

Memorandum

ATTORNEY GENERAL/DEPUTY ATTORNEY GENERAL ACTION



Subject Department policy with respect to appointment and use of special masters and with respect to consent decrees and settlement agreements	Date January 29, 1986
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To
Attorney General

From *SA*
Samuel A. Alito, Jr.
Deputy Assistant Attorney General
Office of Legal Counsel

Action Required:

Your signature on the attached policy guidelines correspondence.

Final Action By:

Due Date: _____

Attorney General

Deputy Attorney General

Previous Background Provided:

Summary:

The policy guidelines regarding the use of special masters set forth the Department's policy on this subject for the guidance of attorneys for the United States. The guidelines are designed to limit the appointment of special masters to a narrow range of cases in which the use of masters is appropriate.

The policy guidelines on consent decrees and special masters limit the authority of Department attorneys to enter into or approve consent decrees that invite the courts to enforce provisions that the court could not have ordered had the matter been litigated. In particular, the guidelines state that executive departments and agencies should not enter into consent decrees that require an agency to promulgate regulations, to obtain funding, or otherwise to divest itself of discretion committed it by Congress. Also restrictive guidelines are adopted with respect to settlement agreements.

Concurrences: DAG AAG OLC OLP OLA PAO JMD

Initials		NA		NA	NA		NA					
Date												

See Reverse For Instruction



U.S. Department of Justice
Office of Legal Counsel

Office of the
Deputy Assistant Attorney General

Washington, D.C. 20530

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: Proposed Attorney General's policy guidelines with respect to the use of special masters and with respect to consent decrees and settlement agreements.

Attached are two sets of proposed policy guidelines that were submitted to this Office for review with respect to form and legality. These guidelines set forth Department policy with respect to the use of special masters and with respect to consent decrees and settlement agreements.

This Office previously reviewed the proposed guidelines regarding consent decrees and settlement agreements. By memorandum dated October 25, 1985, the Office suggested that one portion of the guidelines be amended but otherwise approved the guidelines as to form and legality. We have reexamined the matter discussed in the October 25, 1985, memorandum and have concluded that the amendment suggested therein is not legally warranted. Accordingly, the original version of the proposed guidelines on consent decrees and settlement agreements is approved as to form and legality.

We have also reviewed the proposed guidelines on the use of special masters, and they are likewise approved as to form and legality.

Samuel A. Alito, Jr.

Samuel A. Alito, Jr.
Deputy Assistant Attorney General
Office of Legal Counsel

Attachments