

STATE OF VERMONT
AGENCY OF ADMINISTRATION

BULLETIN NO. 17.10

From: Michael K. Smith
To: All State Agency Heads
Date: October 1, 2003
Subject: Employment of Private Legal Counsel

This Bulletin is being reissued to confirm the longstanding policy that state agencies must obtain the written approval of the Attorney General before employing private legal counsel.

The Attorney General is the chief legal officer of the State. In the normal course the Attorney General's Office provides a full range of legal services and represents the State in all matters requiring an attorney.

Several agencies employ staff attorneys, and these lawyers provide many legal services on a regular basis. However, unless a special statute provides otherwise, the Attorney General is required to appear for the State in all civil actions in which the State is a party and must exercise "general supervision" of the State's legal matters.

On rare occasions an agency may wish to retain private legal counsel to supplement the services provided by the Attorney General and staff attorneys. In these instances the agency must obtain the Attorney General's approval before retaining private counsel. The request for approval explaining the agency's needs must be submitted to the Attorney General in writing and signed by the agency head.

When the Attorney General receives a request, that Office will consult with the agency on the advisability of retaining private counsel and on the selection process to be followed. If the Attorney General agrees that the agency should retain private legal counsel and agrees with the choice of counsel, written approval will be given.

This Bulletin does not apply in those instances where the employment of private counsel is specifically authorized by statute.

Any agreement to retain private counsel shall be made in writing using the Bulletin 3.5 procedure and the standard state contract. All contract payments for private counsel shall be charged against the agency's appropriation unless a statute provides otherwise.

Michael K. Smith
Secretary of Administration

William H. Sorrell
Attorney General