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May 15, 2017

PART 3—With Exhibit 7

Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

***Re: Comments on Proposed Amendments to Rule 15c2-12, SEC Rel. No. 34-80130
(File No. S7-01-17)***

Ladies and Gentlemen:

Thank you for this opportunity to comment on the amendments proposed by the Securities and Exchange Commission to the Commission's Rule 15c2-12, 17 C.F.R. §240.15c2-12, Municipal securities disclosure.

I have been involved in varying capacities in the municipal securities market since 1973, and consider myself to be qualified to provide both an historical perspective and constructive comments. My experience includes, on one hand, working closely with issuers (and borrowers) as legal counsel and as financial advisor, and on the other hand, investing in municipal securities.

The Commission's proposal identifies key information that, when material, reasonable investors want to know, both in primary offerings and in the secondary market.¹ Reasonable investors in the secondary market would not want to purchase bonds, or want their bond funds to purchase bonds, issued by issuers that, since the date of bond issuance, entered into substantial undisclosed private debt, issued undisclosed private debt with a senior priority of payment, became the subject of an undisclosed crushing judicial award, or while in financial difficulty, modified the terms of other debt to avoid a default. Yet, today, there are issuers (and borrowers) that do not disclose such occurrences to the secondary market.

¹ Although I am generally supportive of the content of the Commission's proposal, I am disappointed that the Commission is not proposing to eliminate the requirement for issuer disclosure of rating changes, given that the rating agencies now provide that same information to EMMA. The redundancy causes unnecessary burdens on issuers.

I also believe that the Commission has under estimated the amount of time that the proposal will require for compliance.

EXHIBITS TO LETTER OF COMMENT OF ROBERT DOTY

List of Exhibits (File S7-01-17)

Exhibit No.	Source	Title	Year Published
1	Robert Doty	Municipal Securities Market Recognition of Market Guidance	2017
2	Municipal Finance Journal	15-Year Anniversary of the Disclosure Guidelines for State and Local Government Securities	1991
3	Municipal Finance Officers Association	Disclosure Guidelines for State and Local Government Securities	1976
4	Municipal Finance Officers Association	Guidelines for Use by State and Local Governments in the Preparation of Yearly Information Statements and Other Current Information	1978
5	Municipal Finance Officers Association	Disclosure Guidelines for State and Local Government Securities	1979
6	Government Finance Officers Association	Disclosure Guidelines for State and Local Government Securities	1988
7	Government Finance Officers Association	Disclosure Guidelines for State and Local Government Securities	1991
8	National Federation of Municipal Analysts	Recommended Best Practices in Disclosure for General Obligation and Tax-Supported Debt	2001
9	American Bar Association and National Association of Bond Lawyers	Excerpt from Disclosure Roles of Counsel in State and Local Government Securities Offerings	2009

EXHIBIT 7

**GOVERNMENT FINANCE OFFICERS ASSOCIATION,
DISCLOSURE GUIDELINES
FOR STATE AND LOCAL GOVERNMENT SECURITIES (1991)**

Disclosure Guidelines for State and Local Government Securities

JANUARY 1991



Government Finance Officers Association

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Preface and Acknowledgements

The *Disclosure Guidelines for State and Local Government Securities* provides an up-to-date and comprehensive body of guidance for those responsible for making disclosures in connection with state and local government securities. The 1991 edition of the *Guidelines* represents a continuation of the Government Finance Officers Association's (GFOA) commitment to encourage the provision of timely, accurate, and complete information to investors in those obligations.

The *Disclosure Guidelines* consists of three sections that give guidance with regard to disclosures involving the original offering of securities, providing current information to the secondary market and procedures to be followed in supplying information to existing and potential investors. By their integration of content, form and process, the *Guidelines* underscore that proper disclosure is an ongoing and dynamic process. Times change, markets fluctuate, issuers innovate, and accordingly, investor information needs and the means by which they are best met will vary. The *Guidelines* by their continuous restudy and intermittent updating bear witness to the variety and flexibility found in state and local government securities and transactions, which require a corresponding ingenuity and versatility in designing disclosure documents and implementing disclosure procedures.

This edition of the *Guidelines*, while maintaining the basic tripartite structure established in the 1988 edition, represents a thorough reworking of the text in order to refine and sharpen the content of disclosure documents and to update the procedures by which information is made available to the market. Several subject areas received particular scrutiny in the review process and, as a result, were the basis of major additions to the 1991 *Guidelines*. In particular, new guidance has been added regarding disclosures in conjunction with conduit securities, where the underlying obligor is a nongovernmental party, and in the case of credit enhancements. Transactions using both these types of securities have grown in popularity in recent years and

it is evident that comprehensive guidance for the municipal securities market is not possible without these forms of security being explicitly considered.

Also, a year and a half after the 1988 edition of the *Guidelines* was published, the Securities and Exchange Commission, concluding an extended period of comment, promulgated Rule 15c2-12 regarding the disclosure responsibilities of underwriters of municipal securities. This Rule and the accompanying Commission releases have major implications for the procedures to be followed by issuers in the provision of information to the market so as to assist underwriters in meeting their responsibilities. Accordingly, the *Guidelines* reflect the requirements of the rule, especially in the *Procedural Statements*.

In addition to the Commission Rule and its impact, the general area of disclosure over the past three years has been the subject of study by various groups. These efforts led to the formulation of additional guidance of use to market participants; the contributions of the National Federation of Municipal Analysts, the National Council of State Housing Agencies, the Municipal Securities Rulemaking Board, and the Public Securities Association are especially noteworthy and contributed greatly to the revision process. A final and thorough-going change in the *Guidelines* is the more affirmative emphasis given in recommending a specific order of presentation of materials in official statements and more standardized formats.

The revisions contained in this edition build upon a foundation of experience gained with the earlier editions of the *Guidelines* and *Procedural Statements*. Because of this legacy and the considerable debt owed to the original formulators of these documents, it is important to understand the history of the *Guidelines* and to acknowledge many of those who contributed to their development. That history and recognition of many of the contributors are contained in Appendix C.

The Revision Process:

In August 1989, immediately following the adoption of Rule 15c2-12 regarding municipal disclosure activities by the Securities and Exchange Commission, the Municipal Securities Disclosure Task Force was reconvened to examine what alterations and additions might be needed to bring the *Disclosure Guidelines* up-to-date in view of changing market conditions and new regulations regarding municipal dealers. The Task Force met in October to have the members propose their own suggestions for improvements and subsequently on several occasions to discuss proposed changes to the *Guidelines*. As has been noted, the Task Force embarked on selected new areas of substantive coverage by the *Guidelines* and was more emphatic in many of its recommendations regarding format and document organization. In the process of its deliberations, it made extensive changes throughout the *Guidelines'* text.

The members of the **Disclosure Task Force** who are responsible for the 1991 edition are:

Jeffrey S. Green (Chairman), Deputy General Counsel, Port Authority of New York & New Jersey, New York, New York

Robert W. Doty, Vice President, George K. Baum & Company, Sacramento, California

Richard M. Evans, Director of Finance, City of Savannah, Georgia

Hyman C. Grossman, Managing Director, Municipal Finance Department, Standard & Poor's Corporation, New York, New York

John Gunyou, Finance Director, City of Minneapolis, Minnesota

W. xBartley Hildreth, Professor, Louisiana State University, Baton Rouge, Louisiana

Austin V. Koenen, Managing Director, Morgan Stanley & Co., Inc., New York, New York

Ruth M. Levine, Finance Director, City of Milford, Connecticut

Paul S. Maco, Partner, Mintz, Levin, Cohn, Ferris, Boston, Massachusetts

Morris Matson, First Vice President, South Central Region, AMBAC Indemnity Corporation, Fort Worth, Texas

John E. Petersen, Senior Director, Government Finance Research Center, Government Finance Officers Association, Washington, DC

G. Keith Quinney, Jr., Associate, Bryant, Miller and Olive, Tallahassee, Florida

Donald J. Robinson, Partner, Orrick, Herrington & Sutcliffe, New York, New York

William R. Snodgrass, Comptroller of the Treasury, State of Tennessee, Nashville, Tennessee

Frieda K. Wallison, Partner, Jones, Day, Reavis & Pogue, Washington, DC

Michael S. Zarin, Principal, Wellfleet Capital Company, Great Neck, New York

In order to be provided with a broad base for early comment on possible changes, Chairman Green appointed an **Advisory Council to the Task Force**. Members of this group were extremely generous in sharing their thoughts on draft language contained in earlier review drafts

of the *Guidelines* and their contributions are most appreciated. The following individuals served on the Disclosure Advisory Council:

Joseph Blair, Executive Director, Massachusetts Industrial Finance Authority,
Boston, Massachusetts

Michael P. Buckley, Vice President, T. Rowe Price Associates, Baltimore,
Maryland

Claire Cohen, Executive Managing Director,, Public Finance Department, Fitch
Investors Service, New York, New York

Walter W. Craigie, Executive Vice President, Wheat First Securities, Inc.,
Richmond, Virginia

Glenn Deck, Director of Finance, City of Kansas City, Missouri

Paul C. Fiduccia, Partner, Winston & Strawn, Washington, DC

Robert J. Froehlich, Vice President, Van Kampen Merritt Investment Advisory
Corp., Lisle, Illinois

J. Dwight Hadley, Assistant Deputy Comptroller, Division for Municipal Affairs,
State of New York, Albany, New York

Daniel Heimowitz, Managing Director/Senior Vice President, Moody's Investors
Service, New York, New York

John Kruger, Executive Vice President, Corporate Trust Department, Sovran
Bank, Nashville, Tennessee

Maria Markham-Thompson, Director, Maryland Water Quality Financing
Administration, Department of the Environment, Baltimore, Maryland

John T. McEvoy, Executive Director, National Council of State Housing
Agencies, Washington, DC

John R. Miller, Chairman, Government Accounting and Auditing Committee,
AICPA, Washington, DC

Seegar Swanson, Jr., Director-Chairman of the Board, Ehlers and Associates, Inc.
Waukesha, Wisconsin

In early April of 1990, a draft of tentative changes based on the Task Force's efforts was circulated to the GFOA Committee on Governmental Debt and Fiscal Policy and to the GFOA Executive Board. On April 27, acting on the recommendation of the Committee on Governmental Debt and Fiscal Policy, the Executive Board instructed that an Exposure Draft of the *Guidelines* be given broad circulation, comments be solicited, and that the *Guidelines* be prepared for publication. In July 1990, an Exposure Draft of the *Guidelines* was made generally available and distributed upon request to any interested party. Over 800 copies were sent out to issuers, attorneys, underwriters, advisors, analysts, and investors. Those receiving copies were asked to respond with comments by October 20.

Many excellent and detailed suggestions were received as a result of this process and these were compiled by a drafting committee consisting of Messrs. Doty, Petersen and Green, which then recirculated a text reflecting the recommended changes to the Task Force, Governmental Debt and Fiscal Policy Committee, and GFOA Executive Board. On November 9, subsequent to a final review and additional changes made by the Task Force, the GFOA Executive Board approved the *Disclosure Guidelines* for publication as soon as they were ready.

Acknowledgements:

The *Guidelines* project was directed by John Petersen, Senior Director of the Government Finance Research Center, GFOA, Washington, DC, who served on the Disclosure Task Force. Special appreciation is due to Robert W. Doty, Vice President, George K. Baum & Company, Sacramento, California. Mr. Doty and Mr. Petersen have worked jointly on the *Guidelines* since their inception in 1975 and once again, they acted as the principal draftsmen on the revisions. Mr. Doty also undertook the burdens of providing sophisticated word processing of the drafts, much to the benefit of the review process.

Special recognition is also accorded to Mr. Jeffrey Green, who served both as the Chairman of the Task Force and of the GFOA Committee on Governmental Debt and Fiscal Policy. He also took an active hand, working with Messrs. Doty and Petersen, in the preparation of numerous drafts of the *Guidelines*. Of special help, also, were the efforts of John Morgan, Executive Assistant to the Comptroller of the Treasury, State of Tennessee. Thomas McLoughlin, Manager, Government Finance Research Center, GFOA, and Catherine Spain, Director, Federal Liaison Center, Washington, DC also assisted in many ways in the revisions process. Carole Kutner, Executive Assistant in the GFRC, provided both administrative and manuscript support to the *Guidelines* project.

As in the case of the previous editions of the *Guidelines*, numerous organizations contributed to the revisions process through their thoughtful suggestions and careful reviews of the Exposure Draft. Among those assisting were:

American Bankers Association, Corporate Trust Committee
American Institute of Certified Public Accountants
Association of Financial Guaranty Insurers
City of Kansas City, Missouri
County of Los Angeles, California
County of Prince William, Virginia
Fitch Investors Service, Inc.
GFOA Committee on Accounting, Auditing and Financial Reporting
GFOA Committee on Public Employee Retirement Administration
Hunton & Williams
Johnson County, Kansas
Kutak Rock & Campbell
Moody's Investors Service
Municipal Securities Rulemaking Board
National Association of Bond Lawyers
National Association of State Auditors, Comptrollers
and Treasurers
National Council of Health Care Facilities Financing
Authorities
National Council of State Housing Agencies
National Federation of Municipal Analysts
Orrick, Herrington & Sutcliffe
Public Securities Association
State of Florida, Department of General Services
United States Securities and Exchange Commission

This edition, for all the hard work and hours spent by those mentioned above and by many others, represents yet another chapter in an on-going process of re-evaluation and revision. At the time of the edition in January 1988, I wrote:

"... the *Guidelines* will always be in a state of development and subject to continuing review, and, no doubt, subsequent revisions as circumstances change and more experience is gained."

GFOA, which has sponsored the *Guidelines* since their creation, believes that the state and local government securities market will continue to be well served by these *Disclosure Guidelines* and commends their use to all market participants.

Jeffrey Esser
Executive Director
January 1991

Introduction

These *Disclosure Guidelines for State and Local Government Securities* (these "*Guidelines*") make recommendations respecting information for disclosure by issuers of state and local government securities, both at the time of issuance and throughout the lives of the securities, and respecting issuer procedures for the disclosure process. These *Guidelines* apply to all types of state and local government securities. The *Guidelines* are divided into three chapters: *Guidelines for Offerings of State and Local Government Securities* (the "*Guidelines for Offerings*"), *Guidelines for Continuing Disclosure*, and *Procedural Statements in Connection with the Disclosure Guidelines* (the "*Procedural Statements*"). Each chapter is discussed below in this Introduction, as is general information applicable to all three chapters. Certain terms are defined in the Glossary in Appendix A.

The information recommended in these *Guidelines* for inclusion in official statements or other disclosure documents is intended to produce a document appropriate for informing investors. It is not intended, however, to create disclosure requirements or a legal obligation to provide any or all items of information, although careful adherence to these *Guidelines* is recommended. Generally, repetition of information should be minimized through use of appropriate cross-references.

It is recommended that issuers take appropriate steps to assure themselves that all persons retained to assist them in the preparation of official statements or other disclosure documents are familiar with these *Guidelines* and the applicable requirements of the securities laws. The Securities and Exchange Commission has stated that:

Because they are ultimately liable for the content of their disclosure, issuers should insist that any persons retained to assist in the preparation of their disclosure documents have

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a professional understanding of the disclosure requirements under the federal securities laws.¹

The ultimate test for disclosure should be the effective communication of the requisite information relevant to an informed investment decision. More information is not necessarily better information and, in fact, could be less useful to investors if it obfuscates the important or creates a document so formidable as not to be useful. These *Guidelines* recommend the information that has been identified through a repeated thorough review over a period of 15 years to be important for consideration for disclosure in most instances, but at the same time, recognize that judgments are made at the time particular disclosure documents are prepared as to what is relevant to investors and what will produce the most effective communication.

The definition of the term "issuer" needs to be borne in mind. The Securities and Exchange Commission, in its Rule 15c2-12,² effective January 1, 1990, defined the term "issuer of municipal securities" to include not only governmental issuers as to their securities, but also issuers of credit enhancements in credit enhanced transactions and private profit-making or nonprofit issuers of separate securities in conduit financings,³ where the private issuers constitute a substantial credit source for the securities issued by governmental issuers. These *Guidelines* accordingly refer to "governmental issuers" and "governmental enterprises," "issuers of credit enhancements," and "conduit issuers." Unless specified otherwise, the term "issuer," when unmodified, means each of those issuers. The disclosure and procedural responsibilities for state and local government securities are, therefore, applicable to the respective issuers, as appropriate. Also, the term "governmental issuers" includes governmental issuers of securities acquired by other governmental entities issuing their own securities for the same purpose, such as bond banks or pools, where the underlying governmental issuers or governmental enterprises provide the ultimate source of payment for the securities. In that case, the appropriate disclosure would be the items relating to the governmental issuers or governmental enterprises, as the case may be, with respect to their own securities.

For purposes of convenience, additional reference sources pertaining to disclosure that are noted in these *Guidelines* are also listed in Appendix D. Those sources are contained in publications of the Public Securities Association (see footnote 7 at page x), National Federation of Municipal Analysts (see excerpts from the *Disclosure Handbook for Municipal Securities*

¹ SEC Rel. No. 34-26985, 54 F.R. at 28811, n.84 (July 10, 1989).

² Rule 15c2-12(e)(4), 17 C.F.R. §240.15c2-12(e)(4). Rule 15c2-12 is published at 53 F.R. 28813 (July 10, 1989). See also SEC Rel. No. 34-26985, 54 F.R. 28806 (July 10, 1989).

³ See the Glossary in Appendix A for the definitions of the terms "issuer of municipal securities," "governmental issuer," "governmental enterprise," "separate securities," "conduit securities," "conduit issuer," "credit enhancement," and "issuer of credit enhancement." The terms are used here following the usage of the Securities and Exchange Commission. No attempt is made to resolve legal issues of who is an issuer or what is a security.

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relating to specific market sectors contained in Appendix E), National Council of State Housing Agencies (see the reporting format for continuing disclosure by issuers of single-family mortgage revenue securities contained in Appendix F), and various rules, regulations and releases of the Securities and Exchange Commission and the Municipal Securities Rulemaking Board.

In particular, it is important to note the relationship between these *Guidelines* and the *Disclosure Handbook for Municipal Securities* of the National Federation of Municipal Analysts and the *Disclosure Format for Single-Family Mortgage Revenue Securities* of the National Council of State Housing Agencies. Those additional disclosure reference sources supplement, and do not conflict with, these *Guidelines*. Accordingly, they have been incorporated into Appendices E and F in whole or in part, as well as in a number of other areas throughout these *Guidelines*. Those sources should be considered in the preparation of a disclosure document. As with the *Guidelines*, information recommended in those sources may not be appropriate in all instances.

Additionally, it is important that issuers be cognizant of the needs of the market and the responsibilities of underwriters in light of Rule 15c2-12 and the related interpretation⁴ by the Securities and Exchange Commission of current law respecting underwriter investigatory responsibilities.

Reference is also made to long-standing Policy Statements of the Government Finance Officers Association (contained in Appendix B) regarding the importance of disclosure by issuers.

These *Guidelines* recommend the inclusion in disclosure documents of information that an investor might consider of importance in making an informed investment decision. The term "material" is not used in these *Guidelines* because, as a legal concept, its application generally depends upon the particular facts and circumstances. The information recommended herein is generally available in financial reports, budget documents and other data accessible to an issuer. Relevant information not in an issuer's records that may be obtained from another source, such as U.S. Government census reports, normally should be obtained, compiled and reported. Other examples of recommended information include economic and demographic data, which may be collected by regional, state or federal entities or business and educational groups, and information on assessed property valuations and tax payments, which may be taken from other governmental entities. Where sources other than an issuer provide information, that fact should be stated specifically in conjunction with the presentation of the information.

It is possible that other information, not recommended in these *Guidelines*, may at times be relevant, and in such a case, should be provided. Certain types of issuers or circumstances

⁴ SEC Rel. 34-26100, 53 F.R. 37778 at 37787-91 (Sept. 28, 1988), as modified in SEC Rel. 34-26985, 54 F.R. 28799 at 28811-12 (July 10, 1989).

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might require additional information in order to give an adequate description of those issuers or circumstances.⁵ There may also be cases in which some of the recommended information is unnecessary or irrelevant. For instance, matters bearing principally on the long-term prospects of an issuer, such as demographic or economic data, may not be relevant in the sale of certain revenue or tax anticipation short-term obligations. Furthermore, various reports, contracts and other items recommended to be described may not exist or may not be relevant for a given issuer or transaction. If information does not exist, issuers should consider whether the absence of the information is relevant. The overriding goal of disclosure documents is to provide a complete, accurate and objective description of all relevant factors to enable a reasonable investor to make an informed investment decision.

Guidelines for Offerings of State and Local Government Securities

The *Guidelines for Offerings* are designed for use by issuers and persons retained to assist issuers in the preparation of the issuers' official statements. In most cases, the information is provided to investors by state and local governments through securities dealers and dealer banks that purchase securities for sale to investors or through information repositories⁶.

The general sections of the *Guidelines for Offerings* are arranged in a sequence that indicates a recommended order of presentation of information in an official statement. Unless circumstances require otherwise, efficiency of the market will be increased if the recommended order is followed.⁷ In particular, the first three sections of the *Guidelines for Offerings* are arranged in an order that is especially important in the easy identification of the terms of an offering; presentation of information in that standardized sequence can be especially valuable in facilitating access through a repository system. Consideration should also be given to setting forth information in a manner that will give appropriate emphasis to that information in view of its relative importance. For example, special attention should be given to disclosing speculative situations, high risks or impending difficulties that could adversely affect the securities, with appropriate designation and location within the document.

Arrangements should be made to assure the availability of the official statement to prospective investors and timely disclosure of relevant information that may become available

⁵ The National Federation of Municipal Analysts ("NFMA") has published its *Disclosure Handbook for Municipal Securities* (Jan. 1990), containing detailed suggestions for several market sectors. A number of NFMA's suggestions are used throughout these *Guidelines*. See also Appendix E for excerpts from the *Handbook* as to various sectors.

⁶ See the definition of the term "repository" in the Glossary in Appendix A.

⁷ See recommendations to encourage greater uniformity of presentation in Public Securities Association, *Recommendations for a Consistent Presentation of Basic Bond Provisions in Official Statements* (Dec. 1989). Those recommendations are reflected in Section II of the *Guidelines for Offerings* at page 5.

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after the date of the official statement, as set forth in the *Procedural Statements*. Further, certain requirements imposed upon underwriters pursuant to actions of the Securities and Exchange Commission are discussed in *Procedural Statements* Nos. 2, 3, 5 and 13 at pages 84, 88, 91 and 104, respectively.

Guidelines for Continuing Disclosure

The *Guidelines for Continuing Disclosure* are designed for use by issuers and persons retained to assist issuers in the provision of timely information on a continuing basis to securities holders, potential purchasers of securities in the secondary market, dealers, securities analysts and rating services. Most issuers now publish documents on a periodic basis that provide information that may be important to holders of their outstanding obligations. Many issuers provide that information in their official statements when they make securities offerings on a regular basis. Others present current information in their annual financial reports, the accompanying commentary and historical data, or annual budget documents. Other issuers find it useful to compile that information periodically in a document expressly designed to inform investors about their securities.⁸

The Government Finance Officers Association recommends that all issuers prepare and make available, at least annually, to one or more repositories, and to investors, trustees, analysts and the general public, a document or documents containing information useful to existing and potential investors in the secondary market. Such a document may be an official statement or a comprehensive annual financial report, as may be appropriate.

The *Guidelines for Continuing Disclosure* also recommend prompt release of information describing certain events that have a major effect on an issuer's finances. The information should be released immediately upon its availability in a reliable form. See *Procedural Statement* No. 8 at page 97 respecting means of dissemination of information. Issuers should endeavor to obtain reliable information as early as possible so that a prompt release may be made.

⁸ The overriding consideration should be the provision of timely and readily available information to interested parties. See *Procedural Statements* Nos. 3 and 8 at pages 88 and 97, respectively. GFOA reaffirms its commitment to encourage timely publication of information. In that connection, GFOA is issuing the *Guidelines for Continuing Disclosure*, which were originally published in 1979, and will continue its examination of the appropriate methods for accomplishing continuing disclosure. Reference is made to the *Procedural Statements* respecting certain procedural matters in the process of providing information.

Introduction

Procedural Statements in Connection with the Disclosure Guidelines

The Government Finance Officers Association periodically issues its *Procedural Statements* regarding both offering and continuing disclosure and assistance by issuers and their advisors to investors and underwriters.⁹ The *Procedural Statements* are intended to recommend procedures to issuers and their advisors with respect to the process of supplying information to, and working with, investors and underwriters.

General Comments

The following recommendations and information apply to all three chapters of these *Guidelines*.

It is recommended that the financial statements contemplated in these *Guidelines* be prepared in accordance with generally accepted accounting principles ("GAAP"). For governmental issuers and governmental enterprises, those principles are established by the Governmental Accounting Standards Board ("GASB").¹⁰ Financial statements of conduit issuers are discussed separately in Section X of the *Guidelines for Offerings* at page 53.

The information set forth in the disclosure documents should be presented in a concise, understandable fashion and in terms that are comprehended easily. Accordingly, issuers should avoid including information that is not likely to be useful to an investor.

Issuers may wish to consider reliance upon a two-part official statement, one part of which contains only offering data that may be detached so that the second part may constitute a continuing disclosure document.¹¹ Conversely, continuing disclosure documents may serve as official statements upon the attachment of or reference to a part including offering information. By those means, issuers may avoid the preparation of multiple documents where information remains reasonably stable during the fiscal year.

⁹ The *Procedural Statements* are intended in part to respond to the needs of underwriters as set forth in Public Securities Association, *A Discussion of Significant Operational Issues for Municipal Securities Underwriters Arising under SEC Rule 15c2-12 and the SEC's Accompanying Interpretive Statement* (Jan. 1990).

¹⁰ Guidance in the application of those principles, consistent with state laws as described in Section IX of the *Guidelines for Offerings* at page 44, is provided by *Governmental Accounting, Auditing, and Financial Reporting*, issued by the Government Finance Officers Association ("GFOA").

¹¹ See, e.g., GFOA's *Official Statements for Offerings of Securities by Local Governments – Examples and Guidelines* (1981), illustrating that format.

Introduction

Some sections of these *Guidelines* are more appropriate for general obligation securities, while other sections are more appropriate for revenue securities or special obligation securities. Yet additional sections are more appropriate for securities of conduit issuers or issuers of credit enhancements. In some cases, a particular security may combine characteristics of a general obligation security and a revenue security or a special obligation security. For example, revenue sources from a governmental enterprise or enterprises¹² or a specific tax may be the primary source of payment and security for bonds, while additional security is furnished by the general taxing power or other backing of the issuer. Under those circumstances, it is recommended that the appropriate information for both types of securities be provided.

Unless a section of these *Guidelines* is specifically inapplicable to a particular type of security or issuer, the section should be considered relevant for all securities.¹³ Normally, with respect to conduit securities, a governmental issuer need provide only limited disclosures, such as the identity of the governmental issuer, its role in the transaction, and its authority to act in the transaction. The conduit issuer should provide appropriate information about itself. When the role of a governmental issuer is greater, there should be disclosure regarding the governmental issuer reflective of the role undertaken.

Where securities are payable from pools of obligations, appropriate information may be presented in aggregate form; in certain circumstances, information regarding a particular issuer of obligations contained in the pool should also be given if there is a reasonable expectation that a change in that issuer's circumstances could lead to a change in an investor's evaluation of the offered securities. The information presented respecting a particular issuer should reflect the significance of that issuer to the entire pool.

As discussed in Procedural Statement No. 11 at page 101, a governmental issuer participating in a conduit financing may wish to consider receiving from the conduit issuer certain assurances and agreements respecting compliance by the conduit issuer with these *Guidelines*.

The presence of credit enhancements does not obviate the applicability of these *Guidelines* to the governmental or conduit issuers of securities.¹⁴

¹² See the Glossary in Appendix A respecting the definition of the term "governmental enterprise."

¹³ For example, in the *Guidelines for Offerings*, Sections I, II and III at pages 2, 5 and 10, Sections VII and VIII at pages 35 and 40, and Sections XI and XII at pages 60 and 62, are applicable to all or most types of securities of issuers of municipal securities.

¹⁴ See the Glossary in Appendix A for the definitions of the terms "credit enhancement" and "issuer of credit enhancement."

Introduction

It is recommended that issuers make their final official statements and continuing disclosure documents generally available and submit them, or cause them to be submitted, to any trustees for the securities and to one or more repositories.¹⁵

A disclosure document should be dated the date as of which it speaks. Any relevant information that becomes available after the date of an official statement should be disseminated as discussed in Procedural Statements Nos. 2, 3 and 4 at pages 84, 88 and 90, respectively.

The roles of the various participants with respect to the development of information in the official statement should be stated. Where appropriate, it is recommended that the various participants or attesting officials certify the material accuracy and completeness of the information they have prepared or provided.

These *Guidelines* are not intended to establish standards of legal sufficiency, although careful compliance with them is recommended. No implication is intended that previously prepared documents or previously followed procedures have been inadequate or that any disclosure document prepared or procedure followed in the future is inadequate solely because it does not comply with recommendations in these *Guidelines*. It is emphasized, however, that those preparing disclosure documents should take great care to see that they are accurate, complete and not misleading and that appropriate procedures are followed.

These *Guidelines* are designed to assist issuers of all types in the disclosure process for state and local government securities in a variety of contexts and, accordingly, are by their nature comprehensive. Information recommended in these *Guidelines* is not necessarily appropriate or desirable in all cases. Nevertheless, unless specific recommended information is not considered to be relevant by investors in the circumstances, careful adherence to these *Guidelines* is recommended.

¹⁵ See Procedural Statements Nos. 3 and 8 at pages 88 and 97, respectively.

Synopsis of the *Guidelines*

GUIDELINES FOR OFFERINGS. The *Guidelines for Offerings* are designed to assist in the preparation of official statements so that investors are appropriately informed in their investment decisions. The *Guidelines* recommend a specific order to be followed when presenting information. In some instances, information recommended for inclusion may not be appropriate or necessary; in other cases, information other than that recommended may be appropriate. Set forth below, is a brief outline of the *Guidelines* designed to assist users in locating information in the *Guidelines* so that they may be applied to individual transactions. The boxes shown on the right hand margins in this Synopsis indicate the major categories of securities to which the respective sections of these *Guidelines* normally apply.

Section I: Cover Page.

<input checked="" type="checkbox"/> TAX-SUPPORTED	<input checked="" type="checkbox"/> CONDUIT
<input checked="" type="checkbox"/> GOVERNMENTAL REVENUE	<input checked="" type="checkbox"/> CREDIT ENHANCEMENT

A simplified and standardized cover page is recommended that lists a limited number of items to identify and classify the issuer and the offering. A statement should direct the investor to read the entire official statement. On the inside cover or back page, a table of contents should appear.

Section II: Introduction to the Official Statement.

<input checked="" type="checkbox"/> TAX-SUPPORTED	<input checked="" type="checkbox"/> CONDUIT
<input checked="" type="checkbox"/> GOVERNMENTAL REVENUE	<input checked="" type="checkbox"/> CREDIT ENHANCEMENT

This section may function as a guide to the entire official statement. It is recommended that it contain the salient portions of information related to the offering. The information should be set forth in a brief and standardized form. Among the items recommended for inclusion are the identification of the issuer and the offering, the purpose of the issue, the security and sources of payment, structural features of the securities, and terms of the offering. The availability of additional information and persons to contact, and means of contacting them, regarding questions should be given.

Section III: Securities Being Offered.

<input checked="" type="checkbox"/> TAX-SUPPORTED	<input checked="" type="checkbox"/> CONDUIT
<input checked="" type="checkbox"/> GOVERNMENTAL REVENUE	<input checked="" type="checkbox"/> CREDIT ENHANCEMENT

This section should contain complete information regarding the purposes of the offering, the plan of financing, the security and the sources of payment, and the priority of the securities. Structural characteristics of the securities and related attributes, such as call provisions, tender options, original issue or deep discounts, variable rates, and lease purchase issuances, should be presented and discussed.

Section IV: Description of Credit Enhancements and Their Issuers.

<input type="checkbox"/> TAX-SUPPORTED	<input type="checkbox"/> CONDUIT
<input type="checkbox"/> GOVERNMENTAL REVENUE	<input checked="" type="checkbox"/> CREDIT ENHANCEMENT

This section should be used where the payments, in whole or in part, of securities being offered are guaranteed, insured, covered by letters or lines of credit or guaranteed investment contracts, or are otherwise credit enhanced. Information should be provided regarding the nature and extent of the enhancement, and any limitations upon it. Appropriate financial and business

information about the issuer of the credit enhancement should be given. Generally, the issuer of the credit enhancement should be the source of this information.

Section V: Description of Governmental Issuers and Governmental Enterprises.

<input checked="" type="checkbox"/> TAX-SUPPORTED	<input type="checkbox"/> CONDUIT
<input checked="" type="checkbox"/> GOVERNMENTAL REVENUE	<input type="checkbox"/> CREDIT ENHANCEMENT

This section is divided into two parts. Part A concerns descriptions of issuers of tax-supported obligations and recommends information about the issuer's range and level of services, capacity to provide services, and demographic factors. Part B concerns revenue supported offerings and recommends information about the enterprise's organization, management, construction or acquisition program, and salient features of its service area, the services it performs, principal facilities, revenue structure, results of operations, and operating plan.

Section VI: Description of Conduit Issuers.

<input type="checkbox"/> TAX-SUPPORTED	<input checked="" type="checkbox"/> CONDUIT
<input type="checkbox"/> GOVERNMENTAL REVENUE	<input type="checkbox"/> CREDIT ENHANCEMENT

This section is directed toward the obligations of private profit-making and nonprofit conduit issuers. The provision of the information is the responsibility of the conduit issuer and not the governmental issuer. The section calls for information regarding the nature and development of the business or other activity to be carried on by the issuer, including its form of organization and management, the location of its principal facilities and service area, rate-making or pricing policies, and historical operations and plan of operation. Conduit issuers eligible to file registration statements with the Securities and Exchange Commission on forms permitting incorporation by reference may wish to follow the disclosure content required in the appropriate registration forms.

Section VII: Debt Structure.

<input checked="" type="checkbox"/> TAX-SUPPORTED	<input checked="" type="checkbox"/> CONDUIT
<input checked="" type="checkbox"/> GOVERNMENTAL REVENUE	<input checked="" type="checkbox"/> CREDIT ENHANCEMENT

This section provides recommendations about how to describe the structure of outstanding debt of the governmental issuer or enterprise, including the authority to incur debt, limitations on debt, trends in debt and the prospective debt burden, and rate of its retirement. **Information should be in sufficient detail to permit investors to evaluate revenue pledged to repayment of the securities in relation to the debt and other obligations of the issuer.**

Section VIII: Basic Documentation.

<input checked="" type="checkbox"/> TAX-SUPPORTED	<input checked="" type="checkbox"/> CONDUIT
<input checked="" type="checkbox"/> GOVERNMENTAL REVENUE	<input checked="" type="checkbox"/> CREDIT ENHANCEMENT

This section provides recommendations as to the descriptions of documentation such as indentures, trust agreements, resolutions and other basic documentation that authorize the issuance of the securities offered and establish the rights and responsibilities of the issuer, investors, and other parties to the transaction.

Section IX: Financial Information Concerning Governmental Issuers and Governmental Enterprises.

<input checked="" type="checkbox"/> TAX-SUPPORTED	<input type="checkbox"/> CONDUIT
<input checked="" type="checkbox"/> GOVERNMENTAL REVENUE	<input type="checkbox"/> CREDIT ENHANCEMENT

This section concerns important factors relating to the financial condition of governmental issuers and enterprises. It consists of two parts. Part A is information summarizing the financial practices and recent results of operations. Part B is the financial statements for the past two years. The information may be contained in an appendix to the official statement. Financial statements should be prepared in conformity with generally accepted accounting principles and audited in accordance with generally accepted auditing standards.

Section X: Financial Information Concerning Conduit Issuers.

<input type="checkbox"/> TAX-SUPPORTED	<input checked="" type="checkbox"/> CONDUIT
<input type="checkbox"/> GOVERNMENTAL REVENUE	<input type="checkbox"/> CREDIT ENHANCEMENT

Recommendations in this section deal with important factors related to the financial condition and operations of conduit issuers. The provision of the information is the responsibility of the conduit issuer and not the governmental issuer. The section is divided into two parts. Part A recommends information about current financial practices and operating performance, and Part B recommends information to be presented as financial statements. Conduit issuers eligible to file with the Securities and Exchange Commission registration statements on forms enabling them to incorporate information by reference may wish to follow the disclosure content required in the appropriate registration form.

Section XI: Legal Matters.

<input checked="" type="checkbox"/> TAX-SUPPORTED	<input checked="" type="checkbox"/> CONDUIT
<input checked="" type="checkbox"/> GOVERNMENTAL REVENUE	<input checked="" type="checkbox"/> CREDIT ENHANCEMENT

This section contains recommendations concerning the disclosure of pending judicial, administrative or regulatory proceedings that may significantly affect the securities being offered, a summary of the approving legal opinion, significant elements of income tax law and the related tax opinion, and a listing of relevant federal income tax considerations.

Section XII: Miscellaneous.

<input checked="" type="checkbox"/> TAX-SUPPORTED	<input checked="" type="checkbox"/> CONDUIT
<input checked="" type="checkbox"/> GOVERNMENTAL REVENUE	<input checked="" type="checkbox"/> CREDIT ENHANCEMENT

This section contains recommendations regarding the disclosure of ratings and their description and meaning, underwriting arrangements, arrangements with financial advisors, interests of persons named as experts in the official statement, pending legislation that may adversely affect the issuer, and the availability of additional information and documentation.

GUIDELINES FOR CONTINUING DISCLOSURE.

<input checked="" type="checkbox"/> TAX-SUPPORTED	<input checked="" type="checkbox"/> CONDUIT
<input checked="" type="checkbox"/> GOVERNMENTAL REVENUE	<input checked="" type="checkbox"/> CREDIT ENHANCEMENT

It is recommended that issuers prepare and make available, at least annually, to investors, information repositories, trustees, analysts, and other interested parties, information useful to the secondary market. Information may be in the form of an official statement, comprehensive annual financial report, or information statement, with appropriate supplementation. Set forth below is a brief outline of the *Guidelines for Continuing Disclosure* designed to assist users in locating information in the *Guidelines* so that they may be applied by individual issuers.

Section I: Cover Page and Introductory Information.

This section contains recommendations as to identifying the issuer, stating how official statements and financial reports may be obtained, and identifying officials who can answer questions about current information.

Section II: Description of Issuer, Debt Structure, and Finances.

This section contains recommendations on presentation of information describing the issuer and its location, organization, service responsibilities and operations. Debt outstanding should be identified and described. Information regarding financial condition and results of operation should be presented in summary fashion, with descriptions of trends in revenues and expenditures. Information should focus on those revenues available to pay indebtedness outstanding.

Section III: Legal Matters.

This section contains recommendations concerning the disclosure of pending judicial, administrative or regulatory proceedings that may significantly affect the issuer's outstanding securities.

Section IV: Miscellaneous.

This section contains recommendations on description of ratings on outstanding debt and changes in ratings indicated. Interests of persons named in the information statement should be described, and pending legislation adversely affecting the issuer should be discussed.

Section V: *Changes in Indebtedness.*

This section contains recommendations on changes in indebtedness. If the issuer has received authority to issue additional debt since the last statement, the purpose, nature, and amount of the authorized debt should be described. If there has been a change in the date, form, redemption features, purpose, security, enhancement, or other significant features of outstanding debt, the changes should be described.

Section VI: *Information For Release Other Than On An Annual Basis.*

This section contains recommendations for special reporting of major developments. A number of examples of those developments are provided.

PROCEDURAL STATEMENTS IN CONNECTION WITH THE DISCLOSURE GUIDELINES.

<input checked="" type="checkbox"/> TAX-SUPPORTED	<input checked="" type="checkbox"/> CONDUIT
<input checked="" type="checkbox"/> GOVERNMENTAL REVENUE	<input checked="" type="checkbox"/> CREDIT ENHANCEMENT

The *Procedural Statements* recommend procedures to issuers and their advisors regarding the process of supplying information to, and working with, investors, underwriters and others. The thirteen statements discuss the process of updating the *Disclosure Guidelines*, the use of preliminary and final official statements, the delivery of official statements to underwriters, incorporation of underwriting data in official statements, and provision of assistance to underwriters and others inquiring about information.

The *Procedural Statements* also cover disclosure practices involving various types of sales and securities offerings, notices of call, the dissemination of statements, reports and releases, the use of expert opinions and reports, and transfer agent and record date standards. Finally, the *Procedural Statements* provide guidance on obtaining assurances from conduit issuers and issuers of credit enhancements as to their compliance with these *Guidelines* and on the availability and content of notices of sale and bid forms.

**Guidelines for Offerings
of State and Local Government
Securities**

SECTION I

Cover Page of the Official Statement

The official statement should include a cover page used to describe certain features of the securities being offered. There is an increased emphasis in the market upon the cover page and introductory section of official statements. These *Guidelines* recommend uniformity of presentation to assist the various parties in their review of documents and to facilitate the development of a repository system. It is recommended that there be a standardization of presentation and a simplification of the cover page. This can be accomplished by moving to the introductory section, unless there are important countervailing factors requiring a different emphasis, a number of items that prior editions of these *Guidelines* suggested should appear on the cover.

It is recommended that the cover page include the following (with appropriate cross-references to more complete discussions in the body of the official statement):¹⁶

- (1) The date of the official statement.
- (2) The total principal amount of the securities being offered (and in the case of zero coupon or other deep discount securities, their initial amount).
- (3) The name(s) of the issuer(s) (with appropriate identification) and the title of the issue.
- (4) The type of issue being offered (*e.g.*, general obligation, limited or special obligation, governmental enterprise revenue or conduit revenue).

¹⁶ The suggestions in Sections I and II are intended to be consistent with the format suggested by the Public Securities Association in its *Recommendations for a Consistent Presentation of Basic Bond Provisions in Official Statements* (Dec. 1989).

Section I
Cover Page

- (5) The date of the obligations, interest rate or rates, offering prices or yields,¹⁷ interest payment dates, the date from which interest is paid, and a brief identification of any special interest payment features (*e.g.*, zero coupon or limited interest and variable rate).
- (6) Maturity date and principal amount or maturity value by maturity in columnar form.
- (7) Reference to any credit enhancement and identification of the issuer thereof.
- (8) Ratings provided by the various rating services (see Section XII of these *Guidelines* at page 62).
- (9) Designation as a new or refunding issue or as a remarketing.
- (10) A concise characterization of the tax status of interest on the securities, indicating in the opinion of bond counsel, for purposes of federal income taxation, whether interest on the securities is:
 - (i) excludable from gross income;
 - (ii) excludable from gross income, but subject to the alternative minimum tax as a preference item; or
 - (iii) taxable;as described in greater detail, and subject to exceptions noted, elsewhere in designated sections of the official statement.
- (11) If appropriate, a brief characterization of the issue as speculative or one of high risk and a reference to the risk factors section, if one is included.
- (12) In negotiated sales, the names of the managing underwriters.
- (13) A statement substantially as follows:

¹⁷ In the sale by the underwriters, interest rates and initial yields or prices should be specified. In the case of a competitive sale, it is recommended that the issuer provide space for those interest rates and reoffering yields or prices. See Procedural Statements Nos. 2 and 4 at pages 84 and 90, respectively.

Section I
Cover Page

This cover page contains certain information for quick reference only. It is *not* a summary of this issue. Investors must read the entire official statement to obtain information essential to the making of an informed investment decision.

On the inside front cover or on the back of the official statement, a Table of Contents should appear to indicate in reasonable detail the pages on which particular types of information may be found.

SECTION II

Introduction to the Official Statement

The introduction to the official statement should set forth, in brief form and in a recognized and highly standardized order, the salient portions of information appearing elsewhere in the document. To promote efficiency, by a standardization of the presentation of information in the introduction to official statements is desirable. Therefore, it is recommended that the order indicated below be followed, in the absence of important countervailing factors requiring a different order, emphasis or scope. Furthermore, there may be circumstances in which an introduction may not be helpful, such as in offerings to a limited number of investors.

It is recommended that appropriate references in the introduction direct the reader to more detailed information contained in specific sections or subsections of the official statement. The introduction may effectively serve as a guide to the entire official statement. It is recommended that the introduction be qualified expressly by reference to the entire official statement, and that a statement be made that the introduction is only a brief description and a full review should be made of the entire official statement, as well as of the documents summarized or described therein.

Repetition of information should be minimized through use of appropriate cross-references. Generally, if the information is not contained in full in the introduction, the introduction should contain a cross-reference to its location. If it is contained in full in the introduction, it is not necessary for it to be repeated in other sections of the official statement, but use of appropriate cross-references in those other sections is recommended.

It is recommended that the introduction contain information with respect to:

- (1) The identification and description of the governmental issuer and, if applicable, the conduit issuer; in conduit issues, the nature of the obligations of the conduit issuer and the documents pursuant to which those obligations arise.

Section II

Introduction to the Official Statement

- (2) The security and other sources of payment for the securities of a governmental or conduit issuer.
- (3) The issuer of credit enhancement, if any, and the nature of any credit enhancement, including the extent of its coverage, term, and provisions applicable upon any termination of the credit enhancement or a change in the ratings of the obligations of the issuer of the credit enhancement prior to the maturity of the governmental or conduit securities.
- (4) The purposes for which the securities are being issued, including a brief description of any project or program to be financed from the proceeds of the offering.
- (5) Other important features of the securities, including the following:
 - (a) Mandatory, optional, extraordinary or any other redemption or prepayment features and put or tender features, with an indication of when they are exercisable or applicable (including the date on which the securities are first subject to optional redemption or the right to exercise any put option).
 - (b) If applicable, the ability of any issuer of credit enhancement to accelerate, or withhold the acceleration of, the payment of the securities of the governmental or conduit issuer and the conditions under which that exercise might occur and related procedures.
 - (c) Any applicable variable interest rate and related rate period, the frequency of changes in that rate and period, and the formula or method of making rate changes, including maximum or minimum rate limits.
 - (d) The denominations in which the securities are being offered.
 - (e) Registration and exchange features.
 - (f) The manner of making payments.
 - (g) The timing and method of giving notice to securities holders with respect to events specified in the basic documentation.
- (6) A brief statement of the tax status of interest on the securities being offered (*e.g.*, general exemption, alternative minimum tax, original issue discount, if available, and bank qualification).

Section II

Introduction to the Official Statement

- (7) Identification of and information concerning professionals involved in the offering, including the following and the relevant cities in which their offices responsible for the offering are located:

 - (a) Any trustees, registrars or paying agents.
 - (b) Any tender or remarketing agents.
 - (c) Any bond, tax, issuer, underwriters' or special counsel.
 - (d) Any financial advisor.
 - (e) Any auditors, engineers, feasibility or marketing consultants or other experts providing reports included in whole or in part, or to which reference is made, in the official statement.
- (8) Identification of certain important information concerning the terms of the offering, including the following:

 - (a) Brief statement of the authority for issuance.
 - (b) Statement, if applicable, that the securities are offered when, as and if issued and subject to satisfaction of certain conditions.
 - (c) Anticipated date, manner and place of delivery.
 - (d) Indication if the securities are in book entry or book entry only form or eligible for custodial deposit with a registered securities depository, identifying the depository.
 - (e) Limitations on transfer of the securities.
 - (f) Limitations on the manner of offering or reoffering the securities.
 - (g) Legends, if any, required under state securities laws, unless required by those laws to be placed elsewhere in the document.
- (9) Other circumstances of special importance to the making of an informed investment decision. Where applicable, it is recommended that there be a discussion of the

Section II

Introduction to the Official Statement

principal factors that make the offering speculative or one of high risk and their possible consequences for investment risk.¹⁸

- (10) In refundings, a statement regarding securities to be refunded, the anticipated date for payment of the refunded securities, and any ability and intention to change the period(s) of the escrow or the anticipated date for payment of the refunded securities upon redemption or maturity to a different redemption or maturity date. Reference is made to Section VI of the *Guidelines for Continuing Disclosure* at page 78 for a recommendation respecting release of a refunding notice to holders of the refunded securities and the market.
- (11) Statements substantially as follows:
 - (a) The official statement speaks only as of its date, and the information contained therein is subject to change.
 - (b) The official statement and continuing disclosure documents of the issuer are intended to be made available through one or more repositories (see the *Guidelines for Continuing Disclosure* at page 64 and Procedural Statement No. 8 at page 97), and any other means maintained by the issuer to provide information to persons who wish to receive it. If the issuer has entered into a contractual commitment to provide the information, describe the commitment.
 - (c) Basic documentation¹⁹ is available.
 - (d) In offerings of conduit securities and in credit enhanced issues, the governmental issuer has not provided information regarding the conduit issuer or the issuer of credit enhancement, and does not certify as to the accuracy or sufficiency of the disclosure practices of or content provided by the conduit issuer or the issuer of

¹⁸ Those factors depend upon the circumstances. Examples in particular circumstances may include such matters as: an absence of an operating history of the issuer; an absence of experienced management or supervision in critical areas; an absence of profitable operations in recent periods; a significant and repeated failure to observe budgetary constraints in recent periods; the financial condition of the issuer; the nature of the activities or businesses in which the issuer is engaged or proposes to engage; multiple roles of key parties in the transaction; the limited or novel nature of the tax or revenue source securing the securities; significant reliance upon projections or forecasts; price volatility of deep discount, zero coupon or similar securities; fiscal problems of the issuer or other parties that could interrupt or reduce revenues available for payment of debt service; or information respecting continuation of operations of principal industries within the jurisdiction of a governmental issuer or that may be customers of enterprises or conduit issuers.

¹⁹ See Section XII-E at page 63. See the Glossary in Appendix A for the definition of the term "basic documentation," which includes the indenture, trust agreement, resolution or ordinance, lease, installment purchase agreement, loan agreement, bond, note, certificate of participation or other documentation authorizing the issuance of the securities or establishing the rights and responsibilities of the issuer, investors or other parties to the transaction.

Section II

Introduction to the Official Statement

the credit enhancement and is not responsible for the information provided by that party.²⁰

- (12) The name, title, address and telephone number of the issuer official(s) or agent(s) able to furnish basic documents and answer questions about the official statement or who can direct inquiries to the appropriate responsible parties. See also Section XII-E at page 63. Of course, care should be taken that all relevant information is contained in the official statement, and no one should be given access to information that is not or will not be made available generally to others upon request. The foregoing, however, should not discourage continuing communications with trustees and nationally-recognized rating services or, pursuant to contractual commitments, issuers of credit enhancements. See Procedural Statements Nos. 5 and 8 at pages 91 and 97, respectively.

If significant information not contained in the official statement is obtained by the issuer during the offering period²¹ or is furnished in response to inquiry, the official statement should be supplemented or amended, the supplement or amendment should be distributed directly to those who received the official statement, and information should be provided to an appropriate communication vehicle for public distribution.²² See Procedural Statement No. 8 at page 97.

²⁰ See Procedural Statement No. 12 at page 103.

²¹ See the Glossary in Appendix A for the definition of the term "offering period."

²² Examples of those services include: news wires, such as *Munifacts*, maintained by *The Bond Buyer*, New York, *Kenny Alert*, maintained by *J.J. Kenry Co., Inc.*, New York, and *Dow Jones Wire*, maintained by *Dow Jones & Company*, New York; daily financial periodicals of national circulation, such as *The Bond Buyer*, *The Wall Street Journal*, and *Investors Daily*; local, regional and national newspapers; and rating services.

SECTION III

Securities Being Offered

The purpose of this section is to make recommendations regarding the descriptions of the fundamental terms and structure of the obligations being offered and matters closely related thereto. More detailed information relating to the documentation in the transaction is recommended in Section VIII at page 40. Generally, repetition of information should be minimized through use of appropriate cross-references.

The official statement should provide in a single location, immediately following the introductory section, the following information to the extent it is relevant regarding the securities being offered:

A. Amplify items that appear on the cover page or in the introduction, where appropriate.

B. Identify, and where appropriate, describe the pertinent provisions of the state constitution, statutes, resolutions and such other documentation that authorize or limit the issuance of the securities or the adoption, execution, delivery and performance of the basic documentation.

C. (1) State the principal purposes for which the proceeds of the offering are authorized or proposed to be used, the approximate amount authorized or proposed for each purpose, and estimated expenses, including fees paid to professionals, in connection with the issuance (and in negotiated issues, sale and distribution) of the securities.

(2) Describe how the proceeds are to be invested pending use, the provisions governing those investments, and conditions that must be satisfied before the proceeds may be applied to their intended use. Describe proposed investments of the proceeds or reserves or other funds or accounts created in connection with the transaction, permitted investments, and relevant issuer policies or legal requirements governing investments. Describe the parties who will hold and control the proceeds of the securities and the method by which the proceeds

Section III Securities Offered

will be expended. In the case of guaranteed investment contracts, identify the issuer, maturities, draw provisions, interest rates and other terms.²³

(3) Furnish a brief description of any program of construction or acquisition of facilities, equipment or other property to be financed from the proceeds of the sale of the securities and the expected completion date. Describe impending or frequently experienced difficulties that would hamper completion of the project. If more funds are needed to accomplish the stated principal purposes, indicate the projected amounts and sources of such funds, including capitalized interest and contributions to be made by the issuer or third parties. State whether those other funds will be definitely available upon completion of the offering, and if not, describe the conditions that must first be satisfied. If the proceeds may be used for other purposes, describe the other purposes and amounts that may be used. Describe relevant restrictions that may apply to uses of the proceeds for the stated principal purposes.

(4) Describe any plan of refunding. Reference is made to Section VI of the *Guidelines for Continuing Disclosure* at page 78 for a recommendation respecting release of refunding notices to holders of the refunded securities and the market.

D. Describe the security and sources of payment for the securities, including the following:

- (1) Any pledges of revenues, mortgages, liens and security interests;
- (2) The relationship of the priority of payment or lien to outstanding securities or other obligations of the issuer;
- (3) If the securities are subordinated, the principal amount of outstanding senior securities;
- (4) The rights and privileges of the holders of any senior securities;
- (5) Rights of the issuer to issue senior or parity securities, referring as appropriate to information given in response to the recommendations in Section VIII-B on additional securities at page 40;

²³ Additional information about the issuer of a guaranteed investment contract is recommended where the contract is expected to be in force for an extended period. See Section IV at page 16.

Section III

Securities Offered

- (6) If the securities are secured by physical properties, other assets or revenues, the physical properties, other assets or revenues and the provisions and procedures for their release, enforcement, withdrawal or substitution;
- (7) If the securities are limited obligations of the issuer or enterprise, a statement of the limitations; and
- (8) Special fund provisions, including debt service reserve and replacement or operating reserve fund requirements, if any, and any related funding, valuation and replenishment provisions.

E. Describe any optional, mandatory, extraordinary or other redemption or prepayment features of the securities. It is recommended that issuers place all information relevant to redemptions and prepayments, including payment due to termination of credit enhancement or acceleration of the debt, in a single location in the document that is a clearly identified section or subsection. The description should include:

- (1) The conditions under which redemptions or prepayments are permitted or required;
- (2) The price payable upon redemption or prepayment;
- (3) Whether all or part of the securities are permitted or required to be redeemed or prepaid;
- (4) If partial redemptions are permitted or required, the method by which the securities to be redeemed or prepaid will or may be selected;
- (5) The dates upon or periods within which redemptions or prepayments are permitted or required;
- (6) The timing and method of selection of securities to be redeemed;
- (7) The timing and method of giving proper notice of redemption or prepayment to the affected securities holders;
- (8) The consequences, if any, of a failure to give proper notice; and
- (9) The consequences, if any, of a failure of affected securities holders to follow the procedures specified in a proper notice of redemption or prepayment.

Section III

Securities Offered

Describe the ability of any issuer of credit enhancement to accelerate, or to withhold acceleration of, the payment of the securities of the governmental or conduit issuer and the conditions under which that exercise might occur and related procedures.

F. If the securities are subject to tender or put for repurchase or remarketing by, or on behalf of, the issuer or other parties, describe the provisions of the securities in that respect. It is recommended that issuers place all information relevant to tenders and puts in a single location in the document that is a clearly identified section or subsection. The description should include:

- (1) The rights of the securities holders to receive the repurchase price, if any, or the proceeds of the remarketing upon the tender or put of their securities;
- (2) Any obligation of securities holders with respect to any mandatory tender or put and any rights of securities holders to elect to retain their securities;
- (3) The amount of the repurchase price, if any, or if it is uncertain, the method by which it is to be determined;
- (4) The party or parties obligated to pay the repurchase price, if any, or to remarket the securities, and provisions governing the resignation or removal of any such party and appointment of substitutes or successors;
- (5) The security, if any, for payment of the repurchase price, including any letter or line of credit or other credit or liquidity facility supporting the payment, identifying distinctions, if any, between that security and security for the payment of debt service;
- (6) The conditions under which tenders or puts are permitted or required;
- (7) Notices required to be given to securities holders in connection with tenders or puts;
- (8) The timing of notices, tenders, payments, and other steps in connection with the tenders or puts and any remarketing;
- (9) Information provided by the rating services respecting the relationship, if any, of any ratings on the securities to the party or parties obligated to pay the repurchase price and the security therefor; and
- (10) Remarketing arrangements and contractual arrangements between the issuer and the remarketing agent.

Section III

Securities Offered

G. Describe pertinent constitutional or statutory provisions or judicial decisions that could affect the status of or priority for the securities holders.

H. If any securities are zero coupon, compound interest, capital appreciation, deep discount or other securities on which current interest is not required to be paid, describe or furnish:

- (1) The nature of the securities in that respect;**
- (2) The manner of accretion of value;**
- (3) An appropriate table showing the accreted value at various dates on which payments of principal of the securities may be made, such as potential optional or mandatory sinking fund redemption or prepayment and maturity dates;**
- (4) If periodic interest is payable after or before a period of accretion, the nature of the securities in that respect; and**
- (5) Whether the securities are subject to redemption or prepayment and the manner of determining the redemption or prepayment price in relationship to the accreted value of the securities at the date of redemption or prepayment.**

I. If the securities are variable rate, flexible rate or multi-modal securities, or if the interest rates on the securities are otherwise subject to change, either periodically or under specified conditions, describe the pertinent provisions of the securities in those respects. The description should include:

- (1) The periods at which or the circumstances under which change in interest rates may occur;**
- (2) The party or parties involved in any determination of new interest rates and their responsibilities, provisions governing the resignation or removal of any such party and the appointment of substitutes or successors, and any relationship of the party or parties to any provider of a liquidity or credit facility;**
- (3) Standards and procedures used in the determination of new interest rates;**
- (4) The timing of relevant steps taken in determining the new interest rates; and**

Section III

Securities Offered

- (5) The means by which securities holders are to be notified of the interest rates and their rights, if any, upon receipt of the notice.

J. In the case of lease and installment purchase financings and certificates of participation or other similar certificates, describe the following:

- (1) The nature of the issuer's (lessor's or purchaser's) agreements, conditions precedent to the commencement of lease payments, the estimated delivery date for equipment, completion of construction, or acquisition of other property;
- (2) The appropriation process, where the issuer's payments are subject to periodic appropriation, including the sources from which appropriations are to be paid and legal provisions and covenants respecting budgeting, abatement and appropriations;
- (3) The status of title to the financed property;
- (4) Covenants, if any, respecting nonsubstitution of property; and
- (5) The functions of the property for the issuer, the issuer's needs for the property, and if applicable, the unique features of the property restricting its transferability.

K. Describe the method of computing interest payable on the securities (for example, whether a 360- or 365/366-day basis is to be used) and the treatment of sums due on nonbusiness days.

L. State the form in which securities will be delivered at original issuance, such as whether it is anticipated that the securities will be issued in book entry or book entry only form or in a manner making them eligible for custodial deposit with a registered securities depository, identifying the depository. Describe any limitations on the rights of and any fees payable by securities holders by reason of the form of obligation or the custodial arrangements. Describe depository procedures governing registration and transfer of the securities and provisions or arrangements with respect to substitution for or termination of the depository arrangement. If the procedures are subject to change, so indicate. Where information is provided by the depository, it should be attributed to that source.

SECTION IV

Description of Credit Enhancements and Their Issuers

If all or any part of the payment of the principal of or interest or premium on (or a repurchase price payable upon tender or put of) the securities being offered, or any reserve fund or other obligation, is guaranteed or insured, or covered by bond insurance, a line or letter of credit, a guaranteed investment contract, or any other credit enhancement,²⁴ the official statement should contain the following information, which should be provided by the issuer of the credit enhancement. As indicated in Procedural Statement No. 12 at page 103, it is recommended that the governmental or conduit issuer receive certain assurances from the issuer of the credit enhancement.

The issuer of the credit enhancement should be identified as the source of the information provided by it (see Procedural Statement No. 12 at page 103).²⁵ The information should include the following:

- (1) The name of the issuer of the credit enhancement.
- (2) Identification of what is covered by the credit enhancement, payments to be made pursuant to the credit enhancement, if any, the amount of the coverage in specific terms, obligations of the governmental or conduit issuer to reimburse, or otherwise to make whole, the issuer of the credit enhancement, and consequences to the owners of the securities offered of a failure by the governmental or conduit issuer to perform those obligations.
- (3) The timing of payments under the credit enhancement.

²⁴ Notwithstanding the existence of credit enhancement, it is important to note that the governmental or conduit issuer remains primarily liable for payment of debt service on the securities. It is therefore recommended that, to the extent significant to investors under the circumstances, the other sections of these *Guidelines* also be followed in the preparation of official statements in enhanced transactions.

²⁵ See the Glossary in Appendix A for the definitions of the terms "credit enhancement" and "issuer of credit enhancement."

Section IV

Credit Enhancement

- (4) The terms, conditions, and exclusions, including terms governing early payment, cancellation or other termination, if any, of the credit enhancement, and a discussion of any steps that must be taken by the securities holders or trustee to collect monies. It may be appropriate to attach copies of the credit enhancement as an appendix to the official statement.
- (5) Provisions in the credit enhancement documentation affecting the rights of the owners of the securities being offered and responsibilities of the parties under the securities and their basic documentation.²⁶ Cross references to or descriptions of that information should also be made in the appropriate sections of the official statement describing the securities (see Section III at page 10) and the basic documentation (see Section VIII at page 40). Examples of information of the nature discussed in this paragraph include (i) the ability of an issuer of credit enhancement to declare a default under the securities upon a default under a reimbursement agreement with a governmental or conduit issuer, (ii) a requirement of consent of the issuer of the credit enhancement to amendments to the basic documentation, and (iii) extraordinary remedies, if any, granted to the issuer of the credit enhancement in the credit enhancement documentation.
- (6) Information available from the rating services respecting whether ratings obtained on the securities are based on the credit enhancement and the dependence of the ratings upon the credit standing of the issuer of the credit enhancement. The information may be presented by means of a cross-reference to a discussion in another section of the official statement.
- (7) Appropriate financial and other information about and provided by the issuer of the credit enhancement.²⁷ The information should describe (i) the nature and extent of the business of the issuer of the credit enhancement by appropriate business segments, (ii) its assets, revenues, reserves and results of operations, and (iii) other matters bearing upon its ability to perform its obligations under the credit enhancement. Describe generally the accounting policies of the issuer of the credit enhancement. Indicate any important deviations (and the effects thereof, if quantifiable) from generally accepted accounting principles, as those principles are supplemented and modified from time to time. The information may be contained in an appendix to the

²⁶ See Section VIII at page 40 regarding recommendations for the description of the basic documentation, and the Glossary in Appendix A for the definition of the term "basic documentation."

²⁷ Issuers of credit enhancements who have filed registration statements or other information with the Securities and Exchange Commission or other regulatory authorities should compare for consistency their information in the official statement with the information in the registration statements or other documents so filed.

Section IV

Credit Enhancement

official statement. If the information is incorporated by reference, state the source and the means of obtaining the information, specifying the title, address and telephone number of the regulatory official or repository from which it is available, and the name, title, address and telephone number of the official of the issuer of the credit enhancement, the trustee, the underwriter or repository from which it is available during the offering period.²⁸

In addition, the following should be described with reference to the credit enhancement, which may be presented by means of a cross-reference to a discussion in another section of the official statement:

- (8) Any limitations upon remedies available to holders of the securities, or upon the exercise thereof, as a result of control over remedies by the issuer of the credit enhancement.
- (9) Conditions under which the issuer of the governmental or conduit securities may or is required to provide substitute credit enhancement, the nature or quality, if any, required of the substitute credit enhancement, and any notice required to be provided to securities holders in that event.
- (10) Ratings provided by a rating service and known to the governmental or conduit issuer on unenhanced parity debt of that issuer.

²⁸ See the Glossary in Appendix A for the definition of the term "offering period."

SECTION V

Description of Governmental Issuers and Governmental Enterprises

This section makes recommendations respecting governmental issuers and governmental enterprises. Recommendations in this section are divided into two subsections: in subsection A, concerning the tax-supported obligations of governmental issuers, and in subsection B, concerning obligations secured by revenues of governmental enterprises. Information recommended in both subsections may be appropriate for securities that are secured both by taxes and revenues of a governmental enterprise. This section is not designed for securities of conduit issuers or issuers of credit enhancements. As used in this section and throughout these *Guidelines*, the term "enterprise" means a governmental enterprise.

A. Issuer. The information recommended in this subsection applies to offerings of general obligation or special tax securities that are payable from ad valorem taxation or other taxes. Data should be given to provide general background and descriptive information regarding the issuer. Investors should be informed of factors that indicate the ability of the issuer to impose and collect taxes and other receipts that can be used to discharge the issuer's obligations. The information would normally include the issuer's range and level of services and the capacity of the issuer to provide those services. In addition, under most circumstances, a discussion of pertinent population, economic, sociological and educational data should also be presented.

Examples of the types of information that may be appropriate include:

(1) A statement of the issuer's location and size; the year in which the issuer was established; the name of the state or other jurisdiction under the laws of which it was established; the form of government, such as mayor-council or council-manager; the important powers, sources of authority and governmental organization of the issuer; the geographic boundaries within the issuer's jurisdiction in general terms or as an indication of the issuer's location (using maps, if informative); factors likely to affect the issuer's tax base (such as annexation policies, procedures and history of the issuer and adjacent governmental entities, use of land by tax-exempt entities, and legal constraints on development); and

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relationships to and areas of shared responsibilities with other governmental entities. Provide a description of land use within the issuer's boundaries (*e.g.*, percentages of land use for residential, industrial, commercial, governmental or agricultural purposes).

(2) A list of the principal officials of the issuer. Discuss the manner in which the principal officials of the issuer are chosen, their respective terms, relevant conflicts of interest, and the authority and method by which policy and program decisions are made. If any principal official is appointed by another official, so indicate.

(3) A brief description of (a) the principal governmental services performed by the issuer; (b) services which the issuer is required to perform; (c) the revenue sources for the services, and the degree of self-support of any service activity, described pursuant to (a) and (b); (d) the extent to which similar or differing governmental services are performed by or performed in conjunction with other governmental entities; and (e) any recent significant changes or interruptions in those services.

(4) A discussion of the general character of the existing principal facilities of the issuer. Indicate special hazards and environmental conditions. The information should allow the investors to appraise the ability of the issuer's principal facilities to continue to provide the services for which they are intended. Describe any capital improvements plan that indicates future construction requirements of the issuer and the currently projected methods of financing the necessary expenditures.

(5) Where available, a statement or description of historical and current data concerning, and estimates of, the issuer's population, per capita and median family income, median age, education levels and school enrollment. Where available, provide the information for the past five years.

(6) A statement or description of historical and current data concerning commercial and residential construction, retail sales, commercial and savings bank deposits, property valuation, building permits by appropriate categories, and values in housing stock. Where available, provide the information for the past five years.

It may be appropriate for state government issuers to substitute, for the matters recommended in the preceding paragraph, a presentation of personal income or the state gross product by sectors (*e.g.*, manufacturing, construction, mining, trade, and services) and a discussion of historical and current data concerning the economic stability of those sectors.

(7) A statement or description of historical and current data concerning the following:

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- (a) The principal industries, commercial and governmental entities, and other employers in the issuer's immediate geographical area, indicating the respective levels of employment;
- (b) If reasonably reliable information is available to the issuer, the general economic stability of those industries, entities or employers;
- (c) The economic effects of any recent addition or loss of major industrial, commercial or governmental entities, or other employers; and
- (d) The unemployment rate in the issuer's geographic area.

Where available, provide the information for the past five years.

(8) The number of persons employed by the issuer and the percentage of employees of the issuer who belong to unions or other collective bargaining groups, naming the principal unions or groups. If the total number of employees has changed by more than 15% within the previous three years, describe the change and the reasons therefor. Describe the issuer's employee relations, including any current or pending work stoppages.

B. Governmental Enterprise. The following information in this subsection B should be provided in offerings of securities secured from the revenues of an enterprise. To the extent that the sources of revenues to pay debt service are dependent on the viability of a service area, certain information recommended in paragraphs (5), (6) and (7) in Subsection A respecting economic and demographic information should be set forth.

Generally, in the case of securities payable from revenues of multiple facilities or sources, information on an individual basis is not necessary, unless it bears particular importance. Rather, aggregate information may be provided. For securities payable from revenues of enterprises having substantial counterparts in the private sector (*e.g.*, health care, housing and educational institutions), information recommended for disclosure in Section VI at page 26 may be relevant.

(1) State the year in which the enterprise was organized, its form of organization (such as "a corporation," "an unincorporated association" or "a department of the issuer"); the geographic boundaries within the issuer's jurisdiction or service areas in general terms or as an indication of the enterprise's location (using maps, if informative); and the name of the state or other jurisdiction under the laws of which it was organized. Name the municipalities, counties and states in which the enterprise is located and describe the service area.

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(2) List the principal officials of the enterprise. Discuss the manner in which the principal officials of the enterprise are chosen, their employment over the past five years, their respective terms, relevant conflicts of interest, and the authority and method by which policy and program decisions are made. If any principal official is appointed by another official, so indicate.

(3) Describe the location, capacity, extent of utilization, age, adequacy, condition and general character of the principal facilities of the enterprise. If any property is leased or otherwise not held in fee or is held subject to any significant encumbrance, discuss briefly the important factors in this regard. Provide sufficient information so that an investor may be able to appraise the ability of the enterprise to continue to provide its services and to pay debt service on the securities. Such information should be furnished that will inform investors of the extent of utilization and the productive capacity of the enterprise's facilities. Itemization and detailed description of the facilities generally need not be given. Describe the future construction requirements of the enterprise and the currently projected methods of financing those expenditures. Describe the existence of funded reserves, if any, for replacement of property, and policies governing the continuance of funding those reserves.

(4) If the proceeds of the offering will be used for the construction or acquisition of all or part of the enterprise, provide information regarding the following:

(a) Describe the new or acquired facilities, including their proposed purposes, productive capacity, anticipated useful life and nature of construction or acquisition. State the dates proposed for the commencement and completion of the construction or acquisition, with an indication of expectations for significant stages of completion; the dates proposed for the commencement of operations in the new facilities; the amount and location of the land on which the facilities are to be located; and the rights of the issuer or the enterprise in relation to the land and facilities, such as whether the land is held in fee, is leased, is held subject to encumbrances, or must be condemned or otherwise acquired before use.

(b) Discuss the construction pricing, completion, bonding and other contracting and oversight or acquisition arrangements, and methods employed in selecting contractors and principal subcontractors. Identify principal contractors and subcontractors, engineers, architects and other parties participating in the construction, their experience and bonding arrangements, and in the case of supervising or inspecting engineers or architects, their independence or lack thereof.

(c) Indicate environmental risks known to the issuer. If an environmental study of the property has been undertaken, describe the results of the study.

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- (d) The status of licenses, permits and franchises required to be held by the enterprise for any project being financed and relevant processes for obtaining them. Discuss regulatory constraints on capacity. Describe any federal, state or local governmental regulation of, or legislative requirements imposed on, the construction or acquisition of the project, including price or rate regulation or maintenance requirements, significant environmental protection requirements, and the effects of that regulation on the construction and acquisition.

(5) If the proceeds of the offering will be used for construction or acquisition of all or part of the enterprise, reference should be made to any relevant engineering or financial feasibility reports or studies on the feasibility of the construction or acquisition as a part of the enterprise's operations and studies of the demand for the new operations. Name the parties preparing the reports or studies, state the experience of those parties, and state whether the consent of those parties to the reference to the reports or studies has been obtained. Reference should also be made to any other reports or studies known to the issuer that may have a significant bearing on the conclusion of feasibility.²⁹ All references should describe the relevant conclusions of the reports or studies that relate to the use of proceeds as set forth in the official statement. If no engineers' or financial feasibility report or study has been made on behalf of the issuer in connection with a construction project or acquisition of facilities, or if no demand study has been conducted, a statement should be made to that effect.

(6) Describe the operations now performed and intended to be performed by the enterprise and the general history of the operations during the past five years or any shorter period for which the enterprise may have been engaged in operations. The description should include, but not be limited to, information as to the matters contained in this subsection (if the enterprise is engaged or will engage in more than one activity, provide appropriate description for each of the principal activities; as used herein, the term "rates" includes user fees and other charges):

(a) The principal services rendered or to be rendered by the enterprise, and the principal users of, or service area for, the services, discussing any reliance on seasonal factors relating thereto. Describe recent significant changes in the kinds of services rendered or in the users or area served. Describe procedures followed and technology applied in performing services.

(b) Whether the enterprise has or will have an exclusive position in its service area and, if not, a description of the competitive conditions in the service area and the present

²⁹ See Procedural Statement No. 9 at page 99 regarding the use of reports and opinions of experts and attribution thereto.

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and expected competitive position of the enterprise, if known or reasonably available to the issuer.

(c) The number of customers of the enterprise at present and as expected after the completion of construction or acquisition divided into categories according to major sources of revenues, and rates paid or to be paid by appropriate categories of customers for the enterprise's services. Provide relevant comparisons to rates of nearby service areas. If an important part of the operations is or will be dependent upon a single customer or a few customers, the loss of any one or more of whom would have an adverse effect on the operations or financial condition of the enterprise, give the names of the customers, their relationship, if any, to the enterprise, and significant facts regarding their contribution to the operations of the enterprise.

(d) A management or operations contract, in effect or as proposed, identifying the manager or operator, describing operating costs, including the manager's or operator's fee, and providing a brief description of the manager's or operator's experience and financial condition.

(e) The parties responsible for determining and modifying rates; limitations on the powers of those parties; rate setting procedures; and rights of review of the enterprise or others. Describe any rate covenant or similar agreement on the part of the issuer or the enterprise, and the degree to which the covenant or agreement is designed to provide for debt service and operating or other important expenses. Give a history of the rates for the past five years.

(f) The sources, reserves, inventory and availability of supplies and raw materials essential to the enterprise's present and proposed operations, and arrangements and contractual relationships relating thereto. Where output or disposal concerns are relevant, discuss how output or waste is to be handled.

(g) The status of licenses, permits and franchises required to be held by the enterprise for its current operations and relevant processes for obtaining them. Discuss the importance and duration of important licenses, franchises and concessions held by the issuer. Discuss regulatory constraints on capacity. Discuss the importance and duration of important licenses, franchises and concessions held by the issuer. Describe any federal, state or local governmental regulation of, or legislative requirements imposed on, the operations of the enterprise, including price or rate regulation or maintenance requirements, significant environmental protection requirements, and the effects of that regulation on the enterprise's present and proposed operations.

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(h) The number of persons employed and to be employed after completion of construction or acquisition, and the percentage of employees of the enterprise who belong to unions or other collective bargaining groups, naming the principal unions or groups. If the total number of employees has changed by more than 15% within the previous three years, describe the change and the reasons therefor. Describe the issuer's employee relations, including any current or pending work stoppages or other items important to the issuer's operations or financial condition.

(i) If the enterprise has not received revenues from operations for the entire fiscal year prior to the date of the sale of the securities being offered, provide an analysis of the enterprise's current year's plan of operations, including a description of any results that may have been experienced at the time of the offering and a discussion of known factors and important assumptions related to operations for the next fiscal year. If the information is not available, the reasons for its not being available should be stated. Information relating to any plan should include such matters as:

- (i) A statement in narrative form indicating the enterprise's plan of construction or acquisition. The schedule for completion and categories of expenditures and sources of cash resources should be identified.
- (ii) Any anticipated large construction or acquisition of plant or equipment and its capacity.
- (iii) Other matters that may be important to the enterprise's construction or acquisition and operations.
- (iv) The issuer's plan of operations for the 12 months following completion of the program of construction or acquisition, including sources of funds for operations by amounts and categories, important expenditures by amounts and categories, employment, sources of supply, marketing, and production of products or provision of services.

SECTION VI

Description of Conduit Issuers

Most recommendations in this section pertain both to the obligations of private profit-making and nonprofit conduit issuers.³⁰ In certain offerings, this section may not be appropriate, for example, in offerings involving the obligations of governmental entities to the extent those obligations are financed through other governmental entities.³¹ This section is not designed for governmental issuers or issuers of credit enhancements. *As used in this section, the term "issuer" means the conduit issuer.*

These *Guidelines* generally treat securities to finance programs for student or mortgage loans as conduit securities, although certain elements of this section may not be relevant to offerings of those securities, and certain recommendations in Section V, beginning at page 19, for governmental issuers and governmental enterprises may be relevant.

Issuers eligible to file registration statements with the Securities and Exchange Commission on Form S-3 or another form of the Commission permitting incorporation by reference may wish to follow, in place of the recommendations contained in this section, the disclosure content required in that form.³² They may wish to incorporate by reference information on file with the Securities and Exchange Commission upon informing investors of the means by which the information on file may be obtained, specifying the address and telephone number of the Securities and Exchange Commission office from which it is available, and the name, title, address and telephone number of the official of the conduit issuer, the trustee

³⁰ See the Glossary in Appendix A for the definitions of the terms "conduit issuers" and "conduit securities."

³¹ Reference is made in those instances to Section V-B at page 21.

³² Conduit issuers who have filed registration statements or other information with the Securities and Exchange Commission or other regulatory authorities should compare for consistency their information in the official statement with the information in the registration statements or other documents so filed.

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or the underwriter from whom it is available during the offering period.³³ With respect to other issuers, the following recommendations represent, in general, an abbreviated statement of many of the requirements contained in Form S-1 or S-11, as appropriate, of the Commission.

Normally, in offerings involving separate conduit securities, a governmental issuer need provide only limited disclosure, such as the identity of the governmental issuer, its role in the transaction, and its authority. In other instances, when the role of a governmental issuer is greater than acting merely as a conduit, there should be disclosure regarding the governmental issuer and its securities relevant to the role undertaken.

In offerings of securities that are nonrecourse obligations or otherwise are payable solely from the revenues of a particular facility or program, the information provided should focus appropriately upon the facility or program, rather than upon an owner or sponsor. To the extent that the credit or historical performance of the owner, sponsor or another party supports or could have a bearing upon the payment of the securities, the information provided should focus as well upon that party.

The information contained in this section should be provided in an offering of securities of a conduit issuer; the information should be the responsibility of the conduit issuer, and not of the governmental issuer. The conduit issuer should be identified as the source of the information provided by it. As indicated in Procedural Statement No. 11 at page 101, it is recommended that the governmental issuer receive from the conduit issuer certain assurances.

Information provided in response to this section should discuss the nature and development of the business of the issuer, its subsidiaries and any predecessors during the past five years and the business intended to be conducted by the issuer and its subsidiaries. Information should be given for earlier periods if relevant to an understanding of the development of the business. Where appropriate, information presented under this section should be shown by business segments.

In those instances in which a conduit issuer has significant subsidiaries providing revenues securing the securities, describe intercorporate relationships (using an organization chart, if appropriate) and, as recommended in this section, information relevant to the respective corporations.

(1) State the year in which the issuer was organized and its form of organization, such as "a corporation," "a nonprofit corporation" (indicating relevant federal income tax considerations), "an unincorporated association," "a general partnership," "a limited partnership" or

³³ See the Glossary in Appendix A for the definition of the term "offering period."

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other appropriate statement. Identify the state or other jurisdiction under the laws of which it was organized. Describe any bankruptcies, receiverships, mergers, acquisitions of assets other than in the ordinary course of business, or other reorganizations affecting the issuer or its affiliates. State the location of the issuer, and describe its product market or service area, using maps, if informative. State relevant corporate or similar affiliations (*e.g.*, affiliations of educational or health care institutions with religious organizations), accreditations and special designations, indicating the limits on the obligations of any affiliated organization to pay debt service on the securities or make payments on other obligations of the conduit issuer.

(2) The recommendations in this subsection apply to profit-making conduit issuers.

(a) List the principal officers, the directors and the promoters of, and direct and indirect owners of more than 5 % of the common stock or partnership interests (indicating the stock or partnership interests) in, the issuer, and in the case of a partnership, the general partners, identifying the partners with management responsibilities and describing their roles.

(b) State the ages and titles of the listed officers, directors and partners; describe briefly their responsibilities; and state their direct and indirect compensation, including their direct and indirect salaries, bonuses, contingent compensation and noncash compensation (other than insurance plans available broadly within the issuer). Describe their participation in stock option, stock purchase, stock appreciation or similar plans (giving a brief description of the plans), their participation in retirement or pension plans (giving a brief description of the plans), and their employment contracts, if any.

(c) Discuss the manner in which the listed officers and directors of, and general partners in, the issuer are chosen, their respective and aggregate direct and indirect ownership interests in the issuer, their employment over the past five years, their respective terms, family relationships among them and between them and the listed owners, relevant conflicts of interest, and the authority and method by which the issuer's policy decisions are made.

(d) Describe briefly transactions since the beginning of the issuer's last fiscal year, or any currently proposed transaction, to which the issuer or any of its subsidiaries was or is to be a party and in which any of the listed persons had, or will have, a direct or indirect interest, naming the person and indicating the person's relationship to the issuer, the nature of the person's interest(s) in the transaction(s), the amount(s) of the transaction(s) and, where practicable, the amount(s) of the person's interest(s) in the transaction(s). In describing indirect ownership interests, compensation and interests in

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transactions, the amounts owned or received by immediate family members and organizations in which substantial interests are owned by the listed persons or their immediate family members should be included.

(e) Describe the circumstances surrounding any bankruptcy, receivership, insolvency, criminal conviction, or remedy imposed for securities or commodities trading law violations occurring during the past five years involving any listed person.

(f) If any listed officer is appointed by another listed officer, so indicate.

(3) The recommendations in this subsection apply to nonprofit conduit issuers. If a nonprofit conduit issuer has significant profit-making subsidiaries providing revenues securing the securities, see subsection (2) above. Respecting the nonprofit conduit issuer:

(a) List the principal officers, the directors and the promoters of the issuer.

(b) State the ages and titles of the listed officers and directors; describe briefly their responsibilities; state their direct and indirect compensation (other than insurance plans available broadly within the issuer); and describe their participation in retirement or pension plans (giving a brief description of the plans), and their employment contracts, if any.

(c) Discuss the manner in which the listed officers and directors of the issuer are chosen, their employment over the past five years, their respective terms, family relationships among them, relevant conflicts of interest, and the authority and method by which the issuer's policy decisions are made.

(d) Describe briefly transactions, since the beginning of the issuer's last fiscal year, or any currently proposed transaction, to which the issuer or any of its subsidiaries was or is to be a party and in which any of the listed persons had, or will have, a direct or indirect relevant interest, naming the person and indicating the person's relationship to the issuer, the nature of the person's interest(s) in the transaction(s), the amount(s) of the transaction(s) and, where practicable, the amount(s) of the person's interest(s) in the transaction(s). In describing compensation and interests in transactions, the amounts owned or received by immediate family members and organizations in which substantial interests are owned by the listed persons or their immediate family members should be included.

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(e) Describe the circumstances surrounding any bankruptcy, receivership, insolvency, criminal conviction, or remedy imposed for securities or commodities trading law violations, in each case during the past five years, for any listed person.

(f) If any listed officer is appointed by another listed officer, so indicate.

(4) Describe the location, capacity, extent of utilization, age, adequacy, condition, and general character of the principal facilities and other assets of the issuer, with appropriate quantification (*e.g.*, for multi-family housing, health care and educational residential offerings, the numbers of units classified by appropriate categories). If any property is leased or otherwise not held in fee or is held subject to any significant encumbrance, discuss briefly the important factors in this regard. Provide sufficient information so that an investor may be able to appraise the ability of the issuer to continue to produce its products or to provide its services and to pay debt service on the securities. Such information should be furnished that will inform investors of the extent of utilization and the productive capacity of the issuer's facilities. Describe the future construction and acquisition requirements of the issuer and the currently projected methods of financing those expenditures. Describe the existence of funded reserves, if any, for replacement of property, and policies governing the continuance of funding those reserves.

(5) If the proceeds of the offering will be used for the construction or acquisition of all or part of the issuer's facilities providing revenues to be used for the payment of the securities, give information regarding the following:

(a) Describe the new or acquired facilities, including their proposed purposes, productive capacity, anticipated useful life and nature of construction or acquisition. State the dates proposed for the commencement and completion of the construction or acquisition, with an indication of expectations for significant stages of completion; the dates proposed for the commencement of operations in the new facilities; the amount and location of the land on which the facilities are to be located; and the rights of the issuer in relation to the land and facilities, such as whether the land is held in fee, is leased, is held subject to encumbrances, or must be condemned or otherwise acquired before use. Discuss mortgages or security interests in the property in favor of the investors.

(b) Discuss the construction pricing, completion, bonding and other contracting and oversight or acquisition arrangements, and methods employed in selecting contractors and principal subcontractors. Identify principal contractors and subcontractors, engineers, architects and other parties participating in the construction, their experience and bonding arrangements, and in the case of supervising or inspecting engineers and architects, their independence or lack thereof.

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- (c) Indicate environmental risks known to the issuer. If an environmental study has been undertaken, describe the results of the study.
- (d) The status of licenses, permits and franchises required to be held by the issuer for any project being financed and relevant processes for obtaining them. Discuss regulatory constraints on capacity. Describe any federal, state or local governmental regulation of, or legislative requirements imposed on, the construction or acquisition of the project, including price or rate regulation or maintenance requirements, significant environmental protection requirements, and the effects of that regulation on the construction or acquisition.

(6) If the proceeds of the offering will be used for construction or acquisition of all or part of the issuer's facilities, reference should be made to any relevant engineering or financial feasibility reports or studies on the feasibility of the construction or acquisition as a part of the issuer's operations and studies of the demand for the products to be produced or services to be performed. Name the parties preparing the reports or studies, state the experience of those parties, and state whether the consent of those parties to the reference to the reports or studies has been obtained.³⁴ Reference should also be made to any other reports or studies known to the issuer that may have a significant bearing on the conclusion of feasibility. All references should describe the relevant conclusions of the reports or studies that relate to the use of proceeds as set forth in the official statement. If no engineering or financial feasibility report or study has been made on behalf of the issuer in connection with a construction project or acquisition of facilities, or if no demand study has been conducted, a statement should be made to that effect.

(7) Describe the operations now performed and intended to be performed by the issuer and the general history of the operations during the past five years or any shorter period for which the issuer may have been engaged in operations. The description should include, but not be limited to, information as to the following matters (if the issuer is engaged or will engage in more than one activity, provide appropriate documentation and description for each of the principal activities):

- (a) The principal products produced or to be produced or services performed or to be performed by the issuer, and the principal markets for the products, or principal users of or service area for the services, discussing reliance on seasonal factors. Describe recent relevant changes in the kinds of products produced or services rendered, or in the markets for the products or users or area served. Describe processes used and technology applied in producing products or performing services.

³⁴ See Procedural Statement No. 9 at page 99 regarding the use of reports and opinions of experts and attribution thereto.

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(b) The position of the issuer in its present or expected markets or service areas, and the competitive conditions therein. Describe and identify the principal sources of competition. Indicate the level of market or service area share required to cover debt service at the agreed levels, or if there are no debt service coverage covenants, to pay debt service. Where the viability of a market or service area or of a particular population is important, provide economic and demographic information of the general character recommended in paragraphs (5), (6) and (7) of Section V-A of these *Guidelines* at page 20.

(c) The number of customers of the issuer at present and as expected after the completion of construction or acquisition, divided into categories according to major sources of revenues, and amounts paid or to be paid by relevant categories of customers for the issuer's products or services. If an important part of the operations is or will be dependent upon a single customer or a few customers, the loss of any one or more of which would have an adverse effect on the operations or financial condition of the issuer, give the names of the customers, their relationship, if any, to the issuer, and relevant facts regarding their contribution to the operations of the issuer. If more than 15% of revenues in any of the last five years was derived from a single governmental or corporate source, so state and describe the amounts and circumstances for each year in the five-year period. If users or customers are subsidized, so state and describe the amounts and circumstances involved. Present and discuss a five-year history for important categories of sources of revenues.

(d) A management or operations contract, in effect or as proposed, identifying the manager or operator, describing operating costs, including the manager's or operator's fee, and providing a brief description of the manager's or operator's experience and financial condition.

(e) The procedures for determining and modifying prices, rates or other charges; limitations on the powers of the issuer to set prices, rates or other charges freely; rights of review of others; third-party arrangements for payment of prices, rates and other charges, including a five-year history by category; and appropriate legislative and policy considerations affecting prices, rates or other charges. Describe any rate covenant or similar agreement on the part of the issuer.

(f) The sources, reserves, inventory, and availability of supplies and raw materials essential to the issuer's present and proposed operations, and arrangements and contractual relationships relating thereto. Where output or disposal concerns are relevant, discuss how output or waste is to be handled.

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(g) The status of licenses, permits and franchises required to be held by the issuer for its current operations and relevant processes for obtaining them. Discuss regulatory constraints on capacity. Discuss the importance and duration of important patents, trademarks, licenses, franchises and concessions held by the issuer. Describe any federal, state or local governmental regulation of, or legislative requirements imposed on, the operations of the issuer, including price or rate regulation or maintenance requirements, significant environmental protection requirements, and the effects of that regulation on the issuer's present and proposed operations.

(h) The number of persons employed and to be employed after completion of construction or acquisition, and the percentage of employees of the issuer who belong to unions or other collective bargaining groups, naming the principal unions or groups. If the total number of employees has changed by more than 15% within the previous three years, describe the change and the reasons therefor. Describe the issuer's employee relations, including any current or pending work stoppages or other actions important to the issuer's operations or financial condition; indicate the history of employee relations for the past ten years. Discuss other staffing arrangements (*e.g.*, medical staff of health care institutions) in terms of size, specialization, experience, stability, availability, and sources of business.

(i) If the issuer has not received revenues from operations for the entire fiscal year prior to the date of the sale of the securities being offered, provide an analysis of the issuer's current year's plan of operations, including a description of any results that may have been experienced at the time of the offering and a discussion of known factors and important assumptions related to operations for the next fiscal year. If the information is not available, the reasons for its not being available should be stated. Information relating to any plan should include such matters as:

- (i) A statement in narrative form indicating the issuer's plan of construction or acquisition. The schedule for completion and categories of expenditures and sources of cash resources should be identified.
- (ii) Any anticipated large construction or acquisition of plant or equipment and its capacity.
- (iii) Other matters that may be important to the issuer's construction or acquisition program and operations.
- (iv) The issuer's plan of operations for the 12 months following completion of the program of construction or acquisition, including sources of funds for

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operations by amounts and categories, important expenditures by amounts and categories, employment, sources of supply, marketing, and production of products or provision of services.

SECTION VII

Debt Structure

The following recommended information is intended to describe various important factors related to the debt structure of the issuer or governmental enterprise, including authority to incur debt, limitations on debt, debt trends, the size of prospective debt burden, and rates of retirement. The tax-related information is recommended for general obligation or special tax securities. Sufficient information should be provided by the issuer or governmental enterprise so that an investor will be able to evaluate tax and other revenue sources in relation to the obligations or commitments of the issuer or governmental enterprise. As used in this section and throughout these *Guidelines*, the term "enterprise" means a governmental enterprise.

A. Furnish the information of the type recommended by the following table as to appropriate categories of long-term and short-term securities and other indebtedness of the issuer or enterprise:

Category of indebtedness	Amount authorized or issued	Amount outstanding as of (date) (less sinking fund installments paid to that date)	Amount to be outstanding
	\$	\$	\$

The appropriate categories of indebtedness will vary from issuer to issuer and from enterprise to enterprise. Generally, the purpose, security and lien position, or form of the indebtedness may be used as a basis for categorization. When distinguishing between gross and

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Debt Structure

net indebtedness, provide the criteria used for that distinction. Variable rate debt, bond anticipation debt, and deep discount, zero coupon or other debt, the principal of or interest on which accretes over time, should be identified clearly. Describe interest rate swaps to which the issuer is a party bearing upon the issuer's ability to pay interest to investors in the securities, identifying the counter swap party, the face, contract or notional principal amount of the transaction, and the nature and terms of the swap, and discussing the issuer's credit risk and market risks, requirements of the transaction that could have a bearing upon the issuer's financial condition, and related accounting policies. The information furnished should also include a separate description of other commitments, such as long-term leases, lease-purchase obligations, installment purchase obligations, joint ventures, guaranteed debt, "moral obligation" indebtedness, output or supply contracts, take or pay or similar contracts and other forms of contingency indebtedness and indebtedness that does not appear on the issuer's balance sheet.

Debt should be regarded as "authorized" when all legal steps have been taken by the issuer for its authorization for issuance, such as required approval by the governing body or the voters. However, actions requiring only minor administrative performance normally should not be regarded as a step for the authorization of debt. If the issuer intends to issue additional indebtedness, not yet fully authorized, the circumstances should be described. Describe indebtedness that may be incurred in accordance with a multi-year plan and relevant contingencies.

The amount of indebtedness outstanding should be as of the latest practicable date, within the previous 120 days, with any major changes in debt position, such as any new obligations issued during the interim, appropriately indicated. In stating the amount to be outstanding, give effect to the securities being offered and the retirement of outstanding debt with proceeds of the securities, and in addition, give effect to required or permitted debt retirement from existing resources.

B. Furnish a debt service schedule of the outstanding indebtedness of the issuer or enterprise, including required payments of principal and interest and, where appropriate, authorized indebtedness to the final maturity date of all outstanding securities. Debt payable from different tax or revenue sources should be shown in separate columns as well as in the "Total" column. Debt service on the securities being offered should be included in the schedule. Indicate in footnotes to the schedule any assumptions on which information in the schedule is based, such as interest rates on authorized but unissued debt and, in the case of refundings, debt to be extinguished. The schedule may be presented in substantially the following tabular form:

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Fiscal year ending (date)	Principal	Interest	Total
19__	\$	\$	\$
19__			\$
19__			\$
.			.
.			.
.			.
(year)			\$

C. Furnish the information respecting governmental issuers and enterprises called for by the following table as to indebtedness of overlapping governmental entities. When distinguishing between gross and net overlapping indebtedness, provide the criteria used for that distinction. The information should be as of the latest practicable date, within the previous 120 days, with any major changes in debt position during the interim appropriately indicated; provided that it is appropriate to provide information from the audited financial statements of a governmental entity as of the end of its prior fiscal year, with a reflection of major interim changes, if available. Unless inappropriate, the information in the last column should be based upon the estimated true (market) valuation, or if not available, other appropriate valuation, of taxable real and personal property in the respective jurisdictions.

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Name of overlapping entity	Amount of authorized overlapping debt	Amount of outstanding debt (less sinking fund as of [date])	Percent of outstanding debt chargeable to persons or property in issuer's boundaries*
<hr/>			
	\$	\$	\$

* Identify the method of allocation used.

D. Give information as of the end of each of the governmental issuer's past five fiscal years with respect to its (1) debt per capita; (2) debt expressed as a percentage of total assessed valuation of taxable real and personal property; (3) debt expressed as a percentage of total estimated true (market) valuation, or if not available, other appropriate valuation, of taxable real and personal property; and (4) debt per capita expressed as a percentage of per capita income.

E. State the amounts of long-term and short-term indebtedness of the issuer or enterprise outstanding as of the end of each of its past five fiscal years. In the case of an enterprise, or conduit issuer, if appropriate, state the historical and prospective debt service coverage of the issue in appropriate terms.

F. Describe any legal debt limit imposed at law or pursuant to contractual agreements (e.g., additional bonds tests) or any tax limit of the issuer or enterprise, the legal source of the limit, the indebtedness or tax rates chargeable to the limit, and the unused borrowing or taxation margin. Describe requirements or practices for approval or supervision by other governmental authorities or corporate entities of debt issuance by the issuer. Describe recent taxpayer initiatives that may affect the issuance of debt, the security therefor, or relevant receipts of the governmental issuer.

G. If any securities of the issuer have been in default as to principal or interest payments or in any other relevant respect, or any agreements or legal proceedings of the issuer relating to securities have been declared invalid or unenforceable, at any time in the past 25 years, state the

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circumstances giving rise to the default or declaration, describe the relevant provisions of the securities and authorizing and governing instruments, and any such agreements or proceedings, and state the amounts involved. State whether the default or declaration has been terminated or waived, and if so, the manner of such termination or waiver.

SECTION VIII

Basic Documentation

The purpose of this section is to make recommendations regarding the descriptions of the basic documentation involved in the transaction and matters closely related thereto. Information relating to the fundamental terms and structure of the obligations being offered is recommended in Section III at page 10. Generally, repetition of information may be minimized through use of appropriate cross-references.

The official statement should provide in a single location in the document, which may be an appendix, the following information to the extent relevant regarding the securities being offered and the basic documentation.³⁵ As used in this section and throughout these *Guidelines*, the term "enterprise" means a governmental enterprise.

A. State the important definitions, and describe provisions regarding the following:

- (1) The flow of funds and any restrictions thereon;
- (2) The creation or maintenance of reserves; and
- (3) Maintenance and insurance of properties.

Describe provisions imposing requirements that financial ratios be satisfied or restricting transfers of property, dissolution, liquidation or, for profit-making conduit issuers, the declaration or payment of dividends.

B. Describe the purposes for which additional obligations may be issued, and provisions permitting or restricting the issuance of additional securities or the incurrence of additional debt.

³⁵ See the Glossary in Appendix A for the definition of the term "basic documentation," which includes the indenture, trust agreement, resolution or ordinance, lease, installment purchase agreement, loan agreement, bond, note, certificate of participation or other documentation authorizing the issuance of the securities or establishing the rights and responsibilities of the issuer, investors or other parties to the transaction.

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Describe legal requirements, such as voter, governing body or other governmental approval, that must be met in connection with debt issuance. In offerings of revenue securities, describe the issuer's or enterprise's authority to borrow funds for various purposes and the conditions under which the enterprise is empowered to issue varying types of indebtedness.

C. Name any trustee or fiscal agent; summarize its rights and duties; state the important conditions and the percentage of securities that would require the trustee or fiscal agent to take any action; and describe the rights of securities holders to enforce the provisions of the securities or the basic documentation. Describe provisions governing resignation or removal of the trustee and appointment of a substitute or successor trustee. Describe any indemnification the trustee or fiscal agent may require before proceeding to enforce the rights of holders of the securities. Indicate any significant business relationship of the trustee or fiscal agent with the issuer as security holder, depository or otherwise. If the trustee or fiscal agent acts in the capacity of trustee or fiscal agent for the holders of other securities of the issuer, discuss that relationship or capacity. Summarize similar provisions and considerations, where applicable to registrars and paying agents.

D. Summarize provisions in the securities being offered, the indenture or other authorizing or governing instruments regarding specified events that constitute defaults and the remedies therefor under the securities and whether any periodic evidence is required to be furnished as to the absence of default or as to compliance with the terms of the securities, indentures or instruments. Describe remedial actions designed for the protection of securities holders and relating to the occurrence of relevant events or conditions not constituting defaults (*e.g.*, certain rate maintenance provisions designed to sustain coverage). If the issuer cannot be sued for failure to perform its obligations to the holders of the securities or if judgments resulting from suit are not enforceable against the issuer, such facts should be stated.

E. Describe the other relevant provisions of the basic documentation, including where appropriate, the following:

- (1) Provisions establishing the principal funds and accounts, their functions and custody, the flow of funds among them, and the application of surplus amounts;
- (2) Circumstances under which the basic documentation may be discharged or the lien of the securities may be defeased, any notice required to be given to securities holders in connection with those actions, and the resulting rights of the securities holders thereafter;
- (3) Provisions relating to modification of the terms of the documentation or rights of the securities holders, including circumstances under which the trustee or other

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parties may approve modifications without approval of securities holders and procedures and conditions for those modifications, when securities holder approval is required, when approval of an issuer of credit enhancement is required, and the procedures and conditions for obtaining securities holder approval of modifications;

- (4) Provisions governing registration, exchange, authentication, cancellation, delivery and transfer of the securities, describing any transfer charges that may be imposed; and
- (5) Record date provisions with respect to payments to and actions by securities holders.

F. In the case of certificates of participation or other partition of the issuer's obligations under lease or installment purchase financings, describe the terms of the documents governing the holding of the issuer's obligations, issuance of certificates, flows of funds, and rights and obligations of the trustee, custodian or other similar party holding the issuer's obligations and of the securities holders.

G. Describe the documentation governing the rights and responsibilities of a conduit issuer, including the following:

- (1) Provisions relating to the nature of the payments to be made by that issuer;
- (2) Agreements made by that issuer for the benefit of the securities holders;
- (3) Mortgages and security interests granted by that issuer or any party related to it;
- (4) Restrictions on the conduct of business; and
- (5) Financial ratios or other similar provisions required to be satisfied.

See also the preceding recommendations in this section and Procedural Statement No. 11 at page 101.

H. In conduit issues and those governmental issues where such arrangements exist, discuss relevant contractual relationships with third parties, including the rights and responsibilities of the parties, defaults, remedies, compensation, and expiration dates. The experience of important third party providers should be discussed, and where appropriate, prior records (*e.g.*, loan

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collections and defaults in mortgage or loan programs) should be indicated for the prior five years.

I. Describe representations, covenants and other mechanisms designed to protect (through preventive action, implementation, monitoring or enforcement of agreements) against the occurrence of circumstances after the issuance of the securities that could affect the exemption of interest on the securities from federal and state income taxation. Describe provisions respecting procedures to be taken and rights of the parties in the event of a change in status of the exemption of interest on the securities from federal and state income taxation.

SECTION IX

Financial Information Concerning Governmental Issuers and Governmental Enterprises

This section makes recommendations respecting governmental issuers and governmental enterprises. The recommendations that follow are intended to indicate important factors related to the financial condition and results of operations of governmental issuers and governmental enterprises. This section is divided into two parts: A. recommended information summarizing the financial practices and recent results of operations of the issuer or governmental enterprise; and B. information to be presented as the financial statements of the issuer or governmental enterprise for the past two fiscal years. The financial statements are generally contained in an appendix to the official statement, and if appropriate, other financial information may also be included in the body of the official statement or in the appendix.

This section is not designed for use for securities of conduit issuers or issuers of credit enhancements. As used in this section and throughout these *Guidelines*, the term "enterprise" means a governmental enterprise.

A. General Description of Financial Practices and Recent Results of Operations.

(1) Furnish in comparative columnar form a summary of operations for the fund types/account groups that would provide information pertinent to the securities being offered. The information should be provided for each of the past five fiscal years. If the official statement is dated more than 120 days after the past fiscal year, in the case of enterprises, and in those unusual circumstances where it is otherwise appropriate, the information should be provided for the latest practicable date for an appropriate interim period of the current fiscal year and the most recent prior fiscal year.

(a) Information regarding operations of the general and other fund types/account groups may be presented on a combined basis as appropriate. The summary should include major categories of actual revenues and expenditures and comparable budgeted amounts. In

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addition, beginning and ending fund balances and transactions reported as adjustments to fund balances should be included.

(b) Subject to appropriate variation to conform to the nature of the operations of an enterprise or internal service fund type, the summary and discussion should include: operating revenues; operating expenses; interest expense; intergovernmental revenues; operating transfers; income from continuing operations; income from discontinued operations; extraordinary items; the cumulative effects of changes in accounting principles; and net income or loss. The summary should also include the amount of any changes in retained earnings, other than net income or loss, and the amount of retained earnings at the end of each of the fiscal periods presented.

(c) Following each summary of operations, include management's discussion of the relevant trends and changes and the reasons therefor related to the components of such summary. For example, if debt service, as a percentage of total expenditures, revenues or other relevant criteria, has increased significantly in recent years, describe the conditions that contributed to the trend. Furthermore, if certain revenues or expenditures are dependent on the financial policies or practices of another governmental entity, state the amounts involved and describe the relationship of the other entity to the issuer or enterprise. In addition, the discussion should include the effect of a change in accounting principles or procedures during any of the years presented.

(d) Describe any known facts that would significantly affect any financial information presented or the future financial operations of the issuer or enterprise.

(e) A brief discussion of projected operations of the issuer or enterprise in accordance with a current multi-year financial plan may be appropriate.

(2) Describe generally the accounting policies of the issuer or the enterprise. Indicate any important deviations (and the effects thereof, if quantifiable) from generally accepted accounting principles, as those principles are supplemented and modified from time to time by the Governmental Accounting Standards Board. The information recommended herein may be provided by means of cross-reference to the auditor's opinion and the notes to the financial statements contained in the official statement or an appendix to the official statement.

(3) Describe the issuer's or enterprise's budgetary processes. The description should include matters such as:

- (a) The parties responsible for the development, management and control of operating and capital budgets;

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- (b) The basis of accounting used in the adoption of the budget;
- (c) The processes and timing by which the budgets are approved and adopted; and
- (d) Legal requirements for balancing the budgets and institutional mechanisms to ensure achievement of that goal.

Summarize the pertinent current operating and capital budgets. State whether the issuer or enterprise has conformed to its budgets for the past five and the current fiscal years, and if not, the significant variations that have occurred or are expected to occur. Describe the reasons for any significant differences between the budgets and the actual financial results on a budgetary basis for those years.

(4) If the securities being offered are payable only from particular revenues of the issuer, such as a particular tax or assessment or revenues of a particular enterprise, describe the revenues and give sufficient historical and other data to indicate the revenues pledged to pay debt service on the securities.

(5) If the obligations are secured in whole or in part by taxes of any type, describe briefly the manner in which, and parties by whom, the taxes are levied and collected. Where appropriate, describe briefly the manner in which property valuations and assessments are determined. Include descriptions of the following:

- (a) The manner in which delinquent taxes are collected and the result of those collection efforts;
- (b) The interest and penalty charged on delinquent taxes;
- (c) Important changes during the past five years in tax assessment, levy or collection practices; and
- (d) The reasons for the changes.

State the value of total tax title liens owned by the issuer as of the end of each of its past five years and as of a recent date. Describe briefly the procedures followed in foreclosure. Describe the priority of tax claims of the issuer over other indebtedness of taxpayers.

(6) Give in tabular or other appropriate form with respect to the issuer, as of the end of each of its past five fiscal years and as of a recent date, information as to the following:

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- (a) Its assessed valuation of taxable real property;
- (b) Its estimated true (market) valuation, or if not available, other appropriate valuation, of taxable real property;
- (c) Its assessed valuation of taxable personal property; and
- (d) The assessed valuation of taxable real property expressed as a percentage of the estimated true valuation thereof.

Where available, segregate the information as to industrial, commercial, utility and residential properties. State government issuers may wish to substitute a presentation of the information recommended in paragraph (7) below for the matters recommended in items (a) through (d) above, or present the information recommended in paragraph (7) as additional information.

State in tabular or other appropriate form the total tax levy and the accumulated amount of delinquent taxes as of the end of each of the issuer's past five fiscal years and the tax delinquency rate for each of those fiscal years and for the current fiscal year to date. **Describe recent borrowing against the delinquent taxes and any anticipation of collection of delinquent taxes in budgets for current or future years.** State the accounting policies applied in writing off delinquent taxes.

(7) List any tax or revenue source (including any intergovernmental revenues), other than property taxes exceeding 15% of the aggregate of the issuer's taxes and other revenues in the issuer's most recent fiscal year. Give in tabular or other appropriate form, as of the end of each of the issuer's past five fiscal years:

- (a) The amount received from each tax or revenue source exceeding 15% of the taxes or revenues in that year; and
- (b) The amount received from all of those tax or revenue sources on a combined basis.

Where intergovernmental revenues as a whole provide more than 15% of the issuer's tax and revenue sources in its most recent fiscal year, name and describe the principal programs and state whether those programs are of short-term or long-term duration. In all other cases, for taxes and other revenue sources (other than property taxes), including intergovernmental revenues, include descriptions of the significance thereof to the issuer and recent volume of activity generating the funds.

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(8) A table setting forth the ten largest taxpayers of the issuer, where appropriate and not prohibited by law and, if available to the issuer, a brief indication of the nature of their business or activity should be presented. State the amount of taxes paid by each of those taxpayers, the percentage of the total tax levy or tax collections represented by that amount.

(9) With respect to interim borrowing for operational purposes, such as revenue anticipation notes or tax anticipation notes, present the appropriate anticipated cash flow and anticipated deficits. Describe any significant provisions regarding the segregation of receipts prior to the payment of debt service, or important considerations regarding the issuer's ability to issue new debt or otherwise to provide monies for the payment of debt service.

(10) If the proceeds from the sale of securities (other than revenue, grant, or tax anticipation short-term obligations secured by and payable solely from anticipated revenues or taxes) or nonrecurring revenues have been used for current operating expenditures/expenses at any time in the past five years, describe the circumstances giving rise to that use, and state the amount used in each of those years.

(11) If payments on outstanding securities or other obligations have been met through loans from other governmental fund sources, indicate the sources, the amounts involved, the purpose (as for payment of principal, interest or operating cost) and any commitments for repayment of the loans. Describe applicable legal requirements on transfers of funds. Describe briefly any federal, state or other legislation, program or procedure that would apply specifically to the issuer in times of financial emergency.

(12) Describe the significant characteristics of the issuer's or enterprise's public employee retirement system(s) or other pension plan(s). The description may be provided by means of a cross-reference to a description of appropriate information in the notes to the financial statements. Those characteristics should include the following:

- (a) Identification as to the type of pension plan (single employer, agent multi-employer, or cost sharing multi-employer) and the number and types of employees covered.
- (b) A brief description of the nature of the plan and of the legal obligations of the issuer or enterprise to finance benefits.
- (c) The number of employees covered by type (*e.g.*, retired, vested and non-vested).
- (d) Employee and employer obligations to contribute to the plan.

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- (e) A summary of significant accounting policies and plan asset matters including investment valuation methods, related party transactions, and asset risk.
 - (f) Information regarding the contribution requirements and contributions made, including the frequency of actuarial valuations, the date of the most recent actuarial valuation, and a description of the funding policy.
 - (g) Information needed to assess (1) the funding status of the plans; (2) progress made in accumulating assets to pay benefits when due; and (3) whether the employer is making actuarially determined contributions.
 - (h) Historical or current data concerning adverse or positive trends or factors in the financing or operation of the pension plan as they relate to the employer's contributions or liabilities to the plans. Cross-reference should be made to the information concerning the plans contained in the financial statements included in the official statement. The issuer may wish to consider including a statement regarding the means by which other appropriate information about the pension plan may be obtained.
- (13) Describe briefly any liabilities and costs pertaining to other employee benefits, such as vacation, sick leave and other post-employment benefit liabilities, that are significant in assessing the financial condition of the issuer or enterprise. When there are such liabilities and costs, the pertinent details should be discussed.
- (14) Describe briefly the nature and scope of the insurance coverage that the issuer has in force, including property, casualty, liability, business interruption and title insurance, or such coverage, if any, that represents self-retainage and self-insurance, and by what methods it is financed. Indicate whether self-retainage and self-insurance is determined actuarially. Describe also insurance coverage required by the issuer of its contractors and subcontractors pertaining to any construction or acquisition of property financed by the securities offered.
- (15) If the issuer is endowed, describe (a) the endowment; (b) its size and composition; (c) endowment management, spending and investment policies; (d) cost and market value as of a recent date; and (e) availability of the endowment for payment of debt service.
- (16) If the issuer relies on fund drives, or did so with respect to the project or program financed with the securities, describe (a) fund raising experience for the past five years or for the issue, as appropriate; (b) organization and management of relevant fund drives; and (c) foundation involvement, if appropriate.

Section IX

Gov't. Financial Information

B. Financial Statements.

Uniformity in the presentation of financial information and the consistent application of accounting principles are essential for adequate financial reporting. To that end, financial statements should be prepared and presented in conformity with generally accepted accounting principles, as modified from time to time,³⁶ and should be audited in accordance with generally accepted auditing standards.³⁷

If financial statements are prepared in conformity with laws applicable to the issuer and their presentation does not conform with generally accepted accounting principles, the significant differences between generally accepted accounting principles and those principles used in the preparation of the financial statements should be discussed and, if practicable, the effects of those differences should be quantified. Financial statements should be audited by an independent governmental audit organization, an independent certified public accountant or an independent licensed public accountant.³⁸ If the audit is not in accordance with generally accepted auditing standards, the nature of the audit and how it differs from those standards should be discussed.

Consent of the certified public accountant or other independent auditor should be sought if the name of the independent auditor is used in any way in connection with the financial statements or financial data included in the official statement. If the consent is not obtained, that fact and the reasons therefor should be discussed. State the city in which the auditor's offices performing the audit are located.

The General Purpose Financial Statements ("GPFS") should be included in the official statement, except in those instances where the source of revenues to discharge the obligations is limited solely to specific funds (e.g., the enterprise fund), in which case the financial statements relevant to those funds and any funds interrelated with those funds in terms of availability for use for the same or similar purposes should be included. If enterprise fund monies may be used for general fund purposes, the GPFS should be included. The GPFS may be supplemented by relevant combining and/or individual fund statements.

³⁶ In the case of governmental issuers and enterprises, as contained in pronouncements of the Governmental Accounting Standards Board.

³⁷ In the case of governmental issuers and enterprises, as contained in the *Statements on Auditing Standards* published by the American Institute of Certified Public Accountants; and in *Standards for Audit of Governmental Organizations, Programs, Activities & Functions* published by the U.S. General Accounting Office and *Audits of State and Local Governmental Units* published by the American Institute of Certified Public Accountants.

³⁸ See Procedural Statement No. 9 at page 99 regarding the use of reports and opinions of experts and attribution thereto.

Section IX

Gov't. Financial Information

The GPFS included in the official statement should present comparisons for the prior year. The GPFS should include a combined balance sheet; combined statement of revenues, expenditures, and changes in fund balances; combined statement of revenues, expenditures, and changes in fund balances (budget to actual); combined statement of revenues, expenses, and changes in retained earnings; combined statement of and changes in financial position; statement of cash flows; notes to financial statements; and required supplementary information.

When the source of the resources to discharge the issuer's obligations to the holders of the securities being offered is limited to a particular fund (e.g., the revenues of an enterprise fund), only the financial statements of that fund normally need be presented. Those financial statements should indicate pertinent restricted and unrestricted accounts as provided in existing bond indentures, ordinances or similar instruments. When the source is primarily a particular fund but the obligation is also payable from another fund, the financial statements of both funds should be included in the official statement. If the issuer also pledges its full faith and credit, all financial statements relevant to the source of payment for the securities being offered should be included.

Full disclosure in conformity with generally accepted accounting principles requires that financial statements be accompanied by notes to the financial statements that supplement or clarify the data contained in the financial statements. Typical notes provided with a governmental entity's financial statements include, among other items, the following:³⁹

(1) A summary of significant accounting policies.

Reporting entity.

Principles of accounting.

Identification and definition of included fund types.

Basis of accounting.

Budgetary policies.

Accounting policies for specific accounts.

Fixed assets.

(2) Bond indenture provisions relating to accounting and reporting.

(3) Long-term debt provisions.

³⁹ Additional note disclosure requirements for governmental issuers and enterprises are contained in the Governmental Accounting Standards Board's *Codification of Governmental Accounting and Financial Reporting Standards*.

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Gov't. Financial Information

(4) Leases and other commitments.

- (5) Provisions of public employee retirement systems, such as costs, liabilities, unfunded obligations, actuarial assumptions and most recent valuations.

(6) Contingencies.

Supporting schedules to financial statements of governmental issuers or enterprises should be included to provide significant detail where necessary to reflect further the financial position or results of operations of the fund types included in the official statement. Examples of those supporting schedules and of statistical tables are contained in *Governmental Accounting, Auditing, and Financial Reporting*, issued by the Government Finance Officers Association.

SECTION X

Financial Information Concerning Conduit Issuers

The recommendations that follow are intended to indicate important factors related to the financial condition and results of operations of conduit issuers.⁴⁰ In certain instances, this section may not be appropriate,⁴¹ for example, in offerings involving the obligations of governmental issuers to the extent those obligations are financed through other governmental entities. This section is not designed for governmental issuers or issuers of credit enhancements. *As used in this section, the term "issuer" means the conduit issuer.*

The information provided pursuant to this section should be the responsibility of the conduit issuer, and not of the governmental issuer. The conduit issuer should be identified as the source of the information provided by it. As indicated in Procedural Statement No. 11 at page 101, it is recommended that the governmental issuer receive from the conduit issuer certain certifications and agreements.

These *Guidelines* generally treat securities to finance programs for student or mortgage loans as conduit securities, although certain elements of this section may not be relevant to offerings of those securities, and certain recommendations in Section IX, beginning at page 44, for governmental issuers and governmental enterprises may be relevant.

This section is divided into two parts: A. recommended information summarizing the financial practices and recent results of operations of the issuer; and B. information to be presented as the financial statements of the issuer for the past two fiscal years. The financial statements are generally contained in an appendix to the official statement, and if appropriate, other financial information may also be included in the body of the official statement or in the appendix.

⁴⁰ See the Glossary in Appendix A for definitions of the terms "conduit securities" and "conduit issuers."

⁴¹ Reference is made to Section IX at page 44 for those offerings.

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Conduit Financial Information

Issuers eligible to file registration statements with the Securities and Exchange Commission on Form S-3 or another form of the Commission permitting incorporation by reference may wish to follow, in place of the recommendations contained in this section, the disclosure content required in that form.⁴² In that event, they may wish to incorporate by reference information on file with the Commission upon informing investors of the means by which the information on file may be obtained. The issuer should specify the address and telephone number of the Securities and Exchange Commission office from which the information is available, and the name, title, address and telephone number of the official of the conduit issuer, the trustee or the underwriter from whom it is available during the offering period.⁴³

In offerings of securities that are nonrecourse obligations or otherwise are payable solely from the revenues of a particular facility or program, the information provided should focus appropriately upon that facility or program, rather than upon an owner or sponsor. To the extent that the credit or historical performance of the owner, sponsor or another party supports or could have a bearing upon the payment of the securities, the information provided should focus as well upon that party.

In those instances in which a conduit issuer has significant subsidiaries providing revenues securing the securities, provide information relevant to the respective corporations.

A. General Description of Financial Practices and Recent Results of Operations.

(1) Furnish in comparative columnar form a summary of operations on a consolidated basis, based on the financial statements, that would provide information pertinent to the securities being offered. The information should be provided for each of the past five fiscal years. If the official statement is dated more than 120 days after the past fiscal year, the information should be provided for the latest practicable date for an appropriate interim period of the current fiscal year and the most recent prior fiscal year.

(a) The summary should include major categories of revenues and expenses and, for nonprofit issuers, comparable budgeted amounts (based on the most recent budget).

(b) Subject to appropriate variation to conform to the nature of the operations of an issuer, the summary and discussion should include: net sales or operating revenues; operating expenses; interest expense; income (loss) from continuing operations; unusual or infrequent

⁴² Conduit issuers who have filed registration statements or other information with the Securities and Exchange Commission or other regulatory authorities should compare for consistency their information in the official statement with the information in the registration statements or other documents so filed.

⁴³ See the Glossary in Appendix A for the definition of the term "offering period."

Section X

Conduit Financial Information

items; retained earnings; total assets; a ratio of pre-tax earnings to fixed charges for indebtedness outstanding; and the cumulative effects of changes in accounting principles.

(c) Following each summary of operations, include management's discussion of the relevant trends and changes and the reasons therefor related to the components of such summary. For example, if debt service, as a percentage of total expenses or revenues, has increased significantly in recent years, describe the conditions that contributed to the trend. Furthermore, if certain revenues or expenses are dependent on the financial policies or practices of another entity, state the amounts involved and describe the relationship of that other entity to the issuer. In addition, the discussion should include other information the issuer believes to be necessary to an understanding of its financial condition, liquidity, capital resources, results of operations (including the effects of unusual or infrequent events or transactions), changes or expected changes in the preceding factors, and the effect of a change in accounting principles or procedures during any of the years presented.

(d) Describe known facts that would significantly affect the financial information presented or the future financial operations of the issuer.

(e) If applicable, provide management's discussion of projected operations of the issuer or enterprise in accordance with a current multi-year financial plan.

(2) Describe generally the accounting policies of the issuer. The information recommended may be provided by means of cross-reference to the auditor's opinion and the notes to the financial statements contained in the official statement or an appendix to the official statement. If there have been changes in auditors in the past two years, that fact should be stated, and the circumstances and the reasons for the changes should be described.

(3) If the issuer is a nonprofit entity, describe its budgetary processes. The description should include matters such as:

- (a) The parties responsible for the development, management and control of operating and capital budgets;
- (b) The processes and timing by which the budgets are approved, adopted and amended or revised;
- (c) Requirements for balancing the budgets; and
- (d) Institutional mechanisms to ensure achievement of that goal.

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Summarize the capital budget and, for nonprofit issuers, the current operating budget. In the case of a nonprofit issuer, state whether the issuer has conformed to its budgets for the past five and the current fiscal years and, if not, identify the significant variations which have occurred or are expected to occur. Describe the reasons for significant differences for the nonprofit issuer between those budgets and the actual financial results on a budgetary basis for the past five fiscal years and the current fiscal year.

(4) If the securities being offered are payable only from particular revenues of the issuer, describe the revenues and give sufficient historical and other data to indicate the reliability of the revenues to meet debt service on the securities.

(5) Give an appropriate indication of outstanding accounts owed to the issuer and the aging thereof. Identify important obligors, the nature of their businesses, the amounts owed by them as of a recent date, the percentages of all obligations owed to the issuer represented by those amounts, and the status of their obligations. State the accounting policies applied in writing off delinquent accounts.

(6) List any revenue source that exceeds 15% of the aggregate of the issuer's revenue sources in the issuer's most recent fiscal year. Give in tabular or other appropriate form, as of the end of each of the issuer's past five fiscal years:

- (a) The amount received from each revenue source exceeding 15% of the aggregate revenues in that year; and
- (b) The amount received from all of those revenue sources on a combined basis.

Include descriptions of the significance of those revenue sources to the issuer and recent volume of activity generating the funds.

(7) With respect to interim borrowing for operational purposes, present the appropriate anticipated cash flow information. Describe factors affecting the issuer's ability to issue new debt or otherwise to provide monies for the payment of debt service.

(8) If the proceeds from the sale of securities or nonrecurring revenues have been used for current operating expenses at any time in the past three years, describe the circumstances giving rise to that use, and state the amount used in each of those years.

(9) Describe the significant characteristics of the issuer's employee retirement system(s) or other pension plan(s). The description may be provided by means of a cross-reference to a

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description of appropriate information in the notes to the financial statements. Those characteristics should include the following:

- (a) Identification as to the type of pension plan (single employer, agent multi-employer, or cost sharing multi-employer) and the number and types of employees covered.
 - (b) A brief description of the nature of the plan and of the legal obligations of the issuer to finance benefits.
 - (c) The number of employees covered by type (*e.g.*, retired, vested, and non-vested).
 - (d) Employee and employer obligations to contribute to the plan.
 - (e) A summary of significant accounting policies and plan asset matters including investment valuation methods, related party transactions, and asset risk.
 - (f) Information regarding the contribution requirements and contributions made, including the frequency of actuarial valuations, the date of the most recent actuarial valuation, and a description of the funding policy.
 - (g) Information needed to assess (1) the funding status of the plans; (2) progress made in accumulating assets to pay benefits when due; and (3) whether the employer is making actuarially determined contributions.
 - (h) Historical or current data concerning adverse or positive trends or factors in the financing or operation of the pension plan as they relate to the employer's contributions or liabilities to the plans. Cross-reference should be made to the information concerning the plans contained in the financial statements included in the official statement. The issuer may wish to consider including a statement regarding the means by which other appropriate information about the pension plan may be obtained.
- (10) Describe briefly any liabilities and costs pertaining to other employee benefits, such as vacation, sick leave and other post-employment benefit liabilities, that are significant in assessing the financial condition of the issuer. When there are such liabilities and costs, the pertinent details should be discussed.
- (11) Describe briefly the nature and scope of the insurance coverage that the issuer has in force, including property, casualty, liability, business interruption and title insurance, or coverage, if any, that represents self-retainage and self-insurance, and by what methods it is financed. Indicate whether self-retainage is determined actuarially. Describe contingent

Section X

Conduit Financial Information

assessment liabilities. Describe also insurance coverage for key personnel, and insurance required by the issuer of its contractors and subcontractors pertaining to any construction or acquisition of property financed by the securities offered.

(12) If the issuer is endowed, describe (a) the endowment; (b) its size and composition; (c) endowment management, spending and investment policies; (d) cost and market value as of a recent date; and (e) availability of the endowment for payment of debt service.

(13) If the issuer relies on fund drives, or did so with respect to the project or program financed with the securities, describe (a) fund raising experience for the past five years or for the issue, as appropriate; (b) organization and management of relevant fund drives; and (c) foundation involvement, if appropriate.

B. Financial Statements.

Uniformity in the presentation of financial information and the consistent application of accounting principles are essential for adequate financial reporting. To that end, financial statements should be prepared and presented in conformity with generally accepted accounting principles, as modified from time to time, and should be audited in accordance with generally accepted auditing standards.

Financial statements should be audited by an independent certified public accountant in accordance with generally accepted auditing standards. Consent of the certified public accountant should be sought if the name of the independent auditor is used in any way in connection with the financial statements or financial data included in the official statement.⁴⁴ If the consent is not obtained, that fact and the reasons therefor should be discussed. State the city in which the auditor's offices performing the audit are located.

The financial statements included in the official statement should present comparisons for the prior year, and should include a balance sheet; a statement of revenues, expenses, and changes in relevant fund or other balances; a statement of revenues, expenses, and changes in retained earnings; a statement of changes in financial position; a statement of cash flows; and notes to financial statements. For nonprofit issuers, there should also be provided a statement of revenues, expenses, and changes in relevant fund or other balances (budget to actual).

When the securities are nonrecourse obligations and the source of the resources to discharge the issuer's obligations to the holders of the securities being offered is limited to revenues of a particular property, only the financial statements of that property normally need be presented.

⁴⁴ See Procedural Statement No. 9 at page 99 regarding the use of reports and opinions of experts and attribution thereto.

Section X
Conduit Financial Information

Full disclosure in conformity with generally accepted accounting principles requires that financial statements be accompanied by appropriate notes to the financial statements that supplement or clarify the data contained in the financial statements.

SECTION XI

Legal Matters

A. Describe any pending judicial, administrative or regulatory proceedings that may significantly affect the issuer's or governmental enterprise's ability to perform its obligations to the holders of the securities being offered, or that may result in a redemption or prepayment of the securities, including the effects of the legal proceedings on the securities being offered and on the source of payment therefor. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings, and the relief sought. In appropriate cases, include or summarize, with the consent of counsel, an opinion of counsel as to the merits of the proceedings. State the name of that counsel. Provide similar information as to proceedings, of which the issuer is aware, that have been threatened to a degree constituting a significant possibility that they will be commenced.

B. With the consent of bond counsel, include or summarize the approving legal opinion of bond counsel proposed to be given regarding the issue of the securities.

C. Describe the significant elements of the federal or, if appropriate, state or local income or similar tax status of the securities and the interest thereon under existing law, including direct or indirect taxation of interest and circumstances subsequent to issuance of the securities that may have a bearing thereon. With the consent of counsel, include or summarize the tax opinion proposed to be given by counsel.

D. If appropriate to the type of securities offered, it is recommended that the official statement contain a specific list of areas of particular relevance to federal income tax considerations, identifying specific categories of investors who should consult their own tax advisors respecting the consequences of an investment in the securities, and stating that investors falling within those categories should do so. Among the areas that should be so identified in the official statement are whether the interest on the securities is included in calculation or determination of the alternative minimum tax, book income or current earnings, taxes on social security and

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Legal Matters

railroad retirement recipients and foreign residents, bank qualification treatment, environmental tax, and branch profits tax. This paragraph does not refer to information appropriate for the opinion of counsel.

E. It is customary for the issuer or governmental enterprise to provide at closing a certificate that no litigation is pending or threatened that would affect the validity of or security for the securities. If no certificate is to be provided, that fact should be discussed.

SECTION XII

Miscellaneous

A. Ratings. If ratings for the securities being offered are known to the issuer and have been provided by a rating service, state all of those ratings and the names of the rating services. If no ratings have been obtained, or if the issuer knows that a rating has been refused by a rating service for the securities being offered, a statement should be made to that effect. Changes provided by any rating service, known to the issuer, in any ratings of any securities of the issuer during the preceding two years should be described. If any rating service has indicated that its ratings are based on credit enhancement, so state.

It is recommended that the discussion indicate that (1) the ratings reflect only the views of those services and set forth an explanation of the ratings as described by those services, referring the prospective purchaser to those services for an explanation of the ratings;⁴⁵ (2) there is no assurance that the ratings will continue for any period of time or that they will not be revised or withdrawn; and (3) a revision or withdrawal of the ratings may have an effect on the market price of the securities.

B. Underwriting. Describe contractual arrangements between the issuer and the underwriters. Rule G-32 of the Municipal Securities Rulemaking Board requires all brokers, dealers and municipal securities dealers selling new issue securities to disclose to their customers in negotiated issues:

- (1) The underwriting spread;
- (2) The amount of any fee received by the broker, dealer or municipal securities dealer as agent for the issuer in the distribution of the securities; and

⁴⁵ For example, rating services may note that their debt ratings are not recommendations to purchase, sell or hold a particular security or as to market price or suitability of the security for a particular investor.

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- (3) The initial offering price for each maturity in the issue that is offered or to be offered in whole or in part by the underwriters.

See also Procedural Statement No. 4 at page 90.

C. Financial Advisors. If financial advisors are named in the official statement, describe their role and contractual arrangements between the issuer and the financial advisors.⁴⁶

D. Interest of Certain Persons Named in Official Statement. If any person named in the official statement as having prepared or certified an engineering report, legal opinion, feasibility or demand study or similar analysis included or referred to therein was employed for that purpose on a contingent basis, furnish a brief statement of the nature of the contingent basis. If any of those persons was or is connected with the issuer as an underwriter, counsel, financial advisor, remarketing agent, security holder, member of the governing body, executive official, promoter or employee, or has, or in the case of a profit-making conduit issuer or subsidiary, is to receive, a direct or indirect ownership interest in the issuer or any affiliate of the issuer, describe the connection or interest.

E. Pending Legislation. If legislation known to the issuer is pending that would entail significant adverse consequences for the issuer or the securities, it should be identified and the potential consequences of its enactment should be discussed. Describe relevant considerations.

F. Additional Information. Efforts should be made to make available to underwriters and potential investors specimens or copies of any indenture and other authorizing or governing instruments defining the rights of holders of the securities being offered, or preliminary forms thereof. The availability may be upon request or upon payment by the underwriters or investors of a reasonable copying, mailing and handling charge. It is recommended that the official statement inform underwriters and potential investors of the availability of the information and the means of obtaining it, including the title, address and telephone number of the person who is able to provide it. In that event, the description of the terms of the securities being offered may be qualified by reference to the additional information or documents.

⁴⁶ Rule G-23 of the Municipal Securities Rulemaking Board, on activities of financial advisors, places certain requirements upon brokers, dealers and municipal securities dealers acting in financial advisory capacities for issuers. The Rule also requires a broker, dealer or municipal securities dealer who acquires new issue municipal securities or participates in a syndicate or other account that acquires new issue municipal securities in accordance with the Rule to disclose the existence of the financial advisory relationship in writing to each customer who purchases the securities from the broker, dealer or municipal securities dealer, at or before the completion of the transaction with the customer.

Guidelines for Continuing Disclosure

INTRODUCTION

The *Guidelines for Continuing Disclosure* are designed for use by issuers and their advisors in the provision of timely information on a continuing basis to securities holders, potential purchasers of securities in the secondary market, dealers, securities analysts, rating services and others. Most issuers now publish documents on a regular, periodic basis, which provide information that may be important to holders of their outstanding obligations. Many issuers provide that information in their official statements when they make securities offerings on a regular basis. Others present current information in their annual financial reports and the accompanying commentary and historical data or annual budget documents. Other issuers find it useful to compile that information periodically in a document expressly designed to inform investors about the issuers' securities. The overriding consideration should be the provision of timely and readily available information to interested parties. See Procedural Statements Nos. 3 and 8 at pages 88 and 97, respectively.⁴⁷

The Government Finance Officers Association recommends that all issuers prepare and make available, at least annually, to one or more repositories, and to investors, trustees, analysts and the general public, a document or documents containing information useful to existing and potential investors in the secondary market. Such a document may be an official statement or a comprehensive annual financial report, with supplementation as appropriate, presenting the types of information recommended in these *Guidelines for Continuing Disclosure*.

Continuing disclosure should be made for several reasons, including maintenance of issuer credibility in the marketplace, fostering liquidity for the securities, improving pricing upon initial

⁴⁷ GFOA reaffirms its commitment to encourage timely publication of information. In that connection, GFOA is issuing the *Guidelines for Continuing Disclosure*, which were originally published in 1979, and will continue its examination of the appropriate methods for accomplishing continuing disclosure. Reference is made to the *Procedural Statements* respecting certain procedural matters in the process of providing information.

Continuing Disclosure Introduction

issuance, and avoidance of selective disclosure of information. These *Guidelines* are designed to assist issuers in satisfying those goals.

In contrast to the recommendations in the *Guidelines for Offerings* that a particular order of presentation be followed in the preparation of official statements, the order of presentation used in the *Guidelines for Continuing Disclosure* need not be deemed to recommend a specific sequence of presentation of information in continuing disclosure documents. The order is, however, indicative of a general order of categories of information that may promote efficient disclosure. Information should be set forth in a manner that will give appropriate emphasis to that information in view of its relative importance.

The *Guidelines for Continuing Disclosure* also recommend prompt release of any information describing events that have a major effect on an issuer's finances. The information should be released immediately upon its availability in a reliable form. Issuers should endeavor to obtain reliable information as early as possible so that a prompt release may be made. Where current information is released annually, the information should be prepared for the same fiscal period each year.

With respect to issuers of credit enhancement, it is recommended that the information to be disclosed on a continuing basis consist of financial statements and information relating to a significant change in the ability of the issuer of the credit enhancement to satisfy its obligations under the credit enhancement. Indicate any important deviations in the financial statements (and the effects thereof, if quantifiable) from generally accepted accounting principles, as those principles are supplemented and modified from time to time. The financial statements of an issuer of a credit enhancement may be incorporated by reference if they are on file with a repository and the name, address and telephone number of the repository are stated.

See also the general Introduction to the *Disclosure Guidelines* at page vii for additional information respecting these *Guidelines for Continuing Disclosure*.

SECTION I

Cover Page and Introductory Information

It is recommended that a cover page or introduction to the information statement contain the following information:

- (1) The name of the issuer (with appropriate identification).
- (2) A statement of the means by which the official statements for outstanding issues may be obtained. For this purpose, a reference to the availability of those official statements through one or more repositories or from the issuer is sufficient. (See Procedural Statement No. 8 at page 97).
- (3) A reference to the availability of the issuer's comprehensive annual financial report and the means by which a copy thereof may be obtained.
- (4) The title, address and telephone number of the issuer official(s) who can answer questions about the current information statement or who can direct inquiries to the appropriate responsible parties. Where various officials have responsibility for differing categories of information, a statement should be made respecting each of them, together with an indication of their specific roles, or alternatively, the identification should be made with respect to officials who are able to direct inquiries to the appropriate responsible officials. Care should be taken that all relevant information is contained in the current information statement or other released documents, and no one should be given access to information that is not or will not be made available generally to others upon request. The foregoing, however, should not discourage continuing communications with trustees and nationally-recognized rating services or, pursuant to contractual commitments, issuers of credit enhancements. If additional relevant information is obtained, the information should be disclosed as recommended in Procedural Statement No. 8 at page 97.

Continuing Disclosure
Section I

On the inside front cover or on the back cover of the information statement, a Table of Contents should be used to indicate in reasonable detail the pages on which particular types of information may be found.

SECTION II

Description of the Issuer, Debt Structure, and Finances

A. Description of Issuer. Information should be provided that gives background and general information regarding the location, organizational structure and management, service responsibilities, assets, revenue sources, and operations of the issuer or governmental enterprise. As used in this section, as throughout these *Guidelines*, the term "enterprise" means a governmental enterprise. For revenue-secured obligations of an enterprise or for the obligations of a conduit issuer, information should also be provided regarding the general character of the principal facilities and services provided, the nature of the users of services, markets, customer bases, continuing or planned construction or acquisition and development activities, rate-setting powers, and the general operating experience. In addition to the foregoing, conduit issuers should also discuss their businesses in appropriate categories, their products and related matters.

For tax-supported general obligations or special tax securities of governments, information should be provided indicating the ability of the issuer to impose and collect taxes or other receipts that can be used to discharge the obligations. The information presented would normally include a description of the issuer's range and level of services and its capacity to provide those services. For revenue supported obligations, describe the operations of the enterprise, and identify the revenues supporting the securities so that calculations may be made of the debt service coverage from information provided in the financial statements provided in response to subsection C of this section. In addition, under most circumstances for governmental issuers and enterprises, a discussion of important economic and demographic data should be provided.

For examples of the types of descriptive information that may be appropriate, reference is made to Sections V and VI of the *Disclosure Guidelines for Offerings* at pages 19 and 26, respectively. For single-family mortgage revenue securities, information recommended in the reporting format of the National Council of State Housing Agencies should be provided, attached as Appendix F to these *Guidelines*.

Continuing Disclosure Section II

B. Debt Structure. List outstanding securities of the issuer, with an identification of maturities, interest rates and redemption dates. Information should be provided describing important factors related to the debt structure of the issuer or enterprise, including its authority to incur debt, trends in indebtedness, measures of debt burden, debt service requirements, and rates of retirement. Sufficient information should be provided so that investors will be able to evaluate tax or other revenue sources in relation to the obligations or commitments of the issuer or enterprise. For issuers of tax-supported debt, information related to the size of and trends in the tax base and tax receipts and other revenues available for or dedicated to payment of debt service, applicable debt or tax limitations, and the indebtedness of overlapping or underlying governments dependent on the same tax base should be provided. For examples of the types of information that may be appropriate, reference is made to Section VII of the *Disclosure Guidelines for Offerings* at page 35.

C. Financial Information. Information that indicates important factors related to the financial condition and results of operations of the issuer or enterprise should be presented, as should fund balances relevant to outstanding issues. The information may be divided into two parts: first, information that summarizes the financial practices and recent results of operations of the issuer or enterprise; and second, the financial statements of the issuer or enterprise.

When presented as summary information, financial data respecting governmental issuers or enterprises should be presented in comparative columnar form for the fund types/account groups that provide information pertinent to the securities outstanding. The information should be provided for each of the past three years and for the latest practicable date for interim periods of the current and prior fiscal year. Appropriate descriptions should be made of major categories of and trends in revenues and expenditures, the budgeting processes, revenue setting and collection policies, short-term borrowing, intergovernmental receipts, and significant features in employee pension and benefit programs and obligations.

It is recommended that financial statements be presented in conformity with generally accepted accounting principles⁴⁸ and should be audited by an independent governmental audit organization, an independent certified public accountant or an independent licensed public accountant in accordance with generally accepted auditing standards.⁴⁹ If the financial statements are not prepared in conformity with generally accepted accounting principles, the relevant differences between the basis upon which they are prepared and those of generally accepted accounting principles should be discussed and the effects of such differences should be quantified. If more than one indenture exists, it is recommended that a separate financial statement for each

⁴⁸ In the case of governmental issuers and enterprises, as contained in pronouncements of the Governmental Accounting Standards Board.

⁴⁹ In the case of governmental issuers and enterprises, as contained in pronouncements of the American Institute of Certified Public Accountants and the U.S. General Accounting Office.

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be made available. For a discussion of the presentation of financial information, reference is made to Sections IX and X of the *Guidelines for Offerings* at pages 44 and 53, respectively.

D. General. Conduit issuers filing registration statements with the Securities and Exchange Commission on Form S-3 or another form of the Commission permitting incorporation by reference may wish to follow, in place of the recommendations contained in this section, the nonoffering disclosure content required in that form, and may wish to incorporate by reference information on file with the Securities and Exchange Commission upon informing investors of the means by which the information on file may be obtained.

With respect to securities that are payable solely from the revenues of a particular facility or program (*e.g.*, a pool of student loans or mortgages), the information provided should focus appropriately upon the facility or program, rather than upon an owner or sponsor. To the extent that the credit of the owner, sponsor or another party supports or could have a bearing upon the payment of the securities, the information provided should focus as well upon that party.

SECTION III

Legal Matters

Describe any pending judicial, administrative or regulatory proceedings that may significantly affect the issuer's or governmental enterprise's ability to perform its obligations to the holders of the securities outstanding, or that may result in a redemption or prepayment of the securities, including the effects of the proceedings on the securities outstanding and on the source of payment therefor. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings, the relief sought, and the current status of the legal proceedings. In appropriate cases, include or summarize, with the consent of counsel, an opinion of counsel as to the merits of the proceedings. State the name of that counsel and the city of its relevant offices. Provide similar information as to proceedings, of which the issuer is aware, that have been threatened to a degree constituting a significant possibility that they will be commenced. If a prior opinion of counsel that was previously released has been withdrawn or modified, so state and describe the circumstances.

SECTION IV

Miscellaneous

A. Ratings. If ratings for the securities outstanding are known to the issuer and have been provided by a rating service, state all of those ratings and the names of the rating services. If no ratings have been obtained or, if the issuer knows that a rating has been refused by a rating service for the securities outstanding, a statement should be made to that effect. Changes provided by any rating service, known to the issuer, in any of those ratings of any securities of the issuer during the preceding two years should be described. If any rating service has indicated that its ratings are based on credit enhancement, so state.

It is recommended that the discussion indicate that (1) the ratings reflect only the views of those services and either set forth an explanation of the ratings as described by those services or refer the prospective purchaser to the services for an explanation of the ratings; (2) there is no assurance that the ratings will continue for any period of time or that they will not be revised or withdrawn; and (3) a revision or withdrawal of the ratings may have an effect on the market price of the securities.

B. Interest of Certain Persons Named in Information Statement. If any person named in the information statement as having prepared or certified an engineering report, feasibility or demand study or similar analysis included or referred to therein was employed for that purpose on a contingent basis, furnish a brief statement of the nature of the contingent basis. If any of those persons was or is connected with the issuer as an underwriter, financial advisor, remarketing agent, security holder, member of the governing body, executive official or employee, describe the connection.

C. Pending Legislation. If significant legislation known to the issuer is pending that would entail adverse consequences for the issuer or the securities, it should be identified and the potential consequences of its enactment should be discussed.

SECTION V

Changes in Indebtedness

A. If the issuer has authorized additional indebtedness since its last information statement, (i) briefly describe the transaction(s) and securities or other indebtedness involved, the principal purpose(s) for which the indebtedness is authorized and the amount authorized for each such principal purpose; and (ii) if the terms and conditions of the additional indebtedness affect the rights of holders of any outstanding securities, identify the securities or other indebtedness involved, and as to each new indebtedness containing terms and conditions affecting the rights of holders of any outstanding securities, give appropriate information as to the securities to enable investors to understand their rights. Reductions in indebtedness also should be described.

B. With respect to securities outstanding, if changes have occurred in matters of the nature recommended for reporting in any of the items set forth in the next paragraph, but the changes have been unreported pursuant to these *Guidelines*, (i) refer to the official statements or other documents describing the original information concerning the securities, and (ii) describe the changes. If changes of that nature have occurred since the issuance of the securities, but have been reported previously pursuant to these *Guidelines*, refer to the previous information statements, official statements or other documents describing (i) the original information concerning the securities, and (ii) the subsequent changes. If no such changes have occurred, refer to the official statements or other instruments or documents describing the original information concerning the securities. If a large number of outstanding securities issued at various times is similarly affected by the changes, then the references may be to the affected group in general, so long as that group is clearly identified. In all cases, where reference is made to information statements, official statements or other instruments or documents, state the means by which copies or adequate summaries thereof may be obtained (see Procedural Statement No. 8 at page 97).

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If there have been changes in the following matters, describe the changes:

- (1) The date of the obligations, interest payment dates, the date from which interest is paid and any special interest payment features (*e.g.*, zero coupon, limited interest, or variable rate, including the formula or method of making rate changes and the frequency of making those changes).
- (2) Identification if the securities are in book entry form or eligible for custodial deposit with a registered securities depository, identifying the depository.
- (3) Names and cities of the principal offices of the trustees, registrars, paying agents, or remarketing agents.
- (4) Mandatory, optional or extraordinary redemption or put option features.
- (5) Maturity date.
- (6) The pertinent provisions of the state constitution, statutes, resolutions and any other documentation that authorized the issuance of the securities.
- (7) The principal purposes for which the proceeds of the sale of the securities were authorized or proposed to be used and the approximate amount authorized or proposed for each purpose; any program of construction or acquisition to be financed from the proceeds of the sale of the securities; the construction schedule; the use or availability of significant amounts of other funds to be used in conjunction with the proceeds of the sale; or the sources of any of those other funds.
- (8) Provisions with respect to the security and sources of payment for the securities; the priority of payment or lien in relation to any outstanding securities or other obligations of the issuer; or physical properties, assets or revenues securing the securities and the provisions for their release or substitution.
- (9) Guarantees, insurance, coverage by lines or letters of credit, guaranteed investment contracts, or other credit enhancement of the payment of the principal of or interest or premium on (or repurchase price of) the securities; the financial condition or other appropriate information as to the guarantor, insurer, or other issuer of credit enhancement ; and any exclusion of the guarantor, insurer or other issuer of credit enhancement disclosed by it to the government or conduit issuer that may be asserted in a suit on the guaranty or insurance.

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- (10) Provisions regarding (i) the flow of funds from governmental enterprise revenues, including any restrictions thereon, (ii) the creation or maintenance of reserves, or (iii) maintenance or insurance of properties.
- (11) Investments of the proceeds or the reserves from the sale of securities; parties who hold and control the proceeds of the securities; or the method by which the proceeds are to be expended.
- (12) Purposes for which additional debt may be issued; provisions permitting or restricting the issuance of additional securities or the incurrence of additional debt; legal requirements, such as voter approval, that must be satisfied in connection with debt issuance; or if there are revenue securities outstanding, the governmental enterprise's authority to borrow funds for various purposes and the conditions under which the governmental enterprise is empowered to issue varying types of indebtedness.
- (13) The trustee or fiscal agent, if any; the rights and duties of the trustee or fiscal agent; important conditions and the percentage of securities that would require the trustee or fiscal agent to take any action; any indemnification the trustee or fiscal agent may require before proceeding to enforce the rights of holders of the securities; any business relationship of the trustee or fiscal agent with the issuer as security holder, depository or otherwise; or any capacity in which the trustee or fiscal agent acts as trustee or fiscal agent for the holders of other securities of the issuer.
- (14) Pertinent provisions of the state constitution, statutes, executive orders or judicial decisions that could significantly affect the status of or priority for the bondholders, including limitations on rights of securities holders to enforce the securities or the basic documentation.
- (15) The ability of any party to modify the terms of the securities or basic documentation, including provisions with respect to security or source of payment.
- (16) Provisions in the securities outstanding, the indenture or other authorizing or governing instruments regarding specified events constituting defaults and the remedies therefor under the securities; whether any periodic evidence is required to be furnished as to the absence of default or as to compliance with the terms of the securities, indentures or instruments; or the degree to which the issuer is subject to suit for failure to perform its obligations to the holders of the securities or is subject to the enforceability of judgments resulting from suit.

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- (17) Events or conditions that have an important likelihood of affecting the exemption of interest on the securities from income taxation.
- (18) Other significant matters of the nature described in Sections III and VIII of the *Disclosure Guidelines for Offerings* at pages 10 and 40, respectively.

SECTION VI

Information for Release Other Than on an Annual Basis

A. Release should be made of each official statement or other offering document for an offering of securities of the issuer containing information substantially more current than that contained either (i) in the last official statement or other offering document for an offering, or (ii) in the last information statement of the issuer, whichever is the latest to be released pursuant to these *Guidelines*. Release should include sending a copy to one or more repositories (see Procedural Statement No. 8 at page 97). Financial statements regarding a fiscal year not covered in any such prior official statement, other offering document or information statement should be regarded as "substantially more current," as should other information significantly differing from information previously reported. Release of each official statement or other offering document pursuant to this paragraph should be made in the manner recommended in Procedural Statement No. 8 at page 97.

B. Release also should be made as promptly as possible of information concerning major developments about the issuer or governmental enterprise, where the information has not been released previously pursuant to these *Guidelines*. Normally, information regarding the continuation of a prior trend in any area of information, without a relevant change in the direction or rate of change of the trend, should be made pursuant to other sections of these *Guidelines for Continuing Disclosure*. However, information concerning any rapid change or the occurrence of any other event that can be expected significantly to affect reasonable investment or trading decisions should be released by the issuer, as recommended in Procedural Statement No. 8 at page 97, immediately upon its availability in reliable form. No fully comprehensive list can be prepared of the types of information that should be released under this section. Some examples, however, of that information may include:

- (1) The occurrence of a default or the probable likelihood of default in any outstanding indebtedness of the governmental or conduit issuer or obligations of the issuer of credit enhancement, or a declaration that an agreement or legal proceedings affecting the securities is invalid or unenforceable, describing the indebtedness and creditors

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involved, the circumstances leading to the transaction, the relevant provisions of the authorizing and governing instruments, agreements, proceedings or other documentation, and the amounts of principal and interest involved.

- (2) The occurrence of a sudden change or disruption of an apparently long-term nature in services providing revenues that are relevant to the payment of outstanding securities, a failure to pay expenditures that were due in the preceding fiscal year and a discussion of the reasons therefor, or any change or disruption in services or production that may have an important bearing upon the issuer's business or enterprise activities, assets, revenues, liquidity, working capital, cash flow or profits.
- (3) The issuance of additional indebtedness (including private placements).
- (4) A severe natural disaster, damage to property, or precipitous economic change significantly affecting the issuer's economy, construction plans, or operations, or in the case of conduit issuers, the issuer's business.
- (5) A change known to the issuer in a rating by a national rating service on any outstanding securities of the issuer.
- (6) A decision to refund outstanding securities; the occurrence of the refunding; and a subsequent decision to abandon or postpone the refunding.
- (7) Call or prepayment of outstanding securities (see Procedural Statement No. 7 at page 95).
- (8) Institution of a formal governmental investigation or litigation concerning the tax status of, or otherwise having a direct bearing upon information concerning, the issuer or its securities that is relevant to an investor.
- (9) For governmental enterprises and conduit issuers, relevant changes in assets, revenues, liquidity, working capital, cash flow, or profits, or in key management positions or policies; loss or gain of relevant customers; or relevant changes in contractual or working arrangements with third parties.

C. When an escrow is established securing all or part of an issue, the issuer should make a release of a refunding notice describing the plan of refunding, including the following matters:

- (1) Identification of the securities to be refunded.

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- (2) Identification of the escrow agent and the city in which the escrow is to be held.
- (3) The terms of the escrow, including the date it is to be established, the securities to be placed in the escrow, and any ability or intention to modify the securities in or the maturity or other terms of the escrow.
- (4) Whether the refunded securities are to be defeased and, if so, whether the defeasance is to be made under document provisions providing for the release of the lien of the refunded securities or is to be only an economic defeasance.
- (5) The date or dates on which the principal of the refunded securities is to be paid, whether at a redemption or maturity date (see Procedural Statement No. 7 at page 95), and any ability or intention to modify the date or dates or other elements of the plan of refunding.
- (6) The date or dates on which notice of redemption or other payment is required or anticipated to be given.

Procedural Statements in Connection with the Disclosure Guidelines

INTRODUCTION

The Government Finance Officers Association periodically issues its *Procedural Statements* regarding both offering and continuing disclosure and assistance by issuers and their advisors to investors and underwriters.⁵⁰ The *Procedural Statements* are intended to recommend procedures to issuers and their advisors with respect to the process of supplying information to, and working with, investors and underwriters.

See also the general Introduction to the *Guidelines* at page vii for additional information respecting these *Procedural Statements*.

⁵⁰ The *Procedural Statements* are intended in part to respond to the needs of underwriters as set forth in Public Securities Association, *A Discussion of Significant Operational Issues for Municipal Securities Underwriters Arising under SEC Rule 15c2-12 and the SEC's Accompanying Interpretive Statement* (Jan. 1990).

PROCEDURAL STATEMENT NO. 1

Continuing Review of Disclosure Guidelines and Procedural Statements

The Government Finance Officers Association's Committee on Government Debt and Fiscal Policy solicits and reviews comments on the *Guidelines for Offerings*, the *Guidelines for Continuing Disclosure*, and these *Procedural Statements*. As part of this process, the Committee from time to time will recommend to GFOA revisions in the *Guidelines* (including the *Procedural Statements*) when revisions are deemed advisable as a consequence of experience with their use in the municipal securities market.

The Committee may be contacted through the Government Finance Officers Association, 1750 K Street, N.W., Suite 200, Washington, D.C. 20006 [telephone: (202)-429-2750].

PROCEDURAL STATEMENT NO. 2

Use of Preliminary and Final Official Statements

It has become a common and helpful practice for preliminary official statements or "red herrings" to be used in offerings of state and local government securities. A preliminary official statement is a document that provides information to potential investors and underwriters and assists in the offering and sale of the securities.⁵¹ It contains information concerning the proposed issue as of the date of the release of the document, which is prior to the date of sale. The preliminary official statement should be complete and accurate as of its date, but specifically may omit certain offering information as noted below, and the information contained therein is subject to change prior to the delivery of the final official statement with respect to intervening events, information requested by underwriters, and new information that becomes available. The pricing or new information needed to complete the document can then be added in the final official statement. (See Procedural Statement No. 4 at page 90.) A preliminary official statement may be the same document as an official statement "deemed final" as of its date by the issuer, as contemplated in Securities and Exchange Commission Rule 15c2-12(b)(1), or may be the "deemed final" official statement with changes made therein. Under Rule 15c2-12, a "deemed final" official statement, and under good practice a preliminary official statement, each should be complete and accurate as of their respective dates and should specifically omit only certain offering information.⁵²

Where a preliminary official statement is distinct from the final official statement, it is recommended that a "red herring" legend be used to the effect that the preliminary official

⁵¹ The Securities and Exchange Commission stated in Rule 15c2-12(e)(6) that the term "preliminary official statement" means:

an official statement prepared by or for an issuer of municipal securities for dissemination to potential customers prior to the availability of the final official statement.

⁵² Rule 15c2-12(b)(1) states that the information that specifically may be omitted from an official statement deemed final by the issuer as contemplated in that paragraph is:

The offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, any other terms or provisions required by an issuer of such securities to be specified in a competitive bid, ratings, other terms of the securities depending on such matters, and the identity of the underwriters.

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statement is subject to amendment or supplementation before the date of the final official statement.

In each offering, it is recommended that the issuer verify or affirm in writing a "deemed final" official statement as final, and as accurate and complete in all material⁵³ respects (except for information that may be omitted from a "deemed final" official statement as permitted under Rule 15c2-12), as of its date. This will enable the underwriters to satisfy their responsibilities to receive and review such a document prior to bidding for, purchasing, offering or selling the securities. In competitive bids, it is recommended that issuers indicate their willingness to respond to inquiries of potential bidders, and that they will consider making necessary changes to "deemed final" official statements based upon reasonable requests of the underwriters, provided that those changes do not result in significant inaccuracies in, or omissions from, the official statement.

Under Rule 15c2-12(b)(2), if, but only if, a preliminary official statement is prepared by an issuer, the underwriters in the offering are required to distribute, until the final official statement is available, a copy of the preliminary official statement to any requesting "potential customer."⁵⁴ It is recommended that issuers certify their preliminary official statements as materially accurate and complete as of their dates, authorize underwriters to utilize the preliminary official statements, and directly or through their agents, arrange for underwriters to have access to a sufficient number of copies of the preliminary official statements, if prepared, to assist underwriters in the satisfaction of their responsibility.

A final official statement contains information concerning an issue as of its date, which should be the date to which it speaks. The official statement may contain changes and amendments from the "deemed final" or the preliminary official statements to reflect pricing and underwriting information, comments of underwriters based upon their review of the "deemed

⁵³ Although these *Guidelines* generally do not use the word "material," that term is used in the context of this Procedural Statement because of custom and the language of legal provisions to which the certification described refers.

⁵⁴ The term "potential customer" is defined in Rule 15c2-12(e)(5) as:

(i) any person contacted by the Participating Underwriter concerning the purchase of municipal securities that are intended to be offered or have been sold in an Offering, (ii) any person who has expressed an interest to the Participating Underwriter in possibly purchasing such municipal securities, and (iii) any person who has a customer account with the Participating Underwriter.

The Securities and Exchange Commission, however, has stated that it "does not expect" an underwriter

who determines that the preliminary official statement is inaccurate or contains misleading omissions regarding the issuer, would provide copies to potential customers

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final" official statement, unforeseen intervening events, and new information. It is recommended that the final official statement be current to the time of delivery of the securities to the underwriters. Where important changes are made from the preliminary official statement to the final official statement, other than changes reflecting only pricing and related information that may be omitted from a "deemed final" official statement as described above, it is recommended that the changes be indicated appropriately. The indication may be made by highlighting the changes in the final official statement, by a statement or summary of changes placed in the document, or by other means designed to draw appropriate attention to the changes.

In many competitively bid offerings, an official statement will be released prior to the date of sale. If no further official statement is made available, that official statement, to which pricing, underwriting, and various other information may have been attached subsequent to its release, is considered the final official statement. (See Procedural Statements Nos. 4 and 13 at pages 90 and 104, respectively).

It is reasonable for underwriters to ask that issuers furnish, and it is recommended that issuers provide, certification by an appropriate official of the issuer, acting in an official and not in a personal capacity, that:

- (1) At the date of the official statement and the date of delivery of the securities, the final official statement did not contain any untrue statement of material fact or omit a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading; and
- (2) From the date of the final official statement to the date of closing, there has been no material adverse change relating to the issuer, other than as disclosed in the final official statement.

Additional information may become known or significant events may occur subsequent to the date of the final official statement and prior to the end of the underwriting period.⁵⁵ In those cases, it is recommended that an appropriate supplement or amendment of the original document be made, that issuers cooperate with the underwriters in a distribution of a supplement or amendment to those parties who received the original information, and that the information

⁵⁵ Rule 15c2-12(e)(2) defines the term "end of the underwriting period" as the later of (1) the time of the delivery of the securities by the issuer to the underwriters, or (2) the time at which an underwriter does not retain, directly or as a member of a syndicate, an unsold balance of the securities for sale to the public.

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be provided to an appropriate communications vehicle for public distribution.⁵⁶ See Procedural Statement No. 8 at page 97. Where a preliminary official statement is not used, the official statement nevertheless should be made available at all times (see Procedural Statement No. 3 at page 88).

⁵⁶ Examples of those services include: news wires, such as *Munifacts*, maintained by *The Bond Buyer*, New York, *Kenny Alert*, maintained by *J.J. Kenny Co., Inc.*, New York, and *Dow Jones Wire*, maintained by *Dow Jones & Company*, New York; daily financial periodicals of national circulation, such as *The Bond Buyer*, *The Wall Street Journal*, and *Investors Daily*; local, regional and national newspapers; and rating services.

PROCEDURAL STATEMENT NO. 3

Availability of Official Statements to the Public and Delivery of Official Statements to Underwriters

It is recommended that issuers of municipal securities, in addition to preparing official statements, take appropriate steps to further the availability to the public of the information therein. When an offering through competitive bid is pending, the issuer should state, in connection with its notice of sale, that copies of the official statement may be obtained from it or its agents by any interested party. The name, title, address and telephone number of the official through whom the copies may be obtained also should be stated. See also Procedural Statement No. 13 at page 104.

It is recommended that underwriters be provided a sufficient number of copies for purposes of the offering and their compliance with Securities and Exchange Commission Rule 15c2-12.⁵⁷ See Procedural Statement No. 2. It is also recommended that a copy be provided to one or more repositories for preservation and continued availability (see Procedural Statement No. 8). In addition, in the event that an issuer does not file, or cause to be filed, its final official statements with one or more repositories as contemplated in Procedural Statement No. 8, it is recommended that the issuer provide to all parties who contact the issuer during the life of the securities issue, without charge, at least one copy of the official statement. A reasonable charge for copying, handling, and mailing may be imposed for additional copies.

The precise time at which copies of the official statement should be furnished to underwriters is subject to the particular circumstances, but it is recommended that the timing and

⁵⁷ Under Rule 15c2-12(b)(4), underwriters are required to deliver copies of the final official statement to potential customers during the underwriting period and for a period of 90 days following the end of that period (which latter period may be shortened to 25 days if the final official statement is available to any person from a nationally recognized municipal securities information repository); under Rule G-32 of the Municipal Securities Rulemaking Board, all dealers selling new issue securities are required to deliver, prior to settlement, copies of the final official statement to purchasers in the offering. Rule 15c2-12(b)(3) further requires underwriters to contract with issuers or their agents for receipt, within seven business days after any final agreement to purchase, offer or sell the securities and in sufficient time to accompany any confirmation that requests payment from any customer, of a sufficient number of copies of the final official statement to enable the underwriters to satisfy their responsibilities. It is recommended that issuers cooperate with underwriters on those matters.

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quantity considerations imposed upon underwriters under Securities and Exchange Commission Rule 15c2-12⁵⁸ and upon dealers selling new issue securities under rules of the Municipal Securities Rulemaking Board be respected as discussed in Procedural Statement No. 2 at page 84 and in the preceding footnote in this Procedural Statement. In any event, it is recommended that the official statement be made available to potential investors as early as possible, throughout the underwriting period, and for the 90-day (or if appropriate, the 25-day) period after the end of the underwriting period, as discussed in Procedural Statement No. 2.

⁵⁸ Securities and Commission Rule 15c2-12 requires that, in offerings subject to the Rule, underwriters:

contract with an issuer of municipal securities or its designated agent to receive, within seven business days after any final agreement to purchase, offer, or sell the municipal securities in an Offering and in sufficient time to accompany any confirmation that requests payment from any customer, copies of a final official statement in sufficient quantity to comply with [the Rule and Municipal Securities Rulemaking Board Rules].

PROCEDURAL STATEMENT NO. 4

Underwriting Data

Dealers are subject to a number of requirements of the Municipal Securities Rulemaking Board in the conduct of offerings. MSRB Rule G-32 contains several requirements for disclosure by dealers to their customers.⁵⁹ The underwriting data are generally provided by the underwriters to potential investors with official statements. That data may be omitted from official statements "deemed final" by issuers, as contemplated in Securities and Exchange Commission Rule 15c2-12, and from preliminary official statements. See Procedural Statement No. 2 at page 84.

The underwriting data should be designated clearly as data furnished by the underwriters and not by the issuer. It also is appropriate, so as to make final official statements available as early as possible or for other reasons, to separate the underwriting data from the information disclosed by the issuer through the use of a separate document for the underwriting data, either not attached to the official statement, or, if attached, by noting the source of the data.

⁵⁹ See Section XII of the *Guidelines for Offerings* at page 62 for a listing of those requirements.

PROCEDURAL STATEMENT NO. 5

Assistance by Issuers to Underwriters and Investors Inquiring About Information

Issuers, underwriters, rating services and investors are concerned that information in official statements prepared by issuers be accurate and sufficient in all relevant respects. Underwriters, in particular, are responding to the interpretation by the Securities and Exchange Commission of their legal obligations, including that of having a reasonable basis for believing the key representations by issuers respecting their securities underwritten by the underwriters.⁶⁰ It has become common practice for underwriters and potential investors to raise questions with issuers based upon reviews of official statements and upon other information to which the underwriters and investors have access. Generally, the questions raised will relate to:

- (1) Possible informational voids in an official statement;
- (2) Possible inconsistencies within the document; or
- (3) Possible inconsistencies between the document and other available information.

Potential investors may also make inquiry to seek clarification and to assist their analysis of the document. So that underwriters and investors may have ready access to the issuer for those purposes, it is recommended that issuers state the name, title, address and telephone number of an appropriate official(s) able to answer questions or to direct inquiries to appropriate officials, as recommended in Section II of the *Guidelines for Offerings* at page 5.

Through their appropriate officials, it is recommended that issuers respond promptly to all reasonable inquiries and provide the requested additional information in reasonable detail to satisfy the underwriters and investors. Of course, all relevant information should be contained

⁶⁰ According to the Commission, underwriters implicitly recommend securities that they underwrite. Among other statements, the Commission asserted that "Sole reliance on the representations of the issuer would not suffice." SEC Rel. 34-26100, 53 F.R. 37778 at 37789 (Sept. 28, 1988) [footnote omitted].

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in an official statement or current report, if applicable, and in responding to a request, an issuer should give no one access to data that will not be made available generally to others upon request. If additional significant information is furnished in response to inquiry or is obtained by the issuer during the underwriting period, it is recommended that the official statement be supplemented or amended, that the supplement or amendment be distributed directly to those who have received the official statement, and as appropriate, that the information be provided to *Munifacts* or another similar communications vehicle for public distribution (see Procedural Statement No. 2 at page 84).

Issuers may wish to seek the advice of counsel respecting the following:

- (1) Policies and procedures governing amendment of official statements after the end of the underwriting period;⁶¹
- (2) Responses to inquiries from investors and others; and
- (3) Circumstances governing the advisability of public releases of information.

See Section VI of the *Guidelines for Continuing Disclosure* at page 78 and Procedural Statement No. 8 at page 97.

Frequent requests for particular data also should prompt a reexamination of the sufficiency of the official statement. Where the underwriters or potential investors raise issues that are covered adequately in an official statement, however, it is appropriate to refer them to the information therein, particularly when copies have been provided to one or more repositories (see Procedural Statement No. 8 at page 97) or may be obtained from the issuer (see Procedural Statement No. 3 at page 88). Relevant changes occurring between the date of the official statement and the end of the underwriting period should be communicated to the underwriters, rating services rating the securities, pursuant to contractual obligations, the issuer of any credit enhancement on the securities, and an appropriate communications vehicle for public distribution (see also Procedural Statements Nos. 2, 8 and 13 at pages 84, 97 and 104, respectively).

⁶¹ Underwriters are required, under SEC Rule 15c2-12(b)(4), to deliver copies of the final official statement for a period of 90 days after the end of the underwriting period. The delivery period is reduced to 25 days after the end of the underwriting period, if the final official statement is delivered to a nationally-recognized municipal securities information repository. See Procedural Statements Nos. 2, 3 and 8 at pages 84, 88 and 97, respectively.

PROCEDURAL STATEMENT NO. 6

Practices in Note and Bond Sales; Sales of Variable Rate Securities; Limited Placements; and Small Offerings

The procedures followed in primary offerings⁶² to the public of notes, variable rate securities and bonds or other securities should be substantially the same under normal circumstances.⁶³ For example, it is recommended that full disclosure be made in all cases of

⁶² The term "primary offering" is defined in Securities and Exchange Commission Rule 15c2-12, as follows:

The term "primary offering" means an offering of municipal securities directly or indirectly by or on behalf of an issuer of such securities, including any remarketing of municipal securities (i) that is accompanied by a change in the authorized denomination of such securities from \$100,000 or more to less than \$100,000, or (ii) that is accompanied by a change in the period during which such securities may be tendered to an issuer of such securities or its designated agent for redemption or purchase from a period of nine months or less to a period of more than nine months..

The Rule applies to primary offerings in the principal amount of \$1,000,000 or more, subject to exemptions for certain limited offerings and offerings of certain short-term or variable rate obligations.

In offerings of commercial paper, variable rate demand notes, and other short-term securities exempt from SEC Rule 15c2-12, only significant changes need be disclosed, together with the means of obtaining the official statement, including the name, title, address and telephone number of the person from whom it is available.

⁶³ The Securities and Exchange Commission exempted from the reach of its Rule 15c2-12 three categories of offerings: limited placements, sales of short-term securities, and certain sales of variable rate securities. Further, the Rule does not apply to issues of less than \$1 million in aggregate principal amount, and the Commission has the power to grant transactional exemptions. The exemption from or absence of application of Rule 15c2-12 is not an exemption from the antifraud provisions of federal or state law or from the Commission's interpretation respecting underwriter investigatory responsibilities. In addition, these *Guidelines* continue to apply to transactions regardless of their status under the Rule.

The stated exemptions require that the securities be sold in denominations of \$100,000 or more, with the use of protections to avoid breaking the securities into smaller denominations without compliance with the Rule, and impose specific requirements for the respective exemptions summarized generally below:

- (1) Limited placements may not be sold to more than 35 purchasers, and the underwriters must believe that each of those purchasers is purchasing for its own account and not with a view to distributing the securities and that each purchaser satisfies requirements regarding its knowledge and experience in financial and business matters;
- (2) Short-term securities must have a maturity of nine months or less; and

Proc. State. No. 6
Practices

all relevant information in accordance with the *Guidelines for Offerings*; official statements be made available to potential investors and underwriters (Procedural Statements Nos. 2, 3 and 13 at pages 84, 88 and 104, respectively); underwriting data be distinguished from data provided by issuers (Procedural Statement No. 4 at page 90); issuers assist underwriters in the conduct of investigatory activities required of the underwriters pursuant to the interpretation by the Securities and Exchange Commission in that regard and respond to inquiries from investors and underwriters regarding information (Procedural Statement No. 5 at page 91); issuers provide official statements and other information to one or more repositories and other parties (Procedural Statement No. 8 at page 97); and issuers follow practices in their competitively bid offerings (as well as in other offerings) that enable underwriters to satisfy their responsibilities under Rule 15c2-12 (see Procedural Statement No. 13 at page 104).

While Rule 15c2-12 is not applicable to offerings under \$1 million, the interpretation by the Securities and Exchange Commission regarding investigatory responsibilities of underwriters continues to apply even in small offerings, and the underwriters will need to receive information for purposes of conducting their investigation as required. Rule 15c2-12 prescribes practices respecting the provision and dissemination of preliminary and final official statements that are encouraged, and in any event, it is recommended that an official statement that is complete and accurate in all relevant respects be used in all offerings to the public.

In limited placements that are exempt from the requirements of Rule 15c2-12, such as direct placements to a limited number of institutional investors, alternative procedures may be determined by negotiations among the issuer, the underwriter or placement agent, if any, and the investors. The investors should have access, nevertheless, to all relevant information, whether through a formal official statement or otherwise. Investors should be able to execute a certificate to the issuer to the effect that, assuming that the issuer has responded fully and accurately to investor requests, the investors have had access to such information as they have requested and they desire no further information. It is recommended that the issuer receive assurances from the underwriter or placement agent and the investors that the transaction is in fact a limited placement.

(3) Variable rate securities must be subject to tender at the option of the holder thereof to the issuer or its agent for redemption or purchase at par value or more at least as frequently as each nine months.

PROCEDURAL STATEMENT NO. 7

Procedures for Notices of Call and Call Payments

In calling bonds, issuers should use procedures that enhance the efficiency of the bond redemption process. In particular, the following procedures are recommended:⁶⁴

Notices of bond redemptions should contain, at a minimum: CUSIP⁶⁵ numbers; certificate numbers and called amounts (for partial calls) of called certificates; publication date; redemption date; redemption price; redemption agent's name and address; date of issue; interest rate; maturity date; and other descriptive information as may be needed to identify accurately the called security and procedures to be followed. Issuers should provide CUSIP numbers with redemption payments.

In addition to notices required by the basic documentation, all redemption notices should be mailed to registered holders and sent, in a secure fashion (*e.g.*, registered or certified mail or overnight delivery service), to all three registered securities depositories⁶⁶ and sent to

⁶⁴ SEC Rel. No. 34-23856 (Dec. 3, 1986).

⁶⁵ The securities numbering system devised by the Committee on Uniform Security Identification Procedures (CUSIP) of the American Bankers Association and currently operated under contract by Standard & Poor's, New York.

⁶⁶ At present, the three registered securities depositories are The Depository Trust Company, New York; Midwest Securities Trust Company, Chicago; and Philadelphia Depository Trust Company, Philadelphia.

Proc. State. No. 7
Procedures for Calls

national information services that disseminate redemption notices.⁶⁷ Issuers with bearer bonds outstanding are urged to publish notices of call in daily financial periodicals of national circulation.

Redemption notices should be published at the time of the advance refunding, if any, as part of the refunding notices recommended in Section VI-C of the *Guidelines for Continuing Disclosure* at page 78. Second notices of advance refundings, and first notices in other redemptions, should be given at least 30 days prior to the redemption date, except in variable rate or other appropriate issues or where the basic documentation does not permit a 30-day notice. Consideration may be given, where appropriate, to sending notices to the registered securities depositories in advance of the publication date.

Issuers should also include call notification standards in trust indentures and other documentation related to the securities, and require contractually that their trustees and agents comply with the standards.

In addition, issuers might wish to consider the following procedures: (i) mail redemption notices to all registered owners; (ii) mail refunding and redemption notices for bearer securities to securities holders that supply their names and addresses for that purpose; and (iii) if feasible, mail follow-up notices to securities holders that do not redeem securities on time.

⁶⁷ Sending the notices to nationally recognized services, such as the following, among others, should suffice for most purposes: Financial Information, Inc.'s *Financial Daily Called Bond Service*, New York; Interactive Data Corporation's *Bond Service*, New York; Kenny Information Service's *Called Bond Service*, New York; Moody's *Municipal and Government News Reports*, New York; Standard & Poor's *Called Bond Record*, New York; and *The Bond Buyer*, New York.

PROCEDURAL STATEMENT NO. 8

Dissemination of Information and Provision of Statements, Reports and Releases

As recommended in the *Guidelines for Continuing Disclosure*, issuers should make continuing information available. Information releases recommended by those *Guidelines* should be provided, promptly upon availability of relevant information, to those dissemination services that are most likely to reach investors and securities dealers. Examples of those services include: news wires, such as *Munifacts*, maintained by *The Bond Buyer*, New York, *Kenny Alert*, maintained by *J.J. Kenny Co., Inc.*, New York, and *Dow Jones Wire*, maintained by *Dow Jones & Company*, New York; daily financial periodicals of national circulation, such as *The Bond Buyer*, *The Wall Street Journal*, and *Investors Daily*; local, regional and national newspapers; and rating services.

Submission of documents to one or more public or private repositories may be used as one part of accomplishing the purposes of disseminating and preserving official statements, including all amendments and supplements, annual reports, information statements, releases and refunding notices.⁶⁸ It is recommended that issuers send, promptly upon availability, a copy of each document to one or more repositories, to nationally-recognized rating services that have

⁶⁸ The Securities and Exchange Commission has created in its Rule 15c2-12 the concept of a nationally recognized municipal securities information repository ("NRMSIR"), and has recognized a number of NRMSIRs. For those offerings for which the final official statement is filed with a NRMSIR, the applicable delivery period for the final official statement by the underwriters is reduced from 90 days after the end of the underwriting period to 25 days thereafter (see Procedural Statement No. 2 at page 84). It is desirable for issuers to cooperate with underwriters in making those filings so as to reduce the need for continued delivery of the final official statement for the entire 90-day period, particularly when the document may become stale, and to minimize the number of documents that must be printed. SEC Rel. 34-26985, 54 F.R. 28799 at 28803, n. 65 (July 10, 1989).

The following NRMSIRs have been recognized by the Securities and Exchange Commission: *Bloomberg Financial Markets*, Repository, P.O. Box 840, Princeton, NJ 08542-0840 [telephone: (609) 683-1324]; *The Bond Buyer*, 161 William Street, New York, NY 10036 [telephone: (212) 943-6654]; and *Kenny Alert*, maintained by *J.J. Kenny Co., Inc.*, 65 Broadway, 16th Floor, New York, NY 10006 [telephone: (212) 770-4595]. Future editions of these *Procedural Statements* may make reference to other NRMSIRs that may be approved. In addition, the Municipal Securities Rulemaking Board has established a public access facility for official statements at 1818 N Street, N.W. Suite 800, Washington, DC 20036 [telephone: (202) 223-9347].

Proc. State. No. 8
Dissemination

ratings obtained by the issuer on its outstanding securities, and pursuant to contractual commitments, to issuers of credit enhancements.⁶⁹ The sending of documents to a repository, rating service or issuer of a credit enhancement should not be deemed to indicate that those documents speak as of any date other than the dates indicated in the documents. It is appropriate to so indicate in the documents and to state that the issuer assumes no liability for the release of the documents and that subsequent events are not reflected therein and may not be reflected in documents sent later to the repository, rating service or issuer of the credit enhancement. The advice of counsel may be sought regarding the efficacy of incorporating by reference into official statements, documents readily available through a repository.

It is recommended further that, if an official statement is not available through a repository, the issuer provide one copy thereof upon request to any party without charge, as stated in Procedural Statement No. 3 at page 88. It is also recommended that special releases having a significant bearing upon outstanding securities, for example, refunding notices, be mailed to registered securities holders and that those releases and annual reports or other periodic reports or information statements be mailed to persons requesting that their names be placed upon a mailing list for that purpose. Notice of such a mailing list may be in such form as not to constitute a contractual commitment.

Subject to the foregoing, it is recommended that issuers make official statements and other disclosure documents available upon request and payment of copying, handling and mailing costs. Copies of documents may be made available either directly or through the trustee for the issue. It is recommended that copies of all disclosure documents having a bearing upon the securities be provided by the issuer without charge to the trustee for the issue.

⁶⁹ The Corporate Trust Committee of the American Bankers Association has released a draft of guidelines to provide assistance to trustees in the provision of certain information to the market. At the time of approval of these *Disclosure Guidelines*, the trustees guidelines are still subject to revision. Trustees and others involved in state and local government securities offerings should obtain information as to the status of the trustee guidelines and should evaluate their applicability to the particular circumstances.

PROCEDURAL STATEMENT NO. 9

Use of Opinions and Reports of Auditors and Other Experts

It is recommended that when auditors, engineers, or other consultants or experts are retained for the preparation of opinions or reports that may be included in an official statement, they be advised upon their retention by, or on behalf of, an issuer that their opinions will be so used. Where that has not occurred, consent for the inclusion of the opinions or reports in a disclosure document should be obtained at the time the document is prepared. To the extent the consent is predicated upon the issuer's furnishing assurances to the expert as to the continuing validity of certain factual bases underlying the conclusions reached by the expert, it is recommended that the issuer furnish the assurances, if possible.

A statement should be made in the official statement that the inclusion is made in reliance upon the expert status of the auditors, consultants, engineers or other experts.

PROCEDURAL STATEMENT NO. 10

Transfer Agent and Record Date Standards

It is recommended that issuers require their transfer agents to transfer their securities with a 72-hour turnaround, so that undue transfer delays may be avoided.

A record date standard of the 15th day of the month prior to an interest payment date occurring on the first day of a month is recommended, and in other instances, 15 days prior to the interest payment date.

Issuers should specify these standards in trust indentures, transfer agent agreements, and other documentation related to the securities transfers.

Transfer agents should be identified, where possible, prior to the date of sale of an issue so that all parties are aware of the identity of the agent. In a competitively bid issue, the identification could be made, for example, in the notice of sale.

PROCEDURAL STATEMENT NO. 11

Assurances and Agreements by Conduit Issuers

The Securities and Exchange Commission has indicated that, for purposes of its Rule 15c2-12,⁷⁰ the term "issuer of municipal securities" includes conduit issuers,⁷¹ *i.e.*, private profit-making or nonprofit issuers of obligations constituting separate securities in conduit financings, where the private issuers constitute a significant credit source for other securities issued by governmental issuers.

It is recommended that governmental issuers require that conduit issuers exercise the same level of effort to inform investors and potential investors that the governmental issuers themselves exercise. Specifically, governmental issuers may wish to consider requiring the following:

- (1) Assurances from conduit issuers, in connection with the issuance of the securities, that the conduit issuers have made disclosure in the official statement as contemplated in the *Guidelines for Offerings* and in conformity with all governing federal and state securities laws, and that the conduit issuers have caused full compliance with those laws in connection with the preparation and dissemination of "deemed final," preliminary and final official statements (see also Procedural Statements Nos. 2 and 3 at pages 84 and 88, respectively; and
- (2) Agreements of conduit issuers with the trustees, for the benefit of the securities holders, in the basic documentation for the issues that the conduit issuers will provide or caused to be provided continuing information as contemplated in the *Guidelines for Continuing Disclosure* and these *Procedural Statements*.⁷²

⁷⁰ Securities and Exchange Commission Rule 15c2-12(e)(4), 17 C.F.R. §240.15c2-12(e)(4).

⁷¹ See the Glossary in Appendix A for definitions of the terms "conduit issuer" and "separate securities."

⁷² For single-family mortgage revenue securities, the reporting recommendations of the National Council of State Housing Agencies (see Appendix F), as in effect from time to time, should be similarly followed.

Proc. State. No. 11

It is recommended also that governmental issuers require that similar steps be taken by guarantors of the separate securities, as discussed in Procedural Statement No. 12 at page 103.

PROCEDURAL STATEMENT NO. 12

Assurances by Issuers of Credit Enhancements

In certain issues of state and local government securities, various forms of credit enhancement may be obtained, such as bond insurance, letters or lines of credit, guaranteed investment contracts and, especially in conduit issues, guarantees. The Securities and Exchange Commission has indicated that, for purposes of its Rule 15c2-12, the term "issuer of municipal securities" includes issuers of credit enhancements that provide credit support for securities issued by governmental issuers.⁷³

For purposes of guarantees of separate conduit securities by parties related to the conduit issuers, it is recommended that governmental issuers require that the same steps be taken by the guarantors that are required of the conduit issuers. See Procedural Statement No. 11 at page 101.

With respect to other issuers of credit enhancements, governmental and conduit issuers should be aware that there have been instances in which ratings on securities have been lowered or redemptions have occurred when issuers of credit enhancements experienced difficulties. It is recommended that governmental issuers not place themselves in the position of certifying the accuracy or sufficiency of the disclosure practices of issuers of credit enhancements or of accepting responsibility for information provided by issuers of credit enhancements. Rather, it is recommended that the issuers of credit enhancements be responsible for satisfying the underwriters as to credit enhancement matters in the offering of securities, including with respect to information incorporated by reference into official statements.

It is recommended that governmental issuers obtain assurances from issuers of credit enhancements that the issuers of credit enhancements accept responsibility for those matters. It is also recommended that governmental issuers receive assurances from issuers of credit enhancements that the issuers of credit enhancements will follow, in connection with offerings of governmental securities, sound continuing disclosure practices similar to the practices followed by governmental issuers by disclosing financial statements and information relating to a significant change in the ability of the issuer of the credit enhancement to satisfy its obligations under the credit enhancement..

⁷³ Securities and Exchange Commission Rule 15c2-12(e)(4), 17 C.F.R. §240.15c2-12(e)(4); SEC Rel. No. 34-26985 at 33-34 (June 28, 1989), 54 F.R. at 28806 (July 10, 1989).

PROCEDURAL STATEMENT NO. 13

Notices of Sale and Bid Forms

The Securities and Exchange Commission has imposed, in its Rule 15c2-12, certain requirements upon underwriters to obtain, review and disseminate official statements at various stages of a state or local government financing. It is recommended that issuers cooperate with underwriters in the underwriters' activities to satisfy their responsibilities. The Rule applies to offerings in the principal amount of \$1 million or more, with certain exceptions.

Among the areas that require issuer assistance to underwriters in offerings covered by the Rule, and that may be advisable practices in offerings not subject to the Rule, are:

- (1) Distribution to potential bidding underwriters of an official statement and certification by issuers that they "deem final," as of its date, the official statement so provided.
- (2) Agreement by issuers in negotiated sales that they will make available, directly or through their agents, a sufficient number of copies of any preliminary official statement for delivery under the Rule. See also Procedural Statements Nos. 2 and 3 at pages 84 and 88, respectively. The preliminary official statement may be the same document as the "deemed final" official statement. Where a preliminary official statement is to be utilized, its distribution by the underwriters should be authorized by the issuer.
- (3) Agreement by issuers that they will provide a final official statement and that they will make available, directly or through their agents, a sufficient number of copies of the final official statement, within the time contemplated in Rule 15c2-12, for delivery as contemplated in the Rule. See also Procedural Statements Nos. 2 and 3 at pages 84 and 88, respectively.

The agreements, authorization and certification contemplated above may be placed in notices of sale or bid forms, or if separate documents are satisfactory to the parties, may be placed in separate documents governing the award.

The disclosure responsibilities of underwriters in negotiated offerings may be resolved by direct discussions between the parties during the offering and prior to the final sale agreement.

Proc. State. No. 13
Notices of Sale

In competitive bids, however, issuers should be aware that the responsibilities of underwriters begin under Rule 15c2-12 even before the award of the securities and that the underwriters have responsibilities after the award that are dependent upon issuer cooperation in the bidding process.

See also Procedural Statement No. 5 at page 91 respecting responses to underwriter inquiries and comments on official statements.

APPENDICES

APPENDIX A

Glossary

As used in these *Guidelines*, the terms listed below have the respective meanings ascribed to them in this Glossary. See also the *Glossary of Municipal Securities Terms* published by the Municipal Securities Rulemaking Board.

Basic Documentation

The term "basic documentation," relating to securities, means the indenture, trust agreement, resolution or ordinance, lease, installment purchase agreement, loan agreement, bond, note, certificate of participation or other documentation authorizing the issuance of the securities or establishing the rights and responsibilities of the issuer, investors or other parties to the transaction.

Conduit Issuer

The term "conduit issuer" means an issuer of "separate securities," other than a credit enhancement.

The term "separate securities" means obligations of private profit-making or nonprofit issuers constituting a significant ultimate credit source for securities issued by governmental issuers. See also Securities and Exchange Commission Rules 131 and 3b-5(a).

The term "separate securities," as used herein, does not include securities issued by governmental issuers to other governments that may issue their own securities for the purpose of financing the acquisition, as in the case of bond banks or pools where governmental issuers or governmental enterprises provide the ultimate credit source for the securities.

Appendix A

Glossary

Conduit Securities

See "separate securities."

Continuing Disclosure Document

The term "continuing disclosure document" means a disclosure document prepared by or on behalf an issuer of municipal securities having outstanding securities and used to inform the market in those outstanding securities. The term includes an official statement for an offering of other securities, if the official statement is also used to so inform the market in outstanding securities.

Credit Enhancement

The term "credit enhancement" means a contractual arrangement to provide for the payment of the principal of, or interest or premium on, or for the redemption of securities of a governmental or conduit issuer in the event that the governmental or conduit issuer does not make payment in full or on time, or to make that payment directly. Such an arrangement, which may provide for direct or indirect payment to the securities holders, may be conditional or irrevocable, for all or part of the securities offered, and for all or part of the life of the obligation, and is for the purpose of improving the creditworthiness of the securities of the governmental or conduit issuer.

Disclosure Document

The term "disclosure document" means an official statement, continuing disclosure document, annual or other periodic report, information statement, press release intended to inform investors, refunding or redemption notice, or other document published by or on behalf of an issuer of municipal securities to inform the market in state and local government securities respecting offerings of, or outstanding, state and local government securities. A "disclosure document" provides information about the securities and the financial and other affairs of the issuer.

Governmental Enterprise

The term "governmental enterprise" means any governmental undertaking or activity relating to the construction, acquisition, operation or maintenance of facilities or services or otherwise performing governmental functions expected to generate revenues that are to be a significant source of payment for the principal of and interest or premium on the securities.

Appendix A Glossary

Governmental Issuer

The term "governmental issuer" means a governmental entity issuing or that has issued securities. The term includes governmental entities that are issuers of securities to other governments that may issue their own securities for the purpose of financing the acquisition, as in the case of bond banks or pools where governments, which may include governmental enterprises, provide the ultimate credit source for the securities.

Issuer

The term "issuer," without modification, includes governmental issuers, conduit issuers and issuers of credit enhancements. See "issuer of municipal securities."

Issuer of Credit Enhancement

The term "issuer of credit enhancement" means the issuer of a "credit enhancement," as defined herein.

Issuer of Municipal Securities

The term "issuer of municipal securities" has the same meaning in these *Guidelines* as in its definition by the Securities and Exchange Commission, in its Rule 15c2-12 to include not only governmental issuers as to their securities, but also private profit-making or nonprofit issuers of separate securities in conduit financings, where the private issuers constitute a significant ultimate credit source for the securities issued by the governmental issuers, and issuers of credit enhancements in credit enhanced transactions. Securities and Exchange Commission Rule 15c2-12(e)(4) states that:

[t]he term "issuer of municipal securities" means the governmental issuer specified in section 3(a)(29) of the [Securities Exchange] Act and the issuer of any separate security, including a separate security as defined in rule 3b-5(a) under the Act.

Offering Period

The term "offering period" means the period commencing with the offering of the securities or the solicitation of interest therein and ending at the later of the time at which (i) the issuer delivers the securities to the underwriter, or (ii) an underwriter does not retain, directly or as a member of an underwriting syndicate, an unsold balance of the securities for sale to the public.

Appendix A

Glossary

Official Statement

The term "official statement" means a disclosure document prepared by or on behalf of an issuer of municipal securities for an offering of those securities.

Repository

The term "repository" means a public or private entity receiving, and making generally available to the public, state and local government securities disclosure documents, including any nationally recognized municipal securities information repository designated by the Securities and Exchange Commission under its Rule 15c2-12.

APPENDIX B

MFOA Policy Statement Adopted May 5, 1976

Disclosure Guidelines -- I

The Municipal Finance Officers Association calls attention to its voluntary disclosure for offerings of securities of state and local governments and reiterates its opposition to additional federal control of state and local government issuers in this area.

Federal legislation which would impose such additional control or would mandate compulsory federal guidelines and supervision by the Securities and Exchange Commission is opposed by the Municipal Finance Officers Association because it is unnecessary, premature, violative of the constitutional principle of separation of powers.

We continue to advocate full disclosure and take the position above stated not to avoid furnishing information, but to keep control over our own fiscal affairs. We are reminded in this bi-centennial year that state and local government officials have always assumed responsibility for their fiscal affairs and to investors in their obligations and will continue to assume our special responsibilities which arise from current economic and market conditions and the larger number of individual investors among today's purchasers of municipal securities.

Disclosure Guidelines -- II

RESOLVED, the Executive Board of the Municipal Finance Officers Association requests that the Committee on Governmental Debt Administration continue to work with all interested groups and individuals and that it recommends to the Board from time to time further necessary and desirable changes in and additions to the disclosure guidelines for offerings of securities by state and local governments.

Appendix B
MFOA Policy Statement

RESOLVED, the Executive Board of the Municipal Finance Officers Association expresses its appreciation to the National Science Foundation, Securities Industry Association, American Bar Association, American Institute of Certified Public Accountants, Dealer Bank Association, Municipal Securities Rulemaking Board, and other public interest professional and governmental organizations which have helped in the preparation of the voluntary disclosure guidelines for offerings of securities by state and local governments.

Disclosure Guidelines -- III

The Municipal Finance Officers Association of the United States and Canada hereby recommends the use by each state and local government unit and by investors and dealers of the disclosure guidelines for securities of state and local governments as such guidelines shall from time to time be approved and distributed by the Executive Board.

APPENDIX C

History of the *Guidelines*

The 1991 edition of the Disclosure *Guidelines* represents a composite of the most recent thinking regarding the substance and procedure of disclosure by issuers of municipal securities. The edition contains comprehensive changes from and is the successor to a number of other editions, the most recent being in 1988. Changes from that edition are described briefly in the Preface.

The revisions contained in the 1988 edition built upon a foundation of experience gained with the earlier editions of the *Guidelines* and *Procedural Statements*. Because of this legacy and the considerable debt owed to the original formulators of these documents, it is both important and appropriate to recount the history of the *Guidelines* and to acknowledge many of those who contributed to their development.

Creation of the Guidelines

The Municipal Finance Officers Association (MFOA) in 1974 began work under a National Science Foundation grant to study a variety of questions regarding provision of information by issuers of municipal securities, i.e., states and local governments and their public

Appendix C

History and Acknowledgements

agencies. One area of this project was designed to produce a set of disclosure guidelines. MFOA intended that these guidelines would provide protection to investors through improved disclosure and greater standardization of disclosure practices. In November 1975, an exposure draft of *Disclosure Guidelines for Offerings of Securities by State and Local Governments* was released for public discussion and comment.

The draft *Guidelines* received wide dissemination, and there was strong interest in their improvement and ultimate market acceptance. During 1976, MFOA sponsored a series of colloquia for discussion of the *Guidelines* and a broad range of related issues. A digest was prepared of the many excellent written comments that were received. A Revision Drafting Committee, consisting of representatives of issuers, dealers, investors and professional groups, was appointed to review the comments and to revise the draft. The members of the Revision Drafting Committee were as follows:

Donald J. Robinson (Chairman), Partner, Hawkins, Delafield & Wood, New York, New York
J. Chester Johnson, Vice President, Morgan Guaranty Trust Company of New York, New York, New York

Richard Laird, Chief Accountant, Columbus, Ohio

Anthony M. Mandolini, Partner, Peat, Marwick, Mitchell & Co., Chicago, Illinois

David G. Ormsby, Partner, Cravath, Swaine & Moore, New York, New York

Staats M. Pellett, Vice President, Bessemer Trust Company, NA, New York, New York

William R. Snodgrass, Comptroller of the Treasury, State of Tennessee, Nashville, Tennessee

Peter C. Trent, Executive Vice President, Shearson Hayden Stone Inc., New York, New York

John M. Urie, Director of Finance, Kansas City, Missouri

John E. Petersen, Washington Director, Municipal Finance Officers Association, Washington, D.C.

Robert W. Doty, Associate Professor of Law, Creighton Law School, Omaha, Nebraska

The MFOA Committee on Governmental Debt and Fiscal Policy worked closely with this Revision Drafting Committee and with the MFOA Executive Board, which approved the *Guidelines* for release in December 1976.⁷⁴

The *Disclosure Guidelines for Offerings* were a set of suggestions of information that should be considered for inclusion in official statements because it was thought to be relevant to investors on most occasions for most issues. They were suggestions and, as such, were not intended to be legally binding. They did, nonetheless, represent a consensus of municipal bond market participants regarding disclosure.

⁷⁴ *Disclosure Guidelines for Offerings of Securities by State and Local Governments*, Chicago: Municipal Finance Officers Association, December, 1976.

Appendix C

History and Acknowledgements

Research on the effectiveness of the December 1976 *Guidelines* and the earlier exposure draft demonstrated a consistent pattern of improvement in the information contained in official statements provided by municipal securities issuers. Initial research on this improvement was published in Petersen, Doty, Forbes & Bourque, "Searching for Standards: Disclosure in the Municipal Securities Market," 1979 *Duke L.J.* 1177 (1976). More recent research has documented continued improvement in the content and consistency of such disclosures. See Forbes & McGrath, "Disclosure Practices in Tax Exempt General Obligation Bonds: An Update," *Municipal Finance Journal*, Vol. 7, No. 3 (1986).

Subsequent Extensions and Revisions

In view of the importance attached to the *Guidelines*, it was necessary that MFOA monitor the disclosure process and related documents on a continuous basis and respond to changing conditions in the municipal securities market.

How and when disclosure information is provided are important. It was recognized that a set of recommendations regarding procedures to follow would further the availability of information to investors and dealers and, through increased issuer, investor and dealer cooperation, would help resolve the complex procedural problems of providing information to the market.

The initial drafting of what was to become the *Procedural Statements* was done by the MFOA Procedures Subcommittee which was appointed in March 1976. The members of the Subcommittee were:

William J. Reynolds (Chairman), Town Comptroller, Greenwich, Connecticut
Gerard Giordano, Partner, LeBoeuf, Lamb, Leiby & MacRae, New York, New York
Donald R. Hodgman, Partner, O'Melveny & Meyers, Los Angeles, California
Robert Todd Lang, Senior Partner, Weil, Gotshal & Manges, New York, New York
James W. Perkins, Partner, Palmer & Dodge, Boston, Massachusetts
Robert W. Doty, General Counsel, MFOA, Washington, D.C.

Released as a Committee Working Draft on September 9, 1977, the draft of procedural recommendations was made available to and comments were solicited from MFOA members, dealers, bond counsel, investors, accountants, analysts and others during an eight-month comment period. They were discussed at a series of seminars and meetings held during October and November 1977.

The Committee Working Draft was revised by the MFOA Disclosure Review Committee appointed in January 1978. The Committee consisted of:

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History and Acknowledgements

Robert Odell (Chairman), City Treasurer, Los Angeles, California
Robert W. Doty, General Counsel, MFOA, Washington, D.C.
Walter Knowles, Senior Vice President, Commerce Bank of Kansas City, Kansas City, Missouri
Edward G. Pendergast, Senior Investment Officer, St. Paul Companies, Inc., St. Paul, Minnesota
James W. Perkins, Partner, Palmer & Dodge, Boston, Massachusetts
William J. Reinhart, Special Assistant to the Comptroller, Nashville, Tennessee
William J. Reynolds, Town Comptroller, Greenwich, Connecticut
William R. Snodgrass, Comptroller of State Treasury, Nashville, Tennessee
Peter C. Trent, Executive Vice President and Manager, Shearson Hayden Stone Inc., New York, New York
Michael S. Zarin, Chief, Finance Division, Law Department, The Port Authority of New York and New Jersey, New York, New York

The proposed *Procedural Statements* were reviewed by the MFOA Committee on Governmental Debt and Fiscal Policy. The review process was completed in May 1978 and the *Procedural Statements* were approved by the MFOA Executive Board for publication.⁷⁵

The Disclosure Review Committee cited above also undertook two other tasks, a revision of the *Guidelines for Offerings of Securities* and the creation of a companion set of guidelines designed for current reporting on outstanding debt. Work on the latter document, which was to be entitled, *Guidelines for the Preparation of Yearly Information Statements and Other Current Information (Current Information Guidelines)*, was undertaken in recognition of the fact that current information was needed to be provided to securities holders, potential investors in the secondary market, and other concerned parties over the life of the outstanding debt. The suggestions contained in the *Current Information Guidelines* overlapped the predecessor *Guidelines for Offerings* in many respects, but their emphasis differed, with the focus being on satisfying the ongoing information needs of the secondary market.

Drafts of the *Current Information Guidelines* were considered by the aforementioned Disclosure Procedures Committee in 1977 and an Exposure Draft was released by the MFOA Governmental Debt and Fiscal Policy Committee in September of 1977.

In 1978, the Disclosure Review Committee considered drafts of both the *Current Information Guidelines* and revisions to the 1976 edition of the *Guidelines for Offerings*. The latter guidelines were refined in a number of respects, based on experience and review and comment. In general, the revisions to the *Guidelines for Offerings* were designed to facilitate the

⁷⁵ *Procedural Statements in Connection With the Disclosure Guidelines for Offerings of Securities by State and Local Governments and the Guidelines for Use by State and Local Governments in the Preparation of Yearly Information Statements and Other Current Information*, Chicago: Municipal Finance Officers Association, May, 1978.

Appendix C

History and Acknowledgements

reading and comprehension of them, with particular attention paid to the areas of pension information and disclosure by state issuers.

With the completion of the Disclosure Review Committee's efforts in May of 1978, the two sets of guidelines were subsequently reviewed by the Governmental Debt and Fiscal Policy Committee and approved for release by the MFOA Executive Board. The revised *Guidelines for Offerings* and the new *Current Information Guidelines* were published in the same volume in June of 1979.⁷⁶

In January 1979, development of another disclosure-related document commenced under the auspices of the MFOA Committee on Governmental Debt and Fiscal Policy, its purpose being to provide issuers with illustrative formats of official statements used in connection with offerings of municipal general obligation bonds. To promote a continuity and integration of new issue and current reporting, the document illustrated a two-part official statement consisting of both information about a particular offering and a yearly information statement, which could be annually updated and distributed separately. Based largely on expertise contributed by the firms of Palmer & Dodge; Squire, Sanders & Dempsey; and Peat, Marwick, Mitchell & Co., the volume was published in June of 1981.⁷⁷

The 1988 Revision

In March 1984, a Steering Committee on Municipal Disclosure, jointly sponsored by the Government Finance Officers Association and the National Association of Bond Lawyers, was formed to examine disclosure needs and practices in the municipal securities market. Over the next two years, the Steering Committee commissioned several surveys and analyses of disclosure practices, identified problem areas, and considered numerous suggestions for improvements in disclosure documents and processes. The members of the Steering Committee on Municipal Disclosure were:

John E. Petersen (Co-Chairman), Senior Director, Government Finance Research Center, GFOA, Washington, D.C.

Frieda Wallison (Co-Chairman), Partner, Jones, Day, Reavis & Pogue, Washington, D.C.

Andre Blum, Director of Administration, Madison, Wisconsin

Robert Bowman, Treasurer, Lansing, Michigan

Lawrence Brown, Senior Vice President, The Northern Trust Company, Chicago, Illinois

⁷⁶ *Disclosure Guidelines for State and Local Governments*, Chicago: Municipal Finance Officers Association, June 1979.

⁷⁷ *Official Statements for Offerings of Securities by Local Governments – Examples and Guidelines*, Chicago: Municipal Finance Officers Association, June 1981.

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History and Acknowledgements

Jeffrey S. Green, Assistant General Counsel, The Port Authority of New York and New Jersey, Albany, New York

Hyman Grossman, Vice President, Standard & Poor's Corporation, New York, New York

Arthur Kalita, Vice President, Morgan Guaranty Trust Company of New York, New York, New York

James Perkins, Partner, Palmer & Dodge, Boston, Massachusetts

John T. Walsh, Finance Director, Hartford, Connecticut

In June 1986, the Steering Committee was asked by the GFOA Committee on Governmental Debt and Fiscal Policy to develop, based on its research efforts, specific recommendations as to revisions of the *Disclosure Guidelines*. In February 1987, the Steering Committee issued a report that contained draft language needed to update and integrate the three underlying documents that would comprise the *Disclosure Guidelines*. Subsequently, a specially constituted Disclosure Task Force of the GFOA Committee on Governmental Debt and Fiscal Policy began an extensive review and redrafting of the *Disclosure Guidelines*, including distribution of drafts to relevant GFOA committees and other interested parties. The members of the Disclosure Task Force were as follows:

Andre Blum (Chairman), Director of Revenue, Madison, Wisconsin

Robert W. Doty, President, Doty Research & Development Company, Houston, Texas

N. James Fluck, Executive Vice President, Philadelphia Industrial Development Corporation, Philadelphia, Pennsylvania

Jeffrey S. Green, Assistant General Counsel, Port Authority of New York and New Jersey, New York, New York

W. Bartley Hildreth, Associate Professor, Louisiana State University, Baton Rouge, Louisiana

Ruth M. Levine, Director of Finance, Windsor, Connecticut

Morris Matson, First Vice President, AMBAC Indemnity Corp., Fort Worth, Texas

John E. Petersen, Senior Director, Government Finance Research Center, GFOA, Washington, D.C.

Donald Robinson, Partner, Orrick, Herrington & Sutcliffe, New York, New York

Frieda Wallison, Partner, Jones, Day, Reavis & Pogue, Washington, D.C.

John T. Walsh, Finance Director, Hartford, Connecticut

Michael S. Zarin, Principal, Wellfleet Capital Company, Great Neck, New York

On May 30, 1987, acting on the recommendation of the Governmental Debt and Fiscal Policy Committee, the GFOA Executive Board instructed that an Exposure Draft of the *Disclosure Guidelines* be given wide circulation, comments be solicited, and the *Guidelines*, as revised by the process, be prepared for publication. Commencing June 1987, extensive notice of the contemplated revisions to the *Disclosure Guidelines* was given and several hundred copies of an Exposure Draft (dated June 20, 1987) were distributed to interested and affected parties,

Appendix C

History and Acknowledgements

including issuers, underwriters, dealers, insurers, investors, analysts, lawyers, and regulatory and legislative bodies. Numerous excellent suggestions were received and incorporated into the Exposure Draft. The review process culminated in October 1987 when the GFOA Task Force on Municipal Disclosure reported to the GFOA Executive Board, recommending publication of the Exposure Draft, as revised. On November 9, 1987, the GFOA Executive Board approved the *Disclosure Guidelines* for publication.

The 1988 edition of the *Disclosure Guidelines* consisted of three chapters that gave guidance to issuers with regard to disclosures involving the original offering of securities, providing current information on a continuing basis, and procedures to be followed in supplying information to existing and potential investors. The incorporation of these three sets of recommendations, which were previously published in two separate documents, into one volume, underscored that proper disclosure is an ongoing and dynamic process that cannot be restricted to providing a particular document with a specific set of items on a given date. Thus, succeeding editions of the *Guidelines* continue to bear witness to the variety and flexibility found in municipal securities and transactions, which require a corresponding ingenuity and versatility in designing disclosure documents and implementing disclosure procedures.

APPENDIX D

Additional Disclosure Reference Sources

The following are additional disclosure reference sources respecting particular types of securities, offerings or circumstances. The list will be revised from time to time to reflect further developments.

1. Government Finance Officers Association, *Official Statements for Offerings of Securities by Local Governments -- Examples and Guidelines* (1981).
2. National Federation of Municipal Analysts, *Disclosure Handbook for Municipal Securities* (1990) (see Appendix E for extracts from the *Handbook*).
3. Public Securities Association, *Recommendations for a Consistent Presentation of Basic Bond Provisions in Official Statements* (Dec. 1989).
4. Public Securities Association, *A Discussion of Significant Operational Issues for Municipal Securities Underwriters Arising under SEC Rule 15c2-12 and the SEC's Accompanying Interpretive Statement* (Jan. 1990).
5. National Council of State Housing Agencies, *Quarterly Reporting Format for Housing Bonds* (1990) (included in Appendix F). The Council has also prepared a draft of a disclosure format for current reporting by issuers of securities to finance multifamily housing projects.
6. American Bankers Association Corporate Trust Committee, *Disclosure Guidelines for Corporate Trustees* (Draft November 1990).
7. Forms S-1, S-2, S-3, S-11, 10-K and 10-Q and other forms of the Securities and Exchange Commission relating to disclosure in offerings and continuing disclosure by nonexempt issuers.

Appendix D

Additional Sources

8. Securities and Exchange Commission Rel. 34-26100, 53 F.R. 37778 (Sept. 28, 1988), containing the Commission's interpretation of law respecting underwriter investigatory responsibilities.
9. Securities and Exchange Commission Rel. 34-26985, 54 F.R. 28806 (July 10, 1989), containing the Commission's Rule 15c2-12 and a modification of the Commission's interpretation of law respecting underwriter investigatory responsibilities.
10. Rules of the Municipal Securities Rulemaking Board, including Rules G-8, G-12, G-15, G-17, G-19, G-23, G-32 and G-36.
11. Subcommittee on Municipal and Governmental Obligations, Committee on Federal Securities Laws, Section of Corporation, Banking and Business Law, American Bar Association; Section of Urban, State and Local Law, American Bar Association; and Committee on Federal Securities Laws, National Association of Bond Lawyers, *Disclosure Roles of Counsel in State and Local Government Securities Offerings* (1987).

APPENDIX E

Extracts from National Federation of Municipal Analysts, *Disclosure Handbook for Municipal Securities*, with Respect to Particular Sectors

The following are extracts from the *Disclosure Handbook for Municipal Securities* (1990) of the National Federation of Municipal Analysts, and are reprinted with permission. The extracts represent specific disclosure recommendations illustrative of or not mentioned in literal terms for specific market sectors in these *Guidelines*, although the general concepts are comprehended in these *Guidelines*. The following iteration is *not exclusive or complete*, and reference is made to the entire *Guidelines* for recommendations respecting an offering of securities or continuing disclosure respecting those securities and the issuer⁷⁸ or governmental enterprise. The following sectors are listed in the Table of Contents to these *Disclosure Guidelines* at page I.

⁷⁸ See the Glossary in Appendix A for the definitions of the terms "issuer of municipal securities," "governmental issuer," "governmental enterprise," "conduit issuer" and "issuer of credit enhancement."

COLLEGE AND UNIVERSITY BONDS

DESCRIPTION OF ISSUER/OBLIGOR

* * *

B. Administration and Management

1. Structure of organization
 - a. Relationship to state funding policies
 - b. External governmental relationships
2. Faculty
 - a. Full-time and part-time -- 5-year trend
 - b. Number and percentage tenured -- 5-year trend
 - c. Number and percentage with advanced degrees

* * *

C. Description of the Institution

1. Programs offered
2. Tuition and fees, including policies
3. Financial aid programs and policies
4. Enrollment profile
 - a. Head count and full-time equivalent (FTE) -- 5-year trend (historic and pro forma)
 - b. Acceptance rate -- 5-year trend
 - c. Matriculation and attrition rate -- 5-year trend
 - d. Average SAT and/or ACT entrance exam scores -- 5-year trend
 - e. Discussion of any marketing efforts undertaken by institution
 - f. Geographic distribution of student population
 - g. List of competing schools

* * *

Appendix E
Extracts from NFMA *Handbook*

FINANCIAL DATA

A. Financial Reports, Including Breakdown by Major Individual Campuses in State Systems

* * *

2. Auxiliary enterprises operating statements

* * *

C. Financial Statistics

- 1. Tuition and fees, historic and projected -- 5 years**
- 2. Endowment funds per student (market value/FTE) -- 5-year trend**

SECONDARY MARKET DISCLOSURE

* * *

B. Supplemental Information

- 1. Enrollment and faculty (FTE) levels, student acceptance and attrition rates**

* * *

ELECTRIC UTILITY BONDS

DESCRIPTION OF ISSUER/OBLIGOR

* * *

B. Administration and Management

* * *

2. Political and social environment shaping management policy and rate setting

C. Description of Service Area

1. Population and customer base

* * *

- b. Breakdown and trend of use by category (residential, commercial, industrial, etc.)
 - c. Largest users and percent share -- trend
2. Related economic factors (for all municipalities participating in joint action agencies)

* * *

- b. Employment characteristics

* * *

- ii. Unemployment rates (labor force growth rates) compared with state level and trend

D. Description of System

1. Plant and facilities
 - a. Generation, transmission and distribution characteristics
 - b. Age and condition of generation equipment
 - c. Ownership or leasehold interest in land or buildings
2. Fuel mix and fuel contracts

Appendix E

Extracts from NFMA *Handbook*

3. Capacity and load availability -- current and projected
4. Extent and nature of off-system sales, power purchase contracts and exchange agreements

* * *

TERMS OF DEBT

A. Nature of Security

* * *

5. Flow of funds (and custody of funds)
 - a. Stabilization accounts
 - i. Size and funding
 - ii. Impact of expiration of any power sell-back agreement on fund balances
 - iii. Status and availability of surplus funds
6. Decommissioning plan: cost and status

* * *

FINANCIAL DATA

* * *

B. Revenue Forecasts

1. Nature and trend of system (internal) sales
2. Nature and trend of off-system (external) sales
3. Long-term trends projected
4. Underlying assumptions and source of forecasts

C. Financial Reserves

1. Amounts and application
2. Policy toward

OPERATING STATISTICS

A. Customer Base

1. Number of customers, power sales and MWH sold -- trend by category
 - a. Historic
 - b. Projected
2. Peak demand trend -- historic and projected
3. Rates per Kwh -- historic and projected
4. Regional rate comparison with I.O.U. or appropriate public entities

B. Local Demand and Availability of Power

1. Comparison of demand forecast and projected sales growth rate with projected regional outlook and NERC forecasts
2. Accuracy of entity's previous sales and revenue forecasts (projected versus actual)

SECONDARY MARKET DISCLOSURE

A. Financial Reports

* * *

2. Budgets
3. Monthly/quarterly operating reports

* * *

CONTINUING CARE RETIREMENT CENTER BONDS

DESCRIPTION OF ISSUER/FACILITY

A. Issuing Authority

* * *

2. Principal officers/management personnel (includes board of directors, chief administrator, chief financial officer, director of health services and marketing head)

* * *

B. Description of Facility

1. Endowment or rental
2. Number of units by type and size
3. Location and target geographic market

C. Administration and Management

* * *

3. Medical referral relationships and arrangements

* * *

FINANCIAL AND OPERATING DATA

A. Historical Reports

* * *

3. Construction progress and fund balance reports
4. Occupancy and turnover reports

Appendix E
Extracts from NFMA *Handbook*

B. Financial Forecasts/Feasibility Study

1. Explanation and detail of key financial and demand assumptions

*** * ***

- b. Required market penetration rate for success, and sensitivity analysis**
- c. Identification of all direct and indirect competitors in target market area**
- d. Description of service, costs and occupancy experience of competitive facilities**
- e. Licensing requirements**
- f. Regulatory and legislative constraints**
- g. Marketing targets; remedies if not met**
- h. Occupancy targets; remedies if not met**

SECONDARY MARKET DISCLOSURE

A. Financial Data

*** * ***

- 4. Occupancy reports, including turnover**
- 5. Construction progress reports/fund balances**

*** * ***

HOSPITAL BONDS

DESCRIPTION OF ISSUER/OBLIGOR

A. The Entity

* * *

2. Location and geographic description of primary service area
3. Principal officials and medical staff (board and management)
 - a. Terms and manner of selection
 - b. Professional background of principal admitting physicians

* * *

B. Administration and Management

* * *

4. Medical arrangements
 - a. Nature and structure of admitting physician groups
 - b. Information regarding most active admitting physicians
 - c. Management contracts and status
5. Rate-setting authority
6. Regulatory environment
 - a. Certificate of Need process
 - b. Status of licenses or permits, including censures or modifications of the hospital's license
7. Nature of contractual relationships with third-party payors
8. Character of labor relations and pension funding status
9. Interests of persons/ firms involved in financing
10. Ownership or leasehold interest in land or buildings
11. Age, condition and capacity of existing facilities
12. Accreditations, special designations and teaching facilities

Appendix E
Extracts from NFMA *Handbook*

C. Economic Base: Service Area

* * *

2. Competitive facilities, including description and 5-year utilization

* * *

FINANCIAL DATA

* * *

B. Operations

1. Gross patient service revenues -- breakdown by source, including Medicare and Medicaid
2. Consolidated financial statements for hospital group, if applicable
3. Endowment and/or fund raising

* * *

5. Status of State Medicaid funding and any probable reimbursement

OPERATING STATISTICS

A. Licensed bed capacity

B. Number of beds in service

C. Number of Admissions, Patient Days

D. Outpatient and Emergency Room Services (procedures or visits)

E. Medicare Case Mix Intensity Index

F. Utilization by Payor

SECONDARY MARKET DISCLOSURE

A. Financial Information

1. Annual audits and quarterly unaudited financial data should be made available in a timely fashion and with sufficient detail
 - a. Gross patient service revenues, detailed allowances, operating revenues and expenses and non-operating income

* * *

3. Update of "Utilization Statistics"
4. Nature of and changes in, contractual relationships with third-party payors
5. Changes in membership of the obligated group of institutions, if applicable
6. Fee schedules and proposed changes

B. Supplemental Information

1. Status and percentage levels of principal admitting physicians and physician groups; changes in composition
2. Regulatory actions

* * *

HOUSING BONDS

DESCRIPTION OF ISSUER/OBLIGOR

A. The Entity

* * *

2. Agency board members, key managers and principal program participants, including master servicer, program administrator, pool insurer, bond trustee and counsel

* * *

B. Administration and Management

1. Nature of operations
2. Fees paid to outside participants for servicing, etc.
3. Interests of persons/firms involved in the financing

* * *

TERMS OF DEBT

A. Nature of Security

* * *

9. Loan sales restrictions and permitted use of proceeds

* * *

11. State foreclosure laws

* * *

Appendix E
Extracts from NFMA *Handbook*

CAPITAL IMPROVEMENTS/THE PROGRAM

*** * ***

B. The Lending Program

1. Lending rate and type of loans (level pay, accelerated amortization, etc.)
 - a. Loan subsidies
 - b. Points paid and other lending fees or charges
2. Participating lending institutions and respective allocations
3. Loan underwriting standards used (FNMA, FHLMC, FHA, etc.), including pro forma underwriting report for FHA-approved loans
4. Type and amount of insurance policies to be required
5. Rent and expected lease-up schedule (for multi-family)

FINANCIAL DATA

A. Reports

*** * ***

2. Projected cash flow scenarios or summaries
 - a. Description of assumptions and source
 - b. Estimated period to attain parity and estimated cash flow

B. Operations

1. Status of existing programs
 - a. History of originations, rate for previous issues
 - b. Bond calls, including sources of funds used
 - c. Delinquency and foreclosure reports, including a detailed breakdown of non-performing loans
2. Status of pool insurance
 - a. Value of claims settled
 - b. Value of claims in progress
 - c. Remaining pool coverage

Appendix E
Extracts from NFMA *Handbook*

SECONDARY MARKET DISCLOSURE

A. Financial Information

* * *

3. Current delinquency and foreclosure reports, including non-performing loans
4. Pool insurance status
5. Bond calls and sources of funds used: current status and projections of loan originators

B. Supplemental Information

1. Changes of program participants or key personnel

* * *

RESOURCE RECOVERY BONDS

DESCRIPTION OF ISSUER/OBLIGOR

A. The Entity

* * *

2. Principal officials

* * *

c. Name, address and telephone numbers for bondholders' contact person (also for financial advisor, other consultants, including construction management and testing)

3. Other governmental bodies, private parties involved

* * *

D. System Description

1. Overview of existing waste disposal system, including age, condition and capacity of existing facilities
 - a. Landfills
 - b. Collection
 - c. Transportation and transfer
2. Regulatory overview and status of compliance
3. Potential associated liabilities and litigation
4. Discussion of existing or potential recycling programs and impact on project

* * *

Appendix E
Extracts from NFMA *Handbook*

CAPITAL IMPROVEMENTS

A. Financing Structure/The Project

*** * ***

- 6. Energy sales -- contract terms
- 7. Recovered material s

*** * ***

FINANCIAL DATA

A. Reports/Documents

*** * ***

- 2. Summary of agreements and contracts
 - a. Design, construction contracts and guarantees
 - b. Testing process
 - c. Operating process and guarantees
 - i. Energy and power sales
 - ii. Service and maintenance

*** * ***

OPERATING STATISTICS

- A. Disposal fees and assessments -- historic and projected receipts**
- B. Energy sale fees -- projected**
- C. Fee comparisons in region**

Appendix E
Extracts from NFMA *Handbook*

SECONDARY MARKET DISCLOSURE

*** * ***

B. Information relevant to pertinent data provided at the time of issue should be updated annually

*** * ***

3. Disposal fees/assessments and energy sales receipts

C. Construction and permit status and fund draws, if applicable

*** * ***

STRUCTURED FINANCINGS

DESCRIPTION OF THE ISSUER/OBLIGOR

* * *

B. Principal Officials – Issuer and Major Participants

1. Names, addresses and telephone numbers for issuer's chief financial officer or contact person -- also servicer, guarantor and trustee

* * *

C. Responsibilities of Participants

* * *

TERMS OF DEBT

A. Nature of Security

* * *

7. Description of trust estate
 - a. Assets pledged or sold to trust
 - b. Status of bondholders' lien (and on other assets of issuer)
8. Description of collateral, if applicable
 - a. Collateral pledge agreement
 - b. Enforceability opinions, provisions for liquidation
 - c. Trustee interest in collateral

* * *

STUDENT LOAN BONDS

DESCRIPTION OF ISSUER AND STATE GUARANTOR

A. The Organization

1. History of organization and state guarantor

* * *

B. Administration and Management

1. Form of organization
2. Program description
 - a. Application and selection process
 - b. Experience of originator
 - c. Performance and responsibilities of servicer
3. Loan allocation breakdown; percent of loans to students attending for-profit proprietary schools
4. Status of federal and state insurance and reimbursement eligibility
5. Competing loan programs

TERMS OF DEBT

A. Nature of Security

* * *

5. Guarantor funds, including
 - a. Ratio of dollar value of all guaranteed loans to reserve account for each guarantor
 - b. Impact of any existing or proposed federal or state restrictions, conditions and guidelines

* * *

8. Describe insurance, federal subsidies and reimbursement mechanisms

* * *

Appendix E
Extracts from NFMA *Handbook*

THE FINANCING

*** * ***

B. Origination and Acquisition Process

C. Loan Servicing Operations

1. Contracting arrangement with this agency and all others
2. Experience of servicer - number of years and dollar value of portfolio(s) serviced
3. Description of collection practices, servicing technology and compliance safeguards
4. Percentage of claims not reimbursed because of servicing problems

FINANCIAL DATA

*** * ***

B. Operating Statistics

1. Profile and breakdown of loan portfolio
 - a. Types of loans (FISL, GSL, PLVS, ALAS)
 - b. Uninsured loans
 - c. Loans in repayment
2. Delinquency record and default rate of loan portfolio
3. Claims rate experience of each guarantor -- 5 years
4. Federal reimbursement levels -- 5 years

*** * ***

SECONDARY MARKET DISCLOSURE

*** * ***

- B. Profile and breakdown of loan portfolio, including delinquency levels, default rate, claims rate, loan application, etc.**

*** * ***

GENERAL OBLIGATION BONDS

DESCRIPTION OF ISSUER

* * *

B. Administration and Management

* * *

5. Labor force

* * *

b. Contract history, terms of agreements and status

* * *

C. Economic Factors

1. Land area and description
 - a. Land use breakdown and trends
 - b. Annexation trend and practices
2. Population characteristics
 - a. Current estimate and growth trend
 - b. Composition by age and by income group
 - c. School enrollment trend, if applicable
 - d. Per capita (and median family) income levels, current estimates -- trend and comparison with state
3. Employment characteristics
 - a. Labor force, employment and unemployment -- 5-year trend
 - b. Employment by sector -- 5-year trend
 - c. Unemployment rates -- 5-year trend
 - d. Largest employers -- 5-year trend
4. Retail sales volume and tax collections, as applicable -- 5-year trend
5. Building permit classifications and value, as applicable -- 5-year trend

Appendix E
Extracts from NFMA *Handbook*

TERMS OF DEBT

A. Nature of Security

1. Debt limitation rules and calculation of remaining legal capacity

* * *

SECONDARY MARKET DISCLOSURE

* * *

B. Supplemental Information and Updates (generally contained in Annual Financial Reports or Audit Reports)

1. Property tax system (base, rates and collections)
2. Economic base (population, unemployment, building permits, etc.)
3. Debt program (direct and overlapping debt, payout, future borrowing plans)

* * *

Appendix E
Extracts from NFMA *Handbook*

GENERAL OBLIGATION NOTES FOR OPERATING PURPOSES
(TANs, RANs, TRANs)

DESCRIPTION OF ISSUER

* * *

C. Economic Factors

1. Land area and description
 - a. Land use breakdown and trends
 - b. Annexation trend and policy
2. Population characteristics
 - a. Current estimate and growth trend
 - b. Composition by age and by income group
 - c. School enrollment trend, if applicable
 - d. Per capita (and median family) income levels, current estimates -- recent trend and comparison with state
3. Employment characteristics
 - a. Labor force, employment and unemployment -- 10-year trend
 - b. Employment by sector -- 10-year trend
 - c. Unemployment rates -- 10-year trend and comparisons with state
 - d. Largest employer -- 5-year trend
4. Retail sales volume and tax collections, as applicable -- 2- to 3-year trend
5. Building permit classifications and value, as applicable -- 2- to 3-year trend

TERMS OF DEBT

A. Nature of Security

* * *

4. Final date for issuance of notes
5. Number of bids received at previous note sale

* * *

Appendix E
Extracts from NFMA *Handbook*

B. Debt Description

* * *

2. Amount

- a. Short-term borrowing history (5-7 years)
- b. Last two years historical cash flow statements
- c. Projected cash flow statement, through the life of the proposed notes
- d. Statement on assumptions used in projected cash flow

3. Debt Service

- a. Principal and interest schedule for outstanding debt
- b. Annual lease and contract payments, etc.

* * *

GENERAL OBLIGATION SUBSTITUTE AND PUBLIC FACILITY BONDS
(PLEDGED TAX, SEPARATE FACILITIES AND LOCAL IMPROVEMENT BONDS)

DESCRIPTION OF ISSUER/OBLIGOR

A. The Issuer

1. History and experiences with similar debt

* * *

B. Administration and Management

* * *

3. Relationship with related general unit of government and overlapping jurisdictions, if applicable

* * *

C. Economic Factors (where applicable)

1. Location, description of local economy or affected area
2. Population trends in benefitted area, compared with general government
3. Key land use, development and real estate characteristics
 - a. Major property owners and taxpayers
 - b. Experience with developers
4. Key economic or business characteristics
 - a. Projected population and historical trend
 - b. Per capita (and median family) income levels
 - c. Labor force, employment and unemployment rates -- 5 years
 - d. Largest employers
 - e. Future land use plan and zoning
 - f. Prospective developer commitments and business plans

Appendix E
Extracts from NFMA *Handbook*

TERMS OF DEBT

A. Nature of Security

1. Pledged revenue(s), plus term and history of such, including any allowed diversions

* * *

B. Taxing Structure and Procedures

1. Tax structure and administrative components, if applicable
2. Method of assessment of parcels and categories
3. Basis of tax rate (how applied)
 - a. How set; authority to raise
 - b. Effect of new construction and/or valuation increases
 - c. Largest special taxpayers

* * *

FINANCIAL DATA

- A. Audit and annual financial report of general government — should include public facility/GO substitute status and debt; pertinent date should be included as supplemental information**

B. Key Statistics

1. Tax rates and breakdowns
2. Tax base: assessment and valuation data
3. Tax receipt trend (historic and projected)

SECONDARY MARKET DISCLOSURE

A. Financial Information

1. Relevant financial and debt-related information should be made available on an annual basis. The general government's annual financial report should include relevant material for contingent and GO substitute debt.
2. Updates of key statistics

* * *

LEASE RENTAL BONDS AND CERTIFICATES OF PARTICIPATION

DESCRIPTION OF ISSUER AND OBLIGOR

A. The Entity

1. History and experience with similar debt; reasons for use of such debt

* * *

B. Administration and Management

* * *

2. Description of purpose and need; services provided
3. Authorization process for agreement and lease
4. Budgetary (operating and capital) process
5. Age, condition and capacity of general capital assets

* * *

TERMS OF DEBT

A. Nature of Security

1. Description of lease
 - a. Nature of agreement -- lease purchase or installment sale; term
 - b. Appropriation structure
 - i. Source of funds pledged (general or special fund)
 - ii. Covenants regarding budgetary inclusion of payments
 - c. Lease payment structure
 - i. Type and direction of payments
 - ii. Title passage status and assignment agreement
 - iii. Timing of payments
 - d. Lease abatement clauses governing non-appropriation and non-substitution; remedies
 - e. Summary of agreements (trust, lease purchase/installment sale, site lease, etc.)

Appendix E
Extracts from NFMA *Handbook*

* * *

8. Legal features

* * *

- g. Definition of default and remedies available in event of non-appropriation or default (e.g., right of possession, sale, lease)

* * *

C. Related Debt Factors – The Lessee

1. Current debt of general government and overlapping entities, including leases (operating and capital), all contingent liabilities, notes, etc.
2. Annual lease payments (and other debt service) as a percentage of general operating fund
3. Debt capacity and future plans, including lease financing

* * *

CAPITAL IMPROVEMENTS

A. The Financing

1. Description of purpose, need for financing and statement of essentiality

* * *

3. Event precedent to the start of lease payments

* * *

Appendix E
Extracts from NFMA *Handbook*

FINANCIAL DATA – LESSEE

*** * ***

B. Reports

*** * ***

3. Trend of surplus, including undesignated

*** * ***

SECONDARY MARKET DISCLOSURE

*** * ***

B. Supplemental information (generally contained in annual financial or audit reports)

1. Amount of all lease debt outstanding
2. Status of reserves pledged, if applicable
3. Property tax data
4. Capital plan and projected borrowings

*** * ***

AIRPORT REVENUE BONDS

DESCRIPTION OF ISSUER/OBLIGOR

A. The Issuer

* * *

2. Complete description of airport system facilities, including maps

* * *

C. Economic Factors: Service Area

1. Description of primary and secondary service area

* * *

- b. Competing facilities, with maps

* * *

D. Airport Usage

1. Airport lease and use agreements; terms
2. Rate setting methodology
 - a. Residual
 - b. Compensatory
 - c. Frequency of rate review
3. Trend of enplanements (or total passengers), airport operations, cargo tonnage and landed weight
4. Airlines serving airport with respective shares of landed weight -- 1978 to present
5. Special commitments by specific airlines (hub, maintenance center, etc.)
6. Passenger profile -- originating, connecting, destination
7. Major service markets for airport, shares of passenger traffic and distances

Appendix E
Extracts from NFMA *Handbook*

TERMS OF DEBT

A. Nature of Security

1. Pledged revenues
 - a. Rentals
 - b. Landing fees
 - c. Concessions
 - d. Parking
 - e. Other

* * *

CAPITAL IMPROVEMENTS

* * *

B. Detailed discussion of all project elements, including:

1. General project description
2. Feasibility study
 - a. Underlying assumptions and experience of consultant
 - b. Projections of enplanements by category, landing weight and traffic mix
 - c. Projected revenues and expenses -- 5 years after completion of project
 - d. Projections of rates and charges (landing fees, rentals) through forecast period
3. Historic demand or utilization
4. Projected demand, including key assumptions
5. Construction status
 - a. Site selection and acquisition
 - b. Licensing and permits; all additional regulatory approvals
 - c. Contract awards, including key terms
 - d. Construction schedule, including any revisions
 - e. Construction costs, including any revisions

* * *

FINANCIAL DATA

A. Reports

*** * ***

2. Statement of coverage compliance and flow of funds, as required by indenture

*** * ***

B. Operating Data

1. Current rates and charges
2. Enplanements, aircraft operations, cargo tonnage and landed weight -- 20 years
3. Management's discussion of operations
 - a. Pending airline mergers and potential impact on operations
 - b. Competition from other facilities (existing or planned)

SECONDARY MARKET DISCLOSURE

*** * ***

C. Supplemental information on pertinent debt and financial factors relevant to that provided at the time of sale

1. Airport utilization statistics for current period compared with prior year
2. Changes in airline service composition and each airline's share of passenger traffic
3. Status of construction projects and most recent cost estimate
4. Airport master plan updates and future capital needs
5. Management changes, environmental issues and disputes

*** * ***

MISCELLANEOUS TRANSPORTATION REVENUE BONDS

DESCRIPTION OF THE ISSUER/OBLIGOR

A. The Issuer

* * *

3. Description of facilities (issues supported by tax revenues should comply with disclosure guidelines for tax-supported debt)
 - a. Maps of roads, bridges, mass transit systems, port systems, (etc.) including competing facilities, if any
 - b. Types and volumes of goods shipped
 - c. Tolls, fares or fees charged

B. Administration and Management

* * *

4. Intergovernmental relations and interactions

* * *

CAPITAL IMPROVEMENTS

* * *

B. The Project

* * *

3. Construction company and experience with similar work

* * *

Appendix E
Extracts from NFMA *Handbook*

B. Operating statistics (should conform to disclosure for toll road or airport facilities, as appropriate)

1. Rates, fees and charges (by category) -- 10 years
2. Volume of cargo or traffic levels -- 10 years
3. Governmental grants and subsidies -- 10 years
4. Management's discussion of operations
 - a. Pending service mergers and impact on operations
 - b. Competition from other facilities/services -- existing or planned

* * *

SECONDARY MARKET DISCLOSURE

* * *

B. Supplemental information on pertinent debt and financial factors relevant to that provided at the time of sale (generally contained in annual financial or audit reports)

1. Utilization information (as described above) for most recent fiscal period
2. Updated capital improvement and financing plans
 - a. Proposed issuance and lien position
 - b. Refunding plans
 - c. Debt service coverage, shown in compliance with rate covenant

* * *

TOLL ROAD REVENUE BONDS

DESCRIPTION OF THE ISSUER/OBLIGOR

A. The Issuer

* * *

2. Purpose of toll road/agency
3. Description of road system and facilities
 - a. Maps of roads and surrounding areas
 - b. Proposed roads in area
 - c. Purpose of toll road; nature of use
 - d. Tolls and fees charged; rate history

* * *

CAPITAL IMPROVEMENTS

A. The Financing

* * *

2. Description of purpose and need

* * *

B. The Project

1. Total project costs, including construction, architect's fees and land acquisition costs

* * *

3. Experience of construction company with similar work

* * *

Appendix E
Extracts from NFMA *Handbook*

FINANCIAL DATA

*** * ***

B. Operating Statistics

1. Gross and net revenues, by category -- 10 years
2. Number of toll-paying vehicles, or toll transactions, by vehicle category and collection point -- 10 years
3. Average trip length, with historic data
4. Governmental funds, grants and subsidies -- 10 years
5. Management's discussion of operations

SECONDARY MARKET DISCLOSURE

*** * ***

- B. Supplemental information relevant to that provided at the time of sale (generally contained in annual financial or audit reports)**

*** * ***

4. Utilization statistics, by category

*** * ***

WATER AND SEWER BONDS

DESCRIPTION OF ISSUER/OBLIGOR

* * *

C. Economic Factors: Description of Service Area

1. Population and customer base
 - a. Historic and projected usage -- 10 years
 - b. Breakdown of customers by category (residential, commercial, industrial, etc.)
 - c. Largest users and percent share

* * *

D. System Description

1. Water Systems
 - a. Plant and facilities
 - i. Age and condition of facilities
 - ii. Ownership of leasehold interest in land or buildings
 - iii. Sources of supply
 - b. Treatment technology
 - c. Capacity measures
 - i. Supply reserves and adequacy
 - ii. Storage, treatment and pumping capacity
 - iii. Line loss experience
2. Sewer Systems
 - a. Plant and facilities
 - i. Age and condition of plant, mains, etc.
 - ii. Adequacy of plant
 - b. Treatment technology
 - c. Capacity measures -- available and projected
3. Compliance with environmental regulations -- legal and financial exposure
 - a. Status under Safe Water Drinking Act of 1986
 - b. Status under Clean Water Act of 1987

* * *

Appendix E
Extracts from NFMA *Handbook*

OPERATING STATISTICS

A. Customer Base

1. Number of customers -- trends by category (residential, commercial, industrial, etc.)
2. Trend in customer base and revenue

B. Utilization

1. Structure of rate changes for various services
2. Average and peak usage trends
3. Average monthly residential charges and, if applicable, comparison with other proximate systems

SECONDARY MARKET DISCLOSURE

A. Financial Information

* * *

2. Include identification of fund transfers and revenue derivation (between internal and external accounts)
3. Rate schedules
4. Customer base update

B. Debt and Capital Plan

1. Amount, lien status, service schedule and coverage of outstanding debt
2. Update of status of current capital plan
3. Proposed financings and timetable

C. Supplemental Information

1. Status of physical plant: utilization and capacity
2. EPA compliance status
3. Changes in management, personnel or contracts

* * *

APPENDIX F

National Council of State Housing Agencies, *Disclosure Format for Single-Family Mortgage Revenue Securities Issues*

The *Disclosure Format for Single-Family Mortgage Revenue Securities Issues* (1990) of the National Council of State Housing Agencies is reprinted with permission.⁷⁹

⁷⁹ The National Council of State Housing Agencies has also released a draft of a format for current reporting by issuers of securities to finance multifamily housing projects. At the time of approval of these *Disclosure Guidelines*, that format is still subject to revision. Issuers of multifamily housing securities and others assisting the issuers in the preparation of their current reporting documents should obtain information as to the status of the disclosure format and should evaluate its applicability to the particular circumstances. NCSHA has also prepared a draft of a reporting format for issuers of multifamily securities.

**NCSHA QUARTERLY REPORTING FORMAT
FOR STATE HFA
SINGLE FAMILY HOUSING BONDS**

Note: A multifamily format is currently being developed with publication in 1991 anticipated.

AGENCY NAME
Single Family Programs Quarterly Report
As of: (Date)

Page # 1 - 01
Report _____
Date Run _____

Indenture: _____
Bond Series: _____

Series Date: _____ **Series Sold:** _____

General Information:

Bonds Outstanding: _____
Outstanding Principal Balance: _____
Current Outstanding Commitments: _____
Current Uncommitted Lendable Funds: _____

Average Purchase Price: _____
Average Original Loan Amount: _____
Total No. of Loans Originated: _____
Total No. of Loans Paid Off: _____
Total No. of Loans Outstanding: _____

Loan Portfolio Characteristics (As % of Loans Outstanding)

New Construction:	_____ %	Private	_____ %
Existing Home:	_____ %	<i>(Down to 0.00 LTV)</i>	
Total:	_____ %	FHA	_____ %
		VA	_____ %
		Self Insured	_____ %
		Guaranty Fund	_____ %
		Uninsured	_____ %
		Total	_____ %

Fixed Rate Mortgages:	_____ %
Graduated Pmt Mortgages:	_____ %
Growing Equity Mortgages:	_____ %
Variable Rate Mortgages	_____ %
Total:	_____ %

Type of Housing: _____

No. Description: _____ %
Total: _____ %

Breakdown of Private Mortgage Insurers (List by % of Total Portfolio):

_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

**** Please refer to Disclaimer on Page 7-01

AGENCY NAME
Single Family Programs Quarterly Report
As of: (Date)

Page # 2 - 01
Report _____
Date Run _____

Indenture: _____
Bond Series: _____

Pool Insurance Coverage (Dollars in Thousands):

Bonds Series:	Pool Insurer:	Maximum Pool Coverage	--Claims to Date--	Remaining Pool Coverage
_____	_____	_____	# \$	_____

Self Insurance Coverage

Name of Self Insurance Fund: _____
Series of Bonds Covered: _____
Current Funding Requirement: _____
 Total Dollar Amount (\$000): \$ _____
 As of % of \$ Amount _____
 of Loans Outstanding: _____ %
Claims to Date: _____ #

Maximum level of funding required over the life of the bonds (Amount (\$000)): _____

Delinquency Statistics (as % of # of Loans Outstanding):

60 Days	<u> </u> %	<u> </u> #
90 Days	<u> </u> %	<u> </u> #
In Foreclosure	<u> </u> %	<u> </u> #

No. of Loans Foreclosed to Date _____ #
Foreclosed (Loss)/Gain to Date \$ _____
Net of Insurance Proceeds (\$000) \$ _____

(As % of Principal Balance Outstanding):

<u> </u> \$	<u> </u> %
<u> </u> \$	<u> </u> %
<u> </u> \$	<u> </u> %

Real Estate Owned: _____ #
Number of Loans _____ #
Outstanding Mortgage Amount (\$000): _____
 At Time of Default \$ _____
 Current Balance \$ _____

**** Please refer to Disclaimer on Page 7-01

AGENCY NAME
Single Family Programs Quarterly Report
As of: (Date)

Page # 3 - 01
Report _____
Date Run _____

Indenture: _____
Bond Series: _____

Trustee:
Name: _____
Address: _____
City: _____
Telephone: _____
Contact Person: _____

Program Administrator:
Name: _____
Address: _____
City: _____
Telephone: _____
Contact Person: _____

MORTGAGE LOAN SERVICERS (Top five by number of loans):

Servicer (#)	Servicer (Name)	# of Loans	%of Portfolio	Number of Loans	Principal Outstanding
_____	_____	#	%	#	\$
_____	_____	#	%	#	\$
_____	_____	#	%	#	\$
_____	_____	#	%	#	\$
_____	_____	#	%	#	\$
_____	_____	#	%	#	\$
_____	Total # other Servicers:	#	%	#	\$
_____	Total:	#	%	#	\$

Mortgage Loan Rates (By Bond Series):

Bond Series:	Number of Loans:	Mortgage Rate:
_____	#	%
_____	#	%
_____	#	%

**** Please refer to Disclaimer on Page 7-01

AGENCY NAME
Single Family Programs Quarterly Report
As of: (Date)

Indenture: _____
Bond Series: _____

Page # 4 - 01
Report
Date Run

List of Bonds by Maturity:

Maturity Date	Bond Type	Interest Rate	Original Amount	Principal Matured	Principal Redemptions	Principal Outstanding	Bond Call Sequence
		%	\$	\$	\$	\$	
		%	\$	\$	\$	\$	
		%	\$	\$	\$	\$	
		%	\$	\$	\$	\$	
		%	\$	\$	\$	\$	
		%	\$	\$	\$	\$	
		%	\$	\$	\$	\$	
		%	\$	\$	\$	\$	
		%	\$	\$	\$	\$	
		%	\$	\$	\$	\$	
		%	\$	\$	\$	\$	
		%	\$	\$	\$	\$	
		%	\$	\$	\$	\$	
		%	\$	\$	\$	\$	
TOTAL:		%	\$	\$	\$	\$	

****** Please refer to Disclaimer on Page 7-01**

AGENCY NAME
Single Family Programs Quarterly Report
As of: (Date)

Indenture: _____
Bond Series: _____

Page # 5 - 01
Report _____
Date Run _____

List of Outstanding Investments by Funds (Over \$100,000):

Fund	Investment Type	Investment Amount	Yield on Investment	Maturity Date
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

****** Please refer to Disclaimer on Page 7-01**

AGENCY NAME
Single Family Programs Quarterly Report
As of: (Date)

Indenture: _____
Bond Series: _____

Page # 6 - 01
Report _____
Date Run _____

List of Reserves Funds by Series:

Bond Series	Reserve Fund Account Description	Original Amount	Current Amount
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
	Total	\$ _____	\$ _____

Equity by Series:

Bond Series	Total Assets	Total Liabilities	Surplus or Deficit (-)
_____	\$ _____	\$ _____	\$ _____

****** Please refer to Disclaimer on Page 7-01**

AGENCY NAME
Single Family Programs Summary Report
As of: *(Date)*

Indenture: _____
Bond Series: _____

Page 7 - 01
Report _____
Date Run _____

DISCLAIMER

All information contained herein is obtained from sources believed to be accurate and reliable. Refer to the Official Statement and operative documents of each series for complete information on that issue. Because of the possibility of human and mechanical error as well as other factors, however, such information is provided "as is" without warranty of any kind and, in particular, no representation or warranty, expressed or implied, is made nor to be inferred as to the accuracy, timeliness or completeness, of any such information. Under no circumstances shall *(agency name)* have any liability to any person or entity for (a) any loss or damage in whole or part caused by, resulting from, or relating to any error (neglect or otherwise) or other circumstances involved in procuring, collecting, compiling, interpreting, direct, indirect, special, consequential or incidental damages whatsoever, even if *(agency name)* is advised in advance of the possibility of such damages, resulting from the use of, or inability to use, any such information.

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