

ATTACHMENT B

Post-Issuance Procedures

Manual

For

Tax-Exempt Bonds

Issued By

THE BUFFALO SEWER AUTHORITY

(the "*Issuer*")

Adopted:

Revised:

Table of Contents

I. Policy Statement.....	1
II. Procedures	1
A. Bonds Subject to these Procedures	1
B. Facilities/Assets Subject to these Procedures.	2
C. Assignment of Responsibility to Staff	2
D. Duties of the Compliance Officer	2
1. Maintaining List of Bonds.....	2
2. Maintaining List of Facilities	2
3. Recordkeeping.....	3
4. Arbitrage Computations	4
5. Annual Review and Reports.....	5
6. Action on the Discovery of a Potential Violation	5
7. Action on IRS Contact	6
8. Training	7
E. Changes to the Manual.....	7
F. Specific Procedures for Special Cases.....	7
G. Authorization and Expense	7

I. Policy Statement

This Post-Issuance Procedures Manual (the “*Manual*”) is intended to provide procedures (the “*Procedures*”) for compliance with the requirements of the Internal Revenue Code of 1986, as amended (the “*Code*”), and applicable United States Treasury Regulations (the “*Regulations*”) necessary to maintain the tax exemption of the interest on bonds or other obligations issued by and for the benefit of the Issuer.

The Issuer has and will from time to time issue various issues of tax-exempt bonds (the “*Bonds*”). Maintaining the tax-exempt status of Bonds requires continuing compliance by the Issuer with certain covenants and agreements contained in the documents relating to the issuance of the Bonds. In connection with each issue of tax-exempt Bonds, the Issuer has covenanted or will covenant not to take any action that would cause the interest on the Bonds to become included in the gross income of the holders of the Bonds for federal income tax purposes. These Procedures are being adopted by the Issuer to assist the Issuer in fulfilling covenants to maintain the tax-exempt status of the Bonds. It is the intention of the Issuer that the Issuer will comply with all applicable Federal tax law requirements and maintain sufficient records to demonstrate such compliance.

The Issuer is aware that the Internal Revenue Service (“*IRS*”) maintains an active force of revenue agents who examine bond issues for compliance. As a result of such examinations, the IRS may require payment of financial penalties or impose other sanctions to preserve the tax-exemption of the Bonds or may declare bonds to no longer be tax-exempt. Any such declaration could result in legal action against the Issuer. To minimize the risk of such occurrence, these Procedures have been adopted to provide a framework for post-issuance compliance. This Manual is only for the benefit of the Issuer. No other person (including an owner of a Bond) may rely on the Procedures included in this Manual.

The Issuer is aware that the existence of adequate written procedures may influence the IRS to settle matters on more favorable terms should such settlement be required.

Federal tax law imposes restrictions related to the investment and expenditure of Bond proceeds and on the use of facilities financed with Bonds. Compliance with these restrictions is often necessary to maintain the tax-exemption of the Bonds.

The Issuer is responsible for following tax-related covenants concerning the Bonds. These Procedures are not intended to diminish or augment those covenants.

In order to most efficiently apply limited resources, these Procedures may be limited to Bonds issued after a specified date.

Certain concepts and terms addressed and used in these Procedures are further described in the glossary attached hereto, as *Appendix C*.

II. Procedures

A. Bonds Subject to these Procedures

Attached hereto as *Appendix A* is a list of the Issuer's outstanding Bonds. The Compliance Officer (as hereinafter defined) should update this list whenever Bonds are issued and whenever an issue of Bonds subject to the Procedures is fully retired. If payments on the Bonds are provided for by an escrow, such Bonds should remain on the list until the Bonds are paid in full.

B. *Facilities/Assets Subject to these Procedures.*

Attached hereto as *Appendix B-1* is a list of the facilities and assets financed, refinanced or reimbursed with proceeds of the Bonds and that are subject to Federal tax restrictions. Attached hereto as *Appendix B-2* is a list of those facilities and assets that have been disposed of.

The Issuer and the Compliance Officer recognize that a list of financed assets is necessary to track Private Business Use of Bond financed facilities. In order to simplify the maintenance of the list, the Compliance Officer may include entire buildings or other facilities even if only partially financed with Bonds. The list for each issue of Bonds should be completed within a reasonable period after the final allocation of Bond proceeds is made. In the case of Refunding Bonds, the list of assets financed should include the list of assets financed by the refunded obligations.

C. *Assignment of Responsibility to Staff*

The Issuer designates its Compliance Officer as having responsibility to keep all records required to be kept by the Issuer under these Procedures, to make all reports to the Issuer's governing body required by these Procedures, and to otherwise assure that all actions required of the Issuer hereunder be taken. The Compliance Officer may further delegate certain tasks to other officers, employees or agents of the Issuer. Such delegation shall not relieve the Compliance Officer from responsibility to assure that all tasks assigned to the Compliance Officer hereunder are completed in a timely fashion.

D. *Duties of the Compliance Officer*

1. *Maintaining List of Bonds.* The Compliance Officer is charged with maintaining the list referred to in Section IIA hereof, and updating such list whenever a new issue of Bonds subject to these Procedures is issued or when an issue of Bonds subject to these Procedures is retired.

2. *Maintaining List of Facilities.* The Compliance Officer is charged with maintaining the list referred to in Section IIB hereof. When an issue of Bonds financing or refinancing a subject facility is retired or redeemed, the list shall identify the retirement or redemption of the Bonds that financed or refinanced such subject facility. As proceeds of Bonds are spent, the Compliance Officer should update the list periodically at times convenient to the Compliance Officer. The Compliance Officer may simplify the list by including entire buildings or other facilities even if only a portion was Bond financed.

3. *Recordkeeping.* The Compliance Officer is hereby designated as the keeper of all records of the Issuer with respect to the Bonds and that relate to the tax-exempt status of the Bonds. The Compliance Officer shall report to the Issuer's governing body not less often than once per year concerning whether he or she has all of the required records in his or her possession, or if not, whether he or she is taking appropriate action to obtain or recover such records. The Compliance Officer should review the records related to the Bonds and shall determine what requirements the Issuer must meet in order to maintain the tax-exemption of interest paid on the Bonds. The Compliance Officer should then prepare a list of the contracts, requisitions, invoices, receipts and other information that may be needed in order to establish that the interest paid on the Bonds is entitled to be excluded from gross income for federal income tax purposes. Notwithstanding any other procedures of the Issuer, such retained records shall be kept for at least as long as the related issue of Bonds or any refunding obligations that may directly or indirectly refund such Bonds remain outstanding, plus six years. Such records, at a minimum, shall include the following items.

a. *Transcript Items.* The Compliance Officer should receive, keep and maintain a true, correct and complete counterpart of each document and agreement delivered in connection with the issuance of the Bonds, including without limitation (i) the proceedings of the Issuer authorizing the Bonds, (ii) any offering document with respect to the offer and sale of the Bonds, (iii) any legal opinions with respect to the Bonds delivered by any lawyers, (iv) notices and minutes of any public hearings held with respect to the Bonds, (v) the tax documentation, including any Tax Exemption Certificate and Agreement, any Tax Compliance Certificate and Agreement and any Non-Arbitrage or Arbitrage Certificates or any tax-related covenants that may be contained in the proceedings of the Issuer authorizing the Bonds, (vi) all written representations of any person delivered in connection with the issuance and initial sale of the Bonds, and (vii) the applicable series of Series 8038 Form filed with respect to the Bonds along with proof of filing. It is likely that such transcript items will be found in the form of or included in a bound volume or compact disc delivered to the Issuer after the Bonds were issued.

b. *Expenditure & Investment Items.* The Compliance Officer should maintain copies of:

i. account statements showing the disbursements of all Bond proceeds for their intended purposes, as well as any requisition requests and the invoices and contracts (*e.g.*, construction contracts, third party invoices) to which the expenditure of funds relates;

ii. account statements showing all investment activity of any and all accounts in which the proceeds of the Bonds have been held;

iii. all bid requests and bid responses used in the acquisition of any special investments or derivative products used in connection with the Bonds, including any swaps, swaptions, or other financial derivatives entered into in order to establish that such instruments were acquired at fair market value; and

iv. copies of any subscriptions to the U.S. Treasury for the purchase of State and Local Government Series (SLGS) obligations.

To the extent that such records are not in the possession of the Compliance Officer with respect to a particular issue of Bonds, investment or expenditure, the Compliance Officer should make a note that such record is not in his or her possession. In such case, the Compliance Officer should take reasonable steps to obtain such records or, if not possible, consult with counsel concerning possible alternatives.

c. *Records of Use.* The Compliance Officer should maintain records establishing that all Bond-financed property has been used for the purposes required for interest on the Bonds to be excluded from gross income for federal income tax. Such records shall include copies of all contracts and agreements of the Issuer, including any leases, management contracts, research agreements, or service contracts, with respect to the use of any property owned by the Issuer and acquired or financed with the proceeds of the Bonds (excluding arm's length contracts covering 50 or fewer days, but the terms of such contracts shall be maintained in summary form). The Compliance Officer shall cause such contracts to be reviewed either by staff of the Issuer or by an outside consultant (i) to determine if such contracts cause any Private Business Use of such facilities, or (ii) if the Compliance Officer cannot reasonably determine whether such contract causes Private Business Use. If any such contract is determined to cause Private Business Use of a Bond-financed facility, the Compliance Officer should determine or cause to be determined for each year, the percentage of such facility so privately used. Such determination may be made in consultation with counsel or other consultants.

d. *Rebate & Yield Calculations.* The Compliance Officer should maintain copies of any calculations of liability for arbitrage rebate or yield reduction payment that is or may become due with respect to the Bonds, and any calculations prepared to show that no arbitrage rebate is due, together, if applicable, with account statements or cancelled checks showing the payment of any rebate amounts to the U.S. Treasury together with any applicable IRS Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate, or Form 8038-R, Request for Recovery of Overpayments under Arbitrage Rebate Provisions, or any successor form to either of those.

e. *Actions under these Procedures.* The Compliance Officer should retain all records, memoranda and other documents and correspondence relating to these Procedures or actions taken under these Procedures.

4. *Arbitrage Computations.* The Compliance Officer should review the agreements of the Issuer with respect to each issue of Bonds and shall determine what actions are necessary or advisable to comply with the arbitrage restrictions and arbitrage rebate requirements of the Code. Some issues of Bonds may be exempt from the rebate requirement. Taking into account any applicable exemptions from the arbitrage rebate requirement for each issue of Bonds, the Compliance Officer should cause computations to be made at least once in the first five years the Bonds are outstanding (and at least once every 5-year period thereafter while the Bonds are outstanding) of the accrued arbitrage rebate amount (if any) with respect to each issue of Bonds. The Compliance Officer should, if authorized, retain a law firm or other consultant or use staff of the Issuer to prepare reports stating whether or not there is any rebate or yield reduction payment liability to the U.S. Treasury related to the Bonds, and setting forth any applicable exemptions from rebate liability that may be applicable to any funds or accounts. Such report should be updated annually. Updates will not be required if a report clearly indicates that no additional rebate or yield

restriction liability will accrue. The Compliance Officer is responsible for ensuring the timely payment to the U.S. Treasury of all arbitrage rebate payments and yield reduction payments when due, including the filing of any required IRS forms.

If and to the extent that any Bond proceeds are or become subject to a yield restriction requirement, the Compliance Officer is responsible for investing or directing the investment of such proceeds at a yield not in excess of the permitted yield and for making any yield reduction payments to the U.S. Treasury as are necessary.

The Compliance Officer may, if authorized, retain a law firm or other consultant to assist in making such determinations.

5. *Annual Review and Reports.* Not less often than once per year, the Compliance Officer should conduct a review of records and other information described in these Procedures to determine whether any or all of the Bonds comply with the tax requirements applicable to such Bonds. The Compliance Officer, if authorized, may hire counsel or other consultants to assist in such review. To the extent that any violations or potential violations of tax requirements are discovered, the Compliance Officer may make recommendations or take such actions as the Compliance Officer should reasonably deem necessary to assure the timely correction of such violations or potential violations through remedial actions described in the Regulations or the Tax Exempt Bonds Voluntary Closing Agreement Program described in Treasury Notice 2008-31 or any successor guidance. The Compliance Officer should prepare a written report (which may be marked as confidential) and should present such report to the Issuer's governing body no less frequently than once per year. The annual review requirement will continue with respect to a particular Bond issue until the first review to occur after the date that all Bonds of that issue and any refunding obligations that may directly or indirectly refund such Bonds are fully paid and retired.

6. *Action on the Discovery of a Potential Violation.*

a. *Reallocation.* The Issuer and the Compliance Officer recognize that, in limited circumstances, if there is a failure to spend Bond proceeds properly, such Bond proceeds can be reallocated to qualified costs that may be financed with Bond proceeds, *provided* that such reallocation occurs within specified time frames. If the Compliance Officer determines that a failure to spend Bond proceeds on qualified costs has occurred, the Compliance Officer should (with the aid of a law firm or other consultant or staff of the Issuer) determine if a reallocation of Bond proceeds is possible.

b. *Remediation.* The Issuer and the Compliance Officer recognize that if, among other things, there is a failure to use Bond proceeds properly, a failure to spend all Bond proceeds, or a disposition of Bond-financed property or Private Business Use in excess of allowed limits, a remedial action may be required in accordance with the Code and the Regulations. The Compliance Officer should (with the aid of a law firm or other consultant or staff of the Issuer) determine if such remedial actions are required and possible. The Compliance Officer should prepare or cause to be prepared a memorandum describing any such remedial action or proposed remedial action. The memorandum should describe whether such remedial action will serve to cure any particular tax law violation. The memorandum should include a full description of such

required actions of the Issuer. A copy of any such memorandum shall be given to the Issuer's governing body. Following any such remedial action, the Compliance Officer should prepare a report describing the effect of such remedial action. The list of Bond-financed property may need to be revised as a result of such remedial action and, if so, the Compliance Officer should so revise the list.

c. *Voluntary Closing Agreement Program.* The Issuer and the Compliance Officer recognize that if there is a violation of the covenants of the Issuer related to the maintenance of the exclusion from gross income for federal income tax purposes of interest on the Bonds or a violation of the covenants of the Issuer related to the maintenance of the tax-advantaged status of the Bonds, then the Issuer may be able to enter into a voluntary closing agreement with the IRS to preserve the favorable tax status of the Bonds. The Compliance Officer should determine if a voluntary closing agreement is desirable and possible. The Compliance Officer should coordinate the Issuer's efforts in obtaining any voluntary closing agreement. The Issuer may (to the extent authorized) retain or consult with counsel to attempt to obtain a voluntary closing agreement. Following the execution of any such closing agreement, the Compliance Officer should prepare a report describing the effect of such closing agreement. The list of Bond-financed Property may need to be revised as a result of such closing agreement and, if so, the Compliance Officer should so revise the list.

7. *Action on IRS Contact.*

a. *Examination of Bonds.* The Issuer and the Compliance Officer recognize that the IRS or another regulatory entity may undertake an examination of Bonds. In the event that the Issuer is notified of such an examination, the Issuer shall as quickly as possible notify the Compliance Officer. The Compliance Officer should coordinate the defense of such examination and should determine if counsel should be hired and, if so, which counsel. Except to the extent that the Issuer determines that another party should undertake a response, the Compliance Officer will be responsible for compiling answers to any information or document request that might be presented to the Issuer as a result of such examination. If an examination cannot be closed without a closing agreement, the Compliance Officer should use reasonable efforts to reach an acceptable closing agreement with such regulatory agency and to obtain all required Issuer approvals of such closing agreement.

Regardless of how an examination of the Bonds is closed, the Compliance Officer should retain all communications with the IRS or other regulatory agency relating to such examination among the records kept under Section II.D.3. of these Procedures (Recordkeeping).

The Compliance Officer should advise the Issuer's governing body of any such examination when, as and in such manner as the Compliance Officer may deem appropriate.

b. *Compliance Checks.* The IRS and other regulatory agencies may conduct compliance checks from time to time. As part of such compliance check, the IRS or another regulatory agency may send questionnaires to the Issuer. The Compliance Officer may, if authorized, hire counsel to assist in the response to a compliance check. The Compliance Officer should advise the Issuer's governing body of any such compliance check promptly after receiving notice thereof.

8. *Training.* The Compliance Officer should undertake to maintain a reasonable level of knowledge concerning the rules related to tax-exempt bonds so that he or she may fulfill his or her duties hereunder. The Compliance Officer may consult with counsel, attend conferences and presentations of trade groups, read materials posted on various web sites, including the web site of the Tax-Exempt Bond function of the IRS, and use other means to maintain such knowledge. Recognizing that the Compliance Officer may not be fully knowledgeable in this area, such officer may consult with in-house or outside counsel, consultants and experts to assist in exercising his or her duties under these Procedures. The Compliance Officer should endeavor to make sure that other staff of the Issuer is aware of the need for continuing compliance and coordinate appropriate training and education of other personnel of the Issuer. The Compliance Officer should provide copies of relevant Bond documents and these Procedures to other staff members who may be responsible for taking actions described in the Bond documents and in particular to any person who is expected to be a successor Compliance Officer. The Compliance Officer should assist in the education of any new Compliance Officer and the transition of the duties under these Procedures. The Compliance Officer should review the Bond documents and these Procedures periodically to determine if there are portions that need further explanation and, if so, will attempt to obtain such explanation from counsel or other experts or consultants or staff.

E. *Changes to the Manual*

The Procedures contained herein may be revised and amended from time to time as the Issuer and the Compliance Officer deem necessary to comply with the requirements of the Code and Regulations. The Issuer and the Compliance Officer may, from time to time and upon the issuance of new Bonds, contact outside counsel to determine whether the Procedures contained herein adequately address the post-issuance responsibilities of the Issuer as required by the Code and Regulations.

F. *Specific Procedures for Special Cases*

The Procedures contained herein specifically address post-issuance compliance procedures with respect to tax-exempt governmental bonds issued for capital projects under Section 103 of the Code. The Issuer and the Compliance Officer recognize that these Procedures may be inadequate for other types of tax-exempt obligations (including TIF financings), or other tax advantaged bonds, for which additional procedures may be required. In the event that the Issuer issues private activity tax-exempt obligations, tax-exempt obligations funding a significant amount of working capital, tax increment financing bonds, tax-credit bonds, or direct pay bonds, the Issuer receives an indication from counsel that additional procedures are required, or the Issuer enters into any derivative products, these Procedures should be revised to reflect any specific rules and requirements and post-issuance responsibilities applicable to such type of tax advantaged obligations and derivative products.

G. *Authorization and Expense*

This Compliance Manual is not intended to provide authorization to the Compliance Officer to enter into contracts for service or to spend Issuer funds. To the extent that the Compliance Officer determines that such contracts or expenditures are desirable and are not otherwise authorized, the

Compliance Officer should obtain such authorization before entering into such contracts and spending such Issuer funds.

Appendix A
List of Bonds

Name of Issue	Date of Issuance	Final Maturity Date
Sewer System Environmental Impact Revenue Bonds, Series 2021 (Green Bonds)	June 16, 2021	June 15, 2051

Appendix B-1

List of Bond-Financed Property

Description of the Property	Location	Bonds that Financed the Property	Amount Financed	Useful Economic Life	Placed in Service Date
Green Infrastructure	CSO Basins 14 and 28	Sewer System Environmental Impact Bonds, Series 2021	\$5,000,000	*	
Green Infrastructure	CSO Basins 26, 27, and 33	Sewer System Environmental Impact Bonds, Series 2021	\$23,000,000	*	
Green Infrastructure	CSO Basin 53	Sewer System Environmental Impact Bonds, Series 2021	\$19,000,000	*	
Green Infrastructure	City of Buffalo	Sewer System Environmental Impact Bonds, Series 2021	\$5,000,000	*	
Third-Party Evaluation and Reporting	City of Buffalo	Sewer System Environmental Impact Bonds, Series 2021	\$1,000,000	*	

- **30-years in the aggregate**

Appendix B-2

List of Disposed Bond-Financed Property

Description of the Property	Former Location	Date of Disposal	Manner of Disposal	Sale Price	Person to Whom Sold
				\$	

Appendix C

Glossary of Terms and Concepts

Private Business Use

“*Private Business Use*” means any use of Bond-financed property by any person other than a state or local government unit, including as a result of (i) ownership, (ii) actual or beneficial use pursuant to a lease or a management, service, incentive payment, research or output contract or (iii) any other similar arrangement, agreement or understanding, whether written or oral, except for use of Bond-financed property on the same basis as the general public. Private Business Use includes any formal or informal arrangement with any person other than a state or local governmental unit that conveys special legal entitlements to any portion of Bond-financed property that is available for use by the general public or that conveys to any person other than a state or local governmental unit any special economic benefit with respect to any portion of the Bond-financed property that is not available for use by the general public. Use by a natural person not engaged in any trade or business is not private use. Any use by the federal government or by a corporation is Private Business Use.

Examples of common uses of Bond-financed property that may create Private Business Use include the following:

- Management contracts with private companies or individuals to manage all or a portion of a Bond-financed facility (*e.g.*, a contract with a private company to manage a Bond-financed cafeteria, convention center, recreation center, etc.)
- A lease of space in a Bond-financed facility to a non-governmental person (*e.g.*, a lease of space in a Bond-financed municipal building to Starbucks or McDonalds)
- Rental arrangements whereby individuals, non-profit organizations or private businesses rent space in a Bond-financed facility

There are certain exceptions to Private Business Use. For example, a “qualified management contract” following certain guidelines set forth in Revenue Procedure 2017-13 does not create Private Business Use. In addition, under appropriate circumstances, short-term rentals and other uses of up to 50 days (or in some cases 100 days or 200 days) are permitted.

Arbitrage & Arbitrage Rebate

Arbitrage generally is the earnings that an issuer will earn when it invests proceeds of the Bonds in investments with a yield above the yield on the Bonds. Generally, an issuer is required to make payments of any arbitrage it earns as a result of the investment of the proceeds of the Bonds above the yield on the Bonds to the IRS, which is known as “arbitrage rebate.” There are certain exceptions to the requirement to make arbitrage rebate payments to the IRS (e.g., small issuer exceptions, spending exceptions, bona fide debt service fund exceptions).

Yield Restriction and Yield Reduction Payments

Yield restriction is the requirement that an issuer not invest Gross Proceeds (defined below) of the Bonds at a yield higher than Bond yield. Generally, in a capital project financing, an issuer will have a 3-year “temporary period” during which it can invest proceeds of the Bonds in its project fund above the yield on the Bonds. After such time, moneys are yield restricted and cannot be invested above the yield on the Bonds (plus a de minimis percentage). Additionally, after the expiration of the temporary period, proceeds generally cannot be invested in federally guaranteed investments (including FDIC-insured accounts), other than certain de minimis amounts. If an issuer invests amount above the yield on the Bonds after the expiration of a temporary period, it may still be able to achieve yield compliance by making a yield reduction payment to the IRS, which is a rebate payment or any other amount paid to the United States in the same manner as rebate amounts are required to be paid or at such other time or in such manner as IRS may prescribe that will be treated as a reduction in Yield of an investment under the Regulations. Yield reduction payments may only be made in limited circumstances, and do not work for all investments above Bond yield.

Gross Proceeds

“Gross Proceeds” generally means (i) sale proceeds of the Bonds and investment earnings thereon and (ii) amounts reasonably expected to be used directly or indirectly to pay principal or interest on the Bonds. In addition, a pledged fund may also constitute gross proceeds. A pledge is any amount that is directly or indirectly pledged to pay the principal of or interest on the bonds. A pledge by the issuer must provide reasonable assurance that such moneys will be available to pay the debt service on the bonds even if the issuer has financial difficulties. Gross proceeds may also arise if Bonds are outstanding longer than reasonably necessary for their governmental purpose. Typically, Gross Proceeds will be contained in a project fund, escrow fund (if the Bond issue is a refunding issue), costs of issuance fund, bond fund and debt service reserve fund (if applicable).

If moneys or investments are pledged or otherwise set aside for payment of principal of or interest on the Bonds, any amounts are derived from the sale of any right that is part of the terms of a Bond or is otherwise associated with a Bond (e.g., a redemption right), or the Issuer enters into any agreement to maintain certain levels of types of assets for the benefit of a holder of a bond or any credit enhancement with respect to the Bonds, such amounts may also constitute Gross Proceeds. Further, if any Bond-financed property is sold or otherwise disposed of any amounts received from such sale or other disposition may also constitute Gross Proceeds.

Remediation

The Code prescribes three self-help mechanisms that an issuer may use to remediate non-qualified Bonds as a result of violation of Private Business Use covenants. These include redemption or defeasance of non-qualified bonds, alternative use of a facility (e.g., if a 501(c)(3) organization leases a Bond-financed municipal facility) or alternative use of disposition proceeds (e.g., if Bond-financed property is sold, the proceeds of the sale are used for other governmental purposes that would have qualified for tax-exempt financing). Prior to taking such remedial actions, the issuer must satisfy certain preconditions. In addition, remedial actions are only able to be taken within a specified time frame before or after the action causing Private Business Use.

Voluntary Closing Agreement Program

Through the Voluntary Closing Agreement Program (VCAP), issuers of Bonds can voluntarily resolve violations of the Code and applicable Regulations (through closing agreements with the IRS). VCAP can be used when a remedial action (described under “Remediation”) is unavailable or there is another violation of the Code or Regulations that cannot be fixed through self-help mechanisms. The incentive for an issuer to go to VCAP is that, generally, a settlement in VCAP will be more favorable to the issuer than if the violation were discovered in an examination.