

**Finance Authority of Maine
Request for Proposals for Bond Counsel**

December 9, 2020

I. Overview and Background Information

The Finance Authority of Maine (“FAME” or the “Authority”), as successor to the Maine Educational Loan Authority (“MELA”) is requesting proposals from qualified law firms to serve as Bond Counsel for its tax-exempt alternative student loan financing activities commencing in January 2021. The law firm selected will be appointed to serve as Bond Counsel for a period of three years, with up to two, two-year contract extensions.

FAME is a quasi-governmental agency that was created and established by Maine legislation in 1983 (10 M.R.S.A., Section 961 et seq.). FAME is an independent authority within the current organizational structure of State government. FAME is governed by a fifteen-member board appointed by the Governor and confirmed by the Legislature, except for the State Treasurer, who serves *ex-officio*, the Commissioner of the Department of Economic and Community Development or his or her designee, and the Commissioner or either the Department of Agriculture, Forestry and Conservation, or the Department of Marine Resources, as designated by the Governor. (Please see [Board Members - Finance Authority of Maine \(FAME\) \(famemaine.com\)](#) for a list of the FAME Members.) FAME has a Chief Executive Officer who is appointed by the Governor and confirmed by the Legislature, who is authorized to supervise the administrative affairs of the Authority. For general information about FAME and its various products and services, see [Home - Finance Authority of Maine \(FAME\) \(famemaine.com\)](#).

FAME became the successor to MELA in 2015 (20-A M.R.S.A. Section 11414). MELA had been established to assist Maine students and their families in achieving their higher education goals by providing a supplemental or alternative student loan program. An alternative student loan is designed primarily to help students and their families pay for educational expenses that exceed other available financial aid resources such as scholarships, grants, and the Federal education loan programs. In addition, an alternative student loan is a key resource for those students and their families who do not typically qualify for many financial aid programs, but who are without adequate cash reserves to pay for a college education. Alternative student loans exist to bridge the gap between the full cost of a higher education and traditional financial aid resources.

There are two student loan products previously offered by MELA, and currently offered by FAME (“MELA Loans”). The Maine Loan[®], FAME’s primary alternative student loan product, is available to eligible undergraduate and graduate students to borrow funds up to the full cost of education less other financial aid. The Maine Medical Loansm is available to eligible medical students to borrow funds up to the full cost of a medical degree less other financial aid. These loans are approved based on the creditworthiness of the applicants consistent with FAME’s program rules. Borrowers must have a Maine nexus.

All MELA Loans are funded with the proceeds from tax-exempt bonds or obligations, and no State monies are allocated to fund the program. FAME currently has approximately \$80 million in student loan revenue and refunding bonds outstanding under a 2009 Indenture of Trust and several Supplemental Indentures of Trust (collectively, “MELA Bonds”). All MELA Bond proceeds are currently held by Zions Bank, who serves as Indenture Trustee for all the relevant Indentures. MELA Bonds are insured by Assured Guaranty Corporation and carry the moral obligation backing of the State of Maine. For additional information on MELA Bonds outstanding, copies of the Official Statements for the Series 2009 and subsequent Series bond issues are available at [Investor Relations | The Maine Loan](#).

Since 1996, all MELA Loans have been serviced under contract with Nelnet, Inc., most recently through its division known as Firstmark Services (Nelnet). Nelnet, a publicly traded corporation based in Lincoln, Nebraska, is an integrated educational finance organization offering services in student loan origination and servicing, secondary market services, and guarantor servicing support.

The most recent bond issue for the Authority for the alternative student loan programs was in 2019, when it issued a total of \$42,400,000 of Bonds to fund loan originations for the 2019-2020 academic year, and refund approximately \$34.6 million of the then outstanding bonds issued in 2009. Total loan volume for the academic year 2019-2020 was approximately \$15 million for The Maine Loan and The Maine Medical Loan.

In the spring of 2021, FAME is contemplating the issuance and sale of approximately \$20 million in tax-exempt student loan revenue and/or refunding bonds to meet the financing needs for its alternative student loan programs for the 2021-2022 academic year, as well as refunding the approximately \$6 million of bonds outstanding under a 2010 Supplemental Bond Indenture.

II. Scope of Services

The services to be provided to FAME by Bond Counsel include, but are not limited to, the following:

- Providing overall advisory assistance to FAME concerning its MELA Bonds and compliance with federal and state laws and regulations, including both pre-issuance and post-issuance compliance.
- Preparing or assisting, as necessary, in the preparation of any documentation related to MELA Bond issues, including but not limited to a bond resolution, bond indenture, tax certificate and agreement, opinions of Bond Counsel, capital reserve fund agreement, preliminary official statement, official statement, etc.
- Providing guidance on legal procedures and practices in the bond market for MELA Bond obligations, including advice on the structuring and marketing of its

bonds and working with FAME’s financial advisors, underwriters, underwriters’ counsel, bond insurer, and bond insurer’s counsel.

- Representing FAME in any litigation or disputes related to the issuance of its MELA Bonds.
- Advising FAME concerning accounting and investment procedures recommended or required for compliance with tax and federal securities and arbitrage rebate requirements, including advice on how to minimize excess earnings.
- Providing on-going guidance and advice as needed when issues emerge related to MELA Bond issues.

III. General Information

All proposals submitted in response to the Finance Authority of Maine’s Request for Proposals (RFP) for Bond Counsel must comply with submission and deadline requirements plus contain the following information, responses or confirmations.

- A. The deadline for receipt of proposals is **Wednesday, December 23 at 5:00 p.m. Eastern Standard Time (EST)**. All proposals must be clearly marked “MELA Bond Counsel Proposal” and be submitted via e-mail to: rfournier@famemaine.com.
- B. Proposals must include a response to each item listed in the RFP under Section IV. Proposal Requirements.
- C. Proposals received after the deadline will be rejected, without exception.
- D. Proposals must be signed by a person legally authorized to bind the proposer.
- E. FAME will not accept responsibility for any costs incurred by a proposer in the preparation of their proposal or in connection with any interview or negotiation relating to this RFP.
- F. Proposers should direct inquiries regarding the RFP or requests for additional information to Rita Fournier at: rfournier@famemaine.com. All inquiries must be submitted by Wednesday, December 16, 2020 at 5:00 p.m. EST. Telephone inquiries will not be accepted. All questions and FAME’s response to the questions will be posted to the FAME website by Friday, December 18, 2020 at 5:00 pm.
- G. The RFP process includes the following timeframe of activities.

<u>Activity</u>	<u>Deadline</u>
• RFP Notification Sent to Prospective Proposers	December 9, 2020
• Inquiries from Prospective Proposers	December 16, 2020
• FAME’s Response to Inquiries	December 18, 2020

- **Proposal Submission Deadline** **December 23, 2020**
- Award Decision Notification January 6, 2021

- H. Selection will be based on: 1) proposal responsiveness (30 points); 2) qualifications and experience (35 points); and 3) proposed fees and expenses (35 points) for a total of 100 possible points.
- I. All responses to the RFP become the property of FAME and will be considered available for public viewing following the award decision notification, subject to the Freedom of Access Laws of the State of Maine. Your submission of a proposal shall be deemed to be acceptance of this term, regardless of any attempt to mark all or any part of the proposal confidential.
- J. Non-compliance with proposal guidelines, including failure to submit any requested information or to follow the proposal format requested in this RFP, may disqualify the proposal. The proposal must provide FAME with complete information needed for evaluation.
- K. All proposals become the property of FAME upon receipt, and will not be returned to the proposer. Selection or rejection of proposals will not affect this right.

IV. Proposal Requirements

A. Firm's History and Background

1. Provide a brief description of the firm including the firm's history, organizational structure, size, financial position, and service capabilities.
2. Provide a detailed description of prior experience with student loan obligations during the past five years. Please include the following in your description:
 - i. The name of the organization.
 - ii. The capacity in which you served (i.e. bond counsel, underwriter's counsel, etc.).
 - iii. Whether the issues were taxable or tax-exempt.
 - iv. Whether the issuer was a for-profit entity, non-profit entity or state agency.
 - v. Whether the underlying assets were Federal student loans, alternative student loans or a combination of both.
3. List the names of the organizations and circumstances surrounding the loss of any engagement your firm had for Bond Counsel during the past five years.

B. Legal Issues

1. Describe any material litigation against the firm or any member regarding bond opinions your firm rendered during the past five years. Please indicate the date of the action, damages incurred or settlement paid, current status if pending, and any other pertinent details.
2. Identify any losses and the dollar amount your firm incurred as a result of negligence, errors or omissions during the past five years.

C. Personnel

1. Identify the qualifications and experience of the individuals from your firm to be assigned to FAME. Please include the names and titles, brief resumes, and management reporting structure.

D. Fees and Expenses

1. Please state your proposed fees for each bond issuance, assuming a structure consistent with the 2019 issuance and a face amount of \$20 million (including up to \$6 million of refunding), either as a lump sum, or as a factor of dollars per \$1,000 of bonds (a sliding scale may be used).

Please indicate how your proposed fees would vary, if applicable, under different issuance structures (i.e. fixed rate bonds, variable rate bonds, no bond insurance, etc.). Estimated fees will be reviewed, but the final fees will be negotiated once each transaction structure is finalized. Unrealistic fee estimates will not be accepted.

2. Indicate the hourly rates of the attorneys identified in C.1. above for the first year and subsequent two years of the initial contract, that will be charged for ancillary services.
3. Include the rate or range of rates at which other services not performed by attorneys will be billed.
4. Identify any other one-time or on-going fees and expenses that may be charged.
5. Please provide a sample invoice that would be used to report and bill for work performed.

E. References

1. Provide a list of three references including the contact names, titles, addresses (mail and e-mail), and telephone numbers for which work similar to that being proposed by FAME has been performed. Also, please include the length of time your firm has provided services to each reference.

F. Describe any innovative or value-added services your firm would provide to FAME.

G. Please disclose any conflicts of interest or potential conflicts of interest that may arise as a result of your firm being hired for this engagement.

V. Selection Process

The Authority's selection will be based upon the following criteria:

A. Proposal Responsiveness (30 points)

- Completeness of proposal evidenced by a thorough response to each item under Section IV. Proposal Requirements
- Quality of proposal

B. Qualifications and Experience (35 points)

- Proposed personnel assigned to FAME
- Level and number of years of experience with student loan obligations, including relevant experience with tax-exempt obligations and alternative education loans
- Depth of service capabilities

C. Proposed Fees and Expenses (35 points)

- Competitiveness and inclusiveness of fees
- Cost of basic fees per issuance and hourly rates for ancillary services
- Cost of additional expenses

VI. Rights of the Authority

The Authority reserves the right to request and receive additional information from proposers, as it may reasonably require.

The issuance of this Request for Proposals (RFP) for Bond Counsel in no way constitutes a commitment by FAME to award a contract. FAME further reserves the right to reject any or all proposals, waive minor irregularities in proposals submitted and to select the law firm which demonstrates to the satisfaction of FAME (in its sole discretion) that its

proposal will best serve the needs of FAME. FAME may not necessarily select the law firm with the lowest cost proposal.

FAME reserves the right to make an award without further discussion with the proposers about the proposals received. Therefore, it is important that responses to the RFP are as thorough and competitive as possible at the time of submission.