

LEGAL SERVICES CONTRACT

This legal services contract (the "Contract") is entered into between the Alabama Department of Economic and Community Affairs, hereinafter referred to as "the Department," and John H. Rice of the Law Firm of Balch & Bingham LLP, hereinafter referred to as the "Contractor," as follows:

1. **Purpose and scope.** Contractor shall provide legal services to the Department in all matters pertaining to the Community Development Block Grant - Disaster Recovery program (the "Program") as described in Attachment 1, the entirety of which is hereby incorporated into this Contract.
2. **Term.** This Contract will commence on the date the Governor signs it and shall expire two years thereafter. Contractor acknowledges and understands that this Contract is not effective until it has received all requisite state government approvals, and Contractor shall not begin performing work under this Contract until notified to do so by the Department. Contractor is entitled to no compensation for work performed prior to the effective date of this Contract.
3. **Changes.** Any changes must be by mutual agreement in writing.
4. **Compensation.** The total amount that the Department agrees to pay the Contractor for services provided hereunder shall not exceed \$3,000,000.00 over a two-year period, inclusive of ordinary and reasonable expenses incurred by the Contractor in fulfilling duties and responsibilities hereunder. Compensation shall be paid in the amount of \$325 per hour for attorneys considered to be experts in Program matters while working on "expert work" as set forth in Attachment 1, \$195 per hour for attorneys performing all other legal services for the Program, and \$65.00 per hour for paralegals. Additional information regarding rates, expenses, and classification of work to be performed is set forth in Attachment 1, the entirety of which is hereby incorporated into this Contract.
5. **Method of Payment.** The Contractor shall be paid monthly upon submission of an invoice.
6. **Availability of Funds.** Any Department commitment of funds herein shall be contingent upon the receipt and availability by the Department of funds under the Program and for the purpose for which this Contract is made.
7. **Disclaimer.** The Department specifically denies liability for any claim arising out of any act or omission by any person or agency receiving funds from the Department whether by contract, grant, loan, or by any other means.
8. **Termination.** This Contract may be terminated by either party upon 15 days' written notice to the other party.

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9. **No debt of the state.** It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment No. 26. The Contractor specifically agrees that this Contract shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by the Department beyond the moneys appropriated or allotted for this purpose. It is further agreed that if any provision of this Contract shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of this Contract, be enacted, then that conflicting provision in the contract shall be deemed null and void.
10. **Confidentiality.** Materials and records furnished to the Contractor will be considered the property of the Department and shall be treated as "confidential" by the Contractor (except such information and materials as may already be public knowledge or established to be in the public domain). Contractor agrees not to use or disseminate, for any other purpose not within the scope of this Contract, any proprietary or other confidential information of a nonpublic nature concerning the Department which is acquired by the Contractor because of Contractor's work for the Department.
11. **Assurances.** The Department and the Contractor agree that all activity pursuant to this Contract will be in accordance with all applicable current federal, state and local laws, rules and regulations. Contractor specifically covenants that all Ethics Laws relating to performance of duties under this Contract will be complied with. Contractor and Department both agree that the avoidance of conflicts of interest is necessary, and that to avoid such conflicts Contractor shall disclose to the Department the identity of any additional clients for which it will perform any additional services if those clients are governmental or political in nature, with such disclosure to be made prior to the Contractor beginning work for such additional client(s).

This Contract pertains only to the Program and does not govern any non-Program matters between the Department and the Contractor. Further, this Contract shall not prohibit the Department and the Contractor from engaging in discussions on other non-Program related matters.

12. **Merit-system exclusion.** Under no circumstances shall the Contractor be entitled to receive the benefits granted to state employees under the Merit System Act.
13. **Alternative dispute resolution.** In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama. For any and all other disputes arising under the terms of this Contract which are not resolved by negotiation, the parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing where appropriate, mediators selected from the

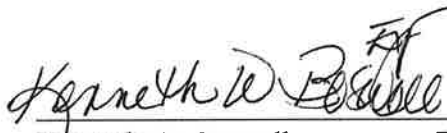
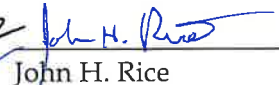
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roster of mediators maintained by the Center for Dispute Resolution of the Alabama State Bar.

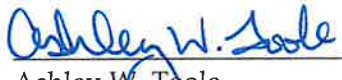
14. **Immigration.** By signing this Contract, the contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.


15. **Boycotts.** In compliance with Act 2016-312, the Attorney and Law Firm hereby certify that they are not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the dates shown below:

	
Kenneth W. Boswell	John H. Rice
Director	Balch & Bingham LLP
10/19/22	10/18/2022
Date	Date

FEIN:

	10/19/2022
Ashley W. Toole	Date
General Counsel	

	11/3/2022
Kay Ivey	Date
Governor	

Reviewed by Contract Review Committee
Contract # C23066053

NOV 03 2022

Alabama Legislature




SCOPE OF SERVICES,
RATES, and EXPENSES

The Contractor will perform the following services upon request of the Department in fulfillment of the purposes of this Contract.

1. The Contractor will provide legal services to the Department for the Program. Such services may include:
 - Conferring with Department attorneys and Department staff;
 - Assisting the Department with all aspects of the different phases of the Program, including but not limited to, policy determination, application, operation, and appeals;
 - Drafting and/or reviewing legal documents required by the Program; and,
 - Interpreting Alabama and/or federal statutes as may be applicable to the Program.
2. The Department may request the Contractor perform other legal services related to the Program for the benefit of the Department.
3. The Contractor shall provide any additional legal assistance reasonably requested by the Department related to the Program.
4. The Contractor shall provide any information regarding its ongoing legal work which is reasonably requested by the Department's attorneys. The Department's General Counsel shall review all of the Contractor's bills to ensure that the Contractor complies with the rates identified herein.
5. As established in the Contract, attorneys considered to be experts in Program matters ("experts") shall be paid in the amount of \$325 per hour. Experts shall be defined as those attorneys in the Contractor's Mississippi office having extensive experience in and knowledge of HUD's CDBG-DR program and all rules, regulations, policies, and other guidance pertaining to the Program.

The following shall constitute expert work to be billed at a rate of \$325 per hour:

- Research and drafting of Program-specific policies and procedures
 - Assistance in development of State Action Plan
 - Review of and advise on Program-specific legal questions
 - Interaction and correspondence with HUD
 - Correspondence and communication with HUD OIG, including representation in audit process
 - Work with the Department's Program staff and the Department's Contractor, HORNE LLP, on Program-Specific Issues
 - Other Program-related Legal Services for which Program expertise is deemed necessary by the Department
6. As further established in the Contract, attorneys performing all other legal services for the Program shall be paid in the amount of \$195 per hour.

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7. Only actual costs of expenses and disbursements will be reimbursed. When travel is required, all travel time must be billed at no more than one-half the approved rate, or \$85.00 per hour, whichever is greater. Mileage for local travel will be reimbursable at the per mile rate allowed by the State for its employees. Charges for lodging, meals, ground transportation, and other travel expenses generally shall not exceed the amount the State would reimburse a State lawyer for similar expenses. Under no circumstances will alcohol be reimbursed.
8. Should a question arise as to whether a legal service requires expert work, the Contractor shall consult with the Department's General Counsel for a determination prior to performing the work at the expert rate.
9. As further established in the Contract, paralegals shall be paid in the amount of \$65 per hour, regardless of whether the work qualifies as expert work.
10. The Contractor will coordinate all communications with the Department through the Department's General Counsel, Ashley W. Toole, or her successor.

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Contract Review Permanent Legislative Oversight Committee
Alabama State House --- Montgomery, Alabama 36130

OCT 2022

LEGAL SERVICES CONTRACT REVIEW REPORT
(Separate review report required for each contract)

Name of State Agency: Alabama Department of Economic and Community Affairs

Name of Contractor: John H. Rice of the Law Firm of Balch & Bingham LLP

1310 Twenty Fifth Avenue Gulfport MS
Contractor's Physical Street Address (No P.O. Box Accepted) City ST

Is Contractor a minority and/or woman-owned business? YES NO
If so, is Contractor certified as such by the State of Alabama? YES NO
Check all that apply: ALDOT ADECA OTHER (Name) _____
Is Contractor Registered with Alabama Secretary of State to do Business as a Corporation in Alabama? YES NO
IF LLC, GIVE NAMES OF MEMBERS: _____
Is Act 2001-955 Disclosure Form Included with this Contract? YES NO
Was a Lobbyist/Consultant Used to Secure this Contract OR affiliated with this Contractor? YES NO
IF YES, GIVE NAME: _____



Contract Number: C 23066053 (See Fiscal Policies & Procedures Manual, Page 5-8)

Contract/Amendment Amount: \$ 3,000,000.00 (PUT AMOUNT YOU ARE ASKING FOR TODAY ONLY)

% State Funds: _____ % Federal Funds: 100% % Other Funds: _____ **

**Please Specify Source of Other Funds (Fees, Grants, etc.) _____

Rate of Compensation: \$ \$325/hr Expert \$195/hr Other (If over \$195/hr. attach Governor or Attorney General approval)

Amount of RETAINER: \$ _____ Is this Contract for LITIGATION? YES NO
Is this a CONTINGENCY Contract? YES NO

Attorney Assigned Work: John H. Rice
Is Contractor Appointed by Attorney General? YES NO (IF YES, ATTACH APPOINTMENT LETTER)

Date Contract Effective: Upon Governor's Signature Date Contract Ends: 2 years from Governor's Signature

Type Contract: NEW: RENEWAL: AMENDMENT:

IF AMENDMENT, Complete A through C:
[A] ORIGINAL contract amount \$ _____
[B] Amended total prior to this amendment \$ _____
[C] Amended total after this amendment \$ _____

Summary of Contract Services to be Provided: Legal counsel and support on administration, oversight, and compliance with regard to the Community Development Block Grant - Disaster Recovery program.

Why Contract Necessary AND why this service cannot be performed by merit employee: Due to the amount of funding and complexity of issues involved, outside counsel with extensive experience in CDBG-DR is necessary to ensure compliance and to support the Department.

I certify that the above information is correct.
Kenneth W. Boswell
Signature of Agency Head
Kenneth W. Boswell
Printed Name of Agency Head

John H. Rice
Signature of Contractor
John H. Rice, Balch & Bingham, LLP
Printed Name of Contractor

Agency Contact: Ashley W. Toole Phone: 242-5258
Revised 8/2/17

OCT 2022

**GOVERNOR'S ADDITIONAL CONTRACT QUESTIONS
FOR PERSONAL AND PROFESSIONAL SERVICES CONTRACTS**

PART I. Mark the statutory basis for the claimed exemption from the requirement of "competitive bidding, on sealed bids, to the lowest responsible bidder," Ala. Code § 41-16-20, and any applicable requirements relating to procurement of professional services. See Ala. Code §§ 41-16-72 to -79. Then check all boxes that apply beneath the claimed exemption(s).

- § 41-16-20
- § 41-16-21(a)
- § 41-16-21(b)
- § 41-16-21.1
- § 41-16-21.2
- § 41-16-72(1) (attorneys)
 - Litigation (Hourly)
 - DAG appointment letter attached
 - Governor's rate approval letter attached
 - Litigation (Contingency Fee)
 - DAG appointment letter attached
 - Written determination attached as required by § 41-16-72(1)f.2.
 - Fee within limits prescribed by § 41-16-72(1)f.3. or AG's written authorization for exceeding limits is attached
 - AG's standard contract addendum attached per § 41-16-72(1)f.7.
 - Non-litigation - Justification letter attached for not using in-house counsel or AG
- § 41-16-72(1)(d) (experts)
- § 41-16-72(2) (physicians) – Provider selected from AMLC list
- § 41-16-72(3) (architects, engineers, etc.)
 - RFP, RFQ, or other notice of need for professional services was widely disseminated to the professional community in a full and open manner
 - The contract fees are within the approved fee schedule
- § 41-16-72(4) (other professional: _____)
 - Proposals were solicited from providers on list obtained from Purchasing Division
 - Fees of selected provider do not exceed lowest qualified proposal by 10% or more
 - If fees exceed lowest qualified proposal by 10%, justification letter is attached
- § 41-16-72(7) (exempted agencies)
- § 41-16-74 (GSA provider)
- § 41-16-75 (sole source provider)
 - No other goods or services can meet the needs of the agency, and no other vendor offers substantially equivalent goods or services that can accomplish the purposes of this contract
 - Detailed justification/explanation letter attached
 - Written approval from Purchasing Director or Finance Director attached
- § 41-16-78 (other exemptions/exceptions)

Questions about this form and any suggestions for revisions may be sent to the Governor's Legal Office
(334) 242-7120 or teresa.lee@governor.alabama.gov

PART II. Complete this section ONLY if contract was awarded by RFP or RFQ. Check all that apply.

- Solicitation was posted to online database as required by § 41-4-66.
- The solicitation was distributed to how many providers? _____
- The agency received responses/proposals from how many providers? _____
- Explanation of how proposals were evaluated:

PART III. Complete this section ONLY if contract is for **IT (Information Technology) related services.**

- Contract is for professional services such as IT consulting or custom software/system design and development, not for off-the-shelf software or off-the-shelf cloud-based product.
- Written approval of OIT attached per § 41-4-285

If exemption from OIT approval is claimed, please explain basis:

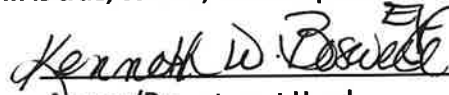
PART IV. Complete this section ONLY if contract is for **personal services** (employer-employee relationship).

- Approved by State Personnel Department or its Board in accordance with Section 5-5 of the State of Alabama Fiscal Policy and Procedures Manual

PART V. COMPLETE THIS SECTION FOR ALL CONTRACTS.

- Contract is limited to personal/professional services; any goods provided in conjunction with contract have been purchased by competitive bid in accordance with § 41-16-20.
- Contract does not contain a waiver of sovereign immunity.
- Contract does not require the state to indemnify.
- Contract contains all required clauses:
 - Early termination clause on page: 1
 - Alternative Dispute Resolution clause on page: 2
 - Merit System Exclusion clause on page: 2
 - Beason-Hammon (immigration) clause on page: 2-3
 - No-boycott (i.e. free trade) clause on page: 3
- Disclosure statement required by § 41-16-82 is attached (or contract is for \$5,000 or less).

I certify that all the information provided on this form is true, correct, and complete to the best of my knowledge.



Agency/Department Head