

Tobacco Settlement Authority

Request for Proposals

Investment Banking and Underwriting Services

Part I

Introduction and Background

Introduction

The purpose of this Request for Proposals (RFP) is to obtain investment banking and underwriting services for the ongoing activities of the Tobacco Settlement Authority (the “TSA” or the “Authority”), which could include the possible issuance of nonrecourse revenue bonds and the possible refunding of all or a portion of the TSA’s Revenue Refunding Bonds, Series 2013 (the “2013 Bonds”) and Revenue Refunding Bonds, Series 2018 (the “Series 2018 Bonds”). These services shall be provided for a maximum term of five years (initial contract term of two years with three one-year options to extend). The Tobacco Settlement Authority is an instrumentality of the state of Washington (“the State”). The Bonds were secured by a portion of the state’s share of tobacco settlement revenues (“TSRs”) under the Master Settlement Agreement (“MSA”).

The Washington State Legislature enacted Chapter 365, Laws of 2002 (“the Act”), creating the TSA and authorizing the initial tobacco securitization transaction and any subsequent refunding(s). The Act provides for the staff of the Washington State Housing Finance Commission (the “Commission”) to provide administrative and staff support to the TSA. The Act further provides that the TSA may employ, contract with, or engage independent counsel, bond/transaction counsel, other attorneys, financial advisors, investment bankers, auditors, other technical or professional assistance, and such other personnel as are necessary and recommended by the TSA staff.

This RFP is for investment banking and underwriting services for the Bonds authorized by the Act. The TSA reserves the right, in its sole discretion, to use the services of the selected firm or firms in connection with any subsequent bond issues.

The TSA intends to select one or more qualified investment banking and underwriting firm(s) to serve as senior book-running manager, other senior manager(s), and co-managers in the event that there is a future issuance of bonds or refunding of the 2013 and 2018 Bonds. If your firm desires to be considered for the position of senior book-running manager, please indicate such in your proposal. If your firm does not wish to be considered for senior book-running manager but would like to be considered for a senior manager or co-manager position, please indicate such in your proposal. Firms proposing as senior book-running manager will also be considered for co-manager during the selection process.

The TSA is issuing this RFP for the purpose of selecting a senior investment banker and book-running managing underwriter and a team of co-senior and co-managing underwriters. This RFP identifies the services to be provided by investment banking and underwriting firms, the format and topics that must be addressed in the proposal, the selection criteria, and the terms and conditions which will apply. The investment banker(s)/underwriter(s) selected in this process will be expected to provide the scope of services described herein for any bonds issued pursuant to this RFP.

The Authority will be reviewing proposals with a view towards creating opportunities for firms and individuals who have relevant experience but have historically been underrepresented in the industry. We encourage all qualified individuals and organizations to apply.

The TSA, the Commission, and the State shall bear no costs of or obligations to the proposing firm(s) in connection with responses to this RFP, or to any selected investment banker(s) or underwriter(s) in the event that a transaction is not completed.

Background

In 1998, the United States government and 46 states, the District of Columbia and five territories settled a lawsuit with four tobacco manufacturers: Philip Morris Incorporated, R.J. Reynolds Tobacco Company, Brown and Williamson Tobacco Company, and Lorillard Tobacco Company. Under the Master Settlement Agreement (MSA), the state of Washington was allocated an estimated \$5.6 billion (\$2.497 billion present value) in tobacco settlement revenues (TSRs) over a 30-year period.

During its 2002 budget deliberations, the Washington State Legislature elected to securitize a portion of state TSRs. The Act authorizing the securitization provides that the proceeds raised from the sale of the Bonds may be used for capital expenditures, debt service on outstanding bonds of the State, and other purposes permitted by law. Use of proceeds for these purposes will make other funds available for increased costs of health care, long-term care, and other programs of the State.

The Act also created the TSA, a public instrumentality and agency of the State, but separate and distinct from the State, exercising public and essential governmental functions. A five-person Board of Directors appointed by the governor exercises TSA powers. Among the TSA powers is the issuance of bonds. The Bonds shall be issued in the name of the TSA. The bonds are not obligations of the state of Washington and shall be obligations only of the TSA, payable solely from the special fund or funds created by the TSA for their payment. In addition, the TSA is empowered to enter into agreements with the State for purchase of a portion of the amounts otherwise due to the State under the MSA and of the state's rights to receive such amounts.

In 2002 the TSA and the State entered into a Purchase and Sale Agreement pursuant to which TSRs (\$30 million by July 1, 2003, and 29.2% of the TSRs thereafter) were purchased by the Authority for a one-time cash payment of \$450 million to the State of Washington. The \$450 million cash payment was derived from the issuance and sale of the 2002 Bonds. The 2002 Bonds were secured solely by the "right to receive" TSRs

from major tobacco companies under the MSA. The 2002 Bonds consisted of Serial Bonds and Turbo Term Bonds. The Turbo Term Bonds were subject to redemption in accordance with the Schedule of Sinking Fund Installments and, in addition, were subject to mandatory redemption to the extent that the funds remain on each payment date after meeting all current bond obligations.

In 2013 the TSA refunded its outstanding 2002 bonds, issuing \$334.7 million in refunding bonds to refund all of its outstanding Series 2002 Bonds. The Bonds generated \$58.2 million in present value savings to the Authority and shortened the expected final payoff of the 2002 bonds by 2 years, after which time the TSR stream would revert to the state. The refunding took advantage of fixed amortization serial bonds and a series of early call bonds maturing between 2024 through 2033. The refunding presented the TSA with an opportunity to reduce the payments of the Authority, to use fewer tobacco settlement revenues than the 2002 bond issue would require, and to retire the refunded bonds earlier than the 2002 bonds.

In 2018 the TSA refunded an allowable portion of outstanding 2013 bonds, issuing \$43.6 million in refunding bonds which generated \$5 million in present value savings and shortened the expected final payoff of the refunded bonds to 2024, after which time the TSR stream would revert to the state.

The TSA has not issued any general obligation bonds and does not currently have an issuer credit rating.

Part II

Proposal Instructions and Conditions

- 2.1 Purpose. The TSA is authorized under section 6(c) of the Act to engage financing professionals as necessary to achieve its purposes. The TSA staff is issuing this RFP for the purpose of recommending one or more qualified firm(s) to the TSA to provide investment banking and underwriting services in support of the TSA and of any future potential financing. Issuance of this RFP does not obligate the TSA to award a contract or to issue bonds. This RFP process is for the benefit of the TSA and is intended to provide competitive information to assist in the selection of investment banking and underwriting services. It is not intended to be comprehensive, and each proposing firm is responsible for determining all factors necessary for submission of a proposal.
- 2.2 Requests for Clarification and Inquiries. No conference to discuss this RFP will be held. Oral questions will not be accepted. Firms with questions concerning this RFP may submit their questions by email to Ms. Carol Johnson, Affiliates Manager, Tobacco Settlement Authority, no later than **5:00 p.m. PST, on Wednesday, December 23, 2020.**
- Submit questions to carol.johnson@wshfc.org*
- By the end of the day on **Wednesday, December 30, 2020**, all questions received and answers provided will be emailed to all known proposing firms and posted on the Authority website at www.tsa-wa.org for all potential bidders to see.
- 2.3 No Ex Parte Communication. Apart from written questions as described immediately above, there shall be no *ex parte* communications concerning this RFP or the selection process between any proposing firm and any TSA Board member, TSA staff member, or others aiding in the investment banking and underwriting services selection process. Any such *ex parte* communications shall be grounds for disqualification of a proposing firm and its proposal. All communications concerning the selection process must be submitted as provided in Section 2.2 above.
- 2.4 Addenda to RFP. In the event it becomes necessary to revise any part of this RFP, addenda will be provided to all proposing firms who received the original RFP.
- 2.5 Waiver of Claims. By submitting a proposal, proposing firms agree that they waive any claim against the TSA, the Commission, the State of Washington, and their respective officers, employees and agents for the recovery of any costs or expenses incurred in or connected with preparing and submitting a proposal.

2.6 Proposal Format. The Proposal, including attachments, *should not exceed 15 pages in length.* To achieve a uniform evaluation process and maximum degree of comparability, proposals are to be organized as follows:

- (a) Title page that includes the subject of the proposal, name of the proposing firm, name of contact person, email address, mailing address, telephone number, and the date.
- (b) Restatement of each question from Part V followed by the firm's response.
- (c) Completed Proposal Compliance and Certification Form in Part VII.

2.7 Submission of Proposals.

2.7.1 Interested proposers must submit their proposals no later than **3:00 p.m. PST, on Friday, January 8, 2021.** No proposals will be accepted after the date and time specified in this section.

Proposals and all communication regarding the submission should be addressed to:

Carol Johnson, Affiliates Manager
Tobacco Settlement Authority
1000 Second Avenue, Suite #2700
Seattle, Washington 98104-1046

E-mail : carol.johnson@wshfc.org
Phone : 206-462-8296
Fax : 206-587-5113

Electronic submission to carol.johnson@wshfc.org is preferred.

Prior to the date and time designated for receipt of proposals, any proposal may be modified or withdrawn by email notice to carol.johnson@wshfc.org. Such notice shall be delivered on or before the date and time set for receipt of proposals.

2.7.2 All proposals received shall remain confidential until the contract is awarded. If any contract resulting from this RFP is signed by the Executive Director of the Authority and the apparent successful contractor, the proposals shall be deemed public records as defined in RCW 42.17.250 to 42.17.340, "Public Records."

2.7.3 Responses will be evaluated by a committee appointed by the Executive Director of the Authority based on the responses to the questions included in this RFP. The Authority will not conduct oral interviews unless respondents are notified otherwise.

2.7.4 RFP Distribution and Proposal Evaluation Milestones. (*Subject to Change*)

Action	Date Due
Distribute RFPs	Mon, December 14, 2020
Written questions due TSA	Wed, December 23, 2020
Responses issued by TSA	Wed, December 30, 2020
Protests Against Solicitation Due	Wed, January 6, 2021
Proposals due to the TSA	Fri, January 8, 2021
Evaluate proposals	January 8 – 12, 2021
Notify firms of their selection as finalists	January 12-13, 2021
Hold interviews – if deemed necessary	January 18-22, 2021
Final Selection at TSA Board Meeting	Tues, January 26, 2021
Protests Against Rejection of Proposals	Tues, February 2, 2021 or 5 business days following notification
Contracting	TBD

2.7.5 The TSA reserves the right to request additional information from any proposing firm to assist in understanding or clarifying the terms of any proposal. Such additional information may be considered by the TSA in the evaluation of a proposal so long as the information does not materially alter the content of the firm’s proposal. A proposing firm will not be permitted to modify or amend its proposal if contacted by the TSA for this reason.

2.7.6 The TSA reserves the right to obtain from any and all sources information concerning a proposing firm or a proposing firm’s products, services, personnel or subcontractors that the TSA deems pertinent to this RFP and to consider such information in evaluating the firm’s proposal.

2.7.7 The TSA reserves the right to waive minor deficiencies in a proposal. The decision as to whether a deficiency will be waived or will require the rejection of the proposal will be solely within the discretion of the TSA. Proposing firms are cautioned that failure to comply with or respond to any part of this RFP that requires a response may result in rejection of proposals.

2.7.8 The TSA reserves the right to investigate references and past performance of any proposing firm with respect to its performance of similar services, compliance with the RFP and contractual obligations, and its lawful payment of suppliers, subcontractors, and workers. The TSA may postpone award or execution of the contract after the announcement of the apparent successful proposing firm in order to complete an investigation. The TSA reserves the right to reject any proposal at any time prior to execution of a contract.

2.7.9 The Authority shall not be required to accept any proposal solely on the basis that it contains the lowest price for completion of the work contemplated by this RFP and the Authority reserves the right to negotiate the final contract price.

2.7.10 All proposals shall be firm for a period of seventy-five (75) days to allow for the full evaluation of all proposals and deliberation of recommendations by the TSA.

2.8 Standards of Conduct. The members of the TSA Board of Directors are subject to provisions of the Public Disclosure Act, chapter 42.17 Revised Code of Washington (RCW) and the Ethics in Public Service Act, chapter 42.52 RCW. Proposing firms should give due regard to state restrictions on gifts, gratuities, and hosting in connection with their proposals.

2.9 Protest Procedures

All protests, either against the solicitation of the RFP and/or the award of the contract, must be in writing and contain the original signature of the protesting party or an authorized agent. Such protests must state all facts and arguments on which the protesting party is relying as the basis for its action.

Copies of the protest must be mailed or hand delivered to Steve Walker, Executive Director, Washington Higher Education Facilities Authority at, 1000 Second Avenue, Suite 2700, Seattle, Washington 98104-3601.

Protests against the solicitation must be received by the Authority in writing no later than 5:00 p.m. PST two (2) business days prior to the date proposals are due. Filing of a protest against the solicitation does not entitle the protesting party to an extension of time for submitting its proposal.

Protests involving the rejection of a proposal must be received by the Authority in writing no later than 5:00 p.m. PST on the fifth (5th) business day following the interested applicant(s)'s receipt of the notice of rejection, whether oral or written, or the announcement of the apparent successful interested applicant(s), whichever occurs first. Only those who are eligible to submit a proposal under the criteria established by the Authority may protest the rejection of a proposal.

The Executive Director of the Authority will consider the record and all the facts available and issue a decision within five business days of receipt of the protest unless additional time is required, in which case the protesting party will be notified by the Authority. The Executive Director's decision will be final.

Part III
General Terms and Conditions of the Contract

- 3.1 Contract Award. The contract that the TSA may award as a result of this RFP will be based upon the proposals submitted by the successful proposing firm and this solicitation. The TSA reserves the right to either award one or more contract(s) without further negotiation with the successful proposing firm or to negotiate contract terms with the successful proposing firm if the best interest of the TSA and the State would be served. Contracting procedures will be in accordance with chapter 39.29 RCW.
- 3.2 Resulting Contract. The agreement between the TSA and the successful proposing firm shall be a combination of the following:
- (a) The specifications, terms and conditions of the RFP.
 - (b) The offer contained in the bid.
 - (c) Any written changes or clarifications made in accordance with the provisions herein.
 - (d) Any other terms necessary for the purpose of completing any future financing proposed by the RFP.
- 3.3 The TSA may negotiate the compensation of the selected firm. The TSA may choose to renegotiate fees at a later date if conditions warrant.
- 3.4 The firm will not subcontract or assign any of its work under the proposed financing without written consent of the TSA.

Part IV Scope of Services

The services to be provided by the senior book-running manager, senior managers and co-managers include, but are not limited to, the following:

- 4.1 Work with the TSA, TSA staff and financial advisor to manage and oversee all aspects of any proposed financing transaction, including the process of obtaining bond ratings.
- 4.2 Develop and recommend to the TSA, TSA staff and financial advisor a plan of finance for any proposed financing transaction, including developing analytical models needed to analyze TSRs and alternative financing structures.
- 4.3 Assist the TSA and its counsel in developing the legal framework for any proposed financing transaction, consistent with the plan of finance, including, but not limited to identifying and considering bankruptcy and tax-related issues.
- 4.4 Assist the TSA, TSA staff, financial advisor, and disclosure counsel in drafting the official statement and other documents required to market and sell bonds.
- 4.5 Manage the process of marketing and sale of bonds, including providing on-going analysis of market conditions leading up to and through the day of sale, and advise the TSA with regard to market conditions and timing of the sale.
- 4.6 Identify the market and potential investors who are most likely to purchase bonds at rates most favorable to the TSA.
- 4.7 Develop all marketing materials needed to sell bonds at rates most favorable to the TSA, including scheduling and participating in informational meetings and/or investor calls as deemed necessary.
- 4.8 Analyze the feasibility and cost effectiveness of credit enhancement and assist in securing such, if deemed feasible.
- 4.9 Attend any financing working group or other related meetings as requested.
- 4.10 Retain qualified underwriters' counsel acceptable to the TSA.

Part V
Firm Information – Required Responses

- 5.1 Firm’s Commitment to Public Finance and to the Proposed Transaction. Include a letter addressed to the TSA and signed by the chief executive officer of the proposing firm. The letter will identify the lead banker assigned to the proposed financing transaction and indicate that they are authorized to bind and commit the firm in matters relating to any financing. These matters include, but are not limited to, executing the contract for investment banking and underwriting services and the bond purchase agreement. The letter will also set forth the firm’s commitment for its continuing involvement in public finance and in tobacco securitization financing, and its long-term commitment to making a market for TSA Bonds.
- 5.2 Financing Team. Provide the names, titles, responsibilities, location of offices and brief resumes for the following individuals who will be assigned to the TSA. Please include any relevant experience for each individual. Please include only individuals who will be assigned to work with the TSA.
- (a) The senior investment banker, identified in Section 5.1 above, who will assume the lead day-to-day and on-site responsibility for managing and supporting the TSA.
 - (b) The senior underwriter who, in the event of a financing, will negotiate the pricing, direct the marketing of the Bonds, and allocate the Bonds among the managers and selling group members.
 - (c) The person(s) responsible for analytical work.
 - (d) Other members of the firm’s public finance and asset-backed or securitization investment banking team assigned to the project and the specific roles each can be expected to play.
 - (e) Analysts or investment bankers from other sectors of the firm’s banking operations.
- 5.3 Firm Experience in Tobacco Settlement Securitization.
- (a) Describe the firm’s experience as either a senior book-running manager or co-senior manager in the issuance of tobacco settlement securitization financings since January 2015. Please identify each issue separately, including the principal amount, your firm’s specific role in each, and the date of issuance.
 - (b) For references, please provide contact information (names, titles, addresses and phone numbers) of at least three significant governmental issuers of tobacco bonds your firm has worked with directly.
 - (c) Describe the firm’s role in drafting and/or negotiating legislation concerning tobacco settlement securitization.

- 5.4 Firm Experience with Asset-Backed Securities. Describe your firm's relevant experience as senior book-running manager, senior manager or co-manager, and investment banker in the structuring and issuance of asset-backed securities and other similar transactions and credits since January 2015.
- 5.5 Conflict of Interest Identification. Describe any actual or potential conflicts of interest that your firm might have if selected to serve as senior book-running manager or senior co-manager for the TSA. Describe how your firm will identify and disclose any conflicts of interest that exist or occur during the period in which your firm is involved in any proposed transaction.
- 5.6 Firm Experience with Washington Law. Describe your firm's relevant experience with Washington law relating to obligations issued by the State or by state instrumentalities. Describe your firm's experience with Washington State law concerning state debt capacity.
- 5.7 Statement of Assurance. Provide a statement of assurance that your firm is not currently in violation of any tax or securities regulatory agency rule or the subject of any investigation or finding by a law enforcement agency or other regulatory agency concerning tax or securities matters. If the firm is in violation of laws or regulations, or is the subject of an investigation or finding, explain why the violation, investigation or finding does not have a material adverse effect on your firm's ability to perform under the proposed contract.
- 5.8 Most Recent Annual Audited Financial Statement and Quarterly Statement. Attach your firm's most recent audited financial statement and most recent fiscal year quarterly financial statement showing net excess capital and other financial data. Please note that this submission is not included in the proposal page limitation under Section 2.6 (page 5).
- 5.9 Pricing and Fee Proposal
- (a) Please provide a firm indication of your gross underwriting spread (dollars/\$1,000 of bonds) that would be required in current market conditions if your firm were selected as senior book-running managing underwriter for any Bonds. Specifically:
- (1) The gross spread will be the maximum and is subject to adjustment by the TSA. For purposes of this fee quote, assume an issuance of \$450 million in tax exempt Bonds and \$50 million in taxable Bonds. Make the appropriate adjustments to produce \$450 million in net proceeds after allowing for direct and indirect costs of issuance. Note all cost assumptions.

(2) Cost the components of the gross spread and identify whether attributable to tax-exempt Bonds or taxable Bonds:

- Structuring fee (if applicable)
- Management fee
- Takedown
- Detailed expenses, including underwriters' counsel

(b) Please quote an hourly rate or an annual fee, plus an expense component, for any other approved activities in support of the TSA and/or relating to the ongoing administration of the Bonds.

(c) Please note that in the event of a bond issuance, all underwriter fees and other costs of issuance are to be paid only from Bond proceeds on and after closing. No fees will be paid if the Bonds are not closed.

Part VI

Evaluation Criteria and Selection Process

The TSA, in consultation with the TSA staff, reserves the right to reject any and all responses or to select the response deemed to be most advantageous to the achievement of its purposes. Selection of a firm to serve as senior book-running manager and other firms to serve as co-senior managers or co-managers will be based on the criteria described below. A firm's proposal should provide clarity and detail to allow the TSA staff review to adequately judge the expertise, experience, and capabilities of the firm and make an appropriate recommendation to the TSA. The lowest cost proposal will not result necessarily in a firm being selected.

Please note that the percentages are listed not for use by the TSA to score each RFP, but to provide each proposing firm a measure of importance for each category.

(a) Experience and Qualifications **35%**

- (1) Relevant experience of firm in tax-exempt and taxable tobacco securitization financing.
- (2) Relevant experience, knowledge, and expertise of assigned bankers and underwriters as indicated in the response and by references.
- (3) Reputation of the firm as evidenced by references obtained by the TSA.

(b) Ability to Respond in a Timely Manner to the Needs of the TSA **35%**

- (1) Demonstrated understanding of the TSA goals and objectives with respect to the TSR securitization and sale of the Bonds.
- (2) Well-developed and coherent financing, structuring and marketing plans and the staff and technical resources to integrate and execute the plans.
- (3) Clarity and creativity evidenced by the response to the RFP.
- (4) Ability to work well with other team members in a cooperative environment.
- (5) Other information provided in response to Section V of the RFP.

(c) Proposed Gross Underwriting Spread **30%**

Part VII

Bid Compliance and Certification Form

Lead Banker Must Sign and Submit Certification with Proposal

- 8.1 I am the lead banker identified in the CEO letter required by Section 5.1 (page 10).
- 8.2 I certify that I have the authority to bind the investment banking and underwriting firm (the “Firm”) indicated below to the specific terms, conditions and technical requirements of this RFP and offered in the Firm’s proposal.
- 8.3 I understand that by submitting this proposal, the Firm indicated below agrees to the following:
 - (a) The Firm will provide the services to meet the requirements and objectives of this RFP.
 - (b) The Firm will provide the services set forth in its response for the fees quoted in the proposal.
- 8.4 The Firm hereby certifies total compliance with all terms, conditions, and specifications of this RFP, except as expressly stated below (add separate pages if necessary). Specify RFP item number and comments.

Firm Name: _____

Address: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Telephone Number: _____

Fax Number: _____

Date: _____