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*Comptroller*

## **Tennessee State Funding Board Guidelines Requests for Approval to Issue Tourism Development Zone Debt**

### **I. Background**

Public Chapter 816, Acts of 2018 amended the Convention Center and Tourism Development Financing Act of 1998 [Title 7, Chapter 88 of the Tennessee Code Annotated (T.C.A.)] (the “Financing Act”) to require the Tennessee State Funding Board (SFB) to approve any bonds, notes, or other indebtedness, including any refinancing or refunding (collectively, “debt”) having a pledge of an allocation of state and local sales and use taxes proposed to be sold pursuant to the Financing Act. The SFB adopted these Guidelines for Requests for Approval to Issue Tourism Development Zone (TDZ) debt effective September 13, 2018 (the “Guidelines”).

### **II. Requesting SFB Approval of TDZ Debt**

- A. Any request for approval of TDZ debt must be submitted to the Assistant Secretary of the SFB by the Chief Executive Officer of the municipality or public authority issuing the debt (the “Issuer”) in writing mailed to 425 Rep. John Lewis Way N, 4<sup>th</sup> Floor, Nashville, Tennessee 37243 or electronically at [SGF@cot.tn.gov](mailto:SGF@cot.tn.gov).
- B. The notice of the proposed TDZ debt must be submitted at least sixty (60) business days prior to the proposed sale date for the debt. The request for approval should be submitted at least sixty (60) calendar days prior to the proposed sale date for the debt. The Director of the Division of State Government Finance (SGF) may agree in writing to an alternative timeframe. This is not the timeframe for obtaining approval from the State Building Commission, if necessary pursuant to T.C.A. § 7-88-114(e).
- C. The request must include all items specified in the checklist attached as Appendix A along with the appropriate supporting documentation.

### **III. Request for Comptroller Approval of Plans of Balloon Indebtedness**

Upon receipt and review of a completed submission, the SFB staff will forward the request to the SFB for its consideration. On consideration by the SFB of the request to sell TDZ debt, the SFB will send the requesting Issuer a letter. If the TDZ debt is disapproved, the SFB will include the reason for disapproval. The Issuer may submit a new request for approval if it cures the issue or concerns on which the SFB’s disapproval was based and allows for sufficient time prior to the proposed sale date for the SFB staff to review the submission.

#### IV. Other Requirements

TDZ debt proposed with a balloon structure and /or with an Interest Rate Agreement or Forward Purchase Agreement must first comply with the respective SFB requirements<sup>1</sup>. Determination of compliance or approval must be obtained prior to submitting the request to issue TDZ debt. Additionally, the Issuer's debt management policy must authorize the issuance of the intended financing transaction and must require that any such debt cannot be structured for longer than the useful or authorized life of the project financed, whichever is shorter.

#### V. Definitions

- A. "Balloon Indebtedness" shall mean any debt with a delayed principal structure as defined in T.C.A. § 9-21-134(a)(1).
- B. "Chief Executive Officer" shall mean the chief elected official of a municipality or the chairman or presiding officer of the governing body of the public authority.
- C. "Forward Purchase Agreement" shall mean an agreement providing for the purchase of bonds or other obligations of a municipality or public authority when delivery of such bonds or other obligations will occur on a date greater than ninety (90) days from the date of execution of such agreement.
- D. "Interest Rate Agreement" shall mean an interest rate swap or exchange agreement, an agreement establishing an interest rate floor or ceiling or both and any other interest rate hedging agreement, including options to enter into or cancel such agreements, as well as the reversal or extension thereof.
- E. "New Money Debt" shall mean debt issued to finance a project. TDZ new money debt is issued to finance the actual construction and acquisition of the Qualified Public Use Facility ("QPUF") and Qualified Associated Development. TDZ new money debt is secured by the revenues authorized by the Financing Act.
- F. "Municipality" shall mean any incorporated city or county located in the state of Tennessee, including a county with a metropolitan form of government. [T.C.A. § 7- 88-103(4)]
- G. "Public Authority" shall mean any agency, authority, or instrumentality, created or authorized by any municipality or by two (2) or more municipalities acting jointly, including, but not limited to, any public building authority organized pursuant to the Public Building Authorities Act of 1971, compiled in Title 12, Chapter 10 or an industrial development corporation organized pursuant to Title 7, Chapter 53 of the T.C.A. [T.C.A. § 7-88-103(5)]

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<sup>1</sup> See the link below for:

SFB Guidelines for Comptroller Approval of Balloon Indebtedness and SFB Guidelines for Interest Rate/Forward Purchase Agreements <https://comptroller.tn.gov/boards/tennessee-state-funding-board/state-funding-board-information/policies.html>

- H. “Qualified Associated Development” shall mean improvements constructed or renovated by the Issuer in connection with the QPUF and related infrastructure and utility improvements for public or private peripheral development included in a master development plan for the TDZ that is constructed, renovated, or installed by the municipality or the public authority. [T.C.A. § 7-88-103(6)]
- I. “Qualified Public Use Facility” (“QPUF”) shall mean:
1. A project meeting the requirements of the Local Government Public Obligations Act of 1986, compiled in Title 9, Chapter 21 or Title 7, Chapters 53 or 89.
  2. An investment in qualified public use facilities required by a lease from a municipality shall be considered a local investment of public funds for the purposes of this Title 7, Chapter 88 of the Tennessee Code Annotated. [T.C.A. § 7-88-103(7)]
  3. QPUF includes qualified associated developments
- J. “Refunding Debt” shall mean debt that refinances previously issued debt in accordance with State statutes.
- K. “Secondary Tourist Development Zone” shall mean a TDZ that, at the time of its creation, is located more than three (3) miles from the county courthouse. [T.C.A. § 7- 88-103(8)]
- L. “Structured Lease Agreement” shall mean a lease by a municipality of a QPUF within a TDZ financed by debt issued and outstanding in compliance with T.C.A. § 7-88-107 and for which the issuer of the debt or the lessor of the facility has entered into certain agreements as provided in T.C.A. § 7-88-103(8).
- M. “Tourism Development Zone” (TDZ) shall mean an area in a municipality:
1. Designated by ordinance or resolution of such municipality in which a QPUF is located or planned, and
  2. Determined by the Department of Finance and Administration to be a beneficially-impacted area in accordance with the requirements of the Financing Act and certified as a TDZ by the Department. [T.C.A. § 7-88- 103(10)]

*Approved by the State Funding Board at its meeting on September 13, 2018*

# **Appendix A**

## **Items to Submit with Request for Approval to Issue TDZ Debt Checklist**

The following items must be submitted to the State Funding Board (SFB) with a request for approval to issue debt that is secured with a pledge of revenues authorized by Title 7, Chapter 88 (the “Financing Act”) that will either finance a Qualified Public Use Facility (QPUF) or refund debt that financed a QPUF:

- A. An approval request letter from the Issuer’s Chief Executive Officer (CEO) including the following:
  - 1. Contact information for the Issuer’s CEO and Chief Financial Officer.
  - 2. Description of the debt:
    - a. Type of debt.
    - b. Type of security (i.e. revenue; GO; etc.).
    - c. Purpose of financing.
    - d. Proposed structure.
    - e. Method of sale.
    - f. Expected debt sale date.
  - 3. Binding statement asserting that the Issuer or Municipality shall use debt proceeds for the specified QPUF in the TDZ or to refund debt that financed a QPUF in accordance with the requirements of State law.
  - 4. Binding statement asserting that the Issuer shall not issue new money or subsequent refunding debt that is secured, in whole or in part, by a pledge of the TDZ revenue with a final maturity extending beyond the fiscal year in which the final date of the apportionment and distribution of state and local sales and use taxes occurs, except as provided in the Financing Act and approved by the SFB.
  - 5. Binding statement pursuant to T.C.A. § 7-88-109 asserting that the Municipality shall repay the debt if TDZ revenues are not sufficient and further describing the sources of those backup monies.
- B. Confirmation from the Issuer that the project to be financed is certified as a QPUF by the Department of Finance and Administration and described in the State Building Commission approved application, and confirmation that the project financed by the original debt is still in service, if applicable.

- C. Debt amortization schedule as required by T.C.A. § 7-88-109 with the approval letter from the Commissioner of the Department of Finance and Administration or evidence of submission for approval. [T.C.A. § 7-88-109]
- D. Adopted Debt Authorizing Resolution.
- E. Draft preliminary official statement or offering memorandum (if it's a bank loan, a loan agreement/promissory note).
- F. Lease Agreement, if one is associated with the debt.
- G. Approved Plan of Balloon Indebtedness, if required.
- H. Positive Report of Compliance with SFB Guidelines for Interest Rate and Forward Purchase Agreements, if required.

**TDZ Refunding Debt – Additional documentation required**

The following additional items must be included if the debt is refunding debt:

- A. Confirmation of the filing of all required Annual Reports with the Commissioner of the Department of Finance and Administration and the State Building Commission. [T.C.A. § 7-88-114(f)]
- B. Report of the Plan of Refunding from the Division of Local Government Finance, if applicable.