Purpose: To establish the basic structure for tax-advantaged bond compliance for the district.

The district from time to time issues bonds and other obligations, the interest on which is excludable from gross income for federal income tax purposes or which interest is paid in whole or in part by the federal government or which bonds otherwise enjoy certain preferential treatment under the Internal Revenue Code of 1986, as amended, (the “code”) or the regulations promulgated thereunder (the “regulations”). The district hereby adopts the policies and procedures set forth herein in order to ensure preservation of the preferential status of such tax-advantaged obligations as the district may from time to time issue.

The general purpose of the policies set forth herein is to ensure compliance with post-issuance federal tax requirements generally falling into the following two categories:

- **Qualified use of proceeds and financed property**
  - Qualified use requirements generally require monitoring of the various direct and indirect uses of bond-financed property over the life of the bonds and calculations of the percentage of nonqualified uses.

- **Arbitrage yield restriction and rebate**
  - Arbitrage requirements also require monitoring over the life of the bonds to determine whether the yield on investments acquired with bond proceeds are properly restricted and the district must file Form 8038-T to pay a yield reduction payment and/or rebate payment.

**Terms**

- **Bond compliance officer**—means the chief financial officer of the district.
- **Bond record maintenance officer**—means the chief financial officer of the district.
- **Code**—means the Internal Revenue Code of 1986, as amended.
- **Tax rules**—means the code, implementing treasury regulations and guidance, and the tax certificate (collectively, the “tax rules”).

Any other terms used herein will have the meaning provided under Section 103 and 141-150 of the code and implementing treasury regulations.
General procedure for monitoring compliance

The bond compliance officer in conjunction with the superintendent will have primary responsibility for familiarizing themselves with the tax certificate and monitoring post-issuance compliance of bond financings with the tax rules. Should any one of such officers leave his/her post with the district, said departing officer will transfer to his/her successor all records related to post-issuance compliance with the tax rules, including without limitation a copy of this policy and any then-current compliance reports.
The bond record maintenance officer is responsible for the maintenance of records relating to the bond financings, including the transfer of accumulated information to his/her successor in the future.

Where different persons are responsible for different aspects of compliance with the tax rules (for example, the investment of bond proceeds and expenditure of bond proceeds on projects), the bond compliance officer will coordinate the necessary recordkeeping and review.

All personnel that are responsible for ensuring post-issuance compliance with the tax rules must receive training or educational resources, as determined appropriate by the bond compliance officer.

No less frequently than once annually, the bond compliance officer will engage in a detailed review of post-issuance tax compliance with the tax rules to identify instances of noncompliance and prevent violations from occurring, or timely correct identified violations (when prevention is not possible), to ensure the continued tax-advantaged status of the bonds. When failures to comply with post-issuance compliance requirements are identified, the bond compliance officer will promptly consult with bond counsel regarding the following:

- taking remedial actions described in the tax rules, if self-remediation is available
- entering into a closing agreement under the Tax-Exempt Bonds Voluntary Agreement Program described in IRS Notice 2008-31, as amended or superseded from time to time

General recordkeeping

The bond record maintenance officer will maintain all records necessary to support the tax-exempt status of the bond financing for the life of the bonds plus three years.

Such bond records will be maintained using paper and/or electronic media (e.g., CD, disks, tapes, etc.) and will include copies of the following records:

- enabling legislation, regulations and other organizational documents, as applicable
- federal tax or information returns (e.g., Form 8038-G series returns)
- audited financial statements
- bond transcripts, official statements and other offering documents for the bond financings
- minutes and resolutions authorizing the issuance of the bond financings
- certifications of the issue price of the bond financings
- formal elections for bond financings (e.g., election to employ an accounting methodology other than specific tracing)
- appraisals, demand surveys or feasibility studies for bond-financed property
● documents related to government grants associated with construction, renovation or purchase of bond-financed facilities, as applicable
● publications, brochures and newspaper articles for bond financings
● trustee statements for bond financings, as applicable
● correspondence (letters, emails, faxes, etc.) for bond financings
● reports of any prior IRS examinations of the district or bond financings

Expenditures and assets

The bond compliance officer will be responsible for determining which outstanding bond issues financed which facilities and in what amounts, including the reimbursement of pre-issuance expenditures. Note that a single facility may be financed by multiple bond issues (as well as by...
other funds), a single bond issue may finance multiple facilities, and a single bond issue may be partially or fully refunded by multiple subsequent bond issues.

The bond compliance officer also will be responsible for allocating bond proceeds and funds from other sources within a bond-financed project to ensure that bond proceeds are used for qualifying costs.

The bond record maintenance officer will maintain records documenting the following:

- allocation of bond-financing proceeds to expenditures (e.g., allocation of bond proceeds to expenditures for the construction, renovation or purchase of facilities the district owns and uses in the performance of its purpose)
- allocation of bond-financing proceeds to bond issuance costs
- requisitions, draw schedules, draw requests, invoices, bills and cancelled checks related to the expenditure of bond proceeds
- all contracts entered into for the construction, renovation or purchase of bond-financed facilities
- expenditure reimbursements incurred prior to issuing bonds for facilities financed with bond proceeds
- an asset list or schedule of all bond-financed facilities or equipment
- depreciation schedules for bond-financed depreciable property
- all purchases and sales of bond-financed assets

Monitoring private activity

The bond compliance officer will ensure that the private use of bond-financed facilities does not exceed the applicable percentage limitations set forth in Section 141 of the code (the “private business use limitations”).

- Section 141 of the code defines “private business use” as the direct or indirect use of bond-financed facilities in a trade or business carried on by any person, other than a natural person or a governmental unit.

- The tax rules describe several different types of arrangements that give rise to private business use, including the following:
  - ownership of a bond-financed facility by private business users
  - lease of financed property to private business users
  - management or other service agreement between the district and a service provider pursuant to which the provider renders services involving all, or any portion of, or any function of, the facility
  - output agreements
  - certain research agreements
  - any other arrangement pursuant to which special legal entitlements for the beneficial use of bond proceeds or financed property are conveyed to private business users
Not more than ten percent of the proceeds of any of the district’s bond issues may be used for private business use.

At least once annually, the bond compliance officer will review all trade or business activities by or with non-governmental entities or persons with respect to bond-financed properties to assure such use does not exceed the private business use limitations.
Additionally, the bond compliance officer will consider the impact on the private business use limitations each time the district proposes to enter into any new sale, lease or license, management contract, sponsored research arrangement, or other arrangement involving private use or to change the use of bond-financed facilities.

- The bond compliance officer will use his/her best efforts to structure any management contracts or agreements with non-governmental entities or persons to conform to the management contract safe harbor set forth in IRS Revenue Procedure 97-13, as amended and superseded from time to time.

- The bond compliance officer will promptly consult with bond counsel as to any possible private use of bond-financed facilities.

- “Remedial action” for such “change of use” may require redemption or defeasance of bonds or expenditures for other qualified purposes within specified time periods.

  The bond records maintenance officer will maintain a log that measures and records all trade or business activities by or with non-governmental entities or persons with respect to the district’s bond-financed facilities.

  Additionally, the bond records maintenance officer will maintain copies of all of the following agreements when entered into with respect to bond financed property.

- management or other service agreements
- research contracts
- naming rights contracts
- output contracts
- ownership documentation (e.g., deeds and mortgages)
- leases
- subleases
- leasehold improvement contracts
- joint venture arrangements
- limited liability company arrangements;
- partnership agreements
- any other agreement pursuant to which special legal entitlements for the beneficial use of bond-proceeds or financed property are conveyed to private business users

Arbitrage/rebate

The bond compliance officer will be responsible for compliance with the arbitrage and rebate requirements of the tax rules, including the following.

- choosing the accounting method with respect to bond proceeds and interest earnings, investment and expenditures and establishing a procedure for the allocation of bond proceeds and interest earnings to expenditures, including reimbursement of pre-issuance expenditures

- the following matters related to the yields on investments of bond proceeds
determining eligibility for the exemption of bond proceeds from yield restriction under the arbitrage rules, including compliance with the “temporary periods” set forth in the tax rules
for bond proceeds that are not eligible for exemption from yield restriction, monitoring yield restriction

- ensuring investments acquired with bond proceeds are purchased at fair market value following, when available, regulatory safe harbors that include the use of bidding procedures

- avoiding formal or informal creation of funds reasonably expected to be used to pay debt service on bonds without determining in advance whether such funds must be invested at restricted yield

- consulting with bond counsel before engaging in post-issuance credit enhancement transactions (e.g., bond insurance, letter of credit) or hedging transactions (e.g., interest rate swap, cap)

- identifying situations in which compliance with applicable yield restrictions depends upon later investments, e.g., purchase of 0% SLGS from U.S. Treasury, and monitoring implementation

- monitoring compliance with applicable spending exceptions to rebate requirement as set forth in the tax rules, including the spend-down exceptions

- arranging for timely computation of rebate liability and, if rebate is payable, for timely filing of Form 8038-T and payment of rebate; rebate is ordinarily due at five-year intervals

- arranging for timely computation and payment of “yield reduction payments,” if applicable

- engaging outside arbitrage/rebate consultants to do such computations, if determined necessary or appropriate to assure tax law compliance

The bond records maintenance officer will maintain records documenting the following:

- investment returns of bond financing proceeds related to investment contracts (e.g., guaranteed investment contracts), credit enhancement transactions (e.g., bond insurance contracts), financial derivatives (swaps, caps, etc.) and bidding of financial products

- special records required by the safe harbor for investment contracts or defeasance escrows in accordance with the tax rules

- any “qualified hedge” contracts, including the name of the provider, term of the hedge, whether the hedge was superintegrated or terminated

- any elections made under the arbitrage rules

- computations of “yield” of bonds

Richland County School District Two
post issuance tax exempt bond compliance

- computations of rebate and yield reduction payments
- Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate
Reissuance

The bond compliance officer will do the following:

- Identify any post-issuance change to terms of bonds which could be treated as a current refunding of “old” bonds by “new” bonds, often referred to as a “reissuance.”

- Confirm whether any remedial action in connection with a change of use must be treated as a reissuance.

Adopted 5/8/12

Annual Tax Levy

Each school district's taxing authority is established by state law. In Richland County School District Two, that authority is vested in the Richland County Council within statutory limitations.

Borrowing

The board is permitted, by law, to authorize the district to borrow money in anticipation of collection of taxes. The purpose of such borrowing is to secure funds for district operations. The board must approve the issuance of tax anticipation notes.

Sale of Bonds

In order to obtain funds for capital improvements, the board may, from time to time, authorize the issue of bonds. The limit of district bonded indebtedness is subject to the provisions of Article X of the South Carolina Constitution.

In order for the district to sell bonds in excess of the limitation, the community must vote for a referendum allowing such sale.

Adopted 5/8/12; Revised ^

Legal references:

A. S. C. Constitution:
   1. Article X, Section 15 – Bonded indebtedness of school districts.

B. S. C. Code, 1976, as amended:
   1. Section 4-9-70 - County council levies taxes.
   2. Section 6-1-320 - Limits on county council’s power to set millage rate.
5. Section 59-13-70 - Superintendent will keep record of school district bonds.
6. Section 59-71-10, et seq. - The School Bond Act, statutes regulating the issuance of general obligation bonds by school districts; in effect prior to the ratification of Article X of S. C. Constitution.

C. S.C. Attorney General’s Opinions:

1. S.C. Att’y Gen. Op. (October 27, 2009) - County council has the authority to levy taxes for the support of Richland County School District Two.