California Debt and Investment Advisory Commission

Webinar Transcript
Municipal Debt Issuance Fundamentals Mini-Series
Session 1: The Path to Issuance
September 9, 2020

Up to the date of the sale, the issuer had an army of consultants and external support to facilitate the process. After the sale, the issuer finds themselves at the helm and responsible for managing everything they agreed to in their Official Statement and legal documents. This session will focus on what occurs from the time of sale to closing, and issuer responsibility the day after the closing through the time when the bond is repaid or refunded. Participants will gain an understanding of setting up and managing post-issuance debt administration such as tracking of expenditures, maintaining tax compliance and investor relations, and managing internal controls.

[Editor's Note: This transcript has been prepared by the California Debt and Investment Advisory Commission (CDIAC) and it believes it to be a fair and accurate reproduction of the comments of the speakers. Any errors are those of CDIAC and not the speakers.]

Title Slide – Municipal Debt Issuance Fundamentals, Session 1: The Path to Issuance

ROBERT BERRY: Good morning everyone and welcome to *Municipal Debt Issuance Fundamentals: The Path to Issuance*. This is the first webinar in a two-part series presented by the California Debt and Investment Advisory Commission. My name is Robert Berry and I am the executive director here at CDIAC. CDIAC is well-known for its fundamental debt issuance educational programs.

Over the years literally thousands of new public finance staff, infrequent issuers, public agency officials, including elected officials, have participated in the CDIAC's three day in-person *Municipal Debt Essentials* program. Clearly given the COVID crisis, that's not something we're able to do. This webinar series is not a substitute for that program, but really a three-hour overview of - a two session overview - with very experienced guides that have traveled this issuance path many times.

We are lucky to have a terrific panel assembled for this series. They have a lot to cover in the next 90 minutes, but please allow me to address housekeeping items before we get started.

Slide 2 – Housekeeping 1:24

ROBERT BERRY: So first, the slides for today's presentation are available in PDF form in the "handout" section of your webinar control panel over to the right. There's a couple of other handouts there that I'll talk about. And we have several break points in the program for your questions including a Q and A session at the ends of the program. Please submit your questions using that box marked "questions" near the bottom of your control panel. You can send your questions in any time during the presentation and I'll pose them to our panelists during our Q and A break points. If we're unable to get to all of the questions we will follow up with answers after the program.

Access to live captioning is available during the program at the address on the screen.

We will send out certificates of participation to the registrants within a couple of weeks and if you would like MCLE credits, please send us an email with your bar number.

I have gotten several questions about replays already. We'll send out registrants a web link to a replay and a transcript in about 10 to 14 days. And the web casts are also available on our website for later review by those unable to make it this morning or next week for that matter, they will both be up on our website.

Lastly, if you're having technical issues call the toll-free number, 877-582-7011, or link to the GoToWebinar address on the screen.

Slide 3 – CDIAC Resources 3:15

ROBERT BERRY: This webinar, as I mentioned, is a condensed version of Municipal Debt Essentials program, so I want to highlight a number of CDIAC resources that are supplements to the materials presented in this two part series. The most important, I think, is *CDIAC's California Debt Financing Guide*. It's brand new, produced in 2019, a completely revised version of the *California Investment Primer*. The guide goes into great depth on all the topics discussed today. In fact, you will notice that during the presentation, there are links embedded to the *Debt Financing Guide* sections that relate to the topics being discussed and there are also other links to resources like GFOA guidance as well.

We will overview the investment of bonds proceeds in the next session but *CDIAC's Investment Primer* and *Local Agency Investment Guidelines* are also great supplemental resources.

It is also important to note the links provided in this slide and throughout the presentation are live in the PDF handout so if you print out that PDF handout, you can get to the linked material.

Slide 4 – Webinar Overview 4:32

ROBERT BERRY: So lastly, before we get started, you will see a general overview of the issuance process that tracks along with the webinar series and today's presentation. Today we're going to cover strategic integration of project and financial objectives in a planning segment and move on to the numerous steps and considerations involved in the pre-issuance process and conclude with an overview of issuance. Next week, we're going to cover ongoing administration and the end of the debt's life cycle. This overview is also in the handout section along with a glossary of terms you might find helpful either today or as you review the program later.

Slide 5 – Speakers 5:21

ROBERT BERRY: I'm very excited to introduce our panelists. Not only are they experts and veteran members of CDIAC's faculty, but they really enjoy sharing their knowledge and experience with the public finance community.

First, we have Jacqui Jennings. Jacqui is a partner in the San Francisco office of Schiff Harding, LLP. She has more than 25 years of experience serving as bond counsel, disclosure counsel, underwriter's counsel, and issuer's counsel in connection with a vast array municipal finance structures and agency types. If you can think of a debt structure, Jacqui has an experience with it. Jacqui is a member of the

National Association of Bond Lawyers and is a frequent speaker on municipal finance issues for CDIAC and other public finance organizations.

Next, we have Steve Heaney. Steve joined Stifel in 2011 through its acquisition of Stone and Youngberg where he served as the head of public finance, chair of the operating committee, and member of the board of directors. Over his career as an investment banker, Steve had lead responsibility for several billions of dollars of bonds issues primarily in California and Nevada and was a pioneer of many development and redevelopment financing techniques. Also, Steve served on the Municipal Securities Rule Making board 2009 through 2013 and as the vice chair of the board in 2012. Steve retired from Stifel in July of 2019.

And then to get us started today, we have Jay Goldstone. Jay was most recently a managing director in the public finance group at MUFG at Union Bank. Jay managed state and local government clients originating in and structuring a variety of borrowings and debt-related banking services. Prior to joining the bank, he served six years as City of San Diego's chief operating officer, where he saw over the City's daily operations and implemented mayoral counsel initiatives and policies. Prior to this role, Jay served as San Diego's first chief financial officer and implemented corrective actions to guide the City on the road to financial health. Jay has also served as a commissioner of CDIAC and is the chair of the Municipal Securities Rule Making Board. With that Jay I'll turn it over to you.

Slide 6 – Planning 7:51

JAY GOLDSTONE: Thank you. I'm going to speak to the group today from the issuer's perspective. We're going to focus primarily on three areas: the development of a debt management policy, the decision to issue debt, and then what's the role of the internal financing team.

So we're going to start off with a polling question.

Slide 7 – Polling Question #1: Does your organization have a Debt Policy? 8:13

JAY GOLDSTONE: So we ask that the participants respond this: "Does your organization have a debt policy?"

Audience Polling Question Launched 8:21

But it turned out that the City Council in and of itself did not support variable rate debt, so when we put the debt policy together we had clear directions at that point what was acceptable to the city council and what was not.

Slide 7 – Polling Question 8:08

JAY GOLDSTONE: We ask that the participants respond to this: Does your organization have a debt policy? The answers could be: Yes; and you've read it; Yes, but you haven't read it; No; You don't know; or it is not applicable to your particular organization.

It will take a while for this polling question to respond. So, I'll start in given our time constraints and talk about the debt management policy. When we're done with this, you will see a definition of what a debt management policy is. For the most part it is like any other policy that you should have. You should have a whole host of financial policies, whether it is a reserve policy, whether it is a capital expenditure policy or debt policy, and so forth. The primary purpose of the policy is to improve the quality of your decision making.

If you don't know what the policies are, you could be going down a path that ultimately may not be acceptable to your governing board. A good example of that is when I went to San Diego. We were revising the debt policy, and I was a strong believer at that point in time in doing variable rate debt. It turned out that the City Council did not support variable rate debt. When we put the debt policy together we had clear direction at that point what was acceptable to the city council and what was not.

Audience Polling Question Results 9:43

We have the polling question back up and we do have the results. It is good that at least 38% of you have seen it and read it. Not sure why the 15% have seen it but not read it. I would strongly encourage those of you that have not read it, especially if have some role or involvement in debt - in the issuance of debt - and when I talk about the internal team in the little later, you will get a maybe better understanding of you should read it. For the 7% who don't have a policy, hopefully when you are done with today's session you will get working on developing it. For those that don't know, you should try to find out. Again, it is very important as your guiding tool.

If we can go back to the slides.

Slide 8 – Debt Management Policy 10:43

JAY GOLDSTONE: I talked about it, here is the definition of the debt policy. But again, it is really to provide you with good direction. It articulates the policies, not only things that you as staff would like to do from a debt standpoint, but also what is acceptable to your governing body.

Slide 9 – Importance of a Debt Policy 11:05

JAY GOLDSTONE: It enhances your internal management practices. Again, you will define things you can do, cannot do, what kind of projects you might issue debt for versus what projects you might go out for third party funding such as grants and so forth, and how much you will pay as you go. I'll talk about the components about what goes into the debt policy in a little bit.

As a matter of fact, here I'm going back, a couple of important issues that you should keep in mind. The IRS looks at policies. If you're ever audited by the IRS, and let's hope none of you are, but we know that does occur from time to time. Having a debt policy and making sure you are complying with it is very critical in perhaps your defense. The SEC has also done that in the San Diego's case, where there is an enforcement action by the SEC, having a debt policy at least mitigates some of the circumstances.

And you have the State Government Code that was an outcome of SB 1029, which says issuers must certify on the Report of a Proposed Debt Issuance they have adopted a local debt policy. I'm not sure that everyone that does that, if you go back and realize how many people maybe don't have a debt policy and you might be issuing debt – very, very important you want to be in compliance with the Government Code.

Slide 10 – Components of a Debt Policy 12:39

JAY GOLDSTONE: What are the components of your debt policy? Again for the sake of time, we'll not be getting into great details on this - this could be a whole hour and a half training session on preparing and developing a debt policy. We're just covering this at a high level.

But again, it is the authority to issue debt. It is defining what authority you do have whether it is under State law or under your Government Code, your charter if you're a charter city, your by-laws. Whatever it might be, specify what are the authorities granted to you to go out and issue debt.

Who is responsible for issuing the debt? It is not specific in terms of "Well, my organization is responsible". No, who individually within your organization is responsible for issuing debt. You don't have to identity everybody but who is the key person. It is usually by title - might be the finance director, could be the debt manager.

Part of this is important, from my experience, when dealing with organizations that maybe have enterprise funds. For those of you who do, let's say you have a water or electric utility I would imagine you have run up against situations where finance staff within those specific enterprise funds - even though they are basically a department of your organization - want to take the lead on issuing debt. In my judgment that should not be the case, it should be the same responsible person taking the lead. *Clearly*, those enterprise fund staff have to have a key role issuance of debt related to their operations. But there should be one person, maybe a team of people, that have that responsibility.

Spell it out: when debt may be issued, what should be paid for by debt, what should be paid for through rates if it is a ratepayer generated operations, or what maybe you should go out and try to get State or federal grants or funding in that respect. You might have debt limits. You might have specified debt limits in your charter or by-laws, and so forth, and you may have policy debt limits that you don't want to go beyond a per capita level or some other measurement that you can define. You want to spell that out so again, you have some parameters to work within.

Then, of course, the type of debt that is allowed to be issued. I mentioned about that, well here are different types of bonds that can be issued between general obligation bond to revenue bonds, tax versus tax exempt, fixed for variable, and so forth. Find out what is acceptable, you might want to throw everything in the kitchen sink under your debt policy, or you may want to tailor it more for your specific organization.

Ultimately this policy should be adopted, and I'll mention again, should be adopted by your governing board. When they review this, they may say they are not be comfortable, for example, with variable rate debt. Take it out, they don't want that. You know, pension obligation bonds, OPEBs, swaps, derivatives all the other products that may or may not be advisable for your organization.

Slide 11 – Components of a Debt Policy, continued 16:06

JAY GOLDSTONE: The debt structure, what are the maximum terms. When I first started in the business 20 years was pretty typical, it then got stretched out to 30, and I have now seen 50, and I have heard talk but don't know if one has been done – probably has – but I have heard about 100 year bonds. The longer the term, the smaller your debt payment is, that's good news. The longer your term, the more interest you are paying over the life of the bond, that's the bad news. There has to be a match between the life of the asset you're financing and the terms of the bonds, but you may want to specify durations and terms.

The methods of sales - is it competitive or negotiated? Some of these concepts we are going to talk about later in our presentations, but these are some of these are the kinds of things you would put in there.

Hiring scope, how do you go about selecting your team? And the scopes of services, the fees you might be willing to pay. Bond ratings, do you get bond enhancements, rating enhancements, on all your transactions, or do you use your underlying rating only? When do you do it? When don't you do it? How do you go about evaluating the pricing on the bonds?

You specify, perhaps, the investment of bonds proceeds. This investment policy may dovetail with your general investment policy that you may have for your surplus funds that you invest in your investment pool. Or, they may be more or less restrictive. Again, you have got long duration, you may a reserve fund that is out there for the life of the bonds and you may want a little different investment strategy as it relates to that. The kinds of things you might invest your bond proceeds in, or maybe vehicles you cannot invest in your normal pooled investments.

And, of course, the compliance with federal tax laws and security laws.

Slide 12 – Implementing a Debt Policy 18:04

JAY GOLDSTONE: In developing your debt policy, you should have one person who takes primary charge of that. I would suggest typically it would be your finance director, or your debt manager, or the person who is the most involved in the issuance and monitoring of debt. Basically, your internal expert.

You would have other internal staff provide support and information into the policy. As I mentioned, earlier your policy should absolutely be approved by the governing body. You don't want to have a policy not approved - you start going down doing a bond issuance in compliance with your policy, and find out it is not acceptable to your governing board. Then, disseminate this policy to your team, both internal and external.

I think it is also very helpful for anybody who wants to do business with your agency to understand what your debt policy calls for, so they are not wasting your time and preparing proposals and wasting your time looking at proposals you know you can't do.

From a compliance standpoint, you clearly want to establish compliance procedures within your policy. You also want to have compliance checklist to make sure you are complying with what you said you are going to do. You want a periodically review the debt policy. You don't have to update it annually unless there is a significant change in federal or state laws, or some changes in your local government direction that you want it take. But at least every 3 years you should be looking at this policy and seeing where you might want to tweak. You don't necessarily need to make wholesale changes, but you might want to tweak a little bit.

Slide 13 – Other Debt Policy Observations 20:00

JAY GOLDSTONE: So here are some other observations. You don't have to start from scratch, I suspect most of you who are involved in the public sector understand that we tend to borrow from our peers. Creating a debt policy is no different - why reinvent the wheel? Unlike the corporate world, everyone is very willing to share what they have already done and chances are what they have done, they borrowed from someone else. There are clearly resources – GFOA, CSMFO, have inventories, libraries of information. But reaching out to a neighbor be community.

I would highly suggest, as you develop your debt policy, that you sort of mirror it more to your organization. Don't take someone else’s and do a search and replace to put your organization’s name in it. Make sure it is tailored to you.

I would also suggest if you’re a community of 20 or 30 thousand people don't take a City of Los Angeles or City of San Diego’s debt policy and just say that's going to work for me. They are maybe more sophisticated issuers or they have been on the market more and more frequently - that applies to them. I would try to find an organization that more likely mirrors your organization, maybe out in the market once a year, once every other year, and so forth. They probably have curtailed their policy to meet their needs that would be a good starting point for your organization.

Again, your policy should provide cover in certain situations for outside professionals and they have an idea, and it [debt policy] gives you cover to say “I'm sorry we can't do that”. I've seen more organizations get into trouble because they do something they don't necessarily understand. It maybe complied with their policy, or maybe they did not have a debt policy, and they are left holding the bag at the end. We'll talk more about what your role is as the issuer should be and what you should be careful of.

Slide 14 – Decision to Issue Debt 22:09

JAY GOLDSTONE: With that, and I know I went through it fairly quickly but in essence of time, when do you make a decision to issue debt? Just because you have a project doesn't mean you have to go out and bond finance it. This is a debt issuance fundamentals course, so we're going to focus more on that. But these are some of the things to be thinking about. I would hope most of you, if not all of you, have put together 5 or 10 year financial plans which provide an outline of your cash flow, both for the general fund and maybe for some of your other major funds.

In addition, you should also have the capital improvement plan, and that may be a 5 year plan. One of the importance of that plan is your identifying some of the projects, some of the immediate projects and some of the long-term projects you are going to be working on. It also gives you an opportunity to figure out how you want to finance those projects. Some projects are maybe very eligible for grants and third party, they meet certain criteria, and some grants pay cash for - excuse me some projects - you may want to pay cash for, and some you pay as you go. And [some projects] you want to debt finance.

In San Diego’s case, for example, we had a policy for our enterprise funds for the water and waste water. It was probably more of an 80/20. On any given project, 20% would be paid for through rate payers and 80% through issuance of debt. That was a nice balance, because if you are doing it all through debt it will impact the rate payers ultimately. In the financing strategies, you are going to look at some of these areas and also what is allowable per your debt policy.

And is the asset that you are going to finance, the project you are going to finance, eligible for issuing debt? Is the duration of the life expectancy of the asset match the life duration of the debt? For example, you might be implementing a new financial system, and is a big chunk of change a $10 to $20 million project you can't issue 30 years debt to finance that kind of a project.

So those are the kinds of things should be looking for when you are making your decision on whether or not to actually issue debt, or not.

Slide 15 – What is the Right Amount of Debt? 24:42

JAY GOLDSTONE: So, I went a couple of ahead here. When talking about what is the right amount of debt to issue, I mentioned this earlier when you are developing your debt policy, there are legal limits in many instances. It might be your charter or based on assessed valuation of the property in your community, it may be based on a per capita. Understand your legal limits, your financial limits.

That goes back to my comments about the importance of issuing or preparing long range financial plans. Can you afford the debt? Not necessarily today or tomorrow but how about 5 to 10 years down the road. Then, of course, your internal policies on debt affordability.

Slide 16 – Debt Affordability 25:29

JAY GOLDSTONE: Here are some of the things on debt affordability. I'm not getting into the details on them, but you can see how you might do some calculations. These are only a sampling of some measurements you may want to look at in determining what is right for your community. You may have a couple of these it may not be limited to one area.

Slide 17 – Internal Financing Team 25:53

JAY GOLDSTONE: What I want to focus on in my remaining time is on the internal financing team. I think this is really, really, critical. This is what got San Diego into a lot of trouble and it can get a lot of communities into trouble. *You* need to understand your responsibility.

I cannot stress this enough that issuing debt is not a casual assignment. It is not just something that you are going out and you're borrowing money and are done with it. It is your transaction, you are the representative, and I say "you" whoever is defined or identified in your organization.

And not to freak you out but, when the bond deal is done - and it might be a six-month project to get the financing or a multi-year effort to get the financing done there is a lot of different variables that come into play – but, once the deal is done and the deal is closed, you are living with this for 10, 20, 30 years. Your team has gone away, the professionals have moved on to the next transaction and you are left there. If anything goes wrong the regulators and the enforcers are knocking on your door, they did that in San Diego.

The key here is they could hold you personally liable financially and, of course, you have reputational risk. You must take this very, very, seriously.

Slide 18 – Finance Officer 27:17

JAY GOLDSTONE: As a finance officer, and I'm going to talk in terms of probably most organizations. Most of the cities I worked for were smaller than the City of San Diego and most people wore multiple hats. The finance director was the debt manager, and so forth. You may not have a specialist that is the debt manager. I'm going to talk from the finance officer's standpoint, but you can apply this anywhere in your organization.

Be an active participant, attend every meeting, read all the documents. The documents can be very technical and can be very lengthy. There is a lot of them between the official statement, the indentures and so forth.

Don't be afraid to ask questions, especially if you are new to the bond business and you have not done a transaction before or, have done very few - ask questions. That age old adage, there is no such thing as a stupid question, it most likely applies in this case.

Be prepared to present the deal to your governing board. That is one thing I've always felt - when it came time to present to the city council – I had my team and the professionals there in case there was some technical question I could not answer or legal nuance I could not address – but, I was the one that made the presentation to the city council. I felt if I could not explain it and answer most of their questions that I shouldn't be doing this deal.

That meant I didn't understand the structure or the deal itself or what I was committing the city to do. So here are some of the things you just need to be aware of.

Slide 19 – What is my role as the Finance Officer? 29:02

JAY GOLDSTONE: So, you are the project manager, you are the coordinator for the internal team. You've got your finance staff. Your local attorneys being either your contract attorney, your contract city attorney, or if you have city attorney department, there should be someone within the city attorney's office that's assigned to debt. So any time you're doing a bond deal, they should have their level of expertise. And you're going to have your project manager, so if this is a public works project, you're going to have people involved from the public works department.

If this is a water, or wastewater, or electric, you will have people from those enterprises that are involved, but you're the coordinator and you need to work with everybody and make sure they understand their role.

You're going to manage the financing project, the timeline, and the structure. You're going to be given a lot of different information, different ideas of how to best structure the deal, you have to try to weigh through that information and determine what is right for your organization.

Slide 20 – Government Representative 30:06

JAY GOLDSTONE: Again you are the representative and you have to make sure you're complying with everything. And you do have a big role. So with that little box says "that sounds like finance options a big role," absolutely. At the end of the day it falls on you and you've got 20 years worth of compliance and commitments that you have made in your documents that you have to live up to.

We'll talk more about some of these documents later in the presentation, some of the legal things you are signing and executing but it is a major undertaking; it is a lot of fun this was probably one of the highlights of my day-to-day job was when I had an opportunity to issue debt, but you can't take it lightly.

Slide 21 – Planning Q&A 30:57

JAY GOLDSTONE: I'll sort of mention when I first got into this business it would be -- you would prepare the documents and you give us stack of documents to the City Clerk, a lot before the technologies we have today, so I’m sort of dating myself, and the documents sit in the City Clerk’s office and you write your staff report and tell the Councilmembers or the governing board, you want to see the documents, you go to the City Clerk’s office and review them. Those days are done, they probably never should have been there to begin with. But your governing board has as much responsibility, and potential liability, as you as staff and so you need to make it very clear to them through, whether it is training, which I would highly recommend you do periodic training of what their obligations are as well as doing training of staff and what their obligations are.

So lot of information I've covered in very short time. We'll have time for some questions and answers at the end, but are there any questions, Robert, right now that have been submitted that I might answer?

ROBERT BERRY: An interesting question. You know a lot of agencies and their governing bodies are inquiring and investigating the use of Green Bonds and we have a question from one of the participants today relative to the influence your debt policy may have on the use of Green Bonds. And the disclosure of the environmental impacts of the project, the use of proceeds.

So maybe you can comment about, a little bit about, how this new Green Bond issuance trend is being incorporated into debt policies

JAY GOLDSTONE: Clearly it is much newer issue. And I've seen where it has been incorporated into some policies and it can be Green Bonds or socially responsible bonds, all these nuances. And maybe it’s stated as an aspiration. It may not be stated as an absolute that you shall issue X amounts of Green Bonds it maybe an aspiration that whenever possible and there is a growing market for it.

I’ve not seen specific data, and I don’t know if Steve of Jacqui have, but that specific data that says from a market standpoint you are getting a better interest rate, maybe a lower borrowing cost on a Green Bond than a more traditional bond, but there are funds out there that are focusing on it as things are becoming more and more prevalent, there may be some pricing differential. But on the other hand, perhaps it is the right thing to do, but then there’s ongoing monitoring of the spending of the proceeds to make sure you are in compliance to with what you’ve committed to, to ensure that the project that's ultimately built qualifies and satisfies with the commitment made that these are Green Bonds for green projects.

ROBERT BERRY: Thanks Jay.

Slide 22 – Pre-Issuance 34:25

JAY GOLDSTONE: I'm trying to advance.

ROBERT BERRY: That's all the questions Jay.

JAY GOLDSTONE: There we go. Just real quickly, before I turn this over to Steve, talk real quickly about the selection of the financing team.

Steve will talk about the who is on the team and what they are specific roles are, but here are some of the common participants under the selection of the financing team. You may do it through an RFP if you’re an infrequent issuer, you will clearly want a municipal advisor. You will need bond counsel. Maybe disclosure counsel, maybe not. But you will probably do an RFP for each of these individuals or companies on a case by case basis.

You may keep your municipal advisor on for a longer duration but I would imagine more on a case by case basis. If you're out there more frequently, then you may create a pool of underwriters for example and then you may rotate them so you are not going through the lengthy procurement process that we all dread every time you hire a professional. Your trustee, for an example, you may only use one.

Especially if you're not that frequent you don't want to deal with multiple trustee agencies, you're going to find out that their fees are very low to begin with and so you will not find much of a price differential so why have multiple trustees, unless again, you're a very frequent issuer and you want maybe more than one.

In the pre-issuance you're going to talk about your debt structure, the legal documents, and all this due diligence. We'll talk about credit rating agencies and whether or not you need a credit enhancement and a lot of that is analysis done depending on the credit quality of your organization.

You will get a credit rating and if it is strong enough, credit enhancement doesn't enhance or approve the rates you get, that it may not make sense to get further credit enhancement like bond insurance and so forth. And then the pre-sale pricing; all these we're going to cover in greater detail in the next several slides with that, I'd like to turn it over to Steve to talk about the financing and external team.

Slide 23 – Selection of the Financing Team 37:06

STEVE HEANEY: I think you are still on the selection of the financing team.

JAY GOLDSTONE: Okay. I touched on a lot of these areas, again Steve will talk more about the specific roles but again what I have seen if my experience is once I have hired a trustee and unless they are not performing to my satisfaction, you usually use the same trustee on multiple bond deals. Some of these external team members you may or may not absolutely need. Clearly you will need bond counsel on every deal. You may also want a disclosure counsel or a special tax counsel depending on the nature of your particular transaction. And again, even a feasibility consultant is somebody who will do a confirmation of your cash flows or revenue stream that might pledged toward a particular bond.

A lot of it is to give investors a certain comfort level, give the rating agencies a certain comfort level as you move forward.

Slide 24 – What do I need to consider when… 38:21

JAY GOLDSTONE: So again, I've touched on these and in respect of time, we can cover this in great details if there are some questions, I think I pretty much covered that information.

Slide 25 – Who Should I Hire First? 38:42

JAY GOLDSTONE: And ultimately who should you hire first? It is clearly your municipal advisor.

Under Dodd Frank, for those who aren't familiar with it, it's federal legislation that arose out of the 2008 financial meltdown. It affected not only the private sector, and corporate markets, it did impact the municipal market and changed some of the roles. A municipal advisor *is* a fiduciary and has a fiduciary responsibility to you as an issuer. That should be the first professional that you hire and then they can assist you in subsequent hires. As it says in the bottom box, in selecting some of the other financing team members as well as helping you determine what is the best structure and objectives for your organization for that specific bond deal.

Slide 26 – Who is in charge of the issuance process? 39:45

JAY GOLDSTONE: So, Steve, here is a question we're going to ask everybody: Who is in charge of the issuance process?

Audience Polling Question Launched 40:05

JAY GOLDSTONE: And again while it takes a little bit of time to register everyone's response, I will turn this over to Steve for the next section.

STEVE HEANEY: Thanks Jay. If everyone will take a look at the quick polling question and who is in charge of the issuance process and it is either the roles have been put up there: Municipal or financial advisor, bond counsel, issuers counsel, any attorney, or the issuer.

And, basically this is really just a check to see whether folks paid attention to Jay's presentation and to see whether or not you can go on to the second part of the webinar or have to repeat the first part of it.

I think the question will be pretty straight forward and I would like to note that while we wait for the answers to be tabulated all three of us are going over information that really is built out by Jay to begin with.

And there is often probably redundancy in some of the topics and I think the redundancy in the topics is really a good thing. The information that each of us provides for those topics is going to be different.

It is going to be different because the 3 of us come at this from different points of view. So I think that as we walk through it hopefully you have gotten a better sense.

Audience Polling Question Results 41:39

STEVE HEANEY: Okay. Interesting. The 72% you guys get to go on, the rest of you have to have to repeat the first part of the webinar.

That's amazing 18% think the advisor's in charge. That must be the advisors that are on this webinar. That is interesting.

Okay, can we go to the slide again?

Slide 26 – Audience Polling Question #2 – Who is in charge of the issuance process? 42:21

STEVE HEANEY: There we go. Bingo! The buck stops right there. To me, given what Jay had gone through, this should be pretty easy to figure out. But I have to tell you, that after working with issuers over many years, over many financings, this often gets lost and the key here is you can delegate tasks, you can delegate certain assignments, but you can't delegate responsibility.

Only you can drive the process. Only you can decide whether or not the process you started ought to go on to a closure or whether you need to stop in the middle and pull different parts out and redo it you are in charge of it and as Jay said there is a lot of responsibility that goes along with that. So those who missed the answer, shoot me a note and we'll see if we can do remedial work later on.

Slide 27 – What do all these people on 'my' team do? 43:23

STEVE HEANEY: So Jay laid out all these folks. If you added them up, and I broke them all down, there are 11 different individual firms or people or whatever here.

That's a lot of people on a financing team. So the question really becomes, what does everyone do? The municipal advisor as Jay noted, they have a fiduciary relationship to you. I'd like to stress one thing: GFOA does say unless the issuer has in-house expertise *and* access to market information, the issuer should hire a municipal advisor. "Access to market information" doesn't mean you've got to a subscription to your local newspaper and in that they run the stock quotes every day. You have to have access to the credit markets.

Now the key here is that this is a GFOA best practice. There is no legal requirement for you to employ a municipal advisor, nor regulatory requirement that you employ a municipal advisor, it is best practice. Keep that in mind as you move forward.

The municipal advisor is really your expert on the market. And that expert is sitting in your corner, you ought to take advantage of that.

The advisor will help you with the structure, the timing, and the terms of the transaction and very much more importantly at the beginning of the transaction, they will help you decide what method of sale works what you are trying to accomplish. That's a very good thing to get out of the way early on, because unless you decide what method of sale, you can't decide on the other parties you need for your external team.

Bond counsel. You have to have bond counsel; not a legal requirement *per se* or a regulatory requirement, but if you don't get bond counsel on board and have bond counsel provide an opinion that to the investors that the bonds have been legally, validly, issued under the state law the investors are not going to show up and buy your bonds. So not quite a legal requirement, but close to that.

Bond counsel can do a number of other things as well. Bond counsel can apply the federal laws in terms of whether the bonds are tax exempt or not, or you can end up with an outside counsel doing that. But bond counsel does need to be on board to document the transaction and Jacqui is going over all the document requirements in a little bit. But you've got to have bond counsel on board on that.

Disclosure counsel, somebody needs to put together the preliminary and official statement, which is your sale document. That can be a separate disclosure counsel or that can be the bond counsel. All of this, again your internal team and advisor can help you decide what makes the most sense for this.

Now we get to one of the most important players in the transaction, the underwriter.

The underwriters involved whether you're doing a competitive sale, competitive bid sale, or negotiated sale and we'll through the different methods in a little bit. But on the negotiated sale, the underwriter, once they've been hired, helps advise on the terms and the structure and the security, etc. Also keep in mind, that when we use the word "underwriter," we're referring to a bucket of services that the entity will provide you.

Most underwriting firms have really three distinct groups within them that work on transactions. You have the investment bankers which are the individuals that actually work with you and the rest of your external team to put the transaction together and help you with the determination as to what the structure looks like and what the terms are. That's the investment banking team of the underwriter.

Then you have the actual underwriter, a person who is called an underwriter. That person sits on a transaction desk or often times referred to as the syndicate or trading desk. And that person is responsible for actually committing the money of the underwriting firm to buy the bonds from you and sell them into the marketplace. That's an important person to get to know as you are near the end of the transaction.

The financial part that each underwriting firm has: the sales people. These are the people actually pick up the phone and call and talk to whether the institutional investors or individual investors and actually get the bonds moved into the marketplace.

So when we refer to “underwriter,” we refer to all three of those different parts. We’ve got underwriter’s counsel, they’re only involved if there is a negotiated sale, they work for the underwriter and help the underwriter with due diligence and prepare the bond purchase agreement.

Slide 28 – That’s a lot of people on my team! 48:43

STEVE HEANEY: There are a lot of other parties that were on that list. Placement agent if you do a direct sale or placement, private placement, you will get a placement agent. They’ll in affect, serve in the role of the underwriter in terms of finding investors and then helping you negotiate with that.

Jay’s already noted, you’ve got paying agent or a trustee, a lot of times you’ll have a paying agent instead of a trustee. If you don't have a trust indenture, there’s no need for a “trustee,” but you do need somebody to get the money from you to the investor’s semi-annual repayment. That's really what a paying agent can do for you. Other parties involved in the transaction – I can tell you right now, on a complex transaction, you can have up to twice this amount of people sitting around the table, and again you are in charge of it. Don't lose control of the team or the process. I'm now going to turn it over to Jacqui who is going to walk us through the documentation of the transaction.

Slide 29 – Summary of a Bond Transaction 49:44

JACQUI JENNINGS: Thanks Steve. Good introduction into my section. What you have here is a summary of a bond transaction. What this is assuming is what we call a plain vanilla negotiated transaction.

This gives you a graphic presentation of what happens. The entity that’s at the center of all this you’ll notice is the issuer, nothing can happen without the issuer. If you look, the green is following the money. What is actually happening when you’re issuing a bond is, the issuer is preparing the disclosure document so that the underwriters can sell the bonds. Once the issuer sells the bonds to the underwriter, the underwriter transfers the money for the sale of those bonds to the trustee. The trustee, if you go to the right-hand side, will then take those bond proceeds and get them to the issuer so the issuer can spend them on the capital project.

Looking down from the issuer to the underwriter you will notice there is an entity called the depository trust company or DTC. For some of you in this fundamentals class, you are probably wondering who they are. What it is, is that, in the olden days, actual physical bonds used to be printed. We don't do that anymore. What DTC is, is an automated securities depository. What they allow to happen is the settlement of bond transactions very quickly for corporate and municipal securities. So DTC, in essence, quote 'holds the bonds' so there's no physical bonds, no physical certificates that are ever printed any longer. They hold for each individual purchaser or holder of the bonds.

So let's go to - I no longer have control of this slide so somebody could- advance us to the next slide?

Slide 30 – Legal Documents and Initial Disclosure 52:17

JACQUI JENNINGS: Thank you. We've talked about what you need to get ready to issue the bonds and I'm going to do a high level summary for you of the various documents. Who is involved, what they do and why you need them.

In addition to the bond documents and these legal documents that we have, which says the indenture of trust or trust agreement, it could be a bond resolution or a bond ordinance if you are doing GO bonds. There are maybe loan agreements or lease agreements, or project or facilities leases, installment sale agreements. There will definitely be a preliminary and final official statement or a preliminary and final offering memorandum if it is a private placement. There is a bond purchase agreement or a bond purchase contract, the continuing disclosure undertaking, the tax certificate, a non-arbitrage certificate and then various closing certificates and documents and opinions.

In addition to the legal documents there are various CDIAC reports that will need to be filed in connection with the issuance of your bonds. At least 30 days prior to the sale, you will prepare and file with CDIAC a Report of Proposed Debt Issuance. Generally, your bond counsel will take care of that for you. Then, no later than 21 days of the sale of the bonds, there will be a Report of Final Sale that's filed with CDIAC. The last thing, and the ongoing obligation, is you will be filing an Annual Debt Transparency Report. This is a newer requirement that came into effect for any issuances that, on or after January 21st, 2017. That annual report is due by January 30th for each year for all your outstanding debt.

Slide 31 – Indenture of Trust/Trust Agreement/Bond Resolution/Bond Ordinance 54:40

JACQUI JENNINGS: All right, let's start with the first document. For each of these slides there is going to be a section that talks about who the parties are, and when I say parties I mean, the parties who are primarily responsible or involved with the execution of the document. We'll have a short session on purpose. But for each and every one of these documents I cannot stress enough - everybody on your team needs to be involved and reviewing the documents - in particular the issuer and issuer's counsel.

Then the other people on the issuer's side that will also be involved in reviewing these documents will be your bond counsel, your disclosure counsel and those are the ones from the - I'm speaking from the issuer's standpoint - those are the people you are going to be working with to review these documents.

Now, what is this indenture of trust or trust agreement, bond resolution, bond ordinance - what is this?

This is the document that is the contract between the issuer and your trustee or paying agent detailing what are the responsibilities of the various parties. What's the security for these bonds? How do they get repaid? How do they get defeased? What happens in the event of default? Who has the rights to enforce those events of default? And what are the remedies if there is an event of default? Under the key provisions, you'll notice everything is highlighted blue to indicate that it's a provision that requires critical review.

When I was putting this slide together, I thought I might as well make all of it be the blue text, but this is to emphasize to you how much of this entire document is extremely critical. This is the document that you are going to be living with for the length of the term of the bonds. This is your Bible. It provides the definitions for all the capitalized terms used in the official statement. [It] tells you what your permitted investments are, what collateral is pledged for the security for the bonds. For example, is it an enterprise fund? What it is. Is it payments? Is it the general fund? Is it lease revenue payments? It establishes and tells whether or not there is, or is not, a reserve fund. What the amount of that reserve fund is. There will be also a description of the flow of funds. So that once you receive the payments from whatever the source is for the bonds, how they get allocated to the various funds and accounts that are established pursuant to this indenture. There will be monies flowing into a principal account, an interest account, there could be monies flowing into reserve fund to replenish it in the event that there is ever a draw on the reserve fund.

It will detail how and when you can issue additional debt under that particular indenture. The interest rates will also be specified. The principal and interest payment dates, maturity dates. The redemption and prepayment provisions, and these are important because this will tell you the earliest date when you can refund, or refinance your bonds. Some bonds will have what we call - call protection and will say that you cannot refund them for a minimum of ten years, or it could be seven years, those are structuring questions and issues that will be discussed with your MA [municipal advisor] and with your underwriter providing input also.

You will have a description of your defeasance provisions, the representation of warranties and covenants of the issuers. This is something that you should pay extra attention to these because, again, this is a document that is going to live with you for as long as the bonds are outstanding. You need to make sure you are reading, particularly the covenants and warranties, because you are saying, we are going to adhere to this for the next 20, 30 years. You want to make sure that whatever these covenants are - they are things you actually can do because failure to do so will lead to a default under the indenture.

Then when you get further down, in the events of default and remedies it says there are different types of defaults. If there is a default of something technical, like failure to file various reports - which in the industry, we sometimes refer to a “little d” default, as opposed to a “capital D” default which is generally a payment default - and then it talks about the remedies and who will exercise the remedies. In the case of an indenture or trust agreement, that's going to be your trustee and for a bond resolution or bond ordinance that’s going to be your paying agent.

If you have insurance, there will be a specific section in the indenture that talks about the insurance provisions and the right of the bond insurer to control certain rights and remedies under the trust agreement in the event of a default.

Slide 32 – Loan Agreement/Lease Agreement/Project or Facilities Lease/Installment Sale Agreement 1:00:51

JACQUI JENNINGS: Let's talk about the lease and loan agreement, and installment sale. The parties to this are the issuer and the borrower. This document evidences the loan of the proceeds from the bond issuance by the issuer to the borrower. And that borrower doesn't necessarily need to be a third-party borrower, it could be the relationship between a financing agency or authority and the issuer but we need this document to show that the monies are going from party A, to party B. Party B is covenanting to make payments from a specific source to party A so that those moneys can be used to repay the bonds.

On the key provisions of these documents is the pledge of revenues, the lease payments, detailing what of amount is, and in general these lease payments will equal the amount that is owed in the trust agreement to make the payments of semiannual interest and annual principal payments. There will be a provision talking about additional payments. You need to carefully review the reps and warranties, what the prepayment provisions are, and the provisions for abatement. Abatement, as you all know, is when you do not have to pay the required lease payments. Generally, there will be provisions in the reps and warranties that will require the issuer or authority or borrower to purchase rental interruption insurance. One of the key features of the loan agreement or lease agreement is, if you don't have beneficial use and occupancy of the facility, you cannot pay rental payments. So what the rental interruption insurance does is it ensures against that cessation of payments in the case of a total or partial destruction of the facilities being leased.

Slide 33 – Preliminary and Final Official Statements 1:03:21

JACQUI JENNINGS: The preliminary and final official statements. I'm going to disagree with Steve a little bit, in that it's not a sales document, it's a disclosure document. The preliminary and final official statements, this is the document that is going to be circulated to investors and tells them everything they need to know about you, the bonds, what the project that is being financed is, what the security and sources of payment for those bonds are, risk factors, it details your financial and operating information, and it is going to disclose any material litigation and your compliance with your prior continuing disclosure undertakings. I'm going to short-cut that because in session two we're going to talk about continuing disclosure undertakings in greater detail.

This document needs to disclose all the information that a reasonable investor would consider to be important in whether or not to purchase these bonds.

The preliminary official statement (POS) is the document and it will be complete except for pricing information. And the underwriter is going to use this document to presell the bonds.

The financial official statement (OS) is identical to the preliminary official statement with the exception that it now contains all the pricing information. So it will have the financial principal amount of the bonds, it will contain the maturity schedule and the interest rates for each maturity of the bonds.

And generally there is not going to be any difference between the POS and the OS except for the pricing information. However, if something does occur, between the printing - and we still call it printing even though very few documents are actually printed, they are posted - but between that time that the POS is printed and the OS is, if something material does occur, then you will need to do one of two things. You will either be doing a supplement to your POS because it depends on the timing of that event, and/or you will highlight that information in the final official statement so that it is clear to investors that since the POS was printed, there has been some new information that has occurred. That information will be highlighted in a prominent place in the official statement so that everyone knows that there has been a change since the disclosure printed in the POS. The key provisions of this document is going to include a description of the project. If it is a construction project, a construction schedule, information about the general contractor, the securities and sources of payment, there will be risk factors - we'll talk about those a little bit later.

The, again, absence of material litigation, or if there is material litigation, there is going to be a longer description of what that is, various financial and operating information of the issuer and continuing disclosure section.

That section is going to disclose also any failures on the part of the issuer to comply with prior continuing disclosure obligations in the last five years. That determination is also going to have assistance in a negotiated transaction with the underwriter who has an obligation to conduct due diligence on the official statement and they will have, internally or contract with a third party, to have a review done of your continuing disclosure compliance. For some of you there may be nothing to report because you have been perfect in every way for the last five years, and kudos to you. For most of us there is going to be something to report, it could be you were late making a filing. For the purposes of continuing disclosure and the SEC [Securities and Exchange Commission], one day late is still late. It doesn't matter what it is - if there is something that wasn't filed timely, or you failed to file it, or you filed it under the wrong CUSIP number, you are going to detail that information about your past failures in that continuing disclosure undertaking section. Prior to you actually going into the market, you will have remedied whatever those deficiencies are before you go into the market.

The important thing to note with respect to your preliminary and final official statement is that you need to make sure that all the information that you present in this document is true and correct as of the date that it is made and that it does not contain any misleading statements. That is a rule that is required by 10b of the Securities Act.

Slide 34 – Bond Purchase Agreement/Bond Purchase Contract [skipped]

Slide 35 – Continuing Disclosure Undertaking **1:09:20**

JACQUI JENNINGS: We're going to see 10b-5 come up again later. Under the continuing disclosure undertaking, in order for an underwriter to underwrite your bonds. The issuer of the debt and each obligated party, in the case of a conduit issuance, has to enter into a written agreement to provide annual updates of certain information by a specified date and they also have to agree to provide notices of the occurrence of 16 significant events generally within ten business days following the occurrence of that event.

This document, like the trust agreement, remains in effect during the lifetime of the bonds. The key provisions in this document are what exactly is going to be contained in each annual report, what is going to be the filing date, the list of significant events, and the filing date for filing notices of the occurrence of significant events and the amendment procedures. One of the things that tends to happen with the continuing disclosure undertaking is, the preparation of the official statement tends to suck all the oxygen out of the room. And this is a [continuing disclosure] document that, often times, will get short shrift. The issuer doesn't spend quite as much time reviewing what it is they are contractually obligating themselves to disclose annually until, either it's time to actually execute the document or the next year when they actually have to file a report and then they will say we can't - we don't have that information we can't provide that information on an annual basis because that's a report that we sourced and obtained from a third party, at some significant cost let's say.

That is too late to make that discovery I behoove each of you to look at that continuing disclosure agreement early and impose upon whoever is going to be drafting that document – it may be the disclosure counsel or bond counsel – but actually request that that is a document that gets drafted and circulated early in the process so you have ample time to look at it, to see what it is you are going to be asked to update annually and make sure that you have the infrastructure in place to do so.

Slide 36 – Tax Certificate/Tax and Non-Arbitrage Certificate 1:12:17

JACQUI JENNINGS: The tax certificate and the tax and non-arbitrage certificate. Another document that lives for the life of the bonds. And this is assuming that in our scenario, this is a tax-exempt bond issuance. In this document you as the issuer are setting forth certifications and covenants that you are agreeing to, to maintain the tax-exempt status of the bonds.

This document includes the rules for the investment of the proceeds and compliance with arbitrage rebate requirements so you are not, quote, 'abusing the tax-exempt market' and issuing bonds at a low tax-exempt rate and then using those monies to invest at a higher rate. In this environment currently, that's not possible, but it was possible at a time. But this is to require that even if you were able to do that, any proceeds from your investment that exceed the bond yield you will rebate back to the federal government.

The key provisions in this document are going to be the sources and uses of proceeds, the investment proceeds, the reps and warranties, the tax compliance program, and there may be others depending on the type and purpose of the financing.

The party drafting this document is either the bond counsel or your tax counsel and you will have assistance from them in reviewing this document and making sure that the covenants and certifications that you are going to provide, that you understand them and that you can comply.

Slide 37 – Closing Certificates, Documents, & Opinions 1:14:16

JACQUI JENNINGS: Closing certificates, documents and opinions. Most of these documents - there will be a summary of these documents and the closing conditions in the bond purchase contract and all parties are involved in this process. There are various issuer certificates, receipts, forms of requisitions, documents for deposit of funds and there will also be forms of the opinions that, you as the issuer and your issuer's counsel will be delivering. Make sure that you follow the money, make sure that you understand all of these requirements and review, in particular, all of the documents and certificates that you are going to be executing and delivering in connection with the bond transaction.

Slide 38 – Up to the Sale Date 1:15:18

JACQUI JENNINGS: We have spent most of the time talking about the negotiated transaction. If you, when you have a chance, if you go back to slide 29, where we have the graphic for the flow of funds, what is being done in a competitive bid situation and private placement or private sale agreement - a lot of the documents are very similar.

Some of them have different names, for example, in a competitive bid you don't have an underwriter. Instead of a purchase contract, you're going to have a notice of sale. That notice of sale will set out the parameters of the sale of your bonds and say, on a date certain, we're going to open this up and we will be accepting bids up until a specific time. It also informs the underwriters, who are at that point, really known as purchasers of the bonds, what the parameters for submitting a bid is, and how the award will be given and what those parameters are.

In a private placement or private sale, there's a number of ways this can be accomplished. Generally a term sheet is going to be solicited. You will generally have your municipal advisor working with you on this to help you select what is the best offer. There are various legal documents, there will be a trust agreement or a private placement agreement, there's various documents that serve some of the same functions as the indenture or the trust agreement. You eliminate, in a lot of instances, the preparation of the preliminary and final official statement but depending upon who the purchaser is, they may want a disclosure document. They, most often, will require some sort of continuing disclosure and all of this is negotiated with your purchaser of your bonds. And with that, I turn it back over to Steve.

Slide 39 – Who Suits Up For Each Sale? 1:17:53

STEVE HEANEY: Thanks, Jacqui. See there, folks, like I noted before, we are kind of covering some of the same areas but we've got different viewpoints. I still think of the POS as a sale document and Jacqui will think of it as the disclosure document. And I'd also like to note that Jacqui said in a competitive sale 'we don't have an underwriter' - you always have an underwriter, you can call them something different, like a purchaser, but it's the underwriter.

I just want to go over real quickly, not only who suits up for each method, I think we've kind of gone through that before. You can see it on the slide. For the most part, you have got the same folks with a few differences involved. Prior to placement I would note you have got to have a placement agent with one expectation. The SEC has granted an exemption and allowed the municipal advisor to act as a placement agent for the period of time between now and the end of the year under limited circumstances. They have done that because of the disruption that occurred in the market awhile back but otherwise you will have to have a placement agent and most investors and placement [agents] want to see that as well.

Slide 40 – Details, Details, Details 1:19:28

STEVE HEANEY: We've gone through this, through the different types of sale before competitive bid, negotiated and private placement so I'm not going to go through all of the functions of those.

What I do want to note is before we get ready to go to sale there are some things you need to do. On the slide earlier in the section heading, we had 'credit rating' and Jay noted we'd talk about that later. Well here's the thing. Do you need a credit rating to sell your debt? The answer is 'no' you don't need a credit rating to sell your debt. Having said that, I would guess that something in the neighborhood of 85%, maybe a little bit more of the bonds that come to market do in fact have at least one credit rating if not, a couple.

What is the function of the credit rating? The credit rating allows investors to compare your debt with other debt out there in the marketplace and allows the investors to decide whether this is something suitable for them to purchase or not. The higher the credit rating, the lower the interest rate. So it may, in fact, be beneficial for you to seek a credit rating. If you do decide to do that, decide that with your [municipal] advisor and with your underwriter who will put together presentation material to the credit rating agency or agencies. You, the issuer, needs to be in charge of that process. Just as we go back to the beginning of this presentation of 'Who's in charge?' - YOU need to be the one conveying the story to the credit rating agencies because it is your debt.

Moving on, Jacqui covered what all goes into the POS/OS. The material comes from you, it's not going to come from the municipal advisor, it is not going to come from the underwriter. It's a big job so don't forget about that.

Finally - question - does the debt sell itself? The answer is no, of course not, there needs to be a marketing strategy. And that strategy ought to be something that's developed between you, your advisor and the underwriter. That strategy really is to try and engage investors before the sale of the bonds. So when you come to the market, when put your bonds out there, investors already know who you are, why they should buy your bonds, what the strengths of your credit are. You might have a desire for example, to see local community members buy your debt. If that's the case, it needs to be part of your marketing strategy to go out and talk to those investors in some form of fashion. That doesn't mean to hold a town hall meeting, but it might mean putting something on your website or it might be putting ads in your local paper. Again, it's a strategy, you need to engage the investors, both retail and institutional investors, in the marketing of your bonds.

Slide 41 – T-minus one and counting! 1:22:30

STEVE HEANEY: So now we're moving along real quickly here, we're T-minus one and counting, we've got a day before the sale - what the heck are we doing?

We're doing a couple of different things. Most of this you are going to be doing with your advisor and then you are going to be talking with the underwriter and when you're talking with the underwriter - you're going to be talking with the underwriter- maybe the investment banking person is clearly going to be involved in the discussion - but you want to talk to the person who has got the responsibility for committing the firm's money to your debt. So you are going to be talking to somebody on the transaction/trading desk or syndicate desk.

If you've got a good size sale, you'll definitely receive from the underwriter a pricing book. If you don't receive a pricing book from the underwriter, you will receive from them a scale. Ok, what's a scale?

A scale is the interest rates and yields broken down by maturity so you can determine whether or not this is comparable to other things that are in the market at time. How will you know that? The underwriter will provide you with comparable sales, that are like your bonds, and that have come to market in the last two weeks, three weeks, whatever. Your advisor also should provide you with the same information.

That makes for a good comparison to see if somebody is hiding something from you, probably not, but at any rate, you want to look at that. You want to look at the scales. You also ought to get from your underwriter at this point in time, a price for your bonds – otherwise called the underwriter's discount. Unless you've already negotiated that ahead of time, I would suggest you shouldn't do that. You ought to wait until this point in time to do that negotiation.

So you've got that. The other thing that you want to do is look at the credit markets as a whole – an overview of the credit markets. What do I mean? You ought to look at the treasury market and see where the Treasury curves, 5 years, 10 years, 30 years - what have those been doing in the last 2 or 3 weeks? That gives you a sense of whether or not you are going to sell into a strong market or weak market or a flat market and those are all very important. Finally, you want to review your bonds' structure. Are you going to decide to get insurance? You can run a cost benefit analysis at this point in time.

Have you set your early redemption or your call features? This is the time to set those, again, get input from the underwriter and the municipal advisor. What are the costs of going from 10 years to 7 years – there are costs involved. And then finally, how many serial maturities do you have versus how many term maturities do you have.

The big picture for tomorrow when you sell the bonds - who is in charge? You are. Only you can make the decision as to whether the sale goes through or not. You've got to have parameters for what is a success, what is not a success, everybody ought to know what those are. Finally, be very sure that you know where the person is who is authorized to execute the purchase contract. Because if that person is out of town, and you have to make provisions for someone else to do it, you've got a problem. I'm going to turn it back over to Jay at this point.

Slide 42 – Ready for liftoff! 1:25:55

JAY GOLDSTONE: Thank you Steven. I'm going to cover some of the same points that I know, in the interest of time, I'm going to be very, very brief. The preliminary issuer steps, I think Steve covered it very well. Again, as he pointed out, in a negotiated sale, or in any sale, but especially in a negotiated sale – you're in charge. You're the one that will make the decision, whether or not the pricing on the bonds is acceptable to you. That's why it is called negotiated.

I want to say that the traders have a built-in conflict of interest. This is not negative, it's just the reality and you need to recognize it. They're trying to get you, the whole underwriting team, they are trying to get you, the issuer, the lowest possible interest rate possible. But they are also trying to get the investor, who is buying your bonds, the highest interest rate possible so they are working on both ends. This becomes a balancing act. As Steve mentioned, you're going to see what comparable sales, like structures, like credit ratings and so forth, have priced in the previous day or two. The most recent data available and you'll make those decisions.

On the actual day before, what will happen, from an activity standpoint, in the lower box you'll see that there will be a call between you and your financing team and the trading desk. The trader will tell you what activities they have seen for the day, what they think, in case there are any changes to the pricing scale. Again, you'll negotiate. If you think the rate is a little bit too high, can you lower it a basis point or two. It will be back and forth discussion. There will be a caucus when you have your municipal advisor, you'll leave the underwriter, hang up from the trader and have a discussion whether or not they think it is a fair pricing scale.

You'll get everybody back in the room, the trader back in the room or on the phone, and you will come to a final agreement that, okay, this is the scale that I, as the issuer, am comfortable going out to the market with. The underwriting, the trader believes, that there will be enough bids for each series of bonds at that scale and it won't be too many bonds, perhaps, left on the table.

Again, you want it as low as possible, and they want it as – not as high as possible – but they want to make their life a little bit easier, and they want to make sure that the investors are going to step up and buy the bonds. And you may be out on the market on the same day as some other issuer - that is something I don't think was really touched on from a timing standpoint. If you're a small issuer out in the market once every couple of years, and you've got the City of Los Angeles or San Diego or New York out in the market - but maybe more so look at a California issuer, the State of California and they are out on the market on the same day on a really large deal - there may not be a lot of interest, an appetite, for your bonds. You may want to delay the day you go out to the market. You should have that kind of information at least a week or so, in advance to understand what is going on.

Then you'll set up on your computer, a tracking. With today's technology, you can track the orders and everything else. You get that set up the day before so that when morning comes, the day of the sale, you can log in and see what kind of activity is taking place. Because this will be the last conversation you will have with the trader until sometime after the trading begins. Probably midmorning you will do a re-brief so this is why you get everything ready up front.

Slide 43 – Pre-Issuance Q&A 1:29:50

JAY GOLDSTONE: I'm looking at the clock a little bit and I know we're returning past the 12 o'clock hour, I appreciate everyone's indulgence if you can stay on. I'm going to, maybe, pass on the questions right now and go into the final section.

Slide 44 – ISSUANCE 1:30:08

JAY GOLDSTONE: We've talked about the planning and the pre-issuance and now we're on issuance day. Talk real briefly about the sale and the pricing and the closing documents and the reports, and then of course we're going to get next week into what happens after today. So with that I want to ask Steve to provide – so Steve go ahead.

Slide 45 – Sale Date 1:30:28

STEVE HEANEY: I think we've already gone through this slide, it is one of those redundant measures we've already gone through. I think the thing that we're focused on here is the negotiated sale so Jay if we could just move to the next slide I think you and I can kind of go back and forth on that a little bit.

Slide 46 – Mission accomplished! 1:30:54

STEVE HEANEY: One thing I would like to note, just to make sure that we don't leave the underwriter/trader in a bad way. The underwriter does, in fact, have a regulatory requirement – that they deal fairly with you, the issuer, and that they deal fairly with the issuer [investor]. And there are, in fact, SEC cases and SEC enforcement actions that make sure that that occurs.

The underwriter does, in fact, end up trying to make both parties happy, that's basically what they are trying to get done. I would say, as we move into the date of sale, one of the key things really is to be monitoring the book that the underwriter is doling out and you should absolutely require that the underwriter help provide the capabilities for you to do that sitting at your desk. It's available.

JAY GOLDSTONE: One of the reasons you do that, is because the previous day you set up the pricing scale. Well you may have been a little bit too high on the interest rate. All of a sudden, a particular series of bonds, is what you call over-subscribed. A lot of investors want that bond, so you might have $5 million worth of bonds in a certain series and $7, 8, 9 million worth of orders for that series. What will happen is, around maybe 10 o'clock on the west coast time you may have a follow-up call with the underwriter and the trading desk and you'll reprice. You know you might lower it, by a basis point or two basis points, the pricing. Because maybe some investors will drop off and not be as interested. The converse may be true, you may have a series of bonds that you've got maybe $5 million in that series and only $1 million worth of bids. You may have to go back and raise the price a basis point or two in that series to attract more investors into that. That's what typically happens around the 10 o'clock-ish call that you'll have with the desk, maybe a little bit later in the day.

Then the trade desk will go back out into the market, re-contact the investors and say here's the new scale and many of the series and term bonds you might not change the price at all because it seems to be reasonably priced. Then towards the end of the day you'll have a final meeting with the trading desk. They will tell you here are the end results, of course, you're monitoring it on your computer so you know, in real time, what is going on. Let's assume for discussion purposes this was a $50 million bond deal and you may have $45 million worth of those bonds actually sold maybe $48 million worth of those bonds, based on the pricing.

Typically what will happen is the trading desk will come back with the underwriters and they will say, ok here's what happened and we're willing to take into inventory, at the agreed-upon price, the balance of those bonds. The bonds have now been totally committed and basically the transaction is done. You have reached a final agreement.

Sort of a handshake or phone shake if you're in person, or over the phone. Then the lawyers go back and they will prepare the final terms and the bond purchase agreement that were agreed to. To Steve's point, somebody needs to be available to sign that bond purchase agreement. I don't even know if there's a case where it wouldn't be signed the exact same day, within hours of when the final deal has been agreed to. That document is typically signed.

There are cases I've seen in some cities where the delegation of that authority still rests back with the governing board. They have to go back to your city council or your board of directors with the scale that evening. If you're pricing this on a day, you better make sure you've got a board meeting or a council meeting that night. You'll go back that night, you'll present it, they'll approve it, you'll sign it then, whoever has the authority to actually sign the document.

In many cases though, the governing board when they approve the moving forward with the transaction, will have delegated that authority to make the final determination with the finance director or the debt manager or somebody key – maybe it's the chief executive within the organization to execute the document.

In the end, mission accomplished. Maybe some of the preliminary heavy lifting is behind you now. The real work is in front of you. We're going to talk about that next week when we get into what happens post-issuance and when the whole deal ends up closing because there is a period of time between now and when you actually close on the bond deal and you get the money and then ultimately the responsibilities. That will be discussed in the subsequent session. Steve, I don't know if you have something to add right here.

STEVE HEANEY: I don't Jay, I think we'll go back to Robert for Q&A.

Slide 47 – Questions and Answers 1:36:28

JAY GOLDSTONE: I know we've gone over, I think the panel members are available to answer questions that you might have if people want to stay on the line for a while longer.

ROBERT BERRY: Alright thanks gentlemen and thanks Jacqui. We do have quite a number of questions, I think we'll hang on for a few more minutes and let me assure you that we will answer these questions in fact prior to the webinar we were talking about leading off the next session with a mini question and answer session to cover some of these. So, let's throw out a few here.

There are some questions relative to how do you decide about the type of financing to use? How does someone determine the best instrument to use to minimize their debt issuance? And this also is related to a two-part question relative to lease financing structure. We had a question relative to how a lease financing structure works generally.

STEVE HEANEY: I can tell you from a marketing input standpoint, there are in fact different instruments that you use that are accepted better in the market than others. For example, a leased revenue structure is accepted better in the marketplace than a COP structure. They are virtually identical, but for some reason or other, investors have got it in their head that a lease revenue bond is something better. So that's it from the market standpoint.

JACQUI JENNINGS: For the uninitiated a COP is a certificate of participation.

JAY GOLDSTONE: From an issuer's standpoint obviously you are going to look at several factors. Number 1 - is there a potential, dedicated revenue stream to cover the debt service of the bonds? If it's an enterprise fund you're not going to want to issue a lease revenue bond unless you're going to pledge that revenue. You're going to issue a revenue bond and it may be a water revenue bond, it could be wastewater revenue bond, an electric revenue bond. It's a dedication of that revenue stream. Because what your ultimate goal is, is to try to find the best structure that is going to yield you the least cost of borrowing. If it's a general fund obligation, clearly the least costly is a GO [general obligation] bond. In California, other than for school districts, they're not that prevalent. It requires a high threshold of voter approval for you to do that and so the work-around tends to end up being a lease revenue bond which is basically - consider it like a long-term lease. You're leasing an asset and the issuer is renting - I don't know if we want to get into the real details - maybe we'll get into that in the next session as a prelude, but that tends to be the predominant kind of a structure for general fund obligations.

If on the other hand though, you've got a dedicated solid revenue stream you're going to do a conventional financing. For example, if you've got a transient occupancy tax and you've got a long history of a transient occupancy tax and you've got some really strong revenues. You may want to dedicate that single revenue source to pay for that. What that does, is it protects all of your other revenues, as an issuer, from any abatement or call from the investors. From an investors' standpoint it may be good or not it may not be, versus if they've got a call on all available revenues from the city.

So it is a balancing act. Again, you want to protect the general fund so you don't necessarily want to pledge the general fund whenever there is another revenue source available. You want to try to get the lowest borrowing cost.

JACQUI JENNINGS: I think the question was also who helps you make that decision?

ROBERT BERRY: Well, the question was related to just how to make that decision but it could be who too.

JAY GOLDSTONE: Well, sort of the 'how to' I think I mentioned. I think the 'who to' though, clearly is your financing team. You don't have to, on day one, make that decision prior to hiring your financing team. Your municipal advisors, your underwriter, even your bond lawyers who have been out in the market know what's trending, what's marketable, and they will help you with that.

ROBERT BERRY: Since we're talking about team members and financing team participants, this is a quick one. Is the fiscal agent agreement the same as the trust agreement, are their differences?

JACQUI JENNINGS: There are some [differences]. But they are very similar. The fiscal agent is still acting as the repository of the funds and the distributor of the funds, so it's basically the same. It's just dependent on what type of structure you're using for the issuance of the bonds or the securities.

ROBERT BERRY: There are some really good questions here. What are some factors that would make you feel as if the trustee is not working to your satisfaction?

JAY GOLDSTONE: From an issuer's standpoint they're late in making their bond payments. That's probably the most cardinal sin they could make. If they don't have a solid tickler system, whatever it might be.

The other thing is, as the issuer, we're dealing with a whole host of other issues not related to that specific bond transaction. As an issuer, you should have set up a tickler system, and we're going to get into some of this next week where I talk about post-issuance responsibilities. But I've always looked towards the trustee to give me an advance, like a week in advance – by the way, don't forget, you have a bond payment coming up next week. We need you to wire the funds, those kinds of things. It's just the servicing of that particular transaction.

Are they doing an adequate job? One mistake maybe okay, but if there's a trend and I've seen that. They've had a turnover of staff, you hire the trustee and they've got their dedicated person who is working with you and that person retires, or moves on, and somebody else comes into play. They're not as sharp, you can obviously ask for somebody else to be dedicated or you would end up changing the trustee. Short of that, it's usually a well-oiled operation.

ROBERT BERRY: Ok, real quick, we've got a couple of questions that came in with registration we have time for one last one. This goes back to the planning discussion, Jay. Relative to IRS rules for spending the proceeds of tax-exempt debt, how should an agency plan to borrow for a project that will require more than the 3 years to spend the proceeds? Any thoughts about that?

JAY GOLDSTONE: Sure, there are a couple of ways.

One is, there's a financing called commercial paper. An issuer could do commercial paper, which is short-term borrowing. It is typically in a variable rate mode so you have some interest rate exposure at that point and you could do that borrowing for during the planning stages and the construction stages of the project. Then when the project is done, or near done, go back out to the market and issue long-term bonds to retire the commercial paper. Obviously they've got interest rate risk because if it's a 3 to 5 year, or let's say, 4 or 5 or 6 years of construction period - then you don't know where interest rates are going to be at that point in time. So you do have some interest rate risk.

The other way is, you can phase-finance the project. You can estimate, that's where these capital spending plans come into play. You should have a cash flow by your public works person or enterprise fund person on the timing of when they are going to need the funds. Based on that, you can size your bond issue. So if it's a $100 million project and they think in the first 3 years, they can spend $60 million of that, then maybe you go out and issue $60 million worth of bonds. Then as you're running low on those proceeds, then you go out and issue the next series of bonds.

There's no, and correct me if I'm wrong from a legal standpoint, there's no penalty for you not to spend the proceeds within those 3 years. There are restrictions that come into play but when you're executing the final bond documents, you have to have a reasonable expectation that you <u>will</u> spend those proceeds.

JACQUI JENNINGS: And you're making that certification in your tax certificate also. If you do not have a reasonable expectation, there is a problem. That's something that should have been addressed long before you're at the point of executing and delivering the tax certificate.

STEVE HEANEY: One thing I would note also is that in terms of the project, you need to know whether the project needs to be completed in order to provide security for the debt. If it does need to provide security for the debt, phase financing is not necessarily going to work real well. I would suggest, and I'm not an attorney, I would suggest you can, in fact, borrow knowing that the project is going to take longer than 3 years. You simply have to live within the arbitrage restrictions that are imposed on you to do so. Your bond counsel ought to be able to walk you through what the restrictions are in terms of investing the proceeds, etc. I do want to make the point that if your project has to be complete, phasing it is going to be a problem.

ROBERT BERRY: Alright, we've gone over our time, thanks to all of you for hanging in there with us to listen to some of the answers to the questions. We will follow up with all the answers to your questions and, like I said, we're thinking about maybe addressing some of them in the next session, next week. So I believe we can go to the next slide.

Slide 48 – Recap of Municipal Debt Issuance Process 1:48:00

So just to track along, as a recap, we've covered the first 3 steps of our municipal issuance path - next week we will pick up with *You Sold Your Bonds, Now What?* Where Jay, Steve and Jacqui will cover some of the most important topics under ongoing administration and the end of an issue. Just a reminder though, please make sure that you have registered for the second session next week on the 16th if you haven't done so already. There were a handful of people who had not registered for the second session.

Slide 49 – Connect With CDIAC 1:48:32

And so before you go, there are a variety of ways to contact CDIAC and stay up-to-date on what we are doing. The best way to do that is going to CDIAC's website and subscribing to our ListServ. We will be producing some new programs for the fall that we'll be announcing soon - climate change disclosure, land-secured financing, and several investment topics are among them. That's the best way to find out about those programs, is to get on that ListServ.

In closing, on behalf of CDIAC, I'd really like to thank Jacqui Jennings, Steve Heaney and Jay Goldstone for a terrific presentation today. We're looking forward to the conclusion of this cliff hanger on next week's episode. A big thank you to our CDIAC education team, Karen McMillen and Angela Ayala, they do a terrific job in producing our webinars. And of course, thank you to all of you for joining us this morning, and for hanging with us into the lunch hour a little bit. We look forward to you joining us next week and on our other future programs. So long and have a great day.