



CITY OF KYLE, TEXAS

REQUEST FOR QUALIFICATIONS (RFQ)

**RFQ NO. 2012-02-PM
BOND COUNSEL & RELATED ADVISORY SERVICES**

**DUE DATE:
DECEMBER 6, 2012 AT 10:00 A.M. (CST)**

ISSUED BY:

**City of Kyle, Texas
Financial Services Department**



**LEGAL NOTICE
AND
REQUEST FOR QUALIFICATION STATEMENTS
RFQ NO. 2012-02-PM**

The City of Kyle will accept sealed Request for Statement of Interest and Qualifications for a Bond Counsel ("Firm") **until 10:00 A.M., December 6, 2012** in the City's Financial Services Department. **Qualification statements received after this time will not be considered.**

Qualification Statements will be acknowledged on December 7, 2012 at 8:00 A.M. All persons are invited to attend the acknowledgement at the City of Kyle Financial Services Department's Conference Room, Kyle City Hall, 100 W. Center Street, Kyle, Texas.

Please mark on the **outside of the envelope and on any carrier's envelope**: "RFQ No. 2012-02-PM Request for Statement of Interest and Qualifications for a Bond Counsel", and send to the attention of Mr. Perwez A. Moheet, CPA, Director of Finance, 100 W. Center Street, Kyle, Texas 78640 (physical address) or P.O. Box 40, Kyle, Texas, 78640 (mailing address).

The City of Kyle will not be responsible in the event that the U.S. Postal Service or any other courier system fails to deliver the sealed qualification statement to the City of Kyle by the given deadline above. Electronic transmission or facsimile of Qualification Statements will not be acceptable.

The City of Kyle reserves the right to reject any or all responses and to waive irregularities contained therein and to accept any response deemed most advantageous to the City of Kyle.

Perwez A. Moheet, CPA
Director of Finance
City of Kyle, Texas



Please submit this page upon receipt

ACKNOWLEDGEMENT FORM - RFQ NO. 2012-02-PM

Request for Statement of Interest and Qualification for a Bond Counsel

For any clarifications, please contact Mr. Perwez A. Moheet, CPA, Director of Finance, by email at pmoheet@cityofkyle.com. Please fax or mail this page upon receipt of the RFQ package or legal notice to c/o Mr. Perwez A. Moheet, CPA, Director of Finance, City of Kyle, Texas. If you only received the legal notice and you want the RFQ package mailed please provide a method of shipment with account number in the space designated below.

Check one:

- Yes, I will be able to send an RFQ response.**
- Yes, I will be able to send an RFQ response; please email the RFQ package.**
Email: _____
- Yes, I will be able to send an RFQ response; please mail the RFQ package using the carrier & account number listed below:**
Carrier: _____
Account: _____
- No, I will not be able to send an RFQ response for the following reason:**

If you are unable to send your RFQ response, kindly indicate your reason above and return this form **via fax to: (512) 262-3800**. This will ensure you remain active on our vendor list.

Date _____

Company: _____

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Fax: _____

Email: _____



ETHICS STATEMENT (Complete and Return this form with Response)

The undersigned firm, by signing and executing this RFQ, certifies and represents to the City of Kyle, Texas, that firm has not offered, conferred or agreed to confer any pecuniary benefit, as defined by (1.07 (a) (6) of the Texas Penal Code, or any other thing of value as consideration for the receipt of information or any special treatment of advantage relating to this RFQ; the firm also certifies and represents that the firm has not offered, conferred or agreed to confer any pecuniary benefit or other thing of value as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion concerning this RFQ, the firm certifies and represents that firm has neither coerced nor attempted to influence the exercise of discretion by any officer, trustee, agent or employee of the City of Kyle, Texas, concerning this RFQ on the basis of any consideration not authorized by law; the firm also certifies and represents that firm has not received any information not available to other firms so as to give the undersigned a preferential advantage with respect to this RFQ; the firm further certifies and represents that firm has not violated any state, federal, or local law, regulation or ordinance relating to bribery, improper influence, collusion or the like and that firm will not in the future offer, confer, or agree to confer any pecuniary benefit or other thing of value of any officer, trustee, agent or employee of the City of Kyle, Texas, in return for the person having exercised their person's official discretion, power or duty with respect to this RFQ; the firm certifies and represents that it has not now and will not in the future offer, confer, or agree to confer a pecuniary benefit or other thing of value to any officer, trustee, agent, or employee of the City of Kyle, Texas, in connection with information regarding this RFQ, the submission of this RFQ, the award of this RFQ or the performance, delivery or sale pursuant to this RFQ.

THE VENDOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY OF KYLE, TEXAS, ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDING, COSTS, DAMAGES, AND LIABILITIES, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF FIRM OR ANY AGENT OR EMPLOYEE OF FIRM, IN THE EXECUTION OR PERFORMANCE OF THIS RFQ.

I have read all of the specifications and general RFQ requirements and do hereby certify that all items submitted meet specifications.

FIRM: _____

OFFICER NAME: _____

OFFICER SIGNATURE: _____

ADDRESS: _____

CITY: _____

STATE: _____ ZIP CODE: _____

TELEPHONE: _____ TELEFAX: _____

FEDERAL ID#: _____ AND/OR SOCIAL SECURITY #: _____

DEVIATIONS FROM SPECIFICATIONS IF ANY:



**CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY
MATTERS (Complete and Return this form with Response)**

Name of Entity: _____

The prospective participant certifies to the best of their knowledge and belief that they and their principals:

Are not presently debarred, suspended, proposed for debarment or suspension by the State Bar of Texas or any Federal court:

Have not within a three year period preceding this RFQ been convicted of, had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, Local) with commission of any of the offenses enumerated in paragraph of the certification; and

I understand that a false statement on this certification may be grounds for rejection of this RFQ or termination of the award. In addition, under 18 USC Section 1001, a false statement may result in a fine up to a \$10,000.00 or imprisonment for up to five (5) years, or both.

Name and Title of Authorized Representative (Typed)

Signature of Authorized Representative

Date

I am unable to certify to the above statements. My explanation is attached.



CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

OFFICE USE ONLY

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

Date Received

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

1. Name of person who has a business relationship with local governmental entity.

2. Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3. Name of local government officer with whom filer has employment or business relationship.

Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

- A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?
 Yes No
- B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?
 Yes No
- C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?
 Yes No

D. Describe each employment or business relationship with the local government officer named in this section.

4.

Signature of person doing business with the governmental entity

Date



DESCRIPTION OF THE CITY

The City of Kyle is a political subdivision and municipal corporation of the State of Texas (the "State"), duly organized and existing under the laws of the State including the City's Home Rule Charter, initially adopted by the voters in the year 2000.

The City operates as a Home rule City under a Council/Manager form of government with a City Council comprised of the Mayor and six Council Members. The City Manager is the chief executive officer for the City of Kyle. The City covers approximately 18.86 square miles and has a population of 28,016 based on the 201 census.

Kyle is now a thriving community and home to thousands of citizens. Straddling I-35, eight miles north of San Marcos, 20 miles south of Austin and 60 miles north of San Antonio. Kyle is the second largest city in Hays County and enjoys a south central location convenient to most major population centers in Texas. With a strategic location close to major highways, airports and rail, Kyle is a great community to live and conduct business.

I. INSTRUCTIONS TO PARTICIPATING FIRMS

The City of Kyle, Texas, is requesting qualification statements from legal firms interested in providing bond counsel services to the City. Firms with relevant municipal bond counsel experience and qualifications are encouraged to submit their statement of interest and qualifications. Preparation of submittals will be at the expense of the legal firm.

The agreement period will be for a five-year period under the same terms and conditions of the contract contingent upon mutual agreement by both parties (See Section VIII-Term).

The following instructions should be followed:

1. Please respond specifically to all information requested in this Request for Statement of Interest and Qualifications or indicate on the attached acknowledgement form why no response is given.
2. Please limit response to relevant material; additional information must be submitted in the form of an attachment or appendix.
3. Identify the question being answered in the introduction to each response.
4. Respondents or their representatives are prohibited from communicating with any City of Kyle, Texas officials to include City Council members regarding the RFQ from the time the RFQ is released until it has been acted upon by the City Council. Respondents or their representatives are prohibited from communicating with City of Kyle, Texas employees



regarding the RFQ, except as provided for in Section IX of this RFQ, until the contract is awarded. Violation of this provision by the respondent or their agent will lead to disqualification of the respondent's RFQ from consideration.

<u>TARGET DATE</u>	<u>DESCRIPTION OF EVENTS</u>
November 13, 2012	RFQ issued and distributed to requesting firms.
December 6, 2012	Responses due by 10:00 a.m. at the Financial Services Department of the City of Kyle, Texas.
December 13, 2012	Evaluation finalized.
December 18, 2012	City Council selection of firm.

II. RIGHTS RESERVED BY THE CITY OF KYLE

1. If only one or no response to RFQ is received by "submission date", the City has the right to accept, reject, re-propose, accept and/or extend the RFQ by up to an additional two (2) weeks from original submission date.
2. The right to reject any/or all response to RFQ and to make award as they may appear to be advantageous to the City of Kyle.
3. The right to hold RFQ for 90 days from submission date without action, and to waive all formalities in RFQ.
4. The right to extend the total RFQ beyond the original 90-day period prior to an award if agreed upon in writing by both parties and if RFQ holds firm.
5. The right to terminate all or any part of the unfinished portion of the work resulting from this solicitation within thirty (30) days written notice; upon default by the firm, for delay or non-performance by the firm, or if it is deemed in the best interest of the City of Kyle for convenience.
6. The City of Kyle reserves the right to request additional information or to meet with representatives from responding organizations to discuss points in the RFQ before and after submission, any and all of which may be used in forming a recommendation.
7. The City of Kyle reserves the right to reject any and all qualification statements, and to accept the response to RFQ it considers in its best interest based upon the requirements and descriptions outlined in this RFQ.

Any interpretation, correction, or change of the RFQ will be made by ADDENDUM. Changes or corrections will be issued by the City of Kyle's financial Services Department.



Any Addendum issued by the City of Kyle will be emailed or faxed to all who have returned the RFQ Acknowledgement Form. Addendum will be issued as expeditiously as possible. It is the responsibility of the firms to determine whether all addenda have been received. It will be the responsibility of all respondents to contact the City of Kyle prior to submitting a response to the RFQ to ascertain if any addendum has been issued, and to obtain any and or all addenda, execute them, and return addenda with the response to the RFQ.

III. SUBMISSION REQUIREMENTS/CONTENTS

A firm wishing to be considered for the bond counsel contract is requested to submit on the firm's letterhead, a statement which provides information on the following points, numbered and headed as indicated. Responding firms should refer to Section I, Instructions to Participating Firms for the response format. You should be aware that the contents of the successful RFQ response will become a part of subsequent contractual documents. Failure to accept this obligation may result in the cancellation of any award.

1. Information on the firm.
 - a. Name and address of the firm. If the firm has a permanent office within the Austin/Kyle region, indicate the name, type, address, telephone number and number of employees in such office.
 - b. History of the firm, indicating date the firm was founded and how long the firm has provided bond counsel services to issuers of tax-exempt debt.
 - c. Organization of the firm, including a discussion of any recent or proposed changes in management or ownership.
 - d. Provide an organizational chart of the firm.
2. Qualifications of Firm
 - a. Discuss the firm's experience relative to Section IV, Qualifications. Include in this discussion a list of at least five municipal clients to include name, and phone number which the firm and the representative assigned to the City of Kyle, Texas, have served in the capacity of bond counsel during the past five years. Include clients with both outstanding general obligations and water and sewer system revenue bonds that the firm currently has under contract as bond counsel.
 - b. Discuss the firm's capabilities in detail to provide the services listed in Section VI, Scope of Services.



- c. Discuss the firm's approach in assisting municipal clients in developing general obligation and revenue bond financing programs. Identify techniques used to lower financing and/or issuance costs.
 - d. Discuss the firm's approach to a rating agency meeting, including material, media, City of Kyle staff preparation, etc.
 - e. Discuss the firm's approach to timely securing Bond Purchase Agreements with major bond purchasers.
 - f. Discuss the firm's ability to provide arbitrage rebate guidance and other IRS tax-exempt related issues.
 - g. Discuss the firm's ability to provide testimony in litigation cases concerning debt issuances of municipal governments.
3. Identify the specific individuals who will be assigned to the City of Kyle, Texas and provide brief resumes for each highlighting their experience with similar municipal clients experience, if any. Indicate each individual's role relative to the City of Kyle's account. Also, indicate each individual's availability and the minimum notice required by the firm to guarantee availability.
 4. Provide fee schedules as described in Section VII, Fees. List any estimated out-of-pocket expenses to be paid by the City of Kyle, Texas. Explain how your firm controls out-of-pocket expenses. Please note that a separate engagement letter will be accepted for the authority.
 5. Identify and discuss any potential conflicts of interest, including those dealing with other jurisdictions in the Austin/Kyle/San Marcos regional area.
 6. Evidence of professional liability (E&O) policy with a minimum limit of \$1,000,000.

The City of Kyle, Texas is requesting three (3) sets of the qualification statements, including attachments. Qualification Statements shall be enclosed in an envelope and plainly marked on the outside of the envelope or any carrier's envelope: "RFQ No. 2012-02-PM Request for Statement of Interest and Qualifications for a Bond Counsel, to be mailed, sent by overnight courier, or hand delivered to the attention of:

Mr. Perwez A. Moheet, CPA
Director of Finance
City of Kyle
100 W. Center Street, Kyle Texas 78640 (Physical Location)



P.O. Box 40, Kyle, Texas 78740 (Mailing Address)

Qualification Statements will be accepted until 10:00 a.m., December 6, 2012.

NO QUALIFICATION STATEMENT WILL BE ACCEPTED AFTER 10:00 A.M. ON THE DATE DUE.

Qualification Statements will be acknowledged at 8:00 a.m. on December 7, 2012. Upon written request, non-confidential information on the accepted RFQ will be available after the City Council selects the successful Bond Counsel firm.

The City of Kyle, Texas is subject to the Texas Open Records Act. However, certain types of information may be exempt from disclosure under the Act. Firms submitting information which they deem confidential or proprietary must clearly mark and identify such information page by page. The City of Kyle will, to the extent allowed by applicable law, endeavor to protect such information from disclosure. The final decision as to what information must be disclosed under the Open Records Act lies with the Texas Attorney General. As a general rule, information pertaining to Invitations for Bids may be released after the Bid opening; however, information relative to Requests for Proposals/Qualifications shall not be released by the City of Kyle until a contract has been awarded.

Questions or clarifications concerning the City of Kyle's requirements may be directed to:

Mr. Perwez A. Moheet, CPA
Director of Finance
City of Kyle
P. O. Box 40
Kyle, TX 78640

Responses will be in the form of an addendum issued to all firms that have returned the RFQ Acknowledgement Form.

During the performance of this contract, the firm agrees not to discriminate against any employee or applicant for employment because of race, national origin, age, religion, gender, marital or veteran status, or physically challenging condition.

IV. QUALIFICATIONS

A potential Bond Counsel firm should meet the following qualifications:

1. Ten (10) years successful municipal and municipally-owned utility practice in Texas.
2. Experienced and adequate number of attorneys and support staff to meet City of Kyle's requirements for expertise and timely response.



3. Experience with various debt instruments including tax-exempt and taxable bonds, notes, commercial paper, variable rate obligations, swaps, leases, contract revenue and conduit financings.
4. Experience with rating agencies and detailed familiarity with municipal, water, and wastewater credit rating process.
5. Knowledge of rating criteria used by major credit rating agencies and experience with obtaining credit supports and bond insurance.
6. Experience with the Texas Bond Review Board and Office of the Attorney General in relation to public financings.
7. Experience and expertise in addressing federal tax issues related to tax-exempt and taxable debt obligations.
8. All respondent law firms shall comply with the Code of Professional Responsibility of the State Bar of Texas and other applicable law regarding conduct, including conflicts of interest.

V. CRITERIA FOR SELECTION

This procurement will comply with applicable policy and procedures of the City of Kyle, Texas. Any exceptions shall be submitted in writing and be attached hereto. The successful firm will be selected by the City of Kyle, Texas using the evaluation factors outlined below.

The City of Kyle, Texas reserves the right to require oral presentations by any or all firms. These factors shall be applied to all eligible, responsive firms in comparing RFQ's and selecting the bond counsel. Award may be made without discussion with Bond Counsel firms after RFQ's are received. RFQ's should, therefore, be submitted on the most favorable terms.

All costs directly or indirectly related to preparation of a response or oral presentation, if any, required to supplement and/or clarify an RFQ shall be the sole responsibility of and shall be borne by your firm.

The City of Kyle, Texas will use the following evaluation criteria for selecting the best qualified firm.

- a. Prior demonstrated applicable experience.
- b. Qualifications and availability for service in areas of required expertise.
- c. Fee Schedule (as noted in Section VII)



d. References

VI. SCOPE OF SERVICES

The scope of services to be provided by the Bond Counsel may include, but not be limited to, the following services:

Debt Obligations

1. Render opinions regarding the validity and binding effect of securities and, if the securities are issued on a tax-exempt basis, the excludability of interest on the securities from gross income for federal income tax purposes.
2. Prepare all resolutions, ordinances, notices and other instruments pursuant to which bonds will be authorized, issued, delivered and secured in cooperation and upon consultation with City staff, City Council, financial advisors, consultants, and other legal counsel of the City of Kyle, Texas.
3. Assist the City of Kyle in preparing for bond elections, drafting bond propositions (ballot), scheduling, related notices, ordinances, and all other required documents for calling bond elections.
4. Attend meetings of the City Council and the Finance Committee with reference to the authorization and issuance of bonds to the extent required or requested.
5. Represent the City of Kyle, Texas in the preparation of any bond purchase contracts and insuring that all participants, including underwriters and investment banking firms, whether retained by or contracting with the City of Kyle, disclose all conflicts of interest to and with the City of Kyle and any other parties involved in the bonds.
6. Prepare any IRS filings required by federal tax law.
7. Assist in the preparation of specified sections of the Preliminary Official Statement and the Final Official Statement, with the understanding that bond counsel will not be expected to independently verify other data contained in the Official Statement and that the Official Statement may so state.
8. Make prospective legal recommendations on credit enhancement options, legality and feasibility of synthetic products, commercial paper and bond refundings and refinancings.



9. Assist the City of Kyle, Texas in presentations to the major rating agencies in order to obtain ratings for the bonds.
10. Prepare certain certificates and reviewing such other documents as is customary and necessary in order to structure and issue bonds.
11. Provide advice and counsel on continuing compliance with securities, tax, and other applicable law.
12. Provide assistance on legislative matters affecting the City of Kyle, Texas.
13. Supervise the printing and binding of the bond transcripts and provide a hard copy and an electronic copy of the bond transcript.
14. Submit bond transcript to the Attorney General for approval.
15. Assist with the preparation of closing documents, provide instructions and advice for closing and attend closing as required or requested.
16. Assist the City of Kyle, Texas in connection with legal services involving loans or grants from local, state or federal agencies.
17. Provide all other services usually necessary and required of a full service bond counsel, whether specifically outlined in the scope of services or not.
18. Render opinions regarding eligible investments under the Texas Public Funds Investment Act.
19. Assist with Investment Policy revisions per legislative changes to the Texas Public Funds Investment Act.

VII. FEES

The City of Kyle, Texas is requesting firm's fee proposal be based on the following fee structure:

Fee schedules for short and long-term debt submitted on a transactional basis, expressed as a rate per \$1,000 debt issued.

A simultaneous sale of similarly secured bonds or certificates should be billed as one issue.

For services not directly associated with the issuance of debt, provide either an hourly fee for each attorney and paralegal who will provide legal services to the City of Kyle, Texas. State how out-of-pocket expenses will be billed.



A separate engagement letter for the authority will be accepted.

VIII. TERM

Because of the special advisory nature of the position of Bond Counsel, it is the City of Kyle's desire to enter into a long term relationship with the successful candidate. It is anticipated, but not guaranteed, that the City of Kyle, Texas will enter into a five year term with the new Bond Counsel. This term is subject to annual renewal and may be terminated at any time by either party with sufficient notice as stated in the contract.

IX. QUESTIONS REGARDING ITEMS IN THE RFQ

Questions or clarifications concerning the City of Kyle's requirements should be directed in writing to:

Mr. Perwez A. Moheet, CPA
Director of Finance
City of Kyle
P. O. Box 40
Kyle, TX 78640
Email: pmoheet@cityofkyle.com





City of Kyle, Texas

AUTHORIZATION TO RELEASE REQUEST FOR QUALIFICATION STATEMENTS (RFQ)

Date Submitted: October 11, 2012
Requesting Department: Financial Services Department
Type of RFP: Professional Services
Service Description: Bond Counsel for the City of Kyle

Purpose & Summary Description:

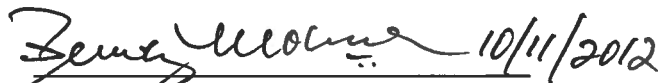
The purpose of this Request for Qualification Statements (RFQ) is to seek qualification statements from qualified firms experienced and specialized in providing bond counsel and related legal advisory services to municipalities and other local governments.


In an effort to obtain all full service bond counsel and related legal advisory services at fair and reasonable cost, the City plans to rotate its bond counsel on a five year contract term with possible options for contract extensions.

It is anticipated that the City's new contract for bond counsel and related legal advisory services will be effective December 21, 2012. Accordingly, staff will complete its evaluation of all qualified proposals received and make a recommendation for the selection of a firm to the City Council by December 19, 2012.

Recommended by:

Approved by:


Perwez A. Moheet, CPA - Date
Director of Finance


Lanny S. Lambert - Date
City Manager