

# **REQUEST FOR PROPOSALS (RFP)**

**AGREEMENT NO. 1669**

## **DELAWARE TRANSPORTATION AUTHORITY**

### **Request for Proposals for Line of Credit Bank \$25MM to 50MM General Obligation Revolving Line of Credit**

#### **I. INTRODUCTION**

The Delaware Transportation Authority (“DTA” or the “Department”) is seeking proposals from qualified financial institutions (the “Bank(s)”) to provide the Authority with a \$25MM to 50MM Revolving Line of Credit (the “Line of Credit”) secured by the Authority’s General Obligation pledge. Saul Ewing LLP will serve as bond counsel to the Authority, while Public Financial Management will serve as the Authority’s financial advisor.

The Authority plans to draw from the Line of Credit on an ‘as-needed’ basis to meet seasonal working capital needs and capital funding purposes for its various projects. To the extent the Authority draws on the Line of Credit for capital funding purposes, it is expected that the interest on most of the borrowings would qualify for exemption from federal income taxation, and the Authority expects that its Bond Counsel will be able to provide an opinion as to the tax-exempt nature of the interest on those borrowings. In the event of a “capital” draw, the Authority would like to receive the benefit of lower cost tax-exempt financing. Accordingly, the Line of Credit will be structured to allow for the issuance of both taxable and tax-exempt obligations to be confirmed upon each draw. *Please provide quotes for both tax-exempt and taxable borrowing options for “capital” and “working capital” drawings to be available at the Authority’s option.*

Borrowings under the Line of Credit, and interest thereon, will be evidenced by a note from the Authority. Amounts due on the Line of Credit will be secured by a General Obligation pledge of the Authority for which the borrowing was made. Any amounts owed under the Line of Credit at the end of the “Revolving Credit Period” will be termed-out in equal semi-annual installments over a five-year period.

It is understood that any proposal response received and evaluated by the Authority can be used as a basis for direct negotiation of the cost and terms of a contract between the Authority and the firm submitting such a proposal. The Authority reserves the right to determine, in its sole and absolute discretion, whether any aspect of the proposal satisfactorily meets the criteria established in this RFP, the right to seek clarification from any firm submitting a proposal, the right to reject any or all proposals with or without cause, and the right to cancel and/or amend, in part or entirely, the RFP. The RFP does not commit the Authority either to award a contract or to pay for any costs incurred in the preparation of a proposal.

The Authority maintains long-term ratings on its Transportation System Revenue Bonds, the ratings are currently “Aa2”, “AA+” by Moody’s and S&P respectively.

The following information regarding the Authority’s financial status is being provided as supplemental information and can be viewed as attachments on the ‘Bid Solicitation Details page used to access this RFP:

- Authority’s Financial Statements – Year Ended June 30, 2012
- Official Statement for Transportation System Senior Revenue Bonds, Series 2012 dated April 4, 2012
- Delaware Economic and Financial Advisory Council (“DEFAC”) Report dated June 17, 2013

**Anticipated RFP Action Dates**

The preliminary schedule is shown below:

August 30, 2013	Release RFP
September 17, 2013	Proposals due at 3:00 p.m., local time
September 24, 2013	Interviews by invitation, if any
September 27, 2013	Select Bank(s)
October 4, 2013	Negotiate necessary documents
October 18, 2013	Program available

**Proposal Conditions**

1. **Extension of Time.** The Authority reserves the right to extend the proposal due date. If a prospective bank needs an extension of time to prepare the proposal, a written request should be forwarded no later than five (5) days prior to the due date of this RFP and explain the circumstances necessitating the request. The request should be directed to Contract Administration for consideration. Extensions may be granted in the sole discretion of the Authority. In the event an extension request is granted, prospective bank(s) will be notified immediately.
2. **Addenda – Right to Withdraw RFP.** The Authority reserves the right to add to, amend, withdraw and/or cancel, in part or entirely, this RFP for any reason and at any time with no liability to any prospective proposer for any costs or expenses incurred in connection with the RFP or otherwise. If any part of the RFP is revised, addenda to the RFP will be provided to all firms provided a copy of the RFP.
3. **Public Record/Confidentiality.** Proposals submitted become a matter of public record as set forth therein. If a prospective bank believes any non-public information will be supplied in response to the RFP, the prospective bank shall take reasonable steps to identify and provide reasonable justification to the Authority regarding which data, if any. However, the prospective bank agrees as a condition of submitting a proposal that the Authority will not be held liable or accountable for any loss or damage which may result from a breach of confidentiality as may be related to the responses submitted.

The Authority will not consider any cost information and references submitted by the firm to be non-public, confidential or trade secret material. Simply stating that the document is confidential or making a blanket claim of confidentiality without proper supporting justification is also not a valid reason to declare the document confidential.

### **Contacts**

**Questions concerning submissions and procedures** may be obtained from: Wendy B. Henry, Contract Administration, Telephone: (302) 760-2531. E-mail address: [wendy.henry@state.de.us](mailto:wendy.henry@state.de.us)

**Questions concerning Technical aspects of the submission** may be directed to: Geoff Stewart, Public Financial Management, Inc., Telephone: (215) 557-1484. E-mail address: [stewartg@pfm.com](mailto:stewartg@pfm.com).

## **II. GENERAL CONTRACT TERMS AND CONDITIONS**

The selected vendor will be required to enter into a written agreement with the Delaware Transportation Authority. The State of Delaware reserves the right to incorporate standard State contractual provisions into any contract negotiated as a result of a proposal submitted in response to this RFP. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by the State of Delaware. Vendors will be required to sign the contract for all services, and may be required to sign additional agreements.

The selected vendor will be expected to enter negotiations with the State of Delaware, which will result in a formal contract between parties. Procurement will be in accordance with subsequent contracted agreement. This RFP and the selected vendor's response will be incorporated as part of any formal contract.

If the vendor to whom the award is made fails to enter into the agreement as herein provided, the award will be annulled, and an award may be made to another vendor. Such vendor shall fulfill every stipulation embraced herein as if they were the party to whom the first award was made.

In performance of the contract, the vendor will be required to comply with all applicable federal, state and local laws, ordinances, codes, and regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the successful vendor. The vendor shall be properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § 2502.

Prior to receiving an award, the successful vendor shall either furnish the State of Delaware with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one of the following numbers: (302) 577-8200—Public Service, (302) 577-8205—Licensing Department.

Information regarding the award of the contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject vendor to applicable fines and/or interest penalties.

### **Indemnification**

By submitting a proposal, the proposing vendor agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the vendor's its agents and employees' performance work or services in connection with the contract, regardless of whether such suits, actions, claims or liabilities are based upon acts or failures to act attributable, ole or part, to the State, its employees or agents.

### **Proprietary Rights Indemnification**

Vendor shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware, the State of Delaware shall promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify the State of Delaware against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost employee time, and counsel fees) whether or not such claim, suit or action is successful.

If any equipment, software, services (including methods) products or other intellectual property used or furnished by the vendor (collectively ""Products") is or in vendor's reasonable judgment is likely to be, held to constitute an infringing product, vendor shall at its expense and option either:

- (a) Procure the right for the State of Delaware to continue using the Product(s);
- (b) Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
- (c) Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the Contract, or only alters the Product(s) to a degree that the State of Delaware agrees to and accepts in writing.

### **Insurance**

The Vendor recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the vendor's negligent performance under this contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the vendor in their negligent performance under this contract.

The vendor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death,

which may arise from operations under this contract. The vendor is an independent contractor and is not an employee of the State of Delaware.

During the term of this contract, the SERVICE PROVIDER(S) shall, at its own expense, carry insurance minimum limits as follows:

**Commercial General Liability** - \$1,000,000.00 per person/\$3,000,000 per occurrence, and;  
**Professional Liability** - \$1,000,000.00 per person/\$3,000,000 per occurrence.

The vendor(s) shall provide a certificate of insurance as proof that the required insurance has been obtained. Before any work is done hereunder, a Certificate of Insurance referencing the name and contract number stated herein, shall be filed with the State. The DMV shall be named as certificate holder with the certificate sent to the address that follows:

**Delaware Transportation Authority  
800 Bay Road  
Dover, DE 19901**

The insurance agency shall provide the Department with 30 days notice in the event the policy is canceled or not renewed.

**Note: The State of Delaware shall not be named as an additional insured.**

### **III. SUBMISSION REQUIREMENTS**

1. An “original” (so marked), and one ‘word searchable’ electronic copy on CD must be submitted. Proposals should be mailed or hand-delivered for receipt **no later than 3:00 p.m. local time on September 17, 2013 (“Closing Date”)**. All responses to the RFP become the property of the State. The Authority reserves the right to accept proposals after the date specified above.
2. The Proposal may be delivered by ‘Express Delivery’ (e.g., FedEx, UPS, etc.), U.S. Mail, or by hand. Proposal shall be submitted to:

Wendy B. Henry  
Contract Administration  
Delaware Department of Transportation  
800 Bay Road, Dover, DE 19901

3. **In order to comply with the State of Delaware’s Freedom of Information Act**, if firms responding to this Request for Proposal have any proprietary or confidential information, they should prepare one (1) copy (electronic or paper) of their response with this information redacted. This copy should be clearly marked as “Redacted Copy” and submitted along with the other copies. Firms should review Delaware’s Freedom of Information Regulations, section 6, Requests for Confidentiality, on the DelDOT Website [www.deldot.gov](http://www.deldot.gov) and Section 10002(g) “Public record” of the Delaware Code, <http://delcode.delaware.gov/title29/c100/index.shtml> to determine what information may

be considered proprietary or confidential and may be redacted from their proposal response.

4. The proposers shall be responsible for any liability or cost incurred in connection with responding to this request for proposals. Proposals shall address all the questions posed by the Issuers in the order in which they appear in this request.

#### **IV. TECHNICAL PROPOSAL FORMAT**

The following information shall be provided in each proposal in the order listed below. A firm is expected to provide a response for each requirement listed in this RFP. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of the State.

All technical proposals shall be prepared with a concise description of the firm's capabilities to satisfy the minimum qualifications in the following section- **Submission Format**. Firms should format their proposals so that their responses correspond to the specific sections to the extent possible without unnecessary repetition.

1. **Please submit the firm's mailing address, phone number, and an e-mail address for the firm's point of contact person on Transmittal Letter.** Future contacts by the Authority will be done via e-mail, whenever possible. The transmittal letter must briefly summarize the proposing firm's interest in providing the required services. It must be signed by the person authorized to commit your firm to the services being offered in your response to this RFP. The transmittal letter must also clearly state and justify any exceptions to the requirements of the RFP, which the applicant may have taken in presenting the Proposal. The State reserves the right to deny any and all exceptions taken to the RFP requirements.
2. Responses to this RFP Proposals shall be limited to ten (10) pages, excluding transmittal letter and requested appendices. Proposals should be simply and economically prepared and should not include extraneous marketing materials or other information not specifically requested to be provided.
3. The proposal response must include the information set forth below. For ease of review, please present the response in the order shown below, utilizing the sections and numbering approach consistent with this RFP.

##### **A. Bank Information**

General Information – State the name of your bank, address, telephone number, and the name, title and e-mail address of the person who will serve as the Authority's key contact with your bank.

Please provide your firm's capital position as of the date of your most recently published statement of financial position including total capital, equity capital, excess net capital and daily average uncommitted capital. Also, please provide the aforementioned information for the three most recently completed fiscal years in a tabular presentation:

- (a) Total Bank Capital;
- (b) Total Equity Capital;
- (c) Uncommitted Excess Net Capital;
- (d) Daily Average Uncommitted Capital; and
- (e) Risk Based Capital Ratios; Tier 1 and Leverage Ratios

**B. Bank Qualifications and Fees**

Describe the formula that will be used for the calculation of fees for the Line of Credit. Include the following information in the proposal:

- (a) Provide pricing for a one, three, five, and seven-year term (and any longer term that the Bank is willing to provide). A sample matrix is set forth below:

	Unused Fee	Utilized Fee
1 Year	\$	\$
3 Years	\$	\$
5 Years	\$	\$
7 Years	\$	\$

- (b) Up-front fees, if any, with description of each fee.
  - (c) Formula for calculating and frequency of payment of fees for unreimbursed draws on Line of Credit. Include applicable maximum rate, term rate and term loan provisions.
  - (d) Confirm the willingness of the Bank to provide the Authority an extension of the term of Line of Credit annually or to notify the Authority that Line of Credit will not be extended at least 120 days in advance.
  - (e) Other fees and expenses, if any (itemize and specify maximums for each item). The Authority reserves the right to reduce the commitment amount or to terminate the Line of Credit at any time. The Authority does not expect to agree to the payment of any fees or expenses for reducing the commitment amount or terminating Line of Credit prior to expiration. In addition, specify the cap on the amount of annual draw fees.
- C.** Please identify any SEC, IRS, MSRB or state law enforcement agency litigation, investigation or action in which your bank is currently involved, or has been involved, since January 1, 2010.
- D.** Present a detailed term sheet of all material covenants and/or requirements that you would like to include in the Bank Loan Agreement. Provide a form of preferred Bank Loan Agreement as a separate appendix. Please note the Authority’s counsel will ultimately draft the Bank Loan Agreement and all related documents.
- E.** The Authority will affirmatively insure individuals and businesses will not be discriminated against on the grounds of race, creed, color, sex, or national origin in

consideration for an award. Minority business enterprises will be afforded full opportunity to submit bids/proposals in response to this invitation.

- F. Provide references, including names, titles, addresses, and phone numbers from at least 3 other issuers for which the bank has served as Revolving Line of Credit lender. Government references are preferred, if available.

## V. EVALUATION PROCESS

1. All proposals submitted in response to the RFP shall be reviewed by a selection committee, which may consist of staff members from the Authority and others as well as representatives of the State’s financial advisory firm (“Committee”). The Committee shall determine the firms that meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in 29 Del. C. §§ 6981, 6982. The Committee may interview at least one of the qualified firms but may negotiate with one or more firms during the same period and may, at its discretion, terminate negotiations with any or all firms.
2. **Award.** The Authority reserves the right not to award a contract to any bank(s). If the Authority decides to award a contract(s), the Authority will award a contract(s) to the qualified bank(s) whose proposal the Authority determines best meets the needs of the Authority. The Authority reserves the right to award a contract(s) other than to the lowest priced proposal. The RFP scoring process includes the three main components below:

Category	Weighted Percentage
Price	40%
Terms	30%
Experience	20%
Financial Strength	10%

3. **Ownership of Materials Submitted.** All material submitted becomes the property of the Authority and will not be returned.
4. **Proposers’ Costs.** The Authority shall not be responsible for any costs incurred by the prospective bank(s) in connection with this RFP. Banks shall bear all costs associated with proposal preparation, submission and attendance at presentation interviews, or any other activity associated with this RFP or otherwise.

5. **Use of Proposal Ideas.** The Authority reserves the right to use any or all proposer service ideas presented. Selection or rejection of the proposal does not affect this right.
6. **Clarification.** The Authority reserves the right to contact any or all proposers for clarification regarding information presented in proposal responses.

No promotional materials or brochures to be included as part of the Proposal package.

The Authority is not liable for any cost incurred by the consultant in the preparation or presentation of the Proposals.

The Authority will affirmatively insure individuals and businesses will not be discriminated against on the grounds of race, creed, color, sex, or national origin in consideration for an award. Minority business enterprises will be afforded full opportunity to submit bids/proposals in response to this invitation.

**Delaware Transportation Authority**  
**State of Delaware**  
**By: Shailen Bhatt**  
**Secretary**  
**Dover, DE**  
August 30, 2013