

Request for Qualifications

City of Atlanta Department of Law Bond Counsel Pool

INTRODUCTION

The City Attorney of the City of Atlanta's ("City") Department of Law ("DOL") seeks to establish a general pool of qualified Law Firms that are eligible to serve as approved Bond Counsel in the City's Bond Counsel Pool ("Bond Counsel Pool"), from time to time and as requested. The City Attorney will consider the Qualifications submitted in response to this Request for Qualifications ("RFQ") and will establish a general Bond Counsel Pool meeting the Minimum Qualifications contained herein. When a specific financing transaction is identified, the City Attorney will select a qualified Law Firm to represent the City from the approved Bond Counsel Pool. **ALL Law Firms wishing to participate in any capacity as approved Bond Counsel to the City of Atlanta must submit their written Qualifications pursuant to this RFQ, for approval as set forth in this RFQ.**

DOL desires to establish a diverse pool of approved Bond Counsel for the purpose of best assisting the City in meeting its financing goals. Law Firms of all kinds and sizes, including but not limited to small, diverse and women-owned firms, are encouraged to apply for admission to the Bond Counsel Pool. Accordingly, the RFQ application process contained herein does not have a set, one-time deadline for which potential Bond Counsel may submit Qualifications. Instead, potential Bond Counsel may respond to this RFQ at any time. However, a Law Firm must be approved and engaged by the City Attorney in order to be chosen for a specific financing transaction, as announced by the City. Once approved to be a part of the City's Bond Counsel Pool, Bond Counsel will remain eligible for two (2) years from the date of the Engagement Letter. Bond Counsel will not automatically be reinstated to the Bond Counsel Pool and must reapply and be approved in order to remain eligible.

The City, incorporated in 1847, is the seat of government for the State of Georgia (the "State") and Fulton County. It is located in the north-central part of the State, which is the top growth area in Georgia and has been one of the highest growth areas of the country for over three decades. The City currently occupies a land area of 136.71 square miles, with a population of 499,984 in the City and 5,340,417 in the Atlanta Metropolitan area, according to the United States Census Bureau (April 1, 2018). The City is empowered to levy a property tax on both real and personal properties located within its boundaries.

The City Charter, 3-303, and the City Code of Ordinances, § 2-396 et seq., provide that only the City Attorney has authority to engage outside counsel on behalf of the City. This RFQ is issued pursuant to § 2-991 of the City Code of Ordinances, which authorizes and empowers the City Attorney to select bond counsel. Outside law firms may not perform work on behalf of the City unless the firm has been engaged by the City Attorney, pursuant to an arrangement consistent with the City Attorney's Guidelines, attached hereto, and unless the representation has been memorialized in an engagement letter sent by the City Attorney to the law firm ("Engagement

Letter”). The final amount of fair and reasonable compensation shall be determined by the fee schedule to be supplied by each firm pursuant to this RFQ.

Section I of the RFQ contains general information for all applicants. Section II sets out the Scope of Services. Section III outlines the format of the Qualifications applicable to **all** applicants seeking to qualify to serve as Bond Counsel. Section IV sets forth circumstances under which a firm can be removed from the Bond Counsel Pool. Section V outlines submission procedures and instructions. Finally, Section VI contains Ethics In Contracting provisions.

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SECTION I GENERAL INFORMATION

The purpose of this RFQ is to invite Law Firms to submit Qualifications, in the form and manner described herein, to establish a general pool of qualified Law Firms that are eligible to serve as approved Bond Counsel in the City's Bond Counsel Pool, from time to time and as requested.

As described in Section III, Minimum Qualifications have been established for all applicants. Qualifications received in response to this RFQ will be reviewed to determine whether the Minimum Qualifications have been satisfied. Applicants meeting the Minimum Qualifications will be included in the general Bond Counsel Pool.

Inclusion in the general Bond Counsel Pool commences on the date the parties fully execute an engagement letter. **PLEASE NOTE, HOWEVER, THAT INCLUSION IN THE GENERAL BOND COUNSEL POOL DOES NOT PROVIDE ASSURANCE THAT A LAW FIRM WILL RECEIVE AN APPOINTMENT TO ANY TRANSACTION.** Any Law Firm selected for inclusion in the general Bond Counsel Pool may, at any time, be selected to provide specific counsel to a particular City entity based on specific need, capacity, qualification or such other circumstances as the City Attorney shall determine. Nothing herein shall in any way be deemed to limit the discretion of the City Attorney to make such appointments to serve the needs of the City as deemed appropriate.

The RFQ process and the approved Bond Counsel Pool will remain in effect at the discretion of the City Attorney. The City Attorney may determine, at any time, to amend, modify, or discontinue this RFQ and the process described herein at any time. It is currently expected that Bond Counsel for each specific transaction (or series of like transactions) will be selected from the approved Bond Counsel Pool; however, this may change at any time, without notice in the discretion of the City Attorney.

Any information provided in response to this RFQ may be considered (but is not required to be considered) in making appointments of outside counsel to serve in capacities other than as bond counsel. Accordingly, DOL appointments of outside counsel to serve in capacities other than as bond counsel may or may not be made from the approved Bond Counsel Pool. DOL reserves the right to make counsel appointments with regard to special tax counsel, special disclosure counsel, general agency or issuer counsel, or such other appointments as may be deemed necessary or desirable, in the sole judgment of DOL, for all other aspects of, or roles within, a municipal financing transaction.

Qualifications may be modified after submission only by withdrawing the submitted proposal. Withdrawn Qualifications may be modified and resubmitted, but only in the manner required for all Qualifications. Resubmitted Qualifications must be signed by the Respondent(s) and must be received by the City.

The City accepts no liability under any circumstances for any costs or expenses incurred by Respondents in acquiring, clarifying or responding to any part of this RFQ, including, without limitation, meetings that the Respondent is required to attend. Each Respondent that participates in this procurement process does so at its own expense and risk and agrees that the City is not obligated to reimburse any costs incurred during this process.

The receipt of a Proposal in response to this RFQ by the City shall not bind or obligate the City in any manner unless and until the subject engagement is memorialized in an Engagement Letter signed by the City Attorney.

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SECTION II SCOPE OF SERVICES

The Law Firm(s) will be subject to supervision and direction set by the City Attorney and other persons designated by the City Attorney. The Services to be provided include, but are not limited to, the following:

1. Advising the City, both orally and in writing, concerning: the suitability of a subject bond transaction (“Issuance”) for effectively accomplishing the City’s objectives; the legality of the Issuance, evaluating its compliance, in substance and procedure, with applicable laws, including but not limited to federal securities laws and regulations, and federal and state tax laws and regulations; and other issues related to the Issuance as may be requested from time to time by the City Attorney;
2. Advising the City on legal procedures and practices in the bond market for the Issuance, including advice on the structuring and marketing of the Issuance;
3. Preparing or assisting in the preparation of any document related to the Issuance as deemed necessary and/or as requested by the City Attorney, including but not limited to a bond authorization, bond ordinance or resolution, indenture, preliminary official statement, official statement and/or bond purchase agreement;
4. Issuing legal opinions, including opinions on the authorization, tax status and the binding effect of the Issuance and on the lawful use of the proceeds of the Issuance, as may be required by the bond market for the Issuance, or as requested by the City Attorney;
5. Performing all litigation services related to the Issuance, including, but not limited to: preparation and filing of pleadings, briefs, and other documents related to the Issuance; providing any and all support for any administrative protest related to the Issuance, if applicable; and performing all court and/or administrative appearances, including, but not limited to, hearings, trials, and appeals;
6. Briefing the City Attorney and other persons designated by the City Attorney, regularly and upon request, concerning structuring of the Issuance, documents and other matters related to the Issuance; and
7. Providing such other legal services related to the Issuance as may be necessary or required and as may be requested from time to time by the City Attorney.

The Retained Firm(s) must perform all of the Services in a manner consistent with the highest generally accepted level of care and skill ordinarily exercised by professionals performing services of a similar nature, taking into account standards, state-of-the-art and governmental requirements existing at the time the Services are performed.

**SECTION III
QUALIFICATIONS
BOND COUNSEL POOL**

A. FORMAT OF RESPONSE

a) General Format

All Qualifications shall be submitted as one (1) original and one (1) copy, typewritten, and signed by Respondent's authorized representative(s). All Qualifications must be regular in every respect and no interlineations, excisions or special conditions shall be made or included in the Qualifications by the Respondents.

Qualifications must be clear, concise, and complete. No marketing brochures, special appendices or elaborate graphics are permitted. Any illustrations, tables and figures used should amplify specific points being made in the text of the Proposal. Qualifications must be in portrait format using 8½" x 11" paper. Illustrations, tables and figures can be larger, but must fold to 8½" x 11". A one-inch margin, 12-point type size and minimum 16-point line spacing are required. All Qualifications must be bound in a single volume using 3-ring, wire or comb binding or any other method that lies flat when opened. Each of the required sections must be clearly and easily separated and marked in the volume.

The complete Proposal shall be enclosed in a sealed envelope clearly labeled: **Response to Law Department RFQ for Bond Counsel Pool**, name and address of the Respondent.

b) Organization of Proposal

The City requires that each Proposal submitted conform to the format outlined herein, including the page limitations listed for each section. One printed side of one piece of paper is considered as one page. All full-page illustrations, figures and tables are to be included in the page count (even if they are not paginated). Each section must be separately paginated and no unused pages in one section can be used in another. The City, in its sole discretion, may reject any Proposal that does not conform to the format requirements set forth in this RFQ.

If you desire to have your firm considered for the provision of Services as counsel related to an Issuance, you must submit the following:

1. In a narrative statement, confirm that the Law Firm is listed in the "Municipal Bond Attorneys" section of the most recent edition of *The Bond Buyers Municipal Marketplace*.
2. A firm resume including history of the firm, number of years in business and the size of the firm. Identify the headquarters, the nearest office, and the office which will serve as the managing office for the Services;

3. A statement of previous experience in serving as counsel in connection with any transactions similar to the Issuance; a statement of prior experience in connection with any prior City bond issues or other municipal transactions;
4. Describe the Law Firm and its capabilities, including the size of its municipal bond practice group and the availability of specific advice or expertise within the current law firm roster on questions relating to municipal finance, including arbitrage, securities law, tax law, disclosure requirements and the federal or state tax-exempt status of bonds. Please also include descriptions of any specific Law Firm experience as bond counsel for the types of issuances;
5. Biographies, including experience, of the proposed team of partners, associates and paralegals who would participate in the legal work necessary for the provision of Services and the closing of the Issuance. Describe the qualifications and experience of all attorneys within the Law Firm who are expected to work as part of the bond counsel team. Include the qualifications and experiences of the Law Firm's tax counsel and disclosure counsel. Provide resumes of each bond counsel team member. Confirm that at least one member of the Law Firm's bond counsel team is a member in good standing of the State Bar of Georgia. Provide acknowledgement that senior personnel will be committed to City transactions. Describe the anticipated division of duties among partners, associates, and paralegals. If any additional lawyers within the Law Firm may be available for consultation, even though they are not assigned to work with the bond counsel team, identify them and their specialized expertise. In the proposed staffing plan, please include the prior related experience of all team members, including any attorneys identified as a part of the City's Minority Business Enterprise ("MBE") participation component;
6. A specific plan responsive to the City's policy to provide opportunities for a significant and substantial involvement in the legal work requested by qualified minority and/or female-owned law firm. The Law Firm should identify a minority and/or female owned law firm with which it has established or plans to establish, a mentor-protégé type relationship designed to help build the capacity of the MBE firm to "graduate" to lead bond counsel status;
7. A statement describing the gender and racial composition of your firm's work force (report the number of equity partners or shareholders; report the number of non-equity partners and associates; report the number of paralegals; report all other support staff);
8. A statement identifying any material litigation, administrative proceedings, or investigations in which the Respondent is currently involved or which may be threatened. Please indicate the current status or disposition of such litigation, administrative proceedings or investigations;
9. A statement of assurance that the Respondent is not currently in violation of any regulatory agency rule or, if in violation, an explanation as to why the violations

would not have a material adverse impact on the Respondent's ability to perform under a contract with the City;

10. A statement of assurance that there are no known conflicts of interest that would prohibit the Respondent from entering into a contract with the City for the provision of the Services. In addition, provide a statement of commitment to disclose future actual or potential conflicts of interest as soon as is practicable. Please identify how any such future conflicts would be identified and how the Respondent would resolve any such conflicts;
11. A statement of assurance that at least one member of the Respondent's proposed team is currently licensed to provide legal services within the State of Georgia and that neither the Respondent nor any subcontractor or partner is currently suspended or debarred from providing legal services within the State;
12. A statement of assurance that the Respondent has the necessary equity and financing required to serve as bond counsel and/or tax counsel for the Issuance. Please include any current and past defaults, tax or property liens and any past or present lawsuits of Respondent or a member of the Respondent's proposed team, which may have an impact on Respondent's ability to serve as counsel;
13. Provide detailed descriptions of: (a) any litigation or administrative proceeding in which the Law Firm was a party in any matter related to the professional activities of the Law Firm during the five years prior to the date of this RFQ; (b) any pending litigation, investigation, or proceeding in which a court or administrative agency is addressing any question relating to the professional activities of the Law Firm; (c) any notice of official action, administrative inquiries, or formal Securities and Exchange Commission, Municipal Securities Rulemaking Board, or Internal Revenue Service challenges pertaining to any public finance transaction, or relating to any public finance matter in which the Law Firm served as bond counsel, underwriters counsel, or other form of special counsel; and (d) any litigation or threatened litigation in connection with services rendered by the Law Firm as bond counsel and/or as special counsel or in connection with any opinion rendered by the Law Firm in a bond transaction within the last seven years. (This information may be submitted under a confidential label.)
14. Provide a written acknowledgment that the Law Firm will comply with DOL's Conflict Waiver Policy, which is attached to the form Engagement Letter and New Matter Form. Describe any existing or potential conflict of interest arising from the Law Firm's relationships with or representation of other parties. A conflict would include, without being limited to, the representation of any party in a matter adverse to the City or any of the City agencies to which a waiver had not been previously granted by DOL. Provide sufficient facts, legal implications, and possible effects so that DOL may evaluate the significance of each potential conflict. **A Law Firm selected for inclusion in the approved Bond Counsel Pool through this RFQ must represent and warrant that it has no conflicting representation that has**

not been fully disclosed and waived by the City Attorney and shall not undertake any representation that conflicts with the performance of the services or obligations unless such conflicting representation has been fully disclosed to and waived by the City Attorney. All conflicting representation shall be promptly disclosed to the City Attorney.

15. Provide a written acknowledgement that Law Firms selected for inclusion in the approved Bond Counsel Pool through this RFQ will agree to receive fees at the rates or rate structures as determined and approved by DOL and will further agree to perform legal services in accordance with the DOL Guidelines for Outside Legal Counsel, a copy of which is included as Exhibit A. A fee structure form to be filled out by Law Firms is included in this RFQ. The City Attorney retains the right to negotiate the stated fees.
16. Law Firms wishing to participate in the Bond Counsel Pool must designate, with its Proposal, one or more of the subject matter areas below for consideration:
 - a) **City of Atlanta, Department of Finance:** Representative financings consist principally of City general obligation debt to be issued for capital projects, including those in approved capital budgets, for purposes approved by voter referendum, and in anticipation of fiscal year revenues.
 - b) **City of Atlanta, Department of Aviation:** Representative financings consist principally of Department of Aviation debt to be issued for capital projects, including those in approved capital budgets and working capital.
 - c) **City of Atlanta, Department of Watershed Management:** Representative financings consist principally of Department of Watershed Management debt to be issued for capital projects, including those in approved capital budgets and working capital.

Additional information about the capital programs for each of the specific agencies listed above programs is available on the Internet through their respective websites, which may be accessed at www.atlantaga.gov.

17. Confirm that the Law Firm has and will maintain in full force and effect, during the duration of its participation in the approved Bond Counsel Pool, professional liability insurance through an AA Best-Rated (or the equivalent) insurance carrier in an aggregate reasonable amount, appropriately based upon firm size, and in accordance with the scope of advice provided to the City. The professional liability insurance will include coverage for practice in the field of federal and state securities and tax law. Please note that future RFQs may require additional insurance as a minimum technical proposal requirement.
18. All Law Firms must possess sufficient technical capacity to provide electronically stored, transmissible and deliverable transcripts and must agree to operate in

compatible technology and document formats for the City issuer clients. Provide written acknowledgment of ability to comply with this requirement.

19. A total gross “not to exceed” fee as demonstrated in Exhibit A, attached hereto; ;
20. The hourly rate to be charged for future bond counsel work, if any, requested by the City above and beyond the scope of the Services described in this letter; and
21. Any other fees, charges or expenses that may become necessary for your firm’s services.

Additional requirements for Respondents proposing tax counsel Services:

- a) A statement describing the proposed team’s experience serving as tax counsel;
- b) A statement describing the method the Respondent would implement to ensure consistency of tax advice provided to the City;
- c) A total gross “not to exceed” fee to be charged by your firm for the completion of Services as tax counsel;
- d) An annual fixed fee to provide post-issuance compliance services to the City;
- e) The hourly rate to be charged for future tax counsel work, if any, requested by the City above and beyond the scope of the Services described in this letter; and
- f) Any other fees, charges or expenses that may become necessary for your firm to perform the Services as tax counsel.

B. COVER LETTER

A cover letter must be submitted with each Proposal. The cover letter must be prepared on the letterhead of the lead team member within the Respondent’s team and signed by a representative who is empowered to enter into an Agreement with the City on the Respondent’s behalf (the “**Lead Attorney**”). The cover letter should be executed by a partner within the firm or by an individual that has been granted contracting authority by the firm pursuant to its Bylaws, Partnership Agreement or other appropriate documentation. The contact name of the individual listed for the Lead Attorney in the Respondent team will be considered by the City as the Respondent’s main contact point for all communication regarding this RFQ. Accordingly, all communications made by the City or its designated representatives to the Lead Attorney will be deemed communications to the Respondent. The cover letter is intended to introduce the Respondent. It must contain at least the following information:

- Designation of the Lead Person who will execute the Agreement with the City;
- Identification of the firms that comprise the Respondent’s team;
- Indication as to whether the Respondent proposes to provide bond counsel Services only, tax counsel Services only, or both bond counsel and tax counsel Services; and
- A statement that Respondent certifies that it agrees to abide by Section 1.12- Prohibition on Kickbacks and Gratuities and Section 1.13- Prohibition on Collusion and Fraud

<u>Contents</u>	<u>Maximum No. Pages</u>
Cover Letter	2
Title Page	2
Table of Contents	2
Firm Resume	As needed
Statement of Prior Experience	10
Plan for Qualified Minority/Female Law Firms	As needed
Racial and Gender Composition	2
Proposed Team	As needed
Bid Proposal Fee Schedule	2
Illegal Immigration Reform and Enforcement Act Affidavit	3

“As needed” does not mean unlimited; pages should be included only if they directly support other text.

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SECTION IV REMOVALS

Any Law Firm may be removed or suspended from the approved Bond Counsel Pool for reasons that include, but are not limited to, the following:

1. Disqualification because of legal proceeding.
2. Unacceptable performance in any financing transaction as determined by an evaluation of the City Attorney;
3. Being the subject of disciplinary action by State Bar of Georgia or any federal or State regulatory authorities;
4. Filing for protection under federal or state bankruptcy laws;
5. Failure to continue to meet the Minimum Qualifications listed in Section III. (This includes changes in personnel to perform Bond Counsel services identified in the RFQ process.)
6. Undisclosed conflict of interest.

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**SECTION V
ADDITIONAL SUBMISSION INSTRUCTIONS**

DOL must receive one (1) original written, plus one (1) copy of each submission. Submissions must be delivered to the attention of:

Lorna M. Roberts
Department of Law
55 Trinity Avenue S.W., City Hall South
Suite 5000
Atlanta, Georgia 30303
lroberts@atlantaga.gov

Submissions which do not meet the above-described requirements will be rejected as non-responsive. DOL is not responsible for any expenses that Law Firms may incur in preparing and submitting responses to this RFQ. All materials submitted in response to this RFQ will become the property of the City of Atlanta and may become public information.

All questions by the Respondents as to the interpretations of the RFQ must be submitted by e-mail to lroberts@atlantaga.gov. All responses made by the City will be provided in writing to Respondents by Addendum:

Lorna M. Roberts
Department of Law
55 Trinity Avenue S.W., City Hall South
Suite 5000
Atlanta, Georgia 30303
lroberts@atlantaga.gov

By submitting a response to this RFQ, the Law Firm accepts all of the terms and conditions as set forth herein and in the attached Guidelines for Outside Counsel. Complete execution and delivery of a final and definitive engagement letter, including all appendices, is a condition to the Law Firm's inclusion in the general Bond Counsel Pool and will be required prior to appointment as bond counsel for a specific financing transaction, if such an appointment is made.

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**SECTION VI
ETHICS IN CONTRACTING**

1. PROHIBITION ON KICKBACKS AND GRATUITIES

- a. By submission of a Proposal, Respondent acknowledges the following prohibitions on kickbacks and gratuities:
- i. It is unethical for any person to offer, give or agree to give an employee or former employee a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation, influencing the content of any procurement, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefore. The City prohibits such actions from being performed in relation to this RFQ.
 - ii. It is unethical for any employee or former employee to solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation, influencing the content of any procurement, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefore. The City prohibits such actions from being performed in relation to this RFQ.
 - iii. It is unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order. The City prohibits such actions from being performed in relation to this RFQ.

2. PROHIBITION ON COLLUSION AND FRAUD

Pursuant to Section 2-1210 of the City's Charter, by submission of a Proposal, Respondent acknowledges the City's prohibition on collusion and fraud and certifies the following:

"I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an offer for the same supplies, services, construction, or professional or consultant services, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of city, state and federal law and can result in fines, prison sentences, and

civil damages awards. I agree to abide by all conditions of this solicitation and offer and certify that I am authorized to sign for this offer.”

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EXHIBIT A

EXHIBIT "A"

NEW MONEY BOND ISSUANCES

First \$5,000,000 in principal	- \$ ____ per \$1,000 principal amount issued
Next \$10,000,000 in principal amount	- \$ ____ per \$1,000 principal amount issued
Amounts over \$15,000,000 in principal amount	- \$ ____ per \$1,000 principal amount issued

REFUNDING BOND ISSUES

First \$5,000,000 in principal	- \$ ____ per \$1,000 principal amount issued
Nest \$10,000,000 in principal amount	- \$ ____ per \$1,000 principal amount issued
Amounts over \$15,000,000 in principal amount	- \$ ____ per \$1,000 principal amount issued

Tax Anticipation Notes

\$ _____ per note issuance, regardless of principal amount, if _____
action as Bond Counsel to the City of Atlanta on other bond issues. If not, \$ _____ per note
issuance, regardless of principal amount