March 11, 2013

Request for Proposals
to Provide
Short-Term Funding Product(s)

Proposals due by 4:00 p.m. (Central Time), March 27, 2013

Texas Department of Transportation
125 E. 11th Street
Austin, Texas
78701
www.txdot.gov
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### Exhibits

- Exhibit A ......................................................... Proposal Summary Term Sheet
- Exhibit B .......................................................... Required Legal Provisions
- Exhibit C .......................................................... TxDOT Debt Management Policy
I. Purpose

The Texas Department of Transportation (the "Department") is issuing this Request for Proposal ("RFP") to solicit proposals for short-term funding product(s) in the form of Bank Liquidity or an alternative short-term funding product to facilitate efficient cash management operations in the State Highway Fund. The Department is currently authorized to issue up to $500,000,000 Texas Department of Transportation State Highway Fund Revenue Commercial Paper Notes, Series A (the "Notes") for this purpose. The Department's goal is to have a short-term funding program that provides both a cost efficient means for short-term borrowing and minimizes the cost associated with maintaining the short-term funding program, especially during times when no debt is outstanding.

Any proposal submitted should be for a minimum of $100 million for each short-term funding product. Joint proposals will not be accepted.

II. Overview of the Existing Tax-Exempt Commercial Paper Program

The Texas Constitution (Article III, Section 49-m) and the Texas Transportation Code (Section 201.115) authorize the Texas Transportation Commission (the “Commission”) to authorize the Department to borrow money from any source to carry out the functions of the Department. A loan incurred pursuant to Section 201.115 may be in the form of an agreement, a note, a contract, or another form, as determined by the Commission. The term of a loan may not exceed two years, and the amount of a loan, combined with any other loans issued and outstanding pursuant to Section 201.115, may not exceed an amount that is two times the average monthly revenue deposited to the State Highway Fund for the 12 months preceding the month in which the loan is made (For the 12 months preceding March 1, 2013, the average monthly revenue deposited to the State Highway Fund equaled $565.6 million). A loan incurred pursuant to Section 201.115 is payable from legislative appropriation of amounts on deposit in the State Highway Fund for that purpose.

In 2005, the Commission authorized the Department to issue Notes pursuant to a resolution approved by the Commission, on July 28, 2005 (the “Commercial Paper Resolution”). The Commercial Paper Resolution authorizes the issuance of Notes, from time to time, in the maximum aggregate principal amount of $500 million. As noted above, notes issued and loans obtained pursuant to Section 201.115 may not have a term of more than two (2) years; however, the Commercial Paper Resolution authorizes the issuance of Notes through the expiration date of the Commercial Paper Resolution, which is August 5, 2025.
III. Proposal Due Date

All proposals must be delivered electronically.

Electronic copies of the proposals (PDF format) shall be submitted to TxDOT’s ftp site at https://ftp.dot.state.tx.us/dropbox/. Upon entering the website, navigate to the tab marked “Drop-off”, then follow the instructions. Use the following name and email address for the recipient: Deborah Fleming, Deborah.fleming@txdot.gov. If you are unable to provide an electronic copy via the ftp site, you may provide a copy via email to deborah.fleming@txdot.gov (clearly mark in the subject line: "Request for Proposal for Short-Term Funding Products").

Electronic submittals must be received no later than 4:00 p.m. Central Time, Wednesday, March 27, 2013, unless this time is extended by written addendum issued by the Department before that date. The responsibility of timely delivery of the proposal rests with the sender. Proposals received after the deadline will not be considered.

IV. Submission of Proposals

A. Request for Information

By submitting a proposal, the respondent agrees to furnish such information as the Department may reasonably require. This information includes, but is not limited to, information that indicates financial resources as well as the ability to provide services. To the extent there are any revisions or additions to the information provided or requested in the RFP, an addendum to the RFP will be sent to all respondents that initially received the RFP. Any addendums so issued are to be considered part of the specifications of the RFP. The Department reserves the right to make investigations regarding the qualifications of the respondent.

B. Proposals Binding

Any proposal may be withdrawn in writing prior to the date and time set for receipt of proposals. As noted in Section V (B) Tentative Schedule, the Department anticipates negotiating and executing Summary of Terms and Conditions engagement letter(s) (if applicable) with selected respondent(s) by May 17, 2013. However, any proposal submitted and not withdrawn prior to the date and time set for receipt of proposals will be considered valid until the period ending August 16, 2013.

C. Incurred Expenses

The Department is not responsible for any costs incurred by a respondent to this RFP, including costs of participating in presentations or meetings with the Department.
D. Proprietary Information

All materials submitted to the Department in response to this RFP are, upon receipt by the Department, the property of the State of Texas, may not be returned to the submitting party, and are subject to the Public Information Act, Chapter 522, Texas Government Code (the “Act”). Respondents should familiarize themselves with the provisions of the Act. In no event shall the State of Texas, the Department, or any of their agents, representatives, consultants, directors, officers or employees be liable to a respondent for the disclosure of all or a portion of the information submitted in response to this RFP.

If a respondent has special concerns about information which it desires to make available to the Department but which it believes constitutes a trade secret, proprietary information, or other information excepted from disclosure, such respondent should specifically and conspicuously designate that information by placing “CONFIDENTIAL” in the center header of each such page affected. Blanket, all inclusive identifications by designation of whole pages or sections as containing proprietary information, trade secrets or confidential commercial or financial information are discouraged and may be deemed invalid.

If the Department receives a request for public disclosure of all or any portion of a response, the Department will use reasonable efforts to notify the applicable respondent of the request and give such respondent an opportunity to assert, in writing and at its sole expense, a claimed exception under the Act or other applicable law within the time period specified in the notice issued by the Department and allowed under the Act.

E. Acceptance/Rejection/Modification to Proposals

1. The Department reserves the right to negotiate modifications to the proposals, to reject any or all proposals, to request and consider additional information from any respondent, and to waive minor irregularities and technical defects. The Department will not waive non-compliance with the deadline to submit the response to the RFP.

2. The Department reserves the right to seek new proposals when it determines that it is in the Department’s best interest to do so.

3. The Department reserves the right to accept the written proposal as an offer.

4. The Department reserves the right to award the contract to other qualified respondent(s) if the primary respondent chosen does not execute a Summary of Terms and Conditions engagement letter with the Department within thirty (30) days of being notified of selection.
V. Evaluation Criteria and Selection Process

A. Evaluation Criteria

The Department intends to select the responsive proposal(s) that it determines best meets the Department's needs, after consideration of business terms, timing, price, creditworthiness, trading differentials related to other products and other factors.

All products proposed, including Bank Liquidity, should be consistent with the Department's Debt Management Policy which has been attached as Exhibit C.

Additionally, proposals for Bank Liquidity will only be considered from respondents with short-term ratings from two rating agencies of at least P-1, A-1 or F1 from Moody's, S&P and Fitch respectively.

All proposals must be complete and convey all of the information requested in order to be considered responsive. If the proposal fails to conform to the essential requirements of the RFP, the Department will determine, at its discretion, whether to reject or accept the proposal.

Any questions regarding this RFP or requests for available materials should be directed in writing via e-mail to:

Deborah Fleming: deborah.fleming@txdot.gov

Please understand that all fees (including respondent counsel fees, if any) that the Department is expected to pay are contingent upon the final approval by the Commission, and that the laws of the State of Texas will govern the obligations of the Department.

Information submitted relative to this RFP will not be released by the Department during the evaluation process or prior to contract award, unless the Department is required to do so by law.

B. Tentative Schedule:

1. RFP issued March 11, 2013.
2. Proposals due no later than 4:00 p.m., Central Time, on March 27, 2013.
3. Anticipated selection of preferred bidder(s), April 17, 2013.
5. Delivery of new Bank Liquidity and/or other product(s) by August 1, 2013.
VI. Format and Content of RFP

This section of the RFP describes the required format and content for the respondent’s proposal. This standardization will facilitate evaluation of all proposals. Failure to comply with the required organization outlined in this RFP may result in a lowered evaluation. Proposals that are substantially incomplete or lack key information may be rejected. A proposal will be considered incomplete if the response to requested information states that the respondent considers the information to be proprietary and as such the information is not disclosed.

Proposals should be prepared in a manner that is simple and straightforward, with a concise description of capabilities to satisfy requirements of the RFP. Emphasis should be placed on completeness and clarity of content.

Proposals should be organized in the order in which the requirements are presented in this RFP. Each paragraph of the response should reference the section of the corresponding section of the RFP. Respondent should respond to all information requested in this RFP or indicate why no response is given. It is also helpful to repeat the text of the requirements as it appears in the RFP prior to your answer to that question. Proposals that are not organized in this manner risk elimination for consideration if the evaluators cannot determine where the answer to a particular question is located within the response.

A. General Information

Please provide the following general information about the firm and contact information for the person who is authorized to answer questions and to negotiate final terms and conditions on behalf of the respondent:

- Name of Respondent
- Corporate Office Address
- Names and Addresses of Authorized Representatives
- Telephone Number
- Facsimile Number
- E-mail Address

B. Bank Liquidity Proposals

Please provide:

1. Respondent’s current short-term and long-term credit ratings and outlook from Fitch, Moody’s and S&P.

2. A complete Term Sheet which includes all relevant terms, pricing information, costs, and conditions. For pricing information include:
a) Fees: Please provide the commitment amount being offered and the facility/commitment fees that you are willing to offer the Department for periods of 365-days, 2 years, or longer. If there is a minimum amount being offered and/or the proposed pricing will differ if less than the full offer amount is accepted, please indicate so on the Term Sheet and in Exhibit A. Describe the formula and timing of the payment of the fees. The Department prefers calculation of the commitment fee based on a 365- or 366-day year as applicable and actual days elapsed.

b) List and indicate the amounts of any other fees or charges that would be required to be paid by the Department.

c) Indicate the interest rate applicable to advances and term loans and default rate.

d) Please describe the terms of the term loan that you would propose in the event that the liquidity facility is drawn upon. The maximum term-out permitted by Article III, Section 49-m, and Section 201.115 is two (2) years.

3. In addition to your Term Sheet, please summarize the essential information from your Term Sheet by utilizing the Excel spreadsheet labeled Exhibit A “Proposal Summary Term Sheet”.

C. Alternative Short-Term Funding Products

As indicated, the Department is interested in both Bank Liquidity proposals, and alternative short-term funding product(s) that do not require Bank Liquidity. For each funding product offered please provide the following:

1. If applicable for the proposed product: Respondent’s current short-term and long-term credit ratings and outlook from Fitch, Moody’s and S&P.

2. For each funding product offered, please provide a brief description of the product and the general terms and conditions which your firm would propose for such structure. Please limit submitting no more than two alternative funding products. Include details regarding general terms, interest cost, all fees and all issuance costs. To the extent that the pricing for your proposed structure fluctuates, please provide such details as of March 1, 2013.

All proposals are required to have a completed “Proposal Summary Term Sheet” (attached as Exhibit A) listing the proposal type to accompany the written proposal. Place each product on separate page. If an item in the form is not applicable to your funding product, please note as “not applicable”. Additionally, if a key feature is not listed please add the information keeping to a similar format.
D. Comparison of Bank Liquidity Proposal to Alternative Products

1. Prepare a comparison of the proposed funding product terms and costs relative to the use of Bank Liquidity for the Notes. If no Bank Liquidity proposal is offered then compare to expected Bank Liquidity pricing based on recent comparables (please provide comparables that are the basis of the estimated pricing).

2. If available, include specific examples of prior pricing(s) of the proposed funding product that corroborates the proposal.

3. Please address the pros and cons for each proposed product.

E. Disclosure Requirements

For all products, please list any offering documents or other types of disclosure requirements.

F. Legal Counsel Representative

For all products proposed, if an outside legal counsel for the proposer is anticipated, please provide the name of such counsel.

G. Ability to Meet the Department’s Schedule

Please confirm that the respondent can meet the Department’s expectations as disclosed in the "Tentative Schedule" found in Section V (B).

H. Conditions and Covenants

1. By acceptance of the respondent's proposal, the Department reserves the right to negotiate any proposed conditions and covenants.

2. If applicable, please indicate your willingness to allow the Department to reduce the commitment amount or to terminate the facility with appropriate notice at its sole discretion. The Department’s preference is to not agree to payment of any termination fees or expenses or any increase in fees associated with reducing or terminating a facility prior to its stated expiration date.

3. If applicable, please describe those provisions to be made by the respondent if it withdraws from offering the services, during the term of the facility. The Department anticipates requiring a minimum of six (6) months to replace a Bank Liquidity facility or other product after receipt of termination notice, although a shorter time frame could be agreed upon at the Department’s discretion.
4. Indicate whether respondent requires any form of "Most Favored Nations" language/terms and conditions and to what provisions the “most favored nations” clause applies.

5. Currently, the dealers for the Notes are Goldman Sachs & Co. and Morgan Stanley & Co. LLC and the issuing and paying agent for the Notes is Deutsche Bank Trust Company Americas. By submitting a proposal, the respondent agrees to such entities continuing to serve in their respective capacities with respect to the Notes.

I. Credit Approval

The Department would prefer that respondents obtain credit approval for this transaction prior to submittal of a proposal. Please indicate whether such approval has been obtained and if not, please indicate the timing for credit approval once an award is made.

J. Information Relating to the Respondent

Please provide the following:

1. An electronic copy or website reference to the respondent's most recent audited financial statements.

2. Detail any criminal investigations or pertinent litigation against the respondent, either pending or concluded within the past three years. Specifically address any litigation or administrative proceedings involving the Department.

3. Disclose any possible conflicts of interest or circumstances that could create the appearance of a conflict of interest. Disclose all contractual or informal business arrangements or relationships, including fee arrangements and consulting agreements, as well as any personal relationships, between your firm, including professional staff, and any Department staff and/or members of the Commission.

VII. Other Suggestions (Optional)

The Department is also interested in creative solutions for short-term funding products that might permit the Department to obtain access to short-term funding for a term in excess of two years. To the extent that a proposed funding product can be structured to accomplish this, please address the manner in which the proposed product would be structured to satisfy legal constraints governing the maximum term for notes and loans. Please note the following constraints:

- Maximum term any original borrowing can be outstanding is two years, inclusive of any refundings;
The stated maturity date of any borrowing cannot extend beyond the last date of the current biennium, unless the legislature has passed an appropriation bill for the State Highway Fund for the subsequent biennium;

- Any proposal will be subject to confirmation with the Attorney General’s Office.

VIII. Agreement Terms and Conditions

The Department reserves the right to reject any proposed form of agreement that does not conform to the RFP or any of the Department’s requirements for agreements and contracts. The conclusion of any agreement resulting from the acceptance of a proposal must be approved by the Commission. In addition, the credit agreement must be approved by the Texas Attorney General, and Bond Review Board approval may be required.

IX. Specific Requirements of the Department

Exhibit B contains select legal provisions that are required by the Department. Among others, these include indemnification and sovereign immunity provisions that are required by the Department. Please indicate your acceptance of the provisions or proposed, if any, provisions.

X. Assignment and Interest

The respondent shall not assign any interest in the credit agreement and shall not transfer any interest in the same without prior written consent of the Department.
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| Name of Counsel (s) |  |
| Bank Bond Base Rate |  |
| Bank Bond Rate First 30 Days |  |
| Bank Bond Rate After 30 Days |  |
| Bank Bond Rate After 90 Days |  |
| Default Rate |  |
| Term Out |  |
| One Downgrade (Aa3/A+/AA-) |  |
| Two Downgrades (A1/A/A+) |  |
| Three Downgrades (A2/A-/A) |  |
| Four Downgrades (A3/BBB+/A-) |  |
| Rating Withdrawal Fee Impact |  |
| Event of Default Upon Downgrade? |  |
| Dodd Frank Cost Recovery? |  |
| Most Favored Nations? |  |
| Other Material Term Requirements? |  |
| Other Considerations |  |
| Financial Audit Period |  |
| Type of Opinions Required |  |
| Any Criminal Litigation? |  |
| Any Conflicts of Interest? |  |
EXHIBIT B

GOVERNING LAW; JURISDICTION: This [Agreement] shall be governed by, and construed in accordance with, the laws of the State of Texas; provided, that the obligations of the [Provider] under this [Agreement] shall be governed by and construed in accordance with the internal laws of the State of ______, without giving effect to conflict of law principles.

SUITs AT LAW OR IN EQUITY AND MANDAMUS. If any [Event of Default] shall occur, then and in every such case the [Provider] shall be entitled to proceed to protect and enforce its rights by such appropriate judicial proceeding as it may deem most effectual to protect and enforce any such right, either by suit, in equity, or by action at law, whether for the specific performance of any covenant or agreement contained in this [Agreement], in aid of the exercise of any power granted in this [Agreement], or to enforce any other legal or equitable right vested in [Provider] by this [Agreement] or by law. The provisions of this [Agreement] shall be a contract with the [Provider] and the duties of the Department shall be enforceable by the [Provider] by mandamus or other appropriate suit, action, or proceeding in any court of competent jurisdiction.

The Commission/Department does not have the ability to waive sovereign immunity with respect to its obligations under the operative document/s.

INDEMNIFICATION OF PROVIDER BY DEPARTMENT: Any provision relating to Commission or Department indemnification of the Provider must be qualified by including the phrase “to the extent permitted by law”. In addition, the Commission/Department cannot indemnify for the ordinary negligence of the [Provider].

VENUE: the Commission/Department cannot agree to any venue outside of Texas.
TEXAS TRANSPORTATION COMMISSION

Debt Management Policy

August 30, 2012
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1. **Policy Objectives and Philosophy**

The purpose of this Debt Management Policy (“Policy”) is to ensure that all Financing Programs (as defined herein) undertaken by the Texas Transportation Commission (“TTC” or “Commission”) and/or the Texas Department of Transportation (“TxDOT” or “Department”) are completed in the most efficient manner and in accordance with the highest standards of industry, law and government practice. This Policy confirms the intent of the Department and the Commission to adhere to sound financial management practices including full and timely payment of all borrowings, and achieving the lowest cost of capital within prudent risk parameters.

The Commission intends to use its Financing Programs efficiently to maximize the delivery of transportation and mobility projects throughout the State within acceptable levels of risk, balancing obtaining the best possible credit ratings, minimizing interest costs and optimizing future flexibility. Due to the wide variety of projects and available Financing Programs, this policy sets parameters within which flexibility is retained to respond to specific or unplanned circumstances.

2. **Scope and Authority**

This Policy shall govern the management of all Financing Programs of the Commission or TxDOT and debt issued by related entities on behalf of the Commission or the Department. This Policy pertains to all new money obligations and refunding obligations and has been reviewed and approved by the Commission as of the date specified on the cover of this document. The Commission will review this Policy annually and will approve changes to the Policy when it concludes that doing so advances TxDOT’s fiscal management goals and objectives and is fiscally prudent based upon recommendations from the Chief Financial Officer (“CFO”) or his designee. Such amendments shall be evidenced in writing with copies delivered to the rating agencies.

Management responsibility for this Policy is hereby delegated to the CFO. The CFO shall have responsibility and authority as provided by the Commission for structuring, implementing, and managing all Financing Programs, and for ensuring compliance with this Policy.

3. **Currently Authorized Financing Programs**

The Commission has authority to issue bonds, notes and other obligations for several Financing Programs as briefly described below:

a. **Texas Mobility Fund Revenue Financing Program (“TMF”):** Authorized by Article III, Section 49-k of the Texas Constitution and Subchapter M, Chapter 201, Texas Transportation Code, TMF bonds are secured by revenues deposited into the Texas Mobility Fund and, at the option of the Commission, the full faith and credit of the State of Texas. The proceeds of bonds may be used to fund state highway improvement projects, publicly owned toll roads, and other public transportation projects and to establish a loan program for qualified mobility projects. TMF bonds may have a maturity of no longer than 30 years and bonding capacity is constrained by statutory debt service coverage requirements as certified by the Comptroller.
b. **State Highway Fund Revenue Financing Program ("SHF"):** Authorized by Article III, Section 49-n of the Texas Constitution and Section 222.003, Texas Transportation Code, SHF obligations (also called “Proposition 14” Bonds) are secured by a pledge of, and are payable from, revenues deposited to the State Highway Fund. Under current statutory authority, proceeds may be used for state highway improvement projects; however $1.2 billion must be used for safety projects. State Highway Fund Revenue Bonds may have a maximum maturity of 20 years and up to $6 billion aggregate principal amount may be issued pursuant to current statutory authority.

c. **Highway Improvement General Obligation Bond Program ("HIGO"):** Article III, Section 49-p of the Texas Constitution and Transportation Code 222.004 authorize the issuance of up to $5 billion in general obligation bonds for highway improvement projects. HIGO bonds were approved by the voters under ballot Proposition 12 and are thus referred to as “Proposition 12” Bonds. HIGO bonds may have a maximum maturity of no longer than 30 years.

d. **Short-Term Obligations:** As authorized by Article III, Section 49-m of the Texas Constitution and Section 201.115, Texas Transportation Code the Commission and the Department may issue notes or borrow money from any source to carry out the functions of the Department. Such obligations are payable only from funds appropriated by the State legislature, including State Highway Funds, and must mature within two years of issuance. The amount of a loan may not exceed an amount which is two times the average monthly revenue deposited to the State Highway Fund for the twelve months preceding the month of the loan.

e. **Highway Tax and Revenue Anticipation Notes (HTRANs):** Article III, Section 49-n and Chapter 201, Subchapter N, Texas Transportation Code authorize the Commission to issue HTRANs in anticipation of a temporary shortfall in the State Highway Fund during any fiscal year. Obligations are payable from the State Highway Fund and are subject to approval of the Cash Management Committee (comprised of the Governor, Lieutenant Governor, Speaker of the House, and Comptroller). Proceeds may be in the amount of the projected cash shortfall and such obligations must be repaid within the fiscal biennium in which they were issued.

f. **Toll Project Revenue Bonds:** Subchapter C, Chapter 228, Texas Transportation Code (“Chapter 228”) authorizes the Commission to issue toll revenue bonds to finance, in part or in whole, toll projects.

g. **Rail Facility Bonds:** Chapter 91, Texas Transportation Code (“Chapter 91”) authorizes the Commission to issue revenue bonds to pay all or part of the cost of developing State-owned rail facilities, as defined in Chapter 91. The Commission is authorized to issue bonds under the same terms and conditions as bonds are issued with respect to toll projects under Chapter 228.

h. **State Infrastructure Bank ("SIB") Revenue Bonds:** Subchapter D, Chapter 222, Texas Transportation Code authorizes the Commission to issue bonds to
capitalize the State Infrastructure Bank, such bonds to be secured and payable from income derived from the State Infrastructure Bank.

i. **Texas Rail Relocation and Improvement Fund:** Article III, Section 49-o of the Texas Constitution and Subchapter O, Chapter 201, Texas Transportation Code authorize the Commission to issue bonds to finance the costs of relocating, constructing, reconstructing, acquiring, improving, rehabilitating or expanding publicly- or privately-owned rail facilities. Bonds are payable from revenues deposited to the Rail Relocation and Improvement Fund and the full faith and credit of the State of Texas may be pledged to secure such bonds.

j. **Real Property Financings:** The Commission is authorized under Section 201.1055, Texas Transportation Code, and Section 1232.111, Texas Government Code, to enter into agreements with a private entity for the acquisition, design, construction, or renovation of a building located on TxDOT property or to acquire from a private entity real property, including any improvements, in exchange for TxDOT-owned real property and improvements. In the event that any project is not wholly paid for by an exchange of TxDOT-owned real property, TxDOT may finance the project through the Texas Public Finance Authority, which may issue obligations payable from lease payments by TxDOT to obtain the funds for the remaining cost of the building.

4. **Allowable Purposes of Debt Issuance**

The statutory authority for the Commission’s Financing Programs are outlined in Section 3, however the general purposes for which the Commission may issue debt are as follows:

a. Interim or long-term financing of the construction and acquisition of eligible projects (including feasibility and engineering studies, other preliminary engineering and design activities and the purchase of right-of-way);

b. Reimbursement of the State Highway Fund for qualified expenditures;

c. Major capital improvements, rehabilitations, or repairs to existing Department facilities;

d. Cash management (to the extent permitted by federal tax law); and

e. Refunding of outstanding debt.

Long-term tax-exempt debt may not be used to fund routine operations or maintenance; tax-exempt debt may not be issued for the purpose of investing or for the purpose of earning arbitrage.

5. **Eligible Projects**

As described in more detail in Section 3, each Financing Program has specifically authorized purposes for which bond proceeds may be used.
6. **Long Term Debt Planning**

Annually, the CFO shall review and update the long-term debt profile for each Financing Program. The information to be updated includes annual debt service requirements, pledged revenues, planned future issuances and projections of debt service coverage. For unhedged variable rate bonds, an assumed interest rate will be used as prescribed in the legal documents for such Financing Program. If no interest rate is prescribed, the CFO may determine a rate which he deems reasonable.

To the extent possible, these updates shall be considered complete if required as part of the Commission’s annual continuing disclosure or other reporting undertakings or as a component of its rating updates.

7. **Refunding Procedures and Practices**

Refunding of outstanding debt will be considered in order to:

- Achieve interest rate savings;
- Restructure principal including conversion of short-term obligations to long-term obligations or alternative interest rate mode obligations;
- Make termination payments due under swap agreements as authorized by the legal documents for such Financing Program and in compliance with the Derivative Management Policy; or
- Amend or close an existing Trust Indenture or Master Resolution.

**Achieve Interest Rate Savings**

The number of tax-exempt advance refundings which may be undertaken is limited by federal regulations. Therefore, interest rate savings should be sufficient to offset reduced future refunding flexibility. The Commission sets forth the following savings guidelines as a measure for evaluating refunding proposals, however the CFO shall have discretion in determining whether to undertake refunding transactions that do not meet the relevant savings target set forth below. Consideration will be given to compliance with Commission policy and/or the financial objectives of each Financing Program.

For current refundings, i.e. bonds that are redeemable within 90 days of the refunding, the net present value savings target is 3% of the refunded par amount of bonds.

Bonds may only be advance refunded once on a tax-exempt basis, therefore the net present value savings target is 5% of the refunded par amount of bonds. In addition, the amount of negative arbitrage generated should also be calculated and considered before determining if the obligation should be advance refunded.

For refundings which include the use of derivative products such as interest rate swaps, the transaction must be in compliance with the Commission’s Derivative Management Policy. In order to reflect the additional risks associated with such transactions, the net present value savings target is 6% of the refunded par amount of bonds and 8% of the refunded par amount of bonds for transactions in which the Commission assumes tax risk.
Each refunding may also be evaluated using a call option pricing model. When using the call option pricing model, the target savings from any refunding candidate must be in the range of 80% of the expected value of the call option, net of all transaction costs.

The manner in which savings are realized (up front, deferred or on an annual basis) will be determined by the CFO based upon the overall needs and objectives for the specific Financing Program.

Restructure Principal

Refundings involving a restructuring of principal shall be considered if the Commission can achieve a more favorable matching of revenues or other resources pledged to meet debt service payments. Consideration shall be given to the effect of such restructuring on the credit rating (if any) or credit perception of the Financing Program. Any transactions involving the restructuring of principal shall seek to minimize the amount of refunding debt to be issued.

Make Termination Payments

To the extent permitted by law refunding bonds may be issued to make a payment due by the Commission to a qualified counterparty in the event of a termination, whether voluntary or involuntary, for any interest rate swap agreements or similar derivative structures. The Commission shall only issue refunding bonds when other funds legally available to make such a termination payment are insufficient; the issuance of the refunding bonds does not negatively impact the debt service coverage or credit of the Financing Program; or such refunding is contemplated when the derivative product is executed and the derivative complies with the Commission’s Derivative Management Policy.

Amend or Close Trust Indenture or Master Resolution

Refundings undertaken to revise or remove covenants or to make pledged reserves available for other purposes by closing an existing Indenture or Resolution must analyze any economic impact as measured by present value savings or loss, inclusive of cash contributions and any debt service reserve fund earnings. Such economic effects include:

i. Limitations imposed by the Internal Revenue Code;
ii. Use of reserves;
iii. Future financing capacity; and
iv. Future marketability of related debt.

Other Refunding Considerations

Any debt service reserve funds which are released after a refunding shall be used to reduce the amount of Refunding Bonds to be issued and under no circumstances will be used for operating expenses.
8. **Limitations on Level of Indebtedness**

The Commission and the Department will comply with statutory limitations on the level of indebtedness for each Financing Program. For Financing Programs that are not statutorily limited, the maximum level of indebtedness will be governed by available pledged revenue streams and rate covenants or additional bonds tests contained in the legal documents for such Program. In the case of new financing programs, consideration will be given to the desired credit rating for the program and purpose and use of the revenue stream or fund.

9. **Credit Objectives**

It is the goal of the Commission to provide sufficient flexibility to meet the objectives of each Financing Program while striving to secure and maintain the highest possible ratings for each Financing Program. It is the objective of the Commission to maintain its positive presence in the credit markets through the maintenance of and improvement of all relevant credit characteristics within its control.

10. **Permissible Types of Debt for Financing Programs**

   a. **Variable Rate Debt**

   Factors to be considered in determining the use of variable rate debt shall include cash flow risk, liquidity risk, remarketing risk and tax risk.

   The targeted maximum percentage of unhedged variable rate debt is 25% of all outstanding debt for each Financing Program. For purposes of this limitation, variable rate debt is considered hedged if it is subject to an interest rate cap or if short-term investments offset variable rate debt exposure. Short-term investments for purposes of this limitation shall include money invested in money market funds, overnight funds, repurchase agreements, investment pools, and all other TxDOT investments with an average weighted maturity of one year or less. Variable rate debt that is hedged by an interest rate cap or short-term investments is not considered to be subject to tax risk.

   The targeted maximum percentage of variable rate debt hedged by interest rate swap products is 25% of all outstanding debt for each Financing Program. These targets may be exceeded if the CFO determines doing so to be prudent and consistent with the liquidity and capacity constraints of each Financing Program.

   The targeted total percentage of debt for each Financing Program that may be subject to tax risk is 50%.

   b. **Commercial paper**

   Commercial Paper may be issued for any Financing Program:

   i. To minimize the interest cost or the use of capitalized interest during the design phase or construction period of eligible projects;

   ii. For certain equipment purchases or capital improvements;

   iii. Cash management; or

   iv. To diversify the Commission’s debt portfolio.

   c. **Fixed rate debt**
Current interest bonds may be used for both new money and refunding transactions and may be structured to meet investor demand at the time of pricing. Current interest bonds may be issued as tax-exempt bonds or as taxable Build America Bonds under the American Recovery and Reinvestment Act of 2009, or as taxable bonds when advisable. Capital appreciation and zero coupon bonds, which typically result in higher interest costs, shall be used in limited circumstances after an analysis is undertaken that indicates the needs or objectives of a particular Financing Program are met through their use.

d. Derivative products

The Commission will consider the use of interest rate swaps and other interest rate risk management tools after carefully evaluating the risks and benefits of any proposed transaction in accordance with the Derivative Management Policy. By using swaps and other derivative products in a prudent manner, the Commission can take advantage of market opportunities to minimize expected costs and manage interest rate risk. The Commission will not enter into swap transactions for speculative purposes but will consider other swap or derivative products as allowed and recommended pursuant to the Derivative Management Policy.

e. Hedging products

Subject to State law, the Commission may utilize hedging products for the purpose of protecting future debt issuance from interest rate risk. Such products may include, but are not limited to forward delivery bonds or rate locks based on either a taxable or tax-exempt bond index.

11. Permissible Types of Debt for Short Term Financing Programs

The following types of debt and other obligations are permitted for Section 3(d) Short Term Obligations and Section 3(e) Highway Tax and Revenue Anticipation Notes:

a. Fixed Rate Notes;
b. Variable Rate Notes;
c. Commercial Paper; and
d. Bank or other Loans

12. Structural Objectives

a. Maturity: Term of debt may not exceed expected useful life of the project or equipment financed, or as statutorily prescribed.

b. Variable rate debt instruments: As long as variable rate debt is outstanding, the CFO will actively monitor and evaluate market conditions and shall determine if it is appropriate and cost-efficient to convert the variable rate debt to fixed interest rates or fixed rate debt to variable rate debt either through the issuance of fixed rate bonds, variable rate bonds or synthetically upon entering into an interest rate swap transaction in compliance with the Derivative Management Policy.

c. Structural elements: Use of specific structural elements (capital appreciation bonds, variable rate bonds, call features, forward delivery bonds, derivative products, etc.) will be based on analysis and recommendation of staff, financial
advisor, senior underwriter(s) and bond counsel, as applicable. For derivative structures, compliance with the Derivative Management Policy is required.

d. **Lien levels:** Multiple lien levels of debt may be utilized for any Financing Program if the resulting debt structure optimizes certain critical debt constraints, typically either cost or capacity, or is needed to maintain credit ratings on existing debt. The use of multiple lien levels is also permitted when derivative products are utilized if the Commission will become liable for termination payments or other obligations under such agreements.

e. **Capitalized interest:** When possible, the Commission will avoid using capitalized interest. The CFO shall determine when the use of capitalized interest is warranted in order to meet the objectives of any Financing Program.

f. **Premium and Discount Bonds:** While premium and discount bonds may reduce the interest cost of the bonds they should only be used when economically justified and upon recommendation by the financial advisor and senior underwriter(s) to efficiently issue the bonds. Bonds which carry significant Original Issue Discount may be rendered nonrefundable, a significant disadvantage to the Commission for which a commensurate benefit should be received.

g. **Debt Service Reserve Fund:** Debt service reserve funds may be funded by proceeds of bonds, available cash or cash equivalents, or the purchase of a surety bond to the extent authorized by law. The desirability of using a surety bond to fund a reserve will be evaluated on a case-by-case basis. Debt service reserve funds will be created only when required to market a specific type of debt, achieve a desired credit rating or provide a needed liquidity source for a bond issue. Factors to be considered in evaluating the use of a debt service reserve fund include arbitrage yield restrictions, current interest rates, availability and cost of a surety policy and future opportunities for the use of funds released from the fund. Typically debt service reserve funds will be used to make the final debt service payment, fund a new debt service reserve fund or reduce the amount of any refunding bonds issued.

h. **Call provisions:** In general, a call provision at the Commission’s option must be included for all bonds or obligations with maturities longer than 10 years. The optional redemption date will be a maximum of 10 years from the date of issuance or a date acceptable to the market as recommended by the financial advisor and senior underwriter(s) on the transaction. Prior to issuing bonds without a call provision, the CFO will evaluate and document expected interest savings in relation to the expected savings from a refunding, as based on the theoretical value of the call option.

i. **Credit Enhancement:**

   a. **Bond insurance:** Bond insurance will be used when it provides an economic advantage to a particular bond maturity or entire issue or when a particular product requires the insurance. The decision to use bond insurance shall be based upon the value it adds to a specific transaction. The analysis of that value shall compare the present value of the prospective interest savings produced due to the insurance to the cost of the insurance premium. Insurance
may be purchased when the premium cost is less than the projected interest savings. Bond insurance may be purchased for the entire par amount of an issue or for specific maturities thereof, based on a recommendation to TxDOT from the financial advisor regarding the most cost-effective approach or upon a recommendation from the senior underwriter(s) that insurance is desirable to attract investors who are willing to pay for such insurance. In no case will TxDOT purchase insurance if there is a cost to the Department. Bids from bond insurers will be solicited from qualified providers on a case-by-case basis given current market conditions and insurer ratings. The CFO will authorize the purchase of bond insurance if it is deemed prudent, reasonable and cost-effective.

b. Liquidity/Credit facilities: The issuance of variable rate debt, including variable rate bonds and commercial paper, requires the use of a liquidity and/or a credit facility. Letters of Credit (“LOC”), Revolving Credit Agreements and Stand-by Bond Purchase Agreements (“SBPA”) will be considered as credit enhancement based on the specific need of the short-term instrument and cost-effectiveness. The Department will solicit bids from qualified financial institutions established in this line of business and select the “best value” based on price, financial stability, terms and conditions and service. Qualified financial institutions must have short-term ratings from two rating agencies of at least “P-1”, “A-1” or “F1” at the time the agreements are executed.

13. Method of Sale

The Commission recognizes that each issuance of obligations has unique characteristics that will provide the basis for determining the appropriate method of sale. Such methods include competitive sale, negotiated sale, or private placement. The conditions which indicate the appropriate method of sale are generally described below:

a. Competitive Sale:
   i. The bond market is stable and/or demand for bonds is strong;
   ii. Market conditions and interest rate sensitivity are not critical to the pricing;
   iii. Women or minority owned firm participation is on a best efforts basis only and is not required for winning bid;
   iv. There are no complex explanations required during marketing regarding the project, funding mechanism or credit quality;
   v. Credit is well known to investors;
   vi. Bond type and features are conventional; and/or
   vii. The transaction size is manageable.

b. Negotiated Sale:
   i. Bond market is volatile, demand for bonds is weak and/or the supply of competing sales is high;
ii. Market conditions and interest rate sensitivity is high, such as refunding bonds;

iii. Coordination of multiple components of the financing is required;

iv. Participation by women or minority owned firms is desired or enhanced;

v. Substantial education of investors will be required as to the project, the credit or the structure of the transaction;

vi. Credit is unknown to investors;

vii. Structural features are unconventional, such as forward delivery bonds or derivatives; or structure is not conducive to competitive sale, such as variable rate bonds;

viii. Large transaction size; and/or

ix. Retail participation is expected or desired to be high.

c. Private Placement:

A private placement with a sophisticated investor including a bank loan may be appropriate when:

i. Credit is weak or credit ratings cannot be obtained;

ii. A loan provides more advantageous terms than the capital markets;

iii. A favorable innovative or proprietary structure is proposed that is unavailable in the markets generally; and/or

iv. Time is of the essence and a private placement can be consummated more quickly than a public offering.

14. Use and Investment of Bond Proceeds

Any investment of bond proceeds shall be executed in accordance with the Commission’s Investment Policy, Investment Strategies, legal covenants, and State and federal tax law limitations. The investment of debt proceeds of all of the Commission’s Financing Programs are subject to the Public Funds Investment Act.

15. Escrow Structuring

The Commission shall utilize the least-costly securities available in structuring refunding escrows. In the case of open market securities, a certificate shall be delivered to the CFO from the financial advisor or qualified third party agent, who is not a broker-dealer, on each refunding issue. The certificate shall state that the securities were procured through an arms-length, competitive bid process, that such securities were more cost-effective than State and Local Government Obligations (SLGS), and that the price paid for the securities was reasonable within federal tax law guidelines. The CFO shall take all steps necessary and legal to optimize escrows in order to avoid negative arbitrage in refundings.

16. Compliance with Arbitrage Rebate

The use and investment of bond proceeds for all Financing Programs shall be monitored to ensure compliance with arbitrage restrictions. Existing regulations generally require that
issuers calculate annual rebate requirements related to any bond issues and pay any required rebate every five years. Therefore, the CFO shall ensure that bond proceeds and investments are traced in a manner which facilitates the completion of accurate rebate calculations, and rebate payments, if any, are made in a timely manner. A nationally-recognized arbitrage rebate services firm may be used to consult, calculate and report the required arbitrage rebate payments as required by federal tax law.

17. Continuing Disclosure

The Commission shall comply with U.S. Securities and Exchange Commission (SEC) Rule 15c2-12 by filing with the Electronic Municipal Market Access system (EMMA) of the Municipal Securities Rulemaking Board annual financial statements and other financial and operating data for the benefit of its bondholders no later than six months after the end of each fiscal year. The inability to make timely filings must be disclosed promptly.

18. Selection of Consultants

Pursuant to applicable State law, the Department shall select its financial advisors, investment banking firms, bond counsel and disclosure counsel by a competitive process through the issuance of a Request for Proposals. Selection may be based on a best value approach for professional services or the lowest responsive cost-effective bid based upon predetermined criteria.

a. Financial Advisor

The Innovative Finance and Debt Management Office will have the responsibility of selecting an independent advisor (or advisors) to assist with the issuance of all debt and debt administration processes relating to any or all of its Financing Programs.

b. Investment Banking Firms

The Innovative Finance and Debt Management Office will select a pool of investment banking firms to serve as senior manager, co-senior and/or co-manager as bond underwriters. The pool will include a broad representation of national, regional, and women or minority owned firms. The Commission reserves the right to add or remove firms from the pool at any time, to shorten or lengthen the period of time for which the pool is in place pursuant to the terms dictated by each solicitation and the Financing Programs in which the pool will participate. The Commission may add or remove firms from the pool at any time based on factors including, but not limited to: performance, or change in staff or firm organization. No joint proposals will be permitted.

c. Bond/Disclosure Counsel

Debt of the Commission shall be issued with a written opinion by qualified bond counsel affirming that the Commission is authorized to issue the proposed debt, that the Department has met all constitutional and statutory requirements necessary for issuance, and a determination regarding the debt’s federal income tax status. Bond counsel must be engaged to provide an expert and objective legal opinion with respect to the validity of all Department debt obligations and the tax treatment of interest on the debt obligations. Disclosure Counsel will also be used to prepare offering documents and will be responsible for ensuring compliance with all applicable disclosure rules, regulations and guidelines. The Office of General
Counsel will have the responsibility of selecting such counsel and may appoint a pool of nationally-recognized bond counsel firms and select qualified firms from the pool to act as either Bond or Disclosure Counsel for each transaction.

19. Underwriting Procedures

a. Underwriting Syndicate

The size and composition of each syndicate will be based on 1) initiation and implementation of innovative financing ideas or structures; 2) the expertise of bankers required for the transaction; 3) the underwriting capabilities, as determined by excess net capital and distribution networks, relative to the size of the transaction; and 4) performance of each syndicate member in past transactions.

b. Transaction Marketing Activities

The senior book-running manager must provide a marketing plan to the CFO in advance of each transaction. The marketing plan should be developed in collaboration with the entire syndicate to ensure meaningful participation of the entire syndicate. The marketing plan should include potential target investors, pre-marketing activities, structural recommendations such as call features and use of term bonds, a recommendation as to the use of retention, designation rules and proposed liabilities. All decisions regarding retention, designation policies and liabilities will be made by the CFO.

c. Post-Sale Evaluation

After the completion of each transaction, the senior manager will be required to present a post-sale analysis including but not limited to pricing, orders and allocations, comparable sales and indices, designations, and market conditions at pricing. The CFO and financial advisor will evaluate the success of the underwriting versus the market at the time of sale and analyze each syndicate member’s contribution with regard to sales performance.

d. Unsolicited Proposals

The Commission encourages the submission of financing options and ideas from any firm and may accept proposals from firms that are not in the pool. A copy of each proposal will be provided to the CFO and the financial advisor. All proposals should include a full analysis of risks and benefits associated with each transaction, and a description of previous experience with such financing technique, if any.

The Department reserves the right to issue RFPs for any product or transaction. If the firm submitting an innovative proposal that is implemented by the Department is not a member of the pool, the Department may consider a structuring fee and/or inclusion as a co-manager or co-senior manager as compensation.