

# Commission Policy

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	Last Revised: 09/22/2025
	Effective: 09/22/2025

**Policy Purpose:** This policy outlines the District's debt financing and self-imposed regulations.

## I. Introduction

This document sets forth the policy considerations for Commissioners and staff to follow in the issuance of debt and management of the debt portfolio. Adherence to a debt policy helps to ensure that the District maintains a sound debt position and that its credit quality is protected. It is important to recognize that access to capital markets over the long term depends upon the District's unwavering commitment to full and timely repayment of all debt.

## II. Purposes for which Debt may be Issued

The District may issue general obligation bonds and notes or revenue obligation bonds and notes for purposes of financing its capital improvements program or to refund its bonds or notes. The capital improvements program incurs capital costs to acquire, purchase, add to, lease, plan, design, construct, extend and improve all or any part of the sewerage and drainage system of the District and to make payments of principal, interest or premiums on any indebtedness incurred for these purposes.

Although the District has the statutory authority to issue revenue bonds and notes to finance operation and maintenance of its sewerage and drainage system, the District does not intend to issue revenue bonds and notes for operations or maintenance purposes. The District will maintain adequate working capital to meet the cash needs of its operations and maintenance budget.

## III. Debt Limitations

Section 67.03, Wisconsin Statutes, requires that general obligation debt outstanding not exceed five percent of the equalized valuation of the taxable property within the District. Revenue bonds and notes are not considered debt for purposes of determining compliance with constitutional debt limitations.

The District intends to keep outstanding general obligation debt within 50% of the limit prescribed by law and at levels consistent with its credit objectives and long-range financing plan. Annual debt service requirements anticipated in the long-range plan are funded from the tax levy and other revenues, including available funds on hand.

## IV. Types of Debt and Structural Features

The District has authority under Section 200.55, Wisconsin Statutes, to finance capital improvements through the issuance of debt instruments, including: general obligation bonds and

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promissory notes; bond anticipation notes; and revenue obligation bonds and notes

Even though the District also has authority to issue revenue obligations, the District shall issue general obligation bonds and notes to finance the capital improvements program, unless staff can demonstrate to the Commission that other, statutorily authorized debt instruments provide the District with a financial advantage.

A. Maturity of Debt

Staff shall utilize the following considerations in structuring debt maturities: long-range financing objectives; the useful life of the project assets to be financed; and a fair allocation of project costs to current and future customers benefiting from the project.

B. Fixed and Variable Rate Debt

The District intends to issue debt on a fixed rate basis. Staff, however, may propose that the District issue securities that pay a variable rate of interest determined in accordance with a predetermined formula or that results from a periodic remarketing of the securities, consistent with State law and covenants of pre-existing bonds, and depending on market conditions. The District will have no more than 15% of its outstanding general obligation bonds in variable rate form.

V. Credit Objectives

The District will seek to maintain or improve its current credit rating. The District will strive to maintain good relations with the rating agencies, routinely communicating with the rating agencies and keeping them informed of significant developments that could affect the District's credit rating.

To achieve its credit rating objective, the District recognizes the need to integrate debt policy with its 10-year capital improvements program and long-range financing plan. The District will also consider the debt marketing plans of other governmental units located within the District's boundary as provided in Section 200.55(7), Wisconsin Statutes.

The following objectives for the District's capital improvement program and financing plan will be used to maintain debt service requirements at affordable levels and enhance the credit quality of the District:

- A. At least 20% of project expenditures shall be cash financed over the 10-year financing plan.
- B. Changes to the annual tax levy throughout the long-range plan shall be limited to amounts that are necessary, affordable, and allow for tax levy stability into the future.
- C. Responsible drawdown of accumulated reserve funds in a manner that does not cause

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destabilizing annual fluctuations in the tax levy.

- D. Flexibility to fund future expenditures necessary to fulfill the District's responsibilities.

## VI. Method of Sale

### A. Public Sale

With the exception of Clean Water Fund Program loans and Commission-authorized private sales, the District will issue debt by public sale, through a competitive bidding process. Bids will be awarded on a true interest cost basis, provided that other bidding requirements are satisfied. In those instances in which staff believes that competitive bidding produced unsatisfactory bids, the Commission may authorize staff to negotiate the private sale of the securities.

### B. Direct Sale to State of Wisconsin

Debt sold directly to the State of Wisconsin will be used when the District undertakes capital projects that are eligible to receive below-market rate loans from the State of Wisconsin Clean Water Fund Program. These loans may finance projects for maintaining permit compliance, nonpoint source pollution control, stormwater control, or other projects approved by the Commission and allowed by the Clean Water Fund Loan Program. District issued general obligation promissory notes, typically structured as 20-year level debt service, and are sold directly to the State of Wisconsin, with the District's obligation to repay the loan secured by the pledge of ad valorem taxes.

### C. Direct Sale to United States Federal Government

This includes debt sold to United States federal government to take advantage of preferred terms to those associated with a public sale. One example is the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA). WIFIA established the WIFIA loan program, a federal credit program administered by the Environmental Protection Agency for eligible water and wastewater infrastructure projects. The federal government is the purchaser and owner of the bonds or notes.

### D. Private Sale

Private sales of debt (including a negotiated sale to an underwriter or a private placement to an investor) will be considered in circumstances when doing so is expected to result in a better outcome for the District than a public sale, such as when the complexity of the issue requires specialized expertise such as an advanced refunding to restructure debt service, when time to complete a sale is critical, when there is strong evidence that a negotiated sale would result in substantial cost savings, or when market conditions or the District's credit are unusually volatile or uncertain. If the Commission authorizes the private sale of bonds or notes, the Commission shall specify in its minutes the reasons for

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its decision to authorize private rather than public sale as required by Section 200.55(2) of the Wisconsin Statutes.

E. Approval of Sale

Commission approval of the debt sale shall comply with the affirmative vote requirements of Section 200.27(2), Wisconsin Statutes, and Commission Policy 1-15.02, Capital Budget.

VII. Selection of Outside Financial Consultants

The Director of Finance/Treasurer shall be responsible for establishing a solicitation and selection process for securing outside professional services necessary to develop and implement the District's debt program. Selection of outside financial advisors, bond counsel, and underwriters and other service providers will comply with District procurement policies and state law. Section 200.57(2), Wisconsin Statutes, requires the Commission to attempt to ensure that five percent of the total funds expended for financial advisory services and investment analysis shall be expended for the services of minority financial advisors.

VIII. Refundings

Periodic reviews of outstanding debt will be undertaken to determine refunding opportunities. Refunding will be considered (within federal tax law constraints) if and when there is a net economic benefit of the refunding or the refunding is essential in order to update covenants essential to operations and management.

In general, advance refundings for economic savings will be considered when net present value savings of at least two percent of the refunded debt can be achieved. Current refundings that produce net present value savings of less than two percent will be considered on a case-by-case basis. Advance refundings with less than two percent savings may be considered when the Commission determines that there is a compelling public policy or long-range financing policy objective.

IX. Disclosure; Continuing Disclosure

The District is committed to full and complete financial disclosure, and to cooperating fully with rating agencies, institutional investors, other units of government, and the general public to share clear, comprehensible, and accurate financial information.

The Finance Division shall be responsible for providing ongoing disclosure information to the Municipal Securities Rulemaking Board (MSRB) through its Electronic Municipal Marketplace Access (EMMA) system in compliance with the District's continuing disclosure agreements it has

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entered into in connection with each publicly sold debt issuance. This includes providing certain annual financial information and notices of the occurrence of certain listed events to the MSRB of the type, on the dates, and in the manner specified in the related continuing disclosure agreement. One such event includes the incurrence of a debt obligation for which a final official statement has not been provided, such as the Clean Water Fund Program loans and any other direct bank loan. Therefore, in connection with the issuance of each debt obligation relating to a Clean Water Fund Program loan and any other direct bank loan, the Finance Division shall post on EMMA, with respect to its outstanding Series 2020A Bonds and any publicly sold debt issued by the District thereafter, an event notice disclosing the issuance of each such debt obligation relating to a Clean Water Fund Program loan and any direct bank loan. The Finance Division may contact bond counsel for assistance with the preparation of any such event notice.

The Finance Division shall also be responsible for providing ongoing disclosure information in compliance with the District's continuing disclosure agreements into which it has entered in connection with Clean Water Fund Program loans.

X. Investment of Bond Proceeds

Investment of bond proceeds shall comply with Commission Policy 1-73.17, Investment Policy.

XI. Post-issuance Tax Compliance for Tax Exempt Debt

The Finance Division shall maintain a system of record keeping and reporting, including the procedures set forth below, to meet the compliance requirements of the federal tax code, which preserve the tax exempt status of the tax exempt obligations issued by the District, including without limitation the requirements concerning arbitrage yield restriction and arbitrage rebate, private activity, including private business use, private security or payments, private loans, and accounting and allocation methods. The terms "bond" or "bonds" used in this section refer to tax-exempt obligations issued by the District, whether the obligations are actually called bonds, promissory notes, a loan, or some other name.

A. Identification of Bond Issues for Federal Tax Purposes

The District acknowledges that the federal tax rules apply separately to each bond issue for federal tax purposes. Sometimes, for federal tax purposes, two or more separately named borrowings may be treated as a single bond issue, or a single named borrowing may be treated as being composed of two bond issues. The Finance Division will review the District's tax certificates, and consult with bond counsel as necessary, to identify and maintain a list of each outstanding bond issue, as treated for federal tax purposes.

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## B. Responsibility

The Finance Division is assigned the compliance responsibilities set forth below:

1. Overall compliance
2. Maintaining list of bond issues and their purposes
3. Requirements relating to investment of bond proceeds, including obtaining yield restriction and rebate determinations and making required yield reduction payments and rebate payments on a timely basis
4. Requirements relating to use of bond proceeds and bond-financed property, including the allocation of bond proceeds to expenditures and monitoring the amount of any private activity
5. Recording keeping
6. Retention of records
7. Review upon completion of financed projects

## C. Recordkeeping

For each bond issue, the Finance Division will arrange for records to be kept of the investment and use of proceeds and the use of financed property. The records for a bond issue shall include, but not be limited to, the following:

1. Records relating to the bond issue (including resolutions, official statement, pricing certificates, credit ratings, tax certificate and legal opinions).
2. Documentation directing, authorizing and showing the allocation and expenditure of bond proceeds, including records establishing the financing and refinancing of capital expenditures and projects.
3. Documentation evidencing actual use of bond-financed property by public and private entities and individuals (e.g., copies of management, service or incentive payment contracts, leases, research agreements, joint venture agreements, output or requirements contracts or any other arrangement that conveys special legal entitlements for beneficial use of bond-financed facilities).
4. Documentation evidencing all sources of payment or security for the bond issue.
5. Documentation pertaining to the investment of bond proceeds (including the purchase and sale of securities, state and local government series securities subscriptions, yield calculations for each class of investments, investment income received).
6. Documentation related to arbitrage yield restriction and rebate requirements and calculations.
7. Accounting records.
8. All tax returns related to the bonds such as Internal Revenue Service Forms 8038-



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G and 8038-T.

9. Any other documentation that is material to the bond issue.

D. Record Retention

For each bond issue, the records will be kept until at least three years after the bond issue is completely retired (or if bonds of the bond issue are refunded by another bond issue, three years after such latter bond issue is completely retired).

The records do not need to be kept at a single location, and they may be kept in physical or electronic form.

E. Rebate and Yield Restriction

For each bond issue, the Finance Division will comply with the requirements in the authorizing bond documents, which generally include obtaining arbitrage yield restriction and rebate determinations or a determination that yield restriction or rebate is not required.

Unless the District determines that rebate is not required, the District needs to establish the initial rebate determination date: it should be not later than the fifth anniversary of the bond issue. Additional rebate determination dates occur every five years thereafter and on the date the bond issue is completely retired. Any rebate payment must be paid to the United States Treasury within 60 days after the rebate determination date.

As a general policy, the Finance Division should have a rebate determination for the bond issue started by 60 days prior to each rebate determination date and completed by 14 days before a rebate payment would be due and should arrange for any required rebate payment to be made to the United States Treasury by the due date.

The Finance Division will identify all funds and accounts that are treated as containing gross proceeds of the bond issue and take actions needed to comply with any yield-restriction requirements, as further detailed in the tax certificate for the bond issue. For example, if proceeds in the borrowed money fund (for general obligations) or comparable fund (for a revenue bond issue) are not spent within the general three-year “temporary period” for capital projects, the Finance Division will appropriately yield restrict or obtain yield-restriction computations for the applicable fund and, if needed and applicable, make yield-reduction payments to the United States Treasury.

F. Investment of Bond Proceeds

Notwithstanding Commission Policy 1-73.17, Investment Policy, referenced in Section

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X. of this policy, the Finance Division will direct the investment of all bond proceeds in arm's length, fair market value purchases and sales and will not permit the linking of the purchase or sale of investments to the provision of other services to the District, such as underwriting services. Gross proceeds of a bond issue are subject to the arbitrage yield restriction and rebate provisions. Gross proceeds include sales proceeds, investment proceeds, transferred proceeds, and replacement proceeds.

Federal tax law safe harbors apply to the following types of investments: certificates of deposit, guaranteed investment contracts, and yield-restricted defeasance escrow investments.

If a federal tax law safe harbor applies to the type of investment, then as a general policy the Finance Division will arrange for the investment to meet all the requirements of the safe harbor to the extent reasonably practicable.

1. Certificates of Deposit

The purchase price of a certificate of deposit is treated as its fair market value if the yield on the certificate is not less than the yield on reasonably comparable direct obligations of the United States and the highest yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public.

2. Guaranteed Investment Contracts

As a general policy, for each purchase of a guaranteed investment contract, the Finance Division will retain a bidding agent to conduct a bona fide competitive bidding process and require the bidding agent and provider to provide certifications substantially in the form approved by bond counsel. The Finance Division will maintain a record of the amounts paid for brokerage commissions, bidding agent fees, and other similar administrative costs.

3. Yield-restricted Defeasance Escrow Investments

As a general policy, amounts in yield-restricted defeasance escrows will be invested in United States Treasury securities (State and Local Government Series) unless those securities are not available for purchase or the Finance Division determines, after consultation with an independent financial advisor, that there are bona fide financial reasons for the purchase of other types of investments. In those cases, the Finance Division will retain a bidding agent to conduct a bona fide competitive bidding process and require the bidding agent and provider to provide certifications substantially in the form approved by bond counsel. The Finance Division will



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maintain a record of the amounts paid for brokerage commissions, bidding agent fees, and other similar administrative costs.

G. Use of Bond Proceeds

The Finance Division will maintain records to document the fact that the bond proceeds were spent in accordance with the governmental purpose(s) of the bond issue. In order to track and allocate bond proceeds, for each bond issue the Finance Division will identify at issuance the funds and accounts into which bond proceeds are to be deposited; document the reimbursement of any pre-issuance expenditures; monitor the expenditure of bond proceeds to ensure that they are allocated and spent or treated as spent within applicable time frames and using a reasonable and consistently applied accounting method; and make a final allocation of bond proceeds and other funds, if applicable, to bond-financed property, when the projects are completed.

H. Monitoring any Private Activity

To ensure that tax-exempt obligations serve governmental purposes rather than nongovernmental entities engaged in “private activity”, the federal tax law requires that issuers, such as the District, monitor private activity use throughout the life of the bonds. The federal tax law provides that bonds that are part of a bond issue constitute private activity bonds and lose their tax-exempt status if the following tests are met:

1. Private Business Use Test  
More than 10% of the proceeds of the issue or the bond-financed property are to be used by any person other than a state or local government, and
2. Private Payment Test  
More than 10% of the payment of the principal or interest on the bond issue is either made or secured (directly or indirectly) by payment or property used or to be used for a private business use, or
3. Private Loan Financing Test  
The amount of proceeds of the issue which is to be used (directly or indirectly) to make or finance loans to nongovernmental persons exceeds the lesser of 5% of such proceeds or \$5 million.

The Finance Division will review any contractual arrangement that may result in private business use of financed property before the arrangement becomes effective. Arrangements that give rise to private business use generally include contracts that provide special legal entitlements to persons other than a State or local government (a “nongovernmental person”) or the general public. Sales and leases of bond-financed property to nongovernmental persons always give rise to private business use. Arrangements that may give rise to private business use, depending on the terms of the

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contract, include service contracts under which nongovernmental persons receive compensation for services provided with respect to a bond-financed facility.

If the Finance Division determines that an arrangement provides for use by a nongovernmental person of any property financed with proceeds of an outstanding borrowing, then the Finance Division will consult with bond counsel to determine whether, and the extent to which, the arrangement gives rise to private business use and obtain any recommendations about any further or subsequent review or action.

I. Changes of Use of Bond Financed Property and Remedial Actions

As a general policy, the Finance Division will consult with bond counsel in connection with each bond issue regarding the specific private business use limit (or private security or payment limit) that applies to that bond issue. The Finance Division will track and record any private business use of financed property (or private payments made with respect to such usage).

Out of an abundance of caution, the Finance Division should consider a transaction as potentially causing the private business use limit to be exceeded if in any year the amount of private business use is greater than the limit.

If the Finance Division determines any transaction has caused, or may potentially cause, the private business use limit (or private security or payment limit) of a bond issue to be exceeded, or cause the private loan limit to be exceeded, the Finance Division will consult with bond counsel to determine whether a remedial action is required or otherwise advisable. If possible, the Finance Division will do so before the transaction is final, so that remedial action requirements and options may be taken into account.

The general policy of the District is that each remedial action should be the subject of, and approved by, an opinion of bond counsel, even in cases where the legal documents for the bond issue do not expressly require such an opinion.

In the event that the Finance Division determines that the District may have taken a deliberate action that results in noncompliance of a bond issue with restrictions on use of financed property or proceeds, and it is no longer timely to take a remedial action, the Finance Division will consult with bond counsel to determine whether it is necessary or appropriate to submit a request for a voluntary closing agreement to the Internal Revenue Service.

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J. Review Upon Completion of Financed Projects

The District adopts, as a prudent practice, the policy of undertaking a review upon completion of all projects financed by the bond issue, to determine whether the expenditure of bond proceeds falls within applicable spend down exceptions to arbitrage rebate and that the private business use limit has not been exceeded. Certain determinations about how bond proceeds are treated as spent are allowed only if taken before the fifth anniversary of the date of bond issuance, so a prompt review may give the District a greater ability to address any compliance problem that may be discovered.

K. Revision of the Procedures in this Section XI.

These procedures may be revised from time to time to reflect changes of law and ideas for improvement, and they may be expanded to address other tax compliance actions. They are solely for guidance of District personnel. There are no third-party beneficiaries of these procedures.

The Finance Division will periodically confer with bond counsel on the need or advisability to revise these procedures, taking into account experience in applying these procedures, changes in the law, and the requirements of new bond issues.