

# General Obligation Bond Compliance Issues – Spring 2012

Georgia State Financing and Investment Commission

# Agenda

- I. **Introductory Comments**
- II. **Upcoming Bond Sale**
- iii. **Bond Requirements**
  - Spend-Down
  - Private Use Restrictions
  - Eligible Expenditures
  - Sale of bond-financed assets
  - 120 day rule for invoice submission
  - Declaration of Intent to Reimburse
  - Commitment Letters
  - Asset Tracking
- iv. **eBonds Procedures/Q&A**
- vi. **Questions**

# Authorization, Sale and Use of Bond Proceeds

**General Assembly authorizes bonds in the Appropriations Act  
Identifies specific projects in the tracking document**



Agencies request bonds be sold for projects ready to proceed.  
Submit certifications to GSFIC.



GSFIC approves items to be sold and prepares offering statement,  
obtains credit ratings, certifies tax certificate



**Agencies implement projects  
(procurement, design, construction, etc.)**



Project Management and Post Issuance Compliance (life of bonds plus 5  
years)

# Upcoming Bond Sale

- ▶ Total authorizations unsold \$1.35 Billion
  - \$536 million carryover from FY12 and prior years
  - FY13 authorizations total \$813 million
- ▶ Submitted Requests: \$658,120,000
- ▶ Sale scheduled for late June
- ▶ Proceeds should be available mid July



# Why is Compliance Important?

- ▶ IRS is increasing its efforts to make sure issuers are complying with federal tax regulations on an on-going basis for the life of the bonds
- ▶ IRS audits can be expensive, difficult, and time consuming
- ▶ State's AAA credit and reputation with investors



# Georgia's Reputation : One of only eight triple AAA States

- ▶ Georgia
- ▶ North Carolina
- ▶ Virginia
- ▶ Maryland
- ▶ Delaware
- ▶ Missouri
- ▶ Utah
- ▶ Iowa



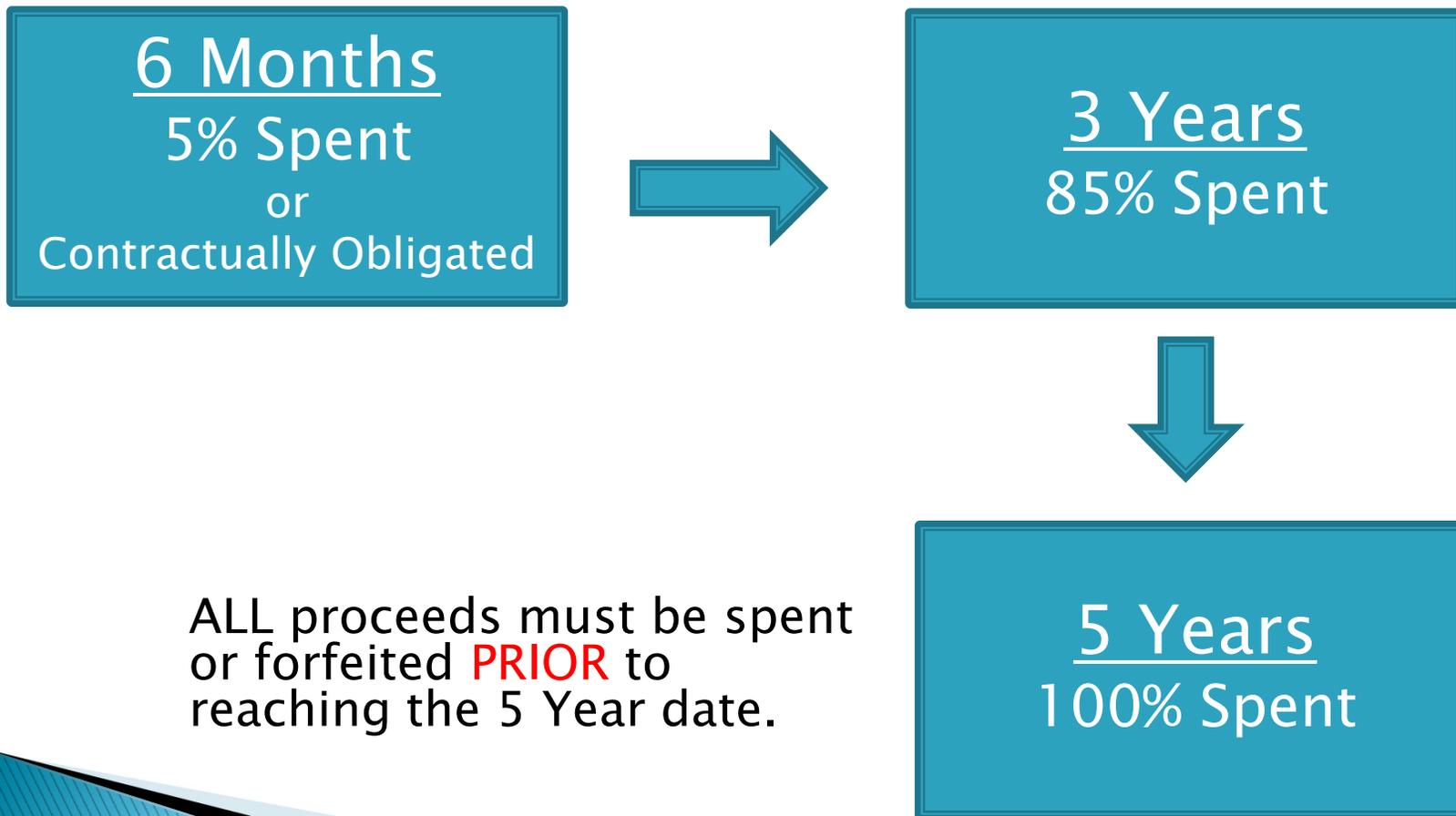
# Compliance Items

Agency documentation shall support the following certifications:

- Spend-Down: Project is ready to proceed at time of sale and proceeds will be spent timely
  - Private Use Restrictions: Proceeds will be used for qualified tax-exempt use and there will be no private use on projects funded with bond proceeds.
  - Proceeds will be used for eligible expenditures.
  - Life of the assets will equal the life of the bonds.
- Documentation must be maintained for the life of the bonds, plus five years.



# Spend - Down: IRS Requirements



# Spend – Down: GSFIC Expenditure Policy (Monitoring Procedures)

## Critical Milestones

- Six Month Date: Beginning at 4 months for all projects less than 5% spent
- 3 Year Date: Beginning at 30 months for any projects less than 85% spent.
- 5 Year Date: Beginning at 55 months for any projects less than 100% spent.

## Quarterly Tracking for Inactive Projects

- Commission policy requires that agencies submit comments for all projects which have had no activity during the previous quarter

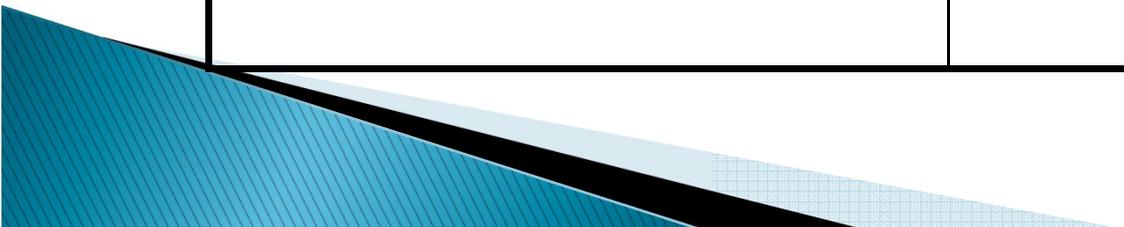
## Annual Reporting

- An annual summary report is provided to the Commission.

It is important that agencies document comments regarding project status in eBonds. Comments are considered when determining bond sale requests and are also incorporated into the annual report to the Commission.

# Remedies for Bond Proceeds not meeting Spend-Down Requirements

<u>Proceeds</u>	<u>Action</u>
Under 5 years old	Evaluate Redirection or Compliance Exchange or Retire Debt
At 5 years	Retire Debt or Use to Pay Arbitrage Liability



# Private Use Restrictions

- ▶ Private Business Use, as defined by the Tax Code is the use (directly or indirectly) of a facility financed with tax-exempt bonds in a business or trade carried on by a non-governmental user.
- ▶ State Agencies in their board resolutions certify that the projects financed with GO Bonds will not be used for any non-governmental purpose, or any purpose that would give rise to private business use.
- ▶ GSFIC has begun post-issuance monitoring procedures for projects with outstanding bond proceeds.
- ▶ GSFIC must be notified and approval granted, in advance, for all proposed instances of private business use.

# Private Use Restrictions– continued

- ▶ Private Use may include:
  - management or service contracts
  - leases
  - research contracts (including any with federal government)
  - parking contracts
  - use of space within a public use facility by a private citizen or company for the operation of a business enterprise, even if that enterprise serves the visiting public, agency clients or customers, or state employees
  - naming rights for buildings and athletic facilities
  - use by the federal government
  - other examples include: food services located in a bond funded facility operated by a private vendor, prison facility operated by a private vendor, land leased to a private entity. (janitorial services ok)

# Private Use Restrictions–continued

- ▶ One way to accommodate private business use is through the use of “Qualified Management Agreements.” (QMAs)
- ▶ In general, for a management, service, research or parking contract to be a QMA, the compensation for services rendered must:
  - be reasonable,
  - not give the service provider ownership interest in the financed facility, or
  - not provide for compensation based in whole or in part on a share of the net profits of the operations of the facility.



# Sale of Bond-Financed Assets

- ▶ Vehicles (refer to memo)
- ▶ Equipment
- ▶ Buildings
- ▶ Land
- ▶ Role of State Properties Commission
- ▶ Sale to private entity: defeasance required
- ▶ Sale to local government with restrictive use covenants: defeasance may not be required



# Expenditures Eligible for Reimbursement

SAO Policy:

[http://sao.georgia.gov/vgn/images/portal/cit\\_1210/44/28/156958065AM\\_GSFIC.pdf](http://sao.georgia.gov/vgn/images/portal/cit_1210/44/28/156958065AM_GSFIC.pdf)

GSFIC Reimbursement Policy:

[http://gsfic.georgia.gov/vgn/images/portal/cit\\_1210/20/50/122070564Request%20for%20Reimbursement.pdf](http://gsfic.georgia.gov/vgn/images/portal/cit_1210/20/50/122070564Request%20for%20Reimbursement.pdf)

- ▶ It is the responsibility of GSFIC to determine if payments made for projects are reimbursable from general obligation bond proceeds for projects managed by GSFIC, as well as for projects managed by an Agency.
- ▶ The authorization of the bonds in the Appropriations Act controls the use of bond proceeds.
- ▶ Legislative and gubernatorial intent are also considered.
- ▶ Only capital expenditures can be reimbursed from general obligations bonds proceeds. Agency operational expenditures may not be paid from bond proceeds. Examples of capital expenditures include:
  - Acquisition of land
  - Construction of new buildings, renovation of existing buildings
  - Equipment with a useful life commensurate with the term of the bonds
  - Fixed or loose equipment directly associated with new construction or renovation projects
  - Professional services as design, engineering, commissioning
  - Initial landscaping
  - Parking lots
- ▶ Useful life of asset should match life of bonds.

# Expenditures Ineligible for Reimbursement

- ▶ Examples of operating expenditures NOT eligible for reimbursement
  - Personal services
  - Lease payments
  - Maintenance agreements for copiers or computers
  - Depletable/disposable items
  - Moving Costs
  - Decorative items
  - Office supplies
  - Fuel oil
  - Termite inspections
  - Drug tests for employees
  - Annual fire inspections
  - Lab monkeys



# 120 Day Rule for Invoice Submission

- ▶ GSFIC Reimbursement Policy effective July 1, 2011:  
[http://gsfic.georgia.gov/vgn/images/portal/cit\\_1210/20/50/122070564Request%20for%20Reimbursement.pdf](http://gsfic.georgia.gov/vgn/images/portal/cit_1210/20/50/122070564Request%20for%20Reimbursement.pdf)
- ▶ In order to ensure timely compliance with federal spend down requirements and adherence to SAO's policy on Interagency Receivables and Payables, reimbursement policy was updated:
- ▶ “requests for reimbursement should be sent on a periodic basis, preferably monthly, but at least quarterly. Requests for reimbursement that are not received timely, or contain invoices that are over one hundred twenty (120) days old, are subject to denial by GSFIC.”
- ▶ Invoices over 120 days old should be submitted as a separate reimbursement request and contain a reasonable and valid explanation of “why”.



# Declaration of Official Intent to Reimburse

- ▶ Reimbursement Allocation is to be made not later than 18 months after the later of:
  - The date the original expenditure is paid; or
  - The date the project is placed in service or abandoned; but in no event more than 3 years after the original expenditure is paid
- ▶ Declaration of Official Intent to Reimburse is to be made **NO LATER THAN 60 days** after the expenditure occurred
  
- ▶ **The Process**
  - The agency submits a request for Declaration of Official Intent to Reimburse in letter format to the GSFIC office highlighting the “*not to exceed*” amount, the description of the project (s) and the fiscal year of the subsequent bond issue
  - Once received, GSFIC will respond with a response letter acknowledging receipt of the agency’s request along with an official Notice of Declaration of Intent to Reimburse



# Commitment Letters

- ▶ Request for a Commitment Letter can be made through eBonds as soon as you receive the email “Bond Request Approvals are now available”
  - Letters are generated from information in eBonds.
  - It is very important that agencies make sure that the project number they assign in eBonds to the project is correct.
  - **When in doubt – Please contact Angela Gunter at [angela.gunter@gsfic.ga.gov](mailto:angela.gunter@gsfic.ga.gov) or at 404-463-5606.**
  
- ▶ In order to receive Bond funds, we need . . .
  - Executed Commitment Letter
  - Preliminary Asset Tracking Information



# Asset Tracking

- ▶ For each bond issue, the State must keep records documenting the:
  - actual assets financed with bond proceeds
  - actual placed in service dates
  - expected economic lives of the assets
- ▶ We are required to maintain documentation for the life of the bonds, plus five years.



# Asset Tracking– continued

Before any payment from bond proceeds, state agencies are required to:

- Provide preliminary asset information in eBonds.

At project completion or on an ongoing basis:

- submit final asset information with the final request for reimbursement,
- maintain up-to-date records at the Agency as to the location, disposition, or transfer of any project or equipment financed with bond proceeds while those bonds are outstanding, and
- retain copies of all Asset Tracking Information together with all other required project documentation for five (5) years after the final bond payment date.



# Useful Life Guidelines

Project Description	Useful Life (years)	REMARKS
Abate Asbestos	*	
Air-Handling Unit	20	
Boiler & Cooling Tower	25	
Building Exterior and Coatings	10	(Sealants) 30-80 (Depending type of Ext. Wall)
Campus Lighting	*	
Campus Steam Loop	20	
Campus Water Loop	30	
Chiller Replacement	20	
Control System	15	
Doors and Retrofit With New Hardware		Limited Lifetime Warranty
Electrical Distribution and Building Electrical Service	*	
Electrical Panels	*	
Elevator	20-30 *	Before Major Upgrading
Energy Management System	15	
Environmental Chambers	15	
Fire Alarm System	*	
Fire Curtain	*	
Flooring, Refurbish Wall Coverings	10	
Gas Lines	30	
Heat Exchanger Tank	25	
Heat Pump Replacement and Hot Water Management Improvements	15	
Heat Recovery Wheel	15	

# Useful Life Guidelines (continued)

Project Description	Useful Life (years)	REMARKS
Hot Water System	20	
HVAC	15	HP and AC
Install Epoxy Lining, Waste Lines	30	
Install Occupancy Sensors	12-15	
Install Security Lighting, Campus-Wide	*	
Install Stair Handrail	*	
Lining to Domestic Water Pipes	40	
Main Steam & Condensate Distribution Piping	20	
Mechanical System	20	
Outdated Energy Management Controls	5	
Refurbish Fountains, Install Liners	10	
Remediate Mold	*	
Remediate Rust	*	
Roof	15-25	
Sidewalks for ADA Compliance	*	
Sprinkler System Installation	50+	If Maintained
Stair Treads	*	
Steam & Hot Water Piping	15	
Storm Water System	*	
Swimming Pool	15-25	(Shell)
Switchgear	*	
Water Heaters	10	
Water Main Replacement	40	
Waterproofing	20+	
Windows	20-40	
Windows for Hurricane Safety and Energy-Efficiency	20-40	
* Exceeds 20+ Years		

# Asset Tracking – Vehicles

- When tax-exempt bonds are used to purchase cars, vans, or buses, those vehicles must be used for the governmental purpose of the agency during the period the bonds are outstanding.
- The agency must maintain records of the amounts received pursuant to the disposition of the vehicles and the expenditures made with those funds. The agency also must maintain records for the secondary equipment purchased (through the final maturity of the bonds financing the initial vehicle purchase).
- For Agencies that have purchased vehicles with tax-exempt bonds, there will be a special asset tracking form to use in eBonds. GSFIC will work with these agencies individually to go over the eBonds procedures.

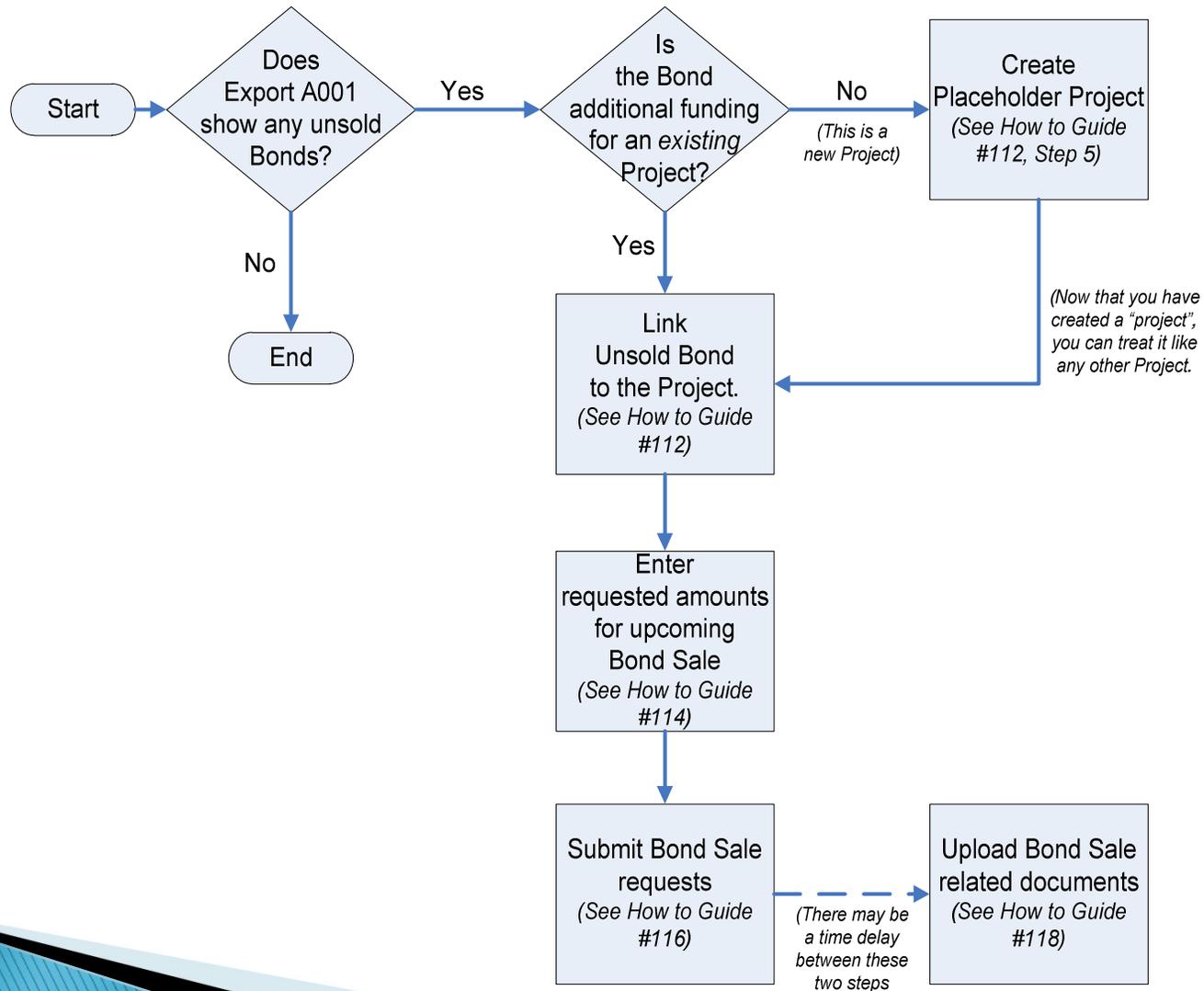


# eBonds Processes

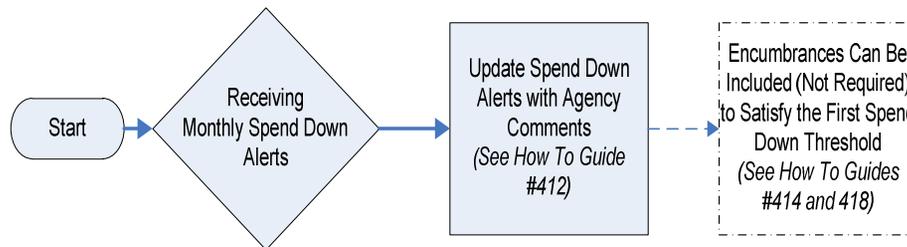
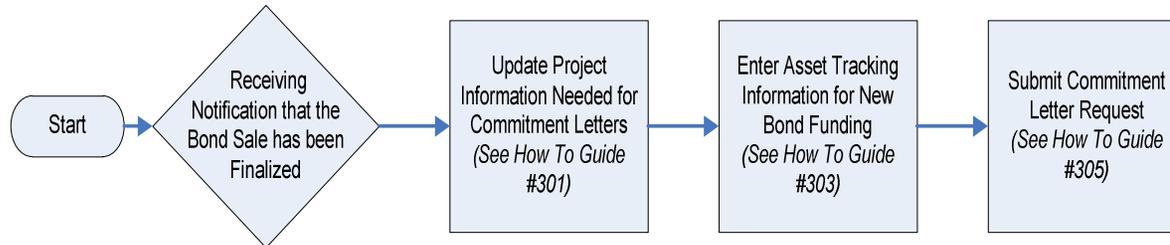
- ▶ Bond Sale Request
- ▶ Commitment Letter Request
- ▶ Asset Tracking Submission
- ▶ Spend-Down Comment Submission
- ▶ Inactive Project Comment Submission
- ▶ Exports



# eBonds: Bond Sale Request Process



# eBonds: Other Processes



# QUESTIONS?

GSFIC Contacts:

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Director of Accounting: Kim Site, [kim.site@gsfic.ga.gov](mailto:kim.site@gsfic.ga.gov)

