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# **OUT-OF-STATE SPECIAL COUNSEL POLICY**

Adopted: November 2012

**Overview:** The Ohio Attorney General (“Attorney General”) is the chief law officer of the State of Ohio and, as such, is the legal representative of the State, including its various agencies, boards, departments, commissions, colleges, universities and retirement systems (“State Clients”). At the discretion of the Attorney General, Special Counsel may be appointed to provide legal services on behalf of the Attorney General to a State Client pursuant to R.C. 109.02 and 109.07. The Attorney General selects special counsel based upon a number of criteria, including, but not limited to, the law firm’s and attorney’s demonstrated competence, experience, knowledge, qualifications, written and verbal communication skills, ability and willingness to comply with the Attorney General’s contracting and invoicing requirements, absence of disqualifying relationships or conflicts of interest, and reasonableness of proposed fees.

**Purpose:** The purpose of this policy is to (1) ensure that Ohio licensed attorneys are providing legal advice to State Clients on matters of Ohio law; (2) ensure that Ohio tax dollars are being spent on legal services being performed by attorneys and law firms in Ohio thus benefiting the state and local economies; and (3) provide for a process that the Attorney General may waive the application of this policy as set forth below.

**Statement of Policy:** It is the policy of the Attorney General’s Office that Special Counsel appointed by the Attorney General to perform legal services for State Clients shall employ Ohio licensed attorneys, and shall have a physical presence within the State of Ohio.

**Waiver:** Upon the recommendation of the Director of Outside Counsel, the Attorney General may, at his sole discretion, waive this policy if the legal services required meet any of the following criteria:

- (1) There are no Ohio firms willing to accept the legal representation;
- (2) All Ohio firms possessing the necessary experience or capability are conflicted and unable to represent a State Client or the Attorney General, or lack necessary personnel and capacity in the firm to take on the engagement;
- (3) The Attorney General is prevented from engaging an Ohio firm under the Controlling Board rules on waiver of competitive selection;
- (4) There are no Ohio firms possessing the necessary experience, capability or capacity required by the contemplated engagement;
- (5) The legal matters contemplated are primarily governed by non-Ohio law, or require a physical presence in another jurisdiction; or
- (6) It would be more cost-effective to engage an out-of-state law firm.