

Bond Case Briefs

Municipal Finance Law Since 1971

GFOA New and Revised Best Practices and Advisories.

On March 5, GFOA's Executive Board passed several sweeping best practices and advisories regarding Environmental, Social and Governance (ESG) disclosures by municipal issuers as well as member alerts regarding LIBOR cessation and In-Kind Asset Transfers to Defined Benefit Pension Plans.

Please see below for details and links to the new and revised best practices and advisories:

GFOA Best Practice on ESG Disclosure

Governmental issuers are getting ahead of the curve by moving forward with voluntary best practices calling for governments to include information about climate risk and what it is doing to prepare for climate change and environmental events in their bond offering documents. This best practice is instructive on disclosure data already at hand and provides a template to move forward on environmental disclosures to all stakeholders. Specifically, this best practice ***recommends that governments evaluate the development and disclosure of information regarding the primary environmental risks applicable to municipal issuers and their bonds in their preliminary and final official statements used in connection with bond sales and in other voluntary disclosure. Governments should also disclose plans developed, strategies deployed, actions taken, and infrastructure built to address the environmental risks, which will vary depending on the geographical location of the issuer.***

[VIEW BEST PRACTICE](#)

GFOA Advisory on LIBOR Transition

Additionally, the GFOA Executive Board issued an advisory regarding the cessation of LIBOR. This is in addition to GFOA's suite of materials created with GFOA's Industry Workgroup on LIBOR including the [Hunt for LIBOR](#) and the [ISDA Top Ten](#). For these resources and more, go to the [LIBOR landing page](#). ***GFOA recommends that governments start planning for the phase out of LIBOR despite the ICE announcement that certain LIBOR tenors may continue to be published past the December 31, 2021, Cessation Date. Steps include identifying LIBOR exposure in contracts; consulting with municipal/swap advisors and bond counsel; determining whether, and obtaining, governing body approval to amend any contracts with LIBOR references; and determining whether changes in those contracts may trigger any disclosure and/or accounting reporting requirements. GFOA encourages governments not to enter into new contracts that reference LIBOR especially if the contract extends past the expected LIBOR Cessation Date.***

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GFOA Advisory on In-Kind Asset Transfer to Defined Benefit Pension Plans

Aggregating perspectives of GFOA members representing both general governments as well as

administrators of defined benefit pension plans, this advisory ***does not recommend transferring ownership of government-owned infrastructure to a defined benefit plan for many reasons including:***

- The intangibility of the benefit to pensioners
- The significant liquidity risk of such a transaction and
- Valuation costs and irrevocability of such a transaction

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GFOA Best Practice on Issuing Taxable Debt

GFOA Executive Board renewed and enhanced the best practice on issuing taxable debt. ***GFOA recommends that state and local governments consider whether issuing taxable debt is the best financing option for their proposed project, and develop a thorough understanding of the differences between the tax-exempt and taxable markets before proceeding with a planned sale. Each issuer should conduct an analysis of how these differences will affect the overall financial plan and ability to manage its debt program, and consult appropriate counsel, and advisors.***

[VIEW BEST PRACTICE](#)

GFOA Best Practice on Managing Build America and Other Direct Subsidy Bonds

GFOA Executive Board renewed and enhanced the best practice on managing direct subsidy bonds. ***GFOA recommends that governments that issued BABs or other direct subsidy bonds, be acutely aware of their ongoing responsibilities associated with these bonds and be cognizant of Internal Revenue Service (IRS) actions related thereto. Additionally, if Congress reinstates direct subsidy bond programs, the GFOA advises governments to exercise caution and have a full understanding of the differences between tax-exempt bonds and direct subsidy taxable bonds.***

[VIEW BEST PRACTICE](#)

GFOA Best Practice on Sale of Bonds

GFOA Executive Board renewed and enhanced the best practice on selecting and managing the method of sale. ***When state and local laws do not prescribe the method of sale of debt, the Government Finance Officers Association (GFOA) recommends that issuers select a method of sale based on a thorough analysis of the relevant rating, security, structure and other factors pertaining to the proposed bond issue. If the issuer has in-house expertise (dedicated debt management staff whose responsibilities include daily management of a debt portfolio), this analysis and selection could be made by the issuer's staff. However, in the more common situation where an issuer does not have sufficient in-house expertise, this analysis and selection should be undertaken with the advice of a municipal advisor. Note: Municipal Securities Rulemaking Board (MSRB) Rule G-23 states that a firm may not serve as a municipal advisor and an underwriter on the same transaction.***

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