

Session Three

SETTING STANDARDS OF PRACTICE FOR CONSULTANTS

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EXAMINING THE ROLES OF SPECIAL CONSULTANTS IN DEBT ISSUANCE AND ADMINISTRATION

Leo Karwejna, Chief Compliance Officer
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Start at the Basics for Hiring a Consultant

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- What should be done “in-house” versus tasks completed by Consultant(s) – build the scope first
- Internal expectations and performance measurement criteria for the project and Consultant contribution
- Governance – sponsorship, accountability, and oversight of Consultant
- Budget realities and resources
- Due diligence, competency, and procurement

Recognizing Important Consultant Obligations and Duties

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- Statutory versus contractual
- Documentation
- The nature of the relationship
- Reasonable expectations

Recognizing Important Consultant Obligations and Duties – Examples for Discussion

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- Municipal Advisor
- Investment Advisor
- Underwriter
- Dissemination Agent
- Engineer
- Sub-contractors

Establishing the Relationship

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- Once the contract is signed and the chosen consultant comes in the door, the honeymoon is over and the challenging work begins.
- No matter how rigorous the due diligence and negotiation process, each side will probably have a different concept of what they signed up for.
- If both issuer and consultant are vigilant, they can work together to minimize the impact of any differences.

Critical Success Consideration - #1

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- Defining Roles and Responsibilities Expectations
 - Effective consultant management requires that the negotiation and agreement clearly defines what the roles are between the issuer and the consultant.
 - Effectively stated as a part of the Statement of Work or Scope of Services, prior to contract award. Expressly defining roles, responsibilities and expected work-product beforehand helps to avoid potential disputes down the line.

Critical Success Consideration - #2

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□ Communication

- One of the communication tools that issuers use successfully with their vendors are regular reporting routines or meetings where end users can provide input to their consultants on the services provided.
- These checks and balances allow the consultant as well as the issuer to share information and be on the same “page” in terms of service expectations.

Critical Success Consideration - #3

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- Performance Measurement
 - Consultant reporting on changes to service levels, employee turnover, staffing levels, disaster recovery, security, customer satisfaction, etc. is important to effective service management.
 - Performance results and issues should be discussed regularly.

Key Inhibiting Factors Working with Consultants

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- ❑ Reliance on a handshake or, conversely, the lack of due diligence.
- ❑ Lack of trust in original decisions to source will undermine working relationships.
- ❑ Relying on a consultant as a business advisor, strategic advisor, thought leader unless this is specifically the service they are contracted to provide.
- ❑ Assuming that cost savings will be the overriding benefit.
- ❑ Significant personnel change at the consultant.
- ❑ Sourcing your problem to an outside consultant will simply yield an externally sourced problem.



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BOND BUYER PRE CONFERENCE WITH CDIAC AUDITING OF FINANCIAL STATEMENTS

**GARY M. CAPORICCI, CPA, CGFM, CFF
PARTNER**

Monday, September 25, 2017

Auditing of Financial Statements

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- What is Auditing?
- Hiring the Auditor and Importance of Independence
- Professional Standards for Auditors
- GFOA Best Practices
 - Hiring Auditor
 - Offering Statements
- Importance of Internal Controls

GFOA Best Practice: Audit Procurement (2002)

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□ Selecting Auditing Services:

- Scope should encompass individual funds and component units, in addition to basic financial statements
- Governments should ensure contracts state that auditors will conform to the GAO's Government Auditing Standards
- Contracts should be for at least five years
- Competitive process should be used for securing auditing services
- Selection process should focus on the the ability for provider to perform a quality audit
- Government should approve any non-audit services provided by independent auditors

GFOA Advisory: Offering Statements and the Auditor's Role (2006)

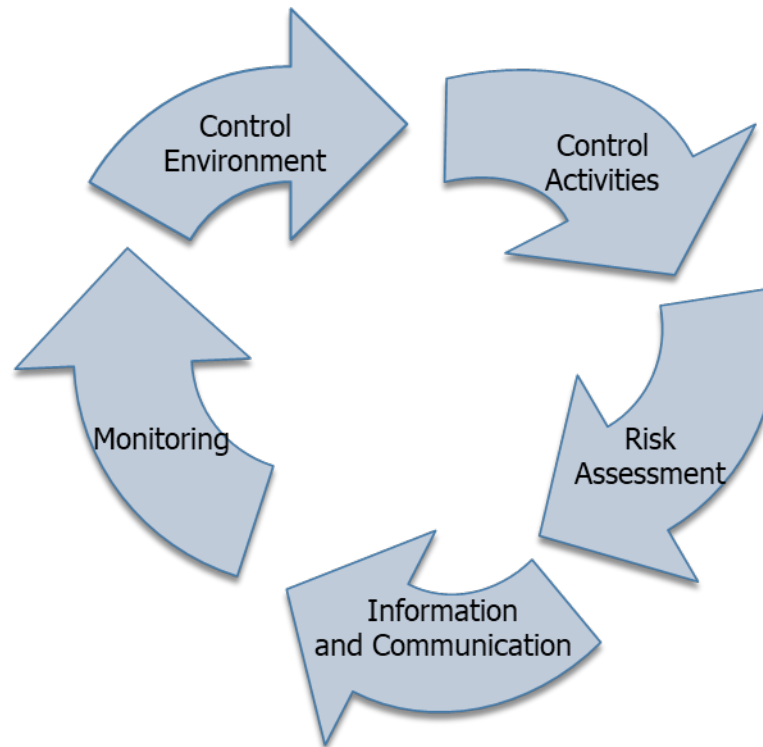
- Having paid for the independent audit, a government owns the audited financial statements and should feel free to use them in any appropriate manner.
- The independent auditor should not be permitted to create an essentially artificial “association” with audited financial statements included in offering statements or posted on the government’s website simply by inserting a clause to that effect in the audit contract.
- When the independent auditor actually does happen to become associated with audited financial statements included in an offering statement, a state or local government should take steps to avoid unwarranted delays and unjustified costs.
- The audit contract should clarify that the government is free to post its audited financial statements on its website.

COSO Internal Controls Overview

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- Internal Controls
 - ▣ GFOA Best Practices
 - Internal Control Framework
 - Internal Control and Management Involvement
 - Internal Control Deficiencies in Audits
 - ▣ COSO Internal Controls Framework Purpose:
overhaul and enhance the definition of internal control to discourage
fraudulent financial reports
 - 5 Internal Control Framework

COSO IC Framework Components



COSO IC Basic Principles

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- COSO Internal Controls Overview
 - 20 Basic Principles
 - AREA FOCUS: Control Environment
 - AREA FOCUS: Risk Assessment

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SETTING STANDARDS OF PRACTICE FOR CONSULTANTS

ROBERT DOTY
AGFS
ANNAPOLIS

Published Standards and Market Guidance

Expert Work Products and Experts

(More in Session 4)

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□ Examples of Expert Work Products

- Appraisals/Asset Valuations
- Tax Rate/Market/Demand Studies
- Financial Feasibility Studies
- Financial Projections

□ Examples of Consultants Providing EWPs

- Accountants (AICPA Standards)
- Engineers (Engineering Standards)
- Appraisers (MAI Standards)
- Tax Rate Consultants
- Market/Demand Consultants
- “Fly by Night” Consultants

Issuer's Central Role

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- ❑ Issuer's Central Role, Expectations and Responsibilities
 - Ultimately in Charge
 - Ultimately Responsible
 - Issuer Should Contract with Experts
 - Reliance Must Be Reasonable (More to Come)
- ❑ Use of RFPs, Interviews
- ❑ Involving Other Professional Team Members in Selection Process
- ❑ Fees
 - Issuer Pay
 - ✓ Can Be Reimbursed by Developer/Project Promoter
 - ✓ Can Recoup from Bond Proceeds
 - Hourly, Lump Sum Fees
 - Contingent Fees Involve Severe Conflict of Interest, Destroy Expert Independence
Disclosure Endangers Bond Sale, Bond Prices; Conflict Places Issuer at Risk
 - Expert's Independence Is Crucial

Standards, Disclosure for Expert Reports

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- ❑ Expert's Qualifications, Experience
 - Any Defaulted, Troubled Projects?
- ❑ Expert's Identification of Assumptions
 - Should Fit Facts of Bond Issue, Project
- ❑ Expert's Opinion on Reasonableness of Assumptions
- ❑ Expert's Methodology
- ❑ Expert's Identification of Applicable Professional Standards
 - If none, so state
- ❑ Did Expert Apply Those Standards?
- ❑ Expert's Sources of Information
 - Was Information Obtained from an Interested Party?

Standards, Disclosure for Expert Reports

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- ❑ Conflicts of Interest and Independence
 - Relationships with Developer/Promoters, Other Team Members
- ❑ Who Retained/Paid Expert?
 - Should Be Issuer
- ❑ Consider Alternative Conclusions Presented
 - e.g., in Appraisal
- ❑ Existence of Other Reports
 - Including Project Opponents
- ❑ Careful Review by Issuer, FA and Underwriters
- ❑ Discussions With Expert
 - Discuss, Question, Understand Methodology & Assumptions
- ❑ Consent To Use In OS

Standards, Disclosure for Expert Reports

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“REASONABLE” RELIANCE ON EXPERTS, PROFESSIONALS

Four Factors Applied by Courts

- ❑ Seek Professional Advice as to Appropriateness of Specific Conduct
 - General Participation in Transaction Inadequate
 - Cannot Rely If Do Not Read, Understand EWP
- ❑ Complete Disclosure to Professional of Relevant Information
- ❑ Receipt of Advice that Conduct Is Appropriate
 - Preferably in Written Form
 - Not Merely Negative Assurance Letter
- ❑ Reliance on Advice in Good Faith

Miami Jury Verdict Found None of the Factors Present

QUESTIONS