

**WATERTOWN-MAYER PUBLIC SCHOOLS
INDEPENDENT SCHOOL DISTRICT NO. 111
BOARD OF EDUCATION POLICY**

**723 POST-ISSUANCE COMPLIANCE POLICY FOR TAX-EXEMPT
GOVERNMENTAL BONDS**

[NOTE: As an issuer of tax-exempt governmental bonds, the school district is required: (i) by the terms of Sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury Regulations promulgated thereunder (the "Treasury Regulations"), to take certain actions subsequent to the issuance of such bonds to ensure the continuing tax-exempt status of such bonds; (ii) by the terms of Section 6001 of the Code and Section 1.6001-1(a) of the Treasury Regulations, to satisfy certain record retention requirements with respect to its tax-exempt governmental bonds; and (iii) by the terms of Securities and Exchange Commission Regulation, 17 C.F.R. Section 240.15c2-12, as in effect and interpreted from time to time ("Rule 15c2-12"), to satisfy certain continuing disclosure obligations with respect to its governmental bonds (whether tax-exempt or taxable)].

I. PURPOSE

The school district is an issuer of tax-exempt governmental bonds. The purpose of this policy is to ensure that the school district takes certain actions subsequent to the issuance of tax-exempt bonds to preserve the continuing tax-exempt status of such bonds. This policy shall remain in effect until superseded or terminated by the school district. This policy supersedes and replaces any existing post-issuance compliance policies and procedures previously adopted by the school district.

II. DESIGNATION OF COMPLIANCE OFFICER; COMPLIANCE RESPONSIBILITIES

A. The finance director of the school district (the "Compliance Officer") shall be primarily responsible for ensuring that the school district successfully carries out its post issuance compliance requirements under applicable provisions of the Code and Treasury Regulations. The Compliance Officer will be assisted by other school district staff and officials when appropriate. The Compliance Officer may also be assisted in carrying out post-issuance compliance requirements by the following:

1. Bond Counsel (as of the date of approval of this Policy, bond counsel for the school district is Kennedy & Graven, Chartered);

2. The Municipal Advisor (the person, organization, or officer of the school district primarily responsible for providing financial advisory services);
 3. Paying Agent (the person, organization, or officer of the school district primarily responsible for providing paying agent services for the school district); and
 4. Rebate Analyst (the organization primarily responsible for providing rebate analyst services for the school district).
- B. The Compliance Officer shall be responsible for assigning post-issuance compliance responsibilities to other school district staff. The Compliance Officer shall utilize Bond Counsel, the Paying Agent, or Rebate Analyst, or such other professional service organizations as are necessary to ensure compliance with the post issuance compliance requirements applicable to the school district. The Compliance Officer shall, as necessary and appropriate, provide training and educational resources to school district staff responsible for ensuring compliance with any portion of the post issuance compliance requirements of this policy.

III. POST-ISSUANCE COMPLIANCE ACTIONS

The Compliance Officer shall take the following post-issuance compliance actions or shall verify that the following post-issuance compliance actions have been taken on behalf of the school district with respect to each issue of tax-exempt governmental bonds issued by the school district:

- A. The Compliance Officer shall ensure that a transcript of principal documents is prepared with respect to each bond issue, and with the assistance of Bond Counsel, if necessary.
- B. The Compliance Officer shall ensure that an Information Return for Tax-Exempt Governmental Bonds, Form 8038-G is filed by Bond Counsel with the Internal Revenue Service (the "IRS"), within the time limit imposed by Section 149(e) of the Code and applicable Treasury Regulations.
- C. The Compliance Officer shall prepare an "allocation memorandum" for each issue of tax exempt governmental bonds in accordance with the provisions of Treasury Regulations, Section 1.148-6(d)(1), that accounts for the allocation of the proceeds of the tax-exempt bonds to expenditures not later than the earlier of:

1. eighteen (18) months after the later of (A) the date the expenditure is paid, or (B) the date the project, if any, that is financed by the tax-exempt bond issue is placed in service; or
 2. the date sixty (60) days after the earlier of (A) the fifth anniversary of the issue date of the tax-exempt bond issue, or (B) the date sixty (60) days after the retirement of the tax-exempt bond issue.
 3. Preparation of the allocation memorandum will be the primary responsibility of the Compliance Officer (in consultation with the Municipal Advisor and Bond Counsel).
- D. The Compliance Officer, in consultation with Municipal Advisor and Bond Counsel, shall identify proceeds of tax-exempt governmental bonds that must be yield-restricted and shall monitor the investments of any yield restricted funds to ensure that the yield on such investments does not exceed the yield to which such investments are restricted.
- E. In consultation with the Municipal Advisor and Bond Counsel, the Compliance Officer shall determine whether the school district is subject to the rebate requirements of Section 148(f) of the Code with respect to each issue of tax-exempt governmental bonds. In consultation with the Municipal Advisor and Bond Counsel, the Compliance Officer shall determine, with respect to each issue of tax-exempt governmental bonds, whether the school district is eligible for any of the temporary periods for unrestricted investments and is eligible for any of the spending exceptions to the rebate requirements. The Compliance Officer shall contact the Rebate Analyst (and, if appropriate, Bond Counsel) prior to the fifth anniversary of the date of issuance of each issue of tax-exempt governmental bonds of the school district and each fifth anniversary thereafter to arrange for calculations of the rebate requirements with respect to such tax-exempt governmental bonds. If a rebate payment is required to be paid by the school district, the Compliance Officer shall prepare or cause to be prepared the Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate, Form 8038-T, and submit such Form 8038-T to the IRS with the required rebate payment. If the school district is authorized to recover a rebate payment previously paid, the Compliance Officer shall prepare or cause to be prepared the Request for Recovery of Overpayments Under Arbitrage Rebate Provisions, Form 8038-R, with respect to such rebate recovery, and submit such Form 8038-R to the IRS.

IV. PROCEDURES FOR MONITORING, VERIFICATION, AND INSPECTIONS

The Compliance Officer shall institute such procedures as the Compliance Officer shall deem necessary and appropriate to monitor the use of the proceeds of

tax-exempt governmental bonds issued by the school district, to verify that certain post-issuance compliance actions have been taken by the school district, and to provide for the inspection of the facilities financed with the proceeds of such bonds. At a minimum, the Compliance Officer shall establish the following procedures:

- A. The Compliance Officer shall monitor the use of the proceeds of tax-exempt governmental bonds to: (i) ensure compliance with the expenditure and investment requirements under the temporary period provisions set forth in Treasury Regulations, Section 1.148-2(e); (ii) ensure compliance with the safe harbor restrictions on the acquisition of investments set forth in Treasury Regulations, Section 1.148-5(d); (iii) ensure that the investments of any yield-restricted funds do not exceed the yield to which such investments are restricted; and (iv) determine whether there has been compliance with the spend-down requirements under the spending exceptions to the rebate requirements set forth in Treasury Regulations, Section 1.148 7.
- B. The Compliance Officer shall monitor the use of all bond-financed facilities in order to: (i) determine whether private business uses of bond-financed facilities have exceeded the *de minimis* limits set forth in Section 141(b) of the Code as a result of leases and subleases, licenses, management contracts, research contracts, naming rights agreements, or other arrangements that provide special legal entitlements to nongovernmental persons; and (ii) determine whether private security or payments that exceed the *de minimis* limits set forth in Section 141(b) of the Code have been provided by nongovernmental persons with respect to such bond-financed facilities. The Compliance Officer shall provide training and educational resources to any school district staff who have the primary responsibility for the operation, maintenance, or inspection of bond-financed facilities with regard to the limitations on the private business use of bond-financed facilities and as to the limitations on the private security or payments with respect to bond-financed facilities.
- C. The Compliance Officer shall undertake the following with respect to each outstanding issue of tax-exempt governmental bonds of the school district: (i) an annual review of the books and records maintained by the school district with respect to such bonds; and (ii) an annual physical inspection of the facilities financed with the proceeds of such bonds, conducted by the Compliance Officer with the assistance with any school district staff who have the primary responsibility for the operation, maintenance, or inspection of such bond-financed facilities.

V. REMEDIAL ACTIONS AND CORRECTIVE MEASURES

- A. In consultation with Bond Counsel, the Compliance Officer shall become acquainted with the remedial actions under Treasury Regulations, Section 1.141-12, to be utilized in the event that private business use of bond-financed facilities exceeds the *de minimis* limits under Section 141(b)(1) of the Code.
- B. In consultation with Bond Counsel, the Compliance Officer shall become acquainted with the Tax Exempt Bonds Voluntary Closing Agreement Program described in Internal Revenue Manual, Part 7.2.3, to be utilized as a means for an issuer to correct any post-issuance infractions of the Code and Treasury Regulations with respect to outstanding tax-exempt bonds.

VI. CONTINUING DISCLOSURE OBLIGATIONS

- A. The school district has agreed to provide continuing disclosure, such as annual financial information and material event notices, pursuant to a continuing disclosure certificate or similar document (the "Continuing Disclosure Document") prepared by Bond Counsel and made a part of the transcript with respect to each issue of bonds of the school district that is subject to such continuing disclosure requirements.
- B. The Continuing Disclosure Documents are executed by the school district to assist the underwriters of the school district's bonds in meeting their obligations under Rule 15c2-12. The continuing disclosure obligations of the school district are governed by the Continuing Disclosure Documents and by the terms of Rule 15c2-12. The Compliance Officer is primarily responsible for undertaking such continuing disclosure obligations and to monitor compliance with such obligations.

VII. OTHER POST-ISSUANCE ACTIONS

- A. If, in consultation with Bond Counsel, the Municipal Advisor, the Paying Agent, the Rebate Analyst, or the school board, the Compliance Officer determines that any additional action not identified in this policy must be taken by the Compliance Officer to ensure the continuing tax-exempt status of any issue of governmental bonds of the school district, the Compliance Officer shall take such action if the Compliance Officer has the authority to do so.

- B. If, after consultation with Bond Counsel, the Municipal Advisor, the Paying Agent, the Rebate Analyst, or the school board, the Compliance Officer determines that this policy must be amended or supplemented to ensure the continuing tax-exempt status of any issue of governmental bonds of the school district, the Compliance Officer shall recommend to the superintendent and school board that this policy be so amended or supplemented.

VIII. RECORD RETENTION REQUIREMENTS

- A. The Compliance Officer shall collect and retain the records with respect to each issue of tax-exempt governmental bonds of the school district and with respect to the facilities financed with the proceeds of such bonds, including the following:
 - 1. Basic records relating to the bond transaction (including resolutions, trust indentures, lease-purchase agreements, and opinions of bond counsel);
 - 2. Documentation evidencing the expenditure of bond proceeds;
 - 3. Documentation evidencing the use of bond-financed property by public and private sources (i.e., copies of management contracts);
 - 4. Documentation evidencing all sources of payment or security for the bonds; and
 - 5. Documentation pertaining to any investment of bond proceeds (including the purchase and sale of securities, SLGs subscriptions, yield calculations for each class of investments, actual investment income received the investment of proceeds, and rebate calculations).
- B. Material records of tax-exempt governmental bonds must be kept for as long as the bonds are outstanding, plus 3 years after the final redemption date of the bonds.

IX. TAXABLE GOVERNMENTAL BONDS

- A. Except for Section VI, above, the provisions of this policy are not applicable to governmental bonds where the interest on such bonds is includable in gross income for federal income tax purposes. However, if an issue of taxable governmental bonds is later refunded with the proceeds of an issue of tax-exempt governmental refunding bonds, then the uses of the proceeds of the

taxable governmental bonds and the uses of the facilities financed with the proceeds of the taxable governmental bonds will be relevant to the tax-exempt status of the governmental refunding bonds. Accordingly, if there is any reasonable possibility that an issue of taxable governmental bonds may be refunded, in whole or in part, with the proceeds of an issue of tax-exempt governmental bonds then, for purposes of this policy, the Compliance Officer shall treat the issue of taxable governmental bonds as if such issue were an issue of tax-exempt governmental bonds and shall carry out and comply with the requirements of this policy with respect to such taxable governmental bonds.

- B. The Compliance Officer shall seek the advice of Bond Counsel as to whether there is any reasonable possibility of issuing tax-exempt governmental bonds to refund an issue of taxable governmental bonds.

Adopted/ Revised/ Reviewed:

Adopted: December 20, 2021

Legal References:

Minn. Stat. Ch.475 (Municipal Debt Act)
Minn. Stat. § 123B.595 (Facilities Maintenance Bonds)
Minn. Stat. § 123B.62 (Capital Facilities Bonds)
Minn. Stat. § 123B.61 (Capital Notes)
Minn. Stat. §§ 469.1812-1815 (Tax Abatement Bonds)

Cross References:

Independent School District 111 Policy 703 (Annual Audit)
Independent School District 111 Policy 705 (Investments)