

**GEORGIA STATE FINANCING AND INVESTMENT COMMISSION
(GSFIC)**

**Policy and Procedures, Owner
Commission**

**Policy Title/Number
General Obligation Bond Proceeds Expenditure Policy
CO-01-01-003**

Effective Date: March 24, 2005

Revises Previous Effective Date:

References: Constitution of the State of Georgia, as amended – Article VII, Section IV, Paragraph VII
O.C.G.A. §50-17-20 et seq.
O.C.G.A. §50-17-21 et seq.
O.C.G.A. §50-17-22 et seq.
Federal Tax Code, Internal Revenue Services, as amended Section 1.148-2 (e) Arbitrage

1. Introduction

The Georgia State Financing and Investment Commission was created November 1972 by the Constitutional Amendment under Article VII, Section IV, Paragraph VII (a), and Georgia Code (O.C.G.A.) §50-17-20 et.seq.

Constitutional Amendment under Article VII, Section IV, Paragraph VII (a)

“...The commission shall be responsible for the issuance of all public debt and for the proper application, as provided by law...”

“...Debt to be incurred at the same time for more than one purpose may be combined in one issue without stating the purpose separately but the proceeds thereof must be allocated, disbursed and used solely in accordance with the original purpose and without exceeding the principal amount authorized for each purpose set forth in the authorization of the General Assembly and to the extent not so used shall be used to purchase and retire public debt...”

O.C.G.A. §50-17-22 (b) (2)

“...the commission is specifically authorized to acquire and construct projects for the benefit of any department or agency of the state or to contract with any such department or agency for the acquisition or construction of projects under policies, standards, and operating procedures to be established by the commission;...”

2. Applicability

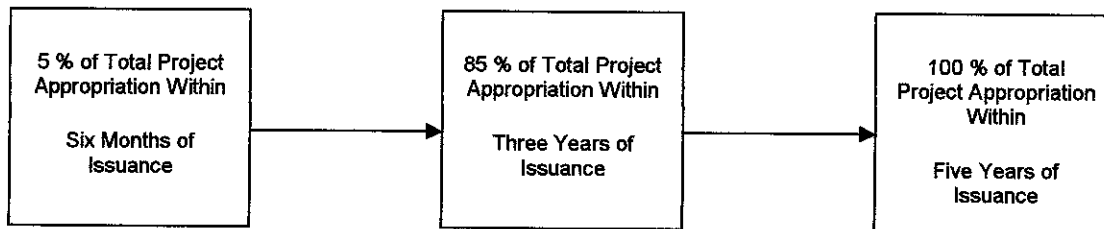
Construction Division, Financing and Investment Division, and all State Entities

3. Policy Statement

The Commission is responsible for the issuance of public debt incurred pursuant to O.C.G.A. Section 50-17-22 et. seq., and for the proper application of the proceeds for which the debt was incurred.

The policy will provide monitoring guidelines to determine whether projects funded by general obligation bonds are in compliance with the Internal Revenue Code of 1986, as amended (hereinafter, the "Tax Code") by meeting the critical expenditure milestone bench marks, in most cases the six month and three year milestones (see Table I.I), as referenced in the Federal Tax Code. Other critical benchmark milestones exist under the Federal Tax Code, and may be applicable as determined by the Director of the Financing and Investment Division. The Policy will also provide guidelines regarding the disposition of funds available from completed or inactive projects.

I.I - Critical Expenditure Milestone Bench Marks:



4. Definitions

General Obligation Debt: obligations of this state to acquire, construct, develop, extend, enlarge, or improve land, waters, property, highways, buildings, structures, equipment, or facilities of the state, its agencies, departments institutions, and those state authorities for which the full faith, credit, and taxing power of the state are pledged for the payment thereof. "General Obligation Debt" also means obligations of this state issued to provide educational facilities for county and independent school systems and to provide public library facilities for county and independent school systems, counties, municipalities, and boards of trustees of public libraries or boards of trustees of public library systems. "General obligation debt" further means debt incurred to make loans to counties, municipal corporations, political subdivisions, local authorities, and other local governmental entities for water or sewerage facilities or systems.

State Entity(ies): means the State of Georgia and any of its offices, agencies, authorities, departments, commissions, boards, divisions, instrumentalities, and institutions but does not include counties, municipalities, school districts, other units of local government, hospital authorities, or housing and other local authorities.

State Authorities: “means the following instrumentalities of the State: Georgia Building Authority (GBA), Georgia Building Authority (Hospital), Georgia Building Authority (Penal), Georgia Building Authority (Markets), Georgia Education Authority (Schools), Georgia Education Authority (University), Georgia Highway Authority, State Road and Toll-way Authority, Georgia Ports Authority, Georgia Development Authority, Jekyll Island – State Park Authority, Stone Mountain Memorial Association, North Georgia Mountains Authority, Lake Lanier Islands Development Authority, Groveland Lake Development Authority, Georgia Higher Education Assistance Authority, the Georgia Housing and Finance Authority, and other instrumentalities of the State created by the General Assembly and authorized to issue debt...”

Commission: The commission consists of the Governor, the President of the Senate, the Speaker of the House of Representatives, the State Auditor, the Attorney General, the Director, Fiscal Division, Department of Administrative Services, or such other officer as may be designated by law, and the Commissioner of Agriculture.

Board (Board of Directors): The group of persons established by law to manage the business and affairs of certain State Entities

5. Procedure

I. Awareness Requirement

Prior to the issuance of general obligation debt, the Board for each State Entity, on whose behalf general obligation debt is to be issued, shall adopt a resolution which reflects the Board’s agreement to the requirements listed below. These requirements are representative and are subject to modification.

- the Board is aware of the provisions and requirements of the Tax Code and the regulations thereunder respecting arbitrage bonds and private activity bonds;
- the Projects must proceed with due diligence and be timely completed following receipt of the proceeds derived from the sale of general obligation bonds and must be used for governmental purposes;
- the final plans for the Projects are sufficiently complete such that substantial binding obligations to a third party or parties, involving the expenditure of funds equal to or above the minimum amount required by the Federal Tax Code;
- the original proceeds of the bonds herein requested and anticipated investment proceeds (net of interest on the bonds during the estimated period of construction) will not exceed by more than five percent (5%) the amount necessary for financing the Projects;
- during the time the bonds are outstanding, the State Entity will not take or omit to take any action which would cause the bonds to be arbitrage bonds under the Tax Code, and it will not use the proceeds of the bonds or the

facilities financed with the bonds for any non-governmental purpose or any purpose that would give rise to private business use as defined by the Tax Code;

- the term of the bonds will not be longer than 120% of the reasonably expected economic life of the projects financed;
- the Board further determines that no proceeds of the bonds will be used for reimbursement of any Project expenditures which were made before the anticipated delivery date of the bonds, except in situations where prior to such expenditure the Board obtains a Declaration of Intent from the Georgia State Financing and Investment Commission or is otherwise advised in writing by the Commission that such reimbursement will be permitted, it being the intention of the Board to comply in all respects with Section 1.150-2 of the Regulations under the Tax Code.

For those State Entities which do not operate under a Board, the Entity Executive Director (or like position) will provide a resolution as described herein.

State Entities should consult with the Department of Law to develop the necessary resolution to ensure the resolution meets the requirements in use by the Commission at the time of Board approval.

II. Monitoring Procedures

A. Critical Milestones

The Financing and Investment Division will prepare a report of unexpended bond funds for each State Entity. The Entity will be required to provide project status to the Financing and Investment Division for all projects within forty-five days of the date of the report. Entities which are found to be consistently delinquent in complying with the arbitrage regulations may be requested to appear before the Commission to discuss project related issues.

B. Quarterly Tracking for Inactive Projects

The Financing and Investment Division will monitor the disbursement activity of all projects and provide a report listing those projects which have had no activity during the previous quarter to each State Entity. The Entity will be required to provide reasons for inactivity to the Financing and Investment Division for all projects within forty-five days of the date of the report.

C. Annual Reporting

After year end, the Financing and Investment Division will prepare a summary report for the Commission.

III. Fund Disposition

The Expenditure Policy's intent is to ensure compliance with the expenditure requirements of the Tax Code.

A. Disposition of Remaining Funds of Completed or Inactive Projects:

The Division Directors will review, annually, the remaining funds of completed and inactive projects. The review will be on a project by project basis to determine any general obligation bond funds available from completed and inactive projects. Using the table III.I titled Redirection Table as a guide, the Division Directors will consult with the appropriate State Entity and recommend disposition of the remaining funds.

III.I Redirection Table

| Remaining Balance Age | Action |
|-----------------------|-----------------------|
| Under 5 Years | Evaluate Redirection* |
| Five Years and Older | Retire Debt |

* Any surplus funds identified for redirection will be evaluated on several factors including but not limited; a) the original intent of the funds, b) the age of the funds, and c) how quickly they can be expended if transferred to another project.

Redirection of remaining funds of completed and inactive projects to other projects will be accomplished in a manner consistent with procedures developed by the Division Directors. These procedures may include receiving OPB, LBO, and certain other agencies concurrence on the proposed redirection.

The Commission will be provided annual reports of the disposition of remaining funds during the applicable regularly scheduled Commission Meeting.

6. Record Retention

Not Applicable