

ATTACHMENT A

RILEY COUNTY, KANSAS TAX-EXEMPT OBLIGATION POST-ISSUANCE COMPLIANCE POLICY

This Tax-Exempt Obligation Post-Issuance Compliance Policy (the “Policy”) sets forth specific policies of Riley County, Kansas (the “County”), designed to monitor post-issuance compliance of tax-exempt qualified obligations issued by the County, including but not limited to bonds, notes and lease purchase agreements (“Bonds”) with applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder (collectively, the “Code”).

The Policy documents existing practices and establishes procedures and systems designed to identify and monitor facts relevant to demonstrating the County’s compliance with Code requirements applicable to Bonds and which must be satisfied after Bonds are issued and during the time Bonds are outstanding to maintain the exclusion of interest paid on the Bonds from gross income for federal income tax purposes. The County recognizes that complying with the applicable provisions of the Code is an on-going process, required for the entire time Bonds remain outstanding, and is an integral component of the County’s debt management. Accordingly, the Policy will require on-going monitoring and consultation with bond counsel beyond the scope of its initial engagement with respect to outstanding Bonds. The requirements of the Code are generally related to investment, use and expenditure of Bond proceeds and restrictions on the use of Bond financed facilities or purposes (the “Project”).

I. Coordinator

The County’s Budget and Finance Officer shall be the coordinator responsible for monitoring post-issuance compliance under this Policy (the “Coordinator”). The Coordinator shall consult bond counsel, rebate analysts, financial advisors, IRS publications and other resources as are necessary to understand and meet the requirements of this Policy. The Coordinator may delegate responsibilities under this Policy to other employees and outside agents. The Coordinator, however, shall review the work performed by any person performing work under this Policy and shall remain responsible for requirements under this Policy.

The Riley County Treasurer supervises investment of county funds and collects investment and tax revenues received. The Riley County Clerk supervises County expenditures and preparation of the annual County budget. Together, these two County offices operate as an important “check and balance” on County finances. When necessary, those offices will assist the County’s Budget and Finance Officer with that Financial Officer’s duties under this policy.

All monitoring requirements under this Policy shall be performed by the Coordinator no less than once each calendar year with respect to all outstanding Bonds of the County. The County anticipates performing the annual responsibilities set forth in this Policy on or before September 1 of each calendar year Bonds are outstanding.

The Coordinator shall seek training from bond counsel with respect to proper maintenance of records, identification of private use, proper use and allocation of Bond proceeds, arbitrage and rebate requirements/restrictions, and other Code requirements. Bond counsel will provide such training in connection with adoption of this Policy and during a review session conducted at least once each five (5) years thereafter. Training shall also be obtained when significant changes in the Code or other applicable law occur or when a new individual becomes the Coordinator or a new person is hired for a position that the Coordinator has delegated responsibility to under this Policy.

II. Transcripts and Other Documents

The Coordinator shall obtain from bond counsel a transcript of proceedings for each issuance of Bonds, which transcript shall contain, at a minimum:

- A. All bond documents, including bond counsel opinions;
- B. Appropriate IRS Form 8038;
- C. Minutes, resolutions, and certificates authorizing or relating to issuance of Bonds and authorizing the Project;
- D. Certifications of issue price from the underwriter;
- E. Information relating to refunded bonds or obligations if applicable;
- F. Formal elections required by the IRS; and
- G. Tax compliance certificates and/or agreements.

The form of the transcript of proceedings may be in hard copy or electronic form and shall be maintained by the County Clerk in the County's records.

In addition to the transcript, the Coordinator shall also create a file for each particular issue of Bonds that includes the transcript, contains the records required by this Policy and:

- H. Any opinions of bond counsel not included in the transcript;
- I. Amendments, modification or substitution of any agreement or document found in the transcript;
- J. Correspondence with the IRS relating to the Bonds, including any records of an audit by the IRS or any Voluntary Closing Agreement Program proceedings;
- K. For Bonds that refund a prior issue of Bonds, the transcript and any related documents for the refunded Bonds, including the records required by this Policy;
- L. Other documents or evidence relating to Bonds relevant to the goals of this Policy.

III. Use of Proceeds

A. For each issue of Bonds and each project financed with proceeds of Bonds, the County shall adopt, or cause its duly authorized corporate trustee to adopt, an accounting methodology that separately maintains each source of funding for a project and identifies the use of such sources of funding by individual project, and monitors and identifies the expenditure of proceeds of the Bonds.

B. The Coordinator shall maintain or ensure the following records are maintained by the County or a duly appointed corporate trustee:

1. records showing the deposit of Bond proceeds into funds and accounts established for Bond proceeds by authorizing documents;
2. a list of all facilities, equipment or purposes financed by Bond proceeds and comprising the Project as defined herein; and
3. requisitions, draw requests, invoices and bills requesting payment from Bond proceeds and records of the payment of Bond proceeds that evidence allocation of the proceeds and any investments earnings on such proceeds to pay Project costs or make other permitted expenditures, including any reimbursement of expenditures made before Bonds were issued;
4. if applicable, records showing the investment of and interest earnings on Bond proceeds and reserve funds, including records of any investment contracts, credit enhancement transactions, and the bidding of financial products related to Bond proceeds;
5. records showing allocation of funds other than Bond proceeds spent for Project costs or other permitted expenditures;
6. records of, including copies of any and all contracts, leases or other documents, evidencing any private use (i.e., use by a non-governmental person or entity) of projects financed with Bond proceeds.

C. The Coordinator shall monitor the use of all Projects financed with Bond proceeds to ensure no unqualified private use is made of such projects. Examples of possible private use include:

1. sale of the Project;
2. lease or sublease of the Project or portions thereof;
3. management contracts (in which the County authorizes a third party to operate a Project or any portion thereof), research contracts and naming rights contracts with respect to a Bond financed Project;
4. preference arrangements (in which the County authorizes use of a Project by a third party on a preferential basis, e.g., specific rights to parking facilities);

5. contracts for purchase of output from public utilities or other contracts for use of Bond financed improvements to public utilities (e.g., sales of water or electricity to large non-governmental users);
6. joint-ventures, limited liability companies or partnership arrangements relating to the Project or the use of the Project;
7. agreements or contracts that provide for guaranteed payments from non-governmental third parties with respect to Bond financed facilities;
8. a grant or loan made to non-governmental entities from Bond proceeds; and
9. any changes in the use of Project.

Before the County enters into any arrangement or contract which may result in private use of Bond-financed facilities, the Coordinator shall present such arrangement or contract to bond counsel for review.

The Code provides certain remedial actions available to the County in the event that post-issuance use of a Bond-financed Project causes private use, which includes redemption of the non-qualified portion of the Bonds, alternative use of any disposition proceeds, and alternative use of the facility.

If the Coordinator identifies any possible private use of Bond financed Projects, the Coordinator will consult with bond counsel to determine whether such use will have any adverse effect under the Code and whether any remedial action is necessary.

D. Following completion of a Bond-financed Project (or thirty (30) months from the date of issuance of a Bond, whichever occurs first), the Coordinator shall:

1. review the expenditures of Bond proceeds to determine whether all Bond proceeds have been allocated to the Project as intended;
2. direct the use of unspent proceeds in accordance with the limitations of the bond documents, and if no provision is otherwise made therefore, to the redemption or defeasance of outstanding Bonds of the same issue;
3. consult with bond counsel regarding potential yield restriction or yield reduction payments if unspent Bond proceeds remain after three years from issuance.

If there are any questions or concerns regarding unspent Bond proceeds and the use or allocation thereof, the Coordinator shall consult bond counsel.

IV. Arbitrage/Rebate Compliance

A. The Coordinator shall review and cause the County Clerk to execute and file the appropriate IRS Form 8038 by the fifteenth (15th) day of the second calendar month following the quarter in which the Bonds are issued.

B. The Coordinator shall review with bond counsel each Certificate Related to Arbitrage and Tax Matters, Tax Compliance Agreement, or other tax certificate/agreement related to Bonds and shall:

1. obtain from the underwriter or financial advisor a computation of the yield on each issuance of Bonds, computed in compliance with the Code;
2. monitor the investment and expenditure of Bond proceeds to comply with the temporary periods and reasonable expectations set forth in such certificate/agreement;
3. if applicable, monitor and ensure all Bond proceeds are spent in accordance with one or more of the applicable spending exceptions to rebate as set forth in such certificate/agreement;
4. monitor the purchase of investments with Bond proceeds to ensure such investments are purchased a fair market value and in compliance with the Code;
5. consult with bond counsel prior to engaging in any post-issuance credit enhancement transactions or hedging transactions.

C. In the event any expenditure of Bond proceeds has failed, or will fail, any temporary period or rebate spending exception, the Coordinator shall immediately notify and consult with bond counsel and a rebate analyst to procure a computation of any rebate liability and any necessary yield reduction payments, all as required by the Code.

D. The Coordinator shall, or shall cause another appropriate officer to, monitor and ensure that no formal or informal fund is created which is reasonably expected to be used to pay debt service on any Bonds without first consulting bond counsel.

V. Record Retention

The Coordinator shall ensure the following records are retained by the County during the time any Bond remains outstanding (or the time that any issue that refunds the Bond remains outstanding) and for a period of three (3) years thereafter:

- A. The transcript of proceedings and additional documents, as described in Section II of this Policy.

- B. Documentation evidencing the expenditure and use of Bond proceeds, as described in Section III.
- C. Documentation evidencing use of Bond financed facilities by both public and private entities (including all leases, contracts, and other arrangements).
- D. Documentation evidencing the investment of Bond proceeds (including the purchase and sale of securities, SLGs subscriptions), yield calculations for each class of investments, actual investment income received by the investment of Bond proceeds, guaranteed investment contracts, and rebate calculations.
- E. Copies of all certificates and returns filed with the IRS and all reports regarding IRS examinations of the County or its Bonds.
- F. Copies of all documentation used to establish valuation of a Bond-financed facility, including appraisals, demand and feasibility studies and grant contracts.
- G. Copies of all construction and purchase contracts for Bond financed Projects.
- H. All other documentation necessary to establish qualification for tax-exemption of the Bonds.
- I. Documentation evidencing all monitoring and compliance performed by the Coordinator pursuant to this Policy.

VI. “Bank Qualified” Bonds. If the County issues Bonds in any calendar year that it designates as “qualified tax-exempt obligations” under the Code, the Coordinator shall monitor all tax-exempt obligations issued by the County in that calendar year (including lease purchase contracts and Bonds issued by the County on behalf of qualified 501(c)(3) organizations under the Code) to determine if the County will comply with the limitation of the amount of “qualified tax-exempt obligations” which may be issued in such calendar year (established by the Code, currently \$10,000,000 per calendar year). If it appears a proposed issue of Bonds or other tax-exempt obligation may cause the limit to be exceeded in a calendar year, the Coordinator will consult with bond counsel before proceeding to issue the Bonds or other obligations.

VII. Industrial Revenue Bonds – Conduit Bonds. If the County issues tax-exempt industrial revenue bonds or other conduit bonds on behalf of a third party borrowers, the County will consult with bond counsel and require that before such bonds or obligations are issued, the documents prepared in connection with such issues require appropriate post-issuance compliance measures be undertaken by the conduit borrower or the bond trustee or both.

VIII. Advance Refunding Bonds. Before the County issues Bonds to advance refund any outstanding Bonds, the Coordinator shall consult with bond counsel, the County’s financial advisor and others to determine if proposed refunding complies with all applicable requirements of the Code, including a determination that the Bonds to be advance refunded remain “tax-exempt obligations” in compliance with all applicable provision of the Code.

IX. Tax Exempt Bond – Voluntary Closing Agreement Program Tax Exempt Bonds (“TEB”) is a division of the Tax Exempt and Governmental Entities division of the IRS. TEB administers a program known as the Voluntary Closing Agreement Program (“TEB VCAP”) to assist governmental issuers in resolving violations of the federal tax laws applicable to tax-exempt bonds. TEB VCAP allows a governmental issuer to conclusively resolve such violations through the execution of closing agreements with the IRS.

The County is aware of the TEB VCAP program and the TEB VCAP procedures set forth in the Internal Revenue Manual sections 7.2.3.1 – 7.2.3.3.6 and section 4.81.6. If the Coordinator discovers a deficiency in compliance under the terms of the Policy or the applicable provisions of the Code or otherwise, the Coordinator shall consult with bond counsel and follow the procedures identified by the Code or the TEB VCAP to remediate noncompliance. If the Coordinator and bond counsel determine a TEB VCAP request is necessary, the Coordinator shall obtain approval from the governing body before submitting such request.

X. Continuing Disclosure – SEC Rule 15c2-12 The Coordinator shall review the Continuing Disclosure Undertaking for each issue of Bonds and determine the financial information and operating data the County is required to include in an annual report filed with the MSRB or EMMA and cause the annual report to be filed as required by the applicable Continuing Disclosure Agreement. The Coordinator will review the Continuing Disclosure Undertaking to determine which “material events” related to an issue of Bonds will require filing of a notice with the MSRB. If the Coordinator has knowledge of any event the Coordinator believes may require disclosure as a “material event” under the Continuing Disclosure Agreement, the Coordinator will consult with bond counsel. If the Coordinator and bond counsel conclude that notice of a “material event” should be provided, the Coordinator will cause appropriate notice to be filed as provided in the Continuing Disclosure Agreement.

