

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS

The meeting was called to order by Representative Delbert L. Gross at  
Chairperson

3:30 ~~XXX~~/p.m. on March 19, 1992 in room 527-S of the Capitol.

All members were present except:

Committee staff present: Bill Wolff, Legislative Research Department  
Bruce Kinzie, Revisor of Statutes  
June Evans, Secretary

Conferees appearing before the committee: Representative Thomas A. Bishop  
Bill Caton, Consumer Credit Commissioner  
Don R. Seifert, Asst. Director, Administrative Services, City of Olathe  
Christopher K. McKenzie, Executive Director, The League of Kansas Municipalities

The Chairperson called the meeting to order at 3:30 P.M. and announced the Committee would be having hearings on March 24 and 25 on SB 480 and hearing SB 510 and SB 622 on March 26 and final action would be taken on previously heard bills. The Joint Sub-Committee of the House and Senate will discuss the role of the Consumer Credit Commissioner and the State of Kansas concerning acquisition of Prudential Loan in Hays acquired by Bankers Thrift and Loan Association and subsequent bankruptcy of Bankers Thrift on March 31 at 7:30 A.M.

The Chairperson opened the hearing on HB 2321.

Representative Tom Bishop testified in support of HB 2321, stating the bill requires written procedures for selecting firms to provide services related to the issuances of bonds used to finance governmental projects or activities. Representative Bishop further stated this is good public policy and reduces the cost. There is nothing in the bill that reduces the value of the bonds or their pricing as they are taken to market, in fact it should have the opposite effect by ensuring quality. (See Attachment 1).

William F. Caton, Acting President, Kansas Development Finance Authority, testified stating this bill pertains to state agencies and municipalities that have the authority to issue bonds for the above-captioned projects. The bill requires that all finance professionals associated with the issuance of bonds be selected in accordance with the following guidelines:

(1) Issue written Requests for Proposals (RFP's), after publishing a notice in either the state register or an official newspaper of the municipality.

(2) Establish written procedures for obtaining services, including evaluation criteria used to review the RFPs. (See Attachment 2).

Donald R. Seifert, Assistant Director, Administrative Services, City of Olathe, testified in opposition of HB 2321.

This bill would require the use of formal written proposals to obtain professional services associated with each issuance of bonds. It is felt the bill would be especially burdensome on frequent bond issuers and could have the opposite impact on controlling costs.

It would be costly, inefficient, and impractical to prepare, distribute, and evaluate requests for proposals for professional services on each and every day one of these bond issues. (See Attachment 3).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON COMMERCIAL & FINANCIAL INSTITUTIONS,  
room 527-S Statehouse, at 3:30 ~~xxx~~ p.m. on March 19, 1992

Christopher K. McKenzie, Executive Director, the League of Kansas Municipalities, testified in opposition of HB 2321 and its application to the cities of this state.

Kansas cities have been the primary issuers of municipal bonds in Kansas since the state itself cannot incur general obligation indebtedness. The League of Municipalities believes that Kansas cities have done a credible job in their debt financing procedures, obtaining the best bond services available at a reasonable cost. The League is concerned that the bill adds to the existing complexity of the bond issuance process, and could cause delays, especially, for bond issues which are affected by swings in the bond market (i.e., refunding issues). (See Attachment 4).

The Chairman closed the hearing on HB 2321.

Representative King moved and Representative Grant seconded the minutes of February 25 be approved. The motion carried.

The meeting adjourned at 4:30 P.M. and the next meeting will be Tuesday, March 24, 1992.



STATE OF KANSAS

THOMAS A. BISHOP  
"TOM"  
REPRESENTATIVE, 91ST DISTRICT  
SEDGWICK COUNTY  
1500 W. 32ND N.  
WICHITA, KANSAS 67204



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: ECONOMIC DEVELOPMENT  
GOVERNMENTAL ORGANIZATION  
PUBLIC HEALTH AND WELFARE  
ADVISORY COUNCIL ON AGING

To: Rep. Delbert Gross, Chairperson  
Members of the House Committee on Commercial and  
Financial Institutions

From: Rep. Tom Bishop

RE: Support of HB 2321

Date: March 19, 1992

H.B. 2321 requires written procedures for selecting firms to provide services related to the issuances of bonds used to finance governmental projects or activities.

The main provisions of this bill are;

1. Written official procedures shall be established including specifications on how requests for proposals will be issued and the criteria for evaluation of proposals on a competitive basis.

2. The evaluation criteria shall include factors based on cost, capacity to provide the required services, qualifications and experience.

Why do we need H.B. 2321?

1. The success and cost savings this procedure has provided the state through Kansas Development Finance Authority (KDFA)

Since it was formed in 1987 KDFA has saved taxpayers hundreds of thousands of dollars through the request for proposal (RFP) process and this bill takes the learnings of KDFA and applies it to all of the states bonding activity.

2. Most states have similar provisions in statute both to prevent patronage and reduce costs. Provisions of some of our neighbors follow.

-Missouri (Mo. Rev. St. SS. 010, 030, and 040) Requires that the services of bond underwriters be selected through a competitive process.

*CFI*  
*3-19-92*  
*Atch # 1*

-Oklahoma (Bond Oversight Reform Act) Requires that any professional services for state bond issues be obtained through a request for proposals (RFP) system. RFP's must be sent to at least three firms for each project, as well as to all that request them.

-Arkansas The Arkansas Development Finance Authority (ADFA), by policy, always uses RFPs. The proposals must detail, among other things, the experience the applicant has, the scope of services to be offered, and the cost of the services rendered. Weights assigned to the various factors make the selection process more objective. There is no statute that presently requires ADFA to use this system, but they adhere to it as a matter of policy because it has been so effective. The ADFA is required to submit reports to the Arkansas Legislative Council for its review.

3. It is good public policy that will reduce cost, save taxpayers money, and help restore confidence in government.

We have learned personally, professionally, and through other areas of government activity that receiving proposals from a variety of firms helps assure value and quality. State and local government follow this procedure whether purchasing fire trucks or pencils.

The purchase of financial services is no different in this regard. The state presently requires RFPs for audit services for subcontractors in various programs.

Following established procedures and receiving competitive proposals for services is the way most states, and KDFA in Kansas have reduced patronage, increased quality and lowered costs.

4. This bill should increase the value and marketability of Kansas Bond issues.

There is nothing in this bill that effects how bonds are sold; i.e. negotiated vs bid sale.

There is nothing in this bill that requires that low bids be accepted if it is an inferior proposal.

H.B. 2321  
March 20, 1991

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There is nothing in this bill that will reduce the value of the bonds or their pricing as they are taken to market, in fact it should have the opposite effect by ensuring quality.

5. The bill, as written, allows considerable flexibility.

Some cities use RFPs to select bond firms on a three year basis to handle all the small issues within that period of time.

6. H.B. 2321 can save Kansas money.

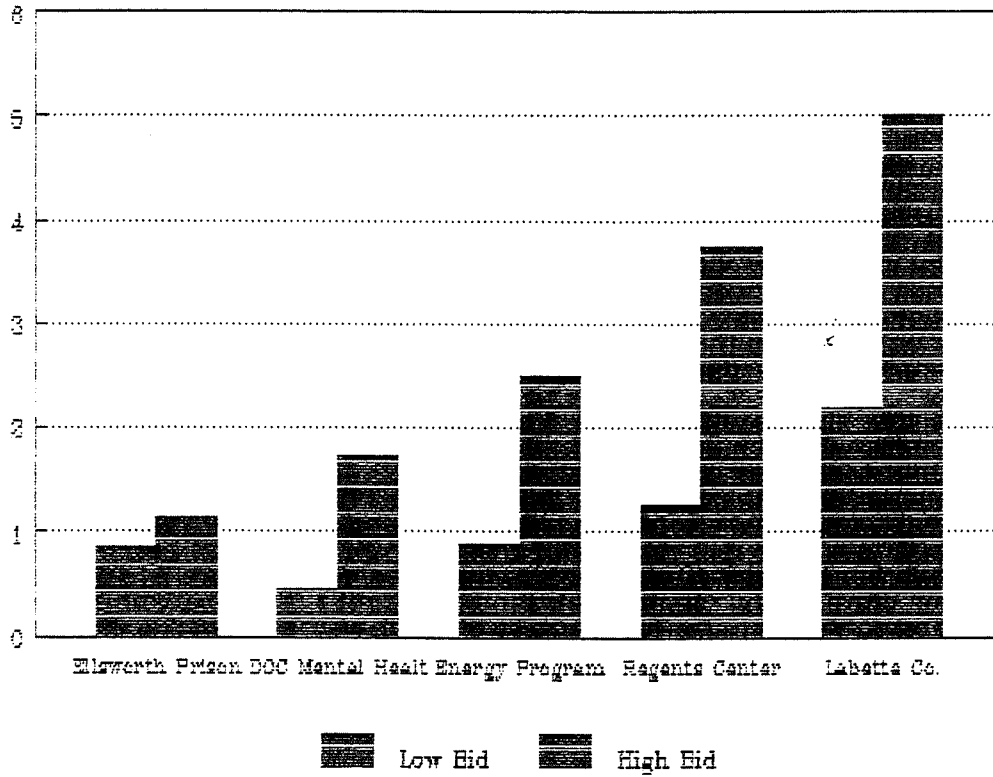
In five relatively small issues, managed by KDFA, the difference between high and low price quotes for services was \$270,916.86.

If you apply the range of price quotes in a typical KDFA bond counsel RFP to the \$890,000,000 in highway bonds to be issued after July 1, 1991 costs could range from \$445,000 to \$3,115,000. It is possible that up to \$2,670,000 could be saved taxpayers through a formal RFP process.

Thank you for you consideration of H.B. 2321.

# Cost Range for Bonding Activity

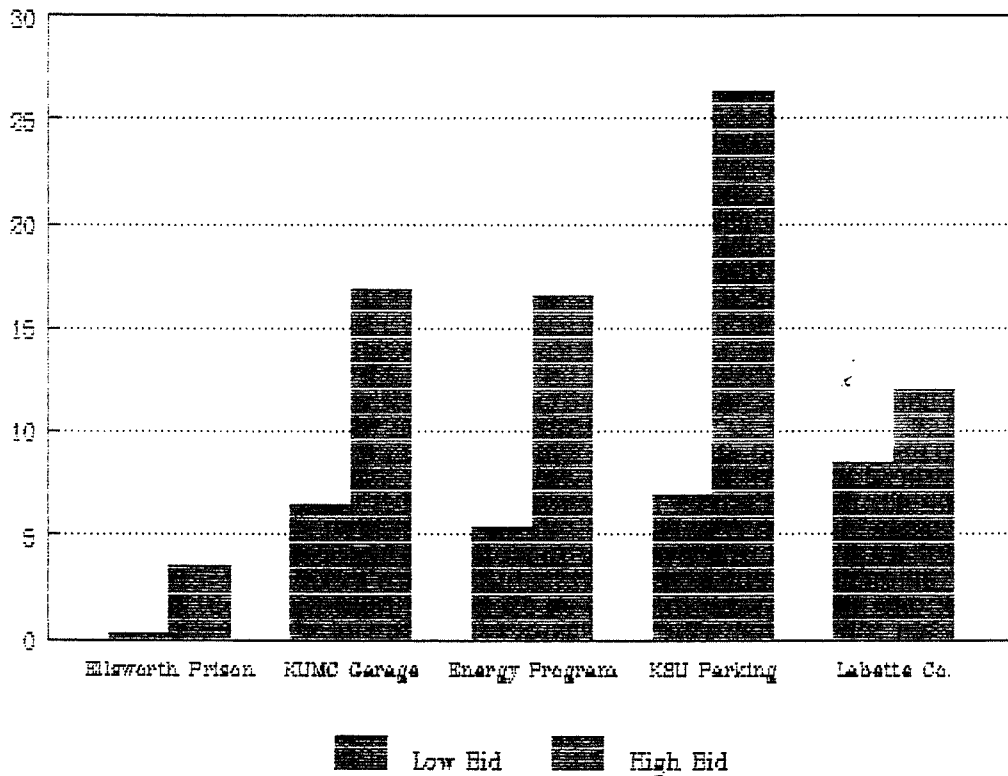
## Bond Counsel Fees—Cost Per \$1,000



Data from representative KDFJ samples

# Cost Range for Bonding Activity

## Underwriting Services Fee Per \$1,000

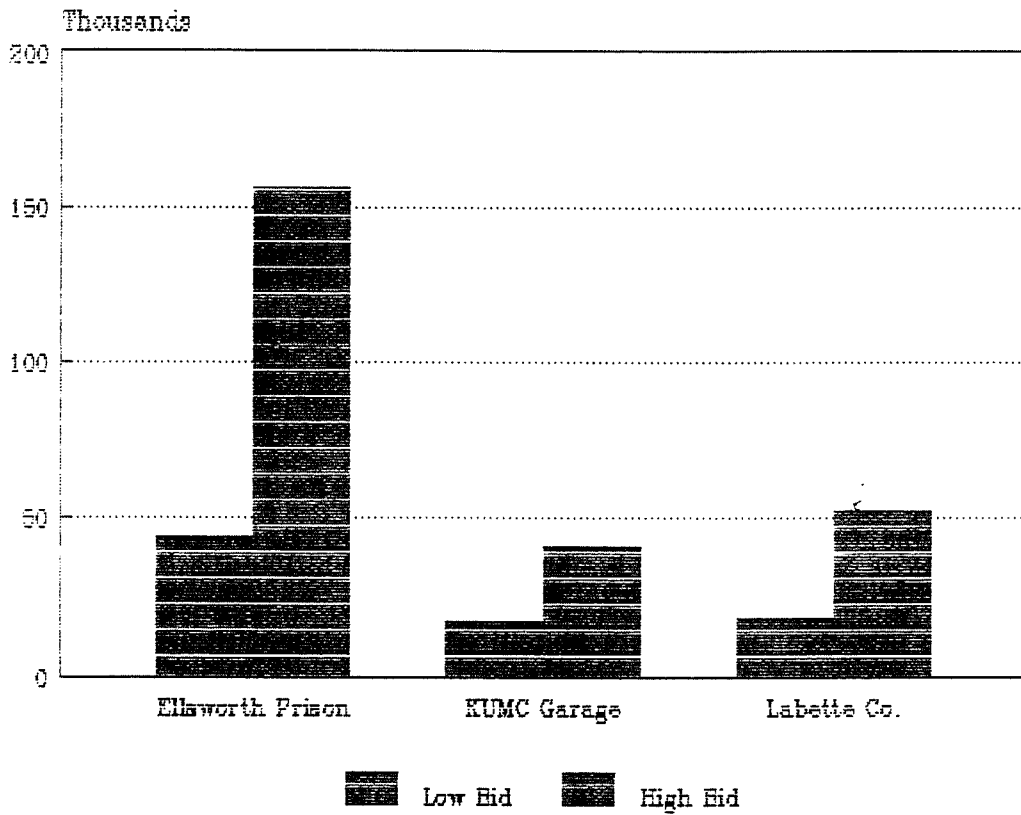


Data from representative KDFM samples



# Cost Range for Bonding Activity

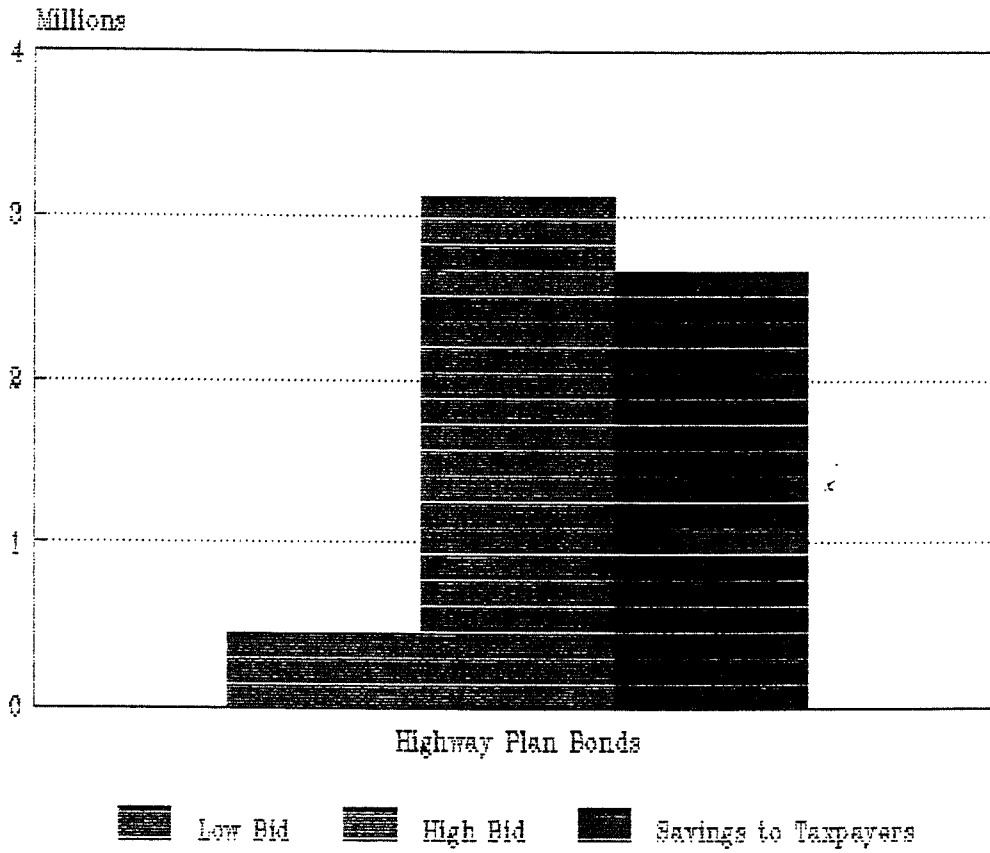
## Trustee Fee Quotes—Lifetime Costs



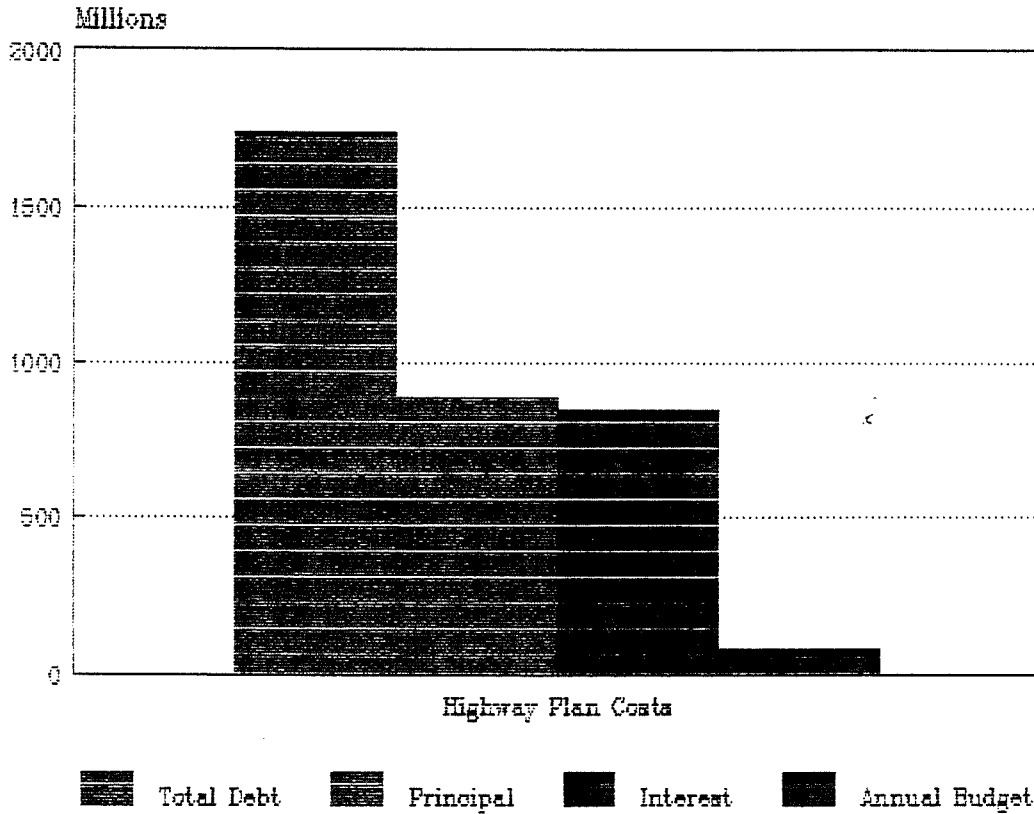
Data from representative KDFA samples

# Highway Plan Bonds

## Typical KDFA Cost Range & Savings



# Highway Program Debt Service Estimates



from Robert Haley, Dir. of Admin.

STATE OF KANSAS

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KANSAS DEPARTMENT OF TRANSPORTATION

Michael L. Johnston  
Secretary of Transportation

*Docking State Office Building*  
Topeka 66612-1568  
(913) 296-3566  
FAX - (913) 296-1095  
March 19, 1992

Joan Finney  
Governor of Kansas

The Honorable Thomas A. Bishop  
State Representative  
State Capitol  
Topeka, Kansas 66612

Dear Representative Bishop:

Recently my staff visited with you concerning House Bill 2321. KDOT currently uses a competitive negotiation process for the selection of firms to provide services in relation to the highway bonds. As we understand House Bill 2321 KDOT could continue with a negotiated procurement process.

We believe that as a matter of public policy it is desirable for the State to use the Financial Services Negotiating Committee and a single procurement process rather than each agency developing its own procedures. We would hope that the bill would provide for continuation of our current practices.

We also believe it is desirable for state agencies to be able to work together without going through a formal procurement process. We hope that the bill would provide for continuation of this authority.

If I can be of any further assistance please let me know.

Sincerely,

Michael L. Johnston  
Secretary of Transportation

## STATE OF KANSAS



## HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend House Bill No. 2706, As Amended by House Committee, On page 4, preceding line 26, by inserting the following section:

"Sec. 8. (a) No moneys appropriated from the state general fund or any special revenue fund for the fiscal year ending June 30, 1993, by this act or any other appropriation act of the 1992 regular session of the legislature for any state agency shall be expended for any services required for the issuance of any bonds issued on or after July 1, 1992, for projects or activities of any state agency, including but not limited to legal and financial services, unless such services were obtained pursuant to (1) written proposals submitted in response to a notice published in the Kansas register of a request for proposals to provide the services that are required by a state agency with regard to the proposed bond issuance or a mailed notice of a request for proposals to qualified interested parties, upon request by such parties, and (2) a written contract for such services awarded by a state agency from the proposals received and evaluated in accordance with procedures and evaluation criteria adopted by the state agency for such purpose, which include specifications for requests for proposals and criteria for evaluation of proposals on a competitive basis, including such factors as cost, capacity to provide the required services, qualifications and experience.

(b) As used in this section:

(1) "State agency" means any department or branch of state government or any state office or officer, department, board, commission, institution, authority, agency or other instrumentality thereof;

(2) "bond" means any bond, note, debenture, interim certificate, grant, revenue anticipation note, interest in a lease, lease certificate of participation or other evidence of indebtedness issued for the purpose of financing the costs of a governmental project or activity; and

(3) "services" means the services of bond counsel, underwriting services, trust services, financial advisory services, and any other legal, financial, or other related services required by the state agency for issuance of bonds for governmental projects or activities, but shall not include services provided by officers or employees of any state agency.";

And by renumbering original section 8 as section 9;

On page 1, in the title, in line 10, after "transportation" by inserting "and all other state agencies"

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District.



# KANSAS

KANSAS DEVELOPMENT FINANCE AUTHORITY

Joan Finney  
Governor

Wm. F. Caton  
President

## MEMORANDUM

**DATE:** March 19, 1992

**TO:** House Committee on Commercial and Financial Institutions

**FROM:** Wm. F. Caton, Acting President  
Kansas Development Finance Authority

**SUBJECT:** Testimony on House Bill 2321 - An Act Concerning the Procurement Procedures for State Agencies and Municipalities for the Issuance of Bonds for Governmental Projects or Activities

This bill pertains to state agencies and municipalities that have the authority to issue bonds for the above-captioned projects. The bill requires that all finance professionals associated with the issuance of bonds, be selected in accordance with the following guidelines:

1. Issue written Requests for Proposals (RFP's), after publishing a notice in either the state register or in a an official newspaper of the municipality.
2. Establish written procedures for obtaining services, including evaluation criteria used to review the RFPs.

KDFA was created by the Kansas Legislature in 1987, to provide access to capital markets for both public and private purposes. Since that time, it has been the policy of KDFA to use an RFP process in the selection of any professionals needed, whether it be in connection with financings or any other needs the authority may have.

Over the past four and a half years, KDFA has always tried to be innovative, flexible and responsive in the development and completion of its projects and programs. For state agency financings, KDFA prides itself in being able to react quickly to meet the needs of the legislature, governor, state agencies and the regents institutions.

While the concept of this bill has merit, and the concept is supported by KDFA, the requirements for publication in the state register and the establishment of written procedures on evaluation criteria will hinder KDFA's ability to react quickly, responsively and in a cost effective manner for state agency projects.

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Publication in the state register adds at least one week of lag time in the selection of finance professionals. For regents projects, that one week period can be critical. For example, legislation will often pass authorizing the financing of a regents project in late April or early May. Many times the regents will need to be in a position to begin their project as soon as school is out, in order to have a project completed before students return in the fall. A one or two week delay in the selection of a bond attorney or underwriter delays the sale of the bonds and delays when a university can begin its project.

KDFA has always tried to keep the costs down in association with its bond issues. The passage of this bill will increase those costs for KDFA. The publication costs (\$4 per column inch in the state register) and the costs of the staff time involved to publish notices will increase the costs associated with state agency projects. In the instances of bond counsel and underwriting firm selection, KDFA sends RFP's to firms listed in **The Bond Buyer's Municipal Marketplace Directory**, the "Who's Who" of the municipal bond industry. Publishing a notice in the state register would prompt inquiries from firms not listed in the directory, which would tie up additional staff time. Additional telephone, copying and mailing expenses would be incurred that KDFA would have to pass along to the state agency needing the financing.

Establishing written procedures on RFP evaluation criteria would take additional KDFA staff time. No two projects or programs are identical, which means that the evaluation criteria to make a selection of a finance professional will change from project to project. In many instances, KDFA will develop an innovative project or program where there is no precedence. Evaluation criteria for that type of proposal becomes more subjective than objective. I am also concerned that small entities will be overwhelmed by this requirement and will invite generic and very broad policies to be adopted KDFA sets forth its evaluation criteria in its RFPs.

KDFA has recently completed a poll on this subject with authorities in Colorado, Nebraska, Iowa, Oklahoma and Missouri. All respondents indicated that they do not have formalized evaluation criteria, as no two financings are identical. The authorities noted that some criteria rarely changes from RFP to RFP, but there is always a different set of criteria used that specifically relates to the program or project addressed in the RFP. As an example, we are in the process of soliciting Request For Proposal's for a project for the Board of Regents at the Kansas University Medical Center. The nature of this project requires bond counsel to have expertise in leases with the private medical industry. It would be impossible to identify this with boiler-plate evaluation criteria and impractical to change criteria with each project.



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For these aforementioned reasons, this bill penalizes KDFA for procedures it has voluntarily adopted over four years ago. These procedures were adopted because they make common sense. While KDFA supports the concept in HB 2321, the requirements set forth in this proposed legislation hinder KDFA's ability to remain responsive to state agencies and regents institutions, to act quickly to their needs and to hold down costs associated with a financing. We would suggest that an alternative action for state agencies instead of compliance to provisions in this bill would be to use the Kansas Development Finance Authority as issuer for their bonds and other financing needs.

The KDFA would also request exclusion form the definition of the word "State Agency" in 1(d) (1). Removal of "or other instrumentality there of" would facilitate that if in fact the KDFA is the only "other instrumentality" that has bond authority. This can be verified with legislative research or the revisor of statutes.

I thank you for the opportunity to come before you and testify on House Bill 2321

WBC:MB:bhs



**TO:** Members of the House Commercial and Financial Institutions Committee

**FROM:** Donald R. Seifert, Asst. Director, Administrative Services *DRS*

**SUBJECT:** House Bill 2321 - Procurement Practices for Bond Issuance Services

**DATE:** March 19, 1992

On behalf of the city of Olathe, I appreciate the opportunity to appear today and express concerns about House Bill 2321. This bill would require the use of formal written proposals to obtain professional services associated with each issuance of bonds. We certainly support the concept of protecting the taxpayers' interests through competitive procurement of professional services. However, as drafted, we believe the bill would be especially burdensome on frequent bond issuers and could have the opposite impact on controlling costs.

Olathe is a rapidly growing, full service community in the center of Johnson County. Providing for the community's basic physical infrastructure is one of the biggest challenges for our governing body. To meet our capital needs, it is not unusual for Olathe to market temporary notes three or four times a year, and once or twice annually issue general obligation and revenue bonds. Preparing an issue for market is a complex process, requiring professional legal and financial services. It would be costly, inefficient, and impractical to prepare, distribute, and evaluate requests for proposals for professional services on each and every one of these bond issues.

The city does in fact follow a competitive process for obtaining these professional services, but does not reinvent the wheel on each bond issue. I have attached a copy of our procurement ordinance which specifies procedures and evaluation criteria for purchasing goods and services in excess of \$300. Pursuant to this ordinance, all professional services, including engineering, appraisal, auditing, financial, and legal services are obtained through competitive proposals.

On bond issues, professional services are provided by a financial advisor and bond counsel pursuant to written agreements for a specified time period, generally three years. Having a professional team in place over this time period provides continuity in answering the city's questions between bond issues, complying with federal arbitrage rules, maintaining contact with bond rating agencies, and taking advantage of refunding opportunities. Through these agreements, the city also can lock in professional fee structures over a period of time. If we contracted for these services on each bond issue, our costs would undoubtedly increase. Our staff would constantly be issuing and reviewing requests for proposals.

We agree that it is good public policy for bond issuers to have procurement procedures in place for professional services. However, Kansas cities do not need another expensive and cumbersome mandate from Topeka, and we oppose this bill if it is applied to municipalities. This legislation may be appropriate for state government and its agencies which infrequently borrow funds. However, HB 2321 would put unreasonable restrictions on our ability to manage our city's affairs. We respectfully request the committee to either kill or remove cities from this bill.

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(3) The officer or employee acted in good faith and had reasonable cause to believe his conduct was lawful;

(4) That it would be in the interests of the city to authorize the payment of such expense. (Ord. 612 # 6, 1977.)

**3.40.050 Termination of Previous Resolutions Authorizing Payment.** The Governing Body shall have the right to terminate and revoke by resolution at any time any previous resolution authorizing the payment of expense without further liability or obligation to any such officer or employee, or third parties contracting with such officer or employee. (Ord. 612 # 7, 1977.)

**3.40.060 Approval by Governing Body.** All findings and determinations required by this chapter shall be made by a majority of the Governing Body members elect. (Ord. 87-30 § 22, 1987; Ord. 612 # 8, 1977.)

**3.40.070 Authorization for Adoption.** The ordinance codified in this chapter is adopted by authority of and under the provisions of Article 12, Section 5 of the Kansas Constitution and K.S.A. 1971 Supp. 12-101, and K.S.A. 75-4356, et seq., as amended. (Ord. 612 # 9, 1977.)

## CHAPTER 3.50

### PROCUREMENT POLICIES

#### Sections:

- 3.50.010 Definitions.
- 3.50.020 Methods of Source Selection.
- 3.50.030 General.
- 3.50.040 Competitive Sealed Bidding.
- 3.50.050 Competitive Sealed Proposals.
- 3.50.060 Small Purchases.
- 3.50.070 Sole Source Procurement.
- 3.50.080 Emergency Procurement.
- 3.50.090 Procurement of Professional Services.
- 3.50.100 Renewal/Extension Option.
- 3.50.110 Change Orders.
- 3.50.120 Property Acquisition.
- 3.50.130 Disposition of Property.

**3.50.010 Definitions.** For the purposes of this ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein. Words used in the singular include the plural, and the plural, the singular. Words used in the masculine gender include the feminine, and the feminine, the masculine.

Where terms are not defined, they shall have their ordinary accepted meanings within the context which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1981, shall be considered as providing ordinary accepted meanings.

(a) "Advantageous" connotes a judgmental assessment of what is in the city's best interest.

(b) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

(c) "Change Order" means a written modification or addition to a purchase order or contract.

(d) "City" is the City of Olathe, Kansas.

(e) "City Manager" means the City Manager or his designated representative for the City of Olathe.

(f) "Competitive Sealed Bid (IFB)" means a formal solicitation to prospective supplies requesting their competitive firm price quotation in response to a detailed set of specifications. Not subject to discussion or negotiation after opening.

(g) "Competitive Sealed Proposal (RFP)" means a request to prospective contractors for an offer of pricing, terms and conditions with reference to some work or undertaking. A solicitation document used for negotiated procurements.

(h) "May" denotes the permissive.

(i) "Practical" denotes what may be accomplished or put into practical application.

(j) "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, materials or equipment. It also includes all functions that pertain to the obtaining of any supplies, materials or equipment including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.

(k) "Purchasing Manager" means the Purchasing Manager for the City of Olathe.

(l) "Responsible Bidder or Offerer" means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(m) "Responsive Bidder" means a person who has submitted a bid which conforms in all material respects to the Invitation For Bids.

(n) "Services" means the furnishing of labor, time, or effort by a contractor.

(o) "Shall" denotes the imperative.

(p) "Supplies" means all property, including but not limited to equipment, materials, commodities and printing. (Ord. 88-155 § 1, 1988.)

**3.50.020 Methods of Source Selection.** Unless otherwise authorized by law, all purchases of supplies, materials, equipment and services, shall be awarded by competitive sealed bidding, pursuant to Section 3.50.040 (Competitive Sealed Bidding), except as provided in the following sections:

- 3.50.050 (Competitive Sealed Proposals)
- 3.50.060 (Small Purchases)
- 3.50.070 (Sole Source Procurement)
- 3.50.080 (Emergency Procurement)
- 3.50.100 (Renewal/Extension Options)  
(Ord. 88-155 § 1, 1988.)

**3.50.030 General.** Competitive sealed bidding is the preferred method of procurement; however, if it is not practical and advantageous, competitive sealed proposals will be used. (Ord. 88-155 § 1, 1988.)

**3.50.040 Competitive Sealed Bidding.** All supplies, materials, equipment and services when the estimated cost is \$5000 and greater shall be purchased by competitive sealed bidding from the lowest responsive and responsible bidder, after due notice inviting bids and unless specifically provided otherwise herein.

(a) Public Notice

(1) Distribution. Invitation for Bids (IFB) or notices of the availability of Invitations for Bids shall be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of availability shall indicate where, when, and for how long Invitations for Bids may be obtained; generally describe the supplies, materials or equipment desired; and may contain other information as is appropriate.

(2) Publication. Notice of every procurement of \$5000 and greater shall be published once in the official city newspaper.

(3) Public Availability. A copy of the Invitation to Bids shall be available for public inspection at the office of the Purchasing Division.

(b) Bid Evaluation and Award. All bids shall be tabulated and prepared in a recommendation for bid award for review by the user department and consideration by the City Manager. The Purchasing Manager shall recommend the lowest responsive and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation to Bids. The City Manager will accept and/or reject any or all bids and make recommendation for the final award to the City Council as it determines to be most advantageous to the city taking into consideration price and any other pertinent evaluation factors. The

City Council shall make final award. (Ord. 88-155 § 1, 1988.)

**3.50.050 Competitive Sealed Proposals.** Competitive sealed proposals (RFP) shall be governed as provided in the following:

(a) Conditions for Use. Competitive sealed proposals may be used where it is necessary to insure fair and reasonable price analysis, but not to preclude competition for technical excellence. Generally, competitive sealed proposals may be used under the following conditions:

(1) The procurement of professional services.

(2) The procurement of technical items or equipment.

(3) The procurement of complex services.

(4) The purchase of nonstandard items.

(b) Public Notice. Public notice of the Request for Proposals shall be given in the same manner as provided in Section 3.50.040 (Competitive Sealed Bidding).

(c) Evaluation of Proposals. The Request for Proposals shall state all of the evaluation factors, including price, and their relative importance.

The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Numerical rating systems may be used but are not required. Factors not specified in the Request for Proposals shall not be considered.

(d) Award. The City Manager shall recommend to the City Council an award to the responsible offerer whose proposal is determined to be the most advantageous to the city, taking into consideration price and the evaluation factors set forth in the Request for Proposals. The City Council shall make final award. (Ord. 88-155 § 1, 1988.)

**3.50.060 Small Purchases.** Small purchases shall be governed as follows:

(a) Competition for Small Purchases of Supplies, Materials or Equipment Between \$300 and \$5000. Insofar as it is practical for small purchases of supplies, materials and equipment between \$300 and \$5000, no less than three businesses shall be solicited. For purchases of \$1000 or greater, any bid by person or by telephone must be confirmed in writing and placed in the procurement file. The City Manager shall make an award to the business offering the lowest responsive quotation.

(b) Competition for Purchases of \$300 or less. The City Manager shall adopt operational procedures for making small purchases of \$300 and less. Such operational procedures shall provide for obtaining

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adequate and reasonable competition and for making records to properly account for funds.

**3.50.070 Sole Source Procurement.** A contract under \$5000 may be awarded for supplies, materials or equipment without competition when the City Manager determines that there is only one source available. A written record of the factors pertinent to such award will be maintained. For sole contracts of \$5000 and greater approval of the City Council will be required. (Ord. 88-155 § 1, 1988.)

**3.50.080 Emergency Procurement.** Notwithstanding any other provision of this ordinance, the City Manager may make emergency procurements when there exists a threat to public health, welfare or safety provided that such emergency procurements shall be made with such competition as is practical under the circumstances. Such emergency condition is further defined as an immediate and serious need for supplies, materials, equipment or services that cannot be timely met through normal procurement methods and the lack of which would threaten:

- (a) The functioning of City Government;
  - (b) The preservation or protection of property;
- and/or
- (c) The health or safety of any person.
- (Ord. 88-155 § 1, 1988.)

**3.50.090 Procurement of Professional Services.** Professional services are generally associated with the following disciplines:

- (a) Architect, engineer and land surveying services.
- (b) Appraisal services.
- (c) Financial, accounting and auditing services.
- (d) Legal services.
- (e) Consulting services.
- (f) Health care services.
- (g) Insurance services.
- (h) Data processing consulting and programming services.
- (i) Testing and inspection services.
- (j) Photographic, art or marketing services.
- (k) Employment of temporary employees as advisors, lobbyists, etc.

The provisions of Section 3.50.050 (Competitive Sealed Proposals) shall apply to all procurement of professional services which are expected to be \$5000 and greater. Procurement of professional services expected to be less than \$5000 shall be made in accordance with Section 3.50.060 (Small Purchases).

Professional services uniquely applicable to a project may be determined to be a sole source service and may be negotiated with a single contractor in accordance with

the procedures contained in Section 3.50.070 (Sole Source Procurement). (Ord. 88-155 § 1, 1988.)

**3.50.100 Renewal/Extension Option.** Unless otherwise provided by law, a contract for supplies, materials, equipment or services may be renewed or extended provided the term of the contract and conditions for renewal or extension, if any, are included in the solicitations. The option will only be exercised as it is deemed to be in the best interest of the city. Consideration will include price, quality, vendor performance, economic trends and other evaluation factors which would affect the city's best interest. The City Manager shall make recommendation for renewal/extension of any contract totaling \$5000 and greater to the City Council for review. The City Council shall make final award as it is determined to be most advantageous to the city. (Ord. 88-155 § 1, 1988.)

**3.50.110 Change Orders.** Change Orders are issued to cover costs or address changes in terms and conditions associated with unforeseen problems not addressed in the bidding or contract document, or changes/modifications that may be recommended after a contract award.

Change Orders on contracts may be approved by the City Manager for amounts less than \$5000, subject to ratification by the City Council. Change Orders of \$5000 or greater must be approved by the City Council; provided however, that in instances where it is in the best interest of the city for a change order to be implemented prior to the next regularly scheduled meeting of the City Council, the City Manager shall have the authority to authorize the change subject to ratification by the City Council. (Ord. 88-155 § 1, 1988.)

**3.50.120 Property Acquisition.** A contract for the purchase of interests in real property associated with an approved public improvement project may be approved by the City Manager if the cost for the acquisition is less than \$5000. All other property acquisition shall require approval of the City Council. (Ord. 88-155 § 1, 1988.)

**3.50.130 Disposition of Property.** The City Manager may transfer, sell, exchange or destroy any surplus, obsolete, abandoned or confiscated property without competitive bidding if such property has a value of less than \$5000. No property shall be sold without receiving competitive bids if the value is \$5000 or greater. (Ord. 88-155 § 1, 1988.)



**THE LEAGUE  
OF KANSAS  
MUNICIPALITIES**

**Municipal  
Legislative  
Testimony**

AN INSTRUMENTALITY OF KANSAS CITIES 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

**TO:** House Committee on Commercial and Financial Institutions  
**FROM:** Christopher K. McKenzie, Executive Director *CKM*  
**RE:** HB 2321--Procurement of Municipal Bond Services  
**DATE:** March 19, 1992

On behalf of the League of Kansas Municipalities, I appear in opposition to HB 2321 and its application to the cities of this state.

As you know, Kansas cities have been the primary issuers of municipal bonds in Kansas since the state itself cannot incur general obligation indebtedness. As a result, cities have extensive experience in screening and selecting professional advisors in connection with such bond issues. The recent performance audit report by the Legislative Division of Post Audit, dated December 31, 1991, concluded that most municipalities contacted by the Division had some elements of the competitive process for selecting bond counsel and underwriters for bonds backed by public moneys. In contrast, for bond issues which did not involve public funds (i.e. mortgage revenue bonds and industrial revenue bonds), the competitive selection process may not be used since the city is not making a pledge of its own funds in connection with such issues. Furthermore, given the proprietary nature of industrial revenue bond issues, many cities require businesses that request industrial revenue bond financing to shoulder all of the financial responsibility in connection with the assembly of the financing team and all costs associated with the issue.

In addition to the existing competitive practices in place in many cities, the Committee should be advised that it is not uncommon for many smaller units of government to have long-term relationships with bond counsel which can be extremely useful in evaluating proposals for future bond issues. These bond professionals will provide professional advice to the city which is useful in evaluating the legality and feasibility of a particular bond proposals. As in the case of the relationship between the city governing body and the city attorney (or the legislature and its revisor of statutes office), it would not be conducive to an effective lawyer-client relationship to require competitive selection of bond counsel for every issue. In fact, for those municipalities who enter the bond market on only an occasional basis, such a requirement would impose an undue administrative burden and could result in legal advice not being sought before a project has reached a later stage of development or less effective legal advice being received because of the lack of familiarity by the bond attorney with the individual municipality's practices and needs.

Please note that the bill includes a definition of "bond" which is very broad, which would appear to include temporary notes, no-fund warrants and lease-purchase agreements, even when for smaller amounts and for shorter terms. It even appears broad enough to cover very small financial transactions, including lease-purchase agreements for photo-copying machines at city hall.

**President:** Bob Knight, Mayor, Wichita \* **Vice President:** Joseph E. Steineger, Jr., Mayor, Kansas City \* **Past President:** Frances J. Garcia, Commissioner, Hutchinson \* **Directors:** \* Donald L. Anderson, Mayor, Lindsborg \* Michael A. Conduff, City Manager, Manhattan \* Ed Eilert, Mayor, Overland Park \* Harry L. Felker, Mayor, Topeka \* Idella Frickey, Mayor, Oberlin \* William J. Goering, City Clerk/Administrator, McPherson \* Ralph T. Goodnight, Mayor, Lakin \* Jesse Jackson, Commissioner, Chanute \* Stan Martin, City Attorney, Abilene \* Mark Mingenback, Councilmember, Great Bend \* John Nalbandian, Commissioner, Lawrence \* Mary E. Reed, City Clerk/Director of Finance, Parsons \* **Executive Director:** Christopher K. McKenzie

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The definition of "services" in subsection (d) (4) also is very broad. It would appear to extend the bond payment trustee services, perhaps requiring the state treasurer to respond to RFPs. We also ask whether RFPs would be required for the services of a bond rating organization or an organization providing bond insurance? For bond issues involving very small amounts of debt (\$25,000 to \$50,000), this bill also could result in significantly increased pressure on municipalities not to place such obligations with local banks.

The League believes that Kansas cities have done a credible job in their debt financing procedures, obtaining the best bond services available at a reasonable cost. We share in the commitment to use competitive proposals in the selection of such services when it is deemed appropriate by the city governing body. Finally, we are concerned that the bill adds to the existing complexity of the bond issuance process, and could cause delays, especially for bond issues which are affected by swings in the bond market (i.e., refunding issues).