

RESOLUTION 145-16

West Mifflin Sanitary Sewer Municipal Authority

May 5, 2016

WHEREAS, by resolution adopted on April 7, 2016 (the "Bond Resolution"), the board of the West Mifflin Sanitary Sewer Municipal Authority (the "Authority") authorized the issuance of Sewer Revenue Bonds, Refunding Series of 2016 (the "2016 Bonds"); and

WHEREAS, the Bond Resolution authorized using a portion of the proceeds of the 2016 Bonds for capital expenditures; and

WHEREAS, the Authority has determined to amend the Bond Resolution to authorize using proceeds from the sale of the 2016 Bonds to repay loans to the Authority from the Pennsylvania Infrastructure Investment Authority (the "PennVest Loans") in lieu of the capital expenditures; and

WHEREAS, United States Treasury Regulations encourage issuers such as the Authority to adopt post issuance tax compliance procedures to monitor the tax exempt nature of the Authority's debt obligations, including without limitation, the 2016 Bonds.


NOW THEREFORE, IT IS HEREBY RESOLVED, THAT

1. The Bond Resolution is hereby amended to provide that proceeds of the 2016 Bonds may be allocated to the repayment of the PennVest Loans and the Authority's officers are hereby directed to take all actions necessary to retire the PennVest Loans. The "2016 Capital Projects", as defined in the Bond Resolution will not be funded from 2016 Bond proceeds.
2. The Post Issuance Tax Compliance Policy and Procedures dated May 1, 2016, attached hereto as Exhibit "A" are hereby adopted and the appropriate officers and employees of the Authority are directed to abide by such policies and procedures until further notice.
3. This Resolution shall take effect immediately upon its adoption, and all prior resolutions or parts thereof inconsistent herewith are hereby repealed.

WITNESS the due adoption of these Resolutions as of the date first written above.

ATTEST:

**WEST MIFFLIN SANITARY
SEWER MUNICIPAL AUTHORITY**

By: 
(Asst.) Secretary Vice Chairman

By: 
(Vice) Chairman

WEST MIFFLIN SANITARY SEWER MUNICIPAL AUTHORITY

Tax Exempt Bond Issue Post Issuance Tax Compliance Policy and Procedures

May 1, 2016

Purpose

Use of tax-exempt bond proceeds must comply with Federal tax rules pertaining to the expenditure of proceeds, use of bond financed property, investment of proceeds in compliance with arbitrage rules, and retention of records. The policy of the West Mifflin Sanitary Sewer Municipal Authority (the "Issuer") for monitoring compliance of its bond issues with these rules is as follows:

1. Expenditure of Proceeds

The chief financial officer of the Issuer shall have the responsibility for allocating bond proceeds to particular investments, expenditures, and assets. The chief financial officer of the Issuer may delegate this responsibility, but shall retain the primary responsibility for insuring that the following procedures are followed.

- a) Proceeds of a bond issue must be identified. The chief financial officer shall refer to the Tax Certificate for help in identifying the amount of the proceeds of the bonds and for identification of funds holding bond proceeds.
- b) Investments of bond proceeds must be tracked. The chief financial officer shall ensure that all investments of bond proceeds are recorded, including identification of the investment, the purchase price of the investment, the date of the investment, the date of any receipts from the investment, and the date of repayment or sale of the investment. Earnings from investments of bond proceeds will be treated as additional bond proceeds and similarly tracked.
- c) Proceeds must be tracked until they are allocated to expenditures. Proceeds may be allocated to a capital expenditure by direct tracing or by another other reasonable method (such as treating an expenditure made from another source as having been made from bond proceeds if that source is reimbursed from bond proceeds).
 - i. If the Issuer uses direct tracing of bond proceeds, the chief financial officer shall establish the form and procedure for preparation and review of requisitions of bond proceeds. Requisitions must identify the financed property in conformity with the Tax Certificate, including certifications as to the character and average economic life of the bond-financed property.
 - ii. If the Issuer uses bond proceeds to reimburse costs that were paid prior to the issuance of the bonds, the chief financial officer shall document the use of bond proceeds to make such reimbursements and will only allow such reimbursements to the extent permitted in the Tax Certificate.

- iii. If the Issuer uses any other method for allocating bond proceeds to expenditures, the chief financial officer shall prepare at least annually until all proceeds have been spent a written allocation of bond proceeds to expenditures, including the dates and amounts of such expenditures. The chief financial officer shall only allocate bond proceeds to expenditures if there is a reasonably concurrent actual outlay of cash by the Issuer to a third party.
 - iv. The chief financial officer shall prepare a written “final allocation” of bond proceeds to expenditures no later than the earlier of 18 months after the in-service date of the financed property and the fifth anniversary date of the issue of the bonds. If not all bond proceeds are allocated to expenditures by that date, allocations thereafter may only be made using a tracing method.
- d) The chief financial officer shall compare the allocation of proceeds to expenditures of proceeds to the tax certificate expectation to spend or commit 5% of net sale proceeds within 6 months, to spend 85% of net sale proceeds within 3 years, and to proceed with due diligence to complete the project and fully spend the net sale proceeds. In the event that those expectations are not met, the chief financial officer shall consult with bond counsel to determine whether further action is necessary. Similarly, the chief financial officer shall compare to the allocation of proceeds to expenditures to the timetables set forth for the arbitrage rebate exceptions described in the tax certificate.
- e) As proceeds are allocated to expenditures for capital assets, the chief financial officer shall prepare and maintain a schedule of all capital assets treated as financed with the bonds. The chief financial officer shall maintain a separate schedule for each bond issue. If only a portion of a capital asset is treated as financed with a particular bond issue, the chief financial officer shall consult with bond counsel as to how to document the particular allocation.

2. Use of Bond-Financed Property

The chief financial officer of the Issuer shall have the responsibility of periodically reviewing the continued ownership and use of all assets financed by the bond issue. The chief financial officer of the Issuer may delegate this responsibility, but shall retain the primary responsibility for insuring that the following procedures are followed.

- a) At least annually, the chief financial officer shall conduct a review of the assets financed with the proceeds of the bonds in accordance with the schedule prepared under 1(e) above.
 - i. The chief financial officer shall contact the appropriate officers or employees of the Issuer to determine whether the assets continue to be owned by the Issuer. Ownership of bond financed facilities by entities other than governmental entities can give rise to tax issues.
 - ii. The chief financial officer shall contact the appropriate officers or employees of the Issuer to determine whether the assets are used only by the Issuer or by some other entities. Use of assets by any entities other than another governmental

entity can give rise to tax issues. Use may arise through ownership, lease, management contract, sponsored research, purchase of output, or other arrangements that give rise to priority rights in bond-financed assets. Use as a member of the general public (such as through short-term rentals or use under a rate-scale arrangement) will not be treated as private use.

- b) If the chief financial officer learns of sale of assets or private use of bond financed assets, he or she shall consult with bond counsel concerning appropriate remedies, including remedial action or voluntary compliance agreements with the IRS.
- c) Ideally, the chief financial officer will try to learn in advance of any proposed sale, lease, or other use by a private entity of bond financed assets and will consult with bond counsel concerning appropriate remedial action or other action.

3. Investments

Investment of bond proceeds in compliance with the arbitrage bond rules and rebate of arbitrage will be supervised by the chief financial officer of the Issuer.

- a) Guaranteed investment contracts (“GIC”) will be purchased only using the three-bid “safe harbor” of applicable Treasury regulations, in compliance with fee limitations on GIC brokers in the regulations. Any exceptions to this rule must be discussed with the bond counsel.
- b) Other investments will be purchased only in market transactions.
- c) Calculations of rebate liability will be performed annually by outside consultants.
- d) Rebate payments will be made with Form 8038-T no later than 60 days after (a) each fifth anniversary of the date of issuance and (b) the final retirement of the issue. Compliance with rebate requirements will be reported to the bond trustee and the Issuer.
- e) The chief financial officer shall identify date for first rebate payment at time of issuance, in conjunction with bond counsel, and enter that date in the records for the issue.

4. Records

Management and retention of records related to tax exempt bond issues will be supervised by the chief financial officer.

- a) The chief financial officer shall retain records relating to investment, expenditures, and use of bond financed facilities for the life of the bonds plus any refunding bonds plus three years. Records may be in the form of documents or electronic copies of documents, appropriately indexed to specific bond issues and compliance functions.
 - i. Retainable records pertaining to bond issuance include transcript of documents executed in connection with the issuance of the bonds and any amendments, and copies of rebate calculations and records of payments including Forms 8038-T.

- ii. Retainable records pertaining to expenditures of bond proceeds include requisitions, trustee statements and final allocation of proceeds.
- iii. Retainable records pertaining to use of property include all agreements reviewed for nonexempt use and any reviewed documents relating to unrelated business activity.
- iv. Retainable records pertaining to investments include GIC documents under the Treasury regulations, records of purchase and sale of other investments, and records of investment activity sufficient to permit calculation of arbitrage rebate or demonstration that no rebate is due.
- v. Retainable records pertaining to any credit enhancement of the bonds during the entire term of the bonds, including bond insurance contracts, letters of credit and standby purchase agreements.
- vi. Retainable records pertaining to interest rate swaps, interest rate caps and other hedging contracts, including any ISDA agreements, fairness opinions, termination agreements and records of termination payments.

5. Compliance under Tax Certificate

The chief financial officer shall also periodically review and comply with all provisions of the related Tax Certificate so long as the bonds are outstanding and will consult with bond counsel to take timely remedial actions under section 1.141-12 of the Treasury Regulations (or other remedial actions authorized by the Commissioner of the IRS under Section 1.141-12(h) of the Regulations) to prevent from being considered “deliberate actions” any actions of the Issuer which cause the conditions of the private business tests or the private loan financing test to be met resulting in private activity bonds.

Overall Responsibility

Overall administration and coordination of this policy is the responsibility of the chief financial officer of the Issuer.