

**OFFICE OF ATTORNEY GENERAL  
SOLE SOURCE PROCUREMENT JUSTIFICATION FORM**

In accordance with the **Administrative Manual Policy, "Procurement of Services", Section VII. Sole Source Procurement of Services**, this form must be completed and submitted for approval prior to submitting an SRM shopping cart. At least one of the conditions listed below must exist to authorize sole source procurement. A copy of the signed, approved Sole Source Procurement Justification Form must be attached to the SRM shopping cart.

<b>Requesting Office</b>	Consumer Protection		
<b>Vendor Name</b>	Epiq	<b>SAP Vendor No</b>	521034
<b>Brief Description of Service</b>	Settlement Administrator		
<b>Estimated Amount</b>	NO COST		
<b>Requesting Office Approval</b>	Nicholas Smyth	<b>Date</b>	9/10/2020
<b>MSD Director</b>	<i>Shari L. McHaw</i>	<b>Date</b>	9/10/2020
<b>Legal Review</b>		<b>Date</b>	9/11/2020

***Please check all that apply:***

*(Note: The sole source request is required to be posted on the OAG website for public inspection and comment for 10 calendar days if any of the bolded categories below are selected.)*

- The service is only available, or must be obtained from a single contractor.**
- A Federal or State statute or Federal Regulation exempts the service from the competitive procedure.**
- It is clearly not feasible to award the contract for services on a competitive basis.**
- The services are to be provided by attorneys or litigation consultants.
- The services are to be provided by expert witnesses.
- The services involve the repair, modification or calibration of equipment and they are to be performed by the manufacturer of the equipment or by the manufacturer's authorized dealer, provided the contracting officer determines that bidding is not appropriate under the circumstances.
- The contract for services is in the best interest of the Commonwealth.**

**Justification:**

62 Pa. C.S.A §515(a)(4)&(10) of the Pennsylvania Procurement Code provides that a "contract may be awarded for a supply, service or construction item without competition if the contracting officer first determines in writing that one of the following conditions exists: (4) it is clearly not feasible to award

the contract for supplies or services on a competitive basis; or (10) the contract for supplies or services is in the best interest of the Commonwealth.”

The Office of Attorney General (OAG) procurement of a multi-state settlement administrator, Epiq Systems, Inc. (“Epiq”), qualifies as a sole source procurement under 62 Pa. C.S.A §515(a)(4)&(10) for the reasons set forth herein. Iowa, Pennsylvania, North Carolina, Massachusetts, and New Jersey (“Investigating States”), through their respective State Attorneys General, investigated whether Citi Bank, N.A. (“Citi”) had failed to reduce certain consumer’s annual percentage rates (APR) between 2011-2017 as required under the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act). Pub. L. No. 111-24, 123 Stat. 1734, and state law. Citi self-reported these issues to its regulators and self-initiated remediation, providing over \$335 million in restitution to approximately 1.75 million affected consumer accounts nationwide between 2017 and 2019. Of the 1.75 million affected consumers, approximately 83,143 were Pennsylvania consumers. The Investigating States originally obtained the services of Epiq to administer payment of the original settlement amounts to all affected consumers. As part of the original settlement, Epiq customized a platform and process to marshal the settlement funds from Citi, identify and organize consumer information, and accurately distribute settlement funds to each affected consumer.

After the initial settlement was administered by Epiq, the OAG coordinated with other Investigating States to determine whether Citi accurately paid affected consumers in the original settlement given that consumers’ payments to overcharges between 2011-2017 could have been applied to the consumers’ principal balances and cost them less in interest payments. Ultimately, Citi and the Investigating States agreed to a total figure of four million two-hundred thousand dollars (\$4,200,000.00) to be paid to affected consumers including the cost of the administration of payments (\$200,000.00) to be borne by Citi. In light of this second payment to consumers, Investigating States require the use of a vendor qualified to administer multi-state settlements.

It is simply not feasible to award a contract on a competitive basis for a claims administrator vendor under the circumstances. First, the cost of the claims administration is being paid by Citi, and not the OAG. A competitive bid would likely increase the cost of claims administration with these additional costs being deducted from the \$4 million dollar settlement fund. Thus, the increased cost of competitively bidding the contract would negatively impact Pennsylvania consumers. Second, a competitive bid would require a significant delay in payment to approximately 7,000 affected Pennsylvanian consumers. Third, Epiq possesses all necessary information such as consumer names, addresses, consumer bank information, and payment amounts to quickly and accurately effectuate payments to affected Pennsylvania consumers. For the same reasons set forth *supra*, a competitive award of a contract for multi-state claim administration services is not in the best interest of the Commonwealth.