

**ARKANSAS DEVELOPMENT FINANCE AUTHORITY
REQUEST FOR PROPOSALS FROM
BOND COUNSEL
FOR
DEPARTMENT OF ARKANSAS HERITAGE (DAH)
BUILDING PROJECT**

+/- \$10,000,000

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.



March 24, 2014

**Arkansas Development Finance Authority
900 West Capitol, Suite 310
Little Rock, AR 72201
(501) 682-5900**

SECTION I: INSTRUCTIONS TO PROPOSERS/ GENERAL INFORMATION

A. PURPOSE.

The Department of Arkansas Heritage (DAH) has been working with ADFa and the Arkansas Building Authority (ABA) on the acquisition, renovation and equipping of existing buildings at 1100 North Street, Little Rock, Arkansas. The project will also include the construction of a new building. The cost of the project is expected to not exceed \$10,000,000. ADFa will own the property, lease to the ABA who will then sublease to DAH. The team of bond professionals that is being assembled will need to assist DAH, ABA and ADFa in developing an optimal financing plan.

Brief Discussion of Statutory Responsibilities and Primary Activities of DAH:

The Department of Arkansas Heritage was created in 1975 to combine the state programs and agencies dealing most directly with the preservation of Arkansas's natural and cultural heritage. The Department's seven agencies are each assigned to one of two divisions. The Museums Division is comprised of the Delta Cultural Center, in Helena, and the Historic Arkansas Museum, the Old State House Museum, and the Mosaic Templars Cultural Center all located in Little Rock. The Heritage Resources Division is comprised of the Arkansas Arts Council, the Arkansas Natural Heritage Commission and the Arkansas Historic Preservation Program. The operation of the Department's Collection Management Facility was added in 2005.

The Department aggressively and successfully seeks federal and private funding to augment its biennial state funding. The DAH director's office coordinates the activities of the Department's two divisions. It administers activities that span the Department, including fiscal and personnel operations, purchasing, public information, and development. In the realm of heritage education, the Department coordinates the education programs of its two divisions and collaborates with the regional educational service cooperatives. Arkansas Heritage Month is a department-wide effort to promote cultural, historic, and natural heritage in local communities around Arkansas.

The Museums Division agencies preserve, present, and interpret historic structures, objects, and cultural assets. They serve as partners in education with public and private schools throughout Arkansas. The Department's four museums are the Old State House Museum (which also manages Trapnall Hall), the Historic Arkansas Museum, the Delta Cultural Center and the Mosaic Templars Cultural Center. The Historic Arkansas Museum and Old State House Museum are two of the seven museums in Arkansas accredited by the American Association of Museums. In 2005 DAH acquired 53,000 sq. ft. building for use as a collections storage facility.

The Heritage Resources Division agencies are concerned with the State's natural and cultural resources. The Arkansas Natural Heritage Commission identifies, preserves, and promotes Arkansas's natural resources that are rare, unique or endangered. The Arkansas Arts Council and the Arkansas Historic Preservation Program identify, preserve, and promote the State's cultural resources while serving as conduits for federal and state grant funds that conserve or develop these resources.

The Department currently maintains: 35 buildings (of which 24 are historic structures that require special maintenance needs), approximately 75,500 artifacts in the 4 museum collections, a

nationally recognized herbarium with over 6,500 plant specimens, a collections storage facility of 50,000 square feet and over 58,000 acres (7 sites) of natural areas across the state. Current General Revenue does not cover basic operations such as utilities, office rent, telephones, and maintenance. Nine percent of the annual proceeds from the Conservation Tax are dedicated to the Department to provide additional programs and to supplement-not replace-general revenue funding for basic operating expenses. With these additional funds, DAH historic sites, museums, arts programs, natural areas, public education programs, and public outreach initiatives are maintained and available to the public. The Department continues its commitment to the voters to use these proceeds to fund improvements to and adequately care for historic structures, artifacts in museum collections natural areas held in trust for Arkansas, encouragement of the arts historical documentation, and the expansion of knowledge of Arkansas's unique heritage from prehistoric times to the present.

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.arkansas.gov

To be considered, one (1) copy of the proposal should be delivered to ADFA not later than April 4, 2014, by 12:00 p.m., via email. 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 Brad Henry (brad.henry@adfa.arkansas.gov), Vice President for Development Finance at 501-682-5905, Charlie Lynch (charles.lynch@adfa.arkansas.gov), Economic Development Officer at 501-682-5910 or Patrick Patton (patrick.patton@adfa.arkansas.gov), 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 all the proposers 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.

March 24, 2014

Request for Proposal Issued

April 4, 2014	Proposals Due @ 12:00 p.m.
TBA	Oral Presentations (if necessary)
April 17, 2014	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. From this review, a select group of firms may be chosen for oral interviews. All proposing firms will be advised of the firms selected for oral interviews, if necessary. After interviewing, 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 at its regular meeting. 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 good cause for rejecting all proposals and that it would be in its interest to cancel the solicitation. Further, 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 Governor's Executive Order 98-04.

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

Criteria

1. Firm's recent experience as bond counsel:
 - a. Prior experience with municipal bond issues
 - b. Size and number of prior bond issues and experience in complex bond financings similar to or related to this proposed financing

2. Organization, size and structure of firm:
 - a. Number of employees currently engaged in municipal bond transactions
 - b. Response to Arkansas presence issue including relevance of presence to this transaction

3. Qualifications of staff to be assigned; including the team members' demonstrated ability, years and type of experience
4. Responsiveness of written proposals to the purpose and scope of services
5. Responsiveness of proposal on fee 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 as well as issuer's 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. Borrowing documentation may include loan or lease documents and/or bond anticipation notes.
- 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 these 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. Assist ADFA, as needed, to advertise and conduct a public hearing for each bond issue, prepare minutes of the Public Hearing, deliver the minutes to the Office of the Governor and obtain the Governor's Proclamation for the issuance of the bonds.

- 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 these debt obligations and the related borrowing arrangement with the company.
- M. Prepare an engagement letter for ADFA President's approval before performing any compensable work relating to proposed engagement.
- N. Create standardized documents for this program which with reflect aspects particular to certain types of financings under the program.

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 submitted proposal.

B. PROPOSAL. The proposal should be labeled "Proposal to serve as Bond Counsel for the DAH Building Project". 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?
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 a past deal as bond counsel (indicating the date of issue, issuer, credit description, size and method of sale) and summarize its similarity to this program and its 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.