

State Treasurer's Bond Accountability Task Force

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Bond Transparency and Accountability

- Bond Issuer Responsibilities
- GFOA Best Practices – Continuing Disclosures
- Trustee’s Responsibilities
- AARA Reporting
- School Bond Projects (and Other GO Bonds) -
 - Independent Audits
 - Citizen Oversight Committees
- Audit Procedures Considered for Financial Audit Assertions
 - Controls
 - Compliance Procedures
- Other Considerations

Bond Issuer Responsibilities

- Proper use of bond funds for capital purposes
- Projects listed, or “Like” projects allowed
- Account for proceeds and project expenditures
- Make debt service and related payments
- Establish controls to ensure proper use of proceeds
- Coordinating of project payments or bond draws with the Trustee
- Financial Statements and Continuing Disclosures

GFOA BEST PRACTICES - Continuing Disclosure

After the bond sales, issuers have continuing disclosure responsibilities to provide annual financial operating information or notice of any failure to do so as well as notice of certain material events. The Security Exchange Commission Rule 15c2-12 identifies 14 material events:

- Principal and interest payment delinquencies
- Non-payment related defaults
- Unscheduled draws on debt service reserves reflecting financial difficulties
- Unscheduled draws on credit enhancements reflect financial difficulties
- Substitution of credit or liquidity providers, or their failure to perform
- Adverse tax opinions or events affecting the tax-exempt status of the security
- Modifications to rights of security holders
- Bond calls and tender offers
- Defeasances or the termination of the rights and interests of bondholders under terms of the bond documents
- Release, substitution or sale of property securing repayment of the securities
- Rating changes
- Bankruptcy, insolvency or receivership
- Merger, acquisition or sale of all issuer assets
- Appointment of successor trustee

Trustee Responsibilities

Limited – Performs specific financial functions including:

- Acceptance and disbursement of (bond) funds,
- Maintains Reserve Funds, and
- Custody of investments

American Recovery and Reinvestment Act (ARRA) Reporting

Five objectives were established to help ensure accountability and transparency in the distribution and use of ARRA funds:

- Recovery funds are awarded and distributed in a prompt, fair, and reasonable manner;
- The recipients and uses of all recovery funds are transparent to the public, and that the public benefits of these funds are reported clearly, accurately, and in a timely manner;
- Recovery funds are used for authorized purposes and every step is taken to prevent instances of fraud, waste, error, and abuse;
- Projects funded under the recovery legislation avoid unnecessary delays and cost overruns; and
- Programs meet specific goals and targets, and contribute to improved performance on broad economic indicators.

School Bond Projects - Prop 39

Independent Audits & COC

In November 2000, California voters approved Proposition 39; the Smaller Classes, Safer Schools and Financial Accountability Act. The measure required the following:

- 55% voter approval;
- Specified accountability requirements for school construction bond measures, including:
 - Requirements for certain types of audits.
 - Citizens' Oversight Committee (COC) to assure the community that bond funds are expended in the fashion outlined in the district's bond resolution.
 - The COC must meet at least once a year and actively review and report to the public on the proper expenditure of taxpayers' money for school construction.

Existing Audit Procedures Considered for Financial Audit Assertions

Review of Controls:

- Inquire with management regarding the monitoring process for bond covenants.
- Process to ensure punctual payments set forth in the bond payments schedule.
- Tracking system to ensure sufficient reserves set forth in the bond agreement.
- Proper books of record and accounts.

Audit Procedures Considered for Financial Audit Assertions

Debt Compliance Procedures:

- Confirm legal compliance of debt sales and document
- Re-perform the client's tests of compliance with restrictive covenants.
- Obtain and review Continuing Disclosure Certificate to ensure all required reports are submitted on a timely basis.
- Obtain or prepare a schedule of financial covenants. Verify that the information included on the schedule is accurate.
- Obtain listing of non-financial covenants in each debt agreement.
- Perform tests that indicate compliance or noncompliance with each identified restrictive covenant.
- If a noncompliance situation exists for any restrictive covenant consult client and bond counsel as to ramifications, determine disclosures for violations and whether a compliance violation has occurred.

Other Considerations

- San Jose Procedures - Good Best Practices
 - Annual Debt Report Publicly Issued and Posted on-line
 - Continued disclosure and on-going monitoring to determine updates
- Bond Projects Reimbursement Procedures
 - Submittal by sponsoring department
 - Documentation reviewed by Treasury/Accounting
 - Finance Submits to Trustee for reimbursement
 - Funds received and posted to finance system in appropriate project/fund
 - Accounting reflected in financial statements and included in City's Comprehensive Annual Financial Report (CAFR)
- GO Bond Program
 - Subject to Audit by External Auditors
 - Audit and Program Reports reviewed annually by Public Bond Oversight Committee at a public meeting
 - Oversight Committee report submitted to City Council
- SEC and IRS Audits

Questions?

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