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# COUNTY OF SAN DIEGO

## DEBT ADVISORY COMMITTEE

### TEFRA HEARING POLICY

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#### INTRODUCTION

Pursuant to the Tax Equity and Fiscal Responsibility Act of 1982 (“TEFRA”), a public hearing is a requirement of the Internal Revenue Service (“IRS”) Section 147(f) for non-profit or for-profit borrowers issuing tax-exempt debt through a conduit issuer. Under the IRS requirement, borrowers must hold a public inquiry (hearing) which provides the public an opportunity to comment, contest, oppose or support usage of tax-exempt proceeds for the capital needs of the borrower.

The County of San Diego (“County”) facilitates the approval of public hearings and TEFRA requirements at Board of Supervisors (“BOS”) meetings at the request of the borrowers and conduit issuers where the Board of Supervisors will vote on a resolution approving the financing under the TEFRA rules. Approval of a conduit financing for a borrower does not obligate the County for the debt nor does it constitute a County-backed debt.

This TEFRA Hearing Policy (“Policy”) supports transparency and accountability as part of the Empower Strategic Initiative as noted in the County’s Strategic Plan by providing guidelines for the Debt Advisory Committee (“DAC”) and borrowers to follow to ensure efficiency and meet the requirements of the law.

The DAC shall review this Policy annually. Each year, the Debt Finance Manager shall review the Policy with the County’s Bond Counsel to determine if any changes to the Policy are needed. Subsequent to review, the Debt Finance Manager shall send the Policy with any proposed changes, if applicable, to DAC members and supporting staff for additional input. The DAC shall approve any changes by the end of the calendar year and the changes will become effective upon approval.

#### OBJECTIVES

The primary objective of facilitating the TEFRA process by the County is to support borrower’s ability to issue tax-exempt debt for development projects which have a direct public benefit to County and its residents. This Policy benefits the County by:

- Outlining the responsibilities for the borrower and conduit issuer; and
- Outlining the responsibilities of County staff to facilitate the public hearings.

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## **GUIDELINES**

The County may consider TEFRA hearing approvals for borrowers and conduit issuers provided the issuances meet the following guidelines:

- The borrower and conduit issuer provide initial information to the County as identified in Exhibit A and includes, but is not limited to, BOS resolution draft, public notice draft, a detailed project description, description of the plan of finance, and description of the borrower.
- Any public notices and issuer-led public hearings must occur after the County has received any necessary information deemed relevant by the County to ensure the County's ability to assist with the TEFRA process.
- TEFRA Public Hearings are conducted by Conduit Issuers and provide the County receipt from the Conduit Issuers a transcript of such TEFRA Public Hearings prior to the approval of the issuance of Bonds by the BOS.
- Borrowers and conduit issuers attend DAC meetings and BOS meetings, or any other County meetings upon request.
- DAC, as an advisory committee to the BOS, will review TEFRA approval requests to ensure the requirements have been met and the County has taken appropriate action. Project review and borrowing structure review is not under the purview of DAC.

Payment of County related fees and staff time is currently at \$991, payable after the Board of Supervisors has heard the TEFRA approval item. The fee is subject to change annually as part of the fee review process through the Auditor & Controller.

After the completion of the administrative hearing by the conduit issuer, County staff will prepare and facilitate the approval of the hearings and TEFRA requirements as consent items at BOS meetings.

Exceptions to these guidelines may be permissible with prior approval of the Chief Financial Officer, allowing for County staff to facilitate the TEFRA public hearing via a discussion item at the BOS meeting. Additionally, bond approval for conduit issuers may be on the consent agenda of non-approved BOS meeting dates with prior approval of the Chief Financial Officer.

Exhibit A provides the borrowers and conduit issuers with key information to engage the County for TEFRA related bond approvals.

## **RELATED DEFINITIONS**

*Conduit Issuer:* Historically, four conduit issuers request the County's assistance in the TEFRA process, California Enterprise Development Authority (CEDA), California Municipal Finance

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Authority (CMFA), California Public Finance Authority (CalPFA), and California Statewide Communities Development Authority (CSCDA). This is not an exhaustive list and future conduit issuers can request approval of TEFRA related bonds, subject to meeting the requirements of this Policy.

*County Staff:* Primarily consists of the Debt and Capital Finance division of the Office of Financial Planning and any other County staff as needed for review and information requests.

*Borrower:* A non-profit public benefit corporation or for-profit corporation seeking financing through a conduit issuer to finance a public benefit project within the County.

*Project:* Expenditures to finance/refinance upgrades or building of certain infrastructure and housing units as permissible under Section 147(f) of the IRS Code which must be owned and operated within the County.

*Public Hearing:* A public hearing is held by either the Conduit Issuer or the County following the publication of the Public Notice which gives the public the opportunity to comment, contest, oppose or support usage of tax-exempt proceeds for the capital needs of the borrower.

*Public Notice:* Under TEFRA regulations a notice of public hearing must be published no fewer than seven days in advance of the hearing. Public notices are typically published in a local newspaper; however, posting may take place on the approving governmental entity's website or on the conduit issuer's website. Public notices posted on a website, as opposed to published in a local newspaper, must be posted on the "primary public website" for ease of locating the notice on complex government websites.

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*Approved by the Debt Advisory Committee on August 12, 2025*

*Last amended and approved by the Debt Advisory Committee on **August 12, 2025***