



INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: OFFICE OF THE INDIANA ATTORNEY GENERAL
TITLE: CONTINGENCY FEE CONTRACT AMENDMENT
CASE ID: 2019-05-0155
DATE: May 30, 2019

After examination and review, Office of Inspector General Staff Attorney Kelly Elliott 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 Inspector General (IG) to review contingency fee contracts for possible conflicts of interests and potential Code of Ethics violations. Under this statute, an agency may not enter into a contingency fee contract unless the IG 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 or agency rule concerning conflict of interests.

On May 29, 2019, the Office of the Indiana Attorney General (OAG) notified the IG that it wished to amend a contingency fee contract (EDS# A56-7-17-37) with Penn Credit Corporation (Penn Credit) and Pfenninger and Associates (Pfenninger), an Indianapolis based collections law firm. The OAG would like to extend the term of the contract until July 31, 2021.

The OAG first entered into a contingency fee contract with Penn Credit and Pfenninger on August 15, 2017. The purpose of the original contract was to utilize Penn Credit primarily to undertake collection activities on behalf of state agencies when the amount owed is less than \$6000 or when the enforcement of an action through proceedings supplemental actions is required on any case other than State Board of Accounts matters. Penn Credit would utilize Pfenninger when legal representation was needed. The State

compensated Penn Credit and Pfenninger through a contingency fee in the amount of 14.5% of the amount recovered. In IG Report 2017-07-0144¹ dated July 28, 2017, the IG determined that the original contract would not violate the Code of Ethics or any statute or agency rule concerning conflict of interests.

The OAG represents that it has been satisfied with Penn Credit and Pfenninger's services. In addition, it does not appear that the circumstances that the IG evaluated when making the original determination have changed or will be altered by this amendment, as this amendment only extends the terms of the contract and adds additional information regarding Minority and Women's Business subcontractors and Indiana Veteran Owned Small Business subcontractors.

According to the OAG, no employee of the OAG or immediate family member of an OAG employee has any financial interest in Penn Credit or Pfenninger. Likewise, there is no information to indicate that any OAG employee or immediate family member of an OAG employee has a financial interest in the contract itself. Furthermore, neither Penn Credit nor Pfenninger employs any state employees, including OAG personnel involved in any of the contracting decisions. Additionally, the OAG provides that no 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.

Based on the information provided, we find that entering into this contingency fee contract amendment will not violate the Code of Ethics or any statute or agency rule concerning conflict of interests.

This Report is issued in compliance with the above noted statutory requirements.

Dated: May 30, 2019

APPROVED BY:



Lori Torres, Inspector General

¹ See [IG Report 2017-07-0144](#).