

# **MISSOURI ATTORNEY GENERAL'S OFFICE REQUEST FOR PROPOSALS (RFP) FOR OUTSIDE COUNSEL FOR INVESTIGATION AND LITIGATION AGAINST TEMU, DBA WHALECO, INC., TEMU PAYMENTS INC., ETC.**

Date Issued: April 13, 2026

RFP No.: 2026.3

Proposals Due: May 13, 2026 (11:59 PM CT)

Point of Contact: [RFPSubmission@AGO.MO.GOV](mailto:RFPSubmission@AGO.MO.GOV)

## **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 Whaleco, Inc., TEMU, and TEMU PAYMENTS INC. on a contingency fee basis. The AGO seeks outside counsel to represent the State of Missouri in connection with the investigation of and possible litigation regarding Whaleco, Inc., doing business in Missouri as Whaleco, Inc., TEMU, or TEMU PAYMENTS INC. This RFP is issued under Mo. Rev. Stat. § 34.378.1 for contingency fee representation.

## **II. BACKGROUND AND POTENTIAL CLAIMS**

The AGO is considering civil enforcement and related claims concerning the design, marketing, operation, promotional activities, data practices, and other conduct by Whaleco, Inc., TEMU, and TEMU PAYMENTS INC. as they impact Missouri residents and consumers under Missouri law. The AGO's contemplated investigation encompasses improper merchandising practices, including deceptive labeling, false reference pricing, sign-up scams and other unlawful promotional practices, improper storage of consumer data, installation of malware to collect user information, and theft of intellectual property, as well as any other unlawful actions TEMU may have conducted in Missouri in violation of Missouri law, including the Missouri Merchandising Practices Act (RSMo § 407.020). Lawsuits in various other states and a recent federal settlement have identified unlawful practices by TEMU which, if conducted in Missouri, would violate Missouri's laws.

Without limitation, Respondents may investigate and, if warranted, plead claims under the Missouri Merchandising Practices Act (RSMo § 407.020) and other Missouri statutes, as well as common-law claims such as unjust enrichment, negligence-based theories, and omissions or failure-to-warn, as appropriate to protect Missourians and deter or correct misconduct. The AGO intends a full investigation and possible follow-on litigation into impacts on Missourians, and seeks contingency-fee outside counsel for this matter.

### **III. SCOPE OF SERVICES**

Under AGO direction, the scope of services includes:

#### **1. Investigation and Pre-Suit**

1.1 Conduct comprehensive factual and legal investigation into the practices of TEMU, (DBA Whaleco, Inc., Temu Payments Inc., etc.) including the categories identified in Section II. The investigation shall target improper merchandising practices, deceptive and unlawful promotions, data storage and collection practices including alleged malware, and potential intellectual property theft.

1.2 Analyze data and advise the AGO on the viability of claims under Missouri law, including RSMo § 407.020, and other applicable Missouri or federal statutes.

1.3 Coordinate with digital forensics and technical experts to assess application behavior, data flows, and any malware or invasive permissions.

1.4 Develop and implement evidence preservation and collection strategies.

#### **2. Litigation**

Conduct all litigation under overall AGO direction, including but not limited to the following:

2.1 Draft and file pleadings, motions, and all legal papers; manage service and procedural requirements.

2.2 Manage offensive and defensive discovery, including ESI protocols, document review, subpoenas, and depositions.

2.3 Engage and manage expert witnesses across relevant disciplines.

2.4 Represent the State in all proceedings, including trial and appeals.

2.5 Participate in any settlement negotiations under AGO direction and subject to AGO approval.

2.6 Litigate enforcement of judgments or settlements.

#### **3. Reporting and Compliance**

3.1 Provide regular written reports on case progress, strategy, and costs, with immediate notice of material developments.

3.2 Comply with all requirements applicable to retained private attorneys under Mo. Rev. Stat. § 34.378. Firms must meet all requirements of retained private attorneys as provided in Mo. Rev. Stat. § 34.378.

### **IV. TARGETED FACTUAL INQUIRIES**

Respondents should be prepared to conduct far-reaching inquiries into, for example:

1. Merchandising and promotional practices, including reference pricing, sign-up inducements, and promotional representations;
2. Data collection, storage, security, retention, and sharing practices; application permissions and behavior; any installation of malware or similar mechanisms to collect user information; and third-party integrations;
3. Consumer disclosures, labeling, and any omissions or failures to warn;
4. Intellectual property (IP) sourcing, product authenticity, and any alleged infringement or theft of IP;
5. Payment processing, refunds, and chargeback practices; and
6. Corporate structure, affiliates, and any jurisdictional considerations relevant to Missouri enforcement.

## **V. COMPENSATION; STATUTORY LIMITS; TRANSPARENCY**

The AGO anticipates a contingency fee structure compliant with Mo. Rev. Stat. § 34.378, subject to negotiation within the limits prescribed by the same, and subject to final AGO approval.

### **1. Sliding Scale Contingency Fee**

In accordance with Mo. Rev. Stat. § 34.378.7, contingency fees shall be reasonable and are subject to the following maximum sliding scale: 15% of the first \$10 million recovered; 10% of the next \$5 million recovered; 5% of the next \$5 million recovered; and 2% of any recovery exceeding \$20 million.

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

### **2. Approval and Transparency**

Final approval of any contingency fee arrangement or settlement exceeding \$100,000 must be provided by the AGO in writing, and any final contract must be published on the AGO's website for transparency pursuant to Mo. Rev. Stat. § 34.378.1. A successful Respondent must also comply with the ongoing document retention and reporting requirements outlined in Mo. Rev. Stat. § 34.378.

### **3. Compliance Requirement**

Proposals must include a fee arrangement compliant with Mo. Rev. Stat. § 34.378.

## **VI. QUALIFICATIONS AND MINIMUM REQUIREMENTS**

Respondents must demonstrate:

1. Substantial experience in complex civil litigation, including consumer protection and data/privacy matters;

2. Capability to review large datasets and assess legal exposure, including advanced ESI and forensic analysis;
3. Adequate staffing and financial resources to sustain protracted, multi-front litigation;
4. Willingness and ability to operate under AGO direction and control;
5. Compliance with all provisions of Mo. Rev. Stat. § 34.378;
6. Absence of actual or potential conflicts of interest;
7. No pending ethics violations or malpractice claims, or a satisfactory explanation thereof.

Demonstrated experience with technology platforms, consumer protection enforcement, privacy/data security, large-scale eDiscovery, technical experts, and multi-jurisdiction coordination is strongly preferred; experience representing state Attorneys General or government agencies in comparable matters is a significant distinguishing factor.

## **VII. PROPOSAL CONTENT**

Each proposal must include:

### **1. Firm Overview**

Description of the firm; principal attorneys; support staff; attorney biographies and bar admissions; local Missouri counsel; pro hac vice eligibility.

### **2. Relevant Experience**

Prior government representations and comparable litigation, including outcomes, references, and budget performance.

### **3. Legal and Ethical Standing**

Disclosure of malpractice claims, ethics complaints, or sanctions in the past five (5) years, and affirmation of good standing.

### **4. Proposed Fee Structure**

Contingency proposal compliant with Mo. Rev. Stat. § 34.378, addressing the sliding scale and aggregate cap.

### **5. Conflicts**

Detailed disclosure of any actual or potential conflicts and proposed mitigation.

### **6. References**

At least three (3) references from prior or current government clients. While not required, such references are preferred and may strengthen the proposal.

## 7. Litigation Specifics

Litigation plan; investigative approach; expert strategy; data/privacy and forensic capabilities; staffing plan with roles and hours allocation; proposed reporting cadence; anticipated timeline; and risk management.

## VIII. INVESTIGATIVE CONSIDERATIONS

A selected firm should be prepared to:

1. Collaborate with the AGO to identify and connect with impacted Missouri consumers and other witnesses;
2. Initiate immediate evidence preservation and collection with appropriate forensic protocols;
3. Propose outreach and communication strategies to mitigate spoliation risks and encourage reporting;
4. Coordinate with technical experts regarding application behavior, device forensics, and network analysis.

Firms should be ready to discuss preservation strategies and protocols to mitigate evidence spoliation risks, consistent with AGO direction.

## IX. SUBMISSION INSTRUCTIONS

### 1. Submission

Proposals must be submitted electronically in PDF format to **[RFPSubmission@AGO.MO.GOV](mailto:RFPSubmission@AGO.MO.GOV)** no later than 11:59 PM CT on May 13, 2026. Subject line: “TEMU Litigation RFP Response – [Firm Name]”. Late or incomplete submissions will not be considered.

The designated point of contact is **[RFPSubmission@AGO.MO.GOV](mailto:RFPSubmission@AGO.MO.GOV)**.

### 2. Questions

Direct written questions to **[RFPSubmission@AGO.MO.GOV](mailto:RFPSubmission@AGO.MO.GOV)** by 11:59 PM CT on April 24, 2026. The AGO may, at its discretion, respond publicly or individually.

## X. ANTICIPATED TIMELINE

1. RFP Issued: April 13, 2026
2. Deadline for Written Questions: April 24, 2026
3. Proposal Submission Deadline: May 13, 2026
4. Interviews (if needed): by Week of May 18, 2026
5. Anticipated Award Notification: by week of June 1, 2026

## **XI. EVALUATION AND SELECTION**

The AGO will evaluate proposals based on:

1. Demonstrated experience in comparable complex civil litigation under state and federal law, including consumer protection, privacy, data security, and technology matters; Experience working with state Attorneys General or government agencies on comparable litigation will be a significant factor.
2. Quality and feasibility of the investigative and litigation plan, including expert and forensic strategies;
3. Staffing depth, resources, and ability to meet aggressive timelines;
4. Value to the State and its citizens;
5. Compliance of proposed fee terms with Mo. Rev. Stat. § 34.378;
6. Ethical standing, conflicts posture, and references;
7. Willingness to operate under AGO direction and ensure transparency and statutory compliance.

## **XII. RESERVATION OF RIGHTS**

The AGO reserves the right to:

1. Accept or reject any and all proposals;
2. Waive irregularities in any proposal;
3. Cancel or modify this RFP at any time; or
4. 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. Respondents must comply with all provisions of Mo. Rev. Stat. § 34.378. The AGO retains ultimate control over strategy, filings, settlement positions, and public communications.

## **XIV. KEY ENGAGEMENT TERMS AND COMPLIANCE**

### **1. Governing Law; Venue**

This RFP and any engagement are governed by Missouri law; venue for any dispute lies in the Circuit Court of Cole County, Missouri.

### **2. Standard Terms**

Engagement terms will include: provisions on term; termination by AGO at will; confidentiality; records retention; billing/cost controls; insurance; subcontracting approval; and conflicts.

### **3. Transparency and Records**

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

### **4. 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 provide a satisfactory explanation).

## **XV. PROPOSAL CERTIFICATION**

By submitting, Respondent certifies:

- (a) Accuracy and completeness of the submission;
- (b) Agreement to comply with Missouri law and all terms of this RFP;
- (c) Absence of disqualifying conflicts;
- (d) Willingness to adhere to AGO direction, reporting, and transparency requirements, including Mo. Rev. Stat. § 34.378;
- (e) Ability to commence work immediately upon award.

## **XVI. SPECIAL NOTES REGARDING TEMU MATTER**

### **1. Defendants and Affiliates**

The matter is expected to involve investigation and possible litigation against TEMU, dba/Whaleco, Inc., TEMU, TEMU Payments Inc., or any other name under which those corporate entities have done or plan to do business in Missouri, and may involve related affiliates as identified through investigation.

### **2. Statutory Determination to Use Contingency Counsel**

The AGO has determined under Mo. Rev. Stat. § 34.378.1 to seek outside counsel on a contingency fee basis for the investigation and possible litigation regarding TEMU, and retention of any Respondent firm will be subject to all of the requirements of that statute.