FISCAL POLICY MANUAL

POLICY I-2: Policy for Financial Assistance Guidelines
APPROVED: Auditor-Controller-Treasurer-Tax Collector (ACTTC)
AUTHORITY: Auditor-Controller-Treasurer-Tax Collector (ACTTC)
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I. PURPOSE

Periodically, a County Supervisor, the County Auditor-Controller/Treasurer-Tax Collector (the "County Treasurer"), or the County Administrator is approached by organizations seeking financing for various projects and programs. Predominantly, requests are made for short term, temporary funding, to fill the gap of time between current expenditure needs, and an unrealized future source of funding.

The following guidelines will help the reader better understand what legally acceptable avenues of financial assistance/support exist for these requests. If you have any questions regarding how to interpret these guidelines, please call the Revenue & Debt Division Manager, Jonathan Kadlec, at 565-6124.

II. POLICY

A. The County Treasury

1. Temporary Transfers (California Constitution, Article XVI, § 6)

   The California Constitution allows the County Treasurer to make temporary transfers to any city, district, or political subdivision whose funds are in the custody of the County Treasury. Transfers can only be made from July 1 through the last Monday in April of the current fiscal year, and must be repaid from revenues prior to any other obligation of the borrower. On July 1, the amount of the advance may be up to 85% of anticipated revenues accruing within the current fiscal year. All transfers must have the prior approval of the local governing board of the borrowing entity. In addition to the repayment of principal, the borrowing entity must also pay the Treasury pooled rate of interest on the principal amount of outstanding indebtedness, up until the repayment date.

   On February 20, 1991, the Sonoma County Board of Supervisors approved resolution #90-0271 delegating authority to the County Treasurer to approve temporary transfers, secured wholly by funds collected through the property tax system. Any other outside source of revenues used to secure a transfer must receive both approval of the borrowing entity's local board, and the County Board of Supervisors.

2. County Treasury Investments – Local Agency Debt (Government Code § 53601(a) and (d))

   From time to time local government agencies may issue bonds, notes, warrants or other evidences of indebtedness that the County Treasurer may invest in, provided that the County Treasurer deems the investment to be secure, and provided the investments meet all other investment criteria as outlined in the County Treasurer's Investment Policy, as approved by the Board of Supervisors. The following are the basic criteria for this type of investment:

   i. The local agency must have the legal authority to issue the indebtedness. For example, pursuant to GC § 53850 et seq., local government agencies are authorized to issue tax revenue anticipation notes (TRAN). The Treasury requires the issuing agency's counsel to write a letter verifying that the agency has the authority to issue the note, and specifying the statutory authority that applies. Pursuant to GC 53635.7, the County Treasurer will also require the local governing board to have discussed and deliberated each borrowing decision of $100,000 or more, prior to issuance of the proposed indebtedness.

   ii. There must be a secure source of repayment for the protection of the Treasury Pool participants. Valid sources might include a final grant award, revenue streams such as sales tax money, fees or charges that meet or exceed the repayment period, an agency general fund, or other secure sources subject to review and approval by the County Treasurer.

   iii. In no event is the County Treasurer permitted to purchase investments with a remaining term to maturity of five years or more, unless the County Board of Supervisors has granted the express authority to make that specific investment, or as part of an investment program approved by the Board at least 3 months prior to the investment.

B. The County

After considering other first line financing options such as CSAC's California Communities Joint Powers Authority, commercial banks or other funding sources, the County may use debt as an alternate means of financial assistance in two ways, either as an issuer of debt or a purchaser of debt. In general, debt is divided into two categories, short term and long term. By definition, short term typically means 13 months or the end of the current fiscal year, and long term debt is greater than 13 months or beyond the end of the current fiscal year.

1. Short Term Debt Issuance

   Pursuant to GC § 53820, 53840 & 53850 et seq., short term debt instruments such as a TRAN (Tax Revenue Anticipation Note), GAN (Grant Anticipation Note), or BAN (Bond Anticipation Note) may be issued by approval of the Board of Supervisors. Notes are typically issued to bridge a cash flow shortage for a specific project or need.

2. Long Term Debt Issuance

The County may not issue long-term debt, meaning any type of debt instrument with maturity of 13 months, or greater than the end of the current fiscal year, without a two-thirds majority vote of the citizens of Sonoma County. Examples of debt subject to this limitation include GO bonds or Revenue bonds. There are exceptions for lease instruments (certificates of participation, or "COP's", and master lease-purchases), where the county is annually paying for value it receives, and the debt cannot be accelerated. These instruments are quite complex and bond counsel is normally retained to draft the documents. A lease-purchase borrowing of $500,000 or more is only used when financially prudent, and at the recommendation of the CAO and the Debt Advisory Committee, and with Board approval, in order to finance significant capital improvement projects such as buildings, building improvements or major systems acquisitions. Lease-purchases under $500,000 are subject to normal County Purchasing guidelines and approvals.

3. Debt Purchase

Pursuant to GC § 53601, the County may also purchase or invest in debt instruments of local agencies or districts. The types of investments are also defined by GC § 53601. Consideration of this option means that the County Treasurer within his fiduciary responsibility cannot purchase the contemplated debt as an investment under the Treasury investment policy guidelines. Inherently, the debt is less secure than Treasury investments and thus shall be subject to underwriting guidelines in order to be considered for purchase (See Appendix A). Use of this option should be for the purposes of accomplishing an overriding public policy goal. The issuing agency must also demonstrate that they have the legal debt capacity to issue the debt being considered. For the protection of the County, any type of debt purchased must have a clearly defined, legal source of repayment and collateral. Use of this option as a means of financial assistance is dependent upon the General Fund having sufficient cash flow available after all reserve and operational cash flow obligations are met. Because of the potential risk to the General Fund, the County Treasurer and County Administrator shall be consulted in conjunction with this option, and a recommendation presented to the Board of Supervisors.

C. Other

Notwithstanding the previous guidelines, pursuant to GC § 26227, the Board of Supervisors may appropriate and expend money from the general fund of the County, or any other fund under their authority, to establish or fund programs deemed necessary to meet the social needs of the population of the County. Purposes allowed under this code section are broad and sweeping in nature. If consideration for financial assistance for a specific need outside of the funding of normal County operations is being contemplated, then a policy determination will have to be made to approve the proposed financing program. Assistance of this type must be processed in the normal budgetary process using ordinary budget controls.

D. Summary

In particular, any type of financial assistance provided through a method that poses a potential liability to either the General Fund or the Treasury Pool should at a minimum follow the aforementioned guidelines. In addition, these requests should generally be considered only when the following criteria can be met:

1) Safety of Funds – Protection of principal
2) Liquidity of Funds
3) Yield or Fair Return on Investment
4) Public Benefit

An evaluation of each request should be made on a case by case basis, with the goal of meeting these criteria. Please refer to Appendix A for underwriting guidelines to be used as a starting point. In general, the highest priority will be given to the safety and protection of principal, and each request will be evaluated using items #1-3 of the underwriting guidelines. If a request cannot meet the safety of principal test then no further evaluation is needed as the request will be denied. If the request meets the safety of principal test, then a further analysis of liquidity and yield will be performed using items #4-6 of the underwriting guidelines. Finally, a discussion of public benefit will be balanced against the other factors in arriving at a final decision. In all cases the County will require that proper documentation is provided and under no circumstances will subordination be allowed (#7 and #8 underwriting guidelines).

III. Responsibilities

The ACTTC will evaluate each request on a case by case basis. A discussion of public benefit will be balanced against the other factors in arriving at a final decision. In all cases the County will require that proper documentation is provided and under no circumstances will subordination be allowed (#7 and #8 underwriting guidelines).

APPENDIX A: UNDERWRITING GUIDELINES

The following criteria are factors that will be considered in order to qualify any County purchase of debt issued by an outside agency. This is not necessarily a comprehensive set of guidelines and there may be additional factors that are unique to the nature of a debt issue that need to be considered on a case specific basis.

1. Acceptable Collateral - Primary

   A. Tax Revenue (Parcel Tax, Sales Tax or Property Tax)
   B. Grants or Subsidies in favor of the County

2. Secondary Collateral

   A. Real Property
   B. Bank Secured Letter of Credit
   C. Acceptable Securities
   D. Cash Reserve or equivalent

3. Debt Service Coverage Ratio

   The Debt Service Coverage Ratio which is defined as the ratio of Net Annual Operating Revenues to Annual Debt Service should be 1.25 times or greater.

4. Term

   The term of any debt purchase by the County must be five years or less unless the Board of Supervisors approves a term of greater than five years.

5. Rate

   The rate on any debt purchased shall not be less than the current County Treasury Pool rate plus administrative costs to manage the debt purchase.

6. Size

   The size of a debt purchase is dependent upon the General Fund having sufficient cash flow available after all reserve and operational cash flow obligations are met.

7. Documentation

   At a minimum, any purchase of debt requires an opinion letter from Bond Counsel that the debt is issued in accordance with relevant State law, a Purchase Agreement, a Promissory Note and any other documents deemed necessary to the transaction. All documentation will be subject to review by County Counsel.

8. Subordination

   The County will not subordinate its repayment priority to any other debt issued subsequent to that debt being purchased by the County.