OFFICE OF ATTORNEY GENERAL KRIS MAYES

OPERATIONS DIVISION/PROCUREMENT SECTION

MEMORANDUM

TO: Procurement File #AG25-0018: Outside Counsel Contingency Fee Only

FROM: Cindy Palmer, Chief Procurement Officer

DATE: February 5, 2025

RE: Competition Impracticable in Accordance with A.R.S. § 41-2537

As per the attached memo a condition exists that makes the competition requirements of the Arizona Procurement Code impracticable, unnecessary or contrary to public interest. As per the memo, competing this project is not feasible per A.R.S. § 41-4802(B). This firm is uniquely qualified to support the claim this Office is bringing and would be able file suit more quickly and cost efficiently than the Attorney General's Office or any other law firm could.

For these reasons this procurement is determined competition impracticable in accordance with A.R.S. § 41-2537. A contract advantageous to the Office of the Arizona Attorney General and the State of Arizona shall be negotiated with Baron & Budd, P.C. for this matter.

Palmer

_____

Cindy Palmer
Chief Procurement Officer

Kris Mayes
Attorney General

Office of the Attorney General
State of Arizona

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

This written determination is made by the Arizona Attorney General in accordance with A.R.S. § 41-4802. The Arizona 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 litigation regarding liability from the release of Polychlorinated Biphenyls (PCBs). Pursuant to A.R.S. § 41-4802(B), the Attorney General has also determined that requesting proposals is not feasible and hereby selects Baron & Budd, P.C. This firm is uniquely qualified to support the claim this Office bringing and would be able file suit more quickly and cost efficiently than the Attorney General's Office or any other law firm could. For these reasons, it is advantageous to the State to award the contract Baron & Budd, P.C. without a competitive bid process.

The Attorney General has also determined that it is necessary and appropriate to retain Baron & Budd, P.C. on a contingency fee basis for the reasons that follow.

1. There currently do not exist sufficient and appropriate legal resources within the Attorney General's Office to handle the matter without additional assistance;

2. The time and labor required to perform the necessary legal tasks exceeds or likely soon will exceed the current capacity of the Attorney General's Office without additional assistance;

3. Individual attorneys within the Attorney General's Office possess the skill necessary to properly initiate and oversee this matter, but given the novelty, complexity, and difficulty of the issues and stakes currently pending litigation and possible future related litigation, the Office would greatly benefit from the expertise offered by Baron & Budd, P.C.;

4. The geographic area where the private attorney services are to be provided is primarily in the State of Arizona, although the conduct at issue involves in no small part other jurisdictions and will require signification out-of-state action related to other pending state and multi-district litigation and possible future related litigation;

5. The Attorney General has determined the attorneys of Baron & Budd, P.C. have substantial complex litigation experience and familiarity with high stakes litigation, trial practice, and appellate litigation at the highest levels;

6. The primary purpose of this agreement will be to enforce all applicable legal authority for liability and remedies to the State, and obtain damages, costs of suit and investigation, attorney's fees, and any other appropriate and available remedies and relief.

Kris Mayes
Attorney General

Office of the Attorney General
State of Arizona

Kris Mayes
Attorney General

2-10-2025
Date

OFFICE OF THE ARIZONA ATTORNEY GENERAL

KRIS MAYES
ATTORNEY GENERAL

CIVIL LITIGATION DIVISION

JOSEPH J. BRANCO
DIVISION CHIEF

February 13, 2025

Via E-Mail

Russell W. Budd, Esq.
Baron & Budd, P.C.
3102 Oak Lawn Avenue, Suite 1100
Dallas, TX 75219
rbudd@baronbudd.com

Re: Appointment of Outside Counsel for PCBs investigation and litigation

Dear Mr. Budd:

Pursuant to the Outside Counsel Agreement between your firm and the State of Arizona (the "State"), we are appointing your firm to represent the Arizona Attorney General for the limited purpose of investigation and litigation regarding alleged violations resulting from the release of Polychlorinated Biphenyls (PCBs) in Arizona. I understand that the Law Office of Joseph C. Tann, PLLC and Cossich, Sumich, Parsiola & Taylor LLC will be associating with your firm as co-counsel for this matter. The primary purpose of this representation, pursuant to the contingency fee contract, will be to enforce all applicable penalties available to the State, and obtain damages, costs of suit and investigation, attorney's fees, and any other appropriate and available remedies and relief.

Please contact Joseph Branco at (480) 825-0254 (Joseph.Branco@azag.gov) for questions related to this appointment letter. It is expected that your firm will work directly with the Arizona Attorney General's Office, Environmental Protection Unit staff to maximize representation of the client's interests. At this time, all communication and correspondence should be directed to me.

Sincerely,

Joseph J. Branco
Division Chief

JJB
cc: Cindy Palmer, AGO Procurement
Scott Summy, Baron & Budd, P.C.

	AG25-0018 Office of the Attorney General Agreement **AMENDMENT #1**	**State of Arizona** **Office of the Attorney General** Procurement Section 2005 N Central Ave Phoenix, Arizona 85004

1. The purpose of this amendment is to update the Special Terms & Conditions for AGO Contract # AG25-0018, for contingency fee: Polychlorinated Biphenyls (PCBs):

   a. Update Scope of Work, Scope of Work Tasks, Paragraph 1.6:

      i. Current: 2.14 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.

      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.

      Replacement: 2.14 Insurance Requirements

      2.14.1 Indemnification

      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.

      2.14.2 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.

2.14.3 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. All other terms and conditions shall remain unchanged.

* Signature below certifies receipt, understanding, and compliance with the provisions of this amendment.

Baron & Budd, PC	**Office of the Arizona Attorney General**
Scott Summy	Cindy Palmer
Shareholder	Procurement Manager
Scott Summy	Palmer
DATE:1/5/2026	**DATE:** 1/6/2026

	STATE OF ARIZONA OFFICE OF THE ATTORNEY GENERAL AGREEMENT **OFFER AND ACCEPTANCE** **AG25-0018**	**State of Arizona** **Office of the Attorney General** 2005 N Central Ave Phoenix, AZ 85004

COUNSEL'S 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.

Baron & Budd, P.C.			Scott Summy	
Company Name			**Signature of Person Authorized to Sign Offer**	
3102 Oak Lawn Avenue, Suite 1100			Scott Summy	
Company Address			**Printed Name**	
Dallas	TX	75219	Shareholder, Attorney at Law	
City	**State**	**Zip**	**Title**	
ssummy@baronbudd.com			(214) 521-3605	(214) 279-9915
Contact Email Address			**Phone Number**	**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 Executive Order 11246, State Executive Order 2009-9 or A.R.S. §§ 41−1461 through 1465.
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/ x☐ 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:

Counsel 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 Counsel's offer as accepted by the Office of the Attorney General.

Counsel is hereby cautioned not to commence any billable work or provide any material or service under this contract until Counsel receives a purchase order, contract release document or written notice to proceed.

This Contract shall henceforth be referred to as Contract No.:	**AG25-0018**					
The effective date of the Contract is:	February 12, 2025					
State of Arizona **Office of the Attorney General**	Awarded this	12th	Day of	February	,	2025
	Cindy Palmer, Procurement Manager					

	STATE OF ARIZONA OFFICE OF THE ATTORNEY GENERAL AGREEMENT **SCOPE OF WORK** **AG25-0018**	**State of Arizona** **Office of the Attorney General** 2005 N Central Ave Phoenix, AZ 85004

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 contract is to retain the law firms of Baron & Budd P.C. as lead counsel and Law Office of Joseph C. Tann, PLLC and Cossich, Sumich, Parsiola & Taylor LLC as co-counsel to assist the AGO with the investigation and litigation regarding liability from the release of Polychlorinated Biphenyls (PCBs). The primary purpose of this representation, pursuant to the contingency fee contract, will be to enforce all applicable legal authority supporting liability and remedies available to the State, and obtain damages, costs of suit and investigation, attorney's fees, and any other appropriate and available remedies and relief under Arizona law in Arizona state court and, if necessary, bankruptcy court.

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.

1.4. Goals

Litigation on this matter would be brought under Arizona laws on behalf of the Attorney General of Arizona. Such litigation would seek to recover appropriate injunctive and other appropriate relief after consultation with the AGO.

1.5. Hierarchy

The retention of Outside Counsel under this contract is intended to aid the Attorney General and she 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
- **1.6.4.** Litigation, including all appeals
- **1.6.5.** Litigation Support (including document reviews)
- **1.6.6.** Post Litigation Support

State of Arizona
Office of the Attorney General
2005 N Central Ave
Phoenix, AZ 85004

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 if Outside Counsel believes that the class action presents a conflict of interest with the representation of the AGO.

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.

1.9. Court Awarded Attorney Fees

The Attorney General may 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 Attorney General, such amounts may, at the Attorney General's discretion be awarded to Outside Counsel under this Agreement. No other fee will be paid to Outside Counsel.

1.10. 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.

1.11. Advance Payment Prohibited

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

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 and Uniform Terms and Conditions 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: https://spointra.az.gov/resources/standard-forms-

and-documents or by calling the Office of the Attorney General, Procurement at (602) 542-7986.

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 an 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. 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, 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 employee(s) 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 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 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. 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 on behalf of the State of Arizona 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 PFAS litigation undertaken pursuant to 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, of the State of Arizona. 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

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

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 may qualify as a Conflict of Interest. Outside Counsel will notify the AGO if any class action representation may present a conflict of interest with Outside Counsel's representation of the AGO.

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.

2.13.2.3.1. Request for Waiver of Conflict Form

A Request for Waiver of Conflict Form must be submitted in writing either by mail, e-mail, or transmitted by fax to the AZ Attorney General's Office. Normal response time is approximately 5-7 business days. Expedited requests will be considered with a valid written justification. One request form is expected for each case submitted for consideration.

Contact:	Vanessa Hickman, Chief Counsel, State Government Division
Mailing Address:	2005 N Central Ave, Phoenix, AZ 85004
E-mail:	WaiverRequests@azag.gov cc: Vanessa.Hickman@azag.gov
E-mail Subject Line:	Waiver Request

2.13.2.3.2. Form Availability

The Request for Waiver of Conflict Form will be provided upon contract award and also is available online at www.azag.gov/procurement.

2.14. 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.

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.

2.15. Minimum Scope and Limits of Insurance

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

2.15.1. 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.

2.15.2. 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.

2.15.3. Workers' Compensation and Employers' Liability

- Workers' Compensation Statutory

- 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).

2.15.4. 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.

2.16. Additional Insurance Requirements

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

2.16.1. 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).

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

2.17. 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.

2.18. 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 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, 2005 N Central Ave, Phoenix, AZ 85004 or emailed to: procurement@azag.gov, or sent by facsimile transmission to Procurement at: 602-251-2285.

2.19. 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.

2.20. 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.

2.21. 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.

2.22. 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.

2.23. 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.

2.24. 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.

2.25. 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.

2.26. 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
2005 N Central Ave
Phoenix, AZ 85004

	STATE OF ARIZONA OFFICE OF THE ATTORNEY GENERAL AGREEMENT **ADDENDUM I** **AG25-0018**	**State of Arizona** **Office of the Attorney General** 2005 N Central Ave Phoenix, AZ 85004

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

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.