

Legal Counsel is Vital to Effective Risk Management

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How do you increase the value of your agency attorney?

1. Support efforts by your attorney to understand the context of a legal problem.
 - a. Operational context
 - b. Physical (real property, facilities) context
 - c. Budget context
 - d. Strategic objectives
2. Assemble all agency documents relating to the problem.
3. Protect the confidentiality of the attorney-client relationship.

Areas Where Attorney May Help Reduce Risk

Agency Policy Group in a Community Disaster

- The emergency management policy group consists of elected and select appointed senior officials – chair of legislative body, chief executive or administrative officer, finance director, agency attorney.
- When a community-wide disaster occurs – normal public engagement processes may be suspended – fiscal resources are inadequate – risk and liability skyrocket
- The agency attorney may help the agency anticipate challenges faced in a disaster.
 - o Death of a key agency officials (succession ordinance); Navigating the various governmental roles in a disaster (intergovernmental agreements); Assuring effective federal-required record keeping (FEMA-required documentation); Intersection of environmental law and disaster law; Private property rights; Gun rights; Many more

Employment Practices Risk Reduction

- Require attorney to review every employee termination.
- Involve attorney in instructing (warning) supervisors against retaliation after a discrimination complaint has been filed.
- Involve agency attorney in any changes in compensation practices.
- Invite agency attorney to review any changes to Personnel Policy.

Avoid Safety “Stop Work Orders”

- State agencies (Environmental Quality, OSHA) will issue a Stop Work Order when an agency project is unsafe.
- Examples - Asbestos removal not in compliance with regulations; Failure to provide protection system for trenches deeper than five feet; improper handling or care of compressed gas
- Request attorney to review agency practices which may result in Stop Work Orders – and establish appropriate safety protocols.

Those Nasty Conflicts of Interest and Scandals

- Is corruption a risk? If so, can it be avoided or minimized?
- Ask your attorney to train and emphasize ethical standards.
- Consider Salt Lake City's ordinance which allows an elected official to request an opinion from the City Attorney regarding a possible conflict of interest. [Salt Lake City Code 2.44.210]
- Consider working with agency attorney to create an effective internal audit function.

Agency Relations With Non-profit Entities

- Many non-profit entities are poorly managed and have few internal controls. Yet, local governments frequently contract with non-profits to support community objectives.**
- Prior to establishing a formal relationship with a non-profit entity – ask the agency attorney to prepare a confidential report on the health and effectiveness of the non-profit entity.**
- Consider Utah Nonprofits Association resources – Nonprofit Standards of Ethics; UNA guidelines for nonprofit finances, governance, and organizational and program development**

Invite your attorney to problem solve to reduce risk