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Tennessee State Funding Board Guidelines Debt Reporting by Industrial Development Boards

I. Background

Title 7, Chapter 53 of the Tennessee Code Annotated (“T.C.A.”) authorizes the formation of industrial development corporations, also known as industrial development boards, (“IDB”) for the purpose of maintaining and increasing employment opportunities, agricultural commodities, and available housing, as well as addressing environmental pollution. Public Chapter 529, Acts of 2018 (“Act”) creates transparency related to IDB debt by adding to T.C.A. § 7-53-304 a requirement that each IDB maintain an aggregate listing of its current debt, including conduit debt, in accordance with guidelines approved by the Tennessee State Funding Board (“SFB”). Annually each IDB must file with the SFB the list and any information required by the SFB. Additionally, each IDB is required to file with the SFB a notice within fifteen (15) days of an event of default on any of its debt obligations.

II. Reporting

A. Annual Report on Outstanding Debt

IDBs have one hundred twenty (120) days from the close of the fiscal year or until January 31 of the following year, whichever is later, to submit the Annual Report on Outstanding Debt using the reporting format prescribed in Appendix A.

B. Notice of Default

The IDB shall file a notice of default within fifteen (15) days either of default (as defined below) or of receipt by the IDB of a notice of an event of default. The reporting format is prescribed in Appendix B.

III. Defined Terms

- A. “Authorized Representative” shall mean the individual the IDB has authorized to compile and submit information pursuant to the Act and these Guidelines.
- B. “Debt” shall mean any bond, note, loan agreement, or other evidence of a debt obligation, including leases. “Debt” does not include credit and liquidity facilities and standby or drawdown loan agreements that have not been drawn on or utilized. “Debt” includes both IDB and conduit debt obligations as described below.

1. “IDB Debt Obligation” is debt in which the IDB incurs a definite and absolute obligation to the payment of the principal of and interest on the debt obligation.
 2. “Conduit Debt Obligation” is debt issued by the IDB to provide capital financing for a public, private, or nonprofit entity other than the IDB.
- C. “Default” shall mean (1) a failure to pay principal of or interest on a debt when it is due; or (2) a failure to comply with a covenant, promise, or duty imposed by the debt documents upon any required passage of time or giving of notice; or both, but does not include situations where such failure has been waived.
- D. “Industrial Development Corporation/Board” or “IDB” shall mean any corporation organized pursuant to Title 7, Chapter 53 of the T.C.A.
- E. “Report on Debt Obligation” shall mean State Form CT-0253 as prescribed in T.C.A. § 9-21-151.
- F. “Report on Outstanding Debt” shall mean the annual listing of debt to be submitted by the Authorized Representative, using the reporting format as prescribed in Appendix A.

Approved by the State Funding Board at its meeting on January 21, 2020

Appendix A

Industrial Development Boards (“IDB”)

Report on Outstanding Debt

Format

The IDB must prepare a listing of its currently outstanding debt. The information indicated below is required to be included in the listing. In order to prepare the listing, IDBs should locate and review annual financial reports, closing transcripts, and board minutes. If the IDB is unable to obtain the required information, the Authorized Representative must furnish a statement of the efforts undertaken to obtain the information, the problems encountered in obtaining the information, and the efforts to be undertaken to subsequently obtain the information. IDBs are also encouraged but not required to collect the recommended information for each debt issue.

I. Required Information

A. IDB information to provide:

1. Name of IDB as listed in the certificate of incorporation.
2. County or Counties in which the IDB is located.
3. List of the current IDB Board Members and the Authorized Representative, including their name, title, company/government, physical and email addresses, and phone number.
4. As applicable, identify the IDB Counsel and Financial Advisor, including their name, title, company, physical and email addresses, and phone number.

B. Listing of Currently-Outstanding Debt – For each issue of debt, provide:

1. The name of the debt and date it was issued.
2. The date of the final maturity or final principal payment on the debt.
3. The original dollar amount of the debt.
4. The name of the project financed or a description of the purpose for the debt, indicating whether the debt is an IDB, a Conduit Debt Obligation, or a Non-debt (PILOT/Leasehold).
5. The date the Report on Debt Obligation (Form CT-0253) was filed with the Division of Local Government Finance.

II. Recommended Additional Information for Each Issue of Debt

- A. The dollar amount of the principal outstanding as of the end of fiscal year.
- B. The federal tax status (taxable or tax-exempt).
- C. The type of issuance (publicly sold, direct placement, or loan).
- D. As applicable, the name and contact information for the trustee, paying agent, or debt holder.
- E. If applicable, information on the balloon debt structure, derivatives, and original debt (if a refunding).

Appendix B

Industrial Development Boards

Notice of Default Form

The Industrial Development Board (“IDB”) must give notice to the State Funding Board (“SFB”) of default on any IDB or Conduit Debt Obligations within fifteen (15) days of the event or of receipt of notice of default. A copy of any notice of default received by the IDB must be included with the Notice of Default to the SFB. Also, a copy of the official statement, offering memorandum, or loan document, as applicable, related to the debt should be included as part of the notice if not previously provided to the Comptroller of the Treasury with a Report on Debt Obligation filing. If a notice of default received by the IDB contains the required information and is attached to the IDB’s submission to the SFB, the IDB does not have to restate such information. If the IDB is unable to obtain all the required information, the IDB should furnish a statement of the efforts undertaken to obtain the required information, the problems encountered in obtaining the information and the efforts to be undertaken to subsequently obtain the information.

The following items should be included on the Notice of Default:

- A. **Name of IDB** as listed in its certificate of incorporation.
- B. **Contact Information**, including the name, title, company/government, phone number, and email address for the IDB President or Chair, IDB Counsel, Financial Advisor (if applicable), Obligor (if applicable), and Authorized Representative.
- C. **Name of Defaulted Debt Issue** as reported on the official statement or offering memorandum or other loan document (for example: “Tax Increment Revenue Bonds (ABC Project), Series 2014”).
- D. **Description of Debt**, including sources of revenue pledged to repay the debt.
- E. **Type of Default** (monetary or technical).
- F. **Date of Default**: Either the date the IDB defaulted on debt or discovered an event of technical default or the date on which the IDB received notice of default.
- G. **Date Default Reported on EMMA**: If applicable, the date the defaulted principal and/or interest payment was reported to the MSRB’s Electronic Municipal Market Access (EMMA) system.
- H. **Reason for Default and Plans to Cure**: Describe the events leading to default and plans to cure it.
- I. **Additional Comments**: Include any comments pertinent to the defaulted debt issue that are not otherwise addressed within the notice.
- J. **Signature**: The Authorized Representative should date and submit the notice within fifteen (15) days of the event of default or of receipt of the notice of default given to the IDB.