



State of West Virginia
Office of the Attorney General

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Attorney General

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April 17, 2013

Clint R. Hogbin, Chairman
Berkeley County Solid Waste Authority
P. O. Box 1227
Inwood, WV 25428

Re: *Consent for the Berkeley County Solid Waste Authority to retain
Trump & Trump, L.C.*

Dear Mr. Hogbin,

Two proposals were timely received in response to the March 29, 2013, Request for Proposal (RFP) for legal services to the Berkeley County Solid Waste Authority (BCSWA). One proposal was from the Washington, D.C. offices of Williams Mullen, a large, multi-state law firm, and the other from Trump & Trump, L.C., a small firm based in Martinsburg, West Virginia.

Williams Mullen proposed assigning several specified attorneys to the project, each of whom appeared well-qualified and experienced with respect to the tasks likely to be encountered. The weighted average hourly rate quoted for the specified attorneys was approximately \$400.00 per hour. No rate was quoted for paralegal services.

None of the attorneys specified in the Williams Mullen proposal are licensed to practice law in West Virginia. Consequently, to provide services for the benefit of the BCSWA, either the Attorney General's Office or another authorized local counsel would be required to assume professional responsibility for representing the BCSWA, and Williams Mullen would serve as special counsel in a consulting/drafting capacity in conjunction with said local counsel.¹ Such an arrangement is not unusual in the development of projects such as that contemplated by the BCSWA, where specialized expertise may be beneficial, but is arguably inconsistent with the language of the RFP, which stated, in part:

¹ In response to our inquiry regarding this situation, Williams Mullen clarified that its proposal contemplated such an arrangement and "that the Authority's local counsel or state attorney general's office would represent the Authority on local law matters."

The Attorney General has granted his consent for the Authority to procure *its own counsel* through a cooperative competitive process consistent with the policy objectives that underlie the Attorney General's draft "Outside Counsel Policy."

The firm or attorney, if any, that is selected as a result of this process *will contract directly with the Authority*, and the Authority shall be solely responsible for payment of attorney fees and expenses associated with the representation.

(Emphasis supplied.)

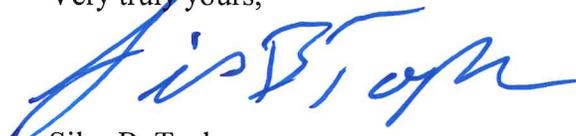
Such an arrangement would also be somewhat at odds with the purpose of the RFP, as stated in the "Written Determination Regarding the Appointment of Outside Counsel on Behalf of the Berkeley County Solid Waste Authority." Said Determination authorized the appointment of outside counsel in large part because the Attorney General's Office was not available given the location and scope of services required. Consequently, it would be necessary to appoint local counsel for the BCSWA in order to utilize Williams Mullen, creating an added layer of expense.

The other proposal, from Trump & Trump, L.C., specified that Charles S. Trump, IV, would be primarily responsible for the representation at an hourly rate of \$250.00; \$75 for paralegals. We have ascertained from the proposal that Mr. Trump possesses the requisite experience and skills necessary to undertake the representation contemplated by the RFP. In addition, the quoted rates are reasonable in relation to the anticipated tasks.

The BCSWA is severely constrained by its limited revenues, which militates in favor of the Trump & Trump proposal not only due to its lower hourly rates, but because the Williams Mullen proposal requires the appointment of local counsel in addition to Williams Mullen.

Based on the above considerations, and pursuant to West Virginia Code § 22C-4-9(a), the Attorney General authorizes the Berkeley County Solid Waste Authority to retain Trump & Trump, L.C., to represent it with respect to all matters related to the development, negotiation and implementation of a long-term lease or similar real estate transaction with Entserga of West Virginia, Inc., conditioned on the execution of a written contract delineating the terms of the representation, to be approved by the Attorney General.

Very truly yours,



Silas B. Taylor,
Senior Deputy Attorney General

SBT/eac

cc: R. Stuart Broom, Esq.
Charles S. Trump IV, Esq.