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Santa Clara County

STEVE HEMINGER
Executive Director

ANDREW B. FREMIER
Deputy Executive Director

December 15, 2008
REQUEST FOR QUALIFICATIONS
for
Financial Advisory Services

Dear Financial Advisor:

The Bay Area Toll Authority (BATA) invites your firm to submit a Statement of Qualifications (SOQ) to provide financial and investment advisory services.

This letter, together with its enclosures, comprises the Request for Qualifications (RFQ) for this project. Responses to the RFQ should be submitted according to the instructions outlined herein.

Proposal Due Date

Interested firms are asked to submit an original and eight (8) hard copies of their SOQs meeting the requirements specified herein by 4:00 p.m. (PST), Monday, February 2, 2009. **SOQs received after that date and time will not be considered.** SOQs shall be considered firm offers to enter into a contract and provide the services described for a period of one hundred twenty (120) days from the date of submittal.

BATA Point of Contact

SOQs and all inquiries relating to this RFQ shall be submitted to the BATA Project Manager at the contact information shown below.

Susan Woo, Project Manager
Bay Area Toll Authority
Joseph P. Bort MetroCenter
101 Eighth St.
Oakland, CA 94607-4700
Telephone: 510-817-5729; Fax 510-817-5934
Email: swoo@mtc.ca.gov

Background

The Bay Area Toll Authority (BATA) was created by California statute in 1997 to administer toll revenue collections, as well as the financing of improvement programs, for the following seven state-owned toll bridges in the San Francisco Bay area. The bridges are the Antioch, Benicia, Carquinez, Dumbarton, Richmond-San Rafael, San Francisco Oakland Bay Bridge (SFOBB), and San Mateo bridges. In 2005, California law was enacted to authorize BATA to assume responsibility for financing the seismic-

retrofit program for the Bridge System.

BATA currently retains a firm to provide comprehensive financial advice for managing its \$5.2 billion debt portfolio, its \$3.3 billion swap portfolio, and its \$3.0 billion investment portfolio and all future financing needs.

Scope of Work, Schedule and Budget

The work scope for this RFQ is described in *Appendix A, Scope of Work*.

The contract resulting from this RFQ is expected to begin on April 1, 2009 and extend through June 30, 2014. The initial five-year contract is subject to annual budget approval and review as well as the right of BATA to terminate at any time with 30 days written notice. BATA, at its sole discretion, may extend the contract for two one-year extensions.

The contract value will not exceed more than one million dollars (\$1,000,000) per annum subject to appropriate approval of the BATA budget or any relevant financing documents.

Minimum Qualifications

To be eligible to submit an SOQ, a proposer must demonstrate that it meets the following minimum qualifications:

- 1) Firm must be an independent consultant, qualified to operate in California as a financial and investment advisor.
- 2) Firm may not be involved in marketing or underwriting bonds or other debt securities.
- 3) Firm must have a minimum of ten (10) years experience in providing comprehensive financial, swap and investment advisory services. Services provided must include the following:
 - Twenty (20) public agency clients
 - Served as lead advisor on at least five (5) \$100 million financings over the last three (3) years; 3 financings of which must be in transportation finance and one of which must be toll related. Each of the transportation entities must have a minimum of a \$100 million budget.
- 4) Firm must have a significant presence in the State of California as demonstrated by the following:
 - Firm shall have at least ten (10) different California government entity accounts.
 - Firm shall have maintained at least one office in California for the past 10 years.

Proposer's Conference and Requests for Exceptions

A proposer's conference will be held on Wednesday, January 21, 2009 at 10:00 a.m. in the William "Bill" Lucius Conference Room (Fishbowl) at the BATA offices located in the Joseph

P. Bort MetroCenter at 101 Eighth Street, Oakland, California (directly across the street from the Lake Merritt BART station).

Requests for clarification/questions and requests for exception or modification to provision of the RFQ must be received by 4:00 p.m. (PST), Friday, January 9, 2009. If exceptions or modifications to RFQ provisions are requested, please submit electronically the form in *Appendix D, Requests for Exceptions or Modifications*. You may contact the BATA Project Manager for an electronic copy of *Appendix D*. Requests for clarifications and exceptions will only be addressed at the Proposer's Conference.

Form of Proposal

Interested firms are asked to submit an original and eight (8) hardcopies of their SOQs meeting the requirements specified herein by **4:00 p.m. (PST), Monday, February 2, 2009**. SOQs received after that date and time will not be considered.

Proposal content and completeness are most important. Clarity is essential and will be considered in assessing the proposers' capabilities. Each SOQ should include the following sections:

- 1) A cover letter signed by an official authorized by the firm authorized to solicit business and enter into contracts for the firm. The cover letter should include the name and telephone number of a contact person, if different from the signator.
- 2) Minimum Qualifications. A description of the proposer's qualifications relative to the four minimum qualifications listed above. The description shall be sufficiently detailed for the BATA Project Manager to determine whether your firm is in compliance with the qualifications. Other sections of the proposal may be cross-referenced.
- 3) Experience and Qualifications.
 - a. A statement identifying the Account Relationship Manager and other qualified and available staff that will be dedicated to BATA's account. Identify key staff and their qualifications (attach resumes as appropriate).
 - b. A description summarizing the firm's experience over the past ten years in providing debt and financial planning as well as investment services with government entities focusing on transportation clients.
 - c. Demonstrate the firm's experience over the past ten (10) years in providing debt issuance, financial planning, swap and investment services in the following areas, *focusing particularly on how your firm adds value to the client*:
 - Bidding and evaluating revenue bond structure
 - Pricing and structuring financial products
 - Structuring reserve and capital project funds
 - Performing complex proforma and modeling analysis

- Extensive knowledge of transportation finance
 - Experience with legislative programs and advocacy
 - Experience with federal/state transportation funding
 - Assisting with due diligence and disclosure process
 - Assessing bond market conditions
 - Performing swap analysis
 - Performing investment and strategic analysis
- d. Describe your understanding of the role of the financial advisor and provide specific examples of your understanding and contribution to the practice of teamwork from previous bond transactions.
- 4) The MSRB has established ethical standards and disclosure requirements. How does your firm subscribe to their rules regarding gifts, gratuities, and political contributions.
- 5) Does your firm engage in lobbying? If so, explain where, in what capacity, and for what clients.
- 6) Clients:
- a. Provide a listing of your firm's clients.
 - b. Provide references from five (5) different clients. Include the names, email, and telephone number for a contact person from each reference.
 - c. Provide three (3) professional references including contact information and services provided. The references should include two (2) investment banks, and one (1) bond counsel.
- 7) Provide your firm's most recent current and prior two years financial statements. The most current financial statement must be no more than 12 months old.
- 8) Provide a brief analysis no longer than five (5) single sided pages (total) to the comments below:
- Many issuers are looking to exit the auction rate securities market because of the unprecedented auction failures or market "dislocations." What are your thoughts for an issuer who currently has auction rate securities in the market?
 - Because many issuers are rushing to exit the auction rate securities market at the same time, liquidity has become scarce and its price rivals that of the cost of oil. What are your thoughts for an issuer dealing with the liquidity issues and not wanting to mortgage an organization to pay for liquidity costs?
 - What is your view of the BATA debt portfolio and what recommendation would you make?
 - What is your view of public finance especially given BATA has billions remaining to finance?
 - What is your view of the value of PPP proposals and projects?
 - What is your view of the variable rate market and its future in public finance?

9) (a) Certify whether your firm or any of the owners or principals is currently subject to any pending or threatened litigation or sanctions. If so, the certified statement should cover the size and scope of any pending litigation or sanctions. If no litigation or sanction is pending, include a statement to that effect.

(b) Indicate whether your firm is currently or, in the past five (5) years has been, the subject of an SEC, NASD, MSRB, federal, state or local government inquiry or investigation. If so, describe the nature and disposition of any and all such inquiries or investigations. Have any of these entities invoked sanctions against your firm or your staff currently or in the past five (5) years?

10) Submit a signed Levine Act Statement (*Appendix B*).

Proposal Evaluation

The Project Manager will review those SOQs that meet the minimum qualifications. Any proposal that does not meet the minimum qualifications or does not include enough information to permit the project manager to evaluate the proposal under any of the evaluation factors listed below will not be evaluated. Proposals meeting the minimum qualifications and found to be responsive will be evaluated based on the following evaluation factors, listed in descending order of relative importance:

- Firm and staff qualifications and experience with financial, swap and investment services
- Experience transportation clients
- Experience with toll road clients
- RFQ Quality, completeness, insightfulness, accuracy and clarity of response to Item (8) in Form of Proposal
- Client References
- Acceptability of response to Items (4), (5) and (6)
- Financial responsibility based on Items (9)

Following this evaluation, the project manager may elect to recommend award to a particular proposer or may interview a "short list" of firms, prior to final evaluation. The Project Manager will then recommend a financial advisor to the Executive Director. If approved by the Executive Director, the recommendation will be presented to the BATA Oversight Committee for approval.

BATA reserves the right to not convene interviews and to recommend an award on the basis of written proposals alone. Further BATA reserves the right to accept or reject any and all proposals submitted, to waive minor irregularities in proposals, and to request additional information from the proposers at any stage of the evaluation. Any award made will be to the firm whose proposal is the most advantageous to BATA, based on the evaluation criteria listed above.

Cost will not be a factor in the evaluation. However, BATA reserves the right, after the firm(s) have been ranked, to negotiate hourly rates with the firm(s) as well as to decline to enter into a contract with any firm whose rates and other costs are unreasonable, in BATA's sole judgment.

Selection Disputes

A proposer may object to a provision of the RFQ on the grounds that it is arbitrary, biased, or unduly restrictive, or to the selection of a particular contractor on the grounds that BATA procedures, the provisions of the RFQ or applicable provisions of federal, state or local law have been violated or inaccurately or inappropriately applied by submitting to the Project Manager a written explanation of the basis for the protest:

1. No later than five (5) working days prior to the date proposals are due, for objections to RFQ provisions;
2. No later than three (3) working days after the date the proposer is notified that it failed to meet minimum qualifications or was found to be non-responsive; or
3. No later than three (3) working days after the date on which contract award is authorized by the BATA Oversight Committee or the date the proposer is notified that it was not selected, whichever is later, for objections to contractor selection.

Except with regards to the initial determination of non-responsiveness, the evaluation record shall remain confidential until the BATA Oversight Committee authorizes award.

Protests of recommended awards must clearly and specifically describe the basis for the protest in sufficient detail for the BATA review officer to recommend a resolution to the BATA Executive Director.

The BATA Executive Director will respond to the protest in writing, based on the recommendation of a staff review officer. Authorization to award a contract to a particular firm by BATA's Oversight Committee shall be deemed conditional until the expiration of the protest period or, if a protest is filed, the issuance of a written response to the protest by the Executive Director.

Should the protesting proposer wish to appeal the decision of the Executive Director, it may file a written appeal with the BATA Oversight Committee, no later than three (3) working days after receipt of the written response from the Executive Director. The Oversight Committee's decision will be the final agency decision.

Bank Selection Timetable

4:00, p.m. (PST), Friday, January 9, 2009	Deadline for receipt of written requests for clarification and exceptions
10:00 a.m. (PST), Wed., January 21, 2009	Proposers Conference, Fishbowl Conference Room
4:00 p.m. (PST), Monday, January 26, 2009	Deadline for protest of RFQ
4:00 p.m. (PST), Monday, February 2, 2009	Closing date and time for receipt of Proposal
Week of February 9, 2009	Interviews, if necessary
Wednesday, March 4, 2009	Recommendation to BATA Oversight Committee
Wednesday, March 25, 2008 (approximate)	Execution of Contract

General Conditions

This RFQ does not commit BATA to award a contract. BATA will not reimburse any firm for costs related to preparing and submitting a proposal.

Any award made will be to the Contractor whose proposal is most advantageous to BATA, based on the evaluation criteria outlined above.

All materials submitted by proposers are subject to public inspection under the California Public Records Act (Government Code § 6250 *et seq.*), unless exempt.

The selected Firm will be expected to execute a contract based on the terms and conditions in *Appendix C, Synopsis of BATA's Standard Consultant Agreement*. Particular attention should be paid to the insurance and indemnification requirements. A copy of the standard agreement may be obtained from the BATA Project Manager. **Objections or requests for modifications to any provisions of the RFQ or its appendices must be submitted no later than the deadline set out above for receipt of clarifications and exceptions. If such objections or requests for modification are not brought to BATA's attention within the time specified, concurrence by the proposer will be assumed.**

Authority to Commit BATA

Based on BATA's staff evaluation, the Executive Director will recommend a firm to the BATA Oversight Committee, which will commit BATA to the expenditure of funds in connection with this RFQ.

Thank you for your interest.

Very truly yours,



Ann Flemer
Deputy Executive Director, Operations

AF: SW

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APPENDIX A, SCOPE OF WORK

The selected firm(s) shall provide a dedicated Account Manager and qualified staff to service BATA's account as set forth below. The selected firm will perform the following services on an as-needed basis, which services may be revised at BATA's discretion:

- Task 1: Assist in evaluating underwriters
- Task 2: Assist in evaluating bond counsel and disclosure counsel
- Task 3: Assist with rating agency presentation
- Task 4: Assist in negotiations with underwriters and insurance providers
- Task 5: Assist with securing liquidity providers
- Task 6: Assist with swap analysis
- Task 7: Assist in making presentations to BATA, its Commissions and to BATA management
- Task 8: Assist in preparing the Official Statement and all other disclosure documents to be used in relation to the sale of bonds
- Task 9: Assist in analysis of financial alternatives available to BATA and make recommendations on specific strategies
- Task 10: Assist with the risk analysis of various financial products and strategies
- Task 11: Work cohesively as a member of BATA's financing team
- Task 12: Assist with negotiating fees of banking team
- Task 13: Assist with investors relations
- Task 14: Evaluate effectiveness of remarketing agents
- Task 15: Provide advice in investment planning and management
- Task 16: Assist in financial planning
- Task 17: Provide ongoing services as needed

**APPENDIX B,
CALIFORNIA LEVINE ACT STATEMENT**

California Government Code § 84308, commonly referred to as the "Levine Act," precludes an officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the officer, or received by the officer on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

BATA's commissioners include:

TBD (San Francisco)
Tom Azumbrado
Tom Bates
Jake MacKenzie
Dean J. Chu
Dave Cortese
Bill Dodd

Dorene M. Giacomini
Federal D. Glover
Scott Haggerty
Anne W. Halsted
Steve Kinsey
Sue Lempert

Jon Rubin
Bijan Sartipi
James P. Spering
Adrienne J. Tissier
Amy Worth
Ken Yeager

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any MTC commissioner in the 12 months preceding the date of the issuance of this request for qualifications?

☐ YES ☐ NO

If yes, please identify the commissioner: _____

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any MTC commissioners in the three months following the award of the contract?

☐ YES ☐ NO

If yes, please identify the commissioner: _____

Answering yes to either of the two questions above does not preclude BATA from awarding a contract to your firm. It does, however, preclude the identified commissioner(s) from participating in the contract award process for this contract.

DATE

(SIGNATURE OF AUTHORIZED OFFICIAL)

(TYPE OR WRITE APPROPRIATE NAME, TITLE)

(TYPE OR WRITE NAME OF COMPANY)

APPENDIX C, SYNOPSIS OF PROVISIONS IN BATA STANDARD CONSULTANT AGREEMENT

In order to provide bidders with an understanding of some of BATA's standard contract provisions, the following is a synopsis of the major requirements in our standard agreement for professional services. A copy of BATA's standard agreement may be obtained from the Project Manager for this RFQ.

Termination: BATA may, at any time, terminate the Agreement upon written notice to Consultant. Upon termination, BATA will reimburse the Consultant for its costs for incomplete deliverables up to the date of termination. Upon payment, BATA will be under no further obligation to the Consultant. If the Consultant fails to perform as specified in the agreement, BATA may terminate the agreement for default by written notice, and the Consultant is then entitled only to compensation for costs incurred for work products acceptable to BATA, less the costs to BATA of rebidding.

Insurance Requirement: Insurance Requirement: The Consultant must obtain and maintain at its own expense the following types of insurance placed with insurers with a Best's rating of A-X or better, for the duration of this agreement:

(1) Worker's Compensation Insurance in the amount required by the applicable laws, and Employer's Liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per occurrence, and any and all other coverage of Consultant's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation endorsement in favor of BATA. Such Workers Compensation & Employers Liability may be waived, if and only for as long as contractor is a sole proprietor with no employees;

(2) Commercial General Liability Insurance for Bodily Injury and Property Damage liability, covering the operations of Consultant and Consultants officers, agents, employee and with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000 applying separately to this project, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Expense for Indemnitee's defense costs shall be outside of policy limits and such policy shall be issued on a Duty to Defend Primary Occurrence Form. The Commercial General Liability Insurance policy shall contain an endorsement to include BATA, its Commissioners, officers, representatives, agents and employees as additional insureds and to specify that such insurance is primary and that no BATA insurance will be called on to contribute to a loss.;

(3) Business Automobile Insurance for all automobiles owned, used or maintained by Consultant and Consultants officers, agents and employees, including but not limited to owned, leased, non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence;

(4) Umbrella insurance in the amount of \$10,000,000 providing excess limits over Employers Liability, Automobile Liability, and Commercial General Liability Insurance; and

(5) Errors & Omissions or Professional Liability Insurance (if applicable) in an amount no less than \$5,000,000. If such policy is written on a "Claims-Made" (rather than an "occurrence") basis, Consultant agrees to maintain continuous coverage in effect from the date of the commencement of services to at least five (5) years beyond the termination or completion of services or for five (5) years or until satisfaction of any statute of limitations. The policy shall provide coverage for all work performed by the Consultant and any work performed or

conducted by any subconsultant working for or performing services on behalf of the Consultant. No contract or agreement between the Consultant and any subconsultant shall relieve the Consultant of the responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by the Consultant and any subconsultant working on behalf of the Consultant on the project; and

Coverage shall be secured for the life of the project, within the definition, "All Risk," or "Special Form," and shall include coverage for installation and testing of any equipment that is to be installed or become part of any real property. If such insurance coverage has a deductible clause, the Consultant shall be also liable for the deductible. Certificates of insurance verifying the coverages and the required endorsements and signed by an authorized representative of the insurer must be delivered to BATA prior to issuance of any payment under the Agreement by BATA.

Independent Contractor: Consultant is an independent contractor and has no authority to contract or enter into any other agreement in the name of BATA. Consultant shall be fully responsible for all matters relating to payment of its employees including compliance with taxes.

Indemnification: Consultant agrees to defend, indemnify and hold BATA harmless from all claims, damages, liability, and expenses resulting from any negligent or otherwise wrongful act or omission of Consultant in connection with the agreement. Consultant agrees to defend any and all claims, lawsuits or other legal proceedings brought against BATA arising out of such negligent or wrongful acts or omissions. The Consultant shall pay the full cost of the defense and any resulting judgments.

Data Furnished by BATA: All data, reports, surveys, studies, drawings, software (object or source code), electronic databases, and any other information, documents or materials ("BATA Data") made available to the Consultant by BATA for use by the Consultant in the performance of its services under this Agreement shall remain the property of BATA and shall be returned to BATA at the completion or termination of this Agreement. No license to such BATA Data, outside of the Scope of Work of the Project, is conferred or implied by the Consultant's use or possession of such BATA Data. Any updates, revisions, additions or enhancements to such BATA Data made by the Consultant in the context of the Project shall be the property of BATA.

Ownership of Work Product: All data, reports, surveys, studies, drawings, software (object or source code), electronic databases, and any other information, documents or materials ("Work Product") written or produced by the Consultant under this Agreement and provided to BATA as a deliverable shall be the property of BATA. Consultant will be required to assign all rights in copyright to such Work Product to BATA.

Personnel and Level of Effort: Personnel assigned to this Project and the estimated number of hours to be supplied by each will be specified in an attachment to the Agreement. No substitution of personnel or substantial decrease of hours will be allowed without prior written approval of BATA.

Subcontracts: No subcontracting of any or all of the services to be provided by Consultant shall be allowed without prior written approval of BATA. BATA is under no obligation to any subcontractors.

Consultant's Records: Consultant shall keep complete and accurate books, records, accounts and any and all work products, materials, and other data relevant to its performance under this Agreement. All such records shall be available to BATA for inspection and auditing purposes. The records shall be retained by Consultant for a period of not less than four (4) years following the fiscal year of the last expenditure under this Agreement.

Prohibited Interest: No member, officer or employee of BATA can have any interest in this agreement or its proceeds and Consultant may not have any interest which conflicts with its performance under this Agreement.

Governing Law. The Agreement shall be governed by the laws of the State of California.

**APPENDIX D,
REQUESTS FOR EXCEPTIONS OR MODIFICATIONS**

RFQ Section	Relevant Provision	Requested Action
	1.	
	2.	
	3.	
	4.	
	5.	