

3358:11-4-30 Post-issuance compliance policies and procedures for tax-exempt obligations.

- (A) Purpose. The purpose of this rule issued by the Owens state community college, Wood county, Ohio (the issuer), is to ensure that the issuer will be in compliance with requirements of the Internal Revenue Code of 1986, as amended, that must be satisfied with respect to obligations when issued and after such obligations are issued so that the obligations, and the interest thereon, will be and will remain qualified for an exclusion from gross income for federal income tax purposes or for federal tax credit or subsidy payment purposes, as applicable. All terms used herein have the meanings ascribed in paragraphs (B) and (C) of this rule.
- (B) Obligations. The term, obligation, is used generically herein and includes obligations, bonds, notes, leases and other forms of obligations of the issuer. Obligations issued from time to time by the issuer shall be identified on an obligation schedule, which may be updated periodically to identify obligations issued by the issuer after the date hereof.
- (C) Definitions. The following itemized terms have the following meanings for purposes of this rule:
 - (1) Arbitrage rebate rule means, in general, any profit (the difference earned on an investment return greater than could be earned at the “yield” on the obligations) derived from the investment of obligation proceeds must be paid to the United States department of the treasury unless an issuer can meet certain specific requirements for an exception to the arbitrage rebate rule. The amount to be paid is called rebate.
 - (2) Bond counsel means a firm of nationally recognized municipal bond attorneys experienced in the issuance of municipal bonds. The bond counsel associated with certain of the obligations identified on the obligation schedule are listed next to the obligations with which it is associated.
 - (3) Code means the Internal Revenue Code of 1986, as amended from time to time.
 - (4) Compliance officer means, for purposes of this rule, the person identified in paragraph (D) of this rule or his or her designee until

such time as another person is selected by the issuer to be the compliance officer, and if no such person is identified.

- (5) Compliance policy means this rule, post-issuance compliance policies and procedures for tax-exempt obligations as set forth herein.
 - (6) Issuer has the meaning set forth in paragraph (A) of this rule.
 - (7) Filing agent means a person or firm experienced in making the necessary filings with respect to any tax credit or subsidy to be made in respect of the obligations of the issuer. The rebate analyst may also act as filing agent.
 - (8) IRS means the internal revenue service.
 - (9) Rebate analyst means a rebate compliance analyst such as a professional services firm experienced in the calculation of arbitrage rebate liability.
 - (10) Regulations means the temporary, proposed or final regulations promulgated by the United States department of the treasury under the Internal Revenue Code of 1986, as amended that apply to the obligations.
- (D) Responsibility for monitoring post-issuance tax compliance. Pursuant to the Internal Revenue Code of 1986, as amended, the issuer has the overall and final responsibility for monitoring whether the issuer is in compliance with post-issuance federal tax requirements for its obligations. However, the issuer hereby appoints its treasurer as its initial compliance officer with the primary operating responsibility of monitoring compliance by the issuer with post-issuance federal tax requirements for the obligations.
- (E) Arbitrage yield restriction and rebate requirements. The compliance officer shall maintain or cause to be maintained records of the following:
- (1) Purchases and sales of investments made with proceeds of obligations (including amounts treated as gross proceeds of obligations under section 148 of the Internal Revenue Code of 1986, as amended) and receipts of earnings on those investments;

- (2) Expenditures made with proceeds of obligations (including investment earnings on proceeds of an obligation) for the governmental purposes of the obligations, such as for the costs of purchasing, constructing and/or renovating property and facilities;
- (3) Information showing, if applicable for a particular calendar year, that the issuer was eligible to be treated as a small issuer for arbitrage rebate purposes in respect of obligations issued in that calendar year because the issuer did not reasonably expect to issue, more than the applicable aggregate principal amount of obligations prescribed by the regulations promulgated by the United States department of the treasury under the Internal Revenue Code of 1986, as amended in that calendar year;
- (4) Calculations that will be sufficient to demonstrate to the internal revenue service upon an audit of an issue of obligations that, where applicable, the issuer has complied with an available spending exception to the arbitrage rebate requirement in respect of that issue of obligations;
- (5) Calculations that will be sufficient to demonstrate to the internal revenue service upon an audit of an issue of obligations for which no exception to the arbitrage rebate requirements was applicable, that the rebate amount, if any, that was payable to the United States of America in respect of investments made with gross proceeds of that issue of obligations was calculated and timely paid with the appropriate internal revenue service form timely filed with the internal revenue service;
- (6) Information and records showing that investments held in yield-restricted advance refunding or defeasance escrows for obligations, and investments made with unspent proceeds of obligations after the expiration of the applicable temporary period, were not invested in higher-yielding investments except with the written approval by bond counsel;
- (7) Any records the issuer may reasonably obtain relating to the prices at which obligations may trade after their initial offering but prior to their delivery or issue date.

- (F) Records retention to be maintained for obligations. The issuer will, unless otherwise permitted by future regulations promulgated by the United States department of the treasury under the Internal Revenue Code of 1986, as amended or other guidance, retain written records (which may be in electronic form) with respect to each issue of obligations for as long as those obligations remain outstanding, plus three years. For this purpose, the obligations include obligations to refund other obligations and thereby refinance property that was financed by the original obligations. The records to be maintained are to include:
- (1) The official transcript of proceedings for the original issuance of the obligations;
 - (2) Records showing how the proceeds of obligations were invested, as described in paragraph (E)(1); (the monthly investment portfolio report submitted to the issuer by a trustee will suffice for this requirement);
 - (3) Records showing how the proceeds of obligations were spent, as described in paragraph (E)(2), including purchase contracts, construction contracts, progress payment requirements, invoices, cancelled checks, payment of issuance costs and records of allocations of proceeds to make reimbursement for project expenditures made before the obligations were actually issued together with any record evidencing the official intent of the issuer to reimburse itself from proceeds of obligations;
 - (4) Information, records and calculations showing that, with respect to each issue of obligations, the issuer was eligible for the small issuer exception or one of the spending exceptions to the arbitrage rebate requirement or, if not, that the rebate amount, if any, that was payable to the United States of America in respect of investments made with gross proceeds of that issue was calculated and timely paid with the appropriate internal revenue service form timely filed with the internal revenue service, as described in paragraphs (E)(3), (E)(4), and (E)(5);
 - (5) Any records relating to the assignment or allocation of volume cap to any tax credit or subsidy obligations and any elections made with respect thereto;

- (6) Any records obtained in monitoring secondary market trading activity for any of the obligations, if applicable.

The basic purpose of the records retention for the obligations is to enable the issuer to readily demonstrate to the internal revenue service upon an audit of any issue of obligations that the issuer has fully complied with all federal tax requirements that must be satisfied after the issue date of the obligations so that interest on those obligations continues to be qualified for an exclusion from gross income for federal income tax purposes or for tax credit or subsidy payment purposes under the Internal Revenue Code of 1986, as amended.

The issuer hereby acknowledges its responsibility to maintain such records. The issuer also hereby directs the compliance officer to periodically update the obligation schedule to ensure that such identifies the issues of obligations outstanding from time to time.

- (G) Restrictions on private business use and private loans. The issuer understands that there are restrictions on private business use of assets financed with proceeds of obligations and restrictions on the use of proceeds of obligations to make or finance any loan to any person other than a state or local government unit. The issuer will consult bond counsel in the event private business use or private loans are contemplated.
- (H) Monitoring of bank qualified obligations. If any obligations are issued by the issuer in a given calendar year and designated in the related authorizing documents and/or tax documents as bank-qualified obligations under section 265 of the Internal Revenue Code of 1986, as amended, the compliance officer shall, from time to time during such calendar year, monitor other issues of obligations of the issuer during the calendar year to ensure that the total debt issued during such calendar year does not exceed the then applicable bank qualification limit. The issuer will consult with bond counsel in the event obligations are issued that may cause such limit to be exceeded.
- (I) Education and training with respect to federal tax requirements for obligations. The compliance officer and his or her staff should be provided with education and training on federal tax requirements applicable to the obligations. The issuer recognizes that such education and training is vital as a means of helping to ensure that the issuer remains in compliance with those federal tax requirements in respect of its

obligations. The issuer therefore will enable and encourage the compliance officer and any of his or her staff to attend and participate in educational and training programs with respect to federal tax requirements related to the obligations.

- (J) Retention of rebate analysts, filing agents or other professional services. The issuer may retain for particular transactions one or more rebate analysts, filing agents or other professional services for the purpose of filing any necessary forms to obtain refundable tax credits. A rebate analyst may also be retained or engaged at the outset of a transaction to advise the issuer with respect to the transaction structure that will allow the issuer to take advantage of any available exceptions to the arbitrage rebate rule.
- (K) Acknowledgment. The issuer acknowledges that arbitrage rebate payments, if due, are to be made to the United States of America at the end of each and every fifth bond year during which a series of obligations is outstanding and upon the final maturity of each series of obligations. The issuer hereby directs the compliance officer to review, from time to time, the tax compliance certificates and agreements executed and delivered by the issuer in connection with each issuance of obligations to determine the specific deadlines for calculating and submitting arbitrage rebate payments.
- (L) Periodic Review. This rule shall be reviewed regularly by bond counsel retained by the issuer with the treasurer from time to time to ensure conformity with current regulations promulgated by the United States department of the treasury under the Internal Revenue Code of 1986, as amended.
- (M) This rule is hereby adopted by action of the board of trustees at its public meeting on October 31, 2023.

Effective date: 11/12/2023

Promulgated under:	111.15
Statutory authority:	3358.08
Rule amplifies:	3358.08
Prior effective dates:	NA