

EXECUTIVE ORDER NO. 304

WHEREAS, the residents of New Jersey are entitled to a government that is effective, efficient, and free from corruption, favoritism, and waste; and

WHEREAS, the efficient and effective functioning of the State government depends upon the State's ability to obtain competent and professional legal counsel; and

WHEREAS, both the State and the residents of New Jersey benefit from the retention of legal counsel that is cost-effective and efficient; and

WHEREAS, the New Jersey Court Rules and Rules of Professional Conduct, and in particular Court Rule 1:21-11, establish that lawyers may provide legal services to "governmental entities" on a pro bono basis; and

WHEREAS, New Jersey Rule of Professional Conduct 6.1 establishes that "[e]very lawyer has a professional responsibility to render public interest legal service"; and

WHEREAS, the provision of pro bono legal services further enables the government to pursue public protection enforcement matters, such as civil rights, environmental justice, labor, and public nuisance cases, in a manner that maximizes the financial recovery that can be utilized to compensate victims and redress harms, contributing to the benefit of victims and the State; and

WHEREAS, the ability to retain legal services on a pro bono basis will enable State agencies to further their missions while safeguarding the State's public finances; and

WHEREAS, P.L.2005, c.51 (C.19:44A-20.13 et seq.), known as "Chapter 51," was enacted by the Legislature in 2005; and

WHEREAS, since its enactment and continuing to the present day, Chapter 51 only applies to government contracts where a vendor is paid in excess of \$17,500, but does not apply to

contracts that pay \$17,500 or less and, as such, does not apply to legal services donated to the State for free as part of the State's retention of outside counsel on a pro bono basis; and

WHEREAS, certain measures are nonetheless appropriate to prevent the risk or appearance that outside counsel will seek to gain an advantage in obtaining State government contracts for compensated legal services by providing a State agency with legal services on a pro bono basis; and

WHEREAS, as provided herein, those measures include a prohibition on simultaneous provision of pro bono and compensated legal services during the pro bono retention and a six-month "cooling off" period following the conclusion of the pro bono retention;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. Any Executive Branch department, agency, authority, or independent State authority that is authorized to retain outside counsel may do so on a pro bono basis, using existing applicable procedures for retention of outside counsel.

2. To prevent the appearance of impropriety, any outside counsel providing legal services on a pro bono basis to the State is disqualified from providing legal services to the State for remuneration throughout the duration of that pro bono representation and for a period of six months thereafter.

3. The rules governing conflicts of interest that are provided in the Attorney General's May 15, 2019 letter to Governor's Chief Counsel, "[Identifying Government Clients for Purposes of Conflicts of Interest](#)," apply to any outside counsel

working on a pro bono basis for the State.

4. Executive Order 81 (2019) is hereby rescinded.
5. This Order shall take effect immediately.

GIVEN, under my hand and seal this
25th day of August,
Two Thousand and Twenty-two,
and of the Independence of
the United States, the Two
Hundred and Forty-Seventh.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor