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Being a Good Consumer

HOW TO BE A GOOD CONSUMER OF LEGAL SERVICES

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I. INCORPORATE LEGAL ISSUES IN AGENCY PLANNING

- A. In planning a project, try to spot legal issues early. Ask your legal questions as early as possible in your project planning process.
- B. In negotiations, do the same. The closer you are to concluding the “deal,” the harder it is to change the terms when one or more of the already agreed-upon provisions turn out to raise legal issues.
- C. Always attach the appropriate form contract to a request for proposal.
- D. Don’t change the City’s form contract without consulting the City Attorney. Always begin negotiations with the City’s form, never with the Contractor’s form.

II. PLAN AHEAD FOR LEGAL SERVICES, AS YOU WOULD FOR OTHER SERVICES

- A. Anticipate drafting needs.
- B. Keep track of recurring issues and request a training or question and answer. A member of the City Attorney’s staff will tailor a training session for your needs.

III. WHEN YOU CONSULT WITH ATTORNEYS, PROVIDE FULL INFORMATION

- A. Correct legal advice requires complete and accurate facts.
- B. Legal advice can be furnished more quickly when attorneys don’t have to spend time digging for facts.

IV. LITIGATION: WHAT TO DO WHEN YOU ARE A DEFENDANT OR A WITNESS, OR IF YOUR DEPARTMENT OR WORK UNIT IS INVOLVED IN LITIGATION

- A. Don’t destroy documents.
- B. If you receive a summons and complaint, a subpoena, or other legal-looking document, report it to your supervisor at once. Your statutory right to legal defense by the City depends on prompt reporting of claims or suits.

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- C. If a document is formally “served,” that is, delivered to you by a sheriff’s deputy or other individual authorized to “serve” legal papers, you are not obligated to sign anything. You should record in writing the circumstances under which you received the papers. If it came in the mail, keep the envelope. Support staff who open mail should be trained in handling legal papers.
 - D. The City is obligated under its insurance agreement with Wisconsin Municipal Mutual Insurance Company (WMMIC) to cooperate with attorneys who represent the City. The City’s insurance coverage is at risk if employees fail in this obligation. Cooperation includes (but is not limited to):
 - 1. Cooperate with the assigned attorney. Be forthright and truthful. Don’t hold back information you think will be harmful. If it is harmful, the attorney needs to plan a strategy to reduce the harm. If it isn’t harmful, the attorney can let you know that and save you some worry.
 - 2. Do not discuss the case with opposing counsel. You should not initiate contact with opposing counsel. If opposing counsel contacts you, you should advise him/her that the City is represented by counsel and that the counsel should be contacted.
 - 3. Do not discuss the case with other employees or with your friends or family.
 - E. Don’t ignore notices or papers connected with the suit. Be sure the assigned attorney knows about the papers and has a copy.
 - F. If you are concerned about confidentiality, tell the attorney about your concerns. Ask for an explanation of what can remain confidential and what cannot.
 - G. Keep litigation papers in a separate file. Don’t ever keep them in an employee’s personnel file.
- V. AVOID REFERRING CITIZEN INQUIRIES TO THE ATTORNEY’S OFFICE**
- A. If the answer is no, and you know it’s no, teach your employees to convey that information to citizens.

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- B. If you don't know the answer, and it's appropriate for City Attorney staff to answer, tell the citizen you'll get the answer and call her or him back. Then ask the City Attorney's office for assistance. That way, you and your staff will have the information for future use.

VI. WHAT TO DO WHEN YOU RECEIVE A SUBPOENA

- A. Remember to record in writing the circumstances under which you receive a subpoena. See IV-B above.
- B. How to respond to a Subpoena
 - 1. You may not ignore or lose a subpoena. A penalty could be imposed and it is not a penalty the City is allowed to pay for you.
 - 2. The fact that you have been served with a subpoena does not mean that you are required to talk to the person who served it, either in person or on the phone.
 - 3. The fact that confidential records are requested by means of a subpoena does not change their status as confidential. The subpoena is merely a legal mechanism to bring the confidentiality issue before a court. You should not disclose confidential records voluntarily just because you receive a subpoena.
 - 4. Unless you receive subpoenas frequently, and know exactly what to do, you should notify the City Attorney's office immediately as soon as you receive it. In some cases, the City Attorney will need to see a copy of the subpoena.
 - 5. If the City Attorney or insurance counsel concludes the records should not be produced, a motion to quash the subpoena can be filed.