

**REQUEST FOR PROPOSALS FROM
BOND COUNSEL
FOR
SINGLE FAMILY HOUSING MORTGAGE
REVENUE BOND PROGRAM**



**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 21, 2008

**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 law firms to serve as bond counsel for the Single Family Housing Mortgage Revenue Bond Program. Joint proposals from a team of legal firms are permitted.

Proposers should be clear that their response addresses the delivery, by the identified firm or team of firms, of the full scope of federal tax, securities and other federal law issues along with state law and other legal issues.

From the list of respondents to this Request for Proposal (RFP), ADFA expects to select a firm, or a team of firms in a joint proposal, to act as bond counsel for a period of two (2) years beginning upon selection by the Board in 2008 (term can be extended for additional one (1) year terms with a maximum of five (5) extensions, at the discretion of the ADFA Board), subject to successful negotiation of fees with the concerned firm(s).

Bond counsel will be expected to consult with and advise ADFA, the underwriter and the underwriter’s counsel on legal and tax aspects of the Single Family Housing Mortgage Revenue Bond Program, prepare and publish various required program documents and issue appropriate legal opinions regarding, among other things, relevant federal and state tax issues and ADFA’s authority to issue the concerned debt obligations.

ADFA makes no representation or warranty of any nature that any firm selected pursuant to this RFP will participate in any minimum or maximum number of financings, or in financings that involve any minimum or maximum dollar amounts.

Any bond counsel selected pursuant to this RFP shall serve at the pleasure of ADFA, and the professional services of any firm selected may be terminated, at the sole discretion of ADFA, upon delivery of written notice of such termination to the selected firms.

ADFA will not be responsible for paying any direct or indirect out-of-pocket expenses or fees incurred in the process of developing the bond program. Proposers should understand that such costs, if any, must be recovered from bond sales, and there is no assurance any bond sales will be transacted. Proposers should further understand that engagement of the selected firm will be continuously subject to the successful negotiation of fees and expenses for services rendered in developing the Bond Program and transacting bond sales.

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:

rfp@adfa.state.ar.us

To be considered, one (1) copy of the proposal should be delivered to ADFA not later than September 4, 2008, by 12:00 p.m. (CDT). 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 Patrick Patton (ppatton@adfa.sate.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 the Chair of the Staff Professional Selection Committee, Patrick Patton. **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 21, 2008	Request for Proposal Issued
September 4, 2008	Proposals Due
September 18, 2008	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 responses to specifics outlined in the Proposal Format section of this RFP and based upon the selection criteria. Proposals which omit any of these items may be rejected as non-responsive. The Board of Directors Professional Selection Committee will make its decision on a recommendation for selection, which will be reported to the Board of Directors of the Authority. The final selection will be made by a vote of Board members.

ADFA may at any time prior to the selection of bond counsel reject any and all proposals and cancel this RFP, without liability therefor, upon finding that there is cause for rejecting all proposals and that it would be in ADFA's 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 expense. ADFA accepts no responsibility for the return of successful or unsuccessful proposals. This RFP in no way obligates ADFA to select a firm.

Any firm selected will be required to complete a disclosure form in compliance with Executive Order 98-04.

H. SELECTION CRITERIA. The proposals will be reviewed by a Staff Professional Selection Committee composed of selected members of ADFA's staff. The committee generally will use the following criteria to evaluate all acceptable proposals and to develop recommendations to be presented to the ADFA Board Professional Selection Committee; however, ADFA reserves the right to evaluate proposals based on factors beyond the listed criteria.

Criteria

1. Firm's relevant experience as bond counsel for debt financing for Single Family Housing Mortgage Revenue Bond projects.
 - a. Prior experience with Single-Family mortgage revenue bond issues
 - b. Size and number of prior bond issues and experience in complex bond financings of prior bond issues
2. Organization, size and structure of firm:
 - a. Adequate firm resources dedicated to tax securities and municipal bond transactions
 - b. Response to Arkansas presence issue including relevance of presence to the proposed bond transactions
3. Qualifications of staff to be assigned, i.e., team members demonstrated ability, years and type of experience
4. Responsiveness of written proposals to the scope of services issues
5. Responsiveness of proposal on fee determination issue

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. Note: [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 issue the bonds.
- D. Prepare and advise ADFA on changes to purchase price limits and income limits.
- E. 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.
- F. 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.
- G. Supervise and contract for the printing and delivery of bonds, if required.
- H. 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.
- I. Provide assistance and preparation for rating agency hearings, if desired, including attendance at meetings and follow-up on any detailed information requested.
- J. Provide any required legal research, correspondence, and preparation of memoranda or other documents related to the issuance of any debt obligations, as required.
- K. Consult with the provider of any credit enhancement and its counsel concerning any such credit enhancement and documentation.
- L. Any additional legal services necessary to issue any debt obligations.

- M. Prepare an engagement letter for ADFA President's review and approval before performing any compensable work relating to the proposed engagement.
- N. Consult with and assist Finance and Housing staff regarding legal requirements of single family bond program.
- O. Confer with related Program participants on the selection of the Single Family proceeds to be replacement refunded from ADFA's convertible note program and its warehouse program.
- P. Other duties that relate to the program as requested by ADFA.

SECTION III: STATEMENT OF QUALIFICATIONS

An updated statement of qualifications should be maintained on file at ADFA at all times 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.

B. PROPOSAL. The proposal should be labeled "Proposal to serve as Bond Counsel for the ADFA Single Family Housing Mortgage Revenue Bond Program." The proposal must contain sufficient information to enable the ADFA Staff Professional Selection 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?

3. Describe your housing finance agency experience as bond counsel or underwriter's counsel. Note: This information may be presented as an exhibit to your proposal and may include:
 - a) Name of client
 - b) Your firm's specific role
 - c) Number of years serving this client
 - d) Number and dollar amount of bond issues for this client
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? Please discuss the following:
 - a. Experience your firm has in obtaining clarification of the Internal Revenue Code and IRS Regulations;
 - b. Your Firm's recent experience in obtaining Internal Revenue Service Rulings;
 - c. Your Firm's ability to monitor and advise ADFA on federal legislation that may impact ADFA's single family program;
 - d. Describe the manner in which your Firm regularly communicates changes in the tax law to your clients;
 - e. Discuss ADFA's legal authority to issue variable rate debt and the steps necessary to accomplish this goal;
 - f. Discuss the financial and legal issues that you believe will be the most significant to housing finance agencies over the next 2-5 years
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 (ie. representing any clients that may have or develop an adverse interest to 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, e.g., three (3) 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.

9. **Equal Opportunity Statement.** Please submit your Equal Opportunity Policy to ADFA in accordance with Arkansas Act 2157 of 2005. This act requires any firm wishing to respond to an RFP or submit a proposal or statement of qualifications to provide ADFA with your Equal Opportunity Policy.

10. **Acceptance.** Submission of proposals, in response to this Request for Proposal, constitutes acceptance of all conditions, requirements and limitations described in this document.

**BOND COUNSEL
TO RECEIVE RFP'S**

Firm/Contact/Email	Firm/Contact/Email
Friday, Eldredge & Clark Shep Russell Russell@fec.net	Rose Law Firm Jane Dickey jdickey@roslawfirm.com kburns@roslawfirm.com
Kutak Rock LLP Jim Hathaway Jim.Hathaway@kutakrock.com Jill.speed@kutakrock.com	Williams & Anderson Michelle Allgood mallgood@williamsanderson.com sjordan@williamsanderson.com dmenz@williamsanderson.com jwilliams@williamsanderson.com
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Quattlebaum, Grooms, Tull & Burrow Patrick Burrow pburrow@qgtb.com tgrooms@qgtb.com	Jack Nelson Jones Fink Jiles & Gregory, P.A. Joseph Gregory jgregory@jacknelsonjones.com
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