



INVESTIGATIVE REPORT

OFFICE: OFFICE OF THE INDIANA ATTORNEY GENERAL
TITLE: CONTINGENCY FEE CONTRACT
CASE ID: 2021-01-0020
DATE: January 22, 2021

After examination and review, Office of Inspector General (OIG) Staff Attorney Lyubov Gore 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 proposed 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 Ind. Code §4-2-6 and 42 IAC 1-5, or any statute or agency rule concerning conflicts of interests.

On January 20, 2021, the Office of the Indiana Attorney General (OAG) notified the OIG that it wished to amend an existing contingency fee contract (EDS # A56-4-14-06) with Foote Mielke Chavez & O'Neil, LLC and Rynbrandt & Associates, PLLC (Firms). The current contingency fee contract, as previously amended, expires on February 8, 2021. As the litigation and legal services in which the Firms are engaged is still pending, the OAG would like to extend the term of the contract until February 10, 2023.

The OAG first entered into a contingency fee contract with the Firms on April 9, 2014. The

purpose of the original contract, which the IG approved on February 10, 2014, was to pursue monetary recovery on behalf of the State and other Indiana governmental entities related to an automotive parts multi-district antitrust litigation pending in the Eastern District of Michigan. The OAG explained in their initial request that this matter first arose in January 2013 when the U.S. Department of Justice revealed a criminal investigation into price-fixing and bid rigging in the auto parts industry between 2000 and 2001. In IG Report 2014-01-0020¹ dated February 10, 2014, the IG determined that the original contract would not violate the Code of Ethics or any statute or agency rule concerning conflicts of interests.

On March 28, 2017, the OAG amended the contingency fee contract. The purpose of the amended contract, which the IG approved on February 10, 2017, was to extend the term of the contract until February 9, 2019, due to ongoing litigation of the antitrust matter. In IG Report 2014-01-0020² dated February 10, 2017, the IG determined that the amended contract would not violate the Code of Ethics or any statute or agency rule concerning conflicts of interests.

On March 19, 2019, the OAG amended the contingency fee contract a second time. The purpose of the amended contract, which the IG approved on January 24, 2019, was to extend the term of the contract until February 8, 2021, and to update the contact information for notices to the OAG. In IG Report 2019-01-0014³, the OIG determined that such an amendment would not violate the Code of Ethics or violate any statute or agency rule concerning conflicts of interests.

The OAG represents that the litigation of the antitrust matter has not yet concluded and that they have been satisfied with the Firms' active representation of the State in this matter. Further, the OAG provides that neither Firm employs any state employees and that no OAG

¹ See [IG Report 2014-01-0020](#), dated February 10, 2014.

² See [IG Report 2014-01-0020](#), dated February 10, 2017.

³ See [IG Report 2019-01-0014](#), dated January 24, 2019.

employee or immediate family member has a financial interest in either of the Firms or in the contingency fee contract itself. The OAG also 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. To the best of the OAG's knowledge, neither of the Firms nor any member of either of the Firms has a conflict of interests that would violate either the Code of Ethics or any ethics rule of the Indiana Supreme Court or any statute or agency rule concerning conflicts of interests.

It does not appear that the circumstances that the IG evaluated when making the original determination regarding the contingency contract have changed or will be altered by the amendment the OAG currently proposes, as this amendment only extends the term of the contract.

Based on the information provided, the OIG determines that entering into this contingency fee contract amendment will not violate the Code of Ethics or any statute or agency rule concerning conflicts of interests. This Report is issued in compliance with the above noted statutory requirements.

Dated: January 22, 2021

APPROVED BY:

Tiffany M. Mulligan
Interim Inspector General