

# **TEXAS PUBLIC FINANCE AUTHORITY**



## **UNDERWRITING POLICIES AND PROCEDURES FOR NEGOTIATED BOND SALES CONDUCTED BY THE TEXAS PUBLIC FINANCE AUTHORITY**

**Adopted October 7, 2021**

## Contents

A. Definitions .....	1
B. Overview .....	3
C. Municipal Securities Board (MSRB) Rules .....	4
D. Marketing Plan .....	4
E. Liability .....	5
F. Retention Policies .....	6
G. Takedown Designation Policies .....	6
H. Agreement Among Underwriters .....	7
I. Fees and Expenses .....	7
J. Pricing Procedures .....	7
K. Allocation of Bonds .....	10
L. Post-Sale Support .....	10
M. Post-Sale Evaluation .....	11
Underwriter Acknowledgment .....	13

A. Definitions: The following definitions shall apply:

*Agreement Among Underwriters or AAU:* The contract establishing the underwriting syndicate formed to market the bonds. The AAU will include or reference provisions covering the Liability of each syndicate member, stated as a percentage, and if such percentage shall apply equally to any underwriting commitments, profits and losses. Further, the AAU will incorporate a description of order types, order priority, pricing of the bonds and requirements respecting a public offering. The AAU may contain a variety of other matters relating to trade practices and applicable rules of the Municipal Securities Rulemaking Board.

*Authority:* Texas Public Finance Authority, or any person authorized to act on its behalf, including the Executive Director or other Authority staff designee, or the Pricing Committee.

*Bond Purchase Agreement:* The contract between the Syndicate and issuer setting forth the final terms, prices and conditions upon which the Syndicate purchases a new issue.

*Board:* The Board of Directors of the Authority.

*Disadvantaged Business Enterprise (DBE):* An entity owned by an economically disadvantaged person or persons that would otherwise qualify as a HUB under Section 2161.001 of the Texas Government Code but for the fact that its principal place of business is not in Texas.

*Economically Disadvantaged Person:* Means a person described by Section 2161.001(3) of the Texas Government Code.

*Executive Director:* The Executive Director of the Authority.

*Good Faith Deposit:* A sum of money required to be delivered to an issuer by the Syndicate pursuant to the Bond Purchase Agreement. The Good Faith Deposit is generally provided in the form of a certified check or a cashier's check in an amount determined by the issuer, typically equal to a minimum of 1% of the par amount of bonds for a negotiated sale and 2% for a competitive sale.

*Group Net Order:* An order for bonds that is confirmed at the public offering price without deducting the concession or Takedown. A Group Net Order benefits all members of the Syndicate according to their respective percentage Liability commitments as detailed in the AAU.

*Historically Underutilized Business (HUB):* An entity owned by an economically disadvantaged person or persons with its principal place of business in Texas, defined by Section 2161.001 of the Texas Government Code, and certified by the Comptroller of Public Accounts in accordance with 34 TAC §20.288.

*Liability:* The principal amount of securities to be underwritten by each Manager of the Syndicate, expressed as a percentage of the total par amount of the underwriting as detailed in the AAU. Senior managers typically undertake larger Liability commitments in the account than do other Syndicate members.

*Management Fee:* An optional fee paid to either the book-running senior manager, or to the Syndicate, that compensates the book-running senior manager and/or the Syndicate for extra effort in getting the bonds sold.

*Managers:* The book-running senior manager and other members of the Syndicate that are assigned a Liability percentage and participate in the initial offering of the bonds.

*Member Order:* An order for bonds placed by a Manager of the Syndicate and confirmed to that Manager at the takedown. (Typically, the Takedown on a Member Order is not divided among other Syndicate members.)

*National Retail Order:* An order for bonds which is a direct purchase by an individual resident of any state outside of Texas, or trust departments, investment advisors or money managers acting on behalf of such residents. Orders by broker dealers or dealer banks are not considered retail accounts and may not be submitted as retail orders. The designated financial advisor of the Authority will clarify and define with the senior manager, prior to each issuance, accounts and orders to be considered as retail orders. The orders are usually subject to a maximum limit defined in writing prior to release of the preliminary pricing, and the priority provisions set forth in the marketing plan (under no circumstance will a Manager enter multiple orders for a specific maturity for the same individual to circumvent this maximum amount).

*Net Designated Order:* An order for bonds submitted by a Syndicate member on which all or a portion of the Takedown is to be credited to firms designated by the purchaser of the bonds, according to the relative percentages designated by the said purchaser, within the parameters agreed upon by the Authority and the book-running senior manager and set forth in the pricing wire.

*Pricing Committee:* One or more members of the Board designated, under the authority of Section 1371.053(c) of the Texas Government Code, to act on behalf of the Board in selling bonds through a negotiated sale, including setting the price, interest rates, fees, and other terms and conditions, in accordance with a resolution adopted by the Board.

*Priority Order:* A Group Net Order, a Net Designated Order, a Member Order, or a retail order that is targeted toward a specific purchaser such as a Texas resident and given preferential treatment in the order allocation process.

*Retention:* A specified number of bonds allocated to a member or members of the Syndicate prior to the order period.

*Selling Group:* One or more underwriting firms used to assist in the marketing of the bonds, but are not a party to the AAU and do not participate in residual profits or losses of the Syndicate and take no Liability for unsold bonds.

*Spread (or Underwriters' Discount):* The differential between the price paid by the investors and the amount paid by the Syndicate to purchase the bonds; this is also termed the "gross spread," "gross underwriting spread" or "production." The spread is usually expressed in dollars per bond.

Although one or more components may not be present in any particular offering, generally the spread consists of two components: expenses and Takedown.

*Structuring Fee:* An optional fee used to compensate an underwriter, consultant or advisor for developing an issue within the issuer's legal and financial constraints and making the issue marketable to investors.

*Syndicate:* A group of underwriters formed to purchase and reoffer an issuer's bonds for sale to the public at a stated offering price.

*Takedown:* A discount from the final offering price of a bond allowed to the Syndicate when purchasing the bond, typically set on a per bond basis. The total Takedown amount forms a component of the Spread.

*Texas Retail Order:* A direct purchase by an individual resident of Texas or trust departments, investment advisors and money managers acting on behalf of residents of Texas, as demonstrated by a zip code. Orders by the other broker dealers or dealer banks are not considered retail accounts and may not be submitted as Priority Orders. These orders are usually subject to a maximum limit defined in writing prior to the release of the preliminary pricing. The Authority may request copies of all initial trade confirmations to verify retail orders.

*True Interest Cost:* The rate, compounded semi-annually, necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received on the closing date of the issue.

## B. Overview

1. Each member of the Syndicate will be expected to perform at a level commensurate with its respective Liability percentage as established in the marketing plan; further, the Syndicate will be expected to perform at a level that provides maximum benefit to the State of Texas. The Authority will evaluate the performance of each Syndicate member during and after the pricing. The evaluation will be considered during the selection process for book-running senior manager and other Syndicate members for future Authority financings.
2. All Syndicate members will be expected to participate in a meaningful way in the transaction including making themselves available to participate, when requested, in various aspects of the financing (e.g., meetings, document review, conference calls, post-sale reporting, etc.).
3. The book-running senior manager will be expected to actively involve Syndicate members in the structuring, pricing and distribution of the issue to provide all Syndicate members an opportunity to make a meaningful contribution.
4. The Authority is committed to making a good faith effort to achieve its HUB participation goals in each negotiated underwriting. If the Authority determines that there is not a sufficient number of qualified HUB firms available to meet this goal for a particular

underwriting, the Authority may include DBE firms in the Syndicate to demonstrate a good faith effort to achieve this goal. The inclusion of DBE firms in a Syndicate is not intended to be a substitute for inclusion of HUB firms.

5. The book-running senior manager will give the orders of Managers no less attention than it would give to its own Priority Orders and make a bona fide effort to fill those orders, giving due consideration for each Manager's Liability and the priority provisions, unless the effect would be to not produce an outcome that is in the overall best interest of the State of Texas.
6. All Syndicate members will be expected to help further the Authority's goals of including HUB and DBE firms in all facets of the financing. All firms are expected to participate fully throughout the financing process.
7. The book-running senior manager and all Syndicate and Selling Group members shall use an industry accepted electronic order system to place orders. The book-running senior manager will be expected to provide the Authority, Pricing Committee members and financial advisor reasonable access to an on-line platform to view orders on a real-time basis during the pricing.

C. Municipal Securities Rulemaking Board (MSRB) Rules: MSRB rules shall be followed at all times in the underwriting of the bonds.

1. In accordance with MSRB Rule G-11, the priority of orders for bonds for purposes of allocation must be established and disclosed in writing to the Syndicate prior to the first offer of any bonds.
2. In placing an order with the book-running senior manager, all Syndicate members shall state whether it is a Group Net Order, Net Designated Order, Member Order or any other appropriate designation. Any change in the designation of order type after order placement must be communicated to the book-running senior manager during the order period.
3. Any bonds sold by the Syndicate must be at the then applicable respective public offering prices. Each member of the Syndicate agrees to make a bona fide public offering of all bonds allocated to it at the respective public offering prices. Syndicate members may re-allot the concessions agreed upon by the Syndicate at a Syndicate meeting or any part thereof on sales to: (a) dealers who are members of the Financial Industry Regulatory Authority (FINRA); or (b) dealer banks or divisions or departments of banks. This provision applies until the book-running senior manager releases Syndicate restrictions. Under no circumstance will any Syndicate member re-allocate any portion of the Takedown to any non-syndicate account, broker dealer or dealer bank in the form of a concession unless the concession is stated on the pricing wire.

D. Marketing Plan

No more than seven business days prior to the day of pricing, the book-running senior manager must provide to the Authority a marketing plan. The marketing plan should be developed in

collaboration with the banker and underwriting desk of the senior manager as well as all Syndicate members to ensure meaningful participation of the entire Syndicate. The Plan should include the following components:

1. Identify target investors (e.g. casualty companies, trust departments, bond funds, retail) for each maturity range, discuss possible structuring and couponing scenarios and other ideas geared toward obtaining the best price;
2. Marketing Strategy: methods to communicate the sale to potential investors, such as internal sales memos, publications, and investor conference calls;
3. Structuring features such as the use of term bonds and call features;
4. Proposed use of Retention, if any
5. Proposed designation rules, including priority of orders;
6. Proposed Takedown for each maturity;
7. Proposed Liability assignments for each Syndicate member;
8. Include provisions consistent with the Authority's HUB participation goals and generally assign no more than 50% of Liability or allocations to any one firm;
9. Proposed use of a Selling Group and if available, the list of firms proposed to be included in the Selling Group. The Authority must approve the use of a Selling Group and which firms will be included in the Selling Group prior to the opening of the order period; and
10. An itemized list of Spread expenses.

The final marketing plan is subject to the review and approval of the Authority.

E. Liability

1. All Liability assignments are subject to the approval of the Authority. The book-running senior manager must provide a proposed Liability assignment for each Syndicate member to the Authority for approval prior to pricing. The Authority reserves the right to recommend Liability assignments to the book-running senior manager.
2. In general, the Authority expects that the book-running senior manager will recommend that it receive 30% - 50% of the Liability.
3. As a general rule, Liability assignments should be commensurate with the underwriting capabilities of the Syndicate members to which they are assigned, including HUB and DBE firms.
4. The allocation of bonds should be based on the amount, type and quality of orders and should not be limited to a co-manager's liability, if the orders warrant a different amount.

F. Retention Policies

1. If applicable, the book-running senior manager will discuss the use of Retention with the Authority prior to developing a marketing plan. During this discussion, the book-running senior manager will provide to the Authority a proposed retention worksheet showing retention amounts for each syndicate member. It should be noted that retention should not necessarily be limited to term bonds and is not necessarily required to reflect the Liability commitments undertaken by the syndicate.
2. If the use of retention is advised and agreed upon by the Authority, the book-running senior manager will make retention available to the syndicate at least one day prior to the day of pricing.
3. Any change in retention to any syndicate member at any time must be approved by the Authority prior to its release.

G. Takedown Designation Policies

1. In the marketing plan, the book-running senior manager must:
  - propose a priority of orders for allocation;
  - propose a policy for the designation of Takedown on Net Designated or Group Net orders;
  - include a minimum and maximum percentage of Takedown to be designated to any one firm, as well as a minimum number of firms, if applicable, to be designated on any one order;
  - Obtain approval of the Authority; and
  - communicate the priority of orders and the designation policy to all Syndicate members and should be included in the AAU.
2. Changes to the Takedown designation policy must be approved by the Authority and communicated by pricing wire to Syndicate members.
3. Any Takedown not designated on Net Designate Orders within 10 business days of the signing of the Bond Purchase Agreement will be distributed among the Syndicate members according to their respective Liability assignments. The book-running senior manager must provide the Authority with the amount of final designations paid to each Syndicate member.
4. The book-running senior manager must report:
  - orders and allotments, by firm, by maturity, and by type of order (member, group net, net designated);
  - a breakdown of total payouts to each Syndicate member, including Takedown designations on Group Net and Net Designated Orders; and
  - Takedowns on member orders.



The final report to the Board. If this information is not final when the post-sale report is presented to the Board, the underwriter must provide as complete information as possible in the post-sale report and final information must be provided to the Authority no later than 60 days after closing.

- H. Agreement Among Underwriters: The AAU must include the Liability assignments, the priority of orders for purposes of allocation and the Takedown designation policy. The book-running senior manager must provide a copy of the AAU to each Syndicate member and to the Authority. Each Syndicate member must review the terms and conditions set forth in the AAU and return a signed copy to the book-running senior manager two business days prior to the day of pricing.
- I. Fees and Expenses: The Authority will review and approve all fees and expenses and may request their substantiation. Further, any travel incurred in connection with the sale of bonds must be approved by the Authority in advance.
1. The book-running senior manager must provide a final estimate of the expense component to the Authority prior to the day of pricing. The expense component of the underwriting Spread must be finalized by the book-running senior manager and approved by the Authority the day of pricing. Syndicate member expenses will only be permitted subject to prior approval by the Authority. In addition, Syndicate member expenses must be supported with documentation. Charges to other Syndicate members for clearance or other administrative expenses must be approved in advance by the Authority.
  2. In general, the Authority does not reimburse the book-running senior manager for clearance fees except for the Depository Trust Company (DTC) fees on issues that are registered in book-entry-only form.
  3. In general, the Authority does not reimburse for the Municipal Advisory Council of Texas (MAC) fee.
  4. Any underwriters' risk component must be approved by the Authority. There will be no negotiation of Underwriting Risk after the verbal award has been given by the Authority to the Syndicate.
  5. Proposed takedowns for all maturities must be included as part of the marketing plan described in Section D, *supra*. Any change to a takedown is subject to review and approval by the Authority.
  6. The Authority will not include either a Management Fee or a Structuring Fee as part of the Spread or Underwriters' Discount.
- J. Pricing Procedures
1. At least two business days prior to pricing, the book-running senior manager will confirm logistics for the participation of Pricing Committee members with the Executive Director and provide instructions to access an on-line platform to view orders on a real-time basis during the pricing.

2. At least two business days prior to pricing, the book-running senior manager will hold a conference call with the Authority staff, financial advisor, senior banker and the individual on the underwriting desk that will be pricing the transaction. Other Syndicate members may be included if requested by the Authority. The purpose of the call will be to update the Authority on market conditions and any necessary modifications to the marketing plan, including the use of a Selling Group, review the pricing schedule, and the proposed pricing terms. The call will confirm plans to structure the bonds to achieve the Authority's goals of obtaining the best price for the issue, allocate bonds on the basis of work performed, provide opportunity for meaningful participation of all Syndicate and Selling Group members, including HUB and DBE firms, and maintain favorable long-term market access.
3. A pre-pricing call will be scheduled with the Authority, financial advisor, and Syndicate<sup>1</sup> one business day before pricing. At least two hours prior to the call, each Syndicate member must submit price views and final recommendations on structure, call features, etc., to the book-running senior manager. At least thirty minutes prior to the pre-pricing conference call, the book-running senior manager will develop a consensus scale and circulate it with each manager's price views to the Authority, financial advisor and other Syndicate members. The preliminary pricing wire should also be circulated if available.
4. On the morning of the day of pricing, prior to the start of the order period, the book-running senior manager will initiate a conference call with the Authority staff and Pricing Committee members and, if necessary, the Syndicate, to confirm any proposed changes to any of the pricing terms approved on the pre-pricing conference call (such as interest rates, yields, prices, optional redemption features, concessions and additional Takedowns per maturity), the order period, and Takedowns. At the conclusion of the conference call, the book-running senior manager will send out a consensus scale to each co-manager.
5. The preliminary pricing wire is subject to the approval of the Authority prior to its release. The wire must include, among other things, all pricing terms agreed upon by the Authority, book-running senior manager and Syndicate during the pre-pricing conference call, and the priority of orders for bonds for purposes of allocation.
6. If a Selling Group is used, the Authority must approve the use of a Selling Group and be provided with a list of Selling Group members in writing prior to accepting any orders from Selling Group members.
7. Any change in the initial pricing terms on any maturity during the order period must be approved by the Authority.
8. The book-running senior manager must track the receipt of orders broken down by maturity, amount, type and firm. A status report on the pricing, including total orders received, broken down by maturity, amount, type and firm, may be requested by the Authority at any time during the order period and at a minimum should be provided in

<sup>1</sup> The following representatives are expected to participate in the pre-pricing calls on the day before, and morning of, pricing: book-running senior manager and co-senior manager: lead banker and underwriter; co-managers and selling group members: only underwriters are required, lead banker participation is optional.

writing or via an on-line platform midway through the order period. An “Orders and Allotments by Maturity” report is an acceptable report for these purposes. (Should the Authority request it, the book-running senior manager must also provide submittal times and copies of confirmations for all orders.)

9. If the book-running senior manager feels a co-manager has incorrectly entered an order, the book-running senior manager will immediately bring it to the attention of the Authority for resolution. Under no circumstances will the book-running senior manager make a unilateral decision pertaining to any order entered by a co-manager.
10. The book-running senior manager must receive approval from the Authority before terminating any order period on any maturity before the previously determined close of the order period. Any such termination will usually require a price increase (lower yield) for that maturity.
11. At the close of the order period, the book-running senior manager must provide in writing and in a format acceptable to the Authority, a listing of total orders received broken down by maturity, amount, type and firm, through the end of the order period. (The “Orders and Allotments by Maturity” report is an acceptable report for this purpose.)
12. Within 30 minutes after the end of the order period, the book-running senior manager will confirm with all co-managers (via Ipreo or other mechanism acceptable to the Authority) the orders received by each firm.
13. Within one hour after the close of the order period, the book-running senior manager must review the book of orders with the Authority and Pricing Committee and make a proposal to underwrite the bonds. Such proposal must detail any proposed change in pricing terms (e.g., interest rates, yields, prices, optional redemption features, Takedown per maturity) or other components of the underwriting Spread. If any changes to the pricing terms are proposed, the book-running senior manager will provide the Authority with the impact of such changes on the True Interest Cost of the issue, if possible.
14. After negotiating the final terms of the pricing, the Pricing Committee will adopt a pricing certificate. Any changes in the pricing terms negotiated between the Authority, book-running senior manager and Syndicate prior to receiving the award of the bonds must be confirmed to the Syndicate via a final pricing wire, subject to the approval of the Authority. The book-running senior manager must also ensure that the Authority receives a copy of the final pricing wire for its records.
15. The Authority may obtain the signatures of members of the Pricing Committee for the pricing certificate in advance of the pricing to hold in escrow and be released upon adoption of the certificate by the Pricing Committee members and their authorization to release their signature pages.
16. A complete financial analysis of the proposed transaction must be provided to the Authority before a representative of the Authority signs the Bond Purchase Agreement.

17. The book-running senior manager and underwriters' counsel are responsible for coordinating the execution of the Bond Purchase Agreement and the delivery of the Good Faith Deposit to the Authority.
18. The Authority reserves the right to postpone the pricing if the above pricing procedures are not followed.

K. Allocation of Bonds

1. The book-running senior manager will be responsible for ensuring that the overall allocation of bonds meets the Authority's goals of: (a) obtaining the best price for the issue; (b) providing firms with allocations that are commensurate with work performed (the type and amount of orders submitted); and (c) providing opportunity for meaningful participation from all Syndicate members, including HUB and DBE firms.
2. Before allocating any bonds, the book-running senior manager must provide in writing to the Authority a final listing of orders by maturity, amount and type for each of the Syndicate and Selling Group members. The Authority must approve the proposed allocation of bonds before the book-running senior manager can release the allocation. This approval shall be given by the Authority in a timely manner.

L. Post-Sale Support

1. Sales credits designated by a customer must be distributed within 30 days after the delivery of the bonds to the customer, in accordance with MSRB Rules.
2. Final settlement of a Syndicate account and distribution of any profit due to members must be made within 60 days of delivery of the Syndicate's bonds, in accordance with MSRB Rules.
3. The Syndicate agrees to comply with any Syndicate rules prohibiting the selling of bonds below the public offering price (less the full Takedown) prior to the release of Syndicate restrictions. In addition, each Syndicate member agrees to inform the Authority of any firm not complying with such Syndicate rules. Violations of Syndicate restrictions by members, other dealers or purchasers could result in unfavorable consideration by the Authority on future bond sales and the forfeiture of any Takedown associated with such orders.
4. The book-running senior manager must be prepared to provide the Authority on an ongoing basis for at least seven business days following the release of Syndicate restrictions secondary market price levels, unsold balance, and level of trading activity of the bonds.
5. The Authority expects the Syndicate to provide liquidity in the secondary market for the issue on an ongoing basis.

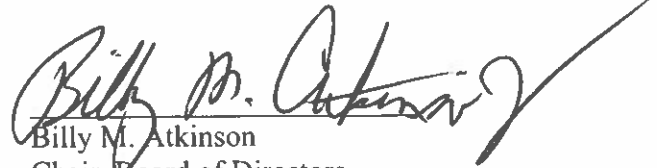
M. Post-Sale Evaluation

In keeping with the Authority's policy of acknowledging good performance and building accountability into Syndicate participation, the Authority may conduct post-sale evaluations of the Syndicate from time to time to ensure policies are adhered to and strong performance is noted.


The Authority will evaluate whether the best price for the issue was obtained, whether each Syndicate member participated meaningfully in the transaction and whether progress was made towards the Authority's HUB participation goals. Specifically, such evaluation may include, but not be limited to, Syndicate communication, structuring and marketing of the issue, the order and allocation process, willingness and ability to underwrite unsold balances, pre-marketing and secondary market support, or other areas unique to a particular bond transaction.

1. The entire Syndicate, including the book-running senior manager, must provide to the Authority in a timely manner all requested information necessary to evaluate the performance of each Syndicate member.
2. The book-running senior manager must also provide the Authority with a final post-sale report (pricing book) and present the report to the Board at a Board meeting subsequent to the sale. Ten copies of the pricing book must be delivered to the Executive Director by not later than eight days before said board meeting, and an additional copy must be delivered to the financial advisor. An electronic copy of the pricing book must also be delivered to the Authority.
3. The pricing book should include, but not necessarily be limited to:
  - a brief executive summary that provides a discussion of market conditions leading up to and during the pricing;
  - spread analysis to comparable issues in the market and to applicable scaled indexes;
  - analysis of orders and allotments by type of order and by firm by maturity;
  - analysis of total payouts to each firm;
  - analysis of sales by investor type, by maturity range (retail, institutional, mutual funds, property & casualty, etc.) and, if applicable, major investors;
  - a complete set of the final numerical analysis;
  - if applicable, any media coverage or marketing materials; and
  - a pricing history including a summary of changes and all pricing views.

Adopted on the affirmative vote of a majority of the Board present on this 7<sup>th</sup> day of October 2021, which vote is confirmed by the signature of the officer of the Board affixed below.

  
Billy M. Atkinson  
Chair, Board of Directors

ATTEST:

  
Ramon Manning  
Vice-Chair, Board of Directors

TEXAS PUBLIC FINANCE AUTHORITY

Underwriting Policies and Procedures

The firm of \_\_\_\_\_ has read and understands the Underwriting Policies and Procedures that were adopted by the Texas Public Finance Authority on October 7, 2021. Should our firm be selected to serve in the underwriting Syndicate to the Authority the firm agrees to adhere to the guidelines and procedures as established in the policies.

Firm Name \_\_\_\_\_

Investment Banker \_\_\_\_\_

Senior Underwriter \_\_\_\_\_

Date \_\_\_\_\_

Please sign this acknowledgment and return to the below address:

Texas Public Finance Authority  
Attn: Executive Director  
P.O. Box 12906  
Austin, Texas 78711-2906