

**Tax Post-Issuance Compliance Procedures
For Qualified School Construction Bonds and
Qualified Zone Academy Bonds**

Purpose

Issuers of Qualified School Construction Bonds and Qualified Zone Academy Bonds with an election to receive a direct payment from the U.S. Treasury must comply with federal tax rules pertaining to expenditure of proceeds for qualified costs, rate of expenditure, use of bond financed property, investment of proceeds in compliance with arbitrage rules, and retention of records. The following procedures are intended to establish compliance with these rules.

In each case, compliance responsibility is assigned to the indicated office or unit within the administration of the issuer.

Tax Requirements Associated with Sale and Issuance of Bonds

Review and retention of tax documents related to the sale and issuance of bonds will be supervised by the _____.

- Authorization by the Issuer to issue bonds.
- Election by the Issuer to issue bonds as Direct Pay Bonds made in the Issuer resolution, indenture or tax certificate dated the closing date of such Direct Pay Bonds.
- Direct Pay Bonds may not be issued at more than a de minimis premium, as defined in Internal Revenue Code of 1986, as amended (the “Code”), and the Income Tax Regulations (the “Regulations”) promulgated thereunder. Certifications of underwriter and final numbers package will establish that this requirement is met, and will be reviewed and included in the transcript of documents. Issuer may request review and confirmation of prices from a financial advisor or other independent party other than underwriter.
- The Form 8038-TC associated with a Form 8038-CP filing to obtain direct payment from the Treasury must be filed at least 30 days prior to the submission of the first Form 8038-CP for the Direct Pay Tax Credit Bonds.

Expenditure of Proceeds for Qualified Costs

Expenditure of bond proceeds will be reviewed by_____.

- Bond proceeds will be disbursed by the trustee or issuer pursuant to an approved form of requisition stating the date, amount and purpose of the disbursement.

- Requisitions must identify the financed property in conformity with the tax certificate executed by the issuer at closing, including any certifications as to the character of the bond-financed property.
- Requisitions for costs that were paid prior to the issuance of the bonds are, in general, limited to costs paid subsequent to, or not more than 60 days prior to, the date a “declaration of intent” to reimburse the costs from the proceeds of tax-credit bonds was adopted by the bond issuer. Proceeds are treated as a reimbursement if used to refinance a temporary short-term obligation issued after February 17, 2009, to finance capital expenditures paid or incurred after that date. Requisition for reimbursement will be reviewed to assure that bond proceeds are being used to reimburse within 18 months of the date of the original expenditure. If proceeds are used for reimbursement, a copy of the declaration or evidence of the short-term obligation will be obtained and included in the records for the issue if not already part of the transcript.
- Requisitions will be summarized in a "final allocation" of proceeds to uses not later than 18 months after the in-service date of the financed property (and in any event not later than 5 years and 60 days after the issuance of the bonds).

Rate of Expenditure of Bond Proceeds

- Rate of expenditure of bond proceeds will be reviewed by _____.
- Evidence that a binding commitment in writing with a third party to spend at least 10% of the available project proceeds was entered into within 6 months of the issue date of the bonds will be retained in the records of the issuer.
- Expenditure of proceeds will be monitored against the tax requirement to spend all of the sale proceeds together with investment earnings thereon within three years of the issue date of the bonds.
- If any private letter ruling is submitted to the Internal Revenue Service requesting an extension of the three-year expenditure period, the ruling request, including supporting evidence and correspondence with the Internal Revenue Service, will be retained with the issuer books and records for the bonds.

Requirements for Use of Proceeds of Direct Payment QSCBs and QZABs

Direct Payment QSCBs and QZABs, which are taxable bonds for which the IRS pays the issuer a subsidy amount equal to the lesser of the taxable interest payable on the bonds or the interest at the published tax credit rate on the sale date of the bonds, are subject to rules set forth in Sections 54A, 54E (QZABs) and 54F (QSCBs) of the Internal Revenue Code. Compliance with these rules is the responsibility of _____.

- No more than 2% of the sale proceeds of Direct Pay Bonds can be spent for costs of issuance (“COI”). Compliance with this rule will be established by recording

COI paid from proceeds as a separate cost category that will be measured against the 2% limit.

- No proceeds of Direct Pay Bonds can be used to pay principal of or interest on another obligations, except to refinance temporary short-term obligations issued after February 17, 2009, to finance capital expenditures paid or incurred after that date.
- None of the proceeds of Direct Pay Tax Credit Bonds can be used to fund a debt service reserve fund.
- 100% of “available project proceeds” from sale of Direct Pay Bonds (less amounts for costs of issuance) must be used for one or more of the programs designated as to each type of Direct Pay Tax Credit Bonds.
- Review expenditures to assure they are for “Qualified Purposes.”
 - “Qualified Purposes” for QSCB means the capital costs of the construction, rehabilitation or repair of the public school facilities comprising a Borrower Project, including expenditures for costs of acquisition of equipment to be used in a facility being constructed, rehabilitated or repaired, or acquisition of land on which the Project will be constructed.
 - “Qualified Purposes” means, with respect to QZABs, (i) rehabilitating or repairing the Project in which the Academy is established, (ii) providing equipment for use at the Academy, (iii) developing course materials for education to be provided at the Academy, and (iv) training teachers and other school personnel in such Academy.
- If bonds are QZABs, obtain and review certifications to determine that each school program to be financed meets the following requirements:
 - Each of the Local Education Agencies is a “local education agency” as defined in Section 9101 of the Elementary and Secondary Education Act of 1965.
 - Each Academy is or will be a public school which is established by and operated under the supervision of a Local Education Agency to provide education or training below the postsecondary level.
 - Each Academy (or academic program within such Academy) is or will be designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce.

- Students in each Academy will be subject to the same academic standards and assessments as other students educated by the Local Education Agency.
- Review written private entity contribution commitments, assuring that information includes the employee identification of the private entity, to determine that the aggregate contributions are equal to at least 10% of the principal amount of the QZABs, calculated at a present value (as of the Issue Date) discounted by the tax credit rate.

Use of Bond-Financed Property

Use of bond-financed property when completed and placed in service will be reviewed by _____.

- Property financed with the proceeds of QZABs and QSCBs will be monitored for any change in use and need for remedial action, including sale of property, loss of Academy status or failure to be a public school facility.
- No item of bond-financed property will be sold or transferred to a nonexempt party without advance arrangement of a "remedial action" under the applicable Treasury regulations.

Investments

Investment of bond proceeds in compliance with the arbitrage bond rules and rebate of arbitrage will be supervised by _____.

- Guaranteed investment contracts (“GIC”) will be purchased only using the three-bid “safe harbor” of applicable Treasury regulations, in compliance with fee limitations on GIC brokers in the regulations.
- Other investments will be purchased only in market transactions.
- Yield restriction on any sinking fund established to pay the bonds at maturity will be monitored to assure that (1) the sinking fund is funded no faster than equal annual installments, (2) the amount accumulating in the sinking fund is not expected to exceed the debt service due at maturity of the bonds, and (3) the fund is not invested above the permitted sinking yield identified in the tax certificate.
- If a debt service reserve fund is established with funds other than proceeds of the bonds, it is subject to certain size limitations, as well as yield limitations. Compliance with this rule will be established by tracking any deposits to a reserve fund and having bond counsel or rebate analyst review results.
- Calculations of rebate liability will be performed annually.

- If due, rebate payments will be made with Form 8038-T no later than 60 days after (a) each fifth anniversary of the date of issuance and (b) the final retirement of the issue. Compliance with rebate requirements will be reported to the bond trustee and the bonds.
- Identify date for first rebate payment, if any, at time of issuance. Enter in records for the issue.

Report of Issuance (Form 8038-TC)

Timely filing with the Internal Revenue Service of the issuance of the Bonds is the responsibility of bond counsel subject to review of the form by _____.

- Issuance of tax credit bonds must be reported to the IRS on Form 8038-TC. The deadline for the form is the 15th day of the 2nd calendar month following the quarter in which the bonds were issued. Filing the applicable form should be confirmed with bond counsel.
- If the bond issue consists of both tax-exempt bonds and tax credit bonds, the issuer must report the tax-exempt portion on Form 8038-G and the tax credit portion on Form 8038-TC.
- Form 8038-TC must include a debt service schedule for each maturity as set forth in the instructions to that form. See also Notices 2009-26 and 2010-35 for more information. Compliance will be confirmed with bond counsel.

Additional Periodic Filings Required for Direct Payment QSCBs or QZABs

- Payment of the Direct Payment subsidy amount must be requested on Form 8038-CP. Preparation and filing of Form 8038-CP is the responsibility of _____
 - For fixed rate bonds, Form 8038-CP should be filed not less than 45 days (and not more than 90 days) prior to the applicable semiannual interest payment date.
 - For variable rate bonds, Form 8038-CP should be filed not more than 45 days after the last interest payment date within the quarterly period for which the subsidy payment is requested.
- The first Form 8038-CP may not be filed sooner than 30 days after Form 8038-TC is filed with the IRS for the bonds.

Records

Management and retention of records related to tax credit bond issues will be supervised by _____.

- Records will be retained for the life of the bonds plus any refunding bonds plus three years. Records may be in the form of documents or electronic copies of documents, appropriately indexed to specific bond issues and compliance functions.
- Retainable records pertaining to bond issuance include transcript of documents executed in connection with the issuance of the bonds (including bond indenture, official statement, 8038-TC, and tax certificate with election to issue bonds as Direct Payment bonds and Tax Credit bonds) and any amendments, copies of Form 8038-CP if applicable, and copies of rebate calculations and records of payments including Forms 8038-T.
- Retainable records pertaining to expenditures of bond proceeds include requisitions, trustee statements and final allocation of proceeds.
- Retainable records pertaining to investments include GIC documents under the Treasury regulations, records of purchase and sale of other investments, and records of investment activity sufficient to permit calculation of arbitrage rebate or demonstration that no rebate is due.

Overall Responsibility

Overall administration and coordination of these procedures is the responsibility of

_____.