INVESTIGATIVE REPORT

Cynthia Carrasco, Inspector General

OFFICE: OFFICE OF THE ATTORNEY GENERAL
TITLE: CONTINGENCY FEE CONTRACT
CASE ID: 2015-12-0238
DATE: DECEMBER 30, 2015

ATTORNEY GENERAL CONTINGENCY FEE CONTRACT

The Office of Inspector General's Chief Legal Counsel, Tiffany Mulligan, after examination and review, reports as follows:

The purpose of this Report is to fulfill the statutory requirements of I.C. 4-6-3-2.5 regarding contingency fee contracts. This statute requires the Office of the Inspector General ("OIG") to review contingency fee contracts for possible conflicts of interest and potential ethics code violations. Under this statute, an agency may not enter into a contingency fee contract unless the OIG has made a written determination that entering into the contract would not violate the code of ethics or agency rule concerning conflicts of interest.

On December 24, 2015, the Office of the Attorney General ("OAG") notified the OIG that it wished to enter into a contingency fee contract with two law firms, one in Flowood, Mississippi and one in Kansas City, Missouri. The OAG's request explains that it is making efforts to reunite the lawful owners and beneficiaries of bonds with the money they are entitled to receive from the federal government. The purpose of the contract is to obtain assistance in these efforts, including with state court litigation, negotiations with the federal government, and any federal litigation that is necessary or filed in the matter.

The OAG's request explains that the purpose of the state court litigation is to obtain

declaratory judgment that the State has taken title, pursuant to I.C. 32-32-1-20.5, of certain matured U.S. savings bonds that belong to or were purchased for the benefit of Indiana residents. The OAG's request further notes that additional litigation in the Court of Federal Claims and other federal courts involving the U.S. Department of Treasury ("Treasury") may be necessary to indentify and take title to bonds on behalf of all existing bondholders for which Treasury has bonds that have matured but that have not yet been redeemed.

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

Furthermore, I.C. 4-6-3-2.5(d) requires the OAG to request proposals from private attorneys wishing to provide services on a contingency fee basis, unless the agency, in this case also the OAG, determines in writing that requesting proposals is not feasible under the circumstances. The OAG writes that it has had informal discussions with three law firms that it knew had familiarity with these issues. The OAG concluded that based on the informal discussions and review of information provided by the firms, the firms the OAG selected are appropriate because they have worked together to represent other states. For these reasons, the OAG does not believe that going through a more formal process for requesting and reviewing proposals would be feasible or appropriate given the substantive and timing considerations.

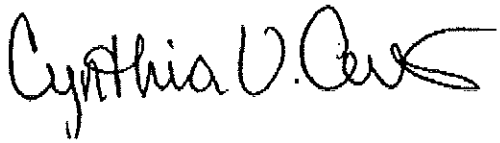
After careful examination and review, the OIG has determined that the contract will not violate the code of ethics or any statute or agency rule concerning conflicts of interest. First, the contract is with two law firms located out of state; therefore, it does not appear that either law

firm employs any state employees. Likewise, there is no information to indicate that any OAG employee or immediate family member has a financial interest in either law firm or the contract itself. Because of that, it also does not appear that any OAG employee is contracting with or will be supervising the work of a business entity in which a relative is a partner, executive officer or sole proprietor.

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

Dated this 30th day of December, 2015.

APPROVED BY:



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