Item: AF A-3

BOT AUDIT AND FINANCE COMMITTEE

Tuesday, October 17, 2006

SUBJECT: DEBT MANAGEMENT GUIDELINES.

PROPOSED BOARD ACTION

Recommend approval to adopt the Florida Board of Governors Debt Management Guidelines as the Florida Atlantic University Guidelines for issuance of debt.

BACKGROUND INFORMATION

On April 27, 2006, the Florida Board of Governors developed debt management guidelines for State universities and direct support organizations (DSOs). These guidelines were developed in accordance with Section 1010.62 F.S., which delegated to the Board of Governors certain bonding and borrowing authority which is articulated in the guidelines. The purpose of the guidelines is to confirm that the state universities and their byvsTD0Gu ... mentation11Board1of1Governors

Debt Management Guidelines

ted by: Dr. Kenneth A. Jessell, Vice President for Financial Affairs Phone: 561-297-3266

1605 Turlington Building
By Telephone Conference Call
Tallahassee, Florida

STATE OF FLORIDA
FLORIDA BOARD OF GOVERNORS

DEBT MANAGEMENT GUIDELINES
April 27, 2006

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DEBT MANAGEMENT GUIDELINES FOR CAPITAL OUTLAY PROJECTS

I. INTRODUCTION

The Need for and Purpose of Debt Management Guidelines

The state universities of Florida and their direct support organizations ("DSOs") have funded significant investments in infrastructure, such as buildings, equipment, land, and technology, to meet the needs of a growing student population and to upgrade and maintain existing capital assets. A significant amount of the funding for this investment in infrastructure has been provided through the issuance of debt by the State for the benefit of the state universities and by the state universities' direct support organizations ("DSOs").

The purpose of these guidelines is to confirm that the state universities and their DSOs must engage in sound debt management practices and, to that end, the Board of Governors ("BOG") has formalized guiding principles for the issuance of debt by the state universities and their DSOs. Each state university shall adopt a debt management policyG which is consistent with refinancing, for or on behalf of a state university or a direct support organization, the acquisition, construction, improvement or purchase of capital outlay projects;

ii) "capital outlay project" means (i) any project to acquire, construct, improve or change the functional use of land, buildings, and other facilities, including furniture and equipment necessary to operate a new or improved building or facility, and (ii) any other acquisition of equipment or software; and

iii) "financing documents" means those documents and other agreements entered into by financed have been included in the university’s five

a) A resolution of the DSO board of directors approving the debt issuances, if applicable, and a resolution of the university Board of Trustees (the "BOT") approving the debt issuance and authorizing the university to request BOG approval of the debt issuance. For debt to be issued by DBF, at the request of the university, DBF staff will work with the university to determine a not-to-exceed amount of debt to be included in the BOT requesting resolution to the BOG and in preparing required debt service and source-and-use schedules.

b) A proposed agenda item.

c) The project program, feasibility studies or consultant reports (if available), and an explanation of how the project being proposed is consistent with the mission of the university.

d) For debt issued by DSOs, a form of a resolution to be adopted by the BOG approving issuance of the debt.

e) Estimated project cost, draw schedule, start and completion dates, estimated useful life.

f) The sources-and-uses of funds, clearly depicting all costs, funding sources expected to be used to complete the project and the estimated amount of the debt to be issued.

g) An estimated debt service schedule with the assumed interest rate on the debt clearly disclosed. If the proposed debt service is not structured on a level debt service basis, an explanation shall be provided which gives the reason why it is desirable to deviate from a level debt structure.

h) Debt service schedules showing any outstanding debt related to or impacting the debt being proposed.

i) A description of the security supporting the repayment of the proposed debt and the lien position the debt will have on that security. If the lien is junior to any other debt, the senior debt must be described. Furthermore, a description of why the debt is proposed to be issued on a junior lien basis must be provided. A statement citing the legal authority for the source of revenues securing repayment must be provided.

j) If debt is to be incurred on a parity basis with outstanding debt, a schedule showing estimated compliance with any additional bonds requirement set forth in the documents governing the outstanding debt. The applicable provisions of the documents for bonds of DSOs should be provided.

k) Financial statements for five years, if available, for the auxiliary, if auxiliary revenues are pledged.

Approval. The BOG will consider the following factors in

a) For existing bond programs, universities and DSOs shall strive to maintain or improve current credit ratings without adversely impacting the amount of debt which may be issued for any particular program.

b) For all new financings; the university or DSO shall seek to structure the transaction to achieve a minimum rating of "A" from at least two nationally recognized rating agencies. Credit enhancement may be used to achieve this goal.

Tax Status

The universities have traditionally issued tax exempt debt which results in significant interest cost savings compared with the interest cost on taxable debt. Accordingly, all university and DSO debt should be issued to take advantage of the exemption from federal income taxes unless the university demonstrates that the issuance of taxable debt is in the university's best interest. With respect to debt which has a management contract with a private entity as part of the security feature, the management contract should comply, to the greatest extent practical, with tax law requirements to obtain tax exemption for the debt.

Security Features

Pledged Revenues. The debt issued by universities and their DSOs may only be secured by revenues (including fund balances and budget surpluses) authorized for such purpose. The revenues which may secure debt include the following:

a) Activity and Service Fee, subject to the limitation that annual debt service payable from these fees does not exceed five percent of the revenues derived therefrom.

b) Athletic Fee, subject to the limitation that annual debt service payable from these fees does not exceed five percent of the revenues derived therefrom.

c) Health Fee.

d) Transportation Access Fee.

e) Hospital Revenue.

f) Licenses and Royalties for facilities that are functionally related to the university operation or DSO reporting such royalties and licensing fees.

g) Gifts and Donations for debt not longer than five years.

h) Overhead and indirect costs and other monies not required for the payment of direct costs of grants.

i) Assets of University Foundations and DSOs and earnings thereon.

j) Auxiliary Enterprise Revenues, e.g., housing,

Interest Accrual Features

debts. Included in the factors associated with these instruments are the university's/DSO's operating flexibility and tightness of budget, access to short and long term capital, the likelihood of a collateral call or termination payment, and the university's/DSO's financial expertise. The level to which universities may utilize variable rate debt obligation (VRDO) and interest derivatives (like swaps, collars, and caps) is subject to an understanding of the risks associated and a debt policy that adequately addresses the additional risks.

c) *Budgetary controls*. To avoid a situation in which debt service on variable rate bonds exceeds the annual amount budgeted, the following guidelines should be followed in establishing a variable rate debt service budget:

i) A principal amortization schedule should be established, with provision made for payment of amortization installments in each respective annual budget;

ii) Provide for payment of interest for each budget year using an assumed budgetary interest rate which allows for fluctuations in interest rates on the bonds without exceeding the amount budgeted. The budgetary interest rate may be established by: (1) using an artificially high interest rate given current market conditions; or (2) setting the rate based on the last 12 months actual rates of an appropriate index plus a 200 basis point cushion or spread to anticipate interest rate fluctuations during the budget year. The spread should be determined by considering the historical volatility of short-term interest rates, the dollar impact on the budget and current economic conditions and forecasts; or, (3) any other reasonable method determined by the university or DSO and approved by the BOG;

iii) The amount of debt service actually incurred in each budget year should be monitored monthly by the university or DSO to detect any si other interest rate risk hedging, striking an overall balance to minimize interest rate risk.

e) *Variable interest rate ceiling.* The bond documents should include an interest rate ceiling of no greater than 12%.

f) *Mitigating interest rate risks with derivatives*. Universities and DSOs are allowed to use various derivatives to mitigate the risk of rising interest rates on variable rate debt. However, the introduction of these derivatives also presents other risks for which the university must mitigate. These risks include rollover risk, basis risk, tax event risk, termination risk, counterparty credit risk and collateral posting risk. As a minimum, a university/DSO engaging in this type of interest rate risk mitigation must provide:

   i) Evidence that the counterparty is rated at a minimum of an A/A1; and

   ii) Provide a swap management plan that details the following:

      a) Why the university is engaging in the swap and what the objectives of the swap are.

      b) The swap counterparty's rating.

      c) An understanding by the issuer of the cash flow projections that detail costs and benefits for the swap.

      d) The plan of action addressing the aforementioned risks associated with swaps.

      e) Identifying the events that trigger an early termination (both voluntary and involuntary) under the swap documents, the cost of this event and how such would be paid.

      f) Identifying the method for rehedging variable rate exposure should early termination be exercised.

      g) A list of key personnel involved in monitoring the terms of the swap and counterparty credit worthiness.

g) *Liquidity*. One of the features typical of variable rate debt instruments is the bondholder's right to require the issuer to repurchase the debt at various times and under certain conditions. This, in theory, could force the issuer to repurchase large amounts of its variable rate debt on short notice, requiring access to large amounts of liquid assets. There are generally two methods for addressing this issue. With the first method, issuers which do not have large amounts of liquid assets may establish a liquidity facility with a financial institution which will provide the money needed to satisfy the repurchase. The liquidity provider should have a rating of A1/P1 or higher. The liquidity agreement does not typically run for the life of long-term debt. Accordingly, there is a risk that the provider will not renew the agreement or that it could be renewed only at substantially higher cost. Similar issues may arise if the liquidity provider encounters credit problems or an event occurs which results in early termination of the liquidity arrangement; in either case the issuer must arrange for a replacement liquidity facility. With the second method, issuers with significant resources may choose to provide their own liquidity. This approach eliminates the costs that would be charged by a third party liquidity provider and could mitigate the renewal/replacement risk. If a university/DSO chose to provide its own liquidity, the institution must maintain liquid assets or facilities equal to 100% of the outstanding VRDOs.

h) *Submission of periodic reports*. The university will prepare and submit to the BOG an annual report showing the position during the previous period of the university or DSO variable rate debt with respect to the following measures:

i) the total principal amount of variable rate debt to principal amount of total debt;

ii) the amount of debt service accrued during the reporting period in relation to the pro-rata amount of annual budgeted debt service for the reporting period. If the amount of debt service which accrued during the reporting period exceeded the pro-rata amount of annual budgeted debt service for the period, the university shall explain what actions were taken to assure that there would be sufficient revenues and budget authority to make timely payments of debt service during the subsequent years; and

iii) the amount of variable rate debt in relation to the amount of the university's and/or DSO's short-term investments, and any other strategies used to hedge interest rate risk.

Other Types of Financings

Refunding Bonds , and any other strate prematurely using the one advance refunding opportunity for post-1986 bond issues. However, because of the numerous considerations involved in the sale of advance refunding bonds, the 5% target should not prohibit advance refundings when the circumstances justify a deviation from the guideline.

d) Refunding bonds which do not achieve debt service savings may be issued to restructure debt or provisions of bond documents if such refunding serves a compelling university interest.

Certificates of Participation and Lease-Type Financing. The universities or their DSOs may utilize these financing structures for all purposes, but it shall be considered as debt for the purposes of these guidelines and the universities shall always budget and make available monies necessary to pay debt service, notwithstanding the right to cancel the lease. Additionally, for lease purchase financings of equipment, universities and DSOs should consider using the State's consolidated equipment financing program if it will reduce costs and ensure a market interest rate on the financing.

IV. METHOD OF SALE AND USE OF PROFESSIONALS

Analysis of Method of Sale

It is in the best interests of the universities and their DSOs to use the method of sale for their debt that is expected to achieve the best sale results. Based upon the facts and circumstances with regard to each individual financing, it may be more appropriate to sell debt through either a competitive sale or through negotiation. Accordingly, the universities and their DSOs may utilize either a competitive or negotiated sale. If, however, a request is made for a DSO to sell debt using a negotiated sale, the university must provide the BOG with an analysis showing that a negotiated sale is desirable. The analysis should include, but not necessarily be limited to, a consideration of the following factors:

a) Debt Structure

i) pledged revenues – strong revenue stream vs. limited revenue base;

ii) security structure – conventional resolution, cash flow, rate and coverage covenants vs. unusual or weak covenants;

iii) debt instrument – traditional serial and term bonds vs. innovative, complex issues requiring special marketing; and

iv) size – a smaller transaction of a size which can be comfortably managed by the market vs. a large size which the market cannot readily handle.

b) Credit Quality

d) Any aspect of the transaction that was different from the transaction submitted for approval.

e) Itemized list of all fees and expenses incurred on the transaction.

f) For negotiated sale of bonds:

i) the underwriters' spread detailing the management fee;

ii) takedown by maturity and aggregate takedown;

iii) any risk component and an itemized list of the expense component;

iv) orders placed by each underwriter and final bond allocation;

v) total compensation received by each underwriter; and

vi) any report or opinion of the financial advisor.

g) Final official statement for publicly offered bonds.

h) Bond insurance or any other form of credit enhancement and the terms thereof.

i) Credit rating reports.

Selection of Financing Professionals

The use of underwriters for negotiated financings and the use of financial advisors for negotiated and competitive offerings is necessary to assist in the proper structuring and sale of debt. To assure fairness and objectivity in the selection of professionals and to help select the most qualified professional, the selection of underwriters and financial advisors should be accomplished through a competitive selection process. A competitive selection process allows the universities and their DSOs to compare more professionals and obtain the best price and level of service.

V. DISCLOSURE

Primary Disclosure

Universities and DSOs shall use best practices in preparing disclosure documents in connection with the public offer and sale of debt so that accurate and complete financial and operating information needed by the markets to assess the credit quality and risks of each particular debt issue is provided.

The disclosure recommendations of the Government Finance Officers Association's "Disclosure for State and Local Governments Securities," and the National Federation of

1010.62 Revenue bonds and debt.--

(1) As used in this section, the term:

(a) "Capital outlay project" means:

1. Any project to acquire, construct, improve, or change the functional use of land, buildings, and other facilities, including furniture and equipment necessary to operate a new or improved building or facility.

2. Any other acquisition of equipment or software.

(b) "Debt" means bonds, except revenue bonds as defined in paragraph (d), loans, promissory notes, lease-purchase agreements, certificates of participation, installment sales, leases, or any other financing mechanism or financial arrangement, whether or not a debt for legal purposes, for financing or refinancing for or on behalf of a state university or a direct-support organization or for the acquisition, construction, improvement, or purchase of capital outlay projects.

(c) "Direct-support organization" means an organization created pursuant to s. 1004.28 or any entity specifically established to incur debt.

(d) "Revenue bonds" means any obligation that constitutes a revenue bond pursuant to s. 11(d), Art. VII of the State Constitution.

(2)(a) The Board of Governors may request the issuance of revenue bonds pursuant to the State Bond Act and s. 11(d), Art. VII of the State Constitution to finance or refinance capital outlay projects permitted by law. Revenue bonds may be secured by or payable only from those revenues authorized for such purpose, including the Capital Improvement Trust Fund fee, the building fee, the health fee, the transportation access fee, hospital revenues, or those revenues derived from or received in relation to sales and services of auxiliary enterprises or component units of the university, including, but not limited to, housing, transportation, health care, research or research-related activities, food service, retail sales, athletic activities, or other similar services, other revenues attributable to the projects to be financed or refinanced, any other revenue approved by the Legislature for facilities construction or for securing revenue bonds issued pursuant to s. 11(d), Art. VII of the State Constitution, or any other revenues permitted by law. Revenues from the activity and service fee and the athletic fee may be used to pay and secure revenue bonds except that the annual debt service shall not exceed an amount equal to 5 percent of the fees collected during the most recent 12 consecutive months for which collection information is available prior to the sale of the bonds. The assets of a university foundation and the earnings thereon may also be used to pay and secure revenue bonds of the university or its direct-support organizations. Revenues from royalties and licensing fees may also be used to pay and secure revenue bonds so long as the facilities being financed are functionally related to the university operation or direct-support organization reporting such royalties and licensing fees. Revenue bonds may not be secured by or be payable from, directly or indirectly, tuition, the financial aid fee, sales and services of educational departments, revenues from grants and contracts, except for money received for overhead and indirect costs and other moneys not required for the payment of direct costs, or any other operating revenues of a state university. Revenues from one auxiliary enterprise may not be used to secure revenue bonds of another unless the Board of Governors, after review and analysis, determines that the facilities being financed are functionally related to the auxiliary enterprise revenues being used to secure such revenue bonds.

(b) In connection with the issuance of revenue bonds, the Board of Governors, and the state university if so designated by the Board of Governors, shall comply with all covenants, commitments, or other provisions relating to the revenue bonds. Such covenants, commitments, or other provisions, in addition to those provided in the State Bond Act, may relate to:

1. Pledging the fees, charges, and other revenues that secure the revenue bonds;

2. Fixing and maintaining fees, rates, and other charges pledged to the payment of the revenue bonds;

3. Providing a lien on the revenues pledged;

4. Preventing or providing for the creation of other liens on the fees, charges, and other revenues that secure the revenue bonds;

5. Establishing and maintaining reserves for debt service payments on revenue bonds;

6. Providing for the operation, maintenance, and improvement of facilities that are related to the generation of the fees, revenues, and other charges pledged to the payment of the revenue bonds; and

7. Establishing any other covenants, commitments, or provisions that are deemed necessary or advisable to enhance the security of the revenue bonds, or the marketability thereof, and that are customary in accordance with the market requirements for the sale of such revenue bonds.

(c) Revenue bonds issued pursuant to this subsection are not required to be validated pursuant to chapter 75.

(3)(a) A state university or direct-support organization may not issue debt without the approval of the Board of Governors. The Board of Governors may approve the issuance of debt by a state university or a direct-support organization only when such debt is used to finance or refinance capital outlay projects. The debt may be secured by or payable only from those revenues authorized for such purpose, including the health fee, the transportation access fee, hospital revenues, or those revenues derived from or received in relation to sales and services of auxiliary enterprises or component units of the university, including, but not limited to, housing, transportation, health care, research the source of payments under such agreement or contract is limited to revenues that universities are authorized to use for payment of debt service. Revenues from one auxiliary enterprise may not be used to secure debt of another unless the Board of Governors, after review and analysis, determines that the facilities being financed are functionally related to the auxiliary enterprise revenues being used to secure such debt. Debt may not be approved to finance or refinance operating expenses of a state university or a direct-support organization. The maturity of debt used to finance or refinance the acquisition of equipment or software, including any extensions, renewals, or refundings thereof, shall be limited to 5 years or the estimated useful life of the equipment or software, whichever is shorter. The Board of Governors may establish conditions and limitations on such debt as it determines to be advisable.

(b) Approval by the Board of Governors of the issuance of debt shall be based upon a

(6) Capital outlay projects to be financed by revenue bonds or debt are limited to those approved by the Legislature through approval of the specific project or general approval of the type or category of capital outlay project.

(7)(a) As required pursuant to s. 11(d), Art. VII of the State Constitution and subsection (6), the Legislature approves capital outlay projects meeting the following requirements:

1. The project is located on a campus of a state university or on land leased to the university or is used for activities relating to the state university;

2. The project is included in the master plan of the state university or is for facilities that are not required to be in a university's master plan;

3. The project is approved by the Board of Governors as being consistent with the strategic plan of the state university and the programs offered by the state university; and

4. The project is for purposes relating to the housing, transportation, health care, research or research-related activities, food service, retail sales, or student activities of the state university.

(b) Capital outlay projects for the acquisition of equipment or software are also approved for purposes of subsection (6) to the extent that