

Applicable Employee Classes: All Florida Tech Employees	Reviewed Date: February 2017	Approved by:  Dr. T. Dwayne McCay, President
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Private Use Policy and Guidelines

Florida Institute of Technology (“the university”) has financed the acquisition, construction of, and improvements to many facilities and other capital projects through the issuance of qualified 501(c)(3) tax-exempt bonds. As the issuer of tax-exempt bonds, the University is required to comply with federal tax rules that govern the expenditure of proceeds of tax-exempt, bond-financed property; investment of proceeds in compliance with arbitrage rules; and retention of records.

The university Controller’s office requires areas receiving capital project financing to comply with these procedures in their use of tax-exempt, bond-financed property and in the allowance of external research being performed in these facilities. Failure to follow these rules may result in the loss of the tax-exempt status of the bonds, significant penalties, and other consequences. Review of and compliance with the rules is required until the bonds are paid in full or, if refinanced, until the refinanced bonds are paid in full. The Controller’s Office is responsible for documenting compliance.

Definitions:

Arbitrage: Investment earnings on bond proceeds in excess of the bond interest paid to bondholders during the construction period, adjusted for certain expenses

Applicable federal law: Internal Revenue Code (IRC) and regulations, including IRC sections 145-150 and related regulations

Note: Internal Revenue Service (IRS) publication 4077, Tax-Exempt Bonds for 501(c)(3) Charitable Organizations Compliance Guide provides guidance and explanation for most areas of tax-exempt financing relevant to the university.

Basic research: Any original investigation for the advancement of scientific knowledge not having a specific commercial objective

External party: Any person **other than** a member of the university faculty, staff, or student body

Private Business Use: Use of tax-exempt, bond-financed property in a trade or business by an external party or entity

Tax certificate: The agreement signed by the university at the closing of a bond issuance in which the charitable organization makes certain representations, warranties, and covenants relating to its 501(c)(3) status, the tax eligibility of the projects, and the organization's operations

Unrelated trade or business: An activity that produces income that does not contribute importantly to the exempt purpose of the university

Proceeds Tracking

The university allocates debt proceeds to the various projects being funded with the tax-exempt debt. To be an eligible project, the property being financed must be (1) owned or, under certain circumstances, leased by the university; and (2) have an intended use that is consistent with the university's 501(c)(3) exempt purposes.

Retention of Detailed Records

The university expects to comply with regulatory record retention requirements. Federal regulations provide that records relating to a tax-exempt debt transaction should be retained for so long as they are materials in the administration of any federal tax law. Therefore, it is recommended that material records be kept for the life of the debt, including any refunding of the debt, plus three years.

Use of Tax-Exempt Financed Property

Five percent or less of tax-exempt bond issue proceeds may be used for private business purposes, including the costs incurred to issue the debt, and such use may occur only if it is in accordance with tax certificate provisions and in compliance with applicable federal law.

Annual Compliance Checks

Following the close of year-end and the annual audit, the university controller's office conducts an annual survey of the use of bond-financed property to determine the amount of private business use of each outstanding bond for that year. The university controller's office prepares a private use questionnaire that is distributed to appropriate areas to confirm space usage information (including information concerning management and service contracts, leases, and space rentals). The university controller's

office reviews this information to identify private business uses of bond-financed space and, as necessary to make this determination, obtains copies of relevant contracts.

In addition, the university controller's office works with the Office of Sponsored Programs (OSP) to identify any sponsored research contracts for the fiscal year in question that may give rise to private use.

The university controller's office identifies any arrangements that may be regarded as an "unrelated trade or business" for the fiscal year in question. To the extent private business use arose from any arrangement, the university controller's office gathers information necessary to identify and/or allocate the bond-financed space to private business use.

The university controller's office calculates the amount of private business use of each of the institution's outstanding bond issues for the fiscal year. The purpose of the calculation is to confirm continued compliance with the limitations on private use, and to permit the university to meet its Form 990 reporting obligation.

In the event a potential violation is identified, through the annual compliance checks or otherwise, the individual identifying the potential violation should immediately refer the matter to the Senior Vice President of Financial Affairs for review. The matter will be examined and internal and/or external counsel will be consulted as necessary, to determine whether a violation has occurred, or if a violation has not yet occurred, what steps may be taken to avoid a violation.

Arbitrage Yield Restriction and Rebate

Federal tax law requires the university (through the bond issuer) to "rebat" to the federal government any amounts earned from the investment of bond proceeds at a yield in excess of the bond yield, unless an exception applies. The university retains an outside rebate computation firm to calculate its liability, if any, for rebate for each of its bond issues. The university controller's office is responsible for maintaining the engagement with the firm, providing the firm with the documentation it requires, making sure the firm prepares calculations at the required intervals (including the retirement of a given bond issue), reviewing the firm's calculations for obvious errors, coordinating with the issuer to remit any required rebate to the federal government, and retaining appropriate records.