



# Debt Policy Certification Program

*Sample Debt Policy*

# [Guidelines for Development of Your Debt Policy

The following provides guidelines for the development of your entity's debt policy.

## General Guidelines

The Debt Policy should reflect the unique nature and circumstances of your entity. As such, the size and complexity of your entity's debt program will have an impact upon the scope of the debt policy.

The policy should provide parameters for issuing and managing debt with the goal of ensuring that debt is issued prudently and cost effectively.

In developing/reviewing your debt policy, please consider a) "best practices" developed by the Government Finance Officers Association (GFOA) (<http://www.gfoa.org/best-practices>); and b) external and internal reviewers such as your counsel, bond counsel, and municipal advisor; and c) reviews/ review process by the governing/issuing body.

The policy should include the six main sections below. However, the elements and text to include within each section will vary depending upon your entity. For sample language for these sections, see the "**Sample Debt Policy**" below and the "**Resource Library**" accompanying the Debt Policy. Please note that braces ( { } ) are used to signify that the language may not be applicable or suitable for all issuers. Text shown in brackets ( [ ] ) denotes alternatives, options, or explanations.

Also, please consult the "**Debt Policy Development and Criteria Guide**".

Please note that the Sample Debt Policy is not a one-size-fits-all, and should be used only as a guide in the development of your debt policies. The policies - and the text to include -- would **need to be tailored and focused** on your entity's needs, taking into account the size and complexity of your entity.

In the end, it is important that the policies establish are suited to your entity, and can be carried out on a routine and ongoing basis.

**Required Debt Policy Sections** (Note that only the section titles are required. The elements and text to include within each section will vary depending upon your entity).

## **I. Introduction**

The introduction should state the overall purpose and provide a brief overview of the debt policy.

## **II. Governing Principles**

The governing principles section should highlight the legal framework of the debt issuance and management. As applicable to your entity, this section may speak to a) the governing laws, including local rules, regulations, and policies, b) the permitted types of debt, c) the purposes for borrowing, d) the limitations on debt issuance, and e) the ethical standards governing conduct.

## **III. Roles and Responsibilities**

The roles and responsibilities section should describe who is responsible and for what debt management functions and tasks.

## **IV. Professional Services**

The professional services section should address the services used and the selection process(es) for these services. As applicable to your entity, this section may cover a) the types and the scope of services to be provided, b) the criteria that will be used to select or appoint professionals, and c) the monitoring of the services rendered.

## **V. Transaction-Specific Policies**

The transaction-specific policies section should focus on the method of sale and the structural elements of a transaction. As applicable to your entity, the structural elements subsection may speak to the requirements or the constraints regarding a) maturity lengths, b) debt service structures, c) redemption features, and other elements as necessary.

## **VI. Compliance Policies**

The compliance policies section should emphasize requirements relating to and assuring compliance with certain rules and regulations, including continuing disclosure requirements.

## **VII. Other Policies**

The other policies section should include other elements that need to be addressed but do not belong to any of the sections above. As applicable to your entity, consider covering a) communications with rating agencies, b) refunding savings thresholds, c) derivative products, d) modeling the impact of capital program needs, and e) debt policy review.

[ISSUER NAME]

[EMBLEM OF ISSUER]

# DEBT POLICY (SAMPLE)

ADOPTED [DATE]  
(DRAFT 4/6/2017)

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## Section I. Introduction

### Purpose and Overview

The Debt Policy for [Issuer Name] (the "Issuer" is used below) is established to help ensure that all debt is issued both prudently and cost effectively. The Debt Policy sets forth comprehensive guidelines for the issuance and management of all financings of the Issuer. Adherence to the policy is essential to ensure that the [Council/Board/Authority/Committee/District ("Legislative Authority" is used below)] maintains a sound debt position and protects the credit quality of its obligations.

## Section II. Governing Principles

In the issuance and management of debt, the Issuer shall comply with the state constitution and with all other legal requirements imposed by federal, state, and local laws, rules and regulations, as applicable. The following section highlights the legal framework of the debt issuance.

### Governing Law

**State Law** - The Issuer may contract indebtedness as provided for by chapter[s] \_\_\_\_\_ RCW. Indebtedness represented by obligations for borrowed money payable from taxes is subject to the limitations on indebtedness provided for in RCW \_\_\_\_\_ and Article VIII of the Washington State Constitution. Indebtedness represented by obligations for borrowed money payable from enterprise revenues (revenue bonds) or special assessments (special assessment bonds) is not subject to these constitutional or statutory limitations. Bonds evidencing indebtedness shall be issued and sold in accordance with chapter 39.46 [and \_\_\_\_\_] RCW. Refunding bonds shall be issued in accordance with chapter 39.53 RCW.

**Federal Laws, Rules and Regulations** - The Issuer shall issue and manage debt in accordance with applicable federal tax and securities laws and regulations, including the Internal Revenue Code of 1986, as amended (the "Code"); the Treasury Department regulations thereunder; and the Securities Act of 1933 and Securities Exchange Act of 1934 and applicable Securities and Exchange Commission regulations thereunder.

**Local Laws and Regulations** - The Issuer shall issue and manage debt in accordance with the limitations and constraints imposed by local [statutes, charters, ordinances,] rules and regulations.

### Permitted Debt by Type

Subject to changes in state laws, the Issuer may legally issue debt using only the debt instruments described below: [Please see Resource Library for other examples of debt types besides the ones shown below.]

**[Unlimited Tax General Obligation Bonds]** - The Issuer is authorized to issue Unlimited [Tax] General Obligation Bonds under chapter \_\_\_\_ RCW, subject to the approval of the Legislative Authority and approval of the voters within the jurisdiction of the Issuer as required by law.

**Limited [Tax] General Obligation Bonds** - The Issuer is authorized to issue Limited [Tax] General Obligation Bonds under chapter \_\_\_\_ RCW, subject to the approval of the Legislative Authority. [Note that school districts use LGO bonds and most, if not all, others use LTGO bonds.]

**Revenue Bonds** - {e.g. enterprise revenue bonds or lease revenue bonds} The Issuer is authorized to issue Revenue Bonds under chapter(s) \_\_\_\_ RCW, subject to the approval of the Legislative Authority.]

[Please see the “Resource Library” if “Variable Rate Debt” is needed.]

**Purpose for Borrowing**

The Issuer shall issue long-term debt solely for the purpose of financing or refinancing the cost of design, acquisition and/or construction of long-lived capital projects [alternative language: “major infrastructure assets” or “implementation of capital plans” or similar] {defined in a Capital Facilities Plan, when applicable.} or to refund outstanding debt. {Add other purposes if needed}.

**Limitations on Debt Issuance**

**Legal Debt Limits** - General obligation debt is constitutionally and statutorily limited to an indebtedness amount not exceeding [depends upon your entity, sample language included below]:

- a) \_\_\_\_% of the value of the taxable property (i.e., assessed valuation), without voter approval; and
- b) \_\_\_\_% of the value of the taxable property, for total outstanding general obligation debt, including non-voted debt and bonds issued with the assent of 60% of the voters voting at an election held for that purpose, where the total number of voters casting ballots at the election is not be less than 40% of the number of votes cast in the last state general election (RCW 39.36.020 and \_\_\_\_).

[Please see the “Resource Library” if a listing of “general obligation” indebtedness is needed.]

In calculating the Issuer’s legal debt limit, the Issuer will consult with its legal advisors to determine whether particular obligations are to be treated as debt within the statutory and constitutional limits.

**{Debt Limit Policy Cap** -- The Issuer shall not exceed \_\_\_\_ % of the legal debt limits from above.} {or “Notwithstanding the aforementioned Legal Debt Limits, total borrowings shall not exceed \_\_\_\_% of the legal debt limits.} {Consider including only if the Issuer has some form of an internal policy limit in addition to the Legal Debt Limits above}.

### **Ethical Standards Governing Conduct**

The Issuer's officers and elected officials will adhere to standards of conduct as stipulated by the following:

- [Adopted policies;]
- [Code of Ethics for Municipal Officers Act, chapter 42.23 RCW;]
- [for state entities: "Ethics in Public Service Act, chapter 42.52 RCW"]; and
- Applicable federal laws, rules and regulations.

## **Section III. Roles and Responsibilities**

**Legislative Authority** – It is the responsibility of the Legislative Authority to {need to decide which tasks should be listed under the Legislative Authority and which should be listed elsewhere}:

- ✓ Approve projects to be financed {as part of a capital plan}
- ✓ Adopt an [ordinance/resolution] authorizing the issuance and sale of debt and determine whether the execution of a sale will be delegated to ["a designated representative" or specify Finance Director / Treasurer / General Manager {Other}] within the parameters for the delegation (RCW 39.46.040);
- ✓ Approve and oversee the implementation of this Debt Policy; {Note that for a county, the Finance Committee approves the county debt policy (RCW 36.48.070)}
- ✓ Approve budgets sufficient to provide for the timely payment of principal and interest on all debt;
- ✓ Approve Issuance and Post-Issuance Tax Compliance and Disclosure Policies
- ✓ ["Provide oversight for a bond sale, including appropriate review and approval of the disclosure documents (Preliminary and final Official Statements)" – if not include under the Responsible Unit below];

**[Finance Committee/Debt Committee/Finance Director/Other ("Responsible Unit" is used below)]** - The primary responsibility for debt management rests with the Responsible Unit. The Responsible Unit shall be responsible for the following tasks [see Resource Library for examples of tasks]:



## Section IV. Professional Services

### Professional Services

The Issuer shall procure professional services as required to execute financing transactions and to advise on non-transaction related work. Professional services may be provided by Municipal Advisors, Legal Counsel (Bond, Disclosure and Tax Counsel), underwriters, (“Financing Team”) and other service providers such as rating agencies, trustees or escrow agents, verification agents, printers, arbitrage rebate calculation firms, bidding agents, and credit enhancement providers.

**Selection Process** - The selection of financial and legal professionals to assist the Issuer in carrying out financing programs must be consistent with procurement procedures that may be required by federal, state or local law, or by local policy. If not required by federal, state or local law or policy, the Issuer shall use [or “may elect to use”] a competitive bid process involving a Request for Proposals (RFP), {Request for Qualifications (RFQ),} or similar process. [Alternatively, could refer to the procurement manual/policies: “ - The selection of financial and legal professionals to assist the Issuer in carrying out financing programs must be consistent with procurement procedures specified by the procurement manual [policies].”]

{For additional detail, see the “Resource Library”}.

**Appointment of Municipal Advisor (previously Financial Advisor) (“Municipal Advisor”)**<sup>1</sup>  
The Issuer will [optionally “may” if “sufficient in-house expertise and access to current bond market”<sup>1</sup>] select a municipal advisor (or advisors) to assist in the issuance and administration of all debt. The firm(s) selected as municipal advisor will provide a full range of advisory services in connection with the Issuer’s financing programs and must be a duly registered Municipal Advisor under applicable Securities and Exchange Commission (SEC) and Municipal Securities Rulemaking Board (MSRB) rules. [Please see the Resource Library for sample language, if a list of the scope of services is needed].

{Also, please see the Resource Library for sample language if scope services for the Municipal Advisor are limited to bond pricing services}

A Municipal Advisor under contract with the Issuer will not purchase or sell any Issuer debt.

The Responsible Unit shall monitor the services provided by the Municipal Advisor(s).

**Appointment of Bond Counsel**<sup>2</sup> (“Bond Counsel”). - Bond Counsel renders an opinion on the validity of an offering of debt, the security for the offering, and whether and to what extent interest on the debt is exempt from federal income tax.

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<sup>1</sup> [For this section, please consult with GFOA’s best practices regarding “Selecting and Managing Municipal Advisors”: <http://www.gfoa.org/selecting-and-managing-municipal-advisors>; and NABL’s guide regarding “The Function and Professional Responsibilities of Bond Counsel”.]

<sup>2</sup> [For this section, please consult with GFOA’s best practices regarding “Selecting Bond Counsel”: <http://gfoa.co/selecting-bond-counsel>.]

All debt issued by the Issuer shall be accompanied by a written opinion by legal counsel affirming that the Issuer is authorized to issue the proposed debt, that the Issuer has met all federal, state, and local legal requirements necessary for issuance and, where applicable, a determination of the proposed debt's federal income tax status. This approving opinion and other documents relating to the issuance of debt shall be prepared by a nationally recognized legal firm with extensive experience in public finance and tax issues, significant operations in Washington State and experience with Washington State law.

The firm selected as Bond Counsel may be engaged to provide the full range of legal services required in connection with a) the issuance and delivery of particular bond issues ("Bonds") and b) on-going legal services for the Issuer financing programs, including advising the Issuer on compliance with regulatory requirements. [Please see the Resource Library for sample language, if listing out the scope of services].

The [General Counsel / Legal Counsel / Prosecutor / City Attorney / City Manager / Finance Director / Treasurer / Responsible Unit {Other} ("General Counsel" is used below)] shall submit to the Legislative Authority [or Applicable Executive Officer] a recommendation for the appointment of Bond Counsel(s). The recommendation shall be accompanied by an evaluation of options and a justification for the recommended course of action. The General Counsel shall monitor the services rendered by the Bond Counsel(s).

A Bond Counsel under contract with the Issuer will not simultaneously represent any other party involved in an Issuer's financing, unless an expressly written waiver of the conflict of interest is obtained from the Issuer.

**Appointment of Underwriters**<sup>3</sup> - If a negotiated sale is approved under Section IV below, the Responsible Unit shall select an underwriter(s). The primary role of the underwriter in a negotiated sale is to market the debt to investors and purchase the debt from the Issuer. The selection of underwriters shall [may] {note that GFOA recommends the use of a RFP<sup>3</sup>} be based upon a competitive evaluation of proposals submitted in response to a Request for Proposals.

Respondents shall present in their proposal [alternative text: "Prior to starting work on a particular financing, the underwriter shall provide"] a complete and detailed list of all proposed fees and expenses, including, but not limited to takedown, management fees, and itemized not-to-exceed underwriting expenses to be paid by the Issuer. [The underwriting expense component must be discussed/reviewed by the Responsible Unit prior to the day of pricing and finalized and approved on or before the day of pricing.]

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<sup>3</sup> [For this section, please consult with GFOA's best practices regarding "Selecting and Managing Underwriters for Negotiated Bond Sales": <http://www.gfoa.com/selecting-and-managing-underwriters-negotiated-bond-sales>. Please note that the MSRB Rule G-23 prohibits the same broker-dealer from serving as both a municipal advisor and underwriter on the same transaction, and that the new SEC Municipal Advisor Rule, effective July 1, 2014, has implications for the manner in which an underwriter may interact with an issuer. For background, please see "GFOA Issue Brief: SEC Municipal Advisor Rule": <http://www.gfoa.org/gfoa-issue-brief-sec-municipal-advisor-rule>.]

The Responsible Unit with assistance from the independent municipal advisor, if applicable, shall monitor the services rendered by the underwriter(s).

If an issue is sold by a competitive sale, the issue will be awarded to the qualified bidder offering the lowest true interest cost to the issuer.

**Appointment of Arbitrage Rebate Calculation Firm** – The Responsible Unit shall, when deemed necessary, procure the services of an arbitrage rebate calculation firm. The purpose of the arbitrage rebate calculation firm is to provide arbitrage rebate compliance services in accordance with the Code.

{“**Appointment of \_\_\_\_\_**” – See the Resource Library for examples of additional service providers and additional language – if desired, taking into considerations your entity’s needs, size and complexity.}

## Section V. Transaction-Specific Policies

### Method of Sale<sup>4</sup>

The Issuer shall select a method of sale that is most likely to achieve the lowest cost of borrowing while taking into account both short-range and long-range implications for taxpayers and ratepayers, based on a thorough analysis of the relevant rating, security, structure, market conditions, and other factors pertaining to the proposed issue [, as per GFOA’s Best Practices regarding “Selecting and Managing the Method of Sale of Bonds”].

[Alternative text: “Unless otherwise justified and deemed necessary to minimize the costs and risks of the Issuer’s debt issue, the issuance and sale of all fixed rate debt shall be achieved by competitive bid.”].

**Competitive Bid Method** - Debt issued on a competitive bid basis will be sold to the bidder offering the lowest true interest cost to the Issuer.

{If debt is sold on a competitive bid basis, bids should take the form of electronically transmitted offers to purchase the debt through a qualified electronic bid provider.}

**Negotiated Sale Method** – When market conditions or special complexity or other features of a debt issuance may cause the debt issuance to be less suited for sale by the competitive bid method, the Responsible Unit will submit to the Legislative Authority a request to sell the debt issue on a negotiated basis. [Alternative text: “... will submit to the Legislative Authority an authorizing ordinance /resolution providing for a negotiated sale.”]

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<sup>4</sup> [For this section, please consult with GFOA’s best practices regarding “Selecting and Managing the Method of Sale of Bonds”: <http://www.gfoa.com/selecting-and-managing-method-sale-bonds>.]

If debt is sold on a negotiated basis, the negotiations of terms and conditions shall include, but not be limited to, prices, interest rates, yields, priority of orders, and underwriting or remarketing fees.

The Issuer [, with the assistance of its Municipal Advisor,] shall evaluate the terms offered by the underwriting team. Evaluations of prices, interest rates, yields, and fees shall include prevailing terms and conditions in the marketplace for comparable issuers.

If more than one underwriter is included in the negotiated sale of debt, the Issuer shall establish appropriate levels of underwriting liability and the method of allocating compensation among the members of the underwriting group.

The Responsible Unit shall require a post-sale analysis and reporting for each negotiated bond sale. [The Municipal Advisor [underwriter] shall perform such analysis and provide a final pricing book by the day of the closing.] [A post-sale analysis will include, but not be limited to:

- ✓ Summary of the pricing, including copies of the actual pricing wires;
- ✓ Results of comparable bond sales in the market at the time of the Issuer's pricing;
- ✓ Historic comparisons to Municipal Market Data indexes -- day of sale basis;
- ✓ Details of orders and allotments.]

**[Private Placement / Direct Purchase / Bank Loan** – {Please see Resource Library for language if including}]

[No debt issue will be sold on a negotiated basis without the participation of an independent municipal advisor.]

### **Debt Structural Elements**

**Maturity** - The Issuer shall issue debt with an average maturity that is not longer than the weighted average reasonably expected economic life of the assets being financed. [The Issuer shall not issue debt with a maturity longer than \_\_\_\_ years)].

**Debt Service Structure** - Unless otherwise justified, debt service should be structured on a level annual payment basis. Refunding bonds issued to achieve interest cost savings should typically be structured to produce approximately level savings in each fiscal year. [Unless otherwise justified, debt shall not have capitalized interest.] [If appropriate or required by applicable bond covenants, debt service reserve funds may be used.]

**Coupon Type** - Unless otherwise justified, long-term debt will be sold with maturities paying interest on a periodic basis. [If justified and deemed necessary, capital appreciation bonds (zero coupon bonds) may be issued.]

**Redemption Features** - For each transaction, the Issuer shall evaluate the costs and benefits of call provisions.

**[Maturity Structure** - The Issuer’s long-term debt may include serial and term bonds. Unless otherwise justified, term bonds should be sold with annual mandatory redemption requirements.]

**[Tax-exemption** - Unless otherwise justified, the Issuer shall issue its debt on a tax-exempt basis.]

**[Bond Insurance** - For each transaction, the Issuer [may] [shall] evaluate the costs and benefits of bond insurance or other credit enhancements. [Any credit enhancement purchases by the Issuer shall be competitively procured.]]

{If the Issuer is a school district, could consider including a statement regarding the utilization of the School Bond Guarantee Program}.

## **Section VI. Compliance Policies**

{For sample alternative text for “Tax Compliance” and “Disclosure Compliance” please see the Resources manual}.

### **Issuance and Post-Issuance Tax Compliance Policies and Procedures**

The Issuer, in consultation with its bond counsel and other members of the Financing Team, as appropriate, shall adopt comprehensive compliance policies and procedures to ensure that the Issuer complies with requirements of the Code, both at the time of issuance and post-issuance, as necessary to maintain the tax exemption for tax-exempt debt. The Compliance Policy or Procedures shall provide for procedures to monitor compliance periodically while the debt is outstanding whether requirements of the federal arbitrage regulations and the restrictions of the federal private activity bond regulations applicable to the investment and use of proceeds of tax-exempt bond issuances, as well as the facilities financed with those proceeds, are being properly observed.

### **Arbitrage Liability Management**

Because of the complexity of arbitrage rebate regulations and the severity of non-compliance penalties, the Issuer shall solicit the advice of bond counsel and other qualified experts about arbitrage rebate calculations. The Issuer shall, when deemed necessary or when required, contract with a qualified third-party for preparation of the arbitrage rebate calculation.

The Issuer shall maintain an internal record-keeping system for tracking investments and expenditures of bond proceeds. [The expenditure of bond proceeds shall be tracked in the financial accounting system by issue.]

**Issuance and Post-Issuance Disclosure Policies and Procedures**

The Issuer, in consultation with its bond counsel and other members of the Financing Team, as appropriate, shall adopt comprehensive policies and procedures relating to the Issuer’s disclosure obligations. These include (i) the preparation, vetting/ review and approval of official statements for all public offerings of its securities that must be delivered to the underwriter for distribution to potential and actual purchasers and that set forth the terms of the securities and information regarding the Issuer; (ii) compliance with continuing disclosure obligations entered into by the Issuer pursuant SEC Rule 15c2-12 that require the Issuer to provide certain annual financial information and event notices to the public; and (iii) ensuring that if and when the Issuer provides information that can reasonably be expected to be relied on by the financial market, that such information is not inaccurate or misleading.

**Section VII. Other Policies**

**Rating Agencies**

The Responsible Unit [, in consultation with its municipal advisor,] shall manage relationships with the rating analysts assigned to the Issuer’s credit, using both informal and formal methods to disseminate information.

**Refunding Savings Thresholds**

Refundings will be conducted in accordance with the Refunding Bond Act, chapter 39.53 RCW. Issuer will consider refinancing debt to achieve savings as market opportunities arise.

Unless otherwise justified, an “advance refunding” [transaction or “of a maturity”] will require a minimum present value savings of [five] percent of the principal amount of the refunded debt [refunding debt being issued]. {For an example of thresholds that vary depending on the period before the call date, please see the “Resource Library”}

Unless otherwise justified, a “current refunding” [transaction or “of a maturity”] will require minimum present value savings as follows:

<b>Years Between Call and Final Redemption</b>	<b>Present Value Threshold</b>
[>= 1 and <3 years]	[1%]
[>= 3 and <5 years]	[2%]
[>= 5 and <7 years]	[3%]
[>= 7 and <9 years]	[4%]
[9+ years]	[5%]

The Issuer shall evaluate the efficiency of a refunding (i.e., the impact of negative arbitrage) and breakeven rates. {Escrow efficiency is defined as PV Savings / PV Savings for a perfect escrow.}

{The issuer shall calculate PV savings using the arbitrage yield [/ True Interest Cost ("TIC") / All-inclusive Cost ("AIC")}

{For other examples of refunding policies, please see the "Resource Library"}

[When considering Refunding Savings Thresholds, the Responsible Unit should seek advice from its municipal advisor.]

### **Derivative Products**

No derivative products will be utilized unless permitted by law, and after adoption of a swap or derivative policy by the Legislative Authority. No derivative products shall be utilized without an analysis by an independent municipal advisor. No derivative products shall be used for the purpose of speculation. {If the policy allows for the use of derivatives, a separate and comprehensive derivatives policy should be developed (see GFOA's Advisory, Developing a Derivatives Policy and Derivatives Checklist).}

### **Evaluating the Impact of Capital Program Spending**

The Issuer shall evaluate the impact of capital program spending, operations and maintenance costs, and debt service on its financial condition. {Please see Resource Library for additional language, if needed}

### **Debt Policy Review**

The Issuer shall review and update its debt policy, as necessary -- but not than less than once every four years.