September 4, 2019

Guidelines on Debt Issuance (Revised)

The Local Government Commission (LGC) is authorized to adopt rules and regulations and to issue memoranda, statements and other publications intended as guidelines, all in order to carry out its powers and duties, and to assist units of local government and public authorities (a unit) in complying with North Carolina General Statutes (G.S.) Chapter 159. In an effort to assist applicants in receiving timely approval of financing requests by the LGC, the staff has prepared these guidelines and suggestions. These are intended to indicate steps applicants may take to expedite approval and to point out pitfalls that may delay or complicate the approval process and are to be avoided. The items are divided into two broad categories, A. Fiscal Management and B. Debt Management and the Project and are generally related to the statutory findings required of the LGC, as found in G.S. Chapter 159.

LGC Consideration of Unit's Fiscal Management

1) Adequate and timely responses to issues raised in a unit letter sent by LGC staff must have been received. All concerns regarding the financial management of the Unit must be addressed, such as low General Fund balance (below eight percent (8%) of the prior year's expenditures), low tax collection rate (below 90%), receipt of a qualified audit opinion, habitual violations of G.S. Chapter 159, Article 3, (The Local Government Budget and Fiscal Control Act), inadequate internal controls, weakness in an enterprise fund or an enterprise fund that is not self-supporting and similar concerns. Although LGC staff may perform a site visit, this visit does not eliminate the requirement for the unit to provide a written response to the concerns identified in the unit letter. In addition, depending on the issues identified, LGC staff may determine that a site visit **must** be completed prior to the targeted LGC meeting date. The results of the site visit may result in the consideration of the debt application being postponed and all results will be made available to LGC members for their consideration in advance of the targeted meeting date.

2) The Unit should be operating under a legally-adopted budget which includes the project to be financed – preferably through a capital project ordinance for multi-year projects.

3) Current audited financial statements must be available on a timely basis. For units of local government, this would mean that the audited financial statements have been received by October 31. For public authorities with a calendar year or fiscal year not ending on June 30, audited financial statements should be received within four months of year-end. Financing applications for LGC approvals after October 31 will require the audited financial statements of the immediately preceding fiscal year, and the audited statements should be submitted at least three weeks prior to the targeted LGC meeting date to allow adequate time for staff review and Unit follow-up.

4) If a power agency is involved, it must comply with the policy approved by the governing body of the Unit regarding transfers from the electric system to the General Fund.

LGC Consideration of Unit's Debt Management and the Proposed Project

1) The Unit should make a point of discussing its capital improvement plans with the LGC staff as they are being developed. Ideally, this will be at the initial determination of required/desired improvement needs and opportunities. The plans may be based on preliminary project and financing cost estimates and historical financial information to allow the staff to assess the financial capacity of the unit and any other possible issues. Please be aware that the LGC must approve retained professional members of a financing team if one is used. Early notification of the staff will allow any related options or concerns to be addressed. Follow-up meetings or phone calls are encouraged when major changes occur.

2) LGC staff should be contacted very early in the planning stage regarding the proposed debt issuance. This early contact is necessary to make sure the process gets off to a good start. Having to "back up and restart" can significantly delay the process. This is especially important if an innovative financing is contemplated which may require consideration of unusual covenants, special justifications of necessity or cost, private activity usage, special interlocal agreements, unusual amortization schedules and other innovations.

3) The Unit should have a reasonable debt burden. A heavy debt burden may be evidenced by a ratio of General Fund Debt Service to General Fund Expenditures exceeding 15%, or Debt per Capita or Debt to Appraised Property Value exceeding that of similar units. (See Local Government Commission "Analysis of Debt" available on the DST website under Local Fiscal Management, Financial Analysis Tools, under Reports for "County and Municipal Debt Analysis").

4) The request to borrow must be for capital expenditures, not operating expenses.

5) The project must be "ready." Construction bids required major permits and Phase I Environmental Studies should be received before the approval or, at the latest, before the sale of the debt. Other required sources of funding must be committed.

6) Any threat or existence of litigation related to the project or the financing must be satisfactorily resolved. Litigation could affect either the marketability of the debt or the borrower's ability to repay the debt.

7) Community support for the project is important, especially for non-voted debt. Lack of community support may be evidenced by comments at meetings of the governing body or public hearings, correspondence, newspaper articles, etc.

8) The repayment plan presented must be complete and consistent regarding the maturity of debt, life of assets financed, terms of related agreements, etc. In addition, the repayment plan must be consistent with the financial projections provided by the Unit. Amortization of principal should be level for all general fund projects. Use of level principal and interest payments for an enterprise fund may be appropriate.

9) Financial projections should be presented that demonstrate feasibility and are clearly reasonable in comparison to prior financial performance. Appraisals, feasibility studies and comfort letters (if required) must be prepared by parties that are both independent to the transaction and possessing adequate expertise.

10) There should be no outstanding concerns or unresolved matters relating to a prior bond issue, such as incomplete or late filing of rebate reports, failure to meet continuing disclosure obligations, violations of covenants in other obligations, or other matters of concern. Such unresolved matters may prevent or delay the issuance of future debt.

11) Documentation must be provided showing that covenants in outstanding obligations will be satisfied if the proposed debt is issued, i.e., additional debt tests, restrictive covenants regarding additional debt, etc.

12) The ability to secure an investment grade rating should be documented. Enhancements including letters of credit, bond insurance, a parent guarantee, etc., should be considered.

13) A complete application should be filed four weeks prior to the LGC meeting date when the item is to be considered (the LGC meets the first Tuesday of every month), including documentation of all required resolutions being adopted by the governing body. This provides adequate time for staff review of the application and for compiling any additional information that may be necessary.

14) Bond or loan documents must be in substantially final form before presentation at the LGC meeting.

15) If a refunding is contemplated, the present value of the savings should exceed three percent (3%) of the refunded bonds. Generally, the term of the original debt should not be extended when bonds are refunded.

16) The sale date should be requested as early as practical. This provides some flexibility in selection of a date that should not compete with another previously scheduled sale or a bond market holiday. This assures that the most favorable interest rate is obtained for each issuer.