



GEORGIA DEPARTMENT OF LAW

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ATTORNEY GENERAL

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ADMINISTRATIVE ORDER

BY THE ATTORNEY GENERAL:

WHEREAS: O.C.G.A. §§ 45-15-14 and 45-15-34 vest in the Attorney General complete and exclusive authority and jurisdiction in all matters of law relating to the executive branch of the government of the State of Georgia;

WHEREAS: O.C.G.A. § 45-15-12 vests in the Attorney General the authority to file and prosecute civil recovery actions in the name of the State;

WHEREAS: O.C.G.A. § 45-15-4 vests in the Attorney General the authority to select and employ private counsel to perform legal services for the State;

WHEREAS: O.C.G.A. § 45-10-1 makes it the duty of those engaged in government service to seek to find and employ more efficient and economical ways of carrying out their responsibilities;

WHEREAS: The most efficient and economical manner of compensating private counsel for their legal services may vary from case to case;

WHEREAS: In some cases, the most efficient and economical manner of compensating private counsel may be on a contingent fee basis;

WHEREAS: The need for transparency and accountability in government is at its highest when public funds are expended; and

WHEREAS: Transparency and accountability will be served by the creation of a formal policy regarding the circumstances under which a contingent fee arrangement will be entered into and the acceptable parameters of such an arrangement;

IT IS ORDERED THAT CONTINGENT FEE ARRANGEMENTS, OTHER THAN ROUTINE COLLECTION MATTERS, SHALL BE ENTERED INTO WITH A SPECIAL ASSISTANT ATTORNEY GENERAL ONLY IN ACCORDANCE WITH THE FOLLOWING POLICY:

1. **Necessity.** The Attorney General will certify by administrative order that the litigation to be prosecuted on a contingent fee basis is in the best interest of the state and alternatives to a contingent fee are not efficient or feasible. Such certification shall include specific findings on the following factors:

- A. Whether there exist sufficient and appropriate legal and financial resources within the Attorney General's Office to handle the matter.
- B. The time and labor required; the novelty, complexity, and difficulty of the questions involved; and the skill required to perform the legal services properly.
- C. The geographic area where the legal services are to be provided.
- D. The amount of experience desired for the particular kind of legal services to be provided and the nature of the private attorney's experience with similar issues or cases.
- E. Whether the circumstances permit a request for proposals from private attorneys wishing to work on the matter.

The Attorney General shall not appoint a private attorney for the litigation without first requesting proposals and reviewing all proposals received timely in response to the request, unless the Attorney General finds that the circumstances do not allow a request for proposals and that such a request would prejudice the State.

2. **Transparency.** All contingent fee contracts, as well as payments pursuant to those contracts, will be posted on the Attorney General's website. Contingent fee contracts will be posted within 15 business days. Payments pursuant to contingent fee agreements will be posted at least quarterly. In addition, attorneys hired on a contingent fee basis shall maintain and report detailed information related to services performed, time expended, and expenses incurred. Such reports, to the extent their release would not prejudice the State by compromising the attorney-client privilege, shall be made available for public inspection upon request.
3. **State Oversight.** The AG, directly or through his staff, shall at all times retain control of the litigation and shall retain final decision-making authority over any proposals by outside counsel. In addition, decisions regarding settlement of any case shall be reserved exclusively to the AG and shall not be delegated to outside counsel. Any defendant that is the subject of such litigation may contact the Attorney General or his staff directly, without having to confer first with the special assistant attorney general.
4. **Accountability.** Subject only to the dictates of federal or state law to the contrary, any proceeds resulting from litigation, less payment of the contingent fee, shall be paid either to the public entity on whose behalf the litigation was undertaken or into the State Treasury for disposition through the regular appropriations process.

Effective the 29th day of May, 2012.


SAMUEL S. OLENS
Attorney General