

Debt Compliance Procedures

School District of Palm Beach County, FL

as of March 1, 2019

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Purpose

In 2004, the School Board approved policy 6.085 titled Debt Management. Section 16 of the policy addresses compliance and indicates the District will provide full and fair disclosure and will comply with applicable Federal and state securities laws and regulations. This document details the procedures necessary to ensure full compliance with all regulations surrounding debt, including the initial issuance of a debt issue as well as the ongoing post issuance requirements. Compliance is enforced directly, or indirectly, by the SEC (Securities Exchange Commission), MSRB (Municipal Securities Rulemaking Board), and the IRS (Internal Revenue Service). Failure to comply with all rules can result in sanctions, fines, loss of tax-exempt status and/or jail time.

Debt Management

Responsible Parties

The District's Treasurer is responsible for debt management, from planning and initial issuance through post-issuance requirements until the debt has legally defeased or matured.

The District will retain professionals to assist with the issuance and ongoing management of debt. The current team of professionals includes the following:

Bond or Special Tax Counsel – Greenberg Traurig, P.A. - Advises on legal structure of debt, tax issues, etc., prepares the official transcript of each transaction.

Disclosure Counsel – Nabors, Giblin & Nickerson, P.A. - Prepares disclosure documents including preliminary and official statements and advises regarding ongoing disclosure requirements.

Municipal Advisor – PFM Financial Advisors LLC (formerly known as Public Financial Management, Inc.) – a Municipal Advisor (commonly referred to as a Financial Advisor) that also serves as the District's Independent Registered Municipal Advisor (IRMA) advises on financial structure of debt, manages the negotiated or competitive process of debt issuance, provides the "final numbers" used to record the transaction, and provides a report detailing the transaction.

Investment Advisor – PFM Asset Management LLC- Advises on investment of proceeds or escrow accounts, monitors all debt issues for arbitrage rebates and provides an annual report detailing rebate requirements and/or arbitrage liabilities.

Swap Advisor – PFM Swap Advisor LLC– Provides advice regarding swap strategies and provides annual reporting.

Trustee – The Bank of New York Mellon Trust Company, N.A. - Administers funds and accounts related to the School Board’s Certificates of Participation.

Disclosure Dissemination Agent – Digital Assurance Certification, L.L.C. or DAC - Files documents prepared by the District, Bond Counsel and others on EMMA. Monitors rating changes of bond insurers and other parties and files those reports on behalf of the District on EMMA.

As laws and regulations can change, the Treasurer will work with all parties listed above, and additional parties as may be added over time, to review and update these procedures annually. The updated procedures will then be provided to the School Board’s Finance Committee no later than December 31st of each year for review.

Based on these procedures, a Compliance Checklist (Appendix 1) will be used to document compliance annually. This checklist will be signed by the Treasurer and submitted to the Chief Financial Officer or Superintendent’s designee each year. The District’s Accounting Department will also review the checklist annually to verify full compliance with these procedures.

The Treasurer will designate staff members to accomplish the tasks detailed in these procedures. One member of the Treasury Department will be designated as the Compliance Specialist that will monitor and document all compliance activities.

The Treasurer will establish a Debt Compliance Team (DCT) that will meet at least once a year. The DCT will be cross functional and include staff from Accounting, Budget, Communications, Information Technology, Planning, Chief Operating Officer, Chief Academic Officer and the General Counsel’s Office. The District’s Bond Counsel, Disclosure Counsel, and Municipal Advisor will assist the DCT as needed. This Team will review these procedures annually, prior to the December Finance Committee meeting and recommend change if necessary. Members of the team will also ensure ongoing compliance by reviewing official statements, filings, reports and other public statements to determine whether any updating or correction of information is appropriate. The DCT will also react to developments and events that affect the District. The Treasurer will notify the Dissemination Agent or the SEC, when appropriate.

The majority of the District’s debt issues are outstanding for 25 years. Over such a long time period, it is expected that staffing will change. The Chief Financial Officer or Superintendent’s designee will ensure that the responsibilities within these procedures are assigned to appropriate staff and that the staff receives the necessary training, at least once per fiscal year, to implement the procedures.

Debt Issuance

Prior to any debt issuance, staff will work with a team of professionals that comprise the Working Group (WG) to verify the need and type of debt to be issued. The WG is comprised of Treasury staff, a representative from the General Counsel’s office, Bond Counsel, Municipal Advisor, and depending on the nature of the financing may include Disclosure Counsel, Trustee,

Senior Managing Underwriter and other parties. The Treasurer will then review the proposed transaction with the Finance Committee. Upon approval by the Finance Committee, a resolution and related financing documents will be finalized by Bond Counsel and reviewed by the General Counsel's Office. The resolution along with the proposed costs of issuance will be presented to the School Board for consideration. Once approved by the School Board, the WG will proceed to finalize the necessary documents. The DCT will be engaged to review the disclosure documents (if required) to verify the accuracy of the information. The Compliance Specialist will review the document specifically to determine if any new disclosure items subject to SEC Rule 15c2-12 requirements are contemplated. Any new disclosure requirements will be disclosed to the Accounting Department to determine if it can be included in the CAFR (Comprehensive Annual Financial Report). If not, the Treasurer will notify the WG and the document will be appropriately revised, if possible.

A debt issuance checklist will be developed for each issue detailing all documents to be filed, who will prepare the document, who will file the appropriate document, where it should be filed and the deadline for such filing. Documents include 8038-G, defeasance notices, redemption notices, etc. The checklist shall be reviewed by all members of the WG to ensure complete compliance with all appropriate laws and regulations. The Compliance Specialist will review the checklist and verify that all documents were filed timely. A sample debt issuance checklist is included as Appendix 2.

The sale or pricing of the debt will be managed by the Municipal Advisor. Upon completion of the sale, final numbers will be provided by the Municipal Advisor which will be used by staff to properly record the transaction in the District's financial system and subsequently in its financial statements. An amortization schedule, detailing future principal and interest payments, will also be provided by the Municipal Advisor. The Treasurer will then provide a summary of the transaction to the Chief Financial Officer or Superintendent's designee.

Closing of the debt issue will be managed by Bond Counsel. The Treasurer will coordinate with the Superintendent, Board Chair and other staff to be available to sign the associated documents. Bond Counsel will provide a transcript, which will include all the documents associated with the debt issue. The Municipal Advisor will provide a report detailing the transaction.

Use of Debt Proceeds

Debt proceeds, with any interest earnings, will be used in accordance with the issuance documents or as amended with the assistance of Bond Counsel.

A "New Money" transaction typically provides funds for capital projects. In some limited circumstances, a new money financing may provide funds for operations. Upon completion of all projects, a certificate of completion shall be executed and delivered to the Trustee (when appropriate). Residual funds may be used for arbitrage rebate or payment of debt service (including lease payments) after consultation with Bond Counsel, unless otherwise required by the tax rules.

A “Refunding” transaction provides funds to refinance an existing debt issue. The bond proceeds, net of costs of issuance, will be used immediately to redeem the existing debt issue or placed in an escrow account, held by a Trustee/Escrow Agent, which will be used to redeem the debt issue in the future.

The expenditure of debt proceeds, including investment earnings, shall be accounted for in a separate fund to enable accurate tracking of expenditures throughout the term of the debt.

Any proposed change to a financed facility such as the sale of all or a portion of the facility (including easements), lease of the facility (such as cell tower leases), or change of use of the facility should be discussed with Bond Counsel.

Debt Service Payments

The Treasurer will work with the Municipal Advisor to verify the funds needed for annual debt service payments. The Treasurer will ensure the funds are included in the annual budget and update projections to be used in the five-year capital plan. Should the School Board choose not to appropriate the funds, notice must be made to investors no later than June 30th of each year.

The District will make debt service payments as detailed in the financing documents. Debt service payment dates will be included in the Compliance Checklist (Appendix 1).

For financings that include Federal subsidies, the Treasurer will ensure form 8038-CP is prepared by the appropriate party (typically the Trustee), for each interest payment period (generally February 1st and August 1st). Currently, the COP Series 2010A QSCB requires such action. The Treasurer will review and sign the form and promptly return it to the Trustee. The Trustee will file the form at least 60 days prior to the interest payment date to ensure the Federal subsidy is received prior to the interest payment date.

Post Issuance Compliance

Tax Compliance

Arbitrage Rebate and Yield Restriction Payments

Arbitrage is interest earned on debt proceeds that exceeds amounts permitted by the IRS. Interest earnings are limited by IRS regulations and if the interest earned exceeds the guidelines, the excess earnings must be paid to the IRS as an Arbitrage Rebate.

The District will contract with a consultant, currently the District’s Investment Advisor, to assist the District in monitoring yield on investment and calculating any rebate that may be due for all tax-exempt obligations. The consultant will provide an annual report, as of June 30th, of the arbitrage and/or yield restriction liability.

The Compliance Specialist will ensure the consultant has all appropriate documentation including expenditures and investment earnings. The report will be forwarded to the Accounting Department so any liability will be recorded and subsequently included in the annual financial report.

The first installment of arbitrage rebate is due on the fifth anniversary of the bond issuance date plus 60 days or earlier date if elected. Succeeding installments, if needed, are due every five years and at final redemption. The Compliance Specialist will ensure the payment with Form 8038-T is made no later than 60 days after the applicable computation date.

The Compliance Specialist, with the consultant, will monitor expenditures prior to the semi-annual target dates for six-month, 18-month or 24- month spending exceptions.

Private Use of Financed Facilities

Private use is defined in Treasury Regulation Section 1.141-3. There shall be no private business use arrangements with private entities beyond the permitted *de minimis* amount unless cured by remedial action under Treasury Reg 1.141-12. Examples of private use are:

- Sale of financed facilities
- Lease of financed facilities
- Nonqualified management or service contracts related to financed facilities
- Contracts involving “special legal entitlements” (such as naming rights or exclusive provider arrangements) granted to a Private Person with respect to financed facilities

The Federal government is a private user for purposes of these rules. Arrangements with other governmental entities should be scrutinized to determine if private use is involved.

Any private use of financed facilities shall be monitored by the Planning and Intergovernmental Relations Department and reported to the Treasury Department on a quarterly basis. The departments will work to ensure that the 10% limit on private business use (or 5% on “unrelated or disproportionate” business use) is not exceeded.

The Compliance Specialist, with assistance from the Planning and Intergovernmental Relations Department will analyze any private business use of the finance facilities to confirm that the limits are not exceeded. In the event that a limit may be reached, Bond Counsel and the District’s Office of General Counsel will be contacted so that appropriate actions can be taken, including, but not limited to, a timely remedial action under the Treasury Regulations or the IRS Voluntary Closing Agreement Program.

Records Retention

All documents related to debt, including initial issuance documents such as the transcript, School Board resolutions, School Board minutes, appraisals and newspaper ads as well as investment records, expenditure histories, invoices, IRS filings, investment agreements including bid procedures, swaps, credit facilities, arbitrage reports, interest earnings (and allocation of earnings), compliance reports, Trustee reports, agreements with any non-governmental users of financed facilities (leases), escrow verification reports and miscellaneous correspondence must be retained and easily accessible.

All documents and these procedures are subject to review by the IRS until three years after the final maturity of the debt issue, which is generally 25 years, so records retention is critical. Should the debt issue be refunded, the documents shall be retained until three years after maturity of the refunding issue.

The Compliance Specialist will compile documents electronically and work with Information Technology to ensure the documents are securely stored and automatically backed up at an alternate site. For documents not stored electronically, hard copies of all documents will be retained.

Continuing Disclosure

The District will provide ongoing disclosure in accordance with SEC Rule 15c2-12.

In the past, disclosure documents were filed with Nationally Recognized Municipal Securities Information Repositories (NMSRs) as approved by the SEC via overnight or certified mail. Proof of delivery is retained by the Treasury Department.

The MSRB developed EMMA (Electronic Municipal Market Access), which is now the sole repository of continuing disclosure information for municipal debt. All official filings by the District shall be posted to EMMA. The District has retained DAC to serve as the Dissemination Agent. The District will forward all documents to be filed to DAC in a timely manner so they can be posted prior to any deadline.

Annual Filing

The District is required to file the CAFR, annually by January 15th. Annually, DAC will provide a template which details each item that must be included in the annual filing. The Compliance Specialist will complete the template, specifying the page of the CAFR where the information is located, or provide the information if not included in the CAFR.

Material Event Notices

SEC regulation 15c2-12 identifies specific events that are considered to be material. Each of these events, shown below, require the filing of notice on EMMA. Such filings must be completed within 10 business days of the event. The Treasurer and Compliance Specialist will

consult with the DCT, Disclosure Counsel, Bond Counsel, Municipal Advisor and Dissemination Agent to determine when material event notices are required and to develop such notice.

1. Principal and interest payment delinquencies
2. Non-payment related defaults, if material
3. Unscheduled draws on debt service reserves reflecting financial difficulty
4. Unscheduled draws on credit enhancements reflecting financial difficulty
5. Substitution of credit or liquidity providers, or their failure to perform
6. Adverse tax opinions, IRS notices or material events affecting the tax status of the security
7. Modifications to rights of security holders, if material
8. Bond calls, if material
9. Defeasances
10. Release, substitution, or sale of property securing repayment of the securities, if material.
11. Rating changes
12. Tender offers
13. Bankruptcy, insolvency, receivership or similar event of the District
14. Merger, consolidation, or acquisition of the District, if material
15. Appointment of a successor or additional trustee or the change of name of a trustee, if material.
16. Incurrence of a financial obligation of the issuer or obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the issuer or obligated person, any of which affect security holders, if material.
17. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of the financial obligation of the issuer or obligated person, any of which reflect financial difficulties.

Voluntary Filings

The MSRB has created a list of events or items that are voluntary. These bear watching as they may become mandatory in the future. Of the items listed below, only the adopted budget is currently filed. The Treasurer and Compliance Specialist will consult with the DCT, Disclosure Counsel, Bond Counsel, Municipal Advisor and Dissemination Agent to determine if voluntary filings should be posted to EMMA.

1. Monthly financial information
2. Change in fiscal year or accounting standard
3. Change in District
4. Budget
5. Capital Plan
6. Change of tender agent, remarketing agent or other on-going party
7. Investment/Debt/Financial policies
8. Amendment to continuing disclosure document
9. Communication with IRS
10. Secondary market purchases
11. Bid for auction rate or other securities
12. Derivative or other similar transaction

13. Other event-based disclosures
14. Information provided to rating agency, credit or liquidity provider or other third party
15. Consultant reports
16. Other financial/operating data
17. Litigation/enforcement action
18. Notice to investor pursuant to financing documents
19. Preliminary Offering Statements

Website Disclosure

The District is responsible for monitoring website content. Appropriate “disclaimer” on the website will educate the viewer in terms of where information intended for investors can be found and the investor’s acknowledgement of the limitations of such reliance.

Other Disclosures

The SEC and others have indicated that statements that are “reasonably expected to reach investors and the trading markets,” such as press releases and reported speeches, even if the statements are not intended for investors, can be deemed as official disclosures. Coordination between the Treasurer, the DCT and elected officials should occur before the release of any public statements about any financial condition of the District. Such statements may constitute a material event and require notice on EMMA.