

**POLICIES AND PROCEDURES**

**ADOPTED BY THE**

**NEW JERSEY HEALTH CARE FACILITIES**

**FINANCING AUTHORITY**

**TO IMPLEMENT**

**EXECUTIVE ORDER NO. 26**

*REVISED MARCH 28, 1996*

*REVISED JULY 26, 2007*

## **I. REQUEST FOR QUALIFICATIONS**

A Request for Statements of Qualifications ("RFQ") to qualify firms to serve as senior managers, co-managers, financial advisors and private placement agents shall be prepared by staff and distributed at the Authority's discretion not more than once a year, but not less than every two years. The availability of the Request for Statements of Qualifications shall be advertised in "The Bond Buyer," and copies shall be mailed to firms which have previously served the Authority, as well as to any other firm which has expressed an interest in submitting a statement of qualifications.

Firms will be qualified to perform the following functions:

- Senior Managers/Financial Advisors/  
Private Placement Agents
- Co-Managers

The statements of qualifications will be reviewed by Authority staff and, based on the following criteria, certain firms will be recommended to the Authority Board for qualification:

- Experience with similar financings in which the firm and its proposed financing team participated;
- Analytical capabilities (Senior Managers; Financial Advisors, and Private Placement Agents only);
- Sufficient capital (Senior and Co-Managers only)
- Demonstrated ability to distribute New Jersey securities (Senior Managers, Co-Managers and Private Placement Agents only); and,
- Quality of relevant service to the Authority in previous transactions.

## 2. METHOD OF SALE

The policy of the Authority will be to generally require that all bonds be sold on a competitive basis. A negotiated sale or private placement will be conducted if it is determined that it would better serve the requirements of a particular financing. Borrower input will be considered when assessing the advisability of completing a negotiated transaction or a private placement. The circumstances under which a negotiated bond sale would be permitted include, but are not limited to, the following:

- sale of complex or poor credits;
- sale of a complex financing structure including those transactions that involve the simultaneous sale of more than one series with each series structured differently;
- volatile market conditions;
- large issue size;
- programs or financial techniques that are new to investors; and,
- variable rate transactions.

A private placement would be permitted if, based on an analysis by the borrower, a private placement would be more beneficial to the borrower than a public sale, and the borrower provides, in writing to the Authority, the reason(s) for the use of a private placement.

No resolution need be adopted by the Authority if a transaction is to be sold by competitive bid. When the Authority determines that the sale of bonds should be negotiated or privately placed, a decision regarding the method of sale for each such issue shall be made by Authority resolution. Justification in support of such decision shall be specific to the particular bond sale and shall be filed with the Treasurer within five (5) days of the decision.

In those circumstances where similar types of transactions are utilized on a somewhat regular basis, the Authority may make determinations with respect to the method of sale, consistent with the above criteria, which will be utilized for two or more transactions, provided that the transactions are part of a larger bonding program of similarly secured financings. Public determinations with respect to these financing programs shall be rendered at least annually.

The Authority reserves the right to modify the method of sale depending on the same criteria listed above (i.e., the Board need not adopt a resolution to approve the sale of bonds by competitive bid, but a resolution will be required to complete a negotiated sale or private placement).

3. **SELECTION OF INVESTMENT BANKING FIRMS TO PROVIDE SENIOR MANAGER/FINANCIAL ADVISOR/PRIVATE PLACEMENT AGENT, OR CO-MANAGER SERVICES**

The following procedures shall be followed in selecting investment banking firms to serve as senior manager/financial advisor/private placement agent, or co-manager for specific Authority financings:

1. The Authority will consider serving as private placement agent at the request of a borrower.
2. If requested by a borrower, the Authority will assist the borrower in a competitive process to select a senior managing underwriter, financial advisor and/or private placement agent for a specific financing.
3. If a borrower prefers, it may select, pursuant to a competitive process, a senior manager, financial advisor, or private placement agent from among the firms qualified by the Authority to serve in such capacity. Under these circumstances, and to the extent practicable, borrowers will use competitive practices in choosing professionals. The borrower shall advise the Authority in writing of the manner used to select such professionals. Such information shall be made available to the public. No competitive process will be required if (i) an innovative idea has been submitted; (ii) no competitive process can be completed without communicating the idea; and, (iii) the issue would not benefit from a competitive selection process.
4. As part of any negotiated financing to be undertaken by the Authority, the Authority reserves the right to select, from its qualified list, a woman or minority-owned firm, and/or a firm with a presence in New Jersey, to serve as a co-senior manager with no extra remuneration for services rendered.
5. The Authority also reserves the right to select firm(s), from its qualified list, to serve as a co-managing underwriter(s) for its financings. Co-manager(s) will be selected by the Authority based on demonstrated ability to distribute New Jersey securities of comparable credit quality, sufficient capital to participate in underwriting the issue, and borrower preference(s).

4. **FEES FOR SENIOR MANAGERS, CO-MANAGERS, FINANCIAL ADVISORS AND PRIVATE PLACEMENT AGENTS**

In cases where the Authority appoints senior managing underwriters, financial advisors, or placement agents and, in all cases as it relates to co-managers, the following shall apply. In cases where the borrower selects a senior managing underwriter, financial advisor, or placement agent, the same shall apply, except to the extent that the borrower has reached a different agreement with such senior managing underwriter, financial advisor, or placement agent:

1. No fees will be paid to senior managers, co-senior managers, co-managers, financial advisors or private placement agents unless a transaction shall close. In the event of a change in method of financing (e.g., negotiated to competitive or competitive to negotiated), the Authority will determine a fair level of compensation for a firm whose services are no longer required. Such compensation will only be paid upon settlement of the transaction to which the firm was originally assigned.
2. Proposed and accepted fees will be treated as a bid unless it is determined by the Authority staff at the time of pricing that a modification to the proposed fees will lower the cost of the transaction, on a present value basis, to the borrower. Any such modification will be reported at an open public meeting of the Authority.

**5. SELECTION OF BOND COUNSEL**

The Authority will comply with the process for selection of bond counsel as established by the Attorney General.

**6. SELECTION OF ARCHITECTS, ENGINEERS AND ACCOUNTANTS**

The Authority will continue to utilize competitive practices for the selection of architects, engineers and accountants to ensure the best services at the lowest cost. Information regarding such procedures and criteria for selection shall be made available to the public prior to the receipt of proposals and/or bids for such services. Any selection of architects, engineers and accountants shall include particular consideration for minority-owned and women-owned firms and those firms with a presence in New Jersey.

## 7. **REPORTS**

A report, which includes the allocation of bonds and fees received by each member of the underwriting syndicate and a breakout of the costs of issuance, shall be prepared and submitted to the Treasurer and the Attorney General within 30 days of the closing of a bond issue. Such report shall also be available for the public to read at the offices of the Authority.

On or before January 31 of each year, a debt management plan, with respect to the Authority's bond financing programs, shall be submitted to the Treasurer. The plan shall include information on the outstanding debt and debt service costs for the prior and current year and shall also describe the proposed bond issues for the year, outlining the size and purpose of each transaction; the expected sale date of the issue; the security and expected ratings for each transaction; the expected method of sale; and, the method of selecting financial professionals consistent with the terms of Executive Order No. 26.