

POST-SALE ACTIVITIES

6882

(New 5/98)

Establishing account records/transferring funds for debt service: Client departments must establish accounting and budgetary records so that lease rental payments can be budgeted and paid to provide for debt service during the life of the bonds. For lease-revenue bond projects, lease rental payments are generally budgeted as a separate item under the client department's organization code in the annual budget. The department, in accordance with the terms of the lease agreement, pays the lessor the lease rental payments from the department's lease rental appropriation. The lessor deposits the lease rental payment into the appropriate debt service accounts of the bonds. The trustee for the bonds (generally the STO) submits claims against the debt service accounts of the bonds on behalf of the bondholders. For GO debt service, STO arranges transfer of funds with SCO; the client department is not involved.

Project management—staying within funds availability: The client department is responsible for completing its lease-revenue project within available bond proceeds. Lease-revenue projects which cannot be completed within available funds present a grave risk to bondholders and therefore to the state's credit rating. For this reason, a construction reserve may be included when sizing lease-revenue or financing lease projects. Any material threat to project progress or budget must be reported immediately to DOF and STO. (This is also an element of continuing disclosure responsibilities as described in Section 6884.)

Trust services/payment of debt service: The state acts as trustee for GO bonds and PWB lease-revenue bonds; STO provides the majority of the services with DOF and SCO performing specific support functions. Trustee services for other state bonds may be provided by (or arranged through) STO. Other trustees, such as the trust departments of commercial banks, are used for some bond programs.

The responsibilities and duties of the trustee may include, among others, the following:

1. Regulating the disbursement of the proceeds of the issue for the intended purposes;
2. Fund transfers to assure that bondholders receive timely and complete payment;
3. Protecting the assets of the trust if a default occurs; and

Exercising a specified standard of care in the administration of those trusts (the timing of interest and principal payments, interest rate setting provisions, investment of funds, events of default, remedies, and the mailing of notices of various events).

Client departments should refer questions from bondholders to STO (or other trustee). Communication of any confidential information to bondholders is not permitted (e.g., the possible refinancing of outstanding bonds).

Computation of lease-revenue debt service for budgetary purposes: See Section 6888.

Project completion: When the lease-revenue project is complete and no additional funds are necessary to complete approved work, the client department files a Notice of Completion with STO and DOF. Any excess funds after completion of the project are budgeted by DOF and used by the trustee to pay debt service. DOF specifically discourages leaving the project status open to use surplus funds available for tasks not part of the approved project scope.

If a department believes moneys are available to pay debt service from excess project funds or surplus revenue, it must submit a request to use such funds to DOF and STO. After approval, funds are then moved from the construction and/or surplus funds to the revenue fund to pay debt service.

Continuing disclosure: All *obligated persons* to a municipal security have a requirement under Securities Exchange Commission (SEC) regulations to make continuing disclosure (i.e., until debt is fully repaid) of certain specified information which is material to investment decisions on the securities. This is a major responsibility for issuers and client departments, with serious legal ramifications for failure to perform. See Section 6884 for a detailed discussion.