HUTTO FIRE RESCUE

WILLIAMSON COUNTY EMERGENCY SERVICES DISTRICT #3

STANDARD OPERATING PROCEDURES

STANDARD OPERATING PROCEDURE - Administration ***#1-4.8 (Revised)*** ISSUE DATE: October 1, 2021 EFFECTIVE: October 1, 2021	RESCINDS: #1-4.8: Tax Exempt Obligations: (2013)
SUBJECT: ***POST-ISSUANCE COMPIANCE FOR TAX-EXEMPT OBLIGATIONS***	AUTHORIZED BY: Williamson County Emergency Services District #3 Board of Commissioners
REFERENCE / AUTHORITY: Federal Law Internal Revenue Service	APPLIES TO: ☐ Full Time Uniformed Staff ☐ Volunteer Uniformed Staff ☐ Civilian Staff ☒ ESD Commissioners
TFCA BEST PRACTICES: Chapter(s): 1 Item(s): 1.10	CPSE / CFAI ACCREDITATION:

PURPOSE
It is the policy of Hutto Fire Rescue/Williamson County Emergency Services District #3 (Hutto Fire Rescue) to set forth specific criteria designed to monitor post-issuance compliance of tax-exempt obligations issued by Williamson County Emergency Services District #3, with applicable provisions of the *Internal Revenue Code of 1986*, as amended, and promulgated treasury regulations.

BACKGROUND
Bank-qualified tax-exempt obligations are issued for 501(c)(3) organizations, and state and local governments by a “qualified small issuer”, and are formally designated by the issuer as “qualified tax-exempt obligations.” A qualified small issuer is defined, with respect to obligations issued during any calendar year, as any issuer if the reasonably anticipated amount of tax-exempt obligations (with certain exclusions) to be issued during such calendar year does not exceed $10,000,000. The rules require aggregating the total issuance by certain related issuers.

Bank-qualified tax-exempt obligations are better than other tax-exempt obligations because financial institutions are generally not interested in purchasing other tax-exempt obligations. Under federal law, banks are not allowed to deduct the "carrying costs" (interest paid on borrowed funds to purchase bonds) of such tax-exempt obligations. In contrast, banks are allowed to deduct 80% of their carrying costs associated with bank-qualified tax-exempt obligations. As a result, banks are eager to purchase bank-qualified tax-exempt obligations. In other words, the carrying cost treatment of bank-qualified bonds creates a market for tax-exempt bonds (banks) that might not otherwise exist for a particular agency which translates into lower costs for the borrower.

However, tax-exempt financial obligations have significant restriction and reporting requirements attached to them. Local governments must follow a strict set of policies and procedures when receiving financing through tax-exempt obligations.

POLICY

DEFINITIONS

Obligations: All evidence of indebtedness issued on a tax exempt basis, including bonds, notes, certificates of obligation, lease purchase agreements and other forms of tax exempt debt.

GENERAL

A. This policy establishes a permanent, ongoing structure of practices and procedures that will facilitate compliance with the requirements for individual borrowings.

B. This policy documents practices and describes various procedures and systems designed to identify, on a timely basis, facts relevant to demonstrating compliance with the requirements that must be satisfied subsequent to the issuance of Obligations in order that the interest on such Obligations continue to be eligible to be excluded from gross income for federal income tax purposes or that the Obligations continue to receive tax-advantaged treatment.

   1. The federal tax law requirements applicable to each particular issue of Obligations will be detailed in the arbitrage or tax certificate prepared by bond counsel and signed by officials of Williamson County Emergency Services District #3.

C. Williamson County Emergency Services District #3 recognizes that compliance with applicable provisions of the *Internal Revenue Code of 1986* and Treasury Regulations is an on-going process, necessary during the entire term of the Obligations, and is an integral component of the organizations debt management. Accordingly, the analysis of those facts and implementation of this policy will require on-going monitoring and consultation with bond counsel and the Williamson County Emergency Services District #3 financial advisors and auditors.

D. The Fire Chief shall be responsible for monitoring post-issuance compliance issues.

E. The Fire Chief will coordinate procedures for record retention and review of such records.

F. All documents and other records relating to Obligations issued by Williamson County Emergency Services District #3 shall be maintained by or at the direction of the Fire Chief for as long as the Obligations (and any related refunding obligations) are outstanding plus three (3) years.

   1. In maintaining such documents and records, the Fire Chief will comply with applicable Internal Revenue Service (IRS) requirements, such as those contained in Revenue Procedure 97-22.

G. The Fire Chief shall be aware of options for voluntary corrections for failure to comply with post-issuance compliance requirements (such as remedial actions under Section 1.141-12 of the Treasury's Regulations and the Treasury's *Tax-Exempt Bonds Voluntary Closing Agreement Program*) and take such corrective action when necessary and appropriate.

H. The Fire Chief will review post-issuance compliance procedures and systems on a periodic basis, but not less than annually.

I. Williamson County Emergency Services District #3 reserves the right to change, modify, amend, revoke or rescind all/or part of this directive in the future.

DOCUMENTS AND RECORDS

A. With respect to each issue of Obligations, the Fire Chief will:

   1. Obtain and provide to the Williamson County Emergency Services District #3 Board of Commissioners Secretary's Officer a copy of the relevant and customary transaction documents.

   2. Confirm that bond counsel has filed the applicable information report (e.g., Form 8038 or Form 8038-G), for such issue with the IRS on a timely basis.

   3. Coordinate receipt and retention of relevant books and records with respect to the investment and expenditure of the proceeds of such Obligations with other applicable

staff members of Williamson County Emergency Services District #3.

ARBITRAGE

A. With regard to the monitoring and calculating of arbitrage and compliance with specific arbitrage rules and regulations, the Fire Chief will:

1. Confirm that a certification of the initial offering prices of the Obligations with such supporting data, if any, required by bond counsel, is included in the customary transaction documents.

2. Confirm that a computation of the yield on such issue from the Williamson County Emergency Services District #3 financial advisor or bond counsel is contained in the customary transaction documents.

3. Establish separate accounts for each Obligation, and not comingle those accounts with any other funds of Williamson County Emergency Services District #3.

4. Maintain a system for tracking investment earnings on the proceeds of the Obligations.

5. Coordinate the tracking of expenditures, including the expenditure of any investment earnings. If the project(s) to be financed with the proceeds of the Obligations will be funded with multiple sources of funds, confirm that Williamson County Emergency Services District #3 has adopted an accounting methodology that maintains each source of financing separately and monitors the actual expenditure of proceeds of the Obligations.

6. Maintain a procedure for the allocation of proceeds of the issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures. This procedure shall include an examination of the expenditures made with proceeds of the Obligations not later than 18 months after the later of the date the expenditure is paid or the date each project financed by the Obligations is placed in service (but in no event later than 60 days after the fifth anniversary of the issue date of the Obligations) and, if necessary, a reallocation of expenditures in accordance with Section 1.148-6(d) of the Treasury Regulations.

7. Monitor compliance with the applicable "temporary period" (as defined in the *Internal Revenue Code of 1986* and Treasury Regulations) exceptions for the expenditure of

proceeds of the issue (including confirming the expenditures on any new money issue by the third anniversary of the issue date), and provide for yield restriction on the investment of such proceeds if such exceptions are not satisfied.

8. Ensure that investments acquired with proceeds of such issue are purchased at fair market value. In determining whether an investment is purchased at fair market value, any applicable Treasury Regulation safe harbor may be used.

9. Avoid formal or informal creation of funds reasonably expected to be used to pay debt service on such issue without determining in advance whether such funds must be invested at a restricted yield.

10. Consult with bond counsel prior to:

    a. engaging in any post-issuance credit enhancement transactions or investments in guaranteed investment contracts, or;

    b. changing the collateral or source of payment of an issue of obligation.

11. Identify situations in which compliance with applicable yield restrictions depends upon later investments and monitor implementation of any such restrictions.

12. Monitor compliance with 6-month, 18-month or 2-year spending exceptions to the rebate requirement, as applicable.

13. Procure a timely computation of any rebate liability and, if rebate is due, to file a Form 8038-T and to arrange for payment of such rebate liability.

14. Arrange for timely computation and payment of "yield reduction payments" (as such term is defined in the *Internal Revenue Code of 1986* and Treasury Regulations), if applicable.

PRIVATE ACTIVITY CONCERNS

A. With regard to the monitoring and tracking of private uses and private payments with respect to facilities financed with the Obligations, the Fire Chief will:

    1. Maintain records determining and tracking facilities financed with specific obligations and the amount of proceeds spent on each facility.

2. Maintain records, which should be consistent with those used for arbitrage purposes, to allocate the proceeds of an issue and investment earnings to expenditures, including the reimbursement of pre-issuance expenditures.

3. Monitor private use of financed facilities to ensure compliance with applicable limitations on such use. Examples of potential private use include:

   a. Sale of the facilities, including sale of Williamson County Emergency Services District #3 rights;

   b. Lease or sub-lease of the facilities (including leases, easements or use arrangements for areas outside the four walls, e.g., hosting of cell phone towers) or leasehold improvement contracts;

   c. Management contracts (in which Williamson County Emergency Services District #3 authorizes a third party to operate a facility);

   d. Preference arrangements (in which Williamson County Emergency Services District #3 permits a third party preference, such as reserved parking in a public parking lot);

   e. Joint-ventures, limited liability companies or partnership arrangements;

   f. Output contracts or other contracts for use of utility facilities (including contracts with large utility users and take or pay or requirements contracts);

   g. Grants or loans made to private entities, including special assessment agreements; and

   h. Naming rights arrangements.

4. Monitoring of private use should include the following:

   a. Procedures to review the amount of existing private use and private payments or collateral owned or used by private parties allocable to each issue of bonds on a periodic basis; and

   b. Procedures for identifying in advance any new sale, lease or license, management contract, sponsored research arrangement, output or utility contract, development agreement or other arrangement involving private use of financed facilities and for obtaining copies of any sale agreement, lease, license, management contract, research arrangement or other arrangement for review by bond counsel.

5. If the Fire Chief identifies private use of, or private payment or collateral for, bond-financed facilities, the Fire Chief will consult with the bond counsel to determine whether private use will adversely affect the tax status of the issue and if so, what remedial action is appropriate.

6. The Fire Chief should retain all documents related to any of the above potential private uses for the life of the Obligations (and any related refunding obligations) plus three (3) years.

QUALIFIED TAX-EXEMPT OBLIGATIONS

A. Qualified tax-exempt obligations shall be any that are less than $10,000,000 of tax-exempt obligations in any single calendar year, which the Williamson County Emergency Services District #3 Board of Commissioners has elected to treat as "bank qualified".

B. If Williamson County Emergency Services District #3 issues "qualified tax-exempt obligations" in any year, the Fire Chief shall monitor all tax-exempt financings (including lease purchase arrangements and other similar financing arrangements and conduit financings on behalf of 501(c)(3) organizations) to assure that applicable "small government" limit is not exceeded.

REISSUANCE

A. Changes in the terms of a tax-exempt Obligation can cause it to be deemed "reissued" into a new tax exempt debt.

B. With regard to compliance with rules and regulations regarding the reissuance of Obligations for federal law purposes, the Fire Chief will identify and consult with financial advisors or bond counsel regarding any post-issuance change to any terms of an issue of Obligations which could potentially be treated as a reissuance for federal tax purposes.

RECORD RETENTION

A. The Fire Chief will:

1. Coordinate with staff regarding the records to be maintained by Williamson County Emergency Services District #3 to establish and ensure that an issue of Obligations remains in compliance with applicable federal tax requirements for the life of such issue.

2. Coordinate with staff to comply with provisions imposing specific recordkeeping requirements and cause compliance with such provisions, where applicable.

3. Coordinate with staff to generally maintain the following:

   a. The customary transaction documents relating to the transaction (including any arbitrage or other tax certificate and the bond counsel opinion).

   b. Documentation evidencing expenditure of proceeds of the issue.

   c. Documentation regarding the types of facilities financed with the proceeds of an issue, including, but not limited to, whether such facilities are land, buildings or equipment, economic life calculations and information regarding depreciation.

   d. Documentation evidencing use of financed property by public and private entities (e.g., copies of leases, management contracts, utility user agreements, and developer agreements).

   e. Documentation evidencing all sources of payment or security for the issue; and

   f. Documentation pertaining to any investment of proceeds of the issue (including the purchase and sale of securities, SLGs subscriptions, yield calculations for each class of investments, actual investment income received by the investment of proceeds, guaranteed investment contracts, and rebate calculations).

4. Coordinate the retention of all records in a manner that ensures their complete access to the IRS.

5. Keep all material records for so long as the issue is outstanding (including any refunding), plus three (3) years.

CONTINUING DISCLOSURE

A. Under the provisions of SEC Rule 15c2-12, underwriters are required to obtain an agreement for ongoing disclosure in connection with the public offering of securities in a principal amount in excess of $1,000,000. The customary transaction documents for each issue of Obligations subject to this SEC Rule 15c2-12 will include an undertaking by Williamson County Emergency Services District #3 to comply with the SEC Rule 15c2-12.

B. The Fire Chief will monitor compliance by Williamson County Emergency Services District #3 with its undertakings, which will include the requirement for an annual filing of operating and financial information and will include a requirement to file notices of listed “material events.”

REMEDIATION OR OTHER CORRECTIVE ACTION

A. A corrective action may be required if, for example, it is determined that bond proceeds were not properly expended, the District is not in compliance with the arbitrage requirements imposed by the *Internal Revenue Code of 1986* or Williamson County Emergency Services District #3 has taken (or may take) a deliberation action that results in impermissible private business use (e.g., sale or lease of bond-financed property).

B. If Williamson County Emergency Services District #3 determines or is advised that corrective action is necessary with respect to any issue of its Obligations, Williamson County Emergency Services District #3 will consult with its bond counsel in a timely manner; and:

1. seek to enter into a closing agreement under the *Tax-Exempt Bonds Voluntary Closing Agreement Program* described in Notice 2001-60 (or any successor notice thereto).

2. take remedial action described under Section 1.141-12 of the Internal Revenue Code of 1986.

3. take such other action as recommended by bond counsel.