

**ARKANSAS DEVELOPMENT FINANCE AUTHORITY
REQUEST FOR PROPOSALS FROM
BOND COUNSEL
FOR
Arkansas Department of Health Laboratory Financing
\$23,000,000**



SPECIAL NOTE: YOUR IMMEDIATE ATTENTION IS CALLED TO SECTION I.C. YOU NEED TO SEND TO US AN E-MAIL ADDRESS FOR TRANSMISSION OF NOTICES OF INQUIRIES.

August 18, 2003

**Arkansas Development Finance Authority
423 Main Street, Suite 500
Little Rock, AR 72201
(501) 682-5900**

SECTION I: INSTRUCTIONS TO PROPOSERS/ GENERAL INFORMATION

A. PURPOSE. The Arkansas Development Finance Authority (“ADFA”) is requesting proposals from bond counsel firms to serve as the counsel for the issuance of revenue bonds to provide financing for the construction of a four (4) story, 80,000 square foot, laboratory facility for the Arkansas Department of Health (“ADH”). The laboratory is required for compliance with more stringent code provisions relating to bio terrorism testing and other purposes commensurate with the responsibilities of the Department.

The total cost of the project is currently estimated at \$23,000,000, subject to final negotiations by ADH, for acquisition of an associated portion of contiguous land on which the facility is to be constructed.

[Act 1723 of 2003](#), establishes cash fund based revenues with which to retire the debt obligation. The projected additional fees, derived from *Original certificates and Copies of certificates, (Birth, Death, Marriage and Divorce)*, as set out in Act 1723 are initially anticipated to provide revenues of +/- \$2,400,000 annually, based on certificate request history for the year 2002. Please reference the attached revenue projections reflecting the expanded certificate revenue growth. ADH is requesting a maturity not to exceed 20 years.

Please reference [Act 1723 Regular Session of 2003](#), cited as “Department of Public Health Laboratory Act” for the enacting legislation.

B. SUBMISSION OF PROPOSALS. Written proposals responding to the questions and requests for information in the manner specified in this Request For Proposal (“RFP”) should be submitted to the following:

ppatton@adfa.state.ar.us

To be considered, one (1) copy of the proposal should be delivered to ADFA not later than September 4, 2003, by 12:00 p.m. via email. All proposals shall be time and date stamped upon receipt. Late proposals will not be accepted. ADFA reserves the right to reject any or all proposals.

C. ADDITIONAL INFORMATION. It is the responsibility of the proposer to inquire about and clarify any aspect of the RFP. Questions should be directed to Tom Geis (tgeis@adfa.state.ar.us), Government Finance Officer at 501-682-5907 or Patrick Patton (ppatton@adfa.state.ar.us), Vice President for Internal Audit at 501-682-5902. Substantive questions and answers will be documented in letter form and will be sent by electronic mail to those who provide us with an e-mail address. **IN ORDER TO BE ON THE DISTRIBUTION LIST FOR INTERNET TRANSMISSION OF ALL RESPONSES TO INQUIRIES, YOU MUST IMMEDIATELY ADVISE PATRICK PATTON OF ADFA, THE INTERNET E-MAIL ADDRESS TO WHICH YOU WANT ALL SUCH TRANSMISSIONS SENT.**

D. PROPERTY OF ADFA. Any information or materials submitted as a response to this RFP shall become the property of ADFA and will not be returned. All submitted materials will be available for public review.

E. RESPONSE TO REQUEST FOR PROPOSAL. Law firms wishing to respond to this RFP can interact and contact Patrick Patton, Chair of the Staff Professional Selection Committee. NO CONTACT WITH ADFA BOARD MEMBERS IS ALLOWED AND ANY SUCH CONTACT WILL BE GROUNDS FOR IMMEDIATE REJECTION OF A FIRM'S PROPOSAL.

F. PROPOSAL TIMETABLE.

August 18, 2003	Request for Proposal Issued
September 4, 2003	Proposals Due @ 12:00 p.m.
TBA	Oral Presentations (if necessary)
September 18, 2003	Board Action (Appoint/ratify appointment of bond counsel, authorizes the President of ADFA to negotiate fees)
TBD	Submission to Legislative Committee for contract review (if required)

G. SELECTION PROCESS. The ADFA Staff Professional Selection Committee, will review the submitted proposals. Proposals will be evaluated based on (1) responses to specifics outlined in the Proposal Format section of this RFP and (2) the selection criteria. Proposals which omit any of these items may be rejected as non-responsive. From this review, a select group of firms may be chosen for oral presentations. All proposing firms will be advised of the firms selected for oral interviews. After conducting oral interviews, if necessary, the Board Professional Selection Committee will make its decision on a recommendation for selection which will be reported to the Board of Directors of the Authority at its September 18, 2003, regular meeting. The final selection will be made by a vote of Board members.

ADFA may at any time prior to the selection of a firm reject any and all proposals and cancel this RFP, without liability therefore, upon finding that there is good cause for rejecting all proposals and that it would be in its interest to cancel the solicitation. Further, regardless of the number and quality of proposals submitted, ADFA shall under no circumstances be responsible for any proposer costs and expenses incurred in submitting a response to this RFP. Each proposer who submits a response does so solely at the proposer's cost, risk and expenses. ADFA accepts no responsibility for the return of successful or unsuccessful proposals. This RFP in no way obligates ADFA to select a firm.

H. SELECTION CRITERIA. The proposals will be reviewed by the Review Committee. The committee may use the following criteria to rank all acceptable proposals and to develop recommendations to be presented to the ADFA Board Professional Selection Committee, although ADFA reserves the right to consider factors beyond those mentioned below and to follow a process of selection that involves means other than ranking based on such scores.

<i>Factor</i>	<i>Point Range</i>
1. Firm's recent experience as bond counsel:	

a.	Prior experience with municipal bond issues	0-15
b.	Size and number of prior bond issues and experience in complex bond financings similar to or related to this proposed financing	<u>0-15</u> 0-30
2.	Organization, size and structure of firm:	
a.	Number of employees currently engaged in municipal bond transactions	0-10
b.	Response to Arkansas presence issue including relevance of presence to this transaction	<u>0-10</u> 0-20
3.	Qualifications of staff to be assigned; including the team members demonstrated ability, years and type of experience	0-20
4.	Responsiveness of written proposals to the purpose and scope of services	0-10
5.	Responsiveness of proposal on fee issue	0-10
	<i>Maximum Points</i>	<u>0-90</u>

SECTION II: SCOPE OF SERVICES AND REQUIREMENTS

The bond counsel will be expected to perform all the normal duties associated with being bond counsel for the issuer of municipal bonds, including but not limited to:

- A. Attend all ADFA subcommittees or staff meetings when such meetings include matters directly or indirectly related to the proposed bond issue.
- B. Provide advice and assistance in structuring the financing and in planning for the sale of the debt obligations, including consultation with the underwriters and their counsel. Underwriter’s counsel will be primarily responsible for preparation of the preliminary official statement, official statement, bond purchase agreement, blue-sky memorandum and legal investment memoranda, but the bond counsel shall be available for consultation in the preparation of these documents if necessary.
- C. Prepare the borrowing resolutions and documentation, program administration agreement, bond resolutions, trust indenture, real estate and security documents, closing documents and certificates, including arbitrage certificate and tax regulatory agreement, to the extent such documents are required to acquire and construct the projects and to issue the bonds.
- D. Consult with ADFA and prepare any new legislation or amendments to existing legislation relating to the issuance of any debt obligations and the revenues pledged to those obligations.

- E. Provide assistance in selecting a registrar, trustee and paying agent and preparation of any related communication required by the registrar, trustee and paying agent, as needed.
- F. Supervise and contract for the printing and delivery of bonds, if required.
- G. Issue approving opinions for borrowings, and issue final approving opinions with respect to any debt obligations, as required, concerning matters of legality and tax exemption, and any supplemental opinion requested as to the bonds under federal and state tax laws.
- H. Provide assistance and preparation for rating agency hearings, if desired, including attendance at meetings and follow-up on any detailed information requested.
- I. Provide any required legal research, correspondence, and preparation of memoranda or other documents related to the issuance of any debt obligations, as required.
- J. Consult with the provider of any credit enhancement and its counsel concerning any such credit enhancement and documentation.
- K. Any additional legal services necessary to issue any debt obligations.
- L. Prepare an engagement letter for ADFA President's approval before performing any compensable work relating to the proposed engagement.

SECTION III: STATEMENT OF QUALIFICATIONS

An updated statement of qualifications should be maintained on file at ADFA for all firms submitting proposals as bond counsel.

SECTION IV: PROPOSAL FORMAT

A. TRANSMITTAL LETTER. A brief transmittal letter prepared on the proposer's business stationery should accompany the original and required copies of the proposal.

B. PROPOSAL. The proposal should be labeled "Proposal to serve as Bond Counsel for the Arkansas Department of Health Laboratory Financing". The proposal must contain sufficient information to enable the Review Committee to evaluate the proposal. It should be prepared in a clear and precise manner and should address all appropriate subsections.

1. **Bond Counsel Team and Personnel.** Describe the manner in which you would organize your firm's resources to serve as bond counsel for the proposed financing. In doing so, please address the following questions or issues:

1. Identify the individual who will manage this financing on a day-to-day basis. Define this individual's position within the firm and indicate the degree to which he or she will be able to commit the firm's resources to ADFA. What is this person's availability for this financing and what other commitments does he or she have?
2. Identify other professionals from your firm who will be assigned to work on this project, their roles and responsibilities and relevant aspects of their background. How will these individuals work with the other members of the financing team?
2. **Bond Counsel Opinion.** Confirm whether your firm can issue opinions necessary for the issuance of debt instruments under existing law. If legislative action is needed before an opinion can be given, provide a brief summary of such legislation. Describe any other legal issues which must be resolved before the financing program can be completed.
3. **Comments on Scope of Services.** Elaborate on the services you propose to perform as bond counsel for the proposed financing. In what way do you expect the scope of services to differ from those listed in Section II?
4. **Arkansas Presence.** Please explain your firm's presence within Arkansas and describe how that presence is relevant to the proposed transaction.
5. **Potential Conflicts.** List any relationship which might lead to a potential conflict in performing any services for ADFA. Please list specifically any conflicts resulting from material adverse matters, as distinguished from the conduct of business as usual. Indicate what steps would be taken to eliminate any such conflict.
6. **Rationale for Appointment and Proposal Summary.** This section of the proposal should be used by each proposer to present the case for its appointment to the position sought. It is not necessary for you to recite comprehensively your firm's qualifications and experience, which should be on file with ADFA in your current Statement of Qualifications, but it would be useful for you to describe how your qualifications and experience is relevant to the proposed transaction. In particular, you may want to select no more than three (3) of your firms past deals as bond counsel (indicating the date of issue, issuer, credit description, size and method of sale) and summarize their similarity to this program and their successfulness.
7. **Malpractice Insurance.** Acknowledge that if selected as bond counsel, your firm will provide to ADFA proof of malpractice insurance covering, among other things, securities-related claims. Please list any pending claims or disputes relating to prior opinions as bond counsel.
8. **Bond Counsel Fee Determination.** Selection of a bond counsel will not be based on a competitive bid. ADFA will attempt to negotiate with the top ranked firm to establish a fair and reasonable fee. If an agreement cannot be reached with the top ranked firm, negotiations will be attempted with the lower ranked firms in order of their rankings.

Provide the basic assumptions on which your firm's fee would be predicated and any factors that would change the actual fee. State what you consider to be the most appropriate method for determining a reasonable attorney fee for this representation, and state your rationale.

**BOND COUNSEL
TO RECEIVE RFP'S**

Contact/ Firm	Email Address
Tom Leggett, Esq. and Shep Russell, Esq. Friday, Eldredge & Clark	leggett@fec.net russell@fec.net
George E. Campbell, Esq. and M. Jane Dickey, Esq. Rose Law Firm	gcampbell@roselawfirm.com jdickey@roselawfirm.com
Wooten Epes, Esq. Kutak Rock	wooten.epes@kutakrock.com jim.Hathaway@kutakrock.com Melissa.carrier@kutakrock.com
Jack Williams, Esq. And David F. Menz, Esq. Williams & Anderson	jwilliams@williamsanderson.com dmenz@williamsanderson.com tjspeed@williamsanderson.com
John Tisdale, Esq. and Walter McSpadden, Esq. Wright, Lindsey & Jennings	jtisdale@wlj.com wmcspadden@wlj.com
Anne Parker, Esq. Mitchell, Williams, Selig, Gates & Woodyard	aparker@mws gw.com
Patrick Burrow Quattlebaum, Grooms, Tull & Burrow	pburrow@qgtb.com