

DEPARTMENT OF TREASURY

State Treasurer

STATE PUBLIC FINANCE POLICY

8 CCR 1508-2

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

1.1 Authority

This regulation is adopted pursuant to the authority in section 24-36-121, C.R.S. and is intended to be consistent with the requirements of the State Administrative Procedure Act, section 24-4-101 *et seq.*, C.R.S. (the "APA").

1.2 Statement of Purpose

Senate Bill 12-150, codified in part at section 24-36-121, C.R.S., authorizes the State Treasurer to promulgate by rule, a state public financing policy and to act as the centralized issuing manager for certain Financial Obligations of the State of Colorado. The role of issuing manager includes the following:

- Managing the issuance or incurrence of a Financial Obligation, and
- Post-issuance compliance with federal and state tax and securities laws.

The State Treasurer may delegate his or her authority under this regulation to the Deputy State Treasurer or other staff of the State Treasurer's office.

1.3 Applicability

The provisions of this regulation shall be applicable to Financial Obligations issued or incurred by the State and State Agencies defined in section 24-36-121(3)(c)(I), C.R.S.

The provisions of this regulation do not apply to entities excluded from the definition of State Agency in section 24-36-121(3)(c)(II), C.R.S.

For the purposes of the Department of Transportation, the provisions in this regulation applicable to Financial Obligations do not include those defined in section 24-36-121(3)(a)(II), C.R.S.

The provisions of this regulation do not apply to any issuance or incurrence that is not a Financial Obligation or to any issuance or incurrence that is not payable from and does not pledge State Revenues.

The provisions of this regulation do not authorize the State Treasurer to supersede a State Agency's authority to enter into or incur a Financial Obligation, nor does it affect other state laws regarding the General Assembly's approval of any capital lease or lease purchase agreement over five hundred thousand dollars pursuant to sections 24-82-801 and 24-82-802, C.R.S.

The provisions of this regulation do not authorize the State Treasurer or any other public agency to waive an election otherwise required under the State Constitution or to hold an election inconsistent with the requirements of the State Constitution. References to Financial Obligation in this regulation are for reference only and shall not be construed to create debt or a multiple fiscal year financial obligation contrary to the State Constitution.

1.4 Definitions

The definition of the terms used herein specific to the State Public Financing Policy are consistent with the definitions in section 24-36-121, C.R.S.

"CAFR" means the State Comprehensive Annual Financial Report.

"COPs" means certificates of participation.

"EMMA" means the Electronic Municipal Market Access system, the market and continuing disclosure filing portal for the MSRB.

"Financial Obligation" means the definition of Financial Obligation in section 24-36- 121(3)(a)(I), C.R.S.

"Financial Professionals" means bond counsel, disclosure counsel, financial advisors, and other professionals retained by the State Treasurer to assist the State in the issuance or incurrence of Financial Obligations.

"Internal Revenue Code" means the definition of Internal Revenue Code in section 24- 36- 121(3)(b), C.R.S.

"MSRB" means the Municipal Securities Rulemaking Board.

"SEC" means the U.S. Securities and Exchange Commission.

"State" means the State of Colorado.

"State Agency" means the definition of State Agency in section 24-36-121(3)(c)(I), C.R.S.

"State Institution of Higher Education" means the definition of State Institution of Higher Education in section 24-36-121(3)(d), C.R.S.

"State Revenues" means the definition of State Revenues in section 24-36-121(3)(e), C.R.S.

1.5 Legal and Regulatory Requirements

The State Treasurer and the Office of the Attorney General shall coordinate their activities to ensure that the Attorney General has all the documents and information available to deliver an opinion on behalf of the State that a Financial Obligation issued or incurred by the State complies with applicable state laws. All Financial Obligations issued or incurred shall comply with the applicable covenants in the documents governing the issuance or incurrence of the Financial Obligation.

Unless otherwise authorized in statute, all Financial Obligations are binding contracts of the State that are not valid until signed by the State Controller or his or her designee. All relevant documents to be executed and delivered by the State in respect of Financial Obligations shall be provided to the State Controller for review as they are prepared or identified in connection with the issuance or incurrence of any Financial Obligation.

1.6 Planning and Criteria of Issuance or Incurrence of Financial Obligations

- A. Minimum Required Approval Information. Section 24-36-121, C.R.S. states that "Senate Bill 12-150, enacted in 2012, is not intended to grant the State Treasurer any authority that supersedes a State Agency's authority to enter into or incur a Financial Obligation, nor is Senate Bill 12-150 intended to affect other state laws regarding the General Assembly's approval of any capital

lease or lease purchase agreement over five hundred thousand dollars." With that in mind, in order to initiate the management process, the State Treasurer requires that the following minimum information be submitted in writing:

1. A brief description of the proposed financing, including source of repayment for the Financial Obligation;
2. Evidence of statutory authority, or legislation that authorizes the Financial Obligation; and
3. Timeline of project and proposed financing.

B. Additional Information Requirements. The State Agency will provide the State Treasurer with any additional information that the State Treasurer considers necessary or appropriate to act as the issuing manager for the issuance or incurrence of the Financial Obligation. This may include but is not limited to the following:

1. Assumptions of underlying cash flow projections associated with the repayment of the Financial Obligation;
2. Information to be delivered by the State Treasurer to credit ratings agencies, underwriters and other participants related to the security of the transaction;
3. Description of the State Agency, program, staff and operations that impact the issuance or incurrence of the Financial Obligation;
4. As applicable, details about the property proposed to be used as the leased property under any lease purchase agreement;
5. Information regarding the structure of and security for the proposed Financial Obligation; and
6. Evidence of approval from the Office of State Planning and Budget that any fiscal impact from the Financial Obligation or refinancing is understood and can be incorporated into long term financial planning.

C. Timeline Considerations. Each State Agency that anticipates issuing or incurring a Financial Obligation shall provide written notice to the State Treasurer no less than sixty (60) days prior to the date on which a State Agency anticipates issuing or incurring a Financial Obligation, for a new transaction, and no less than thirty (30) days prior to the date on which a State Agency anticipates issuing or incurring a Financial Obligation for a refinancing transaction. While this is the minimum requirement defined by statute, State Agencies should consult with the State Treasurer to consider the following factors that may affect the time frame needed to accomplish issuing or incurring a Financial Obligation:

1. Transaction size;
2. Complexity of the transaction;
3. Type and structure of proposed Financial Obligation; and
4. Market conditions.

D. General Limitations of Issuance or Incurrence. The issuance or incurrence of all Financial Obligations are subject to the following general limitations:

1. Financial Obligations shall comply with all applicable laws, regulations, and covenants and, if applicable, shall not jeopardize the federal or state tax-exempt (or other federal or state tax) status of outstanding Financial Obligations;
2. Financial Obligations shall not be issued or incurred to fund operations, except for short term tax anticipation notes issued by the State Treasurer pursuant to sections 29-15-112, 22-54-110 and 24-75-901, C.R.S.;
3. Capital improvements may be financed, but the plans for such projects should first be developed and approved in accordance with any state statute applicable to the projects;
4. Principal and interest payment schedules should generally be structured to result in level annual payments due on a Financial Obligation, but may vary when circumstances warrant;
5. Financial Obligations issued or incurred will generally be limited to fixed rate current interest serial or term maturities, but may be sold in the form of variable rate, capital appreciation or other structures, including short term securities if circumstances warrant; and
6. The average life of the issued or incurred Financial Obligation should generally be no greater than the projected average useful life of the asset(s) being financed.

1.7 Selection of Outside Professional Services

A. Finance Professionals.

1. *Financial Advisors* . The State Treasurer may retain a financial advisor to assist in the issuance or incurrence of the proposed Financial Obligation, and the administration and post-issuance compliance of Financial Obligations. Financial advisors retained by the State Treasurer shall also comply with all applicable rules and regulations promulgated by the SEC and MSRB. A financial advisor may not serve as an underwriter on the same issuance or incurrence during the term of its engagement. Assistance to be provided by a financial advisor may include, but not be limited to:
 - (a) Analyze the costs and benefits of various funding sources, including the strengths and weaknesses of various financing alternatives or if requested, propose or develop a plan of financing;
 - (b) Analyze and report on the advantages and disadvantages of each proposed plan of financing and method of sale;
 - (c) Provide advice regarding the potential pricing of the Financial Obligation, and provide estimated repayment schedules of a proposed Financial Obligation;
 - (d) Monitor market opportunities, as well as favorable conditions for any refinancing opportunities of existing Financial Obligations;
 - (e) Work with the State Treasurer in recommending size, structure and specific terms and conditions of a Financial Obligation;
 - (f) Provide advice on the structuring, method and conditions of sale, including publicly offered and privately negotiated options;
 - (g) Provide advice on terms and conditions of credit and liquidity facilities, interest rate exchange agreements and other derivative products;

- (h) Assist in preparing documents necessary for the issuance or incurrence of Financial Obligations, which may include schedules, sale notices, operative documents, closing memoranda and disclosure materials;
- (i) Assist in the application for ratings and credit and/or liquidity facilities;
- (j) Upon request, provide advice on investment of proceeds;
- (k) Assist in the determination of the financing team, including development of requests for proposals for other professional services and the evaluation of responses; and
- (l) Provide a written post-transaction assessment, including post-issuance compliance assessment, if requested by the State Treasurer.

2. *Bond Counsel, Disclosure Counsel and other legal representation.* The State Treasurer may retain bond counsel, disclosure counsel, tax counsel, or other legal counsel necessary for the issuance or incurrence of a Financial Obligation. If legal counsel will be retained by the State Treasurer to represent the State, any legal counsel must be authorized by the Office of the Attorney General and receive a designation as a Special Assistant Attorney General. Any legal counsel retained by the State Treasurer must be listed in the most recent *The Bond Buyer's Municipal Marketplace*®, a periodic directory known as the "Red Book" and must have extensive experience in government and public finance, municipal securities regulation and tax issues.

3. *Other Professionals.* The State Treasurer may retain other professionals to assist with the Financial Obligation issuance or incurrence process if the State Treasurer determines that such retention is necessary and in the best interests of the State. Such professionals may include, but not be limited to: trustees, registrars, paying agents, escrow agents, accountants, financial printers, underwriters, tender/remarketing agents, credit and liquidity facility providers, and other professional services associated with financings.

B. Selection Process. The selection and retention of finance professionals will be achieved through an open and competitive request for proposal process. The State Treasurer is exempt from the State procurement code pursuant to sections 24-2-102(4) and 24-101-301(1), C.R.S., and may, but is not required to, post requests for proposals through the State procurement bid system or on the State Treasurer's website.

C. Criteria for Evaluating Selection of Financing Team Members. The criteria to be used in evaluating and selecting a finance professional may include, but is not limited to:

- 1. The firm's experience and capability and the individual finance professional's experience and capability to provide the requested services to major governmental issuers, including the State;
- 2. Experience and capability of assigned personnel and their familiarity with the State;
- 3. Fees and expenses;
- 4. Absence of conflicts of interest;
- 5. Availability of key personnel to serve the State;
- 6. References;

7. Knowledge of innovative approaches;
8. Demonstrated ability to meet deadlines and attention to detail;
9. Local office and Statewide presence;
10. Financial strength or capability to execute the proposed transaction; and
11. Limitations and qualifications in legal opinions.

The State Treasurer shall determine the weight given each evaluation criteria.

1.8 Types and Structural Features of Financial Obligations

A. Type of Financial Obligation.

1. *General Obligation ("GO") Bonds.* GO bonds are backed by the "full faith and credit" of the issuing entity. GO bonds may only be issued by the State upon satisfaction of all requirements of the State Constitution, including voter approval. Currently, the State has no outstanding GO debt.
2. *Lease Purchase Agreements without or with COPs*
 - (a) Lease purchase agreements may be used to finance a wide variety of capital assets, including office buildings, prisons and equipment, such as motor vehicles and computer systems. The State may enter into a lease purchase agreement, as lessee, in two main forms: (1) a "stand alone" lease under which an asset owner or a single private placement investor funds the assets constituting the leased property under the lease purchase agreement and (2) a lease where the lease base rental payments due from the State are certificated into participation interests described as "Certificates of Participation" or COPs. The lease purchase agreements may be renewed from one fiscal year to the next fiscal year by the State, as lessee, by the act of appropriation of the base rental payments due under the lease purchase agreement. The lease purchase agreements are not a debt or multiple fiscal year financial obligation of the State.
 - (b) Before proceeding to obtain any necessary legislative approval pursuant to sections 24-82-801 and 24-82-802, C.R.S., or any other statute or proceeding with a lease purchase agreement/COPs financing, the Office of the Attorney General must be consulted regarding appropriate legal structuring matters, including the property proposed to constitute the leased property and base rental payment structures.
3. *Revenue Bonds .* There are various types of revenue bonds depending upon the source of revenue from which the bonds are to be paid. One type is used to finance assets which produce revenue to repay the financial obligation issued or incurred (toll road bonds, for example). Another type is payable from a specific revenue source but is not used to finance revenue-producing assets (the CDOT TRANS or higher education revenue bonds paid from student fees, for example). Revenue bonds may be issued by the State or a State Agency upon satisfaction of all requirements of the State Constitution.
4. *General Tax Revenue Anticipation Notes ("GTRANS") and Education Tax Revenue Anticipation Notes ("ETRANS").* Pursuant to sections 24-75-901, 29-15-112 and 22-54-110, C.R.S., the State Treasurer is authorized to sell notes payable from anticipated revenues to fund cash flow shortfalls of the State and certain school districts. The State Treasurer will enter into Financial Obligations for the GTRANS or ETRANS programs

when market conditions warrant, and upon demonstration of short term cash flow deficits that can be repaid from anticipated tax revenues.

B. Financial Obligation Features.

1. *Variable Rate Demand Obligations ("VRDO")* . Interest rate savings can generally be achieved along the shorter end of the yield curve and provide benefits in structuring the State's portfolio of Financial Obligations. VRDOs are easier to refund than fixed rate obligation, as these obligations are redeemable at their outstanding principal amount on any date with applicable notice as detailed in the documents. Prior to structuring a financing with variable rate obligations, the State Treasurer will assess, among other factors:
 - (a) Financial flexibility;
 - (b) Liquidity provider/third party risk;
 - (c) Asset liability management;
 - (d) Interest rate risk; and
 - (e) Market conditions.
2. *Capitalized Interest* . Interest may be capitalized as warranted by market conditions and limitations on the repayment schedule of the Financial Obligation.
3. *Optional Redemptions*. Generally, Financial Obligations issued or incurred by the State or a State Agency may contain optional redemption features unless the State Treasurer determines there are sufficient benefits to a non-callable structure. With regard to redemption features, the State Treasurer will ultimately determine what is in the State's best interest in selecting appropriate dates and prices, taking into account such items as the costs of funds versus future financial flexibility.
4. *Capital Appreciation Obligations* . Capital appreciation obligations shall only be used if the State Treasurer determines it to be in the State's financial interest considering current investor demand, future cash flows and expected interest rates.
5. *Liquidity and Credit Facilities* . When judged prudent and advantageous to the State, and as permitted by State statute, the State Treasurer may authorize agreements with municipal bond insurance companies, commercial banks or other financial entities for the purposes of acquiring letters of credit or insurance policies in respect of the Financial Obligations, based upon the following considerations:
 - (a) The net present value of the estimated annual repayment savings from the use of credit enhancement should be greater than the fees and/or premium paid by the State to obtain such credit support.
 - (b) A competitive process may be used to select credit enhancement providers.
6. *Interest Rate Exchange Agreements* . The State Treasurer will determine when it may be advisable and in the State's best interest for a State Agency to enter into an interest rate exchange agreement pursuant to article 59.3 of title 11, C.R.S.

7. *Reserves* . When determined economically beneficial by the State Treasurer, the State may obtain a surety policy, letter of credit, line of credit, or similar arrangement in lieu of cash funded reserves to enhance the security for the Financial Obligations.
 8. *Moral Obligations* . The State Treasurer, in consultation with the agencies and departments of the State required to authorize a moral obligation covenant of the State, will determine under what circumstances, if any, it is appropriate for the State to enter into a moral obligation covenant of the State in connection with a Financial Obligation. Under a moral obligation covenant, the State's obligation to honor the covenant is moral, rather than legal. Entering into a moral obligation covenant may be appropriate when necessary to protect the State's credit rating or preserve assets necessary for the functioning of state government. Prior to entering into any moral obligation covenant, the State Treasurer will consult with the Office of the Attorney General regarding legal requirements and ramifications of a moral obligation covenant, and may consult with a financial advisor to fully understand the rating implications of such a covenant.
 9. *Other Features of Financial Obligations* . The State Treasurer may decide to issue or incur Financial Obligations that are authorized by state legislation when the State Treasurer determines that it is in the State's best interest to do so. Examples of such Financial Obligations are those authorized by stimulus legislation similar to Build America Bonds and Qualified School Construction Bonds.
 10. *Intercept Credit Enhancement* . Upon satisfaction of state law requirements, the State Treasurer may use its authority to intercept State payments to Institutions of Higher Education, qualified charter school and school districts in order to enhance the credit of a Financial Obligation of an Institution of Higher Education pursuant to section 23-5-139, C.R.S.; a school district pursuant to section 22-41-110, C.R.S.; or a qualified charter school pursuant to section 22-30.5-406, C.R.S.
- C. Derivative Products , The State Treasurer may determine to use derivative products to reduce the State's exposure to changing market conditions or to reduce interest rate risk, but shall not be used for speculative purposes.
- D. Refundings and Early Redemptions. If determined to be in the State's financial interest, the State Treasurer will consider prepaying or defeasing outstanding Financial Obligations when resources are available to reduce the amount of Financial Obligations outstanding. The State Treasurer will consider refunding Financial Obligations in order to generate interest savings, restructure payment schedules and/or eliminate burdensome covenants. The State Treasurer will evaluate and may consider the following factors, among others, in analyzing, reviewing and proceeding with a refinancing opportunity on behalf of State Agencies:
- (1) Net present value savings;
 - (2) Absolute dollar savings;
 - (3) Size of issue;
 - (4) Market conditions; and
 - (5) Number of years remaining on outstanding Financial Obligations.
- E. Energy Performance Contract ("EPC") and Capital Lease Approval Process. State Agencies may initiate energy performance contracts to improve the energy efficiency of state buildings or facilities pursuant to sections 24-30-2001 to 24-30-2003, C.R.S. or 24-38.5-106, C.R.S. The Colorado Energy Office ("CEO") and the Office of the State Architect ("OSA") work with public

entities and energy service companies ("ESCO"s) to provide program standard contract documents, processes and procedures as well as guidance, support, and due diligence services related to the Technical Energy Audit ("TEA") contract and report of the Energy Performance Contracts ("EPC"s). For state agency projects, the State Treasurer will work with the CEO and Department of Personnel and Administration (Offices of the State Controller and the OSA) to integrate the EPC and financing components including, but not limited to the following:

- (1) Integrate financing process, procedures, and milestones into the State Agency's EPC documents;
- (2) Determine the process in which the CEO, ESCO, and State Agency will notify the State Treasurer of a capital lease related to an EPC; and
- (3) Work with the Attorney General's office to ensure a standardized contract for: (a) TEAs, (b) EPCs and (c) capital leases related to EPC capital improvements for State Agencies to utilize.

1.9 Methods of Sale

It is in the State's best interest to sell its Financial Obligations using the method of sale that is expected to achieve the best sales results, taking into account both short-range and long-range implications. In order to ensure that the State's best interests are being met, it is important for the State Treasurer to be actively involved in any method of sale.

A. Factors for Determining Method of Sale.

- (1) Considerations which support a competitive sale process include, but are not limited to the following: the Financial Obligation has an unenhanced credit rating favorable to the market; the Financial Obligation is appropriately sized to attract investors without a concerted effort; and interest rates and other economic factors are stable and market demand is strong.
- (2) Considerations which support a negotiated sale process include, but are not limited to the following: the Financial Obligation is not large enough to attract market interest; market timing will be a critical factor in garnering the lowest possible interest rate; the financing requires a complex or innovative structure; the market has concerns about the credit quality of the Financial Obligation; and the market is unfamiliar with the project, the structure of the financing or the revenues pledged for annual repayment.

B. Initiating a Competitive Sale. The Official Notice of Sale (the "Notice") will be published in the most appropriate method of advertisement, such as MSRB's EMMA website. The Notice will announce the State's intent to sell Financial Obligations and will contain references to relevant security and structural information that interested bidders may require. The Notice will clearly indicate the permissible discounts, premiums and basis of award, including additional requirements to acknowledge MSRB and SEC compliance.

C. Parameters for Underwriter Selection for a Negotiated Sale. When the State Treasurer determines that a negotiated sale is in the best interests of the State, the State Treasurer may retain underwriters to execute the sale of Financial Obligations.

- (1) *Co-Managers and Selling Groups.* If underwriter co-managers and/or a selling group are deemed appropriate to the sale of Financial Obligations, those underwriters will be engaged by the State Treasurer. Underwriters will be selected by an open and competitive bidding process.

(2) *Pricing and Allocation of Sales.*

- (a) The negotiation of terms and conditions will include, but not be limited to: prices, interest rates, underwriting or remarketing fees and commissions, based on prevailing terms and conditions in the marketplace for comparable issuers, lessees and obligors and similarly secured and rated Financial Obligations in addition to the State's recent experience.
- (b) If more than one underwriter is included in the sale of the Financial Obligation, the State Treasurer will establish the general guidelines of the allocation of fees, liability and underwriting in a manner consistent with the objectives of the State.
- (c) Criteria to be used in determining the allocation of Financial Obligations sold by selected underwriters will include, but not be limited to:
 - (i) Demonstrated performance in the sale of previous issues of financial obligations;
 - (ii) Demonstrated commitment to the overall goals of the State's financing programs.

(3) *Underwriter's Responsibilities for a Negotiated Sale.* Contemporaneous with the execution of a purchase contract for Financial Obligations, the senior manager of a financing will:

- (a) Provide for the fair allocation of Financial Obligations to underwriters and selling group members, consistent with the previously negotiated terms and conditions of allocation, as referenced in any related agreement among underwriters;
- (b) Provide affirmation of compliance with all current MSRB regulations; and
- (c) Agree to submit to the State a complete and timely account of all orders, allocations and underwriting activities related to the sale of Financial Obligations under its management.

D. Parameters and Criteria for a Private Placement. As part of the sale process, the State Treasurer may determine it is in the State's best interest to authorize a private placement of the Financial Obligation, based upon the following considerations: Size of issuance; limited and simple project scope and collateral; little market interest in small dollar amount of financing; interest rate; covenants; non-market redemption provisions; and savings associated with normal closing transaction fees for financial professionals.

In a private placement, the State Treasurer will prepare and distribute a request for proposals from financing companies and financial institutions and select the bid most advantageous to the State.

1.10 Credit Ratings

Unless otherwise justified, the State Treasurer will seek a rating on all new Financial Obligations which are being sold in the public market if determined to be necessary. The State Treasurer recognizes the importance of maintaining good relations and full transparency with credit rating agencies in order to increase the acceptance of the Financial Obligations in the financial markets, which impacts interest costs associated with the Financial Obligations. However, exceptions to this requirement are permissible, such as when privately placing a security with an accredited investor, if warranted by the circumstances.

- A. The State will obtain an underlying rating on Financial Obligations that are credit enhanced, when beneficial to the State.
- B. The State will attempt to maintain a rating on those credits that have previously been rated by one or more of the rating agencies, when in the best interest of the State.
- C. As requested, the State Treasurer will provide financial information including the State's CAFR, budget and forecast data, or other requested information to agencies which provide credit ratings or credit facilities or liquidity facilities for the State's outstanding Financial Obligations.

1.11 Arbitrage Compliance

The State Treasurer shall comply with the applicable arbitrage regulations mandated by the Internal Revenue Code, including but not limited to, regulations regarding timely filings. For State Financial Obligations, the State Treasurer is responsible for the following:

- A. The direction of investments related to proceeds of the issuance or incurrence of Financial Obligations will be undertaken by the State Treasurer in accordance with applicable State law and, if applicable, the State Treasurer's Investment Policy.
- B. The State Treasurer shall maintain separate accounts by source of funds and record pro rata interest income of any commingled funds used to invest the proceeds of Financial Obligations, on a monthly basis.
- C. Balances in project accounts shall be monitored by the State Treasurer to document the spending and allocation of the proceeds of Financial Obligations.
- D. The State Treasurer shall perform rebate computations until Financial Obligations are paid in full, in accordance with Internal Revenue Code regulations.
- E. If applicable, the State Treasurer, may seek special tax counsel to opine on arbitrage regulations, and may employ arbitrage specialists as necessary to complete the required computations.

1.12 Disclosure and Continuing Disclosure

- A. The State Treasurer is responsible for disclosure responsibilities under the continuing disclosure undertakings of State Financial Obligations. The State Treasurer will make reasonable efforts to assist underwriters in their efforts to comply with SEC Rule 15c2-12 and the various MSRB rules pertaining to underwriters.
- B. Consistent with any continuing disclosure undertakings executed by the State Treasurer, the State Treasurer will file a copy of the State's CAFR, and other information the State Treasurer deems pertinent or is required to be filed under any continuing disclosure undertakings and will be disseminated to the market in a timely manner through www.emma.msrb.org or such successor as the SEC or MSRB may designate.
- C. The State Treasurer implements the following post-issuance compliance procedures, to ensure each Financial Obligation complies with state and federal law and the financial covenants made by the State in the related financing documents governing the issuance. The State Treasurer may request information from the related State Agency including the following:
 - 1. Tax Compliance. Upon the advice of tax or bond counsel, information required by the Internal Revenue Service for post-issuance compliance procedures of the issuance or incurrence of a particular type of Financial Obligation such as Qualified School Construction Bonds.

2. Private Use. Information necessary to monitor and take corrective action to comply with Internal Revenue Code requirements restricting the private use of facilities constructed with tax-exempt proceeds.
3. State Law Compliance. Documentation to ensure compliance with State law governing lease purchase financing that requires annual appropriation and renewal of a lease.
4. Financial Covenants. Information or documentation to ensure compliance with the covenants made by the State in the related financing documents requiring insurance and record retention.
5. Reporting Covenants. Information and documentation to ensure compliance with reporting requirements pursuant to documentation with providers of credit enhancement and/or liquidity support or continuing disclosure agreements.

1.13 Reporting Requirements of State Agencies

A. State Agencies entering into Financial Obligations shall provide the following to the State Treasurer:

- (1) No less than sixty (60) days prior to the date on which a State Agency expects that a Financial Obligation will be incurred, a State Agency shall provide written notice to the State Treasurer of that expectation;
- (2) Not less than thirty (30) days prior to the date on which a State Agency expects that a refinancing of a Financial Obligation will be incurred, a State Agency shall provide written notice to the State Treasurer of that expectation;
- (3) The State Agency shall provide the State Treasurer with information the State Treasurer considers necessary or appropriate to act as the issuing manager for the issuance or incurrence of the Financial Obligation, including, but not limited to cash flow projections associated with the repayment of any Financial Obligation;

B. No later than ten (10) days after a State Institution of Higher Education enters into or issues a Financial Obligation in a principal amount of one million dollars or more that is secured in whole or in part by State Revenues or revenues of the Institution of Higher Education and which the State Treasurer does not manage, including any bonds subject to the Higher Education Revenue Bond Intercept Program established in section 23-5-139, C.R.S., the State Institution of Higher Education shall notify the State Treasurer that it has entered into the Financial Obligation and shall provide at least the following information to the State Treasurer:

- (1) A copy of any official statement or other offering document or memoranda for the issuance or incurrence of the Financial Obligation;
- (2) A copy of any filings or correspondence with the federal Internal Revenue Service with respect to the issuance or incurrence, including, if applicable, a copy of each Form 8038 or Form 8038-G;
- (3) A copy of the continuing disclosure undertaking; and
- (4) Any other information related to the issuance or incurrence of the Financial Obligation as requested by the State Treasurer and within the provisions of this regulation.

C. No later than ten (10) days after the High-Performance Transportation Enterprise (the "HPT") created in section 43-4-806(2), C.R.S. or the Statewide Bridge Enterprise (the "Bridge Enterprise") created in section 43-4-805(2), C.R.S., enters into financial contracts or instruments

specified in section 24-36-121(3)(a)(II)(A) and 24-36-121(3)(a)(II)(B), C.R.S., the HPTE and the Bridge Enterprise shall notify the State Treasurer that they have entered into or issued such a financial contract or instrument and shall provide at least the following information to the State Treasurer:

- (1) A copy of any official statement or other offering document or memoranda for the issuance or incurrence of such a financial contract or instrument;
- (2) A copy of any filings or correspondence with the federal Internal Revenue Service with respect to the issuance or incurrence, including, if applicable, a copy of each Form 8038 or Form 8038-G;
- (3) A copy of the continuing disclosure undertaking; and
- (4) Any other information related to the issuance or incurrence of a financial contract or instrument as requested by the State Treasurer.

Editor's Notes

History

Entire rule emer. rule eff. 09/01/2012.

Entire rule eff. 12/15/2012.

Rules 1.4, 1.11 – 1.12 emer. rule eff. 06/14/2013.

Rules 1.4, 1.11 – 1.12 eff. 09/14/2013