

As Dubs Byers gathered information on the questions posed by members of the ALC, he spoke with the following individuals:

Abtin Mehdizadegan - private attorney for the Board of Corrections

Benny Magness - Chairman for the Board of Corrections

Lee Watson - Member, Board of Corrections

Shari Gray - Administrative Assistant to the Board of Corrections

Heather Bailey - Chief Procurement Administrator for Department of Corrections

Chad Brown - CFO, Arkansas Department of Corrections

Lindsey Wallace - Secretary, Arkansas Department of Corrections

Wade Hodge - Chief of Staff, Arkansas Department of Corrections

Timeline (Chad Brown DOC – CFO)

For clarity I have defined the names of those involved

- Benny Magness – Chairman of the Board of Corrections
- Lee Watson – member of Board of Corrections
- Shari Gray – Administrative Assistant to the Board of Corrections
- Abtin Mehdizadegan – private attorney for the Board of Corrections
- Ed Armstrong – Director of the Office of State Procurement (OSP)
- Heather Bailey – Chief Procurement Administrator for Department of Corrections
- Flora Johnson – Procurement Administrator for Department of Corrections

February

- 2/5/2024 (10:28am) Phone call with Benny Magness notifying him of ratification being submitted before close of business and to be expecting it on March's REVIEW agenda.
- 2/5/2024 (2:35pm) Phone call with Ed Armstrong notifying him that I am sending ratification letter to him for REVIEW agenda. No mention of any other documents that would be needed.
- 2/5/2024 (3:01pm) Email sent to Ed Armstrong with Ratification Letter attached.

March

- 3/4/2024 (4:31pm) Phone call with Lee Watson to get total anticipated cost from Abtin Mehdizadegan. He recommended I speak with Abtin.
- 3/4/2024 (5:49pm) Phone call with Abtin Mehdizadegan to get potential total anticipated cost to add to OSP contract document.
- 3/4/2024 (6:37pm) Received engagement letter requested from Shari to put with OSP form.
- 3/5/2024 (7:25am) Emailed Flora the engagement letter and told her to list \$200K as amount based on a phone call with Abtin.
- 3/5/2024 (7:37am) Flora emailed me letting me know that OSP will kick back contract if things needed are not filled out.
- 3/5/2024 (7:43am) Flora emailed me about procurement method and listed two options (RFP or RFQ).
- 3/5/2024 (7:44am) I emailed Flora and said I would call her. I explained that we did not use either method because it was procured incorrectly from the start. She said we had to choose one or we could not enter it in the portal and it will not accept N/A. I instructed her to choose RFQ since that is the method that should have been used from the start.

- 3/5/2024 (10:06am) Flora emailed to advise it was submitted in the portal. The contract entered into the portal without signature was used as a placeholder to meet the deadline. The goal was to get signatures on the same document and swap out.
- 3/5/2024 (1:07pm) Email from OSP stating all the needed things to complete the contract document.
- 3/5/2024 (1:10pm) Email notifying me of needed things from OSP and that deadline was 3:00 to get it submitted.
- 3/5/2024 (8:52pm) Email to Shari Gray asking to send OSP forms (Grant Disclosure and Israel Boycott documents) to Board attorney for completion and signature. Shari replied at 8:54pm that she would.
- 3/5/2024 (8:59pm) Email to Shari with contract attached for Abtin's signature. Benny had not signed yet so Abtin was first signature requested. Also told her we cannot ratify anything without some sort of contract in the system.
- 3/6/2024 (8:58am) Phone call to Benny Magness to explain time crunch and needing signatures. He asked that I work through Shari Gray.
- 3/6/2024 (11:39am) Abtin returned contract to Shari Gray with his signature and copied Lee Watson and Benny Magness to email.
- 3/6/2024 (11:42am) Shari forwarded the signed contract, by Abtin, to me.
- 3/6/2024 (3:51pm) Shari forwarded fully signed contract, with both signatures.
- 3/6/2024 (3:52pm) Forwarded fully signed contract to Heather Bailey, at which time Heather forwarded to Denise at OSP to be placed in OSP portal.

FW: 03/12- Review Subcommittee

From Shari Gray <Shari.Gray@arkansas.gov>

To dubsbyers@protonmail.com

Date Friday, March 15th, 2024 at 3:12 PM

Shari Gray

Arkansas Board of Corrections

P. O. Box 20550

White Hall, AR 71612

Shari.Gray@arkansas.gov

870-267-6754 / Fax 870-267-6756

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From: Wade Hodge (DOC) <Wade.Hodge@arkansas.gov>

Sent: Friday, March 15, 2024 3:08 PM
To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Subject: FW: 03/12- Review Subcommittee

Hi Shari,

Could you please forward this to Dr. Byers?

Thanks,



WADE HODGE
CHIEF OF STAFF | OFFICE OF THE SECRETARY
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (501) 682-3309
Wade.Hodge@arkansas.gov

From: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Sent: Wednesday, March 13, 2024 8:42 PM
To: Lindsay Wallace (DOC) <Lindsay.Wallace@arkansas.gov>
Cc: Wade Hodge (DOC) <Wade.Hodge@arkansas.gov>
Subject: 03/12- Review Subcommittee

Kelly watched video and pulled out the questions that needed follow-up. These are in no specific order, and she only included those questions where a follow-up was requested or related to the internal investigation being conducted. I highlighted the ones that specifically pertained to Department of Corrections. Please advise on how to proceed.

Kelly can be central hub for answers and submission back to us, unless you have another plan.

Senator Gilmore

- Were there Board Minutes taken in the Executive Session?
- Who altered the document?
- Did the Board vote to execute the contract?
- What do you intend to do when you find out who altered the document?

Senator Dismang

- Did any other board members review this contract before it was submitted?
- Who advised the change to be made?
- Was the attorney advising of his own submission of his own proposal?
- You mentioned Lee Watson, was involved in the hiring, did he review before or after this contract was submitted? This is all FOIA based information that will be brought forth we just need to know if anyone else reviewed.

Rep Wardlaw

- Prudent to pull it down.
- If you find out that your outside counsel altered this document will they still be your outside counsel after that information was found out?
 - Decision made by the full board- Magness
 - Investigation done first prior to agreeing to continue. - Dr Byers

When you come back, I would like to know that you have answers to who made these changes and what has been done.

Senator Payton

- Was the compliance attorney present during the board meeting? Was he present during the Executive Session when obtaining legal counsel was discussed?

- Who can speak to the chain of this document? I ask that we invite Attorney to our next meeting regarding this.

Rep Cavanaugh

Look at your process being flawed. If staff can get this from Armstrong.

- How many contracts have you completed/submitted since transformation 5 years ago?
- (OSP) I want a time log of who was in this record and who accessed this contract.

Rep Shepherd

- Was there any direct communication between the Board and the AG's Office?
- Were there other firms that were contacted? *(KK: This was in response to Magness stating that Lee Watson had contacted the attorney)*
- Who advised for the "sovereign immunity" change to be made? Who submitted the document?
- Did anyone review the document after the change was made?
- What attachments were included with the document when it left the department for signatures? At the time of signatures?
- Asked that they pull it down. We want the board's commitment to share with the bureau and this committee, we would like that commitment from the board regarding the information itself. I would like the agreement that the investigation be fully shared with the committee.

Senator Irvin

- How did this get entered, changed, and submitted through the portal?
- Both the Board and the Department need to do an investigation and report back.



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

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image002.png 233.46 KB image001.png 216.94 KB

FW: Ratification Letter

From Chad Brown (DOC) <Chad.Brown@arkansas.gov>

To dubsbyers@protonmail.com

Date Saturday, March 16th, 2024 at 9:54 AM

Here is email with letter



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

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From: Chad Brown (DOC)

S-1A

Sent: Monday, February 5, 2024 3:04 PM

To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>

Cc: Benny Magness (DOC) <Benny.Magness@arkansas.gov>; Lindsay Wallace (DOC) <Lindsay.Wallace@arkansas.gov>; Wade Hodge (DOC) <Wade.Hodge@arkansas.gov>

Subject: FW: Ratification Letter

Shari,

Can you disseminate to Board members and inform them that the ratification letter has been submitted to the Office of State Procurement? The deadline for submission on this month's agenda has passed which would move us to a supplemental agenda; otherwise, it will be on next month's regularly scheduled agenda for Review Subcommittee.

As you can see below, Mr. Armstrong will advise on which agenda it will be scheduled for review.



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

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C-1-B

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From: Chad Brown (DOC)
Sent: Monday, February 5, 2024 3:01 PM
To: Edward Armstrong <edward.armstrong@arkansas.gov>
Cc: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: Ratification Letter

Mr. Armstrong,

Attached is a request to ratify a contract for the Department of Corrections. Based on our conversation, please advise on whether this month's supplemental agenda or next month's regularly scheduled agenda would be the best route.

Please let me know if you have any questions.

C-1/C



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

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608.25 KB 1 file attached 1 embedded image

image001.png 233.46 KB Ratification Request 02.05.2024.pdf 374.79 KB

C-11D

FW: DOC Ratification Letter

From Chad Brown (DOC) <Chad.Brown@arkansas.gov>

To dubsbyers@protonmail.com

Date Saturday, March 16th, 2024 at 10:12 AM

Here is email from Mr. Armstrong and his receipt of the letter.



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

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From: Edward Armstrong <edward.armstrong@arkansas.gov>

C-1/E

Sent: Monday, February 5, 2024 3:59 PM

To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>

Cc: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>; Anthony Black <Anthony.Black@arkansas.gov>

Subject: RE: DOC Ratification Letter

Dear Mr. Brown,

Thank you for forwarding the request for ratification below. Please accept this email as confirmation that it has been received and will receive due consideration. Because this month's deadline for submission was January 26, 2024, the review meeting in March presents the next opportunity to submit the item for legislative review without having to request special permission to get the item added to a supplemental agenda.

Respectfully,

Ed

Edward Armstrong | State Procurement Director

C-1 F

Transformation and Shared Services, Office of State
Procurement

o: 501.324.9312 | m: 501.554.3355 |
edward.armstrong@arkansas.gov

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The mission of the Office of State Procurement is to serve and support the State and its citizens through effective, efficient, and ethical procurement.

From: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Sent: Monday, February 5, 2024 3:01 PM
To: Edward Armstrong <edward.armstrong@arkansas.gov>
Cc: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: Ratification Letter

Mr. Armstrong,

Attached is a request to ratify a contract for the Department of Corrections. Based on our conversation, please advise on whether this month's supplemental agenda or next month's regularly scheduled agenda would be the best route.

Please let me know if you have any questions.

C-16



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

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C-1 H

Chad Brown (DOC)

From: Chad Brown (DOC)
Sent: Tuesday, March 5, 2024 8:54 PM
To: Shari Gray (DOC)
Subject: RE: Contract Docs Needed

Thank you



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

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From: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Sent: Tuesday, March 5, 2024 8:54 PM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: Re: Contract Docs Needed

I will.

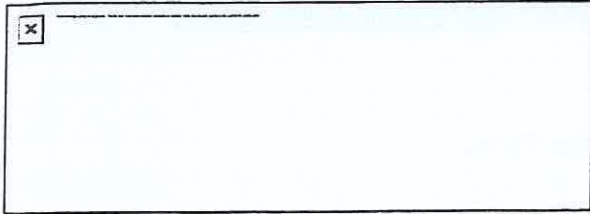
Shari Gray

From: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Sent: Tuesday, March 5, 2024 8:52:49 PM
To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Cc: Lee Watson (DOC) <lee.watson@arkansas.gov>
Subject: FW: Contract Docs Needed

Shari,

Can you email these to the Board's attorney and have him fill them out and return?

C-1



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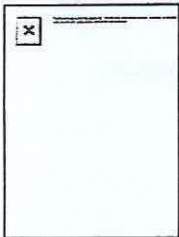
From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Sent: Tuesday, March 5, 2024 4:12 PM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: FW: Contract Docs Needed
Importance: High

Attorney needs to complete the attached forms and complete the information on page #7 under the Contractor Authorized Signature, page 8, and "F" on page 9.

- We also have to include the Ratification request and OSP ratification cover letter.

If you need anything let me know.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell: 870-550-8654
Email: Flora.Johnson@arkansas.gov



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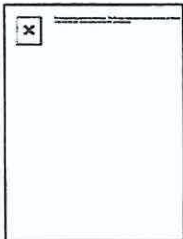
From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Sent: Tuesday, March 5, 2024 1:10 PM

C-2

To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>; Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: FW: Contract Error 4600054260
Importance: High

Below is the email from OSP of errors that need to be corrected before 3 p.m.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell: 870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Denise Harris <Denise.Harris@arkansas.gov>
Sent: Tuesday, March 5, 2024 1:07 PM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>; Darlene Hicks <Darlene.Hicks@arkansas.gov>
Cc: Heather Bailey <heather.v.bailey_arkansas.gov@arkansas.gov>; Kimontie Taller <Kimontie.Taller@arkansas.gov>;
Melissa Greene <Melissa.Greene@arkansas.gov>
Subject: Contract Error 4600054260

Hello Flora,

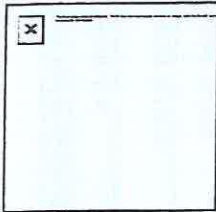
The following errors will need to be corrected before we can complete the final review of contract 4600054260 - Hall Booth Smith PC.

- On the SRV-1 form page 7, Agency and Vendor signature and date missing – Per management the vendor signature can be obtained at a later date.
- Page 8 , certification of contractor needs to be completed.
- Page 9, Israel boycott box will need to be checked / completed.
- Contract and grant disclosure form missing
- Illegal immigrant form missing
- Ratification request and OSP ratification cover letter missing.

Flora it is my understanding that you will have all this information completed in the portal so the contract can be added to the March ALC Review before 3pm. Please let me know if you have any additional questions.

Thank You,





Denise Harris | Statewide Procurement Specialist
Transformation and Shared Services
o. 501.682.0247 | denise.harris@arkansas.gov
[Website](#) | [Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#)

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C-4

CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SOCIAL SECURITY NUMBER: _____ FEDERAL ID NUMBER: _____ SUBCONTRACTOR: _____ SUBCONTRACTOR NAME: _____

TAXPAYER ID #: _____ OR _____ IS THIS FOR: Yes No

TAXPAYER ID NAME: _____ YOUR LAST NAME: _____ FIRST NAME: _____ M.I.: _____

IS THIS FOR: Goods? Services? Both?

ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ COUNTRY: _____

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Field <small>(Senator, representative, name of board/ commission, data entry, etc.)</small>	From/How Long?		What is the person(s) name and how are they related to you? <small>(i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.)</small>	Person's Name(s)	Relation
	Current	Former		From MM/Y	To MM/Y			
General Assembly								
Constitutional Officer								
State Board or Commission Member								
State Employee								

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Field <small>(Senator, representative, name of board/ commission, data entry, etc.)</small>	From/How Long?		What is the person(s) name and what is his/her % of ownership interest and/ or what is his/her position of control?	Ownership Interest (%)	Position of Control
	Current	Former		From MM/Y	To MM/Y			
General Assembly								
Constitutional Officer								
State Board or Commission Member								
State Employee								

None of the above applies

Contract and Grant Disclosure and Certification Form

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.
2. I will include the following language as a part of any agreement with a subcontractor:
Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.
3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature _____ Title _____ Date _____
Vendor Contact Person _____ Title _____ Phone No. _____

Agency use only
Agency _____ Agency _____ Agency _____ Contact _____ Contact _____
Number _____ Name _____ Contact Person _____ Phone No. _____ or Grant No. _____



DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

COMBINED CERTIFICATIONS FOR CONTRACTING WITH THE STATE OF ARKANSAS

Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

1. **Israel Boycott Restriction:** For contracts valued at \$1,000 or greater.
A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.
2. **Illegal Immigrant Restriction:** For contracts valued at \$25,000 or greater.
No state agency may contract for services with a Contractor who employs or contracts with an illegal immigrant. The Contractor shall certify that it does not employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.
3. **Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction:** For contracts valued at \$75,000 or greater.
A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
4. **Scrutinized Company Restriction:** Required with bid or proposal submission.
A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

By signing this form, the Contractor agrees and certifies they are not a Scrutinized Company and they do not currently and shall not for the aggregate term a resultant contract:

- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

Contract Number: _____ Description: _____

Agency Name: _____

Vendor Number: _____ Vendor Name: _____

Vendor Signature

Date

C - T Rev 11/2023

Chad Brown (DOC)

From: Flora Johnson (DOC)
Sent: Tuesday, March 5, 2024 10:13 AM
To: Chad Brown (DOC)
Cc: Heather Bailey (DOC)
Subject: RE: Contract/BOC
Attachments: 9903_4600054260_OR.pdf

Chad, attached is the SRV Form for the contract, I am attaching in AASIS and entering into the portal, the agreement/letter will most likely need to be attached as well, I will let you know if it's requested. If there are questions about the information that I've changed or added please let me know.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell: 870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Sent: Tuesday, March 5, 2024 10:06 AM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Cc: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: RE: Engagement Letter dated 12/22/23

Chad, attached is the SRV Form for the contract, I am attaching in AASIS and entering into the portal, the agreement/letter will most likely need to be attached as well, I will let you know if it's requested. If there are questions about the information that I've changed or added please let me know.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.

Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell:870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Sent: Tuesday, March 5, 2024 7:44 AM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Cc: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: Re: Engagement Letter dated 12/22/23

I will call you

Get Outlook for iOS

From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Sent: Tuesday, March 5, 2024 7:43:03 AM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Cc: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: RE: Engagement Letter dated 12/22/23

Ok, so should the method of procurement, an RFP or RFQ

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell:870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Sent: Tuesday, March 5, 2024 7:41 AM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Cc: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: Re: Engagement Letter dated 12/22/23

I guess method of finance is Div of Correction state general revenue. Same pot we pay the rest of the Board expenses.

Life expectancy is based on conclusion of lawsuits so I am not sure.

Get Outlook for iOS

From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Sent: Tuesday, March 5, 2024 7:37:00 AM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Cc: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: Re: Engagement Letter dated 12/22/23

Good morning, I'll get the cost center, but in order to complete the information needed on OSP's form, I need to know the Method of Procurement, I will also need to know what the life expectancy of the contract should be (??) . Should I send the form back to you to obtain signatures from the firm and their backup documentation needed?
If it's entered into the portal, unless they are aware it's not needed staff at OSP will be requesting all of this.

Flora M. Johnson
Procurement Administrator

From: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Sent: Tuesday, March 5, 2024 7:25:44 AM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Cc: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: Fwd: Engagement Letter dated 12/22/23

Flora, attached the engagement letter between the Board and attorney. I would assume the Board has their own cost center.

Please list total anticipated as \$200,000

Get Outlook for iOS

From: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Sent: Monday, March 4, 2024 6:37 PM

To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: Fwd: Engagement Letter dated 12/22/23

Shari Gray

From: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Sent: Monday, January 8, 2024 9:22:45 AM
To: Abtin Mehdizadegan <abtin@hallboothsmith.com>
Subject: Engagement Letter dated 12/22/23

Here you go...

Shari Gray
Arkansas Board of Corrections
P. O. Box 20550
White Hall, AR 71612
Shari.Gray@arkansas.gov
870-267-6754 / Fax 870-267-6756

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From: Shari Gray (DOC) <shari.gray@arkansas.gov>
Sent: Monday, January 8, 2024 9:21 AM
To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Subject: Attached Image

C-11



**STATE OF ARKANSAS
SERVICES CONTRACT**

Contract #	4600054260	Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input type="checkbox"/>	Procurement Method	

1. **Contracting Parties.** State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	9903 - Department of Corrections		
Division			

Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters as requested by the Board.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024 (mm/dd/yyyy).

4. Contractor's Performance Obligations. Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will represent the Board of Corrections, taking all legal action necessary to protect and preserve the Board's interests.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. Department's Payment Obligations. Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Contractor will present itemized invoices monthly to the department for payment of legal services rendered.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

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reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 200,000.00 (Initial Contract Amount).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 200,000.00 (Total Projected Contract Amount).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

This provision shall not be construed to abridge any other right of termination the agency may have.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.
- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

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days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.

B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.

C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable Sovereign Immunity. Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract shall be brought in the Arkansas State Claims Commission.

10. Non-negotiable Intergovernmental/Cooperative Use. In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable Disclosure Required by Executive Order 98-04. Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. Compliance. The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq.

13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265.
16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
19. **Attachments.**
 1. Certification of Contractor
 2. Calculation of Compensation, as applicable;
 3. Source of Funds
 4. Objectives, Scope, and Performance Standards, as applicable; and
 5. Performance Details, as applicable
 6. Additional Attachments as applicable
 - A. Contract & Grant Disclosure
 - B.
 - C.

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20. Notices.

A. Method of Notice. The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid[, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

B. Receipt of Notice. A notice given under this Contract will be effective on
i. the other party's receipt of it, or
ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

C. Issuance of Notice. All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

Flora Johnson	Procurement Administrator
_____ Name	_____ Title
(870) 850-8502	Flora.Johnson@arkansas.gov
_____ Telephone#	_____ Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

Chad Brown	Chief Financial Officer
_____ Name	_____ Title
(501) 682-9510	Chad.Brown@arkansas.gov
_____ Telephone#	_____ Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

Chad Brown	Chief Financial Officer
_____ Name	_____ Title
(501) 682-9510	Chad.Brown@arkansas.gov
_____ Telephone#	_____ Email

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21. Technology Access. If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. SIGNATURES

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Lindsay Wallace

Printed Name

Printed Name

Secretary, Department of Corrections

Title

Title

191 Peachtree St., NE, Ste 2900, Atlanta, GA 30303

1302 Pike Ave., North Little Rock, AR. 72114

Address

Address

Signature

Signature

Date

Date

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Attachment #1
CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, _____ (Contractor) _____ (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None."

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship

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CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

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Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Legal Representation	6	200,000	\$ 200,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
TOTAL REIMBURSABLE EXPENSES		\$ 0.00

Total compensation inclusive of expense reimbursement: \$ 200,000.00

Annual Contract Amount: _____

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount: _____

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Attachment #3

Source of Funds

Source of Funds the Department intends to draw on. This is provided for informational purposes only. It is required under Arkansas Procurement Law and is not a performance obligation of the Department or an unconditional promise to pay from the sources identified.

Fund Source	Identify Source of Funds *	Fund	Fund Center	Amount of Funding	% of Total Contract Cost
State Funds**	General Revenue	PAY9903	Z39	\$ 200,000.00	100 %
					%
					%
					%
					%
					%
TOTALS				\$ 200,000.00	100.00 %

Identify whether State general revenue funds (GRF), special revenue funds (SRF), federal funds (FED), or other public funds (Other) are the source. Identify each specific source of SRF, such as special taxes or fees, in the "Identify Source of Funds" column. Similarly, if Other public funds, such as tobacco funds, general improvement funds, etc., are being used to pay the Contractor, these should be specified in the "Identify Source of Funds" column.

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Chad Brown (DOC)

From: Chad Brown (DOC)
Sent: Tuesday, March 5, 2024 8:59 PM
To: Shari Gray (DOC)
Cc: Lindsay Wallace (DOC); Benny Magness (DOC)
Subject: Contract/BOC
Attachments: Attorney contract.pdf

This is the contract for Board attorney. We set the anticipated cost at \$200,000. We cannot ratify anything without some sort of contract put into the system. I spoke to Chairman Magness this evening so he knows already. Best case is to get it signed and back to me tomorrow.



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

FIND US HERE:

[Website](#) – [Facebook](#) – [Twitter](#) – [Instagram](#) – [LinkedIn](#)

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Contract #: 4600054260



STATE OF ARKANSAS SERVICES CONTRACT

Contract #	4600054260	Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input type="checkbox"/>	Procurement Method	

1. **Contracting Parties.** State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	9903 - Department of Corrections		
Division			
Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters as requested by the Board.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

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The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024 (mm/dd/yyyy).

4. Contractor's Performance Obligations. Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will represent the Board of Corrections, taking all legal action necessary to protect and preserve the Board's interests.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. Department's Payment Obligations. Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Contractor will present itemized invoices monthly to the department for payment of legal services rendered.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 200,000.00 (Initial Contract Amount).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 200,000.00 (Total Projected Contract Amount).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

This provision shall not be construed to abridge any other right of termination the agency may have.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.
- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

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days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.

B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.

C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable Sovereign Immunity. Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract shall be brought in the Arkansas State Claims Commission.

10. Non-negotiable Intergovernmental/Cooperative Use. In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable Disclosure Required by Executive Order 98-04. Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. Compliance. The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

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Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq.

13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265.
16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
19. **Attachments.**
 1. Certification of Contractor
 2. Calculation of Compensation, as applicable;
 3. Source of Funds
 4. Objectives, Scope, and Performance Standards, as applicable; and
 5. Performance Details, as applicable
 6. Additional Attachments as applicable
 - A. Contract & Grant Disclosure
 - B.
 - C.

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20. Notices.

A. **Method of Notice.** The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid[, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

B. **Receipt of Notice.** A notice given under this Contract will be effective on
i. the other party's receipt of it, or
ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

C. **Issuance of Notice.** All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

Flora Johnson	Procurement Administrator
_____	_____
Name	Title
(870) 850-8502	Flora.Johnson@arkansas.gov
_____	_____
Telephone#	Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

Chad Brown	Chief Financial Officer
_____	_____
Name	Title
(501) 682-9510	Chad.Brown@arkansas.gov
_____	_____
Telephone#	Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

Chad Brown	Chief Financial Officer
_____	_____
Name	Title
(501) 682-9510	Chad.Brown@arkansas.gov
_____	_____
Telephone#	Email

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21. **Technology Access.** If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. **SIGNATURES**

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Printed Name

Title

191 Peachtree St., NE, Ste 2900, Atlanta, GA 30303

Address

Signature

Date

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Benny Magness

Printed Name

Chairman, Board of Corrections

Title

1302 Pike Ave., North Little Rock, AR. 72114

Address

Signature

Date

Attachment #1
CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, _____ (Contractor) _____ (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None."

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship

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CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Legal Representation	6	200,000	\$ 200,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
TOTAL REIMBURSABLE EXPENSES		\$ 0.00

Total compensation inclusive of expense reimbursement: \$ 200,000.00

Annual Contract Amount: _____

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount: _____

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Attachment #3
Source of Funds

Source of Funds the Department intends to draw on. This is provided for informational purposes only. It is required under Arkansas Procurement Law and is not a performance obligation of the Department or an unconditional promise to pay from the sources identified.

Fund Source	Identify Source of Funds *	Fund	Fund Center	Amount of Funding	% of Total Contract Cost
State Funds**	General Revenue	PAY9903	Z39	\$ 200,000.00	100 %
					%
					%
					%
					%
					%
TOTALS				\$ 200,000.00	100.00 %

Identify whether State general revenue funds (GRF), special revenue funds (SRF), federal funds (FED), or other public funds (Other) are the source. Identify each specific source of SRF, such as special taxes or fees, in the "Identify Source of Funds" column. Similarly, if Other public funds, such as tobacco funds, general improvement funds, etc., are being used to pay the Contractor, these should be specified in the "Identify Source of Funds" column.

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Chad Brown (DOC)

From: Shari Gray (DOC)
Sent: Wednesday, March 6, 2024 11:42 AM
To: Chad Brown (DOC)
Subject: FW: Procurement Documents - 3.6.2024
Attachments: Procurement Documents - 3.6.2024.pdf

Chad,

Please let me know if you need anything further.

Shari Gray
Arkansas Board of Corrections
P. O. Box 20550
White Hall, AR 71612
Shari.Gray@arkansas.gov
870-267-6754 / Fax 870-267-6756

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From: Abtin Mehdizadegan <abtin@hallboothsmith.com>
Sent: Wednesday, March 6, 2024 11:39 AM
To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>; Lee Watson (DOC) <lee.watson@arkansas.gov>; Benny Magness (DOC) <Benny.Magness@arkansas.gov>
Subject: Procurement Documents - 3.6.2024

Microsoft Word You don't often get email from abtin@hallboothsmith.com. [Learn why this is important](#)

Shari, Lee, and Benny,

Please see attached.

Shari, can you please transmit to Chad Brown?

Best,

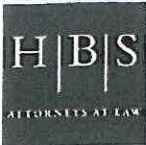
Abtin

Abtin Mehdizadegan

Attorney at Law | Hall Booth Smith, P.C.

O: 501.214.3499 200 River Market Avenue, Suite 500
D: 501.503.4445 Little Rock, AR 72201
hallboothsmith.com

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ALABAMA | ARKANSAS | COLORADO | FLORIDA | GEORGIA
MONTANA | NEW JERSEY | NEW YORK | OKLAHOMA
NORTH CAROLINA | SOUTH CAROLINA | TENNESSEE

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**STATE OF ARKANSAS
SERVICES CONTRACT**

Contract #	4600054260	Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input type="checkbox"/>	Procurement Method	Emergency / Exempt from Law

The Board of Corrections of the

1. **Contracting Parties** - State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	9903 - Department of Corrections / Board of Corrections
Division	Not Applicable

Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters within the ambit of Ark. Code Ann. 25-16-711, as voted on and approved by the Board of Corrections on December 8, December 14, and December 22, 2023. Contractor's engagement agreement dated December 22, 2023 is incorporated herein by reference. By signing this document, neither the Board of Corrections nor Contractor admit that the procurement process advanced by the Department of Corrections is correct or applicable, and they retain and reserve all defenses relating to the applicable process through which to secure representation under Ark. Code Ann. 25-16-711 or other applicable law. In the interest of cooperation, however, and to facilitate the payment of Contractor's outstanding and prospective invoices, Contractor and the Board of Corrections supply the information requested herein in good faith. The term of this agreement is difficult to anticipate due to the nature of pending litigation, as is the total contract amount; however, the information supplied is based on Contractor's best estimate at this time.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

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The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024 (mm/dd/yyyy).

4. **Contractor's Performance Obligations.** Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will continue representing the Board of Corrections in litigation and on appeal, taking all legal action necessary to protect and preserve the Board's interests under Amendment 33, pursuant to Ark. Code Ann. 25-16-711. Specifically, Contractor will defend the Board of Corrections in a lawsuit and appeal filed by the Attorney General against the Board and its chair; and Contractor will prosecute the Board and chair's Amendment 33 claims, and represent them as Appellees in the appeal filed by the Attorney General on behalf of the Governor, Department of Corrections, and Secretary of Corrections. Contractor's December 22, 2023 engagement agreement, which was executed by the Board, is incorporated herein by reference, as well as the January 2024 Order from Judge Patricia James.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. **Department's Payment Obligations.** Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Pursuant to Ark. Code Ann. 25-16-711, Contractor will present itemized invoices monthly for ongoing payment of legal services rendered, with hourly rates of \$200 for paralegals, \$240 for associates, and \$285 for partners. Payment shall be due within 10 days from receipt of an invoice. Contractor shall be reimbursed all expenses incurred in the representation. Contractor's December 22, 2023 engagement agreement and the January 2024 Order of Judge Patricia James are incorporated by reference. The Board of Corrections's litigation liaison shall be solely responsible for determining whether Contractor's performance is satisfactory, and the litigation liaison shall be responsible for authorizing payment under this Agreement.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 207,000.00 (**Initial Contract Amount**).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 207,000.00 (**Total Projected Contract Amount**).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

- 6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

Board of Corrections

This provision shall not be construed to abridge any other right of termination the ~~agency~~ ^{agency} may have.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.

- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

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days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.

B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.

C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable Sovereign Immunity. Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract if applicable, shall be brought in the Arkansas State Claims Commission, if applicable.

10. Non-negotiable Intergovernmental/Cooperative Use. In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable Disclosure Required by Executive Order 98-04. Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. Compliance. The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

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Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq., if applicable.

- 13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
- 14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
- 15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265, if applicable.
- 16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
- 17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
- 18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
- 19. **Attachments.**
 - 1. Certification of Contractor
 - 2. Calculation of Compensation, as applicable;
 - 3. Source of Funds
 - 4. Objectives, Scope, and Performance Standards, as applicable; and
 - 5. Performance Details, as applicable
 - 6. Additional Attachments as applicable
 - A. Engagement Agreement Dated December 22, 2023
 - B. Contract & Grant Disclosure
 - C. January 2024 Order of Judge Patricia James
 - D. Outstanding Invoices in line for payment.

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20. Notices.

- A. Method of Notice.** The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid[, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.
- B. Receipt of Notice.** A notice given under this Contract will be effective on
 - i. the other party's receipt of it, or
 - ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.
- C. Issuance of Notice.** All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

<u>Flora Johnson</u>	<u>Procurement Administrator</u>
Name	Title
<u>(870) 850-8502</u>	<u>Flora.Johnson@arkansas.gov</u>
Telephone#	Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

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21. Technology Access. If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. SIGNATURES

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Abtin Mehdizadegan

Benny Magness

Printed Name

Printed Name

Partner, Hall Booth Smith, P.C.

Chairman, Board of Corrections

Title

Title

200 River Market Avenue, Suite 500, Little Rock, AR 72201

1302 Pike Ave., North Little Rock, AR. 72114

Address

Address


Signature

Signature

3/6/2024
Date

Date

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Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, Abtin Mehdizadegan, a Partner with the law firm of Hall Booth Smith, P.C.
 (Contractor) (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

HBS provides immigration services to a number of state governmental entities, including to UAMS and ADFA. Abtin Mehdizadegan does not have access to that information but can provide contact information for another representative. Abtin Mehdizadegan previously served as an adjunct professor at UA Bowen School of Law; however, he has discontinued that service. Abtin also served as special counsel to the Executive Subcommittee of the ALC/BLR in February 2023.

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None."

Contractor is not personally engaged in a legal controversy with any state agency; however, Contractor serves as legal counsel for the Board of Corrections and its chair in the legal controversies described above. Contractor also represents the BioGen plaintiffs in a separate regulatory challenge involving the Department of Agriculture et al., and Contractor represents 2600 Holdings in an appeal in which the ABC and MMC are parties, though not currently participating.

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship
Abtin Mehdizadegan	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Partner
Joseph Kraska	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Joseph Stepina	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Julie Hill	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Lynsey Russell	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Paralegal

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CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

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Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Partner	1	\$285/hour	\$ 110,000.00
Associate	3	\$240/hour	\$ 75,000.00
Paralegal	1	\$200/hour	\$ 15,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
Filing fees and transcript costs	\$185 + \$0.10/page	\$ 5,000.00
Service of process	\$300	\$ 1,500.00
Special collections research	\$0.50/page	\$ 500.00
TOTAL REIMBURSABLE EXPENSES		\$ 7,000.00

Total compensation inclusive of expense reimbursement: \$ 207,000.00

Annual Contract Amount: \$ 207,000.00

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount:

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Attachment #3
Source of Funds

Source of Funds the Department intends to draw on. This is provided for informational purposes only. It is required under Arkansas Procurement Law and is not a performance obligation of the Department or an unconditional promise to pay from the sources identified.

Fund Source	Identify Source of Funds *	Fund	Fund Center	Amount of Funding	% of Total Contract Cost
State Funds**	General Revenue	PAY9903	Z39	\$ 207,000.00	100 %
					%
					%
					%
					%
					%
TOTALS				\$ 207,000.00	100.00 %

Identify whether State general revenue funds (GRF), special revenue funds (SRF), federal funds (FED), or other public funds (Other) are the source. Identify each specific source of SRF, such as special taxes or fees, in the "Identify Source of Funds" column. Similarly, if Other public funds, such as tobacco funds, general improvement funds, etc., are being used to pay the Contractor, these should be specified in the "Identify Source of Funds" column.

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CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SOCIAL SECURITY NUMBER: SUBCONTRACTOR NAME: N/A

TAXPAYER ID #: OR Yes No IS THIS FOR: Goods? Services? Both?

TAXPAYER ID NAME: Hall Booth Smith, P.C. M.I.: NA

YOUR LAST NAME: Mehdizadegan FIRST NAME: Abtin

ADDRESS: 200 River Market Avenue

CITY: Little Rock STATE: AR ZIP CODE: 72201 COUNTRY: USA

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Consultative Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held (selector, representative, name of board/commission, data entry, etc.)	For How Long?		What is the person(s) name and how are they related to you? (i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.)	Relation
	Current	Former		From MM/Y	To MM/Y		
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Consultative Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Consultative Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held (selector, representative, name of board/commission, data entry, etc.)	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?	Ownership Interest (%)	Position of Control
	Current	Former		From MM/Y	To MM/Y			
General Assembly								
Constitutional Officer								
State Board or Commission Member	X		Gov. Comm'n People with Disabilities	s/2013	s/2016	Abtin Mehdiadegan	N/A	Partner
State Employee	X		Adjunct Professor	8/17	12/23	Abtin Mehdiadegan	N/A	Partner

None of the above applies See attached.

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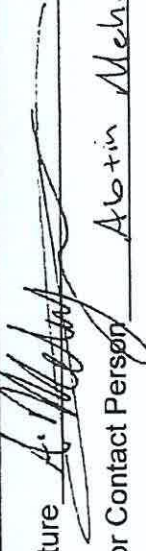
Contract and Grant Disclosure and Certification Form

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.
2. I will include the following language as a part of any agreement with a subcontractor:
Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.
3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature  Title Partner Date 3/6/2024
Vendor Contact Person Armin Mehdizadegan Title Partner Phone No. 501-529-1163

Agency use only
Agency Number _____ Agency Name _____ Agency Contact Person _____ Agency Contact _____
Contract _____ or Grant No. _____

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Supplement to Contract and Grant Disclosure and Certification Form

1. Abtin Mehdizadegan was an adjunct professor of employment law at the UA William H. Bowen School of Law from August 2018 until December 2023. From approximately 2013 through 2015, Abtin Mehdizadegan served on the Governor's Commission for People with Disabilities. Abtin Mehdizadegan is a partner with Hall Booth Smith, P.C. He is not on the management committee of the firm and does not have power to direct purchasing policies. As a partner, Abtin Mehdizadegan has some influence in the management of Hall Booth Smith, P.C.
2. Julie Hill and Joseph Kraska are associates of Hall Booth Smith, P.C. Julie Hill's father is a member of the General Assembly. Joseph Kraska is a member of the Arkansas Air Guard. Neither Julie Hill nor Joseph Kraska own any interest in Hall Booth Smith, P.C. or otherwise hold positions of control. This information is supplied in an abundance of caution for transparency purposes.

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DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

COMBINED CERTIFICATIONS FOR CONTRACTING WITH THE STATE OF ARKANSAS

Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

- 1. Israel Boycott Restriction:** For contracts valued at \$1,000 or greater.
A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.
- 2. Illegal Immigrant Restriction:** For contracts valued at \$25,000 or greater.
No state agency may contract for services with a Contractor who employs or contracts with an illegal immigrant. The Contractor shall certify that it does not employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.
- 3. Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction:** For contracts valued at \$75,000 or greater.
A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
- 4. Scrutinized Company Restriction:** Required with bid or proposal submission.
A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

By signing this form, the Contractor agrees and certifies they are not a Scrutinized Company and they do not currently and shall not for the aggregate term a resultant contract:

- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

Contract Number: 4600054260 Description: Professional Consultant Services

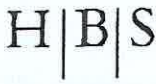
Agency Name: Board of Corrections

Vendor Number: 100249276 Vendor Name: Hall Booth Smith, P.C.

A. Smith
Vendor Signature

3/6/2024
Date

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HALL BOOTH SMITH, P.C.
ATTORNEYS AT LAW

Abtin Mehdizadegan
Phone: 501.503.4445
abtin@hallboothsmith.com

200 River Market Avenue
Suite 500
Little Rock, AR 72201

Office: 501.214.3499
Fax: 501.604.5565
www.hallboothsmith.com

Arkansas Board of Corrections
P.O. Box 20550
White Hall, AR 71612

RE: Engagement Letter for Legal Services and Supplement

This letter serves as a supplement to my engagement agreement for legal services, retroactive to December 8, 2023. Specifically, this letter will confirm that I have been retained as Special Counsel to the Arkansas Board of Corrections pursuant to Ark. Code Ann. § 25-16-711 to challenge certain legislation impacting the Board's power in light of the conflicting positions of the Attorney General regarding Amendment 33's application to the Board.

This letter will also confirm that I have been retained to take all legal action necessary to protect and preserve the Board's interests. Pursuant to that authority, on December 14, 2023, I filed a declaratory judgment lawsuit to challenge the legislation at issue, and on December 15, 2023, the Attorney General filed a lawsuit alleging violations of the Arkansas Freedom of Information Act in which the Attorney General sought to disqualify me from continued representation of the Board in the Amendment 33 lawsuit. In light of the exigent circumstances caused by the Attorney General's actions, and because the FOIA lawsuit, my representation as special counsel, and the pending Amendment 33 litigation are interrelated, I entered an appearance in the FOIA lawsuit pursuant to the December 14, 2023 motion authorizing me to take all necessary legal action. Based on the pleadings, arguments, and developments to-date, I believe the Board of Corrections and the Attorney General have another conflicting opinion regarding the application of a statute. In particular, the Attorney General has a different opinion regarding the application of Ark. Code Ann. § 25-16-711 as well as the Arkansas FOIA. This engagement agreement will serve as supplemental authority to file a counterclaim in the FOIA lawsuit to challenge Ark. Code Ann. § 25-16-702's application to the Board, and to further resolve the question of whether the Attorney General has standing to sue for alleged civil violations of the FOIA.

My standard hourly rate for government clients is currently \$285.00. Associates will bill at a rate of \$240.00 per hour; and paralegals will be billed at a rate of \$200.00 per hour. Our fees and costs will be billed monthly and are payable pursuant to the Board's extant policies. Time spent responding to FOIA requests will be billed at the same rates. Our invoices will be submitted monthly, and they will itemize the time expended on this matter and provide a description of services rendered. This engagement agreement specifically authorizes me to request the assistance of any associate or partner in my law firm at the rates set forth herein, including but not limited to Todd Wooten, Julie Hill,

LITTLE ROCK, AR

ALABAMA | ARKANSAS | COLORADO | FLORIDA | GEORGIA | MONTANA | NEW JERSEY | NEW YORK
NORTH CAROLINA | OKLAHOMA | SOUTH CAROLINA | TENNESSEE

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Joseph Kraska, Joseph Stepina, Allison Scott, and Garrett Bannister. Each invoice will also request reimbursement of any actual out-of-pocket disbursements expended by this Firm in connection with our representation. Except for filings or other exigencies, we will not incur third-party expenses in excess of \$500.00 without advance approval. Please note that our rates may increase next year as part of the Firm's standard processes. If rates increase on this matter, I will alert you of same.

As a client, you have the right at any time to terminate our services and representation upon written notice to the Firm. In the event of termination of representation, your file will be made available to you and will be retained and destroyed in accordance with our ethical obligations. Likewise, we reserve the right to withdraw from our representation if any fact or circumstance arises that would make our continuing representation unlawful or unethical. The above agreements will also apply to services rendered for such future matters that we mutually agree will be handled by the Firm.

Additional Terms

Restriction of Boycott of Israel. In accordance with Arkansas Code § 25-1-503, this Firm hereby certifies and agrees that it is not currently engaged in, and agrees for the duration of the Agreement not to engage in, a boycott of Israel.

Restriction of Boycotts of Certain Products. In accordance with Ark. Code Ann. § 25-1-1102, Hall Booth Smith, P.C. certifies that neither the law firm nor the attorneys assisting with this matter are currently engaged in, nor will become engaged in, any boycott of energy, fossil fuels, firearms, and ammunition industries.

Governing Law. This Agreement shall be governed by the laws of the State of Arkansas, without regard to Arkansas's conflict of law principles.

Thank you again for considering me for this engagement.

Sincerely,

HALL BOOTH SMITH, P.C.


Abtin Mehdizadegan

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ACCEPTANCE OF ENGAGEMENT AGREEMENT

By signing below, I represent that the Board of Corrections accepts the terms of this engagement agreement for legal services retroactive to December 8, 2023.

By: Benny Magness
Benny Magness, Chairman of the Board

12-22-23
Date

By: William Byers
William "Dubs" Byers, Secretary of the Board

12-22-23
Date

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ELECTRONICALLY FILED
Pulaski County Circuit Court
Terri Hollingsworth, Circuit/County Clerk
2024-Jan-19 10:59:04
60CV-23-9598
C06D11 : 8 Pages

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
ELEVENTH DIVISION

ARKANSAS BOARD OF CORRECTIONS; and
BENNY MAGNESS, in his official capacity as
CHAIRMAN OF THE ARKANSAS
BOARD OF CORRECTIONS

PLAINTIFFS

v. CASE NO. 60CV-23-9598

SARAH SANDERS, in her official capacity as
GOVERNOR OF ARKANSAS;
JOE PROFIRI, in his official capacity as
SECRETARY OF THE ARKANSAS
DEPARTMENT OF CORRECTIONS; and the
ARKANSAS DEPARTMENT OF CORRECTIONS

DEFENDANTS

ORDER

The Court, having held a hearing on this matter on January 4, 2024, considered the petition and motions presented, as well as the evidence and testimony presented, and the arguments regarding the same, makes the following findings:

1. This Court had jurisdiction over the parties and subject matter of this action.
2. On December 14, 2023, the Plaintiffs filed their Verified Complaint against the above-named Defendants seeking a declaratory judgment and injunctive relief relating to Acts 185 and 659 of 2023 (the "Challenged Legislation"), which the Plaintiffs allege violate Amendment 33 of the Arkansas Constitution.

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3. Subsequently, the Parties filed various motions, including the Defendants' Motion to Disqualify and Motion to Dismiss and Plaintiffs' Motion to Disqualify and Motion for Temporary Restraining Order or Alternatively Motion for Preliminary Injunction.

4. On December 15, 2023, the Court entered a temporary restraining order enjoining the Challenged Legislation and setting a hearing for December 28, 2023, pursuant to Rule 65 of the Arkansas Rules of Civil Procedure.

5. On December 28, 2023, Plaintiffs filed an Emergency Motion for Continuance and Extension of the temporary restraining order because Plaintiffs' lead counsel's wife went into labor. Because good cause was established, the Court granted Plaintiffs' Emergency Motion for Continuance and Extension and continued the temporary restraining order until January 4, 2024.

6. The Parties, through counsel, appeared at the January 4, 2024 hearing and presented argument, evidence, and testimony. Specifically, after the Parties' counsel delivered opening statements,¹ Plaintiffs presented testimony from Benny Magness, Chairman of the Board; Dr. William "Dubs" Byers, Secretary of the Board; Tommy James, Senior Auditor with the Compliance Division of the Board; and Jerry Bradshaw, who served as Director of the Division of Community Corrections until his voluntary retirement on December 31, 2023. Defendants called one witness: Mark Colbert, Compliance Attorney/Administrator for the Board of Corrections. After the Parties delivered closing arguments, the Court delivered the following bench rulings on the Parties' pending Motions:

¹ Defendants' counsel did not argue or address the merits of Plaintiffs' challenge during their opening statement or otherwise during closing arguments.

Plaintiffs' Motion to Disqualify the Attorney General's Office

7. The Plaintiffs' Motion to Disqualify Attorney General's Office is denied.

8. Even though the Court acknowledges the unique position of the Attorney General's Office as the legal representative for the State of Arkansas, its agencies, officers, and other entities, and that the testimony presented is that the Attorney General's Office has represented Plaintiffs on numerous occasions, the Court is not inclined to disqualify the Attorney General's Office solely because the Attorney General's Office represents Plaintiffs in a pending federal class action.

9. Notwithstanding, the Attorney General's unique position does not exempt that Office from the Arkansas Rules of Professional Conduct. *Holloway v. Arkansas State Bd. of Architects*, 79 Ark. App. 200, 214, 86 S.W.3d 391, 400 (2002), *aff'd in part, rev'd in part*, 352 Ark. 427, 101 S.W.3d 805 (2003); ARK. R. PROF. COND. 1.7.

10. The Arkansas Rules of Professional Conduct apply to all attorneys licensed to practice in this State, including to the Attorney General and his staff.

11. The Court is particularly concerned about the participation in this lawsuit by Christine Cryer, who recently worked for the Department of Corrections, prior to being listed as counsel on this case. Ms. Cryer and Mr. Brascher filed entry of appearances and were signatories in several pleadings filed in this matter. Although, there is no testimony that Ms. Cryer did anything improper in this case, it is the appearance of impropriety that is concerning. Therefore, Ms. Cryer -- and also as an abundance of caution -- Mr. Justin Brascher shall not be allowed to participate in any aspect of this case in any manner.

12. Accordingly, the Court orders that Justin Brascher and Christine Cryer of the Attorney General's Office shall not participate in any aspect of this case.

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13. The Attorney General's Office is directed to take all necessary measures to enforce this restriction.

**Defendants' Motion to Disqualify Abtin Mehdizadegan
and his Law Firm as Special Counsel**

14. Defendants' Motion to Disqualify Plaintiffs' counsel is denied. The Court finds Defendants' arguments in support of disqualification fail for several reasons.

15. The Board of Corrections was created by Amendment 33 of the Arkansas Constitution.

16. Section 1 of Amendment 33 specifically defines "the term of office of members of the boards or commissions charged with the management or control of all charitable, penal, or correctional institutions[.]" ARK. CONST. amend. XXXIII, § 1.

17. The Court's interpretation of Amendment 33 is quite clear: the Board of Corrections is a constitutionally created board, making the Board's members constitutional officers for purposes of section 25-16-711 of the Arkansas Code. Thus, contrary to the Defendants' arguments that section 25-16-702 applies, the Court finds that the Board of Corrections had the legal authority to hire special counsel pursuant to section 25-16-711 of the Arkansas Code because the Board is a constitutional board, its members are constitutional officers, and from the pleadings, argument, and testimony presented, it is clear that the Attorney General and the Board of Corrections disagree about the proper interpretation of Amendment 33, section 25-16-702, and section 25-16-711.

18. Therefore, Defendants' Motion to Disqualify special counsel is denied.

Defendants' Motion to Dismiss

19. Defendants' Motion to Dismiss is denied.

20. Defendants argued that Plaintiffs lack standing to bring this lawsuit because they are not “persons” as defined by the Declaratory Judgment Act. *See* ARK. CODE ANN. § 16-111-101 *et seq.* This argument fails.

21. Based on the previous rulings by the Arkansas Supreme Court considering whether other government entities or officers are “persons,” the Court finds that Plaintiffs have standing as “persons” under the Declaratory Judgment Act as defined by Act 274 of 1953. *See Brown v. State*, 2017 Ark. 232, 522 S.W.3d 791; *Valley v. Bogard*, 342 Ark. 336, 342–43, 28 S.W.3d 269, 272–73 (2000) (abrogated in part by *State v. Jernigan*, 2011 Ark. 487, 385 S.W.3d 776); *Vibo Corp. v. State ex rel. McDaniel*, 2011 Ark. 124, 380 S.W.3d 411.

22. Plaintiffs have standing to pursue a declaratory judgment finding that the Challenged Legislation is unconstitutional.

23. Consequently, Defendants' Motion to Dismiss is denied.

Plaintiffs' Motion for Preliminary Injunction

24. Having determined that Plaintiffs have the legal authority to hire outside counsel and that they have standing under the Declaratory Judgment Act, the Court considered Plaintiffs' Motion for a Preliminary Injunction.

25. Pursuant to Rule 65 of the Arkansas Rules of Civil Procedure, the Court finds that Plaintiffs satisfied their burden of proving irreparable harm if the preliminary injunction is not granted and the likelihood of success on the merits. *See Ark. Dep't of Educ. v. Jackson*, 2023 Ark. 105, 7, 669 S.W.3d 1, 6; *Ark. Dep't of Hum Servs. v. Ledgerwood*, 2017 Ark. 308, 9, 530 S.W.3d 336, 343.

26. Plaintiffs identified irreparable harm in the absence of an injunction for several reasons.

27. First, the evidence and testimony presented established that the Secretary of Corrections exhibited insubordination towards the Board of Corrections by, among other things, opening prison beds without the Board's approval. Further, even after the Board voted to place him on leave with pay status on December 14, 2023, Secretary Profiri refused to recognize the Board's authority and announced his intention to remain working. Secretary Profiri even refused to take physical possession of the letter notifying him that he was placed on leave with pay. The irreparable harm is directly attributable to Act 185 of 2023, which purportedly required the Secretary of Corrections to serve at the pleasure of the Governor.

28. Second, irreparable harm was also demonstrated by the Governor's multiple statements indicating that Secretary Profiri would continue serving in that capacity even after he was placed on leave. Placing Secretary Profiri on leave with pay did not resolve the irreparable harm Plaintiffs articulated. The evidence presented was that an inmate took his own life on December 15, 2023 and that, due to inadequate staffing, he was not found for at least one hour. At the time of death, there were three corrections officers performing the work of five corrections officers.

29. Third, irreparable harm was also demonstrated by Plaintiffs' witnesses who identified the uncertainty presented by the Challenged Legislation as it relates to the performance of their constitutional and statutory duties to manage the Department of Corrections and its Divisions. Fundamentally, Plaintiffs established that the Challenged Legislation interferes with the exercise of their constitutional rights to manage and control the Department of Corrections, and that showing supports a finding of clear and present need for equitable relief to prevent irreparable constitutional injury under

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Amendment 33. Sections 12-27-107(c) and 12-27-126(c), for instance, as amended, were to become effective as of January 1, 2024.

30. Plaintiffs likewise demonstrated a likelihood of success on the merits because the Challenged Legislation diminished the powers vested in the Board of Corrections by Amendment 33. The Board has historically supervised the Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections. Those Department leaders implement the Board's substantive policy decisions. If the Board is statutorily precluded from directly supervising those positions, then—as demonstrated by this litigation—the Board cannot effectively perform its constitutional mandate to independently manage the affairs of the Department of Corrections.

31. The balance of equities weighs heavily in favor of enjoining the Challenged Legislation so that the Board can regain and retain control over the Department for which it has general superintending responsibility, as the potential harm to inmates, staff, and the community at large far outweighs any interest in the continued enforcement of allegedly unconstitutional legislation like Acts 185 and Sections 79 and 89 of Act 659. This harm cannot be adequately compensated by money damages or redressed in a court of law. It is clear to this Court that this dispute will be ongoing until this matter is fully determined. Therefore, this Court deems it appropriate to keep the injunction in place until such time this matter is resolved.

32. The Court grants Plaintiffs' Motion for Preliminary Injunction. Therefore, the Challenged Legislation—sections 25-43-403(a)(2)(a), 12-27-107(c), and 12-27-126(c) of the Arkansas Code—shall remain enjoined.

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33. The Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections shall continue serving at the pleasure of and reporting directly to the Board of Corrections.

34. This preliminary injunction applies to Defendants, their officers, agents, servants, employees, attorneys, and other persons who are in active concert or participation with Defendants and Defendants' officers, agents, servants, employees, and attorneys, until the final hearing.

35. No security is required for this preliminary injunction pursuant to Rule 65(c) of the Arkansas Rules of Civil Procedure.

IT IS SO ORDERED.



THE HONORABLE PATRICIA A. JAMES

DATE: 1/19/24

Chad Brown (DOC)

From: Shari Gray (DOC) *
Sent: Wednesday, March 6, 2024 3:51 PM
To: Chad Brown (DOC)
Subject: Contract 3.6.24 BOC-24-01
Attachments: 3558_001.pdf

Chad,

Attached is signed contract.

Shari Gray
Arkansas Board of Corrections
P. O. Box 20550
White Hall, AR 71612
Shari.Gray@arkansas.gov
870-267-6754 / Fax 870-267-6756

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**STATE OF ARKANSAS
SERVICES CONTRACT**

Contract #	4600054260	Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input type="checkbox"/>	Procurement Method	Emergency / Exempt from Law

The Board of Corrections of the

1. **Contracting Parties** - State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	9903 - Department of Corrections / Board of Corrections		
Division	Not Applicable		

Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters within the ambit of Ark. Code Ann. 25-16-711, as voted on and approved by the Board of Corrections on December 8, December 14, and December 22, 2023. Contractor's engagement agreement dated December 22, 2023 is incorporated herein by reference. By signing this document, neither the Board of Corrections nor Contractor admit that the procurement process advanced by the Department of Corrections is correct or applicable, and they retain and reserve all defenses relating to the applicable process through which to secure representation under Ark. Code Ann. 25-16-711 or other applicable law. In the interest of cooperation, however, and to facilitate the payment of Contractor's outstanding and prospective invoices, Contractor and the Board of Corrections supply the information requested herein in good faith. The term of this agreement is difficult to anticipate due to the nature of pending litigation, as is the total contract amount; however, the information supplied is based on Contractor's best estimate at this time.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

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The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024 (mm/dd/yyyy).

4. Contractor's Performance Obligations. Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will continue representing the Board of Corrections in litigation and on appeal, taking all legal action necessary to protect and preserve the Board's interests under Amendment 33, pursuant to Ark. Code Ann. 25-16-711. Specifically, Contractor will defend the Board of Corrections in a lawsuit and appeal filed by the Attorney General against the Board and its chair, and Contractor will prosecute the Board and chair's Amendment 33 claims, and represent them as Appellees in the appeal filed by the Attorney General on behalf of the Governor, Department of Corrections, and Secretary of Corrections. Contractor's December 22, 2023 engagement agreement, which was executed by the Board, is incorporated herein by reference, as well as the January 2024 Order from Judge Patricia James.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. Department's Payment Obligations. Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Pursuant to Ark. Code Ann. 25-16-711, Contractor will present itemized invoices monthly for ongoing payment of legal services rendered, with hourly rates of \$200 for paralegals, \$240 for associates, and \$285 for partners. Payment shall be due within 10 days from receipt of an invoice. Contractor shall be reimbursed all expenses incurred in the representation. Contractor's December 22, 2023 engagement agreement and the January 2024 Order of Judge Patricia James are incorporated by reference. The Board of Corrections's litigation liaison shall be solely responsible for determining whether Contractor's performance is satisfactory, and the litigation liaison shall be responsible for authorizing payment under this Agreement.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

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reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 207,000.00 (Initial Contract Amount).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 207,000.00 (Total Projected Contract Amount).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

Board of Corrections

This provision shall not be construed to abridge any other right of termination the ~~agency~~ may have.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.

- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

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days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.

B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.

C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable Sovereign Immunity. Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract if applicable, shall be brought in the Arkansas State Claims Commission, if applicable.

10. Non-negotiable Intergovernmental/Cooperative Use. In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable Disclosure Required by Executive Order 98-04. Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. Compliance. The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

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Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq., if applicable.

13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265, if applicable.
16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
19. **Attachments.**
 1. Certification of Contractor
 2. Calculation of Compensation, as applicable;
 3. Source of Funds
 4. Objectives, Scope, and Performance Standards, as applicable; and
 5. Performance Details, as applicable
 6. Additional Attachments as applicable
 - A. Engagement Agreement Dated December 22, 2023
 - B. Contract & Grant Disclosure
 - C. January 2024 Order of Judge Patricia James
 - D. Outstanding Invoices in line for payment.

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Contract #: 4600054260

20. Notices.

A. Method of Notice. The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

B. Receipt of Notice. A notice given under this Contract will be effective on
i. the other party's receipt of it, or
ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

C. Issuance of Notice. All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

<u>Flora Johnson</u>	<u>Procurement Administrator</u>
Name	Title
<u>(870) 850-8502</u>	<u>Flora.Johnson@arkansas.gov</u>
Telephone#	Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

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21. **Technology Access.** If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. **SIGNATURES**

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Abtin Mehdizadegan

Benny Magness

Printed Name

Printed Name

Partner, Hall Booth Smith, P.C.

Chairman, Board of Corrections

Title

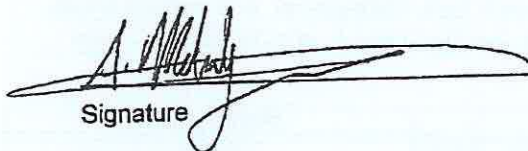
Title

200 River Market Avenue, Suite 500, Little Rock, AR 72201

1302 Pike Ave., North Little Rock, AR. 72114

Address

Address


Signature


Signature

3/6/2024
Date

3/6/2024
Date

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Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, Abtin Mehdizadegan, a Partner with the law firm of Hall Booth Smith, P.C.
 (Contractor) (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

HBS provides immigration services to a number of state governmental entities, including to UAMS and ADFA. Abtin Mehdizadegan does not have access to that information but can provide contact information for another representative. Abtin Mehdizadegan previously served as an adjunct professor at UA Bowen School of Law; however, he has discontinued that service. Abtin also served as special counsel to the Executive Subcommittee of the ALC/BLR in February 2023.

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None.")

Contractor is not personally engaged in a legal controversy with any state agency; however, Contractor serves as legal counsel for the Board of Corrections and its chair in the legal controversies described above. Contractor also represents the BioGen plaintiffs in a separate regulatory challenge involving the Department of Agriculture et al., and Contractor represents 2600 Holdings in an appeal in which the ABC and MMC are parties, though not currently participating.

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship
Abtin Mehdizadegan	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Partner
Joseph Kraska	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Joseph Stepina	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Julie Hill	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Lynsey Russell	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Paralegal

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CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

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Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Partner	1	\$285/hour	\$ 110,000.00
Associate	3	\$240/hour	\$ 75,000.00
Paralegal	1	\$200/hour	\$ 15,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
Filing fees and transcript costs	\$185 + \$.10/page	\$ 5,000.00
Service of process	\$300	\$ 1,500.00
Special collections research	\$0.50/page	\$ 500.00
TOTAL REIMBURSABLE EXPENSES		\$ 7,000.00

Total compensation inclusive of expense reimbursement: \$ 207,000.00

Annual Contract Amount: \$ 207,000.00

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount:

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Attachment #3
Source of Funds

Source of Funds the Department intends to draw on. This is provided for informational purposes only. It is required under Arkansas Procurement Law and is not a performance obligation of the Department or an unconditional promise to pay from the sources identified.

Fund Source	Identify Source of Funds *	Fund	Fund Center	Amount of Funding	% of Total Contract Cost
State Funds**	General Revenue	PAY9903	Z39	\$ 207,000.00	100 %
					%
					%
					%
					%
					%
TOTALS				\$ 207,000.00	100.00 %

Identify whether State general revenue funds (GRF), special revenue funds (SRF), federal funds (FED), or other public funds (Other) are the source. Identify each specific source of SRF, such as special taxes or fees, in the "Identify Source of Funds" column. Similarly, if Other public funds, such as tobacco funds, general improvement funds, etc., are being used to pay the Contractor, these should be specified in the "Identify Source of Funds" column.

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CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in submitting a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

FEDERAL ID NUMBER: _____ SUBCONTRACTOR NAME: N/A
 SOCIAL SECURITY NUMBER: _____ OR Yes No
 IS THIS FOR: Goods? Services? Both?
 TAXPAYER ID #: _____ TAXPAYER ID NAME: Hali Booth Smith, P.C.
 YOUR LAST NAME: Mehdizadegan FIRST NAME: Abtin M.I.: NA
 ADDRESS: 200 River Market Avenue CITY: Little Rock STATE: AR ZIP CODE: 72201 COUNTRY: USA

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held (Senator, representative, name of board/commission, data entry, etc.)	For How Long?		What is the person(s) name and how are they related to you? (i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.)	Relation
	Current	Former		From MM/Y	To MM/Y		
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons: current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing practices or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held (Senator, representative, name of board/commission, data entry, etc.)	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?	
	Current	Former		From MM/Y	To MM/Y	Person's Name(s)	Ownership Interest (%)
General Assembly							
Constitutional Officer							
State Board or Commission Member	X		Gov. Comm'n People with Disabilities	8/17	8/2013	Abtin Mehdizadegan	N/A Partner
State Employee	X		Adjunct Professor	8/17	12/23	Abtin Mehdizadegan	N/A Partner

None of the above applies See attached.

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Contract and Grant Disclosure and Certification Form

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.

2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.

3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature [Signature] Title Partner Date 3/6/2024

Vendor Contact Person Austin Mehdi Zadeegan Title Partner Phone No. Sol-529-1163

Agency use only
Agency Number _____

Agency Name _____ Contact Person _____ Phone No. _____ Contract _____ or Grant No. _____

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Supplement to Contract and Grant Disclosure and Certification Form

1. Abtin Mehdizadegan was an adjunct professor of employment law at the UA William H. Bowen School of Law from August 2018 until December 2023. From approximately 2013 through 2015, Abtin Mehdizadegan served on the Governor's Commission for People with Disabilities. Abtin Mehdizadegan is a partner with Hall Booth Smith, P.C. He is not on the management committee of the firm and does not have power to direct purchasing policies. As a partner, Abtin Mehdizadegan has some influence in the management of Hall Booth Smith, P.C.
2. Julie Hill and Joseph Kraska are associates of Hall Booth Smith, P.C. Julie Hill's father is a member of the General Assembly. Joseph Kraska is a member of the Arkansas Air Guard. Neither Julie Hill nor Joseph Kraska own any interest in Hall Booth Smith, P.C. or otherwise hold positions of control. This information is supplied in an abundance of caution for transparency purposes.

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DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

COMBINED CERTIFICATIONS FOR CONTRACTING WITH THE STATE OF ARKANSAS

Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

- 1. Israel Boycott Restriction:** For contracts valued at \$1,000 or greater.
A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.
- 2. Illegal Immigrant Restriction:** For contracts valued at \$25,000 or greater.
No state agency may contract for services with a Contractor who employs or contracts with an illegal immigrant. The Contractor shall certify that it does not employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.
- 3. Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction:** For contracts valued at \$75,000 or greater.
A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
- 4. Scrutinized Company Restriction:** Required with bid or proposal submission.
A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

By signing this form, the Contractor agrees and certifies they are not a Scrutinized Company and they do not currently and shall not for the aggregate term a resultant contract:

- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

Contract Number: 4600054260 Description: Professional Consultant Services

Agency Name: Board of Corrections

Vendor Number: 100249276 Vendor Name: Hall Booth Smith, P.C.

A. Smith
Vendor Signature

3/6/2024
Date

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Abtin Mehdizadegan
Phone: 501.503.4445
abtin@hallboothsmith.com

200 River Market Avenue
Suite 500
Little Rock, AR 72201

Office: 501.214.3499
Fax: 501.604.5566
www.hallboothsmith.com

Arkansas Board of Corrections
P.O. Box 20550
White Hall, AR 71612

RE: Engagement Letter for Legal Services and Supplement

This letter serves as a supplement to my engagement agreement for legal services, retroactive to December 8, 2023. Specifically, this letter will confirm that I have been retained as Special Counsel to the Arkansas Board of Corrections pursuant to Ark. Code Ann. § 25-16-711 to challenge certain legislation impacting the Board's power in light of the conflicting positions of the Attorney General regarding Amendment 33's application to the Board.

This letter will also confirm that I have been retained to take all legal action necessary to protect and preserve the Board's interests. Pursuant to that authority, on December 14, 2023, I filed a declaratory judgment lawsuit to challenge the legislation at issue, and on December 15, 2023, the Attorney General filed a lawsuit alleging violations of the Arkansas Freedom of Information Act in which the Attorney General sought to disqualify me from continued representation of the Board in the Amendment 33 lawsuit. In light of the exigent circumstances caused by the Attorney General's actions, and because the FOIA lawsuit, my representation as special counsel, and the pending Amendment 33 litigation are interrelated, I entered an appearance in the FOIA lawsuit pursuant to the December 14, 2023 motion authorizing me to take all necessary legal action. Based on the pleadings, arguments, and developments to-date, I believe the Board of Corrections and the Attorney General have another conflicting opinion regarding the application of a statute. In particular, the Attorney General has a different opinion regarding the application of Ark. Code Ann. § 25-16-711 as well as the Arkansas FOIA. This engagement agreement will serve as supplemental authority to file a counterclaim in the FOIA lawsuit to challenge Ark. Code Ann. § 25-16-702's application to the Board, and to further resolve the question of whether the Attorney General has standing to sue for alleged civil violations of the FOIA.

My standard hourly rate for government clients is currently \$285.00. Associates will bill at a rate of \$240.00 per hour; and paralegals will be billed at a rate of \$200.00 per hour. Our fees and costs will be billed monthly and are payable pursuant to the Board's extant policies. Time spent responding to FOIA requests will be billed at the same rates. Our invoices will be submitted monthly, and they will itemize the time expended on this matter and provide a description of services rendered. This engagement agreement specifically authorizes me to request the assistance of any associate or partner in my law firm at the rates set forth herein, including but not limited to Todd Wooten, Julie Hill,

LITTLE ROCK, AR

ALABAMA | ARKANSAS | COLORADO | FLORIDA | GEORGIA | MONTANA | NEW JERSEY | NEW YORK
NORTH CAROLINA | OKLAHOMA | SOUTH CAROLINA | TENNESSEE

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Joseph Kraska, Joseph Stepina, Allison Scott, and Garrett Bannister. Each invoice will also request reimbursement of any actual out-of-pocket disbursements expended by this Firm in connection with our representation. Except for filings or other exigencies, we will not incur third-party expenses in excess of \$500.00 without advance approval. Please note that our rates may increase next year as part of the Firm's standard processes. If rates increase on this matter, I will alert you of same.

As a client, you have the right at any time to terminate our services and representation upon written notice to the Firm. In the event of termination of representation, your file will be made available to you and will be retained and destroyed in accordance with our ethical obligations. Likewise, we reserve the right to withdraw from our representation if any fact or circumstance arises that would make our continuing representation unlawful or unethical. The above agreements will also apply to services rendered for such future matters that we mutually agree will be handled by the Firm.

Additional Terms

Restriction of Boycott of Israel. In accordance with Arkansas Code § 25-1-503, this Firm hereby certifies and agrees that it is not currently engaged in, and agrees for the duration of the Agreement not to engage in, a boycott of Israel.

Restriction of Boycotts of Certain Products. In accordance with Ark. Code Ann. § 25-1-1102, Hall Booth Smith, P.C. certifies that neither the law firm nor the attorneys assisting with this matter are currently engaged in, nor will become engaged in, any boycott of energy, fossil fuels, firearms, and ammunition industries.

Governing Law. This Agreement shall be governed by the laws of the State of Arkansas, without regard to Arkansas's conflict of law principles.

Thank you again for considering me for this engagement.

Sincerely,

HALL BOOTH SMITH, P.C.


Abtin Mehdizadegan

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ACCEPTANCE OF ENGAGEMENT AGREEMENT

By signing below, I represent that the Board of Corrections accepts the terms of this engagement agreement for legal services retroactive to December 8, 2023.

By: Benny Magness
Benny Magness, Chairman of the Board

12-22-23
Date

By: William "Dubs" Byers
William "Dubs" Byers, Secretary of the Board

12-22-23
Date

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ELECTRONICALLY FILED
Pulaski County Circuit Court
Terri Hollingsworth, Circuit/County Clerk
2024-Jan-19 10:59:04
60CV-23-9598
C06D11 : 8 Pages

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
ELEVENTH DIVISION

ARKANSAS BOARD OF CORRECTIONS; and
BENNY MAGNESS, in his official capacity as
CHAIRMAN OF THE ARKANSAS
BOARD OF CORRECTIONS

PLAINTIFFS

v. CASE NO. 60CV-23-9598

SARAH SANDERS, in her official capacity as
GOVERNOR OF ARKANSAS;
JOE PROFIRI, in his official capacity as
SECRETARY OF THE ARKANSAS
DEPARTMENT OF CORRECTIONS; and the
ARKANSAS DEPARTMENT OF CORRECTIONS

DEFENDANTS

ORDER

The Court, having held a hearing on this matter on January 4, 2024, considered the petition and motions presented, as well as the evidence and testimony presented, and the arguments regarding the same, makes the following findings:

1. This Court had jurisdiction over the parties and subject matter of this action.
2. On December 14, 2023, the Plaintiffs filed their Verified Complaint against the above-named Defendants seeking a declaratory judgment and injunctive relief relating to Acts 185 and 659 of 2023 (the "Challenged Legislation"), which the Plaintiffs allege violate Amendment 33 of the Arkansas Constitution.

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3. Subsequently, the Parties filed various motions, including the Defendants' Motion to Disqualify and Motion to Dismiss and Plaintiffs' Motion to Disqualify and Motion for Temporary Restraining Order or Alternatively Motion for Preliminary Injunction.

4. On December 15, 2023, the Court entered a temporary restraining order enjoining the Challenged Legislation and setting a hearing for December 28, 2023, pursuant to Rule 65 of the Arkansas Rules of Civil Procedure.

5. On December 28, 2023, Plaintiffs filed an Emergency Motion for Continuance and Extension of the temporary restraining order because Plaintiffs' lead counsel's wife went into labor. Because good cause was established, the Court granted Plaintiffs' Emergency Motion for Continuance and Extension and continued the temporary restraining order until January 4, 2024.

6. The Parties, through counsel, appeared at the January 4, 2024 hearing and presented argument, evidence, and testimony. Specifically, after the Parties' counsel delivered opening statements,¹ Plaintiffs presented testimony from Benny Magness, Chairman of the Board; Dr. William "Dubs" Byers, Secretary of the Board; Tommy James, Senior Auditor with the Compliance Division of the Board; and Jerry Bradshaw, who served as Director of the Division of Community Corrections until his voluntary retirement on December 31, 2023. Defendants called one witness: Mark Colbert, Compliance Attorney/Administrator for the Board of Corrections. After the Parties delivered closing arguments, the Court delivered the following bench rulings on the Parties' pending Motions:

¹ Defendants' counsel did not argue or address the merits of Plaintiffs' challenge during their opening statement or otherwise during closing arguments.

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Plaintiffs' Motion to Disqualify the Attorney General's Office

7. The Plaintiffs' Motion to Disqualify Attorney General's Office is denied.

8. Even though the Court acknowledges the unique position of the Attorney General's Office as the legal representative for the State of Arkansas, its agencies, officers, and other entities, and that the testimony presented is that the Attorney General's Office has represented Plaintiffs on numerous occasions, the Court is not inclined to disqualify the Attorney General's Office solely because the Attorney General's Office represents Plaintiffs in a pending federal class action.

9. Notwithstanding, the Attorney General's unique position does not exempt that Office from the Arkansas Rules of Professional Conduct. *Holloway v. Arkansas State Bd. of Architects*, 79 Ark. App. 200, 214, 86 S.W.3d 391, 400 (2002), *aff'd in part, rev'd in part*, 352 Ark. 427, 101 S.W.3d 805 (2003); ARK. R. PROF. COND. 1.7.

10. The Arkansas Rules of Professional Conduct apply to all attorneys licensed to practice in this State, including to the Attorney General and his staff.

11. The Court is particularly concerned about the participation in this lawsuit by Christine Cryer, who recently worked for the Department of Corrections, prior to being listed as counsel on this case. Ms. Cryer and Mr. Brascher filed entry of appearances and were signatories in several pleadings filed in this matter. Although, there is no testimony that Ms. Cryer did anything improper in this case, it is the appearance of impropriety that is concerning. Therefore, Ms. Cryer -- and also as an abundance of caution -- Mr. Justin Brascher shall not be allowed to participate in any aspect of this case in any manner.

12. Accordingly, the Court orders that Justin Brascher and Christine Cryer of the Attorney General's Office shall not participate in any aspect of this case.

13. The Attorney General's Office is directed to take all necessary measures to enforce this restriction.

**Defendants' Motion to Disqualify Abtin Mehdizadegan
and his Law Firm as Special Counsel**

14. Defendants' Motion to Disqualify Plaintiffs' counsel is denied. The Court finds Defendants' arguments in support of disqualification fail for several reasons.

15. The Board of Corrections was created by Amendment 33 of the Arkansas Constitution.

16. Section 1 of Amendment 33 specifically defines "the term of office of members of the boards or commissions charged with the management or control of all charitable, penal, or correctional institutions[.]" ARK. CONST. amend. XXXIII, § 1.

17. The Court's interpretation of Amendment 33 is quite clear: the Board of Corrections is a constitutionally created board, making the Board's members constitutional officers for purposes of section 25-16-711 of the Arkansas Code. Thus, contrary to the Defendants' arguments that section 25-16-702 applies, the Court finds that the Board of Corrections had the legal authority to hire special counsel pursuant to section 25-16-711 of the Arkansas Code because the Board is a constitutional board, its members are constitutional officers, and from the pleadings, argument, and testimony presented, it is clear that the Attorney General and the Board of Corrections disagree about the proper interpretation of Amendment 33, section 25-16-702, and section 25-16-711.

18. Therefore, Defendants' Motion to Disqualify special counsel is denied.

Defendants' Motion to Dismiss

19. Defendants' Motion to Dismiss is denied.

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20. Defendants argued that Plaintiffs lack standing to bring this lawsuit because they are not “persons” as defined by the Declaratory Judgment Act. See ARK. CODE ANN. § 16-111-101 *et seq.* This argument fails.

21. Based on the previous rulings by the Arkansas Supreme Court considering whether other government entities or officers are “persons,” the Court finds that Plaintiffs have standing as “persons” under the Declaratory Judgment Act as defined by Act 274 of 1953. See *Brown v. State*, 2017 Ark. 232, 522 S.W.3d 791; *Valley v. Bogard*, 342 Ark. 336, 342–43, 28 S.W.3d 269, 272–73 (2000) (abrogated in part by *State v. Jernigan*, 2011 Ark. 487, 385 S.W.3d 776); *Vibo Corp. v. State ex rel. McDaniel*, 2011 Ark. 124, 380 S.W.3d 411.

22. Plaintiffs have standing to pursue a declaratory judgment finding that the Challenged Legislation is unconstitutional.

23. Consequently, Defendants' Motion to Dismiss is denied.

Plaintiffs' Motion for Preliminary Injunction

24. Having determined that Plaintiffs have the legal authority to hire outside counsel and that they have standing under the Declaratory Judgment Act, the Court considered Plaintiffs' Motion for a Preliminary Injunction.

25. Pursuant to Rule 65 of the Arkansas Rules of Civil Procedure, the Court finds that Plaintiffs satisfied their burden of proving irreparable harm if the preliminary injunction is not granted and the likelihood of success on the merits. See *Ark. Dep't of Educ. v. Jackson*, 2023 Ark. 105, 7, 669 S.W.3d 1, 6; *Ark. Dep't of Hum Servs. v. Ledgerwood*, 2017 Ark. 308, 9, 530 S.W.3d 336, 343.

26. Plaintiffs identified irreparable harm in the absence of an injunction for several reasons.

27. First, the evidence and testimony presented established that the Secretary of Corrections exhibited insubordination towards the Board of Corrections by, among other things, opening prison beds without the Board's approval. Further, even after the Board voted to place him on leave with pay status on December 14, 2023, Secretary Profiri refused to recognize the Board's authority and announced his intention to remain working. Secretary Profiri even refused to take physical possession of the letter notifying him that he was placed on leave with pay. The irreparable harm is directly attributable to Act 185 of 2023, which purportedly required the Secretary of Corrections to serve at the pleasure of the Governor.

28. Second, irreparable harm was also demonstrated by the Governor's multiple statements indicating that Secretary Profiri would continue serving in that capacity even after he was placed on leave. Placing Secretary Profiri on leave with pay did not resolve the irreparable harm Plaintiffs articulated. The evidence presented was that an inmate took his own life on December 15, 2023 and that, due to inadequate staffing, he was not found for at least one hour. At the time of death, there were three corrections officers performing the work of five corrections officers.

29. Third, irreparable harm was also demonstrated by Plaintiffs' witnesses who identified the uncertainty presented by the Challenged Legislation as it relates to the performance of their constitutional and statutory duties to manage the Department of Corrections and its Divisions. Fundamentally, Plaintiffs established that the Challenged Legislation interferes with the exercise of their constitutional rights to manage and control the Department of Corrections, and that showing supports a finding of clear and present need for equitable relief to prevent irreparable constitutional injury under

Amendment 33. Sections 12-27-107(c) and 12-27-126(c), for instance, as amended, were to become effective as of January 1, 2024.

30. Plaintiffs likewise demonstrated a likelihood of success on the merits because the Challenged Legislation diminished the powers vested in the Board of Corrections by Amendment 33. The Board has historically supervised the Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections. Those Department leaders implement the Board's substantive policy decisions. If the Board is statutorily precluded from directly supervising those positions, then—as demonstrated by this litigation—the Board cannot effectively perform its constitutional mandate to independently manage the affairs of the Department of Corrections.

31. The balance of equities weighs heavily in favor of enjoining the Challenged Legislation so that the Board can regain and retain control over the Department for which it has general superintending responsibility, as the potential harm to inmates, staff, and the community at large far outweighs any interest in the continued enforcement of allegedly unconstitutional legislation like Acts 185 and Sections 79 and 89 of Act 659. This harm cannot be adequately compensated by money damages or redressed in a court of law. It is clear to this Court that this dispute will be ongoing until this matter is fully determined. Therefore, this Court deems it appropriate to keep the injunction in place until such time this matter is resolved.

32. The Court grants Plaintiffs' Motion for Preliminary Injunction. Therefore, the Challenged Legislation—sections 25-43-403(a)(2)(a), 12-27-107(c), and 12-27-126(c) of the Arkansas Code—shall remain enjoined.

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33. The Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections shall continue serving at the pleasure of and reporting directly to the Board of Corrections.

34. This preliminary injunction applies to Defendants, their officers, agents, servants, employees, attorneys, and other persons who are in active concert or participation with Defendants and Defendants' officers, agents, servants, employees, and attorneys, until the final hearing.

35. No security is required for this preliminary injunction pursuant to Rule 65(c) of the Arkansas Rules of Civil Procedure.

IT IS SO ORDERED.



THE HONORABLE PATRICIA A. JAMES

DATE: 1/19/24

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Chad Brown (DOC)

From: Chad Brown (DOC)
Sent: Wednesday, March 6, 2024 3:52 PM
To: Heather Bailey (DOC)
Subject: FW: Contract 3.6.24 BOC-24-01
Attachments: 3558_001.pdf



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

FIND US HERE:

[Website](#) – [Facebook](#) – [Twitter](#) – [Instagram](#) – [LinkedIn](#)

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From: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Sent: Wednesday, March 6, 2024 3:51 PM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: Contract 3.6.24 BOC-24-01

Chad,

Attached is signed contract.

Shari Gray
Arkansas Board of Corrections
P. O. Box 20550
White Hall, AR 71612
Shari.Gray@arkansas.gov
870-267-6754 / Fax 870-267-6756

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**STATE OF ARKANSAS
SERVICES CONTRACT**

Contract #	4600054260	Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input type="checkbox"/>	Procurement Method	Emergency / Exempt from Law

The Board of Corrections of the

1. **Contracting Parties** - State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	9903 - Department of Corrections / Board of Corrections
Division	Not Applicable

Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters within the ambit of Ark. Code Ann. 25-16-711, as voted on and approved by the Board of Corrections on December 8, December 14, and December 22, 2023. Contractor's engagement agreement dated December 22, 2023 is incorporated herein by reference. By signing this document, neither the Board of Corrections nor Contractor admit that the procurement process advanced by the Department of Corrections is correct or applicable, and they retain and reserve all defenses relating to the applicable process through which to secure representation under Ark. Code Ann. 25-16-711 or other applicable law. In the interest of cooperation, however, and to facilitate the payment of Contractor's outstanding and prospective invoices, Contractor and the Board of Corrections supply the information requested herein in good faith. The term of this agreement is difficult to anticipate due to the nature of pending litigation, as is the total contract amount; however, the information supplied is based on Contractor's best estimate at this time.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

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The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024 (mm/dd/yyyy).

4. **Contractor's Performance Obligations.** Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will continue representing the Board of Corrections in litigation and on appeal, taking all legal action necessary to protect and preserve the Board's interests under Amendment 33, pursuant to Ark. Code Ann. 25-16-711. Specifically, Contractor will defend the Board of Corrections in a lawsuit and appeal filed by the Attorney General against the Board and its chair, and Contractor will prosecute the Board and chair's Amendment 33 claims, and represent them as Appellees in the appeal filed by the Attorney General on behalf of the Governor, Department of Corrections, and Secretary of Corrections. Contractor's December 22, 2023 engagement agreement, which was executed by the Board, is incorporated herein by reference, as well as the January 2024 Order from Judge Patricia James.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. **Department's Payment Obligations.** Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Pursuant to Ark. Code Ann. 25-16-711, Contractor will present itemized invoices monthly for ongoing payment of legal services rendered, with hourly rates of \$200 for paralegals, \$240 for associates, and \$285 for partners. Payment shall be due within 10 days from receipt of an invoice. Contractor shall be reimbursed all expenses incurred in the representation. Contractor's December 22, 2023 engagement agreement and the January 2024 Order of Judge Patricia James are incorporated by reference. The Board of Corrections's litigation liaison shall be solely responsible for determining whether Contractor's performance is satisfactory, and the litigation liaison shall be responsible for authorizing payment under this Agreement.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

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reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 207,000.00 (Initial Contract Amount).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 207,000.00 (Total Projected Contract Amount).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

Board of Corrections

This provision shall not be construed to abridge any other right of termination the ~~agency~~ ^{Board of Corrections} may have.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.
- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.

B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.

C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable Sovereign Immunity. Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract if applicable, shall be brought in the Arkansas State Claims Commission, if applicable.

10. Non-negotiable Intergovernmental/Cooperative Use. In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable Disclosure Required by Executive Order 98-04. Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. Compliance. The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq., if applicable.

13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265, if applicable.
16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
19. **Attachments.**
 1. Certification of Contractor
 2. Calculation of Compensation, as applicable;
 3. Source of Funds
 4. Objectives, Scope, and Performance Standards, as applicable; and
 5. Performance Details, as applicable
 6. Additional Attachments as applicable
 - A. Engagement Agreement Dated December 22, 2023
 - B. Contract & Grant Disclosure
 - C. January 2024 Order of Judge Patricia James
 - D. Outstanding Invoices in line for payment.

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20. Notices.

A. Method of Notice. The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

B. Receipt of Notice. A notice given under this Contract will be effective on
i. the other party's receipt of it, or
ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

C. Issuance of Notice. All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

<u>Flora Johnson</u>	<u>Procurement Administrator</u>
Name	Title
<u>(870) 850-8502</u>	<u>Flora.Johnson@arkansas.gov</u>
Telephone#	Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

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21. **Technology Access.** If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. **SIGNATURES**

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Abtin Mehdizadegan _____

Benny Magness _____

Printed Name

Printed Name

Partner, Hall Booth Smith, P.C. _____

Chairman, Board of Corrections _____

Title


Title

200 River Market Avenue, Suite 500, Little Rock, AR 72114
_____ 72201

1302 Pike Ave., North Little Rock, AR. 72114

Address

Address


Signature


Signature

3/6/2024

3/6/2024

Date

Date

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Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, Abtin Mehdizadegan, a Partner with the law firm of Hall Booth Smith, P.C.
 (Contractor) (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

HBS provides immigration services to a number of state governmental entities, including to UAMS and ADFA. Abtin Mehdizadegan does not have access to that information but can provide contact information for another representative. Abtin Mehdizadegan previously served as an adjunct professor at UA Bowen School of Law; however, he has discontinued that service. Abtin also served as special counsel to the Executive Subcommittee of the ALC/BLR in February 2023.

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None."

Contractor is not personally engaged in a legal controversy with any state agency; however, Contractor serves as legal counsel for the Board of Corrections and its chair in the legal controversies described above. Contractor also represents the BioGen plaintiffs in a separate regulatory challenge involving the Department of Agriculture et al., and Contractor represents 2600 Holdings in an appeal in which the ABC and MMC are parties, though not currently participating.

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship
Abtin Mehdizadegan	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Partner
Joseph Kraska	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Joseph Stepina	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Julie Hill	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Lynsey Russell	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Paralegal

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CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

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Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Partner	1	\$285/hour	\$ 110,000.00
Associate	3	\$240/hour	\$ 75,000.00
Paralegal	1	\$200/hour	\$ 15,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
Filing fees and transcript costs	\$185 + \$0.10/page	\$ 5,000.00
Service of process	\$300	\$ 1,500.00
Special collections research	\$0.50/page	\$ 500.00
TOTAL REIMBURSABLE EXPENSES		\$ 7,000.00

Total compensation inclusive of expense reimbursement: \$ 207,000.00

Annual Contract Amount: \$ 207,000.00

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount:

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**Attachment #3
Source of Funds**

Source of Funds the Department intends to draw on. This is provided for informational purposes only. It is required under Arkansas Procurement Law and is not a performance obligation of the Department or an unconditional promise to pay from the sources identified.

Fund Source	Identify Source of Funds *	Fund	Fund Center	Amount of Funding	% of Total Contract Cost
State Funds**	General Revenue	PAY9903	Z39	\$ 207,000.00	100 %
					%
					%
					%
					%
					%
			TOTALS	\$ 207,000.00	100.00 %

Identify whether State general revenue funds (GRF), special revenue funds (SRF), federal funds (FED), or other public funds (Other) are the source. Identify each specific source of SRF, such as special taxes or fees, in the "Identify Source of Funds" column. Similarly, if Other public funds, such as tobacco funds, general improvement funds, etc., are being used to pay the Contractor, these should be specified in the "Identify Source of Funds" column.

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CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SOCIAL SECURITY NUMBER: _____ OR _____ SUBCONTRACTOR NAME: _____
 FEDERAL ID NUMBER: 58-1652659 SUBCONTRACTOR: N/A

TAXPAYER ID # _____ IS THIS FOR: Goods? Services? Both?

TAXPAYER ID NAME: Hall Booth Smith, P.C. FIRST NAME: Abtin M.L.I: NA

YOUR LAST NAME: Mehdizadegan STATE: AR ZIP CODE: 72201 COUNTRY: USA

ADDRESS: 200 River Market Avenue

CITY: Little Rock

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (x)		Name of Position of Job Held <small>(Senator, representative, name of board/ commission, data entry, etc.)</small>	For How Long?		What is the person(s) name and how are they related to you? <small>(i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.)</small>	Relation
	Current	Former		From <small>(MM/YY)</small>	To <small>(MM/YY)</small>		
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons; current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (x)		Name of Position of Job Held <small>(Senator, representative, name of board/ commission, data entry, etc.)</small>	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/ or what is his/her position of control?	Ownership Interest (%)	Position of Control
	Current	Former		From <small>(MM/YY)</small>	To <small>(MM/YY)</small>			
General Assembly								
Constitutional Officer								
State Board or Commission Member	X		Gov. Comm'n People with Disabilities	s/2013	s/2016	Abtin Mehdizadegan	N/A	Partner
State Employee	X		Adjunct Professor	8/17	12/23	Abtin Mehdizadegan	N/A	Partner

None of the above applies See attached.

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Contract and Grant Disclosure and Certification Form


Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.
2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.
3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature  Title Partner Date 3/6/2024
Vendor Contact Person Abtin Mehdi-zadeh Title Partner Phone No. 501-529-1163

Agency use only
Agency Number _____ Agency Name _____ Agency Contact Person _____ Agency Contact _____ Agency Contract _____
Phone No. _____ or Grant No. _____

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Supplement to Contract and Grant Disclosure and Certification Form

1. Abtin Mehdizadegan was an adjunct professor of employment law at the UA William H. Bowen School of Law from August 2018 until December 2023. From approximately 2013 through 2015, Abtin Mehdizadegan served on the Governor's Commission for People with Disabilities. Abtin Mehdizadegan is a partner with Hall Booth Smith, P.C. He is not on the management committee of the firm and does not have power to direct purchasing policies. As a partner, Abtin Mehdizadegan has some influence in the management of Hall Booth Smith, P.C.
2. Julie Hill and Joseph Kraska are associates of Hall Booth Smith, P.C. Julie Hill's father is a member of the General Assembly. Joseph Kraska is a member of the Arkansas Air Guard. Neither Julie Hill nor Joseph Kraska own any interest in Hall Booth Smith, P.C. or otherwise hold positions of control. This information is supplied in an abundance of caution for transparency purposes.

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DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

COMBINED CERTIFICATIONS FOR CONTRACTING WITH THE STATE OF ARKANSAS

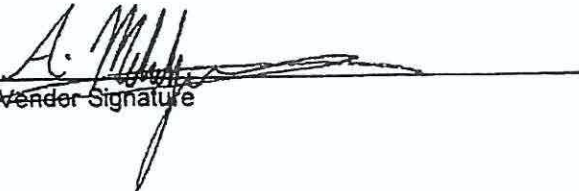
Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

- 1. Israel Boycott Restriction:** For contracts valued at \$1,000 or greater.
A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.
- 2. Illegal Immigrant Restriction:** For contracts valued at \$25,000 or greater.
No state agency may contract for services with a Contractor who employs or contracts with an illegal immigrant. The Contractor shall certify that it does not employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.
- 3. Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction:** For contracts valued at \$75,000 or greater.
A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
- 4. Scrutinized Company Restriction:** Required with bid or proposal submission.
A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

By signing this form, the Contractor agrees and certifies they are not a Scrutinized Company and they do not currently and shall not for the aggregate term a resultant contract:

- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

Contract Number: 4600054260 Description: Professional Consultant Services
 Agency Name: Board of Corrections
 Vendor Number: 100249276 Vendor Name: Hall Booth Smith, P.C.


 Vendor Signature

3/6/2024
 Date

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HALL BOOTH SMITH
ATTORNEYS AT LAW

Astia Mehdizadegan
Phone: 501.503.4445
astia@hallboothsmith.com

200 River Market Avenue
Suite 500
Little Rock, AR 72201

Office: 501.214.3499
Fax: 501.604.5566
www.hallboothsmith.com

Arkansas Board of Corrections
P.O. Box 20550
White Hall, AR 71612

RE: Engagement Letter for Legal Services and Supplement

This letter serves as a supplement to my engagement agreement for legal services, retroactive to December 8, 2023. Specifically, this letter will confirm that I have been retained as Special Counsel to the Arkansas Board of Corrections pursuant to Ark. Code Ann. § 25-16-711 to challenge certain legislation impacting the Board's power in light of the conflicting positions of the Attorney General regarding Amendment 33's application to the Board.

This letter will also confirm that I have been retained to take all legal action necessary to protect and preserve the Board's interests. Pursuant to that authority, on December 14, 2023, I filed a declaratory judgment lawsuit to challenge the legislation at issue, and on December 15, 2023, the Attorney General filed a lawsuit alleging violations of the Arkansas Freedom of Information Act in which the Attorney General sought to disqualify me from continued representation of the Board in the Amendment 33 lawsuit. In light of the exigent circumstances caused by the Attorney General's actions, and because the FOIA lawsuit, my representation as special counsel, and the pending Amendment 33 litigation are interrelated, I entered an appearance in the FOIA lawsuit pursuant to the December 14, 2023 motion authorizing me to take all necessary legal action. Based on the pleadings, arguments, and developments to-date, I believe the Board of Corrections and the Attorney General have another conflicting opinion regarding the application of a statute. In particular, the Attorney General has a different opinion regarding the application of Ark. Code Ann. § 25-16-711 as well as the Arkansas FOIA. This engagement agreement will serve as supplemental authority to file a counterclaim in the FOIA lawsuit to challenge Ark. Code Ann. § 25-16-702's application to the Board, and to further resolve the question of whether the Attorney General has standing to sue for alleged civil violations of the FOIA.

My standard hourly rate for government clients is currently \$285.00. Associates will bill at a rate of \$240.00 per hour; and paralegals will be billed at a rate of \$200.00 per hour. Our fees and costs will be billed monthly and are payable pursuant to the Board's extant policies. Time spent responding to FOIA requests will be billed at the same rates. Our invoices will be submitted monthly, and they will itemize the time expended on this matter and provide a description of services rendered. This engagement agreement specifically authorizes me to request the assistance of any associate or partner in my law firm at the rates set forth herein, including but not limited to Todd Wooten, Julie Hill,

LITTLE ROCK, AR

ALABAMA | ARKANSAS | COLORADO | FLORIDA | GEORGIA | MONTANA | NEW JERSEY | NEW YORK
NORTH CAROLINA | OKLAHOMA | SOUTH CAROLINA | TENNESSEE

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Joseph Kraska, Joseph Stepina, Allison Scott, and Garrett Bannister. Each invoice will also request reimbursement of any actual out-of-pocket disbursements expended by this Firm in connection with our representation. Except for filings or other exigencies, we will not incur third-party expenses in excess of \$500.00 without advance approval. Please note that our rates may increase next year as part of the Firm's standard processes. If rates increase on this matter, I will alert you of same.

As a client, you have the right at any time to terminate our services and representation upon written notice to the Firm. In the event of termination of representation, your file will be made available to you and will be retained and destroyed in accordance with our ethical obligations. Likewise, we reserve the right to withdraw from our representation if any fact or circumstance arises that would make our continuing representation unlawful or unethical. The above agreements will also apply to services rendered for such future matters that we mutually agree will be handled by the Firm.

Additional Terms

Restriction of Boycott of Israel. In accordance with Arkansas Code § 25-1-503, this Firm hereby certifies and agrees that it is not currently engaged in, and agrees for the duration of the Agreement not to engage in, a boycott of Israel.

Restriction of Boycotts of Certain Products. In accordance with Ark. Code Ann. § 25-1-1102, Hall Booth Smith, P.C. certifies that neither the law firm nor the attorneys assisting with this matter are currently engaged in, nor will become engaged in, any boycott of energy, fossil fuels, firearms, and ammunition industries.

Governing Law. This Agreement shall be governed by the laws of the State of Arkansas, without regard to Arkansas's conflict of law principles.

Thank you again for considering me for this engagement.

Sincerely,

HALL BOOTH SMITH, P.C.


Abtin Mehdizadegan

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ACCEPTANCE OF ENGAGEMENT AGREEMENT

By signing below, I represent that the Board of Corrections accepts the terms of this engagement agreement for legal services retroactive to December 8, 2023.

By: Benny Magness
Benny Magness, Chairman of the Board

12-22-23
Date

By: William Byers
William "Dubs" Byers, Secretary of the Board

12-22-23
Date

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ELECTRONICALLY FILED
Pulaski County Circuit Court
Terri Hollingsworth, Circuit/County Clerk
2024-Jan-19 10:59:04
60CV-23-9598
C06D11 : 8 Pages

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
ELEVENTH DIVISION

ARKANSAS BOARD OF CORRECTIONS; and
BENNY MAGNESS, in his official capacity as
CHAIRMAN OF THE ARKANSAS
BOARD OF CORRECTIONS

PLAINTIFFS

v. CASE NO. 60CV-23-9598

SARAH SANDERS, in her official capacity as
GOVERNOR OF ARKANSAS;
JOE PROFIRI, in his official capacity as
SECRETARY OF THE ARKANSAS
DEPARTMENT OF CORRECTIONS; and the
ARKANSAS DEPARTMENT OF CORRECTIONS

DEFENDANTS

ORDER

The Court, having held a hearing on this matter on January 4, 2024, considered the petition and motions presented, as well as the evidence and testimony presented, and the arguments regarding the same, makes the following findings:

1. This Court had jurisdiction over the parties and subject matter of this action.
2. On December 14, 2023, the Plaintiffs filed their Verified Complaint against the above-named Defendants seeking a declaratory judgment and injunctive relief relating to Acts 185 and 659 of 2023 (the "Challenged Legislation"), which the Plaintiffs allege violate Amendment 33 of the Arkansas Constitution.

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3. Subsequently, the Parties filed various motions, including the Defendants' Motion to Disqualify and Motion to Dismiss and Plaintiffs' Motion to Disqualify and Motion for Temporary Restraining Order or Alternatively Motion for Preliminary Injunction.

4. On December 15, 2023, the Court entered a temporary restraining order enjoining the Challenged Legislation and setting a hearing for December 28, 2023, pursuant to Rule 65 of the Arkansas Rules of Civil Procedure.

5. On December 28, 2023, Plaintiffs filed an Emergency Motion for Continuance and Extension of the temporary restraining order because Plaintiffs' lead counsel's wife went into labor. Because good cause was established, the Court granted Plaintiffs' Emergency Motion for Continuance and Extension and continued the temporary restraining order until January 4, 2024.

6. The Parties, through counsel, appeared at the January 4, 2024 hearing and presented argument, evidence, and testimony. Specifically, after the Parties' counsel delivered opening statements,¹ Plaintiffs presented testimony from Benny Magness, Chairman of the Board; Dr. William "Dubs" Byers, Secretary of the Board; Tommy James, Senior Auditor with the Compliance Division of the Board; and Jerry Bradshaw, who served as Director of the Division of Community Corrections until his voluntary retirement on December 31, 2023. Defendants called one witness: Mark Colbert, Compliance Attorney/Administrator for the Board of Corrections. After the Parties delivered closing arguments, the Court delivered the following bench rulings on the Parties' pending Motions:

¹ Defendants' counsel did not argue or address the merits of Plaintiffs' challenge during their opening statement or otherwise during closing arguments.

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Plaintiffs' Motion to Disqualify the Attorney General's Office

7. The Plaintiffs' Motion to Disqualify Attorney General's Office is denied.

8. Even though the Court acknowledges the unique position of the Attorney General's Office as the legal representative for the State of Arkansas, its agencies, officers, and other entities, and that the testimony presented is that the Attorney General's Office has represented Plaintiffs on numerous occasions, the Court is not inclined to disqualify the Attorney General's Office solely because the Attorney General's Office represents Plaintiffs in a pending federal class action.

9. Notwithstanding, the Attorney General's unique position does not exempt that Office from the Arkansas Rules of Professional Conduct. *Holloway v. Arkansas State Bd. of Architects*, 79 Ark. App. 200, 214, 86 S.W.3d 391, 400 (2002), *aff'd in part, rev'd in part*, 352 Ark. 427, 101 S.W.3d 805 (2003); ARK. R. PROF. COND. 1.7.

10. The Arkansas Rules of Professional Conduct apply to all attorneys licensed to practice in this State, including to the Attorney General and his staff.

11. The Court is particularly concerned about the participation in this lawsuit by Christine Cryer, who recently worked for the Department of Corrections, prior to being listed as counsel on this case. Ms. Cryer and Mr. Brascher filed entry of appearances and were signatories in several pleadings filed in this matter. Although, there is no testimony that Ms. Cryer did anything improper in this case, it is the appearance of impropriety that is concerning. Therefore, Ms. Cryer -- and also as an abundance of caution -- Mr. Justin Brascher shall not be allowed to participate in any aspect of this case in any manner.

12. Accordingly, the Court orders that Justin Brascher and Christine Cryer of the Attorney General's Office shall not participate in any aspect of this case.

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13. The Attorney General's Office is directed to take all necessary measures to enforce this restriction.

**Defendants' Motion to Disqualify Abtin Mehdizadegan
and his Law Firm as Special Counsel**

14. Defendants' Motion to Disqualify Plaintiffs' counsel is denied. The Court finds Defendants' arguments in support of disqualification fail for several reasons.

15. The Board of Corrections was created by Amendment 33 of the Arkansas Constitution.

16. Section 1 of Amendment 33 specifically defines "the term of office of members of the boards or commissions charged with the management or control of all charitable, penal, or correctional institutions[.]" ARK. CONST. amend. XXXIII, § 1.

17. The Court's interpretation of Amendment 33 is quite clear: the Board of Corrections is a constitutionally created board, making the Board's members constitutional officers for purposes of section 25-16-711 of the Arkansas Code. Thus, contrary to the Defendants' arguments that section 25-16-702 applies, the Court finds that the Board of Corrections had the legal authority to hire special counsel pursuant to section 25-16-711 of the Arkansas Code because the Board is a constitutional board, its members are constitutional officers, and from the pleadings, argument, and testimony presented, it is clear that the Attorney General and the Board of Corrections disagree about the proper interpretation of Amendment 33, section 25-16-702, and section 25-16-711.

18. Therefore, Defendants' Motion to Disqualify special counsel is denied.

Defendants' Motion to Dismiss

19. Defendants' Motion to Dismiss is denied.

20. Defendants argued that Plaintiffs lack standing to bring this lawsuit because they are not “persons” as defined by the Declaratory Judgment Act. *See* ARK. CODE ANN. § 16-111-101 *et seq.* This argument fails.

21. Based on the previous rulings by the Arkansas Supreme Court considering whether other government entities or officers are “persons,” the Court finds that Plaintiffs have standing as “persons” under the Declaratory Judgment Act as defined by Act 274 of 1953. *See Brown v. State*, 2017 Ark. 232, 522 S.W.3d 791; *Valley v. Bogard*, 342 Ark. 336, 342–43, 28 S.W.3d 269, 272–73 (2000) (abrogated in part by *State v. Jernigan*, 2011 Ark. 487, 385 S.W.3d 776); *Vibo Corp. v. State ex rel. McDaniel*, 2011 Ark. 124, 380 S.W.3d 411.

22. Plaintiffs have standing to pursue a declaratory judgment finding that the Challenged Legislation is unconstitutional.

23. Consequently, Defendants' Motion to Dismiss is denied.

Plaintiffs' Motion for Preliminary Injunction

24. Having determined that Plaintiffs have the legal authority to hire outside counsel and that they have standing under the Declaratory Judgment Act, the Court considered Plaintiffs' Motion for a Preliminary Injunction.

25. Pursuant to Rule 65 of the Arkansas Rules of Civil Procedure, the Court finds that Plaintiffs satisfied their burden of proving irreparable harm if the preliminary injunction is not granted and the likelihood of success on the merits. *See Ark. Dep't of Educ. v. Jackson*, 2023 Ark. 105, 7, 669 S.W.3d 1, 6; *Ark. Dep't of Hum Servs. v. Ledgerwood*, 2017 Ark. 308, 9, 530 S.W.3d 336, 343.

26. Plaintiffs identified irreparable harm in the absence of an injunction for several reasons.

27. First, the evidence and testimony presented established that the Secretary of Corrections exhibited insubordination towards the Board of Corrections by, among other things, opening prison beds without the Board's approval. Further, even after the Board voted to place him on leave with pay status on December 14, 2023, Secretary Profiri refused to recognize the Board's authority and announced his intention to remain working. Secretary Profiri even refused to take physical possession of the letter notifying him that he was placed on leave with pay. The irreparable harm is directly attributable to Act 185 of 2023, which purportedly required the Secretary of Corrections to serve at the pleasure of the Governor.

28. Second, irreparable harm was also demonstrated by the Governor's multiple statements indicating that Secretary Profiri would continue serving in that capacity even after he was placed on leave. Placing Secretary Profiri on leave with pay did not resolve the irreparable harm Plaintiffs articulated. The evidence presented was that an inmate took his own life on December 15, 2023 and that, due to inadequate staffing, he was not found for at least one hour. At the time of death, there were three corrections officers performing the work of five corrections officers.

29. Third, irreparable harm was also demonstrated by Plaintiffs' witnesses who identified the uncertainty presented by the Challenged Legislation as it relates to the performance of their constitutional and statutory duties to manage the Department of Corrections and its Divisions. Fundamentally, Plaintiffs established that the Challenged Legislation interferes with the exercise of their constitutional rights to manage and control the Department of Corrections, and that showing supports a finding of clear and present need for equitable relief to prevent irreparable constitutional injury under

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Amendment 33. Sections 12-27-107(c) and 12-27-126(c), for instance, as amended, were to become effective as of January 1, 2024.

30. Plaintiffs likewise demonstrated a likelihood of success on the merits because the Challenged Legislation diminished the powers vested in the Board of Corrections by Amendment 33. The Board has historically supervised the Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections. Those Department leaders implement the Board's substantive policy decisions. If the Board is statutorily precluded from directly supervising those positions, then—as demonstrated by this litigation—the Board cannot effectively perform its constitutional mandate to independently manage the affairs of the Department of Corrections.

31. The balance of equities weighs heavily in favor of enjoining the Challenged Legislation so that the Board can regain and retain control over the Department for which it has general superintending responsibility, as the potential harm to inmates, staff, and the community at large far outweighs any interest in the continued enforcement of allegedly unconstitutional legislation like Acts 185 and Sections 79 and 89 of Act 659. This harm cannot be adequately compensated by money damages or redressed in a court of law. It is clear to this Court that this dispute will be ongoing until this matter is fully determined. Therefore, this Court deems it appropriate to keep the injunction in place until such time this matter is resolved.

32. The Court grants Plaintiffs' Motion for Preliminary Injunction. Therefore, the Challenged Legislation—sections 25-43-403(a)(2)(a), 12-27-107(c), and 12-27-126(c) of the Arkansas Code—shall remain enjoined.

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33. The Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections shall continue serving at the pleasure of and reporting directly to the Board of Corrections.

34. This preliminary injunction applies to Defendants, their officers, agents, servants, employees, attorneys, and other persons who are in active concert or participation with Defendants and Defendants' officers, agents, servants, employees, and attorneys, until the final hearing.

35. No security is required for this preliminary injunction pursuant to Rule 65(c) of the Arkansas Rules of Civil Procedure.

IT IS SO ORDERED.



THE HONORABLE PATRICIA A. JAMES

DATE: 1/19/24

C-115

Chad Brown (DOC)

From: Heather Bailey (DOC)
Sent: Thursday, March 14, 2024 10:57 AM
To: Chad Brown (DOC); Flora Johnson (DOC)
Subject: RE: Contract question

No, sir, I did not have any contact with the Board counsel.

Thank you,
Heather



HEATHER BAILEY
CHIEF PROCUREMENT OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (501) 353-9153
Heather.Bailey@arkansas.gov

From: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Sent: Thursday, March 14, 2024 10:56 AM
To: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>; Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Subject: Contract question

Did either of you ever emailed or contacted Abtin (the Board Counsel) regarding this contract or anything to do with this contract?



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

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Heather Bailey

Ratification Contract Timeline

Monday, March 4, 2024

- 3:03 p.m. – Conversation with Ed Armstrong, OSP Director
- 3:15 p.m. – Download SRV-1 form from OSP website and begin entering information for Hall Booth Smith.
- 4:11 p.m. – Email SRV-1 form to Flora Johnson to request that she finish the form and enter the SRV-1 form into the portal on Tuesday, March 5.
- 4:25 p.m. – Receive response from Ms. Johnson
- 4:26 p.m. – Respond to Ms. Johnson
- 4:32 p.m. – Receive questions from Ms. Johnson
- 5:11 p.m. – Respond to questions from Ms. Johnson

Tuesday, March 5

- 9:05 a.m. – Talk to Mr. Armstrong
- 10:11 a.m. – Talk to Chad Brown, CFO, Department of Corrections
- 11:09 a.m. – Receive text message from Ms. Johnson that contract is in portal.
- 1:10 p.m. – Receive forwarded email from OSP via Ms. Johnson listing errors to be corrected on SRV-1 form.
- 1:29 p.m. – Respond to Ms. Johnson
- 2:24 p.m. – Response from Ms. Johnson
- 3:02 p.m. – Talk to Mr. Armstrong

Wednesday, March 6

- 3:52 p.m. – Receive signed SRV-1 form from Mr. Brown
- 3:55 p.m. – Upload signed SRV-1 form to Outline Agreement 4600054260.
- 3:59 p.m. – Email signed SRV-1 form to Denise Harris at OSP.

The OSP portal: I do not have access to the portal and did not have it when I was a buyer for OSP.

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List of Documents for Dr. Byers

- 📎 Item 1 Phone Conversation Documentation with Ed Armstrong, March 4, 2024, 3:03 pm
- 📎 Item 2 Email to Flora Johnson with SRV-1 form to finish and add to portal, March 4, 2024, 4:11 p.m.
- 📎 Item 2a Hall Booth Smith SRV-1 3.4.2024
- 📎 Item 3 Response from Flora Johnson, March 4, 2024, 4:25 p.m.
- 📎 Item 4 Respond to Flora Johnson, March 4, 2024, 4:26 p.m.
- 📎 Item 5 Questions from Flora Johnson, March 4, 2024, 4:32 p.m.
- 📎 Item 6 Respond to Questions from Flora Johnson, March 4, 2024, 5:11 p.m.
- 📎 Item 7 Phone Conversation Documentation with Ed Armstrong, March 5, 2024, 9:05 am
- 📎 Item 8 Phone Conversation Documentation with Chad Brown, March 5, 2024, 10:11 am
- 📎 Item 9 Screenshot of text message from Flora Johnson, March 5, 2024, 11:09 am
- 📎 Item 10 Receive forwarded email from Flora Johnson from OSP listing errors in SRV-1 form, March 5, 2024, 1:10 p.m.
- 📎 Item 11 Respond to Flora, March 5, 2024, 1:29 p.m.
- 📎 Item 12 Response from Flora Johnson, March 5, 2024, 2:24 p.m.
- 📎 Item 13 Phone Conversation Documentation with Ed Armstrong, March 5, 2024, 3:02 pm
- 📎 Item 14 Email from Chad Brown, March 6, 2024, 3:52 p.m.
- 📎 Item 14a Attachment to March 6 Email from Chad Brown
- 📎 Item 15 Email to Denise Harris, copy of signed contract, March 6, 2024 3:59 p.m.
- 📎 Item 15a Signed by both parties, SRV-1 form, 0480_4600054260_OR
- 📎 Timeline for Heather Bailey

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Phone conversation with Ed Armstrong, OSP Director

March 4, 2024, 3:03 p.m.

Conversation time of 5 minutes

Heather Bailey contacted Ed Armstrong to ask the following questions:

- What needs to be included on the SRV-1 form when entering a ratification document in the portal.
- Is a contracting document, such as an Outline Agreement, required to enter the ratification into the portal.

Mr. Armstrong's advice regarding the SRV-1 form was followed, which is reflected in the SRV-1 document titled Hall Booth Smith SRV-1 3.4.2024.

Mr. Armstrong advised that an Outline Agreement did have to be created in order to enter the ratification into the portal.

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Heather Bailey (DOC)

From: Heather Bailey (DOC)
Sent: Monday, March 4, 2024 4:11 PM
To: Flora Johnson (DOC)
Cc: Chad Brown (DOC)
Subject: SRV-1 Form Attached
Attachments: Hall Booth Smith SRV-1 3.4.2024.pdf

Tracking:	Recipient	Read
	Flora Johnson (DOC)	Read: 3/4/2024 4:11 PM
	Chad Brown (DOC)	

Flora,

I've attached the SRV-1 form for the contract that will need to be created tomorrow.

Chad will provide the dollar amount once he receives confirmation from Mr. Watson.

Thank you,
Heather



HEATHER BAILEY
CHIEF PROCUREMENT OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (501) 353-9153
Heather.Bailey@arkansas.gov

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Contract #: _____



STATE OF ARKANSAS SERVICES CONTRACT

Contract #		Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input type="checkbox"/>	Procurement Method	

1. **Contracting Parties.** State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	0480 - Department of Correction <input type="checkbox"/>
Division	

Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters as requested by the Board.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

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Contract #: _____

The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than _____(mm/dd/yyyy).

4. **Contractor's Performance Obligations.** Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. **Department's Payment Obligations.** Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

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Contract #: _____

reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: _____ (**Initial Contract Amount**).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: _____ (**Total Projected Contract Amount**).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation N/A _____ (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

This provision shall not be construed to abridge any other right of termination the agency may have.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.

- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

- A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.
- B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.
- C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable Sovereign Immunity. Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract shall be brought in the Arkansas State Claims Commission.

10. Non-negotiable Intergovernmental/Cooperative Use. In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable Disclosure Required by Executive Order 98-04. Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. Compliance. The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

- A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

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Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq.

13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.

14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.

15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265.

16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.

17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.

19. **Attachments.**

- 1. Certification of Contractor
- 2. Calculation of Compensation, as applicable;
- 3. Source of Funds
- 4. Objectives, Scope, and Performance Standards, as applicable; and
- 5. Performance Details, as applicable
- 6. Additional Attachments as applicable
 - A.
 - B.
 - C.

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Contract #: _____

20. Notices.

A. Method of Notice. The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid[, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

B. Receipt of Notice. A notice given under this Contract will be effective on
i. the other party's receipt of it, or
ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

C. Issuance of Notice. All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

Benny Magness	Chairman, Board of Corrections
_____	_____
Name	Title
(870) 540-6151	Benny.Magness@arkansas.gov
_____	_____
Telephone#	Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

Lee Watson	Member, Board of Corrections
_____	_____
Name	Title
(479) 650-9400	Lee.Watson@arkansas.gov
_____	_____
Telephone#	Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

Chad Brown	Chief Financial Officer
_____	_____
Name	Title
(870) 619-9829	Chad.Brown@arkansas.gov
_____	_____
Telephone#	Email

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Contract No: _____

21. Technology Access. If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. SIGNATURES

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Printed Name

Title

Address

Signature

Date

Benny Magness

Printed Name

Chairman, Board of Corrections

Title

P.O Box 20550, White Hall, AR 71612

Address

Signature

Date

H - 11

Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, _____ (Contractor) _____ (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None."

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship

H-12

Contract No: _____

CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

H-13

Contract #: _____

Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 0.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
TOTAL REIMBURSABLE EXPENSES		\$ 0.00

Total compensation inclusive of expense reimbursement: _____ \$ 0.00

Annual Contract Amount: _____

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: _____ \$ 0.00

Annual Contract Amount: _____

A-14

Heather Bailey (DOC)

From: Flora Johnson (DOC)
Sent: Monday, March 4, 2024 4:25 PM
To: Heather Bailey (DOC)
Cc: Chad Brown (DOC)
Subject: RE: SRV-1 Form Attached

I'll take care of it once I have the dollar amount.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell: 870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Sent: Monday, March 4, 2024 4:11 PM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Cc: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: SRV-1 Form Attached

Flora,

I've attached the SRV-1 form for the contract that will need to be created tomorrow.

Chad will provide the dollar amount once he receives confirmation from Mr. Watson.

Thank you,
Heather



HEATHER BAILEY
CHIEF PROCUREMENT OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (501) 353-9153
Heather.Bailey@arkansas.gov

Heather Bailey (DOC)

From: Heather Bailey (DOC)
Sent: Monday, March 4, 2024 4:26 PM
To: Flora Johnson (DOC)
Cc: Chad Brown (DOC)
Subject: RE: SRV-1 Form Attached

Thank you, Flora!

Please let me know once it's completed and, in the portal, so I can call Ed Armstrong and let him know.

Thank you,
Heather



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H-18

From: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Sent: Monday, March 4, 2024 4:11 PM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Cc: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: SRV-1 Form Attached

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Heather



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OFFICE OF THE SECRETARY
Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (501) 353-9153
Heather.Bailey@arkansas.gov

Heather Bailey (DOC)

From: Flora Johnson (DOC)
Sent: Monday, March 4, 2024 4:32 PM
To: Heather Bailey (DOC)
Cc: Chad Brown (DOC)
Subject: RE: SRV-1 Form Attached

So I have a couple of questions, will I have a cost center tomorrow as well?
What about the back- up and the remainder of the information on the form, will I have that before I place it in the portal? Or is that not needed?

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
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Email: Flora.Johnson@arkansas.gov



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Cc: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: RE: SRV-1 Form Attached

Thank you, Flora!

Please let me know once it's completed and, in the portal, so I can call Ed Armstrong and let him know.

Thank you,
Heather



HEATHER BAILEY
 CHIEF PROCUREMENT OFFICER
 OFFICE OF THE SECRETARY

Arkansas Department of Corrections
 1302 Pike Avenue, Suite C
 North Little Rock, Arkansas 72114
 Phone: (501) 353-9153
 Heather.Bailey@arkansas.gov

From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
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To: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Cc: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: RE: SRV-1 Form Attached

I'll take care of it once I have the dollar amount.

Flora M. Johnson
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 2403 E. Harding Ave.
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Subject: SRV-1 Form Attached

Flora,

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Chad will provide the dollar amount once he receives confirmation from Mr. Watson.

Thank you,
 Heather

H-21



HEATHER BAILEY
CHIEF PROCUREMENT OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (501) 353-9153
Heather.Bailey@arkansas.gov

Heather Bailey (DOC)

From: Heather Bailey (DOC)
Sent: Monday, March 4, 2024 5:11 PM
To: Flora Johnson (DOC)
Cc: Chad Brown (DOC)
Subject: Re: SRV-1 Form Attached

Flora,

I'm not sure of the answers.

Chad or April should be able to answer your question about the cost center.

We have one invoice that was in the January 31 Board packet. I think there are two invoices total?

Chad will more than likely have more information once he hears back from Mr. Watson.

Get Outlook for iOS

From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Sent: Monday, March 4, 2024 4:32:06 PM
To: Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Cc: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: RE: SRV-1 Form Attached

So I have a couple of questions, will I have a cost center tomorrow as well?
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Department of Corrections
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To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Cc: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: RE: SRV-1 Form Attached

Thank you, Flora!

Please let me know once it's completed and, in the portal, so I can call Ed Armstrong and let him know.

Thank you,
Heather



HEATHER BAILEY
CHIEF PROCUREMENT OFFICER
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Cc: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: SRV-1 Form Attached

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Chad will provide the dollar amount once he receives confirmation from Mr. Watson.

Thank you,
Heather



HEATHER BAILEY
CHIEF PROCUREMENT OFFICER
OFFICE OF THE SECRETARY
Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (501) 353-9153
Heather.Bailey@arkansas.gov

Phone conversation with Ed Armstrong,

March 5, 2024, 9:05 a.m.

Conversation time of 1 minutes

Heather Bailey informed Mr. Armstrong that the SRV-1 form had been uploaded to the portal but was missing signatures.

Heather requested permission from Mr. Armstrong to allow DOC to submit the document with signatures in a day or two.

Mr. Armstrong granted DOC permission for the request.

A-26

Phone conversation with Chad Brown, CFO, Department of Corrections

March 5, 2024, 10:11 a.m.

Conversation time of 3 minutes

Heather Bailey informed Mr. Brown that the deadline to enter the SRV-1 form into the portal for ALC Review had been met.

Heather also relayed that Mr. Armstrong had granted permission for the SRV-1 form with signatures to be submitted in the next day or two.

Mr. Brown stated that he would get the document sent to Shari Gray, the Administrative Assistant to the Board of Corrections.

H-27

Screenshot of text message from Flora Johnson to Heather Bailey

March 5, 2024, 11:09 a.m.

Tue, Mar 5 at 11:09 AM

It's in portal

Thank you! I'll call Mr. Armstrong now!

Ok.

H-28

Heather Bailey (DOC)

From: Flora Johnson (DOC)
Sent: Tuesday, March 5, 2024 1:10 PM
To: Chad Brown (DOC); Heather Bailey (DOC)
Subject: FW: Contract Error 4600054260

Importance: High

Follow Up Flag: Flag for follow up
Flag Status: Completed

Below is the email from OSP of errors that need to be corrected before 3 p.m.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell: 870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Denise Harris <Denise.Harris@arkansas.gov>
Sent: Tuesday, March 5, 2024 1:07 PM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>; Darlene Hicks <Darlene.Hicks@arkansas.gov>
Cc: Heather Bailey <heather.v.bailey_arkansas.gov@arkansas.gov>; Kimontie Taller <Kimontie.Taller@arkansas.gov>;
Melissa Greene <Melissa.Greene@arkansas.gov>
Subject: Contract Error 4600054260

Hello Flora,

The following errors will need to be corrected before we can complete the final review of contract 4600054260 - Hall Booth Smith PC.

- On the SRV-1 form page 7, Agency and Vendor signature and date missing – Per management the vendor signature can be obtained at a later date.
- Page 8 , certification of contractor needs to be completed.
- Page 9, Israel boycott box will need to be checked / completed.
- Contract and grant disclosure form missing

- Illegal immigrant form missing
- Ratification request and OSP ratification cover letter missing.

Flora it is my understanding that you will have all this information completed in the portal so the contract can be added to the March ALC Review before 3pm. Please let me know if you have any additional questions.

Thank You,



Denise Harris | Statewide Procurement Specialist
Transformation and Shared Services
o. 501.682.0247 | denise.harris@arkansas.gov
[Website](#) | [Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#)

The mission of the Office of State Procurement is to serve and support the State and its citizens through effective, efficient, and ethical procurement.

Heather Bailey (DOC)

From: Heather Bailey (DOC)
Sent: Tuesday, March 5, 2024 1:29 PM
To: Flora Johnson (DOC); Chad Brown (DOC)
Subject: Re: Contract Error 4600054260

Just left a message for Denise.

[Get Outlook for iOS](#)

From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Sent: Tuesday, March 5, 2024 1:10:17 PM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>; Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: FW: Contract Error 4600054260

Below is the email from OSP of errors that need to be corrected before 3 p.m.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell: 870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Denise Harris <Denise.Harris@arkansas.gov>
Sent: Tuesday, March 5, 2024 1:07 PM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>; Darlene Hicks <Darlene.Hicks@arkansas.gov>
Cc: Heather Bailey <heather.v.bailey_arkansas.gov@arkansas.gov>; Kimontie Taller <Kimontie.Taller@arkansas.gov>; Melissa Greene <Melissa.Greene@arkansas.gov>
Subject: Contract Error 4600054260

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Thank You,



Denise Harris | Statewide Procurement Specialist
Transformation and Shared Services
o. 501.682.0247 | denise.harris@arkansas.gov
[Website](#) | [Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#)

The mission of the Office of State Procurement is to serve and support the State and its citizens through effective, efficient, and ethical procurement.

Heather Bailey (DOC)

From: Flora Johnson (DOC)
Sent: Tuesday, March 5, 2024 2:24 PM
To: Heather Bailey (DOC); Chad Brown (DOC)
Subject: RE: Contract Error 4600054260

Ok,

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell: 870-550-8654
Email: Flora.Johnson@arkansas.gov



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To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>; Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: Re: Contract Error 4600054260

Just left a message for Denise.

[Get Outlook for iOS](#)

From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Sent: Tuesday, March 5, 2024 1:10:17 PM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>; Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: FW: Contract Error 4600054260

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Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.

Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell:870-550-8654
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From: Denise Harris <Denise.Harris@arkansas.gov>
Sent: Tuesday, March 5, 2024 1:07 PM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>; Darlene Hicks <Darlene.Hicks@arkansas.gov>
Cc: Heather Bailey <heather.v.bailey_arkansas.gov@arkansas.gov>; Kimontie Taller <Kimontie.Taller@arkansas.gov>;
Melissa Greene <Melissa.Greene@arkansas.gov>
Subject: Contract Error 4600054260

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The mission of the Office of State Procurement is to serve and support the State and its citizens through effective, efficient, and ethical procurement.

H-35

Phone conversation with Ed Armstrong, OSP Director

March 5, 2024, 3:02 p.m.

Conversation time of 4 minutes

Heather Bailey requested permission from Mr. Armstrong for an extension past 3:00 p.m. today to submit the SRV-1 form for signatures and update the information in the portal.

Mr. Armstrong stated that the Bureau of Legislative Research had set that deadline as the cutoff for the ALC Review regular agenda, to be held on March 12, 2024, at 1:30 p.m.

Mr. Armstrong stated that submitting the signed form later than that deadline would risk the ratification being moved from the regular agenda to the supplemental agenda.

Heather thanked him and told him that was understandable.

A-36

Heather Bailey (DOC)

From: Chad Brown (DOC)
Sent: Wednesday, March 6, 2024 3:52 PM
To: Heather Bailey (DOC)
Subject: FW: Contract 3.6.24 BOC-24-01
Attachments: 3558_001.pdf



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

FIND US HERE:

Website – Facebook – Twitter – Instagram – LinkedIn

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From: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Sent: Wednesday, March 6, 2024 3:51 PM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: Contract 3.6.24 BOC-24-01

Chad,

Attached is signed contract.

Shari Gray
Arkansas Board of Corrections
P. O. Box 20550
White Hall, AR 71612
Shari.Gray@arkansas.gov
870-267-6754 / Fax 870-267-6756

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Contract #: 4600054260



STATE OF ARKANSAS SERVICES CONTRACT

Contract #	4600054260	Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input checked="" type="checkbox"/>	Procurement Method	Emergency / Exempt from Law

The Board of Corrections of the

1. **Contracting Parties** - State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	9903 - Department of Corrections / Board of Corrections		
Division	Not Applicable		

Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters within the ambit of Ark. Code Ann. 25-16-711, as voted on and approved by the Board of Corrections on December 8, December 14, and December 22, 2023. Contractor's engagement agreement dated December 22, 2023 is incorporated herein by reference. By signing this document, neither the Board of Corrections nor Contractor admit that the procurement process advanced by the Department of Corrections is correct or applicable, and they retain and reserve all defenses relating to the applicable process through which to secure representation under Ark. Code Ann. 25-16-711 or other applicable law. In the interest of cooperation, however, and to facilitate the payment of Contractor's outstanding and prospective invoices, Contractor and the Board of Corrections supply the information requested herein in good faith. The term of this agreement is difficult to anticipate due to the nature of pending litigation, as is the total contract amount; however, the information supplied is based on Contractor's best estimate at this time.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

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The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024 (mm/dd/yyyy).

4. **Contractor's Performance Obligations.** Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will continue representing the Board of Corrections in litigation and on appeal, taking all legal action necessary to protect and preserve the Board's interests under Amendment 33, pursuant to Ark. Code Ann. 25-16-711. Specifically, Contractor will defend the Board of Corrections in a lawsuit and appeal filed by the Attorney General against the Board and its chair; and Contractor will prosecute the Board and chair's Amendment 33 claims, and represent them as Appellees in the appeal filed by the Attorney General on behalf of the Governor, Department of Corrections, and Secretary of Corrections. Contractor's December 22, 2023 engagement agreement, which was executed by the Board, is incorporated herein by reference, as well as the January 2024 Order from Judge Patricia James.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. **Department's Payment Obligations.** Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Pursuant to Ark. Code Ann. 25-16-711, Contractor will present itemized invoices monthly for ongoing payment of legal services rendered, with hourly rates of \$200 for paralegals, \$240 for associates, and \$285 for partners. Payment shall be due within 10 days from receipt of an invoice. Contractor shall be reimbursed all expenses incurred in the representation. Contractor's December 22, 2023 engagement agreement and the January 2024 Order of Judge Patricia James are incorporated by reference. The Board of Corrections's litigation liaison shall be solely responsible for determining whether Contractor's performance is satisfactory, and the litigation liaison shall be responsible for authorizing payment under this Agreement.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 207,000.00 (**Initial Contract Amount**).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 207,000.00 (**Total Projected Contract Amount**).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

Board of Corrections

This provision shall not be construed to abridge any other right of termination the ~~agency~~ **agency** may have.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.

- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

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days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.

B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.

C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable Sovereign Immunity. Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract if applicable, shall be brought in the Arkansas State Claims Commission, if applicable.

10. Non-negotiable Intergovernmental/Cooperative Use. In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable Disclosure Required by Executive Order 98-04. Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. Compliance. The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq., if applicable.

13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265, if applicable.
16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
19. **Attachments.**
 1. Certification of Contractor
 2. Calculation of Compensation, as applicable;
 3. Source of Funds
 4. Objectives, Scope, and Performance Standards, as applicable; and
 5. Performance Details, as applicable
 6. Additional Attachments as applicable
 - A. Engagement Agreement Dated December 22, 2023
 - B. Contract & Grant Disclosure
 - C. January 2024 Order of Judge Patricia James
 - D. Outstanding Invoices in line for payment.

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20. Notices.

- A. Method of Notice.** The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.
- B. Receipt of Notice.** A notice given under this Contract will be effective on
 - i. the other party's receipt of it, or
 - ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.
- C. Issuance of Notice.** All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

Flora Johnson	Procurement Administrator
_____ Name	_____ Title
(870) 850-8502	Flora.Johnson@arkansas.gov
_____ Telephone#	_____ Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

Chad Brown	Chief Financial Officer
_____ Name	_____ Title
(501) 682-9510	Chad.Brown@arkansas.gov
_____ Telephone#	_____ Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

Chad Brown	Chief Financial Officer
_____ Name	_____ Title
(501) 682-9510	Chad.Brown@arkansas.gov
_____ Telephone#	_____ Email

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21. **Technology Access.** If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. SIGNATURES

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Abtin Mehdizadegan

Benny Magness

Printed Name

Printed Name

Partner, Hall Booth Smith, P.C.

Chairman, Board of Corrections

Title

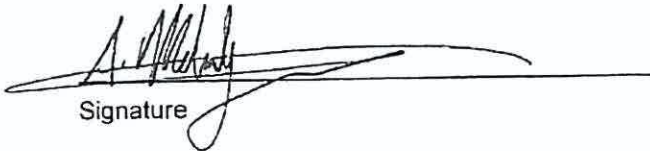
Title

200 River Market Avenue, Suite 500, Little Rock, AR 72201

1302 Pike Ave., North Little Rock, AR. 72114

Address

Address


Signature


Signature

3/6/2024

3/6/2024

Date

Date

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Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, Abtin Mehdizadegan, a Partner with the law firm of Hall Booth Smith, P.C.
 (Contractor) (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

HBS provides immigration services to a number of state governmental entities, including to UAMS and ADFA. Abtin Mehdizadegan does not have access to that information but can provide contact information for another representative. Abtin Mehdizadegan previously served as an adjunct professor at UA Bowen School of Law; however, he has discontinued that service. Abtin also served as special counsel to the Executive Subcommittee of the ALC/BLR in February 2023.

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None."

Contractor is not personally engaged in a legal controversy with any state agency; however, Contractor serves as legal counsel for the Board of Corrections and its chair in the legal controversies described above. Contractor also represents the BioGen plaintiffs in a separate regulatory challenge involving the Department of Agriculture et al., and Contractor represents 2600 Holdings in an appeal in which the ABC and MMC are parties, though not currently participating.

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship
Abtin Mehdizadegan	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Partner
Joseph Kraska	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Joseph Stepina	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Julie Hill	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Lynsey Russell	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Paralegal

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Contract No: 4600054260

CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

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Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Partner	1	\$285/hour	\$ 110,000.00
Associate	3	\$240/hour	\$ 75,000.00
Paralegal	1	\$200/hour	\$ 15,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
Filing fees and transcript costs	\$185 + \$0.10/page	\$ 5,000.00
Service of process	\$300	\$ 1,500.00
Special collections research	\$0.50/page	\$ 500.00
TOTAL REIMBURSABLE EXPENSES		\$ 7,000.00

Total compensation inclusive of expense reimbursement: \$ 207,000.00

Annual Contract Amount: \$ 207,000.00

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount:

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CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SOCIAL SECURITY NUMBER: _____ OR _____ SUBCONTRACTOR NAME: _____
 FEDERAL ID NUMBER: 58-1652639 SUBCONTRACTOR: Yes No
 TAXPAYER ID #: _____ IS THIS FOR: Goods? Services? Both?
 TAXPAYER ID NAME: Hall Booth Smith, P.C. FIRST NAME: Abun M.L.: NA
 YOUR LAST NAME: Mehdiadegan
 ADDRESS: 200 River Market Avenue
 CITY: Little Rock STATE: AR ZIP CODE: 72201 COUNTRY: USA

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held (Senator, representative, name of board/ commission, data entry, etc.)	For How Long?		What is the person(s) name and how are they related to you? (i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.)	Relation
	Current	Former		From MM/YY	To MM/YY		
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing process or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held (Senator, representative, name of board/commission, data entry, etc.)	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?	
	Current	Former		From MM/YY	To MM/YY	Person's Name(s)	Ownership Interest (%)
General Assembly							
Constitutional Officer							
State Board or Commission Member	X		Gov Comm'n People with Disabilities	8/2013	8/2016	Abun Mehdiadegan	N/A
State Employee		X	Adjunct Professor	8/17	12/23	Abun Mehdiadegan	N/A

None of the above applies See attached.

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Contract and Grant Disclosure and Certification Form


Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.
2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.
3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature  Title Partner Date 3/6/2024
Vendor Contact Person Abtin Mehdi Zadeh Title Partner Phone No. 501-529-1163

Agency use only
Agency Number _____ Agency Name _____ Agency Contact Person _____ Agency Contact _____ Agency Contract Number _____ Agency Phone No. _____ Agency Grant No. _____

HSD

Supplement to Contract and Grant Disclosure and Certification Form

1. Abtin Mehdizadegan was an adjunct professor of employment law at the UA William H. Bowen School of Law from August 2018 until December 2023. From approximately 2013 through 2015, Abtin Mehdizadegan served on the Governor's Commission for People with Disabilities. Abtin Mehdizadegan is a partner with Hall Booth Smith, P.C. He is not on the management committee of the firm and does not have power to direct purchasing policies. As a partner, Abtin Mehdizadegan has some influence in the management of Hall Booth Smith, P.C.
2. Julie Hill and Joseph Kraska are associates of Hall Booth Smith, P.C. Julie Hill's father is a member of the General Assembly. Joseph Kraska is a member of the Arkansas Air Guard. Neither Julie Hill nor Joseph Kraska own any interest in Hall Booth Smith, P.C. or otherwise hold positions of control. This information is supplied in an abundance of caution for transparency purposes.

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DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

COMBINED CERTIFICATIONS FOR CONTRACTING WITH THE STATE OF ARKANSAS

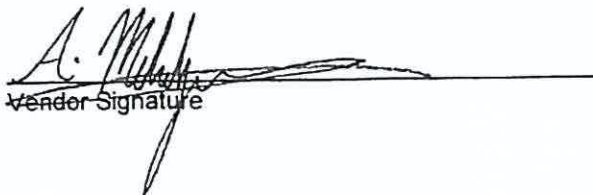
Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

1. **Israel Boycott Restriction:** For contracts valued at \$1,000 or greater.
A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.
2. **Illegal Immigrant Restriction:** For contracts valued at \$25,000 or greater.
No state agency may contract for services with a Contractor who employs or contracts with an illegal immigrant. The Contractor shall certify that it does not employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.
3. **Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction:** For contracts valued at \$75,000 or greater.
A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
4. **Scrutinized Company Restriction:** Required with bid or proposal submission.
A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

By signing this form, the Contractor agrees and certifies they are not a Scrutinized Company and they do not currently and shall not for the aggregate term a resultant contract:

- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

Contract Number: 4600054260 Description: Professional Consultant Services
 Agency Name: Board of Corrections
 Vendor Number: 100249276 Vendor Name: Hall Booth Smith, P.C.


 Vendor Signature

3/6/2024
 Date

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Attorneys at Law

Apt. n Mendiradegan
Phone: 501.503.4445
abdin@hallboothsmith.com

300 River Market Avenue
Suite 500
Little Rock, AR 72201

Office: 501.214.0499
Fax: 501.624.5566
www.hallboothsmith.com

Arkansas Board of Corrections
P.O. Box 20550
White Hall, AR 71612

RE: Engagement Letter for Legal Services and Supplement

This letter serves as a supplement to my engagement agreement for legal services, retroactive to December 8, 2023. Specifically, this letter will confirm that I have been retained as Special Counsel to the Arkansas Board of Corrections pursuant to Ark. Code Ann. § 25-16-711 to challenge certain legislation impacting the Board's power in light of the conflicting positions of the Attorney General regarding Amendment 33's application to the Board.

This letter will also confirm that I have been retained to take all legal action necessary to protect and preserve the Board's interests. Pursuant to that authority, on December 14, 2023, I filed a declaratory judgment lawsuit to challenge the legislation at issue, and on December 15, 2023, the Attorney General filed a lawsuit alleging violations of the Arkansas Freedom of Information Act in which the Attorney General sought to disqualify me from continued representation of the Board in the Amendment 33 lawsuit. In light of the exigent circumstances caused by the Attorney General's actions, and because the FOIA lawsuit, my representation as special counsel, and the pending Amendment 33 litigation are interrelated, I entered an appearance in the FOIA lawsuit pursuant to the December 14, 2023 motion authorizing me to take all necessary legal action. Based on the pleadings, arguments, and developments to-date, I believe the Board of Corrections and the Attorney General have another conflicting opinion regarding the application of a statute. In particular, the Attorney General has a different opinion regarding the application of Ark. Code Ann. § 25-16-711 as well as the Arkansas FOIA. This engagement agreement will serve as supplemental authority to file a counterclaim in the FOIA lawsuit to challenge Ark. Code Ann. § 25-16-702's application to the Board, and to further resolve the question of whether the Attorney General has standing to sue for alleged civil violations of the FOIA.

My standard hourly rate for government clients is currently \$285.00. Associates will bill at a rate of \$240.00 per hour; and paralegals will be billed at a rate of \$200.00 per hour. Our fees and costs will be billed monthly and are payable pursuant to the Board's extant policies. Time spent responding to FOIA requests will be billed at the same rates. Our invoices will be submitted monthly, and they will itemize the time expended on this matter and provide a description of services rendered. This engagement agreement specifically authorizes me to request the assistance of any associate or partner in my law firm at the rates set forth herein, including but not limited to Todd Wooten, Julie Hill,

LITTLE ROCK, AR

ALABAMA | ARKANSAS | COLORADO | FLORIDA | GEORGIA | MONTANA | NEW JERSEY | NEW YORK
NORTH CAROLINA | OKLAHOMA | SOUTH CAROLINA | TENNESSEE

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Joseph Kraska, Joseph Stepina, Allison Scott, and Garrett Bannister. Each invoice will also request reimbursement of any actual out-of-pocket disbursements expended by this Firm in connection with our representation. Except for filings or other exigencies, we will not incur third-party expenses in excess of \$500.00 without advance approval. Please note that our rates may increase next year as part of the Firm's standard processes. If rates increase on this matter, I will alert you of same.

As a client, you have the right at any time to terminate our services and representation upon written notice to the Firm. In the event of termination of representation, your file will be made available to you and will be retained and destroyed in accordance with our ethical obligations. Likewise, we reserve the right to withdraw from our representation if any fact or circumstance arises that would make our continuing representation unlawful or unethical. The above agreements will also apply to services rendered for such future matters that we mutually agree will be handled by the Firm.

Additional Terms

Restriction of Boycott of Israel. In accordance with Arkansas Code § 25-1-503, this Firm hereby certifies and agrees that it is not currently engaged in, and agrees for the duration of the Agreement not to engage in, a boycott of Israel.

Restriction of Boycotts of Certain Products. In accordance with Ark. Code Ann. § 25-1-1102, Hall Booth Smith, P.C. certifies that neither the law firm nor the attorneys assisting with this matter are currently engaged in, nor will become engaged in, any boycott of energy, fossil fuels, firearms, and ammunition industries.

Governing Law. This Agreement shall be governed by the laws of the State of Arkansas, without regard to Arkansas's conflict of law principles.

Thank you again for considering me for this engagement.

Sincerely,

HALL BOOTH SMITH, P.C.


Abtin Mehdi-zadegan

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ACCEPTANCE OF ENGAGEMENT AGREEMENT

By signing below, I represent that the Board of Corrections accepts the terms of this engagement agreement for legal services retroactive to December 8, 2023.

By: Benny Magness
Benny Magness, Chairman of the Board

12-22-23
Date

By: William Byers
William "Dubs" Byers, Secretary of the Board

12-22-23
Date

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ELECTRONICALLY FILED
Pulaski County Circuit Court
Terry Hollingsworth, Circuit/County Clerk
2024-Jan-19 10:59:04
60CV-23-9598
C06D11 : 8 Pages

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
ELEVENTH DIVISION**

**ARKANSAS BOARD OF CORRECTIONS; and
BENNY MAGNESS, in his official capacity as
CHAIRMAN OF THE ARKANSAS
BOARD OF CORRECTIONS**

PLAINTIFFS

v. CASE NO. 60CV-23-9598

**SARAH SANDERS, in her official capacity as
GOVERNOR OF ARKANSAS;
JOE PROFIRI, in his official capacity as
SECRETARY OF THE ARKANSAS
DEPARTMENT OF CORRECTIONS; and the
ARKANSAS DEPARTMENT OF CORRECTIONS**

DEFENDANTS

ORDER

The Court, having held a hearing on this matter on January 4, 2024, considered the petition and motions presented, as well as the evidence and testimony presented, and the arguments regarding the same, makes the following findings:

1. This Court had jurisdiction over the parties and subject matter of this action.
2. On December 14, 2023, the Plaintiffs filed their Verified Complaint against the above-named Defendants seeking a declaratory judgment and injunctive relief relating to Acts 185 and 659 of 2023 (the "Challenged Legislation"), which the Plaintiffs allege violate Amendment 33 of the Arkansas Constitution.

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3. Subsequently, the Parties filed various motions, including the Defendants' Motion to Disqualify and Motion to Dismiss and Plaintiffs' Motion to Disqualify and Motion for Temporary Restraining Order or Alternatively Motion for Preliminary Injunction.

4. On December 15, 2023, the Court entered a temporary restraining order enjoining the Challenged Legislation and setting a hearing for December 28, 2023, pursuant to Rule 65 of the Arkansas Rules of Civil Procedure.

5. On December 28, 2023, Plaintiffs filed an Emergency Motion for Continuance and Extension of the temporary restraining order because Plaintiffs' lead counsel's wife went into labor. Because good cause was established, the Court granted Plaintiffs' Emergency Motion for Continuance and Extension and continued the temporary restraining order until January 4, 2024.

6. The Parties, through counsel, appeared at the January 4, 2024 hearing and presented argument, evidence, and testimony. Specifically, after the Parties' counsel delivered opening statements,¹ Plaintiffs presented testimony from Benny Magness, Chairman of the Board; Dr. William "Dubs" Byers, Secretary of the Board; Tommy James, Senior Auditor with the Compliance Division of the Board; and Jerry Bradshaw, who served as Director of the Division of Community Corrections until his voluntary retirement on December 31, 2023. Defendants called one witness: Mark Colbert, Compliance Attorney/Administrator for the Board of Corrections. After the Parties delivered closing arguments, the Court delivered the following bench rulings on the Parties' pending Motions:

¹ Defendants' counsel did not argue or address the merits of Plaintiffs' challenge during their opening statement or otherwise during closing arguments.

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Plaintiffs' Motion to Disqualify the Attorney General's Office

7. The Plaintiffs' Motion to Disqualify Attorney General's Office is denied.
8. Even though the Court acknowledges the unique position of the Attorney General's Office as the legal representative for the State of Arkansas, its agencies, officers, and other entities, and that the testimony presented is that the Attorney General's Office has represented Plaintiffs on numerous occasions, the Court is not inclined to disqualify the Attorney General's Office solely because the Attorney General's Office represents Plaintiffs in a pending federal class action.
9. Notwithstanding, the Attorney General's unique position does not exempt that Office from the Arkansas Rules of Professional Conduct. *Holloway v. Arkansas State Bd. of Architects*, 79 Ark. App. 200, 214, 86 S.W.3d 391, 400 (2002), *aff'd in part, rev'd in part*, 352 Ark. 427, 101 S.W.3d 805 (2003); ARK. R. PROF. COND. 1.7.
10. The Arkansas Rules of Professional Conduct apply to all attorneys licensed to practice in this State, including to the Attorney General and his staff.
11. The Court is particularly concerned about the participation in this lawsuit by Christine Cryer, who recently worked for the Department of Corrections, prior to being listed as counsel on this case. Ms. Cryer and Mr. Brascher filed entry of appearances and were signatories in several pleadings filed in this matter. Although, there is no testimony that Ms. Cryer did anything improper in this case, it is the appearance of impropriety that is concerning. Therefore, Ms. Cryer -- and also as an abundance of caution -- Mr. Justin Brascher shall not be allowed to participate in any aspect of this case in any manner.
12. Accordingly, the Court orders that Justin Brascher and Christine Cryer of the Attorney General's Office shall not participate in any aspect of this case.

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13. The Attorney General's Office is directed to take all necessary measures to enforce this restriction.

**Defendants' Motion to Disqualify Abtin Mehdizadegan
and his Law Firm as Special Counsel**

14. Defendants' Motion to Disqualify Plaintiffs' counsel is denied. The Court finds Defendants' arguments in support of disqualification fail for several reasons.

15. The Board of Corrections was created by Amendment 33 of the Arkansas Constitution.

16. Section 1 of Amendment 33 specifically defines "the term of office of members of the boards or commissions charged with the management or control of all charitable, penal, or correctional institutions[.]" ARK. CONST. amend. XXXIII, § 1.

17. The Court's interpretation of Amendment 33 is quite clear: the Board of Corrections is a constitutionally created board, making the Board's members constitutional officers for purposes of section 25-16-711 of the Arkansas Code. Thus, contrary to the Defendants' arguments that section 25-16-702 applies, the Court finds that the Board of Corrections had the legal authority to hire special counsel pursuant to section 25-16-711 of the Arkansas Code because the Board is a constitutional board, its members are constitutional officers, and from the pleadings, argument, and testimony presented, it is clear that the Attorney General and the Board of Corrections disagree about the proper interpretation of Amendment 33, section 25-16-702, and section 25-16-711.

18. Therefore, Defendants' Motion to Disqualify special counsel is denied.

Defendants' Motion to Dismiss

19. Defendants' Motion to Dismiss is denied.

20. Defendants argued that Plaintiffs lack standing to bring this lawsuit because they are not “persons” as defined by the Declaratory Judgment Act. *See* ARK. CODE ANN. § 16-111-101 *et seq.* This argument fails.

21. Based on the previous rulings by the Arkansas Supreme Court considering whether other government entities or officers are “persons,” the Court finds that Plaintiffs have standing as “persons” under the Declaratory Judgment Act as defined by Act 274 of 1953. *See Brown v. State*, 2017 Ark. 232, 522 S.W.3d 791; *Valley v. Bogard*, 342 Ark. 336, 342–43, 28 S.W.3d 269, 272–73 (2000) (abrogated in part by *State v. Jernigan*, 2011 Ark. 487, 385 S.W.3d 776); *Vibo Corp. v. State ex rel. McDaniel*, 2011 Ark. 124, 380 S.W.3d 411.

22. Plaintiffs have standing to pursue a declaratory judgment finding that the Challenged Legislation is unconstitutional.

23. Consequently, Defendants' Motion to Dismiss is denied.

Plaintiffs' Motion for Preliminary Injunction

24. Having determined that Plaintiffs have the legal authority to hire outside counsel and that they have standing under the Declaratory Judgment Act, the Court considered Plaintiffs' Motion for a Preliminary Injunction.

25. Pursuant to Rule 65 of the Arkansas Rules of Civil Procedure, the Court finds that Plaintiffs satisfied their burden of proving irreparable harm if the preliminary injunction is not granted and the likelihood of success on the merits. *See Ark. Dep't of Educ. v. Jackson*, 2023 Ark. 105, 7, 669 S.W.3d 1, 6; *Ark. Dep't of Hum Servs. v. Ledgerwood*, 2017 Ark. 308, 9, 530 S.W.3d 336, 343.

26. Plaintiffs identified irreparable harm in the absence of an injunction for several reasons.

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27. First, the evidence and testimony presented established that the Secretary of Corrections exhibited insubordination towards the Board of Corrections by, among other things, opening prison beds without the Board's approval. Further, even after the Board voted to place him on leave with pay status on December 14, 2023, Secretary Profiri refused to recognize the Board's authority and announced his intention to remain working. Secretary Profiri even refused to take physical possession of the letter notifying him that he was placed on leave with pay. The irreparable harm is directly attributable to Act 185 of 2023, which purportedly required the Secretary of Corrections to serve at the pleasure of the Governor.

28. Second, irreparable harm was also demonstrated by the Governor's multiple statements indicating that Secretary Profiri would continue serving in that capacity even after he was placed on leave. Placing Secretary Profiri on leave with pay did not resolve the irreparable harm Plaintiffs articulated. The evidence presented was that an inmate took his own life on December 15, 2023 and that, due to inadequate staffing, he was not found for at least one hour. At the time of death, there were three corrections officers performing the work of five corrections officers.

29. Third, irreparable harm was also demonstrated by Plaintiffs' witnesses who identified the uncertainty presented by the Challenged Legislation as it relates to the performance of their constitutional and statutory duties to manage the Department of Corrections and its Divisions. Fundamentally, Plaintiffs established that the Challenged Legislation interferes with the exercise of their constitutional rights to manage and control the Department of Corrections, and that showing supports a finding of clear and present need for equitable relief to prevent irreparable constitutional injury under

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Amendment 33. Sections 12-27-107(c) and 12-27-126(c), for instance, as amended, were to become effective as of January 1, 2024.

30. Plaintiffs likewise demonstrated a likelihood of success on the merits because the Challenged Legislation diminished the powers vested in the Board of Corrections by Amendment 33. The Board has historically supervised the Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections. Those Department leaders implement the Board's substantive policy decisions. If the Board is statutorily precluded from directly supervising those positions, then—as demonstrated by this litigation—the Board cannot effectively perform its constitutional mandate to independently manage the affairs of the Department of Corrections.

31. The balance of equities weighs heavily in favor of enjoining the Challenged Legislation so that the Board can regain and retain control over the Department for which it has general superintending responsibility, as the potential harm to inmates, staff, and the community at large far outweighs any interest in the continued enforcement of allegedly unconstitutional legislation like Acts 185 and Sections 79 and 89 of Act 659. This harm cannot be adequately compensated by money damages or redressed in a court of law. It is clear to this Court that this dispute will be ongoing until this matter is fully determined. Therefore, this Court deems it appropriate to keep the injunction in place until such time this matter is resolved.

32. The Court grants Plaintiffs' Motion for Preliminary Injunction. Therefore, the Challenged Legislation—sections 25-43-403(a)(2)(a), 12-27-107(c), and 12-27-126(c) of the Arkansas Code—shall remain enjoined.

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33. The Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections shall continue serving at the pleasure of and reporting directly to the Board of Corrections.

34. This preliminary injunction applies to Defendants, their officers, agents, servants, employees, attorneys, and other persons who are in active concert or participation with Defendants and Defendants' officers, agents, servants, employees, and attorneys, until the final hearing.

35. No security is required for this preliminary injunction pursuant to Rule 65(c) of the Arkansas Rules of Civil Procedure.

IT IS SO ORDERED.



THE HONORABLE PATRICIA A. JAMES

DATE: 1/19/24

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Heather Bailey (DOC)

From: Heather Bailey (DOC)
Sent: Wednesday, March 6, 2024 3:59 PM
To: Denise Harris
Cc: Office of State Purchasing; Chad Brown (DOC); Flora Johnson (DOC); Darlene Hicks; Melissa Greene; Kimontie Taller; Edward Armstrong
Subject: FW: Contract Error 4600054260
Attachments: 0480_4600054260_OR.pdf

Importance: High

Tracking:	Recipient	Read
	Denise Harris	Read: 3/6/2024 4:11 PM
	Office of State Purchasing	
	Chad Brown (DOC)	
	Flora Johnson (DOC)	Read: 3/6/2024 4:05 PM
	Darlene Hicks	
	Melissa Greene	
	Kimontie Taller	
	Edward Armstrong	Read: 3/7/2024 8:50 AM

Good afternoon,

The attached document has been added to 4600054260 in AASIS.

If you have any additional questions, please let Flora, Chad, or I know.

Thank you,
Heather



HEATHER BAILEY
CHIEF PROCUREMENT OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (501) 353-9153
Heather.Bailey@arkansas.gov

From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Sent: Tuesday, March 5, 2024 1:10 PM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>; Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: FW: Contract Error 4600054260
Importance: High

Below is the email from OSP of errors that need to be corrected before 3 p.m.

Flora M. Johnson
Procurement Administrator

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Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell:870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Denise Harris <Denise.Harris@arkansas.gov>
Sent: Tuesday, March 5, 2024 1:07 PM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>; Darlene Hicks <Darlene.Hicks@arkansas.gov>
Cc: Heather Bailey <heather.v.bailey_arkansas.gov@arkansas.gov>; Kimontie Taller <Kimontie.Taller@arkansas.gov>;
Melissa Greene <Melissa.Greene@arkansas.gov>
Subject: Contract Error 4600054260

Hello Flora,

The following errors will need to be corrected before we can complete the final review of contract 4600054260 - Hall Booth Smith PC.

- On the SRV-1 form page 7, Agency and Vendor signature and date missing – Per management the vendor signature can be obtained at a later date.
- Page 8 , certification of contractor needs to be completed.
- Page 9, Israel boycott box will need to be checked / completed.
- Contract and grant disclosure form missing
- Illegal immigrant form missing
- Ratification request and OSP ratification cover letter missing.

Flora it is my understanding that you will have all this information completed in the portal so the contract can be added to the March ALC Review before 3pm. Please let me know if you have any additional questions.

Thank You,



Denise Harris | Statewide Procurement Specialist
Transformation and Shared Services
o. 501.682.0247 | denise.harris@arkansas.gov
[Website](#) | [Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#)

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The mission of the Office of State Procurement is to serve and support the State and its citizens through effective, efficient, and ethical procurement.

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Contract #: 4600054260



STATE OF ARKANSAS SERVICES CONTRACT

Table with contract details: Contract #, Federal ID#, Service Type, Procurement Method

The Board of Corrections of the

1. Contracting Parties: State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Table with Department No. & Name, Division

Table with Contractor Name, Contractor Address, Contractor Number, Minority/Women Owned Business

2. Objectives, Scope, and Performance. Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters within the ambit of Ark. Code Ann. 25-16-711, as voted on and approved by the Board of Corrections on December 8, December 14, and December 22, 2023.

3. Term Dates. The original term (Original Term) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract

Handwritten signature/initials

The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024 (mm/dd/yyyy).

4. Contractor's Performance Obligations. Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will continue representing the Board of Corrections in litigation and on appeal, taking all legal action necessary to protect and preserve the Board's interests under Amendment 33, pursuant to Ark. Code Ann. 25-16-711. Specifically, Contractor will defend the Board of Corrections in a lawsuit and appeal filed by the Attorney General against the Board and its chair; and Contractor will prosecute the Board and chair's Amendment 33 claims, and represent them as Appellees in the appeal filed by the Attorney General on behalf of the Governor, Department of Corrections, and Secretary of Corrections. Contractor's December 22, 2023 engagement agreement, which was executed by the Board, is incorporated herein by reference, as well as the January 2024 Order from Judge Patricia James.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. Department's Payment Obligations. Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Pursuant to Ark. Code Ann. 25-16-711, Contractor will present itemized invoices monthly for ongoing payment of legal services rendered, with hourly rates of \$200 for paralegals, \$240 for associates, and \$285 for partners. Payment shall be due within 10 days from receipt of an invoice. Contractor shall be reimbursed all expenses incurred in the representation. Contractor's December 22, 2023 engagement agreement and the January 2024 Order of Judge Patricia James are incorporated by reference. The Board of Corrections's litigation liaison shall be solely responsible for determining whether Contractor's performance is satisfactory, and the litigation liaison shall be responsible for authorizing payment under this Agreement.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

A-BS

reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 207,000.00 (**Initial Contract Amount**).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 207,000.00 (**Total Projected Contract Amount**).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

Board of Corrections

This provision shall not be construed to abridge any other right of termination the ~~agency~~ ^{agency may have}.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.

- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

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days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.

B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.

C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. **Non-negotiable Sovereign Immunity.** Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract if applicable shall be brought in the Arkansas State Claims Commission, if applicable.

10. **Non-negotiable Intergovernmental/Cooperative Use.** In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. **Non-negotiable Disclosure Required by Executive Order 98-04.** Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. **Compliance.** The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

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Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq., if applicable.

- 13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
- 14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
- 15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265, if applicable.
- 16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
- 17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
- 18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
- 19. **Attachments.**
 - 1. Certification of Contractor
 - 2. Calculation of Compensation, as applicable;
 - 3. Source of Funds
 - 4. Objectives, Scope, and Performance Standards, as applicable; and
 - 5. Performance Details, as applicable
 - 6. Additional Attachments as applicable
 - A. Engagement Agreement Dated December 22, 2023
 - B. Contract & Grant Disclosure
 - C. January 2024 Order of Judge Patricia James
 - D. Outstanding Invoices in line for payment.

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20. Notices.

A. Method of Notice. The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid[, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

B. Receipt of Notice. A notice given under this Contract will be effective on
i. the other party's receipt of it, or
ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

C. Issuance of Notice. All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

<u>Flora Johnson</u>	<u>Procurement Administrator</u>
Name	Title
<u>(870) 850-8502</u>	<u>Flora.Johnson@arkansas.gov</u>
Telephone#	Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

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21. **Technology Access.** If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. **SIGNATURES**

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Abtin Mehdizadegan

Benny Magness

Printed Name

Printed Name

Partner, Hall Booth Smith, P.C.

Chairman, Board of Corrections

Title


Title

200 River Market Avenue, Suite 500, Little Rock, AR 72114

1302 Pike Ave., North Little Rock, AR. 72114

Address

Address


Signature


Signature

3/6/2024
Date

3/6/2024
Date

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Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, Abtin Mehdizadegan, a Partner with the law firm of Hall Booth Smith, P.C.
(Contractor) (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

HBS provides immigration services to a number of state governmental entities, including to UAMS and ADFA. Abtin Mehdizadegan does not have access to that information but can provide contact information for another representative. Abtin Mehdizadegan previously served as an adjunct professor at UA Bowen School of Law; however, he has discontinued that service. Abtin also served as special counsel to the Executive Subcommittee of the ALC/BLR in February 2023.

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None."

Contractor is not personally engaged in a legal controversy with any state agency; however, Contractor serves as legal counsel for the Board of Corrections and its chair in the legal controversies described above. Contractor also represents the BioGen plaintiffs in a separate regulatory challenge involving the Department of Agriculture et al., and Contractor represents 2600 Holdings in an appeal in which the ABC and MMC are parties, though not currently participating.

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship
Abtin Mehdizadegan	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Partner
Joseph Kraska	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Joseph Stepina	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Julie Hill	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Lynsey Russell	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Paralegal

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Contract No: 4600054260

CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

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Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Partner	1	\$285/hour	\$ 110,000.00
Associate	3	\$240/hour	\$ 75,000.00
Paralegal	1	\$200/hour	\$ 15,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
Filing fees and transcript costs	\$185 + \$0.10/page	\$ 5,000.00
Service of process	\$300	\$ 1,500.00
Special collections research	\$0.50/page	\$ 500.00
TOTAL REIMBURSABLE EXPENSES		\$ 7,000.00

Total compensation inclusive of expense reimbursement: \$ 207,000.00

Annual Contract Amount: \$ 207,000.00

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount: _____

Handwritten signature: H-76

**Attachment #3
Source of Funds**

Source of Funds the Department intends to draw on. This is provided for informational purposes only. It is required under Arkansas Procurement Law and is not a performance obligation of the Department or an unconditional promise to pay from the sources identified.

Fund Source	Identify Source of Funds *	Fund	Fund Center	Amount of Funding	% of Total Contract Cost
State Funds**	General Revenue	PAY9903	Z39	\$ 207,000.00	100 %
					%
					%
					%
					%
					%
TOTALS				\$ 207,000.00	100.00 %

Identify whether State general revenue funds (GRF), special revenue funds (SRF), federal funds (FED), or other public funds (Other) are the source. Identify each specific source of SRF, such as special taxes or fees, in the "Identify Source of Funds" column. Similarly, if Other public funds, such as tobacco funds, general improvement funds, etc., are being used to pay the Contractor, these should be specified in the "Identify Source of Funds" column.

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CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement or grant award with any Arkansas State Agency.

FEDERAL ID NUMBER: _____ SUBCONTRACTOR NAME: _____
 SOCIAL SECURITY NUMBER: _____ OR 58-1652659 Yes No N/A
 TAXPAYER ID NAME: Hall Booth Smith, P.C. Goods? Services? Both?
 YOUR LAST NAME: MehdiZadegan FIRST NAME: Abun
 ADDRESS: 200 River Market Avenue CITY: Little Rock STATE: AR ZIP CODE: 72201 COUNTRY: USA
 M.L.I.N.A.

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if you, your spouse or the brother, sister, parent, or child of you or your spouse is, current or former: member of the General Assembly, Constituent Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held <small>(location, representative, name of board/ commission, title only, etc.)</small>	For How Long?		What is the person(s) name and how are they related to you? <small>(i.e. Jane Q. Public, spouse, John Q. Public, Jr., Child, etc.)</small>	Person's Name(s)	Relation
	Current	Former		From MM/YY	To MM/YY			
General Assembly								
Constitutional Officer								
State Board or Commission Member								
State Employee								

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constituent Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constituent Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held <small>(location, representative, name of board/commission, title only, etc.)</small>	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?	Ownership Interest (%)	Position of Control
	Current	Former		From MM/YY	To MM/YY			
General Assembly								
Constitutional Officer								
State Board or Commission Member			Gov Comm'n People with Disabilities	8/2013	6/2016	Abun MehdiZadegan	N/A	Partner
State Employee			Adjunct Professor	8/17	1/23	Abun MehdiZadegan	N/A	Partner

None of the above applies See attached.

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Contract and Grant Disclosure and Certification Form

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.

2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.

3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature A. M. [Signature] Title Partner Date 3/6/2024

Vendor Contact Person Abtin Mehrizadegan Title Partner Phone No. 501-529-1163

Agency use only
 Agency Agency Contract
 Number Name Contact Person Phone No. or Grant No.

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Supplement to Contract and Grant Disclosure and Certification Form

1. Abtin Mehdizadegan was an adjunct professor of employment law at the UA William H. Bowen School of Law from August 2018 until December 2023. From approximately 2013 through 2015, Abtin Mehdizadegan served on the Governor's Commission for People with Disabilities. Abtin Mehdizadegan is a partner with Hall Booth Smith, P.C. He is not on the management committee of the firm and does not have power to direct purchasing policies. As a partner, Abtin Mehdizadegan has some influence in the management of Hall Booth Smith, P.C.
2. Julie Hill and Joseph Kraska are associates of Hall Booth Smith, P.C. Julie Hill's father is a member of the General Assembly. Joseph Kraska is a member of the Arkansas Air Guard. Neither Julie Hill nor Joseph Kraska own any interest in Hall Booth Smith, P.C. or otherwise hold positions of control. This information is supplied in an abundance of caution for transparency purposes.

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DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

COMBINED CERTIFICATIONS FOR CONTRACTING WITH THE STATE OF ARKANSAS


Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

- 1. Israel Boycott Restriction:** For contracts valued at \$1,000 or greater.
A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.
- 2. Illegal Immigrant Restriction:** For contracts valued at \$25,000 or greater.
No state agency may contract for services with a Contractor who employs or contracts with an illegal immigrant. The Contractor shall certify that it does not employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.
- 3. Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction:** For contracts valued at \$75,000 or greater.
A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
- 4. Scrutinized Company Restriction:** Required with bid or proposal submission.
A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

By signing this form, the Contractor agrees and certifies they are not a Scrutinized Company and they do not currently and shall not for the aggregate term a resultant contract:

- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

Contract Number: 4600054260 Description: Professional Consultant Services
 Agency Name: Board of Corrections
 Vendor Number: 100249276 Vendor Name: Hall Booth Smith, P.C.


 Vendor Signature

3/6/2024
 Date

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Att'n: Mehdi Zadehgan
Phone: 501.503.4445
azadeh@hallboothsmith.com

200 River Market Avenue
Suite 500
Little Rock, AR 72201

Office: 501.214.3499
Fax: 501.604.5565
www.hallboothsmith.com

Arkansas Board of Corrections
P.O. Box 20550
White Hall, AR 71612

RE: Engagement Letter for Legal Services and Supplement

This letter serves as a supplement to my engagement agreement for legal services, retroactive to December 8, 2023. Specifically, this letter will confirm that I have been retained as Special Counsel to the Arkansas Board of Corrections pursuant to Ark. Code Ann. § 25-16-711 to challenge certain legislation impacting the Board's power in light of the conflicting positions of the Attorney General regarding Amendment 33's application to the Board.

This letter will also confirm that I have been retained to take all legal action necessary to protect and preserve the Board's interests. Pursuant to that authority, on December 14, 2023, I filed a declaratory judgment lawsuit to challenge the legislation at issue, and on December 15, 2023, the Attorney General filed a lawsuit alleging violations of the Arkansas Freedom of Information Act in which the Attorney General sought to disqualify me from continued representation of the Board in the Amendment 33 lawsuit. In light of the exigent circumstances caused by the Attorney General's actions, and because the FOIA lawsuit, my representation as special counsel, and the pending Amendment 33 litigation are interrelated, I entered an appearance in the FOIA lawsuit pursuant to the December 14, 2023 motion authorizing me to take all necessary legal action. Based on the pleadings, arguments, and developments to-date, I believe the Board of Corrections and the Attorney General have another conflicting opinion regarding the application of a statute. In particular, the Attorney General has a different opinion regarding the application of Ark. Code Ann. § 25-16-711 as well as the Arkansas FOIA. This engagement agreement will serve as supplemental authority to file a counterclaim in the FOIA lawsuit to challenge Ark. Code Ann. § 25-16-702's application to the Board, and to further resolve the question of whether the Attorney General has standing to sue for alleged civil violations of the FOIA.

My standard hourly rate for government clients is currently \$285.00. Associates will bill at a rate of \$240.00 per hour; and paralegals will be billed at a rate of \$200.00 per hour. Our fees and costs will be billed monthly and are payable pursuant to the Board's extant policies. Time spent responding to FOIA requests will be billed at the same rates. Our invoices will be submitted monthly, and they will itemize the time expended on this matter and provide a description of services rendered. This engagement agreement specifically authorizes me to request the assistance of any associate or partner in my law firm at the rates set forth herein, including but not limited to Todd Wooten, Julie Hill,

LITTLE ROCK, AR

ALABAMA | ARKANSAS | COLORADO | FLORIDA | GEORGIA | MONTANA | NEW JERSEY | NEW YORK
NORTH CAROLINA | OKLAHOMA | SOUTH CAROLINA | TENNESSEE

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Joseph Kraska, Joseph Stepina, Allison Scott, and Garrett Bannister. Each invoice will also request reimbursement of any actual out-of-pocket disbursements expended by this Firm in connection with our representation. Except for filings or other exigencies, we will not incur third-party expenses in excess of \$500.00 without advance approval. Please note that our rates may increase next year as part of the Firm's standard processes. If rates increase on this matter, I will alert you of same.

As a client, you have the right at any time to terminate our services and representation upon written notice to the Firm. In the event of termination of representation, your file will be made available to you and will be retained and destroyed in accordance with our ethical obligations. Likewise, we reserve the right to withdraw from our representation if any fact or circumstance arises that would make our continuing representation unlawful or unethical. The above agreements will also apply to services rendered for such future matters that we mutually agree will be handled by the Firm.

Additional Terms

Restriction of Boycott of Israel. In accordance with Arkansas Code § 25-1-503, this Firm hereby certifies and agrees that it is not currently engaged in, and agrees for the duration of the Agreement not to engage in, a boycott of Israel.

Restriction of Boycotts of Certain Products. In accordance with Ark. Code Ann. § 25-1-1102, Hall Booth Smith, P.C. certifies that neither the law firm nor the attorneys assisting with this matter are currently engaged in, nor will become engaged in, any boycott of energy, fossil fuels, firearms, and ammunition industries.

Governing Law. This Agreement shall be governed by the laws of the State of Arkansas, without regard to Arkansas's conflict of law principles.

Thank you again for considering me for this engagement.

Sincerely,

HALL BOOTH SMITH, P.C.


Abtin Mehdizadegan

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ACCEPTANCE OF ENGAGEMENT AGREEMENT

By signing below, I represent that the Board of Corrections accepts the terms of this engagement agreement for legal services retroactive to December 8, 2023.

By: Benny Magness
Benny Magness, Chairman of the Board

12-22-23
Date

By: William Byers
William "Dubs" Byers, Secretary of the Board

12-22-23
Date

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ELECTRONICALLY FILED
Pulaski County Circuit Court
Terri Hollingsworth, Circuit/County Clerk
2024-Jan-19 10:59:04
60CV-23-9598
C06D11 : 8 Pages

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
ELEVENTH DIVISION

**ARKANSAS BOARD OF CORRECTIONS; and
BENNY MAGNESS, in his official capacity as
CHAIRMAN OF THE ARKANSAS
BOARD OF CORRECTIONS** **PLAINTIFFS**

v. **CASE NO. 60CV-23-9598**

**SARAH SANDERS, in her official capacity as
GOVERNOR OF ARKANSAS;
JOE PROFIRI, in his official capacity as
SECRETARY OF THE ARKANSAS
DEPARTMENT OF CORRECTIONS; and the
ARKANSAS DEPARTMENT OF CORRECTIONS** **DEFENDANTS**

ORDER

The Court, having held a hearing on this matter on January 4, 2024, considered the petition and motions presented, as well as the evidence and testimony presented, and the arguments regarding the same, makes the following findings:

1. This Court had jurisdiction over the parties and subject matter of this action.
2. On December 14, 2023, the Plaintiffs filed their Verified Complaint against the above-named Defendants seeking a declaratory judgment and injunctive relief relating to Acts 185 and 659 of 2023 (the "Challenged Legislation"), which the Plaintiffs allege violate Amendment 33 of the Arkansas Constitution.

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3. Subsequently, the Parties filed various motions, including the Defendants' Motion to Disqualify and Motion to Dismiss and Plaintiffs' Motion to Disqualify and Motion for Temporary Restraining Order or Alternatively Motion for Preliminary Injunction.

4. On December 15, 2023, the Court entered a temporary restraining order enjoining the Challenged Legislation and setting a hearing for December 28, 2023, pursuant to Rule 65 of the Arkansas Rules of Civil Procedure.

5. On December 28, 2023, Plaintiffs filed an Emergency Motion for Continuance and Extension of the temporary restraining order because Plaintiffs' lead counsel's wife went into labor. Because good cause was established, the Court granted Plaintiffs' Emergency Motion for Continuance and Extension and continued the temporary restraining order until January 4, 2024.

6. The Parties, through counsel, appeared at the January 4, 2024 hearing and presented argument, evidence, and testimony. Specifically, after the Parties' counsel delivered opening statements,¹ Plaintiffs presented testimony from Benny Magness, Chairman of the Board; Dr. William "Dubs" Byers, Secretary of the Board; Tommy James, Senior Auditor with the Compliance Division of the Board; and Jerry Bradshaw, who served as Director of the Division of Community Corrections until his voluntary retirement on December 31, 2023. Defendants called one witness: Mark Colbert, Compliance Attorney/Administrator for the Board of Corrections. After the Parties delivered closing arguments, the Court delivered the following bench rulings on the Parties' pending Motions:

¹ Defendants' counsel did not argue or address the merits of Plaintiffs' challenge during their opening statement or otherwise during closing arguments.

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Plaintiffs' Motion to Disqualify the Attorney General's Office

7. The Plaintiffs' Motion to Disqualify Attorney General's Office is denied.

8. Even though the Court acknowledges the unique position of the Attorney General's Office as the legal representative for the State of Arkansas, its agencies, officers, and other entities, and that the testimony presented is that the Attorney General's Office has represented Plaintiffs on numerous occasions, the Court is not inclined to disqualify the Attorney General's Office solely because the Attorney General's Office represents Plaintiffs in a pending federal class action.

9. Notwithstanding, the Attorney General's unique position does not exempt that Office from the Arkansas Rules of Professional Conduct. *Holloway v. Arkansas State Bd. of Architects*, 79 Ark. App. 200, 214, 86 S.W.3d 391, 400 (2002), *aff'd in part, rev'd in part*, 352 Ark. 427, 101 S.W.3d 805 (2003); ARK. R. PROF. COND. 1.7.

10. The Arkansas Rules of Professional Conduct apply to all attorneys licensed to practice in this State, including to the Attorney General and his staff.

11. The Court is particularly concerned about the participation in this lawsuit by Christine Cryer, who recently worked for the Department of Corrections, prior to being listed as counsel on this case. Ms. Cryer and Mr. Brascher filed entry of appearances and were signatories in several pleadings filed in this matter. Although, there is no testimony that Ms. Cryer did anything improper in this case, it is the appearance of impropriety that is concerning. Therefore, Ms. Cryer -- and also as an abundance of caution -- Mr. Justin Brascher shall not be allowed to participate in any aspect of this case in any manner.

12. Accordingly, the Court orders that Justin Brascher and Christine Cryer of the Attorney General's Office shall not participate in any aspect of this case.

13. The Attorney General's Office is directed to take all necessary measures to enforce this restriction.

**Defendants' Motion to Disqualify Abtin Mehdizadegan
and his Law Firm as Special Counsel**

14. Defendants' Motion to Disqualify Plaintiffs' counsel is denied. The Court finds Defendants' arguments in support of disqualification fail for several reasons.

15. The Board of Corrections was created by Amendment 33 of the Arkansas Constitution.

16. Section 1 of Amendment 33 specifically defines "the term of office of members of the boards or commissions charged with the management or control of all charitable, penal, or correctional institutions[.]" ARK. CONST. amend. XXXIII, § 1.

17. The Court's interpretation of Amendment 33 is quite clear: the Board of Corrections is a constitutionally created board, making the Board's members constitutional officers for purposes of section 25-16-711 of the Arkansas Code. Thus, contrary to the Defendants' arguments that section 25-16-702 applies, the Court finds that the Board of Corrections had the legal authority to hire special counsel pursuant to section 25-16-711 of the Arkansas Code because the Board is a constitutional board, its members are constitutional officers, and from the pleadings, argument, and testimony presented, it is clear that the Attorney General and the Board of Corrections disagree about the proper interpretation of Amendment 33, section 25-16-702, and section 25-16-711.

18. Therefore, Defendants' Motion to Disqualify special counsel is denied.

Defendants' Motion to Dismiss

19. Defendants' Motion to Dismiss is denied.

20. Defendants argued that Plaintiffs lack standing to bring this lawsuit because they are not “persons” as defined by the Declaratory Judgment Act. *See* ARK. CODE ANN. § 16-111-101 *et seq.* This argument fails.

21. Based on the previous rulings by the Arkansas Supreme Court considering whether other government entities or officers are “persons,” the Court finds that Plaintiffs have standing as “persons” under the Declaratory Judgment Act as defined by Act 274 of 1953. *See Brown v. State*, 2017 Ark. 232, 522 S.W.3d 791; *Valley v. Bogard*, 342 Ark. 336, 342–43, 28 S.W.3d 269, 272–73 (2000) (abrogated in part by *State v. Jernigan*, 2011 Ark. 487, 385 S.W.3d 776); *Vibo Corp. v. State ex rel. McDaniel*, 2011 Ark. 124, 380 S.W.3d 411.

22. Plaintiffs have standing to pursue a declaratory judgment finding that the Challenged Legislation is unconstitutional.

23. Consequently, Defendants’ Motion to Dismiss is denied.

Plaintiffs’ Motion for Preliminary Injunction

24. Having determined that Plaintiffs have the legal authority to hire outside counsel and that they have standing under the Declaratory Judgment Act, the Court considered Plaintiffs’ Motion for a Preliminary Injunction.

25. Pursuant to Rule 65 of the Arkansas Rules of Civil Procedure, the Court finds that Plaintiffs satisfied their burden of proving irreparable harm if the preliminary injunction is not granted and the likelihood of success on the merits. *See Ark. Dep’t of Educ. v. Jackson*, 2023 Ark. 105, 7, 669 S.W.3d 1, 6; *Ark. Dep’t of Hum Servs. v. Ledgerwood*, 2017 Ark. 308, 9, 530 S.W.3d 336, 343.

26. Plaintiffs identified irreparable harm in the absence of an injunction for several reasons.

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27. First, the evidence and testimony presented established that the Secretary of Corrections exhibited insubordination towards the Board of Corrections by, among other things, opening prison beds without the Board's approval. Further, even after the Board voted to place him on leave with pay status on December 14, 2023, Secretary Profiri refused to recognize the Board's authority and announced his intention to remain working. Secretary Profiri even refused to take physical possession of the letter notifying him that he was placed on leave with pay. The irreparable harm is directly attributable to Act 185 of 2023, which purportedly required the Secretary of Corrections to serve at the pleasure of the Governor.

28. Second, irreparable harm was also demonstrated by the Governor's multiple statements indicating that Secretary Profiri would continue serving in that capacity even after he was placed on leave. Placing Secretary Profiri on leave with pay did not resolve the irreparable harm Plaintiffs articulated. The evidence presented was that an inmate took his own life on December 15, 2023 and that, due to inadequate staffing, he was not found for at least one hour. At the time of death, there were three corrections officers performing the work of five corrections officers.

29. Third, irreparable harm was also demonstrated by Plaintiffs' witnesses who identified the uncertainty presented by the Challenged Legislation as it relates to the performance of their constitutional and statutory duties to manage the Department of Corrections and its Divisions. Fundamentally, Plaintiffs established that the Challenged Legislation interferes with the exercise of their constitutional rights to manage and control the Department of Corrections, and that showing supports a finding of clear and present need for equitable relief to prevent irreparable constitutional injury under

4-90

Amendment 33. Sections 12-27-107(c) and 12-27-126(c), for instance, as amended, were to become effective as of January 1, 2024.

30. Plaintiffs likewise demonstrated a likelihood of success on the merits because the Challenged Legislation diminished the powers vested in the Board of Corrections by Amendment 33. The Board has historically supervised the Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections. Those Department leaders implement the Board's substantive policy decisions. If the Board is statutorily precluded from directly supervising those positions, then—as demonstrated by this litigation—the Board cannot effectively perform its constitutional mandate to independently manage the affairs of the Department of Corrections.

31. The balance of equities weighs heavily in favor of enjoining the Challenged Legislation so that the Board can regain and retain control over the Department for which it has general superintending responsibility, as the potential harm to inmates, staff, and the community at large far outweighs any interest in the continued enforcement of allegedly unconstitutional legislation like Acts 185 and Sections 79 and 89 of Act 659. This harm cannot be adequately compensated by money damages or redressed in a court of law. It is clear to this Court that this dispute will be ongoing until this matter is fully determined. Therefore, this Court deems it appropriate to keep the injunction in place until such time this matter is resolved.

32. The Court grants Plaintiffs' Motion for Preliminary Injunction. Therefore, the Challenged Legislation—sections 25-43-403(a)(2)(a), 12-27-107(c), and 12-27-126(c) of the Arkansas Code—shall remain enjoined.

H-91

33. The Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections shall continue serving at the pleasure of and reporting directly to the Board of Corrections.

34. This preliminary injunction applies to Defendants, their officers, agents, servants, employees, attorneys, and other persons who are in active concert or participation with Defendants and Defendants' officers, agents, servants, employees, and attorneys, until the final hearing.

35. No security is required for this preliminary injunction pursuant to Rule 65(c) of the Arkansas Rules of Civil Procedure.

IT IS SO ORDERED.



THE HONORABLE PATRICIA A. JAMES

DATE: 1/19/24

H-92

FW: Engagement Letter dated 12/22/23

From Shari Gray <Shari.Gray@arkansas.gov>
To dubsbyers@protonmail.com
Date Saturday, March 16th, 2024 at 11:08 AM

Shari Gray

Arkansas Board of Corrections

P. O. Box 20550

White Hall, AR 71612

Shari.Gray@arkansas.gov

870-267-6754 / Fax 870-267-6756

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From: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Sent: Monday, January 8, 2024 9:23 AM

1-A

To: Abtin Mehdizadegan <abtin@hallboothsmith.com>

Subject: Engagement Letter dated 12/22/23

Here you go...

Shari Gray

Arkansas Board of Corrections

P. O. Box 20550

White Hall, AR 71612

Shari.Gray@arkansas.gov

870-267-6754 / Fax 870-267-6756

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From: Shari Gray (DOC) <shari.gray@arkansas.gov>

Sent: Monday, January 8, 2024 9:21 AM

To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>

Subject: Attached Image

1-B

149.58 KB 1 file attached

2977_001.pdf 149.58 KB

Y-C

Shari Gray (DOC)

From: Lindsay Wallace (DOC)
Sent: Wednesday, March 13, 2024 8:04 PM
To: dubsbyers; Chad Brown (DOC); Wade Hodge (DOC)
Cc: Shari Gray (DOC); Benny Magness (DOC)
Subject: Fwd: Dept/Bd. of Corrections - Contract Investigation

Dr. Byers and company,

I received this email from Marty at the Bureau. I confirmed receipt of the email and told her I would follow up tomorrow. I know we are meeting tomorrow, but I wanted to go ahead and send this along.

Lindsay

[Get Outlook for iOS](#)

From: Garrity, Marty <garritym@blr.arkansas.gov>
Sent: Wednesday, March 13, 2024 6:51 PM
To: Lindsay Wallace (DOC) <Lindsay.Wallace@arkansas.gov>
Subject: Dept/Bd. of Corrections - Contract Investigation

ALWAYS You don't often get email from garritym@blr.arkansas.gov. [Learn why this is important](#)

Lindsey, yesterday Speaker Shepherd requested and the Board/Department of Corrections committed to sharing all of the information on its investigation on the most recent agreement with Abtin Mehdizadegan with the Bureau of Legislative Research. Please advise as to your timeline for sharing the information that the department is gathering with me. Also, please advise as to who you will be interviewing and the documents you expect to review for the investigation. It is my understanding that this information should be shared as the investigation progresses as opposed to just receiving a findings of the investigation.

Thank you and if you have any questions, please do not hesitate to contact me.

Marty Garrity

Marty Garrity
Director
Bureau of Legislative Research
State Capitol, Rm. 315
Little Rock, AR 72201

Phone: (501) 683-1649
Fax: (501) 682-1936
garritym@blr.arkansas.gov

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- pg
- 1 03/05/24 8:53 p.m. Email to Shari Gray (SG) and copied to Lee Watson received from Chad Brown (CB) with forms to email to Abtin Mehdizadegan (AM) to fill out and return.
- 7 03/05/24 8:54 p.m. SG responded to CB...I will
- 10 03/05/24 8:58 p.m. Email from Lee Watson to AM copy to SG... prompt attention
- 17 03/05/24 8:59 p.m. Email received from CB copied to Lindsay Wallace and Benny Magness with contract attached.
- 29 03/06/24 7:57 a.m. Forwarded email with contract attached from CB to AM.
- 41 03/06/24 9:50 p.m. SG received email from AM requesting info from CB
- 43 03/06/24 9:55 a.m. SG responded to AM
- 45 03/06/24 9:56 a.m. SG emailed CB requesting info requested by AM
- 47 03/06/24 10:06 a.m. Email from AM to SG requesting info
- 48 03/06/24 10:21 a.m. Email from Flora Johnson, DOC Procurement Administrator to SG and CB attaching information requested by AM.
- 54 03/06/24 10:23 a.m. Email from SG to AM providing requested documents provided by Flora Johnson.
- 58 03/06/24 10:27 a.m. Email from Flora Johnson explaining second request for info from AM.
- 61 03/06/24 10:35 a.m. Email from SG to AM explaining info provided by Flora Johnson.
- 62 03/06/24 11:39 a.m. Email from AM to SG, Lee Watson and Benny Magness with contract signed by AM attached.
- 89 03/06/24 11:42 a.m. Email from SG to CB with contract signed by AM attached.
- 117 03/06/24 3:41 p.m. Email from SG to Benny Magness with AM signed contract attached.
- 145 03/06/24 3:51 p.m. Email from SG to CB with contract signed by AM and Benny Magness attached.
- 172 03/06/24 3:52 p.m. Email from SG to AM with contract signed by AM and Benny Magness attached.

Shari Gray (DOC)

From: Chad Brown (DOC)
Sent: Tuesday, March 5, 2024 8:53 PM
To: Shari Gray (DOC)
Cc: Lee Watson (DOC)
Subject: FW: Contract Docs Needed
Attachments: Grant Disclosure form.doc; Combined-Certifications-Form-112023.pdf

Importance: High

Shari,

Can you email these to the Board's attorney and have him fill them out and return?



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

FIND US HERE:

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From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Sent: Tuesday, March 5, 2024 4:12 PM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: FW: Contract Docs Needed
Importance: High

Attorney needs to complete the attached forms and complete the information on page #7 under the Contractor Authorized Signature, page 8, and "F" on page 9.

- We also have to include the Ratification request and OSP ratification cover letter.

If you need anything let me know.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell: 870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Sent: Tuesday, March 5, 2024 1:10 PM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>; Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: FW: Contract Error 4600054260
Importance: High

Below is the email from OSP of errors that need to be corrected before 3 p.m.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell:870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Denise Harris <Denise.Harris@arkansas.gov>
Sent: Tuesday, March 5, 2024 1:07 PM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>; Darlene Hicks <Darlene.Hicks@arkansas.gov>
Cc: Heather Bailey <heather.v.bailey_arkansas.gov@arkansas.gov>; Kimontie Taller <Kimontie.Taller@arkansas.gov>;
Melissa Greene <Melissa.Greene@arkansas.gov>
Subject: Contract Error 4600054260

Hello Flora,

The following errors will need to be corrected before we can complete the final review of contract 4600054260 - Hall Booth Smith PC.

- On the SRV-1 form page 7, Agency and Vendor signature and date missing – Per management the vendor signature can be obtained at a later date.
- Page 8 , certification of contractor needs to be completed.
- Page 9, Israel boycott box will need to be checked / completed.
- Contract and grant disclosure form missing
- Illegal immigrant form missing
- Ratification request and OSP ratification cover letter missing.

Flora it is my understanding that you will have all this information completed in the portal so the contract can be added to the March ALC Review before 3pm. Please let me know if you have any additional questions.

Thank You,



Denise Harris | Statewide Procurement Specialist
Transformation and Shared Services
o. 501.682.0247 | denise.harris@arkansas.gov
[Website](#) | [Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#)

The mission of the Office of State Procurement is to serve and support the State and its citizens through effective, efficient, and ethical procurement.

CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

TAXPAYER ID #: _____ OR _____ SUBCONTRACTOR: _____ SUBCONTRACTOR NAME: _____

TAXPAYER ID NAME: _____ IS THIS FOR: Yes No

YOUR LAST NAME: _____ FIRST NAME: _____

ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ COUNTRY: _____

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held (senator, representative, name of board/ commission, data entry, etc.)	For How Long?		What is the person(s) name and how are they related to you? (i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.)	Relation
	Current	Former		From MM/Y	To MM/Y		
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held (senator, representative, name of board/commission, data entry, etc.)	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?	Ownership Interest (%)	Position of Control
	Current	Former		From MM/Y	To MM/Y			
General Assembly								
Constitutional Officer								
State Board or Commission Member								
State Employee								

None of the above applies

X

Contract and Grant Disclosure and Certification Form

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.

2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.

3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature _____ Title _____ Date _____

Vendor Contact Person _____ Title _____ Phone No. _____

Agency use only

Agency Number _____ Agency Name _____ Agency Contact Person _____ Agency Contact Phone No. _____ Agency Contract Grant No. _____

5



DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

COMBINED CERTIFICATIONS FOR CONTRACTING WITH THE STATE OF ARKANSAS

Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

1. **Israel Boycott Restriction:** For contracts valued at \$1,000 or greater.
A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.
2. **Illegal Immigrant Restriction:** For contracts valued at \$25,000 or greater.
No state agency may contract for services with a Contractor who employs or contracts with an illegal immigrant. The Contractor shall certify that it does not employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.
3. **Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction:** For contracts valued at \$75,000 or greater.
A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
4. **Scrutinized Company Restriction:** Required with bid or proposal submission.
A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

By signing this form, the Contractor agrees and certifies they are not a Scrutinized Company and they do not currently and shall not for the aggregate term a resultant contract:

- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

Contract Number: _____ Description: _____

Agency Name: _____

Vendor Number: _____ Vendor Name: _____

Vendor Signature

Date

Shari Gray (DOC)

From: Shari Gray (DOC)
Sent: Tuesday, March 5, 2024 8:54 PM
To: Chad Brown (DOC)
Subject: Re: Contract Docs Needed

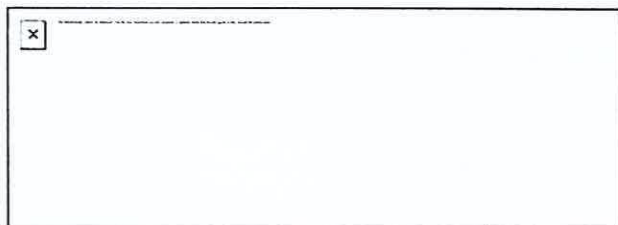
I will.

Shari Gray

From: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Sent: Tuesday, March 5, 2024 8:52:49 PM
To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Cc: Lee Watson (DOC) <lee.watson@arkansas.gov>
Subject: FW: Contract Docs Needed

Shari,

Can you email these to the Board's attorney and have him fill them out and return?



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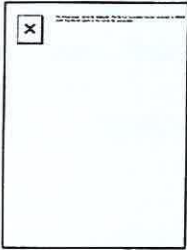
From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
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Importance: High

Attorney needs to complete the attached forms and complete the information on page #7 under the Contractor Authorized Signature, page 8, and "F" on page 9.

- We also have to include the Ratification request and OSP ratification cover letter.

If you need anything let me know.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell:870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Sent: Tuesday, March 5, 2024 1:10 PM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>; Heather Bailey (DOC) <Heather.Bailey@arkansas.gov>
Subject: FW: Contract Error 4600054260
Importance: High

Below is the email from OSP of errors that need to be corrected before 3 p.m.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell:870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Denise Harris <Denise.Harris@arkansas.gov>

Sent: Tuesday, March 5, 2024 1:07 PM

To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>; Darlene Hicks <Darlene.Hicks@arkansas.gov>

Cc: Heather Bailey <heather.v.bailey_arkansas.gov@arkansas.gov>; Kimontie Taller <Kimontie.Taller@arkansas.gov>;
Melissa Greene <Melissa.Greene@arkansas.gov>

Subject: Contract Error 4600054260

Hello Flora,

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Thank You,



Denise Harris | Statewide Procurement Specialist
Transformation and Shared Services
o. 501.682.0247 | denise.harris@arkansas.gov
[Website](#) | [Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#)

The mission of the Office of State Procurement is to serve and support the State and its citizens through effective, efficient, and ethical procurement.

Shari Gray (DOC)

From: Lee Watson (DOC)
Sent: Tuesday, March 5, 2024 8:58 PM
To: Abtin Mehdizadegan; Shari Gray (DOC)
Subject: Fwd: Contract Docs Needed
Attachments: Grant Disclosure form.doc; Combined-Certifications-Form-112023.pdf

Abtin

It appears that your prompt action is required on this matter. Please see the email below and attachments.

Best regards
Lee Watson

From: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Sent: Tuesday, March 5, 2024 8:52 PM
To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Cc: Lee Watson (DOC) <lee.watson@arkansas.gov>
Subject: FW: Contract Docs Needed

Shari,

Can you email these to the Board's attorney and have him fill them out and return?



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY
Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

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Procurement Administrator
Department of Corrections
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Email: Flora.Johnson@arkansas.gov



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State Cell:870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Denise Harris <Denise.Harris@arkansas.gov>
Sent: Tuesday, March 5, 2024 1:07 PM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>; Darlene Hicks <Darlene.Hicks@arkansas.gov>
Cc: Heather Bailey <heather.v.bailey_arkansas.gov@arkansas.gov>; Kimontie Taller <Kimontie.Taller@arkansas.gov>;
Melissa Greene <Melissa.Greene@arkansas.gov>
Subject: Contract Error 4600054260

Hello Flora,

The following errors will need to be corrected before we can complete the final review of contract 4600054260 - Hall Booth Smith PC.

- On the SRV-1 form page 7, Agency and Vendor signature and date missing – Per management the vendor signature can be obtained at a later date.
- Page 8 , certification of contractor needs to be completed.
- Page 9, Israel boycott box will need to be checked / completed.
- Contract and grant disclosure form missing
- Illegal immigrant form missing
- Ratification request and OSP ratification cover letter missing.

Flora it is my understanding that you will have all this information completed in the portal so the contract can be added to the March ALC Review before 3pm. Please let me know if you have any additional questions.

Thank You,



Denise Harris | Statewide Procurement Specialist
Transformation and Shared Services
o. 501.682.0247 | denise.harris@arkansas.gov
[Website](#) | [Facebook](#) | [Twitter](#) | [LinkedIn](#) | [Instagram](#)

The mission of the Office of State Procurement is to serve and support the State and its citizens through effective, efficient, and ethical procurement.

CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SOCIAL SECURITY NUMBER: _____ OR _____ SUBCONTRACTOR: Yes No
 FEDERAL ID NUMBER: _____ SUBCONTRACTOR NAME: _____

TAXPAYER ID #: _____ IS THIS FOR: Goods? Services? Both?

TAXPAYER ID NAME: _____ FIRST NAME: _____ M.I.: _____

ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ COUNTRY: _____

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held <small>(senator, representative, name of board/ commission, data entry, etc.)</small>	For How Long?		What is the person(s) name and how are they related to you? <small>[i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.]</small>	Relation
	Current	Former		From MM/Y Y	To MM/Y Y		
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held <small>(senator, representative, name of board/ commission, data entry, etc.)</small>	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?	
	Current	Former		From MM/Y Y	To MM/Y Y	Person's Name(s)	Ownership Interest (%)
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

Contract and Grant Disclosure and Certification Form

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.
2. I will include the following language as a part of any agreement with a subcontractor:
Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.
3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature _____ Title _____ Date _____

Vendor Contact Person _____ Title _____ Phone No. _____

Agency use only
Agency Number _____ Agency Name _____ Agency Contact Person _____ Agency Contract Number _____ Agency Contact Phone No. _____ or Grant No. _____

CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SOCIAL SECURITY NUMBER: _____ OR _____ SUBCONTRACTOR: Yes No

FEDERAL ID NUMBER: _____ SUBCONTRACTOR NAME: _____

TAXPAYER ID #: _____ IS THIS FOR: Goods? Services? Both?

TAXPAYER ID NAME: _____

YOUR LAST NAME: _____ FIRST NAME: _____

ADDRESS: _____ M.I.: _____

CITY: _____ STATE: _____ ZIP CODE: _____ COUNTRY: _____

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held <small>(senator, representative, name of board/ commission, data entry, etc.)</small>	For How Long?		What is the person(s) name and how are they related to you? <small>(i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.)</small>	Relation
	Current	Former		From MM/Y Y	To MM/Y Y		
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held <small>(senator, representative, name of board/ commission, data entry, etc.)</small>	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?	Ownership Interest (%)	Position of Control
	Current	Former		From MM/Y Y	To MM/Y Y			
General Assembly								
Constitutional Officer								
State Board or Commission Member								
State Employee								

None of the above applies

Contract and Grant Disclosure and Certification Form

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.
2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.
3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature _____ Title _____ Date _____
Vendor Contact Person _____ Title _____ Phone No. _____

Agency use only
Agency Number _____ Agency Name _____ Agency Contact Person _____ Agency Contact _____ Contract _____
Phone No. _____ or Grant No. _____

Shari Gray (DOC)

From: Chad Brown (DOC)
Sent: Tuesday, March 5, 2024 8:59 PM
To: Shari Gray (DOC)
Cc: Lindsay Wallace (DOC); Benny Magness (DOC)
Subject: Contract/BOC
Attachments: Attorney contract.pdf

This is the contract for Board attorney. We set the anticipated cost at \$200,000. We cannot ratify anything without some sort of contract put into the system. I spoke to Chairman Magness this evening so he knows already. Best case is to get it signed and back to me tomorrow.



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

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STATE OF ARKANSAS SERVICES CONTRACT

Contract #	4600054260	Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input type="checkbox"/>	Procurement Method	

1. Contracting Parties. State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	9903 - Department of Corrections
Division	

Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. Objectives, Scope, and Performance. Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters as requested by the Board.

3. Term Dates. The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024 (mm/dd/yyyy).

4. Contractor's Performance Obligations. Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will represent the Board of Corrections, taking all legal action necessary to protect and preserve the Board's interests.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. Department's Payment Obligations. Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Contractor will present itemized invoices monthly to the department for payment of legal services rendered.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 200,000.00 (**Initial Contract Amount**).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 200,000.00 (**Total Projected Contract Amount**).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

This provision shall not be construed to abridge any other right of termination the agency may have.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.

- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable **Governing Law and Venue.**

A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.

B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.

C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable **Sovereign Immunity.** Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract shall be brought in the Arkansas State Claims Commission.

10. Non-negotiable **Intergovernmental/Cooperative Use.** In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable **Disclosure Required by Executive Order 98-04.** Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. **Compliance.** The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq.

13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265.
16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
19. **Attachments.**
 1. Certification of Contractor
 2. Calculation of Compensation, as applicable;
 3. Source of Funds
 4. Objectives, Scope, and Performance Standards, as applicable; and
 5. Performance Details, as applicable
 6. Additional Attachments as applicable
 - A. Contract & Grant Disclosure
 - B.
 - C.

20. Notices.

- A. **Method of Notice.** The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid[, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.
- B. **Receipt of Notice.** A notice given under this Contract will be effective on
 - i. the other party's receipt of it, or
 - ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.
- C. **Issuance of Notice.** All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

<u>Flora Johnson</u>	<u>Procurement Administrator</u>
Name	Title
<u>(870) 850-8502</u>	<u>Flora.Johnson@arkansas.gov</u>
Telephone#	Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

21. Technology Access. If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. SIGNATURES

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Benny Magness

Printed Name

Printed Name

Chairman, Board of Corrections

Title

Title

191 Peachtree St., NE, Ste 2900, Atlanta, GA 30303

1302 Pike Ave., North Little Rock, AR. 72114

Address

Address

Signature

Signature

Date

Date

Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, _____ (Contractor) _____ (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None."

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub- contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship

CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Legal Represenation	6	200,000	\$ 200,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
TOTAL REIMBURSABLE EXPENSES		\$ 0.00

Total compensation inclusive of expense reimbursement: \$ 200,000.00

Annual Contract Amount: _____

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount: _____

**Attachment #3
Source of Funds**

Source of Funds the Department intends to draw on. This is provided for informational purposes only. It is required under Arkansas Procurement Law and is not a performance obligation of the Department or an unconditional promise to pay from the sources identified.

Fund Source	Identify Source of Funds *	Fund	Fund Center	Amount of Funding	% of Total Contract Cost
State Funds**	General Revenue	PAY9903	Z39	\$ 200,000.00	100 %
					%
					%
					%
					%
					%
TOTALS				\$ 200,000.00	100.00 %

Identify whether State general revenue funds (GRF), special revenue funds (SRF), federal funds (FED), or other public funds (Other) are the source. Identify each specific source of SRF, such as special taxes or fees, in the "Identify Source of Funds" column. Similarly, if Other public funds, such as tobacco funds, general improvement funds, etc., are being used to pay the Contractor, these should be specified in the "Identify Source of Funds" column.

Shari Gray (DOC)

From: Shari Gray (DOC)
Sent: Wednesday, March 6, 2024 7:57 AM
To: Abtin Mehdizadegan
Subject: Fwd: Contract/BOC
Attachments: Attorney contract.pdf

Shari Gray

From: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Sent: Tuesday, March 5, 2024 8:59:07 PM
To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Cc: Lindsay Wallace (DOC) <Lindsay.Wallace@arkansas.gov>; Benny Magness (DOC) <Benny.Magness@arkansas.gov>
Subject: Contract/BOC

This is the contract for Board attorney. We set the anticipated cost at \$200,000. We cannot ratify anything without some sort of contract put into the system. I spoke to Chairman Magness this evening so he knows already. Best case is to get it signed and back to me tomorrow.



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

FIND US HERE:

[Website](#) – [Facebook](#) – [Twitter](#) – [Instagram](#) – [LinkedIn](#)

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**STATE OF ARKANSAS
SERVICES CONTRACT**

Contract #	4600054260	Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input type="checkbox"/>	Procurement Method	

1. **Contracting Parties.** State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	9903 - Department of Corrections		
Division			
Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters as requested by the Board.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024 (mm/dd/yyyy).

4. Contractor's Performance Obligations. Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will represent the Board of Corrections, taking all legal action necessary to protect and preserve the Board's interests.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. Department's Payment Obligations. Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Contractor will present itemized invoices monthly to the department for payment of legal services rendered.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 200,000.00 (**Initial Contract Amount**).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 200,000.00 (**Total Projected Contract Amount**).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

This provision shall not be construed to abridge any other right of termination the agency may have.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.

- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.

B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.

C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable Sovereign Immunity. Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract shall be brought in the Arkansas State Claims Commission.

10. Non-negotiable Intergovernmental/Cooperative Use. In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable Disclosure Required by Executive Order 98-04. Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. Compliance. The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq.

13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265.
16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
19. **Attachments.**
 1. Certification of Contractor
 2. Calculation of Compensation, as applicable;
 3. Source of Funds
 4. Objectives, Scope, and Performance Standards, as applicable; and
 5. Performance Details, as applicable
 6. Additional Attachments as applicable
 - A. Contract & Grant Disclosure
 - B.
 - C.

20. Notices.

A. Method of Notice. The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid[, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

B. Receipt of Notice. A notice given under this Contract will be effective on
i. the other party's receipt of it, or
ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

C. Issuance of Notice. All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

<u>Flora Johnson</u>	<u>Procurement Administrator</u>
Name	Title
<u>(870) 850-8502</u>	<u>Flora.Johnson@arkansas.gov</u>
Telephone#	Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

21. **Technology Access.** If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. **SIGNATURES**

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Printed Name

Title

191 Peachtree St., NE, Ste 2900, Atlanta, GA 30303

Address

Signature

Date

Benny Magness

Printed Name

Chairman, Board of Corrections

Title

1302 Pike Ave., North Little Rock, AR. 72114

Address

Signature

Date

36

Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, _____
(Contractor) _____
(Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None.")

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship

CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Legal Represenation	6	200,000	\$ 200,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
TOTAL REIMBURSABLE EXPENSES		\$ 0.00

Total compensation inclusive of expense reimbursement: \$ 200,000.00

Annual Contract Amount: _____

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount: _____

**Attachment #3
Source of Funds**

Source of Funds the Department intends to draw on. This is provided for informational purposes only. It is required under Arkansas Procurement Law and is not a performance obligation of the Department or an unconditional promise to pay from the sources identified.

Fund Source	Identify Source of Funds *	Fund	Fund Center	Amount of Funding	% of Total Contract Cost
State Funds**	General Revenue	PAY9903	Z39	\$ 200,000.00	100 %
					%
					%
					%
					%
					%
TOTALS				\$ 200,000.00	100.00 %

Identify whether State general revenue funds (GRF), special revenue funds (SRF), federal funds (FED), or other public funds (Other) are the source. Identify each specific source of SRF, such as special taxes or fees, in the "Identify Source of Funds" column. Similarly, if Other public funds, such as tobacco funds, general improvement funds, etc., are being used to pay the Contractor, these should be specified in the "Identify Source of Funds" column.

40



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CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

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review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy the original message and any copies.

From: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Sent: Wednesday, March 6, 2024 7:57 AM
To: Abtin Mehdizadegan <abtin@hallboothsmith.com>
Subject: Fwd: Contract/BOC

Shari Gray

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Cc: Lindsay Wallace (DOC) <Lindsay.Wallace@arkansas.gov>; Benny Magness (DOC) <Benny.Magness@arkansas.gov>
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Shari Gray (DOC)

From: Shari Gray (DOC)
Sent: Wednesday, March 6, 2024 9:56 AM
To: Chad Brown (DOC)
Subject: FW: Contract/BOC

Good morning

Abtin asked if you would send him item listed in 19.6, which is "Contract and Grant Disclosure".

Shari Gray
Arkansas Board of Corrections
P. O. Box 20550
White Hall, AR 71612
Shari.Gray@arkansas.gov
870-267-6754 / Fax 870-267-6756

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From: Abtin Mehdizadegan <abtin@hallboothsmith.com>
Sent: Wednesday, March 6, 2024 9:50 AM
To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Subject: RE: Contract/BOC

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Shari,

I will work on this. Can you please ask Chad to send me the item listed in 19.6, which is "Contract and Grant Disclosure"?

Abtin Mehdizadegan

Attorney at Law | Hall Booth Smith, P C

O: 501 214 3499 200 River Market Avenue, Suite 500
D: 501 503 4445 Little Rock, AR 72201
hallboothsmith.com



ALABAMA | ARKANSAS | COLORADO | FLORIDA | GEORGIA
MONTANA | NEW JERSEY | NEW YORK | OKLAHOMA
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Shari Gray (DOC)

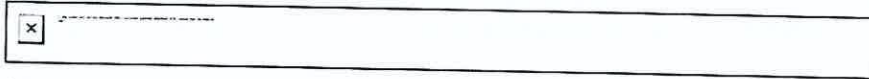
From: Abtin Mehdizadegan <abtin@hallboothsmith.com>
Sent: Wednesday, March 6, 2024 10:06 AM
To: Shari Gray (DOC)
Subject: Bid

Microsoft Word You don't often get email from abtin@hallboothsmith.com. [Learn why this is important](#)
Can you also send me the bid? It is referenced as BOC-24-001.

Abtin Mehdizadegan

Attorney at Law | Hall Booth Smith P C

O: 501 214 3499 200 River Market Avenue Suite 500
D: 501 503 4445 Little Rock AR 72201
hallboothsmith.com



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Shari Gray (DOC)

From: Flora Johnson (DOC)
Sent: Wednesday, March 6, 2024 10:21 AM
To: Shari Gray (DOC); Chad Brown (DOC)
Subject: FW: Contract/BOC
Attachments: Grant Disclosure form.doc; Combined-Certifications-Form-112023.pdf

Good morning Ms. Shari, attached are both the Contract & Grant Disclosure and the Combined Boycott Restriction Certificate that are needed to be completed for the contract.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell:870-550-8654
Email: Flora.Johnson@arkansas.gov



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Sent: Wednesday, March 6, 2024 10:16 AM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Subject: Fwd: Contract/BOC

See email from Shari and handle for me please

Get Outlook for iOS

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Cc: Lindsay Wallace (DOC) <Lindsay.Wallace@arkansas.gov>; Benny Magness (DOC) <Benny.Magness@arkansas.gov>

Subject: Contract/BOC

This is the contract for Board attorney. We set the anticipated cost at \$200,000. We cannot ratify anything without some sort of contract put into the system. I spoke to Chairman Magness this evening so he knows already. Best case is to get it signed and back to me tomorrow.



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

FIND US HERE:

[Website](#) – [Facebook](#) – [Twitter](#) – [Instagram](#) – [LinkedIn](#)

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CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SOCIAL SECURITY NUMBER: _____ OR _____ SUBCONTRACTOR NAME: _____

TAXPAYER ID #: _____ Yes No

IS THIS FOR: Goods? Services? Both?

TAXPAYER ID NAME: _____

YOUR LAST NAME: _____ FIRST NAME: _____ M.I.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____ COUNTRY: _____

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held (senator, representative, name of board/ commission, data entry, etc.)	For How Long?		What is the person(s) name and how are they related to you? [i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.]	Relation
	Current	Former		From MM/Y Y	To MM/Y Y		
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held (senator, representative, name of board/commission, data entry, etc.)	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?	
	Current	Former		From MM/Y Y	To MM/Y Y	Person's Name(s)	Ownership Interest (%)
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

Contract and Grant Disclosure and Certification Form

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.

2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.

3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature _____ Title _____ Date _____

Vendor Contact Person _____ Title _____ Phone No. _____

Agency use only
Agency Number _____ Agency Name _____ Agency Contact Person _____ Agency Phone No. _____ Agency Contract _____ or Grant No. _____

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DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

COMBINED CERTIFICATIONS FOR CONTRACTING WITH THE STATE OF ARKANSAS

Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

1. **Israel Boycott Restriction:** For contracts valued at \$1,000 or greater.
A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.
2. **Illegal Immigrant Restriction:** For contracts valued at \$25,000 or greater.
No state agency may contract for services with a Contractor who employs or contracts with an illegal immigrant. The Contractor shall certify that it does not employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.
3. **Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction:** For contracts valued at \$75,000 or greater.
A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
4. **Scrutinized Company Restriction:** Required with bid or proposal submission.
A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

By signing this form, the Contractor agrees and certifies they are not a Scrutinized Company and they do not currently and shall not for the aggregate term a resultant contract:

- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

Contract Number: _____ Description: _____

Agency Name: _____

Vendor Number: _____ Vendor Name: _____

Vendor Signature

Date

Shari Gray (DOC)

From: Shari Gray (DOC)
Sent: Wednesday, March 6, 2024 10:23 AM
To: Abtin Mehdizadegan
Subject: FW: Contract/BOC
Attachments: Safe Attachments Scan In Progress

Shari Gray
Arkansas Board of Corrections
P. O. Box 20550
White Hall, AR 71612
Shari.Gray@arkansas.gov
870-267-6754 / Fax 870-267-6756

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DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

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A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
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- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

Contract Number: _____ Description: _____

Agency Name: _____

Vendor Number: _____ Vendor Name: _____

Vendor Signature

Date

CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SOCIAL SECURITY NUMBER: _____ OR _____
 FEDERAL ID NUMBER: _____ SUBCONTRACTOR NAME: _____
 TAXPAYER ID #: _____
 IS THIS FOR: Goods? Services? Both?
 TAXPAYER ID NAME: _____
 YOUR LAST NAME: _____ FIRST NAME: _____ M.I.: _____
 ADDRESS: _____
 CITY: _____ STATE: _____ ZIP CODE: _____ COUNTRY: _____

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held <small>[senator, representative, name of board/ commission, data entry, etc.]</small>	For How Long?		What is the person(s) name and how are they related to you? <small>[i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.]</small>	Relation
	Current	Former		From MM/Y Y	To MM/Y Y		
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held <small>[senator, representative, name of board/ commission, data entry, etc.]</small>	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?	Ownership Interest (%)	Position of Control
	Current	Former		From MM/Y Y	To MM/Y Y			
General Assembly								
Constitutional Officer								
State Board or Commission Member								
State Employee								

None of the above applies

Contract and Grant Disclosure and Certification Form

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1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.
2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.
3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature _____ Title _____ Date _____
Vendor Contact Person _____ Title _____ Phone No. _____

Agency use only
Agency Number _____ Agency Name _____ Agency Contact Person _____ Phone No. _____ Contract _____
or Grant No. _____

57

Shari Gray (DOC)

From: Flora Johnson (DOC)
Sent: Wednesday, March 6, 2024 10:27 AM
To: Shari Gray (DOC); Chad Brown (DOC)
Subject: RE: Contract/BOC

You're welcome! BOC-24-01 is just a reference I created for my tracking of the contract. There is no additional documentation.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell: 870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Sent: Wednesday, March 6, 2024 10:25 AM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>; Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: RE: Contract/BOC

Thank you both. He also asked for BOC-24-001. Sounds like something I should have, but I'm drawing a blank.

Shari Gray
Arkansas Board of Corrections
P. O. Box 20550
White Hall, AR 71612
Shari.Gray@arkansas.gov
870-267-6754 / Fax 870-267-6756

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From: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Sent: Wednesday, March 6, 2024 10:21 AM
To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>; Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: FW: Contract/BOC

Good morning Ms. Shari, attached are both the Contract & Grant Disclosure and the Combined Boycott Restriction Certificate that are needed to be completed for the contract.

Flora M. Johnson
Procurement Administrator
Department of Corrections
2403 E. Harding Ave.
Pine Bluff, AR. 71601
Office: 870-850-8502
State Cell:870-550-8654
Email: Flora.Johnson@arkansas.gov



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From: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Sent: Wednesday, March 6, 2024 10:16 AM
To: Flora Johnson (DOC) <Flora.Johnson@arkansas.gov>
Subject: Fwd: Contract/BOC

See email from Shari and handle for me please

Get Outlook for iOS

From: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Sent: Wednesday, March 6, 2024 9:56 AM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: FW: Contract/BOC

Good morning

Abtin asked if you would send him item listed in 19.6, which is "Contract and Grant Disclosure".

Shari Gray

Cc: Lindsay Wallace (DOC) <Lindsay.Wallace@arkansas.gov>; Benny Magness (DOC) <Benny.Magness@arkansas.gov>
Subject: Contract/BOC

This is the contract for Board attorney. We set the anticipated cost at \$200,000. We cannot ratify anything without some sort of contract put into the system. I spoke to Chairman Magness this evening so he knows already. Best case is to get it signed and back to me tomorrow.



CHAD BROWN
CHIEF FINANCIAL OFFICER
OFFICE OF THE SECRETARY

Arkansas Department of Corrections
1302 Pike Avenue, Suite C
North Little Rock, Arkansas 72114
Phone: (870) 619-9829
Chad.Brown@arkansas.gov

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Shari Gray (DOC)

From: Abtin Mehdizadegan <abtin@hallboothsmith.com>
Sent: Wednesday, March 6, 2024 11:39 AM
To: Shari Gray (DOC); Lee Watson (DOC); Benny Magness (DOC)
Subject: Procurement Documents - 3.6.2024
Attachments: Procurement Documents - 3.6.2024.pdf

Microsoft Word You don't often get email from abtin@hallboothsmith.com. [Learn why this is important](#)

Shari, Lee, and Benny,

Please see attached.

Shari, can you please transmit to Chad Brown?

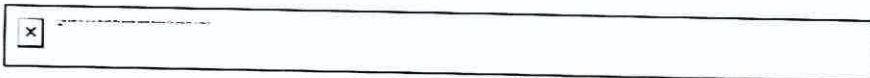
Best,

Abtin

Abtin Mehdizadegan

Attorney at Law | Hall Booth Smith, P.C.

O: 501.214.3499 200 River Market Avenue, Suite 500
D: 501.503.4445 Little Rock, AR 72201
hallboothsmith.com



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**STATE OF ARKANSAS
SERVICES CONTRACT**

Contract #	4600054260	Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input type="checkbox"/>	Procurement Method	Emergency / Exempt from Law

The Board of Corrections of the

1. **Contracting Parties** - State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	9903 - Department of Corrections / Board of Corrections
Division	Not Applicable

Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters within the ambit of Ark. Code Ann. 25-16-711, as voted on and approved by the Board of Corrections on December 8, December 14, and December 22, 2023. Contractor's engagement agreement dated December 22, 2023 is incorporated herein by reference. By signing this document, neither the Board of Corrections nor Contractor admit that the procurement process advanced by the Department of Corrections is correct or applicable, and they retain and reserve all defenses relating to the applicable process through which to secure representation under Ark. Code Ann. 25-16-711 or other applicable law. In the interest of cooperation, however, and to facilitate the payment of Contractor's outstanding and prospective invoices, Contractor and the Board of Corrections supply the information requested herein in good faith. The term of this agreement is difficult to anticipate due to the nature of pending litigation, as is the total contract amount; however, the information supplied is based on Contractor's best estimate at this time.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024 (mm/dd/yyyy).

4. Contractor's Performance Obligations. Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will continue representing the Board of Corrections in litigation and on appeal, taking all legal action necessary to protect and preserve the Board's interests under Amendment 33, pursuant to Ark. Code Ann. 25-16-711. Specifically, Contractor will defend the Board of Corrections in a lawsuit and appeal filed by the Attorney General against the Board and its chair; and Contractor will prosecute the Board and chair's Amendment 33 claims, and represent them as Appellees in the appeal filed by the Attorney General on behalf of the Governor, Department of Corrections, and Secretary of Corrections. Contractor's December 22, 2023 engagement agreement, which was executed by the Board, is incorporated herein by reference, as well as the January 2024 Order from Judge Patricia James.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. Department's Payment Obligations. Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Pursuant to Ark. Code Ann. 25-16-711, Contractor will present itemized invoices monthly for ongoing payment of legal services rendered, with hourly rates of \$200 for paralegals, \$240 for associates, and \$285 for partners. Payment shall be due within 10 days from receipt of an invoice. Contractor shall be reimbursed all expenses incurred in the representation. Contractor's December 22, 2023 engagement agreement and the January 2024 Order of Judge Patricia James are incorporated by reference. The Board of Corrections's litigation liaison shall be solely responsible for determining whether Contractor's performance is satisfactory, and the litigation liaison shall be responsible for authorizing payment under this Agreement.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 207,000.00 (**Initial Contract Amount**).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 207,000.00 (**Total Projected Contract Amount**).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

Board of Corrections

This provision shall not be construed to abridge any other right of termination the ~~agency~~ may have.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.

- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.

B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.

C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. **Non-negotiable Sovereign Immunity.** Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract if applicable, shall be brought in the Arkansas State Claims Commission, if applicable.

10. **Non-negotiable Intergovernmental/Cooperative Use.** In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. **Non-negotiable Disclosure Required by Executive Order 98-04.** Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. **Compliance.** The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq., if applicable.

13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265, if applicable.
16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
19. **Attachments.**
 1. Certification of Contractor
 2. Calculation of Compensation, as applicable;
 3. Source of Funds
 4. Objectives, Scope, and Performance Standards, as applicable; and
 5. Performance Details, as applicable
 6. Additional Attachments as applicable
 - A. Engagement Agreement Dated December 22, 2023
 - B. Contract & Grant Disclosure
 - C. January 2024 Order of Judge Patricia James
 - D. Outstanding Invoices in line for payment.

20. Notices.

A. Method of Notice. The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

B. Receipt of Notice. A notice given under this Contract will be effective on
i. the other party's receipt of it, or
ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

C. Issuance of Notice. All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

<u>Flora Johnson</u>	<u>Procurement Administrator</u>
Name <u>(870) 850-8502</u>	Title <u>Flora.Johnson@arkansas.gov</u>
Telephone#	Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name <u>(501) 682-9510</u>	Title <u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name <u>(501) 682-9510</u>	Title <u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

21. Technology Access. If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. SIGNATURES

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Abtin Mehdizadegan

Benny Magness

Printed Name

Printed Name

Partner, Hall Booth Smith, P.C.

Chairman, Board of Corrections

Title

Title

200 River Market Avenue, Suite 500, Little Rock, AR 72201

1302 Pike Ave., North Little Rock, AR. 72114

Address

Address


Signature

Signature

3/6/2024

Date

Date

69

Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, Abtin Mehdizadegan, a Partner with the law firm of Hall Booth Smith, P.C.
 (Contractor) (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

HBS provides immigration services to a number of state governmental entities, including to UAMS and ADFA. Abtin Mehdizadegan does not have access to that information but can provide contact information for another representative. Abtin Mehdizadegan previously served as an adjunct professor at UA Bowen School of Law; however, he has discontinued that service. Abtin also served as special counsel to the Executive Subcommittee of the ALC/BLR in February 2023.

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None.")

Contractor is not personally engaged in a legal controversy with any state agency; however, Contractor serves as legal counsel for the Board of Corrections and its chair in the legal controversies described above. Contractor also represents the BioGen plaintiffs in a separate regulatory challenge involving the Department of Agriculture et al., and Contractor represents 2600 Holdings in an appeal in which the ABC and MMC are parties, though not currently participating.

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship
Abtin Mehdizadegan	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Partner
Joseph Kraska	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Joseph Stepina	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Julie Hill	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Lynsey Russell	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Paralegal

CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Partner	1	\$285/hour	\$ 110,000.00
Associate	3	\$240/hour	\$ 75,000.00
Paralegal	1	\$200/hour	\$ 15,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
Filing fees and transcript costs	\$185 + \$0.10/page	\$ 5,000.00
Service of process	\$300	\$ 1,500.00
Special collections research	\$0.50/page	\$ 500.00
TOTAL REIMBURSABLE EXPENSES		\$ 7,000.00

Total compensation inclusive of expense reimbursement: \$ 207,000.00

Annual Contract Amount: \$ 207,000.00

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount:

CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SOCIAL SECURITY NUMBER: _____ OR _____ SUBCONTRACTOR NAME: _____
 FEDERAL ID NUMBER: 58-1852659 SUBCONTRACTOR: Yes No
 TAXPAYER ID # _____ OR _____ IS THIS FOR: Goods? Services? Both?
 TAXPAYER ID NAME: Hall Booth Smith, P.C. M.I.: NA
 YOUR LAST NAME: Mehdizadegan FIRST NAME: Abtin
 ADDRESS: 280 River Market Avenue
 CITY: Little Rock STATE: AR ZIP CODE: 72201 COUNTRY: USA

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held <small>(Senator, representative, name of board/ commission, data entry, etc.)</small>	For How Long?		What is the person(s) name and how are they related to you? <small>(i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.)</small>	Person's Name(s)	Relation
	Current	Former		From MM/Y	To MM/Y			
General Assembly								
Constitutional Officer								
State Board or Commission Member								
State Employee								

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held <small>(Senator, representative, name of board/ commission, data entry, etc.)</small>	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?	Ownership Interest (%)	Position of Control
	Current	Former		From MM/Y	To MM/Y			
General Assembly								
Constitutional Officer								
State Board or Commission Member			Gov Comm'n People with Disabilities	8/2013	8/2016	Abtin Mehdizadegan	N/A	Partner
State Employee			Adjunct Professor	8/17	12/23	Abtin Mehdizadegan	N/A	Partner

None of the above applies See attached.

Contract and Grant Disclosure and Certification Form

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.

2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.

3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature  Title Partner Date 3/6/2024

Vendor Contact Person Abtin Mehdi Zadeq Title Partner Phone No. 501-529-1163

Agency use only
Agency Number _____ Agency Name _____ Agency Contact Person _____ Contract _____
Phone No. _____ or Grant No. _____

Supplement to Contract and Grant Disclosure and Certification Form

1. Abtin Mehdizadegan was an adjunct professor of employment law at the UA William H. Bowen School of Law from August 2018 until December 2023. From approximately 2013 through 2015, Abtin Mehdizadegan served on the Governor's Commission for People with Disabilities. Abtin Mehdizadegan is a partner with Hall Booth Smith, P.C. He is not on the management committee of the firm and does not have power to direct purchasing policies. As a partner, Abtin Mehdizadegan has some influence in the management of Hall Booth Smith, P.C.
2. Julie Hill and Joseph Kraska are associates of Hall Booth Smith, P.C. Julie Hill's father is a member of the General Assembly. Joseph Kraska is a member of the Arkansas Air Guard. Neither Julie Hill nor Joseph Kraska own any interest in Hall Booth Smith, P.C. or otherwise hold positions of control. This information is supplied in an abundance of caution for transparency purposes.



DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

COMBINED CERTIFICATIONS FOR CONTRACTING WITH THE STATE OF ARKANSAS

Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

1. **Israel Boycott Restriction:** For contracts valued at \$1,000 or greater.
A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.
2. **Illegal Immigrant Restriction:** For contracts valued at \$25,000 or greater.
No state agency may contract for services with a Contractor who employs or contracts with an illegal immigrant. The Contractor shall certify that it does not employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.
3. **Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction:** For contracts valued at \$75,000 or greater.
A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
4. **Scrutinized Company Restriction:** Required with bid or proposal submission.
A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

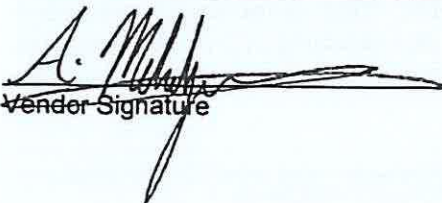
By signing this form, the Contractor agrees and certifies they are not a Scrutinized Company and they do not currently and shall not for the aggregate term a resultant contract:

- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

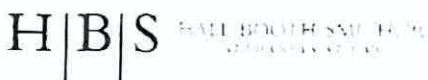
Contract Number: 4600054260 Description: Professional Consultant Services

Agency Name: Board of Corrections

Vendor Number: 100249276 Vendor Name: Hall Booth Smith, P.C.


Vendor Signature

3/6/2024
Date



Abtin Mehdizadegan
Phone: 501.503.4445
abtin@hallboothsmith.com

200 River Market Avenue
Suite 500
Little Rock, AR 72201

Office: 501.214.3499
Fax: 501.604.5566
www.hallboothsmith.com

Arkansas Board of Corrections
P.O. Box 20550
White Hall, AR 71612

RE: Engagement Letter for Legal Services and Supplement

This letter serves as a supplement to my engagement agreement for legal services, retroactive to December 8, 2023. Specifically, this letter will confirm that I have been retained as Special Counsel to the Arkansas Board of Corrections pursuant to Ark. Code Ann. § 25-16-711 to challenge certain legislation impacting the Board's power in light of the conflicting positions of the Attorney General regarding Amendment 33's application to the Board.

This letter will also confirm that I have been retained to take all legal action necessary to protect and preserve the Board's interests. Pursuant to that authority, on December 14, 2023, I filed a declaratory judgment lawsuit to challenge the legislation at issue, and on December 15, 2023, the Attorney General filed a lawsuit alleging violations of the Arkansas Freedom of Information Act in which the Attorney General sought to disqualify me from continued representation of the Board in the Amendment 33 lawsuit. In light of the exigent circumstances caused by the Attorney General's actions, and because the FOIA lawsuit, my representation as special counsel, and the pending Amendment 33 litigation are interrelated, I entered an appearance in the FOIA lawsuit pursuant to the December 14, 2023 motion authorizing me to take all necessary legal action. Based on the pleadings, arguments, and developments to-date, I believe the Board of Corrections and the Attorney General have another conflicting opinion regarding the application of a statute. In particular, the Attorney General has a different opinion regarding the application of Ark. Code Ann. § 25-16-711 as well as the Arkansas FOIA. This engagement agreement will serve as supplemental authority to file a counterclaim in the FOIA lawsuit to challenge Ark. Code Ann. § 25-16-702's application to the Board, and to further resolve the question of whether the Attorney General has standing to sue for alleged civil violations of the FOIA.

My standard hourly rate for government clients is currently \$285.00. Associates will bill at a rate of \$240.00 per hour; and paralegals will be billed at a rate of \$200.00 per hour. Our fees and costs will be billed monthly and are payable pursuant to the Board's extant policies. Time spent responding to FOIA requests will be billed at the same rates. Our invoices will be submitted monthly, and they will itemize the time expended on this matter and provide a description of services rendered. This engagement agreement specifically authorizes me to request the assistance of any associate or partner in my law firm at the rates set forth herein, including but not limited to Todd Wooten, Julie Hill,

LITTLE ROCK, AR

ALABAMA | ARKANSAS | COLORADO | FLORIDA | GEORGIA | MONTANA | NEW JERSEY | NEW YORK
NORTH CAROLINA | OKLAHOMA | SOUTH CAROLINA | TENNESSEE

Joseph Kraska, Joseph Stepina, Allison Scott, and Garrett Bannister. Each invoice will also request reimbursement of any actual out-of-pocket disbursements expended by this Firm in connection with our representation. Except for filings or other exigencies, we will not incur third-party expenses in excess of \$500.00 without advance approval. Please note that our rates may increase next year as part of the Firm's standard processes. If rates increase on this matter, I will alert you of same.

As a client, you have the right at any time to terminate our services and representation upon written notice to the Firm. In the event of termination of representation, your file will be made available to you and will be retained and destroyed in accordance with our ethical obligations. Likewise, we reserve the right to withdraw from our representation if any fact or circumstance arises that would make our continuing representation unlawful or unethical. The above agreements will also apply to services rendered for such future matters that we mutually agree will be handled by the Firm.

Additional Terms

Restriction of Boycott of Israel. In accordance with Arkansas Code § 25-1-503, this Firm hereby certifies and agrees that it is not currently engaged in, and agrees for the duration of the Agreement not to engage in, a boycott of Israel.

Restriction of Boycotts of Certain Products. In accordance with Ark. Code Ann. § 25-1-1102, Hall Booth Smith, P.C. certifies that neither the law firm nor the attorneys assisting with this matter are currently engaged in, nor will become engaged in, any boycott of energy, fossil fuels, firearms, and ammunition industries.

Governing Law. This Agreement shall be governed by the laws of the State of Arkansas, without regard to Arkansas's conflict of law principles.

Thank you again for considering me for this engagement.

Sincerely,

HALL BOOTH SMITH, P.C.


Abtin Mehdizadegan

ACCEPTANCE OF ENGAGEMENT AGREEMENT

By signing below, I represent that the Board of Corrections accepts the terms of this engagement agreement for legal services retroactive to December 8, 2023.

By: Benny Magness
Benny Magness, Chairman of the Board

12-22-23
Date

By: William Byers
William "Dubs" Byers, Secretary of the Board

12-22-23
Date

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
ELEVENTH DIVISION

**ARKANSAS BOARD OF CORRECTIONS; and
BENNY MAGNESS, in his official capacity as
CHAIRMAN OF THE ARKANSAS
BOARD OF CORRECTIONS**

PLAINTIFFS

v. **CASE NO. 60CV-23-9598**

**SARAH SANDERS, in her official capacity as
GOVERNOR OF ARKANSAS;
JOE PROFIRI, in his official capacity as
SECRETARY OF THE ARKANSAS
DEPARTMENT OF CORRECTIONS; and the
ARKANSAS DEPARTMENT OF CORRECTIONS**

DEFENDANTS

ORDER

The Court, having held a hearing on this matter on January 4, 2024, considered the petition and motions presented, as well as the evidence and testimony presented, and the arguments regarding the same, makes the following findings:

1. This Court had jurisdiction over the parties and subject matter of this action.
2. On December 14, 2023, the Plaintiffs filed their Verified Complaint against the above-named Defendants seeking a declaratory judgment and injunctive relief relating to Acts 185 and 659 of 2023 (the "Challenged Legislation"), which the Plaintiffs allege violate Amendment 33 of the Arkansas Constitution.

3. Subsequently, the Parties filed various motions, including the Defendants' Motion to Disqualify and Motion to Dismiss and Plaintiffs' Motion to Disqualify and Motion for Temporary Restraining Order or Alternatively Motion for Preliminary Injunction.

4. On December 15, 2023, the Court entered a temporary restraining order enjoining the Challenged Legislation and setting a hearing for December 28, 2023, pursuant to Rule 65 of the Arkansas Rules of Civil Procedure.

5. On December 28, 2023, Plaintiffs filed an Emergency Motion for Continuance and Extension of the temporary restraining order because Plaintiffs' lead counsel's wife went into labor. Because good cause was established, the Court granted Plaintiffs' Emergency Motion for Continuance and Extension and continued the temporary restraining order until January 4, 2024.

6. The Parties, through counsel, appeared at the January 4, 2024 hearing and presented argument, evidence, and testimony. Specifically, after the Parties' counsel delivered opening statements,¹ Plaintiffs presented testimony from Benny Magness, Chairman of the Board; Dr. William "Dubs" Byers, Secretary of the Board; Tommy James, Senior Auditor with the Compliance Division of the Board; and Jerry Bradshaw, who served as Director of the Division of Community Corrections until his voluntary retirement on December 31, 2023. Defendants called one witness: Mark Colbert, Compliance Attorney/Administrator for the Board of Corrections. After the Parties delivered closing arguments, the Court delivered the following bench rulings on the Parties' pending Motions:

¹ Defendants' counsel did not argue or address the merits of Plaintiffs' challenge during their opening statement or otherwise during closing arguments.

Plaintiffs' Motion to Disqualify the Attorney General's Office

7. The Plaintiffs' Motion to Disqualify Attorney General's Office is denied.

8. Even though the Court acknowledges the unique position of the Attorney General's Office as the legal representative for the State of Arkansas, its agencies, officers, and other entities, and that the testimony presented is that the Attorney General's Office has represented Plaintiffs on numerous occasions, the Court is not inclined to disqualify the Attorney General's Office solely because the Attorney General's Office represents Plaintiffs in a pending federal class action.

9. Notwithstanding, the Attorney General's unique position does not exempt that Office from the Arkansas Rules of Professional Conduct. *Holloway v. Arkansas State Bd. of Architects*, 79 Ark. App. 200, 214, 86 S.W.3d 391, 400 (2002), *aff'd in part, rev'd in part*, 352 Ark. 427, 101 S.W.3d 805 (2003); ARK. R. PROF. COND. 1.7.

10. The Arkansas Rules of Professional Conduct apply to all attorneys licensed to practice in this State, including to the Attorney General and his staff.

11. The Court is particularly concerned about the participation in this lawsuit by Christine Cryer, who recently worked for the Department of Corrections, prior to being listed as counsel on this case. Ms. Cryer and Mr. Brascher filed entry of appearances and were signatories in several pleadings filed in this matter. Although, there is no testimony that Ms. Cryer did anything improper in this case, it is the appearance of impropriety that is concerning. Therefore, Ms. Cryer -- and also as an abundance of caution -- Mr. Justin Brascher shall not be allowed to participate in any aspect of this case in any manner.

12. Accordingly, the Court orders that Justin Brascher and Christine Cryer of the Attorney General's Office shall not participate in any aspect of this case.

13. The Attorney General's Office is directed to take all necessary measures to enforce this restriction.

**Defendants' Motion to Disqualify Abtin Mehdizadegan
and his Law Firm as Special Counsel**

14. Defendants' Motion to Disqualify Plaintiffs' counsel is denied. The Court finds Defendants' arguments in support of disqualification fail for several reasons.

15. The Board of Corrections was created by Amendment 33 of the Arkansas Constitution.

16. Section 1 of Amendment 33 specifically defines "the term of office of members of the boards or commissions charged with the management or control of all charitable, penal, or correctional institutions[.]" ARK. CONST. amend. XXXIII, § 1.

17. The Court's interpretation of Amendment 33 is quite clear: the Board of Corrections is a constitutionally created board, making the Board's members constitutional officers for purposes of section 25-16-711 of the Arkansas Code. Thus, contrary to the Defendants' arguments that section 25-16-702 applies, the Court finds that the Board of Corrections had the legal authority to hire special counsel pursuant to section 25-16-711 of the Arkansas Code because the Board is a constitutional board, its members are constitutional officers, and from the pleadings, argument, and testimony presented, it is clear that the Attorney General and the Board of Corrections disagree about the proper interpretation of Amendment 33, section 25-16-702, and section 25-16-711.

18. Therefore, Defendants' Motion to Disqualify special counsel is denied.

Defendants' Motion to Dismiss

19. Defendants' Motion to Dismiss is denied.

20. Defendants argued that Plaintiffs lack standing to bring this lawsuit because they are not “persons” as defined by the Declaratory Judgment Act. *See* ARK. CODE ANN. § 16-111-101 *et seq.* This argument fails.

21. Based on the previous rulings by the Arkansas Supreme Court considering whether other government entities or officers are “persons,” the Court finds that Plaintiffs have standing as “persons” under the Declaratory Judgment Act as defined by Act 274 of 1953. *See Brown v. State*, 2017 Ark. 232, 522 S.W.3d 791; *Valley v. Bogard*, 342 Ark. 336, 342–43, 28 S.W.3d 269, 272–73 (2000) (abrogated in part by *State v. Jernigan*, 2011 Ark. 487, 385 S.W.3d 776); *Vibo Corp. v. State ex rel. McDaniel*, 2011 Ark. 124, 380 S.W.3d 411.

22. Plaintiffs have standing to pursue a declaratory judgment finding that the Challenged Legislation is unconstitutional.

23. Consequently, Defendants' Motion to Dismiss is denied.

Plaintiffs' Motion for Preliminary Injunction

24. Having determined that Plaintiffs have the legal authority to hire outside counsel and that they have standing under the Declaratory Judgment Act, the Court considered Plaintiffs' Motion for a Preliminary Injunction.

25. Pursuant to Rule 65 of the Arkansas Rules of Civil Procedure, the Court finds that Plaintiffs satisfied their burden of proving irreparable harm if the preliminary injunction is not granted and the likelihood of success on the merits. *See Ark. Dep't of Educ. v. Jackson*, 2023 Ark. 105, 7, 669 S.W.3d 1, 6; *Ark. Dep't of Hum Servs. v. Ledgerwood*, 2017 Ark. 308, 9, 530 S.W.3d 336, 343.

26. Plaintiffs identified irreparable harm in the absence of an injunction for several reasons.

27. First, the evidence and testimony presented established that the Secretary of Corrections exhibited insubordination towards the Board of Corrections by, among other things, opening prison beds without the Board's approval. Further, even after the Board voted to place him on leave with pay status on December 14, 2023, Secretary Profiri refused to recognize the Board's authority and announced his intention to remain working. Secretary Profiri even refused to take physical possession of the letter notifying him that he was placed on leave with pay. The irreparable harm is directly attributable to Act 185 of 2023, which purportedly required the Secretary of Corrections to serve at the pleasure of the Governor.

28. Second, irreparable harm was also demonstrated by the Governor's multiple statements indicating that Secretary Profiri would continue serving in that capacity even after he was placed on leave. Placing Secretary Profiri on leave with pay did not resolve the irreparable harm Plaintiffs articulated. The evidence presented was that an inmate took his own life on December 15, 2023 and that, due to inadequate staffing, he was not found for at least one hour. At the time of death, there were three corrections officers performing the work of five corrections officers.

29. Third, irreparable harm was also demonstrated by Plaintiffs' witnesses who identified the uncertainty presented by the Challenged Legislation as it relates to the performance of their constitutional and statutory duties to manage the Department of Corrections and its Divisions. Fundamentally, Plaintiffs established that the Challenged Legislation interferes with the exercise of their constitutional rights to manage and control the Department of Corrections, and that showing supports a finding of clear and present need for equitable relief to prevent irreparable constitutional injury under

Amendment 33. Sections 12-27-107(c) and 12-27-126(c), for instance, as amended, were to become effective as of January 1, 2024.

30. Plaintiffs likewise demonstrated a likelihood of success on the merits because the Challenged Legislation diminished the powers vested in the Board of Corrections by Amendment 33. The Board has historically supervised the Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections. Those Department leaders implement the Board's substantive policy decisions. If the Board is statutorily precluded from directly supervising those positions, then—as demonstrated by this litigation—the Board cannot effectively perform its constitutional mandate to independently manage the affairs of the Department of Corrections.

31. The balance of equities weighs heavily in favor of enjoining the Challenged Legislation so that the Board can regain and retain control over the Department for which it has general superintending responsibility, as the potential harm to inmates, staff, and the community at large far outweighs any interest in the continued enforcement of allegedly unconstitutional legislation like Acts 185 and Sections 79 and 89 of Act 659. This harm cannot be adequately compensated by money damages or redressed in a court of law. It is clear to this Court that this dispute will be ongoing until this matter is fully determined. Therefore, this Court deems it appropriate to keep the injunction in place until such time this matter is resolved.

32. The Court grants Plaintiffs' Motion for Preliminary Injunction. Therefore, the Challenged Legislation—sections 25-43-403(a)(2)(a), 12-27-107(c), and 12-27-126(c) of the Arkansas Code—shall remain enjoined.

33. The Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections shall continue serving at the pleasure of and reporting directly to the Board of Corrections.

34. This preliminary injunction applies to Defendants, their officers, agents, servants, employees, attorneys, and other persons who are in active concert or participation with Defendants and Defendants' officers, agents, servants, employees, and attorneys, until the final hearing.

35. No security is required for this preliminary injunction pursuant to Rule 65(c) of the Arkansas Rules of Civil Procedure.

IT IS SO ORDERED.



THE HONORABLE PATRICIA A. JAMES

DATE: 1/19/24

Shari Gray (DOC)

From: Shari Gray (DOC)
Sent: Wednesday, March 6, 2024 11:42 AM
To: Chad Brown (DOC)
Subject: FW: Procurement Documents - 3.6.2024
Attachments: Procurement Documents - 3.6.2024.pdf

Chad,

Please let me know if you need anything further.

Shari Gray
Arkansas Board of Corrections
P. O. Box 20550
White Hall, AR 71612
Shari.Gray@arkansas.gov
870-267-6754 / Fax 870-267-6756

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From: Abtin Mehdizadegan <abtin@hallboothsmith.com>
Sent: Wednesday, March 6, 2024 11:39 AM
To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>; Lee Watson (DOC) <lee.watson@arkansas.gov>; Benny Magness (DOC) <Benny.Magness@arkansas.gov>
Subject: Procurement Documents - 3.6.2024

EXPANDED You don't often get email from abtin@hallboothsmith.com. [Learn why this is important](#)

Shari, Lee, and Benny,

Please see attached.

Shari, can you please transmit to Chad Brown?

Best,

Abtin

Abtin Mehdizadegan

Attorney at Law | Hall Booth Smith, P.C.

O: 501.214.3499
D: 501.503.4445

200 River Market Avenue, Suite 500
Little Rock, AR 72201
hallboothsmith.com



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STATE OF ARKANSAS SERVICES CONTRACT

Contract #	4600054260	Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input type="checkbox"/>	Procurement Method	Emergency / Exempt from Law

The Board of Corrections of the

1. **Contracting Parties** - State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	9903 - Department of Corrections / Board of Corrections		
Division	Not Applicable		

Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters within the ambit of Ark. Code Ann. 25-16-711, as voted on and approved by the Board of Corrections on December 8, December 14, and December 22, 2023. Contractor's engagement agreement dated December 22, 2023 is incorporated herein by reference. By signing this document, neither the Board of Corrections nor Contractor admit that the procurement process advanced by the Department of Corrections is correct or applicable, and they retain and reserve all defenses relating to the applicable process through which to secure representation under Ark. Code Ann. 25-16-711 or other applicable law. In the interest of cooperation, however, and to facilitate the payment of Contractor's outstanding and prospective invoices, Contractor and the Board of Corrections supply the information requested herein in good faith. The term of this agreement is difficult to anticipate due to the nature of pending litigation, as is the total contract amount; however, the information supplied is based on Contractor's best estimate at this time.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

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The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024 (mm/dd/yyyy).

4. Contractor's Performance Obligations. Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will continue representing the Board of Corrections in litigation and on appeal, taking all legal action necessary to protect and preserve the Board's interests under Amendment 33, pursuant to Ark. Code Ann. 25-16-711. Specifically, Contractor will defend the Board of Corrections in a lawsuit and appeal filed by the Attorney General against the Board and its chair; and Contractor will prosecute the Board and chair's Amendment 33 claims, and represent them as Appellees in the appeal filed by the Attorney General on behalf of the Governor, Department of Corrections, and Secretary of Corrections. Contractor's December 22, 2023 engagement agreement, which was executed by the Board, is incorporated herein by reference, as well as the January 2024 Order from Judge Patricia James.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. Department's Payment Obligations. Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Pursuant to Ark. Code Ann. 25-16-711, Contractor will present itemized invoices monthly for ongoing payment of legal services rendered, with hourly rates of \$200 for paralegals, \$240 for associates, and \$285 for partners. Payment shall be due within 10 days from receipt of an invoice. Contractor shall be reimbursed all expenses incurred in the representation. Contractor's December 22, 2023 engagement agreement and the January 2024 Order of Judge Patricia James are incorporated by reference. The Board of Corrections's litigation liaison shall be solely responsible for determining whether Contractor's performance is satisfactory, and the litigation liaison shall be responsible for authorizing payment under this Agreement.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

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reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 207,000.00 (**Initial Contract Amount**).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 207,000.00 (**Total Projected Contract Amount**).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

Board of Corrections
agency

This provision shall not be construed to abridge any other right of termination the ~~agency~~ may have.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.

- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

- A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.
- B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.
- C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable Sovereign Immunity. Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract if applicable, shall be brought in the Arkansas State Claims Commission, if applicable.

10. Non-negotiable Intergovernmental/Cooperative Use. In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable Disclosure Required by Executive Order 98-04. Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. Compliance. The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

- A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq., if applicable.

13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265, if applicable.
16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
19. **Attachments.**
 1. Certification of Contractor
 2. Calculation of Compensation, as applicable;
 3. Source of Funds
 4. Objectives, Scope, and Performance Standards, as applicable; and
 5. Performance Details, as applicable
 6. Additional Attachments as applicable
 - A. Engagement Agreement Dated December 22, 2023
 - B. Contract & Grant Disclosure
 - C. January 2024 Order of Judge Patricia James
 - D. Outstanding Invoices in line for payment.

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20. Notices.

A. Method of Notice. The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid[, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

B. Receipt of Notice. A notice given under this Contract will be effective on
i. the other party's receipt of it, or
ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

C. Issuance of Notice. All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

Flora Johnson	Procurement Administrator
_____ Name	_____ Title
(870) 850-8502	Flora.Johnson@arkansas.gov
_____ Telephone#	_____ Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

Chad Brown	Chief Financial Officer
_____ Name	_____ Title
(501) 682-9510	Chad.Brown@arkansas.gov
_____ Telephone#	_____ Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

Chad Brown	Chief Financial Officer
_____ Name	_____ Title
(501) 682-9510	Chad.Brown@arkansas.gov
_____ Telephone#	_____ Email

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21. Technology Access. If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. SIGNATURES

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Abtin Mehdizadegan

Benny Magness

Printed Name

Printed Name

Partner, Hall Booth Smith, P.C.

Chairman, Board of Corrections

Title

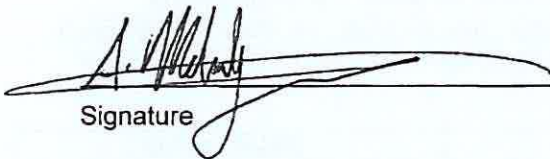
Title

200 River Market Avenue, Suite 500, Little Rock, AR 72201

1302 Pike Ave., North Little Rock, AR. 72114

Address

Address


Signature

Signature

Date

Date

Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, Abtin Mehdizadegan, a Partner with the law firm of Hall Booth Smith, P.C.
 (Contractor) (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

HBS provides immigration services to a number of state governmental entities, including to UAMS and ADFA. Abtin Mehdizadegan does not have access to that information but can provide contact information for another representative. Abtin Mehdizadegan previously served as an adjunct professor at UA Bowen School of Law; however, he has discontinued that service. Abtin also served as special counsel to the Executive Subcommittee of the ALC/BLR in February 2023.

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None.")

Contractor is not personally engaged in a legal controversy with any state agency; however, Contractor serves as legal counsel for the Board of Corrections and its chair in the legal controversies described above. Contractor also represents the BioGen plaintiffs in a separate regulatory challenge involving the Department of Agriculture et al., and Contractor represents 2600 Holdings in an appeal in which the ABC and MMC are parties, though not currently participating.

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship
Abtin Mehdizadegan	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Partner
Joseph Kraska	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Joseph Stepina	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Julie Hill	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Lynsey Russell	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Paralegal

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CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Partner	1	\$285/hour	\$ 110,000.00
Associate	3	\$240/hour	\$ 75,000.00
Paralegal	1	\$200/hour	\$ 15,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
Filing fees and transcript costs	\$185 + \$0.10/page	\$ 5,000.00
Service of process	\$300	\$ 1,500.00
Special collections research	\$0.50/page	\$ 500.00
TOTAL REIMBURSABLE EXPENSES		\$ 7,000.00

Total compensation inclusive of expense reimbursement: \$ 207,000.00

Annual Contract Amount: \$ 207,000.00

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount:

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CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency

SOCIAL SECURITY NUMBER: _____ OR _____ SUBCONTRACTOR NAME: _____
 FEDERAL ID NUMBER: 58-1952659 SUBCONTRACTOR NAME: N/A

TAXPAYER ID # _____ IS THIS FOR: Goods? Services? Both?

TAXPAYER ID NAME: Hall Booth Smith, P.C. FIRST NAME: Abtin M.I.: NA

YOUR LAST NAME: Mehdizadegan ADDRESS: 200 River Market Avenue

CITY: Little Rock STATE: AR ZIP CODE: 72201 COUNTRY: USA

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held <small>(Senator, representative, name of board/ commission, date entry, etc.)</small>	For How Long?		What is the person(s) name and how are they related to you? <small>(i.e., Jane Q. Public, spouse, John Q. Public, Jr, child, etc.)</small>	Relation
	Current	Former		From MM/Y	To MM/Y		
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held <small>(Senator, representative, name of board/ commission, date entry, etc.)</small>	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?		
	Current	Former		From MM/Y	To MM/Y	Person's Name(s)	Ownership Interest (%)	Position of Control
General Assembly								
Constitutional Officer								
State Board or Commission Member	X		Gov. Comm'n People with Disabilities	8/2013	8/2016	Abtin Mehdizadegan	N/A	Partner
State Employee	X		Adjunct Professor	8/17	12/23	Abtin Mehdizadegan	N/A	Partner

None of the above applies See attached.

Contract and Grant Disclosure and Certification Form

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.
2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.
3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature  Title Partner Date 3/6/2024

Vendor Contact Person Abtin Mehdi Zadeegan Title Partner Phone No. 501-529-1163

Agency use only
Agency Number _____ Agency Name _____ Agency Contact Person _____ Agency Contact _____ Phone No. _____ or Grant No. _____

Supplement to Contract and Grant Disclosure and Certification Form

1. Abtin Mehdizadegan was an adjunct professor of employment law at the UA William H. Bowen School of Law from August 2018 until December 2023. From approximately 2013 through 2015, Abtin Mehdizadegan served on the Governor's Commission for People with Disabilities. Abtin Mehdizadegan is a partner with Hall Booth Smith, P.C. He is not on the management committee of the firm and does not have power to direct purchasing policies. As a partner, Abtin Mehdizadegan has some influence in the management of Hall Booth Smith, P.C.
2. Julie Hill and Joseph Kraska are associates of Hall Booth Smith, P.C. Julie Hill's father is a member of the General Assembly. Joseph Kraska is a member of the Arkansas Air Guard. Neither Julie Hill nor Joseph Kraska own any interest in Hall Booth Smith, P.C. or otherwise hold positions of control. This information is supplied in an abundance of caution for transparency purposes.



DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

COMBINED CERTIFICATIONS FOR CONTRACTING WITH THE STATE OF ARKANSAS


Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

1. **Israel Boycott Restriction:** For contracts valued at \$1,000 or greater.
A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.
2. **Illegal Immigrant Restriction:** For contracts valued at \$25,000 or greater.
No state agency may contract for services with a Contractor who employs or contracts with an illegal immigrant. The Contractor shall certify that it does not employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.
3. **Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction:** For contracts valued at \$75,000 or greater.
A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
4. **Scrutinized Company Restriction:** Required with bid or proposal submission.
A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

By signing this form, the Contractor agrees and certifies they are not a Scrutinized Company and they do not currently and shall not for the aggregate term a resultant contract:

- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

Contract Number: 4600054260 Description: Professional Consultant Services
 Agency Name: Board of Corrections
 Vendor Number: 100249276 Vendor Name: Hall Booth Smith, P.C.



 Vendor Signature

3/6/2024

 Date



HALL BOOTH SMITH
ATTORNEYS AT LAW

Abtin Mehdizadegan
Phone: 501.503.4445
abtin@hallboothsmith.com

200 River Market Avenue
Suite 500
Little Rock, AR 72201

Office: 501.214.3499
Fax: 501.604.5566
www.hallboothsmith.com

Arkansas Board of Corrections
P.O. Box 20550
White Hall, AR 71612

RE: Engagement Letter for Legal Services and Supplement

This letter serves as a supplement to my engagement agreement for legal services, retroactive to December 8, 2023. Specifically, this letter will confirm that I have been retained as Special Counsel to the Arkansas Board of Corrections pursuant to Ark. Code Ann. § 25-16-711 to challenge certain legislation impacting the Board's power in light of the conflicting positions of the Attorney General regarding Amendment 33's application to the Board.

This letter will also confirm that I have been retained to take all legal action necessary to protect and preserve the Board's interests. Pursuant to that authority, on December 14, 2023, I filed a declaratory judgment lawsuit to challenge the legislation at issue, and on December 15, 2023, the Attorney General filed a lawsuit alleging violations of the Arkansas Freedom of Information Act in which the Attorney General sought to disqualify me from continued representation of the Board in the Amendment 33 lawsuit. In light of the exigent circumstances caused by the Attorney General's actions, and because the FOIA lawsuit, my representation as special counsel, and the pending Amendment 33 litigation are interrelated, I entered an appearance in the FOIA lawsuit pursuant to the December 14, 2023 motion authorizing me to take all necessary legal action. Based on the pleadings, arguments, and developments to-date, I believe the Board of Corrections and the Attorney General have another conflicting opinion regarding the application of a statute. In particular, the Attorney General has a different opinion regarding the application of Ark. Code Ann. § 25-16-711 as well as the Arkansas FOIA. This engagement agreement will serve as supplemental authority to file a counterclaim in the FOIA lawsuit to challenge Ark. Code Ann. § 25-16-702's application to the Board, and to further resolve the question of whether the Attorney General has standing to sue for alleged civil violations of the FOIA.

My standard hourly rate for government clients is currently \$285.00. Associates will bill at a rate of \$240.00 per hour; and paralegals will be billed at a rate of \$200.00 per hour. Our fees and costs will be billed monthly and are payable pursuant to the Board's extant policies. Time spent responding to FOIA requests will be billed at the same rates. Our invoices will be submitted monthly, and they will itemize the time expended on this matter and provide a description of services rendered. This engagement agreement specifically authorizes me to request the assistance of any associate or partner in my law firm at the rates set forth herein, including but not limited to Todd Wooten, Julie Hill,

LITTLE ROCK, AR

ALABAMA | ARKANSAS | COLORADO | FLORIDA | GEORGIA | MONTANA | NEW JERSEY | NEW YORK
NORTH CAROLINA | OKLAHOMA | SOUTH CAROLINA | TENNESSEE

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Joseph Kraska, Joseph Stepina, Allison Scott, and Garrett Bannister. Each invoice will also request reimbursement of any actual out-of-pocket disbursements expended by this Firm in connection with our representation. Except for filings or other exigencies, we will not incur third-party expenses in excess of \$500.00 without advance approval. Please note that our rates may increase next year as part of the Firm's standard processes. If rates increase on this matter, I will alert you of same.

As a client, you have the right at any time to terminate our services and representation upon written notice to the Firm. In the event of termination of representation, your file will be made available to you and will be retained and destroyed in accordance with our ethical obligations. Likewise, we reserve the right to withdraw from our representation if any fact or circumstance arises that would make our continuing representation unlawful or unethical. The above agreements will also apply to services rendered for such future matters that we mutually agree will be handled by the Firm.

Additional Terms

Restriction of Boycott of Israel. In accordance with Arkansas Code § 25-1-503, this Firm hereby certifies and agrees that it is not currently engaged in, and agrees for the duration of the Agreement not to engage in, a boycott of Israel.

Restriction of Boycotts of Certain Products. In accordance with Ark. Code Ann. § 25-1-1102, Hall Booth Smith, P.C. certifies that neither the law firm nor the attorneys assisting with this matter are currently engaged in, nor will become engaged in, any boycott of energy, fossil fuels, firearms, and ammunition industries.

Governing Law. This Agreement shall be governed by the laws of the State of Arkansas, without regard to Arkansas's conflict of law principles.

Thank you again for considering me for this engagement.

Sincerely,

HALL BOOTH SMITH, P.C.


Abtin Mehdi-zadegan

ACCEPTANCE OF ENGAGEMENT AGREEMENT

By signing below, I represent that the Board of Corrections accepts the terms of this engagement agreement for legal services retroactive to December 8, 2023.

By: Benny Magness
Benny Magness, Chairman of the Board

12-22-23
Date

By: William Byers
William "Dubs" Byers, Secretary of the Board

12-22-23
Date

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
ELEVENTH DIVISION

**ARKANSAS BOARD OF CORRECTIONS; and
BENNY MAGNESS, in his official capacity as
CHAIRMAN OF THE ARKANSAS
BOARD OF CORRECTIONS**

PLAINTIFFS

v. **CASE NO. 60CV-23-9598**

**SARAH SANDERS, in her official capacity as
GOVERNOR OF ARKANSAS;
JOE PROFIRI, in his official capacity as
SECRETARY OF THE ARKANSAS
DEPARTMENT OF CORRECTIONS; and the
ARKANSAS DEPARTMENT OF CORRECTIONS**

DEFENDANTS

ORDER

The Court, having held a hearing on this matter on January 4, 2024, considered the petition and motions presented, as well as the evidence and testimony presented, and the arguments regarding the same, makes the following findings:

1. This Court had jurisdiction over the parties and subject matter of this action.
2. On December 14, 2023, the Plaintiffs filed their Verified Complaint against the above-named Defendants seeking a declaratory judgment and injunctive relief relating to Acts 185 and 659 of 2023 (the "Challenged Legislation"), which the Plaintiffs allege violate Amendment 33 of the Arkansas Constitution.

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3. Subsequently, the Parties filed various motions, including the Defendants' Motion to Disqualify and Motion to Dismiss and Plaintiffs' Motion to Disqualify and Motion for Temporary Restraining Order or Alternatively Motion for Preliminary Injunction.

4. On December 15, 2023, the Court entered a temporary restraining order enjoining the Challenged Legislation and setting a hearing for December 28, 2023, pursuant to Rule 65 of the Arkansas Rules of Civil Procedure.

5. On December 28, 2023, Plaintiffs filed an Emergency Motion for Continuance and Extension of the temporary restraining order because Plaintiffs' lead counsel's wife went into labor. Because good cause was established, the Court granted Plaintiffs' Emergency Motion for Continuance and Extension and continued the temporary restraining order until January 4, 2024.

6. The Parties, through counsel, appeared at the January 4, 2024 hearing and presented argument, evidence, and testimony. Specifically, after the Parties' counsel delivered opening statements,¹ Plaintiffs presented testimony from Benny Magness, Chairman of the Board; Dr. William "Dubs" Byers, Secretary of the Board; Tommy James, Senior Auditor with the Compliance Division of the Board; and Jerry Bradshaw, who served as Director of the Division of Community Corrections until his voluntary retirement on December 31, 2023. Defendants called one witness: Mark Colbert, Compliance Attorney/Administrator for the Board of Corrections. After the Parties delivered closing arguments, the Court delivered the following bench rulings on the Parties' pending Motions:

¹ Defendants' counsel did not argue or address the merits of Plaintiffs' challenge during their opening statement or otherwise during closing arguments.

Plaintiffs' Motion to Disqualify the Attorney General's Office

7. The Plaintiffs' Motion to Disqualify Attorney General's Office is denied.

8. Even though the Court acknowledges the unique position of the Attorney General's Office as the legal representative for the State of Arkansas, its agencies, officers, and other entities, and that the testimony presented is that the Attorney General's Office has represented Plaintiffs on numerous occasions, the Court is not inclined to disqualify the Attorney General's Office solely because the Attorney General's Office represents Plaintiffs in a pending federal class action.

9. Notwithstanding, the Attorney General's unique position does not exempt that Office from the Arkansas Rules of Professional Conduct. *Holloway v. Arkansas State Bd. of Architects*, 79 Ark. App. 200, 214, 86 S.W.3d 391, 400 (2002), *aff'd in part, rev'd in part*, 352 Ark. 427, 101 S.W.3d 805 (2003); ARK. R. PROF. COND. 1.7.

10. The Arkansas Rules of Professional Conduct apply to all attorneys licensed to practice in this State, including to the Attorney General and his staff.

11. The Court is particularly concerned about the participation in this lawsuit by Christine Cryer, who recently worked for the Department of Corrections, prior to being listed as counsel on this case. Ms. Cryer and Mr. Brascher filed entry of appearances and were signatories in several pleadings filed in this matter. Although, there is no testimony that Ms. Cryer did anything improper in this case, it is the appearance of impropriety that is concerning. Therefore, Ms. Cryer -- and also as an abundance of caution -- Mr. Justin Brascher shall not be allowed to participate in any aspect of this case in any manner.

12. Accordingly, the Court orders that Justin Brascher and Christine Cryer of the Attorney General's Office shall not participate in any aspect of this case.

///

13. The Attorney General's Office is directed to take all necessary measures to enforce this restriction.

**Defendants' Motion to Disqualify Abtin Mehdizadegan
and his Law Firm as Special Counsel**

14. Defendants' Motion to Disqualify Plaintiffs' counsel is denied. The Court finds Defendants' arguments in support of disqualification fail for several reasons.

15. The Board of Corrections was created by Amendment 33 of the Arkansas Constitution.

16. Section 1 of Amendment 33 specifically defines "the term of office of members of the boards or commissions charged with the management or control of all charitable, penal, or correctional institutions[.]" ARK. CONST. amend. XXXIII, § 1.

17. The Court's interpretation of Amendment 33 is quite clear: the Board of Corrections is a constitutionally created board, making the Board's members constitutional officers for purposes of section 25-16-711 of the Arkansas Code. Thus, contrary to the Defendants' arguments that section 25-16-702 applies, the Court finds that the Board of Corrections had the legal authority to hire special counsel pursuant to section 25-16-711 of the Arkansas Code because the Board is a constitutional board, its members are constitutional officers, and from the pleadings, argument, and testimony presented, it is clear that the Attorney General and the Board of Corrections disagree about the proper interpretation of Amendment 33, section 25-16-702, and section 25-16-711.

18. Therefore, Defendants' Motion to Disqualify special counsel is denied.

Defendants' Motion to Dismiss

19. Defendants' Motion to Dismiss is denied.

20. Defendants argued that Plaintiffs lack standing to bring this lawsuit because they are not “persons” as defined by the Declaratory Judgment Act. *See* ARK. CODE ANN. § 16-111-101 *et seq.* This argument fails.

21. Based on the previous rulings by the Arkansas Supreme Court considering whether other government entities or officers are “persons,” the Court finds that Plaintiffs have standing as “persons” under the Declaratory Judgment Act as defined by Act 274 of 1953. *See Brown v. State*, 2017 Ark. 232, 522 S.W.3d 791; *Valley v. Bogard*, 342 Ark. 336, 342–43, 28 S.W.3d 269, 272–73 (2000) (abrogated in part by *State v. Jernigan*, 2011 Ark. 487, 385 S.W.3d 776); *Vibo Corp. v. State ex rel. McDaniel*, 2011 Ark. 124, 380 S.W.3d 411.

22. Plaintiffs have standing to pursue a declaratory judgment finding that the Challenged Legislation is unconstitutional.

23. Consequently, Defendants' Motion to Dismiss is denied.

Plaintiffs' Motion for Preliminary Injunction

24. Having determined that Plaintiffs have the legal authority to hire outside counsel and that they have standing under the Declaratory Judgment Act, the Court considered Plaintiffs' Motion for a Preliminary Injunction.

25. Pursuant to Rule 65 of the Arkansas Rules of Civil Procedure, the Court finds that Plaintiffs satisfied their burden of proving irreparable harm if the preliminary injunction is not granted and the likelihood of success on the merits. *See Ark. Dep't of Educ. v. Jackson*, 2023 Ark. 105, 7, 669 S.W.3d 1, 6; *Ark. Dep't of Hum Servs. v. Ledgerwood*, 2017 Ark. 308, 9, 530 S.W.3d 336, 343.

26. Plaintiffs identified irreparable harm in the absence of an injunction for several reasons.

27. First, the evidence and testimony presented established that the Secretary of Corrections exhibited insubordination towards the Board of Corrections by, among other things, opening prison beds without the Board's approval. Further, even after the Board voted to place him on leave with pay status on December 14, 2023, Secretary Profiri refused to recognize the Board's authority and announced his intention to remain working. Secretary Profiri even refused to take physical possession of the letter notifying him that he was placed on leave with pay. The irreparable harm is directly attributable to Act 185 of 2023, which purportedly required the Secretary of Corrections to serve at the pleasure of the Governor.

28. Second, irreparable harm was also demonstrated by the Governor's multiple statements indicating that Secretary Profiri would continue serving in that capacity even after he was placed on leave. Placing Secretary Profiri on leave with pay did not resolve the irreparable harm Plaintiffs articulated. The evidence presented was that an inmate took his own life on December 15, 2023 and that, due to inadequate staffing, he was not found for at least one hour. At the time of death, there were three corrections officers performing the work of five corrections officers.

29. Third, irreparable harm was also demonstrated by Plaintiffs' witnesses who identified the uncertainty presented by the Challenged Legislation as it relates to the performance of their constitutional and statutory duties to manage the Department of Corrections and its Divisions. Fundamentally, Plaintiffs established that the Challenged Legislation interferes with the exercise of their constitutional rights to manage and control the Department of Corrections, and that showing supports a finding of clear and present need for equitable relief to prevent irreparable constitutional injury under

Amendment 33. Sections 12-27-107(c) and 12-27-126(c), for instance, as amended, were to become effective as of January 1, 2024.

30. Plaintiffs likewise demonstrated a likelihood of success on the merits because the Challenged Legislation diminished the powers vested in the Board of Corrections by Amendment 33. The Board has historically supervised the Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections. Those Department leaders implement the Board's substantive policy decisions. If the Board is statutorily precluded from directly supervising those positions, then—as demonstrated by this litigation—the Board cannot effectively perform its constitutional mandate to independently manage the affairs of the Department of Corrections.

31. The balance of equities weighs heavily in favor of enjoining the Challenged Legislation so that the Board can regain and retain control over the Department for which it has general superintending responsibility, as the potential harm to inmates, staff, and the community at large far outweighs any interest in the continued enforcement of allegedly unconstitutional legislation like Acts 185 and Sections 79 and 89 of Act 659. This harm cannot be adequately compensated by money damages or redressed in a court of law. It is clear to this Court that this dispute will be ongoing until this matter is fully determined. Therefore, this Court deems it appropriate to keep the injunction in place until such time this matter is resolved.

32. The Court grants Plaintiffs' Motion for Preliminary Injunction. Therefore, the Challenged Legislation—sections 25-43-403(a)(2)(a), 12-27-107(c), and 12-27-126(c) of the Arkansas Code—shall remain enjoined.

33. The Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections shall continue serving at the pleasure of and reporting directly to the Board of Corrections.

34. This preliminary injunction applies to Defendants, their officers, agents, servants, employees, attorneys, and other persons who are in active concert or participation with Defendants and Defendants' officers, agents, servants, employees, and attorneys, until the final hearing.

35. No security is required for this preliminary injunction pursuant to Rule 65(c) of the Arkansas Rules of Civil Procedure.

IT IS SO ORDERED.



THE HONORABLE PATRICIA A. JAMES

DATE: 1/19/24

Shari Gray (DOC)

From: Shari Gray (DOC)
Sent: Wednesday, March 6, 2024 3:41 PM
To: Benny Magness (DOC)
Subject: FW: Procurement Documents - 3.6.2024
Attachments: Procurement Documents - 3.6.2024.pdf

Shari Gray
Arkansas Board of Corrections
P. O. Box 20550
White Hall, AR 71612
Shari.Gray@arkansas.gov
870-267-6754 / Fax 870-267-6756

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From: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Sent: Wednesday, March 6, 2024 11:42 AM
To: Chad Brown (DOC) <Chad.Brown@arkansas.gov>
Subject: FW: Procurement Documents - 3.6.2024

Chad,

Please let me know if you need anything further.

Shari Gray
Arkansas Board of Corrections
P. O. Box 20550
White Hall, AR 71612
Shari.Gray@arkansas.gov
870-267-6754 / Fax 870-267-6756

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From: Abtin Mehdizadegan <abtin@hallboothsmith.com>
Sent: Wednesday, March 6, 2024 11:39 AM
To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>; Lee Watson (DOC) <lee.watson@arkansas.gov>; Benny Magness

(DOC) <Benny.Magness@arkansas.gov>

Subject: Procurement Documents - 3.6.2024

You don't often get email from abtin@hallboothsmith.com. [Learn why this is important](#)

Shari, Lee, and Benny,

Please see attached.

Shari, can you please transmit to Chad Brown?

Best,

Abtin

Abtin Mehdizadegan

Attorney at Law | Hall Booth Smith, P.C.

O: 501 214 3499

200 River Market Avenue Suite 500

D: 501 503 4445

Little Rock AR 72201

hallboothsmith.com



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**STATE OF ARKANSAS
SERVICES CONTRACT**

Contract #	4600054260	Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input type="checkbox"/>	Procurement Method	Emergency / Exempt from Law

The Board of Corrections of the

1. **Contracting Parties:** State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	9903 - Department of Corrections / Board of Corrections		
Division	Not Applicable		

Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters within the ambit of Ark. Code Ann. 25-16-711, as voted on and approved by the Board of Corrections on December 8, December 14, and December 22, 2023. Contractor's engagement agreement dated December 22, 2023 is incorporated herein by reference. By signing this document, neither the Board of Corrections nor Contractor admit that the procurement process advanced by the Department of Corrections is correct or applicable, and they retain and reserve all defenses relating to the applicable process through which to secure representation under Ark. Code Ann. 25-16-711 or other applicable law. In the interest of cooperation, however, and to facilitate the payment of Contractor's outstanding and prospective invoices, Contractor and the Board of Corrections supply the information requested herein in good faith. The term of this agreement is difficult to anticipate due to the nature of pending litigation, as is the total contract amount; however, the information supplied is based on Contractor's best estimate at this time.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

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The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024(mm/dd/yyyy).

4. Contractor's Performance Obligations. Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will continue representing the Board of Corrections in litigation and on appeal, taking all legal action necessary to protect and preserve the Board's interests under Amendment 33, pursuant to Ark. Code Ann. 25-16-711. Specifically, Contractor will defend the Board of Corrections in a lawsuit and appeal filed by the Attorney General against the Board and its chair; and Contractor will prosecute the Board and chair's Amendment 33 claims, and represent them as Appellees in the appeal filed by the Attorney General on behalf of the Governor, Department of Corrections, and Secretary of Corrections. Contractor's December 22, 2023 engagement agreement, which was executed by the Board, is incorporated herein by reference, as well as the January 2024 Order from Judge Patricia James.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. Department's Payment Obligations. Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Pursuant to Ark. Code Ann. 25-16-711, Contractor will present itemized invoices monthly for ongoing payment of legal services rendered, with hourly rates of \$200 for paralegals, \$240 for associates, and \$285 for partners. Payment shall be due within 10 days from receipt of an invoice. Contractor shall be reimbursed all expenses incurred in the representation. Contractor's December 22, 2023 engagement agreement and the January 2024 Order of Judge Patricia James are incorporated by reference. The Board of Corrections's litigation liaison shall be solely responsible for determining whether Contractor's performance is satisfactory, and the litigation liaison shall be responsible for authorizing payment under this Agreement.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 207,000.00 (**Initial Contract Amount**).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 207,000.00 (**Total Projected Contract Amount**).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

- 6. Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. Termination & Cancellation Clauses.

- A. Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

Board of Corrections

This provision shall not be construed to abridge any other right of termination the ~~agency~~ **agency** may have.

- B. For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.

- C. For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

- A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.
- B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.
- C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable Sovereign Immunity. Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract if applicable, shall be brought in the Arkansas State Claims Commission, if applicable.

10. Non-negotiable Intergovernmental/Cooperative Use. In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable Disclosure Required by Executive Order 98-04. Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. Compliance. The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

- A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq., if applicable.

13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265, if applicable.
16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
19. **Attachments.**
 1. Certification of Contractor
 2. Calculation of Compensation, as applicable;
 3. Source of Funds
 4. Objectives, Scope, and Performance Standards, as applicable; and
 5. Performance Details, as applicable
 6. Additional Attachments as applicable
 - A. Engagement Agreement Dated December 22, 2023
 - B. Contract & Grant Disclosure
 - C. January 2024 Order of Judge Patricia James
 - D. Outstanding Invoices in line for payment.

20. Notices.

A. Method of Notice. The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid[, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

B. Receipt of Notice. A notice given under this Contract will be effective on
i. the other party's receipt of it, or
ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

C. Issuance of Notice. All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

<u>Flora Johnson</u>	<u>Procurement Administrator</u>
Name <u>(870) 850-8502</u>	Title <u>Flora.Johnson@arkansas.gov</u>
Telephone#	Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name <u>(501) 682-9510</u>	Title <u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name <u>(501) 682-9510</u>	Title <u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

21. Technology Access. If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. SIGNATURES

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Abtin Mehdizadegan

Benny Magness

Printed Name

Printed Name

Partner, Hall Booth Smith, P.C.

Chairman, Board of Corrections

Title

Title

200 River Market Avenue, Suite 500, Little Rock, AR 72201

1302 Pike Ave., North Little Rock, AR. 72114

Address

Address

Signature

Signature

Date

Date

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Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. I, Abtin Mehdizadegan, a Partner with the law firm of Hall Booth Smith, P.C. (Contractor) (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law.

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

HBS provides immigration services to a number of state governmental entities, including to UAMS and ADFA. Abtin Mehdizadegan does not have access to that information but can provide contact information for another representative. Abtin Mehdizadegan previously served as an adjunct professor at UA Bowen School of Law; however, he has discontinued that service. Abtin also served as special counsel to the Executive Subcommittee of the ALC/BLR in February 2023.

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None."

Contractor is not personally engaged in a legal controversy with any state agency; however, Contractor serves as legal counsel for the Board of Corrections and its chair in the legal controversies described above. Contractor also represents the BioGen plaintiffs in a separate regulatory challenge involving the Department of Agriculture et al., and Contractor represents 2600 Holdings in an appeal in which the ABC and MMC are parties, though not currently participating.

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Table with 3 columns: Name, Address, Relationship. Rows include Abtin Mehdizadegan (Partner), Joseph Kraska (Associate), Joseph Stepina (Associate), Julie Hill (Associate), and Lynsey Russell (Paralegal).

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CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Partner	1	\$285/hour	\$ 110,000.00
Associate	3	\$240/hour	\$ 75,000.00
Paralegal	1	\$200/hour	\$ 15,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
Filing fees and transcript costs	\$185 + \$0.10/page	\$ 5,000.00
Service of process	\$300	\$ 1,500.00
Special collections research	\$0.50/page	\$ 500.00
TOTAL REIMBURSABLE EXPENSES		\$ 7,000.00

Total compensation inclusive of expense reimbursement: \$ 207,000.00

Annual Contract Amount: \$ 207,000.00

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount:

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CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency

TAXPAYER ID #: _____ OR _____ FEDERAL ID NUMBER 58-1852659 SUBCONTRACTOR: Yes No SUBCONTRACTOR NAME: N/A

TAXPAYER ID NAME: Hall Booth Smith, P.C. IS THIS FOR: Goods? Services? Both?

YOUR LAST NAME: MehdiZadegan FIRST NAME: Abtin M.I.: NA

ADDRESS: 200 River Market Avenue CITY: Little Rock STATE: AR ZIP CODE: 72201 COUNTRY: USA

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse; a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held (Senator, representative, name of board/commission, data entry, etc.)	For How Long?		What is the person(s) name and how are they related to you? (i.e., Jane Q. Public, spouse, John Q. Public, Jr., child, etc.)	Relation
	Current	Former		From MM/Y Y	To MM/Y Y		
General Assembly							
Constitutional Officer							
State Board or Commission Member							
State Employee							

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held (Senator, representative, name of board/commission, data entry, etc.)	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or what is his/her position of control?		
	Current	Former		From MM/Y Y	To MM/Y Y	Person's Name(s)	Ownership Interest (%)	Position of Control
General Assembly								
Constitutional Officer								
State Board or Commission Member	X		Gov Comm'n People with Disabilities	8/2013	8/2016	Abtin MehdiZadegan	N/A	Partner
State Employee	X		Adjunct Professor	8/17	12/23	Abtin MehdiZadegan	N/A	Partner

None of the above applies See attached.

Contract and Grant Disclosure and Certification Form

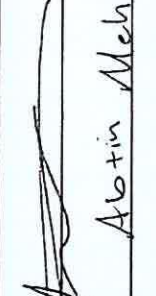
Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.
2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.
3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature  Title Partner Date 3/6/2024
Vendor Contact Person Abtin Mehdi Zadeegan Title Partner Phone No. 501-529-1163

Agency use only
Agency Number _____ Agency Name _____ Agency Contact Person _____ Agency Contact _____
Contract _____ Phone No. _____ or Grant No. _____

Supplement to Contract and Grant Disclosure and Certification Form

1. Abtin Mehdizadegan was an adjunct professor of employment law at the UA William H. Bowen School of Law from August 2018 until December 2023. From approximately 2013 through 2015, Abtin Mehdizadegan served on the Governor's Commission for People with Disabilities. Abtin Mehdizadegan is a partner with Hall Booth Smith, P.C. He is not on the management committee of the firm and does not have power to direct purchasing policies. As a partner, Abtin Mehdizadegan has some influence in the management of Hall Booth Smith, P.C.

2. Julie Hill and Joseph Kraska are associates of Hall Booth Smith, P.C. Julie Hill's father is a member of the General Assembly. Joseph Kraska is a member of the Arkansas Air Guard. Neither Julie Hill nor Joseph Kraska own any interest in Hall Booth Smith, P.C. or otherwise hold positions of control. This information is supplied in an abundance of caution for transparency purposes.



DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

COMBINED CERTIFICATIONS FOR CONTRACTING WITH THE STATE OF ARKANSAS

Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

1. **Israel Boycott Restriction:** For contracts valued at \$1,000 or greater.
A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.
2. **Illegal Immigrant Restriction:** For contracts valued at \$25,000 or greater.
No state agency may contract for services with a Contractor who employs or contracts with an illegal immigrant. The Contractor shall certify that it does not employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.
3. **Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction:** For contracts valued at \$75,000 or greater.
A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
4. **Scrutinized Company Restriction:** Required with bid or proposal submission.
A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

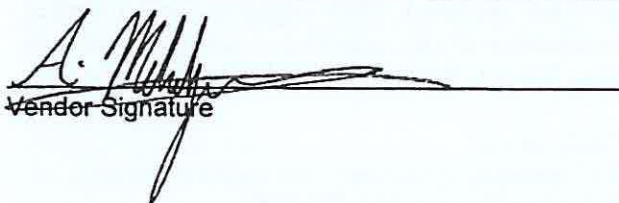
By signing this form, the Contractor agrees and certifies they are not a Scrutinized Company and they do not currently and shall not for the aggregate term a resultant contract:

- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

Contract Number: 4600054260 Description: Professional Consultant Services

Agency Name: Board of Corrections

Vendor Number: 100249276 Vendor Name: Hall Booth Smith, P.C.


Vendor Signature

3/6/2024
Date



HALL BOOTH SMITH, P.C.
ATTORNEYS AT LAW

Abtin Mehdizadegan
Phone 501.503.4445
abtin@hallboothsmith.com

200 River Market Avenue
Suite 500
Little Rock, AR 72201

Office: 501.214.3499
Fax: 501.604.5565
www.hallboothsmith.com

Arkansas Board of Corrections
P.O. Box 20550
White Hall, AR 71612

RE: Engagement Letter for Legal Services and Supplement

This letter serves as a supplement to my engagement agreement for legal services, retroactive to December 8, 2023. Specifically, this letter will confirm that I have been retained as Special Counsel to the Arkansas Board of Corrections pursuant to Ark. Code Ann. § 25-16-711 to challenge certain legislation impacting the Board's power in light of the conflicting positions of the Attorney General regarding Amendment 33's application to the Board.

This letter will also confirm that I have been retained to take all legal action necessary to protect and preserve the Board's interests. Pursuant to that authority, on December 14, 2023, I filed a declaratory judgment lawsuit to challenge the legislation at issue, and on December 15, 2023, the Attorney General filed a lawsuit alleging violations of the Arkansas Freedom of Information Act in which the Attorney General sought to disqualify me from continued representation of the Board in the Amendment 33 lawsuit. In light of the exigent circumstances caused by the Attorney General's actions, and because the FOIA lawsuit, my representation as special counsel, and the pending Amendment 33 litigation are interrelated, I entered an appearance in the FOIA lawsuit pursuant to the December 14, 2023 motion authorizing me to take all necessary legal action. Based on the pleadings, arguments, and developments to-date, I believe the Board of Corrections and the Attorney General have another conflicting opinion regarding the application of a statute. In particular, the Attorney General has a different opinion regarding the application of Ark. Code Ann. § 25-16-711 as well as the Arkansas FOIA. This engagement agreement will serve as supplemental authority to file a counterclaim in the FOIA lawsuit to challenge Ark. Code Ann. § 25-16-702's application to the Board, and to further resolve the question of whether the Attorney General has standing to sue for alleged civil violations of the FOIA.

My standard hourly rate for government clients is currently \$285.00. Associates will bill at a rate of \$240.00 per hour; and paralegals will be billed at a rate of \$200.00 per hour. Our fees and costs will be billed monthly and are payable pursuant to the Board's extant policies. Time spent responding to FOIA requests will be billed at the same rates. Our invoices will be submitted monthly, and they will itemize the time expended on this matter and provide a description of services rendered. This engagement agreement specifically authorizes me to request the assistance of any associate or partner in my law firm at the rates set forth herein, including but not limited to Todd Wooten, Julie Hill,

LITTLE ROCK, AR

ALABAMA | ARKANSAS | COLORADO | FLORIDA | GEORGIA | MONTANA | NEW JERSEY | NEW YORK
NORTH CAROLINA | OKLAHOMA | SOUTH CAROLINA | TENNESSEE

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Joseph Kraska, Joseph Stepina, Allison Scott, and Garrett Bannister. Each invoice will also request reimbursement of any actual out-of-pocket disbursements expended by this Firm in connection with our representation. Except for filings or other exigencies, we will not incur third-party expenses in excess of \$500.00 without advance approval. Please note that our rates may increase next year as part of the Firm's standard processes. If rates increase on this matter, I will alert you of same.

As a client, you have the right at any time to terminate our services and representation upon written notice to the Firm. In the event of termination of representation, your file will be made available to you and will be retained and destroyed in accordance with our ethical obligations. Likewise, we reserve the right to withdraw from our representation if any fact or circumstance arises that would make our continuing representation unlawful or unethical. The above agreements will also apply to services rendered for such future matters that we mutually agree will be handled by the Firm.

Additional Terms

Restriction of Boycott of Israel. In accordance with Arkansas Code § 25-1-503, this Firm hereby certifies and agrees that it is not currently engaged in, and agrees for the duration of the Agreement not to engage in, a boycott of Israel.

Restriction of Boycotts of Certain Products. In accordance with Ark. Code Ann. § 25-1-1102, Hall Booth Smith, P.C. certifies that neither the law firm nor the attorneys assisting with this matter are currently engaged in, nor will become engaged in, any boycott of energy, fossil fuels, firearms, and ammunition industries.

Governing Law. This Agreement shall be governed by the laws of the State of Arkansas, without regard to Arkansas's conflict of law principles.

Thank you again for considering me for this engagement.

Sincerely,

HALL BOOTH SMITH, P.C.


Abtin Mehdi-zadegan

ACCEPTANCE OF ENGAGEMENT AGREEMENT

By signing below, I represent that the Board of Corrections accepts the terms of this engagement agreement for legal services retroactive to December 8, 2023.

By: Benny Magness
Benny Magness, Chairman of the Board

12-22-23
Date

By: William "Dubs" Byers
William "Dubs" Byers, Secretary of the Board

12-22-23
Date

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
ELEVENTH DIVISION

**ARKANSAS BOARD OF CORRECTIONS; and
BENNY MAGNESS, in his official capacity as
CHAIRMAN OF THE ARKANSAS
BOARD OF CORRECTIONS**

PLAINTIFFS

v. **CASE NO. 60CV-23-9598**

**SARAH SANDERS, in her official capacity as
GOVERNOR OF ARKANSAS;
JOE PROFIRI, in his official capacity as
SECRETARY OF THE ARKANSAS
DEPARTMENT OF CORRECTIONS; and the
ARKANSAS DEPARTMENT OF CORRECTIONS**

DEFENDANTS

ORDER

The Court, having held a hearing on this matter on January 4, 2024, considered the petition and motions presented, as well as the evidence and testimony presented, and the arguments regarding the same, makes the following findings:

1. This Court had jurisdiction over the parties and subject matter of this action.
2. On December 14, 2023, the Plaintiffs filed their Verified Complaint against the above-named Defendants seeking a declaratory judgment and injunctive relief relating to Acts 185 and 659 of 2023 (the "Challenged Legislation"), which the Plaintiffs allege violate Amendment 33 of the Arkansas Constitution.

3. Subsequently, the Parties filed various motions, including the Defendants' Motion to Disqualify and Motion to Dismiss and Plaintiffs' Motion to Disqualify and Motion for Temporary Restraining Order or Alternatively Motion for Preliminary Injunction.

4. On December 15, 2023, the Court entered a temporary restraining order enjoining the Challenged Legislation and setting a hearing for December 28, 2023, pursuant to Rule 65 of the Arkansas Rules of Civil Procedure.

5. On December 28, 2023, Plaintiffs filed an Emergency Motion for Continuance and Extension of the temporary restraining order because Plaintiffs' lead counsel's wife went into labor. Because good cause was established, the Court granted Plaintiffs' Emergency Motion for Continuance and Extension and continued the temporary restraining order until January 4, 2024.

6. The Parties, through counsel, appeared at the January 4, 2024 hearing and presented argument, evidence, and testimony. Specifically, after the Parties' counsel delivered opening statements,¹ Plaintiffs presented testimony from Benny Magness, Chairman of the Board; Dr. William "Dubs" Byers, Secretary of the Board; Tommy James, Senior Auditor with the Compliance Division of the Board; and Jerry Bradshaw, who served as Director of the Division of Community Corrections until his voluntary retirement on December 31, 2023. Defendants called one witness: Mark Colbert, Compliance Attorney/Administrator for the Board of Corrections. After the Parties delivered closing arguments, the Court delivered the following bench rulings on the Parties' pending Motions:

¹ Defendants' counsel did not argue or address the merits of Plaintiffs' challenge during their opening statement or otherwise during closing arguments.

Plaintiffs' Motion to Disqualify the Attorney General's Office

7. The Plaintiffs' Motion to Disqualify Attorney General's Office is denied.

8. Even though the Court acknowledges the unique position of the Attorney General's Office as the legal representative for the State of Arkansas, its agencies, officers, and other entities, and that the testimony presented is that the Attorney General's Office has represented Plaintiffs on numerous occasions, the Court is not inclined to disqualify the Attorney General's Office solely because the Attorney General's Office represents Plaintiffs in a pending federal class action.

9. Notwithstanding, the Attorney General's unique position does not exempt that Office from the Arkansas Rules of Professional Conduct. *Holloway v. Arkansas State Bd. of Architects*, 79 Ark. App. 200, 214, 86 S.W.3d 391, 400 (2002), *aff'd in part, rev'd in part*, 352 Ark. 427, 101 S.W.3d 805 (2003); ARK. R. PROF. COND. 1.7.

10. The Arkansas Rules of Professional Conduct apply to all attorneys licensed to practice in this State, including to the Attorney General and his staff.

11. The Court is particularly concerned about the participation in this lawsuit by Christine Cryer, who recently worked for the Department of Corrections, prior to being listed as counsel on this case. Ms. Cryer and Mr. Brascher filed entry of appearances and were signatories in several pleadings filed in this matter. Although, there is no testimony that Ms. Cryer did anything improper in this case, it is the appearance of impropriety that is concerning. Therefore, Ms. Cryer -- and also as an abundance of caution -- Mr. Justin Brascher shall not be allowed to participate in any aspect of this case in any manner.

12. Accordingly, the Court orders that Justin Brascher and Christine Cryer of the Attorney General's Office shall not participate in any aspect of this case.

13. The Attorney General's Office is directed to take all necessary measures to enforce this restriction.

**Defendants' Motion to Disqualify Abtin Mehdizadegan
and his Law Firm as Special Counsel**

14. Defendants' Motion to Disqualify Plaintiffs' counsel is denied. The Court finds Defendants' arguments in support of disqualification fail for several reasons.

15. The Board of Corrections was created by Amendment 33 of the Arkansas Constitution.

16. Section 1 of Amendment 33 specifically defines "the term of office of members of the boards or commissions charged with the management or control of all charitable, penal, or correctional institutions[.]" ARK. CONST. amend. XXXIII, § 1.

17. The Court's interpretation of Amendment 33 is quite clear: the Board of Corrections is a constitutionally created board, making the Board's members constitutional officers for purposes of section 25-16-711 of the Arkansas Code. Thus, contrary to the Defendants' arguments that section 25-16-702 applies, the Court finds that the Board of Corrections had the legal authority to hire special counsel pursuant to section 25-16-711 of the Arkansas Code because the Board is a constitutional board, its members are constitutional officers, and from the pleadings, argument, and testimony presented, it is clear that the Attorney General and the Board of Corrections disagree about the proper interpretation of Amendment 33, section 25-16-702, and section 25-16-711.

18. Therefore, Defendants' Motion to Disqualify special counsel is denied.

Defendants' Motion to Dismiss

19. Defendants' Motion to Dismiss is denied.

20. Defendants argued that Plaintiffs lack standing to bring this lawsuit because they are not “persons” as defined by the Declaratory Judgment Act. *See* ARK. CODE ANN. § 16-111-101 *et seq.* This argument fails.

21. Based on the previous rulings by the Arkansas Supreme Court considering whether other government entities or officers are “persons,” the Court finds that Plaintiffs have standing as “persons” under the Declaratory Judgment Act as defined by Act 274 of 1953. *See Brown v. State*, 2017 Ark. 232, 522 S.W.3d 791; *Valley v. Bogard*, 342 Ark. 336, 342–43, 28 S.W.3d 269, 272–73 (2000) (abrogated in part by *State v. Jernigan*, 2011 Ark. 487, 385 S.W.3d 776); *Vibo Corp. v. State ex rel. McDaniel*, 2011 Ark. 124, 380 S.W.3d 411.

22. Plaintiffs have standing to pursue a declaratory judgment finding that the Challenged Legislation is unconstitutional.

23. Consequently, Defendants' Motion to Dismiss is denied.

Plaintiffs' Motion for Preliminary Injunction

24. Having determined that Plaintiffs have the legal authority to hire outside counsel and that they have standing under the Declaratory Judgment Act, the Court considered Plaintiffs' Motion for a Preliminary Injunction.

25. Pursuant to Rule 65 of the Arkansas Rules of Civil Procedure, the Court finds that Plaintiffs satisfied their burden of proving irreparable harm if the preliminary injunction is not granted and the likelihood of success on the merits. *See Ark. Dep't of Educ. v. Jackson*, 2023 Ark. 105, 7, 669 S.W.3d 1, 6; *Ark. Dep't of Hum Servs. v. Ledgerwood*, 2017 Ark. 308, 9, 530 S.W.3d 336, 343.

26. Plaintiffs identified irreparable harm in the absence of an injunction for several reasons.

27. First, the evidence and testimony presented established that the Secretary of Corrections exhibited insubordination towards the Board of Corrections by, among other things, opening prison beds without the Board's approval. Further, even after the Board voted to place him on leave with pay status on December 14, 2023, Secretary Profiri refused to recognize the Board's authority and announced his intention to remain working. Secretary Profiri even refused to take physical possession of the letter notifying him that he was placed on leave with pay. The irreparable harm is directly attributable to Act 185 of 2023, which purportedly required the Secretary of Corrections to serve at the pleasure of the Governor.

28. Second, irreparable harm was also demonstrated by the Governor's multiple statements indicating that Secretary Profiri would continue serving in that capacity even after he was placed on leave. Placing Secretary Profiri on leave with pay did not resolve the irreparable harm Plaintiffs articulated. The evidence presented was that an inmate took his own life on December 15, 2023 and that, due to inadequate staffing, he was not found for at least one hour. At the time of death, there were three corrections officers performing the work of five corrections officers.

29. Third, irreparable harm was also demonstrated by Plaintiffs' witnesses who identified the uncertainty presented by the Challenged Legislation as it relates to the performance of their constitutional and statutory duties to manage the Department of Corrections and its Divisions. Fundamentally, Plaintiffs established that the Challenged Legislation interferes with the exercise of their constitutional rights to manage and control the Department of Corrections, and that showing supports a finding of clear and present need for equitable relief to prevent irreparable constitutional injury under

Amendment 33. Sections 12-27-107(c) and 12-27-126(c), for instance, as amended, were to become effective as of January 1, 2024.

30. Plaintiffs likewise demonstrated a likelihood of success on the merits because the Challenged Legislation diminished the powers vested in the Board of Corrections by Amendment 33. The Board has historically supervised the Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections. Those Department leaders implement the Board's substantive policy decisions. If the Board is statutorily precluded from directly supervising those positions, then—as demonstrated by this litigation—the Board cannot effectively perform its constitutional mandate to independently manage the affairs of the Department of Corrections.

31. The balance of equities weighs heavily in favor of enjoining the Challenged Legislation so that the Board can regain and retain control over the Department for which it has general superintending responsibility, as the potential harm to inmates, staff, and the community at large far outweighs any interest in the continued enforcement of allegedly unconstitutional legislation like Acts 185 and Sections 79 and 89 of Act 659. This harm cannot be adequately compensated by money damages or redressed in a court of law. It is clear to this Court that this dispute will be ongoing until this matter is fully determined. Therefore, this Court deems it appropriate to keep the injunction in place until such time this matter is resolved.

32. The Court grants Plaintiffs' Motion for Preliminary Injunction. Therefore, the Challenged Legislation—sections 25-43-403(a)(2)(a), 12-27-107(c), and 12-27-126(c) of the Arkansas Code—shall remain enjoined.

33. The Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections shall continue serving at the pleasure of and reporting directly to the Board of Corrections.

34. This preliminary injunction applies to Defendants, their officers, agents, servants, employees, attorneys, and other persons who are in active concert or participation with Defendants and Defendants' officers, agents, servants, employees, and attorneys, until the final hearing.

35. No security is required for this preliminary injunction pursuant to Rule 65(c) of the Arkansas Rules of Civil Procedure.

IT IS SO ORDERED.



THE HONORABLE PATRICIA A. JAMES

DATE: 1/19/24

Shari Gray (DOC)

From: Shari Gray (DOC)
Sent: Wednesday, March 6, 2024 3:51 PM
To: Chad Brown (DOC)
Subject: Contract 3.6.24 BOC-24-01
Attachments: 3558_001.pdf

Chad,

Attached is signed contract.

Shari Gray
Arkansas Board of Corrections
P. O. Box 20550
White Hall, AR 71612
Shari.Gray@arkansas.gov
870-267-6754 / Fax 870-267-6756

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Contract #: 4600054260



**STATE OF ARKANSAS
SERVICES CONTRACT**

Contract #	4600054260	Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input checked="" type="checkbox"/>	Procurement Method	Emergency / Exempt from Law

The Board of Corrections of the

1. **Contracting Parties** - State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	9903 - Department of Corrections / Board of Corrections
Division	Not Applicable

Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters within the ambit of Ark. Code Ann. 25-16-711, as voted on and approved by the Board of Corrections on December 8, December 14, and December 22, 2023. Contractor's engagement agreement dated December 22, 2023 is incorporated herein by reference. By signing this document, neither the Board of Corrections nor Contractor admit that the procurement process advanced by the Department of Corrections is correct or applicable, and they retain and reserve all defenses relating to the applicable process through which to secure representation under Ark. Code Ann. 25-16-711 or other applicable law. In the interest of cooperation, however, and to facilitate the payment of Contractor's outstanding and prospective invoices, Contractor and the Board of Corrections supply the information requested herein in good faith. The term of this agreement is difficult to anticipate due to the nature of pending litigation, as is the total contract amount; however, the information supplied is based on Contractor's best estimate at this time.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

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The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024 (mm/dd/yyyy).

4. Contractor's Performance Obligations. Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will continue representing the Board of Corrections in litigation and on appeal, taking all legal action necessary to protect and preserve the Board's interests under Amendment 33, pursuant to Ark. Code Ann. 25-16-711. Specifically, Contractor will defend the Board of Corrections in a lawsuit and appeal filed by the Attorney General against the Board and its chair; and Contractor will prosecute the Board and chair's Amendment 33 claims, and represent them as Appellees in the appeal filed by the Attorney General on behalf of the Governor, Department of Corrections, and Secretary of Corrections. Contractor's December 22, 2023 engagement agreement, which was executed by the Board, is incorporated herein by reference, as well as the January 2024 Order from Judge Patricia James.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. Department's Payment Obligations. Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Pursuant to Ark. Code Ann. 25-16-711, Contractor will present itemized invoices monthly for ongoing payment of legal services rendered, with hourly rates of \$200 for paralegals, \$240 for associates, and \$285 for partners. Payment shall be due within 10 days from receipt of an invoice. Contractor shall be reimbursed all expenses incurred in the representation. Contractor's December 22, 2023 engagement agreement and the January 2024 Order of Judge Patricia James are incorporated by reference. The Board of Corrections's litigation liaison shall be solely responsible for determining whether Contractor's performance is satisfactory, and the litigation liaison shall be responsible for authorizing payment under this Agreement.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

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reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 207,000.00 (**Initial Contract Amount**).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 207,000.00 (**Total Projected Contract Amount**).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

Board of Corrections

This provision shall not be construed to abridge any other right of termination the ~~agency~~ **agency may have**.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.

- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

- A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.
- B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.
- C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. Non-negotiable Sovereign Immunity. Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract if applicable, shall be brought in the Arkansas State Claims Commission, if applicable.

10. Non-negotiable Intergovernmental/Cooperative Use. In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. Non-negotiable Disclosure Required by Executive Order 98-04. Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. Compliance. The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

- A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq., if applicable.

13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.

14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.

15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265, if applicable.

16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.

17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.

19. **Attachments.**

- 1. Certification of Contractor
- 2. Calculation of Compensation, as applicable;
- 3. Source of Funds
- 4. Objectives, Scope, and Performance Standards, as applicable; and
- 5. Performance Details, as applicable
- 6. Additional Attachments as applicable
 - A. Engagement Agreement Dated December 22, 2023
 - B. Contract & Grant Disclosure
 - C. January 2024 Order of Judge Patricia James
 - D. Outstanding Invoices in line for payment.

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20. Notices.

A. Method of Notice. The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

B. Receipt of Notice. A notice given under this Contract will be effective on
i. the other party's receipt of it, or
ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

C. Issuance of Notice. All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

<u>Flora Johnson</u>	<u>Procurement Administrator</u>
Name	Title
<u>(870) 850-8502</u>	<u>Flora.Johnson@arkansas.gov</u>
Telephone#	Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

<u>Chad Brown</u>	<u>Chief Financial Officer</u>
Name	Title
<u>(501) 682-9510</u>	<u>Chad.Brown@arkansas.gov</u>
Telephone#	Email

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21. **Technology Access.** If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. **SIGNATURES**

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Abtin Mehdizadegan

Benny Magness

Printed Name

Printed Name

Partner, Hall Booth Smith, P.C.

Chairman, Board of Corrections

Title

Title

200 River Market Avenue, Suite 500, Little Rock, AR 72201

1302 Pike Ave., North Little Rock, AR. 72114

Address

Address


Signature


Signature

3/6/2024

3/6/2024

Date

Date

Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, Abtin Mehdizadegan, a Partner with the law firm of Hall Booth Smith, P.C.
 (Contractor) (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

HBS provides immigration services to a number of state governmental entities, including to UAMS and ADFA. Abtin Mehdizadegan does not have access to that information but can provide contact information for another representative. Abtin Mehdizadegan previously served as an adjunct professor at UA Bowen School of Law; however, he has discontinued that service. Abtin also served as special counsel to the Executive Subcommittee of the ALC/BLR in February 2023.

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None."

Contractor is not personally engaged in a legal controversy with any state agency; however, Contractor serves as legal counsel for the Board of Corrections and its chair in the legal controversies described above. Contractor also represents the BioGen plaintiffs in a separate regulatory challenge involving the Department of Agriculture et al., and Contractor represents 2600 Holdings in an appeal in which the ABC and MMC are parties, though not currently participating.

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub-contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship
Abtin Mehdizadegan	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Partner
Joseph Kraska	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Joseph Stepina	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Julie Hill	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Lynsey Russell	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Paralegal

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Contract No: 4600054260

CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Partner	1	\$285/hour	\$ 110,000.00
Associate	3	\$240/hour	\$ 75,000.00
Paralegal	1	\$200/hour	\$ 15,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
Filing fees and transcript costs	\$185 + \$0.10/page	\$ 5,000.00
Service of process	\$300	\$ 1,500.00
Special collections research	\$0.50/page	\$ 500.00
TOTAL REIMBURSABLE EXPENSES		\$ 7,000.00

Total compensation inclusive of expense reimbursement: \$ 207,000.00

Annual Contract Amount: \$ 207,000.00

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount: _____

CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SOCIAL SECURITY NUMBER: ORK 58-1652039
 FEDERAL ID NUMBER: 58-1652039
 SUBCONTRACTOR NAME: N/A
 STATUS FOR: Goods? Services? Both?

TAXPAYER ID NAME: Hall Booth Smith, P.C.
 YOUR LAST NAME: Mehdiadegan
 ADDRESS: 200 River Market Avenue
 CITY: Little Rock STATE: AR ZIP CODE: 72201 COUNTRY: USA
 M.I.: NA

AS A CONDITION OF OBTAINING, EXTENDING, AMENDING, OR RENEWING A CONTRACT, LEASE, PURCHASE AGREEMENT, OR GRANT AWARD WITH ANY ARKANSAS STATE AGENCY, THE FOLLOWING INFORMATION MUST BE DISCLOSED:

FOR INDIVIDUALS *

Indicate below if: you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee:

Position Held	Mark (✓)		Name of Position of Job Held (Senator, representative, name of board/commission, data entry, etc.)	For How Long?		What is the person(s) name and how are they related to you? (see, Jane Q. Public, spouse, John Q. Public, Jr., child, etc.)
	Current	Former		From MM/Y	To MM/Y	
General Assembly						Relative
Constitutional Officer						
State Board or Commission Member						
State Employee						

None of the above applies

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, State Employee, or the spouse, brother, sister, parent, or child of a member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held (Senator, representative, name of board/commission, data entry, etc.)	For How Long?		What is the person(s) name and what is his/her % of ownership interest and/or in what is his/her position of control?
	Current	Former		From MM/Y	To MM/Y	
General Assembly						Ownership Interest (%) Position of Control
Constitutional Officer						
State Board or Commission Member	X		Gov. Comm'n People with Disabilities	3/2013	3/2016	N/A Partner
State Employee	X		Adjunct Professor	8/17	12/23	N/A Partner

None of the above applies See attached.

Contract and Grant Disclosure and Certification Form


Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.
2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.
3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature  Title Partner Date 3/6/2024
Vendor Contact Person Abtin Mehdi Zadeegan Title Partner Phone No. 501-529-1163

Agency use only
Agency Number _____ Agency Name _____ Agency Contact Person _____ Agency Title _____ Agency Phone No. _____ or Grant No. _____

Supplement to Contract and Grant Disclosure and Certification Form

1. Abtin Mehdizadegan was an adjunct professor of employment law at the UA William H. Bowen School of Law from August 2018 until December 2023. From approximately 2013 through 2015, Abtin Mehdizadegan served on the Governor's Commission for People with Disabilities. Abtin Mehdizadegan is a partner with Hall Booth Smith, P.C. He is not on the management committee of the firm and does not have power to direct purchasing policies. As a partner, Abtin Mehdizadegan has some influence in the management of Hall Booth Smith, P.C.

2. Julie Hill and Joseph Kraska are associates of Hall Booth Smith, P.C. Julie Hill's father is a member of the General Assembly. Joseph Kraska is a member of the Arkansas Air Guard. Neither Julie Hill nor Joseph Kraska own any interest in Hall Booth Smith, P.C. or otherwise hold positions of control. This information is supplied in an abundance of caution for transparency purposes.



DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

COMBINED CERTIFICATIONS FOR CONTRACTING WITH THE STATE OF ARKANSAS

Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

- 1. Israel Boycott Restriction:** For contracts valued at \$1,000 or greater.
A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.
- 2. Illegal Immigrant Restriction:** For contracts valued at \$25,000 or greater.
No state agency may contract for services with a Contractor who employs or contracts with an illegal immigrant. The Contractor shall certify that it does not employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.
- 3. Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction:** For contracts valued at \$75,000 or greater.
A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
- 4. Scrutinized Company Restriction:** Required with bid or proposal submission.
A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.


By signing this form, the Contractor agrees and certifies they are not a Scrutinized Company and they do not currently and shall not for the aggregate term a resultant contract:

- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

Contract Number: 4600054260 Description: Professional Consultant Services

Agency Name: Board of Corrections

Vendor Number: 100249276 Vendor Name: Hall Booth Smith, P.C.


Vendor Signature

3/6/2024
Date



HAL BOOTH SMITH

Abtin MehdiZadeegan
Phone: 501.503.4445
abtin@halboothsmith.com

200 River Market Avenue
Suite 500
Little Rock, AR 72201

Office: 501.214.3499
Fax: 501.604.5566
www.halboothsmith.com

Arkansas Board of Corrections
P.O. Box 20550
White Hall, AR 71612

RE: Engagement Letter for Legal Services and Supplement

This letter serves as a supplement to my engagement agreement for legal services, retroactive to December 8, 2023. Specifically, this letter will confirm that I have been retained as Special Counsel to the Arkansas Board of Corrections pursuant to Ark. Code Ann. § 25-16-711 to challenge certain legislation impacting the Board's power in light of the conflicting positions of the Attorney General regarding Amendment 33's application to the Board.

This letter will also confirm that I have been retained to take all legal action necessary to protect and preserve the Board's interests. Pursuant to that authority, on December 14, 2023, I filed a declaratory judgment lawsuit to challenge the legislation at issue, and on December 15, 2023, the Attorney General filed a lawsuit alleging violations of the Arkansas Freedom of Information Act in which the Attorney General sought to disqualify me from continued representation of the Board in the Amendment 33 lawsuit. In light of the exigent circumstances caused by the Attorney General's actions, and because the FOIA lawsuit, my representation as special counsel, and the pending Amendment 33 litigation are interrelated, I entered an appearance in the FOIA lawsuit pursuant to the December 14, 2023 motion authorizing me to take all necessary legal action. Based on the pleadings, arguments, and developments to-date, I believe the Board of Corrections and the Attorney General have another conflicting opinion regarding the application of a statute. In particular, the Attorney General has a different opinion regarding the application of Ark. Code Ann. § 25-16-711 as well as the Arkansas FOIA. This engagement agreement will serve as supplemental authority to file a counterclaim in the FOIA lawsuit to challenge Ark. Code Ann. § 25-16-702's application to the Board, and to further resolve the question of whether the Attorney General has standing to sue for alleged civil violations of the FOIA.

My standard hourly rate for government clients is currently \$285.00. Associates will bill at a rate of \$240.00 per hour; and paralegals will be billed at a rate of \$200.00 per hour. Our fees and costs will be billed monthly and are payable pursuant to the Board's extant policies. Time spent responding to FOIA requests will be billed at the same rates. Our invoices will be submitted monthly, and they will itemize the time expended on this matter and provide a description of services rendered. This engagement agreement specifically authorizes me to request the assistance of any associate or partner in my law firm at the rates set forth herein, including but not limited to Todd Wooten, Julie Hill,

LITTLE ROCK, AR

ALABAMA | ARKANSAS | COLORADO | FLORIDA | GEORGIA | MONTANA | NEW JERSEY | NEW YORK
NORTH CAROLINA | OKLAHOMA | SOUTH CAROLINA | TENNESSEE

161

Joseph Kraska, Joseph Stepina, Allison Scott, and Garrett Bannister. Each invoice will also request reimbursement of any actual out-of-pocket disbursements expended by this Firm in connection with our representation. Except for filings or other exigencies, we will not incur third-party expenses in excess of \$500.00 without advance approval. Please note that our rates may increase next year as part of the Firm's standard processes. If rates increase on this matter, I will alert you of same.

As a client, you have the right at any time to terminate our services and representation upon written notice to the Firm. In the event of termination of representation, your file will be made available to you and will be retained and destroyed in accordance with our ethical obligations. Likewise, we reserve the right to withdraw from our representation if any fact or circumstance arises that would make our continuing representation unlawful or unethical. The above agreements will also apply to services rendered for such future matters that we mutually agree will be handled by the Firm.

Additional Terms

Restriction of Boycott of Israel. In accordance with Arkansas Code § 25-1-503, this Firm hereby certifies and agrees that it is not currently engaged in, and agrees for the duration of the Agreement not to engage in, a boycott of Israel.

Restriction of Boycotts of Certain Products. In accordance with Ark. Code Ann. § 25-1-1102, Hall Booth Smith, P.C. certifies that neither the law firm nor the attorneys assisting with this matter are currently engaged in, nor will become engaged in, any boycott of energy, fossil fuels, firearms, and ammunition industries.

Governing Law. This Agreement shall be governed by the laws of the State of Arkansas, without regard to Arkansas's conflict of law principles.

Thank you again for considering me for this engagement.

Sincerely,

HALL BOOTH SMITH, P.C.


Abtin Mehdizadegan

ACCEPTANCE OF ENGAGEMENT AGREEMENT

By signing below, I represent that the Board of Corrections accepts the terms of this engagement agreement for legal services retroactive to December 8, 2023.

By: Benny Magness
Benny Magness, Chairman of the Board

12-22-23
Date

By: William Byers
William "Dubs" Byers, Secretary of the Board

12-22-23
Date

ELECTRONICALLY FILED
Pulaski County Circuit Court
Terr. Hollingsworth, Circuit/County Clerk
2024-Jan-19 10:59:04
60CV-23-9598
C06D11 : 8 Pages

**IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
ELEVENTH DIVISION**

**ARKANSAS BOARD OF CORRECTIONS; and
BENNY MAGNESS, in his official capacity as
CHAIRMAN OF THE ARKANSAS
BOARD OF CORRECTIONS**

PLAINTIFFS

v. CASE NO. 60CV-23-9598

**SARAH SANDERS, in her official capacity as
GOVERNOR OF ARKANSAS;
JOE PROFIRI, in his official capacity as
SECRETARY OF THE ARKANSAS
DEPARTMENT OF CORRECTIONS; and the
ARKANSAS DEPARTMENT OF CORRECTIONS**

DEFENDANTS

ORDER

The Court, having held a hearing on this matter on January 4, 2024, considered the petition and motions presented, as well as the evidence and testimony presented, and the arguments regarding the same, makes the following findings:

1. This Court had jurisdiction over the parties and subject matter of this action.
2. On December 14, 2023, the Plaintiffs filed their Verified Complaint against the above-named Defendants seeking a declaratory judgment and injunctive relief relating to Acts 185 and 659 of 2023 (the "Challenged Legislation"), which the Plaintiffs allege violate Amendment 33 of the Arkansas Constitution.

3. Subsequently, the Parties filed various motions, including the Defendants' Motion to Disqualify and Motion to Dismiss and Plaintiffs' Motion to Disqualify and Motion for Temporary Restraining Order or Alternatively Motion for Preliminary Injunction.

4. On December 15, 2023, the Court entered a temporary restraining order enjoining the Challenged Legislation and setting a hearing for December 28, 2023, pursuant to Rule 65 of the Arkansas Rules of Civil Procedure.

5. On December 28, 2023, Plaintiffs filed an Emergency Motion for Continuance and Extension of the temporary restraining order because Plaintiffs' lead counsel's wife went into labor. Because good cause was established, the Court granted Plaintiffs' Emergency Motion for Continuance and Extension and continued the temporary restraining order until January 4, 2024.

6. The Parties, through counsel, appeared at the January 4, 2024 hearing and presented argument, evidence, and testimony. Specifically, after the Parties' counsel delivered opening statements,¹ Plaintiffs presented testimony from Benny Magness, Chairman of the Board; Dr. William "Dubs" Byers, Secretary of the Board; Tommy James, Senior Auditor with the Compliance Division of the Board; and Jerry Bradshaw, who served as Director of the Division of Community Corrections until his voluntary retirement on December 31, 2023. Defendants called one witness: Mark Colbert, Compliance Attorney/Administrator for the Board of Corrections. After the Parties delivered closing arguments, the Court delivered the following bench rulings on the Parties' pending Motions:

¹ Defendants' counsel did not argue or address the merits of Plaintiffs' challenge during their opening statement or otherwise during closing arguments.

Plaintiffs' Motion to Disqualify the Attorney General's Office

7. The Plaintiffs' Motion to Disqualify Attorney General's Office is denied.

8. Even though the Court acknowledges the unique position of the Attorney General's Office as the legal representative for the State of Arkansas, its agencies, officers, and other entities, and that the testimony presented is that the Attorney General's Office has represented Plaintiffs on numerous occasions, the Court is not inclined to disqualify the Attorney General's Office solely because the Attorney General's Office represents Plaintiffs in a pending federal class action.

9. Notwithstanding, the Attorney General's unique position does not exempt that Office from the Arkansas Rules of Professional Conduct. *Holloway v. Arkansas State Bd. of Architects*, 79 Ark. App. 200, 214, 86 S.W.3d 391, 400 (2002), *aff'd in part, rev'd in part*, 352 Ark. 427, 101 S.W.3d 805 (2003); ARK. R. PROF. COND. 1.7.

10. The Arkansas Rules of Professional Conduct apply to all attorneys licensed to practice in this State, including to the Attorney General and his staff.

11. The Court is particularly concerned about the participation in this lawsuit by Christine Cryer, who recently worked for the Department of Corrections, prior to being listed as counsel on this case. Ms. Cryer and Mr. Brascher filed entry of appearances and were signatories in several pleadings filed in this matter. Although, there is no testimony that Ms. Cryer did anything improper in this case, it is the appearance of impropriety that is concerning. Therefore, Ms. Cryer -- and also as an abundance of caution -- Mr. Justin Brascher shall not be allowed to participate in any aspect of this case in any manner.

12. Accordingly, the Court orders that Justin Brascher and Christine Cryer of the Attorney General's Office shall not participate in any aspect of this case.

13. The Attorney General's Office is directed to take all necessary measures to enforce this restriction.

**Defendants' Motion to Disqualify Abtin Mehdizadegan
and his Law Firm as Special Counsel**

14. Defendants' Motion to Disqualify Plaintiffs' counsel is denied. The Court finds Defendants' arguments in support of disqualification fail for several reasons.

15. The Board of Corrections was created by Amendment 33 of the Arkansas Constitution.

16. Section 1 of Amendment 33 specifically defines "the term of office of members of the boards or commissions charged with the management or control of all charitable, penal, or correctional institutions[.]" ARK. CONST. amend. XXXIII, § 1.

17. The Court's interpretation of Amendment 33 is quite clear: the Board of Corrections is a constitutionally created board, making the Board's members constitutional officers for purposes of section 25-16-711 of the Arkansas Code. Thus, contrary to the Defendants' arguments that section 25-16-702 applies, the Court finds that the Board of Corrections had the legal authority to hire special counsel pursuant to section 25-16-711 of the Arkansas Code because the Board is a constitutional board, its members are constitutional officers, and from the pleadings, argument, and testimony presented, it is clear that the Attorney General and the Board of Corrections disagree about the proper interpretation of Amendment 33, section 25-16-702, and section 25-16-711.

18. Therefore, Defendants' Motion to Disqualify special counsel is denied.

Defendants' Motion to Dismiss

19. Defendants' Motion to Dismiss is denied.

20. Defendants argued that Plaintiffs lack standing to bring this lawsuit because they are not “persons” as defined by the Declaratory Judgment Act. *See* ARK. CODE ANN. § 16-111-101 *et seq.* This argument fails.

21. Based on the previous rulings by the Arkansas Supreme Court considering whether other government entities or officers are “persons,” the Court finds that Plaintiffs have standing as “persons” under the Declaratory Judgment Act as defined by Act 274 of 1953. *See Brown v. State*, 2017 Ark. 232, 522 S.W.3d 791; *Valley v. Bogard*, 342 Ark. 336, 342–43, 28 S.W.3d 269, 272–73 (2000) (abrogated in part by *State v. Jernigan*, 2011 Ark. 487, 385 S.W.3d 776); *Vibo Corp. v. State ex rel. McDaniel*, 2011 Ark. 124, 380 S.W.3d 411.

22. Plaintiffs have standing to pursue a declaratory judgment finding that the Challenged Legislation is unconstitutional.

23. Consequently, Defendants' Motion to Dismiss is denied.

Plaintiffs' Motion for Preliminary Injunction

24. Having determined that Plaintiffs have the legal authority to hire outside counsel and that they have standing under the Declaratory Judgment Act, the Court considered Plaintiffs' Motion for a Preliminary Injunction.

25. Pursuant to Rule 65 of the Arkansas Rules of Civil Procedure, the Court finds that Plaintiffs satisfied their burden of proving irreparable harm if the preliminary injunction is not granted and the likelihood of success on the merits. *See Ark. Dep't of Educ. v. Jackson*, 2023 Ark. 105, 7, 669 S.W.3d 1, 6; *Ark. Dep't of Hum Servs. v. Ledgerwood*, 2017 Ark. 308, 9, 530 S.W.3d 336, 343.

26. Plaintiffs identified irreparable harm in the absence of an injunction for several reasons.

27. First, the evidence and testimony presented established that the Secretary of Corrections exhibited insubordination towards the Board of Corrections by, among other things, opening prison beds without the Board's approval. Further, even after the Board voted to place him on leave with pay status on December 14, 2023, Secretary Profiri refused to recognize the Board's authority and announced his intention to remain working. Secretary Profiri even refused to take physical possession of the letter notifying him that he was placed on leave with pay. The irreparable harm is directly attributable to Act 185 of 2023, which purportedly required the Secretary of Corrections to serve at the pleasure of the Governor.

28. Second, irreparable harm was also demonstrated by the Governor's multiple statements indicating that Secretary Profiri would continue serving in that capacity even after he was placed on leave. Placing Secretary Profiri on leave with pay did not resolve the irreparable harm Plaintiffs articulated. The evidence presented was that an inmate took his own life on December 15, 2023 and that, due to inadequate staffing, he was not found for at least one hour. At the time of death, there were three corrections officers performing the work of five corrections officers.

29. Third, irreparable harm was also demonstrated by Plaintiffs' witnesses who identified the uncertainty presented by the Challenged Legislation as it relates to the performance of their constitutional and statutory duties to manage the Department of Corrections and its Divisions. Fundamentally, Plaintiffs established that the Challenged Legislation interferes with the exercise of their constitutional rights to manage and control the Department of Corrections, and that showing supports a finding of clear and present need for equitable relief to prevent irreparable constitutional injury under

Amendment 33. Sections 12-27-107(c) and 12-27-126(c), for instance, as amended, were to become effective as of January 1, 2024.

30. Plaintiffs likewise demonstrated a likelihood of success on the merits because the Challenged Legislation diminished the powers vested in the Board of Corrections by Amendment 33. The Board has historically supervised the Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections. Those Department leaders implement the Board's substantive policy decisions. If the Board is statutorily precluded from directly supervising those positions, then—as demonstrated by this litigation—the Board cannot effectively perform its constitutional mandate to independently manage the affairs of the Department of Corrections.

31. The balance of equities weighs heavily in favor of enjoining the Challenged Legislation so that the Board can regain and retain control over the Department for which it has general superintending responsibility, as the potential harm to inmates, staff, and the community at large far outweighs any interest in the continued enforcement of allegedly unconstitutional legislation like Acts 185 and Sections 79 and 89 of Act 659. This harm cannot be adequately compensated by money damages or redressed in a court of law. It is clear to this Court that this dispute will be ongoing until this matter is fully determined. Therefore, this Court deems it appropriate to keep the injunction in place until such time this matter is resolved.

32. The Court grants Plaintiffs' Motion for Preliminary Injunction. Therefore, the Challenged Legislation—sections 25-43-403(a)(2)(a), 12-27-107(c), and 12-27-126(c) of the Arkansas Code—shall remain enjoined.

33. The Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections shall continue serving at the pleasure of and reporting directly to the Board of Corrections.

34. This preliminary injunction applies to Defendants, their officers, agents, servants, employees, attorneys, and other persons who are in active concert or participation with Defendants and Defendants' officers, agents, servants, employees, and attorneys, until the final hearing.

35. No security is required for this preliminary injunction pursuant to Rule 65(c) of the Arkansas Rules of Civil Procedure.

IT IS SO ORDERED.



THE HONORABLE PATRICIA A. JAMES

DATE: 1/19/24

Shari Gray (DOC)

From: Shari Gray (DOC)
Sent: Wednesday, March 6, 2024 3:52 PM
To: Abtin Mehdizadegan
Subject: Contract 3.6.2024
Attachments: 3558_001.pdf

Abtin,

I've attached signed contract 3.6.2024.

Shari Gray
Arkansas Board of Corrections
P. O. Box 20550
White Hall, AR 71612
Shari.Gray@arkansas.gov
870-267-6754 / Fax 870-267-6756

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From: Shari Gray (DOC) <shari.gray@arkansas.gov>
Sent: Wednesday, March 6, 2024 3:47 PM
To: Shari Gray (DOC) <Shari.Gray@arkansas.gov>
Subject: Attached Image

Contract #: 4600054260



STATE OF ARKANSAS SERVICES CONTRACT

Contract #	4600054260	Federal ID#	58-1852659
Service Type	Professional Consultant Services (PCS) <input checked="" type="checkbox"/>	Procurement Method	Emergency / Exempt from Law

The Board of Corrections of the

1. **Contracting Parties** State of Arkansas is hereinafter referred to as the Department and contractor is herein after referred to as the Contractor.

Department No. & Name	9903 - Department of Corrections / Board of Corrections		
Division	Not Applicable		

Contractor Name	Hall Booth Smith, P.C.		
Contractor Address	191 Peachtree St., NE, Suite 2900, Atlanta, GA 30303-1775		
Contractor Number	100249276	Minority/Women Owned Business	<input type="radio"/> Yes <input checked="" type="radio"/> No

2. **Objectives, Scope, and Performance.** Identify, in reasonable detail, the objectives and scope of the contractual agreement and the methods the Department will use to determine whether the objectives of the contract (Contract) have been achieved. If space below is insufficient it may be supplemented with Attachment 4.

Provide legal counsel for the Board of Corrections regarding Amendment 33 and other matters within the ambit of Ark. Code Ann. 25-16-711, as voted on and approved by the Board of Corrections on December 8, December 14, and December 22, 2023. Contractor's engagement agreement dated December 22, 2023 is incorporated herein by reference. By signing this document, neither the Board of Corrections nor Contractor admit that the procurement process advanced by the Department of Corrections is correct or applicable, and they retain and reserve all defenses relating to the applicable process through which to secure representation under Ark. Code Ann. 25-16-711 or other applicable law. In the interest of cooperation, however, and to facilitate the payment of Contractor's outstanding and prospective invoices, Contractor and the Board of Corrections supply the information requested herein in good faith. The term of this agreement is difficult to anticipate due to the nature of pending litigation, as is the total contract amount; however, the information supplied is based on Contractor's best estimate at this time.

3. **Term Dates.** The original term (**Original Term**) of the Contract shall commence on 12/08/2023, and shall continue until 12/07/2024, unless earlier terminated or cancelled in accordance with the Contract or some other writing agreed to and signed by the parties, but in no event may the Original Term exceed a period of four (4) consecutive years from the effective date of the Original Term, unless exempt from Ark. Code Ann. § 19-11-238(c)(1). By written agreement of the parties, the term of the Contract may be extended or renewed for additional time beyond the Original Term. This allows for a total possible term (**Total Possible Term**) beyond the Contract's Original Term, as defined in the following paragraph.

The **Total Possible Term** of the Contract is a period comprised of the Original Term plus any extensions or renewals that may be agreed to by the parties in writing, but in no event longer than a period of seven (7) consecutive years from the effective date of the **Original Term**, unless otherwise provided by law. Subject to applicable law, the terms hereof, and an appropriation of necessary funding, the Total Possible Term of this Contract expires no later than 12/07/2024(mm/dd/yyyy).

4. Contractor's Performance Obligations. Contractor, for the duration of the Contract and as consideration for the Department's payment as set forth below, shall provide the following to the Department:

Contractor will continue representing the Board of Corrections in litigation and on appeal, taking all legal action necessary to protect and preserve the Board's interests under Amendment 33, pursuant to Ark. Code Ann. 25-16-711. Specifically, Contractor will defend the Board of Corrections in a lawsuit and appeal filed by the Attorney General against the Board and its chair; and Contractor will prosecute the Board and chair's Amendment 33 claims, and represent them as Appellees in the appeal filed by the Attorney General on behalf of the Governor, Department of Corrections, and Secretary of Corrections. Contractor's December 22, 2023 engagement agreement, which was executed by the Board, is incorporated herein by reference, as well as the January 2024 Order from Judge Patricia James.

The parties agree that this paragraph 4 of the Contract, and any incorporated attachment, fully sets forth the Contractor's performance upon which the Department's obligation to pay the Contractor is conditioned. (if the space provided is not enough to fully specify the Contractor's duty to perform and to identify the standards of satisfactory performance, the Contractor's covenant to perform must be set forth in Attachment 5 hereto, Performance Details, the terms of which, if any, are incorporated herein by reference.)

5. Department's Payment Obligations. Department, as consideration for the Contractor's satisfactory performance of the Contractor's Performance Obligations, as set forth above, shall pay the Contractor as follows:

Pursuant to Ark. Code Ann. 25-16-711, Contractor will present itemized invoices monthly for ongoing payment of legal services rendered, with hourly rates of \$200 for paralegals, \$240 for associates, and \$285 for partners. Payment shall be due within 10 days from receipt of an invoice. Contractor shall be reimbursed all expenses incurred in the representation. Contractor's December 22, 2023 engagement agreement and the January 2024 Order of Judge Patricia James are incorporated by reference. The Board of Corrections's litigation liaison shall be solely responsible for determining whether Contractor's performance is satisfactory, and the litigation liaison shall be responsible for authorizing payment under this Agreement.

The parties agree that this paragraph 5 of the Contract, and any incorporated attachment, fully sets forth all applicable rates, fees, charges, costs (transportation, per diem, subsistence, out-of-pocket allowances, and any other costs that may apply), and items for which the Contractor is entitled to payment under the Contract as consideration for Contractor's satisfactory performance of its obligations under the Contract. The Department shall not pay Contractor except as set forth. The parties also agree that the method(s) of determining the amount of payment corresponding to the Contractor's satisfactory performance is/are set forth in this paragraph 5 such that the total payment owed under the Contract can be determined by

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reference thereto. (If the space provided is not enough to fully set forth the information needed to determine proper compensation owed by the Department for Contractor's satisfactory performance under the Contract, that information must be set forth in Attachment 2, Calculation of Compensation, the terms of which, if any, are incorporated herein by reference.)

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of the **Original Term**, and (b) the corresponding compensation identified in paragraph 5; the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Original Term is: \$ 207,000.00 (**Initial Contract Amount**).

Assuming: (a) Contractor's full and satisfactory performance under the Contract for the duration of its **Total Possible Term**, and (b) the corresponding compensation identified in paragraph 5, the maximum number of dollars that the Department may be obligated to pay to the Contractor under the terms of the Contract for the Total Possible Term is: \$ 207,000.00 (**Total Projected Contract Amount**).

If either the **Total Projected Contract Amount** or the amount the Department may be obligated to pay the Contractor in any given year of the **Original Term**, or the **Total Possible Term** of the Contract meets or exceeds the threshold of Ark. Code. Ann. § 19-11-265, the Contract shall be submitted for legislative review prior to its effective date.

- 6. **Terms and Conditions of Solicitation Incorporated and Order of Precedence.** The parties agree that the agreement in this Contract memorializes and incorporates by reference any and all written representations, warranties, terms, and conditions, set forth in the underlying solicitation document and the bid or proposal that became the basis of the Contract award, which representations, warranties, terms, and conditions continue in full force and effect unless expressly amended hereby.

Accordingly, the provisions of this memorialization of the Contract should be read as being consistent therewith and supplementary thereto to the extent reasonably possible. However, in the event of a conflict between the provisions of this memorialization and the specific provisions of the bid or proposal that was the basis of award, such conflict shall be resolved by giving priority to the documents in the order listed below, including but not limited to conflicting order of precedence provisions.

- A. This Contract, as may be amended in writing by the parties;
- B. The solicitation BOC-24-001 (Solicitation number) including all Addenda;
- C. Contractor's response to the solicitation.

7. **Termination & Cancellation Clauses.**

- A. **Non-Appropriation Clause Pursuant to §19-11-1012(11).** In the event the State of Arkansas fails to appropriate funds or make monies available for any biennial period covered by the term of this contract for the services to be provided by the Contractor, this Contract shall be terminated on the last day of the last biennial period for which funds were appropriated or monies made available for such purposes.

Board of Corrections

This provision shall not be construed to abridge any other right of termination the ~~agency~~ may have.

- B. **For Convenience.** The Department may terminate this contract for any reason by giving the Contractor written notice of such termination no less than sixty (60) days prior to the date of termination.

- C. **For Cause.** The Department may cancel this Contract for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30)

days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the Contract and may provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the Contract to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.

8. Non-negotiable Governing Law and Venue.

A. This contract shall be governed by and construed in accordance with the Laws of the State of Arkansas. Exclusive venue arising under this Contract is Pulaski County, Arkansas.

B. Any legislation that may be enacted subsequent to the date of this Contract, which may cause all or any part of the Contract to be in conflict with the laws of the State of Arkansas, will be given proper consideration if and when this contract is renewed or extended. At such time, the parties agree that the Contract shall be amended to comply with any applicable laws in effect.

C. Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas Code Annotated.

9. **Non-negotiable Sovereign Immunity.** Nothing in this Contract shall be construed as a waiver of the State's sovereign immunity. Any claims Contractor wishes to assert against the State in connection with this Contract if applicable, shall be brought in the Arkansas State Claims Commission, if applicable.

10. **Non-negotiable Intergovernmental/Cooperative Use.** In accordance with Arkansas Code Annotated § 19-11-249, any State public procurement unit may participate in this Contract with a participating addendum signed by the Contractor and approved by the chief procurement officer of the procurement agency issuing the contract.

11. **Non-negotiable Disclosure Required by Executive Order 98-04.** Any contract or amendment to a contract executed by an agency which exceeds \$10,000 shall require the Vendor to disclose information as required under the terms of Executive Order 98-04 and the Regulations pursuant thereto. The Vendor shall also require the subcontractor to disclose the same information. The Contract and Grant Disclosure and Certification Form shall be used for this purpose. Contracts with another government entity such as a state agency, public education institution, federal government entity, or body of a local government are exempt from disclosure requirements.

The failure of any person or entity to disclose as required under any term of Executive Order 98-04, or the violation of any rule, regulation or policy promulgated by the Department of Finance and Administration pursuant to this Order, shall be considered a material breach of the terms of the contract, lease, purchase

agreement, or grant and shall subject the party failing to disclose, or in violation, to all legal remedies available to the Agency under the provisions of existing law.

12. **Compliance.** The Contractor shall ensure, in cooperation with the Department, that the Contract adheres to the requirements of Arkansas procurement law, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review. The signature of the Contractor on this Contract serves as an acknowledgement that the Contractor is:

A. Equally responsible with the Department for adhering to the requirements of Arkansas Procurement

Law related to the content and review of the Contract; and

B. Subject to the relevant ethical provisions of § 19-11-701 et seq., if applicable.

13. **Indemnity.** The Contractor shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the Department, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorney's fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Contractor, its agents, employees, partners, or assigns.
14. **Assignment/Subcontracting.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Contract, in whole or in part, without the prior written approval of the Department.
15. **Amendments.** The terms of this Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without written approval of both parties. Any amendment that increases compensation or represents a material substantive change may require review by Legislative Council or Joint Budget Committee pursuant to Ark. Code Ann. § 19-11-265, if applicable.
16. **Records.** Financial and accounting records reasonably relevant to State of Arkansas transactions under this Contract shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the date of expiration, termination or cancellation and final payment under this Contract, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section; and provided that such examination occurs pursuant to a mutually agreed upon location, during normal business hours and subject to reasonable confidentiality obligations.
17. **Non-waiver.** The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall a waiver of any breach or default of this Contract constitute a waiver of any subsequent breach or default or a waiver of the provision itself.
18. **Severability.** If any provision of this contract is held unenforceable, all remaining provisions of this Contract shall remain in full force and effect.
19. **Attachments.**
 1. Certification of Contractor
 2. Calculation of Compensation, as applicable;
 3. Source of Funds
 4. Objectives, Scope, and Performance Standards, as applicable; and
 5. Performance Details, as applicable
 6. Additional Attachments as applicable
 - A. Engagement Agreement Dated December 22, 2023
 - B. Contract & Grant Disclosure
 - C. January 2024 Order of Judge Patricia James
 - D. Outstanding Invoices in line for payment.

20. Notices.

A. Method of Notice. The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid, (iv) fax, or (v) electronic mail to the party's address specified in this Contract, or to the address that a party has notified to be that party's address for the purposes of this section.

B. Receipt of Notice. A notice given under this Contract will be effective on
i. the other party's receipt of it, or
ii. if mailed, the earlier of the other party's receipt of it and the fifth business day after mailing it.

C. Issuance of Notice. All notices and communications between the parties in writing shall be directed to the respective parties in accordance with the following:

Contact #1 – Department Representative submitting/tracking this contract

Flora Johnson	Procurement Administrator
_____ Name	_____ Title
(870) 850-8502	Flora.Johnson@arkansas.gov
_____ Telephone#	_____ Email

Contact #2 - Department Representative with knowledge of this project (for general questions and responses)

Chad Brown	Chief Financial Officer
_____ Name	_____ Title
(501) 682-9510	Chad.Brown@arkansas.gov
_____ Telephone#	_____ Email

Contact #3 - Department Representative Director or Critical Contact (for time sensitive questions and responses)

Chad Brown	Chief Financial Officer
_____ Name	_____ Title
(501) 682-9510	Chad.Brown@arkansas.gov
_____ Telephone#	_____ Email

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21. **Technology Access.** If the Commodities are electronic information processing hardware or software, including telecommunications hardware or software ("Information Technology"), then the Contractor represents and warrants it shall comply with federal and state law relating to accessibility by persons with visual impairments and nonvisual access standards established by the Division of Information System, which standards can be found at <https://www.dfa.arkansas.gov/images/uploads/procurementOffice/technologyAccessClause.pdf> and are included herein by reference, as applicable.

22. **SIGNATURES**

DEPARTMENT SIGNATURE CERTIFIES NO OBLIGATIONS WILL BE INCURRED BY A STATE DEPARTMENT UNLESS SUFFICIENT FUNDS ARE AVAILABLE TO PAY THE OBLIGATIONS WHEN THEY BECOME DUE.

IN WITNESS WHEREOF, the Parties sign and cause this Contract to be executed. Notwithstanding verbal or other representations by the parties, the "Effective Date" of this Contract shall be the date provided in Section 3 above.

CONTRACTOR AUTHORIZED SIGNATURE

DEPARTMENT AUTHORIZED SIGNATURE

Abtin Mehdizadegan

Benny Magness

Printed Name

Printed Name

Partner, Hall Booth Smith, P.C.

Chairman, Board of Corrections

Title

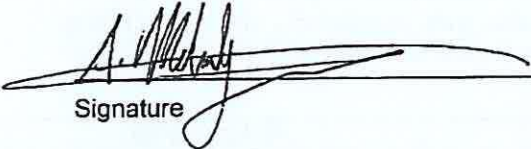
Title

200 River Market Avenue, Suite 500, Little Rock, AR 72201

1302 Pike Ave., North Little Rock, AR. 72114

Address

Address


Signature


Signature

3/6/2024

3/6/2024

Date

Date

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Attachment #1

CERTIFICATION OF CONTRACTOR

Sections A, B and C apply to all service contracts. Sections D and E apply to Professional and Consulting Services contracts only.

A. "I, Abtin Mehdizadegan, a Partner with the law firm of Hall Booth Smith, P.C.
 (Contractor) (Title)

certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of the State of Arkansas will receive any personal, direct or indirect monetary benefits as a result of the execution of this contract that would violate the law." Where the Contractor is a widely-held public corporation, the term 'direct or indirect monetary benefits' "shall not apply to any regular corporate dividends paid to a stockholder of said corporation who is also a State employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation."

B. List any other contracts or subcontracts Contractor has with any other state government entities. (Not applicable to contracts between Arkansas state departments. If no contracts or subcontracts, please put "Not applicable" or "None.")

HBS provides immigration services to a number of state governmental entities, including to UAMS and ADFA. Abtin Mehdizadegan does not have access to that information but can provide contact information for another representative. Abtin Mehdizadegan previously served as an adjunct professor at UA Bowen School of Law; however, he has discontinued that service. Abtin also served as special counsel to the Executive Subcommittee of the ALC/BLR in February 2023.

C. Is Contractor currently engaged in any legal controversies with any state agencies or representing any clients engaged in any controversy with any Arkansas state department? If no controversies, please put "Not applicable" or "None."

Contractor is not personally engaged in a legal controversy with any state agency; however, Contractor serves as legal counsel for the Board of Corrections and its chair in the legal controversies described above. Contractor also represents the BioGen plaintiffs in a separate regulatory challenge involving the Department of Agriculture et al., and Contractor represents 2600 Holdings in an appeal in which the ABC and MMC are parties, though not currently participating.

D. Contractor shall list below, or on an attachment hereto, names, addresses, and relationship of those persons who will be supplying services to the State at the time of the execution of the contract. If the names are not known at the time of the execution of the contract, the Contractor shall submit the names along with the other information as they become known. Such persons shall, for all purposes, be employees or independent contractors operating under the control of the Contractor (sub- contractors), and nothing herein shall be construed to create an employment relationship between the departments and the persons listed below.

Name	Address	Relationship
Abtin Mehdizadegan	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Partner
Joseph Kraska	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Joseph Stepina	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Julie Hill	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Associate
Lynsey Russell	200 River Market Avenue, Suite 500, Little Rock, AR 72201	Paralegal

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CERTIFICATION OF CONTRACTOR CONT'D

E. The State has no managerial responsibilities over the Contractor or Contractor's employees. In carrying out this contract, Contractor understands and represents that there is no employment relationship between the contracting parties.

F. By checking the box below, the Contractor certifies that Contractor: (1) does not boycott Israel and shall not boycott Israel during the aggregate term of the corresponding Contract.

Contractor does not and shall not boycott Israel

Attachment #2

Calculation of Compensation

Calculation of Compensation (for Professional & Consulting Service Contracts Only):

A. In the table below, provide the various levels of expertise, the number of personnel for each level, the compensation rate, and total for each level, as applicable.

Level of Personnel	Number	Compensation Rate	Total for Level
Partner	1	\$285/hour	\$ 110,000.00
Associate	3	\$240/hour	\$ 75,000.00
Paralegal	1	\$200/hour	\$ 15,000.00
TOTAL COMPENSATION EXCLUSIVE OF EXPENSE REIMBURSEMENT(S)			\$ 200,000.00

B. In the table below, provide any allowable reimbursable expenses, estimated rates, and a total for each level.

Reimbursable Expense Items (Specify)	Estimated Rate of Reimbursement	Total
Filing fees and transcript costs	\$185 + \$0.10/page	\$ 5,000.00
Service of process	\$300	\$ 1,500.00
Special collections research	\$0.50/page	\$ 500.00
TOTAL REIMBURSABLE EXPENSES		\$ 7,000.00

Total compensation inclusive of expense reimbursement: \$ 207,000.00

Annual Contract Amount: \$ 207,000.00

Calculation of Services and Commodities (for Technical & General Service Contracts Only):

A. In the table below, as applicable, provide the various services to be rendered, the quantity, cost per item, and total cost.

Services	Quantity	Cost Per Item	Total Cost
TOTAL SERVICES			\$ 0.00

B. In the table below, as applicable, provide the various commodities, quantity, cost per item, and total cost

Commodities	Quantity	Cost Per Item	Total Cost
TOTAL COMMODITIES			\$ 0.00

Total services inclusive of commodities: \$ 0.00

Annual Contract Amount:

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CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM

Failure to complete all of the following information may result in a delay in obtaining a contract, lease, purchase agreement, or grant award with any Arkansas State Agency.

SUBCONTRACTOR NAME: _____

FEDERAL ID NUMBER: _____ OR _____

TAXPAYER ID #: _____

IS THIS FOR: Goods? Services? Both?

YOUR LAST NAME: Mehdizadegan FIRST NAME: Abtin M.I.: NA

ADDRESS: 200 River Market Avenue

CITY: Little Rock STATE: AR ZIP CODE: 72201 COUNTRY: USA

FOR INDIVIDUALS *

Indicate below if you, your spouse or the brother, sister, parent, or child of you or your spouse is a current or former: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee.

FOR AN ENTITY (BUSINESS) *

Indicate below if any of the following persons, current or former, hold any position of control or hold any ownership interest of 10% or greater in the entity: member of the General Assembly, Constitutional Officer, State Board or Commission Member, or State Employee. Position of control means the power to direct the purchasing policies or influence the management of the entity.

Position Held	Mark (✓)		Name of Position of Job Held <small>(Senator, representative, name of board/commission, etc.)</small>	For How Long?		What is the person's name and what is his/her job or ownership interest and/or what is his/her position of control?
	Current	Former		From MM/YY	To MM/YY	
General Assembly						
Constitutional Officer						
State Board or Commission Member						
State Employee						

None of the above applies

Position Held	Mark (✓)		Name of Position of Job Held <small>(Senator, representative, name of board/commission, etc.)</small>	For How Long?		What is the person's name and what is his/her job or ownership interest and/or what is his/her position of control?		
	Current	Former		From MM/YY	To MM/YY		Person's Name(s)	Ownership Interest (%)
General Assembly								
Constitutional Officer								
State Board or Commission Member			Gov. Comm'n People with Disabilities	8/2013	5/2016	Abtin Mehdizadegan	N/A	Partner
State Employee			Adjunct Professor	6/17	12/23	Abtin Mehdizadegan	N/A	Partner

None of the above applies See attached.

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Contract and Grant Disclosure and Certification Form

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

As an additional condition of obtaining, extending, amending, or renewing a contract with a state agency I agree as follows:

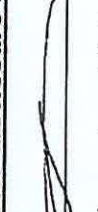
1. Prior to entering into any agreement with any subcontractor, prior or subsequent to the contract date, I will require the subcontractor to complete a **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM**. Subcontractor shall mean any person or entity with whom I enter an agreement whereby I assign or otherwise delegate to the person or entity, for consideration, all, or any part, of the performance required of me under the terms of my contract with the state agency.

2. I will include the following language as a part of any agreement with a subcontractor:

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this subcontract. The party who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the contractor.

3. No later than ten (10) days after entering into any agreement with a subcontractor, whether prior or subsequent to the contract date, I will mail a copy of the **CONTRACT AND GRANT DISCLOSURE AND CERTIFICATION FORM** completed by the subcontractor and a statement containing the dollar amount of the subcontract to the state agency.

I certify under penalty of perjury, to the best of my knowledge and belief, all of the above information is true and correct and that I agree to the subcontractor disclosure conditions stated herein.

Signature  Title Partner Date 3/6/2024
Vendor Contact Person Austin Mehdizadeh Title Partner Phone No. 501-529-1163

Agency use only
Agency Number _____ Agency Name _____ Agency Contact Person _____ Agency Contact _____
Phone No. _____ or Grant No. _____

Supplement to Contract and Grant Disclosure and Certification Form

1. Abtin Mehdizadegan was an adjunct professor of employment law at the UA William H. Bowen School of Law from August 2018 until December 2023. From approximately 2013 through 2015, Abtin Mehdizadegan served on the Governor's Commission for People with Disabilities. Abtin Mehdizadegan is a partner with Hall Booth Smith, P.C. He is not on the management committee of the firm and does not have power to direct purchasing policies. As a partner, Abtin Mehdizadegan has some influence in the management of Hall Booth Smith, P.C.

2. Julie Hill and Joseph Kraska are associates of Hall Booth Smith, P.C. Julie Hill's father is a member of the General Assembly. Joseph Kraska is a member of the Arkansas Air Guard. Neither Julie Hill nor Joseph Kraska own any interest in Hall Booth Smith, P.C. or otherwise hold positions of control. This information is supplied in an abundance of caution for transparency purposes.



DEPARTMENT OF TRANSFORMATION AND SHARED SERVICES
OFFICE OF STATE PROCUREMENT

COMBINED CERTIFICATIONS FOR CONTRACTING WITH THE STATE OF ARKANSAS

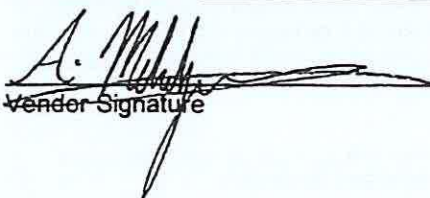
Pursuant to Arkansas law, a vendor must certify as specified below and as designated by the applicable laws.

1. **Israel Boycott Restriction:** For contracts valued at \$1,000 or greater.
A public entity shall not contract with a person or company (the "Contractor") unless the Contractor certifies in writing that the Contractor is not currently engaged in a boycott of Israel. If at any time after signing this certification the Contractor decides to boycott Israel, the Contractor must notify the contracting public entity in writing. See Arkansas Code Annotated § 25-1-503.
2. **Illegal Immigrant Restriction:** For contracts valued at \$25,000 or greater.
No state agency may contract for services with a Contractor who employs or contracts with an illegal immigrant. The Contractor shall certify that it does not employ, or contract with, illegal immigrants. See Arkansas Code Annotated § 19-11-105.
3. **Energy, Fossil Fuel, Firearms, and Ammunition Industries Boycott Restriction:** For contracts valued at \$75,000 or greater.
A public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract. See Arkansas Code Annotated § 25-1-1102.
4. **Scrutinized Company Restriction:** Required with bid or proposal submission.
A state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor. See Arkansas Code Annotated § 25-1-1203.

By signing this form, the Contractor agrees and certifies they are not a Scrutinized Company and they do not currently and shall not for the aggregate term a resultant contract:

- Boycott Israel.
- Employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a subcontractor.

Contract Number: 4600054260 Description: Professional Consultant Services
 Agency Name: Board of Corrections
 Vendor Number: 100249276 Vendor Name: Hall Booth Smith, P.C.


 Vendor Signature

3/11/2024
 Date



Attorneys at Law

Abtin Mehdizadegan
Phone: 501.503.4445
abtin@hallboothsmith.com

200 River Market Avenue
Suite 500
Little Rock, AR 72201

Office: 501.214.3499
Fax: 501.604.5566
www.hallboothsmith.com

Arkansas Board of Corrections
P.O. Box 20550
White Hall, AR 71612

RE: Engagement Letter for Legal Services and Supplement

This letter serves as a supplement to my engagement agreement for legal services, retroactive to December 8, 2023. Specifically, this letter will confirm that I have been retained as Special Counsel to the Arkansas Board of Corrections pursuant to Ark. Code Ann. § 25-16-711 to challenge certain legislation impacting the Board's power in light of the conflicting positions of the Attorney General regarding Amendment 33's application to the Board.

This letter will also confirm that I have been retained to take all legal action necessary to protect and preserve the Board's interests. Pursuant to that authority, on December 14, 2023, I filed a declaratory judgment lawsuit to challenge the legislation at issue, and on December 15, 2023, the Attorney General filed a lawsuit alleging violations of the Arkansas Freedom of Information Act in which the Attorney General sought to disqualify me from continued representation of the Board in the Amendment 33 lawsuit. In light of the exigent circumstances caused by the Attorney General's actions, and because the FOIA lawsuit, my representation as special counsel, and the pending Amendment 33 litigation are interrelated, I entered an appearance in the FOIA lawsuit pursuant to the December 14, 2023 motion authorizing me to take all necessary legal action. Based on the pleadings, arguments, and developments to-date, I believe the Board of Corrections and the Attorney General have another conflicting opinion regarding the application of a statute. In particular, the Attorney General has a different opinion regarding the application of Ark. Code Ann. § 25-16-711 as well as the Arkansas FOIA. This engagement agreement will serve as supplemental authority to file a counterclaim in the FOIA lawsuit to challenge Ark. Code Ann. § 25-16-702's application to the Board, and to further resolve the question of whether the Attorney General has standing to sue for alleged civil violations of the FOIA.

My standard hourly rate for government clients is currently \$285.00. Associates will bill at a rate of \$240.00 per hour; and paralegals will be billed at a rate of \$200.00 per hour. Our fees and costs will be billed monthly and are payable pursuant to the Board's extant policies. Time spent responding to FOIA requests will be billed at the same rates. Our invoices will be submitted monthly, and they will itemize the time expended on this matter and provide a description of services rendered. This engagement agreement specifically authorizes me to request the assistance of any associate or partner in my law firm at the rates set forth herein, including but not limited to Todd Wooten, Julie Hill,

LITTLE ROCK, AR

ALABAMA | ARKANSAS | COLORADO | FLORIDA | GEORGIA | MONTANA | NEW JERSEY | NEW YORK
NORTH CAROLINA | OKLAHOMA | SOUTH CAROLINA | TENNESSEE

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Joseph Kraska, Joseph Stepina, Allison Scott, and Garrett Bannister. Each invoice will also request reimbursement of any actual out-of-pocket disbursements expended by this Firm in connection with our representation. Except for filings or other exigencies, we will not incur third-party expenses in excess of \$500.00 without advance approval. Please note that our rates may increase next year as part of the Firm's standard processes. If rates increase on this matter, I will alert you of same.

As a client, you have the right at any time to terminate our services and representation upon written notice to the Firm. In the event of termination of representation, your file will be made available to you and will be retained and destroyed in accordance with our ethical obligations. Likewise, we reserve the right to withdraw from our representation if any fact or circumstance arises that would make our continuing representation unlawful or unethical. The above agreements will also apply to services rendered for such future matters that we mutually agree will be handled by the Firm.

Additional Terms

Restriction of Boycott of Israel. In accordance with Arkansas Code § 25-1-503, this Firm hereby certifies and agrees that it is not currently engaged in, and agrees for the duration of the Agreement not to engage in, a boycott of Israel.

Restriction of Boycotts of Certain Products. In accordance with Ark. Code Ann. § 25-1-1102, Hall Booth Smith, P.C. certifies that neither the law firm nor the attorneys assisting with this matter are currently engaged in, nor will become engaged in, any boycott of energy, fossil fuels, firearms, and ammunition industries.

Governing Law. This Agreement shall be governed by the laws of the State of Arkansas, without regard to Arkansas's conflict of law principles.

Thank you again for considering me for this engagement.

Sincerely,

HALL BOOTH SMITH, P.C.


Abtin Mehdi Zadeh

ACCEPTANCE OF ENGAGEMENT AGREEMENT

By signing below, I represent that the Board of Corrections accepts the terms of this engagement agreement for legal services retroactive to December 8, 2023.

By: Benny Magness
Benny Magness, Chairman of the Board

12-22-23
Date

By: William Byers
William "Dubs" Byers, Secretary of the Board

12-22-23
Date

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IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
ELEVENTH DIVISION

**ARKANSAS BOARD OF CORRECTIONS; and
BENNY MAGNESS, in his official capacity as
CHAIRMAN OF THE ARKANSAS
BOARD OF CORRECTIONS**

PLAINTIFFS

v. CASE NO. 60CV-23-9598

**SARAH SANDERS, in her official capacity as
GOVERNOR OF ARKANSAS;
JOE PROFIRI, in his official capacity as
SECRETARY OF THE ARKANSAS
DEPARTMENT OF CORRECTIONS; and the
ARKANSAS DEPARTMENT OF CORRECTIONS**

DEFENDANTS

ORDER

The Court, having held a hearing on this matter on January 4, 2024, considered the petition and motions presented, as well as the evidence and testimony presented, and the arguments regarding the same, makes the following findings:

1. This Court had jurisdiction over the parties and subject matter of this action.
2. On December 14, 2023, the Plaintiffs filed their Verified Complaint against the above-named Defendants seeking a declaratory judgment and injunctive relief relating to Acts 185 and 659 of 2023 (the "Challenged Legislation"), which the Plaintiffs allege violate Amendment 33 of the Arkansas Constitution.

3. Subsequently, the Parties filed various motions, including the Defendants' Motion to Disqualify and Motion to Dismiss and Plaintiffs' Motion to Disqualify and Motion for Temporary Restraining Order or Alternatively Motion for Preliminary Injunction.

4. On December 15, 2023, the Court entered a temporary restraining order enjoining the Challenged Legislation and setting a hearing for December 28, 2023, pursuant to Rule 65 of the Arkansas Rules of Civil Procedure.

5. On December 28, 2023, Plaintiffs filed an Emergency Motion for Continuance and Extension of the temporary restraining order because Plaintiffs' lead counsel's wife went into labor. Because good cause was established, the Court granted Plaintiffs' Emergency Motion for Continuance and Extension and continued the temporary restraining order until January 4, 2024.

6. The Parties, through counsel, appeared at the January 4, 2024 hearing and presented argument, evidence, and testimony. Specifically, after the Parties' counsel delivered opening statements,¹ Plaintiffs presented testimony from Benny Magness, Chairman of the Board; Dr. William "Dubs" Byers, Secretary of the Board; Tommy James, Senior Auditor with the Compliance Division of the Board; and Jerry Bradshaw, who served as Director of the Division of Community Corrections until his voluntary retirement on December 31, 2023. Defendants called one witness: Mark Colbert, Compliance Attorney/Administrator for the Board of Corrections. After the Parties delivered closing arguments, the Court delivered the following bench rulings on the Parties' pending Motions:

¹ Defendants' counsel did not argue or address the merits of Plaintiffs' challenge during their opening statement or otherwise during closing arguments.

Plaintiffs' Motion to Disqualify the Attorney General's Office

7. The Plaintiffs' Motion to Disqualify Attorney General's Office is denied.

8. Even though the Court acknowledges the unique position of the Attorney General's Office as the legal representative for the State of Arkansas, its agencies, officers, and other entities, and that the testimony presented is that the Attorney General's Office has represented Plaintiffs on numerous occasions, the Court is not inclined to disqualify the Attorney General's Office solely because the Attorney General's Office represents Plaintiffs in a pending federal class action.

9. Notwithstanding, the Attorney General's unique position does not exempt that Office from the Arkansas Rules of Professional Conduct. *Holloway v. Arkansas State Bd. of Architects*, 79 Ark. App. 200, 214, 86 S.W.3d 391, 400 (2002), *aff'd in part, rev'd in part*, 352 Ark. 427, 101 S.W.3d 805 (2003); ARK. R. PROF. COND. 1.7.

10. The Arkansas Rules of Professional Conduct apply to all attorneys licensed to practice in this State, including to the Attorney General and his staff.

11. The Court is particularly concerned about the participation in this lawsuit by Christine Cryer, who recently worked for the Department of Corrections, prior to being listed as counsel on this case. Ms. Cryer and Mr. Brascher filed entry of appearances and were signatories in several pleadings filed in this matter. Although, there is no testimony that Ms. Cryer did anything improper in this case, it is the appearance of impropriety that is concerning. Therefore, Ms. Cryer -- and also as an abundance of caution -- Mr. Justin Brascher shall not be allowed to participate in any aspect of this case in any manner.

12. Accordingly, the Court orders that Justin Brascher and Christine Cryer of the Attorney General's Office shall not participate in any aspect of this case.

13. The Attorney General's Office is directed to take all necessary measures to enforce this restriction.

**Defendants' Motion to Disqualify Abtin Mehdizadegan
and his Law Firm as Special Counsel**

14. Defendants' Motion to Disqualify Plaintiffs' counsel is denied. The Court finds Defendants' arguments in support of disqualification fail for several reasons.

15. The Board of Corrections was created by Amendment 33 of the Arkansas Constitution.

16. Section 1 of Amendment 33 specifically defines "the term of office of members of the boards or commissions charged with the management or control of all charitable, penal, or correctional institutions[.]" ARK. CONST. amend. XXXIII, § 1.

17. The Court's interpretation of Amendment 33 is quite clear: the Board of Corrections is a constitutionally created board, making the Board's members constitutional officers for purposes of section 25-16-711 of the Arkansas Code. Thus, contrary to the Defendants' arguments that section 25-16-702 applies, the Court finds that the Board of Corrections had the legal authority to hire special counsel pursuant to section 25-16-711 of the Arkansas Code because the Board is a constitutional board, its members are constitutional officers, and from the pleadings, argument, and testimony presented, it is clear that the Attorney General and the Board of Corrections disagree about the proper interpretation of Amendment 33, section 25-16-702, and section 25-16-711.

18. Therefore, Defendants' Motion to Disqualify special counsel is denied.

Defendants' Motion to Dismiss

19. Defendants' Motion to Dismiss is denied.

20. Defendants argued that Plaintiffs lack standing to bring this lawsuit because they are not “persons” as defined by the Declaratory Judgment Act. *See* ARK. CODE ANN. § 16-111-101 *et seq.* This argument fails.

21. Based on the previous rulings by the Arkansas Supreme Court considering whether other government entities or officers are “persons,” the Court finds that Plaintiffs have standing as “persons” under the Declaratory Judgment Act as defined by Act 274 of 1953. *See Brown v. State*, 2017 Ark. 232, 522 S.W.3d 791; *Valley v. Bogard*, 342 Ark. 336, 342–43, 28 S.W.3d 269, 272–73 (2000) (abrogated in part by *State v. Jernigan*, 2011 Ark. 487, 385 S.W.3d 776); *Vibo Corp. v. State ex rel. McDaniel*, 2011 Ark. 124, 380 S.W.3d 411.

22. Plaintiffs have standing to pursue a declaratory judgment finding that the Challenged Legislation is unconstitutional.

23. Consequently, Defendants' Motion to Dismiss is denied.

Plaintiffs' Motion for Preliminary Injunction

24. Having determined that Plaintiffs have the legal authority to hire outside counsel and that they have standing under the Declaratory Judgment Act, the Court considered Plaintiffs' Motion for a Preliminary Injunction.

25. Pursuant to Rule 65 of the Arkansas Rules of Civil Procedure, the Court finds that Plaintiffs satisfied their burden of proving irreparable harm if the preliminary injunction is not granted and the likelihood of success on the merits. *See Ark. Dep't of Educ. v. Jackson*, 2023 Ark. 105, 7, 669 S.W.3d 1, 6; *Ark. Dep't of Hum Servs. v. Ledgerwood*, 2017 Ark. 308, 9, 530 S.W.3d 336, 343.

26. Plaintiffs identified irreparable harm in the absence of an injunction for several reasons.

27. First, the evidence and testimony presented established that the Secretary of Corrections exhibited insubordination towards the Board of Corrections by, among other things, opening prison beds without the Board's approval. Further, even after the Board voted to place him on leave with pay status on December 14, 2023, Secretary Profiri refused to recognize the Board's authority and announced his intention to remain working. Secretary Profiri even refused to take physical possession of the letter notifying him that he was placed on leave with pay. The irreparable harm is directly attributable to Act 185 of 2023, which purportedly required the Secretary of Corrections to serve at the pleasure of the Governor.

28. Second, irreparable harm was also demonstrated by the Governor's multiple statements indicating that Secretary Profiri would continue serving in that capacity even after he was placed on leave. Placing Secretary Profiri on leave with pay did not resolve the irreparable harm Plaintiffs articulated. The evidence presented was that an inmate took his own life on December 15, 2023 and that, due to inadequate staffing, he was not found for at least one hour. At the time of death, there were three corrections officers performing the work of five corrections officers.

29. Third, irreparable harm was also demonstrated by Plaintiffs' witnesses who identified the uncertainty presented by the Challenged Legislation as it relates to the performance of their constitutional and statutory duties to manage the Department of Corrections and its Divisions. Fundamentally, Plaintiffs established that the Challenged Legislation interferes with the exercise of their constitutional rights to manage and control the Department of Corrections, and that showing supports a finding of clear and present need for equitable relief to prevent irreparable constitutional injury under

Amendment 33. Sections 12-27-107(c) and 12-27-126(c), for instance, as amended, were to become effective as of January 1, 2024.

30. Plaintiffs likewise demonstrated a likelihood of success on the merits because the Challenged Legislation diminished the powers vested in the Board of Corrections by Amendment 33. The Board has historically supervised the Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections. Those Department leaders implement the Board's substantive policy decisions. If the Board is statutorily precluded from directly supervising those positions, then—as demonstrated by this litigation—the Board cannot effectively perform its constitutional mandate to independently manage the affairs of the Department of Corrections.

31. The balance of equities weighs heavily in favor of enjoining the Challenged Legislation so that the Board can regain and retain control over the Department for which it has general superintending responsibility, as the potential harm to inmates, staff, and the community at large far outweighs any interest in the continued enforcement of allegedly unconstitutional legislation like Acts 185 and Sections 79 and 89 of Act 659. This harm cannot be adequately compensated by money damages or redressed in a court of law. It is clear to this Court that this dispute will be ongoing until this matter is fully determined. Therefore, this Court deems it appropriate to keep the injunction in place until such time this matter is resolved.

32. The Court grants Plaintiffs' Motion for Preliminary Injunction. Therefore, the Challenged Legislation—sections 25-43-403(a)(2)(a), 12-27-107(c), and 12-27-126(c) of the Arkansas Code—shall remain enjoined.

33. The Secretary of Corrections and the Directors of the Divisions of Corrections and Community Corrections shall continue serving at the pleasure of and reporting directly to the Board of Corrections.

34. This preliminary injunction applies to Defendants, their officers, agents, servants, employees, attorneys, and other persons who are in active concert or participation with Defendants and Defendants' officers, agents, servants, employees, and attorneys, until the final hearing.

35. No security is required for this preliminary injunction pursuant to Rule 65(c) of the Arkansas Rules of Civil Procedure.

IT IS SO ORDERED.



THE HONORABLE PATRICIA A. JAMES

DATE: 1/19/24