



Stacy Garrity, Pennsylvania Treasurer

REQUEST FOR PROPOSALS FOR
GENERAL OBLIGATION BOND COUNSEL
FOR
FIRST REFUNDING SERIES OF 2025

ISSUING OFFICE

**Pennsylvania Treasury Department
Bureau of Support Services
Procurement Division
Room 3T-A, Finance Building
Harrisburg, PA 17120-0018
RFP25-003@patreasury.gov**

RFP NUMBER

RFP25-003

DATE OF ISSUANCE

March 31, 2025

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CALENDAR OF EVENTS

The Pennsylvania Treasury Department plans to adhere to the following schedule. Modifications may become necessary, however, as the activities described in the schedule take place. Treasury will take reasonable steps to inform interested parties of such modifications, including posting them on the Treasury Website.

ACTIVITY	RESPONSIBILITY	DATE
Please monitor the Treasury Procurement website: https://patreasury.gov/procurement for all communications regarding this RFP	Potential Offerors Issuing Office	
Issuance of RFP25-003 (posted to website https://patreasury.gov/procurement)	Issuing Office	March 31, 2025
Deadline for potential Offerors to submit clarification questions via email to the RFP mailbox: RFP25-003@patreasury.gov	Potential Offerors	April 4, 2025 by 5:00PM
Answers to potential Offerors' questions submitted by the deadline will be posted to the website. https://patreasury.gov/procurement	Issuing Office	April 8, 2025
Proposals must be received by the Issuing Office by 5PM EST. Proposals are accepted only via email to RFP25-003@patreasury.gov	Potential Offerors	April 11, 2025 by 5:00PM

PART I: GENERAL INFORMATION

I-1. Purpose

Consistent with Executive Order 2015-02, the purpose of this RFP25-003 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 refunding issuance, the First Refunding Series of 2025, under the Capital Facilities Debt Enabling Act. This RFP is being issued in conformance with Section 518 of the Commonwealth Procurement Code. 62 Pa.C.S. § 518.

I-2. Issuing Office.

Treasury (“Issuing Office”) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be Treasury’s Issuing Office via email to RFP25-003@patreasury.gov.

I-3. 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; a description of the services to be provided; mandatory requirements which Offerors must meet to be eligible for consideration; requirements and qualifications for general evaluation criteria; and other requirements specific to this RFP.

I-4. Service Requirement/ Need.

Treasury is seeking proposals to procure bond counsel services for the Commonwealth’s First Refunding Series of 2025, an estimated bond refunding of approximately \$940 million. The bonds to be refunded will be First Series of 2015 GO Bond with an estimated total par amount to be refunded of approximately \$622,315,000, and 2010 First Series B Build America Bonds (BABs) with an estimated total par amount to be refunded of approximately \$318,710,000.

I-5. 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 Vendor will be contracting with the Governor’s Office of the Budget, and the chief counsel of that agency will contact the winning bidder after selection.

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. The Issuing Office reserves the right, in its sole and complete discretion, to reject any proposal received as a result of this RFP.

I-6. 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-7. Incurring Costs.

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

I-8. Questions and Answers.

An Offeror must submit questions regarding this RFP by email (with the subject line "RFP25-003 Questions") to the Issuing Office via email to RFP25-003@patreasury.gov. Questions must be submitted by the Offeror and received by the Issuing Office no later than the dates and times indicated on the Calendar of Events. The Offeror shall not attempt to contact the Issuing Office by any other means.

The Issuing Office shall post all questions, and their answers, on the Treasury's Procurement Website <https://patreasury.gov/procurement/>, as well as send to all Offerors via email from RFP25-003@patreasury.gov.

The Issuing Office reserves the right to answer questions filed after the last deadline if it determines that responding will clarify or correct a previously undetected ambiguity or error or otherwise allows all Offerors the ability to provide better proposals, thereby advancing the interests of the Commonwealth.

All questions and responses as posted on the Treasury website are considered as addenda to, and part of, this RFP in accordance with **Part I, Section I-9**. Each Offeror shall be responsible for monitoring the Treasury website for new or revised RFP information. The Issuing Office shall not be bound by any oral information communicated to or by it, and it shall not be bound by any written information that is not either contained within the RFP or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation.

I-9. Addenda to the RFP.

If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will post an addendum to that effect to Treasury's Procurement Website <https://patreasury.gov/procurement/>. It is the Offeror's responsibility to periodically check the website for any new information or addenda to the RFP. As previously noted, answers to the questions submitted will be posted to the website as addenda to the RFP.

I-10. Response Date.

To be considered for selection, proposals as indicated in **Part I, Section I-11**, must arrive in the Issuing Office mailbox RFP25-003@patreasury.gov on or before the time and date specified in the RFP Calendar of Events. Therefore, one email will contain the law firm's technical submittal and another email will contain the same law firm's cost submittal delivered to the Issuing Office mailbox by 5PM on April 11, 2025. The date and time assigned by the Issuing Office's email system will be the date and time used to determine timeliness of submission. Please request a delivery receipt as proof of time of submission. The Issuing Office **will not** accept proposals via facsimile transmission. In the event of an extension of

the response date, the hour for submission of proposals shall remain the same. The Issuing Office will reject any late proposals.

I-11. Proposals.

Prior to submitting a proposal, each Offeror must fully comprehend all conditions and requirements pertaining to the complete execution of the contract and corroborate any representations made by Treasury upon which the bidder intends to rely. The successful bidder's responsibility to comply with every aspect of the contract's stipulations and requirements will not be excused by claims of ignorance of such conditions and requirements, nor will these claims be recognized as grounds for any monetary claim on the part of the successful bidder.

Offerors shall submit proposals via email to RFP25-003@patreasury.gov, in Adobe PDF, Microsoft Office (.docx and .xlsx file formats), or Microsoft Office-compatible format, utilizing navigation headings (Microsoft Word) or bookmarks (Adobe) that match the sections given in **Part II**. Each page must be numbered for ease of reference. Any spreadsheets must be in Microsoft Excel, with no protections applied to the workbook or any sheet within.

An official authorized to bind the Offeror to its provisions must sign and attach the **Proposal Cover Sheet (Attachment A)** and **Certification of Minimum Qualifications (Attachment C)**.

Each submittal section must be submitted in a separate email with the following subject lines and contents:

A. Technical Submittal

Email subject line: Technical Submittal [Vendor Name] RFP25-003

Contents: Proposal Cover Sheet
Certification of Minimum Qualifications
Technical Submittal
Offeror must ensure no cost information is included in Technical Submittal.

B. Cost Submittal

Email subject line: Cost Submittal [Vendor Name] RFP25-003

Contents: Proposal Cover Sheet
Certification of Minimum Qualifications
Cost Submittal

The Offeror shall make no other distribution of its proposal to any other Offerors, Treasury officials, other Treasury public email addresses, Commonwealth officials, or Commonwealth consultants.

The proposal for this RFP must state that it will remain valid for 150 days from the date that an Offeror is selected for negotiation or until a contract is fully executed, whichever is earlier.

Each Offeror submitting a proposal specifically waives any right to withdraw or modify it, except that the Offeror may withdraw its proposal by notifying the Issuing Office via email at RFP25-003@patreasury.gov prior to the exact hour and date specified for proposal receipt. An Offeror may modify its submitted proposal prior to the exact hour and date set for proposal receipt only by submitting via email a new proposal or modification that complies with the RFP requirements and that explicitly requests the Issuing Office to disregard and remove from consideration any prior submitted proposals.

I-12. Other Communications and Submissions.

All communications between Offerors and Treasury shall be sent to, and will originate from, the email address RFP25-003@patreasury.gov , including the complete response to this RFP as described in **Part I, Section I-11**. Except as otherwise indicated in the Calendar of Events, all responses must be submitted no later than 5:00PM EST.

I-13. Economy of Preparation.

Offerors should prepare proposals simply and economically, providing a straightforward, concise description of the Offeror's ability to meet the requirements of the RFP. 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-14. Discussions for Clarification.

Offerors may be required to provide an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and Offeror responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification. Clarifications may be sought from Offerors at any stage of the evaluation and selection process prior to Contract execution.

I-15. 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-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. News 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-18. 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 contact with the Issuing Office must be through the email address RFP25-003@patreasury.gov. Any violation of this condition may be cause for the Issuing Office to reject the offending Offeror's proposal. If the Issuing Office later discovers that an Offeror has engaged in any violations of this condition, the Issuing Office may reject the offending Offeror's proposal or rescind its Contract award pursuant to terms and conditions.

Offerors must agree not to distribute any part of their proposals beyond the Issuing Office. An Offeror 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. Publicly distributed and generally available marketing materials or specifications are not subject to this restriction.

I-19. 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-20. Offeror's Representations and Authorizations.

By submitting its proposal, each Offeror 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-21. Notification of RFP Outcome.

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-22. Debriefing Conferences.

Upon notification of award, Offerors whose proposals were not selected will be given the opportunity to be debriefed. The Issuing Office will schedule each debriefing at a mutually agreeable time. The debriefing will not compare the Offeror with other specifically named Offerors, other than the position of the Offeror's proposal in relation to all other Offeror proposals. An Offeror's exercise of the opportunity to be debriefed does not constitute, or toll the time for, filing a protest.

I-23. Signatures.

Electronic signatures will be accepted in accordance with Pennsylvania law.

I-24. Use of Electronic Versions of this 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/procurement. 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.

PART II: PROPOSAL 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 **RFP25-003**.
- B.** Cost Submittal, in response to **RFP25-003**.

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:

- A. 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.**
- B. 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.
- C. 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.
- D. Provide a signed **Attachment C – Certification of Minimum Qualifications.**

II-3. Standard Legal Services and Contract Terms and Conditions

By submitting a proposal, including the cost proposal, in response to this RFP, the Offeror agrees that it accepts all of the terms and conditions of the legal services contract set out in the RFP, and will, if selected, execute the legal services contract without any revisions. The Issuing Office will reject any proposal that is conditioned on the negotiation of the terms and conditions of the legal services contract set out in Appendix B of the RFP.

II-4. 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 **Attachment C – Certification of Minimum Qualifications** must also be included with Cost Submission.

PART III: CRITERIA FOR SELECTION

III-1. Mandatory Responsiveness Requirements.

To be considered responsive, a proposal must be:

- A. Timely received from the Offeror according to the RFP **Calendar of Events**;
- B. Correctly submitted using the format in **Part I, section I-11** (absolutely no costs may be discussed in the Technical submittal);
- C. Submitted with signed **Proposal Cover Sheet Attachment A, Certification of Minimum Qualifications Attachment C.**

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 Vendor shall demonstrate in its answer that it understands the problem, has experience in working on refunding for this large dollar amount, and address any complications that it anticipates arising from a refunding of these specific bonds.

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.

PART IV: STATEMENT OF WORK

IV-1. Objectives.

General. **The purpose of Part IV-1 is to provide an overview of the engagement envisioned as a result of this RFP.**

- A. The Vendor shall serve as bond counsel for the Commonwealth’s anticipated refunding of 2015 GO Bonds and the 2010 Build America Bonds (“Bond Issue”), as specifically set forth in part I-4.

- B. The Commonwealth will redeem its First Series of 2010 General Obligation Bonds, Series B Bonds, that were issued as Build America Bonds, through the extraordinary optional redemption provision applicable to this series. The 2010 First Series B bonds have a make-whole call optional redemption feature and have about \$372 million outstanding. (The official statement for the 2010 First Series B bonds is available here: <https://emma.msrb.org/IssueView/Details/EP334430>). PLEASE NOTE: Exercising the extraordinary optional redemption provision for the 2010 First Series B bonds will require bond counsel to issue an opinion that the Commonwealth may rely on *Indiana Municipal Power Agency v. United States*, 154 Fed.Cl. 752 (2021), *cert. denied*, 144 S.Ct. 421 (2023), along with other applicable decisions, to exercise the extraordinary optional redemption provision. To be considered responsive to this RFP, a law firm’s proposal must state whether your firm will be able to provide such an opinion. A proposal that does not contain a clear, direct statement on this point will be disqualified and will not be scored.

- C. The Vendor shall provide legal services pertaining to the anticipated Bond Issue including opining on the validity of the debt issuance; the extent to which the bond is exempt from federal income and other taxation; and, the satisfaction of all other legal requirements relevant to the Bond Issue.

Specific. **Consistent with the scope of work described in Section I-4 Service Requirement** and statement of work described herein, the Issuing Officials intend to select qualified bond counsel to provide legal services pertaining to the anticipated Bond Issue, the validity of the debt issuance, the extent to which the bond is exempt from income and other taxation, and the satisfaction of all legal and tax requirements relevant to the debt issuance.

IV-2. Requirements.

Within the Technical Submittal, the Offeror shall confirm that each requirement of this RFP shall be met; include an explanation of how the Offeror intends to meet each requirement. **Specific attention should be given to Part IV-1, above.**

- A. Qualifications. The selected Offeror shall address each qualification requirement set forth in **Attachment C – Certification of Minimum Qualifications**.

- B.** Demonstrate: Each Proposal should demonstrate that the Vendor understands the problem, has specific experience in public finance bond refunding involving a large amount of money, and the ability to address complications that may arise therein.
- C.** Key Personnel. Key project staffing changes must be approved by the Commonwealth. The Commonwealth reserves the right to request, at its sole discretion, that the selected Offeror remove and replace counsel or staff from the Engagement.
- C.** Ongoing Compliance with Qualifications; Removals. The Commonwealth may remove or suspend the contractor for reasons that include, but are not limited to:
 - (1) Unprofessional performance;
 - (2) Being the subject of disciplinary/licensing actions by Pennsylvania Supreme Court;
 - (3) Filing for protection under federal or state bankruptcy laws;
 - (4) Failure to continue to meet the requirements of this RFP;
 - (5) Failure to pay federal, state and/or local taxes; or
 - (6) Undisclosed conflict of interest.

IV-3. Tasks

- A. Legal Services.** The selected Offeror shall provide legal services and perform all tasks necessary to successfully represent the Commonwealth as set forth in Part IV-1, above.
- B. Contract Close Out.** Prior to close out or termination of the contract, the selected Offeror shall cooperate with the Commonwealth and any subsequent Contractor in any activities related to the transition/turnover of responsibilities.

IV-4. Reports and Project Control

The selected Offeror shall prepare and submit at the request of the Commonwealth, subject to attorney-client and other applicable privileges, memoranda of law and other documents related to the services performed for this engagement.

Attachment A: Proposal Cover Sheet

**PENNSYLVANIA TREASURY DEPARTMENT
RFP25-003**

To be emailed with each email submission to RFP25-003@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 included 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:	

Attachment B: Contract

CONTRACT FOR LEGAL SERVICES

This Contract for Legal Services is between _____ and the Commonwealth of Pennsylvania, acting through the _____ and the Governor’s Office of General Counsel.

Pursuant to the Commonwealth Attorneys Act, 71 P.S. §§ 732-301 *et seq.*, the General Counsel is responsible for the provision of legal advice and representation to the Governor and Executive Agencies under the Governor’s jurisdiction. The Department is an Executive Agency that has a need for professional and specialized legal services.

OGC has chosen the Law Firm to provide the legal services required by the Department following a competitive procurement process in accordance with Executive Order 2015-02 and Section 518 of the Commonwealth Procurement Code. OGC and the Law Firm have negotiated fair and reasonable compensation for those services.

The parties, intending to be legally bound, agree as follows:

1. **Definitions.** The following definitions apply to this contract:
 - a. “Appointment Letter” means a written notice to proceed provided by OGC to the Law Firm stating that the contract has been fully executed and that the Law Firm may commence performance of the services or indicating that OGC has authorized the Law Firm to begin work immediately.
 - b. “Commonwealth” means the Commonwealth of Pennsylvania and its agencies, to include OGC and the Department.
 - c. “Department” means the _____.
 - d. “Emergency Procurement” means the acquisition of goods or services when circumstances outside the control of the Department create an urgency of need that does not permit the delay involved in using more formal, competitive procurement methods.
 - e. “Effective Date” means the date of the last required Commonwealth signature on this contract or, in the case of an Emergency Procurement, the date of the Appointment Letter.
 - f. "Executive Agency" means: a) the Governor and the departments, boards, commissions, authorities and other officers and agencies of the Commonwealth government, but the term does not include any court, officer, or agency of the unified judicial system, the General Assembly and its officers and agencies, or any independent agency; and b) those agencies whose legal services are under the jurisdiction of the General Counsel pursuant to the Commonwealth Attorneys Act.

g. “General Counsel” means the chief legal advisor appointed by the Governor who supervises, coordinates, and administers the legal services for each Executive Agency pursuant to the Commonwealth Attorneys Act, 71 P.S. §§ 732-101 *et seq.*

h. “Law Firm” means _____.

i. “OGC” means the Governor’s Office of General Counsel.

2. **Services.** The Law Firm shall provide the services described in Appendix A of this contract to the Department.

3. **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 Law Firm shall advise, counsel, and recommend actions to the Department and the General Counsel or the other officials designated by the General Counsel, and shall carry out, to the best of its ability, their directions. The Law Firm shall 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 Department and 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.

4. **Department Contact.** The Department’s Office of Chief Counsel shall serve as the Law Firm’s point of contact for the Department. The Law Firm shall direct its communications with the Department to the Chief Counsel or the Chief Counsel’s designee.

5. **Term.**

a. **Contract Term.** The term of this contract commences on the Effective Date and remains in effect until _____, unless sooner terminated in accordance with paragraph 15 of this contract. With the approval of the General Counsel, the parties may extend or renew the term of this contract in accordance with paragraph 27 of this contract.

b. **Not Binding Until Delivery to Law Firm.** Except when an Emergency Procurement has been authorized by the General Counsel in accordance with Paragraph 5(c) of this contract, this contract is not legally binding on the Commonwealth until the Commonwealth has provided both a fully executed copy of this contract and an Appointment Letter to the Law Firm.

c. **Emergency Procurement.** If the General Counsel determines that the circumstances are sufficiently urgent to warrant an Emergency Procurement, OGC may authorize the Law Firm to begin providing services to the Department before the date this contract is fully executed. In such

a circumstance, OGC shall direct the Law Firm to immediately commence the provision of services in an Appointment Letter. Upon the full execution of this contract, all services provided between the date of the Appointment Letter and the Effective Date of this contract will merge into and are covered by the terms of this contract.

6. **Compensation.** The Department shall compensate the Law Firm for the services provided in accordance with the provisions established in Appendices B and C of this contract. Except as otherwise specifically provided in this contract, the Commonwealth shall not be liable to pay the Law Firm for any services or work performed or expenses incurred by the Law Firm before the Effective Date of this contract and not authorized in the Appointment Letter.

7. **Billing and Invoices.**

a. **Billing.** The Law Firm shall submit monthly invoices to the Department for services provided during each billing period. The Law Firm shall send invoices to the following contact and address:

[NAME OF CHIEF COUNSEL OR DESIGNEE]
[OFFICE OF CHIEF COUNSEL]
[NAME OF AGENCY]
[ADDRESS]
[EMAIL ADDRESS}

Each invoice must be accompanied by a cover letter on the Law Firm’s letterhead and include an itemized listing of the services performed by attorneys and other professionals, by date, by hours worked, and by rate.

b. **Invoices.** Invoices must also include the following information:

i. Law Firm Information, including -

- Firm name
- Firm’s federal employer identification number
- Firm’s relationship manager and e-mail address
- Firm’s address
- Firm’s telephone number
- Firm’s file number or matter number (if applicable)

ii. Administrative Information, including -

- Date of invoice
- Unique Invoice Number
- Name of Department Chief Counsel (or designee)
- Name of Department
- Department’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

c. **Labor Costs.** The amount shown on each invoice for labor costs must be in accordance with the rates set forth in Appendix B of this contract.

d. **Non-Labor Costs.** Invoices must list non-labor costs such as those incurred for travel, food, and lodging, as described in Appendix C of this contract. The Commonwealth shall reimburse the Law Firm for travel, meal costs, and lodging costs for which supporting documentation is provided, in reasonable amounts incurred by the Law Firm in connection with the performance of services under the contract, as described in Appendix C.

e. **Law Firm Certification.** Invoices must 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.

f. **Firm Signature.** Invoices or accompanying cover letters must be signed by the Law Firm.

g. **Progress Reports.** Separate and apart from the invoice, the Law Firm must include a progress report with itemized details regarding the engagement to the Department, including tasks performed and time spent.

h. **Effect of Non-Conformance.** The Law Firm’s failure to include all of the required invoicing information will result in the return of the invoice and a request for the submission of a new invoice that conforms with the requirements set forth in this paragraph.

8. **Payment.**

a. **Payment Timeframe.** The Department will use its best efforts to make payments on invoices that conform with the requirements set forth in paragraph 7 within 45 days of receipt. For the avoidance of doubt, OGC is not responsible for the payment of the Law Firm invoices.

b. **Automated Clearing House.** The Commonwealth will make invoice payments through the Automated Clearing House (“ACH”). Within 10 days of award of this contract, the Law Firm must submit or must have already submitted its ACH information within its user profile in the Commonwealth’s procurement system (“SRM”).

c. **Unique Invoice Number.** The Commonwealth shall list the Law Firm’s unique invoice number on the Commonwealth's ACH remittance advice to enable the Law Firm to properly

apply the payment to the invoice submitted.

d. **ACH Information Accuracy.** The Law Firm shall ensure that the ACH information contained in SRM is accurate and complete. The Law Firm's failure to maintain accurate and complete information may result in delays in payments.

9. **Subcontracting, Assignment, Key Personnel, and Experts.**

a. **Subcontracting.** The Law Firm may not subcontract all or any portion of the services to be provided to the Department under this contract without the prior written consent of the General Counsel. In the event that the General Counsel provides the necessary prior written consent, the Law Firm shall ensure that its contract with the subcontractor contains a written acknowledgement of the subcontractor that the terms and conditions of this contract apply to and bind the subcontractor as fully and completely as the Law Firm is bound and obligated by this contract.

b. **Assignment.** The Law Firm may not assign all or any portion of its rights or duties under this contract to a third party without the prior written consent of the General Counsel. In the event that the General Counsel provides the necessary prior written consent, the Law Firm shall ensure that its assignment agreement with the assignee contains a provision that states that all of the terms and conditions of this contract apply to and bind the assignee as fully and completely as the Law Firm is bound and obligated by this contract. Any assignment or transfer not in accordance with this paragraph is void.

c. **Replacement of Key Personnel.** The Law Firm must consult with and obtain the consent of the Department prior to the replacement of key personnel assigned to provide services to the Department. The Department's consent to any proposed replacement is required and may not be unreasonably withheld.

d. **Experts.** Notwithstanding the foregoing, the Law Firm may, with the prior written consent of the General Counsel, engage experts in various fields related to the subject matter of any matter(s) assigned to the Law Firm to assist it in the performance of its duties under this contract. The hourly rates, fees, or other compensation to be paid to any such experts are also subject to the prior approval of the General Counsel. The Law Firm shall ensure that its contract with any expert it engages contains a written acknowledgement of the expert that the terms and conditions of this contract apply to and bind the expert as fully and completely as the Law Firm is bound and obligated by this contract. The Law Firm shall include approved compensation for experts, as incurred, in the Law Firm's invoices in accordance with the provisions of paragraph 7 of this contract, without addition, surcharge, or increase by the Law Firm of the actual fees billed to the Law Firm by such experts.

10. **Ownership Rights.**

a. **Ownership and Use.** All documents, data, and records produced by the Law Firm and any subcontractor or expert while performing the services or their duties under this contract, without limitation and whether preliminary or final, are and will remain the property of the Commonwealth. The Commonwealth may use all such documents, data, and records without restriction or limitation and without additional compensation to the Law Firm, subcontractor, or

expert and the Law Firm, subcontractor, and experts shall have no right or interest in the documents, data, and records.

b. **Delivery of Commonwealth Property.** Upon completion of the services or at the expiration or termination of this contract, the Law Firm shall, if requested by the General Counsel or the Department, appropriately gather, arrange, index, and deliver all of the Commonwealth's documents, data, and records to OGC or the Department.

c. **Disclosure.** Neither the Law Firm nor any subcontractor or expert shall disclose any documents, data, and records provided to it or prepared by the Law Firm, subcontractor, or expert that relates to this contract or the services provided under this contract to any individual or organization without the prior approval of the General Counsel. Neither the Law Firm nor any subcontractor or expert shall disclose any information secured by the Law Firm, subcontractor, or expert from the Commonwealth in connection with the provision of services under this contract unless the disclosure is approved in writing by the General Counsel or is directed by a court or other tribunal of competent jurisdiction.

d. **Retention of Copies.** Notwithstanding the provisions of paragraph 10 of this contract, the Law Firm may retain copies of the documents, data, and records delivered to OGC or to the Department.

11. **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. The Law Firm warrants that it shall not undertake any representation that conflicts with its performance of the services or its duties under this contract unless the conflicting representation has been fully disclosed to and waived by the General Counsel. The Law Firm shall promptly disclose any conflicting representation to the General Counsel. The General Counsel shall determine whether the disclosed conflict is cause for the termination of this contract. The Law Firm shall request a conflict waiver utilizing the process set forth in the Office of General Counsel Conflict Waiver Procedure, which is attached to this contract as Appendix D.

12. **Inability to Perform.** If, because of death or any other occurrence beyond the control of the Law Firm, it becomes impossible for any principal(s) and, in particular, the principal(s) assigned to provide services under this contract, to render the services set forth in this contract, neither the Law Firm nor the surviving principal(s) are relieved of the duty to complete performance under this contract. The Law Firm shall consult the General Counsel regarding any replacement principal(s) that it proposes to assign to provide the services. The Law Firm must obtain the General Counsel's consent before assigning a replacement, The General Counsel may not unreasonably withhold his or her consent.

13. **Licensing.** The Law Firm represents and warrants that attorneys involved in the representation of the Department 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 Department. When necessary and in accordance with subparagraph 9(a), the Law Firm may retain a subcontractor to act as co-counsel where appearance by the Department is required in a forum or jurisdiction where the Law Firm's attorneys are not licensed to practice.

14. **Termination.**

a. **Termination for Convenience.** If the Commonwealth determines that termination of this contract is in its best interest, the Commonwealth may terminate this contract for convenience by providing written notice of termination to the Law Firm. The Commonwealth shall pay the Law Firm for work satisfactorily completed prior to the effective date of the termination, but in no event is the Law Firm entitled to recover loss of profits.

b. **Non-Appropriation.** The Commonwealth's obligation to make payments during any Commonwealth fiscal year following the current fiscal year is subject to the availability and appropriation of funds. When funds (state, federal, or both) are not appropriated or otherwise made available to support the continuation of performance in a subsequent fiscal year period, the Commonwealth may terminate this contract by providing written notice of termination to the Law Firm. The Commonwealth shall reimburse the Law Firm for the reasonable value of any nonrecurring costs incurred, but not amortized, in the price of the supplies or services delivered under this contract. The Commonwealth will not reimburse the Law Firm for loss of profit, loss of use of money, or administrative or overhead costs. The Commonwealth shall pay the reimbursement amount using any appropriation(s) available for that purpose.

c. **Termination for Cause.** The Commonwealth may terminate this contract for Law Firm default by providing written notice of termination to the Law Firm. The Commonwealth may also terminate this contract for any other cause, as specified in this contract or by law, by providing written notice of termination to the Law Firm. If it is later determined that the Commonwealth erred in terminating this contract for cause, this contract will be deemed to have been terminated for convenience under subparagraph 15(a) at the Commonwealth's discretion.

d. **Effective Date of Termination.** Any notice of termination provided to the Law Firm will be effective on the date it is mailed or emailed to the Law Firm.

15. **Commonwealth Standard Terms and Conditions.** The Law Firm shall comply with the Commonwealth Standard Terms and Conditions attached to this contract as Appendix E.

16. **Retention Guidelines for Outside Counsel.** The Law Firm shall comply with the Retention Guidelines for Outside Counsel attached to this contract as Appendix F.

17. **Audit Provisions.** The Commonwealth may, at reasonable times and at a site designated by the Commonwealth, 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 shall maintain records that support the fees charged and costs incurred under this contract.

18. **Preservation of Books, Documents and Records.** The Law Firm shall preserve all 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 under this contract. The Law Firm shall give full and free access to all records to the Commonwealth and its authorized representatives.

19. **Insurance.** The Law Firm represents and warrants that it carries malpractice insurance in the amount usual and customary for law firms of its size and practice areas, subject to normal deductibles. The Law Firm shall maintain the coverage throughout its representation

of the Commonwealth.

20. **Independent Contractor.** In performing the services required by this contract, the Law Firm and its employees and agents will act as an independent contractor and not as an employee or agent of the Commonwealth.

21. **Amendments and Modification.** With the approval of the General Counsel, the parties may amend or modify this contract. Amendments or modifications regarding the total estimated amount of this contract set forth in Appendix C may be accomplished through a funding adjustment in accordance with Commonwealth procedures. Amendments or modifications regarding the funding of this contract that do not exceed the amount set forth in Appendices C or regarding a change in the term of this contract may be accomplished by a letter of mutual consent signed by the Department and the Law Firm. All other amendments and modifications to this contract, including changes in the scope of work, must be accomplished through a formal written amendment to this contract, signed by the parties, and executed in the same manner as this original contract and in accordance with applicable law.

22. **Notice.** Any written notice or communication provided under this contract is sufficient if delivered to the party personally, or by facsimile or by email (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 any other address the party may designate by notice given pursuant to this paragraph:

- a. **To the Commonwealth -**
[NAME OF CHIEF COUNSEL OR DESIGNEE]
[OFFICE OF CHIEF COUNSEL]
[NAME OF AGENCY]
[ADDRESS]
[EMAIL ADDRESS]

with a copy to -

The Honorable Jennifer Selber
General Counsel
225 Main Capitol Building
Harrisburg, Pennsylvania 17120-0020

- b. **To the Law Firm -**
[FIRM CONTACT PERSON]
[NAME OF FIRM]
[ADDRESS]
[EMAIL ADDRESS]

23. **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 will be final and conclusive unless, within 15 days after receipt of such written determination, the Law Firm files a claim with the Commonwealth's 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.

24. **Waiver.** Failure or delay on the part of a party to exercise any right, remedy, power, or privilege under this contract may not be construed as a waiver of the right, remedy, power, or privilege. In order for a waiver to be deemed effective, it must be in writing and must be signed by the party waiving the right, remedy, power, or privilege. A written waiver of a default will not operate as a waiver of the same type of default or any other default on a future occasion.

25. **Titles Not Controlling.** The titles of the paragraphs and subparagraphs in this contract have been inserted as a matter of convenience and reference only and do not control or affect the meaning or construction of any of the terms or provisions of this contract.

26. **Severability.** If any article, clause, or provision of this contract, or any part of this contract, is declared to be invalid, void, or unenforceable by any tribunal having jurisdiction, the invalidity or unenforceability will not affect the validity or enforceability of the remaining portions of this contract, unless the result would be manifestly inequitable or unconscionable.

27. **Integration Clause.** This contract, including all referenced documents, constitutes the entire agreement between the parties. Terms used in appendices to this contract have the same meanings as are ascribed to them in this contract, unless otherwise defined in the appendix. 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 this 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, is permitted to modify or contradict any of the terms and conditions of this contract. No modifications, alterations, changes, or waivers to the contract or any of its terms are valid or binding unless accomplished pursuant to paragraph 27 of this contract.

28. **Counterparts.** This contract may be signed in counterparts, each of which, for all purposes, will be considered an original of this contract. Faxed and scanned signatures are enforceable as original signatures.

[SIGNATURE PAGE FOLLOWS.]

The parties have caused this contract to be executed by their duly authorized representative as of the last date below.

[NAME OF LAW FIRM]

**COMMONWEALTH OF
PENNSYLVANIA,
[NAME OF DEPARTMENT]**

By: _____

By: _____

Title: _____

[NAME]
Chief Counsel

Date: _____

Date: _____

Federal Employer ID #: _____

**GOVERNOR'S OFFICE OF GENERAL
COUNSEL**

By:

NAME
Deputy General Counsel

Date: _____

APPROVED AS TO FORM AND LEGALITY

Chief Counsel
Department of
Date

Deputy General Counsel
Date

Deputy Attorney General
Date

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 reimburse the Law Firm for its 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 27 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 6 and 7 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 Retention of Outside Counsel Guidelines, attached to this contract as Appendix I, and paragraph 7 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 duties under this contract. The Law Firm shall retain all receipts for these expenses and shall provide copies to the Department if requested. Mileage reimbursement will 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 will 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 will be limited to the price of a moderately-priced meal at that hotel or motel. No reimbursement will 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 for these expenses 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 for these expenses 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, require the prior approval of the General Counsel. The General Counsel's approval while 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 constitutes 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 2023)

1. OGC’s standard Contract for Legal Services requires the lawyer or law firm (referred to hereafter as “Law Firm”) to promptly disclose 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 must be in letter form, and should be sent electronically in PDF format to ogc-outsidecounsel@pa.gov.
3. The waiver request must:
 - 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 written notice of the granting of the waiver must 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 responsible for outside counsel management, 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 to approve the Law Firm’s waiver request in a matter is not 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. The Law Firm warrants that it shall not undertake any representation that conflicts with its performance of the services or its duties under this contract unless the conflicting representation has been fully disclosed to and waived by the General Counsel. The Law Firm shall promptly disclose any conflicting representation to the General Counsel. The General Counsel shall determine whether the disclosed conflict is cause for the termination of this contract. The Law Firm shall request a conflict waiver utilizing the process set forth in the Office of General Counsel Conflict Waiver Procedure, which is attached to this contract as Appendix D.

APPENDIX E
COMMONWEALTH STANDARD TERMS AND CONDITIONS
(Revised - 10/1/2023)

1. DEFINITIONS.

Capitalized terms used in these Commonwealth standard terms and conditions that are not otherwise defined in these provisions have the meanings specified in the contract to which it is attached.

2. ENHANCED MINIMUM WAGE.

- a. **Enhanced Minimum Wage.** Contractor shall pay no less than \$15.00 per hour to its employees for all hours worked directly performing the services called for in this contract/lease, and for an employee's hours performing ancillary services necessary for the performance of the services or lease when the employee spends at least 20% of their time performing ancillary services in a given work week.
- b. **Adjustment.** Beginning July 1, 2023, and annually thereafter, the minimum wage rate will 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 Commonwealth will publish applicable adjusted amount in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
- c. **Exceptions.** These Enhanced Minimum Wage Provisions do not apply to employees
 - i. Exempt from minimum wage under the Minimum Wage Act of 1968;
 - ii. covered by a collective bargaining agreement;
 - iii. 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
 - iv. required to be paid a higher wage under any state or local policy or ordinance.
- d. **Notice.** The Contractor shall: (1) post this Enhanced Minimum Wage Provision 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; or (2) for the entire period of the contract, provide electronic notice of this clause to its employees not less than annually.
- e. **Records.** Contractor must maintain and, upon request and within the time periods requested by the Commonwealth, provide to the Commonwealth all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.

- f. **Sanctions.** Contractor’s failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but are not limited to, termination of the contract or lease, nonpayment, debarment, or referral to the Office of General Counsel for appropriate civil or criminal referral.
- g. **Subcontractors.** The Contractor shall include these Enhanced Minimum Wage Provisions in its subcontracts under this contract or lease to ensure that these provisions are binding on its subcontractors.

3. INDEMNIFICATION.

The Law Firm shall indemnify and defend the Commonwealth against all third-party claims, suits, demands, actions, losses, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities ("Claims"), arising out of or in connection with any negligent or intentional act or omission of the Law Firm or any of its officers, agents, employees, representatives, or combination thereof in relation to professional services provided to the Commonwealth by the Law Firm under this contract. This indemnification provision does not apply to Claims for which payment is available under the Law Firm's professional liability insurance policies.

4. NONDISCRIMINATION/SEXUAL HARASSMENT.

- a. **Representations.** The Law Firm represents that it is presently in compliance with and will remain in compliance with all applicable federal, state, and local laws, regulations, and policies relating to nondiscrimination and sexual harassment for the term of the contract. The Law Firm 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 its books, records, and accounts by the Commonwealth for the purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- b. **Nondiscrimination/Sexual Harassment Obligations.** The Law Firm shall not:
 - i. in any manner discriminate in the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under this contract or any subcontract, 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.
 - ii. 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 this contract.

- iii. 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 this contract.
 - iv. in any manner 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 this contract relates.
 - v. 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.
- c. **Establishment of Law Firm Policy.** The Law Firm shall establish and maintain a written nondiscrimination and sexual harassment policy that complies with the applicable law and these Nondiscrimination/Sexual Harassment provisions and shall inform its employees in writing of the policy. The policy must contain a provision that states that sexual harassment will not be tolerated and employees who practice it will be disciplined. For the entire period of the contract, the Law Firm shall: (1) post its written nondiscrimination and sexual harassment policy or these Nondiscrimination/Sexual Harassment provisions conspicuously in easily accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed; or (2) provide electronic notice of the policy or this clause to its employees not less than annually.
- d. **Notification of Violations.** The Law Firm's obligations pursuant to these provisions are ongoing from the effective date and through the termination date of the contract. Accordingly, the Law Firm shall notify the Commonwealth if, at any time during the term of this contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- e. **Cancellation or Termination of Contract.** The Commonwealth may cancel or terminate this contract and all money due or to become due under this contract may be forfeited for a violation of the terms and conditions of these Nondiscrimination/Sexual Harassment provisions. In addition, the agency may proceed with debarment or suspension and may place the Law Firm in the Contractor Responsibility File.
- f. **Subcontracts.** The Law Firm shall include these Nondiscrimination/Sexual Harassment provisions in its contracts with all subcontractors providing goods or services under this contract. The incorporation of these provisions in the Law Firm's subcontracts does not create privity of contract between the Commonwealth and any subcontractor, and no third-party beneficiaries are created by those provisions. If the Law Firm becomes aware of a subcontractor's

violation of this clause, the Law Firm shall use its best efforts to ensure the subcontractor's compliance with these provisions.

5. CONTRACTOR INTEGRITY.

a. **Definitions.** For purposes of these Contractor Integrity Provisions, the following definitions apply:

- i. "Affiliate" means two or more entities where (a) a parent entity owns more than 50% of the voting stock of each of the entities; (b) a common shareholder or group of shareholders owns more than 50% of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
- ii. "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.
- iii. "Contractor Related Parties" means any Affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of five percent or more interest in the Contractor.
- iv. "Financial Interest" means ownership of more than a five percent interest in any business or holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- v. "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](#), as may be amended, 4 Pa. Code §7.153(b), apply.
- vi. "Non-bid Basis" means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

b. **Representations and Warranties.**

- i. **Contractor Representation and Warranties.** The Contractor represents, to the best of its knowledge and belief, and warrants that within the last five years neither the Contractor nor Contractor Related Parties have:
 1. been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 2. been suspended, debarred, or otherwise disqualified from entering into any contract with any governmental agency;
 3. had any business license or professional license suspended or revoked;

4. 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
 5. been, and are not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency or civil anti-trust investigation by any federal, state, or local prosecuting or investigative agency.
- ii. **Contractor Explanation.** If the Contractor cannot make the representations and warranties set forth above at the time of its submission of its bid or proposal or if this contract is awarded on a non-bid basis at the time of the execution of the contract, the Contractor shall submit a written explanation outlining the reasons why it cannot make those representations and warranties. The Commonwealth may, based on its evaluation of the explanation provided, determine whether it is in the Commonwealth's best interest to execute the contract.
 - iii. **Further Representations.** By submitting any bills, invoices, or requests for payment pursuant to this contract, the Contractor further represents that it has not violated any of these Contractor Integrity Provisions during the term of the contract.
 - iv. **Notice.** The Contractor shall immediately notify the Commonwealth, in writing, if at any time during the term of the contract it becomes aware of any event that would cause the Contractor's certification or explanation to change. The Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made in these provisions are currently false or misleading due to intervening factual circumstances or were false or misleading or should have been known to be false or misleading when entering into the contract.
- c. **Contractor Responsibilities.** During the term of this contract, the Contractor shall:
 - i. maintain the highest standards of honesty and integrity.
 - ii. take no action in violation of any applicable laws, regulations, or other requirements applicable to the Contractor that govern Commonwealth contracting and procurement.
 - iii. establish and implement a written business integrity policy that includes, at a minimum, the requirements of these provisions as they relate to the Contractor's activity with the Commonwealth and Commonwealth employees and ensure that its employees comply with the policy.
 - iv. not accept, agree to give, offer, confer, 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, statement of policy, management directive, or bulletin applicable to the provision of goods or services under this contract.

- v. 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 Contractor's financial interest. The Contractor must disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than the date the Contractor signs the contract. The Commonwealth shall be deemed to have consented if the required disclosure is received and all of the required Commonwealth signatures are affixed.
 - vi. comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.) regardless of the method of award.
 - vii. comply with the requirements of Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a) if this contract was awarded on a Non-bid Basis.
 - viii. immediately notify the Commonwealth contracting officer or the Office of the State Inspector General, in writing, when the Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including, but not limited to, contact by a Commonwealth officer or employee, which, if acted upon, would violate the ethical standards.
- d. **Investigations.** If a State Inspector General investigation is initiated, the Contractor shall:
- i. reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
 - ii. cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions and make identified Contractor employees available for interviews at reasonable times and places.

- iii. upon the inquiry or request of an Inspector General, 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 Contractor's integrity and compliance with these provisions. This information may include, but is not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract.
- e. **Termination.** For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Contractor Integrity provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one does 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 contract.
- f. **Subcontracts.** The Contractor shall include these Contractor Integrity Provisions in its contracts with all subcontractors providing goods or services under this contract. The incorporation of this provision in the Contractor's subcontracts does not create privity of contract between the Commonwealth and any subcontractor, and no third-party beneficiaries are created by the inclusion of these provisions. If the Contractor becomes aware of a subcontractor's violation of these provisions, the Contractor shall use its best efforts to ensure the subcontractor's compliance with these provisions.

6. CONTRACTOR RESPONSIBILITY.

- a. **Definition.** For the purpose of these provisions, the term "Contractor" means as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth. The term also includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.
- b. **Contractor Representations.**
 - i. The Contractor represents 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 Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot make this representation, the Contractor shall submit,

along with its contract, a written explanation of why such certification cannot be made.

- ii. The Contractor represents 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.
- c. **Notification.** The Contractor shall notify the Commonwealth if, at any time during the term of this contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best of its knowledge, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. The Contractor shall provide this notification within 15 days of the date of suspension or debarment.
- d. **Default.** The Contractor's failure to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government constitutes an event of default of the contract with the Commonwealth.
- e. **Reimbursement.** The Contractor shall reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this contract or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. These costs include, but are not limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- f. **Suspension and Debarment List.** The Contractor may obtain a 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.

7. AMERICANS WITH DISABILITIES ACT.

- a. **No Exclusion.** Pursuant to the Americans with Disabilities Act, 42 U.S. Code § 12101, et seq., no qualified individual with a disability may, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract.
- b. **Compliance.** For all goods and services provided pursuant to this contract, the Law Firm shall comply with Title II of the Americans with Disabilities Act, the "General Prohibitions Against Discrimination" set forth in 28 C. F. R. § 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act that apply to state and local governments.

- c. **Indemnification.** The Law Firm shall indemnify the Commonwealth against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with the Law Firm's failure or its employee's or agent's failure to comply with the provisions of paragraph a, as determined by the Commonwealth in its sole discretion.

8. APPLICABLE LAW.

This contract is governed by and must be 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.

9. RIGHT TO KNOW LAW. - Omitted

10. OFFSET.

The Commonwealth may set off the amount of any state tax liability or other obligation of the Law Firm, or its subsidiaries, owed to the Commonwealth against any payments due the Law Firm under any contract between the Commonwealth and Law Firm.

11. AUTOMATED CLEARING HOUSE (ACH) PAYMENTS.

- a. **Payment Method.** The Commonwealth shall make contract payments through the Automated Clearing House (ACH). Within 10 days of award of the contract or purchase order, the Law Firm must submit or must have submitted its ACH information within its user profile in the Commonwealth's procurement system (SRM).
- b. **Unique Identifier.** The Law Firm must submit a unique invoice number with each invoice submitted. The Commonwealth shall list the Law Firm's unique invoice number on its ACH remittance advice to enable the Law Firm to properly apply the state agency's payment to the invoice submitted.
- c. **ACH Information in SRM.** The Law Firm shall ensure that the ACH information contained in SRM is accurate and complete. The Law Firm's failure to maintain accurate and complete information may result in delays in payments.

12. WORKER PROTECTION AND INVESTMENT.

The Law Firm shall comply with all applicable Pennsylvania state labor laws and worker safety laws including, but not limited to, the following:

- a. Construction Workplace Misclassification Act;
- b. Employment of Minors Child Labor Act;
- c. Minimum Wage Act;
- d. Prevailing Wage Act;
- e. Equal Pay Law;

- f. Employer to Pay Employment Medical Examination Fee Act;
- g. Seasonal Farm Labor Act;
- h. Wage Payment and Collection Law;
- i. Industrial Homework Law;
- j. Construction Industry Employee Verification Act;
- k. Act 102: Prohibition on Excessive Overtime in Healthcare;
- l. Apprenticeship and Training Act; and
- m. Inspection of Employment Records Law.

APPENDIX F
RETENTION GUIDELINES FOR OUTSIDE COUNSEL
(August 2024)

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 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 law firm has been retained by OGC to perform legal services as set forth in the Contract for Legal Services. The contract defines the scope of services covered by the matter that 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. Outside counsel is 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 law firm’s representation, the law firm must be mindful of conflict issues and disclose promptly any conflicting representation. The Conflict Waiver Procedure that is a part of the contract sets forth the process for 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. OGC 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 law 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. The law firm must send to OGC an initial report within 45 days of the retention of the law firm’s 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, OGC believes 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).

The law firm is expected to keep the responsible OGC attorney advised of the status of the matter. In the absence of material developments that require immediate notification, the law firm 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 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, the law firm must send a prompt report of the event by telephone or electronic mail as directed by the responsible OGC attorney.

D. Correspondence and Pleadings²

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.

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.

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 the law 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 the law firm should be sent to the responsible OGC attorney.

The responsible OGC attorney should have the opportunity to discuss the preparation of pleadings with the law 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 the law firm either in final form for filing or in draft form, and the law firm 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 the law firm in preparing the witness and in the course of questioning by opposing parties. The law firm is 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, 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.

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.

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 the law 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 may the law 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 the law firm as to how OGC would like the bills submitted. Specific provisions are set forth in the Contract for Legal Services in paragraph 7. 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 these guidelines, OGC retains the right to obtain reimbursement of the 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 by attorneys and paralegals.

In matters where fees are based upon hourly rates, actual time in units of 1/10 of an 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 payment 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 7. 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

OGC expects 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 or fax charges
- Air freight/express mail deliveries, where necessary to meet applicable deadlines, or as may otherwise be approved by the responsible OGC attorney⁴
- Outside photocopying, binding and printing services, if approved in advance by the responsible OGC attorney
- Outside messenger services⁵

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. The law firm is 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.

⁴ 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.

⁵ 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.

G. Legal Research

Counsel should know the legal aspects of the Commonwealth's business for which the law firm 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 hours will be spent on computerized legal research, the law firm must 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 the law firm to use its own 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 law firm use OGC representation in firm promotional or other informational material without the prior approval of OGC.

Attachment 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.
- 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