

CHARLOTTE COUNTY CLERK OF THE CIRCUIT COURT
AND COUNTY COMPTROLLER

POST – ISSUANCE TAX COMPLIANCE PROCEDURES FOR COUNTY TAX EXEMPT DEBT

The purpose of these Post-Issuance Tax compliance procedures is to establish policies and procedures in connection with tax-exempt bonds or other obligations (the “Bonds”) issued by Charlotte County board of County Commissioners (the “Board”) so as to maximize the likelihood that certain applicable post-issuance requirements of the federal income tax law needed to preserve the tax exempt status of the Bonds are met. The Board reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions as circumstances warrant. The Board also reserves the right to change these policies and procedures from time to time.

General

Inasmuch as the Board is a responsible issuer authorizing the issuance of Bonds for governmental purposes, the Board now identifies post-issuance tax compliance procedures for all Bonds issued by the authority on behalf of governmental borrowers.

Post-Issuance Compliance Requirements

External Advisors / Documentation

The Board and the Clerk of the Court or such designees shall consult with bond counsel and other legal counsel and financial advisors, as needed, throughout the Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that the Bonds will continue to qualify for tax exempt status. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Bonds.

The Board shall require that the Clerk of the Court Comptroller’s division engage expert advisors to assist in the calculation of arbitrage rebate payable in respect of the investment of Bond proceeds, unless the Tax Certificate documents that arbitrage rebate will not be applicable to a particular issuance of the Bonds.

Arbitrage Rebate and Yield

Unless the Tax Certificate documents that arbitrage rebate will not be applicable to an issue of Bonds, it is the Boards’ policy that the Clerk of the Circuit Court shall be responsible for:

- Engaging the services of a Rebate Service Provider, and prior to each rebate calculation date, providing statements concerning the investment of Bond proceeds to the rebate service provider.

- Providing to the Rebate Service Provider additional documents and information reasonably requested by the Rebate Service Provider
- Monitoring efforts of the Rebate Service provider
- Assuring payment of required rebate amounts, if any, no later than 60 days after each 5-year anniversary of the issue date of the Bonds, and no later than 60 days after the last Bond of each issue is redeemed.
- During the construction period of each capital project financed in whole or in part by Bonds, monitoring the investment and expenditure of Bond proceeds and consult with the Rebate Service Provider to determine compliance with any applicable exceptions from the arbitrage rebate requirements during each 6 month spending period up to 6 months, 18 months or 24 months, as applicable following the issue date of the Bonds; and
- Retaining copies of all arbitrage reports and trustee statements as described below under “record keeping requirements” and, upon request providing such copies to the Board.

Use of Bond Proceeds and Bond-Financed or Refinanced Assets

It is the Board’s policy that the Clerk of the Court and County Comptroller’s office shall be responsible for:

- Monitoring the use of Bond proceeds and the use of Bond-financed or refinanced assets (e.g., facilities, furnishings or equipment) throughout the term of the Bonds to ensure compliance with covenants and restrictions set forth in the Tax Certificate relating to the Bonds and consulting with Bond Counsel where appropriate.
- Maintaining records identifying the assets or portion of assets that are financed or refinanced with proceeds of each issue of Bonds, including a final allocation of Bond proceeds as described below under “Record Keeping Requirements”;
- Consulting with bond counsel, County Attorney’s office and other legal counsel and advisors in the review of any contracts or arrangements involving use of Bond-financed or refinanced assets to ensure compliance with all covenants and restrictions set forth in the Tax Certificate relating to the Bonds;
- Maintaining records for any contracts or arrangements involving the use of Bond financed or refinanced assets
- Communicating with personnel responsible for Bond-financed or refinanced assets to ensure that the current uses remain consistent with all covenants and restrictions set forth in the Tax Certificate relating to the Bonds.
- To the extent that it is discovered that any applicable tax restrictions regarding use of Bond proceeds and Bond-financed or refinanced assets will or may be violated, consulting promptly with bond counsel and other legal counsel and advisors to determine a course of action to remediate all nonqualified bonds, if such counsel advises that a remedial action is necessary.
- All continuing disclosure requirements and required MSRB reporting (see page 5)

Record Keeping Requirements

For each issuance of tax exempt debt, the Clerk of Courts comptroller division will complete the Post Issuance Compliance Checklist (appendix I)

Most requirements for record retention will relate to IRS arbitrage rebate and tax exemption requirements. In some cases, IRS record retention guidelines supersede and are longer than state and local requirements. Specific to arbitrage rebate and tax-exemption compliance, records must be maintained until full payment of the bonds and any refunding bonds plus three years.

- The Clerk's office shall be responsible for maintaining the following documents for the term of each issue of Bonds (including refunding Bonds, if any); plus at least three years.
 - The bond transcript for each bond issue (which includes the trust indenture, loan, lease or other financing agreement, the relevant IRS form 8038(including forms 8038-G or 8038 as applicable) with proof of filing, the bond counsel opinion and the tax agreement including all attachments, exhibits and any verification report.
 - Records of debt service payments for each issue of bonds
 - Documentation evidencing the expenditure of bond proceeds
 - Construction or contractor invoices
 - Receipts for equipment and furnishings
 - Project completion certificates
 - Documentation evidencing the lease or use of bond-financed property by public and private sources including service, vendor and management contracts, research agreements, licenses to use bond-financed property, or naming rights agreements.
 - Documents pertaining to investment of bond proceeds, actual investment income received from the investment of proceeds, investment agreements, and rebate calculations and copies of any 8038-T or 8038-R filed with respect to the Bonds.

Coverage Calculations

- The Clerk of the Court Comptroller's division will be responsible for completing all coverage calculations as outlined in each Bond document; as well as the completion of the debt coverage test for all commercial paper in accordance with Article IV of the loan agreement between the Florida Local Government Finance Commission and Charlotte County and JPMORGAN CHASE Bank, N.A. (see appendix II).
- It is the responsibility of the Comptroller's division to notify the BOCC appropriate staff when coverage calculations do not fall within the required amounts either for current coverage or for additional bonds testing should the BOCC desire to acquire additional loans.

Training for responsible officers

The Clerk shall be responsible for providing periodic training of all identified staff responsible for post-issuance compliance, such documentation should be identified and documented, whether in house or through third party conferences, courses or other providers.

Review of Policy

This policy shall be reviewed by the Comptroller's office no less than every three years.

MUNICIPAL SECURITIES RULEMAKING BOARD (MSRB) Submissions:

Background:

Any government of governmental entity issuing bonds has an obligation to meet specific continuing disclosure standards in compliance with Securities & Exchange Commission (SEC) Rule 15c2-12.

This rule sets forth obligations of underwriters to (1) receive, review, and disseminate official statements prepared by issuers of most primary offerings of municipal securities and (2) obtain continuing disclosure agreements from issues.

When bonds are issued, the issuer enters into a continuing disclosure agreement, (CDA) promising to provide certain annual financial information and material event notices to the public. These filings must be made electronically at the Electronic Municipal Market Access (EMMA) portal (www.emma.msrb.org).

Nothing prohibits issuers from providing period voluntary financial information to investors in addition to fulfilling the SEC Rule 15c2-12 responsibilities undertaken in CDA through EMMA. Issuers must disseminate any financial information to the market as a whole and cannot give any one investor certain information that is not readily available to all investors.

Listing Developed or Reviewed Annually:

<S:\MSRB\Issue Tracking Schedule.xls>

There shall be developed a listing of all securities outstanding for Charlotte County. Each security shall identify:

- Exact title of issuance
- CUSIP numbers (first 6)
- CDA Requirements
- Due dates of continuing disclosure requirements to the MSRB
- Any Insurance policies related to debt issuance
- Any other agreements in connection with the issue (i.e. arbitrage calculations)
- Any material event disclosures (for example)
 - Downgrading of Bonds
 - Downgrading of municipal bond insurers
 - Bond Defeasances
 - Bond retirements

Responsible Parties

- Currently MSRB Gateway access has been granted to:
 - Finance director
 - Financial Accountant in charge of debt
 - Financial Accountant in charge of cash & Investments
 - Financial Accountant in charge of Enterprise Fund

- Financial Manager of Charlotte County Utilities and Environmental Services
- General Oversight & Responsibility of EMMA website for Charlotte County and of compliance with this policy: Finance Director
- **All County Bonded Debt through public issuance:**
 - Debt Financial Accountant (Clerk of Courts Comptroller division) will:
 - annually review and update policy list of securities for all funds
 - Ensure that CDA has been complied with
 - Upload to EMMA for any material events & other documentation not required by CDA
 - Submission of CAFR for ALL debt (using the EMMA group function for grouping like information associated with all county debt)
 - CDA Requirements other than required by Utilities fiscal staff (below)
 - Utilities fiscal Manager / delegate
 - Responsible for continuing disclosure agreement documentation preparation for Utilities & Landfill if applicable
 - Responsible for uploading the CDA requirements(only) to EMMA
- **Private Placement Bonds and Commercial Paper issuance:**

There is no requirement by the SEC to post issues that are not resultant from the sale of Bonds to the public. The County has several of these private placement bonds with Banks; and many outstanding pooled commercial paper loans.

However it has been the practice to post these to EMMA for transparency purposes. In order to accomplish this, you must make a continuing disclosure submission and the system will allow you to choose what type of continuing disclosure, that being a private placement issue.