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Memo

To Board of Education
From Marion McWilliams, General Counsel
Board Meeting Date April 12, 2017
Subject Board Policy 3470 Debt Issuance and Management Policy

Action Requested Approval of Board Policy 3470 Debt Issuance and Management Policy in accordance with SB 1029 and Government Code Section 8855

Background and Discussion The California Debt and Investment Advisory Commission (CDIAC) was created to collect, maintain, and provide information on all state and local debt authorization and issuance to serve as a clearinghouse for all state and local debt issuance. Accordingly, state and local issuers of debt are required to submit reports to the Commission within specified timeframes of proposed issuances and final sales.

Senate Bill 1029, passed in the 2015/16 Legislative Regular Session, requires that the reports of proposed debt include a certification by the issuer that it has adopted a local debt policy, including specified provisions concerning the use of debt, and that the debt issuance is consistent with the local debt policy. Government Code Section 8855 has been amended accordingly.

The debt policy must include:

- 1) The purposes for which the debt proceeds may be used
- 2) The types of debt that may be issued
- 3) The relationship of the debt to, and integration with, the issuer's capital improvement program or budget, if applicable
- 4) Policy goals related to the issuer's planning goals and objectives
- 5) The internal control procedures that the issuer has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

The attached Board Policy 3470 fulfills this requirement. It was prepared with the assistance of the District's legal counsel and financial advisor.

Recommendation Approval of Board Policy 3470 Debt Issuance and Management Policy in accordance with SB 1029 and Government Code Section 8855

Fiscal Impact N/A

Attachments

- Board Policy 3470

OAKLAND UNIFIED SCHOOL DISTRICT

Board Policy

Business and Noninstructional Operations

BP 3470

DEBT ISSUANCE AND MANAGEMENT POLICY

The Board of Education (the “Board”) of the Oakland Unified School District (the “District”) is committed to long-term capital and financial planning and recognizes that the issuance of debt is a key source for funding the improvement and maintenance of school facilities and managing cash flow. Any debt issued by the District shall be consistent with law and this policy; provided that the Board may issue debt that does not comply with this policy should the Board decide such debt is necessary or desirable. The authorization and issuance of any non-compliant debt shall be conclusive evidence of the Board’s decision. This policy may be amended by the Board as it deems appropriate from time to time in the prudent management of the debt of the District.

The District shall not enter into indebtedness or liability that in any year exceeds the income and revenue provided for such year, unless two-thirds of the voters approve the obligation or one of the exceptions specified in law applies.

When the Board determines that it is in the best interest of the District, the Board may issue debt or order an election to issue debt. The Superintendent, Chief Financial Officer, Senior Business Officer or designee (each, an “Authorized District Representative”) shall make recommendations to the Board regarding appropriate financing methods for capital projects or other projects that are authorized purposes for debt issuance. When approved by the Board and/or the voters as applicable, the Authorized District Representative shall administer and coordinate the District's debt issuance program and activities, including the timing of issuance, sizing of issuance, method of sale, structuring of the issue, and marketing strategies.

The Authorized District Representative shall retain a financial advisor, municipal advisor, investment advisor, and other financial services professionals as needed to assist with the structuring of the debt issuance and to provide general advice on the District's debt management program, financing options, investments, and compliance with legal requirements. Contracts for services provided by such advisors may be for a single transaction or for multiple transactions, consistent with the contracting requirements in Education Code 17596. In the event that the District issues debt through a negotiated sale, underwriters may be selected for multiple transactions if multiple issuances are planned for the same project. In addition, the District shall select a legal team to assist with debt issuances or special projects.

Goals

The District's debt issuance activities and procedures shall be aligned with the District's vision and goals for providing adequate facilities and programs that support student learning and well-being. When issuing debt, the District shall ensure that it:

1. Maintains accountability for the fiscal health of the District, including prudent management and transparency of the District's financing programs
2. Pursues the best possible credit rating for each debt issue in order to reduce interest costs, within the context of preserving financial flexibility and meeting capital funding requirements
3. Maintains effective communication with rating agencies and, as appropriate, credit enhancers such as bond insurers or other providers of credit or liquidity instruments in order to enhance the creditworthiness, liquidity, or marketability of the debt
4. Monitors the District's statutory debt limit in relation to assessed valuation within the District and the tax burden needed to meet long-term debt service requirements
5. When determining the timing of debt issuance, considers market conditions, cash flows associated with repayment, and the District's ability to expend the obtained funds in a timely, efficient, and economical manner consistent with federal tax laws
6. Determines the amortization (maturity) schedule which will fit best within the overall debt structure of the District at the time the new debt is issued
7. Considers the useful lives of assets funded by the debt issue, as well as repair and replacement costs of those assets to be incurred in the future
8. Preserves the availability of the District's general fund for operating purposes and other purposes that cannot be funded by the issuance of voter-approved debt
9. Meets the ongoing obligations and accountability requirements associated with the issuance and management of debt under state and federal tax and securities laws

Authorized Purposes for the Issuance of Debt

The District may issue debt for any of the following purposes:

1. To pay for the cost of capital improvements, including acquiring, constructing, reconstructing, rehabilitating, replacing, improving, extending, enlarging, and/or furnishing and equipping district facilities
2. To refund existing debt
3. To provide for cash flow needs

Pursuant to Government Code 53854, general operating costs, including, but not limited to, items normally funded in the District's annual operating budget, shall not be financed from debt payable later than 15 months from the date of issuance. The District may deem it desirable to finance cash flow requirements under certain conditions so that available

resources better match expenditures within a given fiscal year. To satisfy both state constitutional and statutory constraints, such cash flow borrowing shall be payable from taxes, income, revenue, cash receipts, and other moneys attributable to the fiscal year in which the debt is issued.

Authorized Types of Debt

The Authorized District Representative shall recommend to the Board potential financing method(s) that result in the highest benefit to the District, with the cost of staff and consultants considered. Potential financing sources may include:

1. Short-Term Debt
 - a. Short-term debt, such as tax and revenue anticipation notes (TRANs), when necessary to allow the District to meet its cash flow requirements
 - b. Bond anticipation notes (BANs) to provide interim financing for capital bond projects that will ultimately be paid from general obligation bonds
 - c. Grant anticipation notes (GANs) to provide interim financing pending the receipt of grants and/or loans from the state or federal government that have been appropriated and committed to the District
2. Long-Term Debt
 - a. General obligation bonds for projects approved by voters, including general obligation bonds of school facilities improvement districts
 - b. Special tax bonds issued pursuant to the Mello-Roos Community Facilities Act of 1982
3. Lease financing, including certificates of participation (COPs)
 - a. Lease financing to fund the highest priority capital equipment purchases when pay-as-you-go financing is not feasible
 - b. Lease financing to fund facilities projects when there is insufficient time to obtain voter approval or in instances where obtaining voter approval is either not feasible or unavailable
4. Special financing programs or structures offered by the federal or state government, such as Qualified Zone Academy Bonds or other tax credit obligations or obligations that provide subsidized interest payments
5. Temporary borrowing from other sources such as the County Treasurer

COPs, TRANs, revenue bonds, or any other non-voter approved debt instrument shall not be issued by the District in any fiscal year in which the District has a qualified or negative certification, unless the County Superintendent of Schools determines, pursuant to criteria established by the Superintendent of Public Instruction, that the District's repayment of that indebtedness is probable.

Relationship of Debt to District Facilities Program and Budget

Decisions regarding the issuance of debt for the purpose of financing capital improvement shall be aligned with current needs for acquisition, development, and/or improvement of district property and facilities as identified in the District's facilities master plan or other applicable needs assessment, the projected costs of those needs, schedules for the projects, and the expected resources.

When considering a debt issuance, the Board and the Authorized District Representative may evaluate both the short-term and long-term implications of the debt issuance and additional operating costs associated with the new projects involved. Such evaluation may include, but is not limited to, the projected ratio of annual debt service to the tax burden on the District's taxpayers and the ratio of annual debt service secured by the general fund to general fund expenditures.

The District may enter into credit enhancement agreements such as municipal bond insurance, surety bonds, letters of credit, and lines of credit with commercial banks, municipal bond insurance companies, or other financial entities when their use is judged to lower borrowing costs, eliminate restrictive covenants, or have a net economic benefit to the financing.

Structure of Debt Issues

The District shall consider the overall impact of the current and future debt burden of the financing when determining the duration of the debt issue. The District shall design the financing schedule and repayment of debt so as to take best advantage of market conditions, ensure cost effectiveness, provide flexibility, and, as practical, recapture or maximize its debt capacity for future use. Principal amortization will be structured to meet debt repayment, tax rate, and flexibility goals.

For new money debt issuances for capital improvements, the District shall size the debt issuance with the aim of funding capital projects as deemed appropriate by the Board, as long as the issuance is consistent with the overall financing plan, does not exceed the amount authorized by voters, and, unless a waiver is sought and received from the state, will not cause the District to exceed the limitation on debt issuances specified in the California Constitution or Education Code 15106.

To the extent practicable, the District shall also consider credit issues, market factors, and tax law when sizing the District's bond issuance. The sizing of refunding bonds shall be determined by the amount of money that will be required to cover the principal of, any accrued interest on, and any redemption premium for the debt to be paid on the call date and to cover appropriate financing costs.

Any general obligation bond issued by the District shall mature within 40 years of the issuance date or as otherwise required by law.

The final maturity of equipment or real property lease obligations will be limited to the useful life of the assets to be financed but, with respect to a lease purchase of equipment, no longer than a period of 10 years.

Method of Sale

For the sale of any District-issued debt, the Authorized District Representative shall recommend the method of sale with the potential to achieve the lowest financing cost and/or to generate other benefits to the District. Potential methods of sale include:

1. A competitive bidding process through which the award is based on, among other factors, the lowest offered true interest cost
2. Negotiated sale, subject to approval by the District to ensure that interest costs are in accordance with comparable market interest rates
3. Private placement sale, when the financing can or must be structured for a single or limited number of purchasers or where the terms of the private placement are more beneficial to the District than either a negotiated or competitive sale

Investment of Proceeds

The District shall actively manage the proceeds of debt issued for public purposes in a manner that is consistent with state law governing the investment of public funds and with the permitted securities covenants of related financing documents executed by the District. Where applicable, the District's official investment policy and legal documents for a particular debt issuance shall govern specific methods of investment of bond-related proceeds. Preservation of principal shall be the primary goal of any investment strategy, followed by the availability of funds and then by return on investment.

With regard to general obligation bonds, the District shall invest new money bond proceeds in the county treasury pool as required by law.

The management of public funds shall enable the District to respond to changes in markets or changes in payment or construction schedules so as to ensure liquidity and minimize risk.

Refunding/Restructuring

The District may consider refunding or restructuring outstanding debt if it will be financially advantageous or beneficial for debt repayment and/or structuring flexibility. When doing so, the District shall consider the maximization of the District's expected net present value savings over the life of the debt issuance and, when using a general obligation bond to refund an existing bond, shall ensure that the final maturity of the refunding bond is no longer than the final maturity of the existing bond.

Internal Controls

The Authorized District Representative shall establish internal control procedures to ensure that the proceeds of any debt issuance are directed to the intended use. Such procedures shall assist the District in maintaining the effectiveness and efficiency of operations, properly expending funds, reliably reporting debt incurred by the District and the use of the proceeds, complying with all laws and regulations, preventing fraud, and avoiding conflict of interest.

The District shall be vigilant in using bond proceeds in accordance with the stated purposes at the time such debt was incurred as defined in the text of the voter-approved bond measure.

When feasible, the District shall issue debt with a defined revenue source in order to preserve the use of the general fund for general operating purposes.

The District shall annually conduct a due diligence review to ensure its compliance with all ongoing obligations applicable to issuers of debt. Such a review may be conducted by general legal counsel or bond counsel. Any District personnel involved in conducting such reviews shall receive periodic training regarding their responsibilities.

In addition, the Authorized District Representative shall ensure that the District completes, as applicable, all performance and financial audits that may be required for any debt issued by the District, including disclosure requirements applicable to a particular transaction.

Records/Reports

At least 30 days prior to the sale of any debt issue, the Authorized District Representative shall submit a report of the proposed issuance to the California Debt and Investment Advisory Commission (CDIAC). Such report shall include a self-certification that the District has adopted a policy concerning the use of debt that complies with law and that the contemplated debt issuance is consistent with that policy.

On or before January 31 of each year, the Authorized District Representative shall submit a report to the CDIAC regarding the debt authorized, the debt outstanding, and the use of proceeds of the issued debt for the period from July 1 to June 30 of the prior fiscal year.

The Authorized District Representative shall provide initial and any annual or ongoing disclosures required by 17 CFR 240.10b-5 and 240.15c2-12 to the Municipal Securities Rulemaking Board, investors, and other persons or entities entitled to disclosure, and shall ensure that the District's disclosure filings are updated as needed.

The Authorized District Representative shall maintain transaction records of decisions made in connection with each debt issuance, including the selection of members of the financing team, the structuring of the financing, selection of credit enhancement products and providers, and selection of investment products. Each transaction file shall include the official transcript for the financing, interest rates and cost of issuance on the day when the debt was sold ("final number runs"), and a post-pricing summary of the debt issue. In addition, documentation evidencing the expenditure of proceeds, the use of debt-financed property by public and private entities, all sources of payment or

security for the debt, and investment of proceeds shall be kept for as long as the debt is outstanding, plus the period ending three years after the financial payment date of the debt or the final payment date of any obligations or series of bonds issued to refund directly or indirectly all of any portion of the debt, whichever is later.

The Authorized District Representative shall, if requested, periodically report to the Board regarding debt issued by the District, which reports may include information on actual and projected tax rates, an analysis of bonding capacity, ratings on the District's bonds, market update and refunding opportunities, new developments for California bond financings, and the District's compliance with post-issuance requirements.

Legal Reference:

EDUCATION CODE

5300-5441 Conduct of elections

15100-15262 Bonds for school districts and community college districts

15264-15276 Strict accountability in local school construction bonds

15278-15288 Citizen's oversight committees

15300-15425 School Facilities Improvement Districts

17150 Public disclosure of non-voter-approved debt

17400-17429 Leasing of district property

17450-17453.1 Leasing of equipment

17456 Sale or lease of district property

17596 Duration of contracts

42130-42134 Financial reports and certifications

ELECTIONS CODE

1000 Established election dates

GOVERNMENT CODE

8855 California Debt and Investment Advisory Commission

53311-53368.3 Mello-Roos Community Facilities Act

53410-53411 Bond reporting

53506-53509.5 General obligation bonds

53550-53569 Refunding bonds of local agencies

53580-53595.55 Bonds

53850-53858 Tax and revenue anticipation notes

53859-53859.08 Grant anticipation notes

CALIFORNIA CONSTITUTION

Article 13A, Section 1 Tax limitation

Article 16, Section 18 Debt limit

UNITED STATES CODE, TITLE 15

78o-4 Registration of municipal securities dealers

UNITED STATES CODE, TITLE 26

54E Qualified Zone Academy Bonds

CODE OF FEDERAL REGULATIONS, TITLE 17

240.10b-5 Prohibition against fraud or deceit

240.15c2-12 Municipal securities disclosure

CODE OF FEDERAL REGULATIONS, TITLE 26

1.103 Interest on state and local bonds

1.141 Private activity bonds

1.148 Arbitrage and rebate

1.149 Hedge bonds

1.6001-1 Records

Management Resources:

CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION PUBLICATIONS

California Debt Issuance Primer

GOVERNMENT FINANCE OFFICERS ASSOCIATION PUBLICATIONS

An Elected Official's Guide to Debt Issuance, 2nd Ed., 2016

Understanding Your Continuing Disclosure Responsibilities, Best Practice, September 2015

Investment of Bond Proceeds, Best Practice, September 2014

Selecting and Managing Municipal Advisors, Best Practice, February 2014

Debt Management Policy, Best Practice, October 2012

Analyzing and Issuing Refunding Bonds, Best Practice, February 2011

INTERNAL REVENUE SERVICE PUBLICATIONS

Tax Exempt Bond FAQs Regarding Record Retention Requirements

Tax-Exempt Governmental Bonds, Publication 4079, rev. 2016

U.S. GOVERNMENT ACCOUNTABILITY OFFICE PUBLICATIONS

Internal Control System Checklist

WEB SITES

California Debt and Investment Advisory Commission: <http://www.treasurer.ca.gov/cdiac>

Government Finance Officers Association: <http://www.gfoa.org>

Internal Revenue Service: <http://www.irs.gov>

Municipal Security Rulemaking Board, Electronic Municipal Market Access (EMMA):

<http://www.emma.msrb.org>

U.S. Government Accountability Office: <http://www.gao.gov>

U.S. Securities and Exchange Commission: <http://www.sec.gov>