



**Corporation of Gonzaga University
Post-Issuance Tax Compliance Procedures for Tax-Exempt Bonds**

Responsible Department	Finance
Responsible Official	Vice President for Finance
Reviewed By	Kevin Mann, Chuck Murphy, Thayne McCulloh, Bond Counsel
Approved By	Thayne McCulloh, President (see certificate)
Supersedes	Policy dated March 2010
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A. Policy Statement

This policy provides procedures and guidelines to ensure that all of the outstanding qualified 501(c)(3) bonds or other tax-exempt debt (the “Bonds”) of The Corporation of Gonzaga University (the “University”) remain in compliance with federal tax law requirements. Certain of the University’s capital projects have been or will be financed, refinanced or reimbursed through the issuance of Bonds. Tax-exempt status is intended to remain throughout the life of the Bonds, but this status can be lost if certain applicable federal laws and regulations are not followed. Other negative consequences to the University can result from failure to comply with restrictions relating to arbitrage, timing and use of Bond proceeds, and other aspects of a Bond issue.

The Internal Revenue Code of 1986, as amended (the “Code”), contains numerous requirements that must be met by the University after Bonds for the benefit of the University are issued in order for interest on the Bonds to remain tax-exempt. The University has adopted these Post-Issuance Tax Compliance Procedures for Tax-Exempt Bonds (the “Procedures”) in order to meet

all tax requirements under the Code. These Procedures set forth: (1) all records that must be maintained under the Code, including proper and efficient record retention measures, and record retention responsibilities; (2) responsibilities for proper arbitrage calculations and arbitrage reporting; (3) responsibilities for monitoring private use of bond-financed property; (4) proper education of University officials and departments to meet all Code requirements for Bonds; and (5) timely identification of violations of federal tax requirements and timely correction of any identified violation through use of the voluntary closing agreement program if self-remediation is not available under the Code.

All University officials, employees and staff are hereby directed to follow these Procedures in order to maintain tax-exempt status of Bonds issued for the benefit of the University, and prevent violations of the Code.

B. Definitions

501(c)(3)	501(c) is a section of the Code listing 26 types of nonprofit organizations exempt from some federal income taxes. Specifically, given its educational purpose, the University is a 501(c)(3) organization.
Arbitrage	The practice of taking advantage of a price differential between two or more markets. With respect to tax-exempt bonds, arbitrage would be the act of borrowing tax-exempt debt at a lower interest rate, and then using the proceeds to earn a higher interest rate in the taxable market, thus benefiting from the interest rate spread.
Arbitrage Rebate Calculation	Tax-exempt borrowers may have the ability to borrow in the tax-exempt market and invest the bond proceeds in the taxable market. When this occurs and the taxable investment yield on the proceeds exceeds the yield of the tax-exempt bond issue, a rebate or repayment of arbitrage profits is due to the Internal Revenue Service.
Bond	A debt investment in which an investor loans money to an entity that borrows the funds for a defined period of time at a fixed or variable interest rate. The borrowing entity (issuer) issues a bond that states the interest rate that will be paid and when the borrowed money (both principal and interest) is to be repaid (maturity date).
Indenture	A bond indenture is a legal document in which the agreed terms for the bond are specified. The issuer is required to comply with all the terms and conditions established in the bond indenture.
Private Use	Private business use refers to the use of a bond-financed facility in the trade or business activities of a private party. Use for 501(c)(3) purposes is considered qualified use. Any private business use exceeding the threshold amount - i.e., 5 percent for 501(c)(3)

	bonds - will nullify the Bonds' tax-exempt status. Even if the threshold is not exceeded, any private business use of a 501(c)(3) facility financed with tax-exempt bonds may result in unrelated business income without a corresponding deduction for interest expense. Contracts for services that are merely incidental to the tax-exempt function of the bond financed facility (e.g., janitorial services and office equipment repair) do not constitute private business use.
Tax Exempt	Not subject to federal income taxation. The University is a tax-exempt organization under section 501(c)(3) – see above.
Tax-Exempt Bond	A bond, issued by a qualified tax-exempt organization whose interest payments are not subject to federal income tax, and sometimes also state or local income tax.
WHEFA	The Washington Higher Education Facilities Authority (WHEFA) issues revenue bonds to assist private non-profit institutions of higher learning in the expansion and construction of educational facilities.

C. Post-Issuance Compliance Responsibility

(1) *Responsibility.* The President of the University (the “President”) has final responsibility for monitoring and enforcing post-issuance compliance under these Procedures. The President has designated the University’s Vice President for Finance as the primary official responsible for effecting these Procedures. The Vice President for Finance, as primary official, is authorized and directed to take all necessary action to ensure that University officials, employees and staff comply with these Procedures.

(2) *Professional Financial Services Providers.* The President recognizes that the requirements under the Code for post-issuance compliance are numerous and complex, and as such, outside resources, including use of professional financial services providers, may be necessary to properly comply with these Procedures. The President will seek any necessary Board of Trustee authorization and direct the Vice President for Finance to execute and deliver any agreements or documents with qualified professional financial services provider(s) that the Vice President for Finance deems necessary to ensure compliance with these Procedures.

D. Records Retention

(1) *Time.* All records required to be retained under these Procedures must be kept until at least three years after the final maturity date for the Bond issue or, if the Bonds are redeemed prior to final maturity, at least three years after the date of prior redemption.

(2) *Form.* All records required to be retained under these Procedures must be kept in paper form, or in electronic form such that they can easily be produced in paper form. Records for each Bond issue should be conspicuously labeled and, to the extent possible, stored in a central location.

(3) *Documents required to be retained.* The following table sets forth the documents that must be retained and the official, employee or staff responsible for retaining such records.

Document to be Retained	Responsible Official
Bond documents (closing documents, transcript of the proceedings, all agreements that were executed at the time of the bond issue, etc.)	Vice President for Finance, Controller's Office
Documents evidencing expenditure of bond proceeds	Vice President for Finance, Director of Plant Services, Controller's Office
Investments of bond proceeds, including any agreements or contracts that could be construed as investments under the Code	Vice President for Finance
Receipts of earnings on bond proceed investments	Controller's Office
Certificate of Official Intent for reimbursement of pre-bond issuance costs	Vice President for Finance
Documents demonstrating calculations for arbitrage spending exceptions	Vice President for Finance
Documents demonstrating arbitrage rebate calculations	Vice President for Finance, Controller's Office
Documents filed with the IRS regarding arbitrage spending exceptions, arbitrage rebate amounts and payments of arbitrage rebate amounts (e.g., Form 8038-T)	Vice President for Finance
Refunding bond documents (all refunding documents must be maintained with the refunded bond issue documents)	Vice President for Finance
Yield-restricted advance refunding investments, if any	Controller's Office
Escrow investment statements	Controller's Office
Redemption and Defeasance documents	Vice President for Finance
List of all bond-financed property	Vice President for Finance, Controller's Office
Contracts regarding use of any bond-financed property or facilities, including management, research agreements, service and use contracts, as well as documentation that such contracts do not adversely affect the tax-exempt status of the bond finance property	Vice President for Finance
Additional documents regarding bonds and use of bond-financed property (e.g. litigation involving bond proceeds or bond-financed property)	Vice President for Finance

The Vice President for Finance with assistance from the Controller's Office shall conduct a review of the records for each Bond issue at least every five years in order to maintain continued record retention compliance.

E. Tracking of Assets and Proceeds

(1) *Identification and Tracking of Assets.* The University identifies how expected Bond proceeds will be utilized in its official statement and supporting documentation for Washington Higher Education Facilities Authority ("WHEFA") debt. The Controller's Office then ensures that all Bond proceeds are allocated in accordance with this documentation. The Controller's Office will record all tax exempt bond-financed assets, and the associated debt, income, and expenses in the accounting system on a timely basis. If a bond-financed asset is disposed of, appropriate measures will be taken to ensure proper compliance with WHEFA, the IRS, and the bond indenture.

(2) *Expenses.* When making Bond related expenditures, the University will adhere to normal purchasing practices, as defined in the University's Purchasing & Finance Manual. The Controller's Office will also prepare and submit any expense reimbursement requests to WHEFA, as appropriate.

F. Covenant Compliance

The University has agreed to certain covenants for the protection of the bondholders, including covenants to maintain its accredited status, limit its ability to incur additional indebtedness, limit encumbrances on parts of its campus, and maintain certain financial ratios. Thus, the Vice President for Finance and Controller's Office will review these covenants on an annual basis to ensure compliance.

G. Private Use of Tax-Exempt Financed Facilities

(1) *General.* Facilities and equipment that are financed with Bonds are required to be used for tax-exempt purposes, with a limited amount of private business use allowed under the Code. Generally, no more than 5 percent of the proceeds of Bonds may be used for private business use of the bond-financed property. For purposes of the 5 percent limit on private business use, Bond issuance costs financed with Bond proceeds are included as private business use and reduce the amount of private use that can be conducted in bond-financed property. Potential sources of private use of tax-exempt financed facilities include the following:

- Unrelated trade or business activities
- Private use by parties other than the University and its students, including particularly by independent contractors and vendors serving the University
- Management and other service arrangements
- Sponsored research contracts
- Naming rights contract
- Leases and subleases of University facilities
- Joint venture/limited liability corporations/partnership agreements

(2) *New Contracts and Agreements.* The Vice President for Finance recognizes that determining whether a use is a Qualified 501(c)(3) use may be difficult. Accordingly, before entering into any management contracts, service contracts, joint ventures, operating agreements, leases and research contracts that involves the use of bond-financed property, the respective department must provide a description of the proposed use arrangement and consult with the Vice President for Finance to determine whether such proposed use arrangement will be consistent with the restrictions on Qualified 501(c)(3) Bonds in order to retain tax-exempt status of the Bonds.

(3) *Outside Counsel.* The Vice President for Finance shall consult with bond counsel to the University, as he determines necessary, to obtain advice on whether proposed special use arrangements, if put into effect, will be consistent with the restrictions on the use of Qualified 501(c)(3) Bond-financed property, as well as whether any alternative structures or remedial actions may be taken by the University as a means of enabling the proposed use arrangement without adversely affecting the tax-exempt status of the Qualified 501(c)(3) Bonds which financed the property.

(4) *Tracking of Private Business Use.* The Controller's Office maintains a listing of all buildings financed with tax-exempt debt. This is reviewed by the Vice President for Finance annually and any new private use activity is added as needed. A questionnaire (Appendix A) will be circulated annually to all relevant departments to determine whether there has been any private use of tax-exempt financed facilities. When necessary, the Vice President for Finance will follow-up the questionnaire by interviewing the appropriate personnel. All relevant departments will be contacted once every two years to discuss the rules regarding private use of tax-exempt financed facilities and to determine whether any private use has occurred beyond what has been previously identified. The Controller's Office calculates the private use percentage for reporting on the Form 990, Schedule K. This calculation will be completed for each Bond issue separately.

H. Arbitrage Calculations and Arbitrage Reporting

(1) *General.* The Vice President for Finance, working in conjunction with any contracted professional financial services provider, shall adopt procedures to ensure that investments acquired with Bond proceeds are purchased at fair market value. The Vice President for Finance shall review all funds created and used to pay debt service to determine whether such funds must be invested at a restricted yield.

(2) *Calculations and Filing.* At a minimum, a rebate calculation is required at the end of the fifth bond year, at the end of every fifth bond year thereafter, and upon retirement of the Bonds. The Controller's Office will prepare, or cause to be prepared, an arbitrage rebate calculation annually that will be reviewed by the Vice President for Finance. The Vice President for Finance, working in conjunction with any contracted professional financial services provider and bond counsel, shall file Form 8038-T, if necessary, and all necessary arbitrage calculation and rebate documents and cause to be paid any necessary arbitrage rebate amounts to the IRS for each applicable fiscal year.

I. Education of University Officials, Employees and Staff

(1) *Continued Education.* The Vice President for Finance shall consult with bond counsel at least once per year to obtain updates to the Code regarding the Bonds and determine if additional education and training is necessary.

(2) *Department Training.* The Vice President for Finance and Controller's Office shall provide training to all departments which benefit from Bond proceeds and bond-financed property to ensure compliance with these Procedures. The Vice President for Finance shall annually provide copies of these Procedures to the departments which benefit from Bond proceeds. Departments receiving Bond proceeds or using bond-financed property as a result of Bond issues that occur after these Procedures shall receive training at the time of such issue and periodically thereafter as a result of personnel turnover or changes in these Procedures. The Vice President for Finance is authorized to determine, from time to time, any additional education or training regarding federal tax compliance necessary for departments to ensure compliance with these Procedures.

J. Remediation and Voluntary Closing Agreement Program

(1) *General.* Remedial actions under the Code are sometimes available in the event of a failure to comply with the applicable provisions of the Code. However, such remedies for non-compliance may not cover all violations of the requirements of the Code and other applicable requirements governing Bonds benefiting the University. Certain remedial provisions also require that the non-compliance be identified and remedial action taken within a limited time after the violation. In instances where applicable remedial provisions are not available under the Code, WHEFA, upon being directed by the University, may request a voluntary closing agreement to address the violation under the IRS's Tax Exempt Bonds Voluntary Closing Agreement Program.

(2) *Procedures for Remediation.* In the event that the foregoing procedures reveal a violation or potential violation of any Code requirements, the Office of Corporation Counsel of the University should be immediately notified in writing and the Office of the Corporation Counsel, if deemed appropriate, with the advice of expert counsel in the area of Bonds, including, without limitation, bond counsel, shall determine if a violation has occurred. If it is determined by the Office of Corporation Counsel or bond counsel to the University that a violation has occurred, then (1) the Vice President for Finance shall inform the President and (2) appropriate remedies permitted under the Code shall be pursued, with the assistance of bond counsel if required. If action taken under the Code and remedies cannot adequately cure all violations of the requirements of the Code, the Office of Corporation Counsel shall consult with bond counsel and WHEFA to timely request, where appropriate, a voluntary closing agreement to address the violation under the IRS's Tax Exempt Bonds Voluntary Closing Agreement Program or to otherwise pursue resolution of the matter.

K. Review

The President, Vice President for Finance, any contracted professional financial services provider and bond counsel (if requested by the Vice President for Finance) shall review these Procedures annually to update and redistribute as necessary.



Appendix A: Private Business Use Annual Questionnaire

Form must be completed and returned by: _____

The purpose of this questionnaire is to determine whether your department may be conducting private business use in a tax-exempt bond financed facility.

Background on Private Business Use:

Some of the University's buildings have been financed by tax-exempt bonds, a lower cost financing alternative offered to certain non-profit organizations. Private use (i.e. use by non-Gonzaga staff, faculty, students) within these buildings is limited by the Code, and must be reported.

Date:	_____	Location/Building:	_____
Department:	_____	Tax-exempt Financed Facility:	_____
Contact Name:	_____	Total Building Square Footage:	_____
Phone:	_____	Dept. Square Footage Utilized:	_____

1) Have there been any changes to your square footage usage over the past year? If yes, please explain.

2) Please provide a description of your department and the goods and services it provides.

3) Is your space ever occupied by any private (*non* -University) individuals or businesses (e.g. Sodexo)? If yes, please explain. Do they generate any revenues for the University?

4) Do any of *your* activities generate revenue from *non*-University sources (i.e. anyone other than staff, students, and faculty)? If yes, please explain. Donations are to be excluded.

5) Are those services identified in questions 3 and 4 carried on regularly? If yes, please indicate how often (all year round, every summer, etc.).

Office of the President



I, Thayne M. McCulloh, D. Phil., the duly appointed and acting President of The Corporation of Gonzaga University (the “University”), has approved the attached Post-Issuance Compliance Procedures for Tax-Exempt Bonds (the “Procedures”) in order to meet all tax requirements under the Internal Revenue Code of 1986, as amended; to ensure that interest on the University’s tax-exempt bonds remains tax-exempt. University officials, employees and staff are hereby authorized and directed to follow and comply with the Procedures, and the Vice President for Finance, as the primary official, is authorized and directed to take all necessary actions to ensure University officials, employees and staff comply with the Procedures.

DATED: May 31, 2013.

THE CORPORATION OF GONZAGA
UNIVERSITY

A handwritten signature in blue ink, appearing to read 'Thayne M. McCulloh', written over a horizontal line.

Thayne M. McCulloh, D. Phil., President