

**DETERMINATION AND FINDINGS
FOR
SOLE SOURCE PROCUREMENT**

1. **Authorization¹**

- D.C. Code § 34-801
- D.C. Code § 34-804
- 15 D.C.M.R. § 3700

2. **Minimum Need**

The Office of the People’s Counsel for the District of Columbia (“OPC” or “Office”) requests the services of Thompson Coburn, LLP in providing professional legal services to the Office in matters relating to the analysis and evaluation of the District of Columbia Public Service Commission’s Order No. 20724, regarding the legality of utilizing the practice of Ratio Utility Billing Systems (“RUBS”) in the District of Columbia.

3. **Estimated Fair and Reasonable Price**

The total contract (“not –to-exceed”) price is \$20,000.

4. **Facts That Justify a Sole Source Procurement**

- A. The Office of the People’s Counsel (“OPC” or “Office”) is an independent agency of the District of Columbia Government. By law, it is the advocate for consumers of natural gas, electric and landline telephone services in the District. District of Columbia law designates the Office as a party to all utility-related proceedings before the District of Columbia Public Service Commission (“PSC” or “DC PSC” or “Commission”). The Office also represents the interests of District ratepayers before federal regulatory agencies. The Office is authorized to investigate the operation and valuation of utility companies independently of any pending proceedings.
- B. The Office of the People’s Counsel of the District of Columbia is requesting the exclusive services of Thompson Coburn, LLP for the purposes of drafting a memo to assess and outline the legality of Ratio Utility Billing Systems in the District of Columbia; a practice that is currently legal in both Virginia and Maryland. The memo will be required to heavily scrutinize PSC Order No. 20724, which bans the practice of submetering and provide OPC with written interpretation of the law as it relates to any prohibition against the practice of RUBS and/or any scenario in which it could possibly be legally permissible.
- C. Thompson Coburn, LLP provides legal services to the Office in helping represent the legal interests of District utility ratepayers. OPC is currently looking to retain their services to

assist in researching the legality of Ratio Utility Billing Systems; a method used to calculate utility bills by property managers on a monthly basis based on apportioning utility costs off of calculations derived off the square footage of each unit, number of bedrooms and bathrooms, occupants, etc. OPC needs to determine the legality of such practices and any resources available for tenants who may wish to issue a complaint against such utility calculations. The attorneys at Thompson Coburn, LLP, specifically Adrienne Clair, Esq. are experienced and familiar in addressing the concerns of the Office based on a longstanding relationship assisting the OPC in such matters which especially makes them uniquely qualified based on their experience and understanding of the current tasks at hand.

- D. Given Thompson Coburn, LLP's expertise in overseeing the legal interests of the Office and derivatively that of District utility ratepayers; and given their longstanding working relationship with the Office in providing expert legal services, they're uniquely and exclusively qualified to handle this legal review and assessment in the timeframe required. Additionally, with this issue arising at the conclusion of the 2021 Fiscal Year, OPC requires expedition of these services so that the matter can be resolved and addressed prior to the close of the fourth quarter fiscal year funding. Based on the nature and complexity of the issues at hand, and based on the familiarity of the tasks to be performed with the timeframe required; OPC believes it is justified in awarding a sole source contract to Thompson Coburn, LLP.
- E. It is for the reasons outlined herein that it is recommended that a sole source contract be awarded to Thompson Coburn, LLP.

5. **Certification by the Contracting Officer**

I hereby certify that the above facts are accurate and complete.

Christopher K. Sellers
Contracting Officer

Date

DETERMINATION

Based on the above findings and in accordance with the District of Columbia procurement regulations: *DC Law: 34-804; DC Law: 34-801; and 15 D.C.M.R. §3700*, I hereby determine that the award of a sole source contract for the services described herein is in the best interest of the Office of the People's Counsel.

Eric B. Scott, Esq.
Chief Operating Officer

Date

ⁱ Procurement authority is vested in the Commission pursuant to § 13(c) (2) of the Residential Real Property Seller Disclosure, Funeral Services Date Charge, and Public service Commission Independent Procurement Authority Act of 1998 (D.C. Law 12-263). The Commission is statutorily exempt from the D.C. procurement rules as set forth in D.C. Official Code § 1-1181 et seq.

D.C. Code § 34-804, hereby established within the Public Service Commission of the District of Columbia, as established by D.C. Code § 34-801, as Office to be known as the “Office of the People’s Counsel.” The Office shall be a party, as of right, in any investigation, valuation, revaluation, or proceeding of any nature by the Public Service Commission of or concerning a public utility operating in the District of Columbia.

15 D.C.M.R. § 3700: Public Utilities and Cable Television – Public Service Commission Rules of Practice and Procedure.