

# TOWN OF PROSPER ADMINISTRATIVE REGULATIONS

## CHAPTER 16: DEBT POST ISSUANCE POLICY

### SECTION 16.01: PURPOSE AND OVERVIEW

~~It is the policy of the Town of Prosper to actively pursue the following Post-Issuance Tax Compliance Procedures (the "Procedures") to ensure that all applicable post-issuance requirements of federal income tax law are met to preserve the tax-exempt status of the Town's bonds.~~ The Town of Prosper will establish all necessary debt post issuance procedures to ensure compliance with all federal, state, contractual and covenant requirements.

### SECTION 16.02: GENERAL PROCEDURES

#### A. The Tax Compliance Certificate

1. The Tax Compliance Certificate ("Tax Certificate") issued for each bond issue describing the requirements and provisions of the Code must be followed in order to maintain the tax-exempt status of the interest on such bonds.
2. The Tax Certificate will contain the reasonable expectations of the Town at the time of issuance of the related bonds with respect to the use of the gross proceeds of such bonds and the assets to be financed ~~or refinanced~~ or refinanced with the proceeds thereof.
- 2.3. ~~The procedures put in place by the Town supplement and support the covenants and representations made by the Town in the Tax Certificate related to specific issues of tax-exempt bonds. In order to comply with the covenants and representations set forth in the bond documents and in the Tax Certificate, the Town will monitor all Town bond issues using the post issuance compliance requirements.~~

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#### B. ~~Procedures~~State Compliance

~~The local government code and other state statutes contain various requirements related to filing a debt issuance for review by the attorney general and filing debt related information with the Comptroller of Public Accounts. The procedures supplement and support the covenants and representations made by the Town in the Tax Certificate related to specific issues of tax-exempt bonds. In order to comply with the covenants and representations set forth in the bond documents and in the Tax Certificate, the Town will monitor all Town bond issues using the post issuance compliance requirements.~~

#### C. ~~Federal- SEC Continuing Disclosure Requirements~~

~~The Securities and Exchange Commission has promulgated various requirements for underwriters of municipal debt requiring issuers to file specified continuing disclosures on an annual basis as well as event notices of a material nature within~~

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ten business days of the occurrence of the event. Specific financial and operating data to be included in the annual continuing disclosure filings are listed in each of the Town's Official Statements. It should be noted that once a disclosure is committed to in an official statement that requirement remains in effect until all debt from that specific official statements is retired even if less stringent requirements are included in future official statements.

**SECTION 16.03: DESIGNATION OF RESPONSIBLE PERSON**

The Finance Director shall maintain an inventory of bonds and assets financed which contain the pertinent data to satisfy the Town's monitoring responsibilities. Any transfer, sale or other disposition of bond-financed assets shall be reviewed and approved by the Town Council in accordance with state law, federal tax law and the Town's ordinances.

**SECTION 16.04: EXTERNAL ADVISORS/DOCUMENTATION**

The Town shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the issuance process to identify requirements and to establish procedures necessary

or appropriate so that the bonds will continue to qualify for tax-exempt status. Those requirements and procedures shall be documented in the Tax Certificate and/or other documents finalized at or before issuance of the bonds. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and all other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the bonds.

1. The Town also shall consult with bond counsel and other legal counsel and advisors as needed following issuance of the bonds to ensure that all applicable post-issuance requirements are met. This shall include, without limitation, consultation in connection with future long-term contracts with private parties for the use of bond- financed or refinanced assets.
2. The Town shall engage expert advisors (a "Rebate Service Provider") to assist in the calculation of the arbitrage rebate payable with respect to the investment of the bond proceeds, unless the Tax Certificate documents that arbitrage rebate will not be applicable to an issue of bonds.
3. Unless otherwise provided by the resolution or other authorizing documents relating to the bonds, unexpended bond proceeds shall be held in a segregated bond account. The investment of bond proceeds shall be managed by the Town. The Town shall prepare regular, periodic statements regarding the investments and transactions involving bond proceeds.

#### **SECTION 16.05:        ARBITRAGE REBATE AND YIELD**

Unless the Tax Certificate documents that arbitrage rebate will not be applicable to an issue of bonds, the Town shall be responsible for:

1. Engaging, by contract, the services of a Rebate Service Provider, procured in accordance with State law and Town ordinances.
2. Providing to the Rebate Service Provider, as may be requested, additional documents and information pertaining to the expenditure of proceeds from each bond issue being annually reviewed.
3. Monitoring the services of the Rebate Service Provider.
4. Assuring payment of the required rebate amounts, if any, no later than sixty (60) days after each five (5) year anniversary of the issue date of the bonds, and no later than sixty (60) days after the last bond of each issue is redeemed.
5. During the construction period of each capital project financed in whole or in part by bonds, monitoring the investment and expenditure of bond proceeds and consulting with the Rebate Service Provider to determine compliance with the applicable exceptions with any arbitrage rebate requirements.
6. Retaining copies of all arbitrage reports and account statements as described below under "Record Keeping Requirements."

**SECTION 16.06:      USE OF BOND PROCEEDS AND BOND-FINANCED OR  
REFINANCED ASSETS**

The Town, in the Tax Certificate and/or other documents finalized at or before the issuance of the bond, shall be responsible for the following tasks:

1. Monitoring the use of bond proceeds and the use of bond-financed or refinanced assets (*e.g.*, facilities, furnishing or equipment) throughout the term of the bonds to ensure compliance with covenants and restrictions set forth in the Tax Certificate.
2. Maintaining records identifying the capital assets or portion of capital assets that are financed or refinanced with proceeds of the bonds, including a final allocation of bond proceeds, as described below under Record Keeping Requirements.
3. Consulting with bond counsel and other legal counsel and advisors in the review of any contracts or arrangements involving private use of bond-financed or refinanced assets to ensure compliance with all covenants and restrictions set forth in the Tax Certificate.
4. Maintaining records for any contracts or arrangements involving the use of bond-financed or refinanced assets, as described below under Record Keeping Requirements.
5. To the extent that the Town discovers that any applicable tax restrictions regarding use of the bond proceeds and bond-financed or refinanced assets may have or may be violated, consulting promptly with bond counsel and other legal advisors to determine a course of action to remediate all non-qualified bonds, if such counsel advises that a remedial action is necessary.

**SECTION 16.07:      RECORD KEEPING REQUIREMENT**


The Town shall be responsible for maintaining the following documents for the term of the issuance of bonds (including refunding bonds, if any) plus at least three years.

1. A copy of the bond closing transcript(s) and other relevant documentation delivered to the Town at or in connection with closing of the issuance of bonds, including any elections made by the Town in connection therewith.
2. A copy of all material documents relating to capital expenditures financed or refinanced by bond proceeds, including (without limitation) construction contracts, purchase orders, invoices, requisitions and payment records, draw requests for bond proceeds and evidence as to the amount and date for each draw down of bond proceeds, as well as documents relating to costs paid or reimbursed with bond proceeds and records identifying the asset or portion of assets that are financed or refinanced with bond proceeds, including a final allocation of bond proceeds.
3. A copy of all contracts and arrangements involving the use of bond-financed or refinanced assets.

4. A copy of all records of investments, investment agreements, arbitrage reports and underlying documents in connection with any investment agreements, and copies of all bidding documents, if any. [Paying agent account statements, bank statements for reserve funds, etc.]

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The Town of Prosper Debt Post Issuance Policy was approved the 11<sup>th</sup> day of July, 2017.



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Harlan Jefferson, Town Manager