

# City of Philadelphia



Council of the City of Philadelphia  
Office of the Chief Clerk  
Room 402, City Hall  
Philadelphia

(Resolution No. 050429)

## RESOLUTION

Memorializing Council's intent not to authorize the issuance of debt by the City or any other agency unless the sale of bonds and the selection of bond firms and professionals is conducted under a transparent process that seeks the selection of the most qualified firms and professionals at the best possible prices.

WHEREAS, The City and City-related agencies issue bonds each year under authorization granted by the Council; and

WHEREAS, The issuance of debt requires the retention of a variety of bond firms and professionals who are paid out of the proceeds of each debt issue; and

WHEREAS, To restore the public's confidence in the integrity of the process by which bond firms and professionals are selected, Council should require the institution of a transparent process that permits competition to the greatest feasible extent consistent with the goal of selecting the most qualified firms and professionals at the best possible prices; now, therefore,

*RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA,*

SECTION 1. LEGISLATIVE INTENT. It is the intent of Council not to approve any ordinance that authorizes the issuance of debt by the City or any other agency, unless the sale of bonds and the selection of professionals paid out of the costs of issuance is conducted under a transparent process that seeks the selection of the most qualified firms at the best possible prices. In particular, Council will not approve the issuance of debt unless the process detailed in Section 3 of this Resolution is followed.

SECTION 2. MAYORAL ACTION. Council invites the Mayor to submit to Council either a proposed ordinance or a proposed executive order that would implement the process detailed in Section 3 of this Resolution. If the Mayor submits an executive order to Council, it is Council's intent to approve by resolution an executive order that is consistent with this Resolution, so that the Administration may be assured in advance that

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a proposed bond transaction conducted in accordance with the executive order would not be disapproved for failure to comply with this Resolution.

SECTION 3. PROCESS. The process that Council intends to see followed in any bond transaction submitted to Council for approval includes the following:

## METHOD OF BOND SALE

1. Bonds shall generally be sold on a competitive basis, unless a negotiated sale would better serve the requirements of a particular financing. The circumstances under which a negotiated bond sale may be permitted shall include the following:

- a. Sale of complex or poor credits;
- b. Sale of a complex financing structure, including those transactions that involve the simultaneous sale of more than one series with each series structured differently;
- c. Volatile market conditions;
- d. Large issue size;
- e. Programs or financial techniques that are new to investors; and
- f. Variable rate transactions.

2. A negotiated sale should only be undertaken if an appropriate City official has made a written determination, filed with the Council President, with copies to all Councilmembers and the Chief Clerk of Council and made available to the public, that such sale is appropriate under the circumstances listed in paragraph (1), and only if such determination is approved by Council by resolution (provided that such determination shall be deemed approved if Council has not disapproved the determination by resolution within fifteen days after it is filed with the Council President). Such written determinations should not be stated in general terms, but should be specific to the particular bond sale and should specifically reference the circumstances listed in paragraph (1).

## SELECTION OF FINANCIAL ADVISORS, SENIOR MANAGERS AND CO-MANAGERS

3. The following procedures and criteria should be used in connection with the selection of financial advisors, senior managers and co-managers:

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a. A request for proposal and criteria for selection shall be developed for each financing. Criteria for such selection shall include, but not be limited to, the following:

- i. Quality of response regarding the proposed bond structure, credit, and/or marketing strategy;
- ii. Sophisticated cash flow capabilities as required by a particular financing;
- iii. Development of a new idea;
- iv. Demonstrated ability to distribute City of Philadelphia securities;
- v. Quality of relevant service to the City of Philadelphia in previous transactions;
- vi. Experience with similar financings in which the firm and its proposed financing team participated;
- vii. Proposed fees for the particular bond sale; and
- viii. Sufficient capital to participate in underwriting the issue.

b. Particular consideration shall be provided for Philadelphia-based firms and for minority-owned and women-owned firms.

c. The firm(s) solicited, the firm(s) selected and criteria applied in connection therewith shall be made available to the public.

d. The process for selection of financial advisors, senior managers and co-managers may include a process whereby a group, or “pool,” of financial advisors, senior managers and/or co-managers are utilized for two or more transactions, provided that the transactions are part of a larger bonding program of similarly secured financings. Selections may be made from such pools without soliciting separate proposals provided the pools are established via procedures and criteria consistent with this Resolution.

4. The selection process outlined in paragraph (3) shall be followed except in those rare instances in which each of the following three criteria have been met:

- a. An innovative idea has been brought to the issuer;

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b. A request for proposal cannot be constructed without communicating the new idea; and

c. The issue would not benefit from a competitive selection process.

## SELECTION OF BOND COUNSEL AND OTHER COUNSEL PAID OUT OF BOND PROCEEDS

5. Appointments of bond counsel and any other counsel paid out of bond proceeds (collectively, “Bond Counsel”) shall generally be made on a competitive basis that places great weight on the Bond Counsel’s qualifications and suitability for a particular transaction as well as the Bond Counsel’s fee proposal. Selection criteria shall include, but not be limited to, the following:

a. Experience of the Bond Counsel and the proposed team with similar transactions;

b. Familiarity with the laws relevant to the proposed bond issue;

c. Proficiency with securities, tax and other laws relevant to the financing;

d. Quality of proposed legal strategy with respect to specific questions posed in the request for proposal;

e. Quality of past legal services rendered to the City and its authorities; and

f. Fees.

g. Particular consideration shall be provided for Philadelphia-based law firms and minority-owned and women-owned law firms.

6. If unusual circumstances require the appointment of Bond Counsel with a particular expertise, such as unique prior experience with a transaction, direct appointments shall be permitted provided that an appropriate City official has filed a written detailed explanation of such circumstances with the Council President, with copies to all Councilmembers and the Chief Clerk of Council and made available to the public, and only if Council by resolution approves the direct appointment of Bond Counsel (provided that such direct appointment shall be deemed approved if Council has not disapproved the appointment by resolution within fifteen days after the written explanation of circumstances is filed with the Council President).

7. The procedures and criteria for selection of Bond Counsel may include a process whereby a group, or “pool,” of Bond Counsel firms may be appointed to serve as counsel for a term not to exceed two years. Bond Counsel may be selected from such pools

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without soliciting separate proposals for each bond issue, provided the pools are established via procedures and criteria consistent with this Resolution. This “pool” process shall, where appropriate, involve the establishment of a fee schedule for such transactions at the outset of the term. Such procedures and criteria may also include a process whereby Bond Counsel may be utilized for two or more transactions, provided that the transactions are part of a larger bonding program of similarly secured financings and further provided such procedures and criteria are consistent with this Resolution.

8. The policies and procedures established with respect to the appointment of Bond Counsel shall be filed with the President and Clerk of Council and shall be available to the public.

## APPOINTMENT OF ARCHITECTS, ENGINEERS, ACCOUNTANTS AND PRINTING FIRMS

9. The City and other agencies shall use, to the fullest extent practicable, competitive practices for the selection of architects, engineers, accountants and printing firms. Such practices shall be aimed at the fundamental goals of ensuring that the City and its agencies will receive the best services at the lowest costs. Information regarding such procedures shall be made available to the public.

10. Any selection of architects, engineers, accountants and printing firms shall include particular consideration for Philadelphia-based and minority-owned and women-owned firms, and firms that recruit and employ significant numbers of minority and women professional and other employees.

## 30-DAY REPORTS

11. Within 30 days of the closing of a bond issue, the allocation of bonds and fees received by each member of the underwriting syndicate and a breakout of the costs of issuance shall be reported to the President and Clerk of Council and be publicly available.

## ANNUAL DEBT MANAGEMENT PLAN

12. The City shall annually, on or before January 31, render a debt management plan with respect to its bond financing programs to the President and Clerk of Council. This plan shall include information on the outstanding debt and debt service costs for the prior and current year and shall also describe the proposed bond issues for the year outlining the size and purpose of each transaction; the expected sale date of the issue; the security and expected ratings for each transaction; the expected method of sale and the method of selecting financial professionals consistent with the terms of this Resolution.

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CERTIFICATION: This is a true and correct copy of the original Resolution, Adopted by the Council of the City of Philadelphia on the twenty-sixth of May, 2005.

Anna C. Verna  
PRESIDENT OF THE COUNCIL

Patricia Rafferty  
CHIEF CLERK OF THE COUNCIL

Introduced by: Councilmember Nutter

Sponsored by: Councilmembers Nutter, Goode, Kenney, DiCicco, Council President Verna, Councilmembers O'Neill, Kelly, Rizzo and Tasco