



CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY

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The California Health Facilities Financing Authority REQUEST FOR PROPOSALS-Secondary Notice to Prospective Proposers

Financial Analyst Services RFP No. CHFFA 05-17

March 20, 2018

You are invited to review and respond to this Request for Proposals (“RFP”), entitled Financial Analyst Services for the California Health Facilities Financing Authority (“CHFFA”, the “Authority” or the “State”), RFP No. CHFFA 05-17. This RFP seeks financial analyst services for the various financing programs offered by CHFFA for the benefit of qualified healthcare facilities, such as bonds, loans, and grants. In submitting your proposal, you must comply with the instructions set forth within this RFP.

Proposals for these services must comply with the instructions included in the RFP. The RFP includes the Sample Standard Agreement the selected firm will be expected to execute. The agreement that will be entered into with the State of California (“State”) will include by reference the General Terms and Conditions and Contractor Certification Clauses which may be viewed and downloaded online at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>. The General Terms and Conditions and all Exhibits that are a part of the Sample Standard Agreement are not negotiable. By submitting a proposal, your firm agrees to the terms and conditions stated in this RFP.

In the opinion of CHFFA, this RFP is complete and without need of explanation. However, if you have questions, or should you need any clarifying information, the contact person for this RFP is:

Summer Nishio
Staff Services Manager
California Health Facilities Financing Authority
(916) 653-2799

Please note that no *verbal* information given will be binding upon the State unless such information is issued in writing as an official addendum.

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A. Purpose and Description of Services

1. Introduction

CHFFA is requesting proposals from firms with expertise in the financial analysis of non-profit health facilities that seek to participate in the various financial programs offered by CHFFA, including taxable or tax-exempt bonds, grants, and low cost, low interest loans (hereinafter “programmatic” or programs”). The financial analysis firm (“firm”) will provide financial review, analysis and advice, as well as perform a variety of tasks related to CHFFA program operations on an “as-needed” basis. All proposals submitted to perform these services must explain the experience and qualifications demonstrating the firm’s ability to provide these services. Failure to provide the required information may result in disqualification.

The firm selected must be technically and professionally capable of providing the services in all subject areas described in Section A, Item 2, Scope of Services, and meet the Minimum Qualifications for Proposers in Section B. The firm must be free from actual conflicts of interest not only at the time of selection, but also throughout the term of the contract. CHFFA anticipates a July 1, 2018 contract start date, pending approval by the Department of General Services (“DGS”), and the firm must be available at that time to assume services. CHFFA anticipates entering into a two-year contract with a one-year option to renew for the described services.

See Section G) for a program description of CHFFA.

2. Scope of Services

The firm selected is expected to assist CHFFA on an “as-needed” basis to perform a wide variety of tasks throughout the proposed contract period. At the direction of CHFFA, timelines will be established upon assignment and materials will be provided to the contractor (via electronically or hard copy). These services may include the following:

- a) Assist CHFFA in reviewing applications for financing to determine eligibility, credit-worthiness and adequacy of documentation, which shall include reviewing and providing a written analysis and recommendation on audited and interim financial statements, debt capacity analyses, financial feasibility studies, and other processes used to determine the financial viability of the proposed project.
- b) Provide consultation with CHFFA staff regarding the financial condition of the proposed financings, including participating in meetings with applicants, auditors and CHFFA staff, as necessary.
- c) Upon request of the Executive Director, attend CHFFA board meetings in Sacramento, California, or alternative locations as designated, and provide oral and written analyses regarding the financial condition of the proposed borrowers.
- d) Analyze annual audited or interim financial statements and other financial reports relative to CHFFA borrowers. Make recommendations for corrective or supplemental action as necessary, and participate with CHFFA staff in presenting or implementing such recommendations.
- e) Review and provide written analyses, on an as-needed basis, of trustee statements provided to CHFFA for all outstanding bond issues. Analysis shall include the performance of detailed audits of trustee held funds and accounts, periodic billings to borrowers, redemption

- procedures, and any other functions performed by the trustee with respect to CHFFA bond issues.
- f) Assist in the monitoring of the performance or status of existing borrowers, such as changes in ratings by nationally recognized rating agencies, acquisitions, mergers, expansion projects or any other significant operational changes of interest to CHFFA.
 - g) As needed, assist CHFFA with post-issuance tax compliance policy and procedures in connection with tax-exempt bonds or other obligations issued by CHFFA.
 - h) Provide guidance on all CHFFA programs, including conduit bond financing, loan programs and grant programs.
 - i) Provide annual accounting training to CHFFA staff on the review of financial statements.
 - j) Prepare and present special reports, analyses or studies on subjects selected by CHFFA, which fall within the training and experience of the firm; and, prepare and present annual reports of CHFFA bond issues and other programs.
 - k) Assist CHFFA staff in their continuing efforts to improve operational efficiency, including processes, procedures and computer applications relative to the monitoring of all the programs.
 - l) In all respects, represent the best interests of CHFFA and the State of California in all transactions and proceedings by strict adherence to the statutory conflict of interest laws of California (as defined in Exhibit E, item #1), as well as prohibiting a partner or employee of the firm, who has provided audit or other services to an entity, from simultaneously serving as a financial analyst to CHFFA in a proceeding in which the entity is the borrower seeking CHFFA's approval for bond issuance, grant or loan.
 - m) Be available during regular business hours, either by phone or in person, for consultations with CHFFA staff, which may require travel to the office of CHFFA or other locations as necessary.

3. Term of Agreement

The term of the agreement will be for a two-year period with a one-year option to renew at the sole discretion of the State. The effective date of this agreement is either the term start date of July 1, 2018 or the approval date by the Department of General Services, whichever is later. In addition, due to the sensitivity of the duties performed by the Financial Analyst, this contract will allow, if necessary and in the sole discretion of the State, an extension of time (not to exceed one year) for project or bond transaction completion prior to or during any transition to a new contractor. No work shall commence until the effective date.

B) Minimum Qualifications for Proposers

The firm must have, at minimum, the following qualifications and experience:

1. Firm must have an office established within the State of California.
2. Firm must be licensed to do business in the State of California.

3. Within the last ten (10) years, the firm must have at least two (2) years of experience with financial analyst services to a state or local agency that issues tax-exempt bonds.
4. Within the last ten (10) years, the firm must have at least two (2) years of experience in the preparation or review of audited financial statements for non-profit health facilities.
5. Firm must **not** be a firm that provides underwriting or investment banking services.

Failure to meet the minimum qualifications will cause your proposal to be considered nonresponsive and the proposal will be rejected.

C) Proposal Requirements and Information

1. Key Action Dates

It is recognized that time is of the essence. All firms are hereby advised of the following schedule and will be expected to adhere to the required dates and times:

<u>Date</u>	<u>Action</u>
March 20, 2018	RFP available to prospective firms.
April 25, 2018	Final Date for Proposal Submission. Proposals must be received at the CHFFA office at 915 Capitol Mall, Room 435, Sacramento, CA 95814 By 4:00 P.M. (PT)
May 3, 2018	Notice of Intent to Award Contract
May 11, 2018	Proposed Contract Award Date
July 1, 2018	Commencement of Contract (pending DGS approval)

2. Firm Experience, Personnel and References

CHFFA expects to have a close working relationship with the firm as evidenced by the nature of the tasks listed in Section A, Item 2, Scope of Services, and the firm to demonstrate a high degree of experience, training and proficiency in the conduct of the various functions performed. The firm should have extensive background in both accounting/auditing of health facilities and the municipal financing process. In addition, CHFFA expects the firm will be knowledgeable on current accounting/auditing standards and financing trends and will maintain appropriate expertise at the firm's own expense.

This section is intended for the firm to demonstrate its qualifications. The firm's response in the proposal to this section will be used in the evaluation process (Section C, Item 5, Evaluation Process). The proposal should be organized in the format shown below and contain all of the information listed or requested below.

- a) Experience as a financial analyst for tax-exempt non-profit healthcare facilities and to state or local governmental issuers of bonds - Please discuss the firm's overall experience and how it demonstrates the firm's ability to successfully complete Section A, Item 2, Scope of Services. Experience should include services provided within the last ten years to other conduit issuers

of tax-exempt bonds for the benefit of health facilities, as well as services provided directly to such borrowers. Also include your firm's experience as a financial analyst to any state or local governments for the issuance of bonds, both public offerings and private placements. Include any financial analyst service to public entities and health facilities with respect to capital financings and to California public entities in particular.

Please provide a detailed list of the financial analyst services the firm has provided (by client or transaction). Also include, if any, experience with the preparation and presentation of informative reports pertaining to the financing of non-profit health facilities including equipment financings. Please indicate if the financial analyst service provided was transaction specific or for a contracted period. Include your firm's knowledge of developing state and national healthcare financing trends.

- b) Experience providing accounting/auditing services for audited annual financial statements for non-profit healthcare facilities and to state or local governments - Please describe the non-profit healthcare clients and state or local governments for which the firm has provided accounting/auditing services for the past ten years. Please include only those facilities where services were provided by the firm that will be providing services under this proposed contract.
- c) Qualification of Personnel - Please identify the personnel who will be providing the services required by the proposal, including years and type of experience for each person. Experience should include number of years at current firm as well as all prior firms. CHFFA expects the firm to assure that the quality and availability of its personnel assigned to this agreement will be maintained over the term of the agreement. Please include staff of subcontractors (if any). Please include resumes of personnel.
- d) References - Please submit a list of three references for services performed within the last five years, which are similar to the scope of work to be performed in this contract.

3. Cost Detail Format and Requirements

Services to CHFFA would be on an as-needed basis, depending upon the volume of bond financing applications received and other requirements of CHFFA. CHFFA reserves the right to cap fees paid on individual transactions.

Professional Services – The blended hourly rate for professional services will be an average of the hourly rate for all professionals expected to provide services under this anticipated contract (Partner, Managing Directors, Associate, etc.), not including support services or for training of staff. The blended hourly rate will be the hourly rate your firm will be paid for professional services if awarded the contract. Your proposal must identify lead personnel and identify all staff to be covered under “professional services” in the blended hourly rate. It is the responsibility of the firm to determine the blended hourly rate, based upon the expected participation of various professionals with your firm. **Support services cannot be billed under professional services. CHFFA will not reimburse contractor for support services performed by professional staff (support services defined below).**

Support Services – Support services are services that do not require the focus of professional staff. This component includes ministerial work and administrative services such as typing, copying, faxing, mailing, other preparation of correspondence, and aspects of research that may be appropriately handled by support staff. Please provide the hourly rate for support services. The

support services rate must not be averaged into the professional services blended hourly rate. The support services rate will be the hourly rate your firm will be paid for support services if awarded the contract. **If the firm does not provide a rate for support services or indicates that the rate is zero dollars, the firm will not be reimbursed for support services.**

Point Award Formula

The professional services blended hourly rate and the support services hourly rate is the rate the firm will be paid for services for the two-year contract and the one-year option to renew, including any extensions for project or bond transaction completion.

The following formula will be used for the award of the points for the professional services blended hourly rate and for the support services hourly rate:

- Lowest total cost proposal for professional services blended hourly rate will be awarded 25 points.

Proposals are awarded points for professional services blended hourly rate based on the following calculation:

(Lowest bidder's professional services blended hourly rate proposal/Bidder's professional services blended hourly rate proposal) = (factor)

Professional services blended hourly rate points for bidder = (factor) X Maximum professional services blended hourly rate points

EXAMPLE: A maximum of 25 points is available for professional services blended hourly rate

Lowest Bidder's Professional Services Blended Hourly Rate Proposal = \$150/hr

Bidder's Professional Services Blended Hourly Rate Proposal = \$200/hr

(Lowest bidder's professional services blended hourly rate proposal/Bidder's professional services blended hourly rate proposal) = \$150/\$200 = ¾

Professional services blended hourly rate points awarded to bidder = ¾ x 25 = 18.75 points

- Lowest total cost proposal for hourly rate for support services will be awarded 5 points.

The same formula will be used for the support services hourly rate with a maximum of 5 points available.

(Lowest bidder's support services hourly rate proposal/Bidder's support services hourly rate proposal) = (factor)

Support services hourly rate points for bidder = (factor) X maximum support services hourly rate points

The firm must submit cost for services regarding this RFP as follows:

- **Blended hourly rate for professional services** = **\$/hr.**
- **Hourly rate for support services** = **\$/hr.**

Maximum hours billable for travel to CHFFA may not exceed two hours each way, unless written prior approval is obtained from CHFFA. Travel (lodging, transportation, and per diem) expenses shall not exceed the rates payable to State employees.

Authorized actual expenses incurred, not including travel as outlined above, will be capped at \$300.00 for the entire term of the contract (including any term extensions), including postage, mailing, courier, and printing/reproduction costs unless written prior approval is obtained from CHFFA. CHFFA will not reimburse the printing of or the copying of electronically received/delivered documents for contractor's in-house use. Actual expenses must be itemized and receipts must be attached to invoice. **Support services (hourly rate) cannot be billed under this cap.**

4. Submission of Proposal

- a) Proposals should provide straightforward and concise descriptions of the firm's ability to satisfy the requirements of this RFP. The proposal must be complete and accurate. Omissions, inaccuracies or misstatements may be cause for rejection of a proposal.
- b) The proposal package should be prepared in the least expensive method.
- c) All proposals must be submitted under **sealed** cover and sent to CHFFA by the date and time shown in Section C, Proposal Requirements and Information, Item 1, Key Action Dates. Proposals received after this date and time will not be considered.
- d) A minimum of two (2) original and two (2) copies of the proposal must be submitted.
- e) The original proposal must be marked "**ORIGINAL COPY**". All documents contained in the original proposal package must have original signatures and must be signed by a person who is authorized to bind the firm. All additional proposal sets may contain photocopies of the original package.
- f) The proposal envelopes must be plainly marked with the RFP number and title, the firm name and address, and must be marked with "DO NOT OPEN", as shown in the following example:

Subject – Request for Proposals – “Financial Analyst Services”
RFP# CHFFA 05-17

Firm Name
Firm Address

DO NOT OPEN

If the proposal is made under a fictitious name or business title, the actual legal name of firm must be provided. Proposals not submitted under sealed cover and marked as indicated may be rejected.

- g) All proposals shall include the documents identified in Section E, Required Attachment Checklist. Proposals not including the proper required attachments shall be deemed non-responsive. A non-responsive proposal is one that does not meet the basic proposal requirements.
- h) Mail or deliver proposals to the following address:

Ms. Summer Nishio
Staff Services Manager
California Health Facilities Financing Authority (CHFFA)
915 Capitol Mall, Suite 435
Sacramento, CA 95814

- i) Proposals must be submitted for the performance of all the services described herein. Any deviation from the work specifications will not be considered and will cause a proposal to be rejected.
- j) A proposal may be rejected if it is conditional or incomplete, or if it contains any alterations of form or other irregularities of any kind. CHFFA may reject any or all proposals and may waive any immaterial deviation in a proposal. CHFFA's waiver of an immaterial deviation shall in no way modify the RFP document or excuse the proposer from full compliance with all requirements if awarded the agreement.
- k) Costs for developing proposals and in anticipation of award of the agreement is entirely the responsibility of the proposer and shall not be charged to CHFFA or the State of California.
- l) An individual who is authorized to bind the proposing firm contractually shall sign Attachment 2, Proposal/Proposer Certification Sheet. The signature must indicate the title or position that the individual holds in the firm. An unsigned proposal may be rejected.
- m) A firm may modify a proposal after its submission by withdrawing its original proposal and resubmitting a new proposal prior to the proposal submission deadline as set forth in the Key Action Dates, Section C, Item 1. Proposal modifications offered in any other manner, oral or written, will not be considered.
- n) A firm may withdraw its proposal by submitting a written withdrawal request to CHFFA, signed by the proposer or an authorized agent in accordance with l) above. A firm may thereafter submit a new proposal prior to the proposal submission deadline. Proposals may not be withdrawn without cause subsequent to proposal submission deadline.
- o) CHFFA may modify the RFP prior to the date fixed for submission of proposals by the issuance of an addendum to all parties who received a proposal package. All addendums will be posted on the CHFFA website at <http://www.treasurer.ca.gov/chffa>, and on the California eProcure website at <https://caleprocure.ca.gov>.
- p) CHFFA reserves the right to reject all proposals. CHFFA is not required to award an agreement.
- q) Before submitting a response to this solicitation, firms should review, correct all errors, and confirm compliance with the RFP requirements.
- r) Where applicable, the firm should carefully examine work sites and specifications. No additions or increases to the agreement amount will be made due to a lack of careful examination of work sites and specifications.
- s) More than one proposal from an individual, firm, partnership, corporation or association under the same or different names, will not be considered.

t) **CHFFA will not accept alternate contract language from the firm. A proposal with such language will be considered a counter proposal and will be rejected. The General Terms and Conditions (GTC) are not negotiable.**

u) No oral understanding or agreement shall be binding on either party.

5. Evaluation Process

- a. At the time of proposal opening, each proposal will be checked for the presence or absence of required information in conformance with the submission requirements of this RFP. The absence of required information will cause a proposal to be deemed nonresponsive and may result in the proposal’s disqualification.
- b. Proposals that contain false or misleading statements, or which provide references which do not support an attribute or condition claimed by the proposer, may be rejected.
- c. Award, if made, will be to the responsible firm with the responsive proposal earning the highest score.
- d. Responsive proposals will be reviewed and scored by an evaluation committee according to the rating/scoring criteria indicated below.

	Proposal Rating / Scoring Criteria	Maximum Possible Points
1.	Experience as a financial analyst for tax-exempt non-profit health facilities and to state or local governmental issuers of bonds.	30 Points
2.	Experience providing accounting/auditing services for audited annual financial statements for non-profit health facilities and to state or local governments.	20 Points
3.	Qualification of Personnel	20 Points
4.	Cost	30 Points
	Total Possible Points	100 Points

b) The following point scale will be used to score the firm’s response to each scored category except with regard to costs:

Percent of Maximum Score Allotted to Particular Weighted Criterion

- 100%– Excellent response backed by demonstrated ability
- 85% – Good response backed by demonstrated ability
- 75% – Fair response backed by demonstrated ability
- 60% – Poor response
- 0% – Bidder does not demonstrate ability

- c) Proposals that contain false or misleading statements, or which provide references, which do not support an attribute or condition claimed by the proposer, may be rejected.
- d) Contract award, if any, will be made to the highest scoring responsive and responsible proposer.

Tiebreaker – In the event two (2) or more responsive and responsible proposers earn the highest score, the contract will be awarded to the responsive and responsible firm earning the higher score in experience as a financial analyst for tax-exempt non-profit health facilities and to state or local governmental issuers of bonds. If the scores for experience as a financial analyst for tax-exempt non-profit health facilities and to state or local governmental issuers of bonds are the same, the contract will be awarded to the responsive and responsible proposer earning the higher score for qualification of personnel. If the scores for qualification of personnel are the same, the contract will be awarded to the responsive and responsible proposer earning the higher score for cost.

6. Award and Protest

- a) Notice of the proposed award shall be posted in a public place at the office of the California Health Facilities Financing Authority, 915 Capitol Mall, Room 435, Sacramento, CA 95814 and on the following Internet site for five (5) working days prior to awarding the agreement: <http://www.treasurer.ca.gov/chffa>.
- b) If any firm, prior to the award of agreement, files a protest with CHFFA and the Department of General Services, Office of Legal Services, 707 Third Street, 7th Floor, Suite 7-330, West Sacramento, CA 95605, on the grounds provided under Public Contract Code section 10345(b), the agreement shall not be awarded until either the protest has been withdrawn or the Department of General Services has decided the matter. It is suggested that the firm submit any protest by certified or registered mail.
- c) Within five (5) days after filing the initial protest, the protesting firm shall file with the Department of General Services, Office of Legal Services, and CHFFA a full and complete statement specifying the grounds for the protest.
- d) Upon award of the agreement, the firm must complete and submit to CHFFA the Payee Data Record (STD 204), to determine if the firm is subject to state income tax withholding pursuant to California Revenue and Taxation Code Sections 18662 and 26131. (This form is made part of the RFP as Attachment 4.) No payment shall be made unless a completed STD 204 has been returned to CHFFA.
- e) Upon award of the agreement, and annually thereafter throughout the term of the agreement, the selected firm will be required to comply with the Political Reform Act and file a Statement of Economic Interest (Form 700, Fair Political Practices Commission). This form will be provided to the awarded firm upon award of the agreement and must be returned to CHFFA upon execution of the contract.

7. Disposition of Proposals

- a) Upon proposal opening, all documents submitted in response to this RFP will become the property of CHFFA and the State of California, and will be regarded as public records under the California Public Records Act (Government Code Section 6250 et seq.) and subject to review by the public.
- b) Proposal packages may be returned only at the firm's expense, unless such expense is waived by CHFFA.

8. Agreement Execution and Performance

- a) Performance shall start not later than 30 days, or on the express date set by CHFFA and the selected firm, after all approvals have been obtained and the agreement is fully executed. Should the firm fail to commence work at the agreed upon time, CHFFA, upon five (5) days written notice to the firm, reserves the right to terminate the agreement. In addition, the firm shall be liable to CHFFA for the difference between the firm's proposal price and the actual cost of performing work by another contractor.
- b) All performance under the agreement shall be completed on or before the termination date of the agreement.

D) Preference Programs and DVBE

1. Small Business Preference – www.dgs.ca.gov/pd/Programs.aspx (SB/DVBE - OSDS tab) (If there are any inconsistencies herein with the applicable statutes, regulations, and State Contracting Manual, the statutes, regulations, and State Contracting Manual shall supersede.)

Small Business / Microbusiness Preference

A five percent (5%) preference will be applied to certified small businesses submitting proposals for this RFP. To obtain the preference, Proposer must either be certified as a small business and submit a copy of their certification approval letter from DGS / Office of Small Business and DVBE Services (OSDS) or submit a complete application for certification to DGS / OSDS by 5:00 p.m. PT on the proposal due date. However, the proposed winning Proposer must be a certified small business at the time of contract award. The 5% preference is used only for computation purposes to determine the winning Proposer and does not alter the amounts of the resulting contract.

Once each proposal has been scored, if the highest scored proposal is from a non-certified small business, then 5% of the highest scoring proposal is added to the total "earned" points for each proposal submitted by a certified small business. These final numbers, with the 5% included, are then used to determine the highest scoring proposal.

Questions regarding the small business certification or preference approval should be directed to the OSDS at (916) 375-4940 or can be found online at: <http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>.

2. Non-Small Business Preference – www.pd.dgs.ca.gov/pd/programs/OSDS.aspx

A five percent (5%) preference is available to a non-small business claiming twenty-five percent (25%) California certified small business subcontractor participation. If claiming the non-small business subcontractor preference, the proposal must include a list of the small business(es) with which the Proposer commits to subcontract in an amount of at least 25% of the net proposal price with one or more California certified small businesses. Each listed certified small business must perform a "commercially useful function" in the performance of the contract as defined in Government Code Section 14837(d)(4).

The required list of California certified small business subcontractors must be attached to the proposal and must include the following: 1) subcontractor name, 2) address, 3) phone number, 4) a description of the work to be performed and/or products supplied; and 5) the dollar amount or percentage of the net bid price (as specified in the solicitation) per subcontractor.

Proposers claiming the 5% preference must commit to subcontract at least 25% of the net proposal price with one or more California certified small businesses. Completed certification applications and required support documents must be submitted to the OSDS no later than 5:00

p.m. on the proposal due date. Questions regarding certification should be directed to the OSDS at (916) 375-4940 or can be found online at <http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>.

The preference to a non-small business firm that commits to California certified small business subcontractor participation of 25% of its net proposal price shall be 5% of the highest scoring proposal. A non-small business, which qualifies for this preference, may not take an award away from a certified small business

3. Target Area Contract Preference Act (“TACPA”) – www.dgs.ca.gov/pd/Programs.aspx (Dispute Resolution tab) (If there are any inconsistencies herein with the applicable statutes, regulations, and State Contracting Manual, the statutes, regulations, and State Contracting Manual shall supersede.)

The TACPA preference will be granted for this procurement. Proposers wishing to take advantage of the TACPA preference will need to review the following website and submit the appropriate response with the proposal: <http://www.pd.dgs.ca.gov/edip/tacpa.htm>

Proposers wishing to take advantage of the TACPA preference are required to submit the following application/forms:

- TACPA (STD.830)
- Bidder’s Summary of Contract Activities and Labor Hours (DGS/PD 525)
- Manufacturer Summary of Contract Activities and Labor Hours (DGS/PD 526)

4. California Disabled Veteran Business Enterprise (“DVBE”) Participation – www.pd.dgs.ca.gov/smbus

This solicitation DOES NOT include a minimum DVBE participation requirement. DVBE participation is not required in the bid or proposal. However, a DVBE incentive will be applied as provided in Attachment 9.

DVBE INCENTIVE. The State will apply a DVBE incentive for responsive bids or proposals from responsible bidders that propose DVBE participation. The DVBE incentive will vary in relation to the percentage of confirmed DVBE participation (up to five percent (5%)).

DVBE PARTICIPATION COMMITMENT. Bidders who have been certified by California as a DVBE must also submit a completed form(s) STD 843 (Disabled Veteran Business Enterprise Declaration). All disabled veteran owners and disabled veteran managers of the DVBE(s) must sign the form(s). The form is available at: www.documents.dgs.ca.gov/pd/poliproc/STD-843FillPrintFields.pdf

E) Required Attachments

1. Required Attachment Check List (Attachment 1)

For the proposal to be considered responsive, all required attachments listed on Attachment 1 must be included in the proposal and received by CHFFA by the date and time shown in Section C, Proposal Requirements and Information, Item 1, Key Action Dates.

ATTACHMENT 1

CHFFA 05-17

REQUIRED ATTACHMENT CHECK LIST

A complete proposal or proposal package will consist of the items identified below. Complete this checklist to confirm the items in your proposal. Place a check mark or “X” next to each item that you are submitting to the State. For your proposal to be responsive, all required attachments must be returned. This checklist should be returned with your proposal package also.

<u>Attachment</u>	<u>Attachment Name/Description</u>
_____	Attachment 1 Required Attachment Check List
_____	Attachment 2 Proposal/Proposer Certification Sheet
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_____	Attachment 4 Payee Data Record (STD 204)
_____	Attachment 5 Contractor’s Certification Clauses (CCC 04/2017)
_____	Attachment 6 Small Business or Microbusiness Preferences*
_____	Attachment 7 Non-Small Business Preference*
_____	Attachment 8 Target Area Contract Preference Act (“TACPA”)*
_____	Attachment 9 Disabled Veteran Business Enterprise (DVBE) Incentive Program*
_____	Attachment 10 GSPD-05-105/Bidder Declaration
_____	Attachment 11 Darfur Contracting Act Certification
_____	Attachment 12 California Civil Rights Laws Certification
_____	Attachment 13 Minimum Qualifications Certification
_____	Attachment 14 California Business License

*If applicable

ATTACHMENT 2

CHFFA 05-17

PROPOSAL/PROPOSER CERTIFICATION SHEET

This Proposal/Proposer Certification Sheet must be signed and returned along with all the required attachments as an entire package in duplicate with original signatures. The proposal must be transmitted in a sealed envelope in accordance with RFP instructions.

Do not return the RFP nor the "Sample Agreement" at the end of this RFP.

- A. Place all required attachments behind this certification sheet.
- B. The signature affixed hereon and dated certifies compliance with all the requirements of this Request for Proposals. The signature below authorizes the verification of this certification.

**An Unsigned Proposal/Proposer Certification Sheet
May Be Cause for Rejection**

1. Company Name	2. Telephone Number ()	2a. Fax Number ()
3. Address		
Indicate your organization type:		
4. <input type="checkbox"/> Sole Proprietorship	5. <input type="checkbox"/> Partnership	6. <input type="checkbox"/> Corporation
Indicate the applicable employee and/or corporation number:		
7. Federal Employee ID No. (FEIN)	8. California Corporation No.	
9. Indicate applicable license and/or certification information:		
10. Proposer's Name (Print)	11. Title	
12. Signature	13. Date	
Are you certified with the Department of General Services, Office of Small Business Certification and Resources (OSBCR) as:		
a. California Small Business Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter certification number: _____	b. Disabled Veteran Business Enterprise Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, enter your service code below: _____	
NOTE: A copy of your Certification is required to be included if either of the above items is checked "Yes".		
Date application was submitted to OSBCR, if an application is pending:		

Completion Instructions for Proposal/Proposer Certification Sheet

Complete the numbered items on the
Proposal/Proposer Certification Sheet by following the instructions below.

Item Numbers	Instructions
1, 2, 2a, 3	Must be completed. These items are self-explanatory.
4	Check if your firm is a sole proprietorship. A sole proprietorship is a form of business in which one person owns all the assets of the business in contrast to a partnership and corporation. The sole proprietor is solely liable for all the debts of the business.
5	Check if your firm is a partnership. A partnership is a voluntary agreement between two or more competent persons to place their money, effects, labor, and skill, or some or all of them in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. An association of two or more persons to carry on, as co-owners, a business for profit.
6	Check if your firm is a corporation. A corporation is an artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinarily consisting of an association of numerous individuals.
7	Enter your federal employee tax identification number.
8	Enter your corporation number assigned by the California Secretary of State's Office. This information is used for checking if a corporation is in good standing and qualified to conduct business in California.
9	Complete, if applicable, by indicating the type of license and/or certification that your firm possesses and that is required for the type of services being procured.
10, 11, 12, 13	Must be completed. These items are self-explanatory.
14	If certified as a California Small Business, place a check in the "yes" box, and enter your certification number on the line. If certified as a Disabled Veterans Business Enterprise, place a check in the "Yes" box and enter your service code on the line. If you are not certified to one or both, place a check in the "No" box. If your certification is pending, enter the date your application was submitted to OSBCR.

ATTACHMENT 3

CHFFA 05-17

PROPOSER REFERENCES

Submission of this attachment is mandatory. Failure to complete and return this attachment with your proposal will cause your proposal to be rejected and deemed nonresponsive.

List below three references for services performed within the last five years, which are similar to the scope of work to be performed in this contract.

REFERENCE 1			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

REFERENCE 2			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

REFERENCE 3			
Name of Firm			
Street Address	City	State	Zip Code
Contact Person		Telephone Number	
Dates of Service		Value or Cost of Service	
Brief Description of Service Provided			

ATTACHMENT 4

CHFFA 05-17

PAYEE DATA RECORD (STD. 204)

All bidders must complete the **Payee Data Record (STD. 204)** and include it with their bid response. The Payee Data Record form can be accessed from the following link:

<http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std204.pdf>

ATTACHMENT 5

CCC 04/2017

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>		<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County of</i>	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible

for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required

by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.

8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

ATTACHMENTS 6, 7, and 8

CHFFA 05-17

PREFERENCE PROGRAMS (IF APPLICABLE)

Attach proof in claiming Small Business or Microbusiness Preference, Non-Small Business Preference, or TACPA, if applicable

Small Business or Microbusiness Preference

<http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>

Non-Small Business Preference

<http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>

Target Area Contract Preference Act (“TACPA”)

<http://www.dgs.ca.gov/pd/Programs/DisputeResolution.aspx>

ATTACHMENT 9**CHFFA 05-17****CALIFORNIA DISABLED VETERAN BUSINESS ENTERPRISE (DVBE)
PARTICIPATION GOAL PROGRAM INSTRUCTIONS**

DVBE PARTICIPATION REQUIREMENT. The Disabled Veteran Business Enterprise (DVBE) Participation Goal Program for State contracts is established in Public Contract Code (PCC) section 10115 et seq., Military and Veterans Code (MVC) section 999 et seq., and California Code of Regulations (CCR), title 2, section 1896.60 et seq. **This solicitation DOES NOT include a minimum DVBE participation requirement. DVBE participation is NOT required in the bid or proposal. However, a DVBE incentive will be applied as provided below.**

DVBE INCENTIVE. The State will apply a DVBE incentive for responsive bids or proposals (herein “bid” or “bids”) from responsible bidders that propose DVBE participation. The DVBE incentive will vary in relation to the percentage of confirmed DVBE participation. The following percentages shall apply.

Confirmed DVBE Participation of	DVBE Incentive
5% and above	5%
4% to 4.99% inclusive	4%
3% to 3.99% inclusive	3%
2% to 2.99% inclusive	2%
1% to 1.99% inclusive	1%

As applicable:

(1) Awards based on low price – The DVBE incentive is applied by reducing the bid price by the amount of DVBE incentive as computed from the lowest responsive bid price submitted by a responsible bidder. The DVBE incentive is for evaluation purposes only. Application of the DVBE incentive shall not displace an award to a small business with a non-small business.

(2) Awards based on high score – The DVBE incentive is a percentage of the total possible available points, not including points for socioeconomic incentives or preferences. The DVBE incentive points are included in the sum of non-cost points. The DVBE incentive points cannot be used to achieve any applicable minimum point requirements.

Bidders who have been certified by California as a DVBE (or who are bidding rental equipment and have obtained the participation of subcontractors certified by California as a DVBE) must also submit a completed form **STD. 843 (Disabled Veteran Business Enterprise Declaration)**. All disabled veteran owners and disabled veteran managers of the DVBE(s) must sign the form(s). Should the form not be included with the solicitation, contact the State contracting official or obtain a copy at the following website: www.documents.dgs.ca.gov/pd/poliproc/STD-843FillPrintFields.pdf. The completed form should be included with the bid response.

At the State’s option prior to award, bidders may be required to submit additional written clarifying information. Failure to submit the requested written information as specified may be grounds for bid rejection.

RESOURCES AND INFORMATION*

U.S. Small Business Administration:
Central Contractor Registration on-line database
www.ccr.gov

FOR:
Service-Disabled Veteran-Owned Businesses in California

Local Organizations:
DVBE local contacts
www.pd.dgs.ca.gov/smbus

FOR:
List of Potential DVBE Subcontractors

Department of General Services, Procurement Division (DGS-PD) eProcurement:
Website: www.eprocure.dgs.ca.gov
Phone: (916) 375-2000
Email: eprocure@dgs.ca.gov

FOR:

- SB/DVBE Search
- CSCR Advertisements
- Training Modules

DGS-PD Office of Small Business and DVBE Services (OSDS):
707 Third Street, Room 1-400, West Sacramento, CA 95605
Website: www.pd.dgs.ca.gov/smbus
OSDS Receptionist: (916) 375-4940
PD Receptionist: (800) 559-5529
Fax: (916) 375-4950
Email: osdchelp@dgs.ca.gov

FOR:

- Directory of OSDS Certified DVBEs
- Certification Applications
- Certification Information
- Certification Status, Concerns
- General DVBE Program Information
- DVBE Business Utilization Plan
- SB/DVBE Advocates
- Lists of Trade and Focus Publications

Commercially Useful Function Definition

Military and Veterans Code section 999(b)
California Code of Regulations, title 2, section 1896.62(l)

*Contact information and available resources may be subject to change by the respective administration, department, division, or office. DVBEs must be certified by OSDS.

ATTACHMENT 10

CHFFA 05-17

BIDDER DECLARATION (GSPD-05-105)

All bidders must complete the **Bidder Declaration (GSPD-05-105)** and include it with the bid response. When completing the declaration, bidders must identify all subcontractors proposed for participation in the contract. Bidders awarded a contract are contractually obligated to use the subcontractors for the corresponding work identified unless the State agrees to a substitution and it is incorporated by amendment to the contract.

The Bidder Declaration (GSPD-05-105) can be accessed from the following link: <https://www.documents.dgs.ca.gov/pd/poliproc/master-biddeclar08-09.pdf>

ATTACHMENT 11
CHFFA 05-17

DARFUR CONTRACTING ACT

Pursuant to Public Contract Code section 10478, if a bidder or proposer currently or within the previous three years has had business activities or other operations outside of the United States, it must certify that it is not a “scrutinized” company as defined in Public Contract Code section 10476.

Therefore, to be eligible to submit a bid or proposal, please insert your company name and Federal ID Number and complete only one of the following three paragraphs (via initials for Paragraph # 1 or Paragraph # 2, or via initials and certification for Paragraph # 3):

<i>Company/Vendor Name (Printed)</i>	<i>Federal ID Number</i>
<i>Printed Name and Title of Person Initialing (for Options 1 or 2)</i>	

1. _____ We do not currently have, and have not had within the previous
Initials three years, business activities or other operations outside of the United States.

OR

2. _____ We are a scrutinized company as defined in Public Contract Code
Initials section 10476, but we have received written permission from the Department of General Services (DGS) to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

OR

3. _____ We currently have, or we have had within the previous three years,
Initials business activities or other operations outside of the United States,
+ certification but we certify below that we are not a scrutinized company
below as defined in Public Contract Code section 10476.

CERTIFICATION For # 3.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective proposer/bidder to the clause listed above in # 3. This certification is made under the laws of the State of California.

<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County and State of</i>

ATTACHMENT 12

CHFFA 05-17

CALIFORNIA CIVIL RIGHTS LAWS CERTIFICATION

Pursuant to Public Contract Code section 2010, if a bidder or proposer executes or renews a contract over \$100,000 on or after January 1, 2017, the bidder or proposer hereby certifies compliance with the following:

1. **CALIFORNIA CIVIL RIGHTS LAWS**: For contracts over \$100,000 executed or renewed after January 1, 2017, the contractor certifies compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code); and

2. **EMPLOYER DISCRIMINATORY POLICIES**: For contracts over \$100,000 executed or renewed after January 1, 2017, if a Contractor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor certifies that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code).

CERTIFICATION

I, the official named below, certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.		<i>Federal ID Number</i>
<i>Proposer/Bidder Firm Name (Printed)</i>		
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in the County and State of</i>	

ATTACHMENT 13

CHFFA 05-17

MINIMUM QUALIFICATIONS CERTIFICATION

The Bidder certifies that it fulfills the minimum qualifications outlined in Section B of Request for Proposals No. CHFFA 05-17 (the "RFP").

On behalf of _____, I certify
(Firm Name)

that said firm, including any and all subcontractors, complies with the Minimum Qualifications set forth in Section B of the RFP.

(Authorized Signature of Firm)

(Firm Name)

(Print Name)

(Date)

(Title)

ATTACHMENT 14

CHFFA 05-17

CALIFORNIA BUSINESS LICENSE

Include a copy of the bidder's California business license here.

AGREEMENT NUMBER

CHFFA 05-17

REGISTRATION NUMBER

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

California Health Facilities Financing Authority (CHFFA)

CONTRACTOR'S NAME

To Be Determined

2. The term of this Agreement is: _____ through _____

3. The maximum amount of this Agreement is: \$ _____

4. The parties agree to comply with the terms and conditions of the exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work 2 page(s)

Exhibit B – Budget Detail and Payment Provisions 2 page(s)

Exhibit C* – General Terms and Conditions GTC 04/2017

Check mark one item below as Exhibit D:

Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement) 7 page(s)

Exhibit - D* Special Terms and Conditions

Exhibit E – Additional Provisions 1 page(s)

Attachment 1 - Key Personnel

RFP No. CHFFA 05-17 and Contractor's response thereto are hereby incorporated by reference and made a part of this agreement.

Items shown with an Asterisk (), are hereby incorporated by reference and made part of this agreement as if attached hereto. These documents can be viewed at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>*

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

To Be Determined

BY (Authorized Signature)

DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

STATE OF CALIFORNIA

AGENCY NAME

California Health Facilities Financing Authority (CHFFA)

BY (Authorized Signature)

DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Ronald L. Washington, Executive Director

ADDRESS

915 Capitol Mall, Suite 435, Sacramento, CA 95814

California Department of General Services Use Only

Exempt per:

EXHIBIT A
(Standard Agreement)

SCOPE OF WORK

1. Scope of Services

The firm selected is expected to assist CHFFA on an “as-needed” basis to perform a wide variety of tasks throughout the proposed contract period. At the direction of CHFFA, timelines will be established upon assignment and materials will be provided to the contractor (via electronically or hard copy). These services may include the following:

- a) Assist CHFFA in reviewing applications for financing to determine eligibility, credit-worthiness and adequacy of documentation, which shall include reviewing and providing a written analysis and recommendation on audited and interim financial statements, debt capacity analyses, financial feasibility studies, and other processes used to determine the financial viability of the proposed project.
- b) Provide consultation with CHFFA staff regarding the financial condition of the proposed financings, including participating in meetings with applicants, auditors and CHFFA staff, as necessary.
- c) Upon request of the Executive Director, attend CHFFA board meetings in Sacramento, California, or alternative locations as designated, and provide oral and written analyses, regarding the financial condition of the proposed borrowers.
- d) Analyze annual audited or interim financial statements and other financial reports relative to CHFFA borrowers. Make recommendations for corrective or supplemental action as necessary, and participate with CHFFA staff in presenting or implementing such recommendations.
- e) Review and provide written analyses, on an as-needed basis, of trustee statements provided to CHFFA for all outstanding bond issues. Analysis shall include the performance of detailed audits of trustee held funds and accounts, periodic billings to borrowers, redemption procedures, and any other functions performed by the trustee with respect to CHFFA bond issues.
- f) Assist in the monitoring of the performance or status of existing borrowers, such as changes in ratings by nationally recognized rating agencies, acquisitions, mergers, expansion projects or any other significant operational changes of interest to CHFFA.
- g) As needed, assist CHFFA with post-issuance tax compliance policy and procedures in connection with tax-exempt bonds or other obligations issued by CHFFA.
- h) Provide guidance on all CHFFA programs, including conduit bond financing, loan programs and grant programs.
- i) Provide annual accounting training to CHFFA staff on the review of financial statements.

EXHIBIT A
(Standard Agreement)

- j) Prepare and present special reports, analyses or studies on subjects selected by CHFFA, which fall within the training and experience of the firm; and, prepare and present annual reports of CHFFA bond issues and other programs.
- k) Assist CHFFA staff in their continuing efforts to improve operational efficiency, including processes, procedures and computer applications relative to the monitoring of all the programs.
- l) In all respects, represent the best interests of CHFFA and the State of California in all transactions and proceedings by strict adherence to the statutory conflict of interest laws of California (as defined in Exhibit E, item #1), as well as prohibiting a partner or employee of the firm, who has provided audit or other services to an entity, from simultaneously serving as a financial analyst to CHFFA in a proceeding in which the entity is the borrower seeking CHFFA's approval for bond issuance, grant or loan.
- m) Be available during regular business hours, either by phone or in person, for consultations with CHFFA staff, which may require travel to the office of CHFFA or other locations as necessary.

2. Term of Agreement

The term of the agreement will be for a two-year period with a one-year option to renew at the sole discretion of the State. The effective date of this agreement is either the term start date of July 1, 2018 or the approval date by the Department of General Services, whichever is later. In addition, due to the sensitivity of the duties performed by the Financial Analyst, this contract will allow, if necessary and in the sole discretion of the State, an extension of time (not to exceed one year) for project or bond transaction completion prior to or during any transition to a new contractor. No work shall commence until the effective date.

3. The project representatives during the term of this agreement will be:

State Agency: California Health Facilities Financing Authority (CHFFA)	Contractor: To Be Determined
Name: Summer Nishio Staff Services Manager	Name: To Be Determined
Phone: (916) 653-2799	Phone:
Fax: (916) 654-5362	Fax:

Direct all inquiries to:

State Agency: California Health Facilities Financing Authority (CHFFA)	Contractor: To Be Determined
Attention: Summer Nishio	Attention: To Be Determined
Address: 915 Capitol Mall, Suite 435 Sacramento, CA 95814	Address:
Phone: (916) 653-2799	Phone:
Fax: (916) 654-5362	Fax:

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. **Invoicing and Payment**

A. Contractor shall be compensated at the following hourly rates:

- Blended hourly rate for professional services = \$/hour
- Hourly rate for support services = \$/hour

Maximum hours billable for travel to CHFFA may not exceed two hours each way, unless written prior approval is obtained from CHFFA. Travel (lodging, transportation and per diem) expenses shall not exceed the rates payable to State employees.

Authorized actual expenses incurred, not including travel as outlined above, will be capped at \$300.00 for the entire term of the contract (including any term extensions), including postage, mailing, courier, and printing/reproduction costs unless written prior approval is obtained from CHFFA. CHFFA will not reimburse the printing of or the copying of electronically received/delivered documents for contractor's in-house use. Actual expenses must be itemized and receipts must be attached to invoice. **Support services (hourly rate) cannot be billed under this cap.**

B. The professional services blended hourly rate and the support services hourly rate is the rate the firm will be paid for services for the two-year contract and the one-year option to renew, including any extensions for project or bond transaction completion.

C. Invoices must be provided to CHFFA and must include:

- The time period covered by the invoice;
- A detailed description of each of the services completed for the period;
- A detailed description of any approved travel costs;
- A detailed description of any approved miscellaneous expenses for which Contractor seeks payment and receipts must be attached to invoice;
- Breakout of fee paid to DVBE Subcontractor;
- Actual expenses must be itemized and receipts must be attached to invoice.

D. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:

CHFFA
915 Capitol Mall, Suite 435
Sacramento, CA 95814

EXHIBIT B
(Standard Agreement)

2. **Budget Contingency Clause**

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program; this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

3. **Prompt Payment Clause**

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

EXHIBIT C

GENERAL TERMS AND CONDITIONS – GTC 04-2017

PLEASE NOTE: This page will not be included with the final agreement. The General Terms and Conditions will be included in the agreement by reference to Internet site:
<http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>.

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

1. Excise Tax

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

2. Settlement of Disputes

In the event of a dispute, Contractor shall file a "Notice of Dispute" with a Deputy Treasurer of the State Treasurer's Office within ten (10) days of discovery of the problem. Within ten (10) days, the Deputy Treasurer shall meet with the representatives of Contractor and the State identified in Paragraph 3 of Exhibit A for purposes of resolving the dispute. The decision of the Deputy Treasurer shall be final.

3. Evaluation of Contractor

Pursuant to Public Contract Code sections 10367 and 10369 within sixty (60) days after the completion of this Agreement, the State shall complete a written evaluation of Contractor's performance under this Agreement. If this Agreement is a contract for consultant services and if Contractor did not satisfactorily perform the work, a copy of the evaluation will be sent to the Department of General Services (DGS), Office of Legal Services, and to the Contractor within fifteen (15) working days of the completion of the evaluation in accordance with Public Contract Code section 10371.

4. No Agency Liability

The Contractor warrants by execution of this Agreement that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

5. Potential Subcontractors

Nothing contained in this Agreement or otherwise, shall create any contractual relationship between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the obligation of the State to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

EXHIBIT D
(Standard Agreement)

6. Force Majeure

Neither party to this Agreement shall be liable for damages resulting from delayed or defective performance when such delays arise out of causes beyond the control and without the fault or negligence of the offending party. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the State in its sovereign capacity, fires, floods, power failure, disabling strikes, epidemics, quarantine restrictions, and freight embargoes.

7. Waivers

No delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any party of any right, power or privilege hereunder, nor any single or partial exercise of any right, power or privilege hereunder, preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

8. Incorporation of Amendments to Applicable Laws

Any references to sections of federal or state statutes or regulations shall be deemed to include a reference to any amendments thereof and any successor provisions thereto.

9. Confidentiality

All financial, statistical, personal, technical and other data and information relating to the operations of the State which are designated confidential by the State and become available to Contractor shall be protected by Contractor from unauthorized use and disclosure.

10. Titles/Section Headings

Titles and headings are for convenience of reference only, and shall have no effect on the construction or legal effect of this Agreement.

11. Choice of Law

Notwithstanding Paragraph 14 of Exhibit C (General Terms and Conditions), this Agreement shall be administered, construed, and enforced according to the laws of the State of California (without regard to any conflict of laws provisions) to the extent such laws have not been preempted by applicable federal law. Any suit brought hereunder, including any action to compel arbitration or to enforce any award or judgment rendered thereby, shall be brought in state court sitting in Sacramento, California, the parties hereby waiving any claim or defense that such forum is not convenient or proper. Each party agrees that any such court shall have in personam jurisdiction over it and consents to service of process in any manner authorized by California law.

12. Notices

The parties agree that to avoid unreasonable delay in the progress of the services performed hereunder, Contractor and the State have designated in Paragraph 3 of Exhibit A specific staff representatives for the purpose of communication between the parties. Any notice or other written communication required or which may be given hereunder shall be deemed given when delivered personally, or by mail three (3) days after the date of mailing, unless by express mail then upon the date of confirmed receipt, to the representatives named in Paragraph 3 of Exhibit A.

EXHIBIT D
(Standard Agreement)

Either party hereto may, from time to time by notice in writing served upon the other as aforesaid, designate a different mailing address or a different or additional person to which all such notices or demands thereafter are to be addressed.

13. Permits and Licenses

Contractor shall carry out its duties and responsibilities herein in accordance with, be limited in the exercise of its rights by, and observe and comply with, all federal, state, city and county laws, rules or regulations affecting services under this Agreement. Contractor shall procure and keep in full force and effect during the term of this Agreement all permits and licenses necessary to accomplish the work contemplated in this Agreement.

14. Books and Records

Contractor shall keep accurate books and records connected with the performance of this Agreement for a period of at least three (3) years. Contractor shall ensure that books and records of subcontractors, suppliers, and other providers shall also be accurately maintained. Such books and records shall be kept in a secure location and shall be available for inspection and copying by the State and its representatives at any time.

15. Key Personnel

- a. A resume for each member of Contractor's staff who will exercise a significant administrative, policy, or consulting role under this Agreement is attached to this Agreement as Attachment 1. These members of Contractor's staff shall be hereafter referred to (both individually and collectively) as "Key Personnel."
- b. Contractor shall not substitute, replace or reassign Key Personnel without the prior approval of the State.
- c. This Agreement may be terminated immediately, in the sole discretion of the State and upon written notice from the State to Contractor, because of any change in or departure of any of the Key Personnel.

16. Changes in Control, Organization or Key Personnel

Contractor shall promptly, and in any case within five (5) days, notify the State in writing: (i) if any of Contractor's representations and warranties, as set forth in this Agreement, cease to be true at any time during the term of this Agreement; (ii) of any change in Contractor's staff who exercises a significant administrative, policy, or consulting role under this Agreement, including without limitation any Key Personnel; (iii) of any change in the majority ownership, control, or business structure of Contractor; or (iv) of any other material change in Contractor's business, partnership or corporate organization. All written notices from Contractor under this provision shall contain sufficient information to permit the State to evaluate the changes within Contractor's staff or organization under the same criteria as was used by the State in its award of this Agreement to Contractor.

**EXHIBIT D
(Standard Agreement)**

17. Insurance Requirements

Contractor warrants that it carries adequate liability, worker's compensation and other necessary insurance and shall maintain such insurance at levels acceptable to the State in full force and effect during the term of this Agreement. Contractor agrees to furnish satisfactory evidence of this insurance coverage to the State upon request.

18. Subcontractors

- a. Contractor shall perform the work contemplated by this Agreement with resources available within its own organization except for subcontracted work identified in this Agreement or other attachment incorporated hereto. No other portion of the work pertinent to this Agreement shall be subcontracted without written authorization by the State. The subcontractor must be mutually agreed upon in advance by both parties.
- b. Contractor shall require that any subcontractor agree to be bound by all provisions of this Agreement, as applicable.

19. Notice of Proceedings

Contractor shall promptly notify the State in writing of any investigation, examination or other proceeding involving Contractor, including any Key Personnel, commenced by any regulatory agency, which proceeding is not conducted in the ordinary course of Contractor's business.

20. Cumulative Remedies

The rights and remedies provided herein are cumulative and are not exclusive of any rights or remedies that any party may otherwise have at law or in equity.

21. Binding Effect

This Agreement, any instrument or agreement executed pursuant to this Agreement, and the rights, covenants, conditions and obligations of Contractor and the State contained therein, shall be binding upon the parties and their successors, assigns and legal representatives.

22. Publicity

No publicity release or announcement concerning this Agreement or the transactions contemplated herein shall be issued by Contractor without advance written approval by the State.

23. Services or Procurement Resulting from Agreement

Neither Contractor, nor any of its subsidiaries, officers or directors, may submit a bid or be awarded a contract for the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed to be an outgrowth of the advice or recommendations that Contractor provides under this Agreement.

24. Agreement Does Not Violate Law

Contractor represents and warrants that neither the execution of this Agreement nor the acts contemplated hereby nor compliance by Contractor with any provisions hereof will:

EXHIBIT D
(Standard Agreement)

- a. Violate any provision of the charter documents of Contractor;
- b. Violate any statute or law or ordinance or any judgment, decree, order, regulation or rule of any court or governmental authority applicable to Contractor; or
- c. Violate, or be in conflict with, or constitute a default under, or permit the termination of, or require the consent of any person under, any agreement to which Contractor may be bound, the violation of which in the aggregate would have a material adverse effect on the properties, business, prospects, earnings, assets, liabilities or condition (financial or otherwise) of Contractor.

25. Power and Authority

Contractor represents and warrants that it has the power and authority to enter into this Agreement and to carry out its obligations hereunder. The execution of this Agreement has been duly authorized by Contractor and no other proceeding on the part of Contractor is necessary to authorize this Agreement. Contractor has completed, obtained and performed all registrations, filings, approvals, authorizations, consents or examinations required by any government or governmental authority for its acts contemplated by this Agreement.

26. Signature Authorization

The person signing this Agreement warrants that he/she is an agent of Contractor and is duly authorized to enter into this Agreement on behalf of Contractor.

27. Entire Agreement; Order of Precedence

- a. This Agreement, including documents that have been incorporated in this Agreement by reference, contains all representations and the entire understanding between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are replaced in total by this Agreement.
- b. In the event there are any inconsistencies or ambiguities among the terms of this Agreement and incorporated documents, the following order of precedence shall be used: (i) applicable laws; (ii) the terms and conditions of this Agreement, including exhibits and attachments; (iii) the Request for Proposal (RFP) if any; (iv) Contractor's response to the RFP if any; and (v) any other provisions, terms, or materials incorporated herein.

28. Termination at Option of the State

In addition to the provisions of Paragraph 7 of Exhibit C (General Terms and Conditions), this Agreement may be terminated in whole or in part at any time sixty (60) days' written notice by the State, for any reason. Upon receipt of a termination notice, Contractor shall promptly discontinue all services affected unless the notice specifies otherwise. In the event the State terminates all or a portion of this Agreement for any reason, it is understood that the State will provide payment to Contractor for satisfactory services rendered prior to the termination, but not in excess of the maximum amount of this Agreement.

**EXHIBIT D
(Standard Agreement)**

29. Termination for Insolvency

Contractor shall notify the State immediately in writing in the event that Contractor files any federal bankruptcy action or state receivership action, any federal bankruptcy or state receivership action is commenced against Contractor, Contractor is adjudged bankrupt, or a receiver is appointed and qualifies. In the event of any of the foregoing events, or if the State determines, based on reliable information, that there is a substantial probability that Contractor will be financially unable to continue performance under this Agreement, the State may terminate this Agreement and all further rights and obligations immediately.

30. Completion

In the event of termination for default, the State reserves the right to take over and complete the work by contract or other means. In such case, Contractor will be liable to the State for any additional cost incurred by the State to complete the work whether reimbursed or not.

31. Effect of Termination

All duties and obligations of the State and Contractor shall cease upon termination of this Agreement, except that:

- a. Each party shall remain liable for any rights, obligations, or liabilities arising from activities carried on by it under this Agreement prior to the effective date of termination; and
- b. Contractor shall provide for the return of all records of the State to the State or its designee and shall cooperate fully to effect an orderly transfer of services.

32. Termination for Expatriation

Contractor shall notify the State immediately in writing in the event that Contractor or its parent files any notice with the Securities and Exchange Commission that Contractor intends to reincorporate offshore. In the event of such notice, the State may terminate this Agreement and all further rights and obligations immediately by giving five (5) days' notice in writing in the manner specified herein.

33. Compliance With Political Reform Act

Contractor acknowledges that the State is subject to the provisions of the Political Reform Act (Government Code section 81000 et seq. and all regulations adopted thereunder, including, but not limited to, California Code of Regulations, title 2, section 18700 et. seq.) and Contractor shall comply promptly with any requirement thereunder. If required by law, Contractor shall require its personnel, including without limitation, its Key Personnel all later substitutions therefore, to file Statements of Economic Interests in compliance with the Conflict of Interest Code for the Office of the State Treasurer and the various boards, authorities, commissions, and committees chaired by the State Treasurer (California Code of Regulations, title 2, section 1897). All such reports shall be filed simultaneously with the State.

34. Darfur Contracting Act

Effective January 1, 2009, all Invitations for Bids (IFB) or Requests for Proposals (RFP) for goods or services must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public

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Contract Code section 10475 et seq.) The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with "scrutinized" companies that do business in the African nation of Sudan of which the Darfur region is a part, for the reasons described in Public Contract Code section 10475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a).)

Therefore, Public Contract Code section 10478(a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a "scrutinized" company when it submits a bid or proposal to a State agency. A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from DGS according to the criteria set forth in Public Contract Code section 10477(b).

35. Labor Neutrality Policy

CHFFA recognizes the value of labor organizing and encourages the entities with which it contracts to demonstrate that they also value this principle by encouraging management neutrality in labor organizing activities.

To remain "neutral" means not to take any action or make any statement that will directly or indirectly state or imply any support for or opposition to the selection by the Contractor's employees of a collective bargaining agent, or preference or opposition to any particular union as a bargaining agent. Nothing in this section obligates or prohibits the Contractor from entering into private neutrality, labor peace or other lawful agreements with a labor organization seeking to represent or who currently represents the Contractor's employees.

**EXHIBIT E
(Standard Agreement)**

ADDITIONAL PROVISIONS

1. CONFLICT OF INTEREST; NO PROFIT

- A. Contractor certifies that its employees and the officers of its governing body shall avoid any actual or potential conflicts of interest, and that no officer or employee who exercises any functions or responsibilities in connection with this Agreement shall have any personal financial interest or benefit which either directly or indirectly arises from this Agreement.
- B. Contractor shall establish safeguards to prohibit its employees or its officers from using their positions for a purpose which could result in private gain or which gives the appearance of being motivated for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

2. POLITICAL REFORM ACT

Upon contract approval, and annually thereafter throughout the term of the contact, the selected firm will be required to comply with the Political Reform Act and to file a Statement of Economic Interest (Form 700, Fair Practices Commission).

Section G) of RFP No. CHFFA 05-17

PROGRAM DESCRIPTION

CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY (CHFFA)

Established in 1979 pursuant to statute, the California Health Facilities Financing Authority (the “Authority”) is a public instrumentality of the State of California and is authorized and empowered by the provisions of the California Health Facilities Financing Authority Act (the “Act”) to issue revenue bonds to finance the construction, expansion, remodeling, renovation, furnishing, equipping, and acquisition of health facilities provided by or operated by participating health institutions (including by reimbursing expenditures made or refinancing indebtedness incurred for such purposes). The Authority also provides low interest direct loans to certain small or rural health facilities through the Healthcare Expansion Loan Program (HELP II) and it administers the Children’s Hospital Bond Acts of 2004 and 2008, the California Health Access Model Program, and the Investment in Mental Health grant program.

Health facilities eligible for funding include acute care hospitals, skilled nursing facilities, community clinics, adult day health facilities, and intermediate care facilities, among others. To be eligible for financing, an applicant must be a city, city and county, county, district hospital, or a private non-profit corporation or association, authorized by the laws of California to operate a health facility and to undertake the financing or refinancing of a project.

Bond financings are usually brought to the Authority by an investment banking (underwriting) firm that serves as senior manager for the financing. Staff works together with the financing team to prepare the application for presentation to the Authority board members. The Authority board meets monthly if there are applications or action items on the Authority’s monthly agenda. The Authority consists of nine members, including the State Treasurer who serves as Chairman, the State Controller, the Director of Finance, two members appointed by the Senate Rules Committee, two members appointed by the Speaker of the Assembly, and two members appointed by the Governor subject to confirmation by a majority vote of the Senate.