



COMMONWEALTH of VIRGINIA

Office of the Attorney General

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Attorney General

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October 31, 2023

The Honorable Janet D. Howell
Co-Chair, Senate Finance Committee
Senate of Virginia
P.O. Box 396
Richmond, Virginia 23218

The Honorable George L. Barker
Co-Chair, Senate Finance Committee
Senate of Virginia
P.O. Box 396
Richmond, Virginia 23218

The Honorable Barry D. Knight
Chair, House Appropriations Committee
Virginia House of Delegates
P.O. Box 406
Richmond, Virginia 23218

Dear Co-Chairwoman Howell, Co-Chairman Barker, and Chairman Knight:

Enclosed is the report required by Item 61F of the enacted biennial budget requiring the Office of the Attorney General (“OAG”) to submit a report “detailing expenditures in the prior fiscal year for special outside counsel by any executive branch agencies” including “the reasoning why outside counsel is necessary, the hourly rate charged by outside counsel, total expenditures, and funding source.” The attached report covers all of the items requested for fiscal year 2023 (July 1, 2022 through June 30, 2023).

Virginia Code § 2.2-507 requires that “all legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney General, except as provided in this chapter and except for any litigation concerning a justice or judge

initiated by the Judicial Inquiry and Review Commission.” Virginia Code §§ 2.2-507 and 2.2-510 authorize the Attorney General to engage and manage the engagement of outside counsel in certain circumstances when “it is impracticable or uneconomical for the Attorney General's office to render such service.” Accordingly, with regard to the requirement to provide reasoning for engagement of outside counsel, I note here that, unless otherwise indicated, the reason for engagements described in the report is that it was “impracticable or uneconomical for the Attorney General's office to render such service.”

The most common circumstances that make it either impracticable or uneconomical for this Office to provide legal services and therefore necessitate the engagement of outside counsel are the lack of certain specialized or unique legal expertise among the Office staff or the lack of legal staff in the geographic location where services are necessary.

The majority of outside counsel work is performed under engagements procured competitively pursuant to “Solicitations for Proposals” (SFPs) in which firms bid for the opportunity to provide legal services, resulting in a slate of pre-approved firms that provide legal services at discounted, guaranteed rates negotiated by the OAG. Selection as a qualified provider under an SFP is not a guarantee of work. The attached report details each agency that received services during fiscal year 2023 and the cost of those services pursuant to current or previous SFP categories, as well as the hourly rate range for each of the categories. As indicated in the report, the highest billed SFP categories are General Civil Litigation (26.40%), Eminent Domain (18.74%) and Employment (16.87%).

Outside counsel may also be engaged to provide legal services for Commonwealth agencies on a “Single Case Appointment” (SCA) basis for one specific transaction, issue, or matter that is either not covered by an existing SFP category or requires expertise or exists in a jurisdiction beyond that maintained by firms appointed pursuant to a relevant SFP category. The attached report details each agency that received services pursuant to an SCA during fiscal year 2023, the cost of those services, as well as the hourly rate range and a brief description for each SCA.

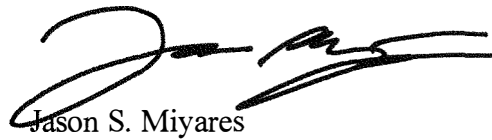
The Office of Attorney General manages the relationship with all outside counsel to include establishing the scope of legal services, terms and conditions of engagement, outside counsel directives, and other governing documents; negotiating rates and establishing matter budgets; monitoring performance to ensure the Commonwealth and its agencies receive excellent service; reviewing invoices to ensure compliance with established procedures and monitoring billing practices. As dictated by state law, unless otherwise indicated, the legal services described in the report were “paid out of the funds appropriated for the administration of the board, commission, division, or department represented or whose members, officers, inspectors, investigators, or other employees are represented.”

The Office of the Attorney General is committed to engaging outside counsel who can provide competent and cost-effective service to the Commonwealth and its agencies. It is the goal of this office to closely monitor outside counsel with an eye toward improving coordination, oversight, effectiveness, and efficiency and cost-effectiveness. We have expanded the services

covered by the SFP categories, updated the governing policies for the outside counsel program, provided training opportunities to OAG staff and outside counsel attorneys and staff, improved recordkeeping, cross-trained OAG employees to mitigate lapses in coordination, and requested and received feedback from agencies on the services they receive.

I am proud to lead a team that provides exceptional legal services on such a broad scope of issues, often of great depth, complexity, and significance. It is a truly remarkable team. The attorneys in the Office of Attorney General are dedicated professionals who, in many cases, are sacrificing more lucrative opportunities in the private sector to serve our Commonwealth. On the occasions when the people of Virginia are best served by the engagement of outside counsel, I will make sure the Commonwealth gets maximum value for each and every dollar.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jason S. Miyares', with a stylized flourish extending to the right.

Jason S. Miyares
Attorney General of Virginia

cc: Ms. Anne Oman, Staff Director, House Appropriations Committee
Ms. April Kees, Director, Senate Finance Committee

Report on Executive
Branch Agency Use of
Special/Outside
Counsel FY 2023

By Solicitation for Proposal

Office of the Attorney General

**Outside Counsel Spending Pursuant to Solicitation for Proposal
FY 2023**

Automobile Liability	
Department of the Treasury, Division of Risk Management	\$113,573.94
Total:	\$113,573.94
Hourly Rate Range:	\$75.00 - \$300.00

Bankruptcy	
Department of Energy	\$57,598.50
Department of Criminal Justice Services	\$6,549.00
Total:	\$64,147.50
Hourly Rate Range:	\$120.00 - \$370.00

Charitable Trusts & Investment	
New College Institute	\$32,876.83
Total:	\$32,876.83
Hourly Rate Range:	\$625.50 - \$995.00

Child Support Enforcement	
Department Social Services, Division of Child Support Enforcement	\$61,515.00
Total:	\$61,515.00
<p align="center"> \$275 for each JDR Day with 20 or fewer hearings \$275 for each day at a statewide or quarterly regional legal services meeting lasting 4 hours or less \$550 for each JDR Day with more than 20 hearings \$550 for each day at a statewide or quarterly regional legal services meeting lasting more than 4 hours \$40 for travel time to and from courts and legal services meetings between 50 and 99 miles roundtrip \$60 for travel time to and from courts and legal services meetings 100 or more miles roundtrip \$125 per hour for other pre-approved legal work, including circuit court appeals (inclusive of any and all expenses, including travel expenses) </p>	

Commercial Real Estate	
Department of General Services	\$13,285.00
Department of Housing and Community Development	\$14,986.10
Fort Monroe Authority	\$28,171.20
Science Museum of Virginia	\$25,977.00

**Outside Counsel Spending Pursuant to Solicitation for Proposal
FY 2023**

Commercial Real Estate	
Virginia Military Institute	\$4,959.00
Virginia Port Authority	\$31,885.00
Total:	\$119,263.30
Hourly Rate Range:	\$170.00 - \$560.00

Commonwealth Transportation Board	
Department of Transportation	\$344,845.00
Total:	\$344,845.00
Hourly Rate Range:	\$135.00 - \$884.00

Construction Litigation	
Virginia Polytechnic Institute & State University	\$503.50
Total:	\$503.50
Hourly Rate Range:	\$265.00 - \$265.00

Cybersecurity and Data Protection	
Virginia Commonwealth University	\$13,256.70
Total:	\$13,256.70
Hourly Rate Range:	\$485.00 - \$508.00

Debt Collection	
Virginia Department of Transportation/DDC	\$82,500.00
Total:	\$82,500.00

A. Property damage claims with a principal balance in excess of \$25,000: Total compensation of twenty-two percent (22%) of the total amount collected on cases that settle prior to filing suit; and twenty-seven percent (27%) of the total amount collected on cases where suit is filed and served. This contingent fee shall be all-inclusive and will be interpreted as being the entirety of expenditure for this engagement. No other costs or fees, except those noted in this letter, shall be charged to or accepted by the OAG, absent express written authority from the OAG.

B. All other contingency fee claims: Total compensation of twenty-five percent (25%) of the total amount collected. This contingent fee shall be all-inclusive and will be interpreted as being the entirety of

**Outside Counsel Spending Pursuant to Solicitation for Proposal
FY 2023**

Debt Collection	
expenditure for this engagement. No other costs or fees shall be charged to or accepted by the OAG, absent express prior written authority from the OAG.	
C. Hourly rates: For collection matters where the OAG deems that the hourly rate is an appropriate method of compensation, the rate shall be \$150.00 an hour for all attorney timekeepers. For non-attorney timekeepers, \$75.00 an hour shall be the standard rate.	

Eminent Domain	
Virginia Commonwealth University	\$10,923.50
Virginia Department of Transportation	\$3,069,708.51
Total:	\$3,080,632.01
Hourly Rate Range:	\$70.00 - \$450.00

Employment	
Christopher Newport University	\$6,532.00
College of William & Mary	\$23,244.50
Department of Behavioral Health & Developmental Services	\$23,570.50
Department of Conservation & Recreation	\$2,222.50
Department of Corrections	\$110,541.45
Department of Education	\$6,903.00
Department of Environmental Quality	\$161,977.11
Department of Fire Programs	\$13,455.00
Department of Health	\$128,162.00
Department of Labor & Industry	\$19,562.50
Department of Military Affairs	\$6,625.90
Department of Motor Vehicles	\$90,554.75
Department of the Treasury, Division of Risk Management	\$44,351.50
Department of Legislative Services	\$4,107.00
Department of Veteran Services	\$1,040.00
George Mason University	\$13,230.00
James Madison University	\$4,500.00
Library of Virginia	\$17,940.00
Norfolk State University	\$37,142.11
Northern Virginia Community College	\$133,025.50

**Outside Counsel Spending Pursuant to Solicitation for Proposal
FY 2023**

Employment	
Office of the Attorney General	\$33,390.00
Office of the Governor	\$33,509.00
Office of the Inspector General	\$155,834.50
Old Dominion University	\$16,435.50
Radford University	\$34,133.91
University of Mary Washington	\$13,185.00
University of Virginia	\$478,833.00
Virginia Commonwealth University	\$404,940.80
Virginia Community College System	\$59,497.00
Virginia Criminal Sentencing Commission	\$16,867.00
Virginia Department of Emergency Management	\$31,709.50
Virginia Department of Transportation	\$144,147.27
Virginia Employment Commission	\$53,804.50
Virginia Military Institute	\$31,115.50
Virginia Polytechnic Institute & State University	\$16,103.00
Virginia Port Authority	\$186,221.25
Virginia Retirement System	\$112,431.10
Virginia State Police	\$34,185.00
Virginia State University	\$67,838.00
Total:	\$2,772,868.15
Hourly Rate Range:	\$90.00 - \$630.00

FCC/Communications	
College of William & Mary	\$103.50
Department of State Police	\$11,851.00
Total:	\$11,954.50
Hourly Rate Range:	\$207.00 - \$345.00

General Civil Litigation	
Department of Behavioral Health & Developmental Services	\$16,020.00
Department of Conservation & Recreation	\$42,834.50

**Outside Counsel Spending Pursuant to Solicitation for Proposal
FY 2023**

General Civil Litigation	
Department of Corrections	\$2,052,619.48
Department of Education	\$281,610.61
Department of Environmental Quality	\$9,599.00
Department of Health Professions	\$11,308.50
Department of Labor & Industry	\$23,136.50
Department of Taxation	\$1,705.50
Department of the Treasury, Division of Risk Management	\$27,408.80
George Mason University	\$290,205.05
Norfolk State University	\$20,395.00
Office of the Attorney General	\$874.00
University of Virginia	\$1,101,314.30
Virginia Department of Transportation	\$37,182.00
Virginia Employment Commission	\$20,686.00
Virginia Marine Resource Commission	\$58,328.67
Virginia Outdoors Foundation	\$56,520.25
Virginia Port Authority	\$79,959.85
Virginia Polytechnic Institute & State University	\$142,265.62
Virginia School for the Deaf and Blind	\$4,512.00
Virginia State Police	\$56,065.97
Western State Hospital	\$5,634.50
Total:	\$4,340,186.10
Hourly Rate Range:	\$80.00 - \$895.00

Higher Education Bonds	
George Mason University	\$136,163.70
University of Virginia	\$13,494.60
Virginia Commonwealth University	\$67,290.00
Virginia Polytechnic Institute & State University	\$5,331.70
Total:	\$222,280.00
Hourly Rate Range:	\$167.00 - \$805.00

**Outside Counsel Spending Pursuant to Solicitation for Proposal
FY 2023**

Immigration	
Christopher Newport University	\$5,600.00
College of William & Mary	\$5,700.00
Department of Education	\$3,680.00
Department of Energy	\$1,150.00
Department of Taxation	\$1,250.00
George Mason University	\$71,150.00
James Madison University	\$24,000.00
Longwood University	\$2,100.00
Norfolk State University	\$4,800.00
Old Dominion University	\$18,475.00
Radford University	\$9,367.50
University of Mary Washington	\$5,550.00
University of Virginia	\$146,319.20
Virginia Commonwealth University	\$159,935.00
Virginia Community College System	\$4,800.00
Virginia Department of Transportation	\$33,140.00
Virginia Military Institute	\$14,250.00
Virginia Polytechnic Institute & State University	\$89,846.40
Virginia Racing Commission	\$1,275.00
Virginia Retirement System	\$890.00
Virginia State University	\$10,350.00
Total:	\$613,628.10
Flat Fees	\$500 - \$4,500.00

Intellectual Property	
Brightpoint Community College	\$4,237.50
Dabney Lancaster Community College	\$35,922.00
George Mason University	\$146,550.70
James Madison University	\$10,915.50
Lord Fairfax Community College	\$4,516.00
Norfolk State University	\$3,117.50
Office of the Attorney General	\$2,275.00

**Outside Counsel Spending Pursuant to Solicitation for Proposal
FY 2023**

Intellectual Property	
Old Dominion University	\$10,622.50
Patrick & Henry Community College	\$1,885.00
Piedmont Virginia Community College	\$536.00
Thomas Nelson Community College	\$3,215.00
University of Mary Washington	\$4,878.50
Virginia Commonwealth University	\$2,155.00
Virginia Polytechnic Institute & State University	\$17,150.37
Virginia Retirement System	\$1,530.00
Virginia Tourism Corporation	\$7,645.50
Total:	\$257,152.07
Hourly Rate Range:	\$75.00 - \$765.00

Medical Malpractice	
Department of Behavioral Health & Developmental Services	\$3,762.50
Department of Corrections	\$56,524.68
Department of the Treasury, Division of Risk Management	\$570,270.50
Total:	\$630,635.00
Hourly Rate Range:	\$75.00 - \$300.00

Public Finance	
Department of Conservation & Recreation	\$14,615.00
Department of General Services	\$25,197.79
Department of the Treasury	\$430,643.97
George Mason University	\$15,701.90
Richard Bland College	\$65,072.19
Tobacco Rights Revitalization Commission	\$7,101.40
Virginia College Building Authority	\$68,922.00
Virginia Port Authority	\$5,670.00
Virginia Small Business Financing Authority	\$6,427.70
Total:	\$639,351.95
Hourly Rate Range:	\$135.00 - \$913.75

**Outside Counsel Spending Pursuant to Solicitation for Proposal
FY 2023**

Privatization	
Department of Transportation	\$403,545.51
Total:	\$403,545.51
Hourly Rate Range:	\$225.00 - \$875.00

Treasury	
Department of the Treasury	\$489.30
Total:	\$489.30
Hourly Rate Range:	\$699.00 - \$699.00

University Medical Centers	
University of Virginia	\$1,571,815.66
Total:	\$1,571,815.66
Hourly Rate Range:	\$80.75 - \$1,150.00

Virginia Port Authority	
Virginia Port Authority	\$22,100.40
Total:	\$22,100.40
Hourly Rate Range:	\$135.00 - \$884.00

Workers' Compensation	
Department of Human Resource Management, Office of Workers' Compensation	\$14,737.24
Virginia Workers' Compensation Commission - Criminal Injuries Compensation Fund	\$9,467.00
Virginia Workers' Compensation Commission - Uninsured Employers' Fund	\$963,639.10
Total:	\$987,843.34
Hourly Rate Range:	\$75.00 - \$195.00

**Outside Counsel Spending Pursuant to Solicitation for Proposal
FY 2023**

Outside Counsel Spending by Solicitation for Proposal	
TOTAL:	\$16,434,171.96

Report on Executive
Branch Agency Use of
Special/Outside
Counsel FY 2023

By Single Case Appointment

Office of the Attorney General

**Outside Counsel Spending Pursuant to Single Case Appointments
FY 2023**

Single Case Appointment Number	Description	Agency	Amount Authorized	Range of Hourly Rates
2008-20	Specialized legal matter	Office of the Attorney General	\$649.00	\$295.00 - \$295.00
2011-36	Specialized legal matter	Office of the Attorney General	\$4,537.50	\$275.00 - \$275.00
2013-46	Tax collection litigation	Department of Taxation	\$27,812.04	\$165.00 - \$357.00
2013-47	Tax collection litigation	Department of Taxation	\$3,539.40	\$318.00 - \$318.00
2015-N60	Local counsel, out of state litigation	Department of Education	\$65,843.56	\$110.00 - \$275.00
2017-N33	Specialized legal matter	Department of the Treasury, Division of Risk Management	\$47,285.42	\$95.00 - \$195.00
2017-N37	Specialized legal matter	Department of Corrections	\$1,127.50	\$205.00 - \$205.00
2018-N31	Specialized legal matter	Virginia Department of Transportation	\$17,879.06	\$87.50 - \$175.00
2018-N33	Specialized legal matter	Virginia Department of Transportation	\$66,768.50	\$125.00 - \$325.00
2018-N38	Highly specialized and complex legal matter	Department of Motor Vehicles	\$201,632.00	\$130.00 - \$250.00
2019-N15	Highly specialized legal matter	Virginia Department of Transportation	\$644,268.60	\$210.00 - \$375.00
2020-N01	Highly specialized legal matter	Virginia Department of Transportation	\$110,299.00	\$385.00 - \$385.00
2020-N09	Highly specialized legal matter	Virginia Department of Transportation	\$723.80	\$517.00 - \$517.00
2020-N14	Specialized legal matter	Virginia Polytechnic Institute & State University	\$26,694.00	\$390.00 - \$460.00

**Outside Counsel Spending Pursuant to Single Case Appointments
FY 2023**

2020-N16	Specialized legal matter	Office of the Attorney General	\$21,018.00	\$310.00 - \$310.00
2020-N20	Specialized legal matter	Department of Behavioral Health & Developmental Services	\$17,390.00	\$315.00 - \$315.00
2020-N21	Specialized legal matter	Office of the Attorney General	\$45,249.47	\$310.00 - \$310.00
2021-N01	Specialized legal matter	George Mason University	\$11,915.99	\$250.00 - \$375.00
2021-N04	International matter	Virginia Commonwealth University	\$6,728.40	\$247.00 - \$247.00
2021-N05	Highly specialized legal matter	Longwood University	\$36,010.00	\$325.00 - \$325.00
2021-N08	Specialized legal matter	Division of Risk Management	\$12,327.75	\$165.00 - \$165.00
2021-N18	Specialized legal matter	University of Virginia	\$128,614.80	\$150.00 - \$325.00
2021-N20	Specialized legal matter	Virginia Department of Transportation	\$177,535.50	\$115.00 - \$400.00
2022-N03	Specialized legal matter	Old Dominion University	\$6,574.05	\$750.00 - \$750.00
2022-N05	Specialized legal matter	Office of the Attorney General	\$152,665.20	\$397.50 - \$397.50
2022-N06	Specialized legal matter	Department for the Blind and Visually Impaired	\$158,400.75	\$170.00 - \$382.50
2022-N07	Specialized legal matter	Office of the Attorney General	\$7,720.30	\$544.50 - \$795.00
2022-N10	Specialized legal matter	Department of Corrections	\$4,059.00	\$205.00 - \$205.00
2022-N11	Specialized legal matter	University of Virginia	\$2,547.25	\$475.00 - \$490.00
2022-N12	International matter	Virginia Polytechnic Institute & State University	\$40,687.92	\$83.01 - \$466.92

**Outside Counsel Spending Pursuant to Single Case Appointments
FY 2023**

2022-N13	Specialized legal matter	Virginia Community College System	\$32,373.5	\$175.00 - \$330.00
2022-N15	Highly specialized legal matter	George Mason University	\$263,721.00	\$150.00 - \$365.00
2022-N16	Specialized legal matter	University of Virginia	\$33,915.00	\$461.00 - \$589.00
2022-N17	Specialized legal matter	College of William & Mary	\$127,126.21	\$290.00 - \$290.00
2022-N18	Specialized legal matter	University of Virginia	\$19,396.50	\$240.00 - \$390.00
2022-N19	Highly specialized legal matter	Norfolk State University	\$702,103.60	\$170.00 - \$389.00
2022-N20	Highly specialized legal matter	University of Virginia	\$16,106.84	\$510.00 - \$510.00
2022-N21	Specialized legal matter	Department of Corrections	\$4,140.75	\$105.00 - \$215.00
2022-N22	Specialized legal matter	Department of Corrections	\$3,187.50	\$100.00 - \$215.00
2022-N23	Specialized legal matter	Department of Corrections	\$6,741.00	\$210.00 - \$210.00
2022-N25	Specialized legal matter	Department of Social Services	\$3,223.75	\$400.00 - \$400.00
2022-N26	Specialized legal matter	Department of Human Resource Management	\$1,552.03	\$275.00 - \$275.00
2022-N28	Highly specialized legal matter	Virginia Employment Commission	\$19,537.00	\$85.00 - \$360.00
2022-N29	Highly specialized legal matter	University of Virginia	\$518,121.15	\$664.00 - \$1,704.00
2022-N30	Highly specialized legal matter	University of Virginia	\$180,432.07	\$250.00 - \$250.00
2023-N02	Specialized legal matter	Department of Corrections	\$8,176.00	\$110.00 - \$235.00

**Outside Counsel Spending Pursuant to Single Case Appointments
FY 2023**

2023-N03	Highly specialized legal matter	Virginia Polytechnic Institute & State University	\$14,690.00	\$650.00 - \$650.00
2023-N04	Specialized legal matter	Department of Human Resource Management	\$466.00	\$95.00 - \$170.00
2023-N07	Specialized legal matter	Norfolk State University	\$2,898.00	\$690.00 - \$690.00
2023-N08	Local counsel, out of state matter	Office of the Attorney General	\$1,330.00	\$350.00 - \$350.00
2023-N09	Specialized legal matter	Department of Behavioral Health & Developmental Services	\$1,470.00	\$210.00 - \$210.00
2023-N11	Highly specialized legal matter	Department of Behavioral Health & Developmental Services	\$5,937.60	\$1,237.00 - \$1,237.00
2023-N20	Specialized legal matter	Department of Behavioral Health & Developmental Services	\$1,029.00	\$210.00 - \$210.00

Outside Counsel Spending by Single Case Assignment	
TOTAL:	\$4,016,178.26