FINANCIAL POLICIES AND PROCEDURES

POLICIES RELATED TO 501(C)(3) TAX-EXEMPT BONDS

BACKGROUND

The University finances certain capital projects through the issuance of qualified 501(c)(3) tax-exempt bonds. The Internal Revenue Service Code and Treasury Regulations as well as the Bond Documents set forth rules which must be satisfied both at the time the bonds are issued and during the entire term of the bonds in order for the bonds to maintain a tax-exempt status.

The University engages outside bond counsel to assist in timely reviewing compliance with all regulations for its tax-exempt bond issues. In addition, the University follows a number of procedures to comply with all post-issuance regulations. IRS Publication 4077, *Tax Exempt Bonds for 501(c)(3) Charitable Organizations,* provides an overview of general rules under federal tax law that apply to qualified 501(c)(3) bond financing arrangements. The federal tax rules discussed in Publication 4077 include, but are not limited to information filing and other requirements related to issuance, the proper and timely use of bond-financed property and arbitrage yield restriction and rebate requirements. The University has adopted policies to comply with the regulations set forth in Publication 4077.

It is the University's policy to comply with all applicable laws, regulations and contracts applicable to its tax-exempt bonds.

INFORMATION FILING

There are general rules provided by the IRS involving public approval, registration, volume limitations and information filing regarding the issuance of qualified tax-exempt bonds. Regulations regarding the filing of information require that, upon issuance, issuers of tax-exempt bonds timely file IRS Form 8038, *Information Return for Tax-Exempt Private Activity Tax-exempt Bond Issues.*

At the time of issuance, bond counsel reviews the University's compliance with all regulations related to the issuance of the tax-exempt bonds involving public approval, registration, volume limitations and information filing. Form 8038 is completed by bond counsel at the time of issuance and it is included as part of the Closing Documents for each tax-exempt bond issue.

PROPER AND TIMELY USE OF DEBT-FINANCED PROPERTY

To be an eligible project, the property being financed must be owned by the University and the intended use must be consistent with the University's 501(c)(3) exempt purposes.

Five percent or less of tax-exempt bond issue proceeds may be used for private business purposes. Costs of issuance are counted towards the five percent threshold. Private business use may exist if facilities are rented or leased to outside organizations. For example, if construction of a dormitory is financed with the proceeds of tax-exempt bonds, then dormitory rooms that are rented to an outside, private organization would be considered private business use. The percentage of private business use must be calculated cumulatively over the life of the bonds.

Management service contracts between 501(c)(3) organizations and certain private parties under which private parties receive compensation for services provided with respect to a bond-financed facility may result in a loss of tax-exempt status of the bonds as a result of satisfying the private business use tests. However, the IRS has provided safe harbors regarding management service contracts between a for-profit entity and a tax-exempt organization when such service is provided in connection with a bond-financed facility.

Generally, certain agreements, where private entities (including the federal government) sponsor research through 501(c)(3) organizations that benefit from tax exempt bonds financing, may result in a violation of the private business tests. However, the IRS has approved safe-harbors applicable to such research agreements.

FINANCIAL POLICIES AND PROCEDURES

POLICIES RELATED TO 501(C)(3) TAX-EXEMPT BONDS (continued)

PROPER AND TIMELY USE OF DEBT-FINANCED PROPERTY (continued)
The University's bond counsel reviews the University's intended use of all projects funded by tax-exempt bond issues at the time of issuance. In addition, the Controller's Office staff reviews the University's contracts where facilities are leased to outside organizations in order to determine if private business use exists. The Controller's Office is responsible for calculating the percentage of tax-exempt debt-financed property that is used for private business for each tax-exempt bond issue. The private business use percentages are then reported on IRS Form 990, (Return of Organization Exempt from Income Tax), Schedule K (Supplemental Information on Tax-Exempt Bonds). The University's IRS Form 990, is reviewed annually and signed by a public accounting firm.

In the event of a change in use or a transfer in ownership of bond-financed property to a non-exempt person or excessive private business use, the University may avail itself of the remedial rules under Treasury Regulation 1.141-12. The University will seek the advice of bond counsel in the event remedial action should be required.

ARBITRAGE
Tax-exempt bonds, including qualified 501(c)(3) bonds, lose their tax-exempt status if they are considered arbitrage bonds under Section 148 of the Internal Revenue Service Code. In general, arbitrage is earned when the gross proceeds of an issue is used to acquire investments that earn a yield materially higher than the yield on the bonds of the issue.

The University engages a public accounting firm to calculate any arbitrage rebate amount and yield reduction liability under the laws contained in Section 148 for each tax-exempt bond issue.

OTHER FILING REQUIREMENTS
In addition to the Internal Revenue Service Code and Treasury Regulations, the University must comply with the rules set forth in the Bond Documents for each tax-exempt bond issue. These rules include, but are not limited to the annual, on-line reporting of the University's audited financial statements, financial information and operating data with the Municipal Securities Rulemaking Board. In addition, various Certificates of Compliance are required to be periodically filed with University's Bond Trustees. Annual compliance data must also be supplied to the Town of Hempstead LDC as well.

The Controller's Office is responsible for the timely filing of reports, for each outstanding tax-exempt bond issue, to the Municipal Securities Rulemaking Board, Bond Trustees and the Town of Hempstead LDC.

GENERAL PROCEDURES TO TAKE CORRECTIVE ACTION
In the unlikely event the University identifies a violation of the federal requirements for tax-exempt bonds, the Controller's Office will avail itself of any voluntary closing agreements currently offered by the IRS should self-remediation not be possible under the applicable regulations.