

Policy

BOARD OF EDUCATION
HORTONVILLE AREA SCHOOL DISTRICT

FINANCES
6146 / Page 1 of 4

POST-ISSUANCE TAX-EXEMPT BOND COMPLIANCE

The Board may from time-to-time issue bonds and other obligations. These interests are excludable from gross income for Federal income tax purposes or are excludable from interest that is paid in whole or in part by the Federal government or which bonds otherwise enjoy certain preferential treatment under the Internal Revenue Code of 1986, as amended, (the "code") or regulations developed implementing the Code (the "regulations"). Such obligations may include tax-exempt obligations and/or obligations eligible for tax credits (direct subsidies to the School District or tax credits to bond owners). All such tax-exempt obligations or tax-advantaged obligations are referred to herein as "Obligations," whether in the form of general obligation bonds, revenue bonds, bond anticipation notes, tax anticipation notes, lease-purchase obligations, installment-purchase obligations or otherwise.

This policy document(s) practices and describes various procedures and systems designed to identify on a timely basis fact relevant to demonstrating compliance with the requirements that must be satisfied subsequent to the issuance of Obligations in order that the interest on such Obligations continue to be eligible to be excluded from gross income for Federal income tax purposes or that the Obligations continue to receive tax-advantaged treatment. The Federal tax law requirements applicable to each issue of Obligations will be detailed in the non-arbitrage or tax compliance certificate prepared by bond counsel (the "Tax Certificate") and signed by officials of the District and the post-closing compliance checklist provided by bond counsel with respect to such issue. This policy establishes a permanent, ongoing structure of practices and procedures that will facilitate compliance with the Code, Treasury Regulations and SEC Rule 15c2-12 (the "Rule").

The Board recognizes that compliance with applicable provisions of the Code and Treasury Regulations is an on-going process, necessary during the entire term of the Obligations, and is an integral component of the District's debt management. Accordingly, the analysis of those facts and implementation of this Policy will require on-going monitoring and consultation with an attorney experienced in legal work relating to the issuance of tax-exempt obligations or tax-advantaged obligations ("Bond Counsel") and the District's accountants.

This policy doesn't address any post-issuance compliance requirements under State law. Nor is this policy a substitute, or a replacement, for any Tax Certificate or a post-issuance compliance checklist relating to specific Obligations. The District is responsible for compliance with any such Tax Certificate or post-issuance compliance checklist.

This policy may be modified, expanded, abridged, or otherwise amended only by the Board upon consultation with the District's attorney and Bond Counsel, but without any notice to or consent from any trustee, bondholder or any other person.

Policy

**BOARD OF EDUCATION
HORTONVILLE AREA SCHOOL DISTRICT**

**FINANCES
6146 / Page 2 of 4**

The general purpose of the policies set forth herein is to ensure compliance with post-issuance Federal tax requirements generally falling into the following two categories:

- A. **Qualified Use of Proceeds and Financed Property**
Qualified use requirements generally require monitoring of the various direct and indirect uses of bond-financed property over the life of the bonds and calculations of the percentage of nonqualified uses.

- B. **Arbitrage Yield and Rebate**
Arbitrage requirements also require monitoring over the life of the bonds to determine whether the yield on investments acquired with bond proceeds are properly restricted and the district must file Form 8038-T to pay a yield reduction payment and/or rebate payment.

Responsible Official

The Board designates the Business Manager as the Bond Compliance Officer with primary responsibility in post-issuance compliance. The compliance officer is authorized to obtain the assistance of the following in carrying out necessary functions under this policy:

- A. Bond Counsel – the District’s legal counsel that assists in the bond issuance
- B. External Financial Advisors – the District’s accounting firm or other financial advisor
- C. Bond Paying Agent/Trustee
- D. Rebate Analyst

All personnel that are responsible for ensuring post-issuance compliance with the tax rules must receive training or educational resources, as determined appropriate by the Bond Compliance Officer.

Post-Issuance Duties

The Bond Compliance Officer will engage in a detailed review of post-issuance tax compliance with the tax rules to identify instances of noncompliance and prevent violations from occurring, or timely correct identified violations, if possible. When failures to comply with post-issuance compliance requirements are identified, the Bond Compliance Officer will promptly consult with bond counsel to determine if remedial action is available, or if some other action is required.

Private Use

Bond-financed projects are subject to rules and limitations on private use. Private use includes non-governmental activity through leases, management agreements, research agreements, and other type of activity in which a non-governmental entity obtains a benefit or interest in the bond-financed project beyond that normally provided to the public. In the event such special usage is contemplated, the Bond Compliance Officer must assure compliance with applicable tax regulations.

Use of Bond Proceeds

The Bond Compliance Officer shall assure that bond funds are used for the purpose for which the bond issue is authorized and that any project with a combination of authorized expenses from bond proceeds and other funds, result in expenses paid for with bond proceeds that are clearly identified and properly recorded.

Policy

BOARD OF EDUCATION
HORTONVILLE AREA SCHOOL DISTRICT

FINANCES
6146 / Page 3 of 4

The Bond Compliance Officer must assure that investment activities are conducted at fair market value and may employ bidding procedure to establish a safe harbor. The Bond Compliance Officer shall be aware of any yield restrictions on any bond issue and monitor such. In the event that reimbursement is required, the Bond Compliance Officer shall work with the District's advisors to complete and record those transactions and to assure proper filings with the IRS.

Recordkeeping Requirements

The Bond Compliance Officer is responsible for the maintenance of records relating to the bond financings, and for the transfer of all such records to their successor. In the event that different persons are responsible for different aspects of compliance with the tax rules (for example, the investment of bond proceeds and expenditure of bond proceeds on projects), the Bond Compliance Officer will assure coordination with all involved and retention of complete records. The following records, as applicable, shall be retained:

- A. audited financial statements of the School District throughout the period of the bond issue
- B. appraisals, surveys, and studies pertaining to the facilities financed with the proceeds of bonds, as well as any and all contracts entered into for the construction, renovation or purchase of bond-financed facilities
- C. all public discourse concerning the bonds, including informative materials distributed by the District, as well as other publications, such as third party studies, newspaper articles, etc.
- D. paying Agent or trustee statements
- E. all records regarding the management of bond funds, including investments and the gains (or losses) from such investments; and including specifically trustee statements regarding investments, investment contracts, or other such instruments
- F. Board resolutions authorizing reimbursement of bond funds or earned interest, and accounting of any such disbursements
- G. ledger of bond expenditures (including costs of issuance) and the dates and amounts of such expenditures (including requisitions, draw schedules, draw requests, invoices, bills and canceled checks with respect to such expenditures)
- H. records of the sale of any bond-financed facilities, including Board resolutions, sales documents, and accounting of proceeds from such sale
- I. record of any private business uses of bond-financed facilities after the issue, including leases and subleases, licenses, management contracts, research contracts, naming rights agreements or other arrangements which provide special legal entitlements to nongovernmental persons or entities

Policy

**BOARD OF EDUCATION
HORTONVILLE AREA SCHOOL DISTRICT**

**FINANCES
6146 / Page 4 of 4**

- J. arbitrage rebate reports and records of rebate and yield reduction payments, if any
- K. resolutions or minutes of Board meetings at which any action was taken by the Board pertaining to the bond issue or subsequent treatment, including any formal elections under the Code or Regulations
- L. copies of each Form 8038-T and Form 8038-R filed with the IRS and any other forms or documents filed with the IRS, and
- M. any other documents or Board minutes regarding the Bond issue, financing, facilities, investments, reimbursements, governmental review reports, etc.

The Board may also enter into a contract with a third party to assist the District in complying with its continuing disclosure obligations.

Records of appraisals, surveys, and studies pertaining to the facilities financed with the proceeds of bonds, as well as any and all contracts entered into for the construction, renovation or purchase of bond-financed facilities, as applicable, shall be retained.

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