



DEBT WATCH HARRISBURG

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TO: Respondents to City of Harrisburg RFP for Legal Services

FROM Neil A. Grover, Esquire
DEBT WATCH HARRISBURG

DATE: October 25, 2010

SUBJECT: Proposed Methodology for Determination of Legal Fees and Attorneys' Fee Rates for the City of Harrisburg

We are DEBT WATCH HARRISBURG, a newly formed local taxpayers' association, who advocate the responsible and efficient use of taxpayer monies in addressing and resolving the current Harrisburg Debt Crisis.

On behalf of our group of local taxpayers, let me thank your firm for submitting a statement of interest to work as special counsel to serve and advise our City government regarding the possibility of seeking relief under Pennsylvania's *Financially Distressed Municipalities Act*, Act of July 10, 1987, P.L. 246, 53 P.S. §§ 11701.101 -- 11701.501 (hereinafter "Act 47"), *Chapter 9 of the United States Bankruptcy Code* or both. We have not had the opportunity to review the submissions, but understand you are on the list of firms who made a formal response to the recent *Request for Proposals*.

We are writing to each responding firm with a proposal on the structure of legal fees to be charged in relation to representation of our local government, as local taxpayers will be the ones who ultimately bear the cost of all fees and expenses incurred by our local government.

The true root of Harrisburg's current financial crisis can be seen as a reflection of an economic trend and phenomenon that took firm hold in many sectors of economic life in the late 20th Century: a true disconnect between price, cost and value for any given service or good. Legal fees have been no exception to this phenomenon, if not an outright leader in the trend.

Accordingly, on behalf of all taxpayers in our area, we are seeking to assure that rates for legal services provided to our local governmental bodies are *per se* reasonable and, in the end, a true, discounted governmental rate. We insist that in order to perform services as legal advisors for any governmental body in these matters, any prospective bidder must recognize, acknowledge and return to what is the essential requirement for performing work *for the people*: a genuine commitment to public service.

While there are many ways to calculate the price and value of legal services, we at DEBT WATCH HARRISBURG believe that there is a plain, obvious and easily measured methodology for charging and paying legal fees in governmental disputes. We are requesting each bidder in this process to commit to link their rates for legal work to the rate provisions provided by the Congress of the United States, as these by definition are reasonable rates for legal services to be paid by even the U.S. government to private attorneys.

Our request is that you couple your fees to an hourly charge to measured at those rates set forth in the Equal Access to Justice Act. 28 U.S.C. § 2412 (d)(2)(A). The EAJA allows for reimbursement of time reasonably undertaken on a civil action by an attorney at a base rate of \$125.00, with rate increases over time to reflect changes in the Consumer Price Index (CPI). Under the well-established formula, utilizing the latest monthly CPI-U report for September 2010, the present EAJA rate is \$175.25 per hour.

We intend to propose to the City Council of Harrisburg that in order to meet their obligation to act as responsible stewards for public monies, they should pursue legal representation that commits to couple their fees for legal services to the *per se* reasonable rate structure set by the U.S. Congress and consistently approved by our federal court system.

We ask that you give your serious consideration to adopting this perspective on what is reasonable when setting a rate for public service by legal professionals who work in governmental disputes. By doing so, your firm could help return confidence and respect to the legal profession when it is called upon to serve the people in an hour of need. Employing such a principled framework will help you stand out to other public bodies as a specialist in the provision of legal services to the government and as one who understands and joins in the obligations that public officials are entrusted to fulfill in obtaining services for the public good with public monies.