School District Fiscal Training Summit
LACOE Education Center West
Conference Center
12830 Columbia Way
Downey, CA 90242

Friday, September 30, 2016
9:00 a.m. – 12:00 p.m.

Agenda

Welcome – Introduction

Dr. Scott Price, Chief Financial Officer
Business Services

Business Advisory Services Updates

Keith D. Crafton, Director
Business Advisory Services

Los Angeles County Treasurer and Tax Collector

Joseph Kelly, Treasurer and Tax Collector
John Patterson, Senior Finance Analyst
Treasurer and Tax Collector

Los Angeles County Auditor-Controller

Jackie Guevara, Chief Accountant
Rachelene R. Rosario, Principal Accountant
Auditor-Controller

Regionalized Business Services Corporation

Rod Carter, Managing Director
Municipal Finance
RBC Capital Markets

Executing Good Disclosure

Megan Reilly, Chief Financial Officer
Los Angeles Unified School District

Government Finance Officers Association

Susan Gaffney, Executive Director
National Association of Municipal Advisors

Questions

Keith D. Crafton

Closing

Dr. Scott Price
SCHOOL DISTRICT FISCAL TRAINING SUMMIT

September 30, 2016
Agenda

Welcome
Business Advisory Services Updates
Los Angeles County Treasurer and Tax Collector

Los Angeles County Auditor-Controller

Regionalized Business Services Corporation
Executing Good Disclosure
Government Finance Officers Association
Questions
Closing

Dr. Scott Price
Keith D. Crafton
Joseph Kelly
John Patterson
Jackie Guevarra
Racheline R. Rosario
Rod Carter
Megan Reilly
Susan Gaffney
Keith D. Crafton
Dr. Scott Price
Business Advisory Services Updates

Keith D. Crafton
Director, Business Advisory Services

crafton_keith@lacoe.edu
(562) 922-6131
Public Disclosure of Nonvoter-Approved Debt

- School districts are required to public disclose nonvoter-approved debt, pursuant to Education Code (EC) Section 17150(a), and Government Code (GC) Section 53635.7
- LACOE Informational Bulletin 4283
- Debt instruments that require public disclosure prior to board action:
  - Certificates of Participation (COPs)
  - Lease purchases secured by real property
  - Qualified zone academy bonds secured by real property
  - Revenue bonds
  - Bond Anticipation Notes (BANs)
  - Any other debt instrument secured by real property and not subject to voter approval
Los Angeles County Office of Education
Division of Business Advisory Services
PUBLIC DISCLOSURE OF NONVOTER-APPROVED DEBT

School District: ____________________________________________
Contact Person: ___________________________________________
Position: _________________________________________________
Telephone: ________________________________________________

1. Proposed Date of Board Adoption/Approval: __________________

2. a. Proposed Date of Issuance: ________________________________
    b. Issue Size: ____________________________________________
    c. Projects to be Financed: Describe the project in detail and include the cost. Identify the date and amount of financing needed. Attach additional sheets if necessary.

3. a. Type of Financing: (check one)

☐ Certificates of Participation (COPs)
☐ Lease Purchases Secured by Real Property
☐ Qualified Zone Academy Bonds Secured by Real Property
☐ Revenue Bonds
☐ Bond Anticipation Notes
☐ Other Debt Instrument Secured by Real Property and Not Subject to Voter Approval

b. Term of Issue: _____ years

c. Debt Service Schedule: (e.g., Payment(s) – Schedule(s)) must be attached which include the following, as applicable:

- Payment Date
- Total Debt Service
- Net Debt Services
- Principal
- Debt Service Reserve
- Surplus Funds Remaining
- Coupon
- Capitalized Interest
- Interest

Note: The Debt Service Schedule may be prepared by your Underwriter. If your District will be using the Los Angeles County Schools Pooled Financing Program, you may contact Mr. Gerald Yarbrough at (323) 922-0112, for additional assistance.

Revised: December 2014
Assembly Bill No. 2116

- Signed by the Governor in August 2016
- Intent is to increase oversight of school bonds
- Amends Education Code 15100 (School Bonds)
- It requires the governing board of a school district to consider the county assessor’s projections for property valuation prior to ordering an election to authorize school facilities construction bonds
- The intent of the legislation is for school districts to get independent projections of assessed property values from a third party (not the district bond counsel).
- This will help prevent bond advisors from presenting unrealistic projections
Los Angeles County Civil Grand Jury (CGJ)

- Report on “Capital Appreciation Bonds and Other School Bond Debt”
- CGJ report sent to all school districts, LACOE and County of Los Angeles
- School Districts required to respond to four recommendations
  - 6.1
  - 6.2
  - 6.3
  - 6.4
- LACOE issued a letter on August 12, 2016 offering school districts some suggested language for each recommendation.
16

Presiding Judge
Los Angeles County Superior Court
Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Eleventh Floor, Room 11-506
Los Angeles, CA 90012

Re: Response to the Recommendations of the 2013/16 Los Angeles County Civil
Grand Jury Final Report; Capital Appreciation and Other School Bond Debt;
Consequences of Poor Financial Practices

Dear Judge Kuhl:

Attached is the response of the District to the above-referenced Report of
County of Los Angeles Civil Grand Jury. This “Response to Recommendations” is submitted
pursuant to the requirements of California Penal Code Sections 933(c), 933.05(a) and 933.05(b).

Very truly yours,

Attachment
Response to Recommendations of the 2015-2016 Los Angeles County Civil Grand Jury Report

School District (District)

Recommendations:

6.1 School district chief business/finance officials in Los Angeles County should receive training in Government Finance Officers Association (“GFOA”) financing best practices

The District agrees with the recommendation and will implement. The Los Angeles County Office of Education (LACOE) in partnership with other county agencies will conduct a School District Fiscal Summit which will include training in GFOA financing best practices. The District will attend this training on September 30, 2016.

6.2 School district chief business/finance officials in Los Angeles County should use Government Finance Officers Association financing best practices when issuing bonds or other types of debt

The District will consider this recommendation. The District has reviewed the GFOA best practices guidelines referenced in the Report. They are clear and helpful. District employees actively participate in many school business officials’ professional associations and have attended and will continue to attend workshops related to best practices in issuing bonds. Copies of the GFOA best practices guidelines will be kept on file at the office of the chief business official.

6.3 School district chief business/finance officials in Los Angeles County should document their review and application of appropriate Government Finance Officers Association best practices when issuing bonds or other types of debt

The District disagrees with this recommendation and will not implement this recommendation. The District draws upon a variety of sources of reliable information regarding issuing debt, including, but not exclusive to GFOA best practices. Due to the multitude of excellent advisory resources, it would inappropriate for the District to document a comparison between our decisions regarding debt issuances and applicable GFOA best practices.

6.4 Each school district in Los Angeles County should ensure that all bond issues placed before the electorate includes clear and precise language about the long-term bond indebtedness of such issues

The District agrees with the recommendation and will implement. Under existing legal requirements, if the District places a bond measure before the electorate, the appropriate legal documents will include all required information about the long-term bond indebtedness of such a measure. We will follow Bond Council recommendations and follow all legal requirements.
QUESTIONS
Presenters

- John Patterson, Senior Finance Analyst
  Treasurer and Tax Collector - Public Finance Branch

- Jackie Guevarra, CPA, Chief Accountant
  Auditor-Controller - Accounting Division

- Racheline Rosario, Principal Accountant
  Auditor-Controller – Accounting Division
  Financial Analysis/Bond Accounting/Property Tax
Agenda

- Welcome/Introductions
- Treasurer and Tax Collector Presentation
- Department of Auditor-Controller Presentation
- Questions
Los Angeles County Treasurer and Tax Collector (TTC)

After the economic downturn in 2008, the TTC’s Public Finance Branch noticed an increase in school district utilization of high-cost Capital Appreciation Bonds (CABs)

- Recession caused negative assessed valuation (AV) growth or significantly less than projected AV growth
- Created pressure on Proposition 39 statutory tax limit constraints and artificial tax rate limits promised to voters
- Resulted in many school districts issuing long-dated CAB structures

TTC established process in 2010 for reviewing all school district GO bond transactions

- New money transactions approved by the Board of Supervisors pursuant to section 15140 (b) of the Education Code

The Los Angeles County Treasurer and Tax Collector (TTC) is a recognized statewide authority on school district financings

On May 16, 2011, the previous TTC issued the School District General Obligation Bonds - White Paper (Appendix A) on problematic school district financing practices

- Long-dated CABs
- Misuse of Proposition 39 tax rate limits
- Use of JPA Structures to issue GO bonds
- Borrowing from bond project funds

State legislation in 2013 (AB 182) significantly limited and restricted the use of CABs

- Final maturity of CABs cannot exceed 25 years
- Limited payback ratio of total debt service to principal to not exceed 4:1
Recommendation 6.7:

The Los Angeles County Office of Education, the Los Angeles County Auditor Controller, and the Los Angeles County Treasurer and Tax Collector, should monitor the use of school bond debt in Los Angeles County, including review of (a) proposed debt service schedules in advance of bond pricing, and (b) realistic forecasts of assessed value.
Treasurer and Tax Collector Process

Response to Recommendation 6.7:

- In 2010, TTC developed and implemented a robust review process for school district GO bond financings.
- TTC Public Finance Branch works closely with County Counsel and the County Auditor-Controller to ensure that all school district GO bonds are issued in accordance with State law and County requirements.
- TTC’s process includes a review of the following:
  - Ballot measure approved by the voters
  - Assessed valuation growth/tax rate schedule
  - Preliminary bond structuring report
  - Sources and uses of bond proceeds (including costs of issuance)
  - Can the tax base of the school district support the issuance of GO bonds at cost effective rates to property owners?
  - TTC works with County Counsel to review bond documents and obtain Board of Supervisors approval of tax levy resolution.
  - TTC participates in the pricing process to help ensure districts receive fair market pricing for its GO bonds.
  - After the pricing of the bonds, TTC works with the County Auditor-Controller to ensure the transaction is properly accounted for and debt service requirements are included on the annual Secured Property Tax Roll.
Los Angeles County Department of Auditor-Controller (A-C)
Department of Auditor-Controller Objectives

- Grand Jury Report Recommendations

- A-C Process Overview:
  A. Election
  B. Issuance
  C. Pricing/Closing
  D. Debt Service Schedule
  E. Tax Rates

F. Audit Confirmations
Response to Recommendation 6.7:

- We concur with the recommendation. The Los Angeles County Auditor-Controller (A-C) will continue to work with the Treasurer and Tax Collector (TTC), and County Counsel in conjunction with School General Obligation Bonds. The A-C will continue to perform the following roles associated with the School District general obligation bonds:
  - Monitor bond measure election results and the amounts approved by the voters
  - Provide valuation information and prepare requisite documents (e.g., bond certificate) to meet statutory requirements prior to bond closing
  - Establish County tax accounts and debt service funds for the collection of tax levies and the payment of debt service for all GO bonds
  - Track approximately 600 bond issuances and transfer funds for payments throughout various maturity dates
  - Provide bond information to each school district for budget and financial reporting purposes
  - Calculate the annual tax rate for each bond issued and prepare the annual Tax Rate Resolution for Board approval
  - Provide monthly payment reports to TTC in anticipation of scheduled debt service payments
Department of Auditor-Controller

Process Overview

A-C Process Overview:

A. Election
   — Monitor outstanding balance of authorized amount

B. Issuance
   — Distribution List
   — Request for information (e.g., cash balance, assessed valuation, estimated tax rate, etc.)

C. Pricing/Closing
   — Establish debt service fund
   — Establish tax account
   — Prepare assessed valuation certification (signed by the Auditor-Controller
   — Post-Issuance
      • Bond Accounting System (Data Entry)
      • Monitor payment dates

9/30/2016
D. Debt Service Schedule (Payments)

- Monthly - Transfer money from debt service funds for scheduled debt service payments
  - 48 = Unified School Districts
  - 20 = School Districts
  - 5 = High School Districts
  - 13 = Community College Districts

*Approximately 600 bond issuances (as of September 2016)*

- Monthly - Send report to TTC for reconciliation to invoices from paying agent
- TTC staff prepares and processes the actual wire transfer
E. Tax Rates

- Annually - Request anticipated issuances from school districts for the upcoming fiscal year
  - Send out Authorized Unissued Bonds letter to school districts (March 1st)
  - Perform statutory limit test on (new) bonds—per Education Code 15268-70
    - $30 – School Districts/High School
    - $25 – Community College Districts
    - $60 – Unified School District

  **per $100,000 of assessed valuation**
E. Tax Rates (continued)

- Annually – calculate tax rates for levy (July/August)

(Note: The annual tax rate resolution is approved by the County Board of Supervisors on the first Tuesday of September every year.)

<table>
<thead>
<tr>
<th>LOS ANGELES COUNTY TAX RATE COMPUTATION Summary Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td>BOND REQUIREMENTS (Principal + Interest)</td>
</tr>
<tr>
<td>a</td>
</tr>
<tr>
<td>200,000.00</td>
</tr>
</tbody>
</table>

(1) Note: Available Funds (b) includes June 30th cash balance and estimated unsecured taxes.
(2) Assessed Valuation information is available around early August.

- Tax rate resolution reports available at:
  [http://auditor.lacounty.gov/wps/portal/ac/reports](http://auditor.lacounty.gov/wps/portal/ac/reports)
F. Audit Confirmations

- Annually – Send out a packet of audit confirmations to each school district’s auditors (see sample letter in Appendix C):
  - Statement of Receipts and Disbursements
    - Revenues, Expenses, Cash Balance (June 30th)
  - Outstanding bond debt (by issuance)
    - Principal and interest
  - Secured Taxes (current and prior year)
  - Unsecured Taxes (current and prior year)
Contact Information

County of Los Angeles

**Treasurer and Tax Collector**
500 W. Temple Street HOA 437, Los Angeles, CA  90012

**Joseph Kelly**
Treasurer and Tax Collector

**Antoinette Chandler**
Assistant Treasurer and Tax Collector

**Teresa Gee**
Chief Public Finance Officer
Phone: 213-974-8359
Email: tgee@ttc.lacounty.gov

**John Patterson**
Senior Finance Analyst
Phone: 213-974-2310
Email: jpatterson@ttc.lacounty.gov

**Department of Auditor-Controller**
500 W. Temple Street HOA 603, Los Angeles, CA  90012

**John Naimo**
Auditor-Controller

**Connie Yee**
Division Chief

**Jackie Guevarra**
Chief Accountant
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**Rachelen Rosario**
Principal Accountant
Phone: 213-974-2871
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Appendices

Appendix A: TTC White Paper

Appendix B: Civil Grand Jury Report Recommendations & TTC responses (6.8 to 6.10)

Appendix C: A-C Sample Audit Confirmation Letter
Appendices

Appendix A: TTC White Paper

Appendix B: Civil Grand Jury Report Recommendations & TTC responses (6.8 to 6.10)

Appendix C: A-C Sample Audit Confirmation Letter
Appendix A: TTC White Paper
May 16, 2011

To School Finance Professionals:

COUNTY OF LOS ANGELES
SCHOOL DISTRICT GENERAL OBLIGATION BONDS - WHITE PAPER

The recent economic downturn in California has placed a significant financial burden on school and community college districts. This burden has been augmented by budget deficits at the State of California and the continuation of funding cuts and apportionment deferrals aimed at schools. To help manage the current fiscal challenges, many districts have sought to issue debt as one means of meeting their financial needs. While debt issuance can be part of a larger fiscal plan, the use of general obligation (GO) bonds to solve budget problems can pose a serious risk to school and community college districts. We recommend that districts take a conservative approach when issuing GO bonds in order to avoid any violations of State or Federal Law, and to ensure compliance with all tax and regulatory guidelines.

Through our participation in numerous GO bond financings, my office has observed several new financing practices that may place the issuing district at risk of both State and Federal scrutiny. Regardless of whether the GO bonds are issued under the California Education Code or Government Code, my office will not support any of the following practices:

1. **JPA Structure and QSCBs.** The use of a Joint Powers Authority (JPA) to augment a Qualified School Construction Bond (QSCB) issuance provides bond proceeds beyond the amount approved by voters in a GO bond measure. This results in taxpayers being charged a significantly higher rate of interest than the actual market rate for the QSCBs (net of the direct-pay subsidy). The JPA structure with QSCBs resembles the "cash-out" refunding method that in January 2009 was declared by the California Attorney General to be in violation of State Law. The use of this structure exposes the district to potential litigation on the part of local residents and could cause the Internal Revenue Service (IRS) to revoke the district's direct-pay subsidy from the U.S. Treasury.

2. **JPA Structure (Marks-Roos).** Issuing GO bonds through a Marks-Roos structure is generally used to augment construction fund proceeds beyond the amount approved by voters. This increases the cost to local taxpayers and is another example of a "cash-out" financing structure that was declared illegal by the Attorney General in 2009.
3. **Use of Federal Subsidy for District Operations.** In a taxable GO bond financing, the Build America Bond (BAB) or QSCB subsidy must be used as an offset to debt service. Any application of this subsidy to fund district operations will significantly increase the cost to local taxpayers and may result in enforcement actions by the IRS.

4. **Proposition 39 Tax Limits.** If a school district has already exceeded its Proposition 39 tax rate limit of $30/$100,000 or $60/$100,000, it cannot issue additional debt under that ballot measure. A district cannot avoid the Proposition 39 tax rate limits by issuing GO bonds in only those maturities that do not currently exceed the $30 or $60 limitations. Such structures are contrary to the original intent of Proposition 39 and pose a legal risk to the issuing district.

5. **Bond Premium to Pay Costs of Issuance.** A March 1, 2011 letter from the California Attorney General stated that "the law is clear that any premium, even if legitimate, must be deposited into a special fund, applied to pay debt service, and therefore cannot be diverted to pay costs of issuance." The views expressed in this letter from the Attorney General provide clear guidance that Government Code Section 23903 and Education Code Section 15146(f) do not allow for costs of issuance, including underwriter's discount and bond insurance, to be paid from bond premium.

6. **Borrowing from Bond Project Funds.** GO bond proceeds are statutorily limited to qualified capital expenditures and cannot be used to fund operating expenses or payroll disbursements. Borrowing from a GO bond project fund to finance working capital needs is in direct violation of both State Law and Federal Tax Law.

In addition to the above practices, we also wish to highlight a common type of GO bond financing that is exceedingly costly for both school districts and local taxpayers. My office will not support transactions that rely on the following bond structure:

**Long-Dated CABs.** The issuance of capital appreciation bonds (CABs) with maturities greater than 25 years will result in a significantly higher debt burden for GO bond issuers. A 40-year CAB will generate debt service more than ten times (10x) greater than the principal amount of bonds being issued. Unless a district is certain to exceed its Proposition 39 tax rate limits, it should not consider the issuance of CABs. Furthermore, reasonable assumptions for growth in assessed value must always be utilized when sizing a GO bond financing with CABs. If a district elects to issue bond anticipation notes (BANs) as an alternative to a CAB structure, a similarly conservative approach to assessed value must be used. BANs should never serve as a vehicle to extend the total years of debt service beyond the limits set forth in the Education Code and Government Code.
In order to mitigate the use of those practices referenced in this letter, my department will work directly with local school districts on the structuring and sale of all GO bonds issued in the County of Los Angeles. If you have any questions regarding this letter, please contact Glenn Byers, Assistant Treasurer and Tax Collector, at (213) 974-7175.

Very truly yours,

MARK J. SALADINO
Treasurer and Tax Collector

MJS:GB:DB:pab
Pb/db/schldstgobondswhitepaper

c: Los Angeles County Office of Education
   California Department of Education
   California State Treasurer
   California Attorney General
   California Association of County Treasurers and Tax Collectors
Appendix B: Civil Grand Jury Report Recommendations & TTC responses (6.8 to 6.10)
Recommendation 6.8:

Los Angeles County should form a committee consisting of representation of the Los Angeles County Office of Education, the Los Angeles County Auditor Controller, the Los Angeles County Treasurer, and Tax Collector and at least four or five members of the public, to support Los Angeles County school districts in restructuring existing bond indebtedness and reducing the debt burden

Response to Recommendation 6.8:

TTC agrees with the spirit of the recommendation to support school districts in restructuring (i.e., refunding) existing bond indebtedness, but disagrees with the committee structure as the mechanism to accomplish that

TTC recommends that the Public Finance staff, working collaboratively with the Auditor-Controller and the Los Angeles County Office of Education (LACOE) educate school district officials on evaluating refunding opportunities for CABs, and to work with external financial professionals (financial advisors, underwriters and bond counsel) to develop a process or program that would enable school districts to refund non-callable CAB structures

TTC Public Finance works closely with County Counsel and County Auditor-Controller to ensure that all school district general obligation bonds are issued in accordance with State law and County requirements
Recommendation 6.9:

- Los Angeles County should authorize the committee formed in Recommendation 6.8, to evaluate and make appropriate recommendations to the Los Angeles County Board of Supervisors and affected school districts about school bond indebtedness.

Response to Recommendation 6.9:

- TTC advises against the establishment of a committee.
- TTC recommends the establishment of an ongoing fiscal forum to educate, inform and make recommendations to school district officials.
- Beginning in the fall of 2016, the fiscal forums would be conducted by staff twice per year.
- The leadership committee would be comprised of the TTC, Auditor-Controller, and LACOE.
- County personnel would present various/rotating topics to school district staff including the following:
  - The essentials of school district bond issuance.
  - Recommendations and best practices from the State Controller’s Bond Accountability Task Force.
  - Recommendations and best practices from the GFOA.
Recommendation 6.10:

- Los Angeles County should authorize the committee formed in Recommendation 6.8, to ensure that Government Finance Officers Association financing best practices are instituted throughout Los Angeles County school districts

Response to Recommendation 6.10:

- TTC agrees with the concept of developing ongoing training programs to educate school district officials on the best practices related to debt issuance
- TTC advises against the establishment of a formal committee to achieve the objectives of Recommendation 6.10
- As noted in response to recommendation 6.9, training is to be incorporated as a standing component of the twice per year fiscal forum
- The TTC recommends that the County work closely with the Office of Education to ensure that school district business officials receive training on California school district GO bonds and are properly educated and informed on the County’s review and approval process
Appendix C: A-C Sample Audit Confirmation Letter
July 28, 2016

«Audit_Firm_Name_3»
«Address_3»
«City_3», «State_2» «Zip_Code_2»

Dear Auditors:

«Agency_Name_1»

The financial audits of school districts require certain information to be verified by the County Auditor-Controller. We have developed a standard report format to confirm amounts related to all school districts. For this reason, you may receive additional information, which may not be needed for your audit.

Attached are the schedules and a listing of the related contact persons. If you have any questions, please contact Huanling Lee at (213) 974-8346.

Very truly yours,

John Naimo
Auditor-Controller

Connie Yee, Division Chief
Accounting Division

Attachments

c: School District
Role of a Financial Advisor and Underwriter

Los Angeles County School and Community College Districts
2016 Fiscal Training Summit

September 30, 2016

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ay@annetteyee.com

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Tel: 213-362-4133

Frank Vega
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Tel: 213-362-4113

Christen Villalobos
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christen.villalobos@rbccm.com
Tel: 213-362-3950
Financial Advisor Role Summary

- **Act as Fiduciary to District**
  - An F.A. must put the District’s interests above its own

- **Advise on Type of Sale for Bonds**
  - Competitive vs. Negotiated

- **Assist District in Selection and Oversight of Finance Team**

- **Help Secure the Highest Credit Ratings**
Financial Advisor Role Summary

- **Work with Finance Team on Structure, Analysis, and Timing of Bonds**
  - Review Pros and Cons of Alternative Structures and Number of Series
  - Create Financing Schedule

- **Oversee Entire Financing Process including Bond Sale**
  - Assess Market Timing
  - Review Comparable Issues to ensure lowest financing costs
Underwriter Role and Services –
Overview of Municipal Advisor Rules and Underwriter Requirements

The Municipal Advisor Rules became effective on July 1, 2014

- The Rules govern the definition, registration and regulation of municipal advisors (financial advisor)
  - Under the Rules, a municipal advisor has a fiduciary duty to its municipal clients

- A “Municipal Advisor” is generally defined in the Rules as a person that provides “advice” to a municipal entity or obligated person (i.e. a conduit borrower) with respect to municipal securities or municipal financial products
  - Advice includes any recommendation that is particularized to the specific needs, objectives or circumstances of a municipal entity or obligated person (i.e. conduit issuer)
    - Includes recommendations regarding the structure, timing, terms or other similar matters concerning such financial products or municipal securities
  - Advice does not include providing information of a factual nature without subjective assumptions; information that is not specific to the client; widely disseminated information; or general educational materials

- Underwriters may provide certain debt service calculations for Issuers, including straightforward refunding analyses, without being deemed a municipal advisor

- The SEC has stated that providing advice and triggering the fiduciary duty of a Municipal Advisor with respect to a particular transaction is incompatible with later serving as an underwriter on the same financing
Underwriter Role and Services – Exemptions for Municipal Advisors

In order to avoid being considered a Municipal Advisor and underwriter must seek one of the following exemptions.

- **Independent Registered Municipal Advisor (IRMA) Exemption** – an underwriter is exempt from being considered a municipal advisor if the Issuer has retained and will rely on an IRMA with respect to the same aspects on which the firm is providing ideas
  
  - To be considered “independent”, a person serving as the municipal advisor must not have been employed in the prior two years by the underwriting firm relying on the exemption
  
  - To qualify for this exemption, the firm must receive a written representation from the Issuer that it has retained a municipal advisor and is relying on their advice with respect to the same matters

- **RFP Exemption** – an exemption applies for any materials provided in response to an Issuer’s RFP
  
  - RFP must be for a specific subject and must be open for a limited time period
  
  - Includes “mini-RFPs” (RFP’s sent to at least three select firms) the response to which may extend over several months and be provided by the responding firm either verbally or in writing

- **Underwriter Engagement Exemption** – an exemption exists if the Issuer engages an underwriter for a specific financing concept or transaction
  
  - Engagement may be non-binding and does not commit the Issuer to undertaking the transaction or using the engaged underwriter
  
  - Being selected to an underwriter pool does not automatically trigger the Underwriter Exemption
Underwriter Role and Services – General Scope of Services on a Bond Sale

- Work with District, Financial Advisor, and Legal team on development of financing structure and market timing
  - Consider issuer needs, legal restrictions, reimbursements, rating services, fees and other costs of issuance
- **Review of all documents** necessary to implement Bond issuances; including, but not limited to, authorizing resolutions, bond purchase agreement, and official statement distributed to potential investors
- As requested, attend **rating agency meetings** to support the Issuer's efforts to obtain the highest possible rating on the issue
- Together with the District and the Financial Advisor, **consult on the bond sale structure**; such as maturities, coupon rates, call features and security features, for the purpose of meeting market demands and the objectives of the District
- **Identify and educate potential investors** on the strengths and characteristics of the District to create investor interest with potential retail and/or institutional clients in the bond issue
- **Provide market information** on the timing of the sale of the Bonds in relation to the market conditions and financing needs
- Serve as underwriter of the Bonds, which obligation is conditioned upon the execution of a mutually satisfactory **bond purchase agreement**
- Coordinate with all parties so as to consummate the sale and delivery of the Bonds in a timely manner
LAUSD Disclosure Practices

LACOE Fiscal Summit

10/6/2016
What’s Going On in the Municipal Securities Market?

- **Extraordinary SEC Enforcement Activity**
  - City of San Diego
  - State of New Jersey
  - City of Harrisburg
  - Among others...

- **Municipalities Continuing Disclosure Cooperation Initiative (MCDC)**

- **More promised to come:**
  - All five Commissioners are using strong language to push for changes in the municipal securities market...
  - Enforcement Division has stated that there is a pipeline of activity for us to expect....
  - Enforcement Division is visible like never before....
What are the “problem areas” of the municipal securities market?

- The “Silo” Effect
- Internally rather than externally focused
- Political influence
- Staff turnover

When these problems are present, the SEC has learned that a municipal issuer can become a tough place for good information to get to investors to make informed investment decisions....
What Do Issuers Need to Do?

• Tell the credit story
• Adopt good disclosure policies and procedures
• Make sure that any “elephant in the room” is disclosed
• Staying on top of secondary market disclosure
LAUSD Debt Program Overview

- $20.6 billion in voter-approved GO bond authorization
- $10.1 billion outstanding GO bonds as of July 1, 2016
  - Typical new money issue is amortized over 25 years
  - 15 Continuing Disclosure Agreements (CDAs)

- $266.1 million outstanding fixed-rate COPs
  - 6 Continuing Disclosure Agreements (CDAs)
LAUSD’s Continuing Disclosure Policy

• Intended to:
  – Ensure that the District’s Continuing Disclosure Documents are accurate and comply with all applicable federal and state securities laws
  – Promote best practices regarding the preparation of the District’s Continuing Disclosure Documents.

• Document here:
  – Appendix B of District’s Debt Management Policy
LAUSD’s Continuing Disclosure Policy

Main Sections:

- Key Participants
  - Disclosure Working Group
  - Chief Disclosure Officer (Deputy CFO)
  - Disclosure Coordinator (Director Capital Fund Compliance)

- Filings
  - Annual Reports
  - Event Filings
  - Paying Agent, Bond Insurer, and Rating Agency Filings
  - Voluntary Disclosures
LAUSD’s Continuing Disclosure Agreement (CDA)

• LAUSD’s most recent CDA:

• CDA defines:
  – What needs to be disclosed in Annual Report
  – Which “Listed Events” need to be disclosed
LAUSD Debt/Disclosure Program

• Director of Capital Fund Compliance responsible for upload of financial reports to EMMA
  o Backup is Deputy Controller

• Working Group responsible for review of disclosures:
  o CFO
  o Deputy CFO
  o Director of Capital Fund Compliance
  o Deputy Controller
  o External Counsel
  o Municipal Advisor
  o Others as needed
LAUSD Changes in Practice

• **Past Practices:**
  - Compliance functions overseen by Treasury staff (multiple people)
  - Debt Management Policy in place, but no separate Disclosure Policy

• **Present Practices:**
  - Compliance functions overseen by Director of Capital Fund Compliance
  - Disclosure Policy in place
  - Annual training of District staff on bond compliance topics
    - State law, tax law, and securities law
  - Standard template used for Annual Report
    - Easier to read information for investors/public
EMMA Issuer Homepage

• LAUSD created an Issuer Homepage on EMMA

• MRSB can walk you through the process
  – Call 202-838-1330 to set up an appointment
  – Or online resources can be found here:
New California Transparency Requirements

• CA Senate Bill 1029
  – Requires certification that the issuer has adopted local debt policies concerning the use of debt and that the contemplated debt issuance is consistent with those local debt policies

Los Angeles County Office of Education
Best Practices in Debt Management: An Overview

Susan Gaffney, GFOA
SEPTEMBER 30, 2016
GFOA

- Over 18,000 Members Representing Localities, States, School Districts, Utility Districts And Other Governments

- GFOA's Mission Is To Promote Excellence In State And Local Government Financial Management

- Over 150 Best Practices In Multiple Disciplines: Debt Management, Treasury And Investment Management, Accounting And Auditing, Budgeting, Capital Planning, Retirement and Benefits Administration
OVERVIEW TO THE OVERVIEW

- Debt Management Policy
- Role of Finance Officer in Debt Management
- Selecting Finance Professionals
- Method of Sale of S/L Government Bonds
- Rating Agencies
- Federal Disclosure Responsibilities
- Investment of Bond Proceeds/Federal Tax Issues
- Expenses Charged in a Bond Sale
- Other Topics For Another Day: Arbitrage, Types of Debt, POB and OPEB Bonds, Refundings
Debt Management Policy
Importance of a Debt Policy

- Enhances Internal Management Practices
- External Recognition and Transparency
  - Credit Rating Agencies
  - Outside Professionals/Public Know Entity’s Parameters
- IRS Asking for Policies and Procedures
  - Investment of Bond Proceeds
  - Use of Proceeds
- SEC Encouraging Use Of Disclosure Policies And Procedures
  - More Aggressive Stance Over Past Few Years
  - MCDC Initiative
- Evolving Federal Regulatory Landscape
  - MA Rule
  - IRS/Issue Price Regulations
Basics of a Debt Policy

- Authority to Issue Debt – Who Are You?
- When Debt May be Used to Finance Capital Projects
  - Including Use of P3s and TIFs
- Entity’s Debt Limits/Debt Capacity
- Types of Debt Allowed to Be Issued
  - General Obligation
  - Revenue
  - Taxable (including tax-credit, subsidy)
  - Fixed or Variable Rate
  - Other Products: POB, OPEB, Derivatives, Notes and Loans
  - Refundings (current and advanced)
Basics of a Debt Policy

- Structuring Debt
- Hiring, Scope of Services, and Fee Structures for Outside Professionals
- Method of Sale
- Bond Ratings and Enhancements
- Pricing Evaluation
- Investment of Bond Proceeds
- Compliance with Federal Tax & Securities Laws
  - Disclosure, Including Posting Information on EMMA
  - Arbitrage
Implementing the Policy

- Development by Team (with a leader!)
- Internal/Staff Sign Off
- Approval From Governing Body
- Disseminating to Team (internal and external)
- Compliance Procedures
  - Are We Doing What We Said We’d Do?
  - Developing Checklists to Ensure Compliance
- Schedule to Review and if Needed, Revise
Other Observations

- Look at Peer Entities
- Develop Section by Section
- Know Which Issues are More Static and Others That Are More Dynamic, and Don’t be Afraid to Revise
- Stay Alert for Changing State and Federal Laws and Regulations
- Help Those That Come After You!
  - Professional Staff
  - Elected Officials
Role of Finance Officer in Debt Management
Role of the Finance Officer

- Coordinate Internal Team Members (finance staff, attorneys, project managers, etc.)
- Work with “Partner” Departments/Agencies by Providing Direction, Leadership, Oversight and Guidance
- Select and Assign Duties to Outside Finance Team Participants, and Manage Performance
- Manage the Financing Project and Timeline
- Structure Financing Within Parameters of State and Local Law and Legislatively Adopted Policy
Role of the Finance Officer

- Select the Method of Sale
- Negotiate Business Points and Structure of the Transaction
- Ensure Consistent, Accurate and Complete Disclosure to Marketplace
- Ensure Ongoing Disclosure, Monitoring and Compliance
- Oversee Disbursement of Project Funds
- Oversee Debt Service Payment Process
- Ensure Tax and other Compliance
Selecting Finance Professionals
Best Practices: Selecting the Financing Method and Financing Team

- Selecting Municipal Advisors
- Selecting Bond Counsel
- Selecting and Managing the Method of Sale of State and Local Government Bonds
- Selecting Underwriters for Negotiated Bond Sales
- Selecting Trustee
Importance of Selection/Hiring Order

- **GFOA Best Practice**
  - “Unless the issuer has sufficient in-house expertise and access to market information, it should hire a municipal advisor prior to undertaking a debt financing.”

- **Issuers Should Hire A MA And Bond Counsel Before Hiring Other Outside Professionals, Including UW**

- **Municipal Advisor Should Assist With:**
  - Assessing the objectives of the financing
  - Identifying strategies and priorities
  - Selecting the method of sale that best fits the financing
  - Evaluating other members of the external financing team
    - Selecting UW Team
  - Providing expert advice regarding the bond sale
Role of the Municipal Advisor

- Role May Vary According To:
  - Expertise of issuer staff
  - Type of bonds
  - Method of sale
  - Scope of services

- Relationship May Be Transactional or on a “Retainer” Basis

- MA has a Fiduciary Responsibility to Represent the Issuer, and Only the Issuer, in Debt Financings.

- Assists in a Broad Array of Capital Planning and Debt Issuance Tasks
Municipal Advisor: Competitive Sale

- Helps Determine Timing of Offering
- Assists in Structuring the Bond Issue
- Assists in Preparing the Preliminary Official Statement (POS), May Prepare POS, which is the disclosure document delivered to the investors who purchase the bonds
- Advertises Upcoming Bond Sale to Investor Community
- Verifies Accuracy of all Bids Received
- Makes a Recommendation to Issuer to Accept or Reject the Bid or Offer
Municipal Advisor: Negotiated Sale

- Assists with Underwriter RFP and Selection Process
- Assists in Structuring the Bond Issue
- Assists in preparing the Preliminary Official Statement (POS), may prepare POS, which is the disclosure document delivered to the investors who purchase the bonds
- May Advertises Upcoming Bond Sale to Investor Community
- Advises Issuer with Respect to Pricing Scale
- Advises Issuer on Day of Pricing with Respect to Any Proposed Changes in Response to Market Conditions (pricing changes, call features, discounts, premiums, etc.)
- Assists Issuer with Negotiation of Terms with UW
BP: Selecting Municipal Advisors

- GFOA Recommends That Issuers Hire A Municipal Advisor Prior To Undertaking A Debt Financing.
- Selection Of Municipal Advisor Should Be Based On Merit And Generally Done Through A Request For Proposals (RFP) Process.
  - Experience with similar financings: type, size, structure, state
  - Access to timely market information
- Independent Vs. Underwriter-based Advisors
- Registered With SEC And MSRB
- Municipal Advisor Will Work With Issuer To Determine Appropriate Method Of Sale (Competitive Or Negotiated) And Therefore Should Be Hired Before Consideration Of Underwriters.
Managing Your MA Relationship

- Ongoing Communication of Priorities, Objectives and Expectations
  - Match to specific issuer project/financing needs
  - Active vs. passive
  - Continuity of MA staff
  - Continued education

- Use of Multiple MAs
  - RFPs for Pool
    - Mini RFPs within the pool
  - Project- or task-specific
  - Pricing and/or post-pricing specialists
SNAPSHOT: SEC MA RULE

- New Rulemaking Over MAs
  - MA Has an Explicit Federal Fiduciary Duty to Issuer
    - Only MA May Provide “Advice” to Issuers Unless Exemption is Met
    - Exemptions:
      - Have an MA “meaningfully engaged” (IRMA)
      - RFP responses
      - Underwriter has been hired
    - New Documentation Standards
      - Send Issuer Conflicts of Interest
      - Scope of Services

- GFOA Resources

- May be managed by Finance Office and/or City Attorney

Key Qualifications of Bond Counsel Include:

- Experience with similar financings: type, size, structure, state
- Specialized tax advice beyond normal bond counsel services
- Expertise in federal securities laws and regulations
- Be aware of relationships that might pose conflict of interest

Determine If Other ‘Specialty Counsel’ Is Needed

- Disclosure Counsel
- Special Tax Counsel
Underwriter Role
Competitive vs. Negotiated Sale

- **Competitive Sale**: Sale in which multiple underwriters submit bids to purchase the bonds at a specified date and time. The underwriter that submits the lowest purchase price (TIC) is awarded the bonds for sale to investors.

- **Negotiated Sale**: Sale in which the underwriter is selected well before the sale, preferably through a competitive RFP process. Underwriter assists financial advisor and issuer in structuring the bonds and preparing the bonds to be sold.
BP: Selecting Underwriters

If a Negotiated Sale is Deemed Appropriate:

- Unless the issuer has extensive in-house bond pricing experience and access to current bond market data, issuers should engage the services of a municipal advisor to assist in the negotiated sale process (if not already done).

- Recognize that the role of the underwriter and the municipal advisor are separate roles and cannot be provided by the same party.

- Select underwriters through a Request for Proposals (RFP) that rewards firms with demonstrated experience underwriting the types of bonds the issuer proposes to sell. RFP promotes fairness, objectivity, and transparency.

- Look at past transactions and their performance vs competitive
BP: Selecting Underwriters

Key Underwriter Selection Criteria May Include:

- Relevant experience with type of bonds being proposed. Experience should include both the firm’s investment bankers and underwriters (“the desk.”)
- The firm’s distribution capabilities. Can the underwriter access institutional and retail buyers?
- Understanding of the issuer’s financial situation and how to approach financing issues such as bond structure, rating strategies and investor marketing.
- Documentation of the underwriter’s participation in the issuer’s recent competitive sales or the competitive sales of other issuers in the same state.
- The proposed “spread”, or underwriter’s discount, should be requested in the RFP, but should rarely be the primary decision criterion. Proposed spread is most useful in pricing negotiations, but not as a basis for selecting the underwriter.
- Review past participation and performance by UW
MSRB Rule G-17 and Issuers

- MSRB Rule G-17
  - Underwriters Must Disclose Their Role in a Transaction to Issuer
  - Underwriter Does Not Have a Fiduciary Duty to Issuer
  - Underwriter Must Disclose General and Special Risks of Transaction
  - Must Not Deter Issuer Use of Municipal Advisor
  - Issuer Acknowledgement
Underwriter’s Counsel

- May Prepare The Investor Disclosure Document (Official Statement), Bond Purchase Agreement, Agreement Among Underwriters And Related Documents
- Conducts Due Diligence On Behalf Of The Underwriter
- Selected By The Underwriter, Cannot Be Same Firm As Bond Counsel
BP: Issuer’s Role in Selecting Underwriter’s Counsel

- Issuers Should Minimize Their Involvement
- If Desired, Develop List of General Criteria and Qualifications
- If Warranted, With UW Prepare List of Acceptable Firms
- Review UW Counsel’s Scope of Services
- Set Appropriate Fee Arrangement – “Not to Exceed”
- Have Policies and Procedures in Place to Minimize Conflicts of Interest
Other Participants

- Trustee
- Disclosure Counsel
- Bond Insurer
- Liquidity or Credit Providers (variable rate debt)
- Investment Advisor
- Verification Agent (in case of refunding)
Method of Sale
BP: Selecting & Managing the Method of Sale

- State And Local Governments Should Sell Their Debt Using The Method Of Sale That Is Most Likely To Achieve The Lowest Cost Of Borrowing.

- Method Of Sale Decision Should Be Made Based On A Thorough Analysis Of The Relevant Rating, Security, Structure And Other Factors Pertaining To The Proposed Bond Sale.

- Unless The Issuer Has Sufficient Staff Expertise And Access To Market Information, Gfoa Recommends That Issuers Hire A Municipal Advisor Prior To Undertaking A Debt Financing.
The Method of Sale Decision Environment

- Issuers Should Not Use A Potential Underwriter To Assist In The Method Of Sale Decision Unless That Firm Has Agreed Not To Underwrite The Bonds.

- Under MSRB Rule G-23, A Firm Acting As An Issuer’s Municipal Advisor Is Not Allowed To Resign In Order To Serve As Underwriter For The Proposed Bonds.

- Issuers Should Be Aware Of The Key Fiduciary Relationships That Do And Do Not Exist Between The Municipal Advisor, Bond Counsel, Underwriter And The Issuer.
The Method of Sale Decision Environment

- Relationship Between Issuer And Underwriter Is One Of Common Purpose But Also Competing Objectives, Especially At Time Of Bond Pricing. The Underwriter Is Not The Issuer’s Municipal Advisor And Has No Legal Fiduciary Duty To The Issuer.

- MSRB Rule G-17 Requires Underwriter and MA To Identify Responsibility To Deal Fairly At All Times With Both Issuers And Investors, And Disclose Potential Conflicts.
Competitive vs. Negotiated Sales: The Decision

- The Finance Officer’s Decision Or Recommendation Regarding The Method In Which Bonds Will Be Sold Will Be A Leading Factor In Determining The Financing Cost Of The Bonds.

Determining Method of Sale

Factors Favoring Competitive Sale:

- Rating of the proposed is expected to be in the “A” or better category.
- The bonds are general obligations, full faith and credit obligations or are revenue bonds secured by a strong, known and long-standing revenue stream (e.g. water, sewer, electric).
- The bond structure is not expected to include “exotic” products that require extensive explanation to the market.

The majority of local government bond issues should align within these categories.

Factors Favoring Negotiated Sale:

- Rating of the proposed bonds is expected to be in the “BBB” or lower category.
- Bond insurance or other credit enhancement is not available or not cost-effective.
- The bond structure has features such as pooled borrowers, variable rate debt, deferred interest bonds or other bonds expected to require extensive communication with the market.
- The issuer desires to target specific participants such as disadvantaged business enterprises (DBEs), retail investors or local firms.
- Other factors that the issuer, in consultation with the municipal advisor, believes favor the use of a negotiated sale.
Competitive vs. Negotiated Sales: Definitions

- **Competitive Sale**: Bond issue is prepared by the issuer and municipal advisor and then offered for sale to underwriters at specified date and time. Bonds are awarded to the firm that offers the lowest True Interest Cost (TIC). Bids usually submitted electronically.

- **Negotiated Sale**: The underwriter of the bonds is selected in advance of the sale and the pricing of the bonds (coupons, yields, spread) is negotiated by the underwriter and the issuer (with their municipal advisor).
Rating Agencies
Bond Ratings

- Rating Process
  - Send bond documents to rating agencies
  - Analysis
  - Have conference call or meeting
  - Complete analysis
  - Preliminary committee
  - Rating committee
  - Rating released
  - New audit received
  - Surveillance
GFOA BP: Rating Agencies

- Issues Covered
  - Determine what will be in the ratings presentation
    - More is better
  - Develop relationship with credit rating analyst
    - It’s better to hear bad (or good!) news from you than others/press
  - Understand criteria used by rating agency for your credit
    - In many cases, methodologies are being updated
  - Rating fees can be negotiated (up front and ongoing)
GFOA BP: Rating Agencies

Issues Covered

☐ Know how rating agency will contact you if there is a rating change
☐ Rating agencies may give you very little time to respond to a report, and will only allow factual changes
☐ Rating agency regulations are changing and employees must be careful with how they interact with and what they can accept from a government (some have even declined bottled water!)
Disclosure Responsibilities
Best Practices: Disclosure

- Understanding Your Continuing Disclosure Responsibilities
- Using CAFR for Disclosure Requirements
- Using a Web Site for Disclosure
- Including Disclosures in Official Statements Related to Pension Funding Obligations
- Maintaining an Investor Relations Program
Disclosure Policies and Procedures

- Prepare Written Documentation To
  - Identify key players (by title and name)
  - Responsibilities of key players
  - Identify key documents/reports
  - Set up reminder system of when documents are due
  - Memorialize the annual reporting requirements per the CDA

- Create Centralized Contact Information
  - Central phone number with voice mail
  - Email address – debtmanagement@mygovernment.gov
  - Ensure multiple employees with ability to access and respond to email/voice mail inquiries – check daily

- Develop Process For Speaking To Entire Market
  - Encourage use of general email for investors to communicate
  - EMMA postings to speak to the market
  - Identify one individual responsible for speaking on behalf of government regarding bonds
Understanding Your Continuing Disclosure Responsibilities

- Continuing Disclosure Agreement (SEC Rule 15c2-12)
  - Timeframe
  - Type of information to be provided
  - Material Events


- If A Government’s CDA States That Information Will Be Provided That Is Outside The Scope Of The CAFR, That Information May Be Included As A Supplement To The CAFR When Filing With EMMA
Understanding Your Continuing Disclosure Responsibilities

- Governments Should Make Annual Filings As Soon As Annual Audited Financial Information Is Complete
  - GFOA recommends within 180 days after end of FY (180 Days does not equal 6 months!)
  - Prompt filing reduces risk that information may be found inadequate or misleading because of subsequent events

- GFOA Recommends That Governments Do NOT Indicate On EMMA That They Will Provide Information 120 Or 150 Days Following The Fiscal Year
Understanding Your Continuing Disclosure Responsibilities

- Voluntary Disclosures

  - After consulting with internal and external legal counsel:
    - A government may wish to provide other financial information to investors (via web site and link in EMMA) that goes beyond what is specified in the CDA

    - Examples of additional information that could be disclosed:
      - *Annual budgets, Financial plans, Revenue forecasts, Investment information, Monthly financial reports*

    - Bank Loans!
Understanding Your Continuing Disclosure Responsibilities

● Voluntary Disclosures
  □ If an entity chooses to post unaudited interim financial information as part of its voluntary disclosures:
    • It must be clearly described as such on the document
    • A government may wish to include additional disclaimer language regarding unaudited information
  □ Issuer’s should design a system of internal controls to ensure the accuracy, completeness, consistency, and freshness of information posted
Using Technology for Disclosure

- **Enhanced EMMA System**
  - Posting Both Required and Voluntary Disclosures on EMMA
    - Budget Information
    - Bank Loans
    - Other Prepared Financials/Unaudited
  - Setting EMMA Tickler to Remind You of Filing Dates
  - Provide Links to Your Web Site Disclosure Materials
  - Creating a Specific Issuer Web Site in EMMA
Using Technology for Disclosure

- Governments And Bond Issuers Use Their Web Sites To Disseminate Information To The Municipal Securities Market Regarding
  - The entity’s debt,
  - The entity’s financial condition, and
  - Other related information

- Your Web Site Is An Integral Part Of Effective Communication With Investors And The Marketplace And Should Be A Part Of An Investor Relations Program
Using Technology for Disclosure

Considerations for Web Site Disclosure:

- Information solely intended for investors should be segregated from other information and clearly identified as being intended for investors.
- A formal process for reviewing and approving any information posted on the website should be required to ensure accuracy, consistency, and completeness of the information.
- Historical or outdated information should be marked and segregated from current information through the use of a “library” or “archive” accessible on the site.
Using Technology Disclosure

• Items Governments Should Consider Posting On Their Web Sites Are
  □ Relating to the sale of bonds:
    • Preliminary Official Statements (POS),
    • Audited financial statements,
    • Feasibility reports, and
    • Other related documents to a bond sale

□ Information to report post-sale of bonds:
  • Continuing disclosure filings
  • Already prepared budgetary information
Web Site Presentation of Official Financial Documents

- While Posting Financial Documents On A Web Site Is A Tremendous Resource To Citizens And An Important Investor Relations Tool:
  - Governments should be reminded that web site posting DOES NOT meet the continuing disclosure responsibilities for issuers of municipal debt set forth in Securities and Exchange Commission Rule 15c2-12
Maintaining an Investor Relations Program

- GFOA Recommends That Governmental Bond Issuers Consider Developing An Investor Relations Program

- Benefits Of Developing A Program
  - Better investor awareness of the credit
  - Possible better pricing
  - Assists with public’s awareness
Maintaining an Investor Relations Program

- Determine what information to post on web site
- Understand the appropriate concerns/requests of investors
- Identity issuances with the use of CUSIP numbers
- Use your web site and post a link to your financial info on EMMA
- Create documents in searchable PDF format
- Determine timing of the release of information related to any debt sales
- When a single investor poses a question, it should be answered in a manner so that all investors can know the information
- Keep a database of investors/interested parties
- Alert database members of upcoming bond sales, new information, etc
Bank Loan Disclosures

- Disclosure of bank loan information is not required in and of itself, but issuer and counsel need to determine if the bank loan and the priority of repayment count as being a material issue for outstanding bond deals.
- Rating agencies encourage voluntary disclosure of bank loans.
- Can be filed in EMMA.
Disclosure of Pension Obligations

- Growing Interest To Investors And Rating Agencies
- Much Of The Information About A Government’s Pension Obligations Can Already Be Found In The CAFR And Budget
- Issuers Need To Determine If Their Pension Liabilities Could Affect Their Ability To Make Debt Service Payments
- Issuers Should Discuss With Counsel How Much Information About Their Pension Funding Liabilities Are ‘Material’ Information To Investors
  - Are debt service payments and pension plan funding coming from the same revenue source?
  - Is there potential down the road that pension plan funding could ‘crowd out’ debt service payments?
  - Is the priority of payment to the payment fund superior to debt service payments?
Electronic Municipal Market Access System - Replaced Numerous NRMSIRs
All Submissions Must Be Made Electronically in PDF-Readable and Searchable Format
Mandatory and Voluntary Submissions
Numerous Resources on Site Regarding How to Use System
“Issuer Home Page”
State and Local Government Toolkit
www.emma.msrb.org
MCDC Aftermath

- Numerous Governments Made MCDC Filings
- GFOA Survey
  - 79% of responders said they had to hire outside consultants at a cost ranging from $2,500-$12,000
  - Overall issuer costs related to MCDC $2,000 – $18,000
  - Governments spent 25-250 hours in responding to the initiative
- Some Governments Did Not Make Filings, but UW Did
- Elevated the Concerns Regarding and the Need for Good Disclosure
MCDC – Underwriter Settlements Likely Effect on Issuers

- Increased Underwriter Scrutiny Of Issuer Practices And History Regarding Continuing Disclosure

- Underwriter Insistence On Disclosure Of All Cda Failures, Large Or Small

- Risk That Underwriter Will Not Be Your Underwriter Because Of Bad History – Find Out Early!
MCDC – Lessons to What Constitutes Noncompliance

- No Safe Harbors
- Brief Infrequent Delays Are Probably Not Material Noncompliance
- Complete Failure to File Is Material Noncompliance
- Subsequent Corrective Filings Do Not Eliminate the Need to Disclose Earlier Failures or Late Filings
- EMMA Filings May be Necessary Regarding Past Failures
Investment of Bond Proceeds/Federal Tax Issues
Post-Issuance Tax Compliance

- Record Retention
- Arbitrage and Yield Restriction
- Expenditure of Proceeds
- Private Use
- Remedies
BP - Investment of Bond Proceeds

- Obtain Projected Cash Flow Schedules From Project Managers
- Inform Internal Investment Officer of Incoming Funds
- Bid Investment Agreements as Needed
- Develop Process for Monitoring Balances in Trustee Held Accounts
- Actively Monitor Construction Activities
- Develop Procedures for Reinvestment of Bond Proceeds
- Know Who Can Work With You on the Investment of Bond Proceeds (e.g., Investment Advisor vs Broker/Dealer)
Record Retention

- General Rule: Life Of The Bonds Plus 3 Years
  - If refunded extends to life of Refunding Bonds plus 3 years
- What Do You Keep?
  - Basic records relating to the bond transaction
  - Documents evidencing the expenditure of bond proceeds
  - Documents evidencing the use of bond-financed property by public and private sources
  - Documents evidencing all sources of payment and security of the bonds
  - Documents pertaining to the investment of bond proceeds
- How Do You Keep It?
  - IRS Electronic storage guidelines
Fees/Expenses Charged in a Bond Sale
Fees Charged in a Bond Issuance

- Direct Costs of Issuance
  - Costs of Issuance in a Publicly Offered Debt Transaction

- Underwriter’s Discount
  - Expenses Charged by Underwriters in Negotiated Sales
Expenses Charged by the Underwriter

- Components of the Spread
  - Takedown (largest component)
  - Management Fee
  - Expenses
  - Risk

- Commonly Accepted Underwriter’s Expenses, Include:
  - Underwriter’s counsel
  - Reasonable travel costs incurred as part of the transaction
  - External data service fees
  - Charges for communication, including the rating agency presentation, printing, and communications expenses
  - CUSIP fees
Direct Costs Paid by Issuer

- Municipal Advisor (aka Financial Advisor)
- Legal Counsel (including Bond Counsel, Issuer Counsel, Disclosure Counsel)
- Bond Trustee
- Escrow Verification Agent
- Auditor
- Rating Agencies
- Printing/Distribution Costs
- Pricing Verification Agent
BP – Debt Issuance Transaction Costs

- Understand Difference In Explicit UW Costs Shown in Negotiated vs. Competitive Sales Where They Are Embedded in Bid

- Municipal Advisor
  - Use RFP Process and Define Scope of Services
  - Recommended Fees Paid on Hourly/Fixed Fee Basis, Not Contingent on Bond Sale or Out of Bond Proceeds
    - However, GFOA acknowledges the practice of paying out of proceeds
BP – Debt Issuance Transaction Costs

- **Legal Counsel**
  - Use RFP Process and Define Scope of Services
  - Paid Hourly or Flat Fee/Limit

- **Bond Trustee (Paying agent, Escrow agent, Dissemination agent)**
  - Select Through RFP Process
  - One time upfront fee + annual fee + transaction fee

- **Escrow Verification Agent (refundings)**
  - Select Through RFP Process
BP – Debt Issuance Transaction Costs

● Ratings Agencies
  □ Have policy to determine how many ratings to secure
  □ RATINGS FEES ARE NEGOTIABLE!!

● Pricing Verification Agent
  □ If separate service from Municipal Advisor, pay flat fee – NOT contingent
There’s More!!

- Different Debt Instruments
- Advisory AGAINST Using POB and OPEB Bonds
- Refundings
- Arbitrage Compliance
- And, and, and……….
SCHOOL DISTRICT FISCAL TRAINING SUMMIT

QUESTIONS
SCHOOL DISTRICT FISCAL TRAINING SUMMIT

THANK YOU

All materials can be found at:
http://www.lacoe.edu/BusinessServices/BusinessAdvisoryServices.aspx