

CONTRACTING TRANSPARENCY



Protecting taxpayer dollars

The current system is easily exploited

More and more frequently, state Attorneys General are contracting with private law firms to help litigate large complex cases, such as tobacco, financial services, and environmental protection lawsuits. Often, law firms are paid on contingency, receiving a percentage of the final award or settlement. There are certainly legitimate uses for contracting, such as when the Attorney General's office lacks the manpower or specialized legal knowledge to litigate a case successfully—however, the risks of such arrangements are great.

No transparency

The most alarming aspect of these contracts is the lack of transparency. The public has little knowledge of critical details: are law firms chosen based on expertise or political connections? Are taxpayers getting the best value for their dollar? Is a private help even needed at all? The Attorney General has almost unlimited power in retaining private attorneys on a contingency basis, while the public is left in the dark.

Attorneys in the driver's seat

In many cases, private firms pressure the Attorney General's office to pursue a case and put them on the payroll. The risk of such coercion is made worse by personal and political connections of large plaintiffs' firms, as well as the substantial contributions made to the campaigns of Attorneys General.¹

High costs to taxpayers

Lack of transparency and political motivation results in staggering abuses of public funds. For example, the attorneys retained by the state of Texas in a recent tobacco lawsuit received fees of \$3.3 billion dollars, or **\$92,000 per hour**.² Here in New York, private attorneys received an astounding \$13,000 per hour as part of the state's tobacco settlement.³

Greater accountability is needed

Comprehensive reform is necessary to protect the public interest and taxpayer dollars. To date, 15 states have passed legislation to address the use of outside legal contracts, which include the following provisions:

- Require contracting best practices including competitive bidding and cost/benefit analyses
- Impose a sliding scale for contingency fees with a hard cap of \$50 million excluding costs and expenses
- Require all agreements to be publicly disclosed and available for review

¹ Lawsuit Reform Alliance of New York. "Power of Attorney: Exploring the Influence of the Trial Bar in New York State Politics." 2014. Miriam Rozen & Brenda Jeffers, Why Did Morales Exchange Good Judgment for the Good Life?, Texlaw, Oct. 27, 2003.

² Daniel Wise, New York Tobacco Fee Hearing Has Lawyers Smoking, New York Law Journal, July 26, 2002.