



**COUNTY OF SAN BERNARDINO
POLICY MANUAL**

No. 15-05

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EFFECTIVE DATE May 23, 2023

POLICY: CONTINUING DISCLOSURE

APPROVED

DAWN ROWE
Chair, Board of Supervisors

POLICY STATEMENT AND PURPOSE

To ensure clear, comprehensive, and accurate financial information is available to interested parties, the County is committed to meeting disclosure requirements on a timely and comprehensive basis, cooperating fully with rating agencies, institutional and individual investors, County departments and agencies, other levels of government, and the general public. Complete and accurate disclosure provides transparency regarding County finances and operations as well as enhances the County's credibility in the marketplace.

DEPARTMENTS AFFECTED

All County agencies, departments and Board-governed Special Districts issuing debt.

DEFINITIONS

Continuing Disclosure – Annual financial information and notices of material events about a municipal bond that arises after the initial issuance of the bonds reflecting the financial health or operating condition of the state or local government as it changes over time or the occurrence of specific events that can have an impact on key features of the bonds.

Continuing Disclosure Agreement (CDA) – The agreement or undertaking by the issuer of municipal securities or an obligated person with respect to such securities to disseminate annual financial information, certain operating information and disclosures concerning certain events to the marketplace as provided for under SEC Rule 15c2-12. A continuing disclosure agreement may also provide for more frequent or additional disclosures beyond those contemplated by Rule 15c2-12.

Disclosure Counsel – An attorney or law firm retained by the issuer to provide advice on issuer disclosure obligations and to prepare the official statement and/or continuing disclosure agreement.

Dissemination Agent – A financial institution or other entity that assists an issuer or obligated person to facilitate and submit ongoing disclosure requirements to the Municipal Securities Rulemaking Board.

Issuer – A state, territory, political subdivision, municipality, or governmental agency or authority that raises funds through the sale of municipal securities, e.g., the County.

Financial Advisor – An individual or firm that acts in a fiduciary capacity and advises the issuer or other obligated person on matters pertinent to the issue, such as structure, timing, marketing, fairness of pricing, terms and bond ratings.

Municipal Bond - A debt security issued by or on behalf of a state or its political subdivision, or an agency or instrumentality of a state, its political subdivision, or a municipal corporation.

Securities and Exchange Commission (SEC) Rule 15c2-12 – Under the Securities Exchange Act of 1934, this rule became effective January 1, 1996 and sets forth certain obligations of (i) underwriters to receive, review and disseminate official statements prepared by issuers of most primary offerings of municipal securities, (ii) underwriters to obtain continuing disclosure agreements from issuers, and other obligated persons to provide material event disclosures and annual financial information on a continuing basis, and (iii) broker dealers to have access to such continuing disclosure in order to make recommendations of municipal securities in the secondary market.

POLICY AMPLIFICATION

The County has issued debt from time-to-time to finance or refinance construction and improvements, to refinance pension obligations, and for cash flow purposes.

Any government or governmental entity issuing bonds has an obligation to meet specific continuing disclosure standards in compliance with Securities and Exchange Commission (SEC) Rule 15c2-12. When bonds are issued, the issuer enters into a continuing disclosure agreement/certificate/undertaking (CDA) for the benefit of the underwriter to meet the SEC's requirements, promising to provide certain annual financial information and material event notices to the public. SEC Rule 15c2-12 requires dealers, when underwriting certain types of municipal securities, to ensure that the state or local government issuing the bonds enters into CDAs to provide certain information to the Municipal Securities Rulemaking Board for investors about the securities on an ongoing basis. In accordance with changes made in 2009 to Rule 15c2-12, continuing disclosure filings must be made electronically at the Electronic Municipal Market Access (EMMA) portal.

Continuing disclosure agreements for new issues after February 2019 normally require the following:

1) Annual Financial Information including:

- a) Financial information and operating data provided by state, local government, or other obligated persons
- b) Audited financial statements for state, local government, or other obligated persons, if available.

2) Event Notices for the following material events:

- 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 security
- g) Modifications to rights of security holders
- h) Bond calls and tender offers
- i) Defeasances
- j) Release, substitution or sale of property securing repayment of the securities
- k) Rating changes
- l) Bankruptcy, insolvency or receivership
- m) Merger, acquisition or sale of all issuer assets
- n) Appointment of successor trustee
- o) Financial obligation ⁽¹⁾ incurrence or agreement
- p) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial obligations.

- (1) The term "financial obligation" is defined as a (i) debt obligation, (ii) derivative instrument entered into in connection with or pledged as a security or a source of payment for an existing or planned debt obligation (iii) guarantee of (i) or (ii).

Working with the County's general Financial Advisor, outside Disclosure Counsel, or other consultants as appropriate, the Lead Department will:

- 1) Determine the applicability of SEC Rule 15c2-12 and all CDAs for continuing disclosure for all outstanding bond issues as well as determine other additional information that should be provided to the marketplace that will enable investors to make judgments about the volatility and risk exposure resulting from operational changes of the County or other issuing entity.
- 2) Consistent with the time requirements outlines in the CDAs, compile ongoing disclosure information for filing with the Municipal Securities Rulemaking Board through its EMMA portal. The County may elect to utilize the services of a dissemination agent for continuing disclosure reporting; however, the responsibility for ensuring the reports are filed timely remains with the County.

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- 3) Monitor debt issues periodically to ensure continuing disclosure filings have been prepared and appropriately filed in a timely manner in compliance with Rule 15c2-12 and all CDAs.

LEAD DEPARTMENT

Department Issuing Debt

APPROVAL HISTORY

Adopted: December 20, 2016, Item No. 111; Amended May 23, 2023

Internal Review: December 2021

REVIEW DATES

Next Review: 2026