

CHAPTER 6
COORDINATION OF BONDING ACTIVITIES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

781—6.1(12) Scope. Iowa Code chapter 12 grants authority to the treasurer of state to establish administrative procedures for the coordination of state bonding activities and selection of professional services for the issuance of obligations by an authority.

781—6.2(12) Definitions.

“*Authority*” means a department, agency, and public or quasi-public instrumentality of the state which has the power to issue obligations, except that “authority” does not include the state board of regents. “Authority” includes, but is not limited to, the authorities created under Iowa Code chapters 175 (Iowa Agriculture Development Authority), 175A (Economic Protective and Investment Authority), 220 (Iowa Finance Authority), 261A (Higher Education Loan Authority), 307B (Railway Finance Authority), 442A (Advance Funding Authority), and any other entity which has both of the following characteristics:

1. State officers or employees serve as members, officers, directors or employees of the entity or have the authority to appoint any of the above, and
2. The state has either a present or a future interest in any assets of the entity.

“*Marketing activities*” are those activities which are undertaken to promote the sale of obligations issued by an authority. These include, but are not limited to, presentation of oral or written information to sellers, buyers, underwriters, analysts, rating agencies, dealers and brokers.

“*Obligations*” means notes, bonds, including refunding bonds, and other evidences of indebtedness of an authority, including but not limited to private activity bonds as defined in section 141 of the Internal Revenue Code of 1986, notes and bonds issued by the authority pursuant to loan agreements with any other entity, and lease or installment purchase agreements between the authority and any entity other than the manufacturer of the property subject to the lease or installment purchase agreement.

“*Professional services*” are those services performed by persons other than employees of an authority which are undertaken in order to effectuate issuance of an obligation. These include, but are not limited to, the services of attorneys, accountants, financial advisors, banks, underwriters, and insurers.

“*Project sponsor*” is a person who enters into an agreement with an authority under which the authority issues obligations on behalf of the project sponsor but neither the authority nor the state assumes any liability for the repayment of the obligation.

“*Rating agencies*” are those entities which evaluate and rate obligations including, but not limited to, Moody’s Investors Service, Standard and Poors, and Fitch’s Investors Services.

“*Request for proposal (RFP)*” is a solicitation to vendors to submit proposals for providing professional services in connection with the proposed issuance.

“*Vendor*” means a person, firm, corporation, partnership, business, or other commercial entity offering to provide professional services.

781—6.3(12) Intention to issue obligations.

6.3(1) *Treasurer’s status with an authority.* The treasurer or the treasurer’s designee shall serve as an ex officio nonvoting member of each authority. The authority shall transmit to the treasurer all documents, notices, and materials which are distributed to any other member of the authority. The treasurer shall be permitted to attend all meetings, conferences or working sessions which any other member of the authority is permitted to attend.

6.3(2) *Notice to treasurer.* When members of an authority determine that the authority should prepare to issue obligations, the authority shall notify the treasurer of its intent to do so.

6.3(3) *Consultation with authority.* Upon determining that an authority intends to prepare to issue obligations, the treasurer or treasurer’s designee shall meet with the authority or its designee to discuss the following matters:

- a. Proposed amount, terms, and conditions of the issue;

- b. Documents, instruments, and other materials necessary to effectuate issuance and marketing;
- c. Professional services necessary to effectuate issuance;
- d. Proposed schedule for preparation, issuance, and marketing;
- e. Whether the issue will be sold on a negotiated, competitive, or other basis;
- f. Compensation for vendors of professional services;
- g. Projected costs to the authority of vendor selection.

781—6.4(12) Selection of vendors of professional services.

6.4(1) *Preparation of request for proposal.* After consulting with the authority, the treasurer shall prepare or approve requests for proposal for all appropriate professional services.

6.4(2) *List of vendors.* The treasurer shall maintain a list of vendors of professional services who have requested to be notified of RFPs.

6.4(3) *Review of proposals.* The treasurer shall review all proposals submitted in response to an RFP. In evaluating the proposals submitted, the treasurer may consider any factors relevant to the vendor's qualifications to render the services in question including, but not limited to, proposed compensation and expenses, vendor's experience with similar issues, vendor's ability to provide the services of individuals with specific knowledge in the relevant subject matter, length of the proposed engagement and scheduling needs of the authority. Regardless of the number of proposals submitted, the treasurer may eliminate from further consideration any vendor who is, in the treasurer's opinion, unable to render the services specified in the RFP.

6.4(4) *Selection of vendor.* The treasurer shall review all information submitted by vendors and shall select a vendor to perform the services of the type requested in the RFP. In making this selection, the treasurer may consult with the authority and the treasurer shall employ the criteria set out in subrule 6.4(3).

6.4(5) *Compensation of vendor selected.* The treasurer shall fix the compensation of the vendor selected. The treasurer shall promptly advise the authority in writing of the vendor selected and the terms and conditions under which the vendor shall be employed. Upon receipt of notice of selection by the treasurer, the authority shall promptly employ the vendor subject to the terms and conditions specified by the treasurer. The vendor shall account to the authority for all expenses incurred and services rendered. The authority shall make appropriate payments directly to the vendor.

781—6.5(12) Exceptions to vendor selection procedure.

6.5(1) *Waiver required by public interest.* The treasurer may waive the procedures set out in subrules 6.4(1) to 6.4(3) if the treasurer determines that it is in the public interest to do so. The treasurer shall waive the above procedures by filing written notice with the executive council stating why the waiver is in the public interest. In the event that the treasurer waives the above procedures, the treasurer shall determine the procedures to be followed in selecting vendors of professional services for an authority.

6.5(2) *Waiver for project sponsors.* The treasurer may waive the provisions set out in subrules 6.4(1) to 6.4(5) if the treasurer determines that all of the following conditions exist:

- a. The proposed obligation is being issued by the authority on behalf of a project sponsor;
- b. Purchasers of the proposed obligation will have no recourse, directly or indirectly, to the authority or the state in the event of a default on the obligation; and
- c. Vendors of professional services affected by the waiver will be employed and compensated by the project sponsor and not by the authority.

6.5(3) *Competitive sale of obligations.* In the event that obligations are to be issued by soliciting bids from several underwriters in a competitive sale, the treasurer shall supervise the bidding process in consultation with the authority. The treasurer shall prepare the necessary documents including, but not limited to:

- a. Official notice of sale;
- b. Advertising of official notice; and
- c. Official bid form.

The treasurer shall establish a time and location for opening bids and shall notify the authority and the successful bidder upon awarding the successful bid. Selection of all other vendors of professional services shall be made according to the procedures set out in rule 6.4(12).

781—6.6(12) Investment of proceeds. The treasurer shall direct the investment or deposit of the proceeds of all obligations issued on or after July 1, 1986, subject to the terms and conditions of the obligations, except that the authority shall direct the investment or deposit of proceeds necessary to fund its ongoing operations.

781—6.7(12) Information to be provided to treasurer. Each authority shall, upon request, provide the treasurer with any statistical or financial information in the possession of the authority which, in the treasurer's opinion, is needed to prepare, issue or market any obligations of the authority.

781—6.8(12) Costs of vendor selection. The treasurer may submit to the authority accounts for all costs incurred in the selection of vendors for the authority, including general administrative costs incurred by the treasurer. The authority shall disburse the amounts presented in the treasurer's accounts.

These rules are intended to implement Iowa Code chapter 12.

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