

Ordinance No. 11-367

An Ordinance Establishing a Debt Policy for the Town of Mount Carmel, Tennessee.

Section 1.

(a). The purpose of this debt policy is to establish a set of parameters by which debt obligations will be undertaken by the Town of Mount Carmel, TN. This policy reinforces the commitment of the Town and its officials to manage the financial affairs of the Town so as to minimize risks, avoid conflicts of interest and ensure transparency while still meeting the capital needs of the Town. A debt management policy signals to the public and the rating agencies that the Town is using a disciplined and defined approach to financing capital needs and fulfills the requirements of the State of Tennessee regarding the adoption of a debt management policy.

The goal of this policy is to assist decision makers in planning, issuing and managing debt obligations by providing clear direction as to the steps, substance and outcomes desired. In addition, greater stability over the long-term will be generated by the use of consistent guidelines in issuing debt.

(b). Definition of Debt: All obligations of the Town to repay, with or without interest, in installments and/or at a later date, some amount of money utilized for the purchase, construction, or operation of Town resources. This includes but is not limited to notes, bond issues, capital leases, and loans of any type (*whether from an outside source such as a bank or from another internal fund*).

(c). Approval of Debt: Bond anticipation notes, capital outlay notes, grant anticipation notes, and tax and revenue anticipation notes will be submitted to the State of Tennessee Comptroller's Office and the Town Council prior to issuance or entering into the obligation. A plan for refunding debt issues will also be submitted to the Comptroller's Office prior to issuance. Capital or equipment leases may be entered into by the Town Council; however, details on the lease agreement will be forwarded to the Comptroller's Office on the specified form within 45 days.

(d). Transparency:

- The Town shall comply with legal requirements for notice and for public meetings related to debt issuance.
- All notices shall be posted in the customary and required posting locations, including as required local newspapers, bulletin boards, and websites.
- All costs (including principal, interest, issuance, continuing, and one-time) shall be clearly presented and disclosed to the citizens, Town Council, and other stakeholders in a timely manner.

- The terms and life of each debt issue shall be clearly presented and disclosed to the citizens/members, Town Council, and other stakeholders in a timely manner.
- A debt service schedule outlining the rate of retirement for the principal amount shall be clearly presented and disclosed to the citizens/members, Town Council, and other stakeholders in a timely manner.

(e). Role of Debt:

- Long-term debt shall not be used to finance current operations. Long-term debt may be used for capital purchases or construction identified through the capital improvement, regional development, transportation, or master process or plan. Short-term debt may be used for certain projects and equipment financing as well as for operational borrowing; however, the Town will minimize the use of short-term cash flow borrowings by maintaining adequate working capital and close budget management.
- In accordance with Generally Accepted Accounting Principles and state law,
 1. The maturity of the underlying debt will not be more than the useful life of the assets purchased or built with the debt, not to exceed 30 years; however, an exception may be made with respect to federally sponsored loans, provided such an exception is consistent with law and accepted practices.
 2. Debt issued for operating expenses must be repaid within the same fiscal year of issuance or incurrence.

(f). Types and Limits of Debt:

- The Town will seek to limit total outstanding debt obligations to 10% of the total Town's taxable assessed valuation, excluding overlapping debt, enterprise debt, and revenue debt.
- The limitation on total outstanding debt must be reviewed prior to the issuance of any new debt.
- The Town's total outstanding debt obligation will be monitored and reported to the Town Council by the City Recorder and on a schedule established in the policy. The City Recorder shall monitor the maturities and terms and conditions of all obligations to ensure compliance. The City Recorder shall also report to the Town Council any matter that adversely affects the credit or financial integrity of the Town.
- The Town has issued Capital Outlay Notes, Sewer Revenue Bonds and Tax Anticipation Notes in the past and is authorized to issue General Obligation bonds, Revenue bonds, TIFs, loans, notes and other debt allowed by law.
- The Town will seek to structure debt with *level or declining* debt service payments over the life of each individual bond issue or loan.
- As a rule, the Town will not backload, use "wrap-around" techniques, balloon payments or other exotic formats to pursue *the financing of* projects. When

refunding opportunities, natural disasters, other non-general fund revenues, or other external factors occur, the Town may utilize non-level debt methods. However, the use of such methods must be thoroughly discussed in a public meeting and the mayor and governing body must determine such use is justified and in the best interest of the Town.

- The Town may use capital leases to finance short-term projects.
- Bonds backed with a general obligations pledge often have lower interest rates than revenue bonds. The Town may use its General Obligation pledge with revenue bond issues when the populations served by the revenue bond projects overlap or significantly are the same as the property tax base of the Town. The Town Council and management are committed to maintaining rates and fee structures of revenue supported debt at levels that will not require a subsidy from the Town's General Fund.

(g). Use of Variable Rate Debt:

- The Town recognizes the value of variable rate debt obligations and that cities have greatly benefitted from the use of variable rate debt in the financing of needed infrastructure and capital improvements.
- However, the Town also recognizes there are inherent risks associated with the use of variable rate debt and will implement steps to mitigate these risks; including:
 1. The Town will annually include in its budget an interest rate assumption for any outstanding variable rate debt that takes market fluctuations affecting the rate of interest into consideration.
 2. Prior to entering into any variable rate debt obligation that is backed by insurance and secured by a liquidity provider, the Town Council shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the insurance fail.
 3. Prior to entering into any variable rate debt obligation that is backed by a letter of credit provider, the Town Council shall be informed of the potential affect on rates as well as any additional costs that might be incurred should the letter of credit fail.
 4. Prior to entering into any variable rate debt obligation, the Town Council will be informed of any terms, conditions, fees, or other costs associated with the prepayment of variable rate debt obligations.
 5. The Town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any variable rate debt obligation.

(h). Use of Derivatives:

- The Town chooses not to use derivative or other exotic financial structures in the management of the Town's debt portfolio.

- Prior to any reversal of this provision:
 1. A written management report outlining the potential benefits and consequences of utilizing these structures must be submitted to the Town Council; and
 2. The Town Council must adopt a specific amendment to this policy concerning the use of derivatives or interest rate agreements that complies with the State Funding Board Guidelines.

(i). Costs of Debt:

- All costs associated with the initial issuance or incurrence of debt, management and repayment of debt (including interest, principal, and fees or charges) shall be disclosed prior to action by the Town Council in accordance with the notice requirements stated above.
- In cases of variable interest or non-specified costs, detailed explanation of the assumptions shall be provided along with the complete estimate of total costs anticipated to be incurred as part of the debt issue.
- Costs related to the repayment of debt, including liabilities for future years, shall be provided in context of the annual budgets from which such payments will be funded (i.e. General Obligations bonds in context of the General Fund, Revenue bonds in context of the dedicated revenue stream and related expenditures, loans and notes).

(j). Refinancing Outstanding Debt:

- The Town will refund debt when it is in the best financial interest of the Town to do so, and the Chief Financial Officer shall have the responsibility to analyze outstanding bond issues for refunding opportunities. The decision to refinance must be explicitly approved by the governing body, and all plans for current or advance refunding of debt must be in compliance with state laws and regulations.
- The Chief Financial Officer will consider the following issues when analyzing possible refunding opportunities:
 1. Onerous Restrictions – Debt may be refinanced to eliminate onerous or restrictive covenants contained in existing debt documents, or to take advantage of changing financial conditions or interest rates.
 2. Restructuring for Economic Purposes – The Town will refund debt when it is in the best financial interest of the Town to do so. Such refunding may include restructuring to meet unanticipated revenue expectations, achieve cost savings, mitigate irregular debt service payments, or to release reserve funds. Current refunding opportunities may be considered by the Chief Financial Officer if the refunding generates positive present value savings, and the Chief Financial Officer must establish a minimum present value savings threshold for any refinancing.

3. Term of Refunding Issues – The Town will refund bonds within the term of the originally issued debt. However, the Chief Financial Officer may consider maturity extension, when necessary to achieve a desired outcome, provided such extension is legally permissible. The Chief Financial Officer may also consider shortening the term of the originally issued debt to realize greater savings. The remaining useful life of the financed facility and the concept of inter-generational equity should guide this decision.
4. Escrow Structuring – The Town shall utilize the least costly securities available in structuring refunding escrows. Under no circumstances shall an underwriter, agent or financial advisor sell escrow securities to the Town from its own account.
5. Arbitrage – The Town shall consult with persons familiar with the arbitrage rules to determine applicability, legal responsibility, and potential consequences associated with any refunding.

(k). Professional Services:

The Town shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the Town and the lender or conduit issuer, if any. This includes “soft” costs or compensations in lieu of direct payments.

- **Counsel¹:** The Town shall enter into an engagement letter agreement with each lawyer or law firm representing the Town in a debt transaction. *(No engagement letter is required for any lawyer who is an employee of the Town or lawyer or law firm which is under a general appointment or contract to serve as counsel to the Town. The Town does not need an engagement letter with counsel not representing the Town, such as underwriters’ counsel.)*
- **Financial Advisor²:** If the Town chooses to hire financial advisors, the Town shall enter into a written agreement with each person or firm serving as financial advisor or debt management and transactions.

Whether in a competitive or negotiated sale, the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which they are or have been providing advisory services for the issuance.

¹ The requirement for an engagement letter does not apply to any lawyer who is an employee of the Town or any lawyer or law firm under a general appointment as counsel to the Town and not serving as bond counsel for the transaction.

If bond counsel for a debt transaction does not represent the Town in that transaction, the Town will enter into a fee payment letter agreement with such lawyer or law firm specifying:

- a. The party represented in the debt transaction; and
- b. The Town’s obligation with respect to the payment of such lawyer or law firm’s fee and expenses.

² For new issues of debt which constitutes a “security” for which the Time of Formal Award (as defined in Rule G-34(a)(ii)(C)(1)) occurs after November 27, 2011, the Municipal Securities Rulemaking Board has prohibited broker, dealer or municipal securities dealer serving as a financial advisor to an issuer for a particular issue from switching roles and underwriting the same issue. Policies must be adjusted to comply with amended Rule G-23 as it applies to securities, including exceptions to the prohibition.

- **Underwriter:** If there is an underwriter the Town shall require the Underwriter to clearly identify itself in writing (*e.g.*, in a response to a request for proposals or in promotional materials proved to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the Town with respect to that issue. The Underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and that it has financial and other interests that differ from those of the Town. The Underwriter, in a publicly offered, negotiated sale, shall be required to provide pricing information both as to interest rates and to takedown per maturity to the governing body (or its designated official) in advance of the pricing of the debt.

(l). Conflicts:

- Professionals involved in a debt transaction hired or compensated by the Town shall be required to disclose to the Town existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, liquidity or credit enhancement provider, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the Town to appreciate the significance of the relationships.
- Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct.

(m). Review of Policy:

This policy shall be reviewed at least annually by the Town Council with the approval of the annual budget. Any amendments shall be considered and approved in the same process as the initial adoption of this Policy, with opportunity for public input.

(n). Compliance:

The City Recorder is responsible for ensuring compliance with this policy.

TCA References: TCA 7, Part 9 – Contracts, Leases, and Lease Purchase Agreements
TCA 9, Part 21 – Local Government Public Obligations Law

SECTION 2. This ordinance shall take effect immediately upon final passage.

Gary Lawson
GARY LAWSON, Mayor

ATTEST:

Marian Sandidge
MARIAN SANDIDGE, City Recorder



APPROVED AS TO FORM:

Joe May
JOSEPH E. MAY, TOWN ATTORNEY

FIRST READING	AYES	NAYS	OTHER
ALDERMAN EUGENE CHRISTIAN	X		
ALDERMAN LEANN DEBORD	X		
ALDERMAN FRANCES FROST			absent
ALDERMAN KATHY ROBERTS			absent
ALDERMAN THOMAS WHEELER	X		
VICE-MAYOR CARL WOLFE	X		
MAYOR GARY LAWSON	X		
TOTALS	5	0	2

PASSED FIRST READING: November 22, 2011

SECOND READING	AYES	NAYS	OTHER
VICE-MAYOR EUGENE CHRISTIAN	X		
ALDERMAN LEANN DEBORD	X		
ALDERMAN FRANCES FROST	X		
ALDERMAN KATHY ROBERTS			absent
ALDERMAN THOMAS WHEELER	X		
VICE-MAYOR CARL WOLFE	X		
MAYOR GARY LAWSON	X		
TOTALS	6	0	1

PASSED SECOND READING: December 27, 2011

PUBLICATION AFTER PASSAGE:

DATE: January 11, 2012

NEWSPAPER: *Kingsport Times-News*

Order Confirmation

PUBLIC NOTICE
The Town of Mount Carmel, Tennessee, on December 27, 2011, passed the following ordinance:
Ordinance 11-367. An Ordinance Establishing a Debt Policy for the Town of Mount Carmel, Tennessee.

PUB1T: 01/11/12

<u>Ad Order Number</u>	<u>Customer</u>	<u>Payor Customer</u>
0001005293	TOWN OF MOUNT CARMEL	TOWN OF MOUNT CARMEL
<u>Sales Rep.</u>	<u>Customer Account</u>	<u>Payor Account</u>
Unassigned	59632	59632
<u>Order Taker</u>	<u>Customer Address</u>	<u>Payor Address</u>
sedwards	P O BOX 1421, , MT CARMEL TN 37645 USA	P O BOX 1421, , MT CARMEL TN 37645 USA
<u>Ordered By</u>	<u>Customer Phone</u>	<u>Payor Phone</u>
<u>Order Source</u>	615-357-7311	615-357-7311
<u>PO Number</u>	<u>Customer Fax</u>	<u>Customer EMail</u>

<u>Tear Sheets</u>	<u>Proofs</u>	<u>Affidavits</u>	<u>Payment Method</u>
0	0	1	

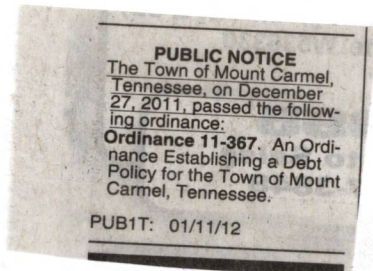
Invoice Text:

<u>Blind Box</u>	<u>Materials</u>
------------------	------------------

<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Amt</u>	<u>Amount Due</u>
\$22.06	\$0.00	\$22.06	\$0.00	\$22.06

<u>Ad Number</u>	<u>Ad Type</u>	<u>Ad Size</u>	<u>Pick Up Number</u>
0001005293-01	LL Legal Liner	1.0 X 11 Li	

Order Notes/Information
RUN DATE 1/11/12, af,





STATE OF TENNESSEE

Justin P. Wilson
Comptroller

COMPTROLLER OF THE TREASURY

STATE CAPITOL

NASHVILLE, TENNESSEE 37243-9034

PHONE (615) 741-2501

January 4, 2012

Dear Tennessee government leader:

Happy New Year! So far, this new year promises to be a good year for the State and hopefully for your community as well.

As 2011 came to a close, most local governments and other debt issuers had complied with the Tennessee State Funding Board's statement on debt management directing governmental entities in Tennessee to draft and adopt their own debt management policies no later than December 31, 2011. The State Funding Board updated the Public Debt Report Form (CT-0253) to reflect among other items the issuer's debt policy; a copy of the form is included.

While there is no requirement upon adoption of the debt policy for filing with the State, the State Funding Board, or this Office; some issuers have chosen to file a copy of their adopted debt management policy with the Comptroller's Office of State and Local Finance. If you choose to file a copy with us, we will provide you a receipt which acknowledges your policy. When you next file a Public Debt Report Form, you will need to attach a copy of your policy if it has not been filed yet with the Office.

You may file a copy of your policy at this address:

Office of State and Local Finance, Comptroller of the Treasury
Suite 1600, James K. Polk Building, 505 Deaderick Street
Nashville, TN 37243-1402 Attention: Kathy Palmer

Based on a quick review of some of the policies already filed with the Office of State and Local Finance, it appears that some governments have adopted just the Attachment A language as a debt policy. This is inadequate. As seen from the enclosed Statement found at:

<http://www.comptroller1.state.tn.us/sl/pdf/DebtPolicy.pdf> ,

a debt policy must address the four principles of: (1) understanding the transaction, (2) explaining to citizens what is being considered, (3) avoiding conflicts of interest, and (4) disclosing costs (both initial and ongoing costs) and risks.

REPORT ON DEBT OBLIGATION

(Pursuant to Tennessee Code Annotated Section 9-21-151)

1. Public Entity:

Name _____

Address _____

_____**2. Debt Obligation:**

- | | |
|--------------------------|-------------------|
| ☐ | a. Bond |
| ☐ | b. CON |
| ☐ | c. BAN |
| ☐ | d. GAN |
| ☐ | e. TRAN |
| ☐ | f. CRAN |
| ☐ | g. Capital Lease |
| ☐ | h. Loan Agreement |

Note: Enclose a copy of the executed NOTE FORM if applicable.

3. Security For Debt Obligation:

- | | |
|--------------------------|-----------------------------------|
| ☐ | a. General Obligation |
| ☐ | b. General Obligation+Revenue+Tax |
| ☐ | c. Revenue |
| ☐ | d. TIF |
| ☐ | e. Annual Appropriations |

4. Purpose of Issue:

- | | | |
|--------------------------|-----------------------------|---------|
| ☐ | a. General Government | _____ % |
| ☐ | b. Education | _____ % |
| ☐ | c. Highways and Streets | _____ % |
| ☐ | d. Public Safety | _____ % |
| ☐ | e. Solid Waste Disposal | _____ % |
| ☐ | f. Industrial Park | _____ % |
| ☐ | g. Manufacturing Facilities | _____ % |
| ☐ | h. Health Facilities | _____ % |
| ☐ | i. Airports | _____ % |
| ☐ | j. Utilities | _____ % |
| ☐ | i. Water | _____ % |
| ☐ | ii. Sewer | _____ % |
| ☐ | iii. Electric | _____ % |
| ☐ | iv. Gas | _____ % |
| ☐ | k. Refunding or Renewal | _____ % |
| ☐ | l. Other _____ | _____ % |

specify

5. Face Amount of Debt Obligation: _____

Premium/Discount: _____

6. Type of Sale:

- | | |
|--------------------------|----------------------------|
| ☐ | a. Competitive Public Sale |
| ☐ | b. Informal Bid |
| ☐ | c. Negotiated Sale |
| ☐ | d. Loan Program |

7. Tax Status:

- | | |
|--------------------------|--------------------------------|
| ☐ | a. Tax Exempt |
| ☐ | b. Tax Exempt - Bank Qualified |
| ☐ | c. Taxable |

8. Dated Date: _____**9. Issue Date (Closing Date):** _____**10. Ratings:**

- | | |
|----------------------|-------|
| a. Moody's | _____ |
| b. Standard & Poor's | _____ |
| c. Fitch | _____ |
| d. Unrated | _____ |

11. Interest Cost:

- | | | |
|---------|--------------------------|---|
| _____ % | ☐ | a. TIC |
| | ☐ | b. NIC |
| | ☐ | c. Variable: Index _____ plus _____ bps |
| | ☐ | d. Other _____ |

12. Recurring Costs:

- | | |
|------------------------------|-------|
| a. Remarketing Agent (bps) | _____ |
| b. Liquidity (bps) | _____ |
| c. Credit Enhancements (bps) | _____ |

15. Itemized Description of the Cost of Issuance

(Round to Nearest Dollar)

		Name of Firm
a. Financial Advisor Fees*		
b. Legal Fees:		
i. Bond Counsel		
ii. Issuer's Counsel		
iii. Trustee's Counsel		
c. Paying Agent Fees and Registration Fees		
d. Trustee Fees		
e. Remarketing Agent Fees		
f. Liquidity Fees		
g. Rating Agency Fees		
h. Credit Enhancement Fees		
i. Underwriter's Discount _____%		
i. Take Down		
ii. Management Fee		
iii. Risk Premium		
iv. Underwriter's Counsel		
v. Other Expenses		
j. Printing and Advertising Fees		
k. Issuer Fees		
l. Real Estate Fees		
m. Bank Closing Costs		
n. Other Costs		
Total Costs	\$0.00	

*If other costs are included, please itemize

Note: Enclose a copy of the DISCLOSURE DOCUMENT/ OFFICIAL STATEMENT if applicable.

16. Description of Continuing Disclosure Obligations

(Use additional pages if necessary)

Individual Responsible for Completion:

Date Annual Disclosure is due:

Model Finance Transaction Policies for Public Entities: Debt Management Policy

The State Funding Board is developing finance transaction policies to guide public entities in preparing their own policies. Adopting financial policies can help entities:

- make better financial decisions;
- provide clear objectives for staff;
- demonstrate strong financial management practices to credit rating agencies; and
- distinguish policy decisions from transaction decisions.

Adopting financial policies does not prevent unforeseen or negative events from occurring, nor does it prevent bad decisions. When public entities, including the State, all state agencies, local governments, and any other board, authority, district, or body created by any of these, are guided by sound financial policy in the financial decision-making process, the effects of negative events and bad decisions can be minimized.

All public entities incurring or issuing debt should have adopted a debt management policy by January 1, 2012. The minimum requirements for the policy are described below and required language is provided in Attachment A. The policy adopted by a public entity should address financing needs and the role debt will play in the overall financial management strategy. The policy need only address the particular types of debt that the entity plans to use. An entity may need only a simple policy, particularly if it borrows only through a federal or state agency loan program or from a community financial institution. A conduit entity, such as an industrial development board, lending only to private entities may need only a simple policy.

Before adopting a policy, the members of the public entity should have a basic understanding of public finance. This will allow the members to participate more fully in policy discussions and to gain more value from outside professional assistance. The entity bears sole responsibility for the development, adoption, and implementation of the policy, even when using professional assistance.

The scope of the debt management policy

The following four principles should be included in a debt management policy, whether simple or detailed, to guide every debt transaction:

- understand the transaction;
- explain to citizens what is being considered;
- avoid conflicts of interest; and
- disclose costs and risks.

The policy should address the following items in reasonable detail and should include methods by which the public and all stakeholders are informed about them:



Town of Mount Carmel

GARY LAWSON, MAYOR

100 East Main Street, P.O. Box 1421

Mount Carmel, Tennessee 37645

Phone (423) 357-7311

Fax (423) 357-7710

E-Mail mcch@chartertn.net

January 10, 2012

Kathy Palmer
State of Tennessee
Office of State and Local Finance
Suite 1600 James K. Polk State Office Building
505 Deaderick Street
Nashville, TN 37243-1402

RE: Ordinance 11-367 Debt Policy for the Town of Mount Carmel, Tennessee

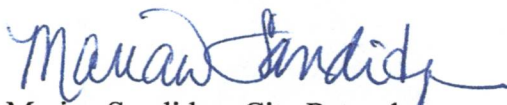
Dear Ms. Palmer:

Thank you for your correspondence of January 4, 2012. I am enclosing a certified copy of the Debt Policy for The Town of Mount Carmel.

Should you have any questions, or if any additional information is needed, please do not hesitate to contact me. My mailing address is P.O. Box 1421, Mount Carmel, Tennessee 37645, by phone at 423-357-7311, by fax at 423-337-7731 or by email at mariansandidge@yahoo.com.

Thank you for your attention in this regard.

Sincerely,
TOWN OF MOUNT CARMEL


Marian Sandidge, City Recorder

:ms
Enclosure

Subject:	Passed Ordinance 11-367 Town of Mount Carmel
From:	Marian Sandidge (mariansandidge@yahoo.com)
To:	nancy.gibson@tennessee.edu;
Date:	Tuesday, January 10, 2012 2:22 PM

Nancy,
Please find attached Ordinance 11-367 which was passed by the BMA on December 27, 2011.
Thanks,
Marian Sandidge, City Recorder
Town of Mount Carmel
423-357-7311

Subject: Ad for the Town of Mount Carmel
From: Marian Sandidge (mariansandidge@yahoo.com)
To: sedwards@timesnews.net;
Date: Monday, January 9, 2012 5:08 PM

January 9, 2012

Kingsport Times-News
Classified Advertising Department
P.O. Box 479
Kingsport, TN 37662

RE: Adopted Ordinance for the Town of Mount Carmel

Dear Sheryl:
Please run the following advertisement in the Legal Section one time:

The Town of Mount Carmel, Tennessee, on December 27, 2011, passed the following ordinance:
Ordinance 11-367. An Ordinance Establishing a Debt Policy for the Town of Mount Carmel, Tennessee.

Should you have any questions or if any additional information is needed, please do not hesitate to call on me.

Sincerely,
TOWN OF MOUNT CARMEL
Marian Sandidge, City Recorder



Justin P. Wilson
Comptroller

STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
STATE CAPITOL
NASHVILLE, TENNESSEE 37243-9034
PHONE (615) 741-2501

June 1, 2011

Dear Tennessee government leader:

In December 2010 the Tennessee State Funding Board adopted a statement on debt management directing governmental entities in Tennessee to draft and adopt their own debt management policies no later than December 31, 2011. I have enclosed a copy of the statement which contains minimum language that must be included in a policy for management of debt (whether a bank loan, an inter-fund borrowing, a publicly offered bond issue, or any other form of borrowing money).

If your governmental entity may need to borrow money after December 31, 2011, you should begin the process now to develop and adopt a debt management policy designed to meet your needs. Whether you are connected with a county, city, industrial development board, utility district or other governmental entity, in crafting your debt management policy you need to have an adoption process that is open, transparent, and allows for public input.

Information about the statement on debt management can be found via the internet at:
<http://www.comptroller1.state.tn.us/sl/DebtManagement.asp>

A list of resources to assist in your policy adoption process is included as *Attachment B* and is found at:
<http://www.comptroller1.state.tn.us/sl/pdf/DebtPolicyAttachmentB-Resources.pdf>

Many organizations, including the University of Tennessee's Municipal Technical Advisory Service (MTAS) and County Technical Assistance Service (CTAS), are providing guidance and training on debt management policy adoption. Outside professionals, such as financial advisors and bond counsel, are also providing assistance.

I strongly encourage you to lead your organization to adopt a debt management policy tailored to meet your needs as soon as reasonably possible, but no later than December 31, 2011.

If you have questions, you may contact me or:

Ann Butterworth, Assistant to the
Comptroller for Public Finance
615-401-7910
ann.butterworth@tn.gov

Mary-Margaret Collier, Director
Office of State and Local Finance
615-747-5370
mary.margaret.collier@tn.gov

My Office is here to improve the quality of life in Tennessee by making government work better. Let me know what we can do to serve you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Justin P. Wilson". The signature is fluid and cursive, with the first name "Justin" being more prominent than the last name "Wilson".

Justin P. Wilson
Comptroller of the Treasury

Enc.

Attachment B: Resources

1. Comptroller of the Treasury
 - Guide For The Issuance Of Notes By The Counties, Consolidated Governments, And Municipalities Of Tennessee (www.tn.gov/comptroller/lf/pdf/guide2003.pdf)
2. Government Finance Officers Association (GFOA) (www.gfoa.org)

Best Practices Governmental Debt Management

- [Analyzing an Advance Refunding](#) (1995)
- [Business Preparedness and Continuity Guidelines](#) (2005 and 2008)
- [Debt Management Policy](#) (1995 and 2003)
 - [Post Issuance Compliance Checklist](#)
- [Debt Service Payment Settlement Procedures](#) (2003 and 2007)
- [Investment of Bond Proceeds](#) (1996 and 2007)
- [Issuer's Role in Selection of Underwriter's Counsel](#) (1998 and 2009)
- [Issuing Taxable Debt by U.S. State and Local Governments](#) (1998)
- [Maintaining an Investor Relations Program](#) (1996, 2003 and 2010)
- [Payment of the Expense Component of Underwriters' Discount](#) (1996 and 2010)
- [Pricing Bonds in a Negotiated Sale](#) (1996, 2000, and 2010)
- [Public-Private Partnerships for Economic Development](#) (2008)
- [Role of the Finance Officer in Privatization](#) (2009)
- [Selecting and Managing the Method of Sale of State and Local Government Bonds](#) (1994 and 2007)
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 - Management Policies in Local Government Finance, 5th edition (http://bookstore.icma.org/product1.cfm?product_ID=1190&DID=7)
 4. Municipal Technical Advisory Service (<http://www.mtas.tennessee.edu/>)
 5. County Technical Assistance Service (<http://www.ctas.utk.edu/>)
 6. Rating Agencies:
 - a. Fitch Ratings (www.fitchratings.com)
 - b. Moodys (www.moodys.com)
 - c. Standard & Poors (www.standardandpoors.com)
 7. Municipal Securities Rulemaking Board (www.msrb.org)
 - Electronic Municipal Market Access (www.emma.msrb.org)
 8. Securities Industry and Financial Markets Association (www.sifma.org)
 - Investing in Bonds (<http://investinginbonds.com/>)
 9. California Debt and Investment Advisory Commission (www.treasurer.ca.gov/cdiac/)



STATE OF TENNESSEE

Justin P. Wilson
Comptroller

COMPTROLLER OF THE TREASURY

STATE CAPITOL
NASHVILLE, TENNESSEE 37243-9034
PHONE (615) 741-2501

September 1, 2011

Dear Tennessee government leader:

I am writing to remind you that the Tennessee State Funding Board adopted a statement on debt management directing governmental entities in Tennessee to draft and adopt their own debt management policies no later than December 31, 2011.

If your governmental entity may need to borrow money (whether in the form of a bank loan, an inter-fund borrowing, a publicly offered bond issue, or any other form of borrowing money) after December 31, 2011, you should be in the process now to develop and adopt a debt management policy designed to meet your needs. Whether you are connected with a county, city, industrial development board, utility district or other governmental entity, in crafting your debt management policy you need to have an adoption process that is open, transparent, and allows for public input. Information about the statement on debt management can be found via the internet at: <http://www.comptroller1.state.tn.us/sl/DebtManagement.asp>

In my previous letter of June 2011, I enclosed a copy of the statement which includes in its "Attachment A" mandatory language to be adopted in debt management policies providing for public accountability and transparency. Since the time of my original letter, the Securities and Exchange Commission approved on May 27, 2011, the Municipal Securities Rulemaking Board's proposed rule change to Rule G-23 concerning the activities of financial advisors. Therefore I have enclosed a copy of the revised "Attachment A" approved by the State Funding Board on June 30, 2011 reflecting changes due to the MSRB action.

Many organizations, including the University of Tennessee's Municipal Technical Advisory Service (MTAS) and County Technical Assistance Service (CTAS), are providing guidance and training on debt management policy adoption. Outside professionals, such as financial advisors and bond counsel, are also providing assistance. If you have questions, you may contact me or:

Ann Butterworth, Assistant to the Comptroller for Public Finance
615-401-7910 ann.butterworth@tn.gov or:

Mary-Margaret Collier, Director Office of State and Local Finance
615-747-5370 mary.margaret.collier@tn.gov

My Office is here to improve the quality of life in Tennessee by making government work better. Let me know what we can do to serve you.

Sincerely,

Justin P. Wilson
Comptroller of the Treasury
Enclosure: Attachment A

Attachment A: Minimum Language

1. Transparency

- The Entity shall comply with legal requirements for notice and for public meetings related to debt issuance. In the interest of transparency, all costs (including interest, issuance, continuing, and one-time) shall be disclosed to the citizens/members, governing body, and other stakeholders in a timely manner. *(The method for disclosure of costs and other information, including documentation of compliance with the policy, shall be developed and outlined in the policy.)*

2. Professionals

- The Entity shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the Entity and the lender or conduit issuer, if any. This includes “soft” costs or compensations in lieu of direct payments.
- Counselⁱ: The Entity shall enter into an engagement letter agreement with each lawyer or law firm representing the Entity in a debt transaction. *(No engagement letter is required for any lawyer who is an employee of the Entity or lawyer or law firm which is under a general appointment or contract to serve as counsel to the Entity. The Entity does not need an engagement letter with counsel not representing the Entity, such as underwriters’ counsel.)*
- Financial Advisorⁱⁱ: If the Entity chooses to hire financial advisors, the Entity shall enter into a written agreement with each person or firm serving as financial advisor for debt management and transactions.
Whether in a competitive or negotiated sale, the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which they are or have been providing advisory services for the issuance.
- Underwriter: If there is an underwriter, the Entity shall require the Underwriter to clearly identify itself in writing (e.g., in a response to a request for proposals or in promotional materials provided to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the Entity with respect to that issue. The Underwriter must clarify its primary role as a purchaser of securities in an arm’s-length commercial transaction and that it has financial and other interests that differ from those of the Entity. The Underwriter in a publicly offered, negotiated sale shall be required to

provide pricing information both as to interest rates and to takedown per maturity to the governing body (*or its designated official*) in advance of the pricing of the debt.

3. Conflicts

- Professionals involved in a debt transaction hired or compensated by the Entity shall be required to disclose to the Entity existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the Entity to appreciate the significance of the relationships.

Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct.

ⁱ The requirement for an engagement letter does not apply to any lawyer who is an employee of the Entity or any lawyer or law firm under a general appointment as counsel to the Entity and not serving as bond counsel for the transaction.

If bond counsel for a debt transaction does not represent the Entity in that transaction, the Entity will enter into a fee payment letter agreement with such lawyer or law firm specifying:

- a. the party represented in the debt transaction; and
- b. the Entity's obligation with respect to the payment of such lawyer or law firm's fees and expenses.

ⁱⁱ For new issues of debt which constitutes a "security" for which the Time of Formal Award (as defined in Rule G-34(a)(ii)(C)(1)(a)) occurs after November 27, 2011, the Municipal Securities Rulemaking Board has prohibited broker, dealer or municipal securities dealer serving as a financial advisor to an issuer for a particular issue from switching roles and underwriting the same issue. Policies must be adjusted to comply with amended Rule G-23 as it applies to securities, including exceptions to the prohibition.

Model Finance Transaction Policies for Public Entities: Debt Management Policy

The State Funding Board is developing finance transaction policies to guide public entities in preparing their own policies. Adopting financial policies can help entities:

- make better financial decisions;
- provide clear objectives for staff;
- demonstrate strong financial management practices to credit rating agencies; and
- distinguish policy decisions from transaction decisions.

Adopting financial policies does not prevent unforeseen or negative events from occurring, nor does it prevent bad decisions. When public entities, including the State, all state agencies, local governments, and any other board, authority, district, or body created by any of these, are guided by sound financial policy in the financial decision-making process, the effects of negative events and bad decisions can be minimized.

All public entities incurring or issuing debt should have adopted a debt management policy by January 1, 2012. The minimum requirements for the policy are described below and required language is provided in Attachment A. The policy adopted by a public entity should address financing needs and the role debt will play in the overall financial management strategy. The policy need only address the particular types of debt that the entity plans to use. An entity may need only a simple policy, particularly if it borrows only through a federal or state agency loan program or from a community financial institution. A conduit entity, such as an industrial development board, lending only to private entities may need only a simple policy.

Before adopting a policy, the members of the public entity should have a basic understanding of public finance. This will allow the members to participate more fully in policy discussions and to gain more value from outside professional assistance. The entity bears sole responsibility for the development, adoption, and implementation of the policy, even when using professional assistance.

The scope of the debt management policy

The following four principles should be included in a debt management policy, whether simple or detailed, to guide every debt transaction:

- understand the transaction;
- explain to citizens what is being considered;
- avoid conflicts of interest; and
- disclose costs and risks.

The policy should address the following items in reasonable detail and should include methods by which the public and all stakeholders are informed about them:

- any decision to finance debt, how debt instruments will be structured and sold, and all proposed and actual costs involved in issuing debt;
- any extra costs related to issuing debt—for example, the costs of work performed by professionals;
- the selection process for professionals who provide services related to debt;
- any conflicts of interest;
- all ongoing debt and related costs;
- all initial and ongoing federal compliance issues; and
- the plan for regularly reviewing and amending the policy.

Minimum requirements of the policy

The debt policy must include provisions that cover transparency, professionals, and conflicts of interest written substantially to conform with the language in Attachment A.

For all public entities other than conduit entities lending to non-public entities, the policy must require clear disclosure of the terms and life of each debt issue, including principal and interest payments. This disclosure must include a debt service schedule outlining the rate of retirement for the principal amount. If the policy permits deferral of payment on principal or backloading, the policy must require specific justification for each deferral—it may not, however, permit blanket approval. In no event may payment of either principal or interest exceed the useful life of any asset financed.

It is recommended that the policy address the maximum total level of debt that the public entity is willing to assume. This may be based on locally adopted economic indicators, such as per capita debt, a comparison of debt to property values, or debt service as a percentage of revenues or expenditures. The policy should either require or recommend that this limitation be evaluated before additional debt is assumed and be monitored and reported to the governing body periodically.

Variable rate debt can be a valuable borrowing tool. It can provide flexibility and reduce the overall cost of debt. Variable rate debt does expose the public entity to additional risk. It is recommended that the policy address the level and type of variable rate debt the entity is willing to assume at any time.

A list of resources and a glossary are provided to assist with developing debt management policies. (See Attachments B and C.)



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
State Capitol
Nashville, Tennessee 37243-9034
(615) 741-2501

Justin P. Wilson
Comptroller

June 1, 2011

Dear Tennessee government leader:

In December 2010 the Tennessee State Funding Board adopted a statement on debt management directing governmental entities in Tennessee to draft and adopt their own debt management policies no later than December 31, 2011. I have enclosed a copy of the statement which contains minimum language that must be included in a policy for management of debt (whether a bank loan, an inter-fund borrowing, a publicly offered bond issue, or any other form of borrowing money).

If your governmental entity may need to borrow money after December 31, 2011, you should begin the process now to develop and adopt a debt management policy designed to meet your needs. Whether you are connected with a county, city, industrial development board, utility district or other governmental entity, in crafting your debt management policy you need to have an adoption process that is open, transparent, and allows for public input.

Information about the statement on debt management can be found via the internet at:
<http://www.comptroller1.state.tn.us/sl/DebtManagement.asp>

A list of resources to assist in your policy adoption process is included as *Attachment B* and is found at:
<http://www.comptroller1.state.tn.us/sl/pdf/DebtPolicyAttachmentB-Resources.pdf>

Many organizations, including the University of Tennessee's Municipal Technical Advisory Service (MTAS) and County Technical Assistance Service (CTAS), are providing guidance and training on debt management policy adoption. Outside professionals, such as financial advisors and bond counsel, are also providing assistance.

I strongly encourage you to lead your organization to adopt a debt management policy tailored to meet your needs as soon as reasonably possible, but no later than December 31, 2011.

Model Finance Transaction Policies for Public Entities: Debt Management Policy

The State Funding Board is developing finance transaction policies to guide public entities in preparing their own policies. Adopting financial policies can help entities:

- make better financial decisions;
- provide clear objectives for staff;
- demonstrate strong financial management practices to credit rating agencies; and
- distinguish policy decisions from transaction decisions.

Adopting financial policies does not prevent unforeseen or negative events from occurring, nor does it prevent bad decisions. When public entities, including the State, all state agencies, local governments, and any other board, authority, district, or body created by any of these, are guided by sound financial policy in the financial decision-making process, the effects of negative events and bad decisions can be minimized.

All public entities incurring or issuing debt should have adopted a debt management policy by January 1, 2012. The minimum requirements for the policy are described below and required language is provided in Attachment A. The policy adopted by a public entity should address financing needs and the role debt will play in the overall financial management strategy. The policy need only address the particular types of debt that the entity plans to use. An entity may need only a simple policy, particularly if it borrows only through a federal or state agency loan program or from a community financial institution. A conduit entity, such as an industrial development board, lending only to private entities may need only a simple policy.

Before adopting a policy, the members of the public entity should have a basic understanding of public finance. This will allow the members to participate more fully in policy discussions and to gain more value from outside professional assistance. The entity bears sole responsibility for the development, adoption, and implementation of the policy, even when using professional assistance.

The scope of the debt management policy

The following four principles should be included in a debt management policy, whether simple or detailed, to guide every debt transaction:

- understand the transaction;
- explain to citizens what is being considered;
- avoid conflicts of interest; and
- disclose costs and risks.

The policy should address the following items in reasonable detail and should include methods by which the public and all stakeholders are informed about them:

Attachment A: Minimum Language

1. Transparency

- The Entity shall comply with legal requirements for notice and for public meetings related to debt issuance. In the interest of transparency, all costs (including interest, issuance, continuing, and one-time) shall be disclosed to the citizens/members, governing body, and other stakeholders in a timely manner. *(The method for disclosure of costs and other information, including documentation of compliance with the policy, shall be developed and outlined in the policy.)*

2. Professionals

- The Entity shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the Entity and the lender or conduit issuer, if any. This includes “soft” costs or compensations in lieu of direct payments.
- Counselⁱ: The Entity shall enter into an engagement letter agreement with each lawyer or law firm representing the Entity in a debt transaction. *(No engagement letter is required for any lawyer who is an employee of the Entity or lawyer or law firm which is under a general appointment or contract to serve as counsel to the Entity. The Entity does not need an engagement letter with counsel not representing the Entity, such as underwriters’ counsel.)*
- Financial Advisorⁱⁱ: *(If the Entity chooses to hire financial advisors, the Entity must select between the following options.)* The Entity shall enter into a written agreement with each person or firm serving as financial advisor in debt management and transactions.
 - In a competitive sale, the financial advisor (*either*):
 - shall not be permitted to bid on an issue for which they are or have been providing advisory services;
 - or**
 - may bid on an issue for which they are providing advisory services only if (i) the governing body or designated official grants in writing specific authority on a transaction by transaction basis, (ii) such sale is properly carried out through a widely and publicly advertised sale, during normal bond sale hours, and through an industry standard, electronic bidding platform not requiring verification by the financial advisor, and (iii) the

financial advisor fee is separately disclosed and billed from the underwriting fee.

- In a publicly offered, negotiated sale, the financial advisor (*either*):
 - shall not be permitted to resign as financial advisor in order to underwrite an issue for which they are or have been providing advisory services; **or**
 - may resign as financial advisor in advance of negotiations in order to underwrite an issue for which they are or have been providing advisory services.
- Underwriter: (*If there is no financial advisor*) The underwriter in a publicly offered, negotiated sale shall be required to provide pricing information both as to interest rates and to takedown per maturity to the governing body (*or its designated official*) in advance of the pricing of the debt.

3. Conflicts

- Professionals involved in a debt transaction hired or compensated by the Entity shall be required to disclose to the Entity existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the Entity to appreciate the significance of the relationships.

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If bond counsel for a debt transaction does not represent the Entity in that transaction, the Entity will enter into a fee payment letter agreement with such lawyer or law firm specifying:

- a. the party represented in the debt transaction; and
- b. the Entity's obligation with respect to the payment of such lawyer or law firm's fees and expenses.

ⁱⁱ It is anticipated that the role of the financial advisor will be clarified by the Municipal Securities Rulemaking Board in the next few years. Policies will have to be adjusted to comply with any such clarification.

Attachment B: Resources

1. Comptroller of the Treasury
 - [Guide For The Issuance Of Notes By The Counties, Consolidated Governments, And Municipalities Of Tennessee](http://www.tn.gov/comptroller/lf/pdf/guide2003.pdf) (www.tn.gov/comptroller/lf/pdf/guide2003.pdf)
2. Government Finance Officers Association (GFOA) (www.gfoa.org)

Best Practices Governmental Debt Management

- [Analyzing an Advance Refunding](#) (1995)
- [Business Preparedness and Continuity Guidelines](#) (2005 and 2008)
- [Debt Management Policy](#) (1995 and 2003)
 - [Post Issuance Compliance Checklist](#)
- [Debt Service Payment Settlement Procedures](#) (2003 and 2007)
- [Investment of Bond Proceeds](#) (1996 and 2007)
- [Issuer's Role in Selection of Underwriter's Counsel](#) (1998 and 2009)
- [Issuing Taxable Debt by U.S. State and Local Governments](#) (1998)
- [Maintaining an Investor Relations Program](#) (1996, 2003 and 2010)
- [Payment of the Expense Component of Underwriters' Discount](#) (1996 and 2010)
- [Pricing Bonds in a Negotiated Sale](#) (1996, 2000, and 2010)
- [Public-Private Partnerships for Economic Development](#) (2008)
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 - Management Policies in Local Government Finance, 5th edition (http://bookstore.icma.org/product1.cfm?product_ID=1190&DID=7)
 4. Municipal Technical Advisory Service (<http://www.mtas.tennessee.edu/>)
 5. County Technical Assistance Service (<http://www.ctas.utk.edu/>)
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 - a. Fitch Ratings (www.fitchratings.com)
 - b. Moodys (www.moodys.com)
 - c. Standard & Poors (www.standardandpoors.com)
 7. Municipal Securities Rulemaking Board (www.msrb.org)
 - Electronic Municipal Market Access (www.emma.msrb.org)
 8. Securities Industry and Financial Markets Association (www.sifma.org)
 - Investing in Bonds (<http://investinginbonds.com/>)
 9. California Debt and Investment Advisory Commission (www.treasurer.ca.gov/cdiac/)

Attachment C: Glossary

Conflicts of Interest occur in situations where parties in a transaction have multiple interests or relationships that could possibly corrupt the motivation to act. The presence of a conflict of interest indicates the potential for divided loyalty and does not automatically indicate wrong doing.

Costs means fees and expenses of professionals and service providers and other similar fees and expenses, whether or not payable at the time the debt is incurred. "Costs" also means recurring and nonrecurring fees and expenses during the life of the debt.

Debt means indebtedness lawfully issued, executed or assumed by a public entity. Debt is created when a public entity agrees to pay over time to someone else, in exchange for receiving an upfront payment or loan or for acquiring an asset. "Security" refers both to debt that can be transferred or delivered to another party, as well to property or assets pledged as collateral for a debt. Common instruments or evidence of debt are:

Bonds are debt instruments issued for a period of one year or longer, usually for permanent financing.

Notes are debt instruments issued for a short period of time, often for interim financing. Notes may be rolled to bonds. Examples are Capital Outlay Notes, Tax and Revenue Anticipation Notes, Bond Anticipation Notes, and Grant Anticipation Notes.

Capital leases or a lease purchase are written agreements allowing the use of property in exchange for payment of funds.

Loans are debt agreements usually with a financial institution such as a local bank or an organized loan program such as the Tennessee Municipal Bond Fund or the State Revolving Loan Program. Loans are also internal loans between funds within the entity or **seller financed loans**.

Debt service means a series of payments including **interest** (the amount or fee earned or paid for use of money or credit, calculated on the amount of principal) and **principal** (the amount of money borrowed or credit provided) required on a debt over time. The rate of interest can be **variable** or **fixed**.

Schedule means the plan listing the amount and when debt service will be paid.

Backloading refers to delaying repayment of principal until the end of the financing term. A standard or default structure for debt service is level debt service payments, similar to a standard home mortgage. Backloading should be considered only when

beneficial to the overall amortization of debt, upon the occurrence of natural disasters, or when project revenues are not available during the early years of a project.

Maximum total level of debt means the maximum principal amount of debt a public entity will have outstanding at any time, usually for each type of debt issued.

Federal compliance issues means the ongoing responsibilities of a public entity after issuing debt. If the debt is sold as being “federally tax-exempt,” then the entity will have to comply with federal tax law. If the debt is a “security” for federal securities laws, then the public entity is subject to anti-fraud provisions and possibly is subject to continuing disclosure obligations.

Finance transaction means both debt obligations and derivatives. A derivative is a financial product deriving value from a separate security. This term refers to many different products. “Derivative” includes an Interest Rate Agreement as defined in Tennessee Code Annotated Section 9-22-103 and other transactions as identified by the State Funding Board.

Guidelines means the document adopted by the Tennessee State Funding Board providing statutorily required guidance on Interest Rate and Forward Purchase Agreements. The current version became effective November 1, 2009. The Guidelines are available on the internet at <http://tn.gov/comptroller/lf/pdf/SFB%20Guidelines%2010-9%20Final.pdf>

Professionals means individuals or firms advising or offering to provide professional services to a public entity with respect to a finance transaction. Examples of professionals are:

Advisor means an individual or firm with a deep knowledge in a specific area, engaged in the business of advising others. It can include a Financial, Swap, or Program Administrator.

Counsel means a legal advisor or attorney, whether an individual or a firm, representing a client. It can include Bond, Disclosure, Issuer, Swap, Tax, or Underwriters Counsel.

Counterparty means the other party or participant in an agreement or contract; usually it refers to the other party in an Interest Rate (or swap) Agreement.

Lender means an individual or firm who loans a borrower money.

Paying Agent means an individual or firm that transfers the periodic interest and principal payments from the public entity to the investors.

Registrar means the individual or firm responsible for maintaining a record or list of owners or investors in debt (sometimes referred to as holders of the debt).

Remarketing Agent means the firm responsible for reselling to new investors debt instruments that have been “tendered” for purchase by their holders. The remarketing

agent is also usually responsible for resetting the interest rate for variable rate debt instruments.

Underwriter means the firm that buys new debt for reselling to the public for a profit. The underwriter may acquire the debt either through negotiation or by award on the basis of competitive bidding.

Verification Agent usually means a certified public accountant or other independent third party that determines that the cash flow from investments purchased with proceeds of a refunding debt issue, along with other money, will be sufficient to pay the refunded bonds.

Public Entity is a governmental organization or unit that has a legal existence and is authorized to borrow money or enter into debt. It includes the State, state agencies, local governments, local government instrumentalities, and any other authority, board, district, instrumentality, or entity created by the State, a state agency, local government, a local government instrumentality, or any combination of the above. It does not include legal entities without debt authority, such as a county school board; however, a special school district with debt authority is included.

Governing Body means the group of individuals with the authority to make decisions for a public entity, often referred to as the "legislative body." Governing bodies are subject to the Tennessee Open Meetings Law (requiring public notice and recording of minutes). **Members** are the individuals serving on the governing body.

Conduit Entity means a governmental entity or agency that borrows money to lend to another entity, and not to finance a project for itself. Examples of conduit issuers are health and education boards, economic development boards, and public building authorities.

Risk refers to the uncertainty (downside) involved in a debt transaction, including investment, business, credit, market, liquidity, operations, tax, and basis risks.

State Agency Loan Program refers to programs offered by the state or state agencies, such as the State Revolving Loan Program offered by the Tennessee Local Development Authority or the Qualified School Construction Bond program offered by the Tennessee State School Bond Authority.

State Funding Board means the state entity whose members are the Governor, the Commissioner of Finance and Administration, the Comptroller, the State Treasurer, and the Secretary of State. The State Funding Board is created by Tennessee Code Annotated Section 9-9-101.

Tennessee Comptroller of the Treasury

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The State Funding Board Model Finance Transaction Policies

Pursuant to TCA Section 9-21-151(b)(1), the State Funding Board is authorized to develop model financial transaction policies for the State, State Agencies, local governments and local government instrumentalities. The State Funding Board on December 15, 2010, adopted a [statement on debt management](#) that reflects four principles for strong financial management in the public sector:

- Understand the transaction
- Explain to citizens what is being considered
- Avoid conflicts of interest
- Disclose costs and risks

State and local governments and government entities that borrow money are directed to draft their own debt management policies by Jan. 1, 2012, using this model policy as a guideline. The statement includes certain [mandatory language](#) providing for public accountability and transparency which must be included in debt policies of governmental debt issuers. To further assist issuers there is a [list of recommended sources and resources](#) as well as a [glossary](#).

The state's model policy was developed after months of input by state and local government officials and professionals familiar with public debt transactions.

If you have comments or questions, you may e-mail comptroller.web@tn.gov or contact Ann Butterworth, Assistant to the Comptroller for Public Finance, at (615) 401-7910.

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**GUIDELINES FOR
INTEREST RATE AND FORWARD PURCHASE AGREEMENTS**

PREAMBLE

The decision to enter into the Interest Rate or Forward Purchase Agreement is strictly the decision of the Governmental Entity. It is the Governmental Entity's responsibility to determine the appropriateness of the transaction, the legal authority to enter into the Agreement, and the consistency of the transaction with the Governmental Entity's adopted Debt Management Policy and Derivative Policy.

The use of these agreements and the related financial instruments should balance the Governmental Entity's primary goals of (i) reducing the cost of capital; (ii) minimizing interest rate volatility; and (iii) gaining flexibility in structuring and managing its debt portfolio over time.

The use of these agreements and the related financial instruments is not permitted if: (i) the rationale for using the agreement is based predominantly on speculation regarding the future direction or level of interest rates; (ii) the fair market value of the transaction cannot be readily and reliably determined at all times by the Governmental Entity or its agents; (iii) the transaction structure and/or terms result in a lack of liquidity and the inability to timely terminate the transaction at a market price; (iv) the transaction is inconsistent with the Governmental Entity's adopted Debt Management and/or Derivative Policies.

A positive report of compliance issued under these Guidelines does not relate to or confirm the appropriateness of the transaction or the legal authority of the Governmental Entity to enter into the Interest Rate or Forward Purchase Agreement. A positive report of compliance is not an endorsement of the proposed transaction; it only indicates that the Governmental Entity has complied with the Guidelines, a statutory prerequisite to entering into a transaction. A positive report does not mitigate business, financial, market or operating risks nor does it mitigate in any way the Governmental Entity's responsibility to independently analyze the transaction and fully understand the risk associated with the transaction.

Even the simplest Interest Rate or Forward Purchase Agreement is a complex financial instrument that requires a high level of financial sophistication. It is the responsibility of the Governmental Entity and its officials to insure they possess the skill, training and knowledge to evaluate the use of an Interest Rate or Forward Purchase Agreement and to manage the use over the Agreement's duration.

I. BACKGROUND

State statutes direct the State Funding Board to establish guidelines, rules or regulations with respect to interest rate swap agreements, other interest rate hedging agreements and forward purchase agreements that may be entered into by certain local governmental entities ("Governmental Entities" or "Governmental Entity"). The Governmental Entity must request the report of the Comptroller prior to the Governing Body of the Governmental Entity adopting a resolution authorizing the agreement. State statutes require that if a Governmental Entity intends to enter into one of these agreements and submits such a request, the Comptroller is required to determine whether the proposed agreement complies with the Guidelines and to report to the Governmental Entity.

The Guidelines do not govern contracts or other agreements based on statutes other than the Forward Purchase Authorizing Statutes or the Interest Rate Authorizing Statutes, whether or not they relate to the Governmental Entity's debt.

II. DEFINITIONS

"Accountant" shall mean a professional staff member of the Governmental Entity able to independently prepare financial statements compliant with US Governmental Generally Accepted Accounting Principles. This staff member shall be responsible for preparing debt and derivatives disclosures in accordance with US Governmental Generally Accepted Accounting Principles.

"Authorizing Statutes" shall mean the Forward Purchase Authorizing Statutes and Interest Rate Authorizing Statutes, a list of which is attached as Attachment C.

"Bond Counsel" shall mean an individual or entity who has legal experience and expertise in the area of municipal finance transactions and whose sole client relationship governed by ethical rules in a transaction must strictly be only to the Governmental Entity. No waiver of any conflict of interest with respect to representations of multiple parties in the same transaction will be permitted. In the case of a conduit financing, the conduit issuer's staff, consultants and contractors (including Bond Counsel) shall not serve as the counsel to the borrower which is borrowing from or through the conduit issuer. Bond Counsel must disclose all relationships to any other transaction participant outside of the transaction. The Bond Counsel may serve also as the Governmental Entity's Swap Counsel.

"Chief Executive Officer" or "CEO" shall mean the chief elected official of the Governmental Entity, or if there is no such elected official, the chairman or presiding officer of the Governing Body of the Governmental Entity.

"Chief Financial Officer" or "CFO" shall mean the Finance Director or other comparable official of the Governmental Entity overseeing the Governmental Entity's financial management specified by either law or charter or by direction of the CEO or Governing Body. This person shall be able to understand and explain financial statements compliant with US Governmental Generally Accepted Accounting Principles. This person shall be able to understand the monitoring process and provide the Governing Body with guidance concerning an Interest Rate Agreement transaction from the entrance decision, execution, monitoring, and termination decision to the impact on the Governmental Entity's financial condition and position.

"Comptroller" shall mean either the Comptroller, the Office of the Comptroller of the Treasury of the State of Tennessee, or the Comptroller's designee, as appropriate for the context.

"Counterparty" shall mean the party to an Interest Rate Agreement other than the Governmental Entity.

"Debt Management Report" shall mean a written debt management report of the Governmental Entity as of the end of the fiscal year.

"Debt Management Policy" shall mean a formally adopted set of policies as to the issuance of, level of, structure of, rating of, administration of and reporting on the Governmental Entity's total debt. This policy must comply with the model debt management policies developed by the State Funding Board under the authority of Tenn. Code Ann. Section 9-21-151.

"Derivative Management Report" shall mean a written derivative management report of the Governmental Entity as of the end of the fiscal year.

"Derivative Policy" shall mean a formally adopted set of policies as to the use of Interest Rate and Forward Purchase Agreements by the Governmental Entity. This policy must comply with the model derivative policies developed by the State Funding Board under the authority of Tenn. Code Ann. Section 9-21-151.

"Financial Advisor" shall mean an individual or entity that provides advisory services with experience in the area of debt transactions for issuers of municipal debt. A Financial Advisor's fiduciary duty in a transaction must strictly be only to the Governmental Entity. The Financial Advisor must disclose to the Governmental Entity all relationships to any other transaction participant outside of the transaction. In the case of a conduit financing, the conduit issuer, its staff, consultants and contractors shall not serve as the Financial Advisor to the borrower. The Financial Advisor may serve also as the Governmental Entity's Swap Advisor.

"Financial Operations" shall mean budgeted receipts and expenditures for a current or ensuing fiscal year.

"Financial Position" shall mean the assets, liabilities, and net assets or fund balances.

"Forward Purchase Agreement" shall mean an agreement providing for the purchase of bonds or other obligations of a Governmental Entity when delivery of such bonds or other obligations will occur on a date greater than ninety (90) days from the date of execution of such agreement.

"Forward Purchase Authorizing Statutes" shall mean the Tennessee legislative acts and statutes authorizing Forward Purchase Agreements in accordance with State Funding Board Guidelines as identified from time to time by the Board and attached as Appendix C.

"Forward Purchaser" shall mean the party to a Forward Purchase Agreement other than the Governmental Entity.

"Governing Body" shall mean the legislative body of the Governmental Entity.

"Governmental Entity" shall mean any governmental entity authorized to enter into an Interest Rate Agreement or Forward Purchase Agreement pursuant to an Authorizing Statute. In the case of a conduit financing, "Governmental Entity" shall include both the conduit issuer and the borrower.

"Interest Rate Agreement" shall mean an interest rate swap or exchange agreement, an agreement establishing an interest rate floor or ceiling or both and any other interest rate hedging agreement, including options to enter into or cancel such agreements, as well as the reversal or extension thereof.

"Interest Rate Authorizing Statutes" shall mean Tennessee legislative acts and statutes authorizing Interest Rate Agreements in accordance with State Funding Board Guidelines as identified from time to time by the Board and attached as Attachment C.

"Monitor" shall mean a professional staff member responsible for understanding or preparing and interpreting derivative and variable-rate debt monitoring reports and communicating the impact of changes in the derivative or underlying debt on the Governmental Entity's financial condition and operations.

"Rating Agency" shall mean one of the following: (i) Fitch Ratings; (ii) Moody's Investor Services or (iii) Standard & Poor's Ratings Group, a Division of The McGraw-Hill Companies, Inc. or any successor to these.

“Swap Advisor” shall mean an individual or entity that provides advisory services with experience in the area of derivative transactions for issuers of debt. A Swap Advisor’s fiduciary duty in a transaction must strictly be only to the Governmental Entity. The Swap Advisor must disclose to the Governmental Entity all relationships to any other transaction participant outside of the transaction. In the case of a conduit financing, the conduit issuer, its staff, consultants and contractors shall not serve as the Swap Advisor to the borrower. A Swap Advisor may serve also as the Governmental Entity's Financial Advisor.

“Swap Counsel” shall mean an individual or entity who has legal experience in the area of derivative transactions and whose sole client relationship governed by ethical rules in a transaction must strictly be only to the Governmental Entity. No waiver of conflict of interest with respect to representations of multiple parties in the same transaction will be permitted. In the case of a conduit financing, the conduit issuer's staff, consultants and contractors (including Swap Counsel) shall not serve as counsel to the borrower which is borrowing from or through the conduit issuer. Swap Counsel must disclose all relationships to any other transaction participant outside of the transaction. The Swap Counsel may serve also as the Bond Counsel to the transaction.

III. PROCEDURE FOR REQUESTING A REPORT OF COMPLIANCE

A. Form of Request.

Any request for a report of compliance with these Guidelines for Interest Rate Agreements or Forward Purchase Agreements shall include such information as is required in these Guidelines. For purposes of either an Interest Rate Agreement or a Forward Purchase Agreement, if a conduit borrowing is involved, both the conduit issuer and the borrower(s) shall separately prepare and submit requests for reports of compliance and separately shall meet all requirements of these Guidelines.

Only the Governmental Entity shall prepare and only the CEO shall submit a request, whether by mail or in any other manner. A request submitted by other than the CEO will not be deemed to have been properly submitted, and the Comptroller shall immediately return the request with an explanation of the proper procedure.

The CEO and the Chief Financial Officer (CFO) shall review all requests prior to submission to the Comptroller. If neither the CEO nor the CFO is a member of the Governing Body, the Governing Body shall appoint one of its members to review the submission.

The request must supply the information required by the appropriate attached form as specified by these Guidelines, as well as any other information reasonably requested by the Comptroller. The request shall contain the actual signature of the CEO. All communications concerning the request shall be between the Comptroller and the CEO or CFO, if so designated by CEO. A public meeting of the Governing Body scheduled to approve an Interest Rate or Forward Purchase Agreement by the Governmental Entity cannot be held during the 15-day review period. If the Comptroller is informed a meeting has been scheduled to be held during the review period, the request shall not be deemed to have been received and shall be returned to the Governmental Entity.

B. Acknowledgment by Comptroller.

The Comptroller will record the request on the date received and will issue a timely acknowledgment to the Governmental Entity's CEO or CFO, if so designated by CEO, indicating the date the request was received and referring to the 15-day period statutory review period. If the request is deemed incomplete after acknowledgement or at time of receipt or if the Governmental Entity is required to appear before the Comptroller as required by Section IV.A., the request will not be deemed to have been received and the Comptroller shall inform the CEO that the request was incomplete and identify the item(s) not included. The 15-day statutory review period shall not begin until the in-person appearance, if required, occurs and a complete request is received.

C. Identification of Authorizing Statute.

In its request, the Governmental Entity shall identify the Forward Purchase Authorizing Statute or Interest Rate Authorizing Statute under which the request is being submitted and identify the specific type of Forward Purchase Agreement or Interest Rate Agreement for which the request is being submitted.

D. Conditions for Entering into an Interest Rate or Forward Purchase Agreement.

To be eligible to enter into either an Interest Rate or a Forward Purchase Agreement, a Governmental Entity must have:

1. Debt Management Policy and Derivative Policy adopted by action of the Governmental Entity's Governing Body after a public hearing and prior to the submission of a request under these Guidelines:
 - a. It must be the policy of the Governmental Entity to review these policies at least biennially and upon any change or vacancy in the positions of CEO or CFO.
 - b. Copies of the above policies must be included with a request for a Report of Compliance and along with a statement

describing how the proposed transaction complies with such policies;

2. Financial statements prepared in compliance with US Governmental Generally Accepted Accounting Principles with an unqualified auditor's opinion (shown by most recent two fiscal years prior to the request);
3. Made a presentation to the Governmental Entity's Governing Body explaining with regard to a proposed Agreement each of the following risks and the efforts to be taken to mitigate the risk:
 - a. *Interest Rate Risk* – The rate of interest paid may increase or decrease over time. Mitigation tactics include, but are not limited to, issuance of fixed rate debt, interest rate caps or collars, variable to fixed rate swaps, or forward purchase agreements.
 - b. *Counterparty Credit Risk* – The risk that the counterparty to the Agreement (or the Forward Purchaser in the case of a Forward Purchase Agreement) does not perform pursuant to the terms of the agreement. Mitigation tactics include but are not limited to, limiting the Governmental Entity's exposure to an individual counterparty, minimum rating requirements for counterparties, or mandatory collateral requirements in case of downgrade.
 - c. *Tax Risk* – The risk associated with a rise in tax-exempt interest rates relative to taxable interest rates as a result of a change in the Federal Tax Code, which in a synthetic fixed rate structure would cause a shortfall in the amount received by the Governmental Entity on the variable receipt leg of an Agreement being less than the amount paid on the associated variable rate debt. Mitigation tactics include, but are not limited to, issuance of fixed rate debt, use of tax-exempt index to determine swap payments, or basis swap.
 - d. *Termination Risk* – The risk that a swap could be terminated and a market based termination payment required. Mitigation tactics include but are not limited to, issuance of fixed or variable rate debt in the cash market, progressive budgeting for potential termination payments, or include a early termination option at par in the original Agreement. As most termination risks result from credit events of the Governmental Entity, consideration should be given to the negotiation of the triggers for early termination in the Agreement, which should be limited as much as possible to credit rating based events and be kept as low and remote as possible. Good fiscal management of the Governmental Entity will then provide the best possible mitigation of Termination Risk.

- e. *Liquidity/Remarketing Risk* – The risk that holders of variable rate bonds exercise their “put” option to tender their bonds back to the Governmental Entity and the Remarketing Agent is unable to immediately remarket the bonds and the Governmental Entity is forced to purchase the bonds and the risk that the price or availability of liquidity is higher or less available than originally assumed. Mitigation tactics include, but are not limited to, limit the amount of variable rate and synthetic fixed rate debt outstanding, purchase a liquidity facility from a highly rated provider or provide self-liquidity with surplus funds.
- f. *Liquidity/Rollover Risk* – The two related risks associated with a financing where the term of the bonds exceeds the term of the original liquidity facility. At the expiration of the original liquidity facility the Governmental Entity may (i) experience higher fees for a new facility and/or (ii) not be able to acquire a new facility because of market conditions at the time. Mitigation tactics include, but are not limited to, the use of self-liquidity, longer term liquidity facilities or shorter termed debt.
- g. *Basis Risk* – The risk in a synthetic fixed rate structure of a shortfall in the amount received by the Governmental Entity on the variable receipt leg of an Interest Rate Agreement compared to the rate paid on the associated variable rate debt and as a result the Governmental Entity’s debt service payments will increase. Mitigation tactics include, but are not limited to, carefully match the formulas for making and receiving payments, i.e. use SIFMA based vs. LIBOR based payment schedules to hedge tax-exempt variable rate debt.
- h. *Amortization Risk* – The risk the notional amount of an Interest Rate Agreement could become mismatched versus the amortization of a particular series of underlying bonds as a result of refundings or early principal payments. Mitigation tactics include, but are not limited to, extraordinary mandatory par call option for the swap in case of a prepayment of the bonds or early par call option.
- i. *Operational Risk* – The risk the Governmental Entity may not have the adequate systems, policies, or staff to ensure timely and accurate cash flow exchanges and/or compliance with collateral and other provisions of the Agreement and therefore cause a termination of the Agreement and trigger the associated termination payment or cause the Agreement to be under-collateralized. Mitigation tactics include, but are not limited to, outside training of staff, contract third-party administration of all Agreements, or limit the size and complexity of such

agreements to something the Governmental Entity can comfortably manage.

4. Have a Financial Advisor and Bond Counsel (compliant with Section H on Conflicts).

Additionally, in order to be eligible to request a Report of Compliance, a Governmental Entity must agree to:

1. comply with the reporting requirements of Section G;
2. comply with the conflict prohibitions contained in Section H; and
3. provide adequate public notice of the submission of a request for compliance.

E. Report of Compliance by Comptroller.

After reviewing the request, the Comptroller shall issue a report, referencing the Forward Purchase Authorizing Statute and/or the Interest Rate Authorizing Statute, stating that the request by the Governmental Entity substantially complies with these Guidelines. The Comptroller's Report of Compliance, a copy of the request submitted by the CEO, and the following statement must be presented to the Governing Body at the time of adoption of the resolution authorizing such Agreement and must be included in the record of the meeting:

"The Report of the Comptroller relates only to substantial compliance with the State Funding Board Guidelines at the time of the request; the Report is not an endorsement of the transaction; and the Report does not relate to the appropriateness of the transaction or the legal authority of the Governmental Entity to enter into the Agreement."

If the request does not comply with these Guidelines, the report shall identify the areas of non-compliance. A new request with any areas of non-compliance corrected by the Governmental Entity may be submitted and a new 15-day period for the Comptroller to review the request shall commence on the date of receipt of the complete request.

F. Appeals Process.

If the report of the Comptroller states that the request does not comply with these Guidelines, then the Governmental Entity may file a written request for appeal to the Assistant Secretary of the State Funding Board in the Division of Bond Finance, Office of the Comptroller of the Treasury. Such request shall specify in detail the basis on which the Governmental Entity believes a report of compliance is justified. A meeting of the State Funding Board shall be held to consider the written appeal request within 30-days of receipt of the appeal request, or as soon thereafter as a quorum can be achieved.

G. Reporting.

The Governmental Entity shall file the following information both with the Governing Body and with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (EMMA) system, or as indicated:

1. Execution – Upon entering into an Interest Rate Agreement, the Governmental Entity shall report in accordance with the requirements of Tenn. Code Ann. Section 9-21-151 no later than 45-days after the execution of the Agreement. In addition, a copy of the ISDA Master Agreement (including the Schedule to the Master and Credit Support Annex) with a memo identifying the transaction and the reasons for executing it shall be filed with the Governing Body. The Governmental Entity shall maintain a permanent copy of this report containing the memo and Agreement.
2. Option – Upon the exercise of any option by the Governmental Entity or its Counterparty, the Governmental Entity shall file a report no later than 15-days after the exercise of the option. This report will detail the reasons for executing the option, the details of the transaction including all costs related to exercising the option and the impact on the Governmental Entity's financial position and operations.
3. Material Events – Upon the occurrence of any of the following as they relate to the Agreement or the related indebtedness, the Governmental Entity shall within five (5) business days of the event (or of the date on which the Governmental Entity becomes aware of the event) report:
 - a. Vacancy or change in the position or role of Monitor or CEO;
 - b. Downgrade in the rating of any party to the Agreement or transaction;
 - c. Default in the performance of any party to the Agreement or the transaction, including non-payment related defaults;
 - d. Principal and interest payment delinquencies;
 - e. Unscheduled draws on debt service reserves reflecting financial difficulties;
 - f. Unscheduled draws on credit enhancements reflecting financial difficulties;
 - g. Substitution of credit or liquidity providers, or their failure to perform;
 - h. Adverse tax opinions or events affecting the tax-exempt status of the indebtedness;

- i. Modifications to rights of securities holders;
 - j. Bond calls;
 - k. Defeasances; refunding; termination;
 - l. Release, substitution, or sale of property securing repayment of the indebtedness;
 - m. Changes in the formula used for the payments Interest Rate Agreement; and
 - n. Failure to provide annual financial information as required by these Guidelines, transaction documents, or by law.
4. Annual – The Governmental Entity shall submit annually:
- a. Debt and Derivative Management Reports as defined in these Guidelines, by January 15 of each year;
 - b. Annual Operating and Capital Budget in the manner of Tenn. Code Ann. Section 9-21-403 by August 31 of each year; and
 - c. Audited Annual Financial Statements within 195 days of the close of each fiscal year.
5. Termination – If the Governmental Entity terminates an Interest Rate Agreement or Forward Purchase Agreement, the Governmental Entity jointly with its Financial Advisor or Swap Advisor shall submit within 15-days a report identifying the business purpose for such termination, any payments made or received by any parties to the Agreement, any other costs, and the impact on the Governmental Entity's financial position and operations. The report must include the method, underlying assumptions, and data used in the actual calculation of the amount of such payments made or received by any parties to the Agreement, and a summary analysis of the transaction and its effectiveness.

All such reports (except for the Termination Report) shall be submitted only by the Governmental Entity's CEO.

The Comptroller may provide additional guidance concerning reporting beyond these Guidelines. The Comptroller may alter these reporting requirements to meet oversight needs and market conditions, including but not limited to requiring additional reports and altering the timing of reports. Such alterations shall be posted on the State Funding Board's or the Comptroller's website. The Governmental Entity shall be responsible for periodically viewing the website for updates on requirements.

H. Conflicts.

A Governmental Entity engages external professionals to obtain expert and objective advice, as well to obtain services, regarding the Interest Rate Agreement or Forward Purchase Agreement and the related indebtedness. In order to achieve objectivity and to avoid the appearance of impropriety, the Governmental Entity shall include in its Debt Management Policy and Derivative Policy (i) whether, and under what circumstances, it will permit a firm or individual to serve in different roles in different transactions, and (ii) whether there is a lockout period between roles or transactions. In a single transaction, a Governmental Entity may allow (i) the Swap Advisor to serve as Financial Advisor or investment advisor; and (ii) the Bond Counsel to serve as Swap Counsel. However, the Advisors and Counsel may not serve in any other role or represent any other party (including a conduit issuer or a borrower) to the transaction on matters related to the transaction, whether to the Interest Rate Agreement or the Forward Delivery Agreement or to the related indebtedness, whether already outstanding or to be issued. A Governmental Entity shall require full disclosure of all existing client and business relationships between and among the professionals to the transaction (including but not limited to Financial Advisor, Swap Advisor, Bond Counsel, Swap Counsel, trustee, paying agent, underwriter, Counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. Such disclosure shall also extend to any existing or known future relationships or representations that could give rise to, or the appearance of, a conflict of interest. Such information shall be reported to the Governing Body in a public meeting.

I. Failure to Meet Guidelines.

Any Governmental Entity failing to meet the requirements of the Guidelines, including the reporting requirements of Paragraph G above, shall be placed on a list of Governmental Entities in noncompliance. Those Governmental Entities on the list shall be ineligible to request Reports of Compliance or to enter into any additional Interest Rate or Forward Purchase Agreements, including those for which they have previously received a positive report of compliance but have not yet executed the Agreement. The Governmental Entity may present to the State Funding Board a plan of how it will insure future compliance with the Guidelines, and only the State Funding Board may remove the Governmental Entity from the list of noncompliance.

IV. GUIDELINES SPECIFIC TO INTEREST RATE AGREEMENTS

A. Requesting a Report of Compliance for an Interest Rate Agreement.

Governmental Entities meeting all of the following criteria are not required to appear before the Comptroller in person:

1. Outstanding indebtedness with an aggregate principal amount of at least \$50,000,000 at the time of execution of the Interest Rate Agreement.
2. Qualifying Debt Structure of indebtedness to which Interest Rate Agreement relates:
 - a. minimum principal of \$25,000,000 with level principal amortization, level debt service, proportional revenue coverage debt service or a debt service structure that results in an average life of the debt less than the greatest of the three above requirements; and
 - b. an initial construction period of no more than three years matching actual construction time.
3. Governmental Entity's required minimum number of three (3) full-time finance staff:
 - a. Accountant;
 - b. CFO; and
 - c. Monitor.
4. Governing Body with an audit committee.
5. Capital improvement plan or capital budget adopted by the Governing Body.
6. Swap Advisor compliant with Section H above on Conflicts.

A Governmental Entity not meeting the above criteria must make an in-person presentation to the Comptroller indicating an understanding of the risks and justifying why the Governmental Entity should not be required to meet the above criteria.

B. General Interest Rate Agreement Requirements.

1. The Interest Rate Agreement shall relate to a specific identifiable indebtedness of the Governmental Entity either (i) that is outstanding or (ii) that will be incurred or authorized contemporaneously with either the execution or effective date of the Interest Rate Agreement and the Agreement is contingent on the issuance of such debt.
2. The Interest Rate Agreement shall not extend beyond the life of the indebtedness.

3. The notional amount of the Interest Rate Agreement or Agreements shall not exceed the outstanding principal of the related indebtedness at any time.

The Governmental Entity shall present with the request for a Report of Compliance a copy of the presentation its CEO, or their designee, presented at a public meeting to its Governing Body analyzing how the Interest Rate Agreement is intended to accomplish its business purpose, taking into account the various risks posed by the Agreement and the underlying debt. This analysis must demonstrate the proposed transaction is in compliance with the Governmental Entity's adopted Debt Management and Derivative Policies. This analysis shall include a comparison of all alternatives considered by the Governmental Entity and the rationale for the alternative chosen. This analysis shall also include reasonable stress testing of the Interest Rate Agreement relative to the alternatives presented based on future changes in market condition consistent with historical levels of volatility.

C. Procurement of Interest Rate Agreements.

Governmental Entities may enter into an Interest Rate Agreement through negotiation with a Counterparty or through a competitive bidding process, as provided by law.

D. Form of Documentation.

To document any Interest Rate Agreement, a Governmental Entity shall utilize the standard documentation prepared by the International Swaps and Derivatives Association, Inc. ("ISDA"), such as the Master Agreement, Schedule and Confirmation, with such modifications and supplements as the Governmental Entity deems necessary to accomplish the purposes of the Interest Rate Agreement and as approved by the Comptroller.

E. Risks Associated with Interest Rate Agreements.

It is the responsibility of the Governmental Entity proposing to enter into an Interest Rate Agreement to understand the risks associated with such an Agreement. The Governmental Entity shall list in its request those risks it has identified as associated with the proposed Interest Rate Agreement and describe its understanding of the impact each of these risk could have upon the Governmental Entity's financial condition.

F. Standards for Counterparty Selection and Security for Financial Interest.

1. Credit Criteria – To be qualified, a Counterparty or its credit support provider must have a minimum counterparty, long-term debt or claims paying rating of at least “Aa3” or “AA-” with a stable outlook by at least one of the three Rating Agencies and will have no rating lower than “A2” or “A” by any of the Rating Agencies at the time the Interest Rate Agreement is entered.

Counterparties whose highest rating from any of the three Rating Agencies is below the double-A category, additional credit enhancement will be required in the form of either: (i) contingent credit support or enhancement by a third-party with a triple-A rating from at least one of the three Rating Agencies; (ii) posted collateral consistent with Section F.2 below; or (iii) ratings downgrade triggers that provide additional collateral or the Governmental Entity the ability to terminate the Agreement at par.

In addition, qualified Counterparties must have a demonstrated record of successfully executing Interest Rate Agreements of similar size and scope.

2. Counterparty Downgrade Provisions – All Interest Rate Agreements must provide that if the Counterparty’s credit rating or that of its guarantor or credit support provider should fall below the above minimum requirements, the Counterparty must provide collateral as required by the credit support annex. If the Counterparty fails to maintain its rating during the term of the Agreement with at least one of the three Rating Agencies in or above the “A” category, the Governmental Entity shall have the right to terminate the Agreement with the Counterparty as the "Affected Party" as that term is contemplated in the ISDA schedule.
3. Collateral Requirements - Terms imposing collateral requirements will be based upon each party’s credit ratings and will require collateralization or other forms of credit enhancements to secure any termination payment amount that exceeds the applicable collateral threshold. The minimum collateral requirements, including collateral thresholds, types of collateral and collateral valuation will be determined by the Governmental Entity in concurrence with its Derivatives Policy and set forth in the credit support annex. All collateral must be in a form eligible as investments for Governmental Entities in Tennessee. Collateral shall be held by a third party custodian and marked to market at least weekly.

G. Credit Enhancement, Liquidity and Reserves.

The Guidelines do not require, except in those cases where the Counterparty is required to provide collateral, guaranty, surety, or other credit enhancement to secure the termination value of an Interest Rate Agreement, either the Governmental Entity or the Counterparty to obtain credit enhancement or a liquidity facility in connection with entering into an Interest Rate Agreement. Although not required to maintain any reserves in connection with such Agreement, a Governmental Entity should consider the establishment of a reserve or reserves in accordance with its own Debt Management and Derivative Policies.

H. Financial Monitoring.

The Governmental Entity shall require the Counterparty to provide at least monthly (preferably weekly) mark-to-market calculations showing the current termination value of the Interest Rate Agreement. If collateral has been provided to secure the Counterparty's obligations under an Interest Rate Agreement as required by Section IV-F hereof, the Counterparty shall agree to provide at least weekly valuations of the collateral and the termination value of the Interest Rate Agreement. The Governmental Entity shall establish an independent process for monitoring and reviewing the valuations required by these Guidelines and its Derivative Management Policy. With respect to every Interest Rate Agreement, this process shall monitor the following:

1. Counterparty Credit Rating and financial condition;
2. Guarantor/Surety Credit Rating and financial condition;
3. Report of Collateral Valuation determined by the Swap Advisor;
4. Report of Market/Termination Value determined by the Swap Advisor;
5. Report of Hedge Effectiveness determined by an Swap Advisor; and
6. Impact on Governmental Entity's financial condition and position.

I. Application and Source of Payments.

If a Governmental Entity receives a non-periodic payment in connection with entering into or performing under an Interest Rate Agreement relating to tax-exempt debt, including any termination payment, the Governmental Entity shall consult (or have consulted) with nationally recognized bond counsel as to whether there are any restrictions on the application or investment of such payment. A Governmental Entity required to make any payment, including a non-periodic payment, under an Interest Rate Agreement, shall make such payment only from sources as are identified in the Interest Rate Agreement and otherwise are legally available for such payment.

J. Skill and Knowledge Requirements.

Any Governmental Entity proposing to enter into an Interest Rate Agreement is responsible for understanding the risks associated with such an Agreement. **The Governmental Entity's CEO and Governing Body (through a designated member of the Governing Body and a designated member of the Audit Committee, if any) are responsible for obtaining a basic understanding of any Interest Rate Agreement and related indebtedness. The Governmental Entity is responsible for maintaining staff able to understand, monitor, and disclose Interest Rate Agreements as well as for hiring the necessary professionals.**

K. Information Sheet.

Each request for a Report of Compliance to enter into an Interest Rate Agreement shall be accompanied by a completed information sheet in the form of Appendix A attached hereto, and shall include such information as is necessary for the Comptroller to make a determination of compliance pursuant to these Guidelines.

V. GUIDELINES SPECIFIC TO FORWARD PURCHASE AGREEMENTS

A. Conditions to Entering into Forward Purchase Agreements.

The Governmental Entity must have outstanding at least \$25,000,000 of indebtedness at the time of request to enter into a Forward Purchase Agreement. The Forward Purchase Agreement otherwise authorized under the Forward Purchase Authorizing Statutes:

1. Must disclose fully proposed continuing and one-time costs;
2. Must be entered into for the business purpose of reducing the reasonably anticipated lower net cost of borrowing with respect to the debt;
3. From the execution date of the Forward Purchase Agreement must provide for delivery of the debt:
 - a. greater than 90 days; and
 - b. if for new money debt, not greater than five (5) years; or
 - c. if for refunding debt, not greater than the earlier of five (5) years or the first optional redemption date either resulting in cost savings or at par.

If a determination is made to allow a forward delivery date greater than five (5) years as permitted in the Forward Purchase Authorizing Statutes, the Comptroller shall notify the State Funding Board providing the reason for the extended time period.

B. Supporting Analysis.

The Governmental Entity shall present with the request for a Report of Compliance a copy of the presentation its CEO, or their designee, presented at a public meeting to its Governing Body analyzing how the Forward Purchase Agreement is intended to accomplish its business purpose taking into account the various risks posed by the Agreement and the underlying debt. This analysis must demonstrate the proposed transaction is in compliance with the Governmental Entity's adopted Debt Management Policy and Derivative Policy. This analysis shall include a comparison of all alternatives considered by the Governmental Entity and the rationale for the alternative chosen. This analysis shall also include reasonable stress testing of the Forward Purchase Agreement relative to the alternatives presented based on future changes in market condition consistent with historical levels of volatility.

C. Procurement of Forward Purchase Agreements.

Governmental Entities may enter into a Forward Purchase Agreement through negotiation or through a competitive bidding process, as provided by law.

D. Form of Documentation.

The Forward Purchase Agreement shall be in the form and content similar to a standard bond purchase agreement and shall clearly define the rights and obligations of each party to the Forward Purchase Agreement in the event of failure to perform by either party. All material terms and conditions must be contained within the Agreement and not within another document.

E. Risks Associated with Forward Purchase Agreements.

Any Governmental Entity that enters into a Forward Purchase Agreement shall be responsible for understanding the risks associated with entering into such an Agreement. The Governmental Entity shall also identify those risks and describe the potential impact in the analysis required by Paragraph B above.

F. Standards for Selection.

To be qualified, a Forward Purchaser or its credit support providers will have a credit rating of: (i) at least "A2" or "A+" with a stable outlook by at least one of the three Rating Agencies and not rated lower than "A3" or "A-" by any of the

Rating Agencies or (ii) have a special purpose subsidiary with a double-A rating by at least two of the three Rating Agencies.

In addition, qualified Forward Purchasers must have a demonstrated record of successfully executing Forward Purchase Agreements of similar size and scope.

G. Application and Source of Payments.

If a Governmental Entity receives a non-periodic payment in connection with entering into or performing under a Forward Purchase Agreement relating to tax-exempt debt, including any termination payment, the Governmental Entity shall consult (or have consulted) with nationally recognized bond counsel as to whether there are any restrictions on the application or investment of such payment. A Governmental Entity required to make any payment under a Forward Purchase Agreement, including non-periodic payments, shall make such payment only from sources as are identified in the Forward Purchase Agreement and otherwise are legally available for such payment.

H. Skill and Knowledge Requirements.

Any Governmental Entity proposing to enter into a Forward Purchase Agreement is responsible for understanding the risks associated with such an Agreement. **The Governmental Entity's CEO and Governing Body are responsible for obtaining a basic understanding of any Forward Purchase Agreement and the proposed indebtedness. The Governmental Entity is responsible for maintaining staff able to properly understand and execute Forward Purchase Agreements as well as the subsequent debt issuance. The Governmental Entity is responsible for appropriate professionals.**

I. Information Sheet.

Each request by a Governmental Entity to enter into a Forward Purchase Agreement shall be accompanied by a completed information sheet in the form of Appendix B attached hereto and shall include such information as is necessary for the Comptroller to make a determination of compliance pursuant to these Guidelines.

History

Adopted September 27, 2000, effective October 15, 2000;
Amended July 30, 2002, effective August 1, 2002; and
Amended October 20, 2009, effective November 1, 2009.

Appendices

- A- Interest Rate Agreement Information Sheet
- B- Forward Purchase Agreement Information Sheet
- C- Authorizing Statutes

From: "IGpublic Finance" <IGpublic.Finance@tn.gov>
To: "IGpublic Finance" <IGpublic.Finance@tn.gov>
Date: 08/30/2011 10:59:34 EDT
Subject: **Debt Management Policy Reminder**
Attachments: [Attachment A- Requirements REVISED pdf.pdf \(57KB\)](#)

September 1, 2011

Dear Tennessee government leader:

I am writing to remind you that the Tennessee State Funding Board adopted a statement on debt management directing governmental entities in Tennessee to draft and adopt their own debt management policies no later than December 31, 2011.

If your governmental entity may need to borrow money (whether in the form of a bank loan, an inter-fund borrowing, a publicly offered bond issue, or any other form of borrowing money) after December 31, 2011, you should be in the process now to develop and adopt a debt management policy designed to meet your needs. Whether you are connected with a county, city, industrial development board, utility district or other governmental entity, in crafting your debt management policy you need to have an adoption process that is open, transparent, and allows for public input. Information about the statement on debt management can be found via the internet at: <http://www.comptroller1.state.tn.us/sl/DebtManagement.asp>

In my previous letter of June 2011, I enclosed a copy of the statement which includes in its "Attachment A" mandatory language to be adopted in debt management policies providing for public accountability and transparency. Since the time of my original letter, the Securities and Exchange Commission approved on May 27, 2011, the Municipal Securities Rulemaking Board's proposed rule change to Rule G-23 concerning the activities of financial advisors. Therefore I have enclosed a copy of the revised "Attachment A" approved by the State Funding Board on June 30, 2011 reflecting changes due to the MSRB action.

Many organizations, including the University of Tennessee's Municipal Technical Advisory Service (MTAS) and County Technical Assistance Service (CTAS), are providing guidance and training on debt management policy adoption. Outside professionals, such as financial advisors and bond counsel, are also providing assistance. If you have questions, you may contact me or:

Ann Butterworth, Assistant to the Comptroller for Public Finance
615-401-7910 ann.butterworth@tn.gov or:

Mary-Margaret Collier, Director Office of State and Local Finance
615-747-5370 mary.margaret.collier@tn.gov

My Office is here to improve the quality of life in Tennessee by making government work better. Let me know what we can do to serve you.

Sincerely,

Justin P. Wilson
Comptroller of the Treasury
Enclosure: Attachment A

"The mission of the Comptroller's Office is to improve the quality of life for all Tennesseans by making government work better."

Attachment A: Minimum Language

1. Transparency

- The Entity shall comply with legal requirements for notice and for public meetings related to debt issuance. In the interest of transparency, all costs (including interest, issuance, continuing, and one-time) shall be disclosed to the citizens/members, governing body, and other stakeholders in a timely manner. *(The method for disclosure of costs and other information, including documentation of compliance with the policy, shall be developed and outlined in the policy.)*

2. Professionals

- The Entity shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the Entity and the lender or conduit issuer, if any. This includes “soft” costs or compensations in lieu of direct payments.
- Counselⁱ: The Entity shall enter into an engagement letter agreement with each lawyer or law firm representing the Entity in a debt transaction. *(No engagement letter is required for any lawyer who is an employee of the Entity or lawyer or law firm which is under a general appointment or contract to serve as counsel to the Entity. The Entity does not need an engagement letter with counsel not representing the Entity, such as underwriters' counsel.)*
- Financial Advisorⁱⁱ: If the Entity chooses to hire financial advisors, the Entity shall enter into a written agreement with each person or firm serving as financial advisor for debt management and transactions.
Whether in a competitive or negotiated sale, the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which they are or have been providing advisory services for the issuance.
- Underwriter: If there is an underwriter, the Entity shall require the Underwriter to clearly identify itself in writing (e.g., in a response to a request for proposals or in promotional materials provided to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the Entity with respect to that issue. The Underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and that it has financial and other interests that differ from those of the Entity. The Underwriter in a publicly offered, negotiated sale shall be required to

provide pricing information both as to interest rates and to takedown per maturity to the governing body (*or its designated official*) in advance of the pricing of the debt.

3. Conflicts

- Professionals involved in a debt transaction hired or compensated by the Entity shall be required to disclose to the Entity existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the Entity to appreciate the significance of the relationships.

Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct.

ⁱ The requirement for an engagement letter does not apply to any lawyer who is an employee of the Entity or any lawyer or law firm under a general appointment as counsel to the Entity and not serving as bond counsel for the transaction.

If bond counsel for a debt transaction does not represent the Entity in that transaction, the Entity will enter into a fee payment letter agreement with such lawyer or law firm specifying:

- a. the party represented in the debt transaction; and
- b. the Entity's obligation with respect to the payment of such lawyer or law firm's fees and expenses.

ⁱⁱ For new issues of debt which constitutes a "security" for which the Time of Formal Award (as defined in Rule G-34(a)(ii)(C)(1)(a)) occurs after November 27, 2011, the Municipal Securities Rulemaking Board has prohibited broker, dealer or municipal securities dealer serving as a financial advisor to an issuer for a particular issue from switching roles and underwriting the same issue. Policies must be adjusted to comply with amended Rule G-23 as it applies to securities, including exceptions to the prohibition.



STATE OF TENNESSEE

COMPTROLLER OF THE TREASURY

STATE CAPITOL

NASHVILLE, TENNESSEE 37243-9034

PHONE (615) 741-2501

Justin P. Wilson
Comptroller

June 1, 2011

Dear Tennessee government leader:

In December 2010 the Tennessee State Funding Board adopted a statement on debt management directing governmental entities in Tennessee to draft and adopt their own debt management policies no later than December 31, 2011. I have enclosed a copy of the statement which contains minimum language that must be included in a policy for management of debt (whether a bank loan, an inter-fund borrowing, a publicly offered bond issue, or any other form of borrowing money).

If your governmental entity may need to borrow money after December 31, 2011, you should begin the process now to develop and adopt a debt management policy designed to meet your needs. Whether you are connected with a county, city, industrial development board, utility district or other governmental entity, in crafting your debt management policy you need to have an adoption process that is open, transparent, and allows for public input.

Information about the statement on debt management can be found via the internet at:

<http://www.comptroller1.state.tn.us/sl/DebtManagement.asp>

A list of resources to assist in your policy adoption process is included as *Attachment B* and is found at:

<http://www.comptroller1.state.tn.us/sl/pdf/DebtPolicyAttachmentB-Resources.pdf>

Many organizations, including the University of Tennessee's Municipal Technical Advisory Service (MTAS) and County Technical Assistance Service (CTAS), are providing guidance and training on debt management policy adoption. Outside professionals, such as financial advisors and bond counsel, are also providing assistance.

I strongly encourage you to lead your organization to adopt a debt management policy tailored to meet your needs as soon as reasonably possible, but no later than December 31, 2011.

If you have questions, you may contact me or:

Ann Butterworth, Assistant to the
Comptroller for Public Finance
615-401-7910
ann.butterworth@tn.gov

Mary-Margaret Collier, Director
Office of State and Local Finance
615-747-5370
mary.margaret.collier@tn.gov

My Office is here to improve the quality of life in Tennessee by making government work better. Let me know what we can do to serve you.

Sincerely,



Justin P. Wilson
Comptroller of the Treasury

Enc.

Attachment B: Resources

1. Comptroller of the Treasury
 - Guide For The Issuance Of Notes By The Counties, Consolidated Governments, And Municipalities Of Tennessee (www.tn.gov/comptroller/lf/pdf/guide2003.pdf)
2. Government Finance Officers Association (GFOA) (www.gfoa.org)

Best Practices Governmental Debt Management

- Analyzing an Advance Refunding (1995)
- Business Preparedness and Continuity Guidelines (2005 and 2008)
- Debt Management Policy (1995 and 2003)
 - Post Issuance Compliance Checklist
- Debt Service Payment Settlement Procedures (2003 and 2007)
- Investment of Bond Proceeds (1996 and 2007)
- Issuer's Role in Selection of Underwriter's Counsel (1998 and 2009)
- Issuing Taxable Debt by U.S. State and Local Governments (1998)
- Maintaining an Investor Relations Program (1996, 2003 and 2010)
- Payment of the Expense Component of Underwriters' Discount (1996 and 2010)
- Pricing Bonds in a Negotiated Sale (1996, 2000, and 2010)
- Public-Private Partnerships for Economic Development (2008)
- Role of the Finance Officer in Privatization (2009)
- Selecting and Managing the Method of Sale of State and Local Government Bonds (1994 and 2007)
- Selecting Bond Counsel (1998 and 2008)
- Selecting Financial Advisors (2008)
- Selecting Underwriters for Negotiated Bond Sales (2008)
- Tax Increment Financing as a Fiscal Tool (2006)
- Understanding Your Continuing Disclosure Responsibilities (2010)
- Use of Debt-Related Derivatives Products and the Development of a Derivatives Policy ADV (1995, 2003, 2005 and 2010)
 - Derivatives Checklist
- Using a Web Site for Disclosure (2002 and 2010)
- Web Site Presentation of Official Financial Documents (2009)

Best Practices Budgeting and Fiscal Policy

- Adoption of Financial Policies (2001)
- Incorporating Capital Project Budget in the Budget Process (2007)

Advisories Governmental Debt Management

- Auditor Association with Financial Statements Included in Offering Statements or Posted on Web Sites (2005 and 2006)
- Evaluating the Sale and Securitization of Property Tax Liens (1997)
- Evaluating the Use of Pension Obligation Bonds (1997 and 2005)
- Issuing Build America and other Direct Subsidy bonds (2010)
- Need for Considerable Caution in Regard to OPEB Bonds (2007)

- Understanding the Issuer's Role in Secondary Market Securitization of Tax-Exempt Obligations (1993, 1996, and 2005)
- Underwriter Disclaimers in Official Statements (2000)
- Using Variable Rate Debt Instruments ADV (1997 and 2010)

Publications: Capital Finance and Debt Administration (11 titles)

- *Benchmarking and Measuring Debt Capacity*
- *Debt Issuance and Management: A Guide for Smaller Governments*
- *An Elected Official's Guide to Debt Issuance*
- *An Elected Official's Guide to Tax Increment Financing*
- *An Elected Official's Guide to Rating Agency Presentations*
- *A Guide for Preparing a Debt Policy*
- *A Guide for Selecting Financial Advisors and Underwriters: Writing RFPs and Evaluating Proposals*
- *Making Good Disclosure: The Role and Responsibilities of State and Local Officials Under the Federal Securities Laws*
- *Purchasing Credit Enhancement: How to Decide if Bond Insurance Makes Sense*
- *Structuring and Sizing the Bond Issue*
- *Tax Exempt Financing: A Primer*

Publications: Financial Management and Budgeting (26 titles)

- *Financing the Future: Long-Term Financial Planning for Local Governments*
3. International City/County Management Association (<http://icma.org/en/icma/home>)
 - Management Policies in Local Government Finance, 5th edition (http://bookstore.icma.org/product1.cfm?product_ID=1190&DID=7)
 4. Municipal Technical Advisory Service (<http://www.mtas.tennessee.edu/>)
 5. County Technical Assistance Service (<http://www.ctas.utk.edu/>)
 6. Rating Agencies:
 - a. Fitch Ratings (www.fitchratings.com)
 - b. Moodys (www.moodys.com)
 - c. Standard & Poors (www.standardandpoors.com)
 7. Municipal Securities Rulemaking Board (www.msrb.org)
 - Electronic Municipal Market Access (www.emma.msrb.org)
 8. Securities Industry and Financial Markets Association (www.sifma.org)
 - Investing in Bonds (<http://investinginbonds.com/>)
 9. California Debt and Investment Advisory Commission (www.treasurer.ca.gov/cdiac/)



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September 1, 2011

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In my previous letter of June 2011, I enclosed a copy of the statement which includes in its "Attachment A" mandatory language to be adopted in debt management policies providing for public accountability and transparency. Since the time of my original letter, the Securities and Exchange Commission approved on May 27, 2011, the Municipal Securities Rulemaking Board's proposed rule change to Rule G-23 concerning the activities of financial advisors. Therefore I have enclosed a copy of the revised "Attachment A" approved by the State Funding Board on June 30, 2011 reflecting changes due to the MSRB action.

Many organizations, including the University of Tennessee's Municipal Technical Advisory Service (MTAS) and County Technical Assistance Service (CTAS), are providing guidance and training on debt management policy adoption. Outside professionals, such as financial advisors and bond counsel, are also providing assistance. If you have questions, you may contact me or:

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My Office is here to improve the quality of life in Tennessee by making government work better. Let me know what we can do to serve you.

Sincerely,

Justin P. Wilson
Comptroller of the Treasury
Enclosure: Attachment A

Attachment A: Minimum Language

1. Transparency

- The Entity shall comply with legal requirements for notice and for public meetings related to debt issuance. In the interest of transparency, all costs (including interest, issuance, continuing, and one-time) shall be disclosed to the citizens/members, governing body, and other stakeholders in a timely manner. *(The method for disclosure of costs and other information, including documentation of compliance with the policy, shall be developed and outlined in the policy.)*

2. Professionals

- The Entity shall require all professionals engaged in the process of issuing debt to clearly disclose all compensation and consideration received related to services provided in the debt issuance process by both the Entity and the lender or conduit issuer, if any. This includes “soft” costs or compensations in lieu of direct payments.
- Counselⁱ: The Entity shall enter into an engagement letter agreement with each lawyer or law firm representing the Entity in a debt transaction. *(No engagement letter is required for any lawyer who is an employee of the Entity or lawyer or law firm which is under a general appointment or contract to serve as counsel to the Entity. The Entity does not need an engagement letter with counsel not representing the Entity, such as underwriters' counsel.)*
- Financial Advisorⁱⁱ: If the Entity chooses to hire financial advisors, the Entity shall enter into a written agreement with each person or firm serving as financial advisor for debt management and transactions.
Whether in a competitive or negotiated sale, the financial advisor shall not be permitted to bid on, privately place or underwrite an issue for which they are or have been providing advisory services for the issuance.
- Underwriter: If there is an underwriter, the Entity shall require the Underwriter to clearly identify itself in writing (e.g., in a response to a request for proposals or in promotional materials provided to an issuer) as an underwriter and not as a financial advisor from the earliest stages of its relationship with the Entity with respect to that issue. The Underwriter must clarify its primary role as a purchaser of securities in an arm's-length commercial transaction and that it has financial and other interests that differ from those of the Entity. The Underwriter in a publicly offered, negotiated sale shall be required to

provide pricing information both as to interest rates and to takedown per maturity to the governing body (*or its designated official*) in advance of the pricing of the debt.

3. Conflicts

- Professionals involved in a debt transaction hired or compensated by the Entity shall be required to disclose to the Entity existing client and business relationships between and among the professionals to a transaction (including but not limited to financial advisor, swap advisor, bond counsel, swap counsel, trustee, paying agent, underwriter, counterparty, and remarketing agent), as well as conduit issuers, sponsoring organizations and program administrators. This disclosure shall include that information reasonably sufficient to allow the Entity to appreciate the significance of the relationships.

Professionals who become involved in the debt transaction as a result of a bid submitted in a widely and publicly advertised competitive sale conducted using an industry standard, electronic bidding platform are not subject to this disclosure. No disclosure is required that would violate any rule or regulation of professional conduct.

ⁱ The requirement for an engagement letter does not apply to any lawyer who is an employee of the Entity or any lawyer or law firm under a general appointment as counsel to the Entity and not serving as bond counsel for the transaction.

If bond counsel for a debt transaction does not represent the Entity in that transaction, the Entity will enter into a fee payment letter agreement with such lawyer or law firm specifying:

- a. the party represented in the debt transaction; and
- b. the Entity's obligation with respect to the payment of such lawyer or law firm's fees and expenses.

ⁱⁱ For new issues of debt which constitutes a "security" for which the Time of Formal Award (as defined in Rule G-34(a)(ii)(C)(1)(a)) occurs after November 27, 2011, the Municipal Securities Rulemaking Board has prohibited broker, dealer or municipal securities dealer serving as a financial advisor to an issuer for a particular issue from switching roles and underwriting the same issue. Policies must be adjusted to comply with amended Rule G-23 as it applies to securities, including exceptions to the prohibition.

Model Finance Transaction Policies for Public Entities: Debt Management Policy

The State Funding Board is developing finance transaction policies to guide public entities in preparing their own policies. Adopting financial policies can help entities:

- make better financial decisions;
- provide clear objectives for staff;
- demonstrate strong financial management practices to credit rating agencies; and
- distinguish policy decisions from transaction decisions.

Adopting financial policies does not prevent unforeseen or negative events from occurring, nor does it prevent bad decisions. When public entities, including the State, all state agencies, local governments, and any other board, authority, district, or body created by any of these, are guided by sound financial policy in the financial decision-making process, the effects of negative events and bad decisions can be minimized.

All public entities incurring or issuing debt should have adopted a debt management policy by January 1, 2012. The minimum requirements for the policy are described below and required language is provided in Attachment A. The policy adopted by a public entity should address financing needs and the role debt will play in the overall financial management strategy. The policy need only address the particular types of debt that the entity plans to use. An entity may need only a simple policy, particularly if it borrows only through a federal or state agency loan program or from a community financial institution. A conduit entity, such as an industrial development board, lending only to private entities may need only a simple policy.

Before adopting a policy, the members of the public entity should have a basic understanding of public finance. This will allow the members to participate more fully in policy discussions and to gain more value from outside professional assistance. The entity bears sole responsibility for the development, adoption, and implementation of the policy, even when using professional assistance.

The scope of the debt management policy

The following four principles should be included in a debt management policy, whether simple or detailed, to guide every debt transaction:

- understand the transaction;
- explain to citizens what is being considered;
- avoid conflicts of interest; and
- disclose costs and risks.

The policy should address the following items in reasonable detail and should include methods by which the public and all stakeholders are informed about them:

- any decision to finance debt, how debt instruments will be structured and sold, and all proposed and actual costs involved in issuing debt;
- any extra costs related to issuing debt—for example, the costs of work performed by professionals;
- the selection process for professionals who provide services related to debt;
- any conflicts of interest;
- all ongoing debt and related costs;
- all initial and ongoing federal compliance issues; and
- the plan for regularly reviewing and amending the policy.

Minimum requirements of the policy

The debt policy must include provisions that cover transparency, professionals, and conflicts of interest written substantially to conform with the language in Attachment A.

For all public entities other than conduit entities lending to non-public entities, the policy must require clear disclosure of the terms and life of each debt issue, including principal and interest payments. This disclosure must include a debt service schedule outlining the rate of retirement for the principal amount. If the policy permits deferral of payment on principal or backloading, the policy must require specific justification for each deferral—it may not, however, permit blanket approval. In no event may payment of either principal or interest exceed the useful life of any asset financed.

It is recommended that the policy address the maximum total level of debt that the public entity is willing to assume. This may be based on locally adopted economic indicators, such as per capita debt, a comparison of debt to property values, or debt service as a percentage of revenues or expenditures. The policy should either require or recommend that this limitation be evaluated before additional debt is assumed and be monitored and reported to the governing body periodically.

Variable rate debt can be a valuable borrowing tool. It can provide flexibility and reduce the overall cost of debt. Variable rate debt does expose the public entity to additional risk. It is recommended that the policy address the level and type of variable rate debt the entity is willing to assume at any time.

A list of resources and a glossary are provided to assist with developing debt management policies. (See Attachments B and C.)



**STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
OFFICE OF STATE AND LOCAL FINANCE
SUITE 1600 JAMES K. POLK STATE OFFICE BUILDING
505 DEADERICK STREET
NASHVILLE, TENNESSEE 37243-1402
PHONE (615) 401-7872
FAX (615) 741-5986**

January 13, 2012

Mr. Gary Lawson, Mayor
City of Mount Carmel
100 East Main Street
P. O. Box 1421
Mount Carmel, TN 37645-1421

Dear Mayor Hill:

This letter acknowledges receipt of a copy of the City of Mount Carmel's Debt Management Policy.

Thank you for sending the City's policy to this Office. Future interactions with the Office will require a copy of the policy to be included with a submitted request for approval or report. Please review your policy periodically and before considering the issuance of debt. As a part of any transition for newly elected officials, we recommend that the debt policy be reviewed. If the District amends the policy, you may send a copy of the amended policy to this Office. Should there be any questions, please do not hesitate to call us.

Sincerely,

Ronald H. Queen
Manager of Local Finance