

Guidelines for Engagement of Outside Counsel

Oregon State University

Purposes of Engagement: Oregon State University's General Counsel engages the assistance of outside counsel in several types of situations. The most common is where the area of expertise sought is specialized and where it is inefficient or infeasible to build that specialized expertise in-house. Additionally, although the Office of General Counsel may include attorneys with experience as litigators, litigation matters take more time, resources and attorneys than is feasible to handle in-house at the University. General Counsel also engages outside counsel in matters in which it is advisable or required to have an independent review or opinion. Finally, there are times that outside counsel is engaged because the work and needed timelines surpass the capacity of the Office of General Counsel. General Counsel works to minimize this last approach and monitors the staffing numbers of in-house counsel versus outside counsel to ensure the provision of the most cost-effective legal services.

General Counsel Role: The General Counsel, in consultation with the relevant University leader, determines whether outside counsel is warranted, what skills, background and expertise are sought in outside counsel and what outside counsel is ultimately selected. Legal services contracts are executed by the General Counsel, and except in pre-approved circumstances, the Office of General Counsel is the primary point of contact and manages the outside counsel and their work.

Timing of Consultation: For all new major initiatives or projects, leaders are strongly encouraged to consult with the Office of General Counsel early. Primarily, this allows for advising in a proactive and preventative way that positions leaders for success. Early consultation also allows for earlier planning as to whether outside counsel may be needed. Not only will this permit units to budget appropriately when considering any costs of proposed initiatives or projects that are not borne centrally, but it also can minimize total outside counsel costs.

Payment of Legal Fees: Legal fees for outside counsel are sometimes paid centrally and sometimes paid by the unit seeking or benefitting from the legal work. Legal fees that are typically borne centrally (either through the Office of General Counsel, insurance or other indices as determined by the Vice President for Finance and Administration or VPFA) include those incurred in defending against claims or litigation, serving University-wide purposes, and supporting projects or initiatives at the University level.

Legal fees that are typically borne by the unit seeking or benefitting from the legal work are those supporting individual unit discretionary projects or initiatives. Not only does that ensure that such fees are budgeted in the unit that foresees the need for them, but it also allows units to conduct thoughtful and fulsome cost/benefit analyses of their proposed projects or initiatives. (Where enough units need the same advice, it may be determined that the fees will be borne centrally to lower the transactions costs of many units sharing costs.)

The VPFA determines which fees will be borne centrally versus by the units. The VPFA will strive to generally follow these guidelines, although in cases of serious neglect, misconduct, error, or failure to follow legal advice, he/she may require the unit to pay for part or all related outside counsel fees.