



Item #12-4-6 Consent

SACOG Board of Directors

April 12, 2012

Approve Contract for Legal Services

Issue: Selection of firm for legal services contract.

Recommendation: The Government Relations & Public Affairs Committee recommends to the Board that Miller & Owen be selected to provide supplemental legal services to SACOG.

Committee Action/Discussion: When Kirk Trost became in-house General Counsel, we told the Board that we would need some level of on-going outside legal support, mainly to assure that Kirk would be free enough of the agency's day-to-day, relatively straightforward legal needs so that he could also adequately perform Chief Operating Officer duties related to personnel and finance. During the past year, we continued using the staff from his prior firm to provide these support services. Three months ago, with the Board's authorization, we released an RFP for legal services.

We received two responses: Best Best & Krieger (BB&K) and Miller & Owen. I convened a proposal review and interview committee of myself, John Knight (Chair of GRPA Committee last year), and Bruce Cline, City Attorney for the City of Folsom. Some Board members had expressed an interest in direct Board participation in the selection process due to the fact that legal counsel has a duty to report independently to the Board, as well as to the CEO. It was also important to keep Kirk isolated entirely from the process. Although he has no on-going financial relationship with Miller & Owen, and therefore no legal conflict, this is a case in which the perception of objectivity in the selection process is important as well. The three-person team conducted interviews on March 9 and unanimously recommends the firm of Miller & Owen to the GRPA Committee. Please feel free to contact either Director Knight (530-621-5650) or Bruce Cline (916-351-3316) directly if you would like to discuss this issue with them.

While there were limited respondents, which we think was likely due at least in part to the small size of the contract, the quality was high. All panel members felt that both firms are exceptionally well qualified to provide the needed services and made good presentations. BB&K proposed that Harriet Steiner, SACOG's outside General Counsel for several years, be their lead on the project, with support from other less senior attorneys and specialists as needed. Miller & Owen proposed Christy Layton as their lead point of contact, with Nancy Miller available for challenging issues as needed. The interview committee concluded that the Miller & Owen proposed staffing pattern is a better fit for SACOG's needs for this contract, which is focused on support services to our in-house General Counsel, not expert counsel on specialized topics. The cost structure of the two proposals makes this point most tangibly; there is a \$50 per hour difference in billing rates of the two lead attorneys. While BB&K's average billing rate for all attorneys working on the contract most likely would have been lower than their lead attorney's, it appears from the proposals that Miller & Owen likely would be even lower. The overall average blended billing rate for Miller & Owen's service over the past year was nearly 20% lower than their lead attorney's billing rate (\$200/hour vs. \$245/hour). Finally, since Kirk joined the agency, Miller & Owen's billings to overhead activities (i.e., not project work chargeable to contracts or grants) have run well below the budgeted amount.

Approved by:

Mike McKeever
Chief Executive Officer

MM:ef