

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



Pursuant to section 202(c) of the Procurement Practices Reform Act of 2010, as amended, D.C. Official Code § 2-352.02(c), the following contract summary is provided:

COUNCIL CONTRACT SUMMARY

(Letter Contract)

- (A) **Contract Number:** DCCB-2023-F-0002
- Contractor:** Edelson PC
David Mindell, Partner
- Contract Amount:** \$55,000,000 Not-to-Exceed (5-Year) Total
- Unit and Method of Compensation:** Percentage of any Net Recovery and reimbursement of actual direct costs and expenses
- Term of Contract:** Date of award through five (5) years thereafter with two (2) two-year option periods
- Type of Contract:** Contingency Fee with a cost reimbursable component
- Source Selection Method:** Exempt from Competition
- (B) **For a contract containing option periods, the contract amount for the base period and for each option period. If the contract amount for one or more of the option periods differs from the amount for the base period, provide an explanation of the reason for the difference:**
- Base Period Amount:** Not-to-Exceed \$55,000,000.00
- Option Period 1 Amount:** Not-to-Exceed \$55,000,000.00
- Option Period 2 Amount:** Not-to-Exceed \$55,000,000.00

* There is a single contingency fee for the total Net Recovery, including attorneys' fee award, if any, regardless of whether recovery occurs in the base period or the option periods, if exercised.

(C) The date on which the letter contract or emergency contract was executed:

The letter contract was executed on October 6, 2022.

(D) The number of times the letter contract or emergency contract has been extended:

The letter contract has not been extended.

(E) The value of the goods and services provided to date under the letter contract or emergency contract, including under each extension of the letter contract or emergency contract:

The value of the goods and services provided to date is zero. No payments have been made.

(F) The goods or services to be provided, the methods of delivering goods or services, and any significant program changes reflected in the proposed contract:

The contractor will provide outside legal counsel to assist with consumer protection litigation against Google LLC for violating the District's Consumer Protection Procedures Act (CPPA) through pervasive efforts to track users' locations without their knowledge or consent. The lawsuit seeks to protect District consumers against deceptive and unfair trade practices that invade consumers' privacy and usurp their ability to control their personal information.

This contract represents the exercise of authority granted to the Attorney General to award contracts on a contingency fee basis by D.C. Law 19-168, § 3012, 59 DCR 8025, as added September. 20, 2012.

(G) The selection process, including the number of offerors, the evaluation criteria, and the evaluation results, including price, technical or quality, and past performance components:

Under D.C. Code §2-354.13(3), the procurement of legal services is exempt from the competitive procurement process. Edelson PC was selected based upon the best interest of the District, considering its qualifications, demonstrated experience handling similar cases, including representing other municipalities and government actors in similar proceedings and recently awarded contracts representing the District in litigation against Facebook, Juul Labs and other distributors of e-cigarettes.

- (H) A description of any bid protest related to the award of the contract, including whether the protest was resolved through litigation, withdrawal of the protest by the protestor, or voluntary corrective action by the District. Include the identity of the protestor, the grounds alleged in the protest, and any deficiencies identified by the District as a result of the protest:**

No protest was filed.

- (I) The background and qualifications of the proposed contractor, including its organization, financial stability, personnel, and performance on past or current government or private sector contracts with requirements similar to those of the proposed contract:**

Edelson PC is a nationally recognized leader in plaintiffs' class, mass and government enforcement actions. The firm has deep experience investigating and litigating a wide range of high impact matters, representing government clients, including state Attorneys General, and a depth of experience litigating (and negotiating settlements) in complex and multi-party matters. Edelson represents the District in consumer protection litigation against e-cigarette manufacturer Juul and Facebook. The firm also represents the People of the State of Illinois, by and through the State's Attorney of Lake County, in one of the first government regulator cases against e-cigarette company Juul for its predatory and deceptive marketing tactics, as well as nearly fifty governmental entities—including a State Attorney General—in opioid litigation.

Edelson has the financial stability to sustain this litigation as shown by its history of successful mass and class action practice for nearly two decades. The firm has focused its practice on investigating and prosecuting large-scale, complex contingency matters (while maintaining a number of non-contingency and commercial litigation-related matters to diversify its portfolio). The firm's Certified Public Accountant provided a statement that the firm is financially sound and well positioned for the future.

Since its founding in 2007 (originally as a predecessor firm), Edelson has become one of the country's preeminent class, mass, and government action law firms. The firm has prosecuted some of the largest and most cutting-edge cases in recent years and has secured over \$20 billion for its clients in settlements and verdicts. As a result, Law360 called Edelson a "Titan of the Plaintiffs Bar" and a "Plaintiffs Class Action Powerhouse". In 2021, Edelson was awarded the Diversity Initiative Award by The National Law Journal, given to the plaintiffs' firm demonstrating a concerted and successful effort to promote diversity within its organization and the profession at large.

- (J) A summary of the subcontracting plan required under section 2346 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended, D.C. Official Code § 2-218.01 *et seq.* ("Act"), including a certification that the subcontracting plan meets the minimum requirements of the Act and the dollar volume of the portion of the contract to be subcontracted, expressed both in total dollars and as a percentage of the total contract amount:**

A subcontracting plan was not required for this competition-exempt procurement.

(K) Performance standards and the expected outcome of the proposed contract:

The contractor is required to perform legal services, advice, and consultation to OAG in a manner consistent with accepted standards of practice in the legal profession as set forth in the contract, including achievement of the following outcomes:

- Assessment of the District's proposed cost recovery in its litigation against Google.
- Assessment of costs incurred by the District and an estimate of the District's future costs for investigation and remediation potentially recoverable in cost recovery litigation.
- Injunctive relief, monetary relief, and other relief against all entities in the litigation.

(L) The amount and date of any expenditure of funds by the District pursuant to the contract prior to its submission to the Council for approval:

No District funds have been expended or will be expended since this is a contingency fee contract – the contractor will be paid only from the proceeds of any recovery won by the contractor according to the contingency fee agreement.

(M) A certification that the proposed contract is within the appropriated budget authority for the agency for the fiscal year and is consistent with the financial plan and budget adopted in accordance with D.C. Official Code §§ 47-392.01 and 47-392.02:

The certification that the proposed contract is within the appropriated budget authority for the agency for the fiscal year(s) is not applicable since funding will come from the proceeds of any recovery won by the contractor according to the contingency fee agreement as authorized by D.C. Law 18-160, § 106a; as amended September 20, 2012 by D.C. Law 19-168, § 3012, 59 DCR 8025, Contingency fee contracts. See attached statement from the Agency Fiscal Officer.

(N) A certification that the contract is legally sufficient, including whether the proposed contractor has any pending legal claims against the District:

Legal Sufficiency Memo is attached.

(O) A certification that Citywide Clean Hands database indicates that the proposed contractor is current with its District taxes.

Citywide clean hands certificate dated January 20, 2023 indicates that Edelson PC is current with District taxes.

- (P) A certification from the proposed contractor that it is current with its federal taxes, or has worked out and is current with a payment schedule approved by the federal government:**

The proposed contractor certified that it is current with its federal taxes.

- (Q) The status of the proposed contractor as a certified local, small, or disadvantaged business enterprise as defined in the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, as amended, D.C. Official Code § 2-218.01 *et seq.*:**

The proposed contractor is not certified by DSLBD as a local, small, or disadvantaged business enterprise.

- (R) Other aspects of the proposed contract that the Chief Procurement Officer considers significant:**

None.

- (S) A statement indicating whether the proposed contractor is currently debarred from providing services or goods to the District or federal government, the dates of the debarment, and the reasons for debarment:**

The proposed contractor is not currently debarred from providing services or goods to the District or federal government.

- (T) Any determination and findings issues relating to the contract's formation, including any determination and findings made under D.C. Official Code § 2-352.05 (privatization contracts):**

There are no issues relating to the contract's formation.

- (U) Where the contract, and any amendments or modifications, if executed, will be made available online:**

The contract award, if executed, will be made available on the Office of Attorney General website, <https://oag.dc.gov/notice-contract-awards-over-100000>.

- (V) Where the original solicitation, and any amendments or modifications, will be made available online:**

The market survey and any amendments will be made available online on the Office of Attorney General's website, <https://oag.dc.gov/jobs-partner-opportunities/doing-business-oag>.