

**DETERMINATION AND FINDINGS
FOR
SOLE SOURCE PROCUREMENT**

1. **Authorizationⁱ**

- 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 McCarter & English, LLP for the purpose of providing expert legal assistance to consult OPC on Formal Case No. 1162, *In the Matter of the Application for Washington Gas Light Company to Increase Existing Rates and Services for Gas Rates*.

3. **Estimated Fair and Reasonable Price**

The total contract (“not –to-exceed”) price is \$25,000.

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

- A. The Office of the People’s Counsel is an independent agency of the District of Columbia Government. By law, it is the advocate for consumers of natural gas, electric, water 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 already has an established executed contract in place with McCarter & English, LLP to retain their services in providing OPC with expert legal assistance and advice in Formal Case No. 1162. At this time, OPC believes that a contract amendment is necessitated after numerous unforeseen discovery disputes initiated by Washington Gas Light Company related to PROJECT *pipes2* financing in this rate case proceeding has prolonged the procedural schedule and been a significant cost driver in inflating OPC’s projected assessment expenses. At this time the Office needs to execute a contract amendment to further retain and renew the services of McCarter & English, LLP for the remainder of the fiscal year. Due to the complexity of these on-going issues and because McCarter & English, LLP is already apprised of the tasks at hand, OPC feels confident that sole source procurement is necessary to ensure adequate legal services remain consistent in overseeing the interests of DC ratepayers in this Formal Case proceeding.

C. McCarter & English, LLP has a longstanding working relationship with OPC and has familiarized itself with the tasks at hand currently facing OPC within Formal Case No. 1162. Their continued assistance is imperative to ensuring favorable outcomes on behalf of District utility ratepayers in this rate case proceeding currently being held before the District of Columbia Public Service Commission. In particular, McCarter & English, LLP's contract with OPC needs to be renewed so as to finalize and/or accomplish the following:

- Continued assistance to the Office in the preparation of witness testimony; and
- Preparing and participating in the hearing and post-hearing phases of this Formal Case proceeding.

D. McCarter & English, LLP has extensive experience assisting OPC in offering legal services regarding public utility regulation. In addition, due to time constraints related directly to the procedural schedule in the aforementioned proceeding, OPC cannot afford to retain and/or compete the services that McCarter & English, LLP is already currently providing. Based on the nature and complexity of the issues at hand, and based on the familiarity of the tasks to be performed within the timeframe required; OPC believes it is justified in awarding a sole source contract to McCarter & English, LLP.

E. It is for the reasons outlined herein that it is recommended that a sole source contract be awarded to McCarter & English, 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.