Policy Title:	Post-Issuance Debt Management Policy
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Policies Superseded:	None
Policy Management Area(s):	Office of Financial Services

SUMMARY:

Coastal Carolina University (the "University") complies with all applicable federal tax rules related to its tax-exempt debt issuances, including issuances of tax-exempt debt by the State of South Carolina (the "State") or other issuers that benefit the University ("Other Bonds"). This includes compliance with all applicable federal tax documentation requirements, yield restriction limitations, arbitrage rebate requirements, third-party use limitations and recordkeeping requirements. Given the increasing complexity of the federal tax law applicable to the University's tax-exempt debt and Other Bond issuances, this Policy is designed to ensure compliance with applicable federal tax law and South Carolina law to preserve the tax-exempt status of the bonds.

This Policy is intended to serve as a guide for the University to facilitate compliance with the federal tax law applicable to the University's outstanding tax-exempt debt issuances and Other Bonds. In the event this Policy conflicts, in whole or in part, with the Tax Certificate (or other similar agreement) in connection with a tax-exempt debt or Other Bonds issuance, the terms of the Tax Certificate shall control.

POLICY:

I. DEFINITIONS

A. Arbitrage - investing gross proceeds of tax-exempt bonds in higher yielding investments.

B. Gross proceeds - sales proceeds + investment proceeds + replacement proceeds + transferred proceeds.

C. Private Business Use - the use of tax-advantaged bond-financed property in a trade or business carried on by a person other than a state or local government entity. Private users could include private for-profit businesses, natural persons, independent contractors of the University, private nonprofit organizations, or the federal government or its agencies.

D. Safe harbor - guidelines set forth in IRS Revenue Procedure 2017-13 (or any successor revenue procedure or other IRS official guidance) that provide safe harbors against private use arising from management contracts. If a management contract covering a bond-financed facility stays within the confines of these safe harbors, the general facts and circumstances analysis under Treas. Reg. Section 1.141-3 is not applied, and no private activity arises from the manager's special legal entitlements to use the financed property pursuant to the contract.

E. Tax Certificate - an agreement, undertaking, or other certification setting forth the obligations of the University (and often other parties) regarding the use of bond proceeds, the use of bond-financed property, and other compliance matters intended to ensure the continued tax-exempt status of the bonds covered by the agreement, undertaking, or other certification. For the purposes of this policy, the term Tax Certificate also includes any agreement or representation made by the University in connection with the issuance of Other Bonds

F. Tax-exempt debt issuance - the interest component of bond debt service payments is exempt from federal and sometimes state and local income taxes for the bond holder. With regard to credit quality and term of the bonds, the interest rate will usually be lower than for a taxable bond.

II. APPLICABILITY AND SCOPE

A. Except as otherwise described herein, the Office of Financial Services has primary responsibility for ensuring that the University's outstanding tax-exempt debt issuance and Other Bonds are, and remain, in compliance with federal tax law. The Office of Financial Services will consult with other departments within the University, as well as third-party professionals (e.g., the University's or other bond counsel), as necessary, to ensure compliance with such rules, including this Policy.

B. The University's Office of Financial Services shall be responsible for completing a review of the University's outstanding tax-exempt debt issuances and Other Bonds for compliance with the applicable Tax Certificate entered into in connection with each issuance and this Policy no less frequently than every 12 months. In addition, the Office of Financial Services shall be responsible for completing a review of the Other Bonds, including working with the Office of State Treasurer with regard to Other Bonds issued by the State for the benefit of the University, for compliance with this policy in accordance with the provisions of Part III section C hereof. In the event the University discovers that the University is, or has been, out of compliance with one or more of the requirements set forth in these Policies, the University will consult with its bond counsel to determine what action, if any, should be taken with respect to such noncompliance. The University's Treasury Director is responsible for all aspects of Private Business Use review, monitoring and records retention as described in Parts III sections D and E as well as all other areas and overall management of post-issuance compliance, bond debt service payments and yearend reporting.

III. POLICY

A. Closing of Tax-Exempt Debt Issuances.

1. Tax Certificates

   University's bond counsel, with assistance from the University and other professionals associated with the financing, shall prepare or assist in the preparation of a Tax Certificate in connection with each tax-exempt debt issued by the University or Other Bonds issued on behalf of the University, to be executed by the University at closing. The Tax Certificate shall serve as the operative document for purposes of establishing the University's reasonable expectations as of the date of issue of a tax-exempt debt or Other Bonds as well as provide a general summary of the federal tax rules applicable to such issuance. The Office of Financial Services, in consultation with the University's bond counsel, will review the Tax Certificate prepared for each of the University's tax-exempt debt issuance or Other Bonds issuance prior to the closing of the issue.

   The Tax Certificate will be included as part of the transcript for each University tax-exempt debt and Other Bonds and in all events the University will keep a copy of the final executed version of the Tax Certificate in accordance with the provisions of Part III section E "Recordkeeping," of this Policy.

2. Internal Revenue Service Form 8038-G

   University's bond counsel, with assistance from the University and other professionals associated with the financing, shall prepare or assist in the preparation of an Internal Revenue Service Form 8038-G, Information Return for Tax-Exempt Governmental Obligations, in connection with each tax-exempt debt issuance or Other Bonds issuance issued by or for the benefit of the University, which a representative of the Office of Financial Services will review prior to closing.

   The Internal Revenue Service Form 8038-G will be included as part of the transcript for each University tax-exempt governmental debt issuance or Other Bonds issuance, and in all events the University will keep a copy of the final executed version of the Internal Revenue Service Form 8038-G in accordance with the provisions of Part III section E "Recordkeeping," of this Policy.

B. Use of Debt Proceeds.

1. Overview

The University reviews third-party uses of its tax-exempt debt and Other Bond financed facilities for “private business use.” In addition, the University will continue to consult regularly with its bond counsel regarding the applicable federal tax limitations imposed on the University’s outstanding tax-exempt debt issuance and Other Bonds and whether arrangements with third parties give rise to private business use of the financed projects. For these purposes, the University will monitor all uses of the University’s tax-exempt debt and Other Bond financed facilities, including but not limited to uses pursuant to a management contract, operating agreement, license, lease, sublease, naming rights agreement, joint venture or partnership arrangement. In the event the University enters into an arrangement involving a facility for which tax-exempt debt issuances or Other Bond issuances are outstanding, and which gives rise to private business use, the University will consult its bond counsel regarding the arrangement and whether such arrangement impacts the tax-exempt status of the University’s outstanding debt issuances and Other Bonds. The Office of Financial Services will review, or forward to University bond counsel for review, any arrangement involving third party use of property financed or refinanced using proceeds of the University’s tax-exempt debt or Other Bonds including sale agreements, management or service contracts, leases, naming rights agreements or joint ventures, or similar arrangements pursuant to which a third party receives a special legal entitlement or economic benefit. The Office of Financial Services shall be responsible for monitoring all such arrangements, including the impact of such arrangements on the University’s outstanding tax-exempt debt issuances and Other Bonds in accordance with this Policy.

2. Private Business Use Generally

   The University will not knowingly take or permit to be taken any action that would cause any of its outstanding tax-exempt debt issuances or Other Bonds to become “private activity bonds,” as described below. An issue of tax-exempt debt and Other Bonds will be considered “private activity bonds” if more than 10% of the proceeds of the debt are used directly or indirectly in any trade or business carried on by a private business user and more than 10% of the debt service on the debt is directly or indirectly (a) secured by any interest in property used or to be used in any trade or business carried on by a private business user or payments in respect of property used or to be used in any trade or business carried on by a private business user, or (b) derived from payments made in respect of property used or to be used in any trade or business carried on by a private business user. Those thresholds will be reduced from 10% to 5% in the case of any uses of bond-financed property that are unrelated to the governmental use of the property or that are “disproportionate” to such governmental use (*i.e.*, in excess of the level of governmental use).

3. Management or Other Service Contracts

In the event the University enters into a management contract, service agreement, operating agreement or license with an individual or entity whose use of the University's tax-exempt debt or Other Bond financed projects could potentially result in private business use, the University will evaluate whether such arrangement results in private business use. For these purposes, a management contract, service agreement, operating agreement and license include any contract between the University and a service provider under which the service provider provides services involving all, or a portion of, or any function of, a project financed with tax-exempt debt or Other Bond proceeds (such agreement, a "Service Contract").

It is the University's intent to structure all Service Contracts involving the use of tax-exempt debt and Other Bond financed property so as to satisfy one of the private business use safe harbors set forth in Revenue Procedure 2017-13 or other applicable safe harbor guidance.

If the University enters into a Service Contract that does not satisfy the safe harbors set forth in Revenue Procedure 2017-13 or other applicable safe harbor guidance, the University will consult with its bond counsel to assess the impact, if any, that the noncompliant Service Contract has on the tax status of the University's outstanding tax-exempt debt issuances or Other Bonds.

4. Leases and Subleases

   The University will track all leases and subleases that involve the use of tax-exempt debt and Other Bond-financed projects, including the name of the lessee (or sublessee), the term of the lease (or sublease), the amount of the rent paid by the lessee (or sublessee) and the square footage of space used by the lessee (or sublessee) relative to the square footage of the debt-financed facility.

   If the University desires to enter into a lease or sublease related to the use of tax-exempt debt and Other Bond financed property, it will consult with its bond counsel to determine what impact, if any, such lease or sublease would have on the tax status of the University's outstanding tax-exempt debt or Other Bonds.

5. Naming Rights Agreements

   The University will monitor all naming rights agreements that involve tax-exempt debt and Other Bond financed projects, including the term of the arrangement and the amount paid by the naming party. Prior to entering into a naming rights agreement involving its tax-exempt debt and Other Bond financed property, the University will consult with its bond counsel to determine what impact, if any, such agreement would have on the tax status of the University's outstanding tax-exempt debt issuances. The University understands that naming rights in favor of individuals or families (as opposed to for-profit or non-profit entities engaged in a trade or business) will not generally give rise to "private business use."

6. Joint Ventures and Partnership Arrangements

   The University will monitor all uses by third parties of University property financed using the proceeds of tax-exempt debt pursuant to a joint venture, partnership or other cooperative agreement between the University and the third party. Prior to entering into such an agreement or agreeing to permit the use of financed property, the University will consult with its bond counsel to determine what impact, if any, such use would have on the tax status of the University's outstanding tax-exempt debt issuances or Other Bonds.

7. Sales of Debt-Financed Property

   The University typically finances projects using tax-exempt debt in circumstances where the University intends to own the financed property for the entire term of the debt issue financing the project. Prior to selling or otherwise disposing of <u>any</u> tax-exempt debt or Other Bond financed project for which debt remains outstanding, the University will consult with its bond counsel to determine the impact, if any, such sale or disposition would have on the tax status of the University's outstanding tax-exempt debt issuances or Other Bonds.

8. Remedial Actions

   The University is aware of the remedial action rules contained in Treasury Regulations Section 1.141-12, providing the University with the ability, in certain circumstances, to voluntarily remediate violations of the private business tests or private loan financing test. Although the University intends that none of its tax-exempt debt issuances or Other Bonds will require the application of the remedial action rules, <u>prior</u> to taking any action that would cause one or more of its outstanding tax-exempt debt issuances and Other Bonds, absent a remedial action, violate the private business tests or private loan financing test, the University will consult with its bond counsel regarding the applicability of the remedial action rules to such action and the ability to remediate the impacted tax-exempt debt issuance.

9. Tracking Private Business Use

   The University will maintain records containing the following information for each of its outstanding tax-exempt debt issuances and Other Bonds:

   a. Projects financed or refinanced with proceeds of the debt issuance;
   b. Whether the projects financed or refinanced with proceeds of the debt issuance are used pursuant to a service contract, management agreement, lease, naming rights agreement, or other third party use arrangement;
   c. In the event the projects financed or refinanced with proceeds of the debt issuance are used for a private business use, the amount of the project so used (*e.g.,* by square footage, where appropriate); and
   d. The private business use percentage of the debt issuance (or, in the case of the Other Bond, the private business use percentage of the portion of the financing allocable to University projects), taking into account all arrangements involving projects financed or refinanced with proceeds of the debt that give rise to private business use. A copy of these records shall be maintained by the Office of Financial Services.

10. Private Loans

The University will not take or permit to be taken any action that would cause any of its tax-exempt debt issuances and Other Bond to be considered "private loan bonds." Such obligations will be considered "private loan bonds" if more than 5% of the proceeds of the issue are used directly or indirectly to make or finance loans to private persons. The University will not loan the proceeds of any University tax-exempt debt issuance and Other Bonds to a third party.

C. Arbitrage Limitations Imposed on Debt Issuances

1. Arbitrage Rebate Monitoring

   The Office of Financial Services will continue to retain a third-party arbitrage rebate monitor to calculate any arbitrage rebate or yield reduction payment liability on its tax-exempt debt issuances. The provider will perform calculations to ascertain whether the University owes an arbitrage rebate payment or yield reduction payment to the Internal Revenue Service, including whether the tax-exempt debt issuance being examined qualifies for an exception to the arbitrage rebate rules.

2. Payment of Arbitrage Rebate and Yield Reduction Liability

   In the event the University owes arbitrage rebate or has accrued a yield reduction payment liability to the Internal Revenue Service, the University will timely submit Internal Revenue Service Form 8038-T, Arbitrage Rebate Yield Reduction and Penalty in Lieu of Arbitrage Rebate, to be prepared by the Office of Financial Services, together with payment in the amount equal to the arbitrage rebate or yield reduction payment liability in accordance with the Tax Certificate related to such debt issue. For these purposes, within 60 days after each installment computation date, the University will cause to be paid to the Internal Revenue Service at least 90% of the amount of arbitrage rebate and yield reduction payment liability owed, determined in accordance with the provisions of the Tax Certificate related to such tax-exempt debt issuance and the applicable federal tax rules, and based on calculations performed by the University.

   In addition, within 60 days after the final installment computation date, the University will cause to be paid to the Internal Revenue Service 100% of the amount of arbitrage rebate and yield reduction payment liability owed, determined in accordance with the provisions of the Tax Certificate related to such tax-exempt debt issuance and the applicable federal tax rules, and based on calculations performed by the Office of Financial Services.

3. Yield Restriction Limitations

   Each Tax Certificate prepared for the University's tax-exempt debt issuance shall contain the applicable yield restriction investment limitations, including the applicable investment limitations imposed on proceeds of the debt issuance and any temporary periods during which the University may invest proceeds of the debt issuance at an unrestricted yield.

4. Monitoring Yield Restriction Limitations

The University will comply with the yield restriction limitations outlined in the Tax Certificate entered into by the University in connection with a tax-exempt debt issuance, including any exceptions to yield restriction described therein.

5. Expenditure of Tax-Exempt Debt Proceeds
   The University will expend tax-exempt debt and Other Bonds proceeds as promptly and diligently as possible within the confines of these Policies and the Tax Certificate entered into by the University in connection with a particular debt issuance. For these purposes, it is the University's intent not to finance projects using the proceeds of tax-exempt debt for which the University expects that the tax-exempt debt proceeds will not be fully spent within 2 years of the date of issue of the debt.
6. Arbitrage Rebate Spending Exceptions
   Each Tax Certificate prepared for the University's tax-exempt debt shall contain the arbitrage rebate spending exception(s) applicable to the debt issuance.
7. Verification Agent
   The University will continue to retain a third-party verification agent for each of its advance refunding bond issues. The verification agent will verify the arbitrage yield on the tax-exempt debt issuance, the arbitrage yield on the investments acquired as part of the refunding escrow established using gross proceeds of the tax-exempt debt issuance, and the sufficiency of the refunding escrow.
8. Establishment of Advance Refunding Escrows and Trustee Responsibilities
   The University will deposit tax-exempt debt proceeds (any other amounts) to be used to advance refund prior University debt issuances into one or more separate escrow trust accounts established with the trustee selected for the transaction. Working with University's bond counsel, and in accordance with the documentation prepared for the refunding transaction, the University will impose primary responsibility for initiating actions required to be taken with respect to the refunding escrow (including the reinvestment of amounts within the escrow and disbursing funds from the escrow) on the trustee.
   In the event of an omission on the part of the trustee, an error in the documentation or Policies establishing the escrow, or an investment to be acquired as part of the refunding escrow is not available for purchase, the University will timely consult with University's bond counsel, as applicable, to determine the impact, if any, on the tax-exempt status of the bond issue and actions to be undertaken by the University to ensure the continuing tax-exempt status of the obligations.

D. Accounting for Debt Proceeds.

1. General
   Absent unique circumstances, and except as otherwise described in the Tax Certificate entered into by the University in connection with a tax-exempt debt

issuance, the University applies a "direct tracing" method of accounting for and allocating its tax-exempt debt and Other Bonds proceeds.

2. Investment of Proceeds

   Proceeds of the University's capital borrowings shall remain segregated in a separate fund or account held by, or in the name of, the University with the South Carolina State Treasurer. In no event are proceeds of a tax-exempt debt issuance to be commingled with other funds of the University, including proceeds of other borrowings.

3. Expenditure of Debt Proceeds on Capital Projects

   Each project to be financed shall be assigned a project fund number. The University shall maintain an active listing, updated with each disbursement of tax-exempt bond proceeds, for each outstanding debt issuance shows:

   a. The name and date of issue of the tax-exempt debt issue to which the proceeds relate.
   b. The projects financed with the proceeds of the issue, listed by project fund number.
   c. The authorized amount of proceeds to be used to finance each project;
   d. The amount of proceeds of the debt issuance used to date to finance each project.
   e. The amount of unspent proceeds of the debt issuance to be used to finance each project.
   f. The date on which the debt proceeds related to each project were fully expended.

E. Recordkeeping.

1. General

   The University is aware of its ongoing recordkeeping responsibilities associated with its tax-exempt debt issuances and Other Bonds. Each Tax Certificate prepared on behalf of the University, or for its benefit, for a tax-exempt debt issuance or Other Bonds shall provide for a description of the records to be maintained by or on behalf of the University and the period of time such records must be maintained.

2. Means of Maintaining Records

   The University may maintain all records required to be held as described in this Part E in paper and/or electronic (e.g., CD, pdf images, University network drives) form. The University will maintain as much of its records electronically as feasible.

3. Transcript and Use of Debt Proceeds

   The University shall maintain, or cause to be maintained, all records relating to the tax-exempt status of its tax-exempt debt issuances and Other Bonds and the representations, certifications and covenants set forth in its respective Tax Certificates until the date 3 years after the last outstanding obligation of the issue to which such records and Tax Certificate relate has been retired. The records that must be retained include, but are not limited to: (a) basic records and documents relating to the obligations (including the transcript, which shall include, among other records, the Tax Certificate, Internal Revenue Service Form 8038-G or 8038-B, verification report, authorizing resolution(s), trust indenture, loan agreement, record of public approval, and the opinion of bond counsel), (b) documentation evidencing the expenditure of debt proceeds, (c) documentation evidencing the use of debt financed projects by public and private sources, including copies of all arrangements described in Part F of these Policies, (d) documentation evidencing all sources of payment or security for the debt issuance, and (e) documentation pertaining to any investment of debt proceeds with the South Carolina State Treasurer.

4. Investment Records

   The University shall maintain detailed records with respect to every investment acquired with proceeds of its tax-exempt debt including the: (a) purchase date, (b) purchase price, (c) information establishing fair market value on the date such investment became allocated to gross proceeds of the debt, (d) any accrued interest paid, (e) face amount, (f) coupon rate, (g) periodicity of interest payments, (h) disposition price, (i) any accrued interest received, (j) disposition date, and (k) broker's fees paid (if at all) or other administrative costs with respect to each such non-purpose investment. The University shall maintain all such records until the date three years after the last outstanding obligation of the issue to which such records and non-purpose investments relate has been retired, or, in the case of a refunding, until the date three years after the last outstanding obligation of the issue that refunded the underlying obligation is retired.

5. Arbitrage Rebate and Yield Reduction Payment Records

   The Office of Financial Services shall maintain all records of arbitrage rebate payment and yield reduction payment calculations performed by the University (irrespective of whether the University owed any amount to the Internal Revenue Service), and records related to any arbitrage rebate payments or yield reduction payments made to the Internal Revenue Service, including the calculations performed by the University substantiating such payments, together with the Internal Revenue Service Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate, that accompanied all such payments, until the date 3 years after the last outstanding obligation of the issue to which such records and rebate payments relate has been retired.

6. Overpayment of Arbitrage Rebate Records

   In the event the University has overpaid to the United States an arbitrage rebate or yield reduction payment liability, the University shall maintain all records of such arbitrage rebate payments or yield reduction payments, including calculations performed by the University, together with the Internal Revenue Service Form 8038-R, Request for Recovery of Overpayments Under Arbitrage Rebate Provisions, that accompanied the request for a recovery of such overpayment until the date 3 years after the last outstanding obligation of the issue to which such records and rebate overpayments relate has been retired.

7. Private Business Use Records
The University will maintain a copy of all arrangements with third parties that involve the direct or indirect use of the projects financed with the proceeds of the University's tax-exempt debt and Other Bonds, including all leases, management agreements, research contracts, arrangements covering the sale of bond financed property, naming rights agreements or any other agreements that give a third party a priority or preference right related to projects financed with the proceeds of the University's tax-exempt debt and Other Bonds.

8. Other Records
In addition to the records described above, the University will maintain the following records, to the extent applicable to a particular tax-exempt debt offering, until the date 3 years after the last outstanding obligation of the issue to which such relate has been retired: (a) minutes and resolutions authorizing the issuance of, or the reimbursement of expenditures using proceeds of, the financing, (b) appraisals, demand surveys and feasibility studies related to financed or refinanced property, (c) documentation relating to any third-party funding for a project to which tax-exempt debt proceeds will be applied (including government grants), and (d) records of any Internal Revenue Service audit(s) or compliance check(s), or any other Internal Revenue Service inquiry related to the debt issuance. Except as specifically set forth in the applicable Tax Certificate, the University will not be responsible for maintaining the records described in this Section E for Other Bonds issued except insofar as it relates to documents executed by University officials and its use of the proceeds of such Other Bonds and the financed assets.

9. Applicability of Recordkeeping Requirement in the Event of a Refunding
In the event the University issues tax-exempt debt to retire prior University debt, the University shall maintain all of the records described in this Part E with respect to the refunded debt issuance until the date that is three years after the last outstanding tax-exempt obligation of the issue the proceeds of which were used to retire the refunded debt issuance has been retired.

F. Voluntary Closing Agreement Program
The University is aware of its ability to request a voluntary closing agreement with the Internal Revenue Service to correct failures on the part of the University to comply with the federal tax rules related to tax-exempt debt issuances.

G. Continuing Education
The University will continue to consult regularly with its bond counsel regarding the federal tax rules applicable to its outstanding tax-exempt debt issuances and changes to the federal tax law, and the University will regularly update this Policy to reflect any such changes.