



# DeKalb County Government

Manuel J. Maloof Center  
1300 Commerce Drive  
Decatur, Georgia 30030

## Agenda Item

File ID: 2022-1837

Substitute

Public Hearing: YES  NO

Department: Board of Commissioner - District 2

### **SUBJECT:**

**Commission District(s):** All Commission Districts

A Resolution by the Governing Authority of DeKalb County, Georgia, to make Amendments to the County's Debt Management Policy

**Information Contact:** Commissioner Jeff Rader

**Phone Number:** 404-371-7064

### **PURPOSE:**

As permitted within section 9(b) of the Organizational Act, the DeKalb County Board of Commissioners proposes to implement updates to the policy and regulations outlined within the County's Debt Management Policy.

### **NEED/IMPACT:**

The amendments to the policy propose a more robust process regarding the placement of debt, with specified parameters of communication amongst the Governing Authority when considering debt opportunities.

### **FISCAL IMPACT:**

N/A

### **RECOMMENDATION:**

To approve the resolution and authorize the chief executive officer to execute all necessary documents.....

**RESOLUTION**

**A RESOLUTION BY THE GOVERNING AUTHORITY OF DEKALB  
COUNTY, GEORGIA, TO MAKE AMENDMENTS TO THE COUNTY'S  
DEBT MANAGEMENT POLICY**

**WHEREAS**, according to Sec. 9(a)(4) of the Organizational Act, the Board of Commissioners has the power to “authorize the incurring of indebtedness”; and

**WHEREAS**, according to Section 9(b), “In addition to the powers enumerated in subsection (a) of this section, the commission may adopt all such ordinances or regulations as it may deem advisable, not in conflict with the general laws of this state and of the United States, for the governing and policing of the county for the purpose of protecting and preserving the health, safety, welfare, and morals of the citizens of the county and for the implementation and enforcement of the powers and duties of the commission”; and

**WHEREAS**, recently the County had an opportunity to refinance Water & Sewer bond debt, and it was discovered that a more robust process for placement of this debt, with greater communication amongst the Governing Authority, could have increased the County’s position in realizing greater gains from the refinancing; and

**WHEREAS**, per the County Attorney, the Debt Policy, in many instances, is not written in absolutes and the Governing Authority has the express statutory duty to authorize the incurring of indebtedness; and

**NOW, THEREFORE, BE IT RESOLVED**, per section 9(b) of the Organizational Act, the DeKalb County Board of Commissioners implements the following updates to the policy and regulations outlined in the attached debt management policy (Exhibit A):

**ADOPTED** by the DeKalb County Board of Commissioners, this \_\_\_ day of \_\_\_\_\_, 2022.

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**ROBERT PATRICK**  
Presiding Officer  
Board of Commissioners  
DeKalb County, Georgia

**APPROVED** by the Chief Executive Officer of DeKalb County, this \_\_\_ day of \_\_\_\_\_, 2022.

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**MICHAEL L. THURMOND**

Chief Executive Officer  
DeKalb County, Georgia

**ATTEST:**

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**BARBARA SANDERS-NORWOOD, CCC**  
Clerk to the Board of Commissioners and  
Chief Executive Officer  
DeKalb County, Georgia

**APPROVED AS TO FORM:**

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**VIVIANE H. ERNSTES**  
County Attorney  
DeKalb County, Georgia

# **EXHIBIT A**

# DEBT POLICY

## Contents

This document contains the following:

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## Purpose

The purpose of the Debt Management Policy is to set forth parameters for issuing debt and managing outstanding debt. The intent is to provide structure for decisions regarding types and amounts of permissible debt, method of sale that may be used, structural features that may be incorporated, and the timing and purposes for which debt may be issued (both economic condition and operational need) including but not limited to:

- Providing revenue smoothing bridge funding (Tax Anticipation Notes); and
- Providing funding for capital intensive operations and redevelopment.

When the County issues debt, there are ongoing responsibilities related to federal tax law (with respect to tax-exempt securities) and securities laws (with respect to ongoing disclosure) or as a result of contractual commitments made by the County. The Post Issuance Compliance Policy for Tax Exempt Debt Obligations outlines the obligations that may be applicable to each issue and identifies the party to be responsible for monitoring compliance.

This policy is intended to provide guidance and direction on best practices but is not intended to be mandatory in all situations. Circumstances may dictate changes, alterations, and revisions. Deviations require formal written notice to the Governing Authority.

It is also the intent of this policy to communicate that all debt agreements obligating the County be discussed with and/or notification be provided to an appropriate level representative within the Finance Department prior to execution. Appropriate level representative will be the treasurer, assistant director of finance or the Finance Director. This policy will be reviewed periodically to ensure applicability and feasibility of its content taking into consideration the County's best interests, applicable laws, industry best practices and fiduciary responsibility to its citizenry.

## Policy Statement

The mix and structure of deposits and debt has a significant impact on the County's profitability, financial stability, interest rate risk, and ability to grow the balance sheet. The Finance Department - Treasury Services is responsible for managing the County's debt, collateral, and operating liquidity positions. Debt Management and Liquidity Management strategies are established by the Treasurer and are reported to the Finance Director, who will report to the Executive Assistant.

Debt Management incorporates many factors, including but not limited to:

- Meeting current and projected cash needs at reasonable funding cost
- Adjusting debt and collateral positions to facilitate the settlement of asset sales and purchases and to reduce execution risk
- Meeting contractual terms of financing agreements
- Maintaining relationships with underwriters and lenders and other counterparties
- Maintaining relationships with rating agencies
- Maintaining financial alternatives to support projected liquidity needs

To meet the objectives listed above, the County may make borrowing decisions that are not always at the lowest cost of funds.

Definitions and Terms:

- A. Arbitrage - In the context of government finance, the reinvestment of the proceeds of tax-exempt securities in materially higher-yielding taxable securities which is restricted by regulations with specifically defined exemptions.
- B. Arbitrage Rebate - A payment made by an issuer to the federal government in connection with an issue of tax-exempt bonds. The payment represents the amount, if any, of arbitrage earnings on bond proceeds and certain other related funds, except for earnings that are not required to be rebated under limited exemptions provided under the Internal Revenue Code.
- C. Anticipation Note - A short-term, usually interest-bearing note issued by a government in anticipation of another revenue source. The note is retired from proceeds of the revenue source to which it is related. Bond Anticipation Notes (BANs) and Tax Anticipation Notes (TANs) are two examples of common note types.
- D. Bond Counsel - An attorney or law firm, typically retained by the issuer, to give a legal opinion that the issuer is authorized to issue the proposed municipal securities, the issuer has met all legal requirements necessary for issuance. Typically, bond counsel may prepare or review and advise the issuer regarding authorizing resolutions, trust indentures, official statements, validation proceedings, and litigation.

- E. Capitalized Interest - A portion of the proceeds of an issue that is set aside to pay interest on the securities for a specified period of time. Interest is commonly capitalized for the construction period of a revenue-producing project, and sometimes for a period thereafter, so that debt service expense does not begin until the project is expected to be operational and producing revenues. Capitalized interest is sometimes referred to as "funded interest".
- F. Certificate of Participation - A security that represents a share of an issuer's lease payment. When a county government finances a public facility or asset through a lease-purchase transaction, the interest in that government's lease payment often is assigned to a third party that issues certificates of participation. The certificates represent a share of the lease payment to be received by the investor.
- G. Competitive Sale - One of three methods of sale where underwriters submit price proposals for the purchase of a new issue of municipal securities and the securities are awarded to the underwriter of underwriter syndicate presenting the best bid according to stipulated criteria set forth in the notice of sale. The underwriting of securities in this manner is also referred to as a "public sale" or "competitive bid."
- H. Compliance Officer- Individual authorized within the County with overall responsibility of complying with the Post-Issuance Compliance Policy and the Continuing Disclosure Policy with respect to County-issued tax-exempt obligations. The Compliance Officer is the Treasurer, or designee.
- I. Commercial Paper (CP) - Short-term, unsecured promissory notes, usually backed by a line of credit with a bank, that mature within 270 days. The issuer typically pays maturing principal of outstanding commercial paper with newly issued commercial paper, referred to as a "roll over," thereby borrowing funds on a short-term basis for an extended period of time. Commercial paper is considered to be a note.
- J. Conduit Financing - The issuance of municipal securities by a governmental unit (referred to as the "conduit issuer") to finance a project to be used primarily by a third party, usually a for-profit entity engaged in private enterprise of a 501(c)3 organization (referred to as the "conduit borrower"). The security for this type of issue is customarily the credit of the conduit issuer. Such securities do not constitute general obligations of the conduit issuer because the conduit borrower is liable for generating the pledged revenues.
- K. Continuing Disclosure - Disclosure of material information relating to municipal securities provided to the marketplace from time to time by the issuer of securities or any other entity obligated with respect to the securities.
- L. Coverage Ratio - Ratio of revenues pledged for debt to related debt service payments.
- M. Credit Enhancement - The use of the credit of an entity other than the issuer or obligor to provide additional security in a bond or note financing. This term typically is used in

the context of bond insurance, bank letters of credit and other facilities, state school guarantees and credit programs of federal or state governments or federal agencies, but also refers more broadly to the use of any form of guaranty, secondary source of payment or similar additional credit-improving instruments.

- N. Disclosure Counsel - An attorney or law firm retained by the issuer to provide advice on issuer disclosure obligations and to prepare the official statement and continuing disclosure agreement.
- O. Municipal Advisory Services - With respect to a new issue of municipal bonds, a consultant who advises the issuer on matters pertinent to the issue, such as structure, timing, marketing, fairness of pricing, terms, and bond ratings. The municipal advisor is sometimes referred to as a "financial advisor", or a "fiscal consultant". In the public finance industry and federal law, the term "municipal" is used to refer to local government entities, regardless of whether the entity is legally established as a city, county, or other legal forms of local governments.
- P. Fixed Rate - An interest rate on a security that does not change for the remaining life of the security.
- Q. Georgia Environmental Finance Authority (GEFA) - Founded in 1985, GEFA facilitates programs that conserve and protect Georgia's energy, land, and water resources. GEFA provides loans for water, sewer, and solid waste infrastructure; manages energy efficiency and renewable energy programs; oversees land conservation projects; and manages and monitors state-owned fuel storage tanks.
- R. General Obligation Bonds - A bond that is secured by the full faith, credit, and taxing power of the issuer. General obligation bonds issued by the local units of government are typically secured by a pledge of the issuer's ad valorem taxing power. Such bonds constitute debts of the issuer and require approval by election prior to issuance. In the event of a default, the holder of general obligation bonds has the right to compel a tax levy or legislative appropriation.
- S. Lease/Purchase Agreements - An agreement entered into by two parties in which one provides a facility or equipment in exchange for a pledge from the other to make regular lease payments. Upon completion of the lease term, the lessee assumes ownership of the item.
- T. Letters of Credit - A commitment, usually made by a commercial bank, to honor demands for payment of a debt upon compliance with conditions and/or the occurrence of certain events specified under the terms of the commitment. In municipal financings, bank letters of credit are sometimes used as additional sources of security for issues of municipal notes, commercial paper, or bonds, with the bank issuing the letter of credit committing to pay principal of and interest on the securities in the event that the issuer is unable to do so. A letter of credit may also be used to



provide liquidity for commercial paper, variable rate demand obligations and other types of securities.

- U. Level Debt Service - A debt service schedule in which the combined annual amount of principal and interest payments remains relatively constant over the life of the issue of bonds.
- V. Long-Term Debt - Long-term debt consists of loans and financial obligations that mature over one year. Long-term debt for an organization would include any financing or leasing obligations that are to come due in a greater than 12-month period. Financial and leasing obligations, bonds also called long-term liabilities, or fixed liabilities, would include an organization's bond issues or long-term leases that have been capitalized on a firm's balance sheet.
- W. Negotiated Sale - One of three methods of sale where the sale of a new issue of municipal securities by an issuer directly to an underwriter or underwriter's syndicate selected by the issuer. A negotiated sale is distinguished from a sale by competitive bid, which requires public bidding by the underwriters. Among the primary points of negotiation between the issuer and underwriter are the interest rate, call features and purchase price of the issue. The sale of a new issue of securities in this manner is also known as negotiated underwriting.
- X. Notes - A short-term obligation of an issuer to repay a specified principal amount on a certain date, together with interest at a stated rate, usually payable from a defined source of anticipated revenues. Notes usually mature in one year or less, although notes of longer maturities are also issued. While they are not considered short-term obligations, the State of Georgia offers financing for infrastructure through the Georgia Environmental Finance Authority (GEFA) loans which are categorized as notes.
- Y. Private (or Direct) Placement – One of three methods of sale where a new issue of securities is sold directly to institutional or private investors rather than through a public offering of securities. Investors purchasing privately placed securities are often required to agree to restrictions as to resale and requested or required to provide a private placement letter to that effect.
- Z. Proceeds - The money paid to the issuer by the purchaser or underwriter of a new issue of municipal securities. These monies are used to finance the project or other purpose for which the securities were issued and to pay certain costs of issuance as may be provided in the bond contract or bond purchase agreement.
- AA. Redemption - A transaction in which the issuer repays the holder of an outstanding security the principal amount thereof (plus, in certain cases, an additional amount representing a redemption premium). Redemption can be made under several different circumstances: at maturity of the security, as a result of the issuer exercising a right under the bond contract to repay the security prior to its scheduled maturity date (often referred to as an "optional redemption" or a "call"), or as a result of the security

holders' election to exercise a put or tender option privilege. Redemption provisions in the bond contract for a security may provide the issuer the right to retire the debt fully or partially before the scheduled maturity date.

- BB. Refunding Bonds - Issuance of new debt which proceeds are used to repay previously issued debt. The proceeds may be used immediately for this purpose, or they may be placed with an escrow agent and invested in an escrow account until they are used to pay principal and interest on the old debt in amounts on the dates specified in the refunding documents. The following are the refunding debt transactions and terms:
- a. Advance Refunding - A transaction in which new debt is issued to refinance existing debt (old debt), with the proceeds used to purchase Treasury securities (or kept in cash) that must be placed in escrow pending the call date or maturity (refunding in advance of redemption). An advance refunding is a refunding that occurs more than 90 days prior to the date when the outstanding issue is called for redemption. Tax-exempt bonds may be issued to advance refund an outstanding issue only once. Also, the advance refunding of tax-exempt bonds with tax-exempt bonds is no longer permitted under the Internal Revenue Code. Advance refunding bonds may be issued on a taxable basis, if advantageous.
  - b. Current Refunding - Refunding transaction in which the proceeds of the refunding debt are applied to redeem the debt to be refunded within 90 days prior of the redemption date for the prior bonds. A current refunding is a refunding that occurs within 90 days prior to the date when the outstanding issue is called for redemption.
  - c. Callable Bond - A bond that the issuer is permitted or required to redeem before the stated maturity at a specified price, usually at or above par, by giving notice of redemption in a manner specified in the bond contract.
  - d. Defeasance or Defeased Bond - Termination of the rights and interests of the bondholders and their lien on the pledged revenues or other security in accordance with the terms of the bond contract for an issue of securities. This is sometimes referred to as a "legal defeasance." Legal defeasance usually occurs in connection with the refunding of an outstanding issue after provision has been made for future payment of the obligations under the outstanding bonds typically through funds provided by the issuance of a new series of bonds, which funds are in an irrevocable escrow account. In some cases, particularly where the bond contract does not provide a procedure for termination of these rights, interests, and liens other than through payment of all outstanding debt in full, funds deposited for future payment of the debt may make the pledged revenues available for other purposes without affecting a legal defeasance. This is sometimes referred to as an "economic defeasance" or "financial defeasance." If for some reason the funds deposited in an economic or financial defeasance prove insufficient to make future payment of the outstanding debt, the issuer would continue to be legally obligated to make payment on such debt from the pledged revenues.
- CC. Revenue Bonds - A bond that is payable from a specific source of revenue and to which the full faith and credit of the issuer with taxing power is not pledged. Revenue bonds are payable from identified sources of revenue and do not permit the bondholders to compel taxation or legislative appropriation of funds not pledged for payment of debt

service. Pledged revenues may be derived from operation of the financed project, grants and excise or other non-ad-valorem taxes.

- DD. Rule 15c2-12 - A Securities and Exchange Commission rule under the Securities and Exchange Act of 1934 setting forth certain obligations of (i) underwriters to receive, review and disseminate official statements prepared by issuers of most primary offerings of municipal securities, (ii) underwriters to obtain continuing disclosure agreements from issuers and obligated persons to provide material event disclosures and annual financial information on a continuing basis, and (iii) broker-dealers to have access to such continuing disclosure in order to make recommendations of municipal securities in the secondary market.
- EE. Sinking Funds - A fund into which monies are deposited in order to be used to redeem securities in accordance with the redemption schedule in the bond contract. The term is sometimes used interchangeably with the term "mandatory sinking fund redemption."
- FF. Special District - Special districts may be created for the purpose of providing local government services within such districts; and fees, assessments, and taxes may be levied and collected within such districts to pay, wholly or partially, the cost of providing such services.
- GG. Trustee - A financial institution with trust powers that acts in a fiduciary capacity for the benefit of the bondholders in enforcing the terms of the trust indenture. In many cases, the trustee acts as paying agent, registrar and/or transfer agent for the bonds.
- HH. Underwriter - A broker-dealer that purchases a new issue of municipal securities from the issuer for resale in a primary offering. The underwriter may acquire the securities either by negotiation with the issuer or by award on a basis of competitive bidding.
- II. Variable Interest Rate - An interest rate sometimes referred to as a "floating rate," on a security that changes at intervals according to market conditions or a predetermined index or formula.

**Related Documents and References:**

- A. Post Issuance Compliance Policy
- B. Continuing Disclosure Policy and Procedures

## Policy

As a general guideline, the following parameters of use of funding sources will be observed:

PARAMETERS	FUNDING SOURCES				
	Cash	Loans	Capital Leases	Short-term Notes	Long-term Bonds
Project life is less than 10 years	><	><	><	><	
Project life is 10 years or greater		><	><	><	><
Recommended temporary funding prior to a bond sale				><	
Recommended variable rate funding mechanism			><	><	
The amount borrowed is less than \$5,000,000		><	><	><	
The amount borrowed is \$5,000,000 or larger		><		><	

### Permissible Debt Instruments

- A. General Obligation Bonds - General Obligation bonds can be considered as a financing source by the County when:
- The service provided is essential to DeKalb County government.
  - There is no clear underlying revenue stream.
  - The project cannot be completed from current revenue sources, or it is more equitable to finance the project over its useful life.

- B. General Obligation Debt - as defined by Georgia Law, is backed by the full faith and credit and unlimited taxing power of the County and requires DeKalb voter approval unless the purpose is to refund outstanding general obligation bonds to achieve debt service savings.

General Obligation bonds are considered Sales Tax General Obligation Bonds when a question concerning special purpose local option sales tax ("SPLOST") is placed on the ballot. This policy allows the County to issue general obligation debt backed by the SPLOST sales taxes to be used for capital projects. If the sales tax is approved by the voters, general obligation debt is also approved if included in the appropriate documents.

This type of general obligation debt is payable first from sales tax and then from general funds of the County if sales tax is not sufficient.

- C. Revenue Bonds - Revenue bonds can be considered as a financing source by the County when:
- The service provided is essential to DeKalb County government and has a strong underlying revenue stream.

- b. The service provided is non-essential to DeKalb County government but has a moderate underlying revenue stream.
- c. The project cannot be completed from current revenue sources, or it is more equitable to finance the project over its useful life.

When revenue bonds are issued, the County will maintain debt coverage ratios, which are set forth in any agreements or covenants associated with those bonds.

Both principal and interest of revenue bonds must be paid only with the revenue pledged to the payment of such bonds. However, the County may, at its sole discretion, secure revenue bonds with a full faith and credit guarantee through the execution of intergovernmental agreements.

- D. Certificates of Participation (COPs) - Certificates of participation are tax-exempt lease-purchase financing arrangements where the County can acquire real property, buildings, vehicles, and equipment without incurring a traditional form of debt such as general obligation bonds or revenue bonds. No voter referendum or court bond validation is required; however, an official intent via a board resolution to declare an intent to finance, establish maximum amount of financing and describe the property to be financed is required, and lease-purchase financing agreement must include the provisions described in Section 36-60-13, Official Code of Georgia Annotated, including a requirement that (i) such lease-purchase financing agreement must terminate at the end of each calendar year subject to annual renewal by the County Board of Commissioners – which renewal may be automatic unless the County Board of Commissioners take action to terminate the lease-purchase financing agreement and (ii) title to the real property, vehicles and/or equipment leased by the County must remain in the name of the lessor/vendor until fully paid for by the County as lessee pursuant to the terms of the lease-purchase financing agreement. The aggregate amount of outstanding lease-purchasing financing for real property may not exceed \$25,000,000 and average annual payments on the aggregate of all outstanding real property lease-purchase financings may not exceed 7.5% of the County's governmental fund revenues for the calendar year preceding the closing, plus any SPLOST taxes available for the financed projects.
- E. Redevelopment and Debt - Self-taxing arrangements are the preferred funding method for infrastructure within a Community Improvement District or a Tax Allocation District. The Tax Increment Financing (TIF) in conjunction with such an entity and self-tax arrangements may be utilized as a funding mechanism if it is authorized and demonstrated that a sufficient rate of return to encourage private investment is not otherwise available to the developer.

Any proposal for Tax Increment Financing shall include an independent financial feasibility study, demonstrate that the development contributes to the County's goals set forth in the Comprehensive Plan, comply with the provisions of the Redevelopment Powers Law (OCGA Section 36-44-1 et seq.), and shall be structured in such a way that the County is not obligated to pay from its general fund debt service on any tax

allocation bonds if there is insufficient tax allocation increment to pay such debt service.

- F. Special District Debt - The County may incur debt on behalf of any special district created pursuant to the Georgia Constitution. Such debt may be incurred only after the County has provided for the assessment and collection of an annual tax within the special district sufficient in amount to pay the principal and interest on such debt and has received the assent of a majority of the voters of the special district voting on the issue. The proceeds of this tax shall be placed in a sinking fund to be held on behalf of such special district and to be used exclusively to pay off the principal and interest on such debt.
- G. Authority Debt and Conduit Financing - Authorities which are registered with the Georgia Department of Community Affairs can incur debt or credit obligations. The County has activated several authorities which have the authority to issue debt, including the Development Authority of DeKalb County and the Urban Redevelopment Agency of DeKalb County.

According to Georgia law, bonds, obligations, and other indebtedness incurred by development authorities and urban redevelopment agencies do not constitute an indebtedness or obligation of the state or County. Unless otherwise specified within a lease or intergovernmental agreement between the County and any such authority, authority debt is not considered a financial commitment of the County.

- H. Interfund Loan Agreements - The Funds of the County may enter into an interfund loan agreement where one fund will advance funding to another fund for the purpose of providing operational funding or funding for capital acquisition to be repaid over an agreed upon period of time at a stated interest rate.
- I. Intergovernmental Loans - These are agreements whereby the County would apply for capital loan funding through the state of Georgia or federal sources to include but not limited to:
  - a. Georgia Environmental Finance Authority (GEFA) – Georgia Fund Loan, Clean Water State Revolving Fund Loan or Drinking Water State Revolving Loan Fund

To date, GEFA has provided more than \$3 billion in low-interest loans to cities, counties, and infrastructure authorities for improvements to water, sewer, and solid waste systems. More than 1,400 projects have been funded by GEFA to date, including solid waste management projects and land conservation purchases and easements. DeKalb County may consider the use of financing from GEFA to fund all or a portion of its relevant projects.

- b. Water Infrastructure Finance and Innovation Act of 2014 (through the US Environmental Protection Agency) – The Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) established the WIFIA program, a federal credit program administered by EPA for eligible water and wastewater infrastructure projects. WIFIA and the WIFIA implementation rule outline the eligibility and other requirements for prospective borrowers, including the County.
- J. Intergovernmental Agreements - The County may consider entering into an Intergovernmental Agreement with another public corporation or authority to provide financial assistance for purposes of capital acquisition to develop trade, commerce, industry, and employment opportunities within the County.
  - K. Short-term and Other Borrowing - Interim debt may be utilized for temporary funding of operational cash flow deficits pending receipt of anticipated revenues, or construction financing needs. Such borrowing must be in compliance with state law and in the form of:
    - a. Line of credit;
    - b. Anticipation notes;
    - c. Internal borrowings;
    - d. Commercial paper; or
    - e. Construction loan notes.

Repayment will occur over a period not to exceed the useful life of the underlying asset. Tax anticipation notes must mature by the end of the calendar year in which they were issued.

- L. Debt Capacity/Limitations - Management will consider the following when making the decision to issue debt:
  - a. Legal Debt Margin - County outstanding General Obligation bonds cannot exceed legal debt limits established by the Constitution of the State of Georgia (10% of assessed valuation of taxable property within the County).
  - b. With Water and Sewerage Revenue Bonds, the County has covenanted to bondholders in its Master Bond Resolution adopted in 2011 (as supplemented) that it will maintain rates and charges necessary to provide debt service coverage of at least 120% of the Debt Service Requirement on all Prior Lien and Senior Bonds then Outstanding for the year of computation and 100% of the Debt Service Requirement on all Subordinate Bonds then Outstanding for the year of computation.

M. Restrictions of Use of Long-Term Debt

- a. Long-Term Debt should not be used for funding operations.
- b. The final maturity of any Long-Term Debt should be less than or equal to the remaining useful life of the assets being financed, and the average life of the financing shall not exceed 120% of the average useful life of the assets being financed.
- c. The County will observe all statutory limitations including legally authorization for debt limits and tax and/or expenditure ceilings. This may also include any legal limitations related to coverage requirements or additional bond tests imposed by bond covenants.

N. Refinancing of Outstanding Debt - The County will contract with a municipal advisor to monitor the municipal bond market for opportunities to obtain interest savings by refunding outstanding debts. In adherence with federal tax law constraints, refunding will be considered if and when there is a net economic benefit of the refunding, the refunding is essential in order to modernize covenants or other commitments essential to operations and management, or to restructure payment schedules to optimize payments with anticipated revenue streams. As a general rule, refundings will be undertaken only if the present value savings of a particular refunding will exceed 5% of the refunded principal. Refunding issues that produce a net present value savings of less than targeted amounts may be considered on a case-by-case basis. Refunding issues with negative savings will not be considered unless a compelling public policy objective is served by the refunding.

O. Debt Structure

- a. Length/term - County debt will be amortized for the shortest period consistent with a fair allocation of costs to current and future beneficiaries or users, or to match the useful life of the project, and in keeping with other related provisions of the policy. The County will show a preference for the use of level debt service payments unless specific compelling reasons exist to structure the debt otherwise.
- b. Credit Enhancements - Credit enhancements (letters of credit, liquidity provider, bond insurance, etc.) may be used if the present value reduction of debt service costs achieved by their use outweighs the initial cost of the enhancement or when they provide other significant financial benefits or appropriate risk reduction to the County.
- c. Lien Levels - Senior, Junior and Subordinated Junior lien levels for each revenue source will be utilized in a manner that will maximize the most critical constraint - typically either cost or capacity- thus allowing for the most beneficial use of the revenue source securing the bonds.
- d. Debt Service Structure - County staff will carefully consider the debt service structure for each bond issue. Factors such as the flow of revenues projected for a particular project, the need to fill in the gaps created by refunding specific



maturities or to structure savings from a refunding in a particular year will be considered. Accelerated repayment will be considered within the bonding capacity constraints to provide capacity for future capital programs. Bonds will be amortized over a period not to exceed 120% of the estimated average useful life of the assets being financed.

- e. Capitalized Interest - Subject to state and federal law, interest may be capitalized from the date of issuance through the completion of construction to a maximum of three years. Interest may also be capitalized for projects in which the revenue projected to pay debt service on the bonds will be collected at a future date, not to exceed six months from estimated completion of construction. Any use of capitalized interest is subject to review and approval by bond counsel and the Finance Director.
- f. Call Provisions - Call provisions for bond issues shall serve the primary interests of providing financial flexibility. Call provisions shall be set in a manner that is as short as possible while achieving the lowest interest cost to the County.
- g. Debt Pools/Intergovernmental Arrangements -To the extent permitted by law, the County may form or enter into associations/agreements for joint issuance of debt. The purpose of such arrangements must be to share issuance costs, obtain better terms or rates, or to advance other fiscal goals. Only per contractual agreement or as permitted by law shall the County assume liability through any joint program for the debt obligations or tax consequences related to another government or organization's debt program.
- h. Fixed Rate Debt - The County has historically relied upon the budget certainty accruing from fixed rate debt to fund its borrowing needs and will continue to show a preference for this type of issuance. Fixed rate debt provides the benefit of fixed payments during the life of the bonds and budget certainty for long-term capital planning. However, fixed rate debt is typically longer and carries higher interest (assuming an upward sloping yield curve) than variable rate debt but is not subject to changes in interest rates. Fixed rate debt is the most common type of debt issued by the County.
- i. Variable Rate - Based on the situational or project specific reasons, the use of variable rate debt will be utilized in a limited way to the extent that it presents a significant interest savings to the County and does not subject the County to:
  - i. Excessive risk of unfavorable changes in interest rates;
  - ii. Pressure on the County's credit rating;
  - iii. Unexpected budgetary pressures; or
  - iv. Excessive debt service acceleration risk or the potential for balloon indebtedness in the event market access is restricted to the County the inability to repay variable rate obligations as they come due or escalating payments.

Those risks can be mitigated through the direct matching of variable rate debt with variable interest assets to create a natural hedge, by conservatively budgeting interest rate payments, or with an interest rate swap which has the effect of synthetically fixing the rate of debt service on the associated bonds. No derivative products will be utilized unless permitted by law or without prior authorization of the Governing Authority. No derivative products shall be utilized without an analysis by an independent municipal advisor and the implementation of an independent monitoring program.

- P. **Financing Team Selection Process** - The County employs outside financial specialists to assist in developing a bond issuance strategy, preparing bond documents and marketing bonds to investors. The key participants in the County's financing transactions include its municipal advisor, Bond Counsel, Disclosure Counsel (for a public offering), the Underwriter (in a negotiated sale), and County representatives. Other outside firms, such as those providing paying agent/registrars, trustee, credit enhancement, auditing, or printing services, are retained as required. The objectives of the selection process are participation from qualified providers, ensuring service excellence, and competitive cost structure. Unless exemptions apply, the County's Purchasing Policy governs the selection of professional service providers.
- a. **Municipal Advisory Services** – This section is mandatory. The County shall maintain at all times a contract for municipal advisory services, whose services shall be available to both the Chief Executive Officer and the Board of Commissioners, and which shall be rendered to each in the Advisor's fiduciary capacity. No contract for such services shall exceed five years in length but may be renewed or extended by official action of the Governing Authority of DeKalb County and each such contract must contain a termination for convenience clause. The municipal advisor shall maintain offices and staff with relevant skills within the southeast region of the United States. The authority to authorize services under the contract shall be exercised by either the Chief Executive Officer, the Board of Commissioners, or designee, subject to available budgetary capacity. This does not affect employees from obtaining service from the municipal advisor pursuant to the applicable contract. In accordance with the purchasing code, the County may retain municipal advisory services without solicitation of competitive proposals for municipal advisory services. If competitive proposals are solicited, a panel appointed by the Finance Director and Executive Assistant, in consultation with the Purchasing Director, shall review municipal advisory service proposals. The County may engage either an independent municipal advisor or may employ a municipal advisor who is a member or an affiliate of an investment banking firm. If a municipal advisor is an affiliate or employee of an underwriter, that firm may not participate in negotiated sales of debt issued by the County or secured by an intergovernmental agreement executed by the County.

In addition, if the municipal advisor has any profit sharing or other type of agreement with any member of the underwriting syndicate, for the transaction in question, they will not be allowed to act as municipal advisor. In general, no agreement will be permitted that would compromise the advisor's ability to provide independent advice or that could reasonably be perceived by the County as a conflict of interest. Advisors must alert the Chief Executive Officer, each member of the Board of Commissioners, the, the Finance Director, and the County Attorney, in writing, of any conflict, potential conflict, or potentially perceived conflict arises. With the implementation of the 2010 Dodd-Frank Act, municipal advisors must register with the Securities and Exchange Commission (SEC) and the Municipal Securities Rulemaking Board (MSRB) and meet professional and testing standards. As part of the review process, the County will establish whether the municipal advisor(s) being considered have secured these registrations and met the standards. While the County has typically employed a single municipal advisor, it is permissible to contract with multiple professionals when there is a demonstrated need, as in the case of an especially complex transaction.

- b. Underwriter Selection – The County may solicit proposals for underwriting services for debt issued in a negotiated sale via a Request for Qualifications (RFQ) and/or a Request for Proposals (RFP). The RFQ and/or RFP may result in the selection of one or more underwriters for a single transaction or result in the identification of a pool of underwriters from which firms will be selected over a specific period of time for a number of different transactions. The municipal advisor will be the primary point of contact for proposers during the proposal process. During the proposal process underwriters shall be prohibited from contacting elected officials. A committee appointed by the Executive Assistant, Finance Director, or designee shall review underwriting proposals, make recommendations, including co-managers, if any, to the Chief Executive Officer and Board of Commissioners, who shall select an underwriting firm or firms, which may include senior and co-managers, by official action of the Governing Authority.

With either a negotiated private placement or a negotiated sale, the underwriter must disclose any potential conflicts of interest. The County must also recognize that the roles of the underwriter and the municipal advisor are separate, adversarial roles and cannot be provided by the same party. The Dodd-Frank Act establishes that the municipal advisor must have a fiduciary responsibility to the issuer, there is not federal law establishing an underwriter's fiduciary responsibility. The County's objective in the underwriter selection process is to select the underwriters.

- c. Paying Agent, Trustee, Arbitrage Calculation Services, Escrow Agent - The County shall procure professional services for record keeping, banking services, or the other debt administration specialists in compliance with the Purchasing Policy.
- Q. Method of Sale - The County will select a method of sale that is the most appropriate in light of financial, market, transaction-specific and issuer-related conditions. Based on information

provided by the municipal advisor and other sources, the Finance Director or designee is authorized to determine the most advantageous process for the marketing and placement of the County's debt. Methods of sale include but are not limited to:

- a. Competitive Sales – The County will issue its debt obligations through competitive sales, or competitive private placement, unless it is determined that this form of sale will not yield the lowest True Interest Cost (TIC) to the County or if other factors preclude a competitive sale. The County, with the advice of the municipal advisor, will structure the sale parameters to meet the needs of the County while appealing to the broadest range of potential bidders. The County will reserve the right to reject any or all competitive bids they deem unsatisfactory, or to delay or rescind any scheduled competitive sale.
- b. Negotiated Sales – When certain conditions favorable for a competitive sale do not exist and when a negotiated sale will provide significant benefits not available through a competitive sale, the County may elect to sell its debt obligations through a negotiated sale. Factors that may favor the use of a negotiated sale include:
  - i. The rating of the bonds is lower than Single-A
  - ii. Bond insurance or other credit enhancement is not available or not cost-effective.
  - iii. The structure of the bonds has features that may be better suited to negotiation.
  - iv. The County desires to target underwriting participation to include DBE or local firms.
  - v. Other factors that the County, in consultation with its municipal advisor, believes favor the use of the negotiated sale process.

Such determination may be made on an issue-by-issue basis, for a series of issues, or for part or all of a specific financing program. The underwriting team is selected through a competitive process, as previously identified.

- c. Private (or "Direct") Placement - Under certain circumstances, the County will directly either competitively bid or negotiate financing terms with banks and financial institutions for specific borrowings on a private offering basis. The competitively bid private placement is preferred over the negotiated private placement so that the recommendation of a negotiated private placement over the competitive private placement should be justified. Typically, private placements are carried out by the County when (1) a private placement is likely to result in a lower borrowing cost as compared to a public offering; (2) when circumstances preclude public offerings; (3) as an interim financing tool; or (4) to avoid the costs of a public offering. Typically, the County will prepare a term sheet describing the issue and use that term sheet to solicit competitive bids from prospective investors. The County may issue a private placement with or without the use of a placement agent. Such determination will be made based upon the then current market conditions
- d. Lease/Purchase Agreements - The use of lease/purchase agreements in the acquisition of vehicles, equipment and other capital assets shall be considered carefully relative to any other financing option or a "pay-as-you-go" basis. While the lifetime cost of a lease typically will likely be higher than other financing options or cash purchases,

lease/purchase agreements may be used by the County as funding options for capital acquisitions if operational or cash flow considerations preclude the use of other financing techniques. Additionally, the repayment period of any lease purchase shall not exceed the projected economic life of the asset(s) being financed. Finally, multiyear lease purchase contracts must satisfy the conditions contained in OCGA 36-90-13. See also D. Certificates of Participation (COPs).

- R. Disclosure Practices - The County is committed to full and complete primary and secondary financial disclosure to rating agencies, national information repositories, state, and national regulatory agencies, as well as those of the underwriting market, institutional buyers, and other market participants as a means to enhance the marketability of County bond issuances.

Official statements accompanying the public offering of debt issues, Annual Comprehensive Financial Reports (ACFR), and continuing disclosure undertakings will meet (at a minimum) the standards articulated by the Government Accounting Standards Board (GASB), the National Federation of Municipal Analysts, the Securities and Exchange Commission (SEC), the Municipal Securities Rulemaking Board (MSRB) and Generally Accepted Accounting Principles (GAAP).

- a. Material Events Disclosure - Due to the nature of some material events, the Finance Director, or designee, in conjunction with the Executive Assistant has responsibility for material event disclosure defined specifically in the County's Continuing Disclosure Agreements and under SEC Rule 15c2-12.
- b. Ongoing Disclosure - The County will provide for routine, ongoing disclosure in accordance with SEC guidelines, specifically Rule 15c2-12. The County's Comprehensive Annual Financial Report will serve as the primary disclosure vehicle. (See "Continuing Disclosure Policy").
- S. Arbitrage Liability Management - The County shall comply with all arbitrage rebate requirements as established by the Internal Revenue Service. The Finance Director or their designee shall establish a system of record-keeping and reporting to meet the arbitrage rebate compliance requirements of the tax code. The effort shall include tracking project expenditures financed with tax-exempt bond proceeds, tracking investment earnings on bond proceeds, calculating rebate payments in accordance with tax law, and remitting any earnings to the federal government in a timely manner in order to preserve the tax-exempt status of the County's outstanding tax-exempt debt.
- a. It is the County's policy to minimize the cost of arbitrage rebate and yield restrictions while strictly complying with applicable arbitrage regulations on the investment of bond proceeds. Because of the complexity of arbitrage rebate regulations and the severity of non-compliance penalties, the advice of Bond Counsel and other qualified experts will be sought whenever questions about arbitrage rebate regulations arise. The County shall procure an outside firm for arbitrage calculations in compliance with the Purchasing Ordinance. The arbitrage reports are based on the anniversary of the bonds while construction

funds are available. After the proceeds are spent, the arbitrage reports are calculated every fifth year (on the anniversary of the bonds).

- b. In order to better manage the Arbitrage Rebate Liability for financial statement reporting purposes, the calculations would be done on an annual basis; however, the calculation of the payment of any liabilities would be based on the five-year anniversary calculations.
  - c. Rating Agency Relationship - The County is committed to providing periodic updates on the County's general financial condition to the rating agencies. In addition, the County will ~~conduct~~ discussions and/or presentations in conjunction with any debt-related transaction.
- T. Debt Policy Review – The Board of Commissioners will annually review the County’s debt obligations and Debt Management Policy to ensure that each still comport with the County’s best County interests, applicable laws, industry best practices, and fiduciary responsibility. This annual review is to take place within the Finance, Audit, and Budget (FAB) committee and at least one Committee of the Whole Meeting.

As part of this review, the Finance Director shall report on the maturity and eligibility for refinancing of any debt that the County may have at that time. The Finance Director shall report initially, and thereafter no less than 60 days before the call date of any debt issued by the County. The Finance Director, in consultation with the Executive Assistant, shall submit to the Chief Executive Officer, and each member of the Board of Commissioners a report on capital market conditions relevant to the refunding of such debt, and a recommendation on the disposition of such refunding opportunities.

### **Quality Control and Quality Assurance**

All multi-year obligations, including all leases, must be reviewed prior to execution by the Department of Finance, Treasury Division, and recommended to the Board of Commissioners by the Finance Director and Chief Executive Officer. It is the responsibility of the Finance Director or their designee to ensure the presence of procedures to provide sufficient guidance to affected County personnel to fulfill the intent of this policy. For the Post Issuance Compliance Policy and the Continuing Disclosure Policy and Procedures, the Finance Director or their designee may delegate responsibility to employees and outside agents for developing records, maintaining records, and checklists. The County will provide educational opportunities (opportunities to attend educational programs/seminars on the topic) for the parties identified in this policy with responsibilities for post-issuance compliance in order to facilitate their performance of these obligations. These policies will be reviewed annually and updated on an as-needed basis.

### **Metrics**

The County will use an objective, analytical approach to determine the amount of debt to be considered prior to authorization and issuance. This process involves the comparison of current County values against the medians of counties of similar size and creditworthiness and further guidance from all representative rating agencies as published.

**Authority**

The Chief Executive Officer and the Board of Commissioners are given defined roles in law, including but not limited to the Organizational Act of DeKalb County, 1981 Ga. Laws. P.4304 as amended. The Chief Executive Officer shall have the exclusive power to supervise, direct and control the administration of the county government, The Chief Executive Officer shall carry out, execute, and enforce this policy when it becomes effective. See Ga. Laws, p. 4303, as amended and codified as Section 9 and 13 of the Organizational Act of DeKalb County. 1981

**Records**

Each area within the Department of Finance will be responsible for annually retaining records which relate to the bonds. The Post Issuance Compliance and Continuing Disclosure Policies and Procedures, identifies specific responsibilities in more detail.

**Change Requirements and Conflicts with Local, State and Federal Law**

In the event the terms of this Policy conflict with applicable state or federal law or regulation, the terms of such law and regulation shall govern and shall supersede the terms of this Policy. Any changes, addition and/or deletion to this Policy shall be recommended, adopted, and approved by the DeKalb County Governing Authority.



## Purpose

The purpose of this policy is to guide DeKalb County, Georgia (the “County”) in meeting its obligations under the applicable statutes, regulations and documentation associated with publicly offered and privately placed securities of the County. The issuance of debt obligations plays an important role in financing the construction and improvement projects for the County. These debt obligations require ongoing compliance with federal tax law (with respect to tax-exempt securities), securities laws (with respect to ongoing disclosure) and contractual commitments made by the County.

## Policy Statement

In order to minimize the County’s exposure to liabilities imposed by taxing and legal authorities, the County must follow the procedural guidance stated in this policy. The County recognizes that compliance with pertinent law is an ongoing process, necessary during the entire term of the obligations, and is an integral component of the County’s debt management program. Accordingly, the analysis of those facts and implementation of the Policy will require ongoing monitoring and consultation with bond counsel, disclosure counsel, and the County’s accountants and advisors.

This policy outlines procedures and guidelines that may be applicable to each issue of bonds and identifies the party to be responsible for monitoring compliance. In the County, the *Deputy CFO (Assistant Director of Finance) and Treasurer* collectively, (the “Compliance Officer”) have the overall responsibility for ensuring that the policy is followed and checklists and records maintained. The Compliance Officer may delegate responsibility to employees and outside agents for developing records, maintaining records and checklists. The County will provide educational opportunities (opportunities to attend educational programs/seminars on the topic) for the parties identified in this policy with responsibilities for post-issuance compliance in order to facilitate their performance of these obligations.

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## Definitions and Terms

**Arbitrage:** occurs when the gross proceeds of a bond issue are used to acquire investments that earn a yield higher than the arbitrage yield. In these situations, Section 148 of the Internal Revenue Code of 1986, as amended allows the IRS to assess a penalty equal to one hundred percent (100%) of the excess earnings. The rebate amount due to the Federal Government is equal to the excess of the amount earned on all non-purpose investments purchased with gross proceeds of the bonds over the amount which would have been if such non-purpose investments were invested at a rate equal to the yield on the bonds. Certain exceptions are provided in the IRS Regulations that would reduce the penalty.

**Available Construction Proceeds:** an amount equal to (a) the sum of (i) the Issue Price of an issue, (ii) Investment Proceeds on that Issue Price, (iii) earnings on any reasonably required reserve or replacement fund allocable to the issue not funded from the Issue Price, and (iv) Investment Proceeds and earnings on (ii) and (iii), (b) reduced by the portions, if any, of the Issue Price of the issue (i) attributable to Pre-Issuance Accrued Interest and earnings thereon, (ii) allocable to the underwriter's discount, (iii) used to pay other Issuance Costs of the issue, and (iv) deposited in a reasonably required reserve or replacement fund allocable to the issue. Available Construction Proceeds does not include Investment Proceeds or earnings on a reasonable required reserve or replacement fund allocable to the issue for any period after the earlier of (a) the close of the 2-year period that begins on the Issuance Date or (b) the date the construction of the project financed by the issue is substantially completed, provided, however, that such Investment Proceeds or earnings shall be excluded from "Available Construction Proceeds" if the Issuer has timely elected such exclusion. If an issue is a Multipurpose Issue that includes a New Money Portion that is a Construction Issue, this definition shall be applied by substituting "New Money Portion" for "issue" each place the latter term appears. If an issue or the New Money Portion of Multipurpose Issue, as applicable, is not a Construction Issue, and the Issuer makes the bifurcation election under Regulations Sec. 1.148-7(j)(1) and Section 148(f)(4)(C)(v) to treat the issue or the New Money Portion as two separate issues consisting of the Construction Portion and the Nonconstruction Portion, this definition shall be applied by substituting "Construction Portion" for "issue" each place the latter term appears.

**Bifurcated Issue:** a New Money Issue or the New Money Portion of a Multipurpose Issue that the County, pursuant to Internal Revenue Code Section 148(f)(4)(C)(v) and Regulations Sec. 1.148-7(j), has elected in its Tax Certificate to bifurcate into a Construction Portion, which finances 100% of the Construction Expenditures, and a Nonconstruction Portion.

**Bona Fide Debt Service Fund:** a fund, including a portion of or an account in that fund (or in the case of a fund established for two or more issues, the portion of that fund properly allocable to an issue), or a combination of such funds, accounts or portions that is used primarily to achieve a proper matching of revenues with Debt Service on an issue within each Bond Year and that is depleted at least once each year except for a reasonable carryover amount not to exceed the greater of the earnings thereon for the immediately preceding Bond Year or one-twelfth of the annual Debt Service on the issue for the immediately preceding Bond Year.

**Bond Year:** the annual period relevant to the application of Section 148(f) to an issue, except that the first and last Bond Years may be less than 12 months long. The last day of a Bond Year shall be the close of business on the day preceding the anniversary of the Issuance Date of an issue unless the Issuer selects another date on which to end a Bond Year in the manner permitted by the Code.

**Code:** the Internal Revenue Code of 1986, the Regulations (whether temporary or final) under that Code or the statutory predecessor of that Code, and any amendments of, or successor provisions to, the

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foregoing and any official rulings, announcements, notices, procedures and judicial determinations regarding any official rulings, announcements, notices, procedures and judicial determinations regarding any of the foregoing, all as and to the extent applicable. Unless otherwise indicated, reference to a Section includes any applicable successor section or provision and such applicable Regulations, rulings, announcements, notices, procedures and determinations pertinent to the Section.

**Current Refunding Issue:** a refunding issue that is issued *not more* than 90 days before the final payment of principal or interest (redemption) on the prior issue.

**Debt Service:** principal of and interest and any redemption premium on an issue.

**Governmental Bond:** a bond issued as a part of an issue, no portion of which consists of a private activity bond.

**Issuance Costs:** costs to the extent incurred in connection with, and allocable to, the issuance of an issue, and includes underwriter's compensation withheld from the Issue Price, bond counsel fees, financial advisory fees, rating agency fees, trustee fees, paying agent fees, bond registrar, certification and authentication fees, accounting fees, printing costs for bonds and offering documents, public approval process costs, engineering and feasibility study costs, guarantee fees other than for a Qualified Guarantee and similar costs, but does not include fees charged by the Issuer.

**Issuance Date:** the date of physical delivery of an issue by the Issuer in exchange for the purchase price of the issue.

**Issue Price:** New Issue Price Regulations became effective for bonds sold on or after June 7, 2017 as summarized below.

**Public Offering – Actual Sales Standard.** As a general rule, the issue price of publicly offered bonds is the first price at which a substantial amount (still defined as 10%) is sold to the public. This general rule is based on actual sales of bonds, and (except for certain public sales) issue price may no longer be established based on the reasonable expectations of the underwriter. Except for these competitive sale exemptions, there are two alternatives for determining how the issue price is determined

**Alternative #1 to the General Rule – Hold-the-Offering-Price-Rule** – As an alternative to the general rule discussed above, an issuer may elect to establish the issue price by having the underwriter certify (1) it offered the bonds at the initial offering prices on or before the sale date, along with documents that support the certification (e.g. the pricing wire); and (2) that it did not offer nor sell the bonds to any person at a price higher than the initial offering prices for a specified period of time after the sale date. This “hold –the-offering-price period” begins on the sale date and ends on the earlier of: (1) the close of the 5<sup>th</sup> business day after the sale date; or (2) the date on which 10% of the bonds are sold to the public at or below the initial offering prices.

**Alternative #2 to the General Rule – Competitive Sale Alternative** – Another special alternative to the general issue price rule is available for eligible public (competitive) sales of bonds. A public sale will be eligible to employ this issue price method if: (1) the issuer distributes the notice of sale in a way designed to reach prospective underwriters; (2) all bidders have an equal opportunity to bid; (3) at least three bids are received from underwriters with established industry reputations for underwriting municipal bonds; and (4) the issuer awards the sale to the bidder who offers the highest price/lowest interest cost. If an issuer

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satisfies these requirements, it may establish the issue price of its bonds on the sale date by receiving a certification from the winning bidder regarding the reasonably expected initial offering price upon which the winning bid was based.

If more than one of the issue price alternatives discussed above is available for an issue of bonds, the issuer may choose which rule it will apply. This choice must be made on or before the issue date of the bonds and must be identified in the books and records maintained for the bonds (e.g., in an arbitrage or tax certificate).

**Private Placement.** The issue price of bonds sold for money in a private placement to a single buyer is the price paid by the buyer. The buyer cannot be an underwriter or a party related to an underwriter. As a general matter, if a buyer and an underwriter have more than 50% common ownership or control, the parties will be related for this purpose (see Treas. Reg. Section 1.150-1(b)). In the final regulations, an underwriter is defined as (1) any legal entity that agrees in a written contract with the issuer (or with the lead underwriter to form an underwriting syndicate) to sell the bonds to the public; and (2) any legal entity that enters into a written contract with a person described in (1) above to participate in the initial sale of the bonds to the public. In addition, the term “public” is defined as any person other than the underwriter or a related party to an underwriter.

1. **Ongoing (Continuing) Disclosure:** obligations set forth under SEC Rule 15c2-12 that requires issuers of municipal securities to provide and disseminate annual financial information and material event notices to the public.

**Private Activity Bond:** A municipal security of which the proceeds are used by one or more private entities. A municipal security is considered a private activity bond if it meets two sets of conditions set out in Section 141 of the Internal Revenue Code. (see “private business use test” below) and the payment of the principal of or interest on more than 10 percent of the proceeds of such issue is secured by or payable from property used for a private business use (see “private payment or security test” below). A municipal security also is a private activity bond if, with certain exceptions, the amount of proceeds of the issue used to make loans to non-governmental borrowers exceeds the lesser of 5 percent of the proceeds of \$5 million (see “private loan financing test”).

Interest on private activity bonds is not excluded from gross income for federal income tax purposes unless the bonds fall within certain defined categories (“qualified bonds” or “qualified private activity bonds”), as described below. Most categories of qualified private activity bonds are subject to the alternative minimum tax. The following categories of private activity bonds are qualified bonds under current federal tax laws:

Exempt facility bonds – Private activity bonds issued to finance various types of facilities owned or used by private entities, including airports, docks and certain other transportation-related facilities; water, sewer and certain other local utility facilities; solid and hazardous waste disposal facilities; certain residential rental projects (including multi-family housing revenue bonds); and certain other types of facilities. Enterprise zone and recovery zone facility bonds are also considered exempt facility bonds.

**Private Activity Use:** Any activity that constitutes a trade or business that is carried on by Nongovernmental Persons. Any activity carried on by a person other than a natural person is treated as a trade or business. Any asset financed with tax exempt securities not owned by the County or another Governmental Entity will be considered to be used in a Private Use. In most cases, Private Use will occur only if a Nongovernmental Person has a special legal entitlement to use the bond financed property. Such a special legal entitlement includes ownership or actual beneficial use pursuant to a lease, management, service or incentive payment contract, output contract, research agreement or similar arrangement. Private

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Use may also be established solely on the basis of a special economic benefit to one or more Nongovernmental Person.

**Private Business Use Test:** More than 10% of the proceeds of an issue used for any private business use. In applying this test, bond proceeds can be used to finance the working capital expenditures of a governmental entity.

**Private Loan Financing Test:** Amount of proceeds of the issue which is to be used (directly or indirectly) to make or finance loans to persons other than governmental entities exceeds the lesser of 5% of such proceeds or \$5,000,000.

**Private Payment or Security Test:** More than 10% of the payment of principal or interest on the bond issue is either made or secured (directly or indirectly) by payments or property used or to be used for a private business use.

**Private Person:** Any natural person or any artificial person, including a corporation, partnership, trust or other entity, other than a governmental unit. "Private Person" includes the United States and any agency or instrumentality of the United States.

**Rebate Exceptions:** There are certain exceptions that are available to the County in order to avoid arbitrage rebate. These include the 6-month, 18-month and two-year spending exception, bona fide debt service fund exception, payment of penalty in lieu of rebate and the small issuer exception where arbitrage rebate is not required for bond issues less than \$5,000,000 in one year.

**Rebate Monitor:** Individual authorized within the County to maintain records relative to investment of bond proceeds and monitor compliance with arbitrage rebate obligations of the County.

**Rebate Requirements:** The rebate amount due to the Federal Government is equal to the excess of the amount earned on all non-purpose investments purchased with gross proceeds of the bonds over the amount which would have been earned if such non-purpose investments were invested at a rate equal to the arbitrage yield on the bonds.

**Record Retention:** The Internal Revenue Service guidelines require that certain books and records to support positions taken in the treatment of a bond issue be maintained over a stated period of time to facilitate a review and examination should the need arise. The books and records should be maintained over the life of the bonds plus three years after the final redemption of the bonds.

**Remedial Action:** Process by which a condition of noncompliance is remedied to preserve the tax exempt status on a debt issue. Examples of remedial actions taken to cure noncompliance include redemption or defeasance of bonds, alternative use of disposition proceeds and alternative use of bond-financed facilities. An additional remedial action is entering into a closing agreement under the TEB (Tax-Exempt Bond) Voluntary Closing Agreement Program (VCAP).

**Temporary Period:** As set forth in Section 1.148-2 of the Treasury Regulations, the period during which the proceeds and replacement proceeds on an issue may be invested in higher yielding investments without causing bonds in the issue to be arbitrage bonds. The direct and indirect investment of bond proceeds in a materially higher yielding investment does not cause the bonds of an issue to be an arbitrage bond in the following three instances: during the temporary period (i.e. generally, 3-year temporary period for capital projects and 13 months for restricted working capital expenditures); as a part of a reasonably required reserve or replacement fund; and as part of a minor portion (an amount not exceeding the lesser of 5% of the sale proceeds of the issue or \$100,000).

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**Voluntary Closing Agreement Program (VCAP):** This program provides remedies to issuers who voluntarily come forward to resolve a violation. The terms of a closing agreement vary according to the degree of violation as well as the facts and circumstances surrounding the violation. The violations may but not necessarily limit themselves to private activity bonds, private business use or arbitrage violations.

**Yield Reduction Payments:** Payments made to the US Department of the Treasury to reduce the yield on yield-restricted investments when the yield on those earnings is materially higher than the yield of the bond issue. These payments are submitted by filing a Form 8038-T (Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate). Yield reduction payments are due every 5 years within 60 days after each computation date.

**Yield Restriction:** The direct and indirect investment of bond proceeds in a materially higher yielding investment does not cause the bonds of an issue to be an arbitrage bond in the following three instances: during the temporary period (i.e. generally, 3-year temporary period for capital projects and 13 months for restricted working capital expenditures); as a part of a reasonably required reserve or replacement fund; and as part of a minor portion (an amount not exceeding the lesser of 5% of the sale proceeds of the issue or \$100,000).

## Post Issuance Compliance Policy

1. Transcripts. The County's bond counsel shall provide the County with both two bound and two compact discs of a full transcript related to the issuance of securities (for each issue) to be distributed to the Department of Finance and the Department of Law, respectively, as part of the official records related to the bonds. The transcript shall be delivered within three months following the date of issuance of securities. It is expected that the transcript will include a full record of the proceedings related to the issuance of securities, including proof of filing a Form 8038, 8038-G or 8038-GC, if applicable.
2. Federal Tax Law Requirements – (Applies to all securities issued as “tax exempt” securities).
  - a. Use of proceeds: If the project(s) to be financed with the proceeds of the securities will be funded with multiple sources of funds, the County will adopt an accounting methodology that either:
    - i. Maintains each source of funding separately and monitors the actual expenditure of proceeds of the securities; or
    - ii. Blends the proceeds with other funding sources and monitors the expenditures on a first in, first out basis; or
    - iii. Provides for the expenditure of funds received from multiple sources on a proportionate basis.
  - b. Records of expenditures (construction contracts, purchase orders, requisitions, invoices, timing of expenditure and accounting distribution) of the proceeds of securities will be maintained by the Department of Finance – Treasury & Accounting Services or the area responsible authorized to submit requisitions.
  - c. Records of investments and interest earnings on the proceeds of securities will be maintained by the area responsible for Investments/Cash Management within the Department of Finance. Such records should include the amount of each investment, the date each investment is made, the date each investment matures and in if sold prior to maturity, its sale date, and its interest rate and/or yield. Interest earnings on proceeds will be deposited in the fund in which the proceeds of the securities were deposited (if not, then the plan for use of interest earnings will be discussed with the County's bond counsel.)

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- d. Similarly, records of interest earnings on reserve funds maintained for the securities will be maintained by the area responsible for Investments/Cash Management within the Department of Finance.
  - e. Maintain careful records of all facilities and other costs (e.g., issuance costs, credit enhancement and capitalized interest) and uses (e.g., deposit to reserve fund) for which bond proceeds were spent or used. These records should be maintained separately for each issue of bonds.
3. Arbitrage Rebate. The Compliance Officer and other individual authorized to maintain records related to investments within the Department of Finance of the County will monitor compliance with the arbitrage rebate obligations of the County for each issue of securities ~~issue~~ (“issue”) which are described in further detail in the tax certificate if any, executed by the County for each issue and included in the transcript for the issue. The County will provide educational opportunities from a reputable source (College/University, the County’s Financial Advisory firm, Bond Counsel, etc.) in order for staff to facilitate his/her performance of these obligations.
- a. If the Rebate Monitor determines that the total principal amount of tax-exempt governmental obligations (including all tax-exempt leases, etc.) of the County issued by or on behalf of the County and subordinate entities during the calendar year, including the issue, will not be greater than \$5,000,000, the Rebate Monitor will not be required to monitor arbitrage rebate compliance for the issue, except to monitor expenditures and use the proceeds after completion of the project (see section related to *Unused Proceeds Following Completion of Project* below). For purposes of this paragraph, tax-exempt governmental obligations issued to currently refund a prior tax-exempt governmental obligation will only be taken into account to the extent they exceed the outstanding amount of the refunded bonds.
  - b. If the Rebate Monitor determines that the total principal amount of tax-exempt governmental obligations (including all tax-exempt leases, etc.) of the County issued or incurred any calendar year is greater than \$5,000,000, the Rebate Monitor will monitor rebate compliance for each issue of tax-exempt governmental obligations issued during the calendar year.
    - i. Rebate Exception – The Rebate Monitor will review the tax certificate, if any, in the transcript in order to determine whether the County is expected to comply with a spending exception that would permit the County to avoid having to pay arbitrage rebate. If the tax certificate identifies this spending exception (referred to as the six-month exception, the 18 month exception or the 2-year exception), then the Rebate Monitor will monitor the records of expenditures (see section related to *Federal Tax Requirements Use of Proceeds* above) to determine whether the County met the spending exception (and thereby avoid having to pay any arbitrage rebate to the federal government). If the County did not execute a tax certificate in connection with potential applicability of spending exceptions.
    - ii. Rebate Compliance – If the County does not meet or does not expect to meet any of the spending exceptions described in (a) above, the County will:
      1. Review the investment earnings records retained as described in *Federal Tax Requirements Use of Proceeds* above in order to facilitate the preparation of arbitrage rebate reports.
      2. At the time of issuance, but in no event later than 60 days prior each Installment Computation Date, the County shall retain the services of an arbitrage rebate consultant in order to calculate any potential arbitrage rebate liability. The rebate consultant shall be selected through a method that is in compliance with the County’s *Purchasing Policy*. A rebate consultant may be selected on an issue by issue basis or for all securities

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## Finance Department – Treasury

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- issues of the County. The Rebate Monitor will obtain the names of at least three qualified consultants and request that the consultants submit proposals for consideration prior to being selected as the County's rebate consultant. Annually, the selected rebate consultant shall provide a written report to the County with respect to the issue and with respect to any arbitrage rebate owed if any.
3. Based on the report of the rebate consultant, file reports with and make any required payments to the Internal Revenue Service, no later than the fifth anniversary of the date of each issue (plus sixty (60) days), and every five years thereafter, with the final installment due no later than sixty (60) days following the retirement of the last obligation of the issue.
  4. At least annually, the County will cause to have its Post Issuance Compliance Checklist completed or updated. This Checklist will be filed along with the annual audit.
- c. Yield Reduction Payments – If the County fails to expend all amounts required to be spent as of the close of any temporary period set forth in the Treasury Regulations (generally 3 years for proceeds of a new money issue and 13 months for amounts held in a debt service fund), the County will follow the procedures described in *Arbitrage Rebate, Rebate Compliance* above to determine and pay any required yield reduction payment.
4. Unused Proceeds Following Completion of the Project – Following completion of the project(s) financed with the issue proceeds, the Department of Finance – Treasury & Accounting Services in conjunction with the liaison for the project construction management will:
    - a. Review the expenditure records to determine whether the proceeds have been allocated to the project(s) intended (and if any questions arise, consult with bond counsel in order to determine the method of reallocation of proceeds); and
    - b. Direct the use of remaining unspent proceeds (in accordance with the limitations set forth in the authorizing proceeds (i.e., bond ordinance) and if no provision is otherwise made for the use of unspent proceeds, to the redemption of defeasance of outstanding securities of the issue or for such other purpose as may be approved by the County's bond counsel.
  5. Use of the Facilities Financed with Proceeds – In order to maintain tax exemption of securities issued on a tax-exempt basis, the financed facilities/assets/projects are required to be used for governmental purposes during the life of the issue. The IRS Treasury Regulations prohibit private business use (including use by private parties (such as nonprofit organizations and the federal government)) of tax-exempt financed facilities/assets beyond permitted *de minimis* amounts unless cured by a prescribed remedial action. Private use may arise as a result of:
    - a. Sale of the facilities/assets;
    - b. Lease of the facilities/assets (including leases, easement or use arrangements for areas outside the four walls, e.g., hosting of cell phone towers);
    - c. Management contracts (in which the County authorizes a third party to operate a facility (e.g., cafeteria);
    - d. Preference arrangements (in which the County grants a third party preference of the facilities, e.g., preference parking in a public parking lot).
    - e. Before entering into any new management, service or research agreements described above, engage County's bond counsel to review such agreements to determine whether they result in private business use.
    - f. Analyze at least annually any private business use of debt financed facilities to determine whether the 5% limitation on private business use of proceeds of the issue is exceeded.

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- g. Maintain copies of all of the following contracts or arrangements (or, if no written contract exists, maintain detailed records of the following contracts or arrangements) with a Private Person:
    - i. Sales of debt financed facilities
    - ii. Leases of debt financed facilities
    - iii. Management or service contracts relating to debt financed facilities
    - iv. Research contracts under which a Private Person sponsors research in debt financed facilities.
  - h. Any other contracts involving “special legal entitlements” (such as naming rights or exclusive provider arrangements) granted to a Private Person with respect to debt financed facilities.
  - i. If the County identifies private use of tax-exempt debt financed facilities, the County will consult the County’s bond counsel to determine whether private use will adversely affect the tax-exempt status of the issue and if so, what remedial action is appropriate.
6. Records Retention
- a. Records with respect to matters described in this policy will be retained by the County for the life of the securities issue (and any issues that refunds the securities issue) and for a period of four (4) years thereafter.
  - b. If Bonds are refunded, life of refunding bonds and four (4) years thereafter.
  - c. Records to be retained include:
    - i. Board minutes and resolutions
    - ii. Appraisals
    - iii. The transcripts
    - iv. Arbitrage rebate reports prepared by outside consultants;
    - v. Work papers that were provided to the rebate consultants;
    - vi. Records of expenditures and investment receipts (showing timing of expenditure and the object code of the expenditure and in the case of investment, timing of receipt of interest earnings). (Maintenance of underlying invoices should not be required provided the records include the date of the expenditure, payee name, payment amount and object code; however, if those documents are maintained as a matter of policy in electronic form, then the County shall continue to maintain those records in accordance with this policy);
    - vii. Payments for credit facilities
    - viii. Copies of all certificates and returns filed with the IRS (e.g., for payment of arbitrage rebate); and
    - ix. Copies of all leases, user agreements for use of the financed property (agreements that provide for the use of the property for periods longer than 30 days), whether or not the use was within the four walls (e.g., use of the roof of the facility for a cell phone tower).
7. Ongoing (Continuing) Disclosure – Under the provisions of SEC Rule 15c2-12 (the “Rule”), underwriters are required to obtain an agreement for ongoing disclosure in connection with the public offering of securities. Unless the County is exempt from compliance with the Rule as a result of certain permitted exemptions, the transcript for each issue will include an undertaking by the County to comply with the Rule. The County will monitor compliance with its undertakings. These undertakings may include the requirement to file notices of listed “material events.” See (“Continuing Disclosure Policy and Procedures 2017”)



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## Finance Department – Treasury

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8. Other Notice Requirements – In some instances, the proceedings authorizing the issuance of securities will require the County to file information periodically with other parties, e.g., bond insurers, banks, rating agencies. The types of information required to be filed may include:
- Budgets
  - Comprehensive Annual Financial Reports (CAFR)
  - Issuance of additional debt obligations
  - Amendments to financing documents, and
  - Event notices.

Event notices would include the following:

- Principal and interest payment delinquencies
- Non-payment related defaults
- Unscheduled draws on debt service reserves reflecting financial difficulties
- Unscheduled draws on credit enhancements reflecting financial difficulties
- Substitution of credit or liquidity providers, or their failure to perform
- Adverse tax opinions or events affecting the tax-exempt status of the security
- Modifications to rights of security holders
- Bond calls and tender offers
- Defeasances
- Release, substitution or sale of property
- Rating changes
- Bankruptcy, insolvency or receivership
- Merger, acquisition or sale of all issuer assets
- Appointment of successor trustee

The Department of Finance will maintain a listing of those requirements and monitor compliance.

## Related Documents

Debt Management Policy

Investment Policy

Continuing Disclosure Policy and Procedure

## Change Control Matrix

These procedures may be amended or supplemented at any time, including without limitations by the promulgation of memoranda addressing specific issues, with the approval of both the Compliance Officer and the CFO. All such amendments or supplements shall be reviewed by the County Attorney and outside counsel as necessary.

## References

Rule 15c2-12(b) (5) under the Securities Exchange Act of 1934

Internal Revenue Code of 1986, as amended

IRS Treasury Regulations

**DeKalb County, Georgia**  
**Finance Department – Treasury**

**Post-Issuance Compliance Policy for Tax Exempt Obligations**

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Master Bond Resolution Agreements

Tax Regulatory and No-Arbitrage Certificates, Various County Debt Issues

Publication 4079, “Tax-Exempt Governmental Bonds Compliance Guide”, Internal Revenue Service website, <http://www.irs.gov/pub/irs-pdf>

Internal Revenue Service website providing information for the Tax Exempt Bond Community, <http://www.irs.gov/taxexemptbond/>

## **Appendix**

Post Issue Compliance Checklist

Bond Proceeds/Investment/Drawdown Report

Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu or Arbitrage Rebate

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**Finance Department – Treasury**

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**POST ISSUANCE COMPLIANCE CHECKLIST**

**DeKalb County, Georgia**  
**Finance Department – Treasury**



**Post Issuance Compliance Checklist**

Bond Issue:  
 Date of Issue:  
 Taxable or Non-Taxable: \_\_\_\_\_(YES/NO)

**TRANSACTION PARTIES**

Overall Responsible Office for Debt Management Activities  
 Bond Counsel:  
 Trustee  
 Paying Agent:  
 Rebate Specialist  
 Other:  
 Other:

TAX COMPLIANCE MATTERS	DOCUMENT REFERENCE	RESPONSIBILITY
<b>GENERAL POLICY MATTERS:</b>  Ensure receipt of the closing binder and other customary transaction documents (the Bond transcript).		
Confirm whether bond counsel filed the applicable information returns (Form 8038, Form 8038-G, Form 8038-CP) with the IRS on a timely basis.		
Coordinate receipt and retention of relevant books and records with respect to investment and expenditure of the proceeds of such obligations.		
Use of Proceeds: No private business use arrangement with private entity (including federal government) including sale of facilities, lease, nonqualified management contract, nonqualified research contract, special legal entitlement.		

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<p><b>TAX COMPLIANCE MATTERS:</b>  <b>Arbitrage:</b>          Confirm that a certification of the initial offering prices of the Obligations with such supporting data, if any, required by bond counsel, is included in the transcript.</p>		
<p>Confirm that a computation of the yield on such issue from the financial advisor or bond counsel is contained in the transcript.</p>		
<p>Retain the services of an arbitrage rebate consultant in order to calculate any potential arbitrage rebate liability. Services should be procured in accordance with the County's Purchasing Policy.</p>		
<p>Coordinate the tracking of expenditures, including the expenditure of any investment earnings. If projects to be financed with proceeds of the obligations are funded with multiple sources of funds, confirm that an accounting methodology exists that maintains each source of financing separately and monitors the actual expenditure of proceeds of the obligations.</p>		

# DeKalb County, Georgia Finance Department – Treasury

## Post-Issuance Compliance Policy for Tax Exempt Obligations

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Monitor expenditures to semi-annual target dates for six-month, 18-month or 24-month spending exceptions.		
Monitor expenditures generally against date of issuance expectations for three-year or five-year temporary periods or five-year hedge bond rules.		
Monitor and maintain earnings on reserve funds maintained for the securities.		
Retain the services of an arbitrage rebate consultant in order to calculate any potential arbitrage rebate liability. Services should be procured in accordance with the County's Purchasing Policy.		

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<p>Arbitrage Rebate</p> <ul style="list-style-type: none"> <li>(a) First installment of arbitrage rebate due on fifth anniversary of bond issuance plus 60 days.</li> <li>(b) Succeeding installments every five years.</li> <li>(c) Final installment 60 days after retirement of last bonds of issue.</li> </ul>		
<p>Maintain records determining and tracking facilities financed with specific obligations and the amount of proceeds spent on each facility.</p>		
<p><b>Private Activity Rules:</b>          Monitor private use of financed facilities to ensure compliance with applicable limitations on such use. Examples of potential private use include:</p> <ul style="list-style-type: none"> <li>(a) Sale of facilities, including sale of capacity rights;</li> <li>(b) Lease or sub-lease of the facilities (including leases, easements or use arrangements for areas outside the four walls, e.g. hosting of cell phone towers) or lease improvement contracts;</li> <li>(c) Management contracts (in which the Issuer authorizes a third party to operate a facility, e.g., cafeteria) and research contracts;</li> <li>(d) Preference arrangements (in which the Issuer permits a third party preference, such as parking in a public parking lot);</li> <li>(e) Joint-ventures, limited liability companies or partnership arrangements;</li> <li>(f) Output contracts or other contracts for use of utility facilities (including contracts with large utility users);</li> <li>(g) Development agreements which provide for guaranteed payments or property values from a developer;</li> <li>(h) Grants or loans made to private entities, including special assessment agreements; and</li> <li>(i) Naming rights arrangements.</li> </ul>		

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<p>Monitoring of private use should include the following:</p> <ul style="list-style-type: none"> <li>(a) Procedures to review the amount of existing private use on a periodic basis; and</li> <li>(b) Procedures for identifying in advance any new sale, lease or license, management contract, sponsored research arrangement, output or utility contract, development agreement or other arrangement involving private use of financed facilities and for obtaining copies of any sale agreement, lease, license, management contract, research arrangement or other arrangement for review by bond counsel.</li> </ul>		
<p><b>Federal Subsidy Payments:</b></p> <p>Calculate the amount of any federal subsidy payments and timely prepare and submit applicable tax form and application for federal subsidy payments for tax-advantaged obligations for Build America Bonds</p>		
<p><b>RECORD RETENTION:</b></p> <p>Retain the following records associated with the issuance of securities for the life of the bond issue plus three years:</p> <ul style="list-style-type: none"> <li>(a) Transcript relating to the bond issuance including any arbitrage or tax certificate and bond counsel opinion.</li> <li>(b) Documentation evidencing expenditure of issue proceeds</li> <li>(c) Documentation regarding the types of facilities financed with the proceeds of an issue, including, but not limited to, whether such facilities are land, buildings or equipment, economic life calculations and information regarding depreciation.</li> <li>(d) Documentation evidencing use of financed property by public and private entities (e.g., copies of leases, management contracts, utility user agreements, developer agreement and research agreements);</li> <li>(e) Documentation evidencing all sources of payment or security for the issue;</li> <li>(f) Documentation pertaining to any investment of proceeds of the issue (including the purchase and sale of securities, SLGs subscriptions, yield calculations for each class of investments, actual investment income received by the investment of proceeds, guaranteed investment contracts, and rebate calculations).</li> </ul>		

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### Post-Issuance Compliance Policy for Tax Exempt Obligations

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<p>Coordinate the retention of all records in a manner that ensures their complete access to the IRS.</p>		
<p><b>CONTINUING DISCLOSURE:</b></p> <p>Verify certificate exists to enable the underwriter to comply with Rule 15c2-12 under the Securities Exchange Act of 1934.</p>		
<p>Maintain periodic disclosure of the following items to bond insurers, banks, rating agencies, et. al.</p> <ul style="list-style-type: none"> <li>(a) Budgets</li> <li>(b) Comprehensive Annual Financial Reports (CAFR)</li> <li>(c) Issuance of additional debt obligations</li> <li>(d) Amendments to financing documents</li> <li>(e) Event notices</li> </ul>		



# DeKalb County, Georgia Finance Department – Treasury

## Post-Issuance Compliance Policy for Tax Exempt Obligations

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### BOND PROCEEDS/INVESTMENT/DRAWDOWN REPORT

DeKalb County, GA  
Bond Proceeds/Investment/Drawdown Report  
31 Aug 15

Bond Category	Issue Date	On Deposit With	Account Number	Total Deposited	Prior Interest Earned	Prior Drawdowns	Prior Balance Remaining	% Spent	Current Interest	Current Drawdowns	Balance Remaining	% Spent
2004 Equipment/Vehicle Leases Purchase (Revenue Fund)	9/29/2004	Bank of America	4389761	28,000,000.00	-	-	28,000,000.00	0.00%	-	-	28,000,000.00	0.00%
2004 Equipment/Vehicle Leases Purchase (Revenue Fund)	12/19/2013	US Bank	207413901	624,177.80	-	535,624.69	88,493.11	85.32%	-	-	88,493.11	85.32%
2013 Water & Sewer Revenue Refunding Bonds (Cost of Issuance Fund)	11/02/2013	US Bank	207530001	302,714.08	-	270,028.76	32,685.32	89.20%	-	-	32,685.32	89.20%
2011 Water & Sewer Revenue Bonds (Project Fund)	12/14/2011	US Bank	156281000	394,481,705.00	1,307,425.23	85,651,031.30	310,133,078.93	21.64%	-	43,906,052.69	265,227,026.24	32.73%
2011 Water & Sewer Revenue Bonds (Public Service Reserve Fund)	12/14/2011	US Bank	156281003	13,048,733.26	3,087.01	-	13,071,813.26	0.00%	-	-	13,071,813.26	0.00%
2011 Water & Sewer Revenue Bonds (Revenue & Extrajurisdiction Bond)	12/14/2011	US Bank	156281004	750,884.63	1.63	750,900.26	(16.00)	100.00%	-	-	(16.00)	100.00%
Total 2011 Water & Sewer Revenue Bonds				408,375,118.51	335,493.87	86,402,031.56	322,567,618.82			43,906,052.69	279,246,046.13	
2010 Water & Sewer Revenue Bond - Taxable RDB (Project Fund)	12/9/2010	Bank of America	33400893862	25,378,850.00	151,470.63	7,565,558.00	18,004,762.63	28.99%	-	-	18,004,762.63	36.09%
2010 Water & Sewer Revenue Bond - Taxable RDB (Cost of Issuance Fund)	12/9/2010	Bank of America	33400893863	67,850.00	-	67,850.00	0.00	100.00%	-	-	0.00	100.00%
Total 2010 Water & Sewer Revenue Bonds				25,446,700.00	151,470.63	7,633,408.00	18,004,762.63			1,662,248.34	16,342,514.29	
2010 Economic Development Recovery Zone Bonds (Project Fund)	12/9/2010	Bank of America	33400893862	7,881,716.75	95,438.02	3,398,476.70	4,577,678.07	42.33%	-	-	4,577,678.07	42.33%
2010 Economic Development Recovery Zone Bonds (Cost of Issuance Fund)	12/9/2010	Bank of America	33400893863	37,462.00	-	37,462.00	0.00	100.00%	-	-	0.00	100.00%
Total 2010 Economic Development Recovery Zone Bonds				7,919,178.75	95,438.02	3,398,938.70	4,577,678.07			1,662,248.34	16,342,514.29	
2008A Water & Sewer Revenue Bonds (Project Fund)	5/24/2008	US Bank	7913393	99,804,052.15	5,712,114.93	101,019,450.08	4,507,571.00	95.73%	-	-	4,507,571.00	95.73%
2008A Water & Sewer Revenue Bonds (Project Fund)	5/24/2008	US Bank	7913393	10,540.26	418.44	10,540.26	0.00	100.00%	-	-	0.00	100.00%
2008A Water & Sewer Revenue Bonds (Cost of Issuance Fund)	5/24/2008	US Bank	7913352	19,111.82	-	19,111.82	0.00	100.00%	-	-	0.00	100.00%
Total 2008A Water & Sewer Revenue Bonds				118,955,214.23	5,712,533.37	120,028,992.14	4,512,571.00			1,662,248.34	16,342,514.29	
2008 Special Transportation, Parks and Recreation and Urban District Capital Obligation Bonds (Project Fund)	1/24/2008			237,059,727.70	18,514,429.70	216,579,948.88	39,004,207.51	84.79%	-	-	39,004,207.51	84.79%
Total 2008-S1 Transportation, Parks and Urban EGO Bonds				237,059,727.70	18,514,429.70	216,579,948.88	39,004,207.51			1,662,248.34	16,342,514.29	
Total Bond Proceeds Available												
437,877,215.11												

Drawdowns Pending  
Recorder's Court Reservation - UPA Bonds (08037-041301-359)  
North Police Project - UPA Bonds (02034-030201-236)  
North Police Project - UPA Bonds (02034-030201-236)  
North Police Project - UPA Bonds (02034-030201-236)  
Last Purchase - Burdick - 2008 Paris Bonds (09462-041100-115)  
Downside Payment  
Vehicle Lease Purchase Agreement

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 Finance Department – Treasury

Post-Issuance Compliance Policy for Tax Exempt Obligations

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FORM 8038-T (Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage)

Form <b>8038-T</b> (Rev. April 2011) Department of the Treasury Internal Revenue Service		<b>Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate</b> Under Sections 143(g)(3) and 148(f) and Section 103(c)(6)(D) of the Internal Revenue Code of 1954		OMB No. 1545-1219	
<b>Part I Reporting Authority</b>				Check box if Amended Return <input type="checkbox"/>	
1 Issuer's name		2 Issuer's employer identification number (EIN)			
3 Number and street (or P.O. box no. if mail is not delivered to street address)		Room/suite	4 Report number (For IRS Use Only)		
5 City, town, or post office, state, and ZIP code		6 Date of issue		7	
7 Name of issue		8 CUSIP number			
9 Name and title of officer of the issuer or other person whom the IRS may call for more information		10 Telephone number of officer or other person			
11 Type of issue		Issue price		11	
<b>Part II Arbitrage Rebate and Yield Reduction Payments</b>				<b>Amount</b>	
12 Computation date to which this payment relates (MM/DD/YYYY)		13 Arbitrage rebate payment (see instructions) <input type="checkbox"/> check box if less than 100% of rebate amount		13	
14 Yield reduction payment (see instructions) <input type="checkbox"/> check box if less than 100% of yield reduction amount		15 Rebate payment from Qualified Zone Academy Bond (QZAB) defeasance escrow (see instructions)		14	
15				15	
<b>Part III Penalty in Lieu of Arbitrage Rebate</b>					
16 Number of months since date of issue: <input type="checkbox"/> 6 mos <input type="checkbox"/> 12 mos <input type="checkbox"/> 18 mos <input type="checkbox"/> 24 mos <input type="checkbox"/> Other. No. of mos		17 Penalty in lieu of rebate		17	
18 Date of termination election (MM/DD/YYYY)		19 Penalty upon termination		19	
<b>Part IV Late Payments</b>					
20 Does failure to pay timely qualify for waiver of penalty (see instructions) Yes <input type="checkbox"/> No <input type="checkbox"/>		21 Penalty for failure to pay on time (see instructions)		21	
22 Interest on underpayment (see instructions)				22	
<b>Part V Total Payment</b>					
23 Total payment. Add lines 13, 14, 15, 17, 19, 21, and 22. Enter total here				23	
<b>Part VI Miscellaneous</b>					
24 Unspent proceeds as of this computation date		25 Proceeds used to redeem bonds		24	
26 Gross proceeds used for qualified administrative costs for guaranteed investment contracts (GICs) and defeasance escrows		27 Fees paid for a qualified guarantee		25	
27				26	
28 Is the issue a variable rate issue?		29 Did the issuer enter into a hedge?		28	
29 Name of provider		Term of hedge		29	
30 Were gross proceeds invested in a GIC? Name of provider		Term of GIC		30	
31 Were any gross proceeds invested beyond an available temporary period?		32 Calculations for filing of this form prepared by: <input type="checkbox"/> Issuer <input type="checkbox"/> Preparer:		31	
32				32	
<b>Signature and Consent</b>		Under penalties of perjury, I declare that I have examined this return, and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
Signature of issuer's authorized representative		Date		Type or print name and title	
Print/Type preparer's name		Preparer's signature		Date	
Firm's name		Firm's EIN		Check <input type="checkbox"/> if self-employed PTIN	
Firm's address		Phone no.			

For Paperwork Reduction Act Notice, see the separate instructions.

Cat. No. 11545Y

Form 8038-T (Rev. 4-2011)

# DeKalb County, Georgia

## Finance Department – Treasury

### Continuing Disclosure Policy and Procedures

Version September /2022



## Purpose

Disclosures by municipal issuers are generally made in three contexts:

- 1) Primary market disclosure through offering documents prepared for primary offerings of securities (e.g., an “Official Statement”);
- 2) Secondary market disclosures prepared in compliance with undertakings under Rule 15c2-12 of the Securities and Exchange Commission under the Securities and Exchange Act of 1934 (the “Rule”); and
- 3) Releases and/or statements by the issuer and its officials that are reasonably expected to reach investors and the trading markets, such as communications through investor websites, press releases or other public responses.

In connection with each issuance of publicly-offered debt obligations, DeKalb County (the “County”) will be required to enter into an agreement (each a “Continuing Disclosure Agreement”) to assist the underwriters/purchasers in complying with the Rule. Each Continuing Disclosure Agreement will require the County to provide certain annual financial and operating information, as well as notices of certain events listed in the Rule, all as further discussed herein and as set forth in each Continuing Disclosure Agreement.

This continuing disclosure policy sets forth procedures aimed at assisting the County maintain compliance with the provisions and obligations set forth in each such Continuing Disclosure Agreement.

## Policy Statement

It shall be the policy of the County through its authorized representatives to use good faith efforts (a) to comply with the provisions set forth in each Continuing Disclosure Agreement and any other related disclosure undertakings by the County (collectively, the “Continuing Disclosure Obligations”) entered into with underwriters or purchasers in connection with the issuance of bonds, notes, commercial paper programs, or other obligations (collectively, “Bonds”) issued by or for the benefit of the County and (b) to implement and carry out the procedures set forth herein (the “Procedures”) to help ensure compliance with all such Continuing Disclosure Obligations and to preserve appropriate records to evidence such compliance.

Further, it is in the County’s best interest to incorporate robust disclosure practices in order to enhance its credibility in the marketplace, foster liquidity for its debt securities and demonstrate a solid disclosure track record that will be viewed favorably by investors, credit rating agencies and the public.

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Appendix

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## Continuing Disclosure Policy and Procedures

1. **Responsible Officers.** The individual acting as Treasurer (the “Treasurer”) or such other individual subsequently designated by the Chief Financial Officer (the “CFO”) shall be the compliance officer for implementing and monitoring compliance with the Procedures (the “Compliance Officer”). The Compliance Officer shall have the responsibility of gathering, reporting and monitoring data necessary to carry out the purposes of these Policy and Procedures. The Compliance Officer and others designated to assist him/her shall consult with qualified attorneys as necessary and appropriate to perform their respective roles described herein and to otherwise comply with the requirements of the Continuing Disclosure Obligations. Reference herein to “Disclosure Counsel” shall denote any firm serving as Disclosure Counsel to the County in connection with the issuance of Bonds. The Compliance Officer may act through other officers or employees of the County.
2. **Responsibilities During Bond Issuance.** Whenever the County (either directly or through a conduit issuer where the County is an “obligated party” within the meaning of the Rule) undertakes to issue Bonds in connection with a financing or refinancing, the Compliance Officer shall consult with Disclosure Counsel for such issuance to identify instances of non-compliance in the past five years with the County’s Continuing Disclosure Obligations. If one or more instances of non-compliance exist, the Compliance Officer, after consultation with Disclosure Counsel, shall determine whether a curative filing on EMMA (as defined herein) should be made and shall ensure that, if required, such non-compliance is disclosed in any Official Statement within the requisite reporting period.
3. **Responsibilities After Bond Issuance.** The Compliance Officer shall be responsible for ensuring that certain annual financial information, operating data and event notices are timely posted to or filed on the Electronic Municipal Market Access (EMMA) website portal currently at <http://emma.msrb.org/Home>, unless another system is designated by the Municipal Securities Rulemaking Board as an approved repository for such purpose. The Compliance Officer shall make a list of, and be familiar with, all Continuing Disclosure Obligations (including the substance of the financial information and operating information to be filed, the deadlines for filing, the list of events to be disclosed, etc.) and shall be responsible for helping to ensure that all Continuing Disclosure Obligations are satisfied.

The Compliance Officer shall identify such County officers and employees who are most likely to first obtain knowledge of the occurrence of any reportable events (see Sections 4(c) and (d) hereof) and request in writing that they notify the Compliance Officer promptly upon learning of such event, regardless of materiality, and repeat such written request in regular reminders.

4. **Information To Be Disclosed.**
  - a. **Annual Financial Information.** The Compliance Officer shall file or post to EMMA any Annual Financial Information required to be updated and disclosed by the terms of each Continuing Disclosure Obligation by the respective deadline set forth therein. In the event the Compliance Officer determines the County may not be in a position to provide a scheduled filing by the date required, she/he shall contact Disclosure Counsel in advance of the

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deadline to seek guidance as to whether, and to what extent, a notice or other disclosure should be submitted respecting the pending late filing, and if such determination is made after the scheduled deadline the Compliance Officer shall promptly contact Disclosure Counsel to seek guidance and to prepare any required event notices or similar filings resulting from the late filing.

- b. Operating Information.** The Compliance Officer shall file or post to EMMA any Operating Information required to be updated and disclosed by the terms of each Continuing Disclosure Obligation by the respective deadline set forth therein.
- c. Event Notices (under SEC Rule 15c2-12).** The Compliance Officer shall file or post to EMMA notice within ten (10) business days upon the occurrence of any of the following events:
- Principal and interest payment delinquencies;
  - Non-payment related defaults, if material;
  - Unscheduled draws on debt service reserves reflecting financial difficulties;
  - Unscheduled draws on credit enhancements reflecting financial difficulties;
  - Substitution of credit or liquidity providers, or their failure to perform;
  - Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
  - Modifications to rights of security holders, if material;
  - Bond calls, if material, and tender offers;
  - Defeasances;
  - Release, substitution, or sale of property securing repayment of the securities, if material;
  - Rating changes;
  - Bankruptcy, insolvency, receivership or similar event of the Obligated Person (within the meaning of the Rule).
  - Consummation of a merger, consolidation, or acquisition involving an Obligated Person or the sale of all or substantially all of the assets of an Obligated Person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
  - Appointment of a successor or additional trustee or the change of name of a trustee, if material;
  - Incurrence of a financial obligation or agreement, if material; or
  - Default, event of acceleration, termination event, modification of terms or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties.
- d. Additional Event Notices (under Continuing Disclosure Obligations).** The Compliance Officer shall file or post to EMMA additional Event Notices (not otherwise described under subparagraph (c) above), if any, required to be updated and disclosed by the terms of each Continuing Disclosure Obligation by the respective deadline set forth therein.

The Compliance Officer is advised to consult with Disclosure Counsel prior to making any determination whether a particular event is deemed to be “material” for purposes of the Rule.

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Noncompliance with this Section 4 shall constitute non-compliance under the Continuing Disclosure Obligations, but shall not constitute a default in respect of the related Bonds.

5. **Annual Examination and Report.** As warranted, the Compliance Officer shall periodically prepare a written report on matters occurring within such fiscal year relevant to these Policy and Procedures. This report shall set forth in reasonable detail any issues relevant to the Procedures that occurred in the particular fiscal year, including without limitation (a) non-compliance with Continuing Disclosure Obligations, (b) efforts to remedy such non-compliance, and (c) additional procedures, if any, that would enhance compliance with Continuing Disclosure Obligations.
6. **Policy and Legislative Updates.** At least once annually, the Compliance Officer shall contact the County Attorney and such external counsel as shall be designated thereby to discuss pending or approved legislation, proposed and actual actions of the federal government, and strategic and policy considerations that may in each case be relevant to these Policy and Procedures. If any of such matters are believed by the Compliance Officer to be “significant” or “noteworthy”, they should be reviewed by Bond Counsel (and if engaged for a particular transaction, Disclosure Counsel and Underwriter’s Counsel), and the County’s financial advisor to determine if any of such matters should be considered “material” for purposes of the Rule.
7. **Amendments and Supplements to the Procedures.** These procedures may be amended or supplemented at any time, including without limitations by the promulgation of memoranda addressing specific issues, with the approval of both the Compliance Officer and the CFO. All such amendments or supplements shall be reviewed by Counsel. All such amendments and supplements shall be circulated as reasonably appropriate to Designated Parties (as described in Section 9 hereof).
8. **Recordkeeping.** The Compliance Officer shall be responsible for maintaining all records relating to compliance with the Continuing Disclosure Obligations.
9. **Training.** Prior to the preparation of a report as required by Section 4 hereof, the Compliance Officer will provide for at least one meeting or conference call with Disclosure Counsel to (a) report on the issues that will be addressed in the report, and (b) receive from the Disclosure Counsel information concerning any developments affecting the Continuing Disclosure Obligations that may be relevant to the work of the Compliance Officer. The Chief Operating Officer or designee shall participate in all such meetings or conference calls.

The initial Compliance Officer and the Chief Operating Officer, together with such other County personnel as may be designated by the Compliance Officer (a “Supporting Officer”) to assist such parties with the execution and monitoring of these Procedures, shall attend an initial training session with Disclosure Counsel to review and discuss key elements of the Continuing Disclosure Obligations. If a new Compliance Officer is appointed, such replacement officer shall be required to attend a meeting with Disclosure Counsel (or review pre-recorded materials provided by Disclosure Counsel) and at least one other County officer who has previously received training in accordance herewith, to review these Procedures and their implementation.

The foregoing provisions of this Section shall not be construed as limiting the training that the Compliance Officer and shall be required to undertake. Upon the advice of Disclosure Counsel or the County Attorney, or at the request of the Chief Operating Officer, the Compliance Officer and/or the Supporting Officer shall participate in such additional training as deemed necessary to the proper fulfillment of their respective duties as described herein.

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- 10. Designated Parties; Ensuring Cooperation and Compliance.** The Compliance Officer shall circulate a copy of these Procedures, including any amendments and supplements hereto, to all “Designated Parties.” The Designated Parties shall consist of:
- The Chief Financial Officer
  - The Chief Operating Officer
  - The Chief Legal Officer
  - Any other persons determined by the Compliance Officer to oversee matters relevant to these Procedures.
- 11. No Binding Authority.** Nothing herein, taken by itself, shall authorize the Compliance Officer or the Supporting Officer to bind the County in any way.
- 12. Attorney-Client Privilege to be Preserved.** Nothing herein shall require or authorize the Compliance Officer, the Supporting Officer, or any other County official to consult with Disclosure Counsel or any other attorney unless such consultation is protected by the attorney-client privilege.
- 13. Internal Use Only, No Liability.** These Policy and Procedures are intended for the internal use of the County only and are not intended to establish any duties in favor of, or rights of, any person other than the County. None of the Compliance Officer, CFO, Supporting Officer nor any other County Official acting in their official capacity and in good faith to implement these Policy and Procedures shall be personally liable for any failure of the County to comply with the obligations and responsibilities set forth herein.

## Related Documents

Debt Management Policy

## Change Control Matrix

These procedures may be amended or supplemented at any time, including without limitations by the promulgation of memoranda addressing specific issues, with the approval of both the Compliance Officer and the CFO. All such amendments or supplements shall be reviewed by Counsel.

## References

Rule 15c2-12 under the Securities Exchange Act of 1934

Master Bond Resolution Agreements