CHAPTER 5
DEBT ISSUANCE & MANAGEMENT

I. DEBT

Overview

The issuance of debt (bonds, notes, capital leases, etc.) is authorized by the legislative body of each governmental entity. The legislative body makes decisions on the financing projects, amount of financing, repayment sources, and term of financing, often after receiving input and recommendations from the Finance Committee, Treasurer's staff or other staff assigned responsibility relative to debt. The Treasurer's role in the debt issuance process differs from County to County, and generally depends upon (a) historical roles; (b) expertise; and (c) whether the Board has budget/administrative staff with financing experience.

In most counties, the Treasurer provides most of the disclosure, tax-related and debt capacity information to the financial advisor, underwriter and bond counsel and provides guidance and assistance during the issue process. While many districts hire financial advisors and bond counsel to guide them through this process, by law the county treasurer must be notified in writing 30 days in advance of an issuance of debt (RCW 39.46.110).

At the time of issue, the Treasurer must sign for the receipt of the bond proceeds and distribute the money appropriately based upon the requirements established in the bond documents. Over the life of the bonds, the Treasurer is then responsible for legally and properly servicing the debt. County Treasurers can better understand their closing and post-issue requirements by staying involved and informed during the issue process. Most recently, financing team members tend to conduct the process electronically, keeping you informed of various deadlines, and providing the authorizing resolution, Preliminary Official Statement (POS) and Official Statement (OS) as an attachment through e-mail.

Debt Authority by Districts

Washington state statute provides authority for the legislative body of the governmental entity to incur debt by issuing various debt instruments. Specific RCW's govern each district's debt instruments and are generally found in the sections covering each type of special purpose district.

Counties are authorized to issue four types of bonds and several types of short-term obligations. The types of debt instruments that may be issued or entered into are:

Long Term Obligations:
- General Obligation Bonds (UTGO, LTGO)
- Revenue Bonds
- Local Improvement District Bonds (LID)
- Road Improvement Bonds (RID)

Short Term Obligations:
- Anticipation Notes (Bond, Revenue, Tax, Grant)
- Interest-Bearing Warrants
- Capital Leases (including the State Treasurer's LOCAL Program)

II. LONG TERM DEBT

General Obligation Bonds

General Obligation Bonds (GO Bonds) are secured by the full faith, credit, and resources of the county, including taxing authority that is pledged to the payment of the bonds. GO Bonds will generally carry lower interest rates than Local Improvement District Bonds because the risk is deemed lower. Traditionally GO Bonds carried lower interest rates than Revenue Bonds, but that has been changing over recent years.

GO Bonds should have scheduled maturities as close as possible to the date or useful life of the improvements financed. In reality, most debt issues backload principal based on the use of level annual payments. Since there is more interest due in the first years, principal repayment is necessarily pushed out longer in order to maintain level annual payments.

State law provides for a maximum amount of GO debt that can be issued by various entities, which is the "Debt Limit" and is stated in terms of percentage of assessed valuation of the entity. While the following provides the debt limit for counties, it is important to note that the percentage allowed varies significantly by type of entity (RCW 39.36.020).

Unlimited Tax General Obligation Bonds

Counties are authorized to issue Unlimited Tax General Obligation Bonds (UTGO Bonds) in an amount equal to 2.5 percent of the assessed value of the county upon the affirmative vote of 60 percent of the voters at a general or special election, subject to validation by voter turnout equal to 40 percent of the voters at the last general election.

Debt service on Unlimited Tax General Obligations may be paid out of an excess levy collection from the property owners within the county. They may also be paid from the revenues generated by the operations of the county.

Because of the need for voter authorization, the addition of a new excess property tax levy, and the requirement for a 60% affirmative vote, UTGO Bonds are used less frequently by counties than LTGO Bonds. On the other hand, UTGO Bonds are most frequently used by school district. UTGO Bonds generally carry lower interest rates than LTGO Bonds.

Limited Tax General Obligation Bonds

Limited Tax General Obligation Bonds (LTGO Bonds) are limited to 1.50 percent of the assessed value of the county. It is not required that a vote of the electors within the county be held to authorize bonds. The Board of County Commissioners is authorized to approve the sale of LTGO Bonds for the county.

The payment of debt service on the bonds must come from "regular" sources of revenue of the county, which is revenue available without a vote of the people. There is no authority for the county to levy excess taxes on the property owners for LTGO Bonds. The payment of debt service may come from within the existing regular tax levy, other general fund taxes and revenue, newly created or identified revenue sources or from revenue of operations of enterprises such as a water utility.

Revenue Bonds

Revenue Bonds are secured by the pledge of the revenues generated by a project or enterprise such as a water, sewer or solid waste utility.

Revenue Bonds are payable from a special fund called the "Revenue Bond Fund" created by the resolution authorizing the bond issue (bond resolution). In the bond resolution, the county agrees and covenants to do certain things, such as make deposits into the bond fund, maintain a reserve account for the exclusive benefit of the bond holders, and to set rates and charges so as to comply with a coverage covenant, obtain and maintain adequate insurance on the facilities of the county. A coverage covenant requires that the issuer maintain net revenue, after payment of costs of maintenance of operations, which is a multiple of the annual debt service due in each year. Revenue bond covenants need to be reviewed annually to ensure that the county is in compliance, or it will impact the credit rating and the ability of the county to issue more revenue bonds in the future.

There is no statutory limitation on the amount of revenue debt that may be issued by the county. The only limitation is a practical one of "How much can you afford?" or "How much can you repay?"

It is not necessary to obtain a vote for the electors of the county to sell Revenue Bonds, the Board of County Commissioners have the authority to issue Revenue Bonds. Revenue Bonds are issued pursuant to RCW 39.46.

Revenue Bonds can be used to finance improvements in a Utility Local Improvement District (ULID). In that case, a pledge of the special assessments in the ULID and interest thereon also secure the bonds. (See "Assessment Bonds" below).

The bond resolution for Revenue Bonds sets forth conditions under which Parity Bonds may be issued. Parity Bonds are bonds issued after an initial bond issue that have an equal claim on the revenues and assessments of the enterprise system. Typically, Parity Bonds are payable from a common bond fund. Parity Bonds are used to create bonds of equal creditworthiness even though they may be issued at different times. To obtain equal creditworthiness, or parity, requires that certain parity conditions be met. If the conditions cannot be met, it is necessary to issue junior lien bonds that have a claim subordinate to that of the outstanding, senior lien bonds.

Parity conditions vary from county to county, but generally contain at least two requirements:

1. Maintenance of specified balances in the bond fund (principal and interest account and reserve account).

2. Preparation of a certificate, certifying that the net operating revenues of the county will exceed the debt service requirements by some multiple while the bonds are outstanding.

In certain circumstances, the certificate will need to be prepared by a third-party, such as an engineer or CPA.

Assessment Bonds

Local Improvement District Bonds, Road Improvement District Bonds, or Utility Local Improvement District Bonds are classified as assessment bonds.

Assessment Bonds are secured solely by special assessments levied against benefiting property and pledged to the bond fund. There is no pledge of operating revenues to the county, which causes Assessment Bonds to be less creditworthy in the eyes of investors and therefore less marketable. Additionally, Assessment Bonds are frequently issued with a fixed maturity year, which by law is two years longer than the term for the payment of assessments by the affected property owners. Each year assessment collections are applied first to pay interest on the bonds and then to call principal to the extent sufficient funds are available. The uncertainty involved in timing of repayment of principal on Assessment Bonds further detracts from their marketability.

There are detailed statutes that set forth the requirements for use of assessment districts and Assessment Bonds. The county needs to ensure the process is carefully followed. All properties being assessed must receive a special benefit from the improvements in the assessment district, which benefit is measured by increase in value of the property. Because of this, the assessment amount may differ from property to property. No assessment may exceed the amount of increase in property value and therefore, the county many need to employ an appraiser to provide a special benefits study supporting the assessments.

A ULID is an assessment district formed to provide "utility" improvements, such as water or sewer lines. Therefore a ULID may be financed through use of Revenue Bonds relating to the enterprise system, as stated above under "Revenue Bonds". In this case, the Revenue Bonds would be repaid from ULID assessment payments, plus revenue of the utility and, therefore, will be a stronger credit than a typical Assessment Bond.

III. SHORT-TERM DEBT

Counties and other governmental entities are also authorized to issue short-term debt obligations under essentially the same conditions as apply to long-term debt.

The short-term obligations may have various names, but they will generally fall into one of the following categories:

Bond Anticipation Note: These obligations are issued in anticipation of the issuance of bonds. They are used to provide interim financing for a project until the long-term debt is issued.

Revenue Anticipation Note: Issued in anticipation of revenue from operations or some other source that will be used to repay the short-term obligation.

Tax Anticipation Note: Issued in anticipation of tax receipts. These tax receipts could be an annual operating levy or some other tax source that will be used to repay the note.

Grant Anticipation Note: Issued in anticipation of grant receipts. After a grant commitment has been made by the granting agency, the entity may issue notes to be repaid from the grant proceeds. The note proceeds may be used to pay project costs until grant proceeds are received.

Interest Bearing Warrants: A warrant is an instrument that serves as a pledge or guarantee to be paid on presentation. An interest-bearing warrant or **registered warrant** is a short-term obligation of a municipality issued in anticipation of revenue that pays interest from date of issue or date of presentation for payment. While registered warrants were more commonly used prior to the 1980's, they are much less common now and interfund loans, in-lieu of registered warrants or a bank line of credit may serve this need.

Capital Leases: A lease that meets one or more of the following criteria should be classified as a capital lease:

- Ownership of the property is transferred to the lessee at the end of the lease term.
- The lease contains a bargain purchase option.
- The lease term is equal to 75 percent or more of the estimated economic life of the leased property.
- The present value of the lease equals or exceeds 90 percent of the excess of the fair value of the leased property

The State Treasurer's LOCAL program is considered a capital lease.

IV. IMPORTANT CONSIDERATIONS FOR BOND ISSUES

Each bond issue and each issuer have its own unique qualities. When preparing to go to market with a bond offering, the county must make many decisions before the actual issuance decision.

1. Appointment of Financing Team
- Who will provide bond counsel services? How will they be selected?
- Who will serve as financial advisor? How will they be selected?
- If a negotiated sale is recommended, who will provide underwriting services? How will they be selected?

2. Development of Financing Plan
   - What type of financing to use – UTGO, LTGO, Revenue Bonds, Assessment Bonds?
   - Will we need short term or long-term bonds?
   - What is our debt limit, what are the repayment sources, and can we afford the proposed debt?
   - What is the timing of the issue, i.e., does time of year make a difference regarding the receipt of bond proceeds to begin a project?
   - Is it reasonable to purchase the bonds (internally) from short-term issue or another fund under the management of the Treasurer? Is the use of an inter-fund loan available?

3. Consideration of Best Practices
   - When to issue refunding bonds?
   - Method of sale of bonds?
   - Use of alternatives to bond issuance?

RCW 36.48.070 requires that the County Finance Committee adopt a debt policy. The debt policy will provide many of the above answers including defining the role of the legislative body versus the role of the county treasurer in the bond issue. We address debt policy in Chapter VI, herein. The national Government Finance Officers Association (GFOA) publishes many articles and papers of interest to bond issuers, including statements of Best Practices for many of these areas.

Financing Team Members and Roles

When selecting the financing team members, the county must feel confident that the participants have the necessary expertise to represent its interests and to successfully complete its bond sale.

To issue bonds, the county must use the services of a bond attorney and a bond underwriter. It is advisable to use the services of a financial advisor unless the county has in-house expertise relative to bond issuance and bond markets. Note that an underwriter is selected by the issuer only when using a negotiated method of sale; in a competitive sale, the underwriter is determined based upon the best financing rate offered. A financial advisor will be able to assist the county in determining the best method of sale; an underwriter is not qualified to and is not allowed by the Municipal Securities Rulemaking Board (“MSRB”), to provide a recommendation on the method of sale of bonds or notes. It is important to know the roles of the parties and understand who is representing the county and who is not representing the county.

Bond Counsel - Bond counsel will prepare bond resolutions and ensure that the county's bonds are duly authorized and enforceable, which is evidenced by a "legal opinion" issued at bond closing. Investors will not buy bonds without a legal opinion. Additionally, bond counsel will provide advice and input relative to qualification for tax exemption and will provide an opinion that the bonds are tax-exempt or taxable - tax-exempt bonds will carry a lower rate of interest than taxable bonds. Bond counsel is appointed by the county and is your specialized legal advisor relative to debt issuance.

Financial Advisor – The financial advisor will provide financial analysis, market input, and other advice to assist the county in development of a financing plan, strategy and process for issuance of debt. The advisor recommends the use of bonds or notes, terms, timing, method of sale of bonds, and assists with management of the overall issuance process including the rating preparation, review and selection of providers of other services. The financial advisor is appointed by the county and has a fiduciary duty to the county so that the county's interests are put ahead of all others.

Underwriter – The underwriting firm will buy the bonds from the county and sell them to investors. An underwriting firm is a necessary intermediary, and the county will sell the entire bond issue to them through either a negotiated method or competitive bid. In a competitive sale, the underwriter is selected solely based on the lowest interest cost, based on competitive bids. When a negotiated sale is recommended, the underwriter is selected by the county based on the perceived ability of the firm to market bonds at fair market rates. The underwriter can be selected based on solicitation of written proposals, an interview process, or based on your familiarity with the firm and its staff. While the underwriting firm may provide you with guidance, input or assistance relative to the bond issue, it is important to know that they are not your financial advisor and do not have a fiduciary duty to the county. The underwriter will disclose to you that their interests may differ from the county's interest because underwriters have a duty to be fair to the investors and to the issuer and must determine how to balance those interests.

Understanding Bond Refunding

Current refunding transactions shall be considered whenever possible. Current refunding transactions are those undertaken through the issuance of tax-exempt refunding bonds within no more than 3-months of or after the first call date on the outstanding debt and provide for immediate redemption and replacement of refunded debt.

Advance refunding enables an issuer to sell refunding bonds and execute a refunding today even though the outstanding bonds cannot be called until a later date. The refunding bond proceeds are deposited into an escrow account and, together with the interest earnings in the escrow account, must be sufficient to meet the debt service on the outstanding bonds through the first call date of the refunded bonds, and pay principal on the refunded bonds plus call premium (if any).

Advance refunding for the purpose of achieving interest savings offers a tool the issuer can use to take advantage of a beneficial prevailing market. Although a future market may be as good or better, the issuer may conclude it is appropriate to proceed with the advance refunding to lock in the reduced costs rather than risk higher rates at the call date.

However, because advance refundings can only be accomplished through the issuance of taxable refunding bonds, forward-delivery tax-exempt refunding bonds or other non-standard bond structures, all of which will involve higher interest rates than issuing current tax-exempt bonds, the savings targets for such transactions should be considerably higher than those for current refundings.

The feasibility of refunding outstanding bonds must be analyzed before taking any action. A financial advisor should perform this analysis and advise the county of its options. Each time an advance refunding is considered, the issuer should ask for analysis to show the potential results and trade-offs of waiting until a later date, closer to or at the call date for the refunded bonds when a current refunding can be undertaken. This will assist you in making an informed decision relative to timing.

Analyzing Debt Capacity and Establishing Debt Limits

Limitations on the issuance of county debt are set forth in Article VIII of the Washington State Constitution and chapters 36.67 and 39.46 of the RCW. In general, the limits are a percentage of the taxable value of property within the county. Counties often set additional limits as part of their Debt Policy. For instance, a county may require that no more than 10% of its general fund revenues may be used for debt service.

Debt capacity should be analyzed both in terms of legal limitations and the county's ability to service the debt with current and future revenues. A county may have the legal capacity for additional debt but may not have the revenues to support the repayment.

Bond Ratings

There are three major rating agencies that evaluate issuers and their municipal bonds. The agencies are Standard and Poor's (S&P), Moody's, and Fitch. The objective of the rating agency is to assign a municipal bond a credit rating to assist investors in evaluating risk. Investors use these ratings to substitute for or to enhance their own research when deciding on purchasing bonds. A credit rating is the rating agency's opinion as to the creditworthiness of the bond's issuer, and therefore the likelihood of timely payment of debt service.

In determining a credit rating for long term bonds, the rating agency will consider:

- The county's management, including decision-making, responsiveness to challenges and opportunities, policies, qualifications and longevity of commissioners and other elected officials.
- The financial condition of the county, including the amount of debt outstanding, payback period for debt, direct and overlapping debt burdens, General Fund reserves, other reserve fund balances, and debt management

- The economic conditions in the county, including the median income, concentration of the community's dependence of certain employers or industries, diversity of the tax base, population growth of the county, etc.

Competitive Bid vs. Negotiated Bid

When preparing to go to market with a bond offering, the county needs to decide on whether the issue is competitively bid or whether to negotiate the interest rates with the underwriter.

In a competitive sale, the County solicits bids from underwriting firms to purchase its debt, and sells the debt to the firm offering the lowest interest cost bid. This method is generally preferred because: (1) it ensures that the debt is sold at the lowest interest cost given market conditions; (2) the underwriting cost tends to be lower compared to negotiated sales; and (3) it promotes the appearance of an open and fair process.

Negotiated sales will often be used, however, for certain debt issues such as refundings for which a specific result is required and for more complicated debt issues for which closer underwriter input can provide added value in the structuring and marketing of the debt. A decision for negotiated offering may also be made when the size (very large or very small) of the offering will attract few underwriters.

V. CLOSING PROCEDURES

The treasurer needs to receive the following information for each bond issue:

Amortization Schedules

Amortization schedules for all series (new money and refunding issues) of a bond issue. These schedules should include: all payment dates; amount of each principal payments; amount of each interest payment; total amount of each payment; interest rates associated with each payment; total amount of principal of the issue; total amount of interest of the issue; the NIC (net interest cost); the TIC (true interest cost). In addition to the schedule described above, if there are multiple projects and repayment sources in the bond issue, you should request separate amortizations schedule for each project.

In the case of a refunding issue for an enterprise fund, it is important to identify the difference between the old bonds outstanding (refunded) and the refunding issue for proper balance sheet reporting. Normally, the par amount of the refunding issue is greater than the refunded balance—the difference is reflected as an extraordinary loss in the year of the refunding on the balance sheet of the enterprise fund. As the purpose of a refunding is normally to reduce interest expense, footnote disclosure should also identify the mathematical gain as well as economic gain of the transaction over the remaining life of the issue.

Wire Instructions

It is common today that bond proceeds will be sent to the treasurer by Federal Funds wire and, therefore, wire instructions for the treasurer's bank account should be provided in advance of the closing date. The treasurer should be prepared to confirm receipt of the closing wire early in the morning on the date of closing.

The financial advisor or underwriter will provide a Closing Memorandum or closing letter that details the transfers required for closing, and the appropriate wire instructions. The Treasurer should review the instructions prior to closing to ensure the wire instructions and amounts are correct.

In certain instances (typically a refunding bond), the county may be required to wire funds out for closing. Again, the wire instructions and amount should be carefully reviewed, including any potential outgoing wires to be sent by the County Treasurer.

For the closing to occur, the Treasurer needs to notify bond counsel that all funds have been received, which may be done by e-mail. Bond closings must occur in the morning due to various cut-off times required by parties to the closing, which cannot be modified.

VI. DEVELOPING A DEBT POLICY

The Government Finance Officers Association (GFOA) has stated that the foundation of any well-managed debt program is a comprehensive debt policy. The Washington Public Treasurers Association has a certification process that treasurers might also consider. A debt policy sets forth the parameters for issuing and managing debt and provides guidance to decision makers. Additionally, state law requires that each county have a debt policy (RCW 36.48.070). Debt policies should be reviewed by the Finance Committee and revised as necessary. Many counties have their debt policy approved by both the Finance Committee and the Board of County Commissioners. A comprehensive debt policy is viewed positively by rating agencies, which may result in a more favorable rating.

A debt policy should include:

(a) Introduction which list a brief overview of the policy
(b) Purposes for which debt may be issued
(c) Legal or policy based limitations on debt
(d) Types of debt permitted to be issued and criteria for issuance
(e) Debt structure to be considered (term, type, fixed vs variable rate, etc.)
(f) Authorized methods of sale
(g) Roles and responsibilities of financing team members
(h) Method of selecting outside finance professionals
(k) Refunding of debt
(j) Disclosure practices
(i) Compliance with federal tax laws, including arbitrage and use of proceeds

If your county does not have a formally adopted debt policy or if your county needs to update their debt policy start by contacting your fellow WSACT Treasurer's, the Washington Public Treasurers Association or the State Treasurer's Office for a sample debt policy.

DEBT SERVICE

Most Treasurers adopt the system of registration approved by the Washington State Finance Committee through the appointment of State Fiscal Agent to maintain current bond holder information and to provide paying agent services. The Fiscal Agent maintains a bonds payable system, and provides the Treasurers with maturity notices, cash statements and invoices for various bonds. The information provided by the Fiscal Agent should be compared to the Treasurer's records to confirm the accuracy.

The Treasurer is responsible for wiring the appropriate amount, on the correct date, to pay debt service for all issues for which it serves as Treasurer.

For assessment bonds, the Treasurer determines the amount of assessment revenue available after payment of interest, and therefore, which bonds should be called, and the Treasurer must notify the fiscal agent in accordance with the bond resolution (typically at least 30 days prior to the call date each year).

VIII. ARBITRAGE

The County will determine who will monitor compliance ("Rebate Monitor") with arbitrage rebate obligation for the county's bond issues. The County should provide educational opportunities, through attendance at educational programs/seminars on the topic of arbitrage regulation, to support the Rebate Monitor and facilitate his/her performance of these obligations.

If the Rebate Monitor determines that the total principal amount of tax-exempt governmental obligation (including all tax-exempt leases) issued or incurred by the County during any calendar year will not be greater than $5,000,000, the Rebate Monitor will not be required to monitor arbitrage rebate compliance but will monitor expenditures and the use of proceeds after completion of the project.

Definition of Arbitrage

Arbitrage is defined as the profit or spread earned on investing proceeds from the sale of securities in one market and purchasing of securities in another. Arbitrage is the ability to invest tax-exempt bond proceeds in higher yielding taxable securities.

In the event arbitrage rules apply, the issuer is required to pay to the IRS an amount equal to the excess of the actual amount earned on investments acquired with gross proceeds of the bonds.

There are two primary purposes expressed in the regulations for establishing arbitrage laws:

1. Minimize the benefits of investing tax-exempt bond proceeds, and

2. Remove the incentive to issue more tax-exempt bonds, issue tax-exempt bonds earlier, or to leave tax-exempt bonds outstanding longer than is necessary to carry out the governmental purpose of the issue.

There are two major areas of arbitrage compliance that must be addressed for tax-exempt debt:

1. Arbitrage Restriction Requirements set forth rules regarding the maximum rate that can be earned on tax-exempt bond proceeds. Unexpended proceeds at the end of the initial temporary period (usually 3 years) may not be invested at a yield that is materially (normally .00125%) higher than the bond yield. Excess earnings must be remitted to the IRS as a yield reduction payment.

2. Arbitrage Rebate Requirements identify what must be done with any arbitrage (profit) earned on the investments of the gross proceeds of a tax-exempt bond issue.

Funds Subject to Arbitrage Rebate

Gross proceeds of a tax-exempt bond issue are subject to the arbitrage restriction and arbitrage rebate provisions. Gross proceeds of a tax-exempt bond issue include:

- Sale Proceeds are amounts received from the sale of the bonds;
- Investment Proceeds represent interest earned from investing proceeds;
- Transferred Proceeds are created from unspent proceeds of a tax-exempt refunded bond issue; and
- Replacement proceeds include reserve funds, debt service funds, sinking funds, etc.

Spending Exceptions

- **Six-Month Spending Exception.** Gross proceeds of a tax-exempt bond issue are exempt from the rebate requirements if such proceeds (including interest earnings) are expended for their governmental purpose within six months of the date of delivery.

- **Eighteen-Month Spending Exception.** Under the exception, interest earned from investing gross proceeds of a tax-exempt bond issue are exempt from rebate if such gross proceeds (including interest earnings) are expended for their governmental purpose in accordance with the following expenditure schedule:
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Period	Cumulative Expenditures
6 months	15%
12 months	60%
18 months	100%

- **24-Month Spending Exception.** The earnings from a tax-exempt bond issue are exempt from rebate if such gross proceeds are expended for their governmental purpose in accordance with the following expenditure schedule:

Period	Cumulative Expenditures
6 months	10%
12 months	45%
18 months	75%
24 months	100%

Construction Issue

The 24-Month exception applies only to bond issues which are defined as any issue that is not a refunding issue if the issuer reasonably expects, as of the date of issue, that at least 75% of the available bond proceeds will be used to finance construction expenditures (instead of land acquisitions and equipment acquisitions).

Calculation of Arbitrage

It is important to understand that the purpose of calculations is (a) to determine whether you owe money to the IRS, and (b) if you do owe rebate, how much to pay. If you do not owe rebate, you do not have to file anything with the IRS but you ***need to be able to demonstrate that you made that determination*** based on a reasonable basis. The easiest way to do this is to maintain a file (whether paper or electronic) of all bond-related expenditures and earnings, including the calculation you undertook to determine that you did not owe rebate.

Information on how to calculate the annual rebate can be obtained through bond counsel, or various private companies specializing in arbitrage compliance

Many firms provide arbitrage calculation service, and some of these firms are very aggressive in their marketing. It is a good idea to consult with your financial advisor and/or bond counsel to determine if you even need to retain these services based on your debt and circumstances.

Ongoing Arbitrage Compliance

The Treasurer should consult with bond counsel or your financial advisor regarding possible recent amendments to federal arbitrage law. The Government Finance Officers Association is another good source of arbitrage information.

IX. POST ISSUANCE ACTIVITIES

Post Issuance Compliance Policies and Procedures

At the time of any bond issue, the issuer will be required to file an IRS Form 8038-G which sets forth certain information about the bonds being issued. That form includes a box which, when checked, states that the issuer has written policies to ensure post-issuance compliance with tax and related requirements relating to the issuance of tax-exempt bonds. It is important that each issuer consider development of a policy, assign responsibilities within the entity, and refer to the policy.

Compliance with certain applicable federal tax requirements normally occurs at the closing of the bond transaction, while other federal tax requirements require on-going monitoring after the issuance of the bonds. Issuance related requirements include filing a Form 8038 series information return and the issuer having reasonable expectations of on-going post-issuance compliance. Post-issuance federal tax requirements generally fall into two categories: (1) qualified use of proceeds and financed property; and (2) arbitrage yield restriction and rebate. Qualified use requirements require monitoring of the various direct and indirect uses of bond-financed property over the life of the bonds and calculations of the percentage of nonqualified uses. Arbitrage requirements (discussed above) also require monitoring over the life of the bonds to determine whether both the yield on investments acquired with bond proceeds are properly restricted and whether the issuer must file Form 8038-T to pay a yield reduction payment and/or rebate payment.

The GFOA and the National Association of Bond Lawyers have developed a comprehensive Post-issuance Compliance Checklist, which may be helpful to treasurers as you think about tasks and responsibilities after the bond sale:

http://gfoa.org/sites/default/files/u2/PostIssuanceCompliance.pdf

Your bond counsel or financial advisor can help or review of a post issuance compliance policy. Additionally, it is worthwhile to review your compliance practices and procedures with your bond counsel and/or financial advisor annually, to ensure you are using best practices.

Records Retention

Records, with respect to those mentioned below, will be retained by the County for the life of the bond issue (and any issue that refunds the bond issue) and for a period of six years thereafter.

Records to be retained:

- The transcript
- Arbitrage rebate reports prepared by outside consultants;
- Detailed records of expenditures of bond proceeds (including interest earnings);
- Work papers that were provided to the rebate consultants;
- If no rebate report was prepared, then records of expenditures and investment receipts showing timing of expenditure and the object code of the expenditure and in the case of investment, timing of receipt of interest earnings;

- Copies of all certificates and returns filed with the IRS;
- Copies of all documents related to potential private use;
- Documents to establish valuation and source of funding for bond-financed project, including appraisals, demand and feasibility studies and grant contract;
- Construction and purchase contracts;
- Records related to investment contract, credit enhancement contracts, derivatives and all related bidding documents; and
- Any other documentation necessary to establish the qualification for tax-exemption of the bonds.

Continuing Disclosure/EMMA

The County is obligated, under the continuing disclosure undertaking (CDU) entered into at the time of closing, to provide the market with annual updates of certain financial and operating data pertaining to their outstanding bonds. Certain "material events" described in the CDU must also be disclosed when they occur. Issuers should be familiar with the type of information that must be filed annually with Electronic Municipal Market Access (EMMA) and the required annual filing dates. It is critical that the issuer provide required information by the due dates, and that prior compliance with the CDU be accurately disclosed in each subsequent bond official statement.

Issuers can also voluntarily disclose budgets, interim financial reports, investment information, and revenue forecasts through EMMA. Issuers should discuss this decision with their bond counsel and financial advisors.

Rating Agency Surveillance/Updates

Surveillance and review of municipal bonds and municipal bond funds relies heavily on the disclosure provided by the issuer. Credit agencies review the information available on EMMA as well as what is readily available on the Issuer's website. If key information is not included, the surveillance analyst may call the issuer and ask for it. Surveillance analysts also may call to follow up on disclosure information, i.e. explanation of large and/or unanticipated changes.

State Treasurer's Debt Policy:
https://www.tre.wa.gov/home/debt-management/state-finance-committee/

Washington Public Treasurer's Association: http://www.wpta.us/cert_debt.html

Government Finance Officers Association (GFOA)

http://gfoa.org/debt-management-policy

IRS – Post Issuance Compliance Information

http://www.irs.gov/Tax-Exempt-Bonds/TEB-Post-Issuance-Compliance-Some-Basic-Concepts

X. GLOSSARY OF TERMS

Accrued Interest – On new debt issues, interest based on the stated rate(s) of interest owed.

Advanced Refunding- The refinancing of outstanding bonds by the issuance of a new issue of bonds prior to the date on which the outstanding bonds become due or are callable. The refunded bonds are escrowed to their first call date.

Amortization Schedule – A table showing the gradual repayment of an amount of indebtedness, such as a mortgage or bond, over a period of time. See: *Debt-Service Schedule*.

Arbitrage – The difference between the tax-exempt interest rate paid by the borrower and the interest rate at which the proceeds of the issue are invested. The Internal Revenue Code contains specific regulations concerning the amount that can be earned from the investment of tax-exempt proceeds.

Average Life/Maturity – The length of time the principal of a debt issue is expected to be outstanding.

Bank-Qualified Obligation – Obligations issued by governments that do not expect to sell more than $10 million of "qualified tax-exempt obligations" in a calendar year. The issuer must designate its securities as "qualified tax-exempt obligations" at the time of issuance, and the securities may not be private-activity bonds. The designation of bonds as qualified tax-exempt obligations is an exception to the general rule of Section 265(b)(1) for bank purchasers.

Basis Points – An expression of interest equal to one-hundredth of a percent (0.01%).

Bearer Bonds – Bonds that do not identify the owner. Possession is considered to be ownership. Current federal law requires that all debt obligations with a maturity greater than one year be issued in registered form; there are known as registered bonds.

Bond – Written evidence of the issuer's obligation to repay a specified principal amount on a date certain (maturity date), together with interest at a stated rate, or according to a formula for determining that rate. Bonds are distinguishable from notes that mature in a much shorter period of time. Bonds may be classified according to maturity (serial vs. registered), issuers (state vs. municipality vs. special district), or price (discount vs. premium). Compare: *Note*.

Bond Counsel – Attorneys hired by the issuing agency to express an opinion on the legality of the debt issue.

Bondholder – The registered owner of the bond or the individual presenting a bearer bond.

Bond Proceeds – The money paid to the issuer by the purchaser or underwriter for a new issue of municipal bonds, used to finance the project or purpose for which the bonds were issued and to pay certain costs of issuance as may be provided in the bond contract.

Bond Purchase Agreement – The agreement signed by the issuer and the underwriter(s) spelling out the price to be paid for the bonds and the interest rates that the bonds are to bear. The bond purchase agreement also details any options or certifications to be delivered on the date of closing (delivery).

Bond Register – The list of names and addresses of the current registered owner of a debt issue maintained by the trustee or bond registrar.

Bond Resolution or Bond Ordinance – The act of the governing body that authorizes the issuance of bonds (sometimes called the "Authorizing Resolution or Ordinance"). State Statutes generally govern the procedures that need to be followed by the governing body to permit issuance of debt. Of the two terms, the bond ordinance is the more formal legislative action.

Book Entry – The holding and accounting of ownership and transfer of ownership of securities through a centralized system.

Call – The conditions under which a debt obligation may be redeemed prior to its stated maturity. Such provisions specify the date on which an obligation may be redeemed and price investors will receive if their bonds are redeemed. Such provisions typically take one of the following forms: Mandatory redemption provisions, optional redemptions provisions, or extraordinary redemptions provisions. See: *Redemption*

Call Premium – The price an issuer will pay to investors to redeem it obligations prior to their stated maturity date. The call premium is expressed as a percent of the par value.

Capital Lease– A lease in which the lessee must record the leased item as an asset on their balance sheet and record the present value of the lease payments as debt.

Closing – The date on which the issuer legally issues its debt or other obligations. On that date, the purchaser provides the funds to the issuer and the issuer delivers the securities to the purchaser. At closing, bond counsel will provide the approving legal opinion.

Competitive Bid Debt Sales– The process of accepting bids to perform the underwriting services involved in issuing debt. Compare: *Negotiated Debt Sales*

Conduit Financing – Bonds issued to finance a project used primarily by a third party. The security for such bonds is the credit of the private user rather than the governmental issuer. Generally, such bonds do not constitute obligations of the government issuer.

Continuing Disclosure – Annually required disclosure of financial and other operating data, as set forth in your bond resolution or ordinance, or in a separate agreement, at the time of bond issuance. Continuing Disclosure requirements must be met each year, unless you meet one of a few rare exceptions.

Cost of Issuance – The expenses associated with the sale of a new issue of municipal securities, including underwriter's spread, printing, legal fees, and rating costs.

Coupon – The interest document related to specific bond. They can be detached and presented separately from the bond document.

Coupon Rate – The rate of interest paid on a specific bond. The coupon interest rate appears on the face of the bond or, in the case of book-entry-only bonds, on the bond of record maintained by the securities depository.

Covenant or Bond Covenant – The pledge by the issuer to meet the provisions of the bond resolution or not do certain stated acts (pledge of revenues, no parity bonds, etc.).

Credit Enhancement – A guarantee by a third party in a debt financing that strengthens the credit quality behind the obligation.

Current Refunding- The refinancing of outstanding bonds by the issuance of a new issue of bonds within no more than 3-months ahead of or at the call date of the outstanding bonds.

CUSIP Numbers – Identifying numbers assigned to each maturity of a bond issue, usually printed on the face of each individual bond.

Dated Date – The date on which a debt obligation begins to accrue interest.

Debt Limit – The maximum amount of debt that an issuer of municipal securities is permitted to incur under constitutional, statutory, or charter provisions.

Debt Ratios – Comparative statistics showing the relationship between the issuer's outstanding debt and such factors as it tax base, income, or population. Such ratios are used to assess the issuer's credit worthiness.

Debt Service – The money needed to pay interest on an outstanding debt, the serial maturities of principal for serial bonds, and the required contribution to an amortization or sinking fund for term bonds. Deb service on bonds may be calculated on a calendar year, fiscal year, or bond fiscal year basis. See: *Debt Service Schedule***.**

Debt Service Schedule – A table listing the annual payments necessary to meet debt service requirements over the period the bonds are to be outstanding.

Default – The failure of an entity to meet its contracted obligation.

Defeasance – The provision for payment of an outstanding obligation with cash or securities that are placed in escrow until the due date(s) of the originally issued bond.

Delivery Date – The date on which debt obligations are delivered to the purchaser. This is also known as the closing date.

Denomination – The face value, or par amount, of a bond that is due at maturity. Most municipal bonds are issued in denominations of $5,000 or integral multiples thereof.

Derivative Products – A term used to describe a wide range of financial products derived from more conventional securities or debt service cash flows. Often contractual arrangements, derivative products include interest rate swaps, inverse floaters, and other hybrid securities.

Discount –The amount by which par value exceeds the price paid for a security and which generally represents the difference between the nominal interest rate and the actual or effective return to the investor.

Downgrade – The lowering of a bond rating by a rating service. A downgrade would be considered if the issuer encountered major financial difficulties or economic decline, which may be viewed by the rating service as reducing the credit quality of the bond issue.

Effective Interest Rate – The actual rate of interest earned by an investor after allowing for premiums, discounts, or accrued interest over the period of the instrument.

Escrow Account – Fund set up to hold pledged money or securities used to pay debt service.

Expiration Date – The future date at which the demand feature of a security ends.

Face Amount – See: Par value.

Financial Advisor – The registered municipal advisor who advises the issuer on matters pertinent to a debt issue, such as structure, timing, marketing, fairness of pricing, terms and bond ratings.

Floater – A common term used to describe a security with a variable interest rate.

General Obligation Bonds – Bonds that are secured by the issuer's full-faith-and-credit pledge. Most GO bonds are backed by the issuer's ability to level ad- valorem taxes. Some "limited" GO bonds are backed by the pledge of a defined portion of the issuer's general taxing power.

Investment Banker – The designation of a firm or an individual member of a firm to underwrites a new issue of municipal securities.

Lease-Purchase Agreement – An agreement entered into by two parties in which one provides a facility or equipment in exchange for a pledge from the other to make regular lease payments. Upon completion of the lease term, the lessee assumes ownership of the item. Most lease-purchase agreements provide that the lessee will continue to make lease payments only as long as it governing body appropriates funds for that purpose.

Legal Opinion – A Bond Counsel's written opinion included in the bond transcript attesting that the debt issue adheres to all legal requirements.

Maturity Amount – The amount of an issue's principal, or par value, that is scheduled to be redeemed on a given date.

Maturity Date –The date on which a given security is scheduled for redemption.

Net Interest Cost (NIC) – A method used to calculate the overall interest cost of a borrowing. The NIC is calculated by dividing total interest payments over the life of the issue by total bond year dollars. Total bond year dollars is the sum of the products of the amount of bonds outstanding and the number of years they are outstanding. Discount is added to the total interest payment. Premium is subtracted.

Note – A written, short-term promise of the issuer to repay a specified principal amount on a certain date, together with interest at a stated rate, or according to a formula for determining that rate, payable from a defined source of anticipated revenue. Notes usually mature in less than five years.

Official Statement – A disclosure document prepared in connection with a specific offering which provides detailed information concerning security provisions, maturity dates and amounts, optional redemption provisions, ratings, coupons rates and reoffering yields, and other relevant credit data.

Overlapping Debt – The issuer's proportionate share of the debt of other local governmental units that either geographically overlap it or underlie it. The debt is generally apportioned based upon relative assessed value.

Par Value – The amount of principal that must be repaid at maturity.

Parity Bonds – Two or more issues of bonds that have the same priority of claim or lien against pledged revenues or the issuer's full faith and credit.

Paying Agent – The entity responsible for the payment of interest and principal on municipal bonds on behalf of the issuer.

Point – One percent of par value. A point is worth $10 regardless of the actual denomination of a bond. A bond discounted 2/4 points, or $25, is quoted at 97/4 percent of it value, or $975 per $1000.

Post-Issuance Compliance – A term to describe the various responsibilities of issuers after the bonds are issued, some of which are necessary only as long as the bond proceeds remain unspent (i.e., arbitrage rebate), and many of which are required for the life of the bonds, i.e., use of bond financed facilities).

Premium – The amount by which the price paid for a security exceeds par value.

Primary Market – A term used to describe the underwriting, sale, or placement of securities at the time of original pricing.

Private Placement – The term used in reference to negotiated sales directly to institutional or private investors rather than through a public offering.

Ratings – Evaluations of credit quality of notes and bonds usually made by independent rating services such as Moody's.

Redemption – A transaction in which the issuer pays an outstanding obligation at a specified price, usually at or above par prior to the specified maturity date or call.

Refunding – A procedure whereby an issuer refinances an outstanding bond issue by issuing new bonds. The proceeds of the new bonds are either deposited in escrow to pay the debt service on the outstanding obligations when due, or they are used to immediately retire the outstanding obligations.

Registered Bond – A bond listed with the registrar as to ownership, which cannot be sold or exchanged without a change of registration.

Registrar – The person or entity responsible for maintaining records on behalf of the issuer for the purpose of noting the owners of registered bonds.

Reserve Fund – The accounting fund that may be used to pay debt service if the sources of the pledged revenues do not generate sufficient funds to satisfy debt service requirements. The reserve is either funded in whole or in part from the proceeds of the bonds or is allowed to accumulate over a period of years through required payments or pledged revenues.

Retirement of Debt – The payment of principal and interest due to the bondholders.

Secondary Market – Market for bonds previously offered or sold.

Serial Bonds – Bonds of an issue in which some bonds mature in each year over a period of years. Compare: *Term Bonds*.

Settlement – Delivery of and payment for a new issue of municipal bonds.

Settlement Date – The date used in price and interest computation, usually the date of delivery.

Sinking Fund – An account, sometimes called a debt service fund, into which the issuer makes periodic deposits to assure the timely availability of sufficient monies for payment of debt.

Spread – The income earned by the underwriting syndicate as a result of differences in the price paid to the issuer for the new issue of municipal bonds, and the prices at which the bonds are sold to the investing public, usually expressed in points for fractions thereof.

Taxable Bonds – Municipal bonds on which the interest is subject to federal income tax, frequently because more than 10% of the proceeds are used for a non-governmental purpose.

Tax-Exempt Bonds – Bonds for public projects whose interest is exempt from federal income tax.

Term Bonds – Bonds coming due in a single maturity. The issuer usually agrees to make periodic payments into a sinking fund for mandatory redemption of term bonds before maturity or for payment at maturity. Compare: *Serial Bonds*.

Term Issue – An issue of municipal securities that has a single stated maturity.

True Interest Cost (TIC) – TIC considers the time value of money while NIC does not.

Trustee – A financial institution with trust powers that acts in a fiduciary capacity for the benefit of the bondholders in enforcing the terms of the bond contract.

Underwriter – The term is used broadly to refer to the firm that purchases a securities offering from a governmental issuer, regardless of method of sale.

Zero Coupon Bonds – A bond that pays no interest, but is issued at a deep discount from par, appreciating to it full value at maturity.