

## **STAFF SUMMARY RE INFORMATION ITEM CHFFA/CEFA BOND GUIDELINES WORKING GROUP**

December 3, 2009

### **Background**

The Authorities established the attached written guidelines (currently in place) in 2000. Since their inception, borrowers have occasionally requested and been granted various exceptions to the guidelines. Coinciding with the auction, variable rate and insurer challenges over the course of the last twenty four months, top borrowers from both Authorities have increasingly asked for exceptions to the guidelines. Examples include borrowers asking for a lower debt service coverage ratio requirement because of their master indenture mandates and in some instances, because unrealized investment losses lowered proforma debt service coverage calculations below CHFFA's minimum 1.25x requirement. Other borrowers have asked to enter the market with lower denominations and some have asked permission to go out to the market for a public offering despite a guideline requirement for a private placement.

Given the increasing number of requests for exceptions to the guidelines and the near decade of time that has passed since the guidelines were originally implemented, Authority staff believed it prudent to form a working group to carefully consider whether any amendments to the guidelines might be merited. Staff formed a working group composed of representatives from the following: (1) both Authorities' rank and file, (2) counsel routinely serving as bond counsel to the Authority, (3) counsel from the Treasurer's office, (4) counsel from the Attorney General's Office, (5) the Authorities' financial advisor, Public Financial Management, and (6) the State Treasurer's Office Public Financial Division.

Since the formation of this working group, members have engaged in a variety of activities to help evaluate the guidelines. Staff talked with and reviewed the policies of other statewide, as well as other national conduit issuers to get a sense of what other conduit issuers are doing. Staff developed mission statements for both Authorities to help tether the evaluation of the guidelines around the key tenets of the organizations. Staff also researched and identified the most recent ratings for the top borrowers of each Authority. The Attorney General's office spent considerable time reviewing the legislative history behind both organizations, the statutes in place for both Authorities and specifically, the statutes spelling out the requirements for both Authorities whenever an application for bond approval is submitted to the Authorities. Representatives from Public Financial Management researched statewide and national default rates for healthcare transactions and provided the knowledge needed to more clearly understand the various credit ratings assigned by rating agencies and how these ratings are construed by the market. Bond counsel has helped the working group to identify the business and legal risks faced by conduit bond issuers, as well as how conduit bond issuers might best mitigate these risks through appropriate disclosures, covenants, representations and indemnities.

### **Purpose of the Information Item**

Staff has amassed a great deal of information and is ready to analyze whether the current guidelines might benefit from amendment. Before beginning this analysis, staff would like to present the gathered information to the board to allow the board to pose questions, express concerns and give direction.

The Attorney General's office will review the Authorities' statutory requirements for approving bond transactions. Staff will present the ratings for the Authorities' top borrowers. John Bonow of PFM will present statewide and national healthcare default rates, an overview of ratings and credit enhancement options, and how best to assist borrowers in gaining access to the market. Diane Potter or Orrick, Herrington and Sutcliffe will review the business and legal risks faced by conduit issuers and how these risks can best be minimized.