

**EXCITED ABOUT LAUNCHING YOUR LONG-AWAITED PROJECT?
DON'T FORGET BOND POST-ISSUANCE COMPLIANCE
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Issuing bonds for public projects requires a great deal of work, time, energy and money. The day of the bond sale represents the climax of these efforts and the start of a new phase of excitement and activity as the construction project begins. Most issuers are so focused on completing the long-awaited improvements that it is easy to overlook complying with IRS post-issuance regulations.

Federal tax law is complex, so it is important for the issuer to establish procedures to ensure the bonds remain in compliance and retain their tax-exempt status.

Arbitrage rebate is just one of many facets to compliance. Not all bond issues are subject to arbitrage calculation and reporting under the IRS regulations, so consult with your bond counsel and financial advisor at closing to determine your reporting requirements.

In general, the arbitrage rules were put in place to prevent tax-exempt issuers from generating investment earnings on bond proceeds in excess of the debt's net interest rate. The IRS requires recordkeeping, reporting and rebate requirements for issuers that do not meet certain spend-down timetables or other specific exemptions.

Bond issuers should consider the following to assist with compliance through the life of the bond issue:

- Retain all pertinent documents related to a bond issue in a central location.
- Choose an accounting method for recording bond proceeds, interest earnings and investments.
- Monitor yield on investments as compared to the "arbitrage yield" on the bonds.
- Understand spend-down tests and monitor spending to determine if one of the exceptions can be met.
- If investments are co-mingled, predetermine an allocation method for interest earnings. Better yet, whenever possible attempt to segregate those funds that are subject to rebate and compliance reporting.
- Establish procedures to ensure investments are acquired at fair market value.
- Determine whether you will need outside expertise to compute arbitrage rebate calculations and arrange for timely computation of the rebate liability to avoid penalties

The IRS has stepped up its enforcement efforts regarding tax-exempt bond issues in the past several years, so post-issuance compliance has become increasingly important and should be an integral part of the issuer's debt management procedures. Developing a compliance plan and procedures at the time of issue will greatly enhance your ability to remain compliant. It will also make the process much more seamless and less of a recordkeeping burden.

If you need help with defining reporting requirements, establishing procedures or arbitrage rebate calculations, please contact us at footnotes@umbaugh.com.