

SUBJECT: POST-ISSUANCE COMPLIANCE FOR TAX-EXEMPT BONDS

The purpose of the post-issuance compliance policy for tax-exempt bonds issued by the Lancaster Central School District, Erie County, New York for which a federal tax advantage is provided by the Internal Revenue Code of 1986, as amended, is to ensure that the District will be in compliance with requirements of the Code that must be satisfied with respect to such bonds or other obligations after the bonds are issued.

Responsibility for Monitoring Post-Issuance Tax Compliance

The Board of Education has the overall, final responsibility for monitoring whether the District is in compliance with post-issuance federal tax requirements for the District's tax-exempt bonds. However, the Board assigns to the Assistant Superintendent for Business & Support Services or such other officer of the District who may in the future perform the duties of that office ("Compliance Officer"), the primary operating responsibility to monitor the District's compliance with post-issuance federal tax requirements for the District's bonds.

In order to ensure continued compliance with requirements of the Code and the applicable regulations associated with the issuance of Bonds, the District will consult with the District's bond counsel, in advance, regarding deviations from the facts and expectations set forth in the closing certifications relating to any issue of Bonds.

If as a result of changes to the Applicable Federal Tax Law or the New York State Local Finance Law this policy and its guidelines are in conflict with such laws, the District will consult with Bond Counsel regarding the proper course of action, including amending the policy.

The Compliance Officer is the primary person to consult with the District's bond counsel, financial advisor and other advisors on a continual basis for the entire term of the Bonds. The Compliance Officer may delegate to his or her staff or contract with independent contractors (such as an arbitrage/rebate consultant) responsibility for different aspects of post-issuance tax compliance. However, the Compliance Officer will be ultimately responsible for implementing the guidelines described herein.

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SUBJECT: POST-ISSUANCE COMPLIANCE FOR TAX-EXEMPT BONDS (Cont'd.)**Securing Closing Documents**

Following each issuance of Bonds, the Compliance Officer or his or her designee will:

- a. Confirm the filing of the Form 8038 or Form 8038-G (or applicable successor form) with Internal Revenue Service (“IRS”). Filing of the applicable Form 8038 is usually undertaken or overseen by Bond Counsel at or soon after the closing of a bond issue.
- b. Obtain and store the Transcript of Proceedings prepared by Bond Counsel (which typically includes the applicable Form 8038 and the Arbitrage and Tax Certificate containing the District’s expectations as of the date of issuance of the bond issue).

Recordkeeping

It is the policy of the District that, unless otherwise permitted by future IRS regulations or other guidance, written records (which may be in electronic form) will be maintained with respect to each bond issue for as long as those bonds remain outstanding, plus three years. For this purpose, the bonds include refunding bonds that refund the original bonds and thereby refinance the property that was financed by the original bonds.

The records to be maintained are to include:

- a. the official Transcript of Proceedings for the original issuance of the bonds;
- b. records showing how the bond proceeds were invested, as described in Section 3(a) above;
- c. records showing how the bond proceeds were spent, as described in Sections 3(b) and 3(c) above, including purchase contracts, construction contracts, progress payment requests, invoices, cancelled checks, payment of bond issuance costs, and records of “allocations” of bond proceeds to make reimbursement for project expenditures made before the bonds were actually issued;

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SUBJECT: POST-ISSUANCE COMPLIANCE FOR TAX-EXEMPT BONDS (Cont'd.)

- d. information, records and calculations showing that, with respect to each bond issue, the District was eligible for the “small issuer” exception or one of the spending exceptions to the arbitrage rebate requirement or, if not, that the rebate amount, if any, that was payable to the United States of America in respect of investments made with gross proceeds of that bond issue was calculated and timely paid with Form 8038-T timely filed with the IRS, as described in Sections 3(c), (d) and (e) above; and
- e. records showing that special use arrangements, if any, affecting bond-financed property made by the District with nongovernmental persons, if any, are consistent with applicable restrictions on private business use of property financed with proceeds of tax-exempt bonds and restrictions on the use of proceeds of tax-exempt bonds to make or finance loans to any person other than a state or local government unit, as described in Section 4 above.

The basic purpose of the foregoing record retention policy for the District’s tax-exempt bonds is to enable the District to readily demonstrate to the IRS upon an audit of any tax-exempt bond issue that the District has fully complied with all federal tax requirements that must be satisfied after the issue date of the bonds so that those bonds continue to be eligible for the applicable tax advantage under the Code.

Arbitrage Yield Restriction and Rebate Requirements

The Compliance Officer or his or her designee will:

- a. Engage the services of the District’s financial advisor or an arbitrage/rebate consultant for assistance in compliance with arbitrage related issues.
- b. Consult with the District’s bond counsel, and/or financial advisor to determine if an issue of Bonds is exempt from the rebate requirement under the exception for “small issuer” (Section 147(f)(4)(D) of the Code).

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SUBJECT: POST-ISSUANCE COMPLIANCE FOR TAX-EXEMPT BONDS (Cont'd.)

- c. Work with the District's bond counsel, financial advisor and/or arbitrage/rebate consultant to monitor compliance with "temporary period exceptions" for expenditure of bond proceeds, typically three years for new money bonds and provide for yield restriction of investments or "yield reduction payments" if exceptions are not satisfied.
- d. Work with the District's bond counsel and financial advisor to ensure investments acquired with bond proceeds are purchased at fair market value. This may include use of bidding procedures under the regulatory safe harbor (Section 1.148-5(d) of the Regulations).
- e. Consult with the District's bond counsel or arbitrage rebate consultant prior to the creation of funds which would reasonably be expected to be used to pay debt service on tax-exempt bonds to determine in advance whether such funds must be invested at a restricted yield (i.e., yield restricted).
- f. Consult with the District's bond counsel and financial advisor before engaging in post issuance credit enhancement transactions (e.g., bond insurance, letter of credit) or hedging transactions (e.g., interest rate swap, cap).
- g. Consult with the District's bond counsel, financial advisor, and/or arbitrage rebate consultant to identify situations in which compliance with applicable yield restrictions depends upon subsequent investments (e.g., purchase of 0% SLGS from U.S. Treasury) and monitor implementation.
- h. Work with an arbitrage rebate consultant to arrange for timely computation of rebate/yield reduction payment liability and, if an amount is payable, for timely filing of Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate (or applicable successor form), and payment of such liability. Rebate/Yield Reduction payments are ordinarily due at 5-year intervals.

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SUBJECT: POST-ISSUANCE COMPLIANCE FOR TAX-EXEMPT BONDS (Cont'd.)**Private Use of Bond-Financed Facilities**

The Compliance Officer or his or her designee will:

- a. Create and maintain records of which proceeds of bond issues were used to finance which facilities. These records shall incorporate the refunding or partial refunding of any bond issues.
- b. Record the allocation of bond proceeds to expenditures, including reimbursements. These records will be consistent with the expenditures used for arbitrage purposes.
- c. Record the allocation of bond proceeds and funds from other sources in connection with any bond funded project. Review expenditure of bond proceeds with bond counsel to ensure bond proceeds are used for qualifying costs.
- d. Review with bond counsel prior to the sale or lease of a bond-financed facility, or the granting of a license or management contract, or any other arrangement allowing private use of a bond financed facility, the terms of such arrangement.
- e. Keep records of private use, if any, of bond financed facilities to monitor the amount of private use of bond financed facilities. Private use of bond-financed facilities shall be reviewed no less frequently than once a year (in connection with the preparation of the annual financial statements). If a change in private use occurs, bond counsel will be consulted to determine if remedial action is necessary.

Identification and Remediation of Potential Violations of Federal Tax Requirements for Tax-Exempt Bonds

If at any time during the life of an issue of tax-exempt bonds, the District discovers that a violation of federal tax requirements applicable to that issue may have occurred, the Compliance Officer will consult with bond counsel to determine whether any such violation actually has occurred and, if so,

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SUBJECT: POST-ISSUANCE COMPLIANCE FOR TAX-EXEMPT BONDS

take prompt action to accomplish an available remedial action under applicable Internal Revenue Service regulations or to enter into a closing agreement with the Internal Revenue Service under the Voluntary Closing Agreement Program described under Notice 2008-31 or other future published guidance.