

## 2024 PUC Human Resources Legal Services Contract

This Contract for Legal Services (“Contract”), by and between **McNees Wallace & Nürick LLC**, hereinafter called the “Law Firm” and the Pennsylvania Public Utility Commission, hereinafter called the “PUC” or Commission.”

**WHEREAS**, the Commission has a need for professional and specialized legal services to represent the Commission in matters described in Appendix A; and

**WHEREAS**, the Law Firm has represented that it is qualified to and has agreed to perform such professional and specialized legal services.

**NOW, THEREFORE**, the Commission and the Law Firm, with the intention of being legally bound, hereby agree as follows:

**Incorporation by Reference.** The Request for Proposal, Questions and Answers posted on the Commission website, and the selected Proposer’s Proposal are hereby incorporated into this Contract by Reference.

1. Definitions. The following definitions shall apply when used in this Contract:

- a. “Chief Counsel” shall mean the Chief Counsel of the Commission, who serves as chief legal advisor to the Commission and supervises, coordinates, and administers the legal services for the Commission.
- b. “Commission” shall mean the Pennsylvania Public Utility Commission, an independent governmental entity of the Commonwealth of Pennsylvania. The Issuing Officer shall serve as the main contact for all references to “Commission” in this Contract.
- c. “Effective Date” shall mean: a) the date the Contract has been fully executed by the Law Firm and by the Commission and all approvals required by Commission contracting procedures have been obtained or b) the date referenced in the Contract, whichever is later. The Contract shall not be a legally binding contract until after a copy of the fully-executed Contract and a Notice to Proceed have been sent to the Law Firm.
- d. “Notice to Proceed” shall mean a written notice sent to the Law Firm stating that the contract has been fully executed and that the Law Firm may commence performance. The Commission shall send a Notice to Proceed to the Law Firm either via U.S. Mail or via email, and the Commission shall send a fully executed copy of the contract with the notice to proceed.

e. "Guidelines" shall mean the Retention Guidelines for Outside Counsel promulgated by the Office of General Counsel, setting forth policies and procedures. The Guidelines are attached to this Contract as Appendix J, and are incorporated into this Contract as if set forth fully herein. In case of a conflict between this Contract and the Guidelines, the Contract shall control.

2. Services. The Law Firm shall perform the services described in Appendix A of this Contract.

3. Compensation. The Law Firm shall be compensated by the Commission for the services contracted for in an amount not to exceed \$600,000, in accordance with the provisions established in Appendices B and C of this Contract.

4. Term of Contract.

a. The term of this Contract shall commence on the Effective Date and shall end on the Termination Date subject to the other provisions of this Contract.

**The Termination Date of the Contract is five years after execution of the contract, as indicated by the date of the Notice to Proceed.**

b. Except as otherwise specifically provided for herein, the Commission of Pennsylvania, including the Commission, shall not be liable to pay the Law Firm for any services or work performed or expenses incurred before the Effective Date of the Contract.

c. With the approval of the Chief Counsel, the Commission and the Law Firm may extend the term of this Contract at any time during the term of the Contract or any renewals or extensions thereof pursuant to Paragraph 9 of this Contract.

d. If the services to be provided by the Law Firm hereunder have been approved by the Commission as an emergency procurement until full execution of this Contract, the Law Firm may provide these services based upon such emergency approval. Upon full execution of this Contract, all services provided during the period between the date of emergency approval and the Effective Date of the Contract shall be merged into and covered by the terms of this Contract.

5. Billing. The Law Firm shall submit monthly invoices to the Commission for services performed during each billing period. Invoices shall be forwarded to the following contact and address:

**Terri Benzel  
Pa. Public Utility Commission  
P.O. Box 3265  
Harrisburg PA 17105-3265**

a. Each invoice shall be under cover of a letter on law firm letterhead and itemized listing the services performed by attorney and legal assistant by date, by hours worked, and by rate and shall generally follow the format appearing in Appendix D of this Contract. The following information must be included on all invoices. Failure to include this information will result in return of the invoice and a request for a new invoice:

- (1) Funds Commitment Number;
- (2) Invoice Date;
- (3) Service Dates (i.e., start and end dates for services covered by invoice);
- (4) Invoice Number;
- (5) Gross/Total Amount.

b. The amount shown on each invoice for labor costs shall be in accordance with the rates set forth in Appendix B of this Contract.

c. The invoices shall also list non-labor costs such as those incurred for travel, food, and lodging, as described in Appendix C of this Contract.

d. The Commission agrees to pay the Law Firm for travel, meal costs, and lodging costs for which supporting documentation is provided, in reasonable amounts incurred in connection with performance of services under the Contract, as described in Appendix C of this Contract.

e. The Commission will use its best effort to make payments on invoices within 45 days of their receipt, in final form.

f. All invoices shall contain a statement that reads substantially as follows:

*The Law Firm hereby certifies that the services supplied and expenses incurred as stated in the attached invoice have met all of the required standards set forth in the Contract for Legal Services.*

g. All invoices or accompanying letters of transmittal shall be signed by the Law Firm and shall set out the Law Firm's federal employer identification number.

6. Consultation. The Law Firm shall consult with and keep the Commission fully informed as to the progress of all matters covered by this Contract. The Law Firm will not make any offer, settlement, or compromise without the consent of the Commission.

7. Subcontracting, Key Personnel, and Experts. Subcontracting, assignment, or transfer of all or part of the interest of the Law Firm in this Contract or in the work covered by this Contract is prohibited without the prior written approval of the Commission. In the event such consent is given, the terms and conditions of this Contract shall apply to and bind the party or parties to whom such work is subcontracted, assigned, or transferred as fully and completely as the Law Firm is hereby bound and obligated and the Law Firm shall obtain written acknowledgement thereof from all subcontractors and experts so engaged. The Law

Firm, with respect to any replacement of key personnel assigned to this matter, shall consult with the Commission. The Commission's consent to the proposed assignment is required, and may not be withheld unreasonably. Notwithstanding the foregoing, the Law Firm may, with the prior written approval of the Commission or Chief Counsel, engage experts in various fields related to the subject matter of this Contract to assist the Law Firm in the performance of its services under this Contract. The hourly rates, fees, or other compensation to be paid to such experts shall also be subject to the approval of the Commission. Approved compensation of such experts, as incurred, shall be included in the Law Firm's invoices presented pursuant to the provisions of Paragraph 5 of this Contract, without addition, surcharge, or increase by the Law Firm of the actual fees billed to the Law Firm by such experts. The terms and conditions of this Contract including, but not limited to, the provisions of Appendices C and D, shall apply to and bind the subcontractors or experts engaged as fully and completely as the Law Firm is hereby bound and obligated and the Law Firm shall obtain written acknowledgement thereof from all subcontractors or experts so engaged.

8. Ownership Rights. All documents, data, and records produced by the Law Firm and any experts in carrying out the obligations and services hereunder, without limitation and whether preliminary or final, are and shall become and remain the property of the Commission.

a. The Commission shall have the right to use all such documents, data, and records without restriction or limitation and without additional compensation to the Law Firm and any experts and the Law Firm and any experts shall have no right or interest therein.

b. Upon completion of the services hereunder or at the termination of this Contract, all such documents, data, and records shall, if requested by the Chief Counsel or the Commission, be appropriately arranged, indexed, and delivered to the Chief Counsel or the Commission by the Law Firm.

c. Any documents, data, and records given to or prepared by the Law Firm and any subcontractors or experts under this Contract shall not be made available to any individual or organization by the Law Firm or any subcontractors or experts without the prior approval of the Chief Counsel. Any information secured by the Law Firm and any subcontractors or experts from the Commission in connection with carrying out the services under this Contract shall be kept confidential unless disclosure of such information is approved in writing by the Chief Counsel or is directed by a court or other tribunal of competent jurisdiction.

d. Notwithstanding the provisions of Paragraph 8 of this Contract, the Law Firm may retain copies of documents delivered to the Chief Counsel or to the Commission.

9. Modification or Changes. The Commission and the Law Firm may make modifications to this Contract at any time during the term of the Contract or any renewals or extensions thereof. Changes regarding funding of a Contract that refers to the total estimated amount of the Contract as set forth in paragraph 3 may be accomplished via a funding adjustment pursuant to Commission procedures. Changes regarding funding of a Contract that states an

amount not to exceed as set forth in paragraph 3, or a change in Contract length, may be accomplished by a letter of mutual consent signed by the Commission and the Law Firm. All other changes to contract terms, including changes in the scope of work, must be incorporated into a formal written amendment to this Contract, signed by both parties, and executed in the same manner as this original Contract and in accordance with applicable law.

10. Conflict of Interest. The Law Firm represents and warrants that it has no conflicting representation that has not been fully disclosed to and waived by the Commission and shall not undertake any representation that conflicts with the performance of the services or obligations under this Contract unless such conflicting representation has been fully disclosed to and waived by the Commission. Any conflicting representation shall be promptly disclosed to the Commission and Chief Counsel. The Chief Counsel shall determine whether such conflict is cause for termination of this Contract. The process for obtaining conflict waivers is more fully described in the Office of Chief Counsel Conflict Waiver Procedure, which is attached as Appendix E of this Contract.

11. Inability to Perform. The Law Firm agrees that if, because of death or any other occurrence beyond the control of the Law Firm, it becomes impossible for any principal or principals and, in particular, the principals assigned to this project, to render the services set forth in this Contract, neither the Law Firm nor the surviving principals shall be relieved of their obligations to complete performance hereunder. The Law Firm shall, with respect to any replacement principal proposed to be assigned to this matter, consult with the Chief Counsel. The Chief Counsel's consent to the proposed replacement is required and may not be withheld unreasonably.

12. License to Appear. The Law Firm represents and warrants that attorneys involved in this representation are duly licensed and in good standing to practice before the judicial forum, court, board, or tribunal before which they will appear or practice on behalf of the Commission. The Law Firm, subject to approval by the Commission, may obtain a subcontractor to act as co-counsel where appearance by the commission is required in a forum or jurisdiction where its attorneys are not licensed to practice, provided, however, that the firm's use of the subcontractor in that circumstance is subject to Paragraph 7 of this Contract.

13. Independent Contractor. In performing the services required by this Contract, the Law Firm will act as an independent contractor and not as an employee or agent of the Commission.

14. Termination Provisions. The Commission has the right to terminate this Contract for any of the following reasons. Termination shall be effective upon written notice to the Law Firm.

a. **Termination for Convenience**. The Commission shall have the right to terminate this Contract for its convenience if the Commission determines termination to be in its best interest. The Law Firm shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Law Firm be entitled to recover loss of profits.

b. **Non-Appropriation.** The Commission's obligation to make payments during any Commission fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commission shall have the right to terminate this Contract. The Law Firm shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under this Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.

c. **Termination for Cause.** The Commission shall have the right to terminate this Contract for Law Firm default upon written notice to the Law Firm. The Commission shall also have the right, upon written notice to the Law Firm, to terminate the Contract for other cause as specified in this Contract or by law. If it is later determined that the Commission erred in terminating the Contract for cause, then, at the Commission's discretion, the Contract shall be deemed to have been terminated for convenience under Subparagraph 14.a.

15. **Integration Clause.** This Contract, including all referenced documents, constitutes the entire agreement between the parties. Terms used in appendices hereto shall have the same meanings as are ascribed thereto in this Contract unless otherwise defined therein. No agent, representative, employee, or officer of either the Commission or the Law Firm has authority to make, or has made, any statement, agreement, or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to, detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished pursuant to Paragraph 9 of this Contract.

16. **Nondiscrimination/Sexual Harassment.** The Law Firm shall comply with all applicable provisions of state and federal constitutions, laws, regulations, and judicial orders pertaining to nondiscrimination, sexual harassment, and equal employment opportunity, including the provisions of the Nondiscrimination/Sexual Harassment Clause, which is attached hereto as Appendix F and incorporated by reference.

17. **Integrity Provisions.** The Law Firm agrees to comply with the Integrity Provisions, which are attached hereto as Appendix G and incorporated by reference.

18. **Responsibility Provisions.** The Law Firm agrees to comply with the Responsibility Provisions, which are attached hereto as Appendix H and incorporated by reference.

19. **The Americans With Disabilities Act.** The Law Firm agrees to comply with The Americans With Disabilities Act Provisions, which are attached hereto as Appendix I and incorporated by reference.

20. Audit Provisions. The Commission shall have the right, at reasonable times and at a site designated by the Commission, to audit the books, documents, and records of the Law Firm to the extent that the books, documents, and records relate to fees, costs, or pricing data for this Contract. The Law Firm agrees to maintain records that will support the fees charged and costs incurred for this Contract.

The Law Firm shall preserve books, documents, and records that relate to fees, costs, or pricing data for this Contract for a period of three years from the date of final payment hereunder. The Law Firm shall give full and free access to all records to the Commission and/or its authorized representatives.

21. Offset Provision. The Law Firm agrees that the Commission may set off the amount of any state tax liability or other obligation of the Law Firm or its subsidiaries to the Commission against any payments due the Law Firm under any contract with the Commission.

22. Indemnity. The Law Firm shall indemnify and defend the Commission from and against any and all claims, demands, actions, liabilities, losses, costs, and expenses, including but not limited to reasonable attorneys and other fees, asserted by third parties ("Claims"), which Claims are caused by or arise from injuries or damages sustained by such third parties resulting or arising from any negligent act or omission or intentionally wrongful act of the Law Firm or any of its officers, agents, employees and/or representatives in relation to professional services provided to the Commission by the Law Firm under this Contract.

23. Insurance. The Law Firm represents and warrants that it carries malpractice insurance in the amount usual and customary for firms of its size and practice areas, subject to normal deductibles, and covenants that it will maintain such coverage throughout its representation of the Commission.

24. Notice. Any written notice to the Commission under this Contract shall be deemed sufficient if delivered to the Commission personally, or by electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., UPS, FedEx, etc.), with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, sent to the address set forth below or to such other address as such party may designate by notice given pursuant to this section:

**Michael E. Roberts**  
**Director of Human Resources**  
**Pa. Public Utility Commission**  
**P.O. Box 3265**  
**Harrisburg PA 17105-3265**

Any written notice to the Law Firm under this Contract shall be deemed sufficient if delivered to the Law Firm personally, or by electronic transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., UPS, FedEx, etc.), with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, sent to the address set forth below or to such other address as such party may designate by notice given pursuant to this section:

**Adam Santucci, Esq.**  
**McNees Wallace & Nurick LLC**  
**100 Pine St.**  
**Harrisburg PA 17101**

25. Contract Controversies. In the event of a controversy or claim arising from this Contract, the Law Firm must, within six months after the cause of action accrues, file a written notice of the controversy or claim with the Chief Counsel for a determination. The Chief Counsel shall send a written determination to the Law Firm. In the event of further dispute, pending a final judicial resolution of a controversy or claim, the Law Firm shall proceed diligently with the performance of this Contract in a manner consistent with the interpretation of the Chief Counsel, and the Commission shall compensate the Law Firm pursuant to the terms of this Contract.

26. Applicable Law. This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commission of Pennsylvania (without limitation by any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Law Firm consents to the jurisdiction of any court of the Commission of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Law Firm agrees that any such court shall have *in personam* jurisdiction over it and consents to service of process in any manner authorized by Pennsylvania law.

[SIGNATURE BLOCK ON NEXT PAGE]



IN WITNESS WHEREOF, intending to be legally bound, the Pennsylvania Public Utility Commission and McNees Wallace & Nurick LLC execute this Contract for Human Resources Legal Services.

McNees Wallace & Nurick LLC

Pennsylvania Public Utility Commission

By: 

By: Robert C. Gramola

Title: member

Robert C. Gramola  
Director of Administration

Date: 3/7/2024

Date: 3/7/2024

**APPROVED AS TO FORM AND LEGALITY**

Pennsylvania Public Utility Commission

David E. Screven 3/6/2024

Dávid E. Screven  
Chief Counsel

Date

Office of Attorney General



Digitally signed by David E. Stover,  
Assistant Chief Deputy Attorney General  
Date: 2024.04.02 12:50:41 -04'00'

Executive Deputy Attorney General

Date

**FISCAL APPROVAL BY COMPTROLLER OPERATIONS**

This document is approved for fiscal responsibility and budgetary appropriateness, the availability of funds.



Digitally signed by Katalin Gotshall  
Date: 2024.04.05 09:35:19 -04'00'

Comptroller

Date

Funds Commitment: 4000028412

**APPENDIX A**  
**DESCRIPTION OF SERVICES**

1. The Law Firm shall provide legal counsel and shall represent the Commission in matters relating to Human Resources, Labor and Employment Law.
2. The Law Firm shall consult with the Commission on legal issues involved in the matters referred to in Paragraph 1, above, of this Appendix A and in other matters requested by the Commission.
3. The Commission reserves the right to represent itself, using its Law Bureau, in any specific claims and determinations as the Commission, in its sole judgment, might determine.

**APPENDIX B**

**FIRM ENGAGEMENT LETTER  
AND FEE SCHEDULE**



McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

Adam L. Santucci  
Direct Dial: 717.237.5388  
Direct Fax: 717.260.1655  
asantucci@mcneeslaw.com

March 7, 2024

**VIA E-MAIL**

Michael E. Roberts  
Director, Office of Human Resources  
PA Public Utility Commission  
michrobert@pa.gov

**RE: Engagement Letter**

Dear Michael:

Thank you for selecting McNees Wallace & Nurick LLC to provide legal services to Pennsylvania Public Utility Commission, an independent Commonwealth agency ("PUC"). We appreciate the confidence you have shown in our Firm.

This letter sets forth the scope and terms of our engagement as well as our expectations regarding billing, payment, cooperation and communication during our representation. These terms will also apply to additional legal services that we may agree to provide beyond those described in this letter.

You have asked our Firm to represent PUC with respect to Human Resources Legal Services as fully set forth in the 2024 PUC-MWN HR Legal Services Contract. Our client in this engagement is PUC only and no one else.

Our fees will be based primarily upon hourly rates the firm sets for each person who provides legal services in this matter. The rates of others who may work on the engagement are:

Engagement Manager (Member)	\$345
Member	\$325
Associates and Of Counsel	\$295
Paralegal	\$200

These rates are subject to periodic adjustment by the Firm, based on increased costs affecting our practice and enhanced experience of particular personnel working on the matter. Our billing rates normally are adjusted as of December 1 of each year.

Any estimate we furnish of the amount of fees and costs likely to be incurred in this matter will be based on our professional judgment, taking into account the variety of factors that affect the scope, complexity and duration of any matter. That estimate is not a maximum or fixed-fee quotation. The payment of our fee is not contingent on outcome or success.

The enclosed document titled "Financial Arrangements with Clients" describes the billing policies and procedures that will apply in this engagement. Please read it carefully, and retain it with this engagement letter. You agree to pay our statements for services and expenses within thirty (30) days. If our statements

Michael E. Roberts  
Director, Office of Human Resources  
March 7, 2024  
Page 2

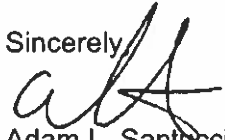
are not paid when due, you agree that we may withdraw as your counsel, consistent with our professional responsibilities, and you will be responsible for engaging other counsel in this matter, should you choose to do so.

We need your cooperation and support during this engagement, which includes informing us of relevant facts and circumstances that may bear on this matter. Any and all privileged and confidential information you provide to us will be held as such. Please keep in mind that attorney-client privilege can be lost by disclosures of privileged or confidential information to third parties. For that reason, your communications to us or to any third parties involved in this matter should be made with appropriate care to ensure their confidentiality.

If the above terms do not reflect your understanding of our engagement, or if there are any questions, I encourage you to discuss these concerns with me or other counsel of your choosing promptly. **If we do not hear from you before the sooner of when we become substantially involved in this matter or within ten (10) days of the date of this letter, we will assume that the terms set forth in this letter and the accompanying document are acceptable.**

We look forward to this opportunity to be of service to you.

Sincerely,



Adam L. Santucci  
MCNEES WALLACE & NURICK LLC



## Financial Arrangements with Clients

1. **Fees.** Many factors are considered in billing for our services, including the hourly billing rates of the lawyers and paralegals who work on the matter, the novelty and complexity of the issues involved, the urgency with which the services must be performed, the extent to which an undertaking precludes us from representing other clients and the results achieved. In most instances, the number of hours spent by professional personnel is the principal basis for our fees.

2. **Hourly Billing Rates.** Generally, these rates vary from attorney to attorney depending on expertise, area of practice and experience. Hourly rates are reviewed annually and may increase during our engagement on your behalf.

3. **Disbursements.** Most engagements require that certain advances be made on your behalf by the firm from time to time. Out-of-pocket expenses for travel, toll-calls, filing fees, postage, overnight delivery and similar items, and charges for certain administrative services such as photocopying, document scanning, computer-assisted research and secretarial overtime specifically related to this matter will be separately billed and identified on our invoices. Certain disbursements may not be billed by us on the invoices on which related services are billed or may be passed on to the client for payment.

4. **E-discovery charges.** Unless we have made other arrangements, the following e-discovery charges will be charged. These amounts may be adjusted from time-to-time.

- Processing and preparation of client data - \$60/ GB of data
- Cloud storage for active matters - \$20/month/GB of data
- Cloud storage for inactive/archived projects - \$15/month/GB of data

5. **Periodic Billings.** Unless we have made other arrangements, it is our policy to render monthly invoices for professional services. Usually, we prepare and mail invoices during the month following any month in which substantial services have been rendered and/or disbursements have been incurred. We expect that our invoices will be paid upon presentation, but, in any event, within 30 days after you receive the invoice.

6. **Administrative Charge.** In the event our invoices for fees and disbursements are not paid within thirty days after you receive them, we reserve the right to impose a charge at the rate of twelve percent (12%) per annum on the balance due to help defray the additional cost of carrying and administering delinquent accounts.

7. **Funds Held in Escrow.** During our engagement, we may have occasion to hold funds in escrow on your behalf. If pursuant to the terms of the escrow we are permitted to return the escrowed funds to you, we reserve the right to apply funds held in escrow to pay outstanding invoices for services and disbursements before remitting the balance to you.

8. **Termination of Representation for Failure to Fulfill Financial Obligations.** If you fail substantially to fulfill your financial obligation to pay for services rendered, and such failure continues after reasonable warning, we have the right to withdraw from the representation.

9. **Client files.** Client files at McNees are maintained in the firm's electronic document management system. McNees does not maintain a paper client file or an electronic client file outside its electronic document management system. Client files generally are stored for seven years after the file is closed. McNees has the right to charge reasonable costs for storing, handling, and copying client documents and files.

Any questions you may have regarding the firm's billing procedures or the nature and extent of our undertaking on your behalf should be directed to the attorney who is your primary contact in the engagement.



McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

**Adam L. Santucci**  
Direct Dial: 717.237.5388  
Direct Fax: 717.260.1655  
asantucci@mcneeslaw.com

March 5, 2024

**VIA E-MAIL**

Michael E. Roberts  
Director, Office of Human Resources  
PA Public Utility Commission  
michrobert@pa.gov

Dear Michael:

In response to your February 29, 2024 letter, please see fee schedule attached.

Sincerely,

A handwritten signature in black ink, appearing to read 'AS', written over the word 'Sincerely,'.

Adam L. Santucci  
MCNEES WALLACE & NURICK LLC

## Fee Proposal

McNees is forward-thinking and transparent when it comes to fee arrangements and client billing practices. We are thoughtful when considering assigning attorneys to client work based on the skillset needed and do not "overstaff" projects. Based on our understanding of the scope of work for the Commission, we propose the following hourly rates for your consideration:

	Hourly Rate
Engagement Manager (Member)	\$345
Member	\$325
Associates and Of Counsel	\$295
Paralegal	\$200

### Subcontractors

As described in our proposal, McNees intends to partner with the following firms:

	Hourly Rate
Law Office of Nathaniel M. Holmes	\$325
Law Office of Sarah Yerger	\$325

### Billing solutions

McNees is transparent and maintains a high level of flexibility when it comes to streamlining billing for our clients. Our internal billing department promptly and efficiently transmits client invoices electronically based upon your organization's guidelines for managing your legal budget – whether you prefer an electronic invoice sent to a single recipient or invoices uploaded into your preferred e-billing portal(s). Our system also allows flexibility to accommodate specific invoicing formats, whether you prefer to see line-by-line time entries, time billed by matters or other formats.

### Out-of-pocket expenses

McNees charges clients at-cost for all out-of-pocket costs associated with court and government agency filing fees, court or administrative tribunal costs, court reporter costs, courier service fees, etc., without additional mark-up. When travel is required, we would seek reimbursement for reasonable travel expenses (lodging, transportation, meals, etc.). We do not pass on costs to clients for expenses such as legal research, long-distance telephone calls, copies, delivery fees, emails and faxes.



## **Firm guidelines on financial arrangements with clients**

**Fees.** Many factors are considered in billing for our services, including the hourly billing rates of the lawyers and paralegals who work on the matter, the novelty and complexity of the issues involved, the urgency with which the services must be performed, the extent to which an undertaking precludes us from representing other clients and the results achieved. In most instances, the number of hours spent by professional personnel is the principal basis for our fees.

**Hourly billing rates.** Generally, these rates vary from attorney to attorney depending on expertise, area of practice and experience. Hourly rates are reviewed annually and may increase during our engagement on your behalf.

**Disbursements.** Most engagements require that certain advances be made on your behalf by the firm from time to time. Out-of-pocket expenses for travel and filing fees related to this matter will be separately billed and identified on our invoices. Certain disbursements may not be billed by us on the invoices on which related services are billed or may be passed on to the client for payment.

**E-discovery charges.** Unless we have made other arrangements, the following e-discovery charges will be charged. These amounts may be adjusted from time to time.

- Processing and preparation of client data - \$60/GB of data
- Cloud storage for active matters - \$20/month/GB of data
- Cloud storage for inactive/archived projects - \$15/month/GB of data

**Periodic Billings.** Unless we have made other arrangements, it is our policy to render monthly invoices for professional services. Usually, we prepare and mail invoices during the month following any month in which substantial services have been rendered and/or disbursements have been incurred. We expect that our invoices will be paid upon receipt or within 30 days after you receive the invoice.

**Administrative Charge.** In the event our invoices for fees and disbursements are not paid within thirty days after you receive them, we reserve the right to impose a charge at the rate of twelve percent (12%) per annum on the balance due to help defray the additional cost of carrying and administering delinquent accounts.

**Funds Held in Escrow.** During our engagement, we may have occasion to hold funds in escrow on your behalf. If pursuant to the terms of the escrow we are permitted to return the escrowed funds to you, we reserve the right to apply funds held in escrow to pay outstanding invoices for services and disbursements before remitting the balance to you.

**Termination of Representation for Failure to Fulfill Financial Obligations.** If you fail substantially to fulfill your financial obligation to pay for services rendered, and such failure continues after reasonable warning, we have the right to withdraw from the representation.

**Client files.** Client files at McNees are maintained in the firm's electronic document management system. McNees does not maintain a paper client file or an electronic client file outside its electronic document management system. Client files generally are stored for seven years after the file is closed.

## APPENDIX C COMPENSATION

The Commission shall pay the Law Firm for the services under this Contract and reimbursement of the Law Firm's eligible costs. The Contract provides for compensation of the Law Firm's fees and costs up for legal services related to Labor and Employment Law **in an amount not to exceed \$600,000. The overall contract amount can exceed \$600,000 only by written Amendment to this Contract.** Payments of additional amounts may be made, and continued performance by the Law Firm will be required pursuant to Paragraph 9 of this Contract.

1. The Law Firm shall be reimbursed for all reasonable, actual, direct labor costs incurred in fulfilling the terms of this Contract in accordance with the rates established in Paragraphs 3 and 5 and Appendices B, C, and J of this Contract.
  
2. The Law Firm shall be reimbursed for all reasonable, actual, ordinary, and necessary direct non-labor costs incurred in fulfilling the terms of this Contract, subject to specific limitations such as those set forth in the Guidelines and Paragraph 5 of this Contract including, but not limited to, the following:
  - a. Reasonable, actual, ordinary, and necessary expenses for travel, meals, and lodging incurred by the Law Firm to fulfill the Law Firm's obligations under this Contract. The Law Firm shall retain all receipts thereof and shall provide copies to the Commission if requested. Mileage reimbursement shall be made in accordance with the travel regulations applicable to the Commission for the use of personally owned motor vehicles. Expenses for lodging and meals shall be reimbursed at rates limited to the single-occupancy rate at the nearest Holiday Inn or other major moderately priced hotel or motel chain and the amount of reimbursement for meals shall be limited to the price of a moderately-priced meal at that hotel or motel. No reimbursement shall be allowed for any alcoholic beverages.
  
  - b. Reasonable, actual, ordinary, and necessary expenses for:
    - (1) Communications, including telephone, facsimile transmissions, telegraph, postage, parcel post, and freight and package express;
  
    - (2) Photocopies made by the Law Firm "in house," to be reimbursed at the maximum rate of \$0.15 per page;
  
    - (3) Other reproduction costs (including, but not limited to, photographs, photocopies, prints, and offset work); and
  
    - (4) Document control and analysis contracted for with outside firms.

The Law Firm shall retain all receipts thereto and shall, upon request of the Commission, provide any necessary documentation.

c. Reasonable, actual, ordinary, and necessary expenses for other specific materials required for and used solely in the fulfillment of this Contract. The Law Firm shall retain all receipts thereto and shall, upon request of the Commission, provide any necessary documentation.

3. Travel, meals, lodging, and other direct non-labor costs which the Law Firm expects to incur under this Contract outside of the Commission of Pennsylvania, with the exception of telephone, mailing, and other similar communication expenses, shall require the prior approval of the Chief Counsel, which approval shall not be unreasonably withheld. Prior approval by the Chief Counsel of travel to be undertaken by the Law Firm outside of the Commission of Pennsylvania as an incident of the Law Firm's performance of services under this Contract shall constitute approval for the Law Firm to incur reasonable, actual, ordinary, and necessary expenses for travel, meals, lodging, and other ordinary and necessary direct non-labor costs. The Law Firm shall retain all receipts and shall, upon request of the Commission, provide any necessary documentation.

4. The Law Firm shall require approval by the Chief Counsel before incurring any extraordinary or unusual expenses.

5. The Law Firm shall advise the Chief Counsel and the Commission when direct labor and other costs reach 50% of the amount initially encumbered for performance of this Contract and also 50% of any amount encumbered by any amendment.

**APPENDIX D  
INVOICE FORMAT**

**COVER PAGE**

LAW FIRM:

CONTACT:

PHONE:

CLIENT #:

MATTER #:

DATE:

INVOICE NO.:

ATTN: (COMMISSION EMPLOYEE MONITORING MATTER)

REGARDING: (MATTER)

TOTAL FEES FOR PROFESSIONAL SERVICES FROM (DATE) THROUGH (DATE)

\$ (TOTAL FEES)

TOTAL EXPENSES FROM (DATE) THROUGH (DATE)

\$ (TOTAL EXPENSES)

BALANCE DUE: \$ (GRAND TOTAL)

FEDERAL EMPLOYER I.D. NO. (FEDERAL I.D. NUMBER)

(RESPONSIBLE ATTORNEY AT LAW FIRM) on behalf of (LAW FIRM) hereby certifies that the services supplied and expenses incurred as stated in the attached invoice have met all of the required standards set forth in the Contract for Legal Services.

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
Date

**ITEMIZED BILLING PAGES**

DATE	HOURS	DESCRIPTION OF SERVICES	ATTORNEY

**APPENDIX E**  
**CONFLICT WAIVER PROCEDURE**

1. The lawyer or law firm (hereinafter “law firm”) must promptly disclose any conflicting representation, unless it has been otherwise waived. (See the attached paragraph from the Contract for Legal Services.) Failure to disclose a conflict or undertaking a conflicting representation without obtaining a waiver is cause for termination of the contract.
2. The law firm’s request for a waiver shall be submitted in writing to the Chief Counsel of the Commission. Requests shall be in letter form but may be sent electronically in PDF format.
3. The waiver request shall:
  - a. Identify all existing representations of Commission agencies;
  - b. Describe the nature of the conflict;
  - c. Set forth the measures the law firm will take to protect the Commission, its agencies, officials or employees from any prejudice or detriment if the conflict is waived, and
  - d. State that the other party the law firm represents or seeks to represent has granted a waiver (or a waiver has been sought, and if sought, a second written notice of the granting of such waiver shall be provided).
4. The Chief Counsel shall analyze the request and submit his recommendation to approve or disapprove the request with supporting legal analysis, including any applicable references to the Rules of Professional Conduct.
5. The Chief Counsel will make all waiver decisions and issue a letter to the law firm approving or disapproving the waiver request.
6. The decision in a matter shall not be binding on the Chief Counsel with respect to future matters unless the Chief Counsel so states.
7. A file for each waiver request and the resolution of each request will be maintained in the Office of Chief Counsel.

**Conflict of Interest.** The Law Firm represents and warrants that it has no conflicting representation that has not been fully disclosed to and waived by the Chief Counsel and shall not undertake any representation that conflicts with the performance of the services or obligations under this Contract unless such conflicting representation has been fully disclosed to and waived by the Chief Counsel. Any conflicting representation shall be promptly disclosed to the Chief Counsel. The Chief Counsel shall determine whether such conflict is cause for termination of this Contract.

**APPENDIX F**  
**NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE**

During the term of this Contract, the Law Firm agrees as follows:

1. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under this Contract or any subcontract, the Law Firm, subcontractor, or any person acting on behalf of the Law Firm or subcontractor, shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commission who is qualified and available to perform the work to which the employment relates.
2. Neither the Law Firm nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under this Contract on account of gender, race, creed, or color.
3. The Law Firm and each subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. The Law Firm and each subcontractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which this Contract relates.
5. The Law Firm and each subcontractor shall, within the time periods requested by the Commission, furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the Commission; the Chief Counsel; and the Department of General of Services, Bureau of Small Business Opportunities, for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Law Firm or subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Commission; the Chief Counsel; or the Department of General Services, Bureau of Small Business Opportunities.
6. The Law Firm shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
7. The Commission may cancel or terminate this Contract, and all money due or to become due under this Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the Commission may proceed with debarment or suspension and may place the Law Firm in the Contractor Responsibility File.

**APPENDIX G  
INTEGRITY PROVISIONS**

1. For purposes of these Integrity Provisions, the words “confidential information,” “consent,” “financial interest,” “gratuity,” and “Law Firm” shall have the following definitions.
  - a. “Confidential information” means information that (1) is not already in the public domain; (2) is not available to the public upon request; (3) is not or does not become generally known to the Law Firm from a third party without an obligation to maintain its confidentiality; (4) has not become generally known to the public through an act or omission of Contractor; or (5) has not been independently developed by the Law Firm without the use of confidential information of the Commission.
  - b. “Consent” means written permission signed by a duly authorized officer or employee of the Commission, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commission shall be deemed to have consented by virtue of execution of this Contract.
  - c. “Financial Interest” means:
    - (1) ownership of more than a 5% interest in any business; or
    - (2) holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.
  - d. “Gratuity” means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor’s Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b), shall apply.
  - e. “Law Firm” means the individual or entity that has entered into this Contract with the Commission, including directors, officers, partners, managers, key employees, and owners of more than a 5% interest.
2. The Law Firm shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to the Law Firm or that govern contracting with the Commission.
3. The Law Firm shall be subject to the obligations of confidentiality with which lawyers must comply under the applicable Rules of Professional Conduct.
4. The Law Firm shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Law Firm’s



employee activity with the Commission and Commission employees, and which is distributed and made known to all employees of the Law Firm.

5. The Law Firm, its affiliates, agents and employees and anyone in privity with the Law Firm shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commission in connection with performance of work under this contract, except as provided in this contract.
  6. The Law Firm shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commission in writing and the Commission consents to the Law Firm's financial interest prior to Commission execution of the contract. The Law Firm shall disclose the financial interest to the Commission at the time of any proposal submission, or if no proposals are solicited, no later than the Law Firm's submission of the contract signed by the Law Firm.
  7. The Law Firm certifies to the best of its knowledge and belief that within the last five (5) years that it, its officers, and its affiliates have not:
    - f. been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
    - g. been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
    - h. had any business license or professional license suspended or revoked;
    - i. had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
    - j. been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.
- If the Law Firm cannot so certify to the above, then it must submit along with its contract a written explanation of why such certification cannot be made and the Commission will determine whether a contract may be entered into with the Law Firm. The Law Firm's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Law Firm shall have an obligation to immediately notify the Commission in writing if at any time during the term of the contract it becomes aware of any event which would cause the Law Firm's certification or explanation to change. The Law Firm acknowledges that the Commission may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made

herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

8. The Law Firm shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Actions by outside lobbyists on behalf of the Law Firm are not exempt and must be reported. The Law Firm also must comply with the requirements of Section 1641 of the *Pennsylvania Election Code* (25 P.S. §3260a).
9. When the Law Firm has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commission officer or employee which, if acted upon, would violate such ethical standards, the Law Firm shall immediately notify the Commission in writing.
10. The Law Firm, by execution of this Contract and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that it has not violated any of these Integrity Provisions.
11. The Law Firm shall cooperate with the Office of the Inspector General in its investigation of any alleged Commission employee breach of ethical standards and any alleged Law Firm non-compliance with these provisions. The Law Firm agrees to make identified employees of the Law Firm available for interviews at reasonable times and places. The Law Firm, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to the Law Firm's integrity and compliance with these provisions. Such information may include, but shall not be limited to, the Law Firm's business or financial records, documents or files of any type or form that refer to or concern this contract. The Law Firm shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commission and any such subcontractor, and no third-party beneficiaries shall be created thereby.
12. For violation of any of the above provisions, the Commission may terminate this and any other Contract with the Law Firm, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another Law Firm to complete performance hereunder, and debar and suspend the Law Firm from doing business with the Commission. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commission may have under law, statute, regulation or otherwise.

**APPENDIX H**  
**RESPONSIBILITY PROVISIONS**

1. The Law Firm certifies, for itself and all its subcontractors, that as of the date of its execution of this Contract, that neither the Law Firm, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commission or any governmental entity, instrumentality, or authority and, if the Law Firm cannot so certify, then it agrees to submit, along with its Contract, a written explanation of why such certification cannot be made.
2. The Law Firm also certifies, that as of the date of its execution of this Contract, it has no tax liabilities or other Commission obligations.
3. The Law Firm's obligations pursuant to these provisions are ongoing from and after the effective date of this Contract through the termination date thereof. Accordingly, the Law Firm shall have an obligation to inform the Commission if, at any time during the term of this Contract, it becomes delinquent in the payment of taxes, or other Commission obligations, or if it or any of its subcontractors are suspended or debarred by the Commission, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
4. The failure of the Law Firm to notify the Commission of its suspension or debarment by the Commission, any other state, or the federal government shall constitute an event of default of this Contract with the Commission.
5. The Law Firm agrees to reimburse the Commission for the reasonable costs of investigation incurred by the Pennsylvania Office of Inspector General for investigations of the Law Firm's compliance with the terms of this or any other Contract between the Law Firm and the Commission, which results in the suspension or debarment of the Law Firm. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime, travel, and lodging expenses; and expert witness and documentary fees. The Law Firm shall not be responsible for investigative costs for investigations that do not result in the Law Firm's suspension or debarment.
6. The Law Firm may obtain a current list of suspended and debarred Commission contractors either by searching the Internet at [www.dgs.state.pa.us](http://www.dgs.state.pa.us), or by contacting the:

Department of General Services Office of Chief Counsel  
603 North Office Building  
Harrisburg, Pennsylvania 17125  
Phone: (717) 783-6472

**APPENDIX I**  
**THE AMERICANS WITH DISABILITIES ACT PROVISIONS**

1. Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act*, 28 C.F.R. § 35.101, *et seq.*, the Law Firm understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this Contract, the Law Firm agrees to comply with the *General Prohibitions Against Discrimination*, 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of *The Americans With Disabilities Act* which are applicable to all benefits, services, programs, and activities provided by the Commission of Pennsylvania through contracts with outside contractors.

2. The Law Firm shall be responsible for and agrees to indemnify and hold harmless the Commission of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commission of Pennsylvania as a result of the Law Firm's failure to comply with the provisions of Paragraph 1 of this Appendix.

## **APPENDIX J RETENTION GUIDELINES FOR OUTSIDE COUNSEL**

The Pennsylvania Public Utility Commission (“PUC”) expects to have a productive, professional and cost-effective relationship with outside counsel. These Guidelines apply to all engagements for services between PUC and your law firm, regardless of the law firm office from which those legal services are performed. Any exception must be approved in advance by PUC.

### **I. MATTER MANAGEMENT AND REPORTING**

#### **A. The Contract for Legal Services**

Your firm has been retained by PUC to perform legal services as set forth in the Contract for Legal Services (“Contract”). The Contract shall define the scope of services covered by the matter which is the subject of the Contract; a “matter” may consist of a single representation or the provision of legal services in connection with a relatively routine, high volume practice area (e.g., workers’ compensation). The Contract identifies the principal PUC in-house attorney responsible for managing the work. For complex litigation matters, a senior-level PUC litigation manager also may be assigned or otherwise involved in the case. For high volume matters, a third-party administrator also may have a defined role in managing the work. You are expected to keep the Chief Counsel (s) informed of all significant developments that arise, as well as seek his or her direction on strategy and tactics.

Throughout the course of your representation, you must be mindful of conflict issues and disclose promptly any conflicting representation. The Conflict Waiver Procedure that is a part of the Contract for Legal Services sets forth the process for such disclosure. Failure to disclose a conflict or undertaking a conflicting representation without obtaining a waiver from the Chief Counsel is cause for termination of the contract.

#### **B. Effective Utilization of Personnel**

PUC generally expects a single outside lawyer to be primarily responsible for each matter. Outside counsel should discuss with PUC the staffing requirements for each matter, including the number of attorneys and staff that may work on the matter. We encourage the use of law clerks and paralegals for those aspects of any matter that do not need to be performed by an attorney. Staffing should reflect management practices that are consistent with the delivery of the appropriate level and type of legal services required in order to achieve effective results and resource efficiency.

PUC generally expects one lawyer to attend all relevant depositions, meetings, hearings, trial, and other proceedings. In more complex matters, additional lawyers may be necessary to represent the Commission.

In concert with the Commission's commitment to workforce diversity, PUC expects each law firm it engages to use its best efforts to: (1) consider persons from diverse backgrounds for assignment to its PUC engagements; and (2) actively promote full and equal participation of women, racial and ethnic minority groups, and all other persons of diverse backgrounds in the legal profession, as evidenced by the firm's employment practices.

### **C. Matter Management, Budget and Reports**

PUC expects regular communications with its counsel. The most effective representation results from a true partnership between the Chief Counsel and outside counsel. You must send to PUC an initial report within forty-five (45) days of the retention of your services covering the following areas:

- ***Management Plan and Budget*** – the Management Plan and Budget (“Plan”) should include an initial assessment of the assigned matter (see below) and a detailed strategy for handling the matter, including the feasibility of employing alternative dispute resolution techniques in litigation matters. The Plan must include an initial budget that estimates the legal fees and other costs to be incurred for the current calendar year as well as projected legal fees and costs for the entire duration of any matter that continues beyond the end of a calendar year. The firm must identify all personnel assigned to the matter, and their respective billing rates. An updated budget and personnel list, on firm stationery, must be submitted at the start of each subsequent calendar year or more frequently if there is a known material variance in the budget. PUC recognizes that it may be difficult at an early stage to project all the resources required for a matter; however, we believe that the plan and budget are important management tools.
- ***Initial Assessment of Litigation Claims***<sup>1</sup> – The Initial Assessment must include a detailed description of the claim, applicable defenses, an assessment of potential liability and possible verdict range, any settlement demand by opposing counsel, and estimated trial date/time (if applicable).

You are expected to keep the Chief Counsel advised of the status of the matter. In the absence of material developments that require immediate notification, you should submit at least quarterly a confidential matter status report that (1) summarizes developments to date; (2) identifies actions that are planned to be taken in the forthcoming six (6) months; and (3) updates the previously submitted Management Plan and Budget. In those instances where the Chief Counsel is not present at a meeting, hearing, deposition or any other relevant event, you must send a prompt report of the event by telephone or electronic mail as directed by the Chief Counsel.

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<sup>1</sup> If the matter involves litigation of a routine, high volume nature (e.g., workers' compensation), the Chief Counsel shall define for the firm the level of reporting required for each individual claim.

#### **D. Correspondence and Pleadings<sup>2</sup>**

No significant correspondence or pleading should be sent or filed without prior approval of the Chief Counsel. In general, outside counsel should keep the Chief Counsel fully informed of all developments on a timely basis and consult with him or her on all matters of strategy, planning and proposed disposition by motion, trial or settlement.

- *Correspondence*: Copies of all correspondence received or sent on PUC's behalf by your firm to opponents or other third parties should be sent to the Chief Counsel.
- *Pleadings*: Copies of all pleadings received or filed on PUC's behalf by your firm should be sent to the Chief Counsel.

The Chief Counsel should have the opportunity to discuss the preparation of pleadings with your firm sufficiently in advance of filing deadlines to determine who will perform the work. The Chief Counsel, or her/his designee, may elect to prepare draft answers, motions, request for discovery and other pleadings. In such instances, such items will be forwarded to you either in final form for filing or in draft form, and you are expected to place them in final form in accordance with local rules.

#### **E. Discovery**

All discovery, electronic or otherwise, should be coordinated with the Chief Counsel.<sup>3</sup> Commission personnel are not to be contacted directly without prior approval of the Chief Counsel.

PUC may prefer to have someone from its offices present during the preparation for and deposition of Commission personnel. PUC believes its knowledge of the Commission's business can be beneficial to you in preparing the witness and in the course of questioning by opposing parties. You are not permitted to waive the right of Commission personnel to review and sign their depositions and must not enter into any stipulations to the contrary.

All discovery requests should be forwarded to the Chief Counsel immediately, indicating the response date. PUC can better assist in preparing responses if outside counsel can, preliminarily, identify objectionable questions and indicate these questions for which information is requested, as well as a recommended approach for completing the response. Outside counsel must consult with the Chief Counsel regarding anticipated electronic discovery (e-discovery) requests and

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<sup>2</sup> If the matter involves litigation of a routine, high volume nature, the Chief Counsel shall define for the firm the level of reporting required for each individual claim

<sup>3</sup> If the matter involves litigation of a high-volume nature, the Chief Counsel shall define for the firm his or her role in coordinating discovery, which may be minimal.

use of any e-discovery computer programs, whether owned by the firm or provided by third-party vendors. PUC will not pay for any such programs without advance approval.

Many internal Commission documents are confidential or protected by privilege. Accordingly, the Chief Counsel may require that a Confidentiality Agreement and/or Protective Order be secured to ensure that the confidential nature of the information is maintained.

#### **F. Expert Witnesses or Consultants**

Where outside counsel determines that an expert witness or a special consultant is necessary for any matter, the Chief Counsel must be consulted prior to any engagement, and prior written approval must be obtained. In making such recommendation, outside counsel should provide the Chief Counsel with a written description of the study or testimony the expert is expected to provide, the expert's qualifications, the rationale for using an expert in the matter and an estimate of the expert's fees and expenses. As with your firm's staffing and time on any matter, PUC expects that recommendations concerning the use of expert witnesses and consultants will be at appropriate levels for the risk and exposure involved in the matter.

#### **G. Negotiations, Settlements and Appeals**

The decision to try, settle or appeal a case rests solely with PUC. All settlement opportunities and demands must be brought promptly to the attention of the Chief Counsel, along with your recommendations. Under no circumstances should your firm agree to settle any case on the Commission's behalf, enter into a consent decree or stipulation, release any substantial right, or otherwise commit the Commission on any issue without PUC's prior approval.

## **II. BILLING REQUIREMENTS**

### **A. In General**

Billing invoice requirements have been developed to clearly advise you as to how PUC would like the bills submitted. Specific provisions are set forth in your Contract for Legal Services, and the format that should be used in invoice preparation is set forth at Appendix D to that document. These requirements must be followed with respect to all bills unless the Chief Counsel has preauthorized another arrangement.

PUC expects that any firm retained to perform services on behalf of PUC will accomplish its goals and objectives in a manner that maximizes value and minimizes expense without sacrificing quality. Compensation arrangements are set forth in the Contract for Legal Services.

If PUC inadvertently pays an invoice, which on review does not comply with the Guidelines, PUC retains the right to obtain reimbursement of such payment.



## **B. Rates**

Unless a different billing arrangement is provided in the Contract for Legal Services, PUC will pay specified hourly rates, as set forth in the Contract for professional services by attorneys and paralegals. In matters where fees are based upon hourly rates, actual time in units of 1/10 hour is the maximum acceptable time unit to be used in billing. No changes in billing methodology or hourly rates will be made without the express written approval of the Chief Counsel.

## **C. Billing Cycle**

Bills for legal services should be submitted on a monthly basis, for services through the last day of the month in which services are performed. The Commission will use best efforts to make payments on invoices within 45 days of receipt, in final form with requisite documentation.

## **D. Billing Format**

Specific billing instructions are set forth in the Contract for Legal Services. At a minimum, a copy should be directed to the Chief Counsel, and the assigned senior-level PUC litigation manager, where applicable. Invoices should not be sent to the Chief Counsel.

All billing statements should include:

- Date task performed
- Identification of attorney/paralegal performing the task with full name and title listed
- Specific task description
- Time being billed per task
- Hourly rate being charged by the attorney/paralegal
- A summary of the total time and amount charged for each attorney/paralegal
- A specific description of all expenses incurred including the rate charged for copying as limited by the Contract for Legal Services. This description of services should be as specific as possible.

## **E. Disbursements/Expenses**

We expect the hourly billing rate to include overhead and internal charges associated with the law firm's practice. The Law Firm shall require written approval by the Chief Counsel before incurring any extraordinary or unusual expenses. Functions such as legal research or photocopying must be billed at cost and may not be profit centers.

PUC **will not pay** separate charges for the following expenses:

- Word processing
- Overtime charges (including overtime local transportation and meal charges)
- Secretarial/clerical time or functions such as collating, scheduling, indexing, creating files or typing, opening or closing files, data entry, updating pleading binders or retrieval of documents from files
- File organization
- Basic overhead charges (local telephone charges, local fax charges, ordinary postage, courier services to PUC)
- Books, subscriptions or educational expenses
- Professional association memberships
- Office supplies
- Preparation and review of bills
- Mark-ups for computerized databases (such as Westlaw and Lexis)
- Storage charges
- Re-education of a new attorney if a file is transferred
- Cellular phone charges
- Training on and maintenance of computer systems

PUC **will pay** for the following when incurred specifically for PUC matters:

- Filing fees
- Court reporter fees
- Expert witness fees, if approved in advance by the Chief Counsel
- Computerized/database research, if approved in advance by the Chief Counsel
- Long distance telephone charges and long-distance fax charges
- Air freight/express mail deliveries, where necessary to meet applicable deadlines, or as may otherwise be approved by the Chief Counsel \*\*
- Outside photocopying, binding and printing services, if approved in advance by the Chief Counsel
- Outside messenger services\*\*

While PUC may pay for messenger and express service where warranted, as a general matter, PUC encourages use of e-mail and regular U.S. mail service whenever possible.

#### **F. Travel**

Reasonable, actual, ordinary, and necessary expenses for travel, meals, and moderately-priced lodging incurred by the law firm to fulfill its obligations under the Contract will be permitted as set forth in the Contract for Legal Services. Prior approval is needed for any air travel and only coach air rates will be reimbursed. Prior approval is needed for any overnight stay. Local travel expenses, such as taxis and trains, are reimbursable. Personal auto travel will be reimbursed at the mileage rate authorized by the Commission. You are expected to expense only reasonable amounts for meals and non-alcoholic beverages. PUC also does not pay for minibar expenses, sundries, in-hotel movies or similar entertainment charges. The Law Firm shall retain all receipts and shall, upon request of the requisite PUC agency legal office or the Commission for whom the work is being performed, provide any necessary documentation.

#### **G. Legal Research**

Counsel should know the legal aspects of the Commission's business for which it has been retained, particularly the areas in which the case or transaction arises, and should keep abreast of developments in the law that may impact its PUC engagement. Prior approval for extensive legal research is required. If it is anticipated that more than two (2) hours will be spent on computerized legal research, please secure the approval of the Chief Counsel. PUC should not be charged for routine research on matters of common knowledge among reasonably experienced counsel in the same geographical location. Where circumstances exist that enable you to use your data or brief banks, PUC should only be charged for updating the previously researched material. PUC expects that paralegals or more junior associates will be used on research matters. All research completed on an PUC matter is the property of PUC and a copy of all significant research projects should be submitted to PUC.

#### **H. Confidentiality and Media Coverage**

PUC expects absolute confidentiality regarding legal matters handled by each outside counsel. In addition, no statement may be made to the press or any other media – on or off the record – unless prior express written approval is secured from PUC. Under no circumstances should a firm use PUC representation in firm promotional or other informational material without the prior approval of PUC.

This Contract has been reviewed and the Law Firm has been determined to be responsible in accordance with the procedures outlined in Management Directive 215.9 Amended, dated October 25, 2010.

Robert C. Gramola  
Designated Senior Manager

3/7/2024  
Date

**REQUEST FOR PROPOSALS FOR  
Human Resources Legal Services**

**ISSUING OFFICE  
Pennsylvania Public Utility Commission**

**RFP NUMBER**

**PUC RFP-1-2023**

**DATE OF ISSUANCE**

**Thursday  
December 28, 2023**

Small Diverse Businesses (SDB) and Veteran Business Enterprises (VBE) are encouraged to respond to this solicitation. If you haven't verified as an SDB or VBE within Pennsylvania, you may miss out on contracting opportunities designed to increase the Commonwealth's spending with SDBs and VBEs. These opportunities will be available for goods, services, information technology services and products, as well as design, engineering and construction contracts.

To review SDB and VBE program eligibility and for more information on seeking certification, please visit [www.dgs.pa.gov](http://www.dgs.pa.gov) and follow the links to "Small Diverse Business Program" or "Small Business Contracting Program" located under the "Businesses" heading. Direct customer assistance is also available from staff within the Bureau of Diversity, Inclusion, and Small Business Opportunities by calling 717-783-3119 or via email at [gs-bdisbo@pa.gov](mailto:gs-bdisbo@pa.gov).

**Human Resources Legal Services RFP  
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## CALENDAR OF EVENTS

The Commonwealth will make every effort to adhere to the following schedule:

Activity	Responsibility	Date
Deadline to submit Questions via email to Issuing Officer at <a href="mailto:michrobert@pa.gov">michrobert@pa.gov</a> .	Potential Offerors	<b>Tuesday January 9, 2024</b>
<p>Pre-proposal Conference (SDB/VBE presentation)</p> <p>Microsoft Teams meeting  <b>Join on your computer, mobile app or room device.</b>  <a href="#">Click here to join the meeting</a>                      Meeting ID: 286 266 581 290                      Passcode: DoJcrD  <a href="#">Download Teams</a>   <a href="#">Join on the web</a></p> <p><b>Or call in (audio only)</b>  <a href="tel:+12673328737">+1 267-332-8737</a>, <a href="tel:+1734890285">734890285#</a> United States, Philadelphia                      Phone Conference ID: 734 890 285#  <a href="#">Find a local number</a>   <a href="#">Reset PIN</a></p>	Issuing Office  Potential Offerors  BDISBO	<b>Wednesday January 10, 2024 2 p.m.</b>  <b>Telephonic MS Teams</b>
Answers to Potential Offeror questions posted to no later than this date to the commission website at <a href="https://www.puc.pa.gov/about-the-puc/request-for-proposals/">https://www.puc.pa.gov/about-the-puc/request-for-proposals/</a>	Issuing Office	<b>Tuesday January 16, 2024</b>
Please monitor <a href="https://www.puc.pa.gov/about-the-puc/request-for-proposals/">https://www.puc.pa.gov/about-the-puc/request-for-proposals/</a> for all communications regarding the RFP.	Potential Offerors	Ongoing
The proposal must be <u>received</u> by the Issuing Office by 3:00 P.M. on Monday, January 29, 2024, at PA Public Utility Commission, Attn: Michael E. Roberts, 400 North Street, Harrisburg, PA 17120.	Offerors	<b>BIDS DUE 3 P.M. Monday January 29, 2024</b>

## PART I

### GENERAL INFORMATION

- I-1. Purpose.** This request for proposals (RFP) provides to those interested in submitting proposals for the subject procurement (“Offerors”) sufficient information to enable them to prepare and submit proposals for the **Pennsylvania Public Utility Commission’s** consideration on behalf of the Commonwealth of Pennsylvania (“Commonwealth”) to satisfy a need for **Human Resources Legal Services** (“Project”). This RFP contains instructions governing the requested proposals, including the requirements for the information and material to be included; a description of the service to be provided; requirements which Offerors must meet to be eligible for consideration; general evaluation criteria; and other requirements specific to this RFP.
- I-2. Issuing Office.** The **Pennsylvania Public Utility Commission** (“Issuing Office”) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be **Michael E. Roberts, PA Public Utility Commission, 400 North St. Harrisburg, PA 17120, [michrobert@pa.gov](mailto:michrobert@pa.gov)**, the Issuing Officer for this RFP. Please refer all inquiries to the Issuing Officer.
- I-3. Overview of Project.** The Commission seeks legal counsel and representation in matters relating to Labor and Employment Law, to provide counsel to the Human Resources Department as well as other senior Commission staff.
- I-4. Objectives.** The Commission seeks a firm with reasonable number of attorneys with various levels of experience in Labor and Employment Law.
- I-5. Type of Contract.** It is proposed that if the Issuing Office enters into a contract as a result of this RFP, it will be a **five-year fixed-term, fee-for-service, overall price-not-to-exceed contract** containing the Contract Terms and Conditions as shown in **Part VI**.
- The Contract will end five years after execution sometime in February/March, 2029.**
- The overall price not-to-exceed is for the Contract \$600,000. The overall contract amount can exceed \$600,000 only by written Amendment to this Contract.**
- The Issuing Office, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the Project.
- I-6. Rejection of Proposals.** The Issuing Office reserves the right, in its sole and complete discretion, to reject any proposal received as a result of this RFP.
- I-7. Incurring Costs.** The Issuing Office is not liable for any costs the Offeror incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.
- I-8. Questions & Answers.** If an Offeror has any questions regarding this RFP, the Offeror must submit the questions by email (**with the subject line “PUC RFP-1-2023 HR Legal**

**Services RFP Question**”) to the Issuing Officer named in **Part I, Section I-2** of the RFP. If the Offeror has questions, they may be submitted as they arise via email, but **no later than** the date indicated on the Calendar of Events. The Issuing Officer shall post the answers to the questions to the commission’s website at <https://www.puc.pa.gov/about-the-puc/request-for-proposals> on an ongoing basis until the deadline stated on the Calendar of Events. This webpage can be found by going to the Commission’s website at <https://www.puc.pa.gov> and following the link at the bottom of the page called “Request for Proposal.” When an Offeror submits a question after the deadline date for receipt of questions indicated on the Calendar of Events, the Issuing Officer *may* respond to questions of an administrative nature by directing the questioning Offeror to specific provisions in the RFP. To the extent that the Issuing Office decides to respond to a non-administrative question *after* the deadline date, the question and answer will be provided to all Offerors.

All questions and responses as posted to the website are considered as an addendum to, and part of, this RFP in accordance with RFP **Part I, Section I-9**. Each Offeror shall be responsible to monitor the website for new or revised RFP information. The Issuing Office shall not be bound by any verbal information, nor shall it be bound by any written information that is not either contained within the RFP or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation. The required protest process for Commission procurements is described in **Part I, Section I-25**.

- I-9. Addenda to the RFP.** If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will post an addendum to eMarketplace at <http://www.emarketplace.state.pa.us/Search.aspx> and <https://www.puc.pa.gov/about-the-puc/request-for-proposals>. It is the Offeror’s responsibility to periodically check eMarketplace and the Commission’s RFP webpage for any new information or addenda to the RFP. Answers to the questions asked during the Questions & Answers period also will be posted to the Commission’s RFP webpage as addenda to the RFP.
- I-10. Response Date.** To be considered for selection, electronic proposal submissions as described in **Part I, Section I-11** must arrive at the Issuing Office on or before the time and date specified in the RFP Calendar of Events. **The Issuing Office will not accept proposals via email or facsimile transmission.** Offerors who send proposals by mail or other delivery service should allow sufficient delivery time to ensure timely receipt of their proposals. If, due to inclement weather, natural disaster, or any other cause, the Commonwealth office location to which proposals are to be returned is closed on the proposal response date, the deadline for submission will be automatically extended until the next Commonwealth business day on which the office is open, unless the Issuing Office otherwise notifies Offerors. The hour for submission of proposals shall remain the same. The Issuing Office will reject (unopened) any late proposals.
- I-11. Proposal Requirements.**
  - A. Proposal Submission:** To be considered, Offerors should submit a complete response to this RFP to the Issuing Office, using the format provided in **Section I-11B**, providing a single electronic proposal with separate files **for the Technical**