

O'Malley, Grace

From: O'Malley, Grace
Sent: Friday, September 15, 2017 4:54 PM
To: stateimpactcenter@nyu.edu
Cc: Frosh, Brian; Quattrocki, Carolyn
Subject: Maryland Office of the Attorney General Application
Attachments: MD_OAG NYU Fellow Application.pdf

Good Afternoon,

Thank you for the opportunity to submit this application on behalf of the State of Maryland for additional support to defend environmental protections. Please see attached the Maryland Office of the Attorney General's grant application for the purpose of hiring special assistant attorneys general (SAAGs). Please contact our Office with any questions or concerns about the application at the contact information below. Thank you again for this opportunity.

Sincerely,

Grace

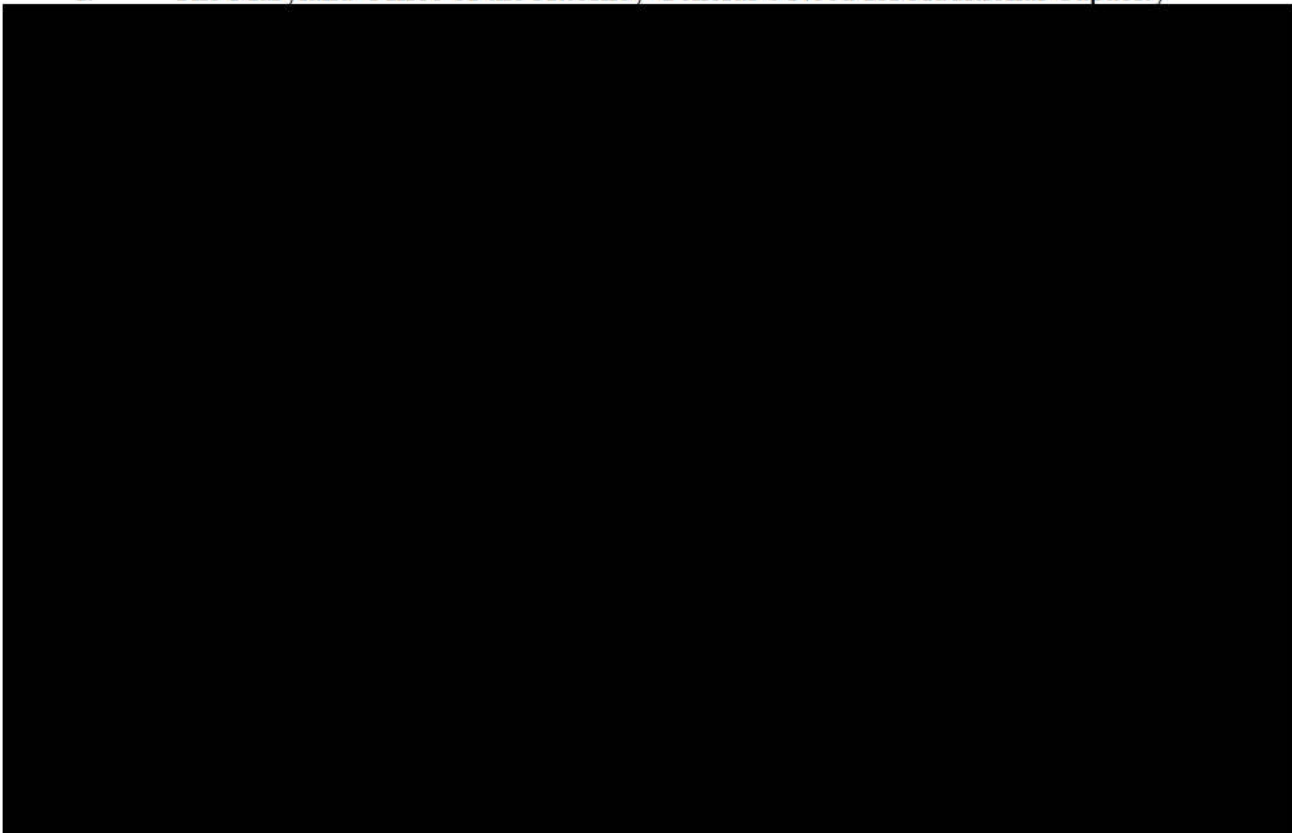
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1. Program Eligibility and Narrative

State attorneys general should describe the particular scope of needs within their offices related to the advancement and defense of progressive clean energy, climate change, and environmental matters. Relevant details include the extent to which funding or other capacity constraints have limited the ability to work on these issues or how additional dedicated support could help advance the work of the state attorney general on behalf of his or her constituents.

Priority consideration will be given to state attorneys general who demonstrate a commitment to and acute need for additional support on clean energy, climate change, and environmental issues of regional or national importance, such as those matters that cross jurisdictional boundaries or raise legal questions or conflicts that have nationwide applicability.

I. The Maryland Office of the Attorney General’s Need for Additional Capacity



Our Office has used, and will continue to use, its authority⁴ newly

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

⁴ Md. Legis.S.JR0001. Reg. Sess. 2017. Maryland State Legislature. Sept. 6, 2017. <http://mgaleg.maryland.gov/webmga/frnMain.aspx?pid=billpage&tab=subject3&stab=01&id=sj0005&vs=2017rs>

granted by the Maryland legislature to take legal action to defend against the federal government's efforts to turn the clock back on environmental protections and the battle against climate change (see Appendix A). [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] Since taking office, President Trump has attempted to rollback, freeze, eliminate, or revoke no less than 23 regulations and/or Executive Orders promulgated under President Obama and previous administrations.⁵ The Maryland OAG is already involved in multiple lawsuits challenging these actions.

[REDACTED]

[REDACTED]

⁵ Popovich, Nadja and Schlossberg, Tatiana, "23 Environmental Rules Rolled Back in Trump's First 100 Days." The New York Times, May 2, 2017.

⁶ [REDACTED]
[REDACTED]

II. Attorney General Frosh and the Maryland Office of the Attorney General's Commitment to the Environment

[REDACTED]. Attorney General Frosh has demonstrated a commitment to clean energy, climate change, and the environment over nearly 30 years of public service as a Maryland legislator, and he has continued to act as an environmental advocate as Attorney General. [REDACTED]

[REDACTED]

[REDACTED]

As a Maryland legislator, Attorney General Frosh consistently championed environmental causes through legislation and advocacy. Mr. Frosh served as a member of the Green Caucus (1996-2015), the Task Force on Energy Conservation and Efficiency (2001), the U.S. Clean Air Act Advisory Committee (1996-2002), the Chesapeake Bay Commission (1995-2001), the Governor's Commission on Climate Change (2007-2015), and chaired the Environment subcommittee (1995-2003).⁷ Even early on, in 1998, the Washington Post lauded his legislative leadership, saying, "Frosh has risen to become the most prominent advocate for the environment in Annapolis and perhaps the most influential member of the county's legislative delegation."⁸

As a senator and chair of the Judicial Proceedings Committee, Mr. Frosh authored and sponsored legislation that increases accountability for polluters; promotes energy efficiency and clean energy alternatives; and combats the sources of climate change. For example, he authored the Omnibus Oil Spill Protection Act, which increases liability and penalties for oil spills and allows the state to set standards for the transport and storage of petroleum products.⁹ He also sponsored the Energy Conservation and Efficiency Act of 2009, which requires the state and counties to adopt international energy conservation standards¹⁰, and a second bill requiring utility companies to implement energy conservation programs before constructing new power plants.¹¹ To combat climate change, he sponsored the Clean Cars Act of 2007, which requires Maryland to work with other states to promote the regional adoption of Low Emissions Vehicle programs¹², as well as the Greenhouse Gas Emissions Reduction Act 2009, which requires the

⁷ Attorney General." Brian E. Frosh, Maryland Attorney General, Maryland State Archives, Aug. 3, 2017, <http://msa.maryland.gov/msa/mdmanual/08conoff/attorney/html/msa12167.html>

⁸ Goodman, Peter S. "Montgomery Senator Takes Powerful Role on Farms, Ecology." The Washington Post, Mar. 9, 1998, pp. C1, C5. Maryland State Archives. Sept. 6, 2017.

http://msa.maryland.gov/megafile/msa/speccol/sc3500/sc3520/012100/012167/pdf/post_9mar1998.pdf

⁹ Md. Legis. Assemb. Ch 294, House Bill 190. Reg. Sess. 1992. Archives of Maryland Online, Sept. 6, 2017.

<http://aomol.msa.maryland.gov/megafile/msa/speccol/sc2900/sc2908/000001/000808/html/am808--2547.html>

¹⁰ Md. Legis.S. Ch 294, Senate Bill 625. Reg. Sess. 2009. Maryland State Legislature. Sept. 6, 2017.

<http://mgaleg.maryland.gov/webmga/frmMain.aspx?ys=2009rs/billfile/SB0625.htm>

¹¹ Md. Legis.S. Ch 631, Senate Bill 631. Reg. Sess. 2007. Maryland State Legislature. Sept. 6, 2017.

<http://mgaleg.maryland.gov/webmga/frmMain.aspx?ys=2007RS%2fbillfile%2fsb0562.htm>

¹² Md. Legis. S. Fiscal and Policy Note, Senate Bill 51. Reg. Sess. 2007. Maryland State Legislature. Sept. 6, 2017. http://mlis.state.md.us/2007RS/fnotes/bil_0001/sb0051.pdf

State to implement a strategy to reduce statewide greenhouse gas emissions by 25% from 2006 levels by 2020.¹³ Thus, Mr. Frosh continually used his position to advance a progressive environmental agenda.

Political commentators and longtime environmental activists took note of Mr. Frosh's commitment; in 2003, the Washington Post described Mr. Frosh as a 'Giant Killer' in reference to his penchant for challenging powerful corporations and the political establishment to increase environmental protections¹⁴. He was also recognized through numerous awards, including 1989 "Conservationist of the Year" from the Sierra Club, 1999 "Public Official of the Year" from the Audubon Naturalist Society, the "John V. Kabler Memorial Award" from the Maryland League of Conservation Voters in 2003, and "Legislator of the Year" from 1000 Friends of Maryland.¹⁵

As the chief legal officer of the State, Mr. Frosh has continued his environmental advocacy by defending environmental protections of regional and national significance. During the 2017 Maryland Legislative Assembly, the legislature passed a joint resolution, the Maryland Defense Act of 2017, which authorized the Attorney General to pursue legal action without prior authorization from the Governor when federal action threatens the public interest and welfare of Marylanders.⁴ Since the passage of this resolution, our Office has submitted multiple comments on federal regulatory action, joined amicus briefs in litigation challenging actions taken by the Trump Administration, and intervened with other states as parties in multiple lawsuits. We have also authored or signed multi-state letters urging Congress and the President to promote environmental interests. Examples include the January 17, 2017, letter to the U.S. Senate opposing the confirmation of then-Oklahoma Attorney General Scott Pruitt as Administrator of the Environmental Protection Agency¹⁶, and the April 25, 2017, letter urging the Trump Administration to reconfirm the United States' commitment to the Paris Agreement on climate change¹⁷. Our Office has also demonstrated its commitment to combatting climate change and promoting clean energy through its involvement in litigation defending the Clean Air Act and its regulations, such as the Clean Power Plan. Specific examples of litigation in which the OAG has been involved are attached as Appendix A.

¹³ Md. Legis.S. Ch 172, Senate Bill 278. Reg. Sess. 2009. Maryland State Legislature. Sept. 6, 2017.

<http://mgaleg.maryland.gov/webmga/frmMain.aspx?ys=2009rs/billfile/sb0278.htm>

¹⁴ Mosk, Matthew. "Frosh Goes From Backbencher to 'Giant Killer.'" The Washington Post, Mar. 16, 2003. Maryland State Archives. Sept. 6, 2017.

http://msa.maryland.gov/megafile/msa/speccol/sc3500/sc3520/012100/012167/pdf/post_16mar2003.pdf

¹⁵"Archives of Maryland (Biographical Series)." Brian E. Frosh, MSA SC 3520-12167, Maryland State Archives, 4 Dec. 2014. Sept. 6, 2017.

<http://msa.maryland.gov/megafile/msa/speccol/sc3500/sc3520/012100/012167/html/12167bio.html>

¹⁶ "AG Multistate Letter to US Senate." Received by Chairman Barrasso & Ranking Member Carper. AG Multistate Letter to US Senate, Attorneys General of Delaware, District of Columbia, Hawai'i, Maryland, Massachusetts, New York, Oregon, Rhode Island. Jan., 17, 2017.

http://www.marylandattorneygeneral.gov/News%20Documents/AG_Multistate_Letter_to_US_Senate_EPW_Jan17_2017.pdf

¹⁷ "Paris Climate Agreement Letter." Received by President Donald Trump. AG Multistate Letter to President Trump, Attorneys General of Maryland, Delaware, Iowa, Massachusetts, Connecticut, District of Columbia, Maine, Minnesota, New York, Oregon, Vermont, North Carolina, Rhode Island, American Samoa. April 25, 2017.

http://www.marylandattorneygeneral.gov/News%20Documents/Paris_Climate_Agreement_letter.pdf

Therefore, Attorney General Frosh and the Maryland Office of the Attorney General have consistently demonstrated a commitment to enhancing and protecting environmental laws and regulations for the purpose of combating climate change and promoting clean energy. [REDACTED]

2. Program Structure

Applications should include specific details about the scope of expertise the state attorney general needs in a SAAG to advance his or her priorities. Details should also be provided about how the SAAG would be incorporated into the Office of the Attorney General, including the relevant internal reporting structure.

The SAAGs would work in the central office in Baltimore rather than at a satellite site with current attorneys representing state environmental agencies. This central location would enable frequent direct contact among the SAAGs, Attorney General Frosh, and senior staff as they collaborate [REDACTED].

Ideal candidates will have a minimum of five years of legal experience, membership in the Maryland Bar and the US District Court for the District of Columbia, and substantial experience working with environmental law and regulation. If not members of the Maryland Bar, candidates would at minimum become members of the US District Court for the District of Columbia within the first months of employment.

Candidates should also have a demonstrated working knowledge of legal issues related to [REDACTED]. As noted previously, the SAAGs would be instrumental in implementing [REDACTED]. Position responsibilities would also include legal and regulatory advice, and litigation before state, federal, and appellate courts, as well as administrative agencies. SAAGs would report to a member of the Attorney General's senior staff within the Executive Division.

3. Budget Proposal and Confirmation of Authority

To be considered complete, applications must identify a proposed salary (or range) for a SAAG, with an explanation of how it would conform with the existing salary structure in the state AG office.

Applications also should identify any state-specific limitations or requirements governing the appointment of an employee paid by an outside funding source, and include a written confirmation that the attorney general has the authority to hire an NYU Fellow as a SAAG (or equivalent title).

The proposed salary for an SAAG would depend upon the candidate's experience, but it could be as high as \$125,000.

Maryland does not have any state-specific limitations or requirements governing appointment of an employee paid by an outside funding source. Attorney General Brian Frosh has the authority to hire an NYU Fellow as a SAAG.

APPENDIX A

Our Office has demonstrated its commitment to reducing emissions of pollutants that cause climate change by intervening in *North Dakota v. EPA* and *W. Virginia v. EPA* in 2015 to defend the Clean Power Plan, which regulates emissions from new and existing power plants. Maryland intervened in *North Dakota v. EPA* in November of 2015, joining California and other states in defending §111(b) of the Clean Air Act, which requires certain new or modified power plants to achieve emissions limits and to use a carbon capture system that has been demonstrated to be the best system of emissions reduction. [REDACTED]

[REDACTED] Similarly, in November of 2015, Maryland joined New York and other states in support of another Clean Power Plan regulation, §111(d), that requires states to enact more stringent limits on greenhouse gas emissions from existing fossil fuel-fired power plants. [REDACTED]

[REDACTED] Our office has also intervened to defend regulations limiting mercury and air toxic emissions from power plants. Our Office initially joined with Massachusetts and other states in 2012 to defend standards that limit mercury and other toxic emissions from coal-fired power plants. This rule and the EPA's supplemental finding that the rule was "appropriate and necessary," were challenged by Murray Energy Corporation. Throughout the litigation Maryland has continued as an intervenor in support of the rule to limit mercury and other toxic emissions from power plants. [REDACTED]

In addition, our Office recently intervened in *Clean Air Council, et al. v. Pruitt*, on June 21, 2017, [REDACTED]. The methane oil and gas rule was adopted by the EPA in 2016 and immediately challenged by the oil and gas industry. Maryland initially intervened in support of the EPA's rule in *American Petroleum Institute, Inc. v. EPA*. On June 2, 2017, however, while the case was being held in abeyance by the U.S. Court of Appeals for the District of Columbia, the EPA sought an administrative stay to halt the implementation of the methane oil and gas rule. In response, NGOs such as the Clean Air Council, Natural Resources Defense Council, Sierra Club, and others filed a petition for judicial review of the administrative stay. This time, Maryland and other states intervened in support of the NGOs' position in opposition to the EPA's administrative stay. The U.S. Court of Appeals for the District of Columbia issued a mandate vacating the EPA's administrative stay, and the EPA's request for a rehearing on the mandate was denied. [REDACTED]

[REDACTED] Maryland again demonstrated its commitment to defending environmental regulations by joining a Notice of

Intent to Sue (“NOI”) EPA for its failure to issue emissions guidelines for methane gas from *existing* oil and gas operations under the Clean Air Act §111(d). The NOI, sent on June 28, 2017, explained that by not issuing these standards, the EPA has failed to carry out its mandatory duty or it has subjected its issuance to an unreasonable delay. [REDACTED]

[REDACTED]

[REDACTED]