

College of Western Idaho
 Post-Issuance Tax-Exempt Bond Compliance Policy
 Appendix F - Post-Issuance Compliance Checklist
 Updated 12/15/2018 (Source: GFOA.org)

CFR = Code of Federal Regulations
 N/A = Not Applicable
 Closeout task-Complete at debt maturity

Instructions: Document completion of each task/item to verify compliance, and retain copies of all pertinent documentation for bond records. Add additional items if needed, and track all monitoring activities over the life of the debt, in accordance with applicable policies, laws, and the debt instrument.
Maintain the checklist and retain all documentation throughout the lifetime of the financing plus 5 years before archiving in permanent storage.

TRANSACTION DETAILS				Comments
CUSIP				Committee on Uniform Security ID Procedures identification number
Amount				
Date of Delivery				
Due Date				
Interest Rate				

TRANSACTION PARTIES	Name/Office/Position	Contact Information
Office responsible for debt management activities		
Designated CWI compliance coordinator		
Bond counsel		
Underwriter		
Trustee		
Paying agent		
Rebate service provider		
Other:		
Other:		

COMPLIANCE CHECKLIST								
Number	Section / Description	Document Reference	Law/Policy Reference	Responsible	Frequency	(Year)	(Year)	(Year)
A.	TAX LAW REQUIREMENTS							
1.0	General Matters							
1.1	Proof of filing form	IRS Form 8038, 8038-G, or 8038-GC	IRS Code section 149(e)		At time of issuance			
1.2	Copies of IRS form 8038 sent to State authorities as required by State of Idaho law/policy				At time of issuance			
1.2	"Significant modification" to bond instruments results in reissuance. Retain proof of filing (form, plus final rebate calculation on pre-modification bonds).		Treas. Reg. § 1.1001- 3 Modifications of Debt Instruments		At time of reissuance			
2.0	Use of Proceeds: Governmental Bonds or Qualified 501(c)(3) Bonds				Ongoing			
2.1	No private business use arrangement with private entity (includes federal government) beyond permitted de minimis amount unless cured by remedial action		Treas. Reg. § 1.141-12 Remedial Actions		Annual verification			
2.1.1	Sale of facilities: Any time the use of a bond-financed project is changed from a governmental use to a nongovernmental use (e.g., by way of sale), notify bond counsel immediately for remedial action which must be taken within 90 days of change							
2.1.2	Lease							
2.1.3	Nonqualified management contract		IRS Revenue Procedure 97-13					
2.1.4	Nonqualified research contract		IRS Revenue Procedure 97-14					
2.1.5	"Special legal entitlement"							
2.2	Create/update list of all properties, equipment, facilities or furnishings financed with bond proceeds, separately identified by each bond issue of the College.							

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2.3	Create/update list of all agreements granting long-term use (e.g., through leases or use agreements) of bond-financed facilities or properties to outside persons that are not a unit of state or local government. Provide all such contracts to bond counsel for review.							
2.4	Create/update list of all agreements granting temporary use (e.g., incidental uses or daily leases) of bond-financed facilities or properties to outside persons that are not a unit of state or local government.							
2.5	Contact bond counsel for review of any use agreements where the following applies:							
2.5.1	Any use agreements not based on the same set, uniform rates							
2.5.2	Any agreements not based on fair market value							
2.5.3	Any agreements that provide for use longer than a total of 50 days by any single user							
2.6	Create/update list of all agreements granting non-exclusive uses of bond-financed facilities or properties to outside persons that are not a unit of state or local government. For example, agreements allowing private business facilities such as vending machines, kiosks, etc.							
2.7	Contact bond counsel for review of any use agreements where the following applies:							
2.7.1	If any of the facility/project is managed by an outside organization							
2.7.2	If any party other than a governmental entity has beneficial use or rights with respect to a financed property (e.g., naming rights or the right to use a bond-financed parking lot)							

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2.8	Additional requirements for qualified 501(c)(3) bonds:				Ongoing			
2.8.1	Verify no unrelated business activity income in financed facility beyond permitted <i>de minimis</i> amount				Annual verification			
2.8.2	Verify no activities jeopardizing 501(c)(3) exemption of 501(c)(3) borrower				Annual verification			
2.9	Remedial action may consist generally of redemption or defeasance of bonds (with notice of defeasance to IRS). Where disposition is a cash sale, remedial action may be an alternative qualifying use of proceeds. If bonds are 501(c)(3) bonds, alternative use must have "TEFRA" hearing and elected official approval prior to sale of original facilities. Proof of filing new Form 8038, hearing notices, etc.	Proof of filing new Form 8038, etc.	Tax Equity and Fiscal Responsibility Act of 1982; IRC Sections 265 and 291					
2.10	Construction (applicable if any bond-financed projects are under construction):							
2.10.1	Check in with Rebate Service Provider regarding any applicable exceptions from the arbitrage rebate requirements during each 6-month spending period up to 6 months, 18 months, or 24 months following the issue date of any bond issue.							
2.10.2	If any remaining bond proceeds after completion of the project, deposit them into the bond fund. Or, remaining proceeds may be spent on other projects, provided they were included in the description used in the ballot question.							
2.10.3	If other funds, aside from bond proceeds, were contributed to the project, check to verify that allocations of bond proceeds have been made to the project. Allocations must be made in writing within 18 months after the project is placed in							

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	service.							
3.0	Private Activity Bonds		IRC §142					
3.1	Exempt facilities—in general:				Ongoing			
3.1.1	Continuing use of exempt facilities in accordance with basis of tax exemption				Annual verification			
3.1.2	Use excess proceeds for redemption or defeasance (with notice of defeasance to IRS) within 90 days of determination that proceeds will not be spent, or date financed facility is placed in service.		Treas. Reg. § 1.142-2(c)					
3.2	Small issue manufacturing bonds using S \$10,000,000 (\$20,000,000 for 2007) capital expenditure limit: monitor capital expenditures during three years after issuance for compliance with limit.		IRC §144(a)					
3.3	Acquisition of existing facilities: make qualifying rehabilitation within 24 months unless covered by exceptions.		IRC §147(d)					
4.0	Arbitrage / Rebate		IRS Revenue Procedure 2017-50; IRS Publication 5271					
4.1	Rebate payments submitted to IRS (if applicable, for excess investment earnings). If using a rebate service provider, verify and document that rebates have been calculated and sent on behalf of the College:		IRC §148(f)					
4.1.1	First installment of arbitrage rebate is due on the fifth anniversary of bond issuance plus 60 days				Year 5			
4.1.2	Succeeding installments every five years, at least 60 days prior to each fifth anniversary of the issue date of each				Year 10, 15, etc.			

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	bond issue.							
4.1.3	Final installment due 60 days after retirement of last bonds of issue				At maturity			
4.1.4	Bond payoff: Track payment and redemption dates of bond issues and upon final payment, check in with Rebate Service Provider to make a final rebate computation				60 days following the bond payment or redemption date.			
4.2	Monitor project expenditures:				Ongoing			
4.2.1	Monitor expenditures prior to semi-annual target dates for 6-month, 18-month, or 24-month spending exception		IRC §148(f)		Quarterly/annual			
4.2.2	Monitor expenditures generally against date of issuance expectations for three-year or five-year temporary periods or five-year hedge bond rules				Quarterly/annual			
4.2.3	For advance refunding escrows, confirm that any scheduled purchases of 0% Securities of State and Local Government Series are made on scheduled date				Quarterly/annual			
4.2.4	Final cash flow statements for major projects				Project completion			
4.3	Special rules for Pool Bonds:							
4.3.1	Redeem bonds at 1-year and 3-year expenditure target dates. Pay 95% of costs of issuance within 180 days.		IRC §149(f), as amended 2006.					
4.3.2	501(c)(3) pools: redeem bonds at 1-year expenditure target date.		IRC §147(b)(4)					
4.0	Record Retention							
4.1	Maintain general records relating to issue for life of issue plus any refunding plus five (5) years before archiving for permanent retention.							
4.2	Accounting/transaction records and reports:				Quarterly/annual			

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4.2.1	Cash receipts							
4.2.2	Expenditures							
4.2.3	Reimbursement Documents							
4.3	Maintain special records required by safe harbor for investment contracts or defeasance escrows		Treas. Reg. § 1.148-5 – Yield and valuation of investments					
4.4	Maintain record of identification on issuer’s books and records of "qualified hedge" contract.		Treas. Reg. § 1.148-4(h)(2)(viii) and § 1.148-11A(i)(3)					
4.5	Maintain record of election not to take depreciation on leased property that must be treated as owned by a governmental unit.		Treas. Reg. § 1.103(n)-2T Q/A7					
4.6	Maintain record of agreements and assignments between governmental units that affect volume cap allocations		IRC §146. Treas. Reg. § 1.103(n)-3T Q/A8, 13 & 14					
4.7	Maintain record of election to utilize the \$10,000,000 small issue bond limit on the books and records of the issuer		Treas. Reg. § 1.103-10(b)(2)(vi)					
5.0	Allocations of Bond Proceeds to Expenditures							
5.1	Make any required allocations of bond proceeds to expenditures by 18 months after the later of the date the expenditure was made or the date the project was placed in service, but not later than the earlier of five years after the bonds were issued or 60 days after the issue is retired.		Treas. Reg. § 1.148-6(d) and § 1.141-6(a)					
5.1.1	Board resolutions (required for project reallocation)				At time of issuance			
5.1.2	Maturity limitation: 120% test		IRS Module K		Quarterly			
5.1.3	2-year spending exception				Quarterly			
5.1.4	Excess bonds test				Quarterly			
5.1.5	Project reallocation schedule	See 120% test						
5.2	Bond status and documentation:							
5.2.1	Defeased							
5.2.2	Refunded							

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5.3	Project completion:							
5.3.1	120% test				Debt expenditure			
5.3.2	Completion certificate				Debt expenditure			
B.	DISCLOSURE REQUIREMENTS							
1.0	Municipal Securities Disclosure		SEC Rule 15c2-12					
1.1	Determine applicability of continuing disclosure undertaking ("CDU")							
1.2	Identification of "obligated person" If governmental bonds: Issuer If private activity bonds: Issuer or Borrower		SEC Rule 15c2-12					
1.3	Name of Dissemination Agent, if applicable							
1.4	Periodically determine that required CDU filings have been submitted to and received by NRMSIR :	National Recognized Municipal Securities Information Repositories			Annual			
1.4.1	EZ Disclose							
1.4.2	EMMA (Electronic Municipal Market Access System)	http://www.msrb.org/						
1.5	Information required to be provided to NRMSIR and SID (State Information Repository):				Annual			
1.5.1	Submit Annual Reports				Annual			
1.5.2	Quantitative financial information & operating data disclosed in official statement				Annual			
1.5.3	Audited financial statements				Annual			
1.6	Other information:				Annual			
1.6.1	Change of fiscal year				Annual			
1.6.2	Other information specified in CDU				Annual			
1.7	Material Event Disclosure: Notification by obligated person to SID and each NRMSIR, in timely manner, of any following events with respect to bonds, if event is material within the meaning of the federal securities laws:	<ol style="list-style-type: none"> 1. Master Trust Indenture 2. Appendix D Material Events Checklist 			Per event			

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Number	Section / Description	Document Reference	Law/Policy Reference	Responsible	Frequency	(Year)	(Year)	(Year)
1.7.1	Principal and interest payment delinquencies			Annual				
1.7.2	Non-payment related defaults			Annual				
1.7.3	Unscheduled draws on debt service reserves reflecting financial difficulties			Annual				
1.7.4	Unscheduled draws on credit enhancements reflecting financial difficulties			Annual				
1.7.5	Substitution of credit or liquidity providers, or their failure to perform			Annual				
1.7.6	Adverse tax opinions or events affecting the tax-exempt status of the bonds							
1.7.7	Modifications to rights of holders of the bonds							
1.7.8	Bond calls							
1.7.9	Defeasances							
1.7.10	Release, substitution or sale of property securing repayment of the bonds							
1.7.11	Credit rating changes							
1.7.12	Bankruptcy, insolvency, receivership							
1.7.13	Merger, consolidation, or acquisition							
1.7.14	Appointment of a successor							
1.7.15	Incurrence of material financial obligations							
1.7.16	Default, termination, or modification of terms							
1.8	Failure of the obligated person to timely file financial information (including audited financial statements) and operating data with SID and either each NRMSIR or MSRB							
1.9	Corporate status, maintenance of properties, etc.:				Annual			
1.9.1	Preserve corporate existence/status							
1.9.2	Property maintained, preserved, and kept in good repair				Annual verification			
1.9.3	Conduct its affairs and carry on its business in accordance with federal and state laws							

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1.9.4	Pay all taxes, governmental charges and assessments				Annual verification			
1.9.5	Pay all obligations				Ongoing			
1.9.6	Comply with all terms, covenants, and provisions contained in any mortgages which secure any of the notes							
1.9.7	Procure and maintain all necessary licenses, approvals, and permits							
1.9.8	Maintain accreditation				Annual verification			
1.10	Restrictions as to incurrence of additional debt:				Annual			
1.10.1	Maximum annual debt service not to exceed 12% of total unrestricted revenues and net assets released from restrictions							
1.10.11	Commitment indebtedness, subordinated indebtedness & non-recourse indebtedness without limit							
2.0	Notification to Underwriters of Bonds							
	Determination of whether bond purchase agreement requires issuer of the bonds to notify underwriters for a specified period of time of any fact of event that might cause the official statement to contain any untrue statement of material fact or omit to state a material fact necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading.	Annual Audit; If findings, review Official Statements for potential impact						
3.0	Additional Information Required to be Filed with Other Entities	Master Trust Indenture Section 5.7						
3.1	Trustee							
3.2	Rating Agency(ies)							
3.3	Bond Insurer							
3.4	Credit Enhancer	<u>Examples:</u> Financial records (annual, quarterly), budgets, issuance of additional bonds, events of default, notices of redemption, amendments to bond documents)						

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4.0	State/Local Disclosure							
	State and/or local requirements (reference Idaho Department of Finance)	http://www.finance.idaho.gov/Securities/SecuritiesForms.aspx	Idaho Uniform Securities Act (2004) and associated Rules; Chapter 14, Title 30 Idaho Code					
4.1	Security:							
4.1.1	Proof of filing UCC statements with appropriate authorities as required by State of Idaho procedures							
4.1.1.1	Initial UCC financing statements		UCC 9- 515(a)					
4.1.1.2	Continuation statements filed by fifth anniversary		UCC 9-515(d)					
4.1.1.3	Transfer by government or governmental unit not requiring a UCC statement		UCC 9-102(a)(45) (UCC exception adopted in certain jurisdictions)					
4.1.1.4	Public finance transaction in connection with debt securities (all or portion of securities have initial stated maturity of 20 years; obligated party is State or State governmental unit) qualifies for 30-year filing		UCC 9-515(b)					
4.1.1.5	Other local requirements or exceptions							
4.1.2	Proof of filing recorded mortgages, deeds of trust with appropriate authorities and proof of delivery of originals to trustee or custodian							
4.1.3	Insurance:							
4.1.3.1	Proof of receipt of final title policy and proof of delivery to trustee or custodian.							
4.1.3.2	Monitor compliance with property and casualty insurance requirements							
4.1.4	Financial Covenants: Monitor compliance with rate covenant or other additional covenants							

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4.1.5	Transfer of Property:							
4.1.5.1	Restrictions on transfer of cash							
4.1.5.2	Restrictions on releases of property							
4.1.5.3	Restrictions on granting liens or encumbering property							
4.1.6	Investments: Compliance with permitted investments							
4.1.7	Derivatives: Entering into and ongoing compliance of derivatives contracts is complex and a universe in and of itself. GFOA has created a Derivatives Checklist and a Recommended Practice on the Use of Debt-Related Derivatives Products and the Development of a Derivatives Policy to assist issuers with understanding these products.	http://gfoa.org/services/rp/debt.shtml						
C.	OTHER REQUIREMENTS							
	Any time a new Vice President, Finance and Administration of the College is appointed, the new Vice President, Finance and Administration shall meet to go over the Procedures and this Checklist with bond counsel.							

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