



SHAWNEE PUBLIC SCHOOLS

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To: Board of Education

From: Brent Houston, Chief Financial Officer 

Date: June 28, 2021

Subject: Approval of Compliance Guidelines for Tax Exempt Bonds

In accordance with the U.S. Department of the Treasury, we are now required to have a written policy addressing compliance guidelines for our tax exempt bonds. The IRS is requiring issuers of tax exempt bonds to adopt written procedures that address provisions for due diligence, identification of officials responsible for the bonds, arbitrage rebate, tax return filings and record keeping requirements. These requirements remain in effect for as long as the bonds are outstanding. Therefore, it is important for the Board to review written guidelines to ensure that the District is compliant in regards to the issuance of tax exempt bonds. Failure to review these guidelines on an annual basis could result in the loss of our tax-exempt bond status.

Recommendation:

That the Board approves the attached compliance guidelines for Tax Exempt Bonds.

Tax Exempt Bonds Compliance Guidelines

I. Use of Tax Exempt Bond Financing

Shawnee Public Schools will evaluate opportunities to utilize tax exempt bond financing for major capital projects, primarily for renovation, expansion, and may also include the acquisition of equipment or other capital expenditures. Capital costs relating to equipment and furnishings will likely be included in financings for major capital projects.

Financing with tax exempt bonds is determined through the Superintendent and the Shawnee Board of Education.

Financing with tax exempt bonds will be coordinated with other sources of funding implemented through the Superintendent and Shawnee's Board of Education (the "Board") to assure gifts, while providing support for new, renovated and existing facilities, do not serve as a replacement for bond financing.

The Board will adopt a resolution as a declaration of intent to use tax exempt financing to reimburse for project capital expenditures incurred prior to the borrowing.

Chief Financial Officer will consult with legal counsel and advisors throughout the bond financing process, including during the post-issuance term of the bonds.

II. Qualified School Construction Bonds (QSCBs)

Shawnee Public Schools will evaluate opportunities to utilize bond financings under the American Recovery and Reinvestment Act of 2009 (the "Taxable Stimulus Bonds") for capital projects, primarily for building construction, acquisition and improvement of public schools. Capital costs relating to equipment and furnishings may be included in financings for capital projects. QSCBs (Direct Pay or Tax Credit) may only be issued to finance capital expenditures.

Financing with Taxable Stimulus Bonds is determined through Superintendent and the Board.

Financing with Taxable Stimulus Bonds will be coordinated with Superintendent to assure that any Taxable Stimulus Bond financing does not serve as a replacement for School revenues.

The Board may adopt a resolution as a declaration of intent to use a Taxable Stimulus Bond financing to reimburse for project capital expenditures incurred prior to the borrowing.

III. Tax-Exempt Bond Tax Law Compliance Requirements

Documentation

The federal tax law requirements affecting tax exempt financing are set forth in the Tax Certificate and Agreement, which is included as a document in the closing transcript for the bonds.

External Counsel/ Advisors

Shawnee Public Schools maintains an ongoing relationship with outside legal counsel and advisors to serve as a resource for advice regarding tax exempt bond compliance. Counsel will review all contracts or arrangements involving the use of the bond financed facilities by private parties or that may be an activity that is unrelated to the exempt purpose of the organization.

The services of expert advisors have been engaged to assist in the calculation of arbitrage rebate attributable to the investment of bond proceeds.

Shawnee Public Schools maintains a relationship with a firm to serve as financial advisor in connection with tax exempt bond financing to provide financial services with respect to outstanding tax exempt bonds for future capital projects.

Investments/ Role of Trustee

The investment of bond proceeds is managed by Shawnee Public Schools.

Unexpended bond proceeds are held by Shawnee Public Schools, which is responsible for recording all investments and transactions relating to the proceeds. Shawnee Public Schools will provide regular, periodic (monthly) financial reports regarding the investments and transactions involving bond proceeds.

Arbitrage Rebate and Yield Restriction

The services of an expert advisor have been engaged by Shawnee Public Schools to assist in the calculation of arbitrage rebate attributable to the investment of bond proceeds.

Bank statements and other requested documents and information will be provided to the rebate service provider upon request on a prompt basis.

Arbitrage rebate services will be monitored to assure compliance with required rebate payments, if any, no later than each 5 year period over the term of the tax exempt bonds and upon the final maturity date of each bond issue.

During the construction period of the capital project, the investment and expenditure of bond proceeds will be monitored and the arbitrage rebate service provider will be consulted to determine compliance with exceptions from the arbitrage rebate requirement upon the expenditure of proceeds during each 6 month spending period up to 6 months, 18 months or 24 months, as applicable, following the issuance of the bonds.

Copies of all arbitrage reports, related return filings with the Internal Revenue Service, copies of cancelled checks with respect to any rebate payments and trustee/bank statements will be retained as described below.

Private Use of Bond Proceeds

Chief Financial Officer will monitor the use of bond financed assets (e.g., facilities, furnishings or equipment) throughout the term of the bonds (or the expected useful life of the assets, if shorter) to identify any use by a private person.

Monitoring of such private use must assure that no more than 10% of the bond proceeds are privately used. Bond proceeds applied to pay costs of issuing the bonds are treated as a private use.

Records will be maintained identifying the assets or portion of assets that are financed with tax exempt bond proceeds.

Outside legal counsel and advisers have been engaged and will be consulted to review contracts and other information provided regarding the private use of bond financed facilities. They will assist in monitoring the use of bond financed assets and to assure that no more than a Permissible Amount of bond proceeds of an issue is used for a private use.

Records will be maintained for any contracts or arrangements involving private or unrelated use of the bond financed facility.

Representatives of the Board will meet at least annually with facilities personnel to identify and discuss any existing or planned private or unrelated use of bond financed facilities.

Chief Financial Officer and the Board will maintain a record of private and unrelated use of bond financed facilities to assure ongoing compliance with the 10% private use limitation throughout the term of the bonds.

All relevant records and contracts will be maintained as described below.

IV. Record Keeping Requirements

A copy of all relevant documents and records sufficient to support that the requirements relating to the tax-exempt status of the bonds have been satisfied will be maintained by Chief Financial Officer for the term of the bonds (including refunding bonds, if any) plus three years, including the following documents and records:

- Bond closing transcript and other relevant documentation.
- All documents relating to capital expenditures financed by bond proceeds. Such documents will include construction contracts, purchase orders, invoices, requisitions and payment records. Such documents will include documents relating to costs reimbursed with bond proceeds.
- Records will be maintained identifying the assets or portion of assets that are financed with tax exempt bond proceeds.

- All contracts and arrangements involving private or unrelated use of the bond financed assets.
- All reports relating to the allocation of bond proceeds and private or unrelated use of bond financed assets.
- All records of investments, investment agreements, arbitrage reports, return filings with the IRS and underlying documents, including trustee statements.

V. Tax Return Filings

The Superintendent will assure compliance with IRS tax return filing requirements.

Chief Financial Officer will coordinate the engagement of an accounting firm and the delivery of requested information in order to assure the preparation and filing of annual tax returns on a timely basis.

VI. Annual Review

Chief Financial Officer will coordinate an annual review process to investigate, monitor, assure and document compliance with tax exempt bond tax requirements.