

MEMORANDUM

To: Board of Regents
From: Board Office
Subject: Renewal of Bond Associated Contracts
Date: July 21, 2004

Recommended Action:

Approve the annual renewal of the contracts through August 31, 2005, with:

- Ahlers Law Firm (now known as Ahlers & Cooney) as bond counsel to the Board of Regents, including authorization for the Executive Director to enter into an amendment to increase the hourly rates consistent with Section 6 of the contract;
 - Springsted, Inc. as financial advisor to the Board of Regents; and
 - Berens–Tate Consulting Group for arbitrage rebate services.
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Executive Summary:

Contracts Statutory provisions and Board policy require a competitive selection of the professionals assisting with the Board’s issuance of bonds and notes. In 2001, Requests for Proposals (RFP) were issued to solicit bond counsel, financial advisor, and arbitrage rebate services.

The current contracts with the Board’s bond counsel, financial advisor, and arbitrage rebate services provider commenced on September 1, 2001, for a one-year initial period, with provisions for annual renewal thereafter through August 31, 2006, subject to mutual consent of the parties.

The following summarizes the fees paid for bond issuance costs and arbitrage rebate services.

Bond Costs	Contract Year <u>2003</u>	Contract Year <u>2004 (to-date)</u>
Ahlers & Cooney	\$200,685	\$184,719
Springsted, Inc.	176,253	175,800
Berens–Tate Consulting Group	76,750	73,000

Attachment A, on pages 5 and 6, provides additional details regarding related contract costs.

Annual Renewals Ahlers & Cooney has requested that the Board consent to an increase in the rates for financings from \$120 to \$125 per hour and for other matters from \$150 to \$155 per hour, beginning September 1, 2004.

Pursuant to Section 6 of the Ahler's contract dated September 1, 2001, if the contract is extended for additional years beginning September 1, 2002, an escalator factor equal to the change in the Consumer Price Index (CPI) for the most recent calendar year for urban wage earners and clerical workers (U.S. city averages) for all items will be applied to the Bond counsel's fixed hourly rate of compensation provided in Section 4.A. Ahlers has indicated that it has not previously invoked this clause since the contract was signed. The proposed increase in hourly rates is within the outlined criteria. The proposed amendment to the contract is included as Attachment B.

No changes in contract provisions are presented for Springsted, Inc., or Berens-Tate Consulting Group.

The Board Office recommends that the terms of the contracts as detailed above be extended through the annual renewal period ending August 31, 2005.

Background and Analysis:

Requirements Iowa Code §262.9(17) requires a competitive process for selecting professionals to assist with the Board's issuance of bonds and notes. Iowa Administrative Code §681-8.8(1)e and Regent Policy Manual §7.02 require agreements with firms selected as bond counsel, financial advisor, or other functions necessary for the issuance of bonds or notes. The agreements must provide for annual renewals during a period not to exceed five years.

Previous Board Actions Previous Board actions related to the current contracts:

- In December 2000, the Board authorized the issuance of Requests for Proposals for the Board's bond counsel, financial advisor, and arbitrage rebate services.
- In April 2001, based on recommendations of a selection committee, the Board approved the continuation of Ahlers as the Board's bond counsel.
- In July 2001, based on the recommendations of a selection committee, the Board approved the continuation of Springsted as the Board's financial advisor, and approved Berens-Tate Consulting Group as the Board's arbitrage services provider.

- The Board also authorized the Executive Director to enter into a one-year contract with each that began on September 1, 2001, with provisions for annual renewals through August 31, 2006.
- Provisions of the three contracts were renewed in July 2002 and July 2003, extending the contracts through August 31, 2003, and August 31, 2004, respectively.

Both Ahlers & Cooney and Springsted have provided professional services to the Board of Regents since 1986. Berens–Tate Consulting Group has provided services since 2001.

Ahlers

The current contract with Ahlers & Cooney as bond counsel to the Board provides that Ahlers will:

- Assist the Board in authoritatively evaluating legal aspects of proposed financing;
- Advise the Board on the impact of pending state and federal legislation and draft related legislation as requested;
- Place any currently proposed financing into historical perspective so that an offering does not jeopardize the Board's overall debt financing program; and
- Ensure continuity in the Board's financing, including suggesting improvements were necessary or desirable.

The current contract with Ahlers & Cooney includes a provision for an increase in hourly rates.

Ahlers has requested that the Board consent to an increase in the rates for bond counsel for financings from \$120 to \$125 per hour and for other matters from \$150 to \$155 per hour, beginning September 1, 2004.

Attachment B is a copy of the proposed amendment.

Springsted

The current contract with Springsted as financial advisor to the Board provides that Springsted will:

- Assist the Board in assessing the merits of various financing alternatives;
- Advise the Board on structure, timing, and size of possible financings;

- Take a long-range view and place any currently proposed financing into historical perspective so that any offering does not jeopardize the Board's overall debt financing program;
- Advise the Board in a manner which will provide continuity in the Board's financing but also shall suggest improvements where necessary or desirable; and
- Furnish notification of compliance with the continuing disclosure requirements required by the Securities and Exchange Commission.

Berens-Tate

The current contract with Berens-Tate as arbitrage rebate services provider to the Board provides that Berens-Tate will:

- Review the cash flow and investment information for an issue of bonds, notes or other debt instruments;
- Determine excess earnings on investments during each bond year and determine the Board's net rebate liability;
- Inform the Board or Trustee of the obligation to deposit in a rebate fund any excess earnings based on the calculations performed and prepare a rebate report for the Board setting forth computations, assumptions and instructions for filing; and
- Provide the Regent institutions with authoritative calculations and certifications required to meet arbitrage rebate requirements of federal tax laws and regulations and complete and provide for filing with the Internal Revenue Service a Form 8038-T for each issue for which there are excess earnings.


Jean A. Friedrich

Approved: 
Gregory S. Nichols

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**Board of Regents, State of Iowa
Contract Costs**

Contract Year Ended August 31, 2003

Sale Date	Bond Issuances	Ahlers & Cooney (Bond Counsel)	Springsted (Financial Advisor)
Sept. 2002	Univ. of Iowa Facilities Corporation, Series 2002A and 2002B (Carver Biomedical Research Facility)	\$ 30,725	\$ 25,500
Oct. 2002	Dormitory Revenue Refunding Bonds, Series U.N.I. 2002	18,120	12,535
Nov. 2002	Hospital Revenue Bonds, Series S.U.I. 2002	38,485	25,500
Jan. 2003	Indoor Multipurpose Use and Training Facility Revenue Bonds, Series I.S.U. 2003	12,316	9,200
Jan. 2003	Dormitory Revenue Bonds, Series U.N.I. 2003	9,825	12,210
Feb. 2003	Utility System Revenue Refunding Bonds, Series S.U.I. 2003	10,192	9,080
Mar. 2003	Dormitory Revenue Bonds, Series I.S.U. 2003	20,975	23,788
Apr. 2003	Academic Building Revenue Refunding Bonds, Series S.U.I. 2003	12,345	13,530
Apr. 2003	Academic Building Revenue Refunding Bonds, Series U.N.I. 2003	11,312	11,465
May 2003	Dormitory Revenue Bonds, Series I.S.U. 2003A	10,536	12,360
July 2003	Facilities Corporation Revenue bonds, Series S.U.I. 2003	18,017	14,325
July 2003	Academic Building Revenue Refunding Bonds, Series U.N.I. 2003	<u>7,837</u>	<u>6,760</u>
	Total Contract Year Costs	<u>\$200,685</u>	<u>\$176,253</u>

Contract Year Ended August 31, 2004

Sale Date	Bond Issuances	Ahlers & Cooney (Bond Counsel)	Springsted (Financial Advisor)
Sept. 2003	Dormitory Revenue Bonds, Series S.U.I. 2003	\$ 25,000	\$ 25,500
Oct. 2003	Academic Building Revenue Refunding Bonds, Series I.S.U. 2003	10,290	10,790
Oct. 2003	Regulated Materials Facility Revenue Bonds, Series I.S.U. 2003	15,300	9,750
Nov. 2003	Telecommunications Facilities Revenue Bonds, Series, S.U.I. 2003	16,770	17,060
Nov. 2003	Utility System Revenue Bonds, Series I.S.U. 2003	19,840	16,280
Feb. 2004	Student Health System Revenue Bonds, Series UNI 20	7,500	6,200
Feb. 2004	Field House Revenue Bonds, Series UNI 20034	13,000	13,000
Mar. 2004	Utility System Revenue Bonds, Series SUI 2004	28,250	25,500
Apr. 2004	Academic Building Revenue Refunding Bonds, Series SUI 2004	9,365	9,695
Apr. 2004	Academic Building Revenue Refunding Bonds, Series ISU 2004A and Series ISU 2004B	11,598	11,565
Apr. 2004	Recreational Facility Revenue Refunding Bonds, Series ISU 2004	8,831	9,210
May 2004	Parking System Revenue Bonds, Series SUI 2004	<u>18,975</u>	<u>21,250</u>
	Contract Costs Year-to-Date	<u>\$184,719</u>	<u>\$175,800</u>

**Board of Regents, State of Iowa
Contract Costs**

Contract Year Ended August 31, 2003

Billing Date	# of Arbitrage Rebate Calculations	Berens-Tate
Oct. 2002	14 SUI Bond Series	\$21,000
Oct. 2002	9 ISU Bond Series	13,750
Nov. 2002	1 SUI Bond Series	500
Nov. 2002	1 ISU Bond Series	750
May 2003	7 UNI Bond Series	6,000
May 2003	1 SUI Bond Series	4,000
Jun. 2003	1 SUI Bond Series	1,500
Aug. 2003	7 UNI Bond Series	6,750
Aug. 2003	14 SUI Bond Series	12,000
Aug. 2003	12 ISU Bond Series	<u>10,500</u>
	Total Contract Year Costs	<u>\$76,750</u>

Contract Year Ended August 31, 2004

Billing Date	# of Arbitrage Rebate Calculations	Berens-Tate
Oct. 2003	12 ISU Bond Series	\$15,000
Nov. 2003	17 SUI Bond Series	17,250
Nov. 2003	3 UNI Bond Series	3,750
Jan. 2004	1 SUI Bond Series	1,000
Feb. 2004	4 UNI Bond Series	3,750
Mar. 2004	4 UNI Bond Series	3,000
Aug. 2004*	7 UNI Bond Series	6,750
Aug. 2004*	14 SUI Bond Series	12,000
Aug. 2004*	12 ISU Bond Series	<u>10,500</u>
	Contract Year-to-Date Costs	<u>\$73,000</u>

*Estimated

AMENDMENT TO BOND COUNSEL CONTRACT

The contract entered into the 1st day of September 2001, by and between the Iowa State Board of Regents (the "Board") and Ahlers & Cooney, P.C. ("Bond Counsel") is hereby amended, effective the 1st day of September 2004, by mutual agreement of the parties.

Sections 4A(2) and 4B(1) are amended as follows:

4. COMPENSATION

A. Financings.

- 2) Services performed by Bond Counsel shall be charged at hourly rates not to exceed those set out below or by other means mutually agreed to by Bond Counsel and the Board.

The hourly rate shall not exceed ~~\$120~~\$125 per hour, subject to annual adjustment by agreement of the Board and Bond Counsel. Legal assistants time shall not exceed one-half of the lawyer rate. Bond Counsel shall receive an additional fee for the issuance of an opinion of Bond Counsel with respect to a financing equal to fifty cents per \$1,000 of the principal amount. The fees of Bond Counsel are further subject to the limitations set forth in 4.A.(3).

B. Other Matters.

- (1) Assignments not related to a financing or services not listed in Section 2A shall be compensated at a blended rate of ~~\$150~~\$155 per hour for lawyer personnel or as determined by special arrangement if required staffing is not consistent with that rate.

Edgar H. Bittle, for
Ahlers & Cooney, P.C.

Gregory S. Nichols, Executive Director
Board of Regents, State of Iowa