

Denver Board of Water Commissioners

Title:

Post-Issuance Compliance Policies and Procedures for Tax-Exempt Bonds

Meeting Date: 5/13/2009

Contract/Proposal

 Action by Consent Action Information

According to Article X, Section 1.15 of the Charter of the City and County of Denver, the Board of Water Commissioners may issue revenue bonds, the proceeds of which "shall be expended for water works purposes, for establishing reserves in connection with such bonds or for refunding the principal of and interest on bonds previously issued by the Board." Currently, the Board's outstanding debt amounts to \$377.75 million and includes general obligation bonds in the aggregate principal amount of \$42.73 million (issued prior to the current version of Article X), revenue bonds in the aggregate principal amount of \$277.49 million (including series 2008A Revenue (Clean Renewable Energy Tax Credit) Bonds - or CREBs), certificates of participation in the aggregate principal amount of \$33.81 million and a capital lease valued at \$23.73 million.

With the exception of the 2008 CREBs, all of the bonds issued by the Board have been tax-exempt, i.e. interest on these bonds has been excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 ("Code"). The Internal Revenue Code imposes several requirements which must be met in order for the bonds to be tax-exempt. These requirements apply to all currently outstanding Denver Water tax exempt bonds as well as the 2009A revenue bonds to be issued in 2009. The overall responsibility for monitoring whether the Board is in compliance with these post-issuance federal tax requirements falls on the Board. The operating responsibility to monitor the compliance has been delegated to the Director of Finance. The Treasury staff has been assisting the Director of Finance in following the compliance requirements. A written compliance policy is not required but is a recommended Government Finance Officers Association (GFOA) practice as it demonstrates the issuer's commitment to sound debt management practices. Moreover, the requirement to maintain a reserve account for the 2009A bonds for as long as those bonds remain outstanding and potential Arbitrage Rebate exposure further validate the need for a formalized tax compliance policy at this time. Attached to this Board Item is a proposed Post-Issuance Compliance Policy draft by the Board's Bond Counsel.

The purpose of the Post-Issuance Compliance Policies and Procedures for Tax-Exempt Bonds ("Compliance Policy") is to assist the Board and the Director of Finance in complying with requirements of the Code that must be satisfied with respect to bonds after such bonds are issued so that interest on the bonds will be and will remain excludible from gross income for federal income tax purposes. This Compliance Policy shall be reviewed regularly by a Bond Counsel retained by the Board to ensure conformity with current Income Tax Regulations and may be supplemented from time to time by specific procedures and guidelines, as recommended by the Bond Counsel.

RECOMMENDATION:

It is recommended that the Board adopt the attached Post-Issuance Compliance Policies and Procedures for Tax-Exempt Bonds.

Approvals:



David LaFrance, Director Finance



Patricia L. Wells, General Counsel



Manager Approval:



DW Compliance Policy for Tax-exempt bonds 2009-04-29.doc
Microsoft Office Word 97 - 2003 Document
39.5 KB

Documents Attached: