

**RECOMMENDATION FOR LAW FIRM SELECTION**

**Date:** July 2, 2019

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

**From:** Jordan M. Kiessling  
Issuing Officer

**CC:** Shawn E. Smith  
Deputy Chief Counsel  
Department of General Services

**RE:** Evaluation of Proposals Submitted in Response to  
RFP OGC-2019-05 Issued April 16, 2019

**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 firm is being recommended for award of a legal services contract:

Kutak Rock, 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 FIRM TO BEGIN WORK IMMEDIATELY \*\***

**PART II.**

A. **PUBLIC NOTICE:** Public notice of the RFP was posted on both the PA eMarketplace website and the Office of General Counsel's website on **April 16, 2019.**

B. **EVALUATION COMMITTEE:** An evaluation committee was established consisting of agency representatives from the **Pennsylvania State System of Higher Education, Department of General Services and the Governor's Office of General Counsel.**

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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%, small diverse business and small business (SDB/SB) participation 20%, and 10% law firm diversity bonus points.**

B. PROPOSALS: A total of **ten (10)** proposals were received on or before the due date of **May 2, 2019**. 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, **three (3) offeror's** technical submittals failed to receive **75%** 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 law firm diversity submittals and combined the technical scores, cost scores, law firm diversity scores and the SDB/SB scores received from the DGS Bureau of Diversity, Inclusion and Small Business Opportunities.
4. INITIAL SCORING: The overall scoring for this procurement concluded as follows:

<i>Offeror</i>	<i>Technical Score</i>	<i>SDB/SB Score</i>	<i>Price Score</i>	<i>Law Firm Diversity</i>	<i>Overall Score</i>
Ballard Spahr, LLP	596.31	95.56	128.71	35.00	855.58
Fox Rothschild, LLP	478.10	111.11	125.56	15.00	729.77
Greenberg Traurig, LLP	527.70	124.44	200.00	40.00	892.14
Kutak Rock, LLP	600.00	200.00	97.77	35.00	932.77

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Reed Smith, LLP	520.32	88.89	62.26	20.00	691.47
Saul Ewing Arnstein & Lehr, LLP	526.65	155.56	136.73	25.00	843.94
Stradley Ronon Stevens & Young, LLP	500.26	133.33	173.07	35.00	841.66
<b><i>Law Firms NOT Meeting 75% Technical Threshold</i></b>					
Ahmad Zaffarese, LLC	441.50	N/A	N/A	N/A	N/A
Dilworth Paxson, LLP	405.00	N/A	N/A	N/A	N/A
McNees Wallace & Nurick, LLC	434.00	N/A	N/A	N/A	N/A

5. 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 firm, as needed, prior to award being made.

6. SMALL DIVERSE BUSINESS/SMALL BUSINESS COMMITMENTS:

Kutak Rock, LLP is committed to subcontracting with one (1) small diverse firm, Turner Law, PC, for legal services over the entire engagement timeframe. Kutak Rock, LLP is committing 45% of the total value of its offering to **Turner Law, PC**.

7. CONTRACTOR RESPONSIBILITY: Kutak Rock, LLP and their respective subcontractor 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.**

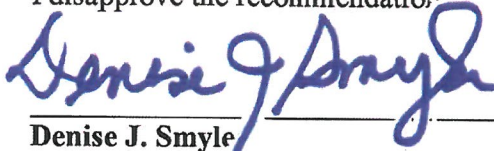
**RECOMMENDATION:** As the Issuing Officer, I recommend Kutak Rock, LLP be awarded a contract for legal services. This recommendation selection is based upon the results of the evaluation and review of the proposals as summarized above. **The term of the contract will be one year with two (2) additional one (1) year renewals.** The State System of Higher Education in consultation with the Office of General Counsel, will allocate the legal services set forth in the resulting contract among the selected law firm. **Due to the urgent need for legal services, the State System of Higher Education is seeking Kutak Rock, 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 Kutak Rock, LLP is the best qualified law firm based on the evaluation factors set forth in the RFP.

I disapprove the recommendation



**Denise J. Smyle**  
**General Counsel**

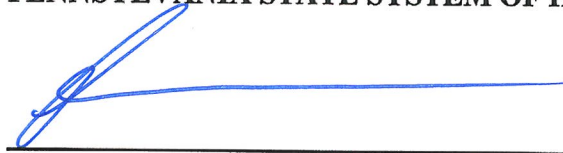
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**PART VI.**

**AUTHORIZATION:**

Based upon the Contracting Officer's determination, I authorize the Issuing Office to make a contract award to Kutak Rock, LLP.

**PENNSYLVANIA STATE SYSTEM OF HIGHER EDUCATION:**



**Andrew C. Lehman**  
**Chief Counsel**

7-3-19  
Date