



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 WEST VIRGINIA UNIVERSITY**

West Virginia University (hereinafter "WVU" or the "University") has requested legal representation from the Office of the Attorney General in a lawsuit recently filed against the University in the Circuit Court of Monongalia County (Civil Action No. 12-C-453). More specifically, the University is in need of an attorney or attorneys with litigation, and labor and employment experience, to assist in the defense of the University's Board of Governors Policy 57, which implements a tobacco free campus for WVU.

As background, the University has pre-existing agreements with several law firms, including the law firm of Steptoe & Johnson, PLLC, to perform legal services.

In accordance with the Attorney General's Policy on Outside Counsel (Policy #WVAGO-004), the Office of the Attorney General has determined that it is both cost-effective and in the interest of the public to appoint Steptoe & Johnson, PLLC, to represent the University in the pending litigation, based on the following factors.

- Given current case assignments and existing deadlines, the Attorney General's Office does not currently possess the appropriate legal resources to handle the matter in question;
- The legal services in question are labor intensive, and require both significant litigation experience and familiarity with labor and employment law;
- The Attorney General's Office has no staff in the geographic area (Monongalia County) where many of the legal services are to be provided, and would incur substantial expenses to provide many of the services needed in the geographic area;
- The legal services in question are time sensitive. Service of process in the above-styled case took place on Friday, June 14, 2013, leaving a little more than twenty-five days for the University to respond to the Petition for Preliminary and Permanent Injunction;
- Steptoe & Johnson, PLLC, has a pre-existing agreement with the University to provide legal services;
- Steptoe & Johnson, PLLC, has the necessary skill and expertise to handle the litigation in question, with sufficient staff that possess both litigation and labor and employment experience;

- Steptoe & Johnson, PLLC, has an office in the geographic area where the legal services are to be performed; and,
- Steptoe & Johnson, PLLC, is readily available to provide the legal services needed by WVU in the above-cited matter.

Because this matter involves time-sensitive legal services that cannot be adequately provided by the Attorney General's Office, and for which insufficient time exists to complete the customary competitive bidding process, the Office of the Attorney General determines that requests for proposal are not necessary pursuant to section (D)(1) of Policy #WVAGO-004.



Daniel W. Greear
Chief Counsel

Date Signed: June 19, 2013