

Contracting for Legal and Health Services Guideline - 6.23.G (11/07/01)

[Last Update: \(11/07/01\) RShibata:kma - 6.23.G.0](#)

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This guideline has been revised to update the procedures for acquisition of Legal Services.

Definitions

Legal Services are defined as those services engaging a licensed attorney or licensed patent agent to perform or supervise work requirements set forth in the SOW. This includes consultation, advice, counseling, planning, training, litigation (including trial and appellate work) and such incidental services that logically or justifiably require performance by licensed attorneys, licensed patent agents, or their employees.

Health Services is defined as those services requiring a licensed physician or certified professional, or hospital to provide medical treatment in accordance with the requirements set forth in the Authorization for Medical Services. This includes medical consultation, advice, diagnosis, testing, treatment, and other case related medical services that logically require performance by a licensed physician or certified medical professional.

Legal Services Procurement Procedures

- 6.23.G.1

Collecting Data - 6.23.G.1.a

At Sandia National Laboratories, legal services shall only be procured by the Sandia Legal Organization. All such procurements shall be conducted in compliance with Sandia's Prime Contract with the United States Department of Energy.

The Sandia Legal Organization shall request, receive, and maintain data on the providers of legal services wishing to be considered for Sandia contracts. To be considered for legal service contracts, a potential provider must file with the Sandia Legal Organization curriculum vitae, which sets forth:

- specialized experiences and professional capabilities,
- capacity to take on detailed and voluminous work,
- jurisdictions in which licensed to practice,
- such other information as may be appropriate for the evaluation of proposed legal services, and
- a curriculum vitae for the firm may also be filed when appropriate

Such data shall be updated as is deemed necessary by the Sandia Attorney. Data may be discarded three years after its original submission or its last update, whichever is later.

Selection Criteria - 6.23.G.1.b

Sandia Attorneys will select outside counsel in accordance with 48 CFR 970.5204-31, Litigation and Claims, and guidelines set forth in Federal Register, Vol. 61, No. 65, Page 14763 of Wednesday, April 3, 1996. The Sandia Legal Organization will assign an in-house Sandia Attorney to each case when outside attorneys are to be engaged.

A Sandia Attorney may solicit proposals by way of a solicitation letter to attorneys thought to be qualified, describing a proposed SOW to obtain specific proposals directed to the SOW. Each potential provider of legal services should be evaluated in terms of its:

- licensing in the jurisdiction as may be required,
- professional qualifications necessary for satisfactory performance of required services,
- specialized experience and technical competence in the type of work required,
- past performance on behalf of the U.S. Government or private parties in terms of quality of work and cost control,

- knowledge of the jurisdiction in which the services are to be provided, and
- acceptability under other appropriate evaluation criteria that may be developed from time to time for specific legal services.

In addition to the criteria set forth above, the Sandia Attorney shall be responsible for the evaluation and selection of all outside legal professionals for legal services. The Sandia Attorney shall perform the following functions in the evaluation of potential providers of legal services:

- hold discussions with the most highly-qualified provider regarding the concepts and relative utility of alternative methods of furnishing the required legal services,
- if more than one provider is evaluated as qualified, the providers shall be rank ordered, and
- a final selection for negotiation shall be made as set forth in Negotiations/Award in this guideline.

Negotiations/Award - 6.23.G.1.c

Upon selection, the Sandia Attorney may begin negotiations with the most preferred provider of legal services which is best suited to provide the required services at fair/reasonable prices. The prospective awardee should be given a draft copy of the proposed Engagement Letter and a copy of the Wednesday, April 3, 1996, Federal Register. The provider should submit a proposal and a budget to SNL detailing the work to be performed, the allocation of the firm's resources necessary to perform the work, the billing rates for all persons who may be required to work to provide the required legal services, and the rates and charges for any incidental costs and services to be provided. These costs and services are to be provided in accordance with the Litigation Guidelines developed and the proposed Engagement Letter with its attachments.

If a mutually satisfactory contract cannot be negotiated, the Sandia Attorney shall obtain a best and final offer from the proposed provider and notify the provider that negotiations have been terminated. The Sandia Attorney shall then initiate negotiations with the next provider on the final selection list.

This procedure shall be continued until a mutually satisfactory contract has been negotiated. If negotiations fail with all selected providers, the Sandia Attorney may evaluate additional providers of legal services in accordance with provisions in this guideline.

In the case in which the legal services are required to represent SNL before any administrative agency, board, or court of competent jurisdiction involving a legal proceeding or claim against it, the Sandia Attorney shall consult with appropriate U.S. Department of Energy Legal Counsel for approval to carry on the defense and to retain proposed legal counsel in accordance with the terms of the prime contract relating to assumption of risk by the Government or the Litigation and Claims clause, whichever is applicable.

Short Selection Process - 6.23.G.1.d

When in the opinion of the Sandia Attorney, legal services required to be provided by contract are anticipated to cost \$25,000 or less, the following short process may be utilized in the selection of a contract for legal services:

- The Sandia Attorney may select and retain legal counsel without discussions or formal evaluation based on his independent judgment that the selected provider of legal services is best suited to provide the required services at fair/reasonable prices and that counsel has executed previously an Engagement Letter with SNL.
- If the required services relate to a claim or legal proceedings, the Sandia Attorney shall obtain authorization from DOE to carry on the defense pursuant to the terms of the prime contract for the operation of SNL relating to assumption of risk by the Government or the Litigation and Claims clause, whichever is applicable.

Engagement of Outside Counsel - 6.23.G.1.e

The Engagement Letter and Federal Register, Vol. 61, No. 65, Page 14763 of Wednesday, April 3, 1996, shall be the basis of the written agreement between SNL and the outside counsel. No counsel shall be retained without a written and executed Engagement Letter.

Performance Evaluation - 6.23.G.1.f

A performance evaluation may be performed on completed legal services of any provider. If an evaluation is performed, it should be reviewed by the engaging Sandia Attorney to ensure that it is fair and accurate. A copy of the evaluation shall be included with other data developed in Collecting Data (see 6.23.G.1.a).

Case Review - 6.23.G.1.g

The SNL Legal Organization will assign an in-house attorney to each case when outside attorneys have been engaged. The SNL attorney shall have oversight responsibilities, which include, but are not limited to:

- joint preparation of a case strategy and budget,
- advise outside counsel of applicable SNL/DOE policies, requirements, and approvals,
- review/control of costs, in particular, litigation costs, and
- approve billings submitted on SF 9514-A, Authority for Payment.

Release of Information - 6.23.G.1.h

After final award has taken place, the Sandia Attorney may release information identifying only the provider of legal services that has been selected. Any work described in such release shall be in general terms only. Award information may be released at the sole discretion of the Sandia

Attorney.

Conflict of Interest - 6.23.G.1.i

Potential providers are required to do a Conflict of Interest search. Any conflict of interest found will automatically disqualify the provider.

Procurement of Routine Patent Services – 6.23.G.1.j.

Procedures used for the procurement of routine patent services conform to the selection process described in this Guideline 6.23.G.1. (except paragraphs b & c) to the maximum extent reasonable using the short selection process. It is anticipated that routine patent services will be procured on a firm-fixed price basis following Sandia's receipt of a written estimate from an external provider with which Sandia has in effect an engagement agreement letter.

Health Services Procurement Procedures - 6.23.G.2

The Medical Director, and/or the attending SNL Staff Physician or Clinical Psychologist, shall be responsible for the evaluation and selection of all professionals for outside medical services. Selection shall be based upon the needs of the employee/patient on a case-by-case basis and at the sole discretion of the attending SNL Staff Physician, Clinical Psychologist, and/or Medical Director.

Once a selection has been made, the Medical Director, and/or the attending SNL Staff Physician or Clinical Psychologist, shall authorize the referral by issuing an Authorization for Medical Services letter. The employee/patient must present this letter at the time he/she receives the medical service(s).

Authorization for Medical Services - 6.23.G.2.a

All services of outside physicians, medical professionals and hospitals shall be obtained through issuance of an Authorization for Medical Services. This letter shall be signed by the Medical Director, and/or the attending SNL Staff Physician or Clinical Psychologist, and shall include the following information:

- SNL employee/patient name,
- date and time of the referral appointment,
- purpose of the referral,
- employee/patient's medical history,
- related attachments, if any,

- billing information for the provider, and
- instructions requiring the provider to submit a written narrative report.

Note: No provider billing will be processed without prior submittal of a written narrative report.

SNL's designated third party administrator is authorized to approve medical services for workers' compensation injuries.

Case Review - 6.23.G.2.b

Throughout the course of consultation/treatment, the Benefits and Health Services Center at SNL/NM, and the Health Services Department at SNL/CA, shall maintain in the medical record, copies of the Authorization for Medical Services, all correspondence, test results, and referral summaries as may be applicable to the required outside medical services.

Health Services shall:

1. Review each case in order to ensure the following:
 - Verification of bill from authorized service provider,
 - Authorization for Medical Services is in the medical record, and
 - Narrative report is in the medical record.
2. Prepare Check Request Form for Management Approval.

Notes:

- Billings for services related to a Worker Compensation Claim shall be reviewed and approved by SNL's designated third party administrator.
 - Medical bills acquired for after-hours emergency room evaluation and/or unique Occupational Medicine Consultation will not require an Authorization for Medical Services memo prior to service.
3. Approve the Check Request for authorized services.

The attending SNL Staff Physician and/or Clinical Psychologist shall conduct:

- monitor employee/patient progress, and
- assess the need for additional outside medical services.

Billings for Outside Medical Services - 6.23.G.2.c

For all cases requiring outside medical services, billings will only be processed:

- upon receipt of a written narrative report from the service provider, and
- when submitted with a detailed breakdown of the services provided.

Billing Disputes - 6.23.G.2.d

Whenever a dispute arises about excessive or unwarranted charges, the Staff Member responsible for reviewing the case billing shall investigate the claim. If resolution cannot be attained, the case shall be referred to Health Services Management for final disposition and approval for payment.

Send feedback on ideas and information on this page to the Process Expert, Randy Shibata.



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