



BEST PRACTICE

Using a Web site for Disclosure (2002 and 2010)

Background. Technology significantly impacts the way in which information is communicated and, in some cases, has fundamentally changed the way business is conducted. Utilizing technology allows governments to be more efficient and effective in communicating with municipal market participants. Many governments are using their Web sites to provide disclosure information electronically. Preliminary Official Statements (POS), audited financial statements, feasibility reports and other related documents have been made available electronically in connection with bond sales. Continuing disclosure filings and other important financial and budgetary information have been provided on governments' Web sites. Issuer Web sites have also been used in addition to, or in lieu of, traditional press releases to communicate important events. Investors and analysts have applauded the use of Web sites for disclosure. The use of Web sites to disseminate information electronically is the wave of the future and has been embraced by the Securities and Exchange Commission (SEC) as promoting transparency, liquidity and efficiency in the credit markets. As delivery of electronic information gains momentum, the need for guidance to governments on how to prudently incorporate web-based disclosure into their normal business practices becomes ever more important.

Recommendation. The Government Finance Officers Association (GFOA) recommends that governments and bond issuers use their Web sites to disseminate information to the municipal securities market regarding their debt, financial condition and other related information. The Internet, in general, and issuers' Web sites, in particular, provide a powerful tool for communicating with, and disclosing information to, credit analysts, investors, underwriters and other municipal market participants. By using a Web site, governments can augment other means of communicating with the municipal market. Web sites can be an integral part of an effective investor relations program, (see "Debt Management Recommended Practices - Maintaining an Investor Relations Program" 1996). A Web site can be used to make POS and other documents used in connection with bond sales available electronically. A Web site can also be used to provide ongoing financial information to the market, in addition to an entity's annual filings that are required under SEC Rule 15c2-12. Lastly, the Web site can be used to archive or store historical documents such as audited financial statements, Comprehensive Annual Financial Reports (CAFRs), continuing disclosure filings and Official Statements (OS) so that they are available to investors for reference purposes.

In order to assist investors and the public with finding your financial and disclosure information on your web site, issuers are encouraged to make a voluntary submission to the EMMA (Electronic Municipal Market Access) system with a hyper-link to the specific pages on your web site that contains this information.

Making disclosure information more accessible will help improve the efficiency of the municipal market and can possibly lower borrowing costs by improving the liquidity of an issuer's bonds. Other advantages to issuers in using their Web site for disseminating disclosure information include:

1. Web sites provide the simultaneous release of disclosure information to the entire market, thus avoiding inappropriate preferential treatment of investors.
2. Issuers control the content and timing of the release of Web site information which assures the accuracy and completeness of information not available when depending on the media for reporting.
3. Web sites provide an efficient, low-cost medium for communicating timely information to investors.
4. The most current information available can be provided to the market and updated as circumstances warrant.

5. Web sites can be used in addition to or, depending on the circumstances, in lieu of, press releases to notify investors of significant events.
6. Web site disclosure can both accelerate and broaden the distribution of timely disclosure information to the market.
7. Web site disclosure can enhance an issuer's reputation in the credit markets and strengthen investor confidence in an issuer.
8. The consistent and ready availability of complete and timely disclosure information can facilitate secondary market liquidity of an issuer's bonds by making them more attractive to investors.
9. Web site disclosure reduces investor inquiries and satisfies investor requests for more accessible and less costly disclosure information.
10. A government should consider posting interim unaudited and/or operating financial information that otherwise routinely prepared by your entity, to help investors and the public understand the finances of your government between annual filings.

However, there are certain burdens associated with providing disclosure information electronically which issuers should evaluate, such as the administrative time, effort and expense necessary to design, deploy and maintain a Web site used for disclosure. In cases in which an government's Web site has been developed for other purposes, a portion of it can be dedicated to information specifically designed for investors with very little or no additional cost. In any case, issuers should evaluate the costs and benefits of using their Web site for disclosure based on their own unique circumstances.

If a Web site is used for disclosure purposes, the government should consider the following in designing, deploying and monitoring the part of their Web site used for disclosure:

1. Terms of use should be included on the Web site so that, prior to accessing the information users are aware of or preferably required to acknowledge limits on how the Web site may be used and what obligations an issuer is undertaking by making disclosure available on its Web site (e.g., the information does not constitute an offer to sell bonds, the historical information speaks as of its date and the issuer has no express or implied obligation to continuously update information).
2. Information solely intended for investors should be segregated from other information and clearly identified as being intended for investors.
3. A formal process for reviewing and approving any information posted on the Web site should be required to ensure the accuracy, consistency and completeness of the information. Statements indicating the most recent date that a web page has been updated should be posted.
4. Care should be taken in the design, organization and selection of information to be included on a Web site to maximize its usefulness to investors.
5. Outdated reports and other stale information (such as prior year's CAFRs or audited financial statements and final Official Statements) should be clearly identified as dated information for historical reference only. Historical or outdated information should be segregated from current information. A "Library" or "Archive" section of the Web site for such information is advisable.
6. Issuers should be familiar with the SEC's Interpretive Release on Use of Electronic Media" or have the any information that is posted on a government's web site or the portion of its Web site dedicated to investors reviewed by counsel (see www.sec.gov/rules/interp/34-42728.htm).
7. If a government chooses to post unaudited interim financial information, it must be clearly described as such on the document, and a government may wish to include additional disclaimer language regarding unaudited information.
8. The security of an issuer's Web site should be evaluated to protect it from manipulation by external or unauthorized persons.
9. Issuers should design a system of internal controls to ensure the accuracy, completeness, consistency and freshness of information posted on the Web site.
10. Issuers should not use hyperlinks to other Web sites in their POS and OS because an issuer may be responsible for the accuracy and completeness of the information on the hyperlinked Web sites. If other hyperlinks are included on a Web site, a pop-up screen warning should be used to notify investors they are leaving an issuers' Web site.

11. Issuers should evaluate which products/technology are best suited for the disclosure of information using electronic media.
12. Documents on the Web site used in connection with a sale of bonds (e.g., POSs, audited financial statements and feasibility reports) should be an exact replica of printed versions of the documents. In addition, information on an issuer's Web site intended for use in a bond sale should be segregated from other information.
13. Issuers should consider the need to involve other departments and professionals to ensure that all necessary parties are involved in developing and deploying disclosure information on the Web site.
14. Issuers should consider ease of use and accessibility in designing a Web site for investors and be specific when referencing or addressing a specific place on the issuer's Web site intended for investors. Issuers should also include a contact person to answer questions or provide users with assistance and consider using CUSIP numbers and the required copyright acknowledgment to assist investors in identifying information related to specific bonds.
15. Issuers should post their continuing disclosure filings on their disclosure Web site. However, they should realize that posting their continuing disclosure on the Web site will not satisfy their obligation to file continuing disclosure documents with EMMA. Issuers that choose not to post their continuing disclosure filings on their Web site should consider the efficacy of providing continuing disclosure filings electronically through private sector vendors.
16. It is appropriate for issuers to evaluate the possibility of increased exposure to liability under the securities laws when evaluating the cost/benefit of using a Web site for disclosure. However, it should not be given undue weight by a government in determining its best practices.

References

- Interpretive Release on Use of Electronic Media, Securities and Exchange Commission, Release No. 34-42728, April 30, 2000.
- "Making Good Disclosure - The Role and Responsibilities of State and Local Officials under Federal Securities Laws," Robert Dean Pope, GFOA, 2000.
- "Providing Information to the Secondary Market Regarding Municipal Securities," National Association of Bond Lawyers, September 20, 2000.
- "Disclosure for General Obligation and Tax-Supported Debt," National Federation of Municipal Analysts, December 2001.
- GFOA Best Practice, Web Site Presentation of Official Financial Documents, 2009.
- *Disclosure Roles of Counsel*, John McNally, Project Coordinator, ABA/National Association of Bond Lawyers, 2009.
- GFOA Best Practice, Understanding Your Continuing Disclosure Responsibilities, 2010.
- GFOA Best Practice, "Maintaining an Investor Relations Program," GFOA, 2010
- EMMA: <http://emma.msrb.org/>

Approved by the GFOA's Executive Board, October 15, 2010.