

**SCHOOL BUILDING AUTHORITY OF WEST VIRGINIA  
REQUEST FOR PROPOSAL #2022001  
BOND COUNSEL SERVICES**

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**EXHIBITS:**

- EXHIBIT A** - Taxpayer Identification Form W9
- EXHIBIT B** - Purchasing Affidavit
- EXHIBIT C** - Title Page
- EXHIBIT D** - Agreement Addendum

**Questions must be received by Thursday, March 31, 2022 by 12:00 p.m. EST**

**Proposals and Pricing must be received (in separate, sealed envelopes)  
by Friday, April 8th, 2022 by 12:00 p.m. 0:00 p.m. EST**

**SCHOOL BUILDING AUTHORITY OF WEST VIRGINIA  
REQUEST FOR PROPOSAL #2022001  
BOND COUNSEL SERVICES**

**SECTION 1: GENERAL INFORMATION AND STANDARD TERMS AND CONDITIONS**

**1.1. Purpose:** The School Building Authority of West Virginia (“SBA” or “Authority”) is seeking to retain a Bond Counsel firm for a five (5) year engagement period in connection with the Authority’s issuance of new money and refunding transactions and other matters related to the Authority’s Bonds that may arise from time to time. as further described herein in section three (3).

**1.2 SCHEDULE OF EVENTS:**

<b>Release of RFP:</b>	March 25, 2022
<b>Questions Deadline:</b>	Thursday, March 31, 2022 by 12:00 p.m. EST
<b>Addendum/Response to Questions:</b>	Friday, April 1, 2022
<b>Proposal Due Date:</b>	Friday, April 8, 2022 by 12:00 p.m. EST
<b>Target Award Date:</b>	Friday, April 15, 2022

**1.3 Bidder’s Point of Contact:** The sole point of contact for questions, clarifications and inquiries concerning this Request for Proposal (RFP) is:

Tamela Brewer  
Procurement Officer  
School Building Authority of WV  
2300 Kanawha Boulevard, East  
Charleston, WV 25311  
Email: [Tamela.A.Brewer@wv.gov](mailto:Tamela.A.Brewer@wv.gov)  
Phone: 304-558-2541

**1.4 Posting of Information:** This RFP and any addenda, including answers to question, will be posted to: <https://sba.wv.gov/Finance/Pages.aspx>

**1.5 Questions and Answers:** Questions concerning this RFP will be received in writing (via e-mail is acceptable) by point of contact until the deadline identified in Section 1.2. When submitting questions by email, please reference **RFP #2022001** in the subject line. Questions, if any, will be answered by addendum and posted to the webpage identified in Section 1.4.

**1.6 Proposal Submission:** Proposals must be received at the point of contact listed in Section 1.3 delivered on or before the date required in Section 1.2.

For delivered submission, the outside of the envelope should be clearly marked with:  
**RFP #2022001, the bid opening date/time and the Procurement Officers name.** In addition, a digital copy of the proposal should be submitted; the preferred method of submission of the digital copy is by flash/thumb drive which should be included with the original bid.

***PROPOSALS RECEIVED AFTER THE DUE DATE AND TIME WILL NOT BE  
CONSIDERED. IT IS THE BIDDER’S SOLE RESPONSIBILITY TO ENSURE  
TIMELY DELIVERY OF THE PROPOSAL.***

**1.7** Proposals shall remain in effect until June 30, 2027.

**1.8** Conflict of Interest: By signing the Proposal, the bidder affirms that it and its officers, members and employees have no actual or potential conflict of interest, beyond the conflicts disclosed in its proposal. Bidder will not acquire any interest, direct or indirect, that would conflict or compromise in any manner or degree with the performance of its services under this contract. If any potential conflict is later discovered or if one arises, the bidder must disclose it to the SBA promptly.

**1.9** Independent Proposal: A proposal will not be considered for award if the price in the proposal was not arrived at independently, without collusion, consultation, communication, or agreement as to any matter relating to such prices with any other offer or with any competitor. The price quote in the bidder's proposal will not be subject to any increase and will be considered firm for the life of the contract unless specific provisions have been provided for adjustment in the original contract.

**1.10** Rejection of the Proposals: The SBA reserves the right to accept or reject any or all proposals, in part or in whole, at its discretion. The SBA reserves the right to withdraw this RFP at any time for any reason. Submission of, or receipt by, the SBA confers no rights upon the bidder nor obligates the SBA in any manner.

**1.11** Expenses: The SBA will not be held liable for any expenses incurred by any bidder responding to this RFP including expenses to prepare or deliver the proposal or attend any oral presentation.

**1.12** Interviews: Discussions and/or interviews may be held with the bidders under final consideration prior to making a selection for award.

**1.13** Oral Statements and Commitments: Any oral representations made or assumed to be made during discussions held between the bidder's representatives and SBA personnel are not binding. Only the information issued in writing and added to the RFP by an official written addendum is binding.

**1.14** Award: The SBA reserves the right to configure the contract in whatever manner is in its best interest.

**1.15** Public Record: All documents submitted in response to the RFP and any documents created as a result of this RFP are considered public record. All bids, proposals or offers submitted shall become public information and will be available for inspection during normal business hours at the SBA. The only exception for public record is disclosure information listed in WV Code §29B-1-4. Primarily, only trade secrets are considered exempt from public disclosure.

**1.16** Contract: The RFP and the bidder's response will be incorporated into the contract by reference. The order of precedence is the contract, the RFP and any addendum and the bidder's proposal in the response to the RFP.

**1.17** Contract Changes: Any changes to the original contract will be made via a Change Order issued by the SBA. No change is official until a signed Change Order is produced.

**1.18** Contract Termination for Failure to Perform: The SBA may terminate the contract resulting from this RFP immediately at any time the vendor fails to meet the terms of the contract.

**1.19** Payment of fees and expenses, not to exceed the maximum proposed, will be made upon satisfactory completion of the required services. Payment will be made from the bond proceeds via the Cost of Issuance Fund. If the bond sale does not occur, no payment for services will be made.

**1.20** Governing Law: This contract shall be governed by the laws of the State of West Virginia.

## **SECTION 2: ELIGIBILITY REQUIREMENTS**

**2.1** Vendor Registration: WV Code §5A-3-12 - The West Virginia Code requires that all vendors be registered with the West Virginia Department of Administration, Purchasing Division, **prior to receiving a purchase order for competitive products and/or services exceeding \$25,000.**

See: <http://www.state.wv.us/admin/purchase/VendorRge.html> for additional vendor registration information.

**2.2** Debarment: WV Code §5A-3-33 through §5A-3-33F - Vendors that have been debarred by the Federal Government are not eligible to offer or receive contracts to supply goods or services to the State and its subdivisions for a specified period of time.

**2.3** West Virginia Secretary of State: The vendor must be in compliance with the Secretary of State and should provide a copy of their business license with the proposal. For more information contact the West Virginia Secretary of State's Office.

**2.4** Taxpayer Identification Information: The Internal Revenue Service (IRS) requires the SBA to request a taxpayer identification number (TIN) for tax reporting purposes. IRS Form W9 is used to obtain this information. **EXHIBIT A**

**2.5** Purchase Affidavit: WV State Code §5A-3-10a - WV State Code requires all vendors to submit an affidavit regarding any debt owed to the State. The Affidavit should be completed, signed, and returned with the bidder's proposal. **EXHIBIT B**

**2.6** RFP Response Title Page: **EXHIBIT C**

**2.6.1** RFP Number

**2.6.2** Addenda Received check boxes

**2.6.3** Business name

**2.6.4** Business Address

**2.6.5** Signature Line and Date for the individual authorized to obligate the Business

## **SECTION 3: BACKGROUND INFORMATION**

**3.1** The School Building Authority of West Virginia ("SBA" or "Authority") is seeking to retain a Bond Counsel firm for a five (5) year engagement period ("Engagement Period") in connection with the Authority's issuance of new money and refunding transactions and other matters related to the Authority's Bonds that may arise from time to time. During the Engagement Period the Authority is expected to issue one or more series of West Virginia Lottery Revenue Bonds (the "New Money Bonds") to finance new money construction projects in the State. The New Money Bonds are expected to be issued under and subject to the State Lottery Act (the "Act").

The Authority is also consider issuing refunding bonds which may include but are not limited to refunding all or a portion of the following series of bonds:

**3.1.1** \$25,000,000 Excess Lottery Revenue Bonds Series 2010B, outstanding in the amount of \$18,065,000 and callable at any time with 30 days notice (Series 2010B Bonds).

**3.1.2** \$25,575,000 Lottery Revenue Bonds, Series 2012A outstanding in the amount of \$13,660,000 of which \$11,630,000 is callable on or after July 1, 2022 (Series 2012A Bonds).

**3.1.3** \$24,425,000 Lottery Revenue Bonds, Series 2013A outstanding in the amount of \$14,095,000 of which \$10,550,00 is callable on or after July 1, 2023 (Series 2013A Bonds).

Together the Series 2010B Bonds, Series 2012A Bonds and the Series 2013A Bonds (“Refunding Candidates”) will continue to be evaluated by the Authority and its Municipal Advisor, Public Resource Advisory Group (“PRAG”) based on changing market conditions. There is no assurance that the SBA will issue such bonds for new money purposes or to refund any or all the Refunding Candidates following the selection of bond counsel for any reason. If the Authority, in consultation with PRAG, decides to move forward with the refunding of the Series 2013A Bonds in advance of its July 1, 2023 call date the refunding bonds may be issued on a forward delivery or taxable basis.

The Authority is also seeking a Bond Counsel firm to assist with matters related to its bonds that may arise in the normal course of business over the Engagement Period.

**3.2** The following West Virginia Code Chapters are applicable to this issue:

**3.2.1** West Virginia Code - Chapter §18-9D

**3.2.8** West Virginia Code - Chapter §29-22 West Virginia Code, the Lottery Act

**3.3** Bowles Rice LLP is currently serving as the State’s Disclosure Counsel and in such capacity will serve as Disclosure Counsel to the SBA and in such role will be responsible for preparing the preliminary and final official statements and delivering the continuing disclosure agreement.

#### **SECTION 4: SCOPE OF SERVICES**

**4.1** The firm selected as Bond Counsel will be expected to perform the following services:

**4.1.1** Prepare all resolutions for the SBA as well as legal documents, opinions, notices and certificates required for the bonds except for the Official Statement and related Offering Documents and the continuing disclosure agreement.

**4.1.2** Assist representatives of the SBA and other members of the working group with determining the legal material to be included in the Preliminary Official Statement and Official Statement describing the authorization for the bonds, the security for the bonds, tax matters, summary of Trust Indenture and other legal matters traditionally passed on by bond counsel and reviewing and commenting on the drafts of the POS and OS.

**4.1.3** Prepare the Notice of Sale for bond transactions, if applicable.

**4.1.4** Cause the bonds to be prepared in definitive form for delivery to the initial purchaser thereof.

**4.1.5** Undertake all requisite tax analysis, prepare tax certificate, IRS Form 8038 and other pertinent tax documents.

**4.1.6** Issue a final approving opinion regarding the legality of the sale of bonds pursuant to applicable law and to the extent the interest on the bonds is exempt from Federal and State income taxation, an opinion that interest on the Bonds is exempt from federal and state income taxation; and.

**4.1.7** Deliver other such legal opinions as are customarily required from Bond Counsel including as to the accuracy of the descriptions of the bonds and security.

**4.1.8** Attend meetings, as requested, and provide counsel on bond related matters as requested by the Authority (Ongoing Services).

## **SECTION 5: EVALUATION AND SELECTION PROCESS**

**5.1** All acceptable proposals will be evaluated by a committee composed of SBA staff and hired consultants.

**5.2** Once the evaluation committee has narrowed the number of proposals for further consideration, telephone conference calls and/or on-site presentations may be required to determine the most qualified firm. The evaluation committee members may make final adjustments in their scoring of the evaluative criteria based upon such calls/presentations. The proposal receiving the highest overall score will be selected.

**5.3** Evaluations will be based on overall experience, qualifications, and cost. Award will not necessarily be made to the firm submitting the lowest cost.

## **SECTION 6: PROPOSALS**

**6.1** Eligible Proposers:

**6.1.1** Are free from all objections and interests that might conflict with the interests of the state

**6.1.2** Are experienced in municipal finance transactions similar to the type contemplated and have an established reputation for excellence in public finance

**6.1.3** Are able to provide assurance that the firm and all individuals to be assigned to work on this transaction complies with the guidelines and standards established by the West Virginia Ethics Commission in 158 CSR 4

**FAILURE TO MEET THE CRITERIA LISTED ABOVE WILL BE CAUSE FOR  
IMMEDIATE DISQUALIFICATION OF THE PROPOSAL.  
NO JOINT PROPOSALS WILL BE ACCEPTED.**

**6.2** Required Components of Proposals - A cover letter should accompany your proposal containing an expression of interest, certification that your firm is eligible and setting forth the primary contact's name, address, telephone number and email address. **EXHIBIT C**

**6.3** Proposers should respond to each of the following requests. The total length of the proposal should not exceed seven (7) pages.

**6.3.1** Conflict of Interest

**6.3.1.1** Affirm that your firm and all individuals that will assigned to this transaction are free from all obligations and interests which might conflict with the interests of the SBA and have not, in any way violated the provisions of Legislative Rule 158 CSR 4.

**6.3.1.2** Identify all pending Federal and State litigations, investigations or regulatory action, if any, related to public finance in which your firm and any predecessor form or an employee is involved. For each matter stated:

**6.3.1.2.1** Style of the case

**6.3.1.2.2** Summary of the nature of the case or claim

**6.3.1.2.3** Status of the case or claim (e.g. circuit court, on appeal to district court, awaiting certiorari, etc.)

**6.3.1.2.4** Approximate dollar amount involved, if any

**6.3.1.2.5** Improper conduct alleged, if any

**6.3.1.3** Identify any other existing or potential conflicts of interest, as well as your representation of parties or other relationships that might be considered a conflict of interest, that may affect or involve this transaction of the State of West Virginia.

**6.3.2 Experience and Expertise (40 Points Possible)**

**6.3.2.1** Please describe your firm’s public finance practice and related areas of law by providing a brief history of the firm in these areas.

**6.3.2.2** Provide a description of your firm’s experience as Bond Counsel, special tax counsel or other relevant experience relating to bond issues during the past ten (10) years for issuers within the State of West Virginia which you believe qualifies your firm to be Bond Counsel for bonds contemplated by this request. Please highlight your firm’s experience serving as Bond Counsel on bonds issued by the State, SBA and other State or State Agency issued lottery revenue bonds. List no more than ten (10) issues.

**6.3.2.2.1** The name of the governmental entity on whose behalf the bonds were issued

**6.3.2.2.2** Par amount and date of issuance

**6.3.2.2.3** Type of transaction

**6.3.2.2.4** Use of proceeds (refinancing or new money)

**6.3.2.2.5** The nature of the security pledge (e.g. special fund, full faith credit, etc.)

**6.3.2.2.6** Name, address telephone number and email address (if available) of contact for each transaction

**6.3.3 Personnel (30 Points Possible)**

**6.3.3.1** Specify the attorney(s) and other persons of your firm who will be assigned to this transaction, the role of each person and their qualifications and experience in municipal public finance transactions. Where appropriate, state on which of the transactions in Section 6.3.2 above, the attorney(s) played a significant role and describe that role.

**6.3.4 Fees and Expenses (30 Points Possible)**

**6.3.4.1** List your firm’s estimated fees and expenses for providing the services as Bond Counsel for the issuance of the bonds (4.1.1 to 4.1.7 in Section 4 Scope of Service). Actual fees and expenses will be paid from the cost of issuance on the related bond issue. If the bonds are not issued, no payment of counsel fees will be made.

Services	Proposed Fees
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New Money Bond Issue	
Refunding Bond Issue <sup>1</sup>	
New Money and Refunding Bond Issue	
Hourly rates by title of personnel for Ongoing Services related to Authority Bonds	

<sup>1</sup>Please specify if there is any additional expense if bonds are refunding on a forward delivery basis.

## SECTION 7: ADDITIONAL INFORMATION

**7.1** The SBA reserves the right to reject any and all proposals with or without cause, and to waive any irregularities in the responses received as a result of this request, when such irregularities are not in conflict with WV Code or the SBA's Purchasing Regulation. In addition, the SBA reserves the right to make such investigations as it deems necessary as to the qualifications of any and all proposers and to conduct pre-contract negotiations.

**7.2** Discussions and interviews may be held with firms under final consideration prior to making a selection for award; however, proposals may be accepted without such discussions or interviews.

**7.3** In the event that mutually acceptable terms cannot be reached with the apparent successful bidder within a reasonable period of time, the SBA reserves the right to undertake negotiations with the next highest scoring firm without undertaking a new procurement process. The State's WV-96 form **EXHIBIT D** is attached to demonstrate the State Law and Guidelines that must be adhered to in any contracts presented to the SBA for execution. A copy of additional terms and conditions that a firm wishes to offer for consideration should be enclosed with the proposal. The successful firm must be a registered vendor with the Purchasing Division of the WV Department of Administration.

**7.4** Payment of fees and expenses, not to exceed the maximum proposed, will be made upon satisfactory completion of the required services. Payments will be made from the bond proceeds via the Cost of Issuance fund. If the bond sale does not occur, no payment for services will be made.

**7.5** The following is a list of Exhibits that are attached which are applicable to this RFP:

**7.5.1 EXHIBIT A** - W-9

**7.5.2 EXHIBIT B** - Purchasing Affidavit

**7.5.3 EXHIBIT C** - Response Title Page

**7.5.4 EXHIBIT D** - Agreement Addendum

**7.5.5 EXHIBIT E** - Vendor Guidelines for Bid Submissions via Email

**7.6** By submitting a proposal in response to this RFP a firm shall be deemed to have accepted all the terms, conditions, and requirements set forth in herein unless otherwise clearly noted and explained in writing. Any exception(s) or additional terms and conditions a firm wishes to offer for consideration must be clearly itemized and explained. Otherwise, the RFP in total shall be incorporated into the contract by reference. The SBA may accept or reject the Firm's proposed exceptions as it deems appropriate and in the best interests of the SBA.

**7.7** The State's Agreement Addendum - WV-96 **EXHIBIT D** demonstrates the State Law and Guidelines which must be adhered to in any contracts presented to the SBA for execution. A copy of additional terms and conditions that a firm wishes to offer for consideration should be enclosed with the



proposal. The West Virginia Attorney General's Office must accept or reject proposed modifications to the WV-96.