

UNIFIED SCHOOL DISTRICT NO. 289 (WELLSVILLE)
POST-ISSUANCE TAX COMPLIANCE AND
CONTINUING DISCLOSURE UNDERTAKING POLICIES AND PROCEDURES
FOR GOVERNMENTAL OBLIGATIONS
ADOPTED MAY 11, 2015

This Post-Issuance Tax Compliance Policies and Procedures is intended to guide Unified School District No. 289 (Wellsville), Franklin County, Kansas (the “Issuer”) in meeting its obligations under applicable statutes, regulations and documentation associated with publicly offered and privately placed bonds, notes and other obligations (collectively “bonds”) of the Issuer. This policy addresses obligations of the Issuer that arise and will continue following the issuance of bonds. These obligations may arise as a result of federal tax law (with respect to tax-exempt securities) and securities laws (with respect to ongoing disclosure) or as a result of contractual commitments made by the Issuer.

This policy outlines obligations that may be applicable to each issue of bonds and identifies the party to be responsible for monitoring compliance. In the Issuer, the Treasurer (the “Compliance Officer”) will be responsible for ensuring that the policy is followed and checklists and records maintained. The Compliance Officer may delegate responsibility to employees and outside agents for developing records, maintaining records, and checklists. The Issuer will provide educational opportunities (opportunities to attend educational programs/seminars on the topic) for the parties identified in this policy with responsibilities for post-issuance compliance in order to facilitate their performance of these obligations.

A. Transcripts.

1. The Issuer’s bond counsel shall provide the Issuer with a transcript related to the issuance of bonds (for each issue). It is expected that the transcript will include a full record of the proceedings related to the issuance of bonds, including proof of filing an 8038-G or 8038-GC, if applicable.

2. Bond transcripts will be retained by the Clerk at the Issuer’s administrative office in the City of Wellsville, Kansas.

B. Federal Tax Law Requirements (Applicable only if the bonds are issued as “tax-exempt” securities).

1. *Use of Proceeds.*

a. If the project(s) to be financed with the proceeds of the bonds will be funded with multiple sources of funds, the Issuer will adopt an accounting methodology that maintains each source of funding separately and monitors the actual expenditure of proceeds of the bonds.

b. Records of expenditures (timing of expenditure and object code) of the proceeds of bonds will be maintained by the Compliance Officer.

c. Records of interest earnings on the proceeds of bonds will be maintained by the Compliance Officer. Interest earnings on proceeds will be deposited in the fund in which the proceeds of the bonds were deposited. If for any reason interest earnings will not remain in the fund in which the proceeds of bonds were deposited, then the plan for use of interest earnings will be discussed with the Issuer’s bond counsel.

d. Records of interest earnings on reserve funds maintained for the bonds (unless the original principal amount of the bond issue, including other issues during the same calendar year, was \$5,000,000 or less).

2. *Arbitrage Rebate.* The Compliance Officer (“Rebate Monitor”) will monitor compliance with the arbitrage rebate obligations of the Issuer for each issue (“issue”) of bonds. The Issuer will provide educational opportunities, through attendance at educational programs/seminars on the topic of arbitrage regulations, to support the Rebate Monitor and facilitate his/her performance of these obligations.

a. If the Rebate Monitor determines that the total principal amount of tax-exempt governmental obligations (including all tax-exempt leases) issued or incurred by the Issuer during any calendar year, including the issue, will not be greater than \$5,000,000, the Rebate Monitor will not be required to monitor arbitrage rebate compliance, but will monitor expenditures and the use of proceeds after completion of the project as set forth in number 3 below.

b. If the Rebate Monitor determines that the total principal amount of governmental obligations (including all tax-exempt leases, etc.) of the Issuer issued or incurred will be greater than \$5,000,000, the Rebate Monitor will monitor arbitrage rebate compliance.

i. *Rebate Exceptions.* The Rebate Monitor will review the closing certificate, arbitrage letter of instructions, tax certificate, tax agreement or other transcript document relating to the instructions for compliance with federal tax law (the “tax certificate”) in the transcript in order to determine whether the Issuer expected to comply with a spending exception that would permit the Issuer to avoid having to pay arbitrage rebate. If the tax certificate identifies this spending exception (referred to as the 6-month exception, the 18-month exception or the 24-month spend-down exception), then the Rebate Monitor will monitor the records of expenditures (described in B.1. above) to determine whether the Issuer met the spending exception. If the Issuer met the relevant spending exception, the Rebate Monitor will retain documentation demonstrating timing of expenditures, and will not need to perform arbitrage rebate calculations or pay an arbitrage rebate to the federal government.

ii. *Rebate Compliance.* If the Issuer did not meet or does not expect to meet any of the spending exceptions described in (i) above, the Issuer will:

(a) review the investment earnings records retained as described in B.1. above. If the investment earnings records clearly and definitively demonstrate that the rate of return, on investments of all proceeds of the issue, were lower than the “arbitrage yield” on the issue then the Rebate Monitor may retain documentation describing the basis for such determination in lieu of following the steps described in the following paragraph. The “arbitrage yield” can be found in the tax certificate or Form 8038-G in the transcript.

(b) retain the services of an arbitrage rebate consultant in order to calculate any potential arbitrage rebate liability. The rebate consultant may be selected no later than the completion of the project to be financed with the proceeds of the issue but in no event later than the date the bonds mature or are redeemed in full. The selected rebate consultant shall provide a written report to the Issuer with respect to the issue and with respect to any arbitrage rebate owed if any.

(c) based on the report of the rebate consultant, file reports with the Internal Revenue Service, no later than 60 days after the fifth anniversary of the date of each issue, and every five years thereafter, with the final installment due no later than 60 days following the retirement of the last obligation of the issue.

3. *Unused Proceeds Following Completion of the Project.* Following completion of the project(s), financed with the issue proceeds (or three years from the date of issuance if this occurs first), the Compliance Officer will:

a. review the expenditure records to determine whether the proceeds have been allocated to the project(s) intended and if any questions arise, consult with bond counsel in order to determine the method of re-allocation of proceeds; and

b. direct the use of remaining unspent proceeds in accordance with the limitations set forth in the authorizing proceedings (*e.g.*, bond resolution, bond ordinance, trust indenture, etc.) and if no provision is otherwise made for the use of unspent proceeds, to the redemption or defeasance of outstanding bonds of the issue.

c. If after three years unused proceeds remain, the Compliance Officer will consult with bond counsel regarding potential yield restriction or yield reduction payments relating to the unspent bond proceeds.

4. *Facilities and Use of the Facilities Financed with Proceeds, Private Use.* The Issuer's Compliance Officer will monitor and confirm that the Issuer maintains an asset list or other record regarding all facilities and equipment that are bond-financed, and depreciation schedules for such facilities and equipment. In order to maintain tax-exemption of securities issued on a tax-exempt basis, the financed facilities (projects) are required to be used for governmental purposes during the life of the issue.

The Compliance Officer will coordinate with Issuer staff to monitor and maintain records regarding any private use of the projects financed with tax-exempt proceeds. The IRS Treasury Regulations prohibit private business use (use by private parties including nonprofit organizations and the federal government) of tax-exempt financed facilities beyond permitted *de minimus* amounts unless cured by a prescribed remedial action. Private use may arise as a result of activities such as the following:

a. Sale of the facilities;

b. Lease, sub-lease or use agreements for the facilities (including leases, easements or use agreements for areas outside the four walls, *e.g.*, hosting of cell phone towers) or leasehold improvement contracts;

c. Management contracts (in which the Issuer authorizes a third party to operate a facility, *e.g.*, cafeteria), research contracts and naming rights contracts;

d. Preference arrangements (in which the Issuer permits a third party preference, such as parking in a public parking lot); and

e. Joint ventures, limited liability companies or partnership arrangements.

If the Compliance Officer identifies private use of tax-exempt debt financed facilities, the Compliance Officer will consult with the Issuer's bond counsel to determine whether private use will adversely affect the tax-exempt status of the issue and if so, what remedial action is appropriate. The Compliance Officer should retain all documents related to any of the above potential private uses.

5. *Records Retention.*

a. Records with respect to matters described in this Subsection B will be retained by the Issuer for the life of the bond issue (and any issue that refunds the bond issue) and for a period of six years thereafter.

b. Records to be retained:

- (i) The transcript;
- (ii) Arbitrage rebate reports prepared by outside consultants;
- (iii) Detailed records of expenditures of bond proceeds (including interest earnings);
- (iv) Work papers that were provided to the rebate consultants;
- (v) If no rebate report was prepared, then records of expenditures and investment receipts showing timing of expenditure and the object code of the expenditure and in the case of investment, timing of receipt of interest earnings (maintenance of underlying invoices should not be required; however, if those documents are maintained as a matter of policy in electronic form, then continue to maintain those records in accordance with this policy);
- (vi) Copies of all certificates and returns filed with the IRS (*e.g.*, for payment of arbitrage rebate) and all reports regarding IRS examinations of Issuer or its bond financings;
- (vii) Copies of all documents related to potential private use as set forth in B.4. above, including leases and use agreements for use of the financed property (agreements that provide for use of the property for periods longer than 30 days), whether or not the use was within the four walls, *e.g.*, use of the roof of the facility for a cell phone tower;
- (viii) Documents to establish valuation and source of funding for bond-financed projects, including appraisals, demand and feasibility studies and grant contracts;
- (ix) Construction and purchase contracts;
- (x) Records related to investment contracts, credit enhancement contracts, derivatives and all related bidding documents; and
- (xi) Any other documentation necessary to establish the qualification for tax-exemption of the bonds.

C. Ongoing Disclosure. Under the provisions of SEC Rule 15c2-12 (the “Rule”), underwriters are required to obtain an agreement for ongoing disclosure in connection with the public offering of bonds. Unless the Issuer is exempt from compliance with the Rule as a result of certain permitted exemptions, the transcript for each issue will include an undertaking by the Issuer to comply with the Rule. The Compliance Officer of the Issuer will monitor compliance by the Issuer with its undertakings, which may include the requirement for an annual filing of operating and financial information and will include a requirement to file notices of certain listed “material events.”

D. Other Notice Requirements. In some instances, the proceedings authorizing the issuance of bonds will require the Issuer to file information periodically with other parties, *e.g.*, bond insurers, banks,

or rating agencies. The types of information required to be filed may include (1) budgets, (2) annual financial reports, (3) issuance of additional debt obligations, and (4) amendments to financing documents. The Compliance Officer of the Issuer will maintain a listing of those requirements and monitor compliance by the Issuer.