States, Cities Shun Finance Competition, Victimizing Taxpayers

January 3, 2005
By Darrell Preston

Jan. 3 (Bloomberg) — Since 1999, Lee's Summit School District near Kansas City, Missouri, has used competitive bidding to get the best price on at least $20 million of equipment and services, from school desks to brooms. When it comes to selling municipal bonds, the district doesn't shop for the best deals. That work goes exclusively to Minneapolis-based Piper Jaffray Cos., which has collected almost $1 million in fees for bond sales totaling $127 million since 1999. Piper Jaffray, the third-largest underwriter of U.S. municipal debt issues of less than $10 million, didn't have to compete against other banks because in 1998, it contracted with the district to be its financial adviser and handle all of its bond sales. Thousands of other municipal bond issuers in the U.S. — schools, cities, public agencies and states — have permitted investment banks such as Citigroup Inc., the largest U.S. bank; UBS AG, the largest bank in Europe; and Bear, Stearns & Co., the sixth-largest U.S. securities firm, to sell bonds without vying against other underwriters. These arrangements, called negotiated sales, have in the past 25 years gradually replaced the century-old tradition of competitive bidding by underwriters to sell municipal bonds, of which $1.9 trillion were outstanding in 2003.

Competitive Bidding Plummets

In 1973, 74 percent of municipal bonds were sold by competition. Today, the total is less than 20 percent, according to data compiled by Bloomberg. The loss of competition is tainting municipal bond underwriting, say critics such as Robert Smartt, 50, who retired from Goldman Sachs Group Inc. in 1994 after 16 years as a municipal bond underwriter and has since become an advocate for more competition. Joseph Fichera, 50, a founder and chief executive officer of Saber Partners LLC, a New York-based consulting company that advises states and corporations on bond sales, says banks are exploiting the opportunity to make more money from public agencies. "It's not that municipalities are unsophisticated," he says. "It's just that they're not financial experts the way investment banks are." Through negotiated sales, underwriters have taken control of municipal finance, causing governments to pay millions of extra dollars in interest costs and fees as much as six times higher than comparable issues sold competitively, according to six academic studies and bond sale offering circulars.

'Tremendous Problem'

Taxpayers are the biggest losers as competitive bidding fades, says William Kittredge, director of the nonprofit Center for the Study of Capital Markets and Democracy in Arlington, Virginia. "You've got a tremendous problem," says Kittredge, 55, a former professor of public finance at the University of Georgia in Athens. "What you have is the disenfranchisement of the public." Negotiated sales may be fraught with conflicts of interest, says Barry Smitherman, 47, a Texas public utility commissioner and a former consultant to Bear Stearns who was speaking as former head of tax-exempt financing at Chicago-based Banc One Capital Markets Inc. In states such as Missouri, California and Texas, banks get exclusive underwriting by providing money or promotional help to win bond referendums, government records show.

'Fox in the Henhouse'

Underwriters sometimes also play a dual role as financial adviser to governments, possibly violating a 1979 rule by the self-regulatory Municipal Securities Rulemaking Board against conflicts, says Robert Doty, president of Sacramento, California- based American Governmental Financial Services Co., an adviser to California governments. "It's the fox in the henhouse," Smartt says. Smartt says his main criticism is that hundreds of conventional bond issues with straightforward features, high credit ratings and payment insurance are sold each year without competitive bidding. Among these are general obligation bonds — debt that typically goes toward such routine public uses as school construction or work on parks and roads. Such bonds are supported by property taxes and are regarded as the safest tax-exempt investments. "Many, many bonds out there are absolutely plain vanilla," Smartt says.

Large and Complex

Issuers in such states as Massachusetts, California and New York say competitive bidding isn't always the best way to sell bonds. Bond issues that are large and complex, including many debt refinancings, need to be sold by negotiation partly because investors have to be assured that the debt is sound. In negotiated sales, a banker and issuer agree on an interest rate at which bonds will be bought and resold to investors, such as mutual funds and wealthy individuals. The gap between negotiated and competitive sales in the U.S. is widening. Negotiated sales almost tripled from 1994 to 2003, growing to $303.6 billion from $112.8 billion, Bloomberg data show. Bonds sold by competition rose only to $76 billion from $49.5 billion. UBS, based in Zurich, handled the largest volume of negotiated bond sales in the U.S. in 2003: $25 billion. It collected $149.7 million in fees, based on a Bloomberg calculation using an average rate of 0.6 percent of the par value of the bonds. Bear Stearns was second, at $24.3 billion, which produced $145.9 million in fees. Citigroup was third, with $22 billion, which produced $132.3 million in fees.

Advantages of No Bidding

Frank Ildebrando, managing director of public finance in Houston for RBC Dain Rauscher Inc., a unit of Royal Bank of Canada and the 10th-largest underwriter of U.S. negotiated sales, says sales without competitive bidding give bankers more maneuvering room to obtain low interest rates. Competitive sales must be scheduled in advance and the timing may not bring an advantageous rate, he says. Negotiated bond sales also allow bankers to change features of bond issues before they're sold to heighten sale potential, Ildebrando says. Delaying the ability of an issuer to buy back bonds before they mature or eliminating that option altogether can boost buyer demand, he says. "Just the fact that you have that flexibility lets you do a better marketing job," Ildebrando says. He says RBC Dain Rauscher saved the Clear Creek Independent School District, which encompasses the Johnson Space Center near Houston, $6 million in interest costs last March when it handled the negotiated sale of $200.4 million in bonds to build new schools and refinance old debt.

$1.3 Million Fee

The yield on the 10-year bond maturing in 2014 was 3.29 percent. The yield on comparable 10-year bonds issued last March was 3.26 percent, or three basis points lower, according to Bloomberg data. A basis point is 0.01 percentage point. RBC Dain Rauscher, which also serves as Clear Creek's financial adviser, collected $1.3 million for the transaction. Kittredge says the timing argument in favor of negotiated bonds rings hollow. No one can judge the best time for interest rates because they change every day, he says. "The market is completely opaque," says Kittredge, who created the center in January 2004 to research public finance. "They can tell themselves they're timing the market when, in fact, they have no idea what's going on." New York, the sixth-biggest U.S. issuer of municipal bonds from 1999 through 2002, sells general obligation bonds by negotiation because its sales are usually at least $400 million, says Alan Anders, the city's deputy finance director.

Television, Radio Ads

The city has sold as much as 40 percent of an offering directly to retail investors, a method that lowers yields to the city and that can be done only through a negotiated transaction, Anders says. The city typically holds a two-day retail order period, sometimes advertising on television and radio to increase sales to retail investors, who frequently will accept yields only a few basis points lower than money managers will, Anders says. He says New York City occasionally uses competitive bidding to make sure its negotiated deals have the best prices and interest rates. "Also, because there's so much competition to get the negotiated sales, we get good results," he says. New York Mayor Michael Bloomberg is founder and majority owner of Bloomberg LP, the parent of Bloomberg News. Michael Murphy, 57, the state of Washington's treasurer, says he prefers to do only competitive bond sales. He says negotiated sales too often raise conflict-of-interest concerns and questions about the influence of campaign contributions. "On a competitive basis, any firm walking in our door has an opportunity to play," he says.

'Banking Relationship'

Fichera says the swing toward negotiated sales has occurred in large part because public officials don't have access to independent financial advice. "They have what is known as 'relationship banking,' where the corporations and the municipalities trust a small group of bankers to get them the best deal," says Fichera, whose business stands to gain from the use of independent advisers. "The issuers rarely get access to advice that is free from conflict of interest in any negotiation," Fichera says. In reality, there is little negotiation in negotiated bond transactions because most government officials don't challenge bankers, Smartt says. In Missouri, a 2001 review of 515 general obligation bonds by state Auditor Claire McCaskill found taxpayers would have saved $83.2 million in interest cost from a total estimated interest bill of $1.8 billion if all of the debt had been sold competitively.

'No Negotiation'

The auditor found 460 of the sales, or 89 percent, had been done without competitive bidding. McCaskill, 51, says school superintendents told Missouri state auditors they trusted bankers to guide them. "As such, there was no negotiation between the local officials and the bond underwriters on what a fair market interest rate would be," McCaskill wrote in her audit report. "The officials were not familiar with the potential savings through competition and relied on underwriters to manage their sales." McCaskill found that some bankers had an inside track to negotiated sales because they served as the government issuer's financial adviser, as Piper Jaffray did with Lee's Summit School District. Financial advisers consult with governments on debt refinancing, long-term financing needs and the structure of a transaction when an issuer needs to sell debt.

'Appearance of Conflict'

Advisers, who are paid as much as $350 hourly or on a percentage of a bond sale, have a fiduciary duty to issuers and must be independent, California financial adviser Doty says. McCaskill says she doesn't see how banks can properly do both jobs. "This presents, at a minimum, an appearance of a conflict of interest," her audit said. Inadequate bank competition is a prime cause of the conflicts, McCaskill says. St. Louis-based A.G. Edwards Inc. handled 15 of the 20 noncompetitive bond sales by school districts in St. Louis County from January 2000 to May 2004, state auditor records show. The bank didn't do any competitive sales for St. Louis County school districts during that time, records show. "Private-sale bond underwriters of Missouri have practically closed the Missouri state bond market to out-of-state bidders," McCaskill's report said.

Campaign Contributions

In some cases, banks that win exclusive underwriting contracts contribute to bond referendum campaigns. Such donations aren't illegal. A 1994 rule passed by the Municipal Securities Rulemaking Board bans underwriters only from making political contributions to municipal officials. In the San Francisco Bay area, Citigroup donated $5,000 toward the $13,725 raised by community backers for a successful 2003 bond referendum for new classrooms and other improvements in the 1,500-student Mark West School District. Citigroup sold $7.5 million of the bonds in 2003 in a negotiated bond transaction for a fee of $15 per $1,000 bond — a total commission of $112,917. That was six times the $2.42 per $1,000 that UBS charged the Contra Costa County Community College District, also in the bay area, on the sale of $50 million of construction debt in 2002. That bond sale was handled by competitive bidding. Peggy Green, Mark West's superintendent, says the district relied on a financial adviser, Caldwell Flores Winters Inc. of Emeryville, California, in the sale. She says she was unaware Citigroup had contributed to the campaign.

'Arm Twisting'

John Isom, vice president of Caldwell Flores Winters, says he doesn't remember details of why a negotiated sale was chosen. He also says he doesn't recall Mark West officials and Citigroup discussing a campaign contribution. Citigroup spokesman Joseph Christinat says the bank never comments on its fees and otherwise declined to comment for this article. John Andrews, a Colorado state senator who tried to curtail bank contributions to bond referendums through unsuccessful legislation in 2004, says state senate hearings on the influence of underwriter donations showed that public agencies pressured banks for contribution commitments during the underwriter hiring process. "There's a lot of arm twisting," he says. "It's understood that if you don't pony up with a contribution, you can forget about bidding for work. It's a culture that's out there."

Bear Stearns Investigated

Bear Stearns, based in New York, is under investigation by the Illinois executive inspector general in connection with its exclusive handling in 2003 of a $10 billion state pension bond sale, for which it collected an $8 million fee. The probe, announced in July by Governor Rod Blagojevich's office, came after Bear Stearns disclosed in a 2003 regulatory filing that it had paid $809,000 in fees to a lobbyist for helping to arrange Illinois bond work. In a written statement, the company said it did nothing wrong and was awarded the bond work on the merits of its proposal. In 2004, Illinois decided to follow the lead of states such as Maryland, Mississippi and North Carolina by imposing more competition in state bond sales. Bear Stearns's payment to the lobbyist led the Illinois legislature in July to require the state to sell 25 percent of its general obligation bonds using competitive bidding. Maryland finds that competitive bidding brings the lowest cost for debt, state Finance Director Lewis Logan says. Few banks suggest new types of financing to the state because they know they won't get the sale exclusively, he says.

$1.26 Million Saved

"Maryland is fortunate in having a AAA credit rating and can do very well by bidding competitively," Logan says. William Simonsen and Mark Robbins, political science professors at the University of Connecticut at Storrs, have found in three studies since 1996 that competitive sales were less expensive for municipalities and taxpayers than negotiated bond sales. In a 2002 review of 148 sales in New Jersey, government issuers using the competitive approach saved a total of $1.26 million compared with negotiated bond sales. The savings came in part from lower banking fees. In 2003, the average underwriting charge per $1,000 face value of bonds was $5.58 for competitive issues and $5.91 for negotiated sales, according to Thomson Financial. That's the same price difference as in 1999, the research shows. "Unless there's a smart financial adviser around who really knows what's going on, these poor little municipal clients are at the complete mercy of the banks," says retired bond underwriter Smartt, who beseeches local schools and agencies around his Boulder, Colorado, home to sell bonds competitively.

'Do the Right Thing'

"I'm just trying to raise the issue and to get people to do the right thing." Bankers created negotiated sales in the 1970s, when tight budgets and energy shortages forced governments away from traditional means of finance such as general obligation bonds, says Richard Ciccarone, managing director at Oak Brook, Illinois- based McDonnell Investment Management LLC, which oversees $8.3 billion. That was the era of the rise of revenue bonds, which differ from general obligation bonds because they are supported by revenue from a project the money is used to build, such as a parking garage. Revenue bonds initially couldn't be sold by competition because investors considered them untested, Ciccarone says.

Meadowlands

New Jersey's Meadowlands Complex in East Rutherford, which houses facilities for professional sports, couldn't have been built in the 1970s without a negotiated issue because of unusual financing, says Adrian Foley, former treasurer of the New Jersey Sports & Exposition Authority.

The East Rutherford-based authority made the first sale of $302 million in Meadowlands bonds in 1974. Many prospective underwriters and investors balked because revenue from a racetrack built with the original development was going to be used to pay off the debt — a new wrinkle in public finance, Foley says. Ultimately, New Jersey-based banks and insurance companies put up the funds. "We lived on the edge," Foley says. Today, many bonds, including securities to refinance debt or tap new sources of revenue, may still require a negotiated sale because underwriters need to explain complexities and unusual features and overcome investor wariness, says former Banc One underwriter Smitherman.

Obligation to Taxpayers

Bankers have convinced governments that almost all debt needs to be sold that way, even if it isn't complicated, he says. Public officials who routinely follow bankers' advice without doing independent research aren't fulfilling an obligation to taxpayers to keep costs low, says Smitherman, a former state prosecutor in Harris County, Texas. "My sense is that whenever you've got three or more firms fighting over your offering, you're going to come out ahead," he says. Former New Jersey Treasurer Roland Machold says banks push for non-competitive bond work out of a desire to win higher fees and to control marketing and other aspects of the sale. "They understand how to do these things, and they could do competitive bidding for fairly complex offerings," says Machold, who favored competition while holding the New Jersey job from 1999 to 2001. Negotiated sales have their place, says Jeff Stearns, deputy commonwealth treasurer for debt management in Massachusetts.

Bonds Refinanced

When old bonds are refinanced, as Massachusetts has done through the sale of $9.5 billion in new debt since 1999, negotiation is best because issuers need to be assured that interest rates offered on various maturities of new bonds provide enough of a price cushion to make the refinancing worthwhile, he says. Conflicts of interest often entangle negotiated sales. The contract between Piper Jaffray and Lee's Summit schools is typical of the closeness between some banks and government issuers in underwriting, financial adviser Doty says. Doty, a Harvard Law School-educated lawyer who has testified in legal cases involving disputes over such contracts, says the Piper Jaffray contract may violate the 1979 Municipal Securities Rulemaking Board rule to avoid conflicts of interest in bond sales. Rule G-23 requires financial advisers who underwrite bonds to formally resign as advisers and inform the issuer that there is a possible conflict of interest in switching hats. Piper Jaffray hasn't resigned as Lee's Summit's adviser while underwriting bonds since 1999.

Piper Jaffray Contract

Doty, who was shown a copy of the Piper Jaffray contract by Bloomberg News, says the agreement makes it clear that Piper Jaffray will deliver financial advice as well as underwriting services. The contract, entitled "Financial Services Agreement," says in part, "Piper Jaffray will meet with the District staff and/or Board of Education regarding the capital requirements of the District, as requested." It also says that in financial planning and development, "Piper Jaffray will assist staff in preparation of studies, reports and other special projects as requested by the District." Rule G-23 doesn't allow a financial adviser to underwrite bonds, Doty says. "There is a very serious conflict of interest when a financial adviser, who owes a fiduciary duty to his client, becomes an underwriter who is supposed to act at arm's length," he says.

'Performance Driven'

Any advisory services Piper Jaffray does give the district fall within the scope of an underwriter's work, says Todd Goffoy, 50, a Piper Jaffray banker who works with Lee's Summit. "We provide services pertinent to underwriting," he says, adding that the bank doesn't violate any rules. Lee's Summit doesn't see a conflict, and it's happy with Piper Jaffray's work, says Thomas Kurucz, assistant superintendent for management services. "The service is performance driven, not fear or interest rate driven," he says. Martha Haines, head of municipal securities regulation at the U.S. Securities and Exchange Commission, says financial advisers violate issuers' trust if they also do underwriting without following anti-conflict rules. "It's a conflict of interest," she says. "If they are the financial adviser and they're not resigning, we want to know about that."

Bank Help for Referendums

After the 2001 audit of bond sales in Missouri, state Auditor McCaskill complained to Missouri Secretary of State Matt Blunt that bank help for bond referendums in the state, including assisting with voter surveys, violated Missouri law aimed at stopping such activity. The law, passed in 2000, prohibits bankers from handling bond sales if they promote efforts to win voter approval. In October 2003, Blunt's office sent warning letters about referendum support to George K. Baum & Co. and McLiney & Co., two banks in Kansas City, and A.G. Edwards and L.J. Hart & Co. of St. Louis. Blunt, 54, said in a letter to McCaskill, whom he defeated for governor in November, that he didn't take formal disciplinary action against the banks because the matter was complex, the law was vague and there was no case law on the statute. He also said his investigation showed that banks often didn't make what could be considered contributions under the law because banks were paid for the referendum work. Larry Hart, 59, president of L.J. Hart, says his company acted lawfully. "We are in compliance with the law, and we have been in compliance with it since we became aware there was a law," he says.

Audit Challenged

Hart challenges McCaskill's conclusion that issuers paid excessively for negotiated underwritings. He says the average interest rate for 142 L.J. Hart financings covered in the report was 4.89 percent compared with 4.84 percent for competitive sales. "When viewed from that perspective, it would put a different slant on the audit," he says. A study of McCaskill's audit prepared for the Association of Missouri Bond Underwriters by Edward Robb, a former economics professor at the University of Missouri at Columbia and now a state representative, challenged her conclusions. Robb said the study was biased and improperly compared bond issues of differing characteristics and risk. George K. Baum Chief Executive Officer Jonathan Baum declined to comment on Blunt's warning. A.G. Edwards spokeswoman Margaret Welch says the bank is following compliance guidelines spelled out by Blunt. She says the firm does much work in St. Louis County because of its resources.

Odessa Allegation

"We have the capacity and experience to handle the large underwritings that are frequently needed by these districts," she says. George McLiney, president of McLiney & Co., says his bank has done nothing wrong, and it will work to avoid any potential bond referendum campaign conflicts. In one instance in Missouri, the city of Odessa alleged a conflict of interest by a bank that was also hired to help it as financial adviser. Odessa, located 36 miles east of Kansas City, refused to pay a $174,300 fee to McLear & Co. of Overland Park, Kansas, saying the bank charged too much on a $5.8 million bond sale in 1997. McLear had sued Odessa in Lafayette County Circuit Court, seeking payment of fees. Odessa responded in court that McLear had never properly resigned as financial adviser to underwrite the bonds.

Settled Out of Court

Harry McLear, the firm's retired president, says his change from adviser to underwriter didn't violate any rules. He says the case was settled out of court for an unspecified amount far less than what he says the firm was owed. In California, there's no law preventing bond underwriters from contributing to bond referendum campaigns. Tim Justus, superintendent of the Rincon Valley School District, near the Mark West district, says his system routinely asks underwriters and other school contractors for funds for bond referendum campaigns. "School districts have to rely on vendors to help us with this sort of thing," he says, adding that donations from parents and citizens don't cover the expense. Backers of a successful campaign in May to win voter approval for $23.9 million in bonds to replace leaking roofs, fix dilapidated bathrooms and upgrade Internet access at Rincon Valley raised $31,883 for consulting help and promotional brochures. UBS, which the district hired to handle the underwriting without competitive bidding, contributed $20,000, or almost two- thirds of the money.

'Really Improper'

"Soliciting a campaign contribution from an underwriter is really improper," says Robert Stern, who has studied campaign finance since the 1960s and is now president of the Center for Governmental Studies, a Los Angeles-based research organization. "You should not be soliciting campaign money where you're seeking a contract," he says. Two weeks after the election, UBS sold $16.5 million of the general obligation bonds, which had AAA ratings from Moody's Investors Service and Standard & Poor's, for a fee of $123,750, or less than the 1 percent of par charge that financial adviser Doty says is considered typical. The yield on the 10-year bond was 4.328 percent compared with a yield of 4.21 percent on a comparable bond sold in May, according to Bloomberg data. Justus, 55, says he recommended to the school board that UBS handle the sale on a negotiated basis and was supported by Mark Epstein, a board member who is a financial adviser to governments. Epstein says he generally favors sales without competition because issuers can time markets to get relatively low interest rates.

Exclusive Sale

He says he helped save the San Mateo County Flood District in California $100,000 on the sale of $10.4 million in bonds in November by taking advantage of a drop in interest rates that month. Epstein says Rincon Valley officials discussed giving UBS an exclusive sale in exchange for a campaign contribution, although he couldn't remember the details. "It certainly wasn't discussed as a main reason to go negotiated," he says. UBS spokeswoman Susan Austin declined to discuss why the bank favored a negotiated sale. She says contributions by the bank and its employees met all donation laws and rules. Scott Miller, finance director for the 6,000-student Napa Valley Community College District in California, says he had no bond sale experience when his district selected Citigroup in 2002 as its exclusive underwriter for a $133.8 million bond referendum.

Relied on Citigroup

A June 2002 agreement stipulated that there would be no competitive bidding by assigning Citigroup as the sole underwriter. Miller says he relied on Citigroup and didn't know whether competitive bidding for a bond sale would be less expensive for the district than using a negotiated bond sale. "I can't even describe to you the difference," he says. Citigroup gave $25,000 to a bond referendum campaign that cost $68,590. Miller says school officials and Citigroup discussed a contribution from the banker and couldn't remember how the donation came up. Miller says he learned at meetings of community college financial officers he attended in 2002 that it's customary to appeal to bankers for campaign help. "I was told they're a good group to hit up," he says.

Napa Valley Referendum

The November 2002 Napa Valley referendum, designed to improve a campus on which a building hadn't been constructed since 1974, was successful. After the vote, UBS replaced Citigroup when the lead banker, Jim Roth, left Citigroup and went to work for UBS. In a March 2003 contract, UBS got the same arrangement as Citigroup, enabling it to sell the general obligation bonds, rated AAA by Moody's and S&P, without competition. UBS spokeswoman Austin declined to say why the bank didn't recommend a competitive sale. UBS sold $25 million of the $133.8 million in authorized bonds in April 2003. The bank collected a fee of $213,856, or less than the typical 1 percent charge. The yield on the 10-year bond was 3.73 percent compared with a yield of 3.72 percent on a comparable bond sold in April 2003, or 1 basis point less. Miller says that while he didn't dispute the work of Citigroup and UBS, he'll likely get outside help when the rest of the bonds are sold. "If I was to do it all over again, I'd look to a financial adviser for additional advice," he says.

Favors Competitive Sales

The city of Menlo Park, California, used a negotiated $13.9 million park bond sale in 2002 against the recommendations of financial adviser Kelling, Northcross & Nobriga and Councilman Nicholas Jellins, city records show. Piper Jaffray, which had handled a $32.3 million bond refinancing for Menlo Park in 1996, did the underwriting. David Brodsly, vice president of Oakland, California-based Kelling Northcross, says that the company favors competitive sales and that he recommended such a sale for Menlo Park because the bonds were straightforward and had an Aa1 rating — the second-highest — from Moody's. Brodsly didn't contest the outcome. "The underwriter worked for a very competitive fee, and the interest rates were absolutely the right rates," he says. Jellins, who abstained from voting when Piper Jaffray was awarded the sale exclusively in 2002, says the city accepted the bank too quickly, with no analysis of competitors. "I couldn't determine from what the staff provided whether the rate of compensation would be comparable with another underwriter we would use," he says. "All things being equal, it would be in the city's benefit to engage in competitive bidding for any significant obligations it might enter into."

'It's Stunning'

Piper Jaffray sold $13.2 million of the bonds in April 2002. The yield on the 10-year bond was 4.25 percent. That compared with a yield of 4.34 percent on a comparable bond sold in April 2002, or 9 basis points higher. Municipal bond sales won't overcome suspicion about campaign contributions and conflicts of interest unless public agencies embrace competitive bidding, says Stern of the Center for Governmental Studies. "I'm sure there are exceptions, but it's stunning to me that any government would put out a sale without competition," he says. California financial adviser Doty says Rule G-23, which governs financial advisers' acting as underwriters, needs tightening. Kelling Northcross Vice President Charlie Feinstein compares the selection of a bond underwriter to the manner in which an ordinary person would put a home on the market. "Would you sell your house to the first bidder who came along?" he asks. Common sense tells you to open the sale to all comers, he says. Former bankers such as Smartt say the same spirit of competition should be the guiding principle for local governments doling out more than $1 billion in annual fees to banks for bond work.