

MISSOURI ATTORNEY GENERAL'S OFFICE
REQUEST FOR PROPOSALS (RFP) FOR
OUTSIDE COUNSEL FOR INVESTIGATION AND LITIGATION
REGARDING PRIVATE CORD BLOOD BANKING COMPANIES
UNDER MISSOURI LAW

Date Issued: May 26, 2026

RFP No.: 2026.2

Proposals Due: June 23, 2026

Point of Contact: RFPSubmission@AGO.MO.GOV

Missouri Attorney General's Office (AGO)

I. INTRODUCTION

Pursuant to Mo. Rev. Stat. § 34.378, the Missouri Attorney General's Office ("AGO") seeks proposals from qualified law firms or attorneys ("Respondents") to provide legal representation in investigating and, if warranted, litigating potential claims on behalf of the State of Missouri against private cord blood banking companies and related entities operating in Missouri. The AGO seeks outside counsel on a contingency fee basis to represent the State of Missouri in connection with the investigation of and possible litigation regarding private cord blood banking practices affecting Missouri consumers.

This Request for Proposals ("RFP") is issued pursuant to Mo. Rev. Stat. § 34.378.1. Any resulting representation agreement shall comply with all applicable provisions of Missouri law governing retention of outside contingency-fee counsel by the Attorney General.

The AGO reserves the right to reject any or all proposals, negotiate with any Respondent, modify the scope of the engagement, or terminate this process at any time.

II. BACKGROUND AND POTENTIAL CLAIMS

The AGO is considering civil enforcement and related claims concerning the marketing, advertising, sale, promotion, operation, and provision of private cord blood banking services to Missouri consumers by companies including, but not limited to, Cord Blood Registry ("CBR"), Cryo-Cell, ViaCord, and any parent companies, subsidiaries, affiliates, or related entities engaged in similar conduct.

The AGO is investigating whether private cord blood banking companies engaged in deceptive, misleading, unfair, or unlawful merchandising practices in violation of Missouri law, including but not limited to the Missouri Merchandising Practices Act (“MMPA”), Mo. Rev. Stat. § 407.020.

The contemplated investigation includes, without limitation, allegations that private cord blood banking companies:

1. Made false or misleading representations concerning the current and future medical utility of privately stored cord blood or cord tissue;
2. Misrepresented or overstated the likelihood that a child or family member would actually require or benefit from privately stored cord blood;
3. Improperly conflated the established medical benefits of public cord blood banking with the substantially more limited and speculative benefits associated with private banking;
4. Used fear-based marketing tactics or misleading statistical claims to induce Missouri parents to purchase costly private banking services;
5. Misrepresented transplant success rates, FDA approvals, clinical utility, or the effectiveness of autologous stem-cell therapies;
6. Failed to adequately disclose material limitations, uncertainties, risks, or costs associated with private cord blood storage;
7. Engaged in other deceptive, unfair, or unlawful practices affecting Missouri consumers.

The AGO is aware of allegations and litigation activity in other jurisdictions concerning similar conduct by private cord blood banking companies. The AGO anticipates that the contemplated investigation and any resulting litigation may involve substantial factual development, scientific and medical analysis, expert testimony, consumer-impact analysis, electronic discovery, and coordination with medical, scientific, and statistical experts.

Without limitation, Respondents may investigate and, if warranted, plead claims under the Missouri Merchandising Practices Act and other Missouri statutes, as well as common-law claims including unjust enrichment, negligence-based theories, omissions, and failure-to-warn claims, as appropriate to protect Missouri consumers and deter unlawful conduct.

III. SCOPE OF SERVICES

The scope of services will include, but not be limited to the following, all under AGO direction:

INVESTIGATION AND PRE-SUIT ACTIVITIES

- Conduct comprehensive factual and legal investigation into the practices of private cord blood banking companies operating in Missouri;
- Analyze advertising, marketing materials, consumer disclosures, scientific representations, contracts, enrollment materials, and related communications;
- Evaluate potential claims under Missouri law, including the Missouri Merchandising Practices Act and other applicable statutes;
- Coordinate with medical, scientific, statistical, economic, and industry experts regarding stem-cell science, transplant medicine, advertising practices, consumer behavior, and damages;
- Develop and implement evidence-preservation and collection strategies;
- Analyze consumer-impact evidence and potential damages affecting Missouri residents;
- Coordinate with AGO personnel regarding investigative strategy, factual findings, and legal theories.

LITIGATION

- Conducting analysis of data and advising the AGO on the viability of legal claims;
- Drafting pleadings, motions, and other legal documents;
- Managing discovery, including document review and depositions;
- Engaging expert witnesses and litigation support as needed;
- Representing the State in all proceedings including trial and appeals;
- Participating in settlement negotiations, under the direction of and subject to AGO approval;

- Assisting with enforcement of judgments or settlements;
- Submitting regular reports to the AGO on case progress, strategy, and costs;
- Meeting all other requirements of retained private attorneys as provided in Mo. Rev. Stat. § 34.378.

V. COMPENSATION; STATUTORY LIMITS; TRANSPARENCY

The AGO anticipates a contingency fee structure, but reserves the right to negotiate hourly rates or hybrid arrangements. In accordance with Mo. Rev. Stat § 34.378.7, contingency fee contracts shall be reasonable and subject to a sliding scale as follows:

- 15% of the first \$10 million recovered
- 10% of the next \$5 million recovered
- 5% of the next \$5 million recovered
- 2% of any recovery exceeding \$20 million

In no event shall the aggregate contingency fee exceed \$10 million, exclusive of reasonable costs and expenses.

Under Mo. Rev. Stat § 34.378, the final approval of any contingency fee arrangement or settlement exceeding \$100,000 must be provided by the AGO in writing. Any final contract must be published on the AGO's website for transparency Pursuant to Mo. Rev. Stat. 34.378.1

Respondents must propose a fee arrangement compliant with Mo. Rev. Stat § 34.378.

VI. QUALIFICATIONS AND MINIMUM REQUIREMENTS

Firms and lawyers considered for selection to provide the services described herein must have:

- Demonstrated experience in complex civil litigation, including false advertising or deceptive-marketing litigation;
- Demonstrated experience in healthcare, biotechnology, pharmaceutical, or medical-advertising matters;
- Demonstrated experience in Missouri Merchandising Practices Act litigation (or other State-related similar claims);
- Adequate staffing and financial resources to sustain protracted litigation;

- Willingness to operate under AGO direction;
- Compliance with all provisions of Mo. Rev. Stat § 34.378;
- No actual or potential conflicts of interest;
- No pending ethics violations or malpractice claims (or satisfactory explanation thereof).

Experience with prior or current representation involving private cord blood banking companies or related industries is strongly preferred. Experience working with other state Attorneys General or government agencies on comparable litigation will be a significant distinguishing factor.

VII. PROPOSAL CONTENT

Each proposal must include:

- **Firm Overview:** Description of the firm, principal attorneys, support staff, attorney biographies and bar admissions, including pro hac vice eligibility
- **Relevant Experience:** Examples of prior government representation and comparable litigation, including case outcomes, references, and budget performance
- **Legal and Ethical Standing:** Disclosure of malpractice claims, ethics complaints, or sanctions in past five (5) years along with a statement affirming good standing of attorneys
- **Proposed Fee Structure:** Contingency fee proposal in compliance with Mo. Rev. Stat § 34.378
- **Conflict Disclosure:** Statement regarding any real or potential conflicts of interest
- **References:** Minimum of three (3) references from prior or current government clients
- **Litigation Specifics:** a litigation plan; investigative approach; expert strategy; data and privacy expertise; staffing plan and Missouri lead counsel; proposed reporting cadence; and anticipated timeline.

VIII. INVESTIGATIVE CONSIDERATIONS

A selected firm should plan to collaborate with the AGO to connect with impacted Missouri families/plaintiffs who may be interested in

participating in litigation. Interested respondents should be prepared to initiate immediate collection of evidence in concert with witnesses, experts, and be ready to discuss preservation strategies, outreach to impacted Missouri families, and protocols to mitigate evidence spoliation risks.

IX. SUBMISSION INSTRUCTIONS

Proposals must be submitted electronically in PDF format to RFPSubmission@AGO.MO.GOV no later than 11:59 PM on June 23, 2026. Subject line must read: “Private Cord Blood Banking Litigation RFP Response – [Firm Name]”. Late or incomplete submissions will not be considered.

Questions must be submitted by no later than 11:59 PM June 16, 2026. to RFPSubmission@AGO.MO.GOV. The AGO reserves the right to answer any questions either publicly (i.e. posted to website) or privately to an individual firm seeking information.

X. ANTICIPATED TIMELINE

RFP Issued—May 26, 2026

Deadline for Written Questions – June 16, 2026

Proposal Submission Deadline – June 23, 2026

Interviews (if needed) – June 26, 2026

Award Notification – week of June 29, 2026

XI. EVALUATION AND SELECTION

The AGO will evaluate proposals based on:

- Demonstrated experience in comparable complex civil litigation under state and federal law, including child-safety, privacy, and technology matters;
- Quality and feasibility of investigative and litigation plan;
- Staffing depth, resources, and ability to meet aggressive timelines;
- Value to the state and its people
- Compliance of proposed fee terms with Mo. Rev. Stat § 34.378;
- Ethical standing, conflicts posture, and references;
- Willingness to operate under AGO direction and to ensure compliance with regulatory transparency and statutory requirements.

Respondents must have experience in complex civil litigation and must be able to operate under the direction of the AGO.

XII. RESERVATION OF RIGHTS

The AGO reserves the right to:

- Accept or reject any and all proposals;
- Waive irregularities in any proposal;
- Cancel or modify this RFP at any time; or
- Negotiate with one or more Respondents before final selection.

XIII. GOVERNANCE; AGO CONTROL; REPORTING

The AGO retains ultimate control over all material aspects of the matter, including strategy, filings, settlement positions, and public communications. Regular written reports are required, with immediate notification of significant developments. Submit regular reports to the AGO on case progress, strategy, and costs. Firms must meet all other requirements of retained private attorneys as provided in Mo. Rev. Stat § 34.378.

XIV. KEY ENGAGEMENT TERMS AND COMPLIANCE

Governing Law; Venue: This RFP and any engagement are governed by Missouri law; venue for any dispute shall lie in the Circuit Court of Cole County, Missouri. Contract terms will include standard provisions on term, termination at will by AGO, confidentiality, records retention, billing/cost controls, insurance, subcontracting approval, and conflicts.

Transparency and Records: Publication and record-keeping obligations under Mo. Rev. Stat §34.378 apply.

Conflicts/Ethics: Respondents must disclose all actual or potential conflicts and certify compliance with Missouri ethics, lobbying, gift, and procurement laws.

Respondents must comply with all provisions of Mo. Rev. Stat § 34.378, have no actual or potential conflicts of interest, and have no pending ethics violations or malpractice claims (or satisfactory explanation thereof).

XV. PROPOSAL CERTIFICATION

By submitting, Respondent certifies: (a) accuracy and completeness; (b) agreement to comply with Missouri law; (c) absence of disqualifying conflicts; (d) willingness to adhere to AGO direction and reporting, including all terms of this RFP; and (e) ability to commence work immediately upon award.