


FINANCING IOWA MUNICIPAL TELECOMMUNICATIONS UTILITIES

IAMU BROADBAND CONFERENCE
MARCH 18 & 19, 2015

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- I. Alternative Methods of Financing.
 - II. Challenges.

I. Alternative Methods of Financing.

- A. Cash on Hand
- B. Interfund Transfers and Loans
- C. Electric Revenue Bonds or Notes
- D. Telecommunications Revenue Bonds or Notes
- E. General Obligation Bonds or Notes
- F. Reimbursement Issues
- G. Private Activity Issues

A. Cash on Hand

1. Available cash may be used for the capital costs of a new utility.
2. Available cash may not be used for the ongoing support or subsidy of a telecommunications system (Section 388.10 City Code of Iowa).

B. Interfund Transfers and Loans (Section 384.89 City Code of Iowa)

1. Funds of other utilities or city enterprises may be loaned.
2. Watch for restrictions on transfer in outstanding bond documents.
3. City council must approve transfer by utility board of trustees.
4. "Surplus" declaration.
5. Subordinate obligation.

C. Electric Revenue Bonds or Notes (Sections 384.80 and 384.24A City Code of Iowa)

1. The system must be used and useful for electric utility purposes.
2. Capital costs only, not working capital or ongoing support to telecommunications.
3. Lease or joint use agreement for system use by more than one utility (e.g., electric and telecommunications).
 - a. Reasonable cost (determined under GAAP).
4. Generally not available for head-end and switching (local exchange services).



D. Telecommunications Revenue Bonds or Notes
(Sections 384.80 and 384.24A City Code of Iowa)

1. Higher cost for lack of historical data.
2. More marketing issues.
 - a. Public offering vs. private placement.
 - i. Start-up utility.
 - ii. Existing utility.

E. General Obligation Bonds or Notes (Sections 384.24(4)(a) and 384.24A City Code of Iowa)

1. General corporate purpose.
2. Election required for most issues.
3. Small issue exceptions – reverse referendum. May issue the following amounts without an election following public hearing if no petition is filed:
 - a. Population of 5,000 or less - \$400,000.
 - b. Population of 5,001 to 75,000 - \$700,000.
 - c. Population over 75,000 - \$1,000,000.

F. Reimbursement Issues (Treasury Regulation 1.150-2(d))

The general rule of the regulations is that before making an expenditure of cash, the utility must "declare" an "official intent" to reimburse the expenditure later with bond proceeds.

G. Private Activity Issues (Internal Revenue Code and Regulations)

1. In general, under the federal tax laws "private activity bonds" issued to finance municipal utilities projects are taxable.
2. Bonds generally are classified as "private activity bonds" if they meet a two part 10 percent private business use test and private payment or security test (or a separate private loan test).
 - a. 5% test for unrelated or disproportionate private use.
3. The goal is to fail to be a private activity bond so that the bond will remain tax exempt.

4. Special rules with respect to "private activity bonds" apply to "output facilities" electric and gas generation, transmission, distribution and related facilities, and water collection, storage, and distribution facilities.
5. In general, an output contract satisfies the private activity tests if a "burdens and benefits test" is met. In general, the burdens and benefits test is met if an output contract gives the purchaser capacity rights on a basis preferential to the general public and if the municipal utility is substantially certain that payments will be made under the contract or if the contract is pledged as security for the bonds.
6. Note that the output regulations do not extend to telecommunications, Internet or other computer-related facilities.

II. Challenges.

- A. Competition.
- B. Lack of historical data.
- C. Projections – revenue & expense.
- D. Risk.
- E. Access to capital.
- F. Start-up period.
- G. Iowa Code.
- H. Evolving technology; infrastructure; obsolescence; revenue stream.