

**County of Cumberland, Pennsylvania
Post-Issuance Compliance Policy**

I. Purpose

The purpose of these post-issuance compliance policies (the “Policies”) for bonds and notes that have been and will be issued by the County of Cumberland, Pennsylvania (the “Issuer”) is to ensure compliance with:

- (a) **federal tax rules** pertaining to expenditure of proceeds for qualified costs, rate of expenditure, use of bond financed property, investment of proceeds in compliance with arbitrage rules, and retention of records;
- (b) **securities law disclosure requirements** as to all obligations issued by the Issuer to which such disclosure requirements apply; and
- (c) **miscellaneous state law and document requirements** during the term of any Issuer financing.

These Policies are intended to be, among other things, the Issuer’s tax exempt bonds post-issuance tax compliance policy and can be identified as such in any filing with the Internal Revenue Service (“IRS”), such as Form 8038-G.

As used this document, the term “bonds” will include both bonds and notes; the term “Tax Certificate” will include a Tax Certificate or a Non-Arbitrage Certificate; and the term “Continuing Disclosure Agreement” will include a Continuing Disclosure Agreement or a Continuing Disclosure Certificate.

II. The Post-Issuance Compliance Coordinator and the Post Issuance Compliance Team

The key to a successful post-issuance compliance policy is to have one person with overall, final responsibility for implementing the Policies. That person is designated by the Issuer as the Post-Issuance Compliance Coordinator (referred to in this document as the “Coordinator”). As a further protection for the Issuer, the Issuer has a Post-Issuance Compliance Team (the “Team”) which will work with the Coordinator.

- 1. The Coordinator shall be the Issuer’s Director of Finance. This person is responsible for the required monitoring activity, and the required reporting and disclosure activity.
- 2. The Team will consist of the Solicitor, the Treasure, the Project Manager, and the Coordinator. The Coordinator may appoint additional individuals to the Team (each a “Team Member”) as the Coordinator believes are appropriate to implement the Policies. The Team Members are assigned specific responsibilities

within the policies. The Coordinator may delegate additional responsibilities of the Coordinator under these Policies to the Team Members.

3. Before any new issuance of debt, the Issuer will include the Coordinator in discussions with the Issuer's solicitor, financial advisor and bond counsel so that the Coordinator understands the structure and post-issuance requirements of the debt.
4. After the issuance of new debt, the Coordinator will identify the required monitoring activities and a schedule for such monitoring activities, and the Coordinator will designate the duties of specific Team Members with respect to the new debt.
5. The Team Members shall conduct on at least an annual basis a review of all outstanding bond issues for compliance with these Policies.
6. The Coordinator and the Team Members will arrange for and attend relevant training sessions regarding post-issuance compliance as the Coordinator determines to be necessary.

III. *Identifying Required Monitoring Activity and Schedule Reviews*

1. The Coordinator shall identify all financing obligations, including tax-exempt and taxable bonds.
2. The Team will establish routines for monitoring on-going compliance that are consistent with discovering any noncompliance in a timely manner so that it may be corrected. While specific review processes are described in detail below, timing for certain reviews will be as follows:
 - (a) All contracts, leases or other arrangements which create legal rights to the use of bond-financed facilities (e.g., a lease or a management agreement) will be reviewed prior to execution to ensure that they will not cause private use limits to be exceeded with respect to any issue of bonds.
 - (b) With respect to each bond issue, the Coordinator will ensure that she understands at the time of bond closing which funds and accounts containing bond proceeds may become subject to yield-restriction investment rules and will keep a record of the dates upon which such rules will begin to apply.
 - (c) The Coordinator will ensure during the life of each issue of bonds that all necessary rebate calculations are performed, and that provision has been made for the payment of any rebate owed within 60 days after each computation date. The Issuer will consult with and retain appropriate rebate calculation professionals, as necessary, to assist in this undertaking. The Treasurer will provide the Coordinator with all necessary investment documentation for the rebate calculations.

- (d) Prior to the Issuer executing any contract, lease or other document which would materially change the use of the bond-financed project or which would sell any bond-financed property, the Coordinator will confirm that such change will not require a remedial action to be taken with respect to any bond issue.

IV. *Record Retention Program*

It is the policy of the Issuer that written records (which may be in electronic form) will be maintained with respect to each issue of tax-exempt bonds for as long as such bonds remain outstanding, plus six years. For this purpose, such bonds include refunding bonds that refund the original bonds and thereby refinance the property that was financed by the original bonds.

The Coordinator shall create a record for each series, and shall consult with the Issuer's counsel to determine the documents which shall be included in the record for each series.

The following are examples of documents which may be collected and maintained pursuant to this policy, and the identity of the Team Member responsible for the collection and maintenance of such documents:

1. The official Transcript of Proceedings for the original issuance of the bonds (Commissioner's Office);
2. All documents regarding investment of bond proceeds and investment income, including purchases or sales of investments made with bond proceeds (including amounts treated as "gross proceeds" of bonds under Section 148 of the Internal Revenue Code of 1986, as amended (the "Code")) and receipts of earnings on those investments (Treasurer);
3. All documents (if any) regarding bidding for guaranteed investment contracts ("GIC's"), bidding for open market escrow securities, or bidding for any other investments (Treasurer);
4. All records regarding expenditure of bond proceeds, including invoices and/or requisitions for: costs of issuance, credit enhancement, a debt service reserve fund, construction period interest, project expenditures, and any other expense until the final allocation of proceeds (including investment earnings on bond proceeds) (Coordinator/Project manager);
5. All records pertaining to project draw schedules (Project Manager), construction contracts and contracts regarding acquisitions of property or equipment (Solicitor);
6. Depreciation schedules regarding bond financed property or equipment (Controller);

7. All documents relating to security for the bonds(Commissioner);
8. All documents relating to any swap or other hedge or derivative agreements, including the bidding thereof (Treasurer/Coordinator);
9. All documents regarding periodic interest rates on variable rate bond issues (Coordinator);
10. All trustee records and reports (Treasurer);
11. All documents relating to yield calculations (Coordinator) ;
12. All documents relating to arbitrage compliance and to any spend-down calculations, rebate calculations and/or payments, or yield reduction payments, including computations, legal opinions and IRS Forms 8038-T (Coordinator);
13. Records regarding payment of debt service on the bonds (Coordinator); and
14. All records regarding third party use of the bond financed facilities beginning with policies and form contracts (Solicitor), including:

Service contracts, management contracts, sales or disposition of bond financed facilities, leases, subleases, leasehold improvement contracts, joint venture contracts relating to bond financed facilities, LLC contracts relating to bond financed facilities, partnership agreements relating to bond financed facilities, any other documents relating to private use of bond financed facilities.

The basic purpose of the foregoing record retention policy for the tax-exempt bonds issued by the Issuer is to enable the Issuer to readily demonstrate to the Internal Revenue Service upon an audit of any tax exempt bond issue that the Issuer has fully complied with all federal tax requirements that must be satisfied after the issue date of such bonds so that, as applicable, interest on those bonds continues to be tax-exempt under section 103 of the Code.

Note: If records are kept electronically, refer to IRS Revenue Procedure 97-22, Section 4.01.

The Coordinator may elect to extend the Record Retention Program to those taxable bonds issued for the benefit of the Issuer.

V. *Tax Requirements Associated with Sale and Issuance of Bonds*

1. The “issue price,” as defined in the Code, of the bonds will be documented at the time of issuance. Certifications of an underwriter, placement agent or purchaser and a final numbers package will establish “issue price” and will be reviewed and included in the bond transcript or other records maintained for the bond issue.
2. The weighted average maturity (taking into account the various issue prices of the maturities of the bonds) will be documented at the time of issuance.

3. An estimated average economic life of the expected bond-financed projects will be documented at the time of issuance.
4. The appropriate Form 8038-G (tax exempt bonds) will be reviewed and filed not later than the 15th day of the 2nd calendar month following the quarter in which the bonds were issued. Filing of appropriate version or versions of Form 8038-G will be confirmed with bond counsel.

VI. *Expenditure of Proceeds*

To the extent applicable under the Record Retention Program adopted by the Issuer with respect to a particular series of bonds, the Coordinator shall create and maintain, or cause to be maintained, records of expenditures of tax-exempt bond proceeds, as follows:

1. Bond proceeds will be disbursed pursuant to an approved form of requisition as prepared by bond counsel, stating the date, amount and purpose of the disbursement. Any initial disbursement at the bond closing may be made pursuant to direction set forth in the Closing Receipt, Closing Statement and Settlement Reconciliation prepared by bond counsel and delivered at the closing for such bonds.
2. Requisitions must identify the financed property in conformity with the Tax Certificate executed by the Issuer at closing, including any certifications as to the character and average economic life of the bond financed property.
3. Investment earnings on sale proceeds of the bonds will be tracked and will be requisitioned only for appropriate expenditures.
4. Only a small portion (5%) of the proceeds of bonds for construction may be used for operating expenses or other “working capital” costs. Requisitions for costs of the bond financed facilities will accordingly be monitored to confirm that they are for capital costs of such facilities.
5. Requisitions for costs that were paid prior to the issuance of the bonds are, in general, limited to capital costs paid subsequent to, or not more than 60 days prior to, the date a “declaration of intent” to reimburse the costs was adopted by the Issuer. A copy of the declaration will be included in the closing transcript for the bonds.
6. Requisitions will be summarized in a “final allocation” of proceeds to uses not later than 18 months after the in-service date of the financed property (and in any event not later than 5 years and 60 days after the issuance and delivery of the bonds).
7. Expenditure of bond proceeds will be measured against the expectations as set forth in the Tax Certificate as to the spending of bond proceeds. Expected

expenditure schedules, project timelines, and plans and specifications will be maintained to support expectations. Reasons for failure to meet the expected schedule will be documented and retained in the records for the bonds.

8. Expenditure of bond proceeds will be monitored for compliance with spending exceptions to the rebate requirement, as follows:
 - (a) If the 6-month spending exception to rebate applies, expenditure of the bond proceeds (excluding bona fide debt service funds) will be at least 100% complete within 6 months of the date of issuance.
 - (b) If the 18-month spending exception to rebate applies, expenditure of bond proceeds will be monitored against the following schedule for the arbitrage rebate exception for the issue, if applicable:
 - 15% within 6 months
 - 60% within 12 months
 - 100% within 18 months
 - (c) If the 2-year spending exception to rebate applies, expenditure of “available construction proceeds” will be monitored against the following schedule for the arbitrage rebate exception for construction issues if applicable:
 - 10% within 6 months
 - 45% within 12 months
 - 75% within 18 months
 - 100% within 24 months
9. Bond-funded reserve funds, if any, cannot exceed the least of (i) 10% of the par amount of the bonds (or the issue price of the bonds, if there is more than a de minimis amount of original issue discount or premium), (ii) maximum annual debt service, and (iii) 125% of average annual debt service. The initial funding of any reserve fund will be measured against this limit.

VII. *Arbitrage Yield Restriction and Rebate Requirements*

1. To the extent applicable under the Record Retention Program adopted by the Issuer with respect to a particular series of bonds, the Coordinator shall create and maintain, or cause to be created and maintained, records as to arbitrage yield restriction and rebate requirements, as follows:
 - (a) Purchases or sales of investments made with bond proceeds (including amounts treated as “gross proceeds” of bonds under Section 148 of the Code) and receipts of earnings on those investments;
 - (b) The final allocation of the proceeds (including investment earnings on bond proceeds), of bonds issued by the Issuer;

- (c) Information, when applicable, showing that the Issuer was eligible for any exemptions to the rebate requirements that were or will be claimed under the Code;
 - (d) Information, when applicable, sufficient to demonstrate to the IRS upon an audit of a bond issue that the bond issue has complied with one or more available spending exceptions to the arbitrage rebate requirement with respect to that bond issue;
 - (e) Information and calculations, when applicable, that will be sufficient to demonstrate to the IRS upon an audit of a bond issue, for which an exception to the arbitrage rebate requirement was applicable, that the rebate amount, if any, that was payable to the United States of America with respect to investments made with gross proceeds of that bond issue was calculated and timely paid with Form 8038-T timely filed with the IRS; and
 - (f) Information and records showing that (i) investments held in yield-restricted advance refunding or defeasance escrows for bonds, and (ii) investments made with unspent bond proceeds after the expiration of the applicable temporary period, were not invested in higher-yielding investments.
2. If, from examination of the above-referenced records, it becomes clear that a payment is owed, the Coordinator will refer the matter to bond counsel or a rebate professional and will ensure that all necessary payments are made.

VIII. *Use and Ownership of Bond-Financed Property*

Use of bond-financed property when completed and placed in service will be reviewed by the Solicitor and Coordinator.

1. Average use of bond-financed property for a private business use over the life of the issue cannot exceed 10% of the proceeds (including up to 2% for costs of issuance).
2. Average use of bond-financed property for a private business that is unrelated or disproportionate to the Issuer's use over the life of the issue cannot exceed 5% of the proceeds (including up to 2% for costs of issuance).
3. The Coordinator, or the designated Team Member, shall determine the Issuer's compliance with the 10% and 5% requirements in accordance with Section 141 of the Code and the regulations thereto.
4. Agreements with business users or non-profit organizations for lease or management or service contracts, sponsored research, naming rights or any other potential nonexempt use of bond-financed property will be reviewed prior to

execution of any contract to determine if property subject to the agreement is bond-financed.

5. Agreements with business users or other non-profit organizations for lease or management or service contracts or other private business use involving bond-financed property will be tracked and aggregated with other private business uses for compliance with the limits as set forth in the Tax Certificate.
6. No item of tax-exempt bond-financed property will be sold or transferred to a nonexempt party without (i) an opinion of bond counsel that such sale or transfer will not cause interest on the bonds to cease to be tax-exempt; or (ii) advance arrangement of a “remedial action” under the applicable Treasury Regulations after consultation with bond counsel.
7. To the extent that the Issuer discovers that any of the above limitations have been violated, the Issuer will seek advice of the Solicitor or bond counsel and take appropriate measures to remediate the violation, if necessary.

IX. *Investments*

Investment of bond proceeds in compliance with any operative finance documents, the arbitrage bond rules and rebate of arbitrage will be supervised by the Treasurer and Coordinator.

1. GIC’s will be purchased only using the three-bid “safe harbor” of applicable Treasury regulations (*see* Treas. Reg. § 1.148-5(d)(6)(iii)), in compliance with fee limitations on GIC brokers (*see* Treas. Reg. § 1.148-5(e)(2)(iii)); provided, however, that to the extent that the safe harbor provisions cannot be met, the Issuer will consult with the Issuer solicitor or bond counsel.
2. Other investments will be purchased only in market transactions.
3. Calculations of rebate liability will be undertaken as set forth above in numbered paragraph VII by the Coordinator.

X. *Refundings*

When tax-exempt bonds are used to refund other bonds (the “Refunded Bonds”), the new bonds (the “Refunding Bonds”) will be treated as having financed the property originally financed with the Refunded Bonds (or any bonds refunded by the Refunded Bonds), such that financed property must be tracked until the last bonds (whether Refunded Bonds or Refunding Bonds) attributable to that property are retired. The Coordinator will continue reviewing, or cause to be reviewed, the use of any bond-financed property until the last bonds attributable to that property are retired; except to the extent that tracking is no longer required due to the economic life of the property coming to an end.

The following tasks related to Advance Refunding Bonds will be carried out in connection with the issuance of the bonds by the Solicitor and/or bond counsel and a financial advisor and/or

underwriter. The Coordinator should ensure that she understands what positions have been taken with respect to these matters.

Refunding Bonds the proceeds of which are used to retire Refunded Bonds more than 90 days after the issue date of the Refunding Bonds are “Advance Refunding Bonds.” Advance Refunding Bonds have additional federal tax requirements in order to be tax-exempt bonds. In order to comply with these additional requirements, the Issuer and its advisors will:

1. Confirm that the Issuer does not issue Advance Refunding Bonds that would violate the limit on the number of advance refundings for any of its tax-exempt bonds;
2. Confirm that the Refunded Bonds are being redeemed on their earliest call date or other allowable date;
3. Confirm that all non-bond proceeds amounts going into any Refunded Bond escrow comply with the rules relating to mixed escrows (meaning escrows which are funded with bond proceeds and non-proceeds) (*see* Treas. Reg. § 1.148-9(c)(2));
4. To the extent that investments other than United States Treasury Securities – State and Local Government Series (“SLGs”) will be placed in an escrow, confirm that SLGs were not a more efficient investment on the date of the bidding of any other type of investment; or, to the extent that SLGs sales have been suspended on such date, confirm that the safe harbors for determining the fair market value of yield-restricted defeasance escrows have been met (*see* Treas. Reg. 1.148-5(d)(6)(iii)). To the extent that SLGs are unavailable and the Issuer cannot obtain at least three bids to provide other investments, the Issuer will consult with the Issuer solicitor or bond counsel and a financial advisor or underwriter on how to proceed;
5. To the extent that an escrow funded with Advance Refunding Bond proceeds requires future purchases of 0% SLGs in order to comply with the applicable yield restrictions, the Issuer will purchase the 0% SLGs directly or, by written agreement, cause an escrow agent to purchase such SLGs. If the SLGs are to be purchased by an escrow agent, the Issuer will confirm or cause to be confirmed that such SLGs have actually been purchased, or, to the extent SLGs sales are suspended, comply with alternate procedures (which currently are provided in Rev. Proc. 95-47); and
6. Determine whether it will measure private business use using a combined measurement period (meaning starting with the issue date of the Refunded Bonds and ending with the final retirement of the Refunding Bonds) or separate measurement periods for the Refunded Bonds and the Refunding Bonds; provided, that the Issuer may not use separate periods if the Refunded Bonds were not in compliance with the private business use limits measured from their date of issuance to the date of issuance of the Refunding Bonds.

XI. *Correction of Violations*

The Issuer expects that its compliance with the procedures outlined in Articles IV - X above will prevent any violations of federal tax rules pertaining to its outstanding tax-exempt bonds (including any Refunded Bonds). However, if the Issuer discovers a potential violation through its ongoing monitoring or otherwise, it will determine in conjunction with its bond counsel whether a violation actually exists. If it is found that a violation actually exists, the Issuer will determine whether (i) any remedial actions are available, or (ii) a voluntary closing agreement with the Internal Revenue Service is appropriate. The Issuer is specifically aware of the availability of the Tax Exempt Voluntary Closing Agreement Program, as described in the Internal Revenue Manual, Part 7, Chapter 2, Section 3. Common examples of violations are as follows:

1. Failure to purchase 0% SLGs at the appropriate time;
2. Non-exempt use of bond-financed property resulting in overall non-exempt use in excess of the 5% de minimis limit;
3. Failure to pay rebate in a timely manner; and
4. Improper reimbursement of expenditures (too old or not capital).

XII. *Continuing Disclosure Activity*

1. SEC Rule 15c 2-12 requires certain reporting commitments for certain bond issues. The Coordinator shall:
 - (a) Retain a copy of any Continuing Disclosure Agreement included in each official Transcript of Proceedings prepared in accordance with the issuance of bonds.
 - (b) Identify required filings as set forth in any Continuing Disclosure Agreement, which may include: quantitative financial information and operating data disclosed in the official statement, audited financial statements, changes in fiscal year, and other information as specified in any Continuing Disclosure Agreement. The Coordinator will establish and maintain a calendar (in electronic format or by other means) setting forth the “due dates” with respect to such filing requirements.
 - (c) Refer to any Continuing Disclosure Agreement at least annually three months into each fiscal year of the Issuer to ensure that the Issuer will be providing the required filings at the correct time.
 - (d) Undertake, or cause to be undertaken (as set forth in subparagraph (g) below), all required filings at the required times through the Municipal Securities Rulemaking Board Electronic Municipal Market Access (“EMMA”), all as set forth in any Continuing Disclosure Agreement.

- (e) Disclose events listed below within 10 days of occurrence, including:
- i. Principal and interest payment delinquencies;
 - ii. Non-payment related defaults, if material;
 - iii. Unscheduled draws on debt service reserves reflecting financial difficulties;
 - iv. Unscheduled draws on credit enhancements reflecting financial difficulties;
 - v. Substitution of credit or liquidity providers, or their failure to perform;
 - vi. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue of the security (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the securities, or other events affecting the tax status of the security;
 - vii. Modifications to rights of holders of the bonds, if material;
 - viii. Bond calls, if material;
 - ix. Defeasances;
 - x. Release, substitution or sale of property securing repayment of the bonds, if material;
 - xi. Rating changes;
 - xii. Tender offers;
 - xiii. Bankruptcy, insolvency, receivership, or a similar proceeding by an obligated person;
 - xiv. Consummation of a merger, consolidation, acquisition, or sale of all or substantially all of the assets of an obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
 - xv. Appointment of a successor or additional trustee or paying agent or the change of name of a trustee or paying agent, if material.

- (f) Educate officials of the Issuer as to the events listed in subparagraph (e) above to make it more likely that an event will be identified as requiring disclosure upon occurrence.
 - (g) Determine if it is in the best interest of the Issuer to retain a third-party dissemination agent to facilitate post-issuance continuing disclosure/filing and other requirements. In the event a third-party dissemination agent is retained, the Coordinator shall be responsible for interacting with such agent.
2. The Coordinator also shall determine if any bond purchase agreement requires the Issuer to notify underwriters of any fact or event that might cause the official statement to contain any untrue statement or omit a material fact, and make such notification as necessary.

XIII. *Other Required Reporting*

For each issue of bonds, the Coordinator will, as required by any finance documents or covenants associated with such issue, or as required by laws or regulations governing such issue:

1. Determine all reporting requirements of the Issuer, if any, and undertake all such reporting requirements, as and when required by the finance documents, which may include but not be limited to:
 - (a) Proof of insurance coverage;
 - (b) Proof of compliance with rate covenants or other financial covenants; and
 - (c) Budgets and other financial reports as and when required.
2. Maintain all records necessary to satisfy such reporting requirements.
3. Determine what information, if any, must be filed with other entities such as trustees or paying agents, banks, rating agencies, dissemination agents, bond insurers, credit enhancers, etc., and make such filings as necessary.
4. Determine what, if any, state and local requirements are applicable to any issue, which may include but not be limited to:
 - (a) Providing proof of filing UCC statements, as applicable;
 - (b) Monitoring continuation statements, as necessary; and
 - (c) Providing proof of filing recorded mortgages, deeds of trust, etc., with appropriate authorities.
5. Monitor compliance with restrictions on transfers of property, including liens and encumbrances.

6. Ensure compliance with restrictions on derivative and swap contracts.