

# CPG Sec. 160.600 Payment of Expert Witnesses

## BACKGROUND:

FDA Staff Manual Guide 2610.2 sets \*limits for expert witness court appearance fees\* in a Food and Drug case. The Department of Justice has no strict set limits and usually can pay considerably more than FDA in order to obtain expert witnesses.

Traditionally, FDA has paid expert fees in all of our cases. However, because of our fee limit, it has been difficult in some cases to obtain appropriate expert testimony. On occasion, in such cases, the local U.S. Attorney has paid all or part of those expert witness fees, particularly when that office has been particularly active in the case.

Department of Justice policy in payment of experts in Food and Drug cases has not always been clear or consistent and frequently depends on which part of the Department is involved, i.e., U.S. Attorney or Office of Consumer Litigation.

## POLICY:

Accordingly, the agency should, in the first instance, assume that it will bear the cost of expert testimony to the limits of the FDA expert witness schedule. However, in the light of past history, whenever it seems appropriate or necessary to have a greater supply of funds for this purpose, the agency should inquire of the appropriate Department of Justice representative whether they will participate in the payment of such fees for the experts needed in our cases.

\*Material between asterisks is new or revised\*

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