



State of West Virginia
Office of the Attorney General

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Attorney General

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**WRITTEN DETERMINATION REGARDING THE
APPOINTMENT OF OUTSIDE COUNSEL ON BEHALF OF THE
WEST VIRGINIA DEPARTMENT OF TRANSPORTATION**

The West Virginia Department of Transportation, Division of Highways (hereinafter "WVDOH") has requested legal representation in conjunction with the establishment of several public-private partnerships ("P3"). More specifically, the WVDOH is specifically seeking legal services and associated strategic, financial, feasibility, marketing and/or implementation consulting services with respect to the implementation of the West Virginia Public-Private Partnership Act, as amended.

Pursuant to the written determination issued on August 23, 2013, the Office of the Attorney General determined that it was both cost-effective and in the interest of the public to appoint outside counsel to assist WVDOH with the needed legal services. A request for proposal (RFP # 011) was issued in accordance with Section (D) of the Attorney General's Policy on Outside Counsel (Policy # WVAGO-004).

As of the September 6, 2013, deadline for proposals, the Office of the Attorney General received five timely proposals for legal services from Allen & Overy, LLP; Chapman & Cutler; Lewis Glasser Casey & Rollins; Nossaman, LLP; and Spilman, Thomas & Battle. After review of the proposals, and in consultation with WVDOH, the Office of the Attorney General has determined that:

- Allen & Overy, LLP submitted the most competitive proposal for legal services based on a combination of all factors involved, including, but not limited to, the requisite skills and expertise needed to handle the legal matter in question and the estimated fees, costs and expenses to perform the services requested.
- Allen & Overy's proposal demonstrated great depth and experience with regard to the firm's P3 involvement and knowledge of innovative public project financing models.
- Allen & Overy's proposal demonstrated substantial familiarity both with West Virginia Code § 17-27-1, *et seq.*, the Public-Private Transportation Facilities Act, and with the 2013 amendments to the Act in Engrossed S.B. 190.

- Allen & Overy's proposal best addressed the legal needs of WVDOH, as set forth in RFP # 011, and offered a fixed price (\$25,000) for the analysis of the US-35 Project (under both a traditional and P3 Design Build Finance delivery model) that was more affordable than other competitive proposals.
- Based on discussions with WVDOH, the location of Allen & Overy personnel in New York City does not pose a substantial geographic limitation with regard to the completion of the needed legal services.

Based on the factors set forth above, and in consultation with WVDOH, the Office of the Attorney General authorizes the appointment of Allen & Overy, LLP to serve as outside counsel for the legal matters cited herein pursuant to Section (E) of Policy # WVAGO-004.

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Daniel W. Greear
Chief Counsel

Date Signed: September 27, 2013