

College of Western Idaho

ADMIN-030 Post-Issuance Tax-Exempt Bond Compliance Policy

Appendix E – Post-Issuance Compliance Procedures

PURPOSE:

To establish procedures in connection with tax-exempt bonds and/or certificates of participation (collectively, “Bonds”) issued by the College of Western Idaho (the “College”) so as to ensure that the College complies with all applicable post-issuance requirements of Section 148 of the Internal Revenue Code (the “Code”) needed to preserve the tax-exempt status of such tax-exempt Bonds.

I. GENERAL

A. Responsibility

Ultimate responsibility for all matters relating to College financings and re-financings rests with the Vice President, Finance and Administration of the College (hereinafter, the “Administrator”). Roles and responsibilities for post-issuance tax-exempt bond compliance activities are outlined in Appendix A – Role and Responsibility Matrix

B. Compliance Checklist

Refer to Appendix F – Post-Issuance Compliance Checklist to assist in applying these Procedures.

II. POST-ISSUANCE COMPLIANCE REQUIREMENTS

A. External Advisors/Documentation

The Administrator and other appropriate College personnel shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the bond issuance process to identify requirements and to establish procedures necessary or appropriate so that the Bonds will continue to qualify for the appropriate tax status. Those requirements and procedures shall be documented in the College resolution(s), tax certificate(s) and/or other documents finalized at or before issuance of Bonds. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and all other applicable post issuance requirements of the Code throughout (and in some cases beyond) the term of the Bonds.

The Administrator and other appropriate College personnel also shall consult with bond counsel and other legal counsel and advisors, as needed, following issuance of Bonds to ensure that all applicable post issuance requirements in fact are met. This shall include, without limitation, consultation in connection with future contracts with respect to the use of bond financed assets and future contracts with respect to output or throughput of bond financed assets. Whenever necessary or appropriate, the College shall engage expert advisors (each a “Rebate Service Provider”) to assist in the calculation of arbitrage rebate payable in respect of the investment of bond proceeds.

B. Role of the College as Issuer of Tax-Exempt Bonds

Unless otherwise provided by College resolutions, agreements entered into in connection with the issuance of Bonds, or tax certificate(s), unexpended bond proceeds shall be held by the College, and the investment of bond proceeds shall be managed by the Administrator. Unless otherwise provided by College resolutions, agreements entered into in connection with the issuance of Bonds, or the tax certificate, the Administrator shall maintain records and shall prepare regular, periodic statements to the College regarding the investments and transactions involving bond proceeds. If a College resolution provides for bond proceeds to be administered by a trustee, the College shall obtain from the trustee the agreement to provide statements regarding the investments and transactions involving bond proceeds, no less than quarterly.

C. Arbitrage Rebate and Yield

Unless a tax certificate reflects that bond counsel has advised that arbitrage rebate will not be applicable to an issue of Bonds:

- The College shall engage the services of a Rebate Service Provider, and the College or the bond trustee shall deliver statements concerning the investment of bond proceeds to the Rebate Service Provider in a manner that will enable timely calculation of arbitrage rebate;
- The Administrator and other appropriate College personnel shall provide to the Rebate Service Provider additional documents and information reasonably requested by the Rebate Service Provider;
- The Administrator and other appropriate College personnel shall monitor efforts of the Rebate Service Provider and assure payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the issue date of the Bonds, and no later than 60 days after the last Bond of each issue is redeemed; and
- During the construction period of each capital project financed in whole or in part by Bonds, the Administrator and other appropriate College personnel shall monitor the investment and expenditure of bond proceeds and shall consult with the Rebate Service Provider to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months or 24 months, as applicable, following the issue date of the Bonds.

The College shall retain copies of all arbitrage reports, trustee statements, and related documentation as described below under “E. Record Keeping Requirements.”

D. Use of Bond Proceeds

The Administrator and other appropriate College personnel shall:

- Monitor the use of bond proceeds, the use of bond-financed assets (e.g., facilities, furnishings or equipment) and the output or throughput of bond-financed assets throughout the term of the Bonds (and in some cases beyond the term of the Bonds) to ensure compliance with covenants and restrictions set forth in applicable College resolutions and tax certificates;
- Maintain records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of Bonds;
- Consult with bond counsel and other professional expert advisers in the review of any management contracts or other arrangements involving use of bond-financed facilities to ensure compliance with all covenants and restrictions set forth in applicable College resolutions and tax certificates;
- Maintain records for any contracts or arrangements involving the use of bond financed facilities as might be necessary or appropriate to document compliance with all covenants and restrictions set forth in applicable College resolutions and tax certificates;
- Meet at least annually with personnel responsible for bond-financed assets to identify and discuss any existing or planned use of bond-financed assets or output or throughput of bond-financed assets, to ensure that those uses are consistent with all covenants and restrictions set forth in applicable College resolutions and tax certificates.

Reference Appendix B - Private Use Questionnaire for a sample template to be utilized for identifying and monitoring potential incidents of private business use, which could impact the tax exempt status of bond-financed facilities/projects.

E. Record Keeping Requirements

Documentation will be collected over the life cycle of the bonds/certificates, from initiation and issuance through maturity, including (but not limited to) documents relating to financing, legal, tax, and arbitrage processes; internal and external compliance monitoring activities; procurement, contracts and accounting records.

Unless otherwise specified in applicable College resolutions or tax certificates, the College shall maintain all documents for the term of each issue of Bonds (including refunding Bonds, if any) plus at least an additional five years. Refer to Appendix C – Records Retention Checklist for a listing of required documentation.