



STATE AND LOCAL GOVERNMENT FINANCE DIVISION
AND THE LOCAL GOVERNMENT COMMISSION

SHARON EDMUNDSON
DEPUTY TREASURER
DEPUTY TREASURER

RESOLUTION ADOPTING GUIDELINES FOR THE REVIEW AND APPROVAL OF LOCAL GOVERNMENT AND PUBLIC AUTHORITY DEBT APPLICATIONS

WHEREAS, the Local Government Commission (the “Commission”, or the “LGC”) is charged with reviewing and approving or denying applications from units of local government and public authorities (individually “Unit” and collectively “Units”) for the issuance of certain debt and is charged with the sale (either competitive or negotiated) and issuance of approved debt on behalf of such Units; and

WHEREAS, the Commission 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 in complying with G.S. Chapter 159; and

WHEREAS, the Commission wishes to adopt guidelines related to the review and approval of applications for debt submitted to Commission staff by local governments and public authorities as required pursuant to G.S. Chapter 159 that:

1. Documents the considerations made by Commission staff when reviewing applications for debt issuance and bringing them before the Commission for consideration and vote;
2. Identifies steps applicants may take to expedite application, review, and consideration, and to identify pitfalls that may delay or complicate the process; and
3. Is based on the statutory findings that the LGC must make in order to approve a debt application.

NOW THEREFORE, BE IT RESOLVED by the Commission, that the following guidelines and considerations will be utilized in the review and Commission approval of applications for debt by local governments and public authorities:

LGC Consideration of Unit’s Fiscal Management

- An adequate and timely Response to the Auditor’s Findings, Recommendations, and Fiscal Matters (the “Response”), if required pursuant to North Carolina Administrative Code [20 NCAC 03 .0508](#) and as required 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, low tax collection rate, 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 identified through Financial Performance Indicators of Concern ([20 NCAC 03 .0508](#)). Although LGC staff may perform a site visit, this visit does not eliminate the requirement for the unit to provide a Response, if required. 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 outcome of the site visit may result in the consideration of the debt application being postponed and any relevant results will be made available to LGC members for their consideration in advance of the targeted meeting date.

- 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.
- Current audited financial statements must be available no later than two months prior to the targeted LGC meeting date to allow adequate time for LGC staff review. It is important to note that this audit deadline is the date by which the audit report must be submitted to the LGC for review as part of the debt application; this date has no bearing on the audit report due date of four months following fiscal year end for most units of government and public authorities. Financing applications for LGC approvals after October 31 for units with June 30 fiscal year ends will require the audited financial statements of the immediately preceding fiscal year. Application and audit deadlines are posted on the Department of State Treasurer website on the [Applying for Debt](#) webpage.
- If a municipality applying for debt approval operates an electric utility, it must either comply with board policy or with the requirements of N.C.G.S. 159B-39, as applicable, related to the permitted use of revenue.

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

- The Unit should discuss its capital improvement plans with 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 staff to assess the financial capacity of the Unit and any potential issues. Early communication with staff will allow adequate time for any options or concerns to be addressed. Units should notify staff when significant changes to the project or financing occur.
- 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. Units are encouraged to utilize the ["LGC Debt Approval" inquiry form](#) available on the Department of State Treasurer website in order to streamline communication with LGC staff regarding details on the proposed debt issuance.
- The Unit should have a reasonable debt burden given the Unit's specific circumstances. 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 the ["Analysis of Debt"](#) report available on the Department of State Treasurer website).
- The request to borrow must be for capital expenditures, not operating expenses.

- For general obligation bonds, prior to the meeting at which the LGC will consider the debt application:
 1. Preliminary architectural and/or engineering studies must be completed and submitted to LGC staff; and
 2. The bond referendum must be held and the canvass must be certified by the North Carolina Board of Elections.
- For all other types of debt issuance considered by the LGC:
 1. Construction bids, required major permits, and Phase I Environmental Studies, as applicable, must be received before the application is presented to the LGC for consideration or, at the latest, before the sale or closing of the debt.
 2. Other required sources of funding must be committed.
- Any threat or existence of litigation related to the project or the financing must be satisfactorily resolved or addressed. Litigation could affect the marketability of the debt and the borrower's ability to repay the debt.
- Public comments received by Commission staff will be provided to Commission members pursuant to the Policy on Public Participation in LGC Meetings.
- 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. 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.
- 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.
- Documentation must be provided showing that covenants in outstanding obligations will be satisfied if the proposed debt is issued, e.g. additional debt tests, restrictive covenants regarding additional debt, etc. The unit must provide verification that all covenants have been or will be satisfied.
- The ability to secure an investment grade rating should be documented. Units unable to secure investment grade bond rating should consider obtaining enhancements including letters of credit, bond insurance, a parent guarantee, etc.

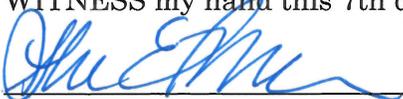
- A complete application should be filed at least four weeks prior to the LGC meeting date when the item is to be considered including documentation of all required resolutions being adopted by the governing body. This provides adequate time for LGC staff review of the application and for compiling any additional information that may be necessary. The LGC meeting schedule and application deadlines are available on the Department of State Treasurer website on the [Applying for Debt](#) webpage.
- Bond or loan documents must be in substantially final form before presentation at the LGC meeting.
- 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.
- 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.

Other Guidance

- Use of a contracted financial advising team is not required to submit an application for debt approval to the LGC.
- LGC approval of items on an agenda will also include as applicable:
 1. A finding that the assumptions used by the unit's finance officer in preparing the statement of estimated interest pursuant to G.S. 159-55.1(a) are reasonable (applicable only to general obligation bonds pursuant to G.S. 159-52(b) (Session Law 2022-53)). Refer to the [Safe Harbor Policy Related to Reasonableness of Estimated Interest Assumptions](#) on the Department of State Treasurer website.
 2. Approval of the identified financing team (applicable only to general obligation bonds sold by private sale pursuant to G.S. 159-123(e) and revenue bonds pursuant to G.S. 159-83(a)(14)).

I, Sharon Edmundson, Secretary of the North Carolina Local Government Commission, DO HEREBY CERTIFY that the foregoing is a true and correct copy of the Resolution adopted by the North Carolina Local Government Commission at its meeting held on March 7, 2023.

WITNESS my hand this 7th day of March 2023.



Sharon Edmundson, Secretary

North Carolina Local Government Commission