



Stacy Garrity, Pennsylvania Treasurer

REQUEST FOR PROPOSALS FOR

GENERAL OBLIGATION BOND COUNSEL

ISSUING OFFICE

**Pennsylvania Treasury Department
Bureau of Support Services
Procurement Division
Room 3T-A, Finance Building
Harrisburg, PA 17120-0018**

RFP NUMBER

RFP22-001

DATE OF ISSUANCE

July 26, 2022

REQUEST FOR PROPOSALS (RFP)
FOR
GENERAL OBLIGATION BOND COUNSEL

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CALENDAR OF EVENTS

The Pennsylvania Treasury Department will make every effort to adhere to the following schedule:

Activity	Responsibility	Date
Issue of RFP22-001 posted to Treasury's website at www.patreasury.gov	Issuing Office	July 26, 2022
Deadline to submit Questions via email to: RFP22-001@patreasury.gov	Vendors	August 1, 2022
Answers to Potential Vendor questions will be sent to bond counsel pool and posted no later than this date.	Issuing Office	August 2, 2022
Proposals must be received by the Issuing Office electronically at RFP22-001@patreasury.gov ; the technical and cost proposals shall be provided to Treasury in two separate and clearly identifiable emails. The Vendors should be clearly identifiable in each email.	Vendors	August 4, 2022 by 5:00PM

PART I

GENERAL INFORMATION

I-1. Purpose

Consistent with Executive Order 2015-02, the purpose of this RFP is to invite law firms previously qualified, based upon their responses to a previously issued Request for Qualifications (“RFQ”), by the Pennsylvania Governor’s Office of General Counsel (“OGC”) and listed in the Bond Counsel Pool (any single law firm previously qualified a “Vendor” and all of the law firms in the Bond Counsel Pool the “Vendors”) to prepare and submit proposals to enable the Pennsylvania Treasury Department (“Treasury”) to select for contracting within the Commonwealth of Pennsylvania to serve as bond counsel for the Commonwealth’s anticipated debt issuance pursuant to the Capital Budget Act of 2021-2022, Act of May 26, 2022 (P.L. 73, No. 21), by November 4, 2022 in the par amount of \$1 billion (“the Bond Issue”). This RFP is being issued in conformance with Section 518 of the Commonwealth Procurement Code. 62 Pa.C.S. § 518.

I-2. Scope

Treasury intends to select qualified bond counsel to serve as bond counsel for the Bond Issue regarding the validity of the Bond Issue, the sufficiency of security, the extent to which the Bond Issue is exempt from income and other taxation, and that all legal and tax requirements relevant to the Bond Issue are satisfied.

This RFP contains instructions governing the requested proposals, including the requirements for the information and material to be included in any submission.

I-3. Issuing Office

Treasury is the "Issuing Office" which should be the sole point of contact for this RFP. Please refer all inquiries to the Issuing Officer by email at RFP22-001@patreasury.gov.

I-4. Service Requirement / Need

Treasury is seeking proposals to procure bond counsel services for the Bond Issue by the Commonwealth. Proceeds of the Bond Issue are expected to be used to finance various Commonwealth-approved capital projects and voter-approved projects of the Commonwealth.

I-5. Questions and Answers

Vendors must submit questions by email (with the subject line **RFP22-001 Questions**) to the Issuing Officer. The Vendor shall not attempt to contact the Issuing Office by any other means. Given the brevity of the response period for the RFP, the Issuing Office cannot commit to reply to all questions that may be submitted. The Issuing Office shall attempt to provide as promptly as feasible answers to questions that, in the judgment of the Issuing Office, will enhance the ability of all Vendors to provide responsive and competitive proposals. Questions posed closer to the date established for the submission of proposals are less likely to be answered. The Issuing Office will send by email a copy of questions and corresponding answers to every Vendor.

I-6. Pre-proposal Conference

There will be no pre-proposal conference.

I-7. Contracting Terms and Conditions

If the Issuing Office selects a Vendor as a result of this RFP, then the Vendor and the Commonwealth will sign the standard Office of General Counsel legal services contract without any edits or changes if selected.

The Issuing Office, in its sole discretion, may select for negotiations Vendors whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the services described in this RFP.

I-8. Electronic Version of RFP

The Issuing Office is making official distribution of this RFP by providing it via email to each law firm that has been pre-qualified by the Office of General Counsel in the bond counsel pool, as of the date of this RFP. A copy of the RFP will also be made available on Treasury's website (www.patreasury.gov). The Vendor acknowledges and accepts full responsibility to ensure that its proposal responds to the RFP as emailed to it, as amended, if at all, by subsequent emails. In the event of a conflict between a version of the RFP in the Vendor's possession and the Issuing Office's final version of the RFP, the Issuing Office's final version shall govern.

I-9. Addenda to RFP

If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will email updated documents to the Vendors.

I-10. Response Date

To be considered, each vendor must deliver via email to RFP22-001@patreasury.gov separately by August 4, 2022:

- i) Technical Submittal, which will include Appendix A and C, and
- ii) Cost Submittal, which will also include Appendix A and C

Therefore, one email will contain the law firm's technical and another email will contain the same law firm's cost submittal. The emails to the Issuing Office must be submitted on or before the time and date specified in the RFP Calendar of Events. The date and time assigned by the Issuing Office's email system will be the date and time used to determine timeliness of submission.

I-11. Incurring Costs

The Issuing Office is not liable for any costs the Vendor incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.

I-12. Economy of Preparation

Vendors should submit proposals that are simple and economical, providing a straightforward, concise description of the Vendor's ability to meet the requirements of the RFP.

I-13. Proposal Contents

- a. Confidential Information. Treasury is not requesting, and does not require, confidential proprietary information or trade secrets to be included as part of Vendors' submissions in order to evaluate proposals submitted in response to this RFP. Accordingly, except as provided herein, Vendors should not label proposal submissions as confidential, proprietary, or trade-secret protected. Any Vendor who determines that it must divulge such protected information as part of its proposal must follow all of the procedures described below:
- (1) Prepare an un-redacted version of the appropriate document.
 - (2) Prepare a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret.
 - (3) Prepare a signed written statement that states:
 - i) The attached document contains confidential or proprietary information or trade secrets;
 - ii) The Contractor is submitting the document in both redacted and un-redacted format in accordance with 65 P.S. § 67.707(b); and
 - iii) The Contractor is requesting that the document be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests.
 - (4) Submit the two documents along with the signed written statement to Treasury.
 - (5) Acknowledge that the information may be subject to the Right-to-Know Law.
- b. Treasury and Office of General Counsel Use. All material submitted with the proposal shall be considered the property of Treasury and may be returned only at the Issuing Office's option. Treasury and the Office of General Counsel have the right to use any or all ideas not protected by intellectual property rights that are presented in any proposal regardless of whether the proposal becomes part of a contract. Notwithstanding any Vendor copyright designations contained on proposals, the Treasury and the Office of General Counsel shall have the right to make copies and distribute proposals internally and to comply with public record or other disclosure requirements under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.
- c. Public Disclosure. After the award of a contract pursuant to this RFP, all proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Right-to-Know-Law, 65 P.S. § 67.101, *et seq.* If a proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests.

I-14. Vendor's Representations and Authorizations

By submitting its proposal, each Vendor understands, represents, and acknowledges that:

- a. All of the Vendor's information and representations in the proposal are material and important, and the Issuing Office may rely upon the contents of the proposal in making an award. The Treasury shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the proposal submission, punishable pursuant to 18 Pa. C.S. § 4904.

- b. The Vendor has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Vendor or potential Vendor. This provision has no application to those Vendors who partner to provide a comprehensive solution.
- c. The Vendor has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is a Vendor or potential Vendor for this RFP, and the Vendor shall not disclose any of these items on or before the proposal submission deadline specified in the Calendar of Events of this RFP.
- d. The Vendor has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal to this RFP, or to submit a proposal higher than its proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
- e. The Vendor makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
- f. To the best knowledge of the person signing the proposal for the Vendor, the Vendor, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last **four (4)** years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as the Vendor has disclosed in its proposal.
- g. To the best of the knowledge of the person signing the proposal for the Vendor and except as the Vendor has otherwise disclosed in its proposal, the Vendor has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Vendor that is owed to the Commonwealth.
- h. The Vendor is not currently under suspension or debarment by the Commonwealth, any other State or the Federal government, and if the Vendor cannot so certify, then it shall submit along with its proposal a written explanation of why it cannot make such certification.
- i. The Vendor has not made, under separate contract with the Issuing Office, any recommendations to the Issuing Office concerning the bond counsel services for the Bond Issue described in this proposal.
- j. Each Vendor, by submitting its proposal, authorizes Commonwealth agencies to release to the Issuing Office information concerning the Vendor's Pennsylvania taxes, unemployment compensation and workers' compensation liabilities.
- k. Until the selected Vendor receives a fully-executed contract from the Commonwealth, there is no legal and valid contract, in law or in equity, and the Vendor shall not begin to perform.

I-15. Restriction of Contact

From the issue date of this RFP until the Issuing Office selects a proposal for award, the Issuing Office is the sole point of contact concerning this RFP. Any violation of this condition may be cause for the Issuing Office to reject the offending Vendor's proposal. If the Issuing Office later discovers that the Vendor has engaged in any violations of this condition, the Issuing Office may reject the offending Vendor's proposal or rescind its contract award pursuant to terms and conditions.

Each Vendor that submits a proposal in response to this RFP agrees, as a condition of submitting the proposal, not to distribute any part of its proposal beyond the Issuing Office. A Vendor who shares

information contained in its proposal with other Treasury personnel, the Office of General Counsel, a competing Vendor, or any other person may be disqualified.

I-16. Vendor Responsibilities

The selected Vendor must assume responsibility for all services of being bond counsel. The Issuing Office and Office of General Counsel will consider the selected Vendor to be the sole point of contact with regard to contractual and contract matters.

I-17. Rejection of Proposals

The Issuing Office reserves the right, in its sole and complete discretion, to reject any or all proposals received in response to this RFP, or to negotiate separately with competing Vendors.

I-18. Discussion for clarifications

Vendors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and Vendor responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification.

I-19. Notification of Selection

The Issuing Office will notify the selected Vendor in writing of its selection after the Issuing Office has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Commonwealth. After selection and Treasury's notification to the Vendor, the Vendor will be contacted by the Office of General Counsel regarding the contract engagement.

I-20. Contract

Upon the successful completion of negotiations, the Office of General Counsel will issue an appointment letter to the selected vendor, along with the executed legal services contract. The effective date of the contract will be set by the legal services contract after it has been fully executed by the selected vendor and all approvals required by Commonwealth contracting procedures have been obtained.

I-21. Debriefing Conferences

Vendors whose proposals are not selected will be notified of the name of the selected Vendor and given the opportunity to be debriefed. The Issuing Office will schedule the time and location of the debriefing. The debriefing will not compare the Vendor with other Vendors, other than the position of the Vendor's proposal in relation to all other Vendor proposals. A Vendor's exercise of the opportunity to be debriefed does not constitute the filing of a protest.

I-22. New Releases

Vendors shall not issue news releases, internet postings, advertisements or any other public communications pertaining to the Bond Issue without prior written approval of the Office of the Budget, and then only in coordination with the Office of the Budget.

I-23. – Signatures

Electronic signatures will be accepted in accordance with Pennsylvania law.

PART II
PROPOSAL SUBMISSION REQUIREMENTS

II-1. General Requirements

To be considered, the proposal must respond to all requirements in this part of the RFP and must be part of the Office of General Counsel's bond counsel pool. Vendors should provide any other information thought to be relevant, but not applicable to the enumerated categories, as an appendix to the Proposal. All cost data relating to this proposal should be kept separate from and not included in the Technical Submittal. The Issuing Office may, in its sole discretion, reject any Proposal that includes cost data in its Technical Submittal or, if it determines it to be in the best interests of the Commonwealth, redact cost data from the Technical Submittal in order to allow the Evaluation Committee to evaluate it without knowledge of the cost data.

Each Proposal shall consist of **two** (2) separate submittals:

- a. Technical Submittal, which shall be a response to **RFP22-001**
- b. Cost Submittal, in response to **RFP22-001**.

The Issuing Office reserves the right to request additional information which, in the Issuing Office's opinion, is necessary to assure that the Vendor's competence, business organization, and financial resources are adequate to deliver the RFP requirements.

The Issuing Office in consultation with the Office of General Counsel may make investigations as deemed necessary to determine the ability of the Vendor to deliver and support the solution, and the Vendor shall furnish to the Issuing Office all requested information and data. The Issuing Office reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Vendor fails to satisfy the Issuing Office that such Vendor is properly qualified to carry out the services described in this RFP.

II-2. Technical Submittal

The technical submittal requires the following:

- i. The Vendor shall Submit the names and resumes of the attorneys and staff the lead firm proposes to assign to the engagement, and their roles on the engagement. All attorneys proposed for the work must be admitted to practice in Pennsylvania and in good standing with the Supreme Court of Pennsylvania.
- ii. A list of bond transactions undertaken by the firm in the last 5 years. The list should denote if the proposed bond team was part of those transaction.
- iii. Submit the names and resumes of attorneys from small diverse law firms (SDB), or veteran-owned law firms (VBE), or both, that would serve with the lead firm as co-counsel on the engagement, and the roles or work that the SDB's/VBE firm would perform for the engagement.

- iv. Provide a signed Appendix C – Certification.

III-3. Cost Submittal

The Cost Submittal shall be emailed in an email separate from the technical submittal and appropriately labelled.

Vendors may only submit a single flat rate price proposal for all work to be performed by all attorneys (including co-counsel, SDB firm(s), and veteran firm(s)) for the engagement. Hourly rates, discounts, breakouts, breakdowns between participant firms, additional costs imposed for research or for travel by attorneys, or any another additional costs will not be accepted, and any vendor who includes such information in its price quote will be disqualified. Only a single, all-inclusive, pay-one-price quote will be accepted.

Please note anything that is other than a single flat rate price proposal will be rejected. A signed Appendix C – Certification must also be included with Cost Submission.

PART III **CRITERIA FOR SELECTION**

III-1. Mandatory Responsiveness Requirements

To be eligible for selection, a proposal must be:

- a. Timely received from the Vendor;
- b. Properly signed by the Vendor; and
- c. Appendix C - Certification must be enclosed with both the Technical and Cost Submissions.

III-2. Nonconforming Proposals

The Issuing Office reserves the right, in its sole discretion, to waive technical or immaterial nonconformities in a Vendor's proposal.

III-3. Evaluation Committee

Proposals will be reviewed and evaluated by a committee of qualified personnel selected by the Commonwealth. This committee will recommend for selection the proposal which it determines is the most advantageous to the Commonwealth after considering all of the evaluation factors.

III-4. Criteria for Selection

The technical submittal will be evaluated based on the Vendor's qualifications, experience, staffing, and competency, and its ability to perform the bond counsel services for the Bond Issue.

The cost submittal will be evaluated based on the total cost of the fee proposed by vendor to perform bond counsel services for the Bond Issue.

III-5. Vendor Responsibility

To be responsible, a Vendor must submit a responsive proposal and possess the capability to fully perform as bond counsel for the Bond Issue in all respects and the integrity and reliability to assure good faith performance of the contract, and shall not have any conflicts that prevent it from fully performing as bond counsel for the Bond Issue. The Issuing Office will award a contract only to a Vendor determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, Contractor Responsibility Program.

LIST OF ATTACHMENTS & APPENDICES

Section	Title	Description
Appendix A	Proposal Cover Sheet	
Appendix B	Form of Legal Services Contract	
Appendix C	Certification	

Appendix A
PROPOSAL COVER SHEET
PENNSYLVANIA TREASURY DEPARTMENT
RFP22-001

To be emailed with each email submission to RFP22-001@patreasury.gov

This sheet shall be enclosed with the Technical and Cost Proposals submissions:

Vendor Information:	
Vendor Name	
Vendor Mailing Address	
Vendor Website	
Vendor Contact Person	
Contact Person's Phone Number	
Contact Person's Facsimile Number	
Contact Person's E-mail Address	
Vendor Federal ID Number	

Please check the submittal include in this email:	
<input type="checkbox"/>	Technical Submittal
<input type="checkbox"/>	Cost Proposal

<i>Signature</i>	
Signature of an official Authorized to bind the Vendor to the provisions contained in the Vendor's proposal:	
Printed Name:	
Title:	

Appendix B

Document Number: _____

CONTRACT FOR LEGAL SERVICES

This Contract for Legal Services (“Contract”), entered into as of the **DATE** by and between **NAME OF FIRM**, hereinafter called the “Law Firm” and the Commonwealth of Pennsylvania, acting by and through the **NAME OF DEPARTMENT**, hereinafter called the “Department.”

WHEREAS, the Department has a need for professional and specialized legal services to represent the Department in matters described in Appendix A; and

WHEREAS, the Law Firm was chosen following a competitive procurement pursuant to Executive Order 2015-02 and Section 518 of the Commonwealth Procurement Code, with fair and reasonable compensation having been negotiated, and the Law Firm has agreed to perform such professional and specialized legal services.

NOW, THEREFORE, the Department and the Law Firm, with the intention of being legally bound, hereby agree as follows:

1. Definitions. The following definitions shall apply when used in this Contract:
 - a. “General Counsel” shall mean the Governor’s General Counsel, who serves as chief legal advisor to the Governor and supervises, coordinates, and administers the legal services for each Executive Agency pursuant to the Commonwealth Attorneys Act (71 P.S. §§ 732-101 *et seq.*), or his designee.
 - b. “Department” shall mean the **NAME OF DEPARTMENT**, a governmental entity of the Commonwealth of Pennsylvania under the Governor’s jurisdiction. The **NAME OF DEPARTMENT** Office of Chief Counsel shall serve as the main contact for all references to “Department” in this Contract.
 - c. “Effective Date” shall mean: a) the date the Contract has been fully executed by the Law Firm and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained or b) the date referenced in the Contract, whichever is later or c) in cases where OGC has determined an emergent need for counsel as provided below, the date on the Notice to Proceed. The Contract shall not be a legally binding contract until after a copy of the fully-executed Contract and a Notice to Proceed have been sent to the Law Firm except as otherwise provided for urgent services noted below.
 - d. “Notice to Proceed” shall mean a written notice sent to the Law Firm stating that the contract has been fully executed and that the Law Firm may commence performance, or an appointment letter indicating an immediate need to begin work with the permission of the Office of

General Counsel as provided below. The Department shall send a Notice to Proceed to the Law Firm either via U.S. Mail or via email, and the Department shall send a fully executed copy of the contract with the notice to proceed.

e. “Guidelines” shall mean the Retention Guidelines for Outside Counsel promulgated by the Office of General Counsel (“OGC”), setting forth OGC policies and procedures. The Guidelines are attached to this Contract as Appendix I and are incorporated into this Contract as if set forth fully herein. In case of a conflict between this Contract and the Guidelines, the Contract shall control.

2. Services. The Law Firm shall perform the services described in Appendix A of this Contract.

3. Compensation. The Law Firm shall be compensated by the Department for the services contracted in accordance with the provisions established in Appendices B and C of this Contract.

4. Term of Contract.

a. The term of this Contract shall commence on the Effective Date and shall end on **DATE** subject to the other provisions of this Contract.

b. Except as otherwise specifically provided for herein, the Commonwealth of Pennsylvania, including the Department, shall not be liable to pay the Law Firm for any services or work performed or expenses incurred before the Effective Date of the Contract.

c. With the approval of the General Counsel, the Department and the Law Firm may extend the term of this Contract at any time during the term of the Contract or any renewals or extensions thereof pursuant to paragraph 9 of this Contract.

d. If the services to be provided by the Law Firm hereunder have been approved by the Office of General Counsel as an emergency procurement until full execution of this Contract, the Law Firm may provide these services based upon such emergency approval. The approval to begin working immediately due to such urgent need will be set forth in the appointment letter (Notice to Proceed) to the Law Firm. Upon full execution of this Contract, all services provided during the period between the date of emergency approval in the appointment letter and the Effective Date of the Contract shall be merged into and covered by the terms of this Contract.

5. Billing. The Law Firm shall submit monthly invoices to the Department for services performed during each billing period. Invoices shall be forwarded to the following contact and address:

NAME OF CHIEF COUNSEL
OFFICE OF CHIEF COUNSEL
NAME OF AGENCY
ADDRESS

a. Each invoice shall be under cover of a letter on law firm letterhead and will include a listing of the services performed by attorneys and other professionals by date, by hours worked and by rate. The following information must be included on all invoices. Failure to include this information will result in return of the invoice and a request for a new invoice:

The following Law Firm information must be included on all invoices:

- Firm name
- Firm's relationship manager and e-mail address
- Firm's address
- Firm's telephone number
- Firm's invoice number
- Firm's file number or matter number (if applicable)

Invoice should be directed to and include the following information:

- Date of invoice
- Name of Chief Counsel (or their designee)
- Agency
- Agency's address
- RFP number
- Contract number
- Funds Commitment number (if applicable)
- Specific matter or project name for which services were performed (only one per invoice, even if the contract is being used for more than one matter)
- Service dates (i.e, start and end dates for services covered by invoice)
- Total fees for professional services rendered regarding invoice
- Total expenses incurred regarding invoice
- Prior balance due (if applicable)
- Total amount due

b. The amount shown on each invoice for labor costs shall be in accordance with the rates set forth in Appendix B of this Contract.

c. The invoices shall also list non-labor costs such as those incurred for travel, food, and lodging, as described in Appendix C of this Contract.

d. The Department agrees to pay the Law Firm for travel, meal costs, and lodging costs for which supporting documentation is provided, in reasonable amounts incurred in connection with performance of services under the Contract, as described in Appendix C of this Contract.

e. The Department will use its best effort to make payments on invoices within 45 days of their receipt, in final form.

f. All invoices shall contain a statement that reads substantially as follows:

The Law Firm hereby certifies that the services supplied and expenses incurred, as stated in the attached invoice, have met all of the required standards set forth in the Contract for Legal Services.

g. All invoices or accompanying letters of transmittal shall be signed by the Law Firm and shall set out the Law Firm's federal employer identification number.

h. Separate and apart from the invoice, the Law Firm shall include a progress report with itemized detail regarding the engagement, including tasks performed and time spent.

6. Consultation. The Law Firm shall consult with and keep the General Counsel and the Department fully informed as to the progress of all matters covered by this Contract. The Law Firm shall consult and cooperate with, and shall be responsible directly to, the General Counsel, the Department, and other officials as designated by the General Counsel on all matters of strategy and tactics. The duty of the Law Firm shall be to advise, counsel, and recommend actions to the Department and the General Counsel or the other officials designated by him, and to carry out to the best of its ability their directions. The Law Firm will not make any offer, settlement, or compromise without the written consent of the General Counsel. The Law Firm shall offer the General Counsel the opportunity to review court documents and briefs prior to filing. The Law Firm shall promptly furnish the General Counsel with copies of all correspondence and all court documents and briefs prepared in connection with the services rendered under this Contract and such additional documents as may be requested. Upon notification of its availability by the General Counsel, the Law Firm shall make all of its work product prepared in connection with the services rendered under this Contract, and other parties' pleadings, discovery, correspondence, and other relevant documents and materials, available to the General Counsel via the OGC LawNet extranet in PDF or other format acceptable to the General Counsel.

7. Subcontracting, Key Personnel, and Experts. Subcontracting, assignment, or transfer of all or part of the interest of the Law Firm in this Contract or in the work covered by this Contract is prohibited without the prior written approval of the General Counsel. In the event such consent is given, the terms and conditions of this Contract shall apply to and bind the party or parties to whom such work is subcontracted, assigned, or transferred as fully and completely as the Law Firm is hereby bound and obligated and the Law Firm shall obtain written acknowledgement thereof from all subcontractors and experts so engaged. The Law Firm, with respect to any replacement of key personnel assigned to this matter, shall consult with the Department. The Department's consent to the proposed assignment is required and may not be withheld unreasonably. Notwithstanding the foregoing, the Law Firm may, with the prior written approval of the General Counsel, engage experts in various fields related to the subject matter of this Contract to assist the Law Firm in the performance of its services under this Contract. The hourly rates, fees, or other compensation to be paid to such experts shall also be subject to the approval of the General Counsel. Approved compensation of such experts, as incurred, shall be included in the Law Firm's invoices presented pursuant to the provisions of paragraph 5 of this Contract, without addition, surcharge, or increase by the Law Firm of the actual fees billed to the Law Firm by such experts. The terms and conditions of this Contract including, but not limited to, the provisions of Appendix C, shall apply to and bind the subcontractors or experts engaged as fully and completely as the Law Firm is hereby bound and obligated and the Law Firm shall

obtain written acknowledgement thereof from all subcontractors or experts so engaged.

8. Ownership Rights. All documents, data, and records produced by the Law Firm and any experts in carrying out the obligations and services hereunder, without limitation and whether preliminary or final, are and shall become and remain the property of the Commonwealth.

a. The Commonwealth shall have the right to use all such documents, data, and records without restriction or limitation and without additional compensation to the Law Firm and any experts and the Law Firm and any experts shall have no right or interest therein.

b. Upon completion of the services hereunder or at the termination of this Contract, all such documents, data, and records shall, if requested by the General Counsel or the Department, be appropriately arranged, indexed, and delivered to the General Counsel or the Department by the Law Firm.

c. Any documents, data, and records given to or prepared by the Law Firm and any subcontractors or experts under this Contract shall not be made available to any individual or organization by the Law Firm or any subcontractors or experts without the prior approval of the General Counsel. Any information secured by the Law Firm and any subcontractors or experts from the Commonwealth in connection with carrying out the services under this Contract shall be kept confidential unless disclosure of such information is approved in writing by the General Counsel or is directed by a court or other tribunal of competent jurisdiction.

d. Notwithstanding the provisions of paragraph 8 of this Contract, the Law Firm may retain copies of documents delivered to the General Counsel or to the Department.

9. Modification or Changes. With the approval of the General Counsel, the Department and the Law Firm may make modifications to this Contract at any time during the term of the Contract or any renewals or extensions thereof. Changes regarding funding of a Contract that refers to the total estimated amount of the Contract as set forth in paragraph 3 may be accomplished via a funding adjustment pursuant to Commonwealth procedures. Changes regarding funding of a Contract that states an amount not to exceed as set forth in paragraph 3, or a change in Contract length, may be accomplished by a letter of mutual consent signed by the Department and the Law Firm. All other changes to contract terms, including changes in the scope of work, must be incorporated into a formal written amendment to this Contract, signed by both parties, and executed in the same manner as this original Contract and in accordance with applicable law.

10. Conflict of Interest. The Law Firm represents and warrants that it has no conflicting representation that has not been fully disclosed to and waived by the General Counsel and shall not undertake any representation that conflicts with the performance of the services or obligations under this Contract unless such conflicting representation has been fully disclosed to and waived by the General Counsel. Any conflicting representation shall be promptly disclosed to the General Counsel. The General Counsel shall determine whether such conflict is cause for termination of this Contract. The process for obtaining conflict waivers is more fully described in the Office of General Counsel Conflict Waiver Procedure, which is attached as Appendix D of

this Contract.

11. Inability to Perform. The Law Firm agrees that if, because of death or any other occurrence beyond the control of the Law Firm, it becomes impossible for any principal or principals and, in particular, the principals assigned to this project, to render the services set forth in this Contract, neither the Law Firm nor the surviving principals shall be relieved of their obligations to complete performance hereunder. The Law Firm shall, with respect to any replacement principal proposed to be assigned to this matter, consult with the General Counsel. The General Counsel's consent to the proposed replacement is required and may not be withheld unreasonably.

12. License to Appear. The Law Firm represents and warrants that attorneys involved in this representation are duly licensed and in good standing to practice before the judicial forum, court, board, or tribunal before which they will appear or practice on behalf of the Commonwealth. The Law Firm, subject to approval by the General Counsel, may obtain a subcontractor to act as co-counsel where appearance by the Department is required in a forum or jurisdiction where its attorneys are not licensed to practice, provided, however, that the firm's use of the subcontractor in that circumstance is subject to paragraph 7 of this Contract.

13. Independent Contractor. In performing the services required by this Contract, the Law Firm will act as an independent contractor and not as an employee or agent of the Commonwealth.

14. Termination Provisions. The Commonwealth has the right to terminate this Contract for any of the following reasons. Termination shall be effective upon written notice to the Law Firm.

a. Termination for Convenience. The Commonwealth shall have the right to terminate this Contract for its convenience if the Commonwealth determines termination to be in its best interest. The Law Firm shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Law Firm be entitled to recover loss of profits.

b. Non-Appropriation. The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate this Contract. The Law Firm shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under this Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.

c. Termination for Cause. The Commonwealth shall have the right to terminate this Contract for Law Firm default upon written notice to the Law Firm. The Commonwealth shall also have the right, upon written notice to the Law Firm, to terminate the Contract for other cause as specified in this Contract or by law. If it is later determined that the Commonwealth

erred in terminating the Contract for cause, then, at the Commonwealth's discretion, the Contract shall be deemed to have been terminated for convenience under Subparagraph 14.a.

15. Integration Clause. This Contract, including all referenced documents, constitutes the entire agreement between the parties. Terms used in appendices hereto shall have the same meanings as are ascribed thereto in this Contract unless otherwise defined therein. No agent, representative, employee, or officer of either the Commonwealth or the Law Firm has authority to make, or has made, any statement, agreement, or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to, detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished pursuant to paragraph 9 of this Contract.

16. Nondiscrimination/Sexual Harassment. The Law Firm shall comply with all applicable provisions of state and federal constitutions, laws, regulations, and judicial orders pertaining to nondiscrimination, sexual harassment, and equal employment opportunity, including the provisions of the Nondiscrimination/Sexual Harassment Clause, which is attached hereto as Appendix E and incorporated by reference.

17. Integrity Provisions. The Law Firm agrees to comply with the Integrity Provisions, which are attached hereto as Appendix F and incorporated by reference.

18. Responsibility Provisions. The Law Firm agrees to comply with the Responsibility Provisions, which are attached hereto as Appendix G and incorporated by reference.

19. The Americans With Disabilities Act. The Law Firm agrees to comply with The Americans With Disabilities Act Provisions, which are attached hereto as Appendix H and incorporated by reference.

20. Enhanced Minimum Wage Provisions. The Law Firm agrees to comply with the Enhanced Minimum Wage Provisions, which are attached hereto as Appendix J and incorporated by reference.

21. Audit Provisions. The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents, and records of the Law Firm to the extent that the books, documents, and records relate to fees, costs, or pricing data for this Contract. The Law Firm agrees to maintain records that will support the fees charged and costs incurred for this Contract.

The Law Firm shall preserve books, documents, and records that relate to fees, costs, or pricing data for this Contract for a period of three years from the date of final payment hereunder. The Law Firm shall give full and free access to all records to the Commonwealth and/or its authorized representatives.

22. Offset Provision. The Law Firm agrees that the Commonwealth may set off the

amount of any state tax liability or other obligation of the Law Firm or its subsidiaries to the Commonwealth against any payments due the Law Firm under any contract with the Commonwealth.

23. Indemnity. The Law Firm shall indemnify and defend the Commonwealth from and against any and all claims, demands, actions, liabilities, losses, costs, and expenses, including but not limited to reasonable attorneys and other fees, asserted by third parties (“Claims”), which Claims are caused by or arise from injuries or damages sustained by such third parties resulting or arising from any negligent act or omission or intentionally wrongful act of the Law Firm or any of its officers, agents, employees and/or representatives in relation to professional services provided to the Commonwealth by the Law Firm under this Contract. This indemnity provision shall not apply to Claims for which payment is available under the Law Firm’s professional liability insurance policies.

24. Insurance. The Law Firm represents and warrants that it carries malpractice insurance in the amount usual and customary for firms of its size and practice areas, subject to normal deductibles, and covenants that it will maintain such coverage throughout its representation of the Commonwealth.

25. Notice. Any written notice to the Department under this Contract shall be deemed sufficient if delivered to the Department personally, or by facsimile, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., United Parcel Service, FedEx, etc.), with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, sent to the address set forth below or to such other address as such party may designate by notice given pursuant to this section:

NAME OF CHIEF COUNSEL
CHIEF COUNSEL
NAME OF AGENCY
ADDRESS

with a copy to:

The Honorable Gregory G. Schwab
General Counsel
225 Main Capitol Building
Harrisburg, Pennsylvania 17120-0020

Any written notice to the Law Firm under this Contract shall be deemed sufficient if delivered to the Law Firm personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., UPS, FedEx, etc.), with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, sent to the address set forth below or to such other address as such party may designate by notice given pursuant to this section:

FIRM CONTACT PERSON
NAME OF FIRM

ADDRESS

26. Contract Controversies. In the event of a controversy or claim arising from this Contract, the Law Firm must, within six months after the cause of action accrues, file a written notice of the controversy or claim with the General Counsel for a determination. The General Counsel shall send a written determination to the Law Firm. The decision of the General Counsel shall be final and conclusive unless, within 15 days after receipt of such written determination, the Law Firm files a claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Law Firm shall proceed diligently with the performance of this Contract in a manner consistent with the interpretation of the General Counsel, and the Commonwealth shall compensate the Law Firm pursuant to the terms of this Contract.

27. Applicable Law. This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Law Firm consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Law Firm agrees that any such court shall have *in personam* jurisdiction over it and consents to service of process in any manner authorized by Pennsylvania law.

[The remainder of this page is intentionally blank.]

IN WITNESS WHEREOF, the Commonwealth of Pennsylvania, acting by and through the **NAME OF DEPARTMENT**, and **NAME OF FIRM**, have caused this Contract to be executed on the date and year first above written.

NAME OF FIRM

COMMONWEALTH OF PENNSYLVANIA,
acting by and through the
NAME OF DEPARTMENT

By: _____

By: _____

Title: _____

NAME
Chief Counsel

Date: _____

Date: _____

Federal Employer ID #: _____

APPROVED BY COMPTROLLER OPERATIONS

Comptroller Operations

Date

APPENDIX A
DESCRIPTION OF SERVICES

APPENDIX B
BILLING RATE INFORMATION

APPENDIX C COMPENSATION

The Department shall pay the Law Firm for the services under this Contract and reimbursement of the Law Firm's eligible costs. The Contract provides for compensation of the Law Firm's fees and costs up to the amount of \$AMOUNT. Payments of additional amounts may be made, and continued performance by the Law Firm will be required pursuant to paragraph 9 of this Contract.

1. The Law Firm shall be reimbursed for all reasonable, actual, direct labor costs incurred in fulfilling the terms of this Contract in accordance with the rates established in paragraphs 3 and 5 and Appendices B, C, and I of this Contract.

2. The Law Firm shall be reimbursed for all reasonable, actual, ordinary, and necessary direct non-labor costs incurred in fulfilling the terms of this Contract, subject to specific limitations such as those set forth in the Guidelines and paragraph 5 of this Contract including, but not limited to, the following:

a. Reasonable, actual, ordinary, and necessary expenses for travel, meals, and lodging incurred by the Law Firm to fulfill the Law Firm's obligations under this Contract. The Law Firm shall retain all receipts thereof and shall provide copies to the Department if requested. Mileage reimbursement shall be made in accordance with the travel regulations applicable to the Commonwealth for the use of personally owned motor vehicles. Expenses for lodging and meals shall be reimbursed at rates limited to the single-occupancy rate at the nearest Holiday Inn or other major moderately priced hotel or motel chain and the amount of reimbursement for meals shall be limited to the price of a moderately-priced meal at that hotel or motel. No reimbursement shall be allowed for any alcoholic beverages.

b. Reasonable, actual, ordinary, and necessary expenses for:

(1) Communications, including telephone, facsimile transmissions, telegraph, postage, parcel post, and freight and package express;

(2) Photocopies made by the Law Firm "in house," to be reimbursed at the maximum rate of \$.15 per page;

(3) Other reproduction costs (including, but not limited to, photographs, photocopies, prints, and offset work); and

(4) Document control and analysis contracted for with outside firms.

The Law Firm shall retain all receipts thereto and shall, upon request of the Department, provide any necessary documentation.

c. Reasonable, actual, ordinary, and necessary expenses for other specific materials required for and used solely in the fulfillment of this Contract. The Law Firm shall retain all

receipts thereto and shall, upon request of the Department, provide any necessary documentation.

3. Travel, meals, lodging, and other direct non-labor costs which the Law Firm expects to incur under this Contract outside of the Commonwealth of Pennsylvania, with the exception of telephone, mailing, and other similar communication expenses, shall require the prior approval of the General Counsel, which approval shall not be unreasonably withheld. Prior approval by the General Counsel of travel to be undertaken by the Law Firm outside of the Commonwealth of Pennsylvania as an incident of the Law Firm's performance of services under this Contract shall constitute approval for the Law Firm to incur reasonable, actual, ordinary, and necessary expenses for travel, meals, lodging, and other ordinary and necessary direct non-labor costs. The Law Firm shall retain all receipts and shall, upon request of the Department, provide any necessary documentation.

4. The Law Firm shall require approval by the General Counsel before incurring any extraordinary or unusual expenses.

5. The Law Firm shall advise the General Counsel and the Department when direct labor and other costs reach 50% of the amount initially encumbered for performance of this Contract and also 50% of any amount encumbered by any amendment.

APPENDIX D
OFFICE OF GENERAL COUNSEL CONFLICT WAIVER PROCEDURE
(January 2021)

1. OGC’s standard Contract for Legal Services requires the lawyer or law firm (hereinafter “law firm”) to disclose promptly any conflicting representation, unless it has been otherwise waived. (See the attached paragraph from the Contract for Legal Services.) Failure to disclose a conflict or undertaking a conflicting representation without obtaining a waiver is cause for termination of the contract.
2. The law firm’s request for a waiver shall be submitted in writing to the Chief Counsel of each agency the law firm represents, with a contemporaneous copy to the Deputy General Counsel responsible for outside counsel management. Requests shall be in letter form, and should be sent electronically in PDF format to ogc-outsidecounsel@pa.gov.
3. The waiver request shall:
 - a. Identify all existing representations of Commonwealth agencies;
 - b. Describe the nature of the conflict;
 - c. Set forth the measures the law firm will take to protect the Commonwealth, its agencies, officials or employees from any prejudice or detriment if the conflict is waived; and
 - d. State that the other party the law firm represents or seeks to represent has granted a waiver (or a waiver has been sought, and if sought, a second written notice of the granting of such waiver shall be provided).
4. Each affected Chief Counsel shall analyze the request and submit his or her recommendation to approve or disapprove the request to the Deputy General Counsel, with supporting legal analysis, including any applicable references to the Rules of Professional Conduct.
5. The General Counsel or, upon designation, the Deputy General Counsel responsible for outside counsel management, will make all waiver decisions and issue a letter to the law firm approving or disapproving the waiver request.
6. The decision in a matter shall not be binding on the General Counsel with respect to future matters unless the General Counsel so states.
7. Each affected Chief Counsel will receive a copy of the General Counsel’s letter.
8. A file for each waiver request and the resolution of each request will be maintained in the Office of General Counsel.

Conflict of Interest Provision

Conflict of Interest. The Law Firm represents and warrants that it has no conflicting representation that has not been fully disclosed to and waived by the General Counsel and shall not undertake any representation that conflicts with the performance of the services or obligations under this Contract unless such conflicting representation has been fully disclosed to and waived by the General Counsel. Any conflicting representation shall be promptly disclosed to the General Counsel. The General Counsel shall determine whether such conflict is cause for termination of this Contract.

APPENDIX E
NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE
(dated August 2018)

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
3. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the contract.
4. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the *Public Employee Relations Act*, *Pennsylvania Labor Relations Act* or *National Labor Relations Act*, as applicable and to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.
5. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
6. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
7. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and

policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report (“EEO-1”) with the U.S. Equal Employment Opportunity Commission (“EEOC”) and shall file an annual EEO-1 report with the EEOC as required for employers’ subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

8. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.

9. The Contractor’s and each subcontractor’s obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

10. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

APPENDIX F
INTEGRITY PROVISIONS
(dated 1/14/15)

1. For purposes of these Integrity Provisions, the words “confidential information,” “consent,” “financial interest,” “gratuity,” and “Law Firm” shall have the following definitions.

a. “Confidential information” means information that (1) is not already in the public domain; (2) is not available to the public upon request; (3) is not or does not become generally known to the Law Firm from a third party without an obligation to maintain its confidentiality; (4) has not become generally known to the public through an act or omission of Contractor; or (5) has not been independently developed by the Law Firm without the use of confidential information of the Commonwealth.

b. “Consent” means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this Contract.

c. “Financial Interest” means:

(1) ownership of more than a 5% interest in any business; or

(2) holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

d. “Gratuity” means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor’s Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b), shall apply.

e. “Law Firm” means the individual or entity that has entered into this Contract with the Commonwealth, including directors, officers, partners, managers, key employees, and owners of more than a 5% interest.

2. The Law Firm shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to the Law Firm or that govern contracting with the Commonwealth.

3. The Law Firm shall be subject to the obligations of confidentiality with which lawyers must comply under the applicable Rules of Professional Conduct.

4. The Law Firm shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Law

Firm's employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all employees of the Law Firm.

5. The Law Firm, its affiliates, agents and employees and anyone in privity with the Law Firm shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

6. The Law Firm shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to the Law Firm's financial interest prior to Commonwealth execution of the contract. The Law Firm shall disclose the financial interest to the Commonwealth at the time of any proposal submission, or if no proposals are solicited, no later than the Law Firm's submission of the contract signed by the Law Firm.

7. The Law Firm, certifies to the best of its knowledge and belief that within the last five (5) years that it, its officers, and its affiliates have not:

a. been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;

b. been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;

c. had any business license or professional license suspended or revoked;

d. had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and

e. been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If the Law Firm cannot so certify to the above, then it must submit along with its contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Law Firm. The Law Firm's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Law Firm shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract it becomes aware of any event which would cause the Law Firm's certification or explanation to change. The Law Firm acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to

intervening factual circumstances or were false or should have been known to be false when entering into the contract.

8. The Law Firm shall comply with requirements of the *Lobbying Disclosure Act*, 65 Pa.C.S. § 13A01 et seq., and the regulations promulgated pursuant to that law. Actions by outside lobbyists on behalf of the Law Firm are not exempt and must be reported. The Law Firm also must comply with the requirements of Section 1641 of the *Pennsylvania Election Code* (25 P.S. §3260a).

9. When the Law Firm has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, the Law Firm shall immediately notify the Commonwealth in writing.

10. The Law Firm, by execution of this Contract and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that it has not violated any of these Integrity Provisions.

11. The Law Firm shall cooperate with the Office of the Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Law Firm non-compliance with these provisions. The Law Firm agrees to make identified employees of the Law Firm available for interviews at reasonable times and places. The Law Firm, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to the Law Firm's integrity and compliance with these provisions. Such information may include, but shall not be limited to, the Law Firm's business or financial records, documents or files of any type or form that refer to or concern this contract. The Law Firm shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.

12. For violation of any of the above provisions, the Commonwealth may terminate this and any other Contract with the Law Firm, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another Law Firm to complete performance hereunder, and debar and suspend the Law Firm from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation or otherwise.

APPENDIX G
RESPONSIBILITY PROVISIONS
(December 2020)

1. The Law Firm certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Contract, that neither the Law Firm, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Law Firm cannot so certify, then it agrees to submit, along with its Contract, a written explanation of why such certification cannot be made.

2. The Law Firm also certifies, that as of the date of its execution of this Contract, it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist..

3. The Law Firm's obligations pursuant to these provisions are ongoing from and after the effective date of this Contract through the termination date thereof. Accordingly, the Law Firm shall have an obligation to inform the Commonwealth if, at any time during the term of this Contract, is becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Law Firm, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

4. The failure of the Law Firm to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of this Contract with the Commonwealth.

5. The Law Firm agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Pennsylvania Office of State Inspector General for investigations of the Law Firm's compliance with the terms of this or any other Contract between the Law Firm and the Commonwealth, which results in the suspension or debarment of the Law Firm. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime, travel, and lodging expenses; and expert witness and documentary fees. The Law Firm shall not be responsible for investigative costs for investigations that do not result in the Law Firm's suspension or debarment.

6. The Law Firm may search the current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment List tab.

APPENDIX H
THE AMERICANS WITH DISABILITIES ACT PROVISIONS
(October 2011)

1. Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act*, 28 C.F.R. § 35.101, *et seq.*, the Law Firm understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Contract or from activities provided for under this Contract. As a condition of accepting and executing this Contract, the Law Firm agrees to comply with the *General Prohibitions Against Discrimination*, 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of *The Americans With Disabilities Act* which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

2. The Law Firm shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the Law Firm's failure to comply with the provisions of paragraph 1 of this Appendix.

APPENDIX I
RETENTION GUIDELINES FOR OUTSIDE COUNSEL
(January 2021)

The Office of General Counsel (“OGC”) expects to have a productive, professional and cost-effective relationship with outside counsel. These Guidelines apply to all engagements for services between OGC (and any of its agency offices) and your law firm, regardless of the law firm office from which those legal services are performed. Any exception must be approved in advance by OGC.

I. MATTER MANAGEMENT AND REPORTING

A. The Contract for Legal Services

Your firm has been retained by OGC to perform legal services as set forth in the Contract for Legal Services (“Contract”). The Contract shall define the scope of services covered by the matter which is the subject of the Contract; a “matter” may consist of a single representation or the provision of legal services in connection with a relatively routine, high volume practice area (e.g., workers’ compensation). The Contract identifies the principal OGC in-house attorney responsible for managing the work. For complex litigation matters, a senior-level OGC litigation manager also may be assigned or otherwise involved in the case. For high volume matters, a third party administrator also may have a defined role in managing the work. You are expected to keep the responsible OGC attorney(s) informed of all significant developments that arise, as well as seek his or her direction on strategy and tactics.

Throughout the course of your representation, you must be mindful of conflict issues and disclose promptly any conflicting representation. The Conflict Waiver Procedure that is a part of the Contract for Legal Services sets forth the process for such disclosure. Failure to disclose a conflict or undertaking a conflicting representation without obtaining a waiver from the General Counsel is cause for termination of the contract.

B. Effective Utilization of Personnel

OGC generally expects a single outside lawyer to be primarily responsible for each matter. Outside counsel should discuss with OGC the staffing requirements for each matter, including the number of attorneys and staff that may work on the matter. We encourage the use of law clerks and paralegals for those aspects of any matter that do not need to be performed by an attorney. Staffing should reflect management practices that are consistent with the delivery of the appropriate level and type of legal services required in order to achieve effective results and resource efficiency.

OGC generally expects one lawyer to attend all relevant depositions, meetings, hearings, trial, and other proceedings. In more complex matters, additional lawyers may be necessary to represent the Commonwealth.

In concert with the Commonwealth's commitment to workforce diversity, OGC expects each law firm it engages to use its best efforts to: (1) consider persons from diverse backgrounds for assignment to its OGC engagements; and (2) actively promote full and equal participation of women, racial and ethnic minority groups, and all other persons of diverse backgrounds in the legal profession, as evidenced by the firm's employment practices.

C. Matter Management, Budget and Reports

OGC expects regular communications with its counsel. The most effective representation results from a true partnership between the OGC lawyer and outside counsel. You must send to OGC an initial report within forty-five (45) days of the retention of your services covering the following areas:

□ Management Plan and Budget – the Management Plan and Budget (“Plan”) should include an initial assessment of the assigned matter (see below) and a detailed strategy for handling the matter, including the feasibility of employing alternative dispute resolution techniques in litigation matters. The Plan must include an initial budget that estimates the legal fees and other costs to be incurred for the current calendar year as well as projected legal fees and costs for the entire duration of any matter that continues beyond the end of a calendar year. The firm must identify all personnel assigned to the matter, and their respective billing rates. An updated budget and personnel list, on firm stationery, must be submitted at the start of each subsequent calendar year or more frequently if there is a known material variance in the budget. OGC recognizes that it may be difficult at an early stage to project all the resources required for a matter; however, we believe that the plan and budget are important management tools.

□ Initial Assessment of Litigation Claims¹ – The Initial Assessment must include a detailed description of the claim, applicable defenses, an assessment of potential liability and possible verdict range, any settlement demand by opposing counsel, and estimated trial date/time (if applicable).

You are expected to keep the responsible OGC attorney advised of the status of the matter. In the absence of material developments that require immediate notification, you should submit at least quarterly a confidential matter status report that (1) summarizes developments to date; (2) identifies actions that are planned to be taken in the forthcoming six (6) months; and (3) updates the previously submitted Management Plan and Budget. In those instances where the responsible OGC attorney is not present at a meeting, hearing, deposition or any other relevant event, you must send a prompt report of the event by telephone or electronic mail as directed by the responsible OGC attorney.

¹ If the matter involves litigation of a routine, high volume nature (e.g., workers' compensation), the responsible OGC attorney shall define for the firm the level of reporting required for each individual claim.

D. Correspondence and Pleadings²

No significant correspondence or pleading should be sent or filed without prior approval of the responsible OGC attorney. In general, outside counsel should keep the responsible OGC attorney fully informed of all developments on a timely basis and consult with him or her on all matters of strategy, planning and proposed disposition by motion, trial or settlement.

Correspondence: Copies of all correspondence received or sent on OGC's behalf by your firm to opponents or other third parties should be sent to the responsible OGC attorney.

Pleadings: Copies of all pleadings received or filed on OGC's behalf by your firm should be sent to the responsible OGC attorney.

The responsible OGC attorney should have the opportunity to discuss the preparation of pleadings with your firm sufficiently in advance of filing deadlines to determine who will perform the work. The responsible OGC attorney, or her/his designee, may elect to prepare draft answers, motions, request for discovery and other pleadings. In such instances, such items will be forwarded to you either in final form for filing or in draft form, and you are expected to place them in final form in accordance with local rules.

E. Discovery

All discovery, electronic or otherwise, should be coordinated with the responsible OGC attorney.³ Commonwealth personnel are not to be contacted directly without prior approval of the responsible OGC attorney.

OGC may prefer to have someone from its offices present during the preparation for and deposition of Commonwealth personnel. OGC believes its knowledge of the Commonwealth's business can be beneficial to you in preparing the witness and in the course of questioning by opposing parties. You are not permitted to waive the right of Commonwealth personnel to review and sign their depositions and must not enter into any stipulations to the contrary.

All discovery requests should be forwarded to the responsible OGC attorney immediately, indicating the response date. OGC can better assist in preparing responses if outside counsel can, preliminarily, identify objectionable questions and indicate these questions for which information is requested, as well as a recommended approach for completing the response. Outside counsel must consult with the responsible OGC attorney regarding anticipated electronic discovery (e-discovery) requests and use of any e-discovery computer programs,

² If the matter involves litigation of a routine, high volume nature, the responsible OGC attorney shall define for the firm the level of reporting required for each individual claim

³ If the matter involves litigation of a high volume nature, the responsible OGC attorney shall define for the firm his or her role in coordinating discovery, which may be minimal.

whether owned by the firm or provided by third-party vendors. OGC will not pay for any such programs without advance approval.

Many internal Commonwealth documents are confidential or protected by privilege. Accordingly, the responsible OGC attorney may require that a Confidentiality Agreement and/or Protective Order be secured to insure that the confidential nature of the information is maintained.

F. Expert Witnesses or Consultants

Where outside counsel determines that an expert witness or a special consultant is necessary for any matter, the responsible OGC attorney must be consulted prior to any engagement, and prior written approval must be obtained. In making such recommendation, outside counsel should provide the responsible OGC attorney with a written description of the study or testimony the expert is expected to provide, the expert's qualifications, the rationale for using an expert in the matter and an estimate of the expert's fees and expenses. As with your firm's staffing and time on any matter, OGC expects that recommendations concerning the use of expert witnesses and consultants will be at appropriate levels for the risk and exposure involved in the matter.

G. Negotiations, Settlements and Appeals

The decision to try, settle or appeal a case rests solely with OGC. All settlement opportunities and demands must be brought promptly to the attention of the responsible OGC attorney, along with your recommendations. Under no circumstances should your firm agree to settle any case on the Commonwealth's behalf, enter into a consent decree or stipulation, release any substantial right, or otherwise commit the Commonwealth on any issue without OGC's prior approval.

II. BILLING REQUIREMENTS; OTHER CONSIDERATIONS

A. In General

Billing invoice requirements have been developed to clearly advise you as to how OGC would like the bills submitted. Specific provisions are set forth in your Contract for Legal Services in paragraph 5. These requirements must be followed with respect to all bills unless the responsible OGC attorney has pre-authorized another arrangement.

OGC expects that any firm retained to perform services on behalf of OGC will accomplish its goals and objectives in a manner that maximizes value and minimizes expense without sacrificing quality. Compensation arrangements are set forth in the Contract for Legal Services.

If OGC inadvertently pays an invoice, which on review does not comply with the Guidelines, OGC retains the right to obtain reimbursement of such payment.

B. Rates

Unless a different billing arrangement is provided in the Contract for Legal Services, OGC will pay specified hourly rates, as set forth in the Contract for professional services by attorneys and paralegals. In matters where fees are based upon hourly rates, actual time in units of 1/10 hour is the maximum acceptable time unit to be used in billing. No changes in billing methodology or hourly rates will be made without the express written approval of the General Counsel.

C. Billing Cycle

Bills for legal services should be submitted on a monthly basis, for services through the last day of the month in which services are performed. Departments will use best efforts to make payments on invoices within 45 days of receipt, in final form with requisite documentation.

D. Billing Format

Specific billing instructions are set forth in the Contract for Legal Services in paragraph 5. At a minimum, a copy should be directed to the responsible OGC attorney, and the assigned senior-level OGC litigation manager, where applicable. Invoices should not be sent to the General Counsel.

All billing statements should include:

- Contract number
- Date task performed
- Identification of attorney/paralegal performing the task with full name and title listed on the statement
- Specific task description
- Time being billed per task
- Hourly rate being charged by the attorney/paralegal
- A summary of the total time and amount charged for each attorney/paralegal
- A specific description of all expenses incurred including the rate charged for copying as limited by the Contract for Legal Services. This description of services should be as specific as possible.

E. Disbursements/Expenses

We expect the hourly billing rate to include overhead and internal charges associated with the law firm's practice. The Law Firm shall require written approval by the responsible OGC attorney before incurring any extraordinary or unusual expenses. Functions such as legal research or photocopying must be billed at cost and may not be profit centers.

OGC **will not pay** separate charges for the following expenses:

- Word processing
- Overtime charges (including overtime local transportation and meal charges)
- Secretarial/clerical time or functions such as collating, scheduling, indexing, creating files or typing, opening or closing files, data entry, updating pleading binders or retrieval of documents from files
- File organization
- Basic overhead charges (local telephone charges, local fax charges, ordinary postage, courier services to OGC)
- Books, subscriptions or educational expenses
- Professional association memberships
- Office supplies
- Preparation and review of bills
- Mark-ups for computerized databases (such as Westlaw and Lexis)
- Storage charges
- Re-education of a new attorney if a file is transferred
- Cellular phone charges
- Training on and maintenance of computer systems

OGC **will pay** for the following when incurred specifically for OGC matters:

- Filing fees
- Court reporter fees
- Expert witness fees, if approved in advance by the responsible OGC attorney
- Computerized/database research, if approved in advance by the responsible OGC attorney
- Long distance telephone charges and long distance fax charges
- Air freight/express mail deliveries, where necessary to meet applicable deadlines, or as may otherwise be approved by the responsible OGC attorney**
- Outside photocopying, binding and printing services, if approved in advance by the responsible OGC attorney
- Outside messenger services**

** While OGC may pay for messenger and express service where warranted, as a general matter, OGC encourages use of e-mail and regular U.S. mail service whenever possible.

F. Travel

Reasonable, actual, ordinary, and necessary expenses for travel, meals, and moderately-priced lodging incurred by the law firm to fulfill its obligations under the Contract will be permitted as set forth in the Contract for Legal Services. Prior approval is needed for any air travel and only coach air rates will be reimbursed. Prior approval is needed for any overnight stay. Local travel expenses, such as taxis and trains, are reimbursable.

Personal auto travel will be reimbursed at the mileage rate authorized by the Commonwealth. You are expected to expense only reasonable amounts for meals and non-alcoholic beverages. OGC also does not pay for minibar expenses, sundries, in-hotel movies or similar entertainment charges. The Law Firm shall retain all receipts and shall, upon request of the requisite OGC agency legal office or the Department for whom the work is being performed, provide any necessary documentation.

G. Legal Research

Counsel should know the legal aspects of the Commonwealth's business for which it has been retained, particularly the areas in which the case or transaction arises, and should keep abreast of developments in the law that may impact its OGC engagement. Prior approval for extensive legal research is required. If it is anticipated that more than two (2) hours will be spent on computerized legal research, please secure the approval of the responsible OGC attorney. OGC should not be charged for routine research on matters of common knowledge among reasonably experienced counsel in the same geographical location. Where circumstances exist that enable you to use your data or brief banks, OGC should only be charged for updating the previously researched material. OGC expects that paralegals or more junior associates will be used on research matters. All research completed on an OGC matter is the property of OGC and a copy of all significant research projects should be submitted to OGC.

H. Confidentiality and Media Coverage

OGC expects absolute confidentiality regarding legal matters handled by each outside counsel. In addition, no statement may be made to the press or any other media – on or off the record - unless prior express written approval is secured from OGC. Under no circumstances should a firm use OGC representation in firm promotional or other informational material without the prior approval of OGC.

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APPENDIX J
ENHANCED MINIMUM WAGE PROVISIONS
(dated July 2018)

1. **Enhanced Minimum Wage.** Law Firm agrees to pay no less than \$15.00 per hour to its employees for all hours worked directly performing the services called for in this Contract, and for an employee's hours performing ancillary services necessary for the performance of the contracted services when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.
2. **Adjustment.** Beginning July 1, 2023, and annually thereafter, the minimum wage rate shall be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
3. **Exceptions.** These Enhanced Minimum Wage Provisions shall not apply to employees:
 - a. exempt from the minimum wage under the Minimum Wage Act of 1968;
 - b. covered by a collective bargaining agreement;
 - c. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
 - d. required to be paid a higher wage under any state or local policy or ordinance.
4. **Notice.** Law Firm shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.
5. **Records.** Law Firm must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.
6. **Sanctions.** Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.
7. **Subcontractors.** Law Firm shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

CONTRACTOR RESPONSIBILITY VERIFICATION

Document No. _____

[NAME OF LAW FIRM]

This Contract has been reviewed and the Law Firm has been determined to be responsible in accordance with the procedures outlined in Management Directive 215.9 Amended, dated December 1, 2020.

Designated Senior Manager
NAME OF AGENCY

Date

APPENDIX C
Certification of Minimum Qualifications

- I certify that the following submission is complete and that my firm and I have included a technical and a cost proposal.
- I certify that the firm maintains professional liability insurance through an AA Best-Rated (or the equivalent) insurance carrier in an aggregate amount of not less than \$10 million. The professional liability insurance will include coverage for practice in the field of federal and state securities and tax law.
- I certify that all the attorneys on the proposed team are admitted to practice before the Supreme Court of Pennsylvania and in good standing.
- The firm will sign the standard OGC legal services contract without any edits or changes if selected.
- The SDB firm, or VBE firm, or both, will participate in the performance of the work.
- I have disclosed any possible conflicts as described above. I also disclosed if my firm is involved in any adverse litigation involving the Commonwealth

Signed

Lawyer responsible for firm submission