

Only firms which have been prequalified by the Office of Financial Management for FY 2022 and FY 2023 to provide financial advisory services to the Kentucky Higher Education Student Loan Corporation may submit a response to this Request for Proposal.

May 14, 2021

Request for Proposal (RFP) to Serve as Financial Advisor to the Kentucky Higher Education Student Loan Corporation for Fiscal Year 2022.

The Office of Financial Management (“OFM”) of the Finance and Administration Cabinet (the “Cabinet”) of the Commonwealth of Kentucky (the “Commonwealth”), on behalf of the Kentucky Higher Education Student Loan Corporation (“KHESLC” or the “Corporation”), is inviting proposals from pre-qualified firms to provide financial advisory services to the Corporation. The engagement period will be for the fiscal year beginning July 1, 2021 and ending June 30, 2022 (“FY 2022”) with an option to renew for one year under the same terms and conditions at the discretion of OFM and the Corporation.

The Corporation was initially created and subsequently empowered to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing insured Federal Family Education Loan Program (FFELP) student loans and fixed or variable rate supplemental student loans not originated under the federal program. From a student loan financing perspective, KHESLC has been very active in responding to numerous challenges including, but certainly not limited to, the College Cost Reduction and Access Act of 2007 (CCRAA), a severe credit market crisis, the collapse of the auction rate securities (ARS) market, and the prospective elimination of the origination of FFELP student loans. These proactive responses include participating in the Ensuring Continued Access to Student Loans Act (ECASLA) loan participation and conduit programs, first administering and then refinancing outstanding auction rate securities in a failed auction environment, negotiating with third-party financial institution credit and liquidity providers, issuing taxable and tax-exempt floating rate notes, and developing, launching and financing its Advantage Loan Program and formally engaging a Financial Advisor in 2017.

KHESLC engaged in a multitude of financing activities over the past 18 months that helped to reduce the risk related to KHESLC’s decreasing unrestricted “net position” available for both operations and for contribution as credit enhancement (“CE”) overcollateralization (“OC”) for bond issuances. These activities included successful investor consent solicitations related to KHESLC’s 2010, 2013-1, 2013-2 and 2015 floating rate note (“FRN”) transactions. These four transactions, in addition to KHESLC’s 2016 transaction, were refinanced as part of the November 2020-1 and March 2021-1 LFRN transactions.

The Corporation’s financing plans for FY 2022 are dependent on a number of factors including, but not limited to, significant changes to the FFEL program at the federal level, the phase out of LIBOR, market access, market demand for loan products, FFELP loan acquisition opportunities, trends in the market and the availability and cost of financing structures. Bonds may be issued for any of the following purposes:

- Possible restructuring of remaining FRN transactions that do not have appropriately incorporating LIBOR transition language.
- Provide permanent financing for other FFELP student loans that could be acquired during the service period.
- Provide permanent financing for rehabilitated FFELP student loans or FFELP student loans that could be deemed by the U.S. Department of Education to be rehabilitated.
- Finance the funding of existing and future non-federal fixed or variable rate supplemental loans, not originated under the federal program, including Advantage Education, Parent, and Refinance Loans (“Advantage Loans”) warehoused by the Corporation.

Currently, KHESLC has four FRN indentures, two of which are Direct Purchase Notes (“DPN”). The two market LFRN transactions that were consummated during KHESLC’s FY2021 do incorporate certain LIBOR transition language in the underlying documents but the DPNs currently do not contain such language. In addition, KHESLC has its 2014 and 2018 Master Indentures in support of its supplemental “Advantage” Loan Program. The Corporation may also create new Indentures of trust as needed to finance and/or refinance education loans. The Corporation currently has a \$75 million revolving line of credit (“LOC”) with a maturity of July 2022. As of April 30, 2021, the outstanding LOC was \$17.1 million, leaving \$57.9 million of available draws. That facility may be used by KHESLC to fund FFELP loans (including rehabilitation FFELP loans) and Advantage Loans for which KHESLC intends to obtain subsequent permanent financing. Although KHESLC currently projects that there may be sufficient loan acquisition funding through most of its Fiscal Year Ending June 30, 2022, a significant number of uncertainties remain that could impact issuance strategies and needs. Those uncertainties include the next steps related to a March 30, 2021 U.S. Department of Education (“USDE”) announcement titled “*March 30, 2021 U.S. Department of Education Announcement Expanding Covid-19 Emergency Flexibilities to Additional Federal Student Loans in Default.*”

Other than to generally “add value” to KHESLC, the Financial Advisor may also be asked to assist with the following primary objectives related to bond issuance:

1. Derive maximum economic benefit from each financing;
2. Minimize borrowing costs and issuance costs;
3. Maximize the amount and level of financial expertise brought to each transaction;
4. Provide continuity to the debt issuance process for each financing.

Specific Student Loan Finance Program objectives of KHESLC include the following:

1. Identify transactions that further the long-term best interests of the Corporation;
2. Select and execute transactions that optimize equity contributions, minimize or reduce financial risk, and provide reasonable profits and positive cash flow;
3. Provide ongoing, relevant program services;
4. When possible, maintain bond ratings on existing debt, obtain ratings on new debt needed to adequately market/place the debt, and strategically respond to bond downgrades, if and as applicable, related to certain rating agencies;
5. Consider FFELP loan portfolio acquisition opportunities;
6. Respond to remaining LIBOR challenges.
7. Respond to other significant changes to the FFEL program that could materially reduce portfolio revenues and/or rapidly and significantly increase demand for capital.

Financial information regarding the Corporation and its programs, including the Annual Financial Report and Secondary Market Disclosure, is available at the Corporation's web site, www.kheslc.com/kheslcservicing/pages/aboutus.faces. Official Statements for recent transactions may be found at www.MuniOS.com or at www.emma.msrb.org.

Description of Services Sought

The firm engaged to perform financial advisory services to KHESLC will be, depending on the nature of services, working with the Corporation, OFM, a senior managing underwriter and a bond counsel firm. KRS 42.420 requires the Corporation to submit all proposed debt financings to OFM for review and approval prior to issuance. OFM is active in this role and serves as an additional administrative financial advisor to the Corporation. The Financial Advisor engagement may include advisory services related to negotiated new money transactions such as Libor Floating Rate Notes ("LFRN"), Direct Purchase Notes ("DPN"), and Fixed Rate Bonds, bond refinancings, other issuance-related financial transactions, assistance with FFELP acquisition opportunities, financing plans and valuations, development of student loan financial dashboards, and other general and financial advisory services.

The selected firm, if engaged to perform financial advisory services for the Corporation, may be asked to assist the Corporation with, but not necessarily limited to, one or several of the following activities:

1. Assist the Corporation in its pursuit of FFELP loan portfolio acquisition opportunities.
2. Advise as to the various financing alternatives available.
3. Assist the Corporation in reviewing and providing feedback related to the terms, conditions and structure of any proposed debt offering.
4. Provide advice on the condition of the bond market at the time of sale, including volume, timing considerations, competing offerings, and general economic considerations.
5. Review certain documents as requested that are customary and necessary in order to structure and issue bonds.
6. Participate as needed in activities related to the sale and closing of the securities with the issuer, bond counsel, senior managing underwriter, the trustee, and the Commonwealth.
7. Provide advice regarding investment of certain funds.
8. Provide advice on continuing disclosure requirements in relation to the bonds.
9. After issuance, interpret bond provisions and covenants if requested by representatives of the Corporation
10. Undertake any and all other financial planning and policy development assignments requested regarding bond and other financings, and financial policy including cash management issues and related fiscal policies and programs.

11. As requested, provide financial advisory support for all other matters necessary or incidental to the issuance of the bonds or administering the Corporation's loan programs.
12. Assist the Corporation in its development of key financial dashboards.
13. Assist the Corporation if requested with updated spread analyses for its Supplemental Advantage Loan Program.
14. Although KHESLC has no current plans to enter into any SWAP Agreement, assist the Corporation accordingly should such need arise.

REQUIRED COMPONENTS OF PROPOSAL

Each response to the RFP must include and address the following items. **Failure to comply with the requirements of the RFP will result in the firm's response not being evaluated by the Selection Committee.** (See Selection and Notification)

I. Disclosure

- A. Certify that there has been no material change to any of the statements and certifications made by the firm in its response to the **Request for Qualifications, Section II, Disclosure**, issued by OFM on January 13, 2021. In the event there has been a material change, please specify the nature of the change and the impact of the change on the firm and its ability to provide the desired services.
- B. Detail any criminal investigation, indictment, prosecution or other proceeding that has ever been brought against your firm (provide attachment if necessary). Also, describe any civil litigation pending or concluded within the last three years against your firm that would impair the firm's ability to provide the requested services (provide attachments if necessary).
- C. List all regulatory fines while engaged in transactions occurring within the last three years, including the amount of the fine and the reason for the fine.
- D. Disclose any potential conflicts of interest with representing the Commonwealth in this matter, including any potential conflicts of interest of employees assigned to this project and potential conflicts with any KHESLC employees. The Commonwealth reserves the unqualified right to disqualify an entity or cancel any contract for any potential conflict of interest issues raised initially and/or during the life of any contract awarded.
- E. Disclose if your firm's proposal has information considered proprietary that you wish to be confidentially disclosed. In the event that your firm chooses to declare the inclusion of proprietary information, please noticeably label such information as described in the **"Proprietary Information"** article on the RFP.

II. Qualifications (60%)

A. Relevant Experience of the Firm (25%)

1. Briefly review the history and organization of the firm. Provide a brief discussion of similar and relevant financial advisory services within the last two years.
2. Discuss similar types of transactions, specifically student loan revenue bond financings, on which your firm has served as a financial advisor over the past two years.

B. Relevant Experience and Qualifications of the Representatives of the Firm (35%)

1. Provide a discussion of the experience and qualifications of the firm's representatives who would work with the Corporation. Provide the names and resumes of all individuals who would be assigned to work with the Corporation and OFM. Please note that any changes made to representation for the institutions must be communicated to and approved by the Corporation and OFM.
2. Identify the principal contact that would serve as the advisor to the Corporation and specifically discuss that individual's experience as principal financial advisory contact within the last two years.
3. Identify the person in the firm who would provide cash flow and debt structuring analysis and describe that individual's experience providing that service to other similar issuers within the last two years.
4. Provide three (3) specific references of the firm's and three (3) specific references of the principal contact's experience with similar entities. Include names, addresses and telephone numbers.

III. Fee Proposal (40%)

One (1) Fee Proposal must be submitted in a separate e-mail using Attachment C. Failure to adhere to these requirements will result in disqualification of the response.

1. Provide a financial advisory services (30%) fee proposal (Attachment C). Propose a per bond fee, inclusive of all expenses including copying, faxing, mailing, telephone, travel and other expenses. There can be no assurance by OFM or the Corporation that transactions contemplated in the RFP will be completed during the engagement period. The Corporation reserves the right to determine whether or not the selected firm will serve in the capacity of Financial Advisor for any bond issuance during the engagement period. However, based on recent history, KHESLC's preference has been for its Financial Advisor to be actively engaged in each issuance. For purposes of this proposal and fee evaluation, assume one \$140 million LIBOR Floating Rate

Note issue and one \$70 million Fixed Rate Tax-Exempt Bond issued by the Corporation. Fees and expenses shall be paid upon the completion and closing of bond issues.

2. Provide a general advisory services (10%) fee proposal (Attachment C). Propose a fee which will be evaluated on a per hour basis for services performed by the selected firm. Services considered general advisory services include any service not described in #1 of the Part III Fee Proposal. KHESLC's senior management would approve these in advance. Should KHESLC engage the selected firm to serve in the capacity of Financial Advisor for any bond issuance during the engagement period, please describe how your firm's service will delineate between the financial advisory services described in #1 above with the general advisory services described herein. Please include an hourly rate for an annual not to exceed amount of \$50,000 each fiscal year.

Reservation of Rights

OFM reserves the right to:

1. Review and approve any change in staff members significantly involved in any financing during the contract period, and discharge the firm promptly if such personnel changes do not meet the needs of the Commonwealth.
2. Reject any and all proposals with cause, including failure to disclose material events.
3. Reject all proposals and seek new proposals when such procedure is reasonably in the best interest of the Commonwealth.
4. Make investigations regarding qualifications of any or all respondents, as the Selection Committee deems necessary.
5. Request and receive such additional information as the Selection Committee may reasonably require. Failure to comply with such a request will result in disqualification.
6. Waive minor irregularities in this RFP process.
7. Make all submitted proposals and any attached materials available for Open Records requests pursuant to KRS 61.870.

Liability

The Commonwealth shall not be liable for:

1. Any cost incurred in the preparation or submission of any proposal.
2. Any costs incurred in connection with any interview or negotiation relating to this RFP (i.e. travel, accommodations, etc.).

3. Any disclosure, whether by negligence or otherwise, of any information, material or not, in any form submitted in response to this RFP.

Questions

All questions and requests for information concerning this RFP must be submitted by facsimile, email or in writing to the address below by **2:00 p.m. ET on Wednesday, May 26, 2021**. Any questions submitted, and answers, may be distributed to all pre-qualified firms at the discretion of the Chairperson of the Selection Committee. Please note that questions submitted after the deadline will not receive a response.

Submission of Proposals

Due to the extraordinary circumstances brought about by the Covid-19 pandemic, only electronic submissions will be accepted and must be received no later than **2:00 p.m. ET on Thursday, June 3, 2021**. **The Commonwealth email servers filter attachments that approach 10 MB**, so proposals under that limit may be submitted to Aubry.McDonald@ky.gov.

Office of Financial Management
Selection Committee Chair
Kentucky Higher Education Student Loan Corporation
Financial Advisor RFP FY 2020
702 Capital Avenue, Suite 76
Frankfort, Kentucky 40601-3453
Phone: (502) 564-2924
E-mail: Aubry.McDonald@ky.gov

NOTE: It is recommended that receipt of all submissions be confirmed by the submitter. Proposals received after the stated deadline will NOT be accepted.

Selection and Notification

The Selection Committee, established pursuant to KRS 45A.843, is composed of three (3) staff members of OFM (voting), two (2) representatives from the Corporation (voting) and one merit employee from the Auditor of Public Accounts (nonvoting). A majority of the voting members must be merit employees of the Commonwealth. Proposals will be evaluated by voting members pursuant to the evaluation criteria outlined on **Attachment A and Attachment B**. The Selection Committee will determine whether to hold interviews of proposing firms. The Selection Committee will make a recommendation for selection pursuant to KRS 45A.840 to 45A.879. The Selection Committee will make a recommendation for selection pursuant to KRS 45A.840 to 45A.879 and KRS 45A.490 to 45A.494. The scoring of proposals is subject to reciprocal preference for Kentucky resident bidders and preference for a Qualified Bidder. See **Attachment D** for recently enacted KRS 45A.490 to 45A.494 “Kentucky Preference Laws”.

Kentucky Revised Statutes referenced in the RFP may be found at <http://legislature.ky.gov>

Note: It is your firm's responsibility to notify OFM of any change in your firm's primary contact person's information. Any electronic correspondence returned because of an inaccurate email address will be considered undeliverable and no attempt will be made to contact your firm for a correct address.

Proprietary Information

The RFP specifies the required components and general content of proposals submitted in response to the RFP. **The Finance and Administration Cabinet will not disclose any portions of the proposals prior to Contract Award to anyone outside the Finance and Administration Cabinet, representatives of the agency for whose benefit the contract is proposed, representatives of the Federal Government, if required, and the members of the evaluation committee.** After a Contract is awarded in whole or in part, the Commonwealth shall have the right to duplicate, use, or disclose all proposal data submitted by firms in response to this RFP as a matter of public record. Although the Commonwealth recognizes the firm's possible interest in preserving selected data which may be part of a proposal, the Commonwealth must treat such information as provided by the Kentucky Open Records Act, KRS 61.870 et sequitur, which allows for exemptions as provided in KRS 61.870(1)(c).

Pursuant to KRS 61.870(1)(c), informational areas which normally might be considered proprietary shall be limited to **individual personnel data, customer references, selected financial data, formulae, and financial audits** which, if disclosed, would permit an unfair advantage to competitors. If a proposal contains information in these areas that a firm declares proprietary in nature and not available for public disclosure, the **firm shall declare in the Disclosure (See "Required Components of the Proposal," Section I, Subsection D) the inclusion of proprietary information and shall noticeably label as proprietary each sheet containing such information.** The Cabinet will make all reasonable efforts to maintain the confidentiality of any information provided by the firm, which is clearly identified by the firm as proprietary, provided such designation is reasonable, and subject to the order of the Attorney General or any court directing the Cabinet to release such information.

Contact with Selection Committee Members

Please note that any contact made by the firm with any member of the Selection Committee, from the date of issuance of the RFP until an award of contract, is required to be disclosed by such Committee member to the entire Committee and will become a part of the permanent file for this selection process which is subject to "open records requests" pursuant to Kentucky Open Records laws.

The Office of Financial Management on behalf of the Corporation respectfully solicits the submission of a proposal by your firm.

Attachments:

- Attachment A: Evaluation Criteria
- Attachment B: Evaluation Form
- Attachment C: Fee Proposal
- Attachment D: Kentucky Preference Law

**ATTACHMENT A
EVALUATION CRITERIA**

**Kentucky Higher Education Student Loan Corporation
Request for Proposals
Financial Advisor
Fiscal Year 2022**

<u>Evaluation Criteria</u>	<u>Weight</u>
1. Relevant Experience of the Firm	25%
2. Relevant Experience and Qualifications of the Firm's Representatives	35%
3. Fee Proposal	<u>40%</u>
Total	100%

**ATTACHMENT B
EVALUATION FORM**

**Kentucky Higher Education Student Loan Corporation
Request for Proposals
Financial Advisor
Fiscal Year 2022**

FIRM: _____ REVIEWER: _____

DISCLOSURE STATEMENT: Yes _____ No _____

1. **RELEVANT FIRM EXPERIENCE** - (Qualifications, recent similar transactions, firm organization) Total of 25 points possible.

Score = _____

Notes: _____

2. **RELEVANT EXPERIENCE AND QUALIFICATIONS OF FIRM REPRESENTATIVES** - (Number of staff available, background, individual experience on similar transactions, identification of principal contact, cash flow experience, specific firm references) Total of 35 points possible.

Score = _____

Notes: _____

Total Score*(60 points possible): _____

*Scores for fee proposals (40 points) will be uniformly assigned by the Committee Chair.

Note: This form must be used when submitting your Fee Proposal. It is not to be changed. Any fees not entered as requested in the format below will result in the firm's response not being evaluated by the Selection Committee. Failure to comply with the requirements of this RFP will result in the firm's response not being evaluated by the Selection Committee.

**ATTACHMENT C
FEE PROPOSAL**

**Kentucky Higher Education Student Loan Corporation
Request for Proposals
Financial Advisor
Fiscal Year 2022**

Provide a fee inclusive of all expenses including copying, faxing, mailing, telephone, travel and other out-of-pocket expenses for any new money and/or refunding transaction.

*For purposes of this proposal and fee evaluation, assume one \$140 million LIBOR Floating Rate Note issue and one \$70 million Fixed Rate Tax-Exempt Bond issued by the Corporation.

Financial Advisory Fee (30%)	Price Per \$1,000 Bond*
LIBOR Floating Rate Note	\$ _____
Fixed Rate Tax-Exempt	\$ _____

General Services Fee (10%)

Hourly Rate \$ _____

SIGNED

DATE

NAME OF FIRM

ATTACHMENT D

Kentucky Preference Laws (KRS 45A.490-494)

The scoring of bids/proposals is subject to Reciprocal preference for Kentucky resident bidders and Preferences for a Qualified Bidder. *Vendors not claiming resident bidder or qualified bidder status need not submit the corresponding affidavit.

Reciprocal preference for Kentucky resident bidders

KRS 45A.490 Definitions for KRS 45A.490 to 45A.494.

As used in KRS 45A.490 to 45A.494:

- (1) "Contract" means any agreement of a public agency, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item; and
- (2) "Public agency" has the same meaning as in KRS 61.805.

KRS 45A.492 Legislative declarations.

The General Assembly declares:

- (1) A public purpose of the Commonwealth is served by providing preference to Kentucky residents in contracts by public agencies; and
- (2) Providing preference to Kentucky residents equalizes the competition with other states that provide preference to their residents.

KRS 45A.494 Reciprocal preference to be given by public agencies to resident bidders -- List of states -- Administrative regulations.

- (1) Prior to a contract being awarded to the lowest responsible and responsive bidder on a contract by a public agency, a resident bidder of the Commonwealth shall be given a preference against a nonresident bidder registered in any state that gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidder.
- (2) A resident bidder is an individual, partnership, association, corporation, or other business entity that, on the date the contract is first advertised or announced as available for bidding:
 - (a) Is authorized to transact business in the Commonwealth; and
 - (b) Has for one (1) year prior to and through the date of the advertisement, filed Kentucky corporate income taxes, made payments to the Kentucky unemployment insurance fund established in KRS 341.490, and maintained a Kentucky workers' compensation policy in effect.
- (3) A nonresident bidder is an individual, partnership, association, corporation, or other business entity that does not meet the requirements of subsection (2) of this section.
- (4) If a procurement determination results in a tie between a resident bidder and a nonresident bidder, preference shall be given to the resident bidder.
- (5) This section shall apply to all contracts funded or controlled in whole or in part by a public agency.
- (6) The Finance and Administration Cabinet shall maintain a list of states that give to or require a preference for their own resident bidders, including details of the preference given to such

bidders, to be used by public agencies in determining resident bidder preferences. The cabinet shall also promulgate administrative regulations in accordance with KRS Chapter 13A establishing the procedure by which the preferences required by this section shall be given.

(7) The preference for resident bidders shall not be given if the preference conflicts with federal law.

(8) Any public agency soliciting or advertising for bids for contracts shall make KRS 45A.490 to 45A.494 part of the solicitation or advertisement for bids.

The reciprocal preference as described in KRS 45A.490-494 above shall be applied in accordance with 200 KAR 5:400.

Determining the residency of a bidder for purposes of applying a reciprocal preference

Any individual, partnership, association, corporation, or other business entity claiming resident bidder status shall submit along with its response the attached Required Affidavit for Bidders, Offerors, and Contractors Claiming Resident Bidder Status. The BIDDING AGENCY reserves the right to request documentation supporting a bidder's claim of resident bidder status. Failure to provide such documentation upon request shall result in disqualification of the bidder or contract termination.

A nonresident bidder shall submit, along with its response, its certificate of authority to transact business in the Commonwealth as filed with the Commonwealth of Kentucky, Secretary of State. The location of the principal office identified therein shall be deemed the state of residency for that bidder. If the bidder is not required by law to obtain said certificate, the state of residency for that bidder shall be deemed to be that which is identified in its mailing address as provided in its bid.

**REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS
CLAIMING RESIDENT BIDDER STATUS**

FOR BIDS AND CONTRACTS IN GENERAL:

The bidder or offeror hereby swears and affirms under penalty of perjury that, in accordance with KRS 45A.494(2), the entity bidding is an individual, partnership, association, corporation, or other business entity that, on the date the contract is first advertised or announced as available for bidding:

1. Is authorized to transact business in the Commonwealth;
2. Has for one year prior to and through the date of advertisement
 - a. Filed Kentucky income taxes;
 - b. Made payments to the Kentucky unemployment insurance fund established in KRS 341.49; and
 - c. Maintained a Kentucky workers' compensation policy in effect.

The BIDDING AGENCY reserves the right to request documentation supporting a bidder's claim of resident bidder status. Failure to provide such documentation upon request shall result in disqualification of the bidder or contract termination.

Signature	Printed Name
Title	Date
Company Name	
Address	