



Services. Before submitting a proposed motion to the Sanctions Officer, the Regional Attorney should contact his or her LMS liaison attorney to discuss the matter.

The above review requirements do not apply to motions for expenses or sanctions under Fed. R. Civ. P. 37, other than contempt motions. The Sanctions Officer must review all contempt motions and motions for sanctions sought under authority such as Fed. R. Civ. P. 11(c) or 26(g), 28 U.S.C. § 1927, or the court's inherent powers. When in doubt about whether a proposed sanctions motion is subject to the Executive Order, contact your LMS liaison attorney. See Part 1, Section I.F. of the *Manual* for more information.

The Executive Order also requires that the agency's Sanctions Officer review sanctions motions filed against litigation counsel or against the agency or its officers. Motions filed against the Commission seeking sanctions under Fed. R. Civ. P. 37, other than for contempt, do not have to be submitted to the Sanctions Officer, but the field legal unit's LMS liaison attorney should be notified of motions seeking sanctions against the Commission under Rule 37(b)(2), (c), or (d). The legal unit should also notify OGC's Sanctions Officer of all other motions seeking sanctions against litigation counsel or the agency and of all motions for contempt against litigation counsel or the agency. Also, under OGC's separate guidance in Part 1, Section I.F. of the *Manual*, Regional Attorneys are required to notify the Sanctions Officer upon receipt of a letter from opposing counsel indicating an intention to seek sanctions.

OGC concurs with the statement in DOJ's interim guidelines that “[s]anctions motions should not be used as vehicles to intimidate or coerce counsel when the dispute can be resolved on a reasonable basis.” Further, Commission attorneys should not retaliate in kind when opposing counsel file frivolous sanctions motions. The best response to such conduct is to ensure that the court is aware of it and then continue to act responsibly in representing the Commission's interests.

#### 8. Improved Use of Litigation Resources

Section 1(f) of the Executive Order requires that litigation counsel “employ efficient case management techniques and . . . make reasonable efforts to expedite civil litigation in cases under that counsel's supervision and control.” The following directions from DOJ's interim guidelines apply to Commission attorneys: