

# National Federation of Municipal Analysts

## *Recommended Best Practices in Disclosure for Toll Road Bonds*



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Since its inception in 1983, the National Federation of Municipal Analysts (NFMA), has been at the forefront of efforts to improve disclosure of credit and market risks that have faced analysts and investors in the taxable and tax-exempt municipal bond markets. The NFMA's work in this regard has been recognized by other industry associations and by various regulatory bodies. The NFMA organization is composed of over 1,200 members, primarily research analysts, who evaluate credit and other risks of municipal securities. These individuals represent mutual funds, insurance companies, separately managed accounts, broker/dealers, bond insurers, and rating agencies, among other stakeholders.

One of the main initiatives of the NFMA is to promote timely and complete disclosure of financial and operating information needed to assess the credit quality and risk of a municipal debt issue. The NFMA's efforts have ranged from broad disclosure-related issues to more detailed, sector-specific work such as these Recommended Best Practices (RBPs) in Disclosure papers. For further information on the NFMA's continuing work in the area of disclosure, please see the "Disclosure Guidelines" and "Position Statements" pages of the organization's website at [www.nfma.org](http://www.nfma.org).

In order to develop RBPs in Disclosure for a specific sector, NFMA analysts work with non-analyst professionals such as municipal issuers, industry groups, bond counsel and underwriters who specialize in the particular area of the disclosure to develop best practices guidelines. RBPs are descriptions of the sectors-specific financial and operating information needed to enable investors and other market participants to assess risk. The NFMA believes that the best practice in disclosure is one that provides a steady flow of timely information from borrowers to the market. Initial drafts of the RBPs in Disclosure are widely circulated, and input is then solicited from interested parties during an industry comment period. The paper is then revised to incorporate the feedback received.

This paper presents the RBP in Disclosure for Toll Road Bonds. This document is to be used in conjunction with, not to supplant, the guidance provided in the amendments to SEC Rule 15c2-12 (the Rule), which mandates an issuer's commitment to provide continuing disclosure of financial and operational information on an annual basis (see <http://www.sec.gov> for further information about these amendments). The NFMA's disclosure efforts are a continuous process, and the guidelines provided in this paper will be revisited and changed as market conditions warrant. We encourage interested parties to submit comments at any time to Lisa Good at [lgood@nfma.org](mailto:lgood@nfma.org) for consideration in the development of future versions of these RBPs in Disclosure. *The NFMA understands that this RBP is not intended to be a one-size-fits-all recommendation and that all the information requested may not apply to every transaction in the sector.*

### INTRODUCTION

This RBP in Disclosure covers government-owned toll roads and toll road systems. These guidelines are applicable to debt secured by revenues generated from the operation of the toll road or toll road system. While our goal is to include the information analysts believe are key in evaluating the credit quality of the toll road, we are aware that not all items requested will be readily available from all issuers or applicable to every system. We strongly encourage use of the Municipal Securities Rulemaking Board's (MSRB) Electronic Municipal Market Access (EMMA®) as the means to post these documents.

This RBP in Disclosure is organized in such a fashion as to provide the reader ease of finding what data elements are pertinent and where the information should be disclosed. The most detailed disclosure is generally provided in the preliminary or final official statement (Official Statement) when the bonds are being issued. Some of this information, while detailed, does not change drastically from year to year. Information that changes, both financial and operational, should be provided in the annual financial report or Comprehensive Annual Financial Report (either referred to herein as Annual Report), preferably within nine months after the fiscal year ends. Any information that may materially impact an analyst's view of the credit quality of the issuer, is requested to be provided on an interim basis once the information is public.

## **TYPE & FREQUENCY OF RBPs IN DISCLOSURE FOR TOLL ROAD BONDS**

### **Primary Market Disclosure**

At the time of a bond offering, the Official Statement should include summaries of the legal documents, information on the use of the funds, legal pledge of the issuer to repay the debt and current economic, financial and operating data relevant to that pledge upon which credit ratings and investment decisions are based. The Official Statement should also include a summary of the pledge by the issuer to provide secondary market disclosure to the investing public, stating the frequency with which it will provide annual disclosure under the Rule, as well as interim data.

### **Secondary Market – Annual and Interim Disclosure**

The most common annual secondary disclosure document for toll roads is the Comprehensive Annual Financial Report, which includes audited financial statements and relevant statistical data, including updates on the types of key information provided in the Official Statement. This information includes a description of the underlying economy and demographics of the service area.

The NFMA strongly urges toll road systems with outstanding bonds to issue secondary market updates on a more frequent basis, as financial and operating information can grow stale and inaccurately represent an issuer's profile. In general, interim financial disclosure is recommended on at least a quarterly basis, although a monthly basis is preferable for cash flow statements. Information to be included in an interim disclosure document need only include items which have changed since the last disclosure document (Official Statement, Annual Report or last interim disclosure document) was prepared. It is expected that most items recommended to be included in the interim disclosure documents are already being produced, often publicly available, and may be unaudited.

In situations where an issuer is facing an emergency situation that will have a material impact on its health and/or operational sustainability (Emergency Event), the NFMA has provided guidance for primary and secondary market disclosures in its White Paper on Guidance & Insights Regarding Emergency Event Disclosure Affecting State & Local Governments: COVID-19 Focus, June 2021 (White Paper). While COVID-19 is one such Emergency Event, the White Paper focuses on disclosures for any future Emergency Events such as large-scale tropical storms, disease outbreaks, fires and significant weather damage. See [www.nfma.org/Resources/Best Practices in Disclosure](http://www.nfma.org/Resources/Best Practices in Disclosure) to locate this White Paper.

**The NFMA’s general guidelines for RBPs in Secondary Market Disclosure include the following:**

1. Audited financial statements should be available to interested parties within nine months of the issuer’s fiscal year end, or as early as available;
2. Any material event notices, including those required under the Rule, should be released in accordance with the Rule and referenced in the interim disclosure document either immediately preceding or following the event notice;
3. All disclosures should be made through the use of the MSRB’s EMMA® website (available at <http://emma.msrb.org/Home>);
4. The NFMA strongly encourages issuers to create investor relations sections on their websites for the purpose of posting annual and interim financial and other disclosure information that is available (in addition to the use of EMMA®); and,
5. The NFMA encourages issuers and/or their representatives to respond promptly to questions from the investing public about credit matters on outstanding obligations by returning calls and emails promptly.

**HOW TO USE THIS PAPER**

There are ten major categories of this RBP, each containing specific items deemed to be material in assessing credit risk. These sections are:

- I. General Description
- II. Economy of the Service Area
- III. Tolling Regime, Revenue Billing & Collection
- IV. Legal Authority & Bond Security
- V. Historical & Forecast Financial Metrics
- VI. Legislation/Litigation
- VII. ESG/Risk Management & Resiliency
- VIII. Debt Portfolio Structure & Market Risks
- IX. Governance & Management
- X. Capital Needs & Deferred Maintenance

*As previously stated, this RBP is not intended to be a one-size-fits-all recommendation. All the information requested may not apply to every transaction in this sector.*

**Three Columns – Description and Meaning of “X” and “\*”**

To the right of each item are three columns indicating whether the item should be disclosed in the Official Statement and updated in the Annual Report and/or in the Interim Disclosure. An “X” in the column indicates that the item should be included in that disclosure document. We recommend that items marked with an asterisk (\*) be included in the Interim Disclosure when the information originally disclosed has changed since it was disclosed in the Official Statement and/or Annual Report.

<b>I. GENERAL DESCRIPTION</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
Provide a description of the issuer, service area economy and indicate if the issuer is an independent agency or a department of a state, county or city.	X	X	
Provide a description of toll facilities and their location, including length, lane miles and administrative and support facilities and any other physical assets. Include any construction/improvement projects on or off toll system that may affect traffic or revenue (T&R) more than 5%.	X	X	X
Provide link to website where ratings, investor information and issuer contact may be found.	X	X	X
<b>II. ECONOMY OF THE SERVICE AREA</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
Population trends and demographics, location (including proximate cities and counties), governments within the service area, size of service area (square miles), major industries and employers, notable economic developments (commercial/residential), and any local policies (e.g., congestion pricing, lockdown mandates) that would cause a more than 5% change in T&R.	X	X	
Economic indicators (historical and current*) including unemployment rate, median household income, per capita income. <i>*compared to national averages</i>	X	X	
<b>III. TOLLING REGIME, REVENUE BILLING &amp; COLLECTION</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
Provide a minimum 5-year history of toll schedule by vehicle and payment class, including electronic and cash collection percentages, for major toll collection points. Where possible, provide full history of traffic, revenue and toll policy changes.	X	X	*
Provide summary of toll policies including rate differentials by payment and vehicle class, discount plans, fee and fine schedules, and escalation policies.	X	X	*

<b>TOLLING REGIME, REVENUE BILLING &amp; COLLECTION, continued</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
Provide existing collection metrics that assess uncollectable toll revenue and the revenues from fees and fines. Provide clear definitions of numbers presented including the numerator and denominator used for percentages so that a clear picture of the full process may be understood.	X	X	*
Provide outline of toll collection procedures for cash (if any), transponder, image-based billings.	X	X	*
Provide details on revenue recognition policies for image-based billings and associated bad debt reserves.	X	X	
<b>IV. LEGAL AUTHORITY &amp; BOND SECURITY</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
Provide clear and complete description of the revenue sources pledged to the repayment of the bonds. Include: priority of payment from revenue stream, rate covenant, additional bonds test and explanation as to how calculation is made (e.g., includes rate stabilization fund or forecast toll increases), flow of funds, bond reserve fund requirements and how they are satisfied (cash or surety bond).	X	X	X
Identify and explain the differences in calculations of revenues and/or expenditures in the GAAP-based audited income statement and the indenture-based debt service calculations, e.g., if there is Build American Bonds (BAB) subsidy, if developer impact fees, tax reinvestment zone money, fines, and fees are included as pledged revenues, or if certain expenditures are categorized as capital v. operating.	X	X	X
If developer fees/impact fees are included as part of the security package, separately provide the amount collected from this source.	X	X	
Explain how system revenues are legally protected and separate from those of the parent organization/governmental entity. Are revenues transferred to a trustee or otherwise earmarked? If so, how often do these transfers occur?	X	X	

<b>LEGAL AUTHORITY &amp; BOND SECURITY, continued</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
<ul style="list-style-type: none"> <li>• Provide details on the revenue separation and protection, e.g., statutorily mandated, covenant, board policy.</li> </ul>	X	X	
<ul style="list-style-type: none"> <li>• If the issuer is a component of a larger entity, discuss if the toll revenue is comingled or separated from other funds of the larger entity.</li> </ul>	X	X	
<ul style="list-style-type: none"> <li>• Discuss perfection of liens, if applicable.</li> </ul>	X	X	
<p>Does the issuer make transfers to the parent government, and if so, how is the amount calculated? Describe formula or limitations. If the Issuer does not make transfers, what are the permitted uses of year-end balances and does the issuer or the parent government control the transfer?</p>	X	X	
<ul style="list-style-type: none"> <li>• Discuss all transfers, how much is the transfer each year, how is the transfer calculated, the duration of the transfers (one-time v. perpetuity), is it discretionary or statutorily required?</li> </ul>	X	X	
<ul style="list-style-type: none"> <li>• Discuss any annual transfers for reimbursement cost of services, e.g., policing, maintenance or litter removal.</li> </ul>	X	X	
<p>Describe state law and whether the toll road can declare bankruptcy. Discuss bankruptcy implications of the system structure, e.g., concession arrangement v. public debt.</p>	X	X	
<p>Describe any legal protections enshrined in state statute. Is the property of the system subject to attachment or lien? What are permitted encumbrances of system facilities and under what circumstances can system property be sold, leased or mortgaged?</p>	X	X	X
<p>Describe any material changes in governance and/or organizational structure.</p>	X	X	X
<p>Describe all funds and accounts to be established, including the minimum funding levels, replenishment requirements and any restrictions on use.</p>	X	X	

<b>LEGAL AUTHORITY &amp; BOND SECURITY, continued</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
<ul style="list-style-type: none"> <li>• Provide details on the different severity of restrictions, if applicable, (bond covenants, board policy, statutory requirements) for the Issuer’s reserves, operating and maintenance reserve, rate stabilization fund.</li> </ul>	X	X	
<ul style="list-style-type: none"> <li>• Provide current balances for all required funds (e.g., bond reserve fund, rate stabilization fund, replacement fund).</li> </ul>	X	X	
<b>V. HISTORICAL &amp; FORECAST FINANCIAL METRICS</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
Annual audited financial statements including notes for the current and prior year	X	X	
In a tabular format, provide five years of detailed historical data showing revenues, expenses, net revenue available for debt service, debt service paid, annual and maximum debt service coverage. Debt service coverage provided in the Annual Report should use the methodology consistent with the Official Statement.	X	X	
<ul style="list-style-type: none"> <li>• Breakdown of revenues generated by passenger vehicles v. commercial vehicles with a separate breakout of fee/fine revenue.</li> <li>• Description of recurring seasonal weather variability that may impact T&amp;R</li> <li>• Debt service calculation with other subordinated debt.</li> </ul>	X	X	
Provide the same information requested above for forecast data (primarily for issuers expanding tolled facilities with debt).	X	X	
Monthly or quarterly cash flows showing year-to-date major revenues and expenditures v. the budgeted amounts.	X	X	X
Describe sources of liquidity. Is there a minimum amount required to be maintained?	X	X	
<ul style="list-style-type: none"> <li>• Does the liquidity include unrestricted cash, unrestricted short-term and long-term investments, and/or lines of credit?</li> </ul>	X	X	

<b>HISTORICAL &amp; FORECAST FINANCIAL METRICS, continued</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
<ul style="list-style-type: none"> <li>• Flexibility and ease to use liquidity. Which liquidity may only be used for debt service and not for operating or capital expenses?</li> </ul>	X	X	
<ul style="list-style-type: none"> <li>• Describe events/actions needed to utilize the liquidity, e.g., are there financial covenants, required board approval, or at the discretion of senior management?</li> </ul>	X	X	
<ul style="list-style-type: none"> <li>• Break out 'fixed' and 'variable' costs. How much in 'fixed' costs can be reduced?</li> </ul>	X	X	
<b>VI. LEGISLATION/LITIGATION</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
Disclose and describe in detail any material ongoing litigation and threatened litigation that may affect toll road operations, operational autonomy, revenue collection, expense management, rate-setting or overall financial performance and capital planning. Include any pending regulatory, environmental or permitting requirements or issues,	X	X	X
Disclose and describe in detail any legislation or regulation that may affect toll road operations, operational autonomy, revenue collection, expense management, rate-setting or overall financial performance and capital planning. Include any pending regulatory environmental or permitting requirements or issues.	X	X	X
<b>VII. ESG/RISK MANAGEMENT/ RESILIENCY</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
Discuss existence of any Environmental, Social, and Corporate Governance (ESG) rating or third-party verification of environmentally sustainable (Green)/ESG status.	X	X	
Does the toll road produce an ESG report? If so, provide a hyperlink.	X	X	
Does the toll road have any formal ESG goals or mandates?	X	X	
Discuss the environmental impact of any Green-labeled bond-financed projects	X	X	

<b>ESG/RISK MANAGEMENT/RESILIENCY, continued</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
Discuss ability to react to future market-wide and issuer-specific events, including ability to repay debt in the event of natural disasters, health crises and cybersecurity breaches or threats.	X	X	
Describe policies and procedures in place to address emergency preparedness planning for environmental, cybersecurity and health crises.	X	X	
Describe potential impact of climate change on physical assets, facilities and operations, and any existing or planned mitigation measures.	X	X	
Disclose any past cybersecurity breaches, or any unauthorized access data disclosure and any related litigation, investigation, revenue loss or other resulting liability. If dependent on another agency for cybersecurity, describe coordination and safeguards.	X	X	
Describe any potential changes in societal trends (e.g., remote work, virtual meetings, on-line shopping), technology and/or regulation that could have operational or financial impacts.	X	X	
Describe impact of COVID-19 and other Emergency Events stress on traffic and revenue, as well as mitigation strategies and lessons learned.	X	X	X
<b>VIII. DEBT PORTFOLIO STRUCTURE &amp; MARKET RISKS</b>			
Provide detailed information on debt outstanding and the priority of payment. Include information on senior and junior lien bonds, commercial paper, bank loans, loans with state or federal agencies and any private placements. Also include any off-balance sheet debt. Identify any off-system debt-like obligations or projects, and any claim on the toll revenues or the system.	X	X	X
For bonds issued as BABs, include the amount of subsidy currently provided by the federal government. Indicate if BAB subsidies are included as a revenue or netted from debt service coverage calculation.	X	X	X

<b>DEBT PORTFOLIO STRUCTURE &amp; MARKET RISKS, continued</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
Describe restrictions on additional bond issuances (minimum debt service coverage, priority of payment) and the ability to refinance or extend debt to provide relief during periods of financial stress.	X	X	
Disclose any liens closed to new issuances.	X	X	
Provide full schedule showing annual principal and interest payments. If applicable, separate schedule by lien and provide separate columns for principal and interest.	X	X	
Describe issuer’s variable rate debt portfolio. Include information on how annual debt service is calculated for purposes of the additional bonds test and rate covenant. Elaborate on termination triggers, if applicable.	X	X	
<ul style="list-style-type: none"> <li>• Include details on liquidity/letter of credit providers and their respective expiration dates.</li> <li>• Describe the mode by series (weekly v. term, and tender dates, if applicable).</li> </ul>	X	X	
Describe issuer’s swaps or other derivative instruments outstanding. Include how swap payments are treated in the flow of funds priority. Discuss thresholds for collateral posting and termination payments. Include most recent available mark-to-market valuation. For issuers with multiple swaps, provide a summary chart listing swaps and the associated bond series.	X	X	
<b>IX. GOVERNANCE &amp; MANAGEMENT</b>			
Provide clear and complete description of governance structure and organization, including composition of board, election or appointment and qualification requirements, terms and current member tenure.	X	X	
Describe senior management team, organizational structure, hiring or appointment and qualification requirements, current senior management staff, including professional biographies and tenure, as well as succession planning.	X	X	

<b>GOVERNANCE &amp; MANAGEMENT, continued</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
Is there a chief information officer (CIO) and staff dedicated to addressing cybersecurity vulnerabilities and risks?	X	X	
Describe key responsibilities of the board and its approach to budget forecasting and financial and capital planning, including any required approvals for key functions: e.g., developing and approving operating and capital budgets, approving financial reports and audits and authorizing rate adjustments.	X	X	
<ul style="list-style-type: none"> <li>• Is rate-setting by the board completely autonomous, or can another oversight body or government approve or veto rate adjustments?</li> </ul>	X	X	
<ul style="list-style-type: none"> <li>• Are public hearings required for rate increases, and if so, is there a required timeline before rates can be increased?</li> </ul>	X	X	
<ul style="list-style-type: none"> <li>• Are capital plans/budgets developed autonomously by the board, or does another oversight body or government approve or veto plans/budgets?</li> </ul>	X	X	
Comment on the timeliness and quality of financial reporting.	X	X	X
<ul style="list-style-type: none"> <li>• Is financial reporting consistent from year-to-year? Have there been any unusual restatements of financials or delays in financial reporting?</li> </ul>	X	X	X
<ul style="list-style-type: none"> <li>• Are there clear policies, guidelines, procedures and internal controls to ensure consistency in financial reporting?</li> </ul>	X	X	X
<ul style="list-style-type: none"> <li>• What accounting method is used for image-based billings? If they are recorded as revenue when issued what is the policy for establishing the reserve for bad debt? What is the level of outstanding receivables associated with image-based billings and what is the average age?</li> </ul>	X	X	X

<b>X. CAPITAL NEEDS &amp; DEFERRED MAINTENANCE</b>	<b>Official Statement</b>	<b>Annual Report</b>	<b>Interim Disclosure</b>
Is there a multi-year capital plan that lists projects in order of priority and feasibility, and what is the time horizon covered? Is the plan updated annually?	X	X	
Is there an inventory and condition assessment of all physical assets? How often is this updated and how is it maintained?	X	X	
Discuss flexibility in capital planning estimates, including the ability to delay or amend projects in response to changing circumstances.	X	X	
Discuss flexibility to debt structure, including the ability to use financing techniques, such as refundings for savings or to extend debt maturities in times of unexpected financial stress.	X	X	

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*NFMA constituent societies, individual members or their firms may not agree with all provisions in these RBPs. The NFMA is not a regulatory agency and compliance with the RBPs advanced herein does not constitute a “safe harbor” from any State or Federal rules and regulations. Nothing in this paper is to be construed as an offer or recommendation to buy or sell any security or class of securities.*