



Accounting and Administrative Manual
Section 100: Accounting and Finance

Tax-Exempt Bond Post-Issuance Compliance
No.: E-03

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Purpose

The university finances certain capital projects through the issuance of revenue bonds (including refunding bonds). These revenue bonds are tax-exempt bonds which mean that the interest paid to bondholders is not subject to federal income tax. Tax-exempt status remains through the life of the bonds, but the status can be lost if certain applicable federal laws do not remain satisfied.

This document establishes the requirements and procedures for ensuring compliance with federal and state laws and regulations relating to the issuance and post-issuance monitoring of tax-exempt bonds. The university shall comply with all federal and state laws and regulations related to tax-exempt bonds and bond financed facilities prior to and after issuance.

Scope

University of Alaska System

Responsibility of University Officials

Primary responsibility for compliance rests with the Chief Finance Officer. The Chief Finance Officer delegates responsibility to the Debt Manager, Vice Chancellors for Administrative Services and others to exercise the duty of assuring compliance with applicable state and federal laws and regulations relating to University of Alaska tax-exempt bonds as outlined below:

Bond and Refunding bond documents (closing documents, transcript of proceedings, all agreements that occurred at the time of issue, etc.), redemption and defeasance documents, escrow investments, yield-restricted advance refunding investments	Debt Manager
Bond proceeds expenditures (purchase contracts, construction contracts, progress payments, support of vendor payment, payment of bond issuance costs, reimbursement and pre-issuance expenditures, etc.)	Debt Manager, Vice Chancellors for Administrative Services
Investment of bond proceeds, including any agreements or contracts that could be construed as investments under the Code	Debt Manager



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Receipts of earnings on bond proceed investments	Fund Accounting
Certificate of Official Intent for reimbursement of pre-bond issue costs	Debt Manager
Documents demonstrating calculations for arbitrage spending exceptions	Debt Manager
Documents demonstrating arbitrage rebate calculations	Debt Manager
Documents filed with IRS regarding arbitrage spending exceptions, arbitrage rebate amounts and payments of arbitrage rebate amounts (e.g., Form 8038-T)	Debt Manager
List of all bond-financed property	Debt Manager
Contracts regarding use of any bond financed property or facilities, including management, service and use contracts with nongovernmental entities, as well as documentation that such contracts do not adversely affect the tax-exempt status of the bonds financing the property	Debt Manager, Vice Chancellors for Administrative Services

Private Activity Limitations

Section 141 of the United States Internal Revenue Code (“Code”) sets forth private activity tests for the purpose of limiting the volume of tax-exempt bonds that finance activities of persons other than state and local governmental entities. These tests serve to identify arrangements that actually or reasonably expect to transfer the benefits of tax-exempt financing to non-governmental persons, including the federal government.

A bond constitutes a private activity bond if:

- A. More than 10% of the proceeds of the issue or the bond financed property are to be used by any person other than a state or local governmental unit (the “private business use” test), and
- B. More than 10% of the present value of the debt service on the bond is secured, directly or indirectly, by privately used property or private payment (the “private payment” test), or



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- C. The amount of proceeds of the issue which is to be used (directly or indirectly) to make or finance loans to persons other than governmental entities exceeds the lesser of 5% of such proceeds or \$5 million.

Business Use Test Procedures

- A. The use of space for a non-governmental purpose (i.e. space used by an external party), in which tax-exempt bonds were issued and remain outstanding for a building, requires approval of the respective Vice Chancellor for Administrative Services.
- B. By May 1 of each year, the Debt Manager will provide each Vice Chancellor for Administrative Services or designee, a private business use test worksheet. This worksheet will include all projects financed with university tax-exempt bonds.
- C. By June 30, each Vice Chancellor for Administrative Services, or designee will complete and return to the Debt Manager the private business use test worksheet.
- D. If there are any instances where the private business use test suggests the university may exceed a private activity limitation, the Debt Manager will consult with staff and bond counsel to determine the appropriate corrective plan.

Information Filing & Monitoring Requirements

- A. Pursuant to Securities and Exchange Commission Rule 15c2-12 (the “rule”), the university is required to file with the Municipal Securities Rulemaking Board continuous disclosure documents as defined in the supplemental trust indentures for each bond annually.
- B. Certain documents as defined in the supplemental trust indentures for each bond are required to be filed with the trustee annually.
- C. The Debt Manager shall work with bond counsel to complete and file required IRS forms by the required due date for each bond issue.



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Arbitrage Calculation and Arbitrage Reporting

- A. The Debt Manager, working in conjunction with any contracted professional financial service provider and bond counsel, shall perform all necessary calculation to meet arbitrage requirement each year.
- B. The Debt Manager, working in conjunction with any contracted professional service provider and bond counsel, shall file all necessary arbitrage calculation rebate documents and pay any necessary arbitrage rebate amounts to the IRS for each applicable fiscal year.

Record Retention

- A. The university shall maintain all material records and information necessary to support a bond issue's compliance with section 103 of the Code. All relevant records and contracts shall be maintained as described in this section. Unless otherwise specified in applicable university resolutions or tax certificates, the university shall maintain the following documents for the term of each issue of the bonds (including refunding bonds, if any) plus at least three years:
 - (1) Copy of the bond closing transcript(s) and other relevant documentation delivered to the university at or in connection with closing of the issue of the bonds.
 - (2) A copy of all material documents relating to capital expenditures financed or refinanced by bond proceeds, including, without limitation, construction contracts, purchase orders, invoices, trustee requisitions and payment records, as well as documents relating to costs reimbursed with bond proceeds and records identifying the assets or portion of assets that are financed or refinanced with bond proceeds.
 - (3) A copy of all contracts and arrangements involving private use of bond financed assets or for the private use of output or throughput of bond-financed assets.
 - (4) Copies of all records of investments, investment agreements, arbitrage reports and underlying documents, including trustee statements.