Mississippi Department of Finance & Administration

Title 12: **Finance & Administration**
Part 7: **Bond Advisory Division**
Part 7 Chapter 1: **Debt Management Policy**

Rule 1.1 <u>Introduction</u>

This debt management policy is designed to provide for the effective management of the general obligation debt issued by the State of Mississippi under the purview of the State Bond Commission in a manner consistent with state and federal law and State Bond Commission policies.

Source: §31-17-1, 31-18-3, 31-18-5, 31-17-153

<u>Rule 1.2 Debt Management Objectives</u>

The State Bond Commission's objectives within this policy are to maintain (1) compliance with state and federal law, (2) cost-effective access to the capital markets through prudent policies, and (3) moderate debt and debt service payments with effective planning.

The State Bond Commission will revise this document as needed to comply with changes to federal and state guidelines or State Bond Commission policies.

Source: §31-17-1, 31-18-3, 31-18-5, 31-17-153

<u>Rule 1.2A Project Compliance with Debt Management Objectives</u>

Unless otherwise directed by law, the State Bond Commission may only issue general obligation debt on behalf of the State of Mississippi if the project for which the debt is issued meets the following criteria:

(1) In the instance of issuance of a tax-exempt bond, the project is for public use and does not meet any of the Private Activity Bond tests specified in 26 U.S. Code § 141, et. seq. (Subpart A – Private Activity Bonds); or, in the instance of issuance of a Private Activity Bond, the Commission has clear and convincing evidence of economic use and benefit, including economic development, job creation, or other improvement of the public welfare;

(2) The project asset has a life equal to or longer than the life of its corresponding debt;

(3) No expenditures were made before the anticipated delivery date of the bonds, except in situations where the entity obtains a Declaration of Intent from the State Bond Commission;

(4) The authorized entity has submitted sufficient information to ensure the project asset is specific, not generic in nature; and

(5) The project is not the funding of salaries or other recurring expenses.

For purposes of examining projects, the State Bond Commission may use definitions also utilized by the Governmental Accounting Standards Board, or GASB, where appropriate.

Members of the Bond Commission may consider the financial impact on taxpayers throughout the state and over the lifetime of the bond repayment. Members of the Bond Commission may also consider whether the benefit of the project is primarily to the state or to the local economy, and whether other state, federal or private funding mechanisms (including but not limited to, local bonds, privilege taxes, grants, loans from the Mississippi Development Bank, Mississippi Development Authority, the Mississippi Department of Environmental Quality, USDA Rural Development, and/or from a direct appropriation) might be available and more appropriate to generate the required funding for the project.

The members of the Bond Commission should endeavor to make themselves fully available to the members of the Legislature so that only projects that meet the above criteria are included in bond bills brought before the Legislature for passage.

Entities with projects authorized by the Legislature in bond bills are strongly urged not to rely on such funds until such time as the Bond Commission has approved the corresponding debt.

The members of the Bond Commission should endeavor to ensure that all projects included in any resolution brought before the Bond Commission meet the above criteria. Entities with projects authorized by the Legislature in bond bills are urged to provide the members of the Bond Commission with any information requested and as necessary to ensure that these guidelines are met. The Department of Finance and Administration shall gather sufficient information from non-State agency entities to allow the members of the Bond Commission to evaluate the project based on these criteria.

Source: §31-17-1, 31-18-3, 31-18-5, 31-17-153, 31-17-101

Rule 1.3 Debt Issuance Authority and Limitations

The State Bond Commission is established under the statutory authority of Section 31-17-1, Mississippi Code of 1972. The State of Mississippi issues its general obligation debt only upon authorization granted by the Mississippi Legislature through the passage of legislation. The authority for the Bond Commission to issue variable rate debt is found in Sections 31-18-3 and 31-18-5. The Bond Commission is further authorized by Section 31-17-153 to make temporary borrowings in anticipation of the issuance of state-supported debt.

Source: §31-17-1, 31-18-3, 31-18-5, 31-17-153

Rule 1.4 Solicitation and Procurement

When allowed by state law, the State Bond Commission may use a competitive or a negotiated process to select the bond counsel, financial advisor, swap advisor, underwriter, swap counterparty, liquidity provider, paying agent, insurer, remarketing agent, trustee, surety provider, etc. for its debt as the State believes business, market or competitive conditions justify such a process.

Source: §31-17-1, 31-18-3, 31-18-5, 31-17-153

Rule 1.4A Selection of Bond Counsel

The State of Mississippi selects bond counsel through a competitive or negotiated selection process to provide bond and tax counsel services related to the issuance of general obligation and revenue bonds of the State. Bond counsel are expected to provide validity opinions, tax opinions, tax counsel services, disclosure counsel services related to the State's preliminary statement and final official statement, and additional special services as may be required from time to time. It is essential that bond counsel have the necessary expertise to provide an opinion that can be relied on and will be able to assist the issuer in completing transactions in a timely manner.

The State Bond Commission will establish a list of eligible firms that may serve as bond counsel through a Request for Qualifications (RFQ) issued on behalf of the Commission through the Department of Finance & Administration (DFA). The RFQ will set out eligibility requirements for respondents, selection process, scope of services, conditions for submitting responses, proposal content, evaluation criteria, and any additional information necessary for ensuring both that the highest quality bond counsel is selected and that the selection process is transparent, fair, and efficient. The Bond Commission shall review its relationships with bond counsel on a regular basis.

Prospective bond counsel must meet the following criteria:

1) Must be listed in the section entitled "Municipal Bond Attorneys" in the Mississippi section of the most recent edition of The Bond Buyer's Municipal Marketplace;
2) Must have given solo validity and tax opinions in municipal financing transactions since passage of the federal Tax Reform Act of 1986 or must have served as co-counsel in giving validity and tax opinions in at least four separate municipal financing transactions since passage of the federal Tax Reform Act of 1986;
3) In instances for which specialized tax advice beyond normal bond counsel services may be required, must have attorneys who practice full-time in the area of public finance tax law or must be able to identify a sufficient alternative to providing competent specialized tax advice;
4) In instances for which specialized securities law services beyond normal bond counsel services may be required, must have attorneys who practice full-time in the area of municipal securities law or must be able to identify a sufficient alternative to providing competent specialized municipal securities law advice;
5) Must have no relationships or activities that might present a conflict of interest for the State;
6) The lawyer(s) who will be primarily responsible for providing the legal services necessary (a) must be licensed or admitted to practice law in Mississippi, (b) must satisfy the requirements of (2) above, and (c) must agree to primarily perform the legal service requested in Mississippi; and
7) Must carry a level of malpractice insurance, including deductible, to cover errors and omissions, improper judgment, or negligence appropriate for the magnitude of the issue.

When necessary, the State Bond Commission may select an eligible firm to serve as bond counsel for a specific financing or financing related matter. The selection of bond counsel for a specific financing or financing related matter will be accomplished through a competitive selection process unless the State Bond Commission deems it necessary to use a negotiated process due to the complexity or the specific nature of the service required of bond and tax counsel.

Bond counsel proposals submitted for competitive selection will be evaluated solely on:

(1) Fees and expenses; and
(2) The ability to provide specialized legal and tax services that may be required for the specific financing for which bond and tax counsel are being sought.

When bond counsel is selected through the negotiated selection process, the reasonableness of the bond counsel fees and expenses should be evaluated based on the criteria laid out in the American Bar Association's Model Rules of Professional Conduct Rule 1.5(a):

(1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) The fee customarily charged in the State for similar legal services;

(4) The amount involved and the results obtained;

(5) The time limitations imposed by the client or by the circumstances;

(6) The nature and length of the professional relationship with the client;

(7) The experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) Whether the fee is fixed or contingent, and if contingent, the fee agreement must be in writing and signed by the State.

No member of the Mississippi Legislature, any elected or appointed State official, or any partner or associate of any member of the Legislature or any elected or appointed State official may receive any compensation from any selected bond counsel which is any way related to the legal services to be performed by the bond counsel.

Source: §31-17-1, 31-18-3, 31-18-5, 31-17-153, 31-17-101

Rule 1.5 <u>Build America Bonds</u>

The American Recovery and Reinvestment Act of 2009 (“ARRA”) authorized bonds known as Build America Bonds (“BABs”). ARRA added Section 54AA to the Internal Revenue Code (the “Code”), which authorizes state and local governments to issue BABs as taxable governmental bonds with federal subsidies for a portion of the borrowing costs. Direct Payment BABs are a type of Build America Bond that provides a direct federal subsidy to the government issuer in an amount equal to 35% of the state interest on the bonds. Recovery Zone Economic Development Bonds, like the Direct Payment BABs, provide a federal subsidy to the issuer in an amount equal to 45% of the state interest on the bonds. IRS Notice 2009-26 sets forth guidance on issuing BABs and on the payment of the interest subsidy. BABs had to be issued prior to January 1, 2011.

In general, a Build America Bond is any obligation that (1) is not a private activity bond, (2) but for Section 54AA of the Code, it would be a tax exempt obligation under Section 103 of the Code, (3) is issued before January 1, 2011, and (4) the issuer makes an election to have Section 54AA apply. In order for an issuer to receive the 35% subsidy from the US Treasury, the Build America Bonds must be “qualified bonds” under Section 54AA which means that 100% of “available project proceeds” of the bond issue must be used for capital expenditures after allowing for a reasonably required reserve fund. “Available project proceeds” are the excess of the proceeds of the sale of the BABs over costs of issuance financed by the issue of not more than 2 percent, plus investment earnings on the excess.

Source: §31-17-1, 31-18-3, 31-18-5, 31-17-153

Rule 1.6 Variable Rate Debt

Variable rate debt is a useful tool for the State Bond Commission to utilize to diversify its debt portfolio, reduce interest costs, provide interim financing for capital projects and improve the match of assets to liabilities. The State Bond Commission will use the guidelines set forth below to evaluate potential uses of variable rate debt and/or derivatives in managing the State’s overall interest rate risk profile. Each transaction will be evaluated and analyzed for the long-term implications of such agreements for the State’s finances and will be structured to complement the overall asset/liability position of the State. When recommending the use of variable rate debt and/or derivatives, the State Bond Commission will examine, among other things, the cost of borrowing, historical interest rate trends, risk-reward trade-offs, variable rate debt capacity, and opportunities to refund associated debt obligations. The Commission must approve all state supported debt and derivative transactions.

A. Variable Rate Debt Guidelines

   Permitted Instruments – The State may use at its discretion variable rate instruments and interest rate swaps or similar agreements which result in the State effectively paying interest at a rate or rates which vary from time to time. Decisions about which mode of variable rate debt to incur at any point in time will be based on the relative costs, benefits and risks to the State. Factors to consider will include:

   1. Cost and availability of liquidity facilities and/or letters of credit/bond insurance;
   2. Cost to implement and manage the program on an ongoing basis;
   3. Ability to convert to a different interest rate mode or redemption flexibility;
   4. Trading performance of underlying variable rate securities;
   5. Demand in the market.

B. Budgeting for Variable Rate Debt

   The State Treasury Bond Director and the Deputy Treasurer will use conservative budgeting practices in association with its variable rate debt so that a cushion, which may change from year to year depending upon budget conditions as well as other factors enumerated in this policy, is built into the budget to guard against an unexpected increase in the variable interest rates.

C. Evaluation and Management of Risks for Variable Rate Debt

The State recognizes that variable rate exposure carries inherent risks not present in traditional fixed rate transactions. The following areas of potential risk shall be included in the evaluation of the proposed transaction and monitored on an ongoing basis after issuance to determine if the variable rate debt is still achieving its objectives:

1. Interest Rate Risk – the risk that the State will be exposed to rising interest rates. This risk can be mitigated through conservative budgeting practices, matching variable rate liabilities with offsetting investment assets that will produce higher income in rising interest rate environments or by utilizing derivatives;

2. Liquidity Risk – arises when a variable rate borrowing has a demand feature that allows bondholders to tender their bonds or notes back to the issuer at their option, or upon occurrence of certain designated events. If the State has secured liquidity through a bank agreement, then the terms of the bank agreement could require the State to repay the bank in a relatively short period (the "term-out"). If the State has provided self liquidity, then the risk would be the possibility of drawing against current funds;

3. Rollover/Renewal Risk – arises when the variable rate borrowing has a demand feature and the liquidity support does not extend for the life of the bonds. In this situation, the State may lose access to the liquidity facility and face the need to either identify an alternative provider, at a potentially higher costs, or convert bonds to a payment mode that does not have a demand feature, potentially on relatively short notice and at a potentially higher rate of interest;

4. Remarketing/Auction Failure Risk – arises when a failure occurs in the ongoing remarketing or the periodic auctions. In case of Variable Rate Demand Bonds (VRDBs) this may result in replacing a remarketing agent or a put on the bonds to the liquidity provider, and ultimately, to the State. In the case of Auction Rate Notes (ARNs), this may result in paying the maximum rate or replacing the auction agent/broker-dealer; and

5. Tax Risk – the risk of potential changes to the Federal and/or State income tax laws, regulation, etc. affecting interest payments on variable rate debt obligations. This risk in inherent in any issuance of VRDBs or ARNs since the interest rates are reset periodically at market levels and are not fixed at the time of issuance.

Source: §31-17-1, 31-18-3, 31-18-5, 31-17-153

Rule 1.7 <u>Derivatives</u>

This section sets forth the State's policy as it relates to derivatives, which may be entered into prior to, simultaneously with or subsequent to any related fixed or variable rate transaction. The use of derivatives is intended to reduce the State's exposure to fluctuations in interest rates incurred through the issuance of variable-rate debt or to hedge interest rates on the future issuance of general obligation debt. However, these instruments can be used in certain instances to reduce the burden of high-interest, fixed-rate debt by converting State's obligations from fixed-rate to variable-rate.

A. Guidelines
   1. Permitted Instruments – The State may use the following instruments on either a previously issued, current or forward basis in connection with state-supported debt with the objectives of lowering the cost of borrowing and/or interest rate risk:
      a. Interest Rate Swaps – including fixed/floating swaps, basis swaps and constant maturity swaps;
      b. Interest rate caps, floors and collars;
      c. Options associated with interest rate swaps (swaptions), caps, floors and collars;
      d. Forward swap agreements; or
      e. Other interest rate hedge agreements.

   2. Term Limit – The term of any derivatives agreement shall not extend beyond the final maturity date of the underlying debt related to such derivative agreement.

   3. Counterparties
      a. Credit Rating Requirement – The counterparty shall have a credit rating that is within the two highest investment grade categories from at least one nationally recognized rating agency and ratings which are obtained from any other nationally recognized rating agencies shall also be within the highest three investment grade categories, or the payment obligations of the counterparty shall be unconditionally guaranteed by an entity with such credit ratings.
      b. Collateral Requirement – The obligations of the counterparty shall be fully and continuously collateralized by direct obligations of, or obligations the principal and interest on which are guaranteed by the United States of

America with a net market value of at least 102 percent of the net market value of the contract (subject to minimum threshold amounts specified by the State) if the ratings of the counterparty or guaranteeing entity fall below the required levels.

c. Net Worth Requirement – The counterparty must either have a net worth of at least $100 million or the counterparty's obligations under the derivative contract must be guaranteed by an entity having a net worth of at least $100 million.
d. Diversification – In managing the State's overall derivative risk position, an effort should be made to diversify the State's exposure to any single counterparty.

4. Security and Source of Repayment

The State may establish a fund that maintains a minimum balance of one month's payment to alleviate any cash flow issues by the timing of any transaction payments related to its outstanding derivative agreements.

5. Structure of the Derivatives Contract

The State will use the terms and conditions set forth in the International Swap and Derivatives Association, Inc. ("ISDA") Master Agreement, including the Schedule to the Master Agreement, its related Confirmation(s) and an ISDA Credit Support Annex, if necessary (collectively the "Agreement").

Final documentation of a derivative contract shall include at a minimum the following:

a. Authorizing Resolutions and Certificates;
b. ISDA Master Agreement;
c. Schedule to the Master Agreement;
d. ISDA Credit Support Annex, if necessary;
e. Confirmation(s) of transaction(s) covered by the Agreement;
f. Guarantee of the Counterparty's obligations, if necessary;
g. Validation Order Documents;
h. Legal Opinions from Associated Counsel;
i. Counterparty (and guarantor, if applicable) Net Worth and Ratings Certificate; and
j. In negotiated transactions, a fair pricing opinion from the financial advisor or swap advisor.

6. FMV Certificate
   The State will obtain from its financial advisor or swap advisor a certificate stating that the terms and conditions of the derivatives contract reflect market value of such agreement as of the date of execution. The State's advisor will perform due diligence to determine the market value of the derivatives contract based on the type of credit, the complexity of the derivative structure and the underlying debt obligation, and the market at the time of the transaction.

7. Termination Provisions
   a. Optional Termination – Any derivative contract procured on behalf of the State may include an Optional Early Termination Provision, which will permit the State to unilaterally terminate the agreement if it is deemed financially advantageous to do so.
   b. Mandatory Termination – In the event that a derivative contract is terminated due to a termination event such as a default or decline in credit quality, the State will determine if it is feasible or beneficial to attempt to find a replacement counterparty or if the better option would be to make or receive a termination payment.

   In determining the structure of a derivative contract, the State should evaluate the costs and benefits of incorporating a provision that would allow for termination payments by the State to be made over time as an alternative to lump-sum payment. The State will continuously monitor its termination payment exposure to ensure that if a termination event occurs on the State's outstanding derivatives contracts, the termination payments would not be overly burdensome.

8. Evaluation and Management of Risks
   Prior to the execution of any derivative transaction, the State shall evaluate the proposed transaction and report the findings using the Derivatives Checklist in Exhibit B. Such review shall include the identification and evaluation of the proposed benefits and potential risks and the measures that may be taken to mitigate these risks. The following areas of potential risks shall be considered:

   a. Amortization Risk – the mismatch between the amortization schedule of the underlying debt obligation and the amortization of the notional amount of the derivative contract. This can be mitigated by matching the amortization of the notional amount of the derivative contract to the amortization of the underlying debt obligation.
   b. Basis Risk – the mismatch between indices used to calculate debt service payments and the payments due under the derivatives contract. This risk is

minimized by using the same index to calculate both the debt service and the derivatives contract payments. Basis risk also includes the mismatch between the interest actually paid on variable rate bonds and the variable rate payments received under a derivative agreement, such as a floating-to-fixed interest rate swap, entered into as a hedge of the variable rate exposure.

c. Counterparty Risk – the risk that the counterparty will be unable to make its required payments. This is particularly important if the State has more than one derivative contract with the counterparty and the documents contain cross-default provisions. This risk can be mitigated through the credit rating requirements, collateral requirements, net worth requirements, and diversification requirements set forth in this policy.
d. Credit Risk – the occurrence of an event modifying the credit rating of the State or the counterparty. This risk is mitigated somewhat by the established credit standards in this policy; this risk can also be addressed through minimizing cross defaults; posting of collateral, net worth requirements, and diversification requirements set forth in this policy.
e. Interest Rate Risk – how the movement of interest rates over time affects the market value of the instrument after execution. Changes in the market value of the derivatives contract after execution may change the accounting treatment of the derivatives contract for financial reporting purposes and have an effect on the State's financial statements. Careful monitoring of the value of the contract is necessary after execution.
f. Market Access Risk – the risk that the State will not be able to enter credit markets or that credit will become more costly. For example, to complete a derivative's objective, a new money issuance or a refunding may be planned in the future. If at that time, the State is unable to enter the credit markets, the expected costs savings may not be realized while the State will continue to be subject to its obligations required by the derivative contract. This risk can be mitigated by careful negotiation of the optional termination provisions and termination payment provisions of the derivative contract.
g. Ratings Risk – the risk that the execution of a derivative contract would have an adverse effect on the State's credit rating. It is anticipated that credit rating agencies would look favorably upon the types of derivative contracts that have as their objective the reduction of interest rate risk and the cost of borrowing such as interest rate swaps, caps, floors, collars, and options associated with such derivatives. However, careful attention should be paid to any potential impact on the State's rating and any long-term implications of any derivative contract under consideration.
h. Tax Event Risk – the risk of potential changes to the Federal and/or State income tax laws, regulations, etc. affecting the interest payments on debt obligations. All

issuers who issue tax-exempt variable rate debt, the interest rate on which is periodically reset at levels reflecting the tax-exempt market, inherently accepts risk stemming from changes in marginal income tax rates. Decreases in marginal income tax rates for individuals and corporations could result in tax-exempt variable rates rising faster than taxable variable rates. This is the result of the tax code's impact on the trading value of tax-exempt bonds. This risk is a form of basis risk under swap contracts. Percentage of LIBOR and certain BMA swaps can also expose issuers to tax event risk. Some BMA swaps have tax event triggers which can change the basis under the swap from BMA to a LIBOR basis.

i. Termination Risk – the risk that the transaction may be terminated by either party in a market that dictates a termination payment by the State. This risk may be mitigated through the identification of revenue sources for and budgeting of potential termination payments, structuring the derivative transactions so that bond proceeds can be used for termination payments (i.e. assuring that the derivative is a "qualified hedge" under tax rules), deferral of such payments over time, and subordinating the lien status of potential payments. This risk may also be minimized by recommending the selection of counterparties with strong creditworthiness, under certain circumstances requiring the counterparty to post collateral in excess of the contract's market value, negotiating limits on the circumstances under which a payment may be required (particularly mandatory terminations triggered by the counterparty's bankruptcy or credit downgrade) and permitting the assignment of the contract to a creditworthy entity in lieu of termination. When considering the relative advantage of adding provisions to the contract that would mitigate risks, the State will evaluate these provisions for their cost effectiveness.

9. Independent Third Party Advisors
   The State may retain the services of an independent third party advisor or manager to evaluate the risks and market value of any proposed derivative contract and to assist the State with the monitoring and reporting requirements for executed contracts.

Source: §31-17-1, 31-18-3, 31-18-5, 31-17-153

Rule 1.8 Post Issuance Compliance

The Director of the Bond Advisory Division of the Department of Finance and Administration (DFA) shall be the Bond Compliance Officer responsible for each bond issuance under the purview of the State Bond Commission of the State of Mississippi. All information related to State-issued bonds and the facilities/projects financed by the bonds shall be submitted to the Bond Compliance Officer.

A. Post-Issuance Compliance Checklist and Continuing Education
   1. Post-Issuance Compliance Checklist - Immediately upon issuing any bonds, the Bond Compliance Officer in conjunction with Bond Counsel shall complete the Post-Issuance Compliance Checklist (Exhibit A) and the attached Schedules in order to establish and clearly define the roles and responsibilities relating to the ongoing compliance activities for a bond issue and to identify compliance requirements.
   2. Continuing Education – The Bond Compliance Officer will actively seek out advice of Bond Counsel on any matters that appear to raise ongoing compliance concerns and will attend or participate in seminars, teleconferences, etc. sponsored by organizations such as GFOA, SIFMA, NABL or NAST that address compliance issues and developments in the tax-exempt bond arena.

B. Continuing Disclosure
   1. Disclosure Repositories – Effective July 1, 2009, "repository" in this section shall mean the Electronic Municipal Market Access system ("EMMA") established by the Municipal Securities Rulemaking Board.
   2. Financial information relating to the State (the Mississippi Comprehensive Annual Financial Report) is due to the Repository 180 days after the close of the fiscal year. The Bond Compliance Officer or his designee will provide this information to the Repository.
   3. SEC Rule 15c2-12 governs the preparation and dissemination requirements of the Official Statement. In order to comply with these requirements, the Bond Compliance Officer will notify Bond Counsel and the underwriters of any fact or event that might cause the official statement to contain any untrue statement of material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they were made, not misleading.
   4. Material Events Disclosure - SEC Rule 15c2-12 also governs secondary market disclosure. As required in this rule, the Bond Compliance Officer will notify the Repository in a timely manner, when any of the following events that would be considered material within the meaning of the federal securities law occur:
      a. Principal and interest payment delinquencies;
      b. Non-payment related defaults;
      c. Unscheduled draws on debt service reserves reflecting financial difficulties;
      d. Unscheduled draws on credit enhancements reflecting financial difficulties;
      e. Substitution of credit or liquidity providers, or their failure to perform;
      f. Adverse tax opinions or events affecting the tax-exempt status of the bonds;
      g. Modifications to rights of holders to the bonds;
      h. Bond calls;
      i. Defeasances;

j. Release, substitution or sale of property securing payment of the bonds; and
k. Rating changes.

C. State Bond Commission Updates

1. General Obligation Bonds

The Bond Compliance Officer will at least annually (immediately following the end of the fiscal year) provide a report to the State Bond Commission to include the following:

a. Amount of outstanding debt;
b. Description of any pending transactions;
c. Any compliance issues with the Debt Management Policy.

2. Variable Rate Debt

If the State has any outstanding variable rate debt at fiscal year end, the Bond Compliance Officer will provide an annual report to the State Bond Commission on its variable rate debt portfolio. The report will include the following information:

a. A description of the outstanding variable rate debt transactions, including a status report detailing any material changes that may have occurred since the last report;
b. A description of any new transactions and any proposed new transactions;
c. An evaluation of the debt portfolio with a recommendation on any changes to the balance of structure for variable rate, fixed rate, and synthetic fixed rate debt;
d. Rate comparisons in the event that multiple remarketing agents or broker dealers are used.

3. Derivatives

The derivative contracts of the State will be part of the annual report on variable rate debt that the Bond Compliance Officer will provide to the State Bond Commission. The derivatives section of the report will include the following information:

a. A description of any outstanding derivative contracts of the State, including a status report detailing any material changes that may have occurred since the last report;
b. A description of any new agreements and any proposed new agreements;
c. A cash flow activity report for the derivative portfolio, including any payments made or received;
d. A current assessment of counterparty risk, termination risk and any other applicable risks associated with the agreements in place;
e. A calculation, if possible, of any actual debt service savings realized from entering into the various derivative contracts. This calculation would be delayed

in the case of forward derivative contracts made in relation to a planned future new issuance.

D. Contract Monitoring
  1. Ratings of Financial Product Providers
     a. The Bond Compliance Officer will continuously monitor ratings of swap counterparties, remarketing agents, trustees, etc. on the State's various financial products and bond issues.
     b. The State Bond Commission may subscribe to online information services provided by Moody's, Fitch Ratings, or Standard and Poor's in order to access data pertaining to the ratings of financial institutions.
     c. The State may also contract with a third party to monitor the ratings of our financial providers and give notice when rating triggers have been activated.
  2. The State may contract with a third party to calculate, verify and/or monitor the value of its derivative contracts.
  3. The State may contract with a third party or develop spreadsheets internally to monitor and track the performance of its remarketing agents for variable rate debt.

E. Direct Payment BABs

Direct Payment BABs provide a direct federal subsidy paid by the US Treasury to the government issuer in an amount equal to 35% of the interest. Recovery Zone Economic Development bonds (like the Direct Payment BABs) provide a direct federal subsidy to the government issuer in an amount equal to 45% of the interest. IRS Notice 2009-26 provides guidance on Direct Payment BABs and the payment of the federal subsidy procedures.

  1. Procedures for Completing and Filing the IRS Form 8038-G for Direct Payment BABs

     The Bond Director at the State Treasury will confirm that Bond Counsel has reported the issuance of Direct Payment Build America Bonds on IRS Form 8038-G. The Form 8038-G shall be prepared by Bond Counsel in accordance with IRS guidance. The form shall be filed with the IRS immediately after the issuance of the BABs but at least 30 days before the first Form 8038-CP is filed to request payment with respect to an interest payment date for that issue.
  2. Procedures for Completing and Filing the IRS Form 8038-CP for Fixed Rate Debt Direct Payment BABs

     The Bond Director at the State Treasury (in cooperation with Deutsche Bank) shall file a Form 8038-CP no less than 45 days before the applicable interest payment date but no more than 90 days before the relevant interest payment date.
  3. Procedures for Recording Payments and Receipts

Upon completion of the Form 8038-CP, the Bond Director at State Treasury shall send a memo to Deutsche Bank stating the amount and date of the State's upcoming interest payment and the anticipated amount and date of the corresponding credit payment with a copy of the Form 8038-CP attached.

4. The Bond Director at State Treasury shall keep a spreadsheet of each Direct Payment BAB issue and record each federal subsidy payment received. The spreadsheet shall include the date and amount of the interest payment submitted on the Form 8038-CP and the amount and date of the federal subsidy payment received. If the amount of the federal subsidy is different than expected, an explanation for the difference will be included on the spreadsheet. A copy of the Form 8038-CP will be attached to the Cash Receipt (CR) document when submitted to DFA.

F. Tax-Exempt Compliance Monitoring and "Qualified Bond" Compliance Monitoring for BABs

1. Restrictions Against Private Use – The State will continuously monitor the expenditure of bond proceeds and the use of facilities or equipment financed with tax-exempt bonds, Direct Payment BABs and Recovery Zone Economic Development Bonds to ensure compliance with Section 14 1 of the IRC.
2. Direct Payment BABs – Direct payment BABs shall also comply with Section 54AA of the Code which requires that 100% of the available project proceeds be used for capital expenditures after allowing for a reasonably required reserve fund and for costs of issuance not exceeding 2 percent.
3. Monitoring for Use of Proceeds - The Bond Compliance Officer will monitor and maintain records with respect to expenditures to ensure that bond proceeds are being used on capital expenditures for governmental purposes in accordance with bond documents by reviewing and maintaining the records of expenditures described in Section 3CVI herein.
4. Qualification for Initial Temporary Periods and Compliance with Restrictions Against Hedge Bonds
    a. Expectations as to Expenditure of bond proceeds (tax-exempt and Direct Payment BABs)
        i. In order to qualify under the arbitrage rules for an initial temporary period of 3 or, in some cases, 5 years during which bond proceeds can be invested without regard to yield (but potentially subject to rebate), the State must reasonably expect to spend at least 85% of "spendable proceeds" by the end of the temporary period.
        ii. In general, under IRC Section 149, in order to avoid classification of an issue of bonds as "hedge bonds", the State must reasonably expect to

spend 85% of the "spendable proceeds" of the bond issue within the 3 year period beginning on the date the bonds are issued and invest not more than 50% of the proceeds of the issue in investments having a substantially guaranteed yield for 4 years or more. If these two tests cannot be satisfied, a longer spend down period of 5 years may apply if certain percentage expenditure tests are reasonably expected to be met throughout the 5 year period and costs of issuance must not be contingent and must be expected to be paid within 180 days of bond issuance.

b. Project Draw Schedule Compliance Monitoring – The Bond Compliance Officer will semi-annually compare the original project draw schedule and the actual expenditure payouts on each project. The purpose of this analysis is to determine the variances from each draw schedule and to document the reasons for these variances to provide a record of the progress on the project. Factors to include in the analysis should be unexpected delays in the project timeline, extreme weather, contract time extensions due to unexpected events, supplemental agreements and any other factor with a potential to impact the project. There should be no effect on the tax-exempt status of the bonds (or the BABs being "qualified bonds") under either the temporary period rules or the hedge bond rules if the actual disbursements do not meet the original project draw schedule, unless circumstances surrounding the actual events cast doubt on the reasonableness of the stated expectations on the issuance date.

5. Arbitrage Rebate Compliance
   a. Tax-exempt bonds lose their tax-exempt status if they do not comply with the arbitrage restrictions of Section 148 of the Code. Direct Payment BABs are also subject to the arbitrage restrictions of Section 148 in order to be "qualified bonds" under Section 54AA. Two general sets of requirements under the Code must be applied in order to determine whether tax-exempt bonds are arbitrage bonds: the yield restriction requirements of Section 148(a) and the rebate requirements of Section 148(f).
   b. Yield Restriction Requirements – The yield restriction requirements provide, in general terms, that gross proceeds of a tax-exempt bond issue may not be invested in investments earning a yield materially higher than the yield of the bond issue, except for investments (i) during one of the temporary periods permitted under the regulations (including the initial three year or five year temporary period described above), (ii) in a reasonably required reserve or replacement fund or (iii) in an amount not in excess of the lesser of 5% of the sale proceeds of the issue or $100,000. Under limited circumstances, the yield on investments subject to yield restriction can be reduced through payments to the IRS known as "yield reduction payments."
   c. Rebate Requirements

i. If amounts treated as bond proceeds are invested at a yield in excess of the yield on the bonds (whether pursuant to one of the three exceptions to yield restriction referred to above or because the investment yield is higher than the bond yield, but not "materially higher"), rebate payments may be required to be made to the US Treasury. Under the applicable regulations, the aggregate rebate amount is the excess of the future value of all the non-purpose receipts over the future value of all the non-purpose payments. The future value is computed as of the Computation Date using the Bond Yield as the interest factor. At least 90% of the rebate amount calculated must be paid no later than 60 days after the end of the first Computation Period. The amount of rebate payments required for subsequent Computation Periods (other than the final period) is that amount which, when added to the future value of prior rebate payments, equals at least 90% of the rebate amount. For the final Computation Period, 100% of the calculated amount must be paid.

ii. The State has retained the services of an independent rebate analyst to annually calculate any rebate that may result for that year and annually provide the rebate report to the Office of the State Treasurer.

d. The State Treasurer's Office will ensure the proper calculation and payment of any rebate payment and/or yield reduction payment at the required time:

i. First installment due no later than 60 days after the fifth anniversary of bond issuance;

ii. Succeeding installments at least every five years;

iii. Final installment no later than 60 days after retirement of the last bond in the issue.

G. Record Retention

1. Section 6001 of the Internal Revenue Code provides the general rule for the proper retention of records for federal tax purposes. The IRS regularly advises taxpayers to maintain sufficient records to support their tax deductions, credits and exclusions. In the case of a tax-exempt bond transaction, the primary taxpayers are the bond holders. In order to ensure the continued exclusion of interest by the bond holders, it is important that the State retain sufficient records to support the continued exclusion being taken by the bond holders. In the case of Direct Payment BABs, the government issuer receiving the subsidy is the primary taxpayer. In order to ensure the continued payment of the federal subsidy to the State, it is important that the State retain sufficient records to support the finding that the BABs are "qualified bonds" under Section 54AA.

Additionally, in the case of many private activity bonds, the conduit borrowers are also primary taxpayers. Conduit borrowers are also often entitled to claim depreciation deductions for bond-financed property. Consequently, conduit borrowers should maintain sufficient records to support their interest deductions, depreciation deductions or other tax deductions, exclusions or credits related to the tax-exempt bond issue.

Moreover, issuers and conduit borrowers should retain sufficient records to show that all tax-exempt bond related returns submitted to the IRS are correct. Such returns include, for example, IRS Forms 8038, 8038-G, 8038-GC, 8038-T, and 8038-R.

2. General
   a. All records associated with any tax-exempt bond issuance of the State shall be stored electronically in a centralized electronic document management repository (CEDMR). The Bond Advisory Division is responsible for maintaining and supporting this document management facility but the Bond Compliance Officer is responsible for ensuring the various documents are scanned, uploaded and indexed.
   b. The DFA Information Systems Director will also ensure that proper back-ups are performed on the CEDMR and that the State has proper offsite storage of these back-ups in accordance with ITS standards of practice and policy. These procedures are subject to an electronic data processing audit by the State Auditor.
   c. The CEDMR shall conform to Rev. Proc. 97-22, 1997-1 C.B. 652 (as the same may be amended, supplemented or superseded), which provides guidance on maintaining books and records by using an electronic storage system.
   d. The State Treasurer or his designee will conduct an annual review of the CEDMR to verify that all of the records described below are properly stored and indexed in the CEDMR.

3. Tax Exempt Bonds and BABs – The State shall maintain the bond record as defined in this section for the life of the bonds plus three years or the life of the refunding bonds which refunded the original bonds plus three years. The bond record shall include the following documents:
   a. Pre-Issuance Documents
      i. Pre-Issuance Derivative Documents – The Bond Compliance Officer shall retain all documentation relating to the selection of counterparties and the pricing and determination of fair market value of the derivative contracts with copies stored in the CEDMR.
      ii. Pre-Issuance Investment of Defeasance Escrows – The Bond Compliance Officer shall retain all documentation regarding the procurement of the

investments, including as applicable the request for bids, bid sheets, documentation of procurement method (competitive or negotiated), etc., with copies stored in the CEDMR. If investments other than SLGs are used for a defeasance escrow, the documentation should include an explanation of the reason for the purchase of open market securities and compliance with safe harbor bidding rules. If SLGs are purchased, a copy of the final subscription shall be maintained.

iii. Project Draw Schedules – The Bond Compliance Officer shall retain all documentation and calculations relating to the draw schedule used to meet the "reasonable expectations" test and use of proceeds tests with copies stored in the CEDMR.

iv. Issue Sizing – The Bond Compliance Officer shall maintain copies of all spreadsheets prepared and presented to the State Bond Commission regarding the projects to be included in the issue. In addition, all underwriter structuring booklets shall be maintained with copies stored in the CEDMR.

v. Bond Insurance (if applicable) – The Bond Compliance Officer shall maintain a copy of insurance quotes and calculations supporting the cost benefit of bond insurance, if any, with a copy stored in the CEDMR.

b. Issuance Documents

i. Bond Transcript - The Bond Compliance Officer shall retain the bond transcript with a copy stored in the CEDMR.

ii. Costs of Issuance – The Bond Compliance Officer shall retain all invoices, payments, and documentation of State Bond Commission approval of such costs, with copies stored in the CEDMR.

c. Post-Issuance Documents

i. Post-Issuance Derivative Contracts – The Bond Compliance Officer shall retain all documentation relating to the selection of counterparties and the pricing and determination of fair market value of the derivative contract swap with copies stored in the CEDMR.

ii. Post-Issuance Investment of Defeasance Escrows – The Bond Compliance Officer shall retain all documentation regarding the procurement of the investments, including as applicable the request for bids, bid sheets, documentation of procurement method (competitive or negotiated), etc., with copies stored in the CEDMR. If investments other than SLGs are used for a defeasance escrow, the documentation should include an explanation of the reason for the purchase of open market securities and compliance with safe harbor bidding rules. If SLGs are purchased, a copy of the final subscription shall be maintained.

iii. Record of Investments – The Bond Compliance Officer shall coordinate with the Chief Investment Officer at the Office of the State Treasurer to document and retain all investments purchased with tax-exempt or BABs bond proceeds, with a copy stored in the CEDMR.

iv. Investment Activity Statements – The Bond Compliance Officer shall coordinate with the Chief Investment Officer at the Office of the State Treasurer to retain all investment activity statements related to the tax-exempt bonds and BABs, with a copy stored in the CEDMR.

v. Trustee Activity Statements – The Bond Compliance Officer shall retain copies with copies stored in the CEDMR.

vi. Record of Expenditures – The Bond Compliance Officer shall scan invoices, etc. related to the projects funded by the tax-exempt bond proceeds or the BABs, along with the appropriate SAAS-produced documents such as payment vouchers, intergovernmental transfer documents, etc.

vii. Records Establishing the Use of Property – The Bond Compliance Officer shall retain documents regarding the use of property financed with tax-exempt bonds/notes or Direct Payment BABs. This includes leases and service contracts. Copies of these documents shall be store in the CEDMR.

viii. Arbitrage Rebate Reports – The Bond Compliance Officer shall retain documents prepared by the third party independent rebate analyst as described in Section VIII.F.5. herein. Copies of these documents shall be retained in the CEDMR.

ix. Records of Continuing Disclosure – All continuing disclosure documents described in Section VIII B. shall be maintained by the Bond Compliance Officer with a copy stored in the CEDMR.

x. Contracts under which any bond proceeds are spent (architectural, engineering, consulting, ROW, construction, etc.) – The Bond Compliance Officer shall obtain copies of these contracts and store in the CEDMR.

xi. Grant Agreements under which any bond proceeds are spent – The Bond Compliance Officer shall obtain copies of these agreements and store in the CEDMR.

xii. Records of the Federal Subsidy Payments for Direct Payment BABs – The Bond Compliance Officer shall obtain a copy of the filed IRS Form 8038-CP and store in the CEDMR.

xiii. Record of Debt Service Payments – The Bond Compliance Officer should coordinate with the Office of the State Treasurer to obtain documentation of debt service payments made for each issue and store copies in the

CEDMR. Documentation should include debt service payment schedules, SAAS-generated documents, wire advices, etc.

xiv. Reports of any IRS examinations or inquiries – The Bond Compliance Officer will maintain copies of any such examinations or inquiries and store in the CEDMR.

4. Short Term Borrowings – The State shall maintain all documents related to short term or interim borrowings as defined in this section for the life of the borrowing plus three years. The documents should be filed in the CEDMR in such a way as to directly associate the short term borrowing with the long term issuance used to retire it.
   i. Record of Expenditures – The Bond Compliance Officer shall scan invoices, etc. related to the projects funded by the tax-exempt note proceeds, along with the appropriate SAAS-produced documents such as payment vouchers, intergovernmental transfer documents, etc.
   ii. Arbitrage Rebate Reports – The Bond Compliance Officer shall retain documents prepared by the third party independent rebate analyst as described in Section VIII.F.5. herein. Copies of these documents shall be retained in the CEDMR.
   iii. Records of Continuing Disclosure – All continuing disclosure documents described in Section VIII B. shall be maintained by the Bond Compliance Officer with a copy stored in the CEDMR.
   iv. Contracts under which any note proceeds are spent (architectural, engineering, consulting, ROW, construction, etc.) – The Bond Compliance Officer shall obtain copies of these contracts and store in the CEDMR.
   v. Grant Agreements under which any note proceeds are spent – The Bond Compliance Officer shall obtain copies of these agreements and store in the CEDMR.
   vi. Record of Debt Service Payments – The Bond Compliance Officer should coordinate with the Office of the State Treasurer to obtain documentation of debt service payments made for each short term borrowing and store copies in the CEDMR. Documentation should include debt service payment schedules (if applicable), SAAS-generated documents, wire advices, etc.

Source: §31-17-1, 31-18-3, 31-18-5, 31-17-153

Rule 1.9 Voluntarily Correcting Failures to Comply with Post-Issuance Compliance Activities

If the persons responsible for ensuring compliance with activities defined in this policy discover that a violation with federal tax laws may have occurred, it may address the violation through the applicable method listed below:

A. Taking remedial actions as described in Section 141 of the Internal Revenue Code.

B. Utilizing the Voluntary Closing Agreement Program (VCAP) – Section 7.2.3 of the Internal Revenue Manual establishes the voluntary closing agreement program for tax-exempt bonds (TEB VCAP) whereby issuers of tax-exempt bonds can resolve violations of the Internal Revenue Code through closing agreements with the Internal Revenue Service. The applicability of the remedial action regulations and VCAP to Direct Payment BABs is unclear at this time.

Source: §31-17-1, 31-18-3, 31-18-5, 31-17-153

Rule 1.10 Coordination with State Agencies to Ensure Compliance with Debt Management Policies

The State Bond Compliance Officer is charged with the responsibility throughout this document of ensuring compliance with matters related to the pre-issuance and post-issuance of tax-exempt debt and Direct Payment BABs issued by the State of Mississippi through the State Bond Commission. Many of these compliance activities will require coordination with various state agencies and other entities outside of state government.

A. Each state agency or other entity receiving bond proceeds through the issuance of tax-exempt bonds/notes or Direct Payment BABs shall designate a person to serve as the Debt Management Compliance Coordinator.
   1. The Debt Management Compliance Coordinator for each entity receiving proceeds from the issuance of tax-exempt bonds/notes or Direct Payment BABs shall meet with the Debt Compliance Officer (via telephone conference call or in person) to ensure that all requirements are clearly understood. The meeting shall include a discussion on record retention and record submission for the following documents:
      a. Bid advertisements/actual bids related to contracts for services (engineering, architectural, construction, etc.) and documentation of bid acceptance/contract approval
      b. Copies of contracts for services to be rendered
      c. Invoices related to all phases of projects
      d. Advertisement related to availability of grant funds, if applicable
      e. Actual grant applications and documentation of grant review process

f. Approved list of grant recipients
g. Change orders related to the project
h. Documentation for payment of invoices (payment vouchers, checks, wire transfers, etc.)

2. The Debt Management Coordinator shall ensure the Debt Compliance Officer is familiar with the terms of any legislation regarding the transfer of interest earnings to the State Treasury for the purpose of assisting with debt service. The Debt Management Coordinator shall consult with the Director of the Bond Division at the State Treasury to ensure these transfers are being made.

3. The Debt Management Coordinator shall periodically review the Schedule of Unspent Proceeds provided by the Office of the State Treasurer to ensure that bond proceeds are being spent according to schedule to avoid arbitrage penalties. In the event a question arises regarding the "spend down" of the bond proceeds, the Debt Management Coordinator shall contact the Debt Compliance Officer within each state agency/other entity for explanation. Any concerns that may potentially affect the arbitrage status or the tax-exempt status of the bonds shall be reported to the State Bond Commission.

Source: §31-17-1, 31-18-3, 31-18-5, 31-17-153

Rule 1.11 Debt Management Policy Review

The State Bond Commission shall designate representatives (to include the Debt Management Coordinator) to review this policy at least annually, and suggest revisions or updates as deemed appropriate.

Source: §31-17-1, 31-18-3, 31-18-5, 31-17-153

Exhibit A
Post Issuance Compliance Checklist
(Name of Bond Issue)

Overall Responsible Party for Debt Management Activities____________________ Bond Counsel____________________ Trustee____________________ Paying Agent____________________ Rebate Specialist____________________ Underwriter(s)____________________		
A. Tax Law Requirements	**Document Reference**	**Responsibility**
1. General Matters		
a) Proof of filing Form 8038, 8038-G, or 8038-GC.		
b) Significant modification to bond documents that result in reissuance under Treas. Reg1.1001-3 requires the filing of a new 8038 etc.		
2. Use of Proceeds: Governmental Bonds		
a) No private business use arrangement with private entity (including the federal government) beyond permitted *de minimis* amount unless cured by remedial action under Treas. Reg. 1.141-12.		
(i) Sale of facilities.		
(ii) Lease, concession, or similar arrangement.		

(iii) Nonqualified management contract (Rev. Proc 97-13.)		
(iv) "Special legal entitlement"		
b) Remedial action may consist generally of redemption or defeasance of bonds (with notice of defeasance to IRS).		
c) Direct Payment BABs – 100% of available project proceeds must be used for capital expenditures after allowing for a reasonably required reserve fund and for costs of issuance not to exceed 2% as required by IRC 54AA.		
3. Arbitrage		
a) Yield Restriction. IRC 148 and Treas Reg 1.148-2. Monies treated as bond proceeds may not be invested at a "materially higher" yield except for investments during a permitted temporary period, investments in a reasonable required reserve or replacement fund or investments of a "minor portion."		
b) Rebate. IRC Section 148(f)		
(i) First installment of arbitrage rebate due no later than the fifth anniversary of bond issuance plus 60 days.		
(ii) Succeeding installments every five years.		
(iii) Final installment 60 days after retirement of last bond issue.		
(iv) Monitor expenditures, prior to semiannual target dates for six-month, 18 month, or 24 month spending exception.		
(v) Monitor expenditures generally against date of issuance expectations for three-year or five-year temporary periods or five-year hedge bond rules.		
4. Record Retention		
a) Maintain general records relating to issue for longer of life of issue plus 3 years or life or refunding bonds plus 3 years.		
b) Maintain special records required by safe harbor for investment contracts or defeasance escrows. (Treasury Reg. Section 1.148.5.		
c) Maintain record of identification on issuer's books and record of "qualified hedge" contract. Treas. Reg.		

Sections 1.148-4(h)(2)(viii) and 1.148-11A(i)(3)		
d) Maintain records supporting the finding that the Direct Payment BABs are “qualified bonds” under Section 54AA.		
5. Allocation of Bond Proceeds to Expenditures.		
a) Make any allocations of bond proceeds to expenditures needed under Treas. Reg. Sections 1.148-6(d) and 1.141-6(a) by 18 months after the later of the date the expenditure was made or the date the project was placed in service, but not later than the earlier of five years after the bonds were issued or 60 days after the issue is retired.		
B. Disclosure Requirements		
1. SEC Rule 15c2-12 Requirements		
a) Name of Dissemination Agent, if applicable.		
b) Periodically determine that required filings have been prepared, sent to and received by the Repository.		
c) Information required to be provided to Repository:		
(i) Annual reports – Quantitative financial information and operating date disclosed in the Official Statement and Audited Financial Statements		
(ii) Other Information		
d) Material Event Disclosure. Notification by obligated person to each Repository, in timely manner, of any of the following events with respect to bonds, if event is material within the meaning of the federal securities laws:		
(i) Principal and interest payment delinquencies.		
(ii) Non-payment related defaults.		
(iii) Unscheduled draws on debt service reserves reflecting financial difficulties.		
(iv) Unscheduled draws on credit enhancements reflecting financial difficulties.		
(v) Substitution of credit or liquidity providers, or their failure to perform.		
(vi) Adverse tax opinions or events affecting the tax-exempt status of the bonds.		
(vii) Modifications to rights of holders of bonds.		

(viii)Bond calls.		
(ix) Defeasances.		
(x) Release, substitution or sale of property securing repayment of bonds.		
(xi) Rating changes.		
2. Notification to Underwriter of Bonds		
Determination of whether bond purchase agreement requires issuer of bonds to notify underwriters for a special period of time of any fact or event that might cause the official statement to contain any untrue statement of material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading.		
3. Information Required to be Filed with Other Entities.		
a) Trustee		
b) Rating agencies		
c) Bond insurer		
d) Credit Enhancer		
e) Examples of information to be filed:		
(i) Financial records		
(ii) Budgets		
(iii) Events of default		
(iv) Notices of redemption		
(v) Amendments to bond documents		

Exhibit B
Derivatives Checklist

General Information

1. Name of governmental entity entering into the derivative:
____

2. Type of derivative:
____

3. (a) Names of officials responsible for procurement of derivative:
____

   (b) Have the individuals received derivatives training? Yes □ No □. If yes, please describe.
____

4. (a) Names of person and backup(s) responsible for monitoring derivative:

____

   (b) Have the individuals received derivatives training? Yes □ No □. If yes, please describe.
____

5. Independent derivatives advisor, if any:
____

6. Independent derivatives monitor, if any:____

7. Counterparty(ies):

Authority of Contracting Governmental Entity

1. General authority/approval to enter into derivatives:

   ____

2. Date of specific approval for this derivative:

   ____

3. Date of most recent update to derivatives policy (Debt Management Policy):

   ____

Purpose

1. Identify the purpose of entering into the derivative:
   - □ Reduce exposure to possible higher interest rates on variable rate debt.
   - □ Increase refunding savings
   - □ Reduce net debt service costs on new money borrowing
   - □ Receive upfront payment of refunding value
   - □ Provide a better match of interest rate exposures on assets and liabilities
   - □ Offset, in whole or in part, a prior derivative (e.g., swap LIBOR for BMA)
   - □ Hedge the anticipated costs of future borrowings
   - □ Optimize the mix of variable (or synthetic variable) to fixed (or synthetic fixed) rate borrowings
   - □ Other

   ____

2. What debt, or asset, is the derivative being used to hedge?

   ____

   ____

3. Describe the derivative and explain how the purpose indicated above will be achieved.

   ____

   ____

   ____

   ____

4. Were other means considered for achieving this purpose? Yes □ No □
   If yes, what other options were considered? Why is the derivative the best option?

____
____
____
____

Terms

1. (a) Expected Trade Date: ____
   (b) Effective Date: ____
   (c) Scheduled Termination Date: ____________________________________
   (d) If derivative is an option, exercise date: ____________________________
2. (a) Notional amount: ____
   (b) Principal amount of debt (or assets) being hedged: _____________________
   (c) If the debt is being hedged, will the derivative amortize on the same schedule as the debt? Yes □ No □
   If no, on what basis was the notional amount and amortization schedule determined?
   ____
   ____
   (d) If debt is callable, will the derivative potentially interfere with the objective of the call feature? Yes □ No □
   If yes, explain:
   ____
   ____
3. Governmental entity will make payments based on: fixed rate □ floating rate □
   If floating rate:
   (a) BMA □ Libor □ Other ________________________________
   (b) Identify the basis on which payments will be made:
   □ A percentage of an index. What percentage?
   ____
   □ A spread to an index. What spread?
   ____
   □ A percentage of an index AND a spread to an index? Define.
   ____
   (c) Frequency of payments: ____________________________ How closely do they correspond to debt or assets being hedged?
   ____
   (d) Can future market conditions cause the basis of these payments to change? Yes □ No □
   If yes, explain:
   ____

____

____

4. Counterparty(ies) will make payments based on: fixed rate □ floating rate □
   If floating rate:
   (a) BMA □ Libor □ Other ____________________________________
   (b) Identify the basis on which payments will be made:
   □ A percentage of an index. What percentage?
   ____
   □ A spread to an index. What spread?
   ____
   □ A percentage of an index AND a spread to an index? Define.
   ____
   (c) Frequency of payments: _______________________________ How closely do they correspond to debt or assets being hedged?
   ____
   (d) Can future market conditions cause the basis of these payments to change? Yes □ No □
   If yes, explain:
   ____
   ____
   ____
   ____

5. Are any nonperiodic payments being made by either party? Yes □ No □
   If yes, explain:
   ____
   ____

6. Identify any other embedded options in the derivative:
   □ Knockout provisions
   □ Cancellation provisions
   □ Cap
   □ Floor
   □ Other _____________________________________
   (a) Describe:
   ____
   (b) Describe cost of such option and reason for inclusion:
   ____
   ____

7. Does the derivative have an imbedded loan concept? Yes □ No □
   If yes, explain:

   ____

   ____

   If yes, describe procedure to be followed to determine and document the portions of payments under the derivative attributable to the imbedded loan and the portions that are "on-market."

   ____

   ____

   ____

8. Specified Entity, if any
   (a) For governmental entity: ____
   (b) For counterparties: ____

9. Credit support will be provided by:
   (a) Governmental entity? Yes □ No □ If yes, name of provider:

   ____

   (b) Counterparty? Yes □ No □ If yes, name of provider:

   ____

10. Identify the methodology for determining any termination payments:
    - □ First method and loss
    - □ First method and market quotation
    - □ Second method and loss
    - □ Second method and market quotation
    - □ Close out amount
    - □ Other

    ____

11. Will the counterparty/ies have the right of optional termination? Yes □ No □
    If yes, explain:

    ____

    ____

12. What is the source for any termination payments owed by the governmental entity?

    ____

13. What is the maximum estimated termination payment exposure? What, if any, sensitivity analysis was performed on potential termination payment amounts?

____

____

14. What is the priority for any termination payments, compared to bond payments, owed by the governmental entity?

____

____

Risks

1. Which of the following risks will the Issuer assume upon execution of the derivative?
   (a) Amortization risk Yes □ No □
   (b) Ratings risk Yes □ No □
   (c) Basis risk Yes □ No □
   (d) Tax risk Yes □ No □
   (e) Interest rate risk Yes □ No □
   (f) Counterparty risk Yes □ No □
   (g) Termination risk Yes □ No □
   (h) Market-access risk Yes □ No □
   (i) Rollover risk Yes □ No □
   (j) Credit risk Yes □ No □
   (k) Other Yes □ No □
   If Other, explain:

   ____

2. How much of the value, if any, of entering into the derivative will come from assuming any particular tax risk?

   ____

3. Will the derivative leverage any risks? Yes □ No □
   If yes, explain:

   ____

   ____

4. Have stress tests been run or obtained on how the derivative could affect the budget and financial position under various market conditions? Yes □ No □
   If yes, describe:

   ____

   ____

5. Explain how the risks being assumed will be mitigated:

____
____

6. How do the benefits of entering into the derivative outweigh the risks being assumed?

____
____
____
____
____

7. (a) Upon execution of this derivative,
   (i) How many derivatives will the state, directly or indirectly, have outstanding?

____

   (ii) What is the total notional amount of those derivatives?

____

   (iii) Does the total net out offsetting positions? Yes □ No □
   If yes, explain:

____
____

(b) The total (net of offsetting positions) notional amount is what percentage of the State's
   (i) total long term debt? ____________________
   (ii) liquid assets? _________________________

8. Explain any expected impact of this derivative on the State's credit standing.

____
____
____

<u>Documentation</u>

1. Which ISDA documentation will be executed in connection with the derivative?
   - □ Master Agreement
   - □ 1992
   - □ 2002
   - □ Schedule
   - □ Credit Support Annex
   - □ Confirmation
   - □ Other ____________________________

2. (a) Governing Law: ____
   (b) Will the State consent to jurisdiction? Yes □ No □ If yes, where?
   ____

3. Will State waive sovereign immunity? Yes □ No □

4. Will State waive its right to jury trial? Yes □ No □

5. Who will deliver the legal opinion as to due authorization and legal enforceability for:
   (a) the State____
   (b) the counterparty(ies) ____

Counterparty(ies)

1. On what basis were counterparties selected? Competitive □ Negotiated □

2. If competitive,
   (a) Who was the bidding agent?
   ____
   (b) How many firms were invited to bid?
   ____
   (c) How many firms bid?
   ____
   (d) Is bidding agent providing a closing certificate? Yes □ No □
   (e) Were bids uniform? Yes □ No □
   If no, how was the winning provider selected?
   ____
   ____
   (f) How was the bidding agent compensated?
   ____
   In what amount? ____
   Was the compensation separately stated? Yes □ No □

3. If negotiated,
   (a) State reasons for negotiating derivatives:
   ____
   ____
   (b) State reasons for choosing counterparty:
   ____
   ____

(c) Is an independent derivatives advisor providing a certificate as to fair market valuation? Yes □ No □

(d) Does the counterparty (or an affiliate of the counterparty) have another role in the transaction (e.g., underwriter)? Yes □ No □ If yes, describe role:

____

(e) Does the counterparty (or an affiliate of the counterparty) have other business relationships with the State?
Yes □ No □ If yes, describe:

____

If yes, what comfort does the State receive that the terms of the derivative are independently determined without regard to the counterparty's other roles?

____

____

4. Does counterparty have:
   (a) a rating that is within the two highest investment grade categories from a nationally recognized rating agency? Yes □ No □
   (b) minimum capitalization of at least $100 million? Yes □ No □
   (c) a demonstrated record of successfully executing municipal derivatives transactions? Yes □ No □

5. What percentage of the State's, direct or indirect, total notional amount of derivatives will be with the same counterparty?

   ____

6. If the State will have more than one direct or indirect derivatives contract with this counterparty or any of the counterparties, are any of them offsetting? Yes □ No □

Credit Support

1. Credit Support will be provided for:

   (a) Issuer ☐Yes ☐ No
   If yes, name of provider: ____
   (b) Counterparty/ies ☐Yes ☐ No
   If yes, name of provider: ____

2. Has Issuer's counsel reviewed Issuer's credit support obligations? ☐Yes ☐ No

3. Has Issuer established procedures sufficient to:
   (a) Comply with any such obligations? ☐Yes ☐ No

(b) Renew or replace Credit Support, if required? ☐Yes ☐ No
(c) Monitor the credit level of the Counterparty/ies? ☐Yes ☐ No
(d) Receive the benefit of, and comply with any obligations relating to, any credit support obligations of Counterparty/ies? ☐Yes ☐ No

Tax Issues

1. Tax counsel reviewing the documentation: ______________________________________

2. Has Issuer discussed with tax counsel:
   (a) Integration of the derivative with a bond issue? ☐Yes ☐ No
   (b) Whether yield monitoring is required? ☐Yes ☐ No
   (c) Whether the derivative's performance or mark-to-market value should be included in arbitrage compliance calculations? ☐Yes ☐ No

3. Will tax counsel deliver an opinion in connection with the derivative? ☐Yes ☐ No

Operations and Monitoring

1. If the Expected Trade Date and the Effective Date are different, is the derivative part of a series of transactions? ☐Yes ☐ No
   If yes,
   (a) Describe the subsequent transactions being considered:

____
____
____

   (b) Has Issuer established procedures or mechanisms to:
      (i) Determine how and when any subsequent transaction will occur?
      ☐Yes ☐ No
      (ii) Evaluate and handle risks to completion of any subsequent transaction?
      ☐Yes ☐ No
      (iii) Complete, and pay expenses of, any subsequent transactions?
      ☐Yes ☐ No

2. Has Issuer discussed the appropriate accounting treatment for the derivative with its independent auditor? ☐Yes ☐ No

3. Does the Issuer intend to use hedge accounting? ☐Yes ☐ No
   If yes, has the issuer received or made arrangements to receive confirmation of hedge effectiveness? ☐Yes ☐ No

If yes, from: ____

4. Who is responsible for confirming payment amounts and making necessary payments?

____

5. What is the source for Issuer’s regular payments?

____

6. How are such payments budgeted?

____

7. Who is responsible for monitoring credit ratings of Counterparty/ies?

____

8. Who is responsible for monitoring mark-to-market valuations?

____

9. What is the frequency of such monitoring?

____

10. Who is responsible for monitoring collateralization requirements of Issuer and Counterparty/ies?

____

11. If Issuer must post collateral, what will be the source?

____

12. If Counterparty/ies must post collateral, who will monitor?

____

13. What is the frequency of:

(a) Reporting monitoring results to Chief Executive Officer/Chief Financial Officer?

____

(b) Sharing monitoring results with independent auditor?

____

14. Has Issuer discussed this derivative with the rating agencies? ☐Yes ☐ No

15. Who is responsible for delivery of future documents required by the derivative's documentation?

____

16. Who is responsible for answering investors' questions about Issuer's derivatives exposure?

____

____

Information Provided By:

____

(signature)