



INVESTIGATIVE REPORT

Cynthia Carrasco, Inspector General

OFFICE: OFFICE OF THE ATTORNEY GENERAL
TITLE: CONTINGENCY FEE CONTRACT
CASE ID: 2016-03-0053
DATE: April 5, 2016

ATTORNEY GENERAL CONTINGENCY FEE CONTRACT

After examination and review, Office of Inspector General Staff Attorney, Chelsea Smith, reports as follows:

The purpose of this Report is to fulfill the statutory requirements of Ind. Code § 4-6-3-2.5 regarding contingency fee contracts. This statute requires the Office of the Inspector General (“OIG”) to review contingency fee contracts for possible conflicts of interest and potential ethics code violations. Under this statute, an agency may not enter into a contingency fee contract unless the OIG has made a written determination that entering into the contract would not violate the Indiana Code of Ethics set forth in 42 IAC 1-5 (“Code of Ethics”) or agency rule concerning conflicts of interest.

On March 24, 2016, the Office of the Indiana Attorney General (“OAG”) notified the OIG that it wished to enter into a contingency fee contract with a law firm in Plantation, Florida that specializes in collections. The OAG’s request explains that the State of Indiana has judgments in its favor against individuals and corporations who are located in Florida. The purpose of the contract is to obtain assistance in the pursuit and recovery of these judgments.

The OAG’s request explains that the purpose of hiring a Florida-licensed attorney, rather

than having OAG deputies handle these matters, is to increase efficiency. The litigation must be undertaken in Florida; therefore, an OAG deputy would have to retain local counsel to serve as a sponsor for his or her admission *pro hac vice*, and then travel to Florida for hearings. The OAG's request further notes that, although collections litigation does not typically involve novel, complex, or difficult questions of law, it does require specific knowledge of Florida's debt collection, enforcement, and recovery laws, which is not within the expertise of the OAG's deputies.

Pursuant to Ind. Code § 4-6-3-2.5(b), the OAG is required to make a written determination before entering into the contract that contingency fee representation is cost effective and in the public interest. The OAG must consider five factors when making this determination as outlined by Ind. Code § 4-6-3-2.5(c). The OAG made such a determination and considered all of the factors outlined in the statute.

Furthermore, Ind. Code § 4-6-3-2.5(d) requires the OAG to request proposals from private attorneys wishing to provide services on a contingency fee basis, unless the agency, in this case also the OAG, determines in writing that requesting proposals is not feasible under the circumstances. The OAG determined that, because it does not have a good mechanism for disseminating requests for proposals to Florida attorneys and law firms, requesting formal proposals for this contract was not feasible under the circumstances. In addition, the OAG previously utilized this law firm for collections services and has been satisfied with its work and, therefore, did not deem it necessary to seek information from other law firms in the State of Florida.

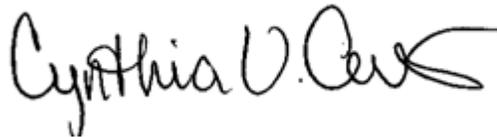
After careful examination and review, the OIG has determined that the contract will not violate the Code of Ethics or any statute or agency rule concerning conflicts of interest. First, the contract is with a firm located out of state; therefore, it does not appear that the law firm employs

any state employees. Likewise, there is no information to indicate that any OAG employee or immediate family member has a financial interest in the law firm or the contract itself. Because of that, it also does not appear that any OAG employee is contracting with or will be supervising the work of a business entity in which a relative is a partner, executive officer or sole proprietor. Furthermore, the OAG's request asserts that to the best of their knowledge neither the law firm nor any member of the firm have a conflict of interest that would violate either the Code of Ethics or any ethics rule of the Indiana Supreme Court.

Based on the information provided, we find that entering into the contract will not violate the Code of Ethics or any statute or agency rule concerning conflicts of interest. This Report is issued in compliance with the above noted statutory requirements.

Dated April 5, 2016.

APPROVED BY:

A handwritten signature in black ink that reads "Cynthia V. Carrasco". The signature is written in a cursive style with a large, sweeping flourish at the end.

Cynthia V. Carrasco, Inspector General