

RECOMMENDATION FOR LAW FIRM SELECTION

**Date:** September 16, 2015

**To:** Denise J. Smyler  
General Counsel

**From:** Jordan M. Wagner  
Administrative Assistant

**CC:** Shawn E. Smith  
Deputy General Counsel

**RE:** Evaluation of Proposals Submitted in Response to  
RFP OGC-2015-35 Issued August 21, 2015

**PART I.**

This RFP was issued pursuant to Executive Order 2015-2 dated January 20, 2015, and in accordance with Section 518 of the Commonwealth Procurement Code, 62 Pa.C.S. § 518, and Part III Chapter 8 of the Department of General Services (DGS) Procurement Handbook.

The Issuing Office designated to conduct this procurement has completed its evaluation. As further described below, the following law firms are recommended for award of contracts for legal services:

Myers, Brier & Kelly, LLP  
Saul Ewing, LLP

This memorandum also documents that all necessary steps were taken in conducting the procurement in accordance with the provisions of the Commonwealth Procurement Code. To the extent that written determinations are required under the Code for any of the following steps and no attached record exists, this memorandum shall serve as written confirmation that such step occurred.

**\*\* DUE TO THE URGENT NEED FOR LEGAL SERVICES, APPROVAL IS BEING SOUGHT FOR THE SELECTED LAW FIRMS TO BEGIN WORK IMMEDIATELY \*\***

**PART II.**

A. PUBLIC NOTICE: Public notice of the RFP was posted on both the DGS website and the Office of General Counsel's website on **August 21, 2015**.

**Recommendation for Law Firm Selection**  
**RFP OGC-2015-35 Issued August 21, 2015**  
**September 16, 2015**  
**Page 2 of 5**

B. EVALUATION COMMITTEE: An evaluation committee was established consisting of agency representatives from the **Pennsylvania Department of Education and the Office of General Counsel**.

C. ADDENDA TO THE RFP: Potential offerors were given the opportunity in accordance with Section I-8 of the RFP to submit questions concerning the procurement to the Issuing Office. The official responses to the questions were incorporated into the RFP by addenda per Section I-9 of the RFP.

**PART III.**

A. CRITERIA: The relative importance of the major evaluation criteria established prior to opening the proposals consisted of **technical 60%, cost 20% and small diverse business (SDB) participation 20%**.

B. PROPOSALS: A total of **four (4)** proposals were received on or before the due date of **August 28, 2015**. No law firms responded by stating that they would not be submitting proposals. No proposals were received late.

C. RESULTS:

1. The evaluation committee reported the following results of its evaluation to the Issuing Office:
2. As indicated in the Initial Scoring, **one (1)** law firm's technical submittal failed to receive **70%** of the available technical points required in order to be eligible to be considered for award.
3. The Issuing Office evaluated and scored the cost proposals and combined the technical scores, cost scores, and the SDB scores received from the DGS Bureau of Small Business Opportunities.

**Recommendation for Law Firm Selection**  
**RFP OGC-2015-35 Issued August 21, 2015**  
**September 16, 2015**  
**Page 3 of 5**

4. INITIAL SCORING: The overall scoring for this procurement concluded as follows:

<i>Offeror</i>	<i>Technical Score</i>	<i>SDB Score</i>	<i>Price Score</i>	<i>Overall Score</i>
King, Spry, Herman, Freund & Faul, LLC	52.45	0.00	20.00	72.45
Myers, Brier & Kelly, LLP	47.38	0.00	12.24	59.62
Saul Ewing, LLP	53.50	10.00	0.00	63.50
<i>Law Firms NOT meeting 70% Technical Threshold</i>				
Bowman & Partners, LLP	38.82	N/A	N/A	N/A

5. CONFLICTS:

Due to a conflict, King, Spry, Herman, Freund & Faul, LLC was not considered for award, therefore the next top ranked law firms were selected for awards.

6. FAIR AND REASONABLE COMPENSATION:

As provided in the RFP, and pursuant to Section 518 of the Procurement Code, fair and reasonable compensation was negotiated with the best qualified law firms prior to awards being made.

7. SMALL/DIVERSE BUSINESS COMMITMENTS:

Saul Ewing, LLP is committed to subcontracting with one (1) small diverse firm, Griesing Law, LLC, for legal services over the entire engagement timeframe. Saul Ewing, LLP is committing **20%** of the total value of its offering to **Griesing Law, LLC**.

**Recommendation for Law Firm Selection**  
**RFP OGC-2015-35 Issued August 21, 2015**  
**September 16, 2015**  
**Page 4 of 5**

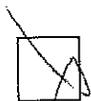
8. **CONTRACTOR RESPONSIBILITY:** Myers, Brier & Kelly, LLP, Saul Ewing, LLP, and their respective subcontractors required to be disclosed or approved by the Commonwealth have been verified as responsible contractors in accordance with management directives, the Procurement Handbook and the Procurement Code, as applicable.

**PART IV.**

**RECOMMENDATION:** As the Issuing Officer, I recommend that Myers, Brier & Kelly, LLP and Saul Ewing, LLP be awarded contracts for legal services. This recommendation selection is based upon the results of the evaluation and review of the proposals as summarized above. **The term of the contract will be one year with two (2) additional one (1) year renewals.** The Department of Education, in consultation with the Office of General Counsel, will allocate the legal services set forth in the resulting contract among the selected law firms. **Due to the urgent need for legal services, the Department of Education is seeking Myers, Brier & Kelly, LLP and Saul Ewing, LLP to begin work immediately.**

**PART V.**

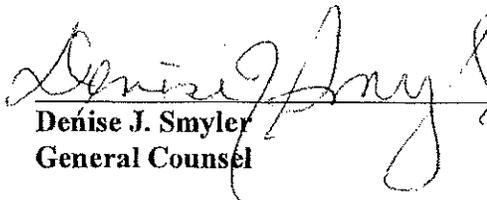
**CONTRACTING OFFICER DETERMINATION:**



Based upon the results of the evaluation and the above recommendation, I have determined that Myers, Brier & Kelly, LLP and Saul Ewing, LLP are the best qualified law firms based on the evaluation factors set forth in the RFP.



I disapprove the recommendation.

  
**Denise J. Smyler**  
**General Counsel**

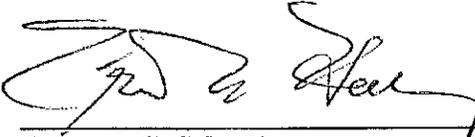
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**PART VI.**

**AUTHORIZATION:**

Based upon the Contracting Officer's determination, I authorize the Issuing Office to make contract awards to Myers, Brier & Kelly, LLP and Saul Ewing, LLP.

**Pennsylvania Department of Education**

  
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Gregory G. Schwab  
Chief Counsel

9/18/15  
Date

by Ernest N. Helling  
Assistant Chief Counsel