Commonwealth of Massachusetts
Department of Revenue
Division of Local Services

Bureau of Accounts
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Municipal Securities Disclosure Requirements

Securities Exchange Act of 1934
17 Code of Feral Regulations Parts 240 and 241
Rule 15c 2-12

Summary:

The Federal Securities and Exchange Commission (S.E.C.) has recently promulgated a rule which requires underwriters participating in primary offerings of municipal bond and note issues of $1,000,000 or more, to obtain, review and distribute to investors, copies of disclosure documents. The rule contains timetable for distribution, as well as specific exemptions. The rule becomes effective on January 1, 1990.

Purpose:

The rule is designed to increase the protection of investors by requiring adequate disclosure prior to the submission of bids. The rule was proposed to remedy disclosure problems exposed during the financial crises in New York City in the 1970's and the Washington Public Power Supply System in the early 1980's.

Provisions Affecting Municipalities:

1. The rule does not directly regulate municipal issuers. Rather, the rule affects municipal securities underwriters, including banks, who purchase bonds and notes for resale. If disclosure documents are not prepared when required, the rule prohibits these financial institutions from bidding for municipal bonds and notes and re-offering them on the secondary market.

2. An underwriter must obtain and review a disclosure document about the issuer prior to bidding or purchasing for resale a municipal bond or note issue of $1,000,000 in aggregate size or larger. This document must be deemed final by the issuer except for certain information that will not be known until the time of the sale.

3. Municipalities must contract with the successful underwriter to deliver to that underwriter, within seven business days of the sale, sufficient copies of the final and complete disclosure document to meet the requests of investor.

4. Individual bond or notes issues will be exempt from the provisions of the rule if:

   A. The issue is less than $1.0 million or,

B. The bonds or notes are issued in denominations of $100,000 or greater, and;

(1) the issue is sold to no more then 35 sophisticated buyers for their own investment or,

(2) the bonds or notes will mature in less than nine months or,

(3) the purchaser has the option to tender the bond or note back to the issuer at least every nine months. This provision would not be application to towns or districts.

The S.E.C. may make other exemptions from any part of the rule, either upon written request or on its own motion.

Guidelines:

1. We recommend that treasurers begin, immediately, to explore their options for the sale of bonds and notes to be issued after January 1, 1990

2. A cost benefit analysis should be done on the alternatives of meeting one of the above exemptions versus the preparation of disclosure. Limitations as to the size of the issue and the denominations of the bonds or notes could have a negative impact on rates. The impact on rates from any other available options should be discussed with the city, town or district's financial advisor and the potential bidders for the issuer's bonds and notes.

3. If the preparation of disclosure is called for, the treasurer will need to analyze the costs of preparing the document "in house" versus contracting for outside assistance.

4. The increase issuance cost of selling municipal securities with disclosure will increase the need for planning. To this end, the treasurer will need to be communicate more often with department heads about their future needs. Such planning and communication will be extremely useful in limiting the number of sales each year the concurrent costs.

5. When disclosure is required, the length of time given to the sale of notes will need to be expanded. In addition to the time needed for receiving bids and settlement, time will need to be included for the preparation of the disclosure document and its distribution to and review by the underwriters prior to the bids. Local officials will need to make themselves available to answer any questions from underwriters about the disclosure document.

6. All local financial officials should take advantage of available educational opportunities to familiarize themselves with the provisions and implications this federal requirement.