

0510.41 Purchase of Legal Services

Issued: July 31, 2012
Revised: December 17, 2019

PURPOSE

To provide procedures for the procurement of legal services with the approval of the Attorney General (AG) when agencies seek to hire Special Assistant Attorneys General (SAAG) and Expert Witnesses. This procedure is not applicable to the hiring of Michigan Administrative Hearing System (MAHS) hearing officers.

APPLICATION

Executive Branch Departments and Sub-units (agency).

CONTACT AGENCY

Department of Attorney General (AG)
Telephone: 517-335-7630

SUMMARY

With limited statutory exception, the Attorney General (AG) is legally empowered to perform all legal services, including, but is not limited to, representation before courts and administrative agencies, and rendering legal opinions. Further, any attorney hired by an agency to provide legal advice cannot do so in a manner that will be subject to the attorney-client privilege unless that attorney has been approved by the AG. As such, agencies are prohibited from employing or entering into a contract with any other person or entity for provision of legal services without prior written approval from the AG. Individuals or entities approved in writing by the AG to provide legal services to administrative agencies are generally designated as SAAGs.

The limited statutory exception to the requirement that the AG appoint SAAGs to provide legal services relates to protecting children from abuse and neglect statewide. That is, the two exceptions to the required SAAG appointment are: 1) county prosecuting attorneys and their staff attorneys, who may work with the Department of Health and Human Services (DHHS) on certain matters related to child abuse and neglect; and 2) attorneys appointed by DHHS pursuant to MCL 712A.17(5).

Due to the AG's authority, agencies must work with the AG to procure all legal services that are not otherwise provided by the AG and will be provided by SAAGs. Further, all SAAG contracts must be in a form approved by the AG.

Because the AG is legally empowered to perform all legal services, and those legal services – whether performed by the AG or SAAGs – may depend on opinions provided by experts in a field of study, the AG also oversees the procurement of all Expert Witnesses. The procedure for administrative agencies to procure Expert Witnesses is similar to the procedure to procure SAAGs, and is outlined further

below. Please note that, while the AG is legally empowered to provide all legal services and oversees the procurement of SAAGs and Expert Witnesses, with very limited exception, the AG does not pay for these services. The agency seeking to procure these services must render payment to the service provider, either directly, or through reimbursement to the AG.

DTMB's bidding and delegation requirements are not applicable to SAAGs or Expert Witnesses because DTMB does not have purchasing authority to procure these services, and thus DTMB cannot delegate such authority.

APPLICABLE FORMS AND PROCESSES

Department of Attorney General

SAAG Contract

Expert Witness Contract

SIGMA (to ensure vendor/SAAG/Expert Witness payment)

Requisition (RQN, RQS)

General Routing (GR) document

CSRQ, CS-138 Contractual Services Request

Master Agreement (MA)

Multi-Year Encumbering Contract (CT)

PROCEDURES

Agency Procurement Approvals

- Internal and external approvals must be obtained and documented according to agency policies and procedures.

Michigan Civil Service Commission Approval for Services

- The disbursement of funds to pay for services performed by an independent contractor (including SAAGs and Expert Witnesses) must have the prior approval of the Michigan Civil Service Commission pursuant to the CSRQ, CS-138 process. Note that the Civil Service Commission approval process only applies to determinations that SAAG and Expert Witness appointments comply with Civil Service requirements – the Civil Service Commission **does not** approve vendors or contracts. See [Michigan Civil Service Commission website](http://www.michigan.gov/mdcs) (www.michigan.gov/mdcs).

Agency Requirements for SAAG/Expert Witness Contracts

- Works with agency-specific AG counsel to determine whether hiring a SAAG or Expert Witness is appropriate.
- Requests AG approval if the agency desires inter-account billing for the legal services. Otherwise, the agency pays the SAAG or Expert Witness directly.
- Follows all instructions provided by AG staff regarding procurement of Legal Services.

- If the Agency is paying for the legal services directly, the Agency is responsible for:
 - Obtaining CSRQ, CS-138 approval;
 - Obtaining State Administrative Board (Ad Board) approval, if necessary; and
 - Recording the Contract in SIGMA via PO, MA or CT and making payments referencing the award document.

Authority

- Revised Statutes of 1846, MCL 14.28 *et seq.* (Attorney General)
- Applicable Annual Appropriation Bills Sections
