The Nuts and Bolts of Bonds

OSBA Bonds & Ballots 2018
Question #1: What exactly is a bond, anyway?
**Answer:**  Bonds are loans that are broken into pieces and sold to investors.

School Districts use bonds for major capital projects that cannot be financed on a pay as you go basis.
Question #2: What is a ‘tax exempt’ bond?
Answer: With any loan, borrowers have to repay principal AND interest. Interest is ‘income,’ and is usually subject to tax.

However, most bonds sold by municipalities are NOT subject to federal or Oregon income tax, lowering the interest rate.
Question #3: What is a ‘general obligation’ bond?
Answer: GO bonds are secured by property taxes and the district’s “full faith and credit”. Debt service is repaid by an additional property tax levy, and is therefore subject to voter approval.
Question #4: When can you ask voters to approve GO bonds?
Answer: There are four election dates every year for GO bond authorization: March, May, September and November. May and November are NOT subject to double majority.
Question #5: How much can I ask for?
**Answer:** Under Oregon law, K-12 districts are subject to a GO debt limit of no more than 7.95% of Real Market Value.

That’s a **REALLY big number** that would lead to very high property tax rates.

Realistically, what voters are willing to approve is your true constraint.
Question #6: Which election gives me the best outcome?
Answer: That’s a tricky question . . . The overall passage rate for School Districts since 2000 has been 54%, but since 2010, May has been significantly better than November.

Source: County election offices, data through November 2017.
### Other factors to consider in election date selection

<table>
<thead>
<tr>
<th>MAY</th>
<th>NOVEMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Easy budgeting of debt service payments for the following fiscal year.</td>
<td>Election occurs after completion of budget and levy cycles. So, debt service cannot be paid until the following FY, leading to higher interest in first year.</td>
</tr>
<tr>
<td>Can hit the summer construction season immediately with shovel-ready projects.</td>
<td>Election occurs right after property tax bills arrive</td>
</tr>
<tr>
<td></td>
<td>Typically has higher turnout, particularly in presidential years. But there may be other things competing for attention.</td>
</tr>
</tbody>
</table>

**Bottom line:** Select the election that works best for YOUR District and YOUR community.
Question #7: Are there any ways to improve my odds?
Answer: The OSCIM Program!!
Program approved by 2015 Legislature to provide matching grants to SDs that pass GO bonds.

2017-19 authorization for $100m, or $25m per election.

ODE requires long range facility plan and assessment to be submitted 2 weeks in advance of application due date.

Min = lesser of $4m or bond amount. Max = $8m. Formula based on property value/ADMw and poverty statistics.

60% allocated in rank order by priority list. 40% allocated to ‘First in Time’ lottery.

Availability of grant proceeds depends on State bond sale timing. During this biennium, likely sale in Spring of 2019.

TAP grants are available for facility assessments. Applications due February 15, 2018.
### OSCIM Schedule 2017-19

<table>
<thead>
<tr>
<th>2017</th>
<th>2018</th>
<th>2019</th>
</tr>
</thead>
</table>

- **Timeline for November 2017**
- **Timeline for May 2018 election**
- **Timeline for November 2018 election**
- **Timeline for May 2019 election**
- **Final reconciliation for any remaining funds from previous elections**

- **Application timelines are as follows. Facility plans are due 2 weeks prior:**
  - **May 2018:** September 1/September 15, 2017
  - **November 2018:** March 1/March 15, 2018
  - **May 2019:** September 1/September 15, 2018

- **Results are posted two weeks after application due date.**

- **Ballot titles and resolutions due to ODE at same time as due to County.**
# OSCIM Program History

<table>
<thead>
<tr>
<th>Election:</th>
<th>May 2016</th>
<th>Nov. 2016</th>
<th>May 2017</th>
<th>Nov. 2017</th>
<th>May 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicants</td>
<td>29</td>
<td>29</td>
<td>24</td>
<td>6</td>
<td>10</td>
</tr>
<tr>
<td>Recipients</td>
<td>16</td>
<td>11</td>
<td>8</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td>Amount Awarded</td>
<td>$53 m</td>
<td>$42 m</td>
<td>$31 m</td>
<td>$25 m</td>
<td>$25 m</td>
</tr>
<tr>
<td>% Approval for OSCIM Grant</td>
<td>44%</td>
<td>45%</td>
<td>75%</td>
<td>100%</td>
<td>n/a</td>
</tr>
<tr>
<td>SD GO Bonds on ballot</td>
<td>22</td>
<td>20</td>
<td>15</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>% Approval of all SD GO Bonds</td>
<td>59%</td>
<td>50%</td>
<td>67%</td>
<td>86%</td>
<td></td>
</tr>
</tbody>
</table>
Question #8: How do I calculate the levy rate impact on my taxpayers?
“Does ‘high-rise’ refer to the building or the budget?”
Answer: The assessor calculates the levy rate using an arithmetic equation.

\[
\frac{\$950,000 + 50,000}{\$500 \text{ million}/1,000} = \$2.00
\]

Levy rates can and will fluctuate over the life of an issue, depending on the actual growth rate in AV.

Districts CANNOT guarantee a rate; actual rate paid will depend on AV in future.
Question #9: What repayment options do I have?
**Answer:** Many! Things to think about:

- **Length of Issue**
  - Useful life of financed items?
  - Annual vs overall cost
  - Specific community priorities
- **Levy Impact**
  - Focus on single issue or combined debt burden?
  - Future debt plans?
Examples of Structuring Options

Expiration of existing bonds creates capacity for new bonds issued at “no tax rate increase”
## Combined “Continuation” Levy

### Bond Rates

#### Existing Debt

New bonds structured to fill current window and create future opportunity for additional bonds.
Level Levy of New Issue

New bonds sold with a level levy structure

Existing Debt
Question #10: Who are the players that will bug me through the financing process?
Answer: Before the election, there are two key categories of service providers: financial professionals and legal professionals. Most will not charge fees prior to the election.
Financial Professionals

A financial professional - either an Underwriter or a Municipal Advisor - provide the following financial services:

Pre-election:
- Bond structuring, tax rate calculations
- Review of ballot title

Post-election:
- Coordinate schedule of events
- Prepare disclosure documentation
- Assist with bond rating
- Assist with bond sale
- Coordinate closing details
**Bond Counsel** is a specialized attorney that provides bond-related services, including:

- Guidance on eligible projects under Oregon law
- Assistance with preparing ballot title
- Preparation of documentation authorizing bond sale
- Guidance on federal tax law ramifications
- Providing investors with required validity and tax opinions

Both financial and legal professionals will likely require an engagement agreement prior to providing services.
Question #11: What projects can GO bond proceeds be used for?
Answer: There are both State and Federal limitations on how you can use the money.
Proceeds must used as follows:

- For “capital costs” with a useful life of 1 year or more
- “Capital Costs” means:
  - Land and other assets
  - Acquisition
  - Construction
  - Improvement
  - Remodeling
  - Furnishing and equipping
  - Maintenance or repair
Eligible projects are those where “weighted average life” of bonds does not exceed “weighted average life” of assets.

Projects that are “routine” maintenance or supplies are not eligible.

Technology, furnishings and large scale maintenance projects would all qualify.
State Statutory Limits

Under ORS 328.205, SDs may issue bonds for the following:

• Acquire, construct, reconstruct, improve, repair, equip or furnish a school building or school buildings or additions thereto.

• Fund or refund removal or containment of asbestos substances in school buildings and for repairs made necessary by such removal of containment.
State Statutory Limits (cont’d)

- Acquire or improve all property, real or personal, to be used for district purposes, including school buses.
- To fund or refund outstanding debt and provide for payments of debt.

Ballot Title Limits:

- District ballot title (to be discussed later) is usually your most detailed limitation.
FEDERAL Tax Law Limits

- Because interest payments on these bonds are exempt from federal tax, federal government also has limits on how bond proceeds can be used.
- In general, public purpose projects are ok.
- However, may be limitations on ‘partnerships’ that Districts might have, with, for example, non-profits.

“A child of five could understand this. Fetch me a child of five.”
- Groucho Marx
Question #12: Who helps write the ballot title?
Answer: Bond Counsel assists issuers in preparing ballot title.

Communications staff are also sometimes involved.
Question #13: What goes into the ballot title?
Answer: Ballot title must contain:

• Not-to-exceed amount
• Not-to-exceed maturity
• Description of identified projects
Ballot Title Specifics

- Board of Directors of District approves ballot title through adoption of election resolution.
- **Cannot** guarantee a $ per thousand levy rate, but
- **CAN** provide estimate of projected levy rate.
- List of identified projects should include both those to be funded with bond proceeds and OSCIM grant proceeds. They should not be separated out, but total should include all projects.
Question #14: What is an explanatory statement?
**Answer:** Explanatory statement appears in voters’ pamphlet under ORS 251.345.

Impartial, simple and understandable statement explaining measure and its effect.
Ballot Dos and Don’ts

Ballot title and explanatory statement shall:

- Contain required legal language.
- Be impartial (advocacy vs. information).
- Not exceed word limits under ORS 250.035; and
- Contain “a reasonably detailed, simple and understandable description of the use of proceeds” under ORS 250.037
Question #15: What, Where and When is the Ballot Title Filed?
What is Filed?

- Exhibit A to Election Resolution will include “ballot title” which is the caption, question and summary.

- This information is transposed onto SEL 805 and SEL 803 Forms for you by bond counsel to assure legal sufficiency.

- SEL 803 Form also requires that you file an Explanatory Statement if a voters’ pamphlet is being prepared by County or if using state voters’ pamphlet.
Where are SEL 805 and SEL 803 Filed?

- SEL 805 and SEL 803 Forms are filed with County Clerk.
- If District is located in more than one county, filed in County where District’s administrative offices are located and that County shares the information with the other counties.
When are these Forms Filed?

- SEL 805 Form must be filed no later than 80th day before election.
- Upon receipt of SEL 805 Form, County clerk will publish notice of ballot title and inform electors they have 7 Business Days from date District filed to challenge the title.
- After challenge period has passed and no later than 61 days before the election, SEL 803 Form must be filed.
### Election Schedule

<table>
<thead>
<tr>
<th>Election Date</th>
<th>County Filing Date (SEL Form 805)(^{(1)})</th>
<th>County Filing/ Voters' Pamphlet Deadline (SEL Form 803)(^{(1)})</th>
<th>Ballots Mailed</th>
<th>First FY Taxes Levied</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 15, 2018</td>
<td>February 23</td>
<td>March 15</td>
<td>April 27 - May 1</td>
<td>FY 2018-19</td>
</tr>
<tr>
<td>September 18, 2018(^{(2)})</td>
<td>June 29</td>
<td>July 19</td>
<td>Aug. 31 - Sept. 4</td>
<td>FY 2019-20</td>
</tr>
<tr>
<td>November 6, 2018</td>
<td>August 17</td>
<td>September 6</td>
<td>Oct. 19-23</td>
<td></td>
</tr>
<tr>
<td>March 12, 2019(^{(2)})</td>
<td>December 21</td>
<td>January 10</td>
<td>Feb. 22-26</td>
<td></td>
</tr>
<tr>
<td>May 21, 2019</td>
<td>March 2</td>
<td>March 21</td>
<td>May 3-7</td>
<td></td>
</tr>
<tr>
<td>September 17, 2019(^{(2)})</td>
<td>June 28</td>
<td>July 18</td>
<td>Aug. 30 - Sept. 3</td>
<td>FY 2020-21</td>
</tr>
<tr>
<td>November 5, 2019</td>
<td>August 16</td>
<td>September 5</td>
<td>Oct. 18-22</td>
<td></td>
</tr>
<tr>
<td>March 10, 2020(^{(2)})</td>
<td>December 20</td>
<td>January 9</td>
<td>Feb. 21-25</td>
<td></td>
</tr>
<tr>
<td>May 19, 2020</td>
<td>February 28</td>
<td>March 19</td>
<td>May 1-5</td>
<td></td>
</tr>
</tbody>
</table>

**Note:** Dates associated with future elections are preliminary, subject to change.

- Check with your County elections office to verify filing deadlines.
- All elections are by mail.

\(^{(1)}\) Effective January 2, 2018. SEL Form 805 includes ballot title, and must be filed no later than the 80th day prior to the election to allow for challenge process. Final filing, including explanatory statement is 61 days prior to election (SEL Form 803).

\(^{(2)}\) Subject to double majority provisions.
Question #16: Can I get back the money I spent before I passed the bond?
Answer: It depends...
General

Declaration of Official Intend (DOI)

- Reimbursement Period (runs from when $ actually paid).
  - Starts 60 days before DOI.
  - Ends no later than later of 18 months (3 years for small issuers) after expenditure paid or date project placed in service.
Reimbursement - EXCEPTIONS

Exceptions

- De Minimis (lesser of $100,000 or 5% of proceeds).
- Preliminary expenditures (architect, engineering, etc. but can’t exceed 20% of issue price).

- Reimbursement of district from OSCIM grant funds may be subject to different set of rules.
Question #17: How long do I have to spend the money?”
Answer: It’s complicated.

Welcome to the fun world of Federal tax law!
Federal Tax Laws

- Early Issuance (85% Rule)
- Reimbursement Resolution
- Arbitrage and Rebate
  - General Rule
  - $5 Million Small Issuer Exception
- Bank Qualification
- Private Use (also State constitutional issue)
- Tax Audits
Private Use

Examples of possible private use:

- Sale of financed property
- Lease of financed property
- Other private rights to financed property

Does your District have a system for monitoring private use of financed facilities on a regular basis?
- Retain documentation to establish tax-exempt status of the bonds on audit (e.g. invoices, construction contracts, investments and expenditure records, contracts for use of financed facility).

- Bond term plus 3 years (including refunding bonds).

- Does your District have a system for retaining bond-related documents for the required retention period?
Question #18: Can you give us a real life example of how all of this worked?
Answer: We sure can!

Welcome to Gresham-Barlow.
Gresham-Barlow School District: Background

- District population: about 78,000
- Just over 11,000 students (12,000 including charters)
- 18 schools, 4 charters
- Over 1,100 staff
- $130 million operating budget
- Conservative voters (especially on taxes)
- Ranked 22 of 25 Metro districts in overall tax burden
- Last passed a bond in 2000 after a failed attempt
- $210 million levy in 2013 failed (61% no)
After failure in 2013, what now?

- Scrapped the 2013 plan
- 2014-2015
  - Listening sessions at each school (blank sheet of paper)
  - Established Bond Measure Planning Committee (mostly community & partners)
  - Hired facilitator for planning
- 2015-2016
  - Hired public affairs organization and polling firm
The Teams

- **Core Team (weekly meeting May 2015-November 2016):**
  - School Board member
  - Superintendent
  - Communications Director
  - Facilities Director
  - CFO
  - Public affairs & facilitator

- **Bond Measure Planning Committee:**
  - 33 member committee
  - 7 Sub committees
  - 8 Workshops
The Process

- Core Team
  - Collect information and data
  - Plan communications and information

- Bond Measure Planning Committee
  - Organized into 7 sub-committees
    - Elementary
    - Middle
    - High
    - Enrollment/Capacity
    - Building Futures (think replacement schedule)
    - Safer Schools
    - Community Use
The Process (cont’d)

- **Bond Measure Planning Committee**
  - Process
    - 8 Committee workshops
    - 20+ Sub committee meetings
    - 4 Community investment advisory meetings
    - 1 District Advisory Council Meeting
    - 18 Staff listening sessions
    - 18 Community listening sessions
    - 4 Visioning workshops
    - 3 Tours of other facilities
    - 2 Comprehensive phone surveys
    - 6 Key Communicator meetings
The Process (cont’d)

- **Bond Measure Planning Committee**
  - Sticky Issues
    - Closing West Gresham Elementary (everyone went to school at West)
    - Phased replacement of Gresham High and Sam Barlow High
    - Replacement elementary schools
    - What’s the number?
      - Polling suggested $50 million
      - $210 million failed in 2013
      - Final recommendation $299 million (tax rate from $1/$1,000 to $2.89/$1,000)
The Result – Success!! Approved 51%/49%
Key Takeaways

- Include what your community believes in and will support – sometimes it’s hard to figure out – and hard to accept!

- Communicate, communicate, communicate

- What if your tax base doesn’t match your estimate?

- You’ll spend more than you think on information, communication and consultation

- Confront conflict
Questions?
Contact Information

Carol Samuels
Managing Director
Piper Jaffray
(503) 275-8301
carol.e.samuels@pjc.com

Ann Sherman
Partner
Hawkins Delafield & Wood LLP
(503) 402-1324
asherman@hawkins.com

Mike Schofield
Chief Financial Officer
Gresham-Barlow School District
503-261-4567
schofield10@gresham.k12.or.us
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