

Missouri Housing Development Commission

REQUEST FOR PROPOSALS TO SERVE AS BOND COUNSEL



Strength, Dignity, Quality of Life

MISSOURI HOUSING

DEVELOPMENT COMMISSION

RESPONSE DEADLINE:

Five (5) hard copies and one (1) electronic copy by email
Due by Monday, March 31, 2014 by 3:00 P.M. Central time

SUBMIT RESONSES TO:

Marilyn Lappin, Director of Finance
Missouri Housing Development Commission
3435 Broadway
Kansas City, Missouri 64111
email: mlappin@mhdc.com

REQUEST FOR PROPOSALS FOR BOND COUNSEL SERVICES

I. INTRODUCTION

The Missouri Housing Development Commission (“MHDC” or the “Commission”) is a governmental instrumentality of the state of Missouri and a body corporate and politic. In 1969, the 75th General Assembly of Missouri, in the face of a general housing shortage severely affecting low and moderate income persons, established the Commission in order to increase the availability of decent, safe and sanitary housing at prices within the means of low and moderate income persons. The Commission’s authority is derived from Chapter 215 of the Revised Statutes of Missouri, as amended and supplemented. Chapter 215 provides general information about the Commission and is available on-line at www.moga.mo.gov/statutes/c215.htm. Further information about the Commission and its programs is available on the Commission’s website at www.mhdc.com.

Purpose of Request for Proposals for Bond Counsel Services (RFP)

The Missouri Housing Development Commission (MHDC) is seeking proposals for service as Bond Counsel for MHDC housing bond issues and related program advice and services.

Term of Service

It is expected that the firm(s) selected pursuant to this Request for Proposals will serve as Bond Counsel for a period of three years with two additional one-year renewal options, for a total of up to five years. Any transaction initiated prior to the ending date of the term of service, for which a material amount of time or expense has been incurred, will be completed by Bond Counsel although the closing might occur following the end of the term of service. MHDC reserves the right, at its sole discretion, to terminate the agreement with any firm selected pursuant to this RFP prior to the expiration of the term of service, or to extend the agreement (with the concurrence of the firm selected) for a maximum of two additional periods of up to one year each.

II. GUIDELINES AND INSTRUCTIONS

Anticipated Timetable for RFP and Proposals

Release RFP	March 17, 2014
Proposals Due	March 31, 2014
Evaluation Committee Recommendation	April 11, 2014
Selection by Commissioners	April 18, 2014

Proposal Due Date: Monday, March 31, 2014 by 3:00 P.M. Central time

Form of Response

The Commission desires to consider responses to this RFP in a consistent and easily comparable format. Proposals not organized in the manner set forth in this RFP may be considered, at the Commission’s sole discretion, as unresponsive. Please do not refer to other parts of your proposal, to information that may be publicly available elsewhere, or to the submitting entity’s website or another website in lieu of answering a specific question. The proposal must be accompanied by a cover letter stating that: (a) the information submitted in and with the proposal is true and accurate, and (b) the person signing the letter is authorized to submit the proposal on behalf of the firm.

Interested qualified firms are invited to submit proposals that contain information submitted in the order of Section IV below.

Completed proposals must be submitted to the Commission electronically and in hard copy. Prospective bidders shall transmit completed proposals to the Commission by email to mlappin@mhdc.com in PDF file format. The “Subject” line of the email should state, “2014 Bond Counsel Proposal.” Five (5) printed copies of the firm’s proposal — *marked as, “Response to Request for Proposal for Bond Counsel”* – must also be submitted by the Proposal Due Date to:

**Ms. Marilyn Lappin
Director of Finance
Missouri Housing Development Commission
3435 Broadway
Kansas City, MO 64111-2403**

Completed responses to the RFP must be received by the Commission no later than **3:00 p.m. Central Time on Monday, March 31, 2014**. Proposals must be received by the bid submission deadline. Proposers are responsible for ensuring actual receipt of the proposal by the Commission by the time designated above.

Standards of Conduct

This RFP is considered a “Competitive Matter” as that term is defined in the Commission’s “Standards of Conduct” Policy (the “Standards of Conduct”). Further, every Respondent, including, but not limited to, their respective principals, key employees and agents acting on their behalf are considered “Interested Parties” (as defined in the Standards of Conduct). As a result, every Respondent (including, but not limited to, its principals, key employees and agents) under this RFP is obligated to abide by the rules and restrictions imposed by the Standards of Conduct, including the rules governing contact with Commissioners and MHDC employees. The failure of any Respondent to abide by the rules and restrictions established by the Standards of Conduct may result in the disqualification of that Respondent’s Response. Therefore, you are strongly encouraged to review and familiarize yourself with the Standards of Conduct. The Standards of Conduct is available on MHDC’s website at www.mhdc.com/about/commission/policies/standards_of_conduct.htm.

Furthermore, pursuant to the Standards of Conduct, any Response under this RFP shall disclose the name of the individual, entity and/or entities having ownership interests in the Respondent. All entities identified in this disclosure shall be reduced to their human being level irrespective of the number of entity layers which may be present for any disclosed entity. Notwithstanding the previous sentence, to the extent any Respondent under this RFP is a publicly traded corporation, such a Respondent may limit this disclosure to all board members, officers (and other key employees) and any shareholders owning or controlling ten percent (10%) or more of the corporation. Questions regarding this requirement or any other requirements or restrictions imposed by the Standards of Conduct may be directed to the Commission’s General Counsel, Weylin Watson, by phone at 816-759-6624 or email at wwatson@mhdc.com.

Inquiries

The Commission will provide responses to inquiries submitted by firms to the Commission’s contact person, Marilyn Lappin. All questions must be submitted in writing via email to Ms. Lappin at mlappin@mhdc.com and received no later than Friday, March 21, 2014, 3:00 p.m. CT. The “Subject” line of the email should be, “2014 RFP for Bond Counsel Questions.” Questions submitted after the deadline will not receive a response. Responses will be provided by March 26, 2014, 5:00 p.m. CT to all interested bidders that have provided an email address to Ms. Lappin prior to the above deadline for the submission of questions.

If you have inquiries regarding this RFP or would like to contact the Commission, please contact:
Ms. Marilyn Lappin
mlappin@mhdc.com

All inquiries must be submitted by email, citing the particular proposal section and paragraph number. Proposers should note that all clarifications and exceptions are to be resolved prior to submission of the proposal. A list of all substantive inquiries received with relevant responses will be provided to interested bidders.

Other than the contact person identified herein and except as provided in Section IV.A.2 below, prospective proposers shall not approach the Commission’s employees, managers or board members after the publication of this RFP and before the announcement of a selection about any matters related to the RFP or any proposal submitted pursuant thereto.

Public Records

Respondents are advised that all submissions may be made available to the public on request upon completion of the process and award of an Agreement. Accordingly, any information which the respondent thinks benefits from an exception to disclosure under the Missouri Sunshine Law (RSMo §§610.010-225) shall be clearly identified as such and segregated from the rest of the proposal. MHDC, in its own discretion, shall determine which information may be disclosed under the Missouri Sunshine Law. By responding to this RFP, respondent agrees that any determination made regarding disclosure of information contained in the response is satisfactory.

Modifications to Proposals

Respondents may not modify or correct its Proposal any time after the Proposal Due Date, except in direct response to a request from the Commission for clarification.

Revisions to this RFP

In the event that it becomes necessary to revise any part of the RFP, MHDC will provide an addendum to each firm receiving this RFP. Any additional information required to clarify portions of this RFP will be issued in the form of an addendum.

Expenses Relating to Proposals

All costs directly or indirectly related to the preparation of a response to this RFP shall be the sole responsibility of and shall be borne by the respondent. MHDC shall not be liable for any expenses incurred by respondents in replying to this Request.

Visits and Interviews

All firms responding to this RFP must be prepared to schedule a visit to its offices or to another location upon request by the Commission. In addition, firms responding to this RFP may be interviewed by the Commission as a part of the selection process.

Reservation of Rights

The Commission reserves the right to conduct any investigation of the qualifications of any firm that it deems appropriate; negotiate modifications to any of the items proposed in the Proposal; request additional information from any firm; reject any or all Proposals; and waive any irregularities in any Proposal. **The Commission retains the right to negotiate the fees and compensation arrangements for its Bond Counsel services.** At the Commission's sole discretion, the selection of a proposal by the Commission may be cancelled at any time prior to the complete execution of a contract or agreement. If the Commission cancels its selection of a proposal, the Commission may repost this or a similar RFP and re-seek proposals.

III. SCOPE OF SERVICES

MHDC anticipates the need for legal services in connection with the issuance of its homeownership bonds, multifamily housing bonds, occasional refunding bonds, and other bonds or notes. It is anticipated that mortgage revenue bonds may possibly be issued one or two times per year during the term of the agreement. Multifamily housing bonds will be issued at various times during the term of the agreement. Bond Counsel is expected to assign those attorneys and professionals employed by the firm who are best suited to advise the Commission in all matters associated with issuance of housing bonds and with ongoing compliance of trust indentures and other documents and agreements integral to the issuance of bonds. In addition, occasionally the Commission may seek legal assistance for contractual and other technical legal matters in conjunction with its housing programs, including Mortgage Credit Certificates.

The scope of services to be provided may also include any or all of the following:

1. Preparation of all board resolutions related to bond issues and mortgage credit certificate programs.
2. Preparation of master and supplemental indentures for ongoing single family and multifamily housing bond issues.
3. Preparation and/or review of all official statements and disclosure documents necessary and appropriate to the authorization, issuance, sale or delivery of multifamily housing bonds.
4. Review of all official statements and other disclosure documents necessary and appropriate to the authorization, issuance, sale or delivery of mortgage revenue bonds and other bonds associated with MHDC's homeownership programs.
5. Delivery of legal opinions regarding the due and lawful authorization and issuance of each bond issue, the exemption from federal and state taxes for those bonds issued on a tax-exempt basis, exemption from securities laws, the sufficiency of the disclosure for those portions of the official statement prepared by bond counsel or summarizing documents for which bond counsel is responsible and delivery of such other legal opinions typically provided in connection with similar transactions.
6. Preparation of all closing documents in connection with each bond issue.

7. Preparation of legal documents and IRS filings in connection with each mortgage credit certificate program.
8. Administration and tracking of private activity volume cap available to the Commission for both homeownership and multifamily transactions.
9. Prepare bond and loan yield analyses and related IRS filings for arbitrage rebate purposes.
10. Participation in meetings and phone conferences regarding specific bond issues and the Commission's bond programs generally.
11. Attendance at meetings with MHDC staff, Commissioners, and others party to MHDC's issuance of bonds, including financial advisors, underwriters and rating agencies.
12. Provision of any other legal services, advice or opinions, as requested, regarding the Commission's bond and other housing finance programs.

IV. STRUCTURE AND CONTENT OF PROPOSAL

A. BACKGROUND AND EXPERIENCE

Provide a brief description of your firm, including but not limited to the following:

1. **Firm Information.** Provide a description of your firm that includes the location of the firm's office(s), the length of time your firm has been in business, the number of partners and associates, an overview of the housing legal group and the bond arbitrage and related federal tax group and a discussion of any substantive changes in its ownership, management and housing group, and in any other area of its public finance practice in the last three (3) years.
2. **Firm Ownership.** Pursuant to the Standards of Conduct (see Section II of this RFP), any Response under this RFP shall disclose the name of the individual, entity and/or entities having ownership interests in the Respondent. All entities identified in this disclosure shall be reduced to their human being level irrespective of the number of entity layers which may be present for any disclosed entity. Notwithstanding the previous sentence, to the extent any Respondent under this RFP is a publicly traded corporation, such a Respondent may limit this disclosure to all board members, officers (and other key employees) and any shareholders owning or controlling ten percent (10%) or more of the corporation. **For purposes of providing firm ownership information, please complete Exhibit 1 (attached) in spreadsheet format to include a listing of your firm's owners/shareholders.** Questions regarding this requirement or any other requirements or restrictions imposed by the Standards of Conduct may be directed to the Commission's General Counsel, Weylin Watson, by phone at 816-759-6624 or email at wwatson@mhdc.com.
3. **Contact Person.** Provide the name, address, phone number, fax number and email address of the firm's contact person for this engagement.
4. **Housing Experience.** Include general discussion of your firm's experience in single family and multifamily housing bond work, including the number of partners and associates in your tax exempt housing bond practice.

5. Federal Tax Law. Describe your firm's experience with federal tax law related to tax-exempt single family and multifamily housing revenue bonds. Include discussion of your firm's experience with the eligibility requirements for single family mortgage revenue bonds, willingness to respond to specific inquiries from lenders, experience with bond and loan yield analysis on both single family and multifamily housing bonds and experience with arbitrage rebate issues on housing bonds. Has your firm ever represented a housing bond issuer on a random audit by the IRS? What was the outcome? Has a federal tax opinion delivered by your firm during the past ten years been invalidated or overturned? Has the firm or any client of the firm entered into any closing or settlement agreements, or similar arrangements, in connection with any federal tax opinions delivered by the firm during the past ten years?
6. Co-counsel and Minority Participation. Describe either your firm's status as a minority or woman-owned firm or describe any relationships that you have with other law firms regarding proposed co-counsel relationships and/or fee splitting arrangements, including the involvement of any minority or woman-owned firms that would assist in any capacity with services to be provided to MHDC. If you have a co-counsel relationship and/or fee splitting arrangement with a minority or woman-owned firm, provide detailed information about your proposed financial and work sharing arrangement with these firms. If none are described, confirm that your firm will provide all services described above without the involvement or assistance of any other firm or lawyers.
7. Professional Liability Insurance. Describe the type and amount of professional liability insurance your firm carries.
8. Investigations and Proceedings. Indicate whether your firm has any knowledge of any active investigations or criminal proceedings by the Internal Revenue Service, the Securities and Exchange Commission or any other state or federal agency with regard to your members or practices. If so, please provide a brief description of such investigation and the name and phone number of a person whom MHDC might contact to obtain more information.

Identify any administrative proceeding, investigation or litigation regarding your firm and/or any member of the firm which is ongoing or has been settled or otherwise concluded during the past two years.

9. Federal Work Authorization Program. Pursuant to *Mo.Rev.Stat. §285.530.2*, the firm selected pursuant to this RFP shall provide MHDC with an affidavit stating that the firm does not employ any person who is an unauthorized alien in conjunction with the contracted services, and that the firm is enrolled in and participating in a federal work authorization program with respect to the employees working in connection with the contracted services. Prior to execution of any agreement contemplated herein, the firm shall provide evidence of participation in a federal work authorization program. Questions regarding this requirement may be directed to the Commission's General Counsel, Weylin Watson, by phone at 816-759-6624 or email at wwatson@mhdc.com. **In your proposal, please indicate whether your firm is currently enrolled in and participating in a federal work authorization program such as E-Verify.**

B. SPECIFIC EXPERIENCE AND RESOURCES

1. Tax Exempt Bond Issues. List all tax exempt bond issues for which the firm has acted as bond counsel since January 1, 2011. Note issuer, type of issue, dollar amount, and issuance date of each issue. Highlight those issued in Missouri and that are housing bonds (whether within or outside Missouri). In addition, please note those issues for which your firm has given a sole or lead opinion.
2. MHDC Experience. Describe your firm's historical experience in serving MHDC or other state or local issuers of housing bonds.
3. MHDC Staffing. Identify the partners and associates who will serve MHDC (including tax attorneys), including office location, phone number, fax number and email address. Provide appropriate resumes and identify their responsibilities in serving MHDC. Please provide evidence that the attorneys that will serve MHDC are licensed to practice law in the state of Missouri and whether or not they are members of the National Association of Bond Lawyers.
4. Analytical Capabilities. Describe the firm's computer capacity with respect to yield verification for mortgage revenue bond issues and multifamily bond issues.
5. IRS Experience. Describe your firm's recent experience in obtaining Internal Revenue Service rulings and clarification of IRS code and regulations.
6. Tax Law Communications. Describe the manner by which your firm regularly communicates changes in tax law to your clients.
7. Federal Legislation Updates. Discuss your firm's ability to monitor and advise MHDC on federal legislation that may affect MHDC's housing operations.
8. Firm Resources. Identify resources of the firm that will be made available to MHDC.
9. Other Information. Discuss any topics not covered in this Request for Proposals that you would like to bring to the attention of MHDC.

C. COSTS

Describe your proposed fee structure. Please include the hourly rate to be charged by the members of the firm for work on related matters not directly resulting in a bond issue. Also state whether the firm will charge in the event a proposed bond or other financing issue is not successfully sold. State whether the firm will charge for attendance at monthly Commission meetings.

Provide an estimate of your firm's fees and expenses under a "per-bond" rate structure for each of the following types of transactions: a \$50,000,000 single family new money issue; a \$40,000,000 single family taxable refunding issue; a \$5,000,000 multifamily housing issue and a \$10,000,000 multifamily housing issue. Note that some mortgage revenue bonds and multifamily housing issues may be privately placed and the related fees negotiated.

State whether the proposed fees include expenses, or whether expenses will be charged separately (identify those expenses that will be charged separately, if any). State whether the fees submitted are effective for the duration of the expected service period of three years and the two additional

optional one year periods. In the event the proposed fees would not extend for the full duration of the contract, describe your process and expected frequency for rate changes, including maximum percentage increases.

V. RFP REVIEW AND SELECTION CRITERIA

The Bond Counsel Services Agreement will be awarded to the firm(s) which, in the opinion of MHDC, is (are) the best qualified to provide such services.

Proposals will be evaluated on a variety of factors, including:

1. The firm's demonstrated willingness to follow the guidelines in this RFP.
2. Experience and qualifications of both the firm and the staff to be assigned to these financings, as evidenced by formal training; education; appropriate professional licensing and related experience.
3. Firm's ability to provide the required services on a timely basis in light of the anticipated workload, and the availability of adequate personnel and resources of the firm.
4. The firm's experience during the past three years as bond or underwriter's counsel on various housing and mortgage revenue bond financings.
5. The firm's expertise in the area of tax law.
6. Involvement and accessibility of staff to be assigned to the financings.
7. Organization, size and structure of firm. The firm's presence in Missouri.
8. The firm's inclusion of minority and women participation, including the firm's employees and/or any participation with a minority or woman-owned firm.
9. Projected costs and proposed fee structure for services performed.
10. The Commission's prior experiences, if any, with the firm and any other factors the Commission believes would be in its best interest to consider.
11. Related investigations and regulatory proceedings involving the firm will be taken into account, depending upon the nature and significance of the proceedings.

<p>There is no additional information requested. Thank you for reviewing this RFP. We look forward to your response.</p>
