e) ensure that contingency fee arrangements do not encourage high risk litigation that is not in the best interests of the citizens of the state;
 - (f) provide for oversight and control, by the attorney general's office, in relation to outside counsel, regardless of the type of fee arrangement under which outside counsel is hired;
 - (g) prohibit outside counsel from adding a party to a lawsuit or causing a new party to be served with process without the express written authorization of the attorney general's office;
 - (h) establish for transparency regarding the procurement of outside counsel, expert witnesses, and other litigation support services, subject to:
 - (i) Title 63G, Chapter 2, Government Records Access and Management Act; and
 - (ii) other applicable provisions of law and the Utah Rules of Professional Conduct;
 - (i) establish standard contractual terms for the procurement of outside counsel, expert witnesses, and other litigation support services; and
 - (j) provide for the retention of records relating to the procurement of outside counsel, expert witnesses, and other litigation support services.

Amended by Chapter 209, 2014 General Session