

# Health and Educational Facilities Authority of the State of Missouri

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## Policies, Practices and Application Materials

November 7, 2007

*The following is a summary of various policies and practices of the Health and Educational Facilities Authority of the State of Missouri (the "Authority"). This summary has been prepared to assist borrowing institutions, underwriters, bond trustees, credit enhancers, bond counsel, underwriter's counsel and other parties to Authority financings and it addresses issues that are common to many transactions. This is not intended to be all-inclusive and questions regarding issues that are not addressed by the following should be directed to the Authority or its advisors. The Exhibits listed are an integral part of the Policies, Practices and Application Materials.*

**Exhibit A** – Letter from the Borrower

**Exhibit B** – Letter from the Underwriter, Bond Purchaser or Lease Provider

**Exhibit C** – Application Data Request

**Exhibit D** – Policies for Multi-State Issuance

**Exhibit E** – Fee Schedule

**Exhibit F** – Typical Timetable for Financing

## GENERAL POLICIES AND PHILOSOPHY

**Fulfill Authority's Mission.** The Mission of the Authority is to provide access to the capital markets in an effort to lower the cost of health and educational services in Missouri by providing high quality, readily available, low cost financing alternatives for Missouri public and private, nonprofit health and educational institutions.

**Professional Decorum.** The Authority's staff and advisors are to assist borrowing institutions prior to, during and after financings in a professional and courteous manner. The staff and advisors operate under the assumption that the Authority is in existence to serve its constituents.

**Authority's Role in Financings.** The Authority is to advise and assist borrowing institutions in qualifying for, structuring and completing quality transactions. The Authority has determined not to dominate financings and dictate financial terms. The Authority relies on the judgment of the rating agencies, credit enhancers, bond trustees and the underwriters to negotiate most terms with the borrowing institutions and to assure that proper protection and disclosure is provided bondholders. The Authority reviews the terms of the financing, advises and assists the borrowing institution with the financing process and insists on certain terms for the protection of its reputation and to assure that it is free from monetary liability.

## DURING THE FINANCING

**Preliminary Intent Resolution.** The Authority process starts with the adoption by the Authority of a preliminary intent (or inducement) resolution. The Authority’s counsel drafts the resolution upon receipt by the Authority of the Application and Data listed in **Exhibit C** and the letters from the borrowing institution and its underwriter, bond purchaser or lease provider requesting inducement and generally describing the proposed financing. The letters should include a description of the project or refunding, any other relevant details, the estimated principal amount, and an acknowledgment of the Authority’s Policies, Practices and Application Materials. Attached hereto as **Exhibits A and B** are general forms of such letters.

**Organizational Meeting or Call.** The Authority requires an “in-person” organizational meeting or telephone conference call at the outset of the financing involving all relevant parties.

**Official Statement.** The Authority requires the following in connection with the bond offering document (Official Statement):

- a. Official Statement must follow legal requirements and general industry practices as to disclosure relative to bonds and borrowing institution; the borrowing institution and underwriter, rather than the Authority, are responsible for the preparation of and the disclosure in the Official Statement.
- b. Official Statement provides that Authority is not responsible for payments on the bonds other than out of loan repayments from the borrowing institution.
- c. The Authority does not sign the Official Statement.
- d. Underwriter’s Counsel provides a legal opinion (or reliance letter) addressed to and satisfactory to the Authority as to the adequacy of the disclosure.
- e. The borrowing institution is required to comply with any applicable SEC requirements concerning on-going disclosure after the bonds are issued.
- f. The Official Statement, including Appendix A, must be in “substantially final” form at the time of the adoption by the Authority of the final bond issuance resolution.
- g. The Official Statement can be printed and/or electronically distributed and the bonds marketed in advance of the adoption of the final bond issuance resolution by the Authority with the prior consent of Authority staff; the risk that the resolution may not be adopted will rest with the borrowing institution.
- h. On the cover of the Official Statement, there will be no type size that is larger than the type size used in the name of the Authority.

**Bond Documents.** The Authority requires, among other matters, in connection with bond documents:

- a. Standard representations, warranties, covenants and default provisions.
- b. All attorneys’ opinions and accountants’ letters addressed to the Authority.
- c. Bond Counsel to draft basic bond documentation and to provide legal opinion as to the validity and tax exemption of the bonds.
- d. Bond Counsel to draft bond issuance resolution to be adopted by Authority, to be provided to Authority and Authority’s counsel for review no later than seven (7) days before the meeting at which the resolution is to be adopted.
- e. Bond documents in “substantially final” form at the time of adoption by the Authority of the final bond issuance resolution.
- f. Bond Counsel to prepare and cause the publication of any TEFRA notice of public hearing, after review by the Authority and its counsel, and obtain the Governor’s or such other approval as is required by the tax or other laws.
- g. Bond Counsel to provide material referencing tax compliance.

**Purchase Contract.** The Purchase Contract among the underwriter, the Authority and the borrowing institution providing for the sale of the bonds is drafted by the Authority's counsel. The Purchase Contract will contain provisions regarding indemnification of the Authority by the underwriter and the borrowing institution.

**Trustee's Role.** Once the bonds are issued, the bond documents provide to the extent possible, that the Trustee rather than the Authority is responsible for monitoring the borrowing institution's compliance with the documents for the protection of the bondholders. This includes declaring defaults and covenant compliance. Trustees on Authority bond issues are subject to performance audits commissioned by the Authority and must correct any performance problems or irregularities disclosed in such audits. Trustees also must provide information regarding the bonds and the borrowing institution reasonably requested by the Authority including any year-end audit materials.

### **POLICIES REGARDING SELECTION OF:**

**Bond Counsel:** The Authority requires that Bond Counsel be a Missouri firm and considers the request of the borrowing institution if there is a preference for a particular firm. The Authority retains the right to refuse any firm.

**Underwriter's Counsel:** The Senior Managing Underwriter selects the Underwriter's Counsel which must be a Missouri firm subject to these Policies and any historical variances. The Authority retains the right to refuse any firm.

**Senior Managing Underwriter, Bond Purchaser or Lease Provider:** The borrowing institution selects its Senior Managing Underwriter, Bond Purchaser or Lease Provider. The Authority staff and financial advisor will assist in making these selections if requested by the borrowing institution. The Senior Manager, Bond Purchaser or Lease Provider must execute and deliver to the Authority a copy of the letter included as **Exhibit B** hereto in connection with the submission by the borrower of the Application and Data in **Exhibit C** and the letter (**Exhibit A**) requesting an inducement resolution.

**Public Offering – Co-Managing Underwriters:** In a public offering of bonds the borrowing institution and its Senior Managing Underwriter are to manage the underwriting process including its procedures, allocations priorities, documents, timing, etc., subject to the provisions hereof. The borrowing institution may select as few or as many Co-Managing Underwriters as it desires but it shall select at least the following number of Co-Managers on fixed rate transactions with a principal amount as follows:

- \$0 - \$50 million – none
- +\$50 - \$100 million – at least one
- +\$100 million – at least two

No Co-Managers are required on variable or auction rate financings. The Authority retains the right to refuse any Co-Manager. The Authority staff and its financial advisor will assist in making Co-Manager selections if requested by the borrowing institution.

**Bond Pricing:** The Authority requires that it and its financial advisor be involved in the "pricing" of the bonds in a public offering and, at a minimum, this should include participation in the pre-pricing and the final pricing calls.

**Trustee:** Must be a banking institution qualified to do business in the State of Missouri, with a Missouri office and which is large enough to handle the financing in question based on assets and experience. The trustee, or its guarantor, must have a minimum reported capital and surplus of the lesser of the principal

amount of the bonds or \$50 million (or comparable financial test satisfactory to the Authority). A Request for Proposals from banks qualified to do corporate trust work in Missouri can be coordinated by the Authority, if requested by the borrowing institution. The proposals are collected and forwarded to the borrowing institution for selection. The Authority does not choose the trustee nor is the borrowing institution required to accept the lowest bid. Firms can serve as a Senior or Co-Manager and/or as Bond Trustee or Master Trustee and/or as credit enhancer on transactions rated in any 'A' category or better by Standard & Poor's, Moody's and/or Fitch.

**Printing/Electronic Distribution:** Prefer Missouri firm to print and/or electronically distribute the official statement. If a Missouri firm is not available or if there are special circumstances, bids may be solicited from out-of-state firms. The Authority will, at the borrowing institution's request, solicit bids from qualified firms. The Authority does not choose the firm nor is the borrowing institution required to accept the lowest bid.

## **OTHER POLICIES AND PRACTICES**

**Minimum Credit Rating:** The Authority will consider each financing based on the higher of the underlying or enhanced credit ratings from Standard & Poor's, Moody's and/or Fitch, materials provided by the borrower, analysis of the staff and advisors and any other applicable information. Financings with a rating of BBB+/Baa1/BBB+ or lower will require further analysis and discussion during the approval process and will be considered on a case by case basis. The nature of the credit, the collateral, the project, the covenants and borrowing alternatives will all be part of the analysis. A presentation to the Authority by the borrower or its representatives may be required. Unrated financings will be considered for private placements with sale restricted to financial institutions, corporations and other sophisticated investors and on such other terms as approved by the Authority at the time of issuance.

**Certificate of Need:** A health care institution that is contemplating a financing to cover certain specified levels of cost will be required by Missouri statute to obtain a Certificate of Need ("CON") from the Missouri Health Facilities Review Committee before proceeding with the project. The CON process involves the review of health care projects on the basis of need, financial feasibility and impact on quality of care. The Authority fully supports compliance with CON requirements and will take no action to cause the avoidance of compliance with such requirements.

**Financial Advisor:** It is the practice of the Authority to utilize the services of a financial advisor. Certain services of the financial advisor are extended to Authority borrowers in the course of a financing. The Authority's financial advisor does not serve as financial advisor for individual borrowings under the Direct Deposit Program.

**Same Underwriter/Credit Enhancer/Bond Trustee:** Firms can serve as Senior Managing or Co-Managing Underwriter, as Credit Enhancer and/or as Bond Trustee on transactions rated in any 'A' category or better by Standard & Poor's, Moody's and/or Fitch. The same law firm can represent such a financial firm in multiple roles in the same transaction.

**Authority Fees and Costs:** The borrowing institution will be responsible for the payment of the Authority's application fee, the on-going annual service fee and the cost of its general counsel and financial advisor pursuant to the then-current schedule of the Authority. The current schedule is attached hereto as **Exhibit E**.

## **POLICIES RELATING TO BORROWERS OPERATING IN MULTIPLE STATES**

It has long been the policy of the Authority to encourage and support participation by Missouri financial and law firms on financings completed through the Authority. However, understanding the burden this policy may place on some health and educational borrowers with operations in multiple states, the Authority has determined the need to be flexible in situations where the financing is completed with such borrowers (i.e. one that maintains a national or regional headquarters within Missouri or operates a facility within Missouri but operates in other states as well) that is the beneficiary of bonds issued by the Authority for projects in Missouri and is also the beneficiary of bonds issued by governmental issuers in other states. In this regard, the Authority has adopted the following policies which relate specifically to multi-state borrowers:

1. The Authority, if requested by the borrowing institution, will appoint a qualified out-of-state firm to serve as bond counsel if said firm serves in that role in other financings involving the borrowing institution. The Authority reserves the right to refuse to appoint any firm requested by a borrowing institution. The firm must agree to comply with Authority Policies and Practices.
2. The Authority, if requested by the borrowing institution, will allow underwriter's counsel to be an out-of-state firm if said firm serves in that role in other financings involving the borrowing institution. The firm must agree to comply with Authority policies and practices and the underwriter's counsel opinion must have the Authority as an addressee and be otherwise satisfactory to the Authority. The Authority reserves the right to refuse to allow any firm to serve in this capacity.
3. Bond and master trustee services may be provided by out-of-state banks if requested by the borrowing institution and if said bank serves in that role in the other states participating in the financing and if this can be accomplished in compliance with applicable law including 108.175 R.S.Mo., as amended. The Authority reserves the right to refuse to allow any bank to serve in this capacity.

For a discussion of the issuance of bonds by the Authority for projects located outside Missouri, please see the discussion in the accompanying document "Issuance of Bonds for Projects Located Outside the State of Missouri – Policy Matters and Procedures" attached hereto as **Exhibit D**.

**Exhibit A**  
**To Policies, Practices and Application Materials**  
(Letter from Borrower)

[BORROWER'S LETTERHEAD]

[ Date ]

Mr. Michael J. Stanard  
Executive Director  
Health and Educational Facilities  
Authority of the State of Missouri  
15450 South Outer Forty Road, Suite 230  
Chesterfield, Missouri 63017

Re: [ Name of Borrower ]

Dear Mr. Stanard:

[ Name of Borrower ] ("the Borrower") hereby applies to the Authority for the issuance of bonds or other obligations and requests that the Authority adopt an inducement resolution with respect to the following:

Project: \_\_\_\_\_

Location of Project: \_\_\_\_\_

Dollar Amount: \_\_\_\_\_

Underwriter, Bond Purchaser, Lease Provider (if selected): \_\_\_\_\_

[ \_\_\_\_\_ ] has been selected as [Underwriter, Bond Purchaser, Lease Provider] and is submitting to the Authority the form of letter (Exhibit B) attached hereto at the time of submission of this letter from the Borrower.

Preference for Bond Counsel: \_\_\_\_\_

Preference for Co-Managing Underwriters: \_\_\_\_\_

The undersigned agrees that a copy of the Authority's Policies, Practices and Application Materials, including all Exhibits, has been received and reviewed and that the Borrower will comply with such Policies, Practices and Application Materials in connection with the financing requested herein.

[ Name of Borrower ]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Exhibit B**  
**To Policies, Practices and Application Materials**  
(Letter from Underwriter, Bond Purchaser or Lease Provider)

[FIRM'S LETTERHEAD]

[Date]

Mr. Michael J. Stanard  
Executive Director  
Health and Educational Facilities  
Authority of the State of Missouri  
15450 South Outer Forty Road, Suite 230  
Chesterfield, Missouri 63017

Re: [Name of Borrower]

Dear Mr. Stanard:

The undersigned [Underwriter, Bond Purchaser or Lease Provider] has been selected by the above-captioned Borrower to serve as underwriter, bond purchaser or lease provider in connection with the proposed financing through the Authority.

The undersigned represents that a copy of the Authority's Policies, Practices and Application Materials, including all Exhibits, has been received and reviewed and that the financial institution will comply with same in connection with the proposed financing.

Very truly yours,

[Name of Underwriter, Bond Purchaser or Lease Provider]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*Exhibit C*  
*To Policies, Practices and Application Materials*

**Health and Educational Facilities Authority of the State of Missouri**

**APPLICATION DATA REQUEST**

**General**

1. Letter from the borrower applying for the issuance of bonds or other obligations and requesting Authority adoption of the initial inducement resolution (sample of letter in **Exhibit A** of Authority's Policies, Practices and Application Materials)
2. Letter from the underwriter, bond purchaser or lease provider stating knowledge of, and commitment to compliance with, Authority's Policies, Practices and Application Materials (sample of letter in **Exhibit B** of Authority Policies, Practices and Application Materials)
3. Description of the project including amount, purpose, need, proposed facilities and/or improvements to be financed, details of any refinancing and proposed timetable
4. Plan of Finance including:
  - a.) Sources and Uses of Funds
  - b.) Interest Rate Mode (e.g. fixed rate, variable rate - daily, weekly, etc.)
  - c.) Underlying Rating of Institution, if applicable
  - d.) Credit Enhancement? Provider?
  - e.) Liquidity Facility? Provider?
5. IRS Letter of Determination of Tax Status
6. Audited Financial Statements for Preceding Five Years
7. Status of Capital Campaign Activities Directly Related to the Project

**Status of Certificate of Need - if Required** (*health care institutions*)

**Student Enrollment Data for Preceding Five Years** (*educational institutions*)

**Other Information**

The Authority reserves the right to request additional legal, financial or other information as it deems necessary or appropriate.

**Exhibit D**  
**To Policies, Practices and Application Materials**

**Health and Educational Facilities Authority of the State of Missouri**

**Policy Matters and Procedures Regarding Issuance of Bonds for  
Projects Located Outside the State of Missouri**

The Missouri Health and Educational Facilities Authority Act authorizes the Authority to issue bonds for health facilities and educational facilities outside of Missouri if the borrowing institution or an affiliate also operates a health facility or educational facility within the State of Missouri or maintains a regional or national headquarters within the State of Missouri. The following policy criteria will be applied by the Authority on a case by case basis in deciding to issue bonds to finance projects outside of Missouri:

I) **Finding of Public Purpose.**

The Authority determines that the project outside the State of Missouri meets the public purposes of its enabling act by:

- a) Lowering the cost of health care and/or education and resulting in a savings to patients, students, third parties, including federal or state governments, and others who must pay for such costs; and
- b) Providing a benefit to Missouri by (i) enhancing the quality or quantity of health care and/or education in Missouri, (ii) furthering economic development in the State by job creation, retention or stabilization, and/or (iii) promoting more efficient and economical operation of health care and/or educational systems with a regional or national headquarters or substantial operations in Missouri.

II) **Missouri Presence and Relationship.**

The Authority determines that the borrowing institution, an affiliate or related entity has a substantial presence, relationships and impact in the State of Missouri. Each or any combination of the following factors will be considered by the Authority on a case by case basis in making such determination:

- a) Whether the institution, affiliate or related entity has or is part of a system that has a regional or national headquarters in Missouri;
- b) Whether the institution, affiliate or related entity has substantial operations in Missouri;
- c) Whether a significant portion of the bond issue is to finance facilities in Missouri; and
- d) Whether the Missouri and out of state facilities are functionally and operationally related.

Unless expressly approved in advance by an Authority resolution, the Authority will consider all contacts and

relationship with Missouri and the various degrees of each will be part of the analysis. In connection with that consideration, based on the Authority's experience and analysis to date, the proceeds of bond issues should involve the expenditure of at least the following percentages of the proceeds on facilities located in Missouri: (a) 25% in the case of a borrowing institution, affiliate or related entity whose headquarters is located in Missouri; and (b) 40% in all other cases. The foregoing percentage analysis may include bond proceeds from prior Authority bonds issued in the three years prior to the new bond issue but shall not include any subsequent bond issue.

III) Presentation and Certifications As To Public Purpose and Missouri Contacts

In connection with the finding of public purpose and Missouri presence, it will be necessary for:

- a) The institution to make, or cause to be made on its behalf, a presentation to the Authority at a meeting; and
- b) The institution shall execute and deliver to the Authority a Certificate which has been finalized with representatives of the Authority detailing certain factors supporting a finding of public policy and Missouri presence with respect to the proposed bond issue. This process shall be completed at least one week prior to the consideration of the Authority of a final bond issuance resolution with respect to the financing.

IV) Other State Involvement.

The Federal tax code requires that (a) a public hearing be held in the locale of the out of state project and (b) the approval for the project be obtained from the "highest elected" official or governing body in the locale of the project. The hearing and approval requirement can be met at the State level by the Governor or at the local level by the chief elected official or the governing body of the local governmental unit. In either event, there will need to be coordination outside of Missouri. The Authority will retain the option of coordinating the hearing and approval with required assistance of borrower and the financing team. The Authority will consider working with other state authorities on these matters. The Authority will develop a fee schedule for the issuance of bonds involving an out of state component.

V) Requirement of Bond Counsel Opinion

Each borrower will have to evidence that a qualified Bond Counsel firm will provide a legal opinion on the legality of the bond issuance.

\* \* \*

**Exhibit E**  
**To Policies, Practices and Application Materials**

**Health and Educational Facilities Authority of the State of Missouri**

**FEE SCHEDULE**

as of  
**January 1, 2010**

One-Time Authority Application Fee: \$1,000

On-going Authority Annual Service Fee:

.0002 X principal amount of Bonds outstanding up to \$40 million  
plus

.0001 X principal amount of Bonds outstanding in excess of \$40 million

One-Time Authority's Financial Advisor Fee – .001575 X principal amount of Bonds issued, with a minimum fee of \$5,000 and a maximum fee of \$31,500. The fee is paid 50% by the borrower and 50% by the Authority. If the borrower has an ***underlying*** credit rating in the “A” category or better from Standard & Poor's, Moody's or Fitch, the borrower does not pay any financial advisor fee.

One-Time Authority's Counsel Fee – paid by the borrower based on firm's hourly rates – the fees typically range from \$10,000 to \$20,000; such fees typically are at the higher end in complex or extended transactions and in bond issues involving projects outside the State of Missouri.

Note: For Authority “program” bond or note transactions the foregoing fees are to be paid as an expense of the Program.

*Exhibit F*  
*To Policies, Practices and Application Materials*

**Health and Educational Facilities Authority of the State of Missouri**

**TYPICAL TIMETABLE FOR FINANCING**

- \* Authority Board meetings generally are held on the first Wednesday of each month\*
- \*Each financing requires a two meeting/two resolution process\*

At least **14 days prior** to first Authority Meeting: Application Letters and Completed Data Request Materials received at Authority office

10 days prior to first Authority Meeting: Authority Meeting Notice and Agenda distributed by Authority staff

7 days prior to first Authority Meeting: Meeting materials including Application summary distributed to Authority Members

**FIRST AUTHORITY MEETING: Initial Inducement Resolution considered and adopted, preliminary approval granted**

Financing timetable, structure and documents completed by financing team as appropriate, may take more than one month

At least 7 days prior to second Authority Meeting: Final Authorizing Resolution prepared by Bond Counsel and provided to Authority staff and advisors for review and distribution to Authority Members

At least 2 days prior to second Authority Meeting: “substantially final” bond documents and official statement, including appendix A, completed and distributed to Authority staff and advisors to be available at the Authority Meeting

**SECOND AUTHORITY MEETING: Final Authorizing Resolution (“Parameters” Resolution) considered and adopted, final approval of transaction and final bond documents granted**

Transaction ready for closing as appropriate