



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
CIVIL LITIGATION DIVISION

BRUNN ROYSDEN
ACTING DIVISION CHIEF
(602) 542-8958
BROYSDEN@AZAG.GOV

December 20, 2018

Robert Carey
Hagens Berman Sobol Shapiro
11 West Jefferson Ste. 1000
Phoenix, AZ 85003
rob@hbsslaw.com

Re: Assignment as Outside Counsel


Dear Mr. Carey:

Pursuant to the enclosed contract for outside counsel services in connection with consumer fraud and related civil actions between your firm and the State of Arizona ("Arizona" or "the State"), contract AG18-0013, we are retaining and assigning your firm, for the purpose of assisting with the Office's investigation of potential Consumer Fraud Act violations (and potential litigation) of clean diesel manufacturers. Specifically, this matter relates to the investigation into Mercedes-Benz USA, LLC and Daimler Aktiengesellschaft.

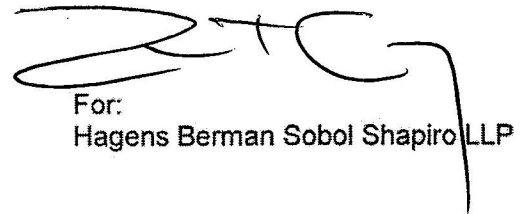
The effective date of appointment is Wednesday, December 19, 2018. Please counter sign and return this letter by Monday, December 24, 2018. If there is any reason you cannot provide legal services in connection with this matter pursuant to the enclosed contract, please notify me immediately so that other counsel may be appointed.

As an initial matter, I will be overseeing this investigation on a day-to-day basis with the assistance of Rebecca Eggleston and Matthew du Mee. If you have any questions, please do not hesitate to contact me.

Sincerely,


Brunn Roysden
Acting Division Chief

Counter-signature


For:
Hagens Berman Sobol Shapiro LLP

cc: Joseph Sciarrotta, SGD-ADM
Rebecca Eggleston, CLD-CPA
Matthew du Mee, CLD-CPA
Jerry Connolly, AGO Procurement Officer
Valerie Neumann, EXO Executive Assistant



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WRITTEN DETERMINATION PURSUANT TO A.R.S. § 41-4802

This written determination is made by the Attorney General in accordance with A.R.S. § 41-4802. The Attorney General has determined that it would be cost effective and in the public interest to engage a private law firm to assist with the Office's investigation (and possible litigation) of potential Consumer Fraud Act violations relating to the advertisement, sale, leasing, and repair of cars that contained the emissions-related fraudulent software designed to mask the amount of noxious emissions emitted by Mercedes-Benz USA, LLC and Daimler Aktiengesellschaft diesel automobiles. Pursuant to § 41-4802(B), the Attorney General previously issued a request for proposals and hereby selects Hagens Berman Sobol Shapiro LLP, pursuant to the standard consumer protection contingency fee contract, AG18-0013. The Attorney General finds as follows.

1. There currently does not exist sufficient and appropriate legal and financial resources within the Attorney General's Office to handle the matter without at least some additional assistance, especially if the matter proceeds to litigation;
2. The time and labor required to perform the necessary legal tasks exceeds or will likely soon exceed the current capacity of the Attorney General's Office without at least some additional assistance, especially if the matter proceeds to litigation;
3. Individual attorneys within the Attorney General's Office possess the skill necessary to properly initiate and oversee this matter and perform the attorney services necessary to address the novelty, complexity, and difficulty of the questions involved and will do so as co-counsel of record with Hagens Berman Sobol Shapiro LLP;
4. The geographic area where the private attorney services are to be provided is primarily in Arizona, although out-of-state depositions and international discovery will likely be involved;
5. The Attorney General has determined that the attorneys of Hagens Berman Sobol Shapiro LLP have substantial consumer fraud litigation experience in similar contexts involving the automotive industry, as well as experience involving international discovery issues as may arise in this matter;
6. The primary purpose of this agreement will be to analyze the pertinent evidence and potential legal claims, and if appropriate file a lawsuit to obtain restitution for consumers, enforce statutory penalties available to the State, and obtain costs of suit and investigation, attorney's fees, and any other appropriate and available remedies and relief.

Mark Brnovich
Attorney General

19 Dec 18

Date



NOTICE FOR REQUEST FOR PROPOSAL
SOLICITATION # AG18-0013

State of Arizona
Office of the Attorney General
1275 W Washington ST
Phoenix, AZ 85007-2926

NOTICE

The Office of the Arizona Attorney General (hereinafter the “AGO”), in accordance with the Arizona Procurement Code, is issuing the attached Request for Proposal (hereinafter “RFP”) for Outside Counsel Services – Consumer Fraud and Related Civil Actions (Contingency Fee Only).

REQUIREMENTS

Any law firm is invited to respond to this RFP regardless of size. Sole practitioners are acceptable.

OVERVIEW OF SERVICES

The purpose of this RFP is to establish contracts with legal counsel for the AGO to independently retain legal counsel, on an “as needed, if needed” basis to assist with legal action against potential parties for violations of the Arizona Consumer Fraud Act arising out of deceptive acts and misrepresentations made to Arizona consumers. Upon retention, Outside Counsel will assist the AGO on a contingency fee basis per the terms set forth in this Request for Proposal. It is understood that this contract, due to the complexity of legal matters, is not intended to be a mandatory contract. Certain matters may be contracted outside this contract based upon the specific need.

INSTRUCTIONS FOR RESPONSE

The instructions to respond are included in the attached RFP. Responses are expected to comply with these instructions and contain sufficient information to justify an award.

QUESTIONS REGARDING RFP

Questions should be directed to Jerry Connolly at 602-542-8030 or emailed to Jerry.Connolly@azag.gov or Cindy Palmer at 602-542-7986 or emailed to Cindy.Palmer@azag.gov.



**REQUEST FOR PROPOSAL
SOLICITATION # AG18-0013**

**State of Arizona
Office of the Attorney General**
1275 W Washington ST
Phoenix, AZ 85007-2926

**DESCRIPTION: AG18-0013 OUTSIDE COUNSEL – CONSUMER FRAUD AND RELATED CIVIL ACTIONS
(CONTINGENCY FEE ONLY)**

SOLICITATION DUE DATE/TIME: PROPOSALS ARE DUE BY OCTOBER 31, 2017 AT 3:00PM Local AZ Time

THIS RFP IS BEING ISSUED OUTSIDE PROCUREAZ. DO NOT SEND YOUR RESPONSE TO PROCUREAZ. THE INSTRUCTIONS FOR RESPONDING ARE INCLUDED IN THIS RFP.

ELECTRONIC COPY OF RFP: An electronic copy of this Request for Proposal (RFP) with applicable Attachments is available at <https://www.azag.gov/rfp> or you may request the RFP by sending a request to procurement@azag.gov; the solicitation number should be identified in the subject line and contact information for your firm provided with the e-mail. The Solicitation on file in the Arizona Office of the Attorney General, Procurement Office shall have precedence over any differing documents. Changes to this Request for Proposal shall be without effect unless proposed in accordance with the Uniform and Special Instruction Sections of this Solicitation and specifically accepted by the Arizona Office of the Attorney General.

OFFER DELIVERY LOCATION: Proposals shall be mailed or delivered to the Office of the Arizona Attorney. Proposals must be in a sealed envelope or container. Proposals should be marked Solicitation #AG18-0013. No fax or electronic copies will be accepted. All proposals must be received by the Solicitation due date and time specified. Any response received after the Solicitation due date and time specified will not be considered.

PHYSICAL MAILING and DELIVERY ADDRESS:

Arizona Attorney General
Procurement Section
1275 West Washington Street
Phoenix, Arizona 85007

GENERAL: In accordance with ARS §41-2538 competitive sealed proposals for the services specified will be received by Office of the Arizona Attorney General, Procurement Section at the specified locations until the time and date cited above. Offers received by the correct time and date will be opened and the name of each Offeror will be publicly read. Offers must be in the actual possession of Office of the Arizona Attorney General, Procurement Section on or prior to the Solicitation Due Date and Time and at the Offer Delivery locations indicated above. Late offers shall not be considered. Hand Delivered or Mailed offers must be submitted in a sealed package with the Solicitation number and the Offeror's name and address clearly indicated on the package. Additional instructions for preparing a proposal are provided in the Special Instructions to Offerors to Offerors as contained within this notice.

QUESTIONS REGARDING RFP:

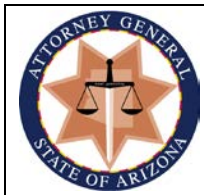
Solicitation Contact Person:

Jerry Connolly, Procurement Manager
Phone: (602) 542-8030 / Fax: (602) 251-2285
E-mail: Jerry.Connolly@azag.gov

Solicitation Contact Person:

Cindy Palmer, Procurement Officer
Phone: (602) 542-7986 / Fax: (602) 251-2285
E-mail: Cindy.Palmer@azag.gov

Offerors are Strongly Encouraged to Carefully Read the Entire Request for Proposal



SCOPE OF WORK SOLICITATION # AG18-0013

State of Arizona
Office of the Attorney General
1275 W. Washington
Phoenix, AZ 85007-2926

1. SCOPE OF WORK

1.1. Background

The Office of the Arizona Attorney General (AGO) has the authority to bring actions alleging violations of the Consumer Fraud Act (A.R.S. §44-1521 *et. seq*) and/or other state and federal consumer protection laws. The Civil Litigation Division (CLD) of the AGO works to protect the public from consumer fraud, antitrust and anti-competitive conduct, and related civil litigation matters, as well as to provide advocacy and public education on consumer protection and related issues with an emphasis on fraud and abuse.

1.2. Purpose

The purpose of this Request for Proposal is to establish contracts with legal counsel for the AGO to independently retain legal counsel, on an “as needed, if needed” basis to assist with legal action against potential parties for violations of the law arising out of deceptive acts and misrepresentations made to Arizona consumers as well as other related conduct. Upon retention, Outside Counsel will assist the AGO on a contingency fee basis per the terms set forth in this Request for Proposal. It is understood that this contract, due to the complexity of legal matters, is not intended to be a mandatory contract. Certain matters may be contracted outside this contract based upon the specific need.

1.3. Assignment of Cases

No work, in the name of the Office of the Arizona Attorney General or the State of Arizona shall be undertaken without a written assignment letter or Notice to Proceed from the AGO. Cases will be assigned based on a case-by-case basis.

1.4. Goals

Litigation on matters would be brought under the Arizona Consumer Fraud Act, A.R.S. § 44-1521 *et. seq* and/or other state and federal consumer protection laws and related statutes, on behalf of the State of Arizona. Such litigation would seek to recover civil penalties, disgorgement, restitution, attorneys' fees, costs, potential injunctive relief and other equitable relief, and any other appropriate relief, after consultation with the AGO. The Attorney General will consider seeking all or any combination of these remedies.

1.5. Hierarchy

The retention of Outside Counsel under this contract is intended to aid the Attorney General in representing the State of Arizona in potential matters. The AGO will be actively involved in all stages of matters and will be the ultimate decider on all material aspects and issues, including (but not limited to) whether and when to file suit; whom to sue; what claims to assert in any suit; and whether and on what terms to settle or proceed to trial. The AGO shall be co-counsel of record in the litigation.

1.6. Scope of Work Tasks

Outside Counsel shall be responsible for the following tasks and shall perform these tasks in accordance with the Method of Approach or other case-plan documents prepared in connection with a particular representation, written assignment letter, or Notice to Proceed.

- 1.6.1. Evaluation of Legality of Practices
- 1.6.2. Decision Process
- 1.6.3. Pre-Litigation Activities



SCOPE OF WORK
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State of Arizona
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- 1.6.4. Litigation, including all appeals
- 1.6.5. Litigation Support (including document reviews)
- 1.6.6. Post Litigation Support

1.7. Reporting

1.7.1. Monthly Reports

Outside Counsel shall prepare and submit monthly reports to the AGO summarizing activities from the previous month and detailing the hours, rates, and costs incurred during that month. Throughout the pendency of this matter, Outside Counsel shall maintain detailed contemporaneous time records for the attorneys and paralegals working on the matter in increments of no greater than one tenth of one hour and shall promptly provide these records to the AGO on request. Where time is spent or expenses are disbursed or incurred by Outside Counsel that also benefit other clients of Outside Counsel in other, similar litigation, only the portion of such time or expenses exclusively allocable to the State in connection with this matter shall be claimed as reasonable expenses of prosecuting the envisioned litigation. The report shall also include activities planned for the upcoming month and budgetary costs associated with these activities. The report shall be due by the seventh day of each month. Reports shall be prepared in a format and of a quality approved by the AGO.

1.7.2. Reporting of Related Class Action Litigation

If at any time during the course of a representation Outside Counsel serves as class counsel or files court papers seeking to serve as class counsel in a class action related to the representation or the conduct at issue in the representation, Outside Counsel must immediately notify the AGO of the pertinent class action and Outside Counsel's role or requested role in the class action.

1.8. Compensation

1.8.1. Contingency

Neither the Office of the Attorney General nor the State of Arizona is liable under this Agreement to pay compensation to Outside Counsel other than from a specific fund of monies that is recovered in connection with assigned matters on behalf of the State or its agencies as a result of settlement or judgment.

1.8.2. Compensation

- 1.8.2.1. It is agreed that the pre-set, fixed fee ("Fee") to be charged by Outside Counsel in connection with the representation described in this Agreement shall be contingent so that if no recovery is obtained on behalf of the Attorney General or the State of Arizona in this matter, no Fee will be charged by Outside Counsel for the representation. If there is a recovery, the Fee will be based on the contingent fee percentages set forth in A.R.S. § 41-4803, which percentages shall be applied to the gross amount received by settlement, at trial, or on appeal, subject to the following specific limitation: the Fee shall be calculated only based upon the recovery and collection of civil penalties pursuant to A.R.S. § 41-1531 or disgorgement pursuant to A.R.S. § 41-1529(A)(3), and shall not be calculated based upon the recovery of any amounts agreed upon, awarded, recovered, received, or collected as consumer restitution.



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- 1.8.2.2. The Fee shall not include costs, except as set forth here. Outside Counsel shall be responsible for paying all internal, litigation-related expenses of Outside Counsel, including (but not limited to) costs related to copies and office supplies, as well as all fees relating to factual discovery and document review, including (but not limited to) document review fees, document hosting and storage fees, and fees related to acquisition of attorney work product from related actions pertinent to factual discovery or review of documents. Fees relating to the engagement and use of expert witness, as well as court fees and appearance fees shall be the responsibility of the State. These fees for which the State will bear ultimate responsibility shall be paid by the State only as follows. Outside Counsel shall advance all such costs and expenses on behalf of the State. Outside Counsel shall not submit to the AGO or the State an invoice for such costs and expenses on an interim basis, but instead shall keep a detailed accounting during the course of the representation (subject to review upon request by the AGO). In the event of any recovery by the State or AGO in connection with this representation, the State agrees that Outside Counsel shall then be paid for all such advanced costs and expenses from the State's share of the recovery. In the event the litigation is dismissed, or the State recovers an amount that does not exceed the reimbursable costs and disbursements detailed above, or the State recovers nothing, or Outside Counsel is terminated without cause, the AGO agrees to seek a legislative appropriation to reimburse reasonable costs. Outside Counsel understands and acknowledges that the AGO's obligation to pay for such costs and expenses under said circumstances is entirely subject to and conditioned upon a legislative appropriation outside the control of the AGO, and Outside Counsel may seek a recovery for such costs and expenses only from funds so appropriated. The State will, however, be responsible for and pay any costs or expenses directly assessed against the State in connection with this representation by a court of competent jurisdiction, such as jury fees and taxable costs of an opposing party.
- 1.8.2.3. Notwithstanding the above, neither the State nor the AGO shall be responsible for sanctions entered against Outside Counsel.

1.9. Basis of Compensation

- 1.9.1.** If there is a recovery and collection of disgorged profits or penalties for the State, the amount of compensation due to Outside Counsel as a Fee shall be paid in an amount no greater than the percentages set forth in A.R.S. §41-4803, with the limitations set forth in the statute not to be exceeded, the contingent fee shall not be applied to any amount agreed upon, awarded, recovered, received, or collected as consumer restitution, and the Fee being further subject to judicial approval for reasonableness.
- 1.9.1.1. Contingency fee maximums are established by A.R.S. §41-4803, the AGO reserves the right to negotiate the rate before assigning a case.
- 1.9.2.** A defendant who is "settling" is a defendant who has entered into a written settlement agreement with the State of Arizona. The settlement agreement shall determine the compensation as per paragraph 1.12. Settlement below.
- 1.9.3.** If Outside Counsel represents any other governmental entity in litigation related in type to that detailed above against the same or similar entities as those described above, and agrees to



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represent such entity for a contingency fee lower than that set forth in A.R.S. §41-4803, the contingency fee herein shall be reduced to meet that lower percentage. It is the intent of Outside Counsel to provide the State of Arizona with the best price it offers for its services.

- 1.9.4.** The State reserves the right to petition any court before payment to determine reasonableness of attorneys' fees outlined in this Agreement.

1.10. Challenge to Contingency Fee Arrangements

- 1.10.1.** The AGO and Outside Counsel agree that the contingent fee provisions set forth in A.R.S. §§ 41-4801 to 41-4805 are valid and govern any contract that may result from this Request for Proposal. The AGO and Outside Counsel agree that the percentage limitations of A.R.S. § 41-4803 properly apply to the special circumstances of this solicitation. The AGO and Outside Counsel further agree that the percentages set forth in A.R.S. § 41-4803 are reasonable and in the public interest.

- 1.10.2.** The AGO and Outside Counsel are aware that defendants may challenge and seek to invalidate or limit this contingency fee arrangement. Any such challenge shall not excuse Outside Counsel's performance under this Agreement. The AGO agrees to join Outside Counsel in opposing any challenge to this contingency fee arrangement. In the event of a successful challenge to this contingency fee agreement, the AGO agrees to join Outside Counsel in arguing to the Court that the contingency fee percentages set forth in A.R.S. § 41-4803 are fair and reasonable for purposes of compensation and a formal attorneys' fees application, and in the event such argument is not successful, then Outside Counsel agrees to and shall continue its representation of the State in the litigation at the following maximum hourly billing rates: for partners, not to exceed \$400 per hour; for associates, not to exceed \$250 per hour; for paralegals, not to exceed \$125 per hour. In such event, these hourly fees shall be contingent upon and payable solely out of any recovery obtained in the litigation. If there is no recovery, Outside Counsel will not be paid for such hourly work. If the recovery is insufficient to pay for such hourly work in full, then any excess remainder hourly fees will not be paid. Outside Counsel shall not submit to the AGO or the State an invoice for such hourly fees on an interim basis. Neither the AGO nor the State is liable under this Agreement to pay compensation of any kind to Outside Counsel, other than from a specific fund of monies that may be recovered on behalf of the State or its agencies as a result of settlement or judgment obtained against the named defendants in the litigation. In the alternative, in the event of a successful challenge to this contingency fee agreement, the AGO or the State, in their sole discretion, may terminate this contract and discharge Outside Counsel from any further representation of the State in the litigation.

- 1.10.2.1. The hourly rates established above are maximum rates and may be negotiated before assigning a case.

- 1.10.3.** Notwithstanding anything to the contrary in this paragraph, in the event the litigation is dismissed, or the State recovers an amount that does not exceed the hourly billings of Outside Counsel, or Outside Counsel is terminated without cause, the AGO, in its sole discretion, may seek a legislative appropriation to reimburse the hourly billings of Outside Counsel. Outside Counsel understands and acknowledges that the AGO's obligation to pay for such costs and expenses under said circumstances is entirely subject to and conditioned upon a legislative



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appropriation outside the control of the AGO and Outside Counsel may seek a recovery for such costs and expenses only from funds so appropriated.

1.10.4. Furthermore, in no event shall the State be required to pay a contingent fee or hourly fee that is unreasonable under the circumstances.

1.11. Court Awarded Attorney Fees

The State intends to seek an award from a court of fees and costs for prosecution of the case. In addition to maintaining detailed contemporaneous time records for the attorneys and paralegals working on this matter in increments of no greater than one tenth of one hour, as set forth above, Outside Counsel shall further ensure that these time records are in a format sufficient to support a court-imposed attorneys' fee award based on those records, including, but not limited to, ensuring the use of the type of specific, detailed billing in an itemized fashion (with no use of block billing) that is required to support an attorneys' fee application in Arizona courts.

Should the court award attorney fees and costs to the State, such amounts will be retained by the State to offset some or all of the fees paid to Outside Counsel under this Agreement.

1.12. Settlement

This compensation agreement applies to any partial or total settlement of the matter that is the subject of this representation. In addition, in the event the AGO enters into a partial settlement against the advice of Outside Counsel, Outside Counsel agrees to and shall continue its representation of the State in the litigation against the remaining defendants and to be compensated in accordance with paragraphs 1.8 and 1.9 and 1.10 above. In the event, the AGO enters into a settlement against the advice of Outside Counsel, and such settlement completely resolves the litigation, Outside Counsel agrees to and will be compensated in accordance with paragraphs 1.8 and 1.9 and 1.10 above.

1.13. Advance Payment Prohibited

No payment in advance or in anticipation of services or supplies under this contract shall be made by the AGO.



SPECIAL TERMS AND CONDITIONS
SOLICITATION # AG18-0013

State of Arizona
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2. SPECIAL TERMS AND CONDITIONS

2.1. Contract

Authority to Contract: This Contract is issued for the AGO in accordance with A.R.S. § 41-2538.

2.2. Contract Type/Compensation

Contingency Fee

2.3. Term of Contract

- 2.3.1.** The term of the Contract shall commence upon award and shall remain in effect for a period of one year thereafter unless terminated, canceled or extended pursuant to the terms herein.
- 2.3.2.** This contract may be extended by written amendment for an additional 48 months after the original award.
- 2.3.3.** Should a case be appointed under this contract, the term of the Contract shall extend from the date of appointment through the term of Litigation unless terminated pursuant to the terms herein, whether the original contract is extended by written amendment or not.

2.4. Termination without Cause

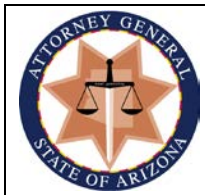
The AGO may terminate this Agreement without cause and without penalty upon at least thirty (30) days written notice to Outside Counsel. At the conclusion of the litigation, Outside Counsel terminated without cause will be entitled to be reimbursed for reasonable out-of-pocket costs in accordance with paragraph 1.8 above. In any contract with substitute counsel, the AGO will require substitute counsel to share on a pro-rata basis with counsel terminated without cause any attorneys' fees recovered, according to each counsel's reasonable percentage of time and work spent on the litigation, or as otherwise agreed to by substitute counsel and terminated counsel. Substitute counsel's obligation to share fees with Outside Counsel will only arise at the conclusion of the litigation if there is a recovery by settlement or judgment.

2.5. Termination with Cause

The AGO may terminate this Agreement for cause if Outside Counsel breaches any material terms or conditions of this Agreement or fails to perform or fulfill any material obligation under this Agreement or negligently pursues the litigation so as to cause harm to the State. Outside Counsel shall be provided written notice of termination. The AGO may further terminate this Agreement and end any representation for cause upon receipt of a notification from Outside Counsel pursuant to paragraph 1.7.2, or upon the AGO otherwise learning that Outside Counsel serves as class counsel or is seeking to serve as class counsel in a class action related to the representation or the conduct at issue in the representation under this Agreement. If Outside Counsel is terminated for cause, Outside Counsel shall not be entitled to compensation or reimbursement of any kind under this Agreement.

2.6. Documents Incorporated by Reference

The State of Arizona's Uniform Instructions to Offerors (Rev 9-2014) and Uniform Terms and Conditions (V9 - Rev 7-1-2013) are incorporated into this Contract. Offerors are encouraged to obtain these documents. Offerors may obtain copies by visiting the Arizona State Procurement Office (SPO) web site at:



SPECIAL TERMS AND CONDITIONS
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<https://spo.az.gov/administration-policy/state-procurement-resource/standard-forms-and-documents> or by calling the Office of the Attorney General, Procurement at (602) 542-8030.

2.7. Estimated Usage

Any Contract resulting from this Solicitation shall be used on an as needed, if needed, basis. The State makes no guarantee as to the amount of work, if any, that may be performed under any resulting Contract.

2.8. Non-Exclusive Contract

The State has the right to procure the services listed herein from attorneys other than those awarded Contracts pursuant to this Solicitation.

2.9. Ownership of Materials

All materials, documents, deliverables and/or other products of the Contract (including but not limited to work plans, reports, etc.) shall be the sole, absolute and exclusive property of the AGO, free from any claim or retention of right on the part of the Outside Counsel, its agents, subcontractors, officers or employees.

2.10. Outside Counsel Responsibilities

2.10.1. Outside Counsel

A "team arrangement" or "multiple firm arrangement" may be proposed, but must be proposed as a Outside Counsel/Co-Counsel relationship. A firm must be designated as Outside Counsel. Outside Counsel shall be responsible for all contractual obligations and the management of all "Co-Counsels". Outside Counsel shall also be responsible for and agrees to be liable for any acts or omissions of Co-Counsel in the carrying out of its duties on behalf of the State. The AGO will not become part of any negotiations between Outside Counsel and Co-Counsel or accept any invoices from Co-Counsel. Any agreement between Outside Counsel and Co-Counsel shall include provisions indicating that the AGO and the State of Arizona are not third-party beneficiaries of such agreement and that Co-Counsel is not a third-party beneficiary of this Agreement. A Proposal that reflects a teaming arrangement designating more than one entity as a cosigner of the proposal will not be accepted.

2.10.2. Key Personnel

It is essential that the Outside Counsel provide an adequate staff of experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this Contract. Outside Counsel must assign specific individuals to key positions. Outside Counsel agrees and understands that this Agreement is predicated, in part and among other considerations, on the utilization of the specific individual(s) and/or personnel qualification(s) as identified and/or described in the Outside Counsel's proposal. Therefore, Outside Counsel agrees that no substitution of such specified individual(s) and/or personnel qualifications shall be made without the prior written approval of the AGO. Outside Counsel further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the AGO's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The AGO agrees that an approval of a substitution will not be unreasonably withheld. Outside Counsel shall bear all transitional expenses incurred for any costs associated with removing or replacing Key Personnel who are performing work under this Contract. Outside Counsel agrees to reveal its staffing levels by function, including resumes,



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upon request by the AGO at any time during the performance of this Contract.

2.10.3. Lead Counsel

Outside Counsel shall name an individual as the Lead Counsel for the outside counsel team. This individual shall be considered a Key Personnel as defined in this contract. The Outside Counsel shall provide the Lead Counsel's complete address, e-mail address and telephone and Fax numbers. The Lead Counsel shall be the company representative to whom all correspondence, official notices, and requests related to the project shall be addressed. If a firm joins together with another firm or firms, the firms shall name only one Lead Counsel.

2.10.4. Other Key Personnel

Outside Counsel should provide the name of any other individual who will perform duties to directly support the person offered as the Lead Counsel. The crucial duties this individual will perform should be identified.

2.10.5. Removal of Outside Counsel's Employees

The AGO may require the Outside Counsel to remove from an assignment employees who endanger persons, property or whose continued employment under this Contract is inconsistent with the interests of the AGO.

2.10.6. Availability of Outside Counsel

The Outside Counsel shall be available immediately upon receipt of the Notice to Proceed and remain available to the AGO throughout the period of performance as stated in the Contract.

2.10.7. Submission of Electronic Deliverables

At the request of the AGO, the Outside Counsel shall submit electronic deliverables. All electronic deliverables shall be in format compatible with AGO software. The AGO currently uses the MS Office 2010 suite of products (e.g. docx, xlsx, and pptx) and Adobe Acrobat Pro X (e.g. pdf) software, other formats may be considered. Electronic Deliverables shall be treated with confidentiality and provided through encrypted e-mail, the AGO file share website (<https://agfileshare.azag.gov>), encrypted hard drive, or encrypted flash drive.

2.11. Oversight and Draft Document Review

2.11.1. Oversight

The retention of Outside Counsel is intended to aid the Attorney General in representing the State of Arizona in a major matter. The AGO will be actively involved in all stages of this matter and deciding all major issues, including whether to file suit, when to file suit, who to file suit against, approval of the asserted claim or claims and whether and on what basis to settle or proceed to trial. Outside Counsel shall acknowledge and defer to the Attorney General for direction and decisions.

2.11.2. Review of Services

The AGO reserves the right to review all and every part of the Services during performance or after completion as the AGO may see fit. If the Services or any part thereof have not been performed in accordance with this Agreement to the satisfaction of the Attorney General, the AGO may order that no further services be performed and may reject and refuse to pay for any improperly performed



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services and shall fully comply with all the requirements set forth in A.R.S. § 41-4803(C) and elsewhere.

2.11.3. Draft Document Review

Prior review of all documents is required to assure the AGO approval of the information, content and completeness. Documents for prior review shall include all pleadings, petitions, findings and any other document produced in the pursuit of a representation undertaken pursuant to this Agreement. All draft deliverables and other materials developed by the Outside Counsel as part of a representation under this Agreement shall be reviewed and approved in writing by the AGO prior to finalizing the material. Outside Counsel shall promptly provide, in final form, the designated assistant attorney general with copies of all pleadings, discovery requests and responses, and relevant correspondence related to the Litigation.

2.11.4. Settlements/Compromises

All offers of compromise shall be promptly transmitted to the Attorney General together with Outside Counsel's recommendation.

2.11.5. Depositions

Notices of depositions shall not be issued by Outside Counsel without prior written authorization from the AGO. Notices of depositions of State of Arizona employees filed by any party must be submitted to the Attorney General immediately upon Outside Counsel's receipt to make necessary arrangements for their testimony. Summaries of all depositions will be supplied by the assigned counsel from the AGO on conclusion of the deposition. Ordinarily, only one attorney should attend depositions, although, upon AGO prior approval, Outside Counsel may have more than one attorney attend a deposition. The AGO may request the presence of a State of Arizona employee at one or more depositions.

2.11.6. Testimony

Should Outside Counsel be required to testify at any judicial, legislative, or administrative hearing concerning matters in any way related to the Services performed under this Agreement or an engagement undertaken pursuant to this Agreement, Outside Counsel shall immediately supply to the Attorney General or his designated representative in writing all information likely to be disclosed at said hearing as well as Outside Counsel's position thereon. Should Outside Counsel be required by a third party to testify at any judicial, legislative or administrative hearing not specified in this Agreement but concerning the subject matter of this Agreement or an engagement undertaken pursuant to this Agreement, Outside Counsel shall immediately notify the Attorney General or his designated representative in order to enable State of Arizona representatives to attend and participate.

2.11.7. Media

Outside Counsel should, in the absence of direction in writing from the AGO, refrain from making any statement to a member of the media related to any representation entered into under this Agreement, or related to the subject matter of a representation entered into under this Agreement. Should Outside Counsel be asked to give a statement to the media related to any representation entered into under this Agreement or the subject matter of a representation entered into under this Agreement, Outside Counsel shall immediately refer the inquiry to the AGO, unless otherwise directed in writing by the AGO.

2.11.8. Privileged Communications



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Phoenix, AZ 85007-2926

All confidential communications between the Attorney General, any State of Arizona officer, employee or agent ("Arizona") and Outside Counsel, whether oral or written, and all Documentation, whether prepared by Outside Counsel or supplied by Arizona, shall be considered privileged communications and shall not, except as required by law, be communicated by Outside Counsel to any public agency, insurance company, rating organization, contractor, vendor, counsel, or any other third party or entity whether or not connected in any manner with Arizona or Outside Counsel, without the prior written consent of the Attorney General. If such communications are approved, or if such communications are required to be disclosed by law, Outside Counsel shall immediately provide the Attorney General with two (2) copies of each written communication and/or two (2) copies of summaries of each oral communication. If such communication is required by law, Outside Counsel shall immediately provide the Attorney General written notice as to the time, place, and manner of such disclosure as well as a written summary of any information likely to be disclosed by such disclosure, and Outside Counsel's position thereon.

2.12. Records

Pursuant to A.R.S. §§35-214, 35-215, and 41-4803, Outside Counsel shall retain and shall contractually require each Subcontractor to retain books, records, documents and other evidence pertaining to the acquisition and performance of the Contract, hereinafter collectively called the "records," to the extent and in such detail as will properly reflect all net expenses, disbursements, charges, credits, receipts, invoices, and costs, direct or indirect, of labor, materials, equipment, supplies and services and other costs and expenses of whatever nature for which payment is made under the Contract. Outside Counsel shall agree to make available at the office of the Outside Counsel at all reasonable times during the period, as set forth below, any of the records for inspection, audit or reproduction by any authorized representative of the State or AGO. In coordination with the AGO, Outside Counsel shall preserve and make available the records for a period of five years from the date of final payment under the Contract and for such period, if any, as is required by applicable statute. If the Contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five years from the date of any resulting final settlement.

2.13. Professional Responsibility

2.13.1. General

Outside Counsel shall use best efforts to perform and complete the Services in accordance with the provisions of this Agreement. Best efforts shall be considered those efforts which a skilled, competent, experienced, and prudent legal professional would use to perform and complete the requirements of this Agreement in a timely manner, exercising the degree of skill, care, competence, and prudence customarily imposed on a legal professional performing similar work.

2.13.2. Conflict of Interest/Litigation against the State of Arizona

2.13.2.1. Conflicts

Outside Counsel shall advise the Attorney General of any perceived conflict. This duty shall extend throughout the performance of this contract when a conflict or perceived conflict becomes known to the Outside Counsel. Whether the conflict is remote or disqualifying will be the Attorney General's decision.

2.13.2.2. Related Class Action Litigation As Conflict



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Service as class counsel or seeking through the filing of court papers to serve as class counsel in a class action related to a representation under this Agreement or the conduct at issue in a representation under this Agreement qualifies as a Conflict of Interest.

2.13.2.3. Litigation against the State of Arizona

Outside Counsel is retained only for the purposes and to the extent set forth in this Agreement. Outside Counsel shall be free to dispose of such portion of his entire time, energy, and skill not required to be devoted to the State of Arizona in such manner as he sees fit and to such persons, firms, or corporations as he deems advisable, but shall not engage in private litigation against the State of Arizona at the same time Outside Counsel accepts appointments representing the State of Arizona pursuant to this Agreement unless such litigation does not present an ethical conflict of interest, and a written waiver is first obtained from the Attorney General. Outside Counsel shall disclose to the State of Arizona, in the proposal as well as in connection with a particular representation, written assignment letter, or Notice to Proceed, all litigation, claims and matters in which Outside Counsel represents parties adverse to the State of Arizona. If Outside Counsel is selected to contract with the State of Arizona pursuant to the Agreement, Outside Counsel shall have a continuing duty to disclose such information.

2.14. Indemnification Clause

To the fullest extent permitted by law, Outside Counsel shall defend, indemnify, and hold harmless the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Outside Counsel or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of, or recovered under, the Workers' Compensation Law or arising out of the failure of such Outside Counsel to conform to any federal, state, or local law, statute, ordinance, rule, regulation, or court decree. It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by Outside Counsel from and against any and all claims. It is agreed that Outside Counsel will be responsible for primary loss investigation, defense, and judgment costs where this indemnification is applicable. In consideration of the award of this contract, the Outside Counsel agrees to waive all rights of subrogation against the State of Arizona, its officers, officials, agents, and employees for losses arising from the work performed by the Outside Counsel for the State of Arizona.

This indemnity shall not apply if the Outside Counsel or sub-contractor(s) is/are an agency, board, commission or university of the State of Arizona.

2.15. Insurance Requirements

Outside Counsel and subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, insurance against claims for injury to persons or damage to property arising from, or in connection with, the performance of the work hereunder by the Outside Counsel, its agents, representatives, employees or subcontractors.



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The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect the Outside Counsel from liabilities that arise out of the performance of the work under this Contract by the Outside Counsel, its agents, representatives, employees or subcontractors, and the Outside Counsel is free to purchase additional insurance.

2.16. Minimum Scope and Limits of Insurance

Outside Counsel shall provide coverage with limits of liability not less than those stated below.

2.16.1. Commercial General Liability (CGL) – Occurrence Form

Policy shall include bodily injury, property damage, and broad form contractual liability coverage.

- General Aggregate \$2,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Damage to Rented Premises \$50,000
- Each Occurrence \$1,000,000

- a. The policy shall be endorsed, as required by this written Agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Outside Counsel.
- b. Policy shall contain a waiver of subrogation endorsement, as required by this written Agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Outside Counsel.

2.16.2. Business Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract.

- Combined Single Limit (CSL) \$1,000,000
- a. Policy shall be endorsed, as required by this written Agreement, to include the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Outside Counsel involving automobiles owned, hired and/or non-owned by the Outside Counsel.
- b. Policy shall contain a waiver of subrogation endorsement as required by this written Agreement in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Outside Counsel.

2.16.3. Workers' Compensation and Employers' Liability

- Workers' Compensation Statutory



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- Employers' Liability
 - Each Accident \$1,000,000
 - Disease – Each Employee \$1,000,000
 - Disease – Policy Limit \$1,000,000
- a. Policy shall contain a waiver of subrogation endorsement, as required by this written Agreement, in favor of the State of Arizona, and its departments, agencies, boards, commissions, universities, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Outside Counsel.
- b. This requirement shall not apply to each Outside Counsel or subcontractor that is exempt under A.R.S. § 23-901, and when such Outside Counsel or subcontractor executes the appropriate waiver form (Sole Proprietor or Independent Contractor).

2.16.4. Professional Liability (Errors and Omissions Liability)

- Each Claim \$2,000,000
 - Annual Aggregate \$2,000,000
- a. In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, Outside Counsel warrants that any retroactive date under the policy shall precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised, for a period of two (2) years beginning at the time work under this Contract is completed.
- b. The policy shall cover professional misconduct or negligent acts for those positions defined in the Scope of Work of this contract.

2.17. Additional Insurance Requirements

The policies shall include, or be endorsed to include, as required by this written Agreement, the following provisions:

2.17.1. The Outside Counsel's policies, as applicable, shall stipulate that the insurance afforded the Co Outside Counsel shall be primary and that any insurance carried by the AGO, its agents, officials, employees, or the State of Arizona shall be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).

2.17.2. Insurance provided by the Outside Counsel shall not limit the Outside Counsel's liability assumed under the indemnification provisions of this Contract.

2.18. Revision to Minimum Insurance Requirements

Insurance requirements will be reviewed on a case by case basis, before assigning a case the AGO shall determine if the insurance requirements contained in this Agreement are sufficient. The AGO reserves the right to increase the minimum insurance requirements set forth in 2.16 before a case is assigned.

2.19. Notice of Cancellation

Applicable to all insurance policies required within the Insurance Requirements of this Contract, Outside Counsel's insurance shall not be permitted to expire, be suspended, be canceled, or be materially changed



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for any reason without thirty (30) days prior written notice to the State of Arizona. Within two (2) business days of receipt, Outside Counsel must provide notice to the State of Arizona if they receive notice of a policy that has been or will be suspended, canceled, materially changed for any reason, has expired, or will be expiring. Such notice shall be sent directly by mail or hand delivery to: Office of the Arizona Attorney General, Procurement Section, 1275 West Washington Street, Phoenix, AZ 85007 or emailed to: procurement@azag.gov, or sent by facsimile transmission to Procurement at: 602-251-2285.

2.20. Acceptability of Insurers

Outside Counsel's insurance shall be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers shall have an "A.M. Best" rating of not less than A- VII. The State of Arizona in no way warrants that the above-required minimum insurer rating is sufficient to protect the Outside Counsel from potential insurer insolvency.

2.21. Verification of Coverage

Outside Counsel shall furnish the State of Arizona with certificates of insurance (valid ACORD form or equivalent approved by the State of Arizona) evidencing that Outside Counsel has the insurance as required by this Contract. An authorized representative of the insurer shall sign the certificates.

All such certificates of insurance and policy endorsements must be received by the State before work commences. The State's receipt of any certificates of insurance or policy endorsements that do not comply with this written Agreement shall not waive or otherwise affect the requirements of this Agreement.

Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the AGO. The State of Arizona project/contract number and project description shall be noted on the certificate of insurance. The State of Arizona reserves the right to require complete copies of all insurance policies required by this Contract at any time.

2.22. Subcontractors

Outside Counsel's certificate(s) shall include all subcontractors as insureds under its policies or Outside Counsel shall be responsible for ensuring and/or verifying that all subcontractors have valid and collectable insurance as evidenced by the certificates of insurance and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum Insurance requirements identified above. The AGO reserves the right to require, at any time throughout the life of this contract, proof from the Outside Counsel that its subcontractors have the required coverage.

2.23. Approval and Modifications

The AGO, in consultation with State Risk, reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.



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2.24. Exceptions

In the event the Outside Counsel or subcontractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a certificate of self-insurance. If the Outside Counsel or subcontractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

2.25. Termination at Will

At the sole discretion of the AGO, the AGO may terminate this Contract at any time, or may terminate all or any portion of the Services not then completed by giving the other party written notice of termination. Upon receipt of notice of termination, Outside Counsel, unless the notice requires otherwise, shall discontinue performance of the Services on the date and to the extent specified in the notice, except those Services necessary to preserve and protect the work product of the Services already performed, and otherwise minimize costs to the State.

2.26. Offshore Performance of Work Prohibited

Due to security and identity protection concerns, all services under this contract shall be performed within the borders of the United States. All storage and processing of information shall be performed within the borders of the United States. This provision applies to work performed by subcontractors at all tiers.

2.27. Notices, Correspondence and Invoices from Outside Counsel to the AGO shall be sent to:

State of Arizona
Office of the Arizona Attorney General
Civil Litigation Division
1275 West Washington Street
Phoenix, AZ 85007



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3. SPECIAL INSTRUCTIONS TO OFFERORS

3.1. Solicitation Inquiries

3.1.1. Issuing Office Solicitation Contact Person

The AGO Procurement Solicitation Contact Person identified on the cover page of this RFP shall be the sole point of contact for purposes of the preparation and submittal of Outside Counsel responses to this Solicitation.

3.1.2. Solicitation Clarifications

Questions or clarification requests regarding this Solicitation should be directed to the attention of the Solicitation Contact Person via: email (preferred), facsimile, phone or mailed to the attention of Solicitation Contact Person. If this results in a change to the Solicitation, a written Solicitation Amendment will be issued prior to the Solicitation due date and time.

3.1.3. Solicitation Amendments

The Offeror should acknowledge receipt of a Solicitation Amendment by signing and returning the Solicitation Amendment with their proposal by the specified due date and time. It is Offeror's responsibility to verify no amendment has been issued. The Offeror may verify by checking the web site <https://www.azag.gov/rfp> or calling or e-mailing the contact person identified on the front page of this solicitation.

3.2. Solicitation Submission Guidelines

3.2.1. Late Proposals

All proposals must be received by the Solicitation due date and time specified. Any response received after the Solicitation due date and time specified will not be considered.

3.2.2. Submission Submittal Guidelines

3.2.2.1 Offerors mailing proposals or planning deliveries should allow sufficient delivery time to ensure timely receipt by the Issuing Office. Proposals arriving after the due date and time will not be considered.

3.2.2.2 The Issuing Office will not waive delay in delivery resulting from the need to transport proposal from another location or error or delay on the part of the carrier.

3.2.2.3 Proposals delivered to the Office of the Arizona Attorney General must be in a sealed envelope or container and clearly labeled Solicitation AG18-0013. Proposals will not be considered "received" until they arrive at the location specified on the cover page.

3.2.2.4 Proposals being hand delivered or mailed to the Issuing Office should include one unbound original proposal and three bound copies. Staples and paper binder clips are an acceptable form of binding. The State will not provide any reimbursement for the cost of developing or presenting proposals in response to this RFP.

3.2.3. Familiarization of Scope of Work

The Offeror should carefully review the requirements of the Solicitation and familiarize itself with the Scope of Work, laws, regulations and other factors so to satisfy itself as to the expense and difficulties of the work to be performed. The signing of the Offer and Contract Award form will constitute a



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representation of compliance by the Offeror. There will be no subsequent financial adjustment, other than provided by the contract, for lack of such familiarization.

3.3. Components of a Complete Proposal

3.3.1. Offer submittal as per Section 3.2, Submission Submittal Guidelines.

3.3.2. Proposal Format

The following information should be submitted with each proposal and in this order. Failure to include all of the requested information may result in proposal rejection.

3.3.2.1. Transmittal Letter

A transmittal letter should accompany all proposals. This letter should be signed by a principal, corporate officer, or person who is authorized to represent your company. The letter of transmittal should:

- Identify the submitting organization;
- Identify the name and title of the person(s) authorized by the organization to contractually obligate the organization;
- Identify the name, title, and telephone number of the person authorized to negotiate the contract on behalf of the organization.
- Explicitly indicate acceptance of the requirements of this solicitation;
- Provide a narrative demonstrating why the company and key personnel are qualified to perform the services as outlined in the Scope of Work of this solicitation. The narrative should show expertise in these services, ability to plan and strategize and the ability to deal with contingencies.
- Be signed by the person authorized to contractually obligate the organization.

3.3.2.2. Attachment I

- Offeror shall complete the top half of the Offer and Contract Award form. The Offer and Contract Award form from within the Solicitation should be submitted with the Offer and should include the signature of a person authorized to bind the Offeror.
- Offeror shall complete the Business Questionnaire.
- Offeror shall complete the Conflicts of Interest Questionnaire.
- Offeror shall complete the Bar Complaints/Malpractice Questionnaire
- Offeror shall complete the Rate Schedule Questionnaire.
- Offeror shall complete the Qualifications and Experience of Key Personnel Questionnaire.
 - Multiple pages should be added if necessary.
- Offeror shall complete the References Questionnaire.
- Offeror may include additional supporting materials as necessary.

3.3.2.3. Attachment II – Designation of Confidential, Trade Secret, and Proprietary Information

Offeror shall complete and should include the signature of a person authorized to bind the document.

3.3.3. Confidential Information

All Offers submitted and opened in response to this RFP are public records and must be retained by the



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State. Offers shall be open to public inspection after Contract award, except for such Offers or specific information within such Offers deemed to be confidential by the State. If an Offeror believes that information in its Offer should remain confidential, the Offeror shall designate a special section labeled "Confidential Information" and include any information the Offeror indicates as confidential along with a statement detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. This special section should be labeled as a separate file and marked confidential. The State shall determine whether the identified information is confidential pursuant to the Arizona Procurement Code. Information not specifically identified as confidential by the Offeror in accordance with this paragraph or determined to be not confidential by the State will be open to public inspection.

3.3.4. Suspension or Debarment Status

If the firm, business or person submitting a proposal has been debarred, suspended or otherwise lawfully precluded from participating in any public procurement activity with any Federal, State or local government, the Offeror should include a letter with its proposal setting forth the name and address of the governmental unit, the effective date of the suspension or debarment, the duration of the suspension or debarment and the relevant circumstances relating to the suspension or debarment. Failure to supply the letter or to disclose in the letter all pertinent information regarding a suspension or debarment will result in rejection of the proposal or cancellation of a Contract. The State also may exercise any other remedy available by law.

3.3.5. Insurance

The Offeror should provide a Certificate of Insurance or a letter from the Offeror's Insurance Provider demonstrating the Offeror is able to provide insurance in accordance with the Special Terms and Conditions Section of this RFP.

3.4. Proposal Opening

Proposals shall be opened at the Solicitation Due Date and Time cited on the cover page of the Solicitation. The name of each Offeror and the identity of the Solicitation for which the proposal was submitted shall be publicly read and recorded in the presence of at least one witness. Prices shall not be read.

3.5. Offer and Acceptance Period

In order to allow for an adequate evaluation, the AGO requires a proposal in response to this Solicitation to be valid and irrevocable for 120 days after the opening due date.

3.6. Evaluation Criteria

In accordance with the Arizona Procurement code A.R.S. § 41-2534, awards shall be made to the responsible Offeror(s) whose proposal is determined in writing to be the most advantageous to the State based upon the evaluation criteria listed below. The evaluation factors are listed in their relative order of importance.

3.6.1. Capacity of Firm

3.6.2. Experience and Expertise of the Firm and Key Personnel

3.6.3. Cost



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3.7. Discussions

After the initial receipt and evaluation of proposals, the AGO may conduct discussions with Offerors whose proposals are deemed to be reasonably susceptible to award. Notwithstanding this section, proposals should be submitted initially complete and on most favorable terms. In the event discussions are conducted, the AGO shall issue a written request for Best and Final Offers.

3.8. Best and Final Offer

The request for Best and Final Offer shall inform Offerors, that if they do not submit a Best and Final Offer or a notice of withdrawal, their immediate previous Offer will be considered as their Best and Final Offer. The Offeror's "immediate previous offer" will consist of the Offeror's original proposal submission and any documents submitted by the Offeror during discussions.

3.9. Definitions of Key Words Used in the Solicitation

- 3.9.1. **Office of the Arizona Attorney General:** May be referred to as the AGO, Office of the Attorney General, Department, Agency or State of Arizona.
- 3.9.2. **Outside Counsel:** Outside Counsel refers to the Lawyer or law firm entering into this contract with the Office of the Arizona Attorney General. Outside Counsel may also be referred to as Contractor in this Contract.
- 3.9.3. **Contract or Agreement:** Refers to the legal agreement outlined in this document
- 3.9.4. **Shall, Must:** Indicates a mandatory requirement. Failure to meet these mandatory requirements may result in the rejection of a proposal as non-responsive.
- 3.9.5. **Should:** Indicates something that is recommended but not mandatory. If the Offeror fails to provide recommended information, the State may, at its sole option, ask the Offeror to provide the information or evaluate the proposal without the information.
- 3.9.6. **May** Indicates something that is not mandatory, but permissible.
- 3.9.7. **Notice to Proceed:** A written document authorizing the Outside Counsel to begin work under this contract (e.g. letter to Outside Counsel, Purchase Order, Assignment letter, etc.)



ADDENDUM I
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State of Arizona
Office of the Attorney General
1275 W Washington ST
Phoenix, AZ 85007-2926

Standard Contract Addendum for All Office of the Arizona Attorney General Contingency Fee Contracts As Per A.R.S. §41-4803

(This addendum is added as a part of this contract in accordance with A.R.S. §41-4803. These requirements are minimum and may be superseded by other statutory requirements listed within this Agreement.)

A. This state may not enter into a contingency fee contract that provides for this state's private attorney to receive a contingency fee from this state's portion of the recovery in excess of an aggregate of all of the following:

1. Twenty-five per cent of the initial recovery of less than ten million dollars.
2. Twenty per cent of that portion of any recovery of ten million dollars or more but less than fifteen million dollars.
3. Fifteen per cent of that portion of any recovery of fifteen million dollars or more but less than twenty million dollars.
4. Ten per cent of that portion of any recovery of twenty million dollars or more but less than twenty-five million dollars.
5. Five per cent of any recovery of twenty-five million dollars or more.

B. The contingency fee received by this state's private attorney shall not exceed fifty million dollars, except for reasonable costs and expenses and regardless of the number of lawsuits filed or the number of private attorneys retained to achieve the recovery.

C. The state shall not enter into a contract for contingency fee attorney services unless the following requirements are met throughout the contract period and any extensions of the contract:

1. A government attorney retains ultimate control over the course and conduct of the case.
2. A government attorney with supervisory authority is personally involved in overseeing the litigation.
3. A government attorney retains veto power over any decisions made by the private attorney.
4. Any defendant's attorney that is the subject of the litigation may contact the lead government attorney directly without having to confer with the private attorney.
5. A government attorney with supervisory authority for the case attends all settlement conferences. For the purposes of this paragraph, "attends" includes attendance by phone, teleconferencing or similar electronic devices.
6. Decisions regarding settlement of the case may not be delegated to this state's private attorney.

D. The attorney general shall develop a standard addendum to every contract for contingent fee attorney services that the attorney general must use in all cases, describing in detail what is expected of both the contracted private attorney and this state, including the requirements prescribed in subsection C.

E. The attorney general shall post copies of any executed contingency fee contract and the attorney general's written determination to enter into a contingency fee contract with the private attorney on the attorney general's website for public inspection within five business days after the date the contract is executed, which shall remain posted on the website for the duration of the contingency fee contract, including any extensions or



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amendments of the contract, unless the attorney general determines that the posting may cause damage to the reputation of any business or person. Notwithstanding the requirements of this subsection, posting on the website shall be made no later than when a lawsuit is filed. The attorney general shall post any payment of contingency fees on the attorney general's website within fifteen days after the payment of the contingency fees to the private attorney, which shall remain posted on the website for at least three hundred sixty-five days thereafter.

F. Any private attorney under contract to provide services to this state on a contingency fee basis, from the inception of the contract until at least four years after the contract expires or is terminated, shall maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices and other financial transactions that concern the provision of the attorney services. The private attorney shall make all the records available for inspection and copying on request pursuant to title 39, chapter 1, article 2. The private attorney shall maintain detailed contemporaneous time records for the attorneys and paralegals working on the matter in increments of no greater than one tenth of one hour and shall promptly provide these records to the attorney general on request.

G. This chapter does not apply to any contingent fee contract in which this state hires a private attorney to pursue debt collection and restitution cases for this state.



**AG18-0013
OFFER AND ACCEPTANCE
ATTACHMENT I**

Arizona Attorney General

1275 W. Washington
Phoenix, AZ
85007-2926

OFFER

TO THE STATE OF ARIZONA:

The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies Small Business status.

Hagens Berman Sobol Shapiro LLP				
Firm Name			Signature of Person Authorized to Sign Offer	
11 West Jefferson, Suite 1000			Robert B. Carey	
Company Address			Printed Name	
Phoenix	AZ	85003	Phoenix Managing Partner	
City	State	Zip	Title	
rob@hbsslaw.com			602-840-5900	602-840-3012
Contact Email Address			Contact Phone Number	Contact Fax Number

By signature in the Offer section above, the Offeror certifies:

1. The submission of the Offer did not involve collusion or other anticompetitive practices.
2. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal and/or State laws.
3. The Offeror has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted offer. Failure to provide a valid signature affirming the stipulations required by this clause shall result in rejection of the offer. Signing the offer with a false statement shall void the offer, any resulting contract and may be subject to legal remedies provided by law.
4. The Offeror certifies that the above referenced organization IS/ IS NOT a small business with less than 100 employees or has gross revenues of \$4 million or less.

ACCEPTANCE OF OFFER

Your offer is hereby accepted:					
The Contractor is now bound to sell the materials, services or construction listed by the attached contract based upon the solicitation, including all terms, conditions, specifications, amendments, etc., and the Contractor's offer as accepted by the Office of the Attorney General.					
The Contractor is hereby cautioned not to commence any billable work or provide any material or service under this contract until the Contractor receives a purchase order, contract release document or written notice to proceed.					
This Contract shall henceforth be referred to as Contract No.:				AG18-0013-009	
The effective date of the Contract is:				January 3, 2018	
STATE OF ARIZONA OFFICE OF THE ATTORNEY GENERAL		Awarded this		3rd	Day of January, 2018
				Jerry Connolly, Procurement Manager	



**AG18-0013
BUSINESS QUESTIONNAIRE
ATTACHMENT I**

Arizona Attorney General
1275 W. Washington
Phoenix, AZ
85007-2926

Counsel Information

Hagens Berman Sobol Shapiro LLP				1993
Firm Name				Year Firm was Established
11 West Jefferson, Suite 1000				
Firm Address				
Phoenix	AZ	85003	602-840-5900	602-840-3012
City	State	Zip	Primary Phone Number	Contact Fax Number
Firm Identified in Proposal as: Parent Company: <input type="checkbox"/> Branch or Subsidiary Office: <input checked="" type="checkbox"/> Individual Contracted Counsel: <input type="checkbox"/>				
Hagens Berman Sobol Shapiro LLP 1918 8 th Avenue, Suite 3300 Seattle, WA 98101			1993	
Name and location of Parent Company (if applicable)			Year Parent Company was Established (if applicable)	

Names of not more than two Principals to contact:

Steve W. Berman	Managing Partner	206-268-9320	steve@hbsslaw.com
Name	Title	Phone Number	Email Address
Robert B. Carey	Phoenix Managing Partner	(602) 224-2626	rob@hbsslaw.com
Name	Title	Phone Number	Email Address

Number of Personnel by Discipline (count each person only once, by primary function):

34	16	30	23	
Partners	Of Counsel	Associate	Paralegal/Legal Asst	Law Clerks
8		19		130
Other: Staff Attorneys			Other: Administrative/Support/IT	Total Personnel

Has your firm ever held a contract with the State of Arizona? For how many years?:

Yes: No: Since 1998 (19 Years).

Acceptance of Insurance Requirements:

Indicate that you have read, understand and will comply with the Insurance requirements specified in Section 8 & 9 of the Agreement. Check the appropriate response.

Yes, we will comply with the Insurance requirements No, we will not comply with the Insurance requirements



AG18-0013
CONFLICTS OF INTEREST QUESTIONNAIRE
ATTACHMENT I

Arizona Attorney General

1275 W. Washington
 Phoenix, AZ
 85007-2926

Conflicts of Interest:

Identify and describe any type of matter, litigation and otherwise, in which your firm is involved with against the State of Arizona or any of its agencies and a concise statement of how your firm proposes to resolve any conflicts of interest with the State of Arizona. Specific Cases or Matters should be listed on the table on the following page or you may add an attachment sheet similar to the table. In the event of the award of a contract, Counsel must receive a waiver of any conflict of interest. The award of this contract does not create or cause said waiver.

Note: The State of Arizona does not require counsel to obtain a waiver of conflict of interest when counsel undertakes representation of a defendant in a criminal case.

No "Blanket" waiver requests will be considered. Check none below, if no conflict of interest exists. **None**

Specific Case/Matter Information:

List the specific cases in which your firm has been adverse to the State of Arizona in the last 2 years.
 If the case has been on-going for more than two years it should be listed here. Add additional pages if needed.

Court or Case Name	Court or Case Number	Date Began	Date Ended
None			

List the specific matter in which your firm has been adverse to the State of Arizona in the last 2 years.
 If the matter has been on-going for more than two years it should be listed here. Add additional pages if needed.

Matter	Date Began	Date Ended
None		

List the specific cases in which your firm has represented the State of Arizona in the last 2 years.
 If the case has been on-going for more than two years it should be listed here. Add additional pages if needed.

Court or Case Name	Court or Case Number	Date Began	Date Ended
State of Arizona <i>ex rel.</i> Mark Brnovich, Attorney General v. General Motors, LLC	Arizona Superior Court (Maricopa County) No. CV2014-014090	October 27, 2014	Ongoing



AG18-0013
BAR COMPLAINT/MALPRACTICE QUESTIONNAIRE
ATTACHMENT I

Arizona Attorney General

1275 W. Washington
 Phoenix, AZ
 85007-2926

Disclosure of any State Bar Association Investigations and Malpractice Suits

Does any current member of your firm have any bar complaint currently being investigated and/or disciplinary action taken by the State Bar Association against them? Add additional pages if needed.

Check the appropriate response

Yes

No

If answer to the above is "Yes", use the space below to disclose details of any complaint(s):

Not applicable.

Has your firm had any malpractice suit or claim for malpractice filed against it in the last 2 years?

Add additional pages if needed.

Check the appropriate response

Yes

No

If answer to the above is "Yes", use the space below to disclose details of any complaint(s):

Not applicable.

Do you wish this information to be held confidential in accordance with A.A.C. R2-7-103?

Add additional pages if needed.

Check the appropriate response

Yes

No

If answer to the above is "Yes", use the space below to disclose details of any complaint(s):

Not applicable.



AG18-0013
QUALIFICATIONS OF KEY PERSONNEL
ATTACHMENT I

Arizona Attorney General
 1275 W. Washington
 Phoenix, AZ
 85007-2926

Rate Schedule

The contingency fee received by this state's private attorney shall not exceed fifty million dollars, except for reasonable costs and expenses and regardless of the number of lawsuits filed or the number of private attorneys retained to achieve the recovery. Rates below are the maximum allowed and may be negotiated on a case by case basis.

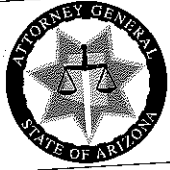
Item #	Description
1	Not to exceed Twenty-five per cent of the initial recovery of less than ten million dollars.
2	Not to exceed Twenty per cent of that portion of any recovery of ten million dollars or more but less than fifteen million dollars.
3	Not to exceed Fifteen per cent of that portion of any recovery of fifteen million dollars or more but less than twenty million dollars.
4	Not to exceed Ten per cent of that portion of any recovery of twenty million dollars or more but less than twenty-five million dollars.
5	Not to exceed Five per cent of any recovery of twenty-five million dollars or more.

Hourly Rate Schedule

The Hourly Rate Schedule shall be governed by the provisions of Paragraph 1.10 of the Request for Proposal.

Item	Description	Maximum Rate	Hourly Rate Offered (Not to Exceed Rate) ¹
1	Partner	\$400.00	\$400.00
2	Associate	\$250.00	\$250.00
3	Paralegal	\$125.00	\$125.00

¹ Our normal Arizona rates are as follows: Partners (\$735-\$578); Associates (\$525-\$368); and Paralegals \$158. We are offering rates significantly lower than our market rates in recognition of our desire to be selected by the State to represent it in these matters.



AG18-0013
QUALIFICATIONS OF KEY PERSONNEL
ATTACHMENT I

**Office of the
Attorney General**

1275 W. Washington
Phoenix, AZ
85007-2926

Qualifications and Experience of Key Personnel

Complete this section for the Key Personnel the Offeror is proposing. Key Personnel are the individuals showing the experience and expertise to do the work identified in this RFP. If an item is not applicable, indicate so by inserting "N/A." Please copy this form as needed.

Steve W. Berman	Managing Partner	
Name of Individual	Title	
Co-Lead Counsel	Complex litigation, consumer class actions, pharma cases, economic loss claims, civil penalties, and representation of governmental entities	
Proposed Project Role	Area(s) of Expertise	
12536	Illinois	1980
Bar Registration No.	State of Issue	Year
3126833	Washington	1982
Bar Registration No.	State of Issue	Year
University of Chicago Law School	J.D.	1980
Education	Degree	Year
University of Michigan	B.A.	1976
Education	Degree	Year

Executive Summary describing this individual's suitability for a project of this nature. Include similar cases the individual was involved in and their role.

Steve W. Berman co-founded Hagens Berman in 1993 and is the managing partner of the firm. He represents consumers, investors and employees in large, complex litigation held in state and federal courts. Mr. Berman's trial experience has earned him significant recognition and led *The National Law Journal* to name him one of the 100 most powerful lawyers in the nation, and to repeatedly name Hagens Berman one of the top 10 plaintiffs' firms in the country. *Public Justice* nominated Mr. Berman and the *In re Toyota Motor Corp. Sudden, Unintended Acceleration* team as finalists for the prestigious trial lawyer of the year award for their work in securing a \$1.6 billion settlement on behalf of car owners.

Mr. Berman serves as co-lead counsel for the class in the *General Motors LLC Ignition Switch Litigation*, which alleges that the ignition switches in affected vehicles could shut off while in operation, disabling airbags and other electrical features such as power steering and power brakes. The *General Motors* litigation has expanded to include a multitude of other serious defects. The federal litigation is in the middle of discovery in the MDL, having been transferred by the Judicial Panel on Multidistrict Litigation to the Southern District of New York in June 2014. The state action is in the early stages of discovery and is being coordinated with the federal action.

NOTABLE CASES

> *State Tobacco Litigation*: Lead counsel for 13 states in cases that secured a global settlement worth \$256 billion, the largest settlement in world history.

> *McKesson Drug Litigation*: Lead counsel in an action that led to a rollback of benchmark prices of hundreds of brand name drugs, and a \$350 million settlement for third-party payers and insurers. According to the suit, McKesson conspired with others to intentionally inflate drug prices to bring in higher returns, meaning consumers throughout the nation were paying artificially inflated prices for drug regimens prescribed by their doctors.



AG18-0013
QUALIFICATIONS OF KEY PERSONNEL
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- > *Average Wholesale Price Litigation*: Lead trial counsel, securing trial verdicts against three drug companies that paved the way for a settlement of \$338 million. The class-action pharmaceutical fraud lawsuit asserted that the drug companies illegally inflated the prices, which were then published in independent publications.
- > *McKesson Governmental Entity Litigation*: Lead counsel for a nationwide class of local governments that resulted in an \$82 million settlement for drug price-fixing claims. McKesson violated federal racketeering laws by rigging the average wholesale price (AWP) of brand-name drugs while raising the spread between the published AWP and the wholesale acquisition cost from 20 to 25 percent.
- > *State and Governmental Drug Litigation*: Outside counsel for the state of New York for its Vioxx claims, several states for AWP claims, and several states for claims against McKesson.
- > *E-Books Antitrust Litigation*: Lead counsel in a challenge to Apple and publishers' alleged price-fixing of e-books, which culminated in a combined \$560 million with defendants, totaling twice consumers' losses -- an unheard-of result from an antitrust action and one of the best outcomes for consumers in the history of this area of law.
- > *Insulin Overpricing Litigation*: Leading a nationwide class-action lawsuit against drug manufacturers, Sanofi, Novo Nordisk and Eli Lilly, for committing fraud and illegally raising the price of insulin for many of the 29 million people in the U.S. living with diabetes.
- > *In re Toyota Motor Corp. Sudden, Unintended Acceleration*: \$1.6 billion settlement with 20 million class members, including \$500 million in cash payments to class members, many of whom received checks for thousands of dollars, installation of a safety-enhancing brake override system on millions of vehicles, and a program that substantially extended warranties for millions of consumers. To our knowledge, this was the then-largest automobile class settlement in U.S. history.
- > *Exxon Valdez Oil Spill*: Represented clients against Exxon Mobil affected by the 10 million gallons of oil spilled off the coast of Alaska by the Exxon Valdez (multimillion-dollar award).
- > *WPPSS Securities Litigation*: Member of trial team that led to the then largest securities case settlement.
- > *In re Charles Schwab Securities Litigation*: Lead counsel in securities case resulting in \$235 million settlement and 45 percent and 82 percent recoveries for the class, high percentages for securities cases.
- > *Enron ERISA Litigation*: Represented Enron employees whose retirement accounts were depleted by Enron's fraud, leading to the largest ERISA settlement in U.S. history.
- > *Optical-Disc Price Fixing Litigation*: Lead counsel on behalf of consumers in over two dozen states against the manufacturers of optical disk drives. The plaintiffs allege defendants conspired to increase the price of ODDs sold to original equipment manufacturers. Defendants' conduct allegedly caused millions of consumer electronics products, such as computers, to be sold at illegally inflated prices.
- > *Electronic Arts Video Games Litigation*: Nationwide certified class of consumers who bought interactive football video games. Plaintiffs allege that Electronic Arts entered a series of exclusive licenses with football intellectual property owners, such as the NFL, to lock up the market, brought on behalf of a national class of consumers who purchased the football video games. A \$60 million settlement was approved by the court and distribution was made to the student-athletes.
- > *Bank of America Home Affordable Modification Program (HAMP) Contract Litigation*: Lead counsel on behalf of homeowners to whom the defendant allegedly promised mortgage modifications as part of a federal program but failed to provide.



AG18-0013
QUALIFICATIONS OF KEY PERSONNEL
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- > *Boeing Securities Litigation*: Lead counsel in a \$92 million settlement of a securities action concerning Boeing's merger with McDonald Douglas.
 - > *NCAA Concussions*: Lead counsel in a class action seeking to protect NCAA student athletes in all sports. A pending class settlement will create a 50-year medical monitoring program to track and screen student-athletes for concussions and traumatic brain injuries, funded by a \$70 million medical monitoring fund, paid by the NCAA and its insurers. The settlement also brings significant changes to the NCAA's concussion management policies, enforcement and return-to-play guidelines to help ensure the safety of student-athletes. A separate research component will also be funded through \$5 million dedicated by the NCAA to examine the prevention, treatment and effects of concussions.
 - > *NCAA Grant-In-Aid Litigation*: Lead counsel in a case challenging the NCAA's collusion in refusing to allow student athletes to receive the cost of attending school. A proposed settlement of \$208 million is pending preliminary approval. The recovery would be 100 percent of single damages, an exceptional result in an antitrust case.
 - > *State of Mississippi, State of Ohio, Orange County and Santa Clara County Opioid Litigation*: Opioid abuse is one of our nation's leading health disasters. Mr. Berman is leading the first litigation seeking to recover public costs resulting from the opioid manufacturer's deceptive marketing.
 - > *Insulin Overpricing*: Recently appointed Lead Counsel for the plaintiff-plaintiff class in the Insulin Overpricing litigation against Sanofi, Novo Nordisk, and Eli Lilly in federal court in New Jersey, advocating consumer rights against pharmaceutical manufacturers' fraud for illegally raising the price of insulin for many of the 29 million people in the United States living with diabetes. Our investigation shows that these companies have increased the publically reported list prices of Lantus, Levemir, Novolog, and Humalog by more than 160% in the last five years, while keeping the prices they offer to pharmacy benefit managers constant or even lowering them.
- Please see the attached Firm Resume for further details.



AG18-0013
QUALIFICATIONS OF KEY PERSONNEL
ATTACHMENT I

**Office of the
Attorney General**

1275 W. Washington
Phoenix, AZ
85007-2926

Qualifications and Experience of Key Personnel

Complete this section for the Key Personnel the Offeror is proposing. Key Personnel are the individuals showing the experience and expertise to do the work identified in this RFP. If an item is not applicable, indicate so by inserting "N/A". Please copy this form as needed.

Robert B. Carey	Phoenix Managing Partner	
Name of Individual	Title	
Co-Lead Counsel	Complex litigation, consumer class actions, civil penalties, trials, and representation of governmental entities	
Proposed Project Role	Area(s) of Expertise	
011186	Arizona	1987
Bar Registration No.	State of Issue	Year
17177	Colorado	1987
Bar Registration No.	State of Issue	Year
Harvard University, John F. Kennedy School of Government, State & Local Government Program		1992
Education		Year
University of Denver	M.B.A., J.D.	1986
Education	Degree	Year

Executive Summary describing this individual's suitability for a project of this nature. Include similar cases the individual was involved in and their role.

Mr. Carey is the former Chief Deputy for the Arizona Attorney General's office where he supervised over 300 lawyers, and was instrumental in developing the Office's consumer protection agenda. Mr. Carey also originated Arizona's law requiring DNA testing of all sex offenders and developed a penalty requiring criminals to pay the cost of victims' rights, helped draft Arizona's revised criminal code, and authored the section of the federal Prisoner Litigation Reform Act of 1995 that virtually eliminated frivolous prisoner lawsuits.

Since leaving the Office, Mr. Carey has helped litigate many of the largest civil cases in US history, including the multi-billion dollar pharmaceutical pricing cases—commonly referred to as the Average Wholesale Price or AWP litigation—on behalf of several states and a class of third-party payors, and the landmark Tobacco litigation on behalf of Arizona and 13 other states.

Mr. Carey's current practice focuses on complex consumer fraud claims against large corporations, such as a recently completed recovery (valued at approximately \$400 million) against Hyundai Motor America and Kia Motor Company, and \$1.6 billion dollar recovery against Toyota—a case where Mr. Carey was responsible for developing the novel legal basis for recovery.

Other notable cases led by Mr. Carey include the recently resolved *In re NCAA Student-Athlete Name & Likeness Licensing Litigation*, where Mr. Carey, as co-lead counsel, helped recover \$60 million from the NCAA for misappropriating student-athletes' likenesses. This case represented the first time in history the NCAA paid for using student-athletes' names and likenesses for commercial purposes, and resulted in recoveries that far exceeded the amount student-athletes would have received had they been allowed to license their names and likenesses.

Mr. Carey also routinely represents the State of Arizona as outside counsel, and has recovered millions for the State. In a recent case against pharmaceutical giant McKesson Corporation, Mr. Carey represented the Arizona Attorney General's office in *State of Arizona, ex rel. Thomas C. Horne, Attorney General v. McKesson Corporation*, CV2012-013707



AG18-0013
QUALIFICATIONS OF KEY PERSONNEL
ATTACHMENT I

**Office of the
Attorney General**

1275 W. Washington
Phoenix, AZ
85007-2926

(Ariz. Super. Ct., Maricopa County), to recover civil penalties under the Arizona Consumer Fraud Act for fraudulently inflating pharmaceutical prices. The case settled for \$10.1 million. The firm also represented several other state Attorneys General, including Wisconsin, Mississippi, Utah, Virginia, Oregon, and New Mexico.

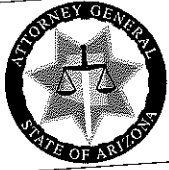
In a related case against McKesson, Mr. Carey represented the Arizona Health Care Cost Containment System in two administrative proceedings before the Arizona Office of Administrative Hearings (*McKesson Corporation v. Arizona Health Care Cost Containment System Administration*, No. 13-F-137578-AHC, and *McKesson Corporation v. Arizona Health Care Cost Containment System and Tom Betlach*, No. 2013-000509-001DT), in which McKesson contested AHCCC's jurisdiction and authority to impose penalties and assessments against McKesson for fraudulently inflating pharmaceutical prices. The case settled for \$16.5 million.

Mr. Carey is also a seasoned trial attorney, having obtained favorable verdicts in diverse cases involving, among other things, consumer fraud, copyright, breach of contract, personal injury, insurance, and class actions. In 2013, after a two-month trial, he obtained two jury verdicts against videogame maker Electronic Arts in a case involving the iconic Madden NFL video game—an effort recognized as the Verdict of the Year by *The Daily Journal*. In 2014, he was selected as a finalist for Trial Lawyer of the Year by Public Justice, and Hagens Berman was selected in 2014 as an Elite Trial Lawyer nationally by *The National Law Journal*. Other notable verdicts include the largest jury verdict ever in an Ohio county in 2012 (for a woman burned during a good Samaritan act), a liability verdict in a case involving damages of \$75 million, and numerous other verdicts where Mr. Carey was able to obtain punitive or trebled damages.

Mr. Carey has also handled class actions relating to Medicaid and state interim assistance issues, including complex claims relating to prescription drug discounts.

Mr. Carey teaches class actions at Sandra Day O'Connor School of Law at Arizona State University. He founded the Arizona State Bar Class Action and Derivative Suits Committee, and is the editor of the ABA's "A Practitioner's Guide to Class Actions."

Please see the attached Firm Resume for further details.



AG18-0013
QUALIFICATIONS OF KEY PERSONNEL
ATTACHMENT I

**Office of the
Attorney General**

1275 W. Washington
Phoenix, AZ
85007-2926

Qualifications and Experience of Key Personnel

Complete this section for the Key Personnel the Offeror is proposing. Key Personnel are the individuals showing the experience and expertise to do the work identified in this RFP. If an item is not applicable, indicate so by inserting "N/A." Please copy this form as needed.

Leonard W. Aragon	Partner
Name of Individual	Title
Discovery management and briefing legal issues	Class actions, complex civil litigation, complex discovery, and ESI protocols.
Proposed Project Role	Area(s) of Expertise
20977	Arizona
Bar Registration No.	State of Issue
Stanford Law School	J.D.
Education	Degree
Arizona State University	B.A., History and Political Science
Education	Degree

Executive Summary describing this individual's suitability for a project of this nature. Include similar cases the individual was involved in and their role.

Mr. Aragon is a partner at Hagens Berman's Phoenix office. His entire practice is devoted to litigation with an emphasis on representing plaintiffs in nationwide consumer class actions and mass torts. Mr. Aragon is particularly well versed in managing complex, multi-district cases against large corporations, and is currently prosecuting class actions against Walmart, Swift Transportation, Bed Bath & Beyond, Banner Health, General Motors, and Walgreen Arizona Drug Co.

Mr. Aragon takes great pride in preparing cases for trial, not settlement. He is often tasked with managing discovery involving dozens of producing parties, hundreds of document repositories, and complex ESI protocols. He is also a trial attorney, having secured multiple multi-million dollar verdicts. Recent successes include the resolution of *In re NCAA Player Name and Likeness Litigation*, where he handled the day-to-day management of the seminal case involving National Collegiate Athletic Association student-athletes' name, image, and likeness rights and *Liebich v. Maricopa County Community College District*, where he helped successfully resolve the largest Arizona-based class action in state history.

In addition to his private practice, Mr. Aragon is an adjunct professor at Arizona State University's College of Law where he lectures in the areas of civil procedure and class actions. He has also authored several chapters of the ABA's "A Practitioner's Guide to Class Actions," and regularly presents on the topics of sports law, civil procedure, and class actions.

Mr. Aragon graduated summa cum laude from Arizona State University in 1998 with degrees in History and Political Science, and received his J.D. from Stanford Law School in 2001. He also currently sits on the Board of Visitors for Stanford Law School. Before attending college, Mr. Aragon was a scout for the 2/68 Armored Tank Battalion.

Mr. Aragon is admitted to practice in Arizona, California, Colorado, Illinois, Indiana, Louisiana, New York, and Texas federal district courts.

Please see the attached Firm Resume for further details.



**AG18-0013
REFERENCES
ATTACHMENT I**

**Office of the
Attorney General**

1275 W. Washington
Phoenix, AZ
85007-2926

References

Provide a minimum of three references to which you have provided similar services.

Reference #1

Company:	Former Nevada Attorney General
Contact:	Frankie Sue Del Papa
Street Address:	1441 Alta Street
City, State, Zip:	Reno, Nevada 89503
Telephone #:	775-688-1818
E-Mail:	renofsdp@aol.com
Service Provided:	Representation of Nevada in the Tobacco Litigation.

Reference #2

Company:	State of Virginia, Attorney General's Office
Contact:	Wm. Clay Garrett
Street Address:	900 East Main Street
City, State, Zip:	Richmond, Virginia 23219
Telephone #:	804-371-6016
E-Mail:	wgarrett@oag.state.va.us
Service Provided:	Litigation brought by Virginia against McKesson Corporation in which Hagens Berman represented Virginia, alleging McKesson artificially inflated spread between Wholesale Acquisition Cost and Average Wholesale Price on over 400 brand name drugs.

Reference #3

Company:	Former Arizona Attorney General
Contact:	Grant Woods
Street Address:	The Atticus Building 650 North 3 rd Avenue
City, State, Zip:	Phoenix, Arizona 85003
Telephone #:	602-258-2599
E-Mail:	gw@grantwoodspc.net
Service Provided:	Representation of Arizona in the Tobacco Litigation



**AG18-0013
REFERENCES
ATTACHMENT I**

**Office of the
Attorney General**

1275 W. Washington
Phoenix, AZ
85007-2926

Reference #4

Company:	Ohio Attorney General's Office
Contact:	Jonathan Blanton, Chief, Consumer Protection Section
Street Address:	30 East Broad Street, 14 th Floor
City, State, Zip:	Columbus, OH 43215
Telephone #:	614-466-7878
E-Mail:	Jonathan.blanton@ohioattorneygeneral.gov
Service Provided:	Representation of Ohio Attorney General in action against five sets of defendants regarding their deceptive marketing of opioids.



ATTACHMENT II
Designation of Confidential, Trade Secret & Proprietary Information

State of Arizona
 Office of the Attorney General
 Procurement Section
 1275 W Washington ST
 Phoenix, Arizona 85007
 (602) 542-8030

Solicitation No.: AG18-0001

Project #: Outside Counsel CY2018

All materials submitted as part of a response to a solicitation are subject to Arizona public records law and will be disclosed if there is an appropriate public records request at the time of or after the award of the contract. Recognizing there may be materials included in a solicitation response that is proprietary or a trade secret, a process is set out in A.A.C. R2-7-103 (attached) that will allow qualifying materials to be designated as confidential and excluded from disclosure. For purposes of this process the definition of "trade secret" will be the same as that set out in A.A.C. R2-7-101(52).

This form must be completed and returned with the response to the solicitation and any supporting information to assist the State in making its determination as to whether any of the materials submitted as part of the solicitation response should be designated confidential because the material is proprietary or a trade secret and therefore not subject to disclosure.

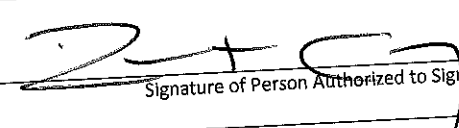
All Offerors must select one of the following:

- My response does not contain proprietary or trade secret information. I understand that my entire response will become public record in accordance with A.A.C. R2-7-C317.
- My response does contain trade secret information because it contains information that:
 1. Is a formula, pattern, compilation, program, device, method, technique or process, AND
 2. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; AND
 3. Is the subject of efforts by myself or my organization that are reasonable under the circumstances to maintain its secrecy.

Please note that failure to attach an explanation may result in a determination that the information does not meet the statutory trade secret definition. All information that does not meet the definition of trade secret as defined by A.A.C. R2-7-101(52) will become public in accordance with A.A.C. R2-7-C317. The State reserves the right to make its own determination of Proposer's trade secret materials through a written determination in accordance with A.A.C. R2-7-103.

If the State agrees with the proposer's designation of trade secret or confidentiality and the determination is challenged, the undersigned hereby agrees to cooperate and support the defense of the determination with all interested parties, including legal counsel or other necessary assistance.

By submitting this response, proposer agrees that the entire offer, including confidential, trade secret and proprietary information may be shared with an evaluation committee and technical advisors during the evaluation process. Proposer agrees to indemnify and hold the State, its agents and employees, harmless from any claims or causes of action relating to the State's withholding of information based upon reliance on the above representations, including the payment of all costs and attorney fees incurred by the State in defending such an action.

 Signature of Person Authorized to Sign	Robert B. Carey Printed Name
Phoenix Managing Partner Title	Hagens Berman Sobol Shapiro LLP Company Name

- R2-7-103. Confidential Information**
- A. If a person wants to assert that a person's offer, specification, or protest contains a trade secret or other proprietary information, a person shall include with the submission a statement supporting this assertion. A person shall clearly designate any trade secret and other proprietary information, using the term "confidential". Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.
 - B. Until a final determination is made under subsection (C), an agency chief procurement officer shall not disclose information designated as confidential under subsection (A) except to those individuals deemed by an agency chief procurement officer to have a legitimate state interest.
 - C. Upon receipt of a submission, an agency chief procurement officer shall make one of the following written determinations:
 1. The designated information is confidential and the agency chief procurement officer shall not disclose the information except to those individuals deemed by the agency chief procurement officer to have a legitimate state interest;
 2. The designated information is not confidential; or
 3. Additional information is required before a final confidentiality determination can be made.
 - D. If an agency chief procurement officer determines that information submitted is not confidential, a person who made the submission shall be notified in writing. The notice shall include a time period for requesting a review of the determination by the state procurement administrator.
 - E. An agency chief procurement officer may release information designated as confidential under subsection (A) if:
 1. A request for review is not received by the state procurement administrator within the time period specified in the notice; or
 2. The state procurement administrator, after review, makes a written determination that the designated information is not confidential.