

Following are questions/request for clarification and observations/comments on the proposed guidelines for interest rate and forward purchase agreements.

Questions/Clarification request:

Will existing variable rate debt and swaps be included in the reporting requirements of the guidelines?

The “debt management report” and “derivative management report” both contain reporting requirements in excess of GASB requirements. Will these reports be required to be audited?

If a city employs a financial advisor can that FA serve as the required independent swap advisor?

Observations/Comments:

The definitions of “accountant” and “CFO” contain requirements not included in our Charter. However, as a condition for entering into interest rate swaps or forward purchase agreements we would be required to have both who meet the requirements. So, a duly appointed “accountant” and/or “CFO” that did not meet the additional requirements would eliminate our ability to enter these agreements because we would fail to meet the guidelines.

The “debt management report” requires “analysis of the effect of rising interest rates....including impact on financial condition and position” and “analysis of risk in maintaining variable rate debt on financial condition”. These requirements are vague and should have published limits (interest rate range, etc.), more detailed guidelines, and/or example analysis.

Apparently the “monitor” cannot also be the “CFO” or “accountant” – requiring an addition to the staff or additional duties for a qualified staff member. A "monitor" must have relatively strong qualifications, a degree in economics, finance, public administration or accounting (no exceptions for similar degree and/or experience) plus one of several listed certifications.

A request for report of compliance from the Comptroller prior to entering an Interest Rate or Forward Purchase Agreement would require the signature of the Mayor after review by Finance Director, Vice-Mayor, Chairman of Budget & Finance and Chairman of Audit committees of the council. This may be an unwieldy “fit” with a city’s executive and legislative structure.

Monthly reports to the “local governing body” are required “documenting its monitoring activities”. It appears that this report would simply be “no material events” if done routinely and only include actionable items if “material event” had occurred in the month.

The 100 and 200 basis point “savings” requirement for entering interest rate agreements appear to be high “hurdle” limits which could result in an unachievable percentage savings “hurdle”. Perhaps a percentage savings limit/hurdle might be a reasonable substitute. It seems that a high percentage savings resulting from less than 100 or 200 basis points savings should be a supportable reason for entering the transaction.

The “supporting analysis” section appears to add yet another level of cost by adding the requirement that an independent swap advisor other than the independent swap advisor working with the government entity review the analysis required by the section.

Section III G. 3. b. requires reporting of downgrade in the rating of any party to the Agreement or transaction, but does not indicate if the downgrade is by any or all of the rating agencies. The later section on ratings only requires a rating from "a" nationally recognized rating service.