

Governmental Bond Financings Compliance Check Questionnaire

This questionnaire asks for information regarding your post-issuance bond compliance and record retention practices. Please complete the questionnaire and follow the instructions in the accompanying letter for returning it to us.

Name of Governmental Entity: _____

Employer Identification Number: _____

PART I - POST-ISSUANCE COMPLIANCE - GENERAL

1. Do you have written procedures to ensure that governmental bond financings remain in compliance with the following federal tax requirements after the bonds are issued:

- a. Proper use of bond proceeds? Yes No
If Yes, date they were implemented? _____ (dd/mm/yyyy)
- b. Timely expenditure of bond proceeds? Yes No
If Yes, date they were implemented? _____ (dd/mm/yyyy)
- c. Proper use bond-financed property? Yes No
If Yes, date they were implemented? _____ (dd/mm/yyyy)
- d. Arbitrage yield restriction and rebate? Yes No
If Yes, date they were implemented? _____ (dd/mm/yyyy)
- e. Timely return filings and other general requirements? Yes No
If Yes, date they were implemented? _____ (dd/mm/yyyy)
- f. Documenting compliance with other general requirements? Yes No
If Yes, date they were implemented? _____ (dd/mm/yyyy)

Describe in detail your procedures for each of the above items (a-f) and how you implement them, including dates of revisions, if any. In lieu of the above descriptions, you may attach a copy of your written procedures. If you have no written procedures, explain what guidelines you have in place and from what source these guidelines are derived that ensure bond financings are in compliance with federal tax requirements. *(Attach sheet with description)*

2. Who is primarily responsible for monitoring post-issuance compliance of bond financings?

- Elected or appointed officials What is the person's title? _____
- Non-elected or non-appointed officials What is the person's title? _____
- Staff Person What is the person's title? _____
- Other Person What is the person's title? _____
- None

3. If more than one individual is responsible for maintaining the records related to bond financings, do you have written procedures for assigning responsibilities that would ensure compliance with these financings? Yes No N/A

If Yes, date they were implemented? _____ (dd/mm/yyyy)

Describe in detail your procedures for assigning responsibility to each party involved and how you implement them, including dates of revisions, if any. In lieu of the above description, you may attach a copy of the written procedures used to assign responsibility to those individuals handling the bond financings. If you have no written procedures, explain what guidelines you have in place and from what source these guidelines are derived that ensure bond financings are in compliance with federal tax requirements. *(Attach sheet with description)*

4. Do you provide training or educational resources to personnel that are responsible for ensuring compliance with the post-issuance private use limitations for bond-financed property? Yes No
5. Are you aware of the following options available for voluntarily correcting failures to comply with post-issuance compliance activities?
- a. Taking remedial actions described under section 1.141-12 of the Income Tax Regulations? Yes No
- b. Entering into a closing agreement under the Tax-Exempt Bonds Voluntary Closing Agreement Program described in Notice 2008-31? Yes No

PART II - GENERAL RECORDKEEPING

6. Do you maintain records necessary to support the tax-exempt status of the bond financing? Yes No
- If yes, for how long?
- Less than life of bonds
- Life of bonds
- Life of bonds plus 3 years
7. How do you maintain your bond records?
- On Paper Electronic media (e.g., CD, disks, tapes) Combination of paper and electronic
8. Do you maintain copies of the following records:
- a. Your Federal tax or information returns (e.g., Form 8038 series returns)? Yes No
- b. Your audited financial statements? Yes No
- c. Bond transcripts, official statements and other offering documents of your bond financings? Yes No
- d. Minutes and resolutions authorizing the issuance of your bond financings? Yes No
- e. Certifications of the issue price of your bond financings? Yes No
- f. Formal elections for bond financings (e.g., election to employ an accounting methodology other than specific tracing)? Yes No
 N/A
- g. Appraisals, demand surveys, or feasibility studies for bond-financed property? Yes No
 N/A
- h. Documents related to government grants associated with construction, renovation or purchase of bond-financed facilities? Yes No
 N/A
- i. Publications, brochures, and newspaper articles for your bond financings? Yes No
 N/A
- j. Trustee statements for your bond financings? Yes No
 N/A
- k. Correspondence (letters, e-mails, faxes, etc.) for your bond financings? Yes No
- l. Reports of any prior IRS examinations of your entity or bond financings? Yes No
 N/A

PART III - INVESTMENTS AND ARBITRAGE COMPLIANCE

9. Do you maintain records documenting the allocations and earnings and investments related to your bond financings? Yes No
10. Do you maintain records for investments of your bond financing proceeds related to:
- a. Investment contracts (e.g., guaranteed investment contracts)? Yes No
 N/A
- b. Credit enhancement transactions (e.g., bond insurance contracts)? Yes No
 N/A
- c. Financial derivatives (swaps, caps, etc.)? Yes No
 N/A
- d. Bidding of financial products? Yes No
 N/A
11. Do you maintain records of the following arbitrage documents related to your bond financings:
- a. Computations of bond yield? Yes No
- b. Computation of rebate and yield reduction payments? Yes No
- c. Form 8038-T, *Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate*? Yes No
 N/A
- d. Form 8038-R, *Request for Recovery of Overpayments Under Arbitrage Rebate Provisions*? Yes No
 N/A
12. Do you have written procedures for monitoring instances that will comply with the applicable yield restriction requirements when a subsequent reinvestment of bond proceeds results in a lower investment yield. Yes No
 N/A

If Yes, date they were implemented? _____ (dd/mm/yyyy)

Describe in detail your procedures and how you implement them, including dates of revisions, if any. In lieu of the above description, you may attach a copy of the written procedures. If you have no written procedures, explain what guidelines you have in place and from what source these guidelines are derived that ensure bond financings are in compliance with federal tax requirements. (*Attach sheet with description*)

13. Do you have specific written procedures that monitor bond financings you expect will comply with the arbitrage rules as a result of the application of a temporary period exception (section 148(c) and section 1.148-2(e) of the Income Tax Regulations) or a spending exception (Regulations section 148(f)(4) and section 1.148-7(c), (d), and (e))? Yes No
 N/A

If Yes, date they were implemented? _____ (dd/mm/yyyy)

Describe in detail your procedures and how you implement them, including dates of revisions, if any. In lieu of the above description, you may attach a copy of the written procedures. If you have no written procedures, explain what guidelines you have in place and from what source these guidelines are derived that ensure bond financings are in compliance with federal tax requirements. (*Attach sheet with description*)

PART IV - EXPENDITURES AND ASSETS

14. Do you maintain records documenting the allocation of bond-financing proceeds to expenditures (e.g., allocation of bond proceeds to expenditures for the construction, renovation, or purchase of facilities you own and use in the performance of your public purpose)? Yes No
15. Do you maintain records documenting the allocations of bond-financing proceeds to bond issuance costs? Yes No
16. Do you maintain copies of requisitions, draw schedules, draw requests, invoices, bills and cancelled checks related to bond proceeds spent during the construction period? Yes No
17. Do you maintain copies of all contracts entered into for the construction, renovation or purchase of bond-financed facilities? Yes No
18. Do you maintain records of expenditure reimbursements incurred prior to issuing bonds for facilities financed with bond proceeds? Yes No
19. Do you maintain an asset list or schedule of all bond-financed facilities or equipment? Yes No
20. Do you maintain depreciation schedules for bond-financed depreciable property? Yes No
21. Do you maintain records that track your purchases and sales of bond-financed assets? Yes No

PART V - PRIVATE BUSINESS USE

22. Do you maintain records of trade or business activities by or with non-governmental entities or persons with respect to your bond-financed facilities? Yes No
 N/A
23. Do you maintain copies of the following agreements when entered into with respect to your bond-financed property:
- a. Management and other service agreements? Yes No
 N/A
- b. Research contracts? Yes No
 N/A
- c. Naming rights contracts? Yes No
 N/A
- d. Ownership documentation (e.g., deeds, mortgages)? Yes No
 N/A
- e. Leases? Yes No
 N/A
- f. Subleases? Yes No
 N/A
- g. Leasehold improvement contracts? Yes No
 N/A
- h. Joint venture arrangements? Yes No
 N/A
- i. Limited liability corporation arrangements? Yes No
 N/A
- j. Partnership arrangements? Yes No
 N/A

24. Do you have any additional comments on how you ensure your governmental bonds remain tax exempt after they are issued? *(Attach additional sheets, if necessary)*

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to ensure that you are complying with these laws.

The IRS may not conduct or sponsor, and an organization is not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103 and 6104.

Internal Revenue Service

Department of the Treasury

Date:

Contact Person/ID Number:

Contact Telephone Numbers:

Response Due Date:

Employer Identification Number:

Dear Sir or Madam:

We are conducting a compliance check of your governmental bond as part of our ongoing efforts to increase voluntary compliance by governmental bond issuers. We are asking you to answer questions concerning your post-issuance bond compliance procedures.

General Information

Governmental bonds are tax-exempt bonds issued by a State or local government which are not private activity bonds as described in section 141 of the Internal Revenue Code.

The tax-exempt status of governmental bonds remains throughout the life of the bonds if all applicable federal tax laws are satisfied while the bonds are outstanding. Various requirements apply under the Internal Revenue Code and Income Tax Regulations including information filing and other requirements related to issuance, the proper and timely use of bond-financed property, and arbitrage yield restriction and rebate requirements.

To comply with these and any other applicable federal tax requirements, governmental bond issuers must ensure that the rules are met at the time the bonds are issued and throughout the term of the bonds. Generally, this includes the continued maintenance of records sufficient to establish compliance with all applicable federal tax requirements until three years after the final maturity of the bonds. Also, continued maintenance of records related to periods before the bonds are issued and after the bonds mature is oftentimes necessary, particularly in instances involving reimbursements of prior expenditures or refundings of prior bond issues.

What You Need To Do

Please complete the enclosed Form 14002, *Governmental Bond Financings Compliance Check Questionnaire*, and follow the instructions below for sending the questionnaire to us.

How To Send The Information To Us

Attach a copy of this letter to the front of the requested information, and send the information to us, by the due date shown above, using one of the following methods:

- Mail your reply to the address shown in the heading of this letter.
- Email your reply (in PDF format) or questions to teb.cpm@irs.gov and indicate "Governmental Bond Questionnaire" in the subject line. Be sure to include your name, telephone number and the best time to

reach you; as we will be replying to your questions by telephone. **Note: This email address is for replies or questions related to this letter only, we cannot respond to other information or questions.**

Failure to use the above mailing address or email address may result in processing delays. If you fail to reply by the above date, we may forward your governmental bond issue for examination consideration.

In the spaces below, please provide an official's name, title, telephone number and most convenient time for us to call should we need to speak with someone regarding your governmental bond issue.

Name of official: _____ Time: _____

Title: _____ Telephone Number: () _____

More Information

Through our website at www.irs.gov/bonds, you can access materials relating to tax-exempt bonds including Publication 4079, *Tax Exempt Governmental Bonds Compliance Guide*, which provides an overview of the federal tax rules and filing requirements applicable to governmental bonds. You can find answers to frequently asked questions about record retention requirements under "Exempt Bond FAQ's." In addition, you will find an article entitled, "After the Bonds are Issued: Then What?" in Publication 4344, *Report of Recommendations - Advisory Committee on TE/GE*, intended for government officials in developing policies, procedures and systems to ensure that your bonds remain tax-exempt.

We have enclosed Publication 4386, *Compliance Checks*, which answers some frequently asked questions about compliance checks.

If you have any questions about this letter, you can contact the person named in the heading or email your questions to the address shown under **How To Send the Information to Us**.

Thank you for your cooperation.

Sincerely,

Steven A. Chamberlin
Manager, Compliance & Program Management
Tax Exempt Bonds

Enclosure(s):
Form 14002
Publication 4386

Compliance Checks

Examination, Audit or Compliance Check?

Tax Exempt and Government Entities Division

- **What is an examination? What is an audit?**

An examination is a review of an organization's books and records. In addition, an examination may involve the questioning of third parties to determine the organization's tax liabilities. Another term for an examination is an audit.

- **What is a compliance check?**

A compliance check is a review conducted by the IRS to determine the following:

- Whether an organization is adhering to recordkeeping and information reporting requirements.
- Whether an organization's activities are consistent with their stated tax-exempt purpose.

It is a review of information and forms that we require organizations to file or maintain – for example, Forms 990, 990-T, 940, 941, W-2, 1099, or W-4. The check is a tool to help educate organizations about their reporting requirements and to increase voluntary compliance.

The 990 series of forms are used by tax-exempt organizations, including charities, private foundations and other nonprofit organizations, to provide information required by section 6033 of the Internal Revenue Code, which includes information about their programs and activities. Information on these returns is generally disclosable to the public as provided by law.

It should be noted that a compliance check is not an examination; it does not directly relate to determining a tax liability for any particular period.

- **What occurs during a compliance check?**

At the beginning of a compliance check, we will inform the officer or director that the review is a compliance check and not an examination. We will not ask to examine any books and records or ask questions regarding tax liabilities. We may ask the organization whether they understand or have questions about filing obligations for required forms. We may also ask questions about an organization's activities. If, during a compliance check, we decide an examination is appropriate, we will notify the organization that we are commencing an examination before asking questions related to tax liability.

- **Is there a penalty for refusing to submit to a compliance check?**

No. The officer or director may refuse to participate in a compliance check without penalty. However, we have the option of opening a formal examination, whether or not the organization agrees to participate in a compliance check.

- **How often can the IRS do compliance checks?**

Because a compliance check only reviews whether an organization is adhering to record keeping and information reporting requirements and/or whether an organization's activities are consistent with its stated tax-exempt purpose and is not an examination, it is possible to have more than one compliance check for a tax year if facts and circumstances warrant.

