



U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

May 9, 2025

MEMORANDUM FOR ALL COMPONENT HEADS

FROM: THE DEPUTY ATTORNEY GENERAL *For [Signature]*

SUBJECT: Preventing Conflicts of Interest Between the Department of Justice and Private Counsel Engaged by the Government

Except as otherwise authorized by law, the Attorney General supervises all litigation to which the United States is a party. 28 U.S.C. § 519. In certain circumstances, the Department of Justice engages private counsel to represent the interests of the United States. Like any client, the United States may choose the attorneys it engages to represent it. And like any client, the United States is entitled to the conflict-free representation of its attorneys, or to waive a conflict, if a waivable conflict exists.

It is the policy of the Department of Justice to avoid retaining private counsel and law firms (collectively “private counsel”) that have a conflict with the United States. To achieve this end, to the maximum extent permitted by applicable law, the Department will not engage private counsel who contemporaneously are directly adverse to the United States—for example, active litigation against Administration policies or representing clients in active litigation against Administration policies. Model Rule of Professional Conduct 1.7(a)(1), (a)(2). Additionally, when the Department engages private counsel, the relevant engagement letter or other representation agreement must contain a clause requiring private counsel to seek a conflict-of-interest waiver from the Department to engage in matters that are directly adverse to the United States at any point during the period of private counsel’s retention by the United States. Model Rule of Professional Conduct 1.7(b)(4). That clause will provide for the engagement letter or other representation agreement to be terminated if the private counsel fails to obtain a waiver in an appropriate matter, or if an existing conflict of interest waiver no longer serves the interests of the United States.<sup>1</sup>

This policy does not apply to private counsel who are authorized by the Civil Division to be reimbursed by the government to represent federal officers or employees in matters affecting their individual rights, subject to the Civil Division’s existing oversight of such engagements.

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<sup>1</sup> This guidance is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



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This policy also will not apply to private counsel whose services are paid for by the Department solely by virtue of a court-ordered engagement -- such as serving as a monitor, special master, mediator, or similar roles in which the private counsel is neutral -- when the United States is a party to the matter, or where private counsel are appointed by the Attorney General pursuant to Department regulations to perform a limited adjudicative function, such as the judges and special advocates of the Data Protection Review Court, who are not attorneys for the government.

This Memorandum does not apply to Executive agencies with independent litigating authority.

Exceptions to this policy will rarely be given and must be approved both by the relevant component head and by the Deputy Attorney General or his designee.