

# CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK

## Policies and Procedures for Conduit Revenue Bonds Financing for Economic Development Facilities

Note: Unless defined specifically herein, all words and terms with their initial letters capitalized shall have the same meaning as contained in [Government Code Section 63010](#).

### I. Eligible Projects

- A. [Eligible projects](#) are one or more [Economic Development Facilities, or any part thereof](#).
- B. [It is the policy of the California Infrastructure and Economic Development Bank (“IBank”) to avoid the duplication, inefficiency, market confusion, and poor public policy outcomes that would result from State of California conduit revenue bond issuers competing to issue bonds to finance the same project or similar projects. In recognition of this policy:
  1. IBank may issue bonds to finance an Economic Development Facility project that is statutorily authorized to be financed through bonds issued by another State of California conduit revenue bond issuer if the project or a portion thereof has been previously financed by bonds issued by IBank or a predecessor of IBank (as of the date of the adoption of this policy, the former California Economic Development Financing Authority), and the proposed financing includes a refunding of those bonds or to otherwise finance the previously financed project.
  2. Upon receipt of an application or inquiry from a potential applicant for financing of an economic development facility project that IBank staff has reason to believe is statutorily authorized to be financed or issued by another State conduit revenue bond issuer, and which does not fall within the scope of subparagraph 1. above, IBank Executive Director shall contact the Executive Director of the other State conduit revenue bond issuer to discuss which issuer is the most appropriate to issue bonds to finance the project. Following that discussion and after taking into consideration the information shared by the Executive Director of the other State conduit revenue bond issuer, the Executive Director of IBank shall determine whether to recommend the issuance of bonds for such economic development project to the IBank Board of Directors (the “Board”).
  3. In reaching the determination under subparagraph 2. above, the Executive Director shall consider:

- a. If either IBank or the other State conduit revenue bonds issuer is statutorily authorized to finance only a portion of the proposed project; which issuer is statutorily authorized to finance the greater portion of the proposed project?
- b. Whether the project is of a type previously financed by either IBank or the other State conduit revenue bond issuer (i.e., whether IBank staff or staff of the other State conduit revenue bond issuer has developed experience and expertise in assessing and advising on a similar project or projects).
- c. The staffing capacity of IBank and the other State conduit revenue bond issuer, and the respective experience of available staff to effectively and efficiently assess and advise on the project.

The Executive Director shall inform the Board when a project is recommended for financing by IBank staff pursuant to this Section I.B.]

- C. The IBank’s standard policy will be to issue publicly offered Bonds only where such Bonds bear a long-term rating of at least a “Baa3” from Moody’s Investors Service (“Moody’s”), and/or “BBB-” from Standard & Poor’s (“S&P”), Fitch Ratings, Inc. (“Fitch”) or Kroll Bond Rating Agency (“KBRA”), and/or a short-term rating of at least a “VMIG 3” or “P-3” from Moody’s, or “SP-2” or “A-3” from S&P, or “F3” from Fitch, or K3 from KBRA; based either on the credit of the [applicant](#) or on a credit enhancement from a bank, insurance company, or other guarantor acceptable to IBank (the “Minimum Rating Policy”). Each rating on the Bonds must meet the Minimum Rating Policy for IBank to issue publicly offered Bonds. If the ratings on the bonds fall below the Minimum Rating Policy after issuance, subsequent transfers shall be subject to the limitations of Section I.D., below. IBank Board may consider a waiver of the Minimum Rating Policy based on special circumstances, or a waiver pursuant to subsection D.
- D. When IBank Board agrees to waive the requirement for a credit rating stated in paragraph C., the applicant will be required to use a private placement or limited underwritten offering, subject to the following additional conditions:
  1. **Sophisticated Investor.** The initial investor(s) will be required to sign a “sophisticated investor” letter acceptable to IBank. Each investor must be a qualified institutional buyer (“QIB”) within the meaning of S.E.C. Rule 144A or an accredited investor (“AI”) within the meanings of the Code of Federal Regulations, Section 230.501(a)(1), (2), (3), (7), (8), (9), or (12). There is no minimum or maximum number of investors for any private placement or limited underwritten offering.
  2. **Resale Limitations.** Resales will be subject to QIB or AI requirements unless the Minimum Rating Policy is met for each rating on the Bonds. Depending on the circumstances of the proposed sale, IBank may require additional conditions for

the resale of the Bonds after initial issuance, such as the requirement that a traveling QIB or AI letter be delivered for each subsequent transfer of Bonds.

3. **Minimum Denomination.** IBank will require a minimum bonds denomination of at least \$100,000 and any integral multiple of at least \$1,000 in excess thereof on private placements and/or limited underwritten offerings; denominations may be higher depending on the circumstances of the sale.

## II. Application Content

A. **Inducement Resolutions.** An applicant seeking IBank’s adoption of an official intent pursuant to Treasury Regulation Sections 1.150-2(d), (e) (an “Inducement Resolution” if adopted by the Board and an “Inducement Certificate” if executed by IBank’s Executive Director pursuant to his or her delegated authority) in connection with the issuance of Bonds, shall submit a completed application along with a draft Inducement Resolution. IBank staff may convert any draft Inducement Resolution to an Inducement Certificate. The application shall be on the form prepared by IBank’s staff and posted on IBank’s website at <https://ibank.ca.gov/bonds/bond-applications-documents/>. IBank staff may from time to time modify the application form. Any such modification shall be posted on IBank’s website.

B. **Bond Issuance Resolutions.** An applicant seeking IBank’s adoption of a resolution authorizing the issuance of bonds, shall submit, either individually or in connection with the application seeking adoption of an Inducement Resolution/Certificate, a completed application on the form prepared by IBank’s staff and posted on IBank’s website at <https://ibank.ca.gov/bonds/bond-applications-documents/>. IBank staff may from time to time modify the application form. Any such modification shall be posted on IBank’s website.

## III. Application Process

A. **Inducement Resolution/Certificate.** An applicant must submit one original signed copy of the application along with a draft of the Inducement Resolution to IBank no later than the application deadline for the relevant Board meeting date set forth in the conduit bond Board meeting deadlines shown on <https://ibank.ca.gov/board/board-meeting-deadlines-2020/> (“Board Meeting Deadlines”), to [BondUnit@IBank.CA.GOV](mailto:BondUnit@IBank.CA.GOV). The Board Meeting Deadlines are prepared by IBank’s staff. IBank staff may from time to time modify the Board Meeting Deadlines. Any such modifications shall be posted on IBank’s website.

IBank staff shall advise the applicant whether the application is complete within five business days of receipt. For completed applications, the Executive Director in his or her discretion will determine whether to consider execution of an Inducement Certificate pursuant to his/her delegated authority, if any then exists, or to present an Inducement Resolution to the Board for approval. Upon adoption of an Inducement Resolution/execution of an Inducement Certificate, the applicant may proceed with the Section III.B below, provided that the applicant has (1) successfully obtained any

necessary approval from the California Debt Limit Allocation Committee or its successor(s) (“CDLAC”), (2) submitted to IBank copy of the executed CDLAC resolution for the Economic Development Facility to be financed, and (3) submitted to IBank a first draft of the Bond documents as discussed on Section III.B.

If the application is not complete, the communication shall specify the deficiencies and provide the applicant with one business day in which to correct the deficiencies. If the required information is received within one business day, IBank staff shall promptly notify the applicant. If the required information is not received within one business day, IBank staff shall notify the applicant that the application is still incomplete and may not be considered. The applicant may submit a corrected application for consideration at a subsequent IBank meeting within the application submission time frame set forth in the Board Meeting Deadlines.

- B. **Final Resolution.** An applicant must submit the executed application along with the first draft of Bond documents no later than the [date](#) set forth in the Board Meeting Deadlines for the relevant Board Meeting. A substantially final version of the Bond documents must be submitted on or prior to the due date set forth in the Board Meeting Deadlines (see “Deadline to Submit: Substantially Final Version of Bond Documents” column). IBank staff shall advise the Applicant whether an application is complete within five business days of receipt.

Applications will be reviewed in the order they were received by IBank staff. IBank staff will attempt to present the applicant’s request at the Board meeting selected by the applicant; however, timing and other considerations may not permit consideration at the Board meeting requested and IBank staff may elect to schedule the matter for an alternate Board meeting.

If the application is not complete, IBank’s staff’s communication shall specify the deficiencies and allow the applicant four business days to correct the deficiencies. If the required information is received within four business days, and the project meets IBank’s public interest criteria set forth herein, IBank staff shall, subject to the immediately preceding paragraph, promptly notify the applicant that the matter will be placed on the agenda for the requested IBank Board meeting. If the required information is not received within four business days, IBank staff shall send a communication via e-mail to the applicant stating that the application is still incomplete and may not be placed on the agenda for the selected Board meeting. The applicant may submit correction of the prior application for consideration at a subsequent Board meeting.

Prior to submitting a matter to the Board, the governing body of the applicant shall have adopted a resolution authorizing the proposed financing. A copy of such executed resolution shall be submitted to IBank prior to the Board Meeting in which the matter will be considered.

- C. Inclusion of a matter on the Board meeting agenda means that it is intended to be considered by the Board at the agenda meeting; it does not necessarily mean that the

Board will approve the matter or that the Board meeting will occur as scheduled in the agenda.

- D. If an IBank Board approved Bonds transaction is not completed prior to the date indicated in the operative Board resolution, the applicant may submit an application to request an extension (“Extension Request”). The Extension Request must be submitted to [BondUnit@IBank.CA.GOV](mailto:BondUnit@IBank.CA.GOV) by the application deadline set forth in the Board Meeting Deadlines applicable to the Board Meeting immediately prior to the resolution expiration date. Submission of an Extension Request constitutes a renewed application and will require payment of an application fee. The Extension Request shall be on the application prepared by IBank’s staff. To obtain the Extension Request application, the applicant must contact [BondUnit@IBank.CA.GOV](mailto:BondUnit@IBank.CA.GOV). IBank staff may from time to time modify the Extension Request application.

#### IV. **Public Hearing**

- A. For federally tax-exempt Bonds that are subject to [Section 147\(f\) of the Internal Revenue Code of 1986](#), as amended (“Section 147(f)”), the required hearing must be completed prior to the Board meeting at which the applicant’s matter is to be considered.

#### V. **Relocation**

- A. In general, IBank will not issue Bonds that directly cause the relocation of a project from one jurisdiction of the State to another without substantial justification. IBank will carefully weigh the overall public benefits associated with the relocation against the detriment to the community from which the project is relocated.
- B. Applications submitted in connection with project relocations must describe any community outreach efforts, including outreach efforts to local governments, community organizations, and surrounding businesses.

#### VI. **Public Interest Criteria**

- A. No Bonds shall be issued by IBank unless IBank staff shall have first determined that the financing meets the following public interest criteria, relying on information provided by the Applicant, rating agency, underwriter, financial adviser, bond counsel, and/or borrower’s counsel:
  - 1. The financing is for a project or a use in the State of California;
  - 2. The Applicant is capable of meeting obligations incurred under relevant agreements relating to the Bonds issued by IBank;
  - 3. Payments to be made under applicable financing documents are adequate to pay the current expenses of IBank in connection with the financing and to make payments on the Bonds;
  - 4. The proposed financing is appropriate for the specific project; and
  - 5. The project is consistent with any existing local or regional comprehensive plan.

B. IBank requires that any Economic Development Facility it finances or refinances through the issuance of conduit bonds benefit the public. The following represent such public benefit criteria:

1. **Industrial Development Bonds.** The issuance of Bonds must demonstrate clear economic benefit to the community surrounding the Economic Development Facility to be financed. Typically, this is shown by the creation of new jobs and retention of existing jobs, but other economic benefits may be considered. The Applicant must also comply with the policies, procedures; and public interest criteria of CDLAC.
2. **501(c)(3) Bonds.** Economic Development Facilities financed or refinanced by IBank's issuance of 501(c)(3) conduit bonds, must clearly benefit the public. Public benefits include the provision of additional, or continuation of existing, services, the provision of additional, or continuation of existing, educational, scientific, social, or cultural resources to the community surrounding the Economic Development Facility or the State, or the creation or retention of jobs.
3. **Exempt Facility Bonds.** Economic Development Facilities financed or refinanced by IBank's issuance of conduit exempt facility bonds must clearly benefit the public. Public benefits include economic or environmental improvements to the State or the community surrounding the Economic Development Facility, such as increased local revenues, improvements to infrastructure, expansion of the State or local economy, job creation or retention, or other specific local goals and objectives.
4. **Public Agency Revenue Bonds for Economic Development Facilities.** Economic Development Facilities financed or refinanced by IBank's issuance of public agency revenue conduit bonds must demonstrate an enhancement of the infrastructure or the enhancement or continuation of the economic, social, or cultural quality of life for residents in the community surrounding the Economic Development Facility or the State.

## VII. **Contractor Certification**

- A. Any applicant that utilizes bond proceeds for construction purposes shall certify that all the general contractors are properly licensed by the [Contractors' State License Board](#).
- B. All public works projects shall comply with [Chapter 1 \(commencing with Section 1720\) of Part 7 of Division 2 of the Labor Code](#).

## VIII. **Finance Team Approval**

- A. IBank shall have final approval of all finance team members, except the selection of the underwriter(s) for a public offering transaction. The State Treasurer shall have final

approval of the underwriter(s) in accordance with Government Code Section 5703. The State Treasurer requires that the applicant select the underwriter(s) from the [Public Finance Division's current Underwriter Pool](#) posted on the State Treasurer's website.

**IX. State Treasurer as Agent of Sale**

- A. Sale of Bonds for certain types of transactions shall be coordinated by the State Treasurer in accordance with [Government Code Section 5702](#).

**X. Bonds Not a Liability of the State**

- A. Bonds issued by IBank do not constitute a debt or liability of the State or any political subdivisions thereof; other than the limited obligation of IBank or a special purpose trust, and do not constitute a pledge of the full faith and credit of the State or any of its political subdivisions, other than the limited pledge of IBank or special purpose trust to make payments from revenues received from the conduit borrower, but are payable solely from the funds provided therefor under the Act and shall be consistent with [Sections 1 and 18 of Article XVI of the California Constitution](#).
- B. All the Bonds shall contain on the face thereof a statement to the following effect: "Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of, premium, if any, or interest on, this bond."

**XI. Bank Indemnity**

- A. Each applicant will be required, as part of bond documentation, to indemnify and defend IBank and its members, officers, agents and employees.

**XII. Other**

- A. IBank may entertain requests for exemptions or waivers to those portions of these policies and procedures not required by law. Any such waiver or exemption request in regards to deadline compliance, may be granted or denied in the discretion of the Executive Director or his or her designee. Any other waiver or exemption request will be granted or denied in the discretion of the Board. Exemption or waiver requests may increase the time required for IBank staff to process the application.
- B. Each applicant will be required to follow the IBank's Post-Issuance Tax Compliance Policy for Tax-Exempt Bonds (See Appendix A).
- C. Each applicant will be required to submit a Request for Post-Bond Issuance Actions (posted on IBank's website at <https://ibank.ca.gov/bonds/bond-applications-documents/>) if the applicant wishes for IBank to take any action after the closing of the bond transaction. IBank staff may from time to time modify the request form. At the Executive Director's discretion, IBank may require a fee and/or reimbursement of its

request-related costs commensurate with the complexity of the request as a condition to closing or taking action.

**Appendix A**

**Post-Issuance Tax Compliance Policy  
For  
Tax-Exempt Bonds**

**Dated October 9, 2012**

**California Infrastructure and Economic Development Bank  
Post-Issuance Tax Compliance Policy  
For Tax Exempt Bonds**

Amended on October 9, 2012

The purpose of the Post-Issuance Tax Compliance Policy ("Policy") is to establish a policy to aid the California Infrastructure and Economic Development Bank ("I-Bank") in ensuring that entities (each, a "Borrower") that borrow the proceeds of qualified I-Bank bonds ("Conduit Bonds") comply with applicable post-issuance requirements of federal income tax law necessary to preserve the tax-exempt status (or tax-advantaged status) of interest on such bonds (collectively referred to herein as "Tax-Exempt Bonds"). Further, this Policy shall apply whenever the I-Bank issues bonds ("Direct Bonds") to provide funding for any of its programs, including, but not limited to its Infrastructure State Revolving Fund Program and State School Fund Apportionment Bond Program. The I-Bank reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions as circumstances warrant. The I-Bank also reserves the right to change these policies and procedures from time to time.

**Post-Issuance Tax Compliance Requirements  
For Conduit Bonds**

A. General

The I-Bank shall designate a "Tax Compliance Officer" who shall facilitate compliance on behalf of the I-Bank to the extent that federal tax law requires participation by the I-Bank as an issuer of Conduit Bonds. Unless the Board of Directors of the I-Bank or the I-Bank's Executive Director indicate otherwise, the I-Bank's Bond Programs Unit Manager shall be the I-Bank's designated Tax Compliance Officer.

The Borrower, in the Tax Certificate (as defined below) or in similar documents pertaining to the Conduit Bonds that are prepared in connection with the issuance of the Conduit Bonds, shall designate an officer or employee responsible for the Borrower's compliance tasks listed herein ("Borrower Compliance Officer").

If the I-Bank is contacted by the Internal Revenue Service ("IRS") regarding post-issuance tax compliance on the Conduit Bonds, the Borrower will cooperate with the I-Bank in responding to the IRS. The Borrower will also cooperate with the I-Bank in responding to any IRS examination or audit of the Conduit Bonds.

The I-Bank and Borrower shall take note of the availability of the United States Treasury's Tax-Exempt Bonds Voluntary Closing Agreement Program ("TEB VCAP") and other remedial actions to resolve violations, and shall cooperate with one another to take such corrective action when necessary or appropriate.

The Borrower shall be responsible for any and all costs, including but not limited to attorney's

fees, associated with or related to post-issuance tax compliance, including but not limited to costs to respond to an IRS examination or for TEB VCAP.

#### B. External Advisors/ Documentation

For each issue of Conduit Bonds, the I-Bank and the Borrower shall consult with bond counsel and other legal counsel and advisors, as needed, throughout the Conduit Bond issuance process to identify requirements and to establish procedures necessary or appropriate so that, upon issuance, the Conduit Bonds will qualify for tax-exempt status. Those requirements and procedures shall be documented in the tax certificate and agreement ("Tax Certificate") and/or other documents finalized at or before issuance of the Conduit Bonds. Those requirements and procedures shall include future compliance with applicable arbitrage rebate requirements and certain other applicable post-issuance requirements of federal tax law throughout (and in some cases beyond) the term of the Conduit Bonds.

Following issuance of the Conduit Bonds, the Borrower also shall consult with bond counsel and other legal counsel and advisors, as needed, to ensure that all applicable post-issuance requirements in fact are met. This shall include, without limitation, consultation in connection with any potential changes in use of Conduit Bond-financed or refinanced facilities, furnishings or equipment (each a "Project" and collectively, "Projects"). This requirement shall be documented in the Tax Certificate or other similar documents that are prepared in connection with the issuance of Conduit Bonds.

Unless otherwise indicated, in writing, in the Tax Certificate or other similar documents that are prepared in connection with the issuance of Conduit Bonds, the I-Bank shall require the Borrower to engage expert advisors (each a "Rebate Service Provider") to assist in the calculation of arbitrage rebate payable in respect of the investment of Conduit Bond proceeds.

Unless otherwise provided by the indenture (or similar document) relating to the Conduit Bonds, unexpended Conduit Bond proceeds shall be held by a trustee or other financial institution, and the investment of Conduit Bond proceeds shall be managed by the Borrower. The Borrower shall prepare (or cause the trustee or other financial institution to prepare) regular, periodic statements regarding the investments and transactions involving Conduit Bond proceeds. Upon the request of the I-Bank, the Borrower shall provide copies of any such statements as well as any additional related information requested by the I-Bank.

#### C. Arbitrage Rebate and Yield Restriction

It is the I-Bank's policy that the Borrower shall be solely responsible for compliance with all requirements under the Federal arbitrage regulations, including but not limited to the following:

- unless otherwise indicated in writing in the Tax Certificate or other similar documents that are prepared in connection with the issuance of the Conduit Bonds, engaging the services of a Rebate Service Provider and, prior to each rebate calculation date, causing the trustee or other financial institution investing Conduit Bond proceeds to deliver periodic statements concerning the investment of Conduit Bond proceeds to the Rebate Service Provider;

- providing to the Rebate Service Provider additional documents and information reasonably requested by the Rebate Service Provider;
- monitoring the efforts of the Rebate Service Provider;
- assuring the payment of required arbitrage rebate amounts, if any, by the applicable due date;
- during the construction period of each capital project financed in whole or in part by Conduit Bonds, monitoring the investment and expenditure of Conduit Bond proceeds and consulting with the Rebate Service Provider to determine compliance with any applicable exceptions from the arbitrage rebate requirements, including during each spending period following the issue date of the Conduit Bonds;
- establishing procedures to ensure investments acquired with Conduit Bond proceeds are acquired at their fair market value in accordance with the requirements of federal tax law; and
- retaining copies of all arbitrage rebate and yield restriction reports, investment records and trustee statements as described below under "Record Keeping Requirements" and, upon request, providing such copies to the I-Bank.

D. Use of Bond Proceeds and Bond-Financed or Refinanced Projects:

It is the I-Bank's policy that the Borrower shall be solely responsible for:

- monitoring the timely expenditure and use of Conduit Bond proceeds (including investment earnings and including reimbursement of expenditures made before bond issuance) and the use of Conduit Bond-financed or refinanced Projects throughout the term of the Conduit Bonds to ensure compliance with covenants and restrictions set forth in the Tax Certificate relating to the Conduit Bonds;
- maintaining records identifying the assets or portion of Projects that are financed or refinanced with proceeds of each issue of Conduit Bonds, including a final allocation of Conduit Bond proceeds as described below under "Record Keeping Requirements;"
- consulting with bond counsel and other legal counsel and advisers in the review of any change in use, potential change in use or transfer of Bond-financed or refinanced Projects to ensure compliance with all covenants and restrictions set forth in the Tax Certificate relating to the Conduit Bonds;
- ensuring that the Borrower Compliance Officer confers, at least annually, with appropriate Borrower personnel, to identify and discuss any existing or planned use of Conduit Bond-financed or refinanced Projects, to ensure that those uses are consistent with all covenants and restrictions set forth in the Tax Certificate relating to the Conduit Bonds; and

- to the extent that the Borrower discovers that any applicable tax restrictions regarding use of Conduit Bond proceeds and Conduit Bond-financed or refinanced Projects have been or may be violated, consulting promptly with bond counsel and other legal counsel and advisers to determine a course of action to remediate all nonqualified Conduit Bonds or take other remedial action, if such counsel advises that a remedial action is necessary.

#### E. Record Keeping Requirement

It is the I-Bank's policy that the Borrower shall be solely responsible for maintaining the following documents for the term of each issue of Conduit Bonds (including refunding bonds, if any) plus at least three years:

- a copy of the Conduit Bond closing transcript(s) and other relevant documentation delivered to the Borrower at or in connection with closing of the issue of Conduit Bonds;
- a copy of all material documents relating to capital expenditures financed or refinanced by Conduit Bond proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, as well as documents relating to costs reimbursed with Conduit Bond proceeds and records identifying the Projects or portion of Projects that are financed or refinanced with Conduit Bond proceeds, including a final allocation of Conduit Bond proceeds;
- a copy of all contracts and written arrangements involving the use of Conduit Bond-financed or refinanced Projects; and
- a copy of all records of investments, investment agreements, credit enhancement transactions, financial derivatives, arbitrage rebate and yield restriction reports and underlying documents, including trustee statements, in connection with any bond proceeds investment agreements, and copies of all bidding documents, if any.

#### F. Education and Training

The Borrower Compliance Officer and appropriate staff of the Borrower shall periodically and as necessary obtain education and training on federal tax requirements for post-issuance compliance applicable to the Conduit Bonds. The Borrower will enable and encourage relevant personnel to attend and participate in educational and training programs offered by professional organizations and other entities with regard to monitoring compliance with federal tax requirements for the Conduit Bonds.

#### G. Model Tax Compliance Policy

Borrowers are encouraged to adopt a formal Tax Compliance Policy as soon as possible after the issuance of the Conduit Bonds. Attached hereto, as Exhibit A, is a Model Tax Compliance Policy that was prepared for use by the I-Bank with respect to its own bonds. With the advice of their own legal counsel, Borrowers may wish to develop a Tax Compliance Policy that is fashioned after the Model Tax Compliance Policy; provided, however, that the I-Bank hereby

disclaims all responsibility for any consequences that may arise as a result of Borrower's reliance on any part of the Model Tax Compliance Policy.

#### **H. Correcting Non-Compliance**

If any non-compliance of applicable federal tax requirements is identified or otherwise brought to the I-Bank's attention, the I-Bank's Tax Compliance Officer (as defined below) shall, in consultation with legal counsel and the Borrower Compliance Officer and any other appropriate tax compliance personnel of the Borrower, cause the I-Bank and the Borrower, as required, to take all steps necessary or advisable in order to timely correct or remediate such non-compliance.

### **Post-Issuance Tax Compliance Requirements For Direct Bonds**

#### **A. General**

The I-Bank shall designate a "Tax Compliance Officer" who shall facilitate compliance on behalf of the I-Bank as required by federal tax law from the I-Bank as an issuer of Direct Bonds. Unless the Board of Directors of the I-Bank or the I-Bank's Executive Director indicate otherwise, the I-Bank's Bond Programs Unit Manager shall be the I-Bank's designated Tax Compliance Officer.

#### **B. Tax Compliance Policy**

With respect to Direct Bonds, the Tax Compliance Officer, in consultation with legal counsel, shall institute processes, as necessary, to implement the applicable provisions of the Model Tax Compliance Policy, attached hereto as Exhibit A (the "Model Policy").

In accordance with the Tax Certificate or similar document prepared by bond counsel for the bonds in question, the Tax Compliance Officer, with the advice of legal counsel, shall take into account those tax requirements for the Direct Bonds that differ from requirements applicable to the construction of capital projects, as set forth in the Model Policy, and shall act accordingly.

The Tax Compliance Officer, in consultation with legal counsel, shall also coordinate with the other entities benefited by such Direct Bonds in its observance of the terms and conditions of the Tax Certificate for such bonds.

#### **C. Education and Training**

The Tax Compliance Officer and relevant staff of the I-Bank shall periodically and as necessary be provided with education and training on federal tax requirements for post-issuance compliance applicable to the Direct Bonds. The I-Bank will enable and encourage relevant personnel to attend and participate in educational and training programs offered by professional organizations and other entities with regard to monitoring compliance with federal tax requirements for both Direct Bonds and Conduit Bonds.

D. Correcting Non-Compliance

If any non-compliance of applicable federal tax requirements is identified or otherwise brought to the I-Bank's attention, the I-Bank's Tax Compliance Officer shall, in consultation with legal counsel and the appropriate tax compliance personnel of the entity benefited by Direct Bonds, cause the I-Bank and the entity benefited by Direct Bonds, as required, to take all steps necessary or advisable in order to timely correct or remediate such non-compliance.

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## **Exhibit A**

### **MODEL TAX COMPLIANCE POLICY California Infrastructure and Economic Development Bank Post-Issuance Tax Compliance Policy For I-Bank Tax-Exempt Bonds**

The purpose of this Tax Compliance Policy (this "Policy"), established by [ENTITY NAME] (the "Entity"), is to maximize the likelihood that post-issuance requirements of federal income tax law necessary to preserve the tax exempt status (or tax-advantaged status) of interest on bonds (the "Bonds") issued by the California Infrastructure and Economic Development Bank (the "I-Bank") are met. The Entity reserves the right to use its discretion as necessary and appropriate to make exceptions or request additional provisions as circumstances warrant. The Entity also reserves the right to change this Policy from time to time.

#### **Post-Issuance Tax Compliance Requirements**

[TITLE OF EMPLOYEE/OFFICER OF ENTITY] (the "Tax Compliance Officer") shall be responsible for overseeing compliance with the provisions of this Policy.

#### **External Advisors / Documentation**

The Entity shall consult with bond counsel and/or other legal counsel and advisors, as needed, following issuance of the Bonds to ensure that all applicable post-issuance requirements generally set forth in the Tax Certificate for the Bonds (the "Tax Certificate") are met. This shall include, without limitation, consultation in connection with any potential changes in the use of Bond-financed or refinanced Projects (as defined herein).

Unless otherwise indicated, in writing, in the Tax Certificate or other similar documents that are prepared in connection with the issuance of the Bonds, the Entity shall engage expert advisors (each a "Rebate Service Provider") to assist in the calculation of arbitrage rebate payable in respect of the investment of Bond proceeds. The Entity shall make any arbitrage rebate payments required on a timely basis as required under federal tax law.

Unless otherwise provided by the indenture (or similar document) relating to the Bonds, unexpended Bond proceeds shall be held by a trustee or other financial institution, and the investment of Bond proceeds shall be managed by the Entity. The Entity shall prepare (or cause the trustee or other financial institution to prepare) regular, periodic statements regarding the investments and transactions involving Bond proceeds.

#### **Arbitrage Rebate and Yield Restrictions**

The Tax Compliance Officer shall be responsible for overseeing compliance with arbitrage rebate and yield restriction requirements under federal tax law. Unless otherwise indicated, in writing, in the Tax Certificate or other similar documents that are prepared in connection with the issuance of the Bonds, the Entity shall:

- engage the services of a Rebate Service Provider and, prior to each rebate calculation date, cause the trustee or other financial institution investing Bond proceeds to deliver periodic statements concerning the investment of Bond proceeds to the Rebate Service Provider;
- provide to the Rebate Service Provider additional documents and information reasonably requested by the Rebate Service Provider;
- monitor the efforts of the Rebate Service Provider;
- assure the payment of required arbitrage rebate amounts, if any, no later than the applicable deadline under federal tax law;
- during the construction period of each capital project financed in whole or in part by Bonds, monitor the investment and expenditure of Bond proceeds and consult with the Rebate Service Provider to determine compliance with any applicable exceptions from the arbitrage rebate requirements, including during spending periods, as and if applicable, following the issue date of the Bonds;
- retain copies of all arbitrage reports and trustee statements as described below under "Record Keeping Requirements;" and
- establish procedures to ensure that investments that are acquired with Bond proceeds are so acquired at their fair market value pursuant to federal tax law.

#### Use of Bond Proceeds and Bond-Financed or Refinanced Projects

The Tax Compliance Officer shall be responsible for:

- monitoring the use of Bond proceeds (including investment earnings and including reimbursement of expenditures made before Bond issuance) and the use of Bond-financed or refinanced projects, such as facilities, furnishings or equipment ("each a "Project" and collectively, "Projects") throughout the term of the Bonds to ensure compliance with covenants and restrictions set forth in the Tax Certificate relating to the Bonds;
- maintaining records identifying the Projects or portion of Projects that are financed or refinanced with proceeds of each issue of Bonds (including investment earnings and including reimbursement of expenditures made before Bond issuance), including a final allocation of Bond proceeds as described below under "Record Keeping Requirements;"
- consulting with bond counsel and other legal counsel and advisers in the review of any change in use, or potential change in use, of Bond-financed or refinanced Projects to ensure compliance with all covenants and restrictions set forth in the Tax Certificate relating to the Bonds;
- maintaining records for any contracts or arrangements involving the use of Bond-financed or refinanced Projects as described below under "Record Keeping Requirements;"
- conferring at least annually with personnel responsible for Bond-financed or refinanced Projects to identify and discuss any existing or planned use of Bond-financed or refinanced Projects and to ensure that those uses are consistent with all covenants and restrictions set forth in the Tax Certificate relating to the Bonds; and
- to the extent that the Entity discovers that any applicable tax restrictions regarding use of Bond proceeds and Bond-financed or refinanced Projects will or may be violated, consulting promptly with bond counsel and other legal counsel and advisers to determine a course of action to remediate all nonqualified Bonds or take other remedial action, if such counsel advises that a remedial action is necessary.

### Record Keeping Requirement

The Tax Compliance Officer shall be responsible for maintaining the following documents for the term of each issue of Bonds (including refunding Bonds, if any) plus at least three years:

- a copy of the Bond closing transcript(s) and other relevant documentation delivered to the Entity at or in connection with closing of the issue of Bonds;
- a copy of all material documents relating to capital expenditures financed or refinanced by Bond proceeds, including (without limitation) construction contracts, purchase orders, invoices, trustee requisitions and payment records, as well as documents relating to costs reimbursed with Bond proceeds and records identifying the Projects or portion of Projects that are financed or refinanced with Bond proceeds, including a final allocation of Bond proceeds;
- where appropriate, a copy of all contracts and written arrangements involving the use of Bond-financed or refinanced Projects; and
- a copy of all records of investments, investment agreements, arbitrage reports and underlying documents, including trustee statements, in connection with any bond proceeds investment agreements, and copies of all bidding documents, if any.

### Education and Training

The Tax Compliance Officer and appropriate staff of the Entity shall periodically and as necessary obtain education and training on federal tax requirements for post-issuance compliance applicable to the Bonds. The Entity will enable and encourage relevant personnel to attend and participate in educational and training programs offered by professional organizations and other entities with regard to monitoring compliance with federal tax requirements for the Bonds.

### Correcting Non-Compliance

If any non-compliance of applicable federal tax requirements is identified or otherwise brought to the Entity's attention, the Tax Compliance Officer shall, in consultation with legal counsel and the appropriate tax compliance personnel of the Entity cause the Entity and any other parties involved with the issuance of the Bonds or the use of the proceeds of the Bonds, as required, to take all steps necessary or advisable in order to timely correct or remediate such non-compliance.