

**Tax Exempt Bonds Questionnaire Project:
Final Report on Governmental and Charitable Financings**

July 1, 2011

**V - Summary of Reported Data: Governmental Bonds
Questionnaire Project**

This part summarizes the data derived from the governmental bond financings questionnaire responses regarding the post-issuance bond compliance and record retention practices of issuers of governmental bonds.

The governmental bond financings questionnaire was sent to 200 identified governmental bond issuers. There were 175 responses received. The 25 non-respondents were referred for classification to determine the appropriateness of opening an examination of a specific bond issue or other follow-up. From these, 5 cases were selected for examination. There were 3 respondents whose responses indicated that they did not issue bonds. One entity indicated that its bonds were not governmental bonds. Three respondents did not provide any information.

This data is also shown in a schedule (Appendix D) showing the types and number of responses.

Reconciliation of Questionnaires to Responses

# of Questionnaires sent out	200	100%
Non-Respondents	(25)	(11%)
		-
Total Respondents	175	-
Number of Qualified Respondents	175	88%

Key Points of Analysis

After TEB's initial review of the questionnaires and the responses thereto, TEB analyzed the key points of whether, and in what form, post-issuance compliance procedures were present. TEB reviewed the responses to questions concerning the written procedures or guidelines.¹ From TEB's analysis, compliance issues and trends were observed that will serve as a basis for future compliance initiatives and outreach programs.

¹ Questions 1, 3, 12, and 13 of Form 14002, *Governmental Bond Financings Compliance Check Questionnaire*.

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TEB's analysis reviewed the Yes/No and narrative responses to the identified key questions and noted compliance issues and trends.

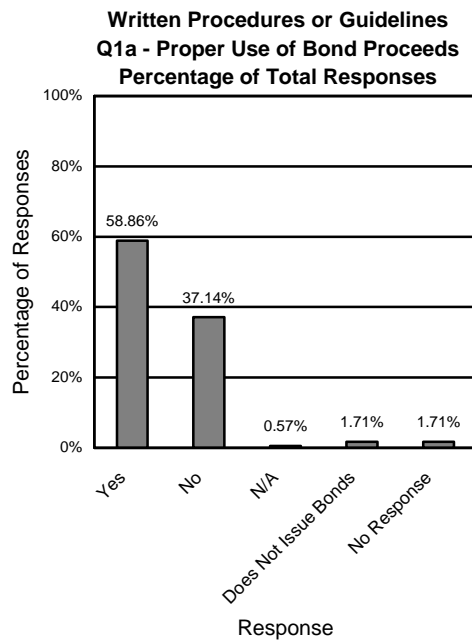
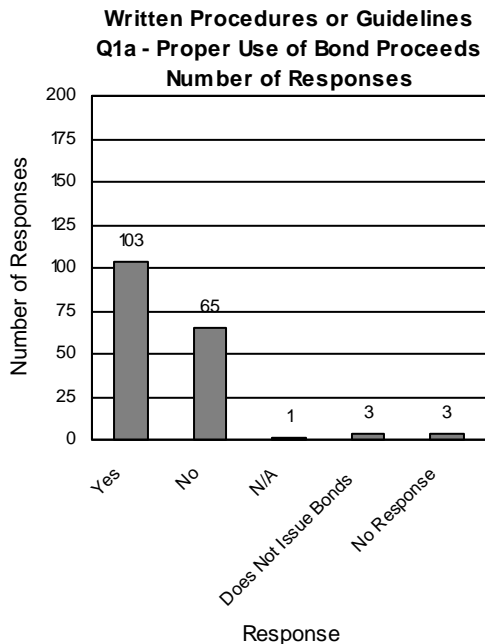
Part I, Post-Issuance Compliance – General

The purpose of this part of the questionnaire was to determine the general post-issuance compliance procedures of issuers of governmental bonds. Governmental bond issuers were queried on the following items: (1) actual procedures; (2) individuals assigned to monitor these procedures; (3) training of individuals assigned to monitor post-issuance compliance; and (4) awareness of remedial actions available to prevent bonds from becoming taxable.

Question 1, Written Procedures or Guidelines:

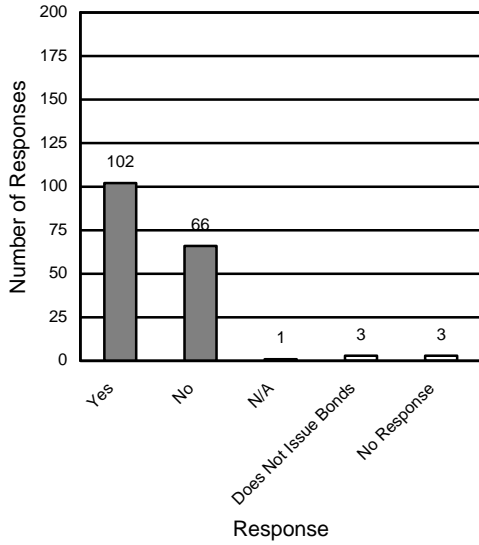
The purpose of this question was to ascertain whether governmental bond issuers maintained written procedures or guidelines to ensure that governmental bond financings remain in compliance with particular federal tax requirements after the bonds are issued.

The question focused on six areas: use of proceeds, timely expenditure of proceeds, proper use of bond-financed property, arbitrage, timely return filings and other general requirements, and documenting compliance with other general requirements. The following charts show the Yes/No responses to whether the governmental bond issuer maintained written post-issuance procedures or guidelines to ensure that their tax-exempt governmental bond financings remained in compliance with applicable federal tax requirements.

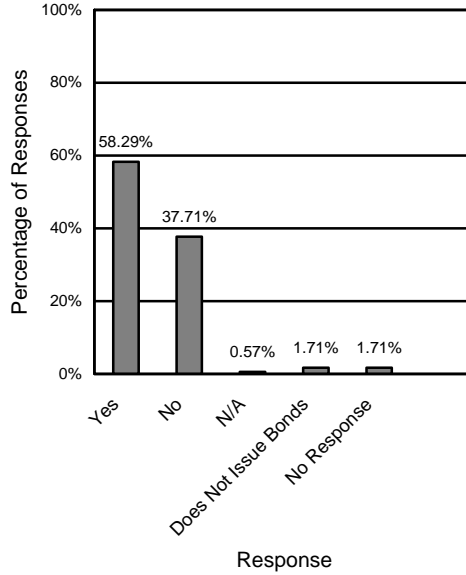


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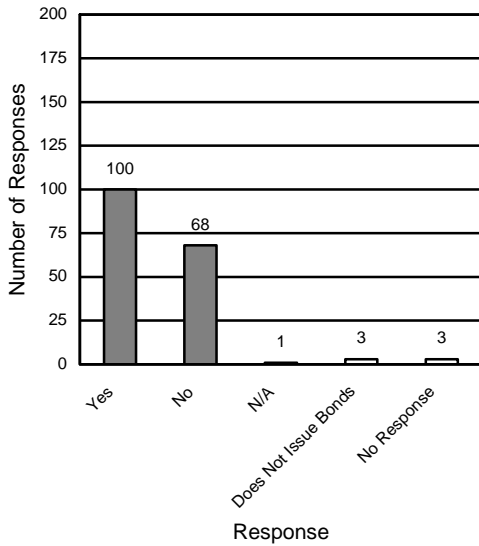
**Written Procedures or Guidelines
Q1b - Timely Expenditure
of Bond Proceeds
Number of Responses**



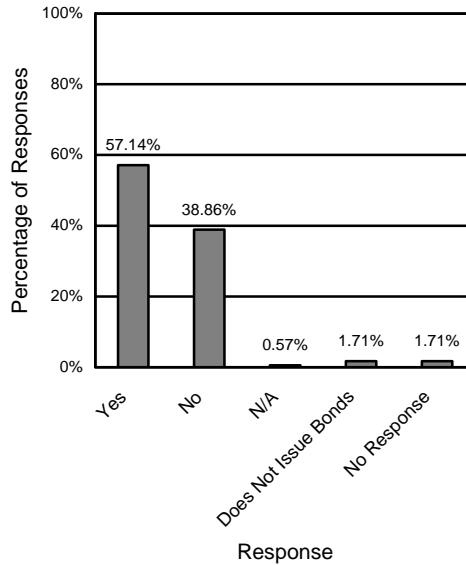
**Written Procedures or Guidelines
Q1b - Timely Expenditure
of Bond Proceeds
Percentage of Total Responses**



**Written Procedures or Guidelines
Q1c - Proper Use of
Bond Financed Property
Number of Responses**

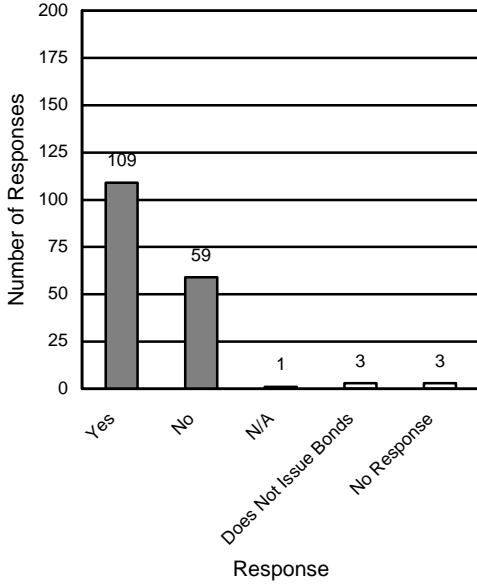


**Written Procedures or Guidelines
Q1c - Proper Use of
Bond Financed Property
Percentage of Total Responses**

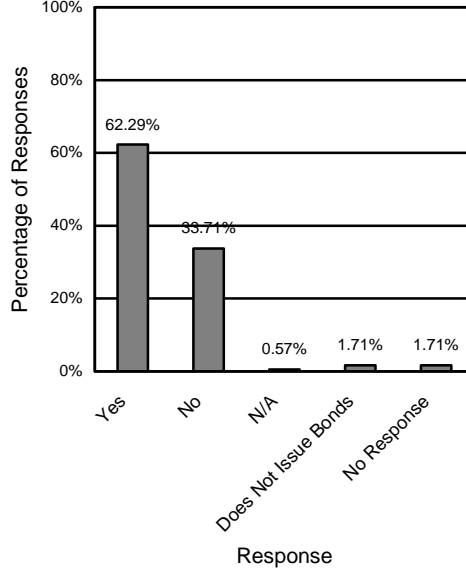


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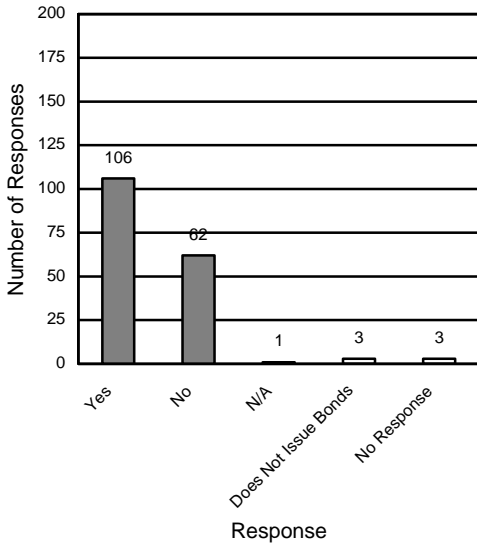
**Written Procedures or Guidelines
Q1d - Arbitrage Yield Restriction
and Rebate
Number of Responses**



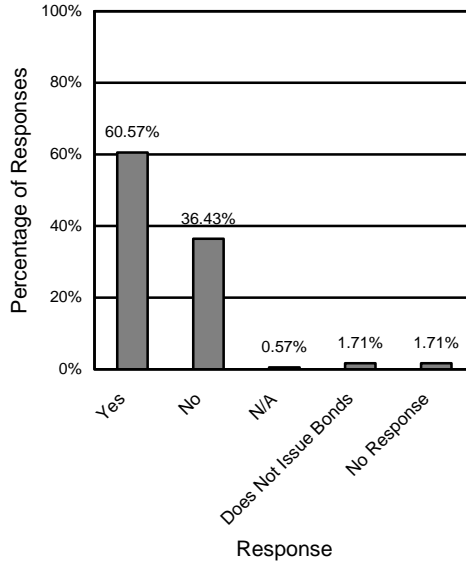
**Written Procedures or Guidelines
Q1d - Arbitrage Yield Restriction
and Rebate
Percentage of Total Responses**



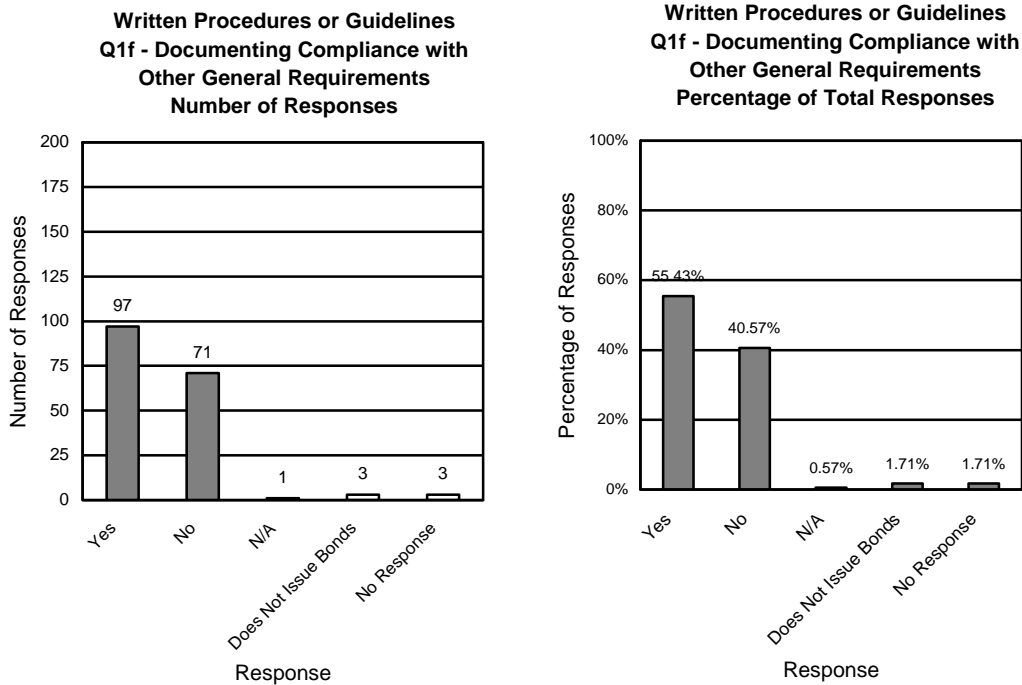
**Written Procedures or Guidelines
Q1e - Timely Return Filings and
Other General Requirements
Number of Responses**



**Written Procedures or Guidelines
Q1e - Timely Return Filings and
Other General Requirements
Percentage of Total Responses**



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The number and percentage of respondents that have implemented post-issuance practices and procedures slightly exceeds the number and percentage of those that have not done so.

Overall, 103 (58.86%) of the respondents reported that they have written procedures or guidelines to ensure that their tax-exempt bond financings remained in compliance with requirements relating to the proper use of bond proceeds, 102 (58.29%) reported having written procedures relating to timely expenditure of proceeds, and 100 (57.14%) reported having written procedures relating to the proper use of bond-financed property. Similarly, 109 (62.29%) reported that they have arbitrage yield restriction and rebate written procedures. Additionally, 106 (60.57%) reported having procedures to ensure timely filings and compliance with other general requirements. Finally, 97 (55.43%) indicated that they had written procedures for documenting compliance with other general requirements. These responses to the Yes/No questions appear to indicate that more than half of the governmental issuers have written procedures or guidelines to ensure post-issuance compliance. However, when asked specifically if issuers had implemented formal written procedures, the narrative response indicated that less than 10% conclusively demonstrated that they had written procedures.

Question 1 also asked each respondent to describe its procedures or guidelines regarding each of the six compliance issues (use of proceeds, timely expenditure of proceeds, proper use of bond-financed property, arbitrage, timely return filings and other general requirements, and documenting compliance with other general requirements). We conducted a thorough review of the narrative responses to this question to study further the respondents' procedures and practices in these areas.

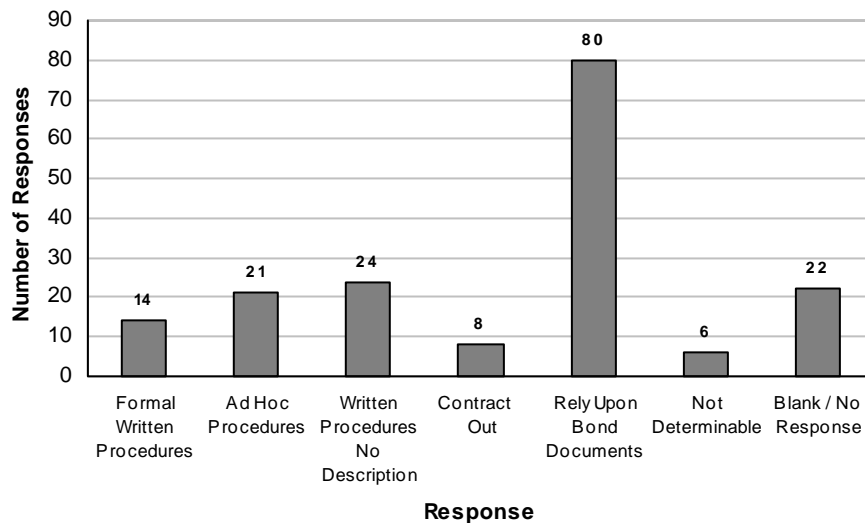
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Based on these narrative responses of the 175 respondents, we were able to identify if the governmental issuer:

1. provided a copy of their procedures or indicated conclusively in their narrative that they had written procedures;
2. indicated in their narrative that they had procedures (and described these procedures in sufficient detail), but did not indicate that they had written procedures – such were identified as having “ad hoc” procedures. An “ad hoc” procedure was identified as maintaining records, approving expenditures, recognizing general arbitrage yield restriction and rebate requirements, and adherence to reporting requirements and due dates, but with no formal written procedures;
3. indicated that they had written procedures but provided no description of their procedures in their narrative;
4. indicated in their narrative that they contracted out their post-issuance compliance responsibilities;
5. indicated in their narrative that they relied upon the requirements contained in the bond documents as their guideline for post-issuance compliance;
6. provided a non-responsive statement; or
7. either provided no response or indicated they did not have written procedures, ad hoc procedures or other compliance monitoring in place.

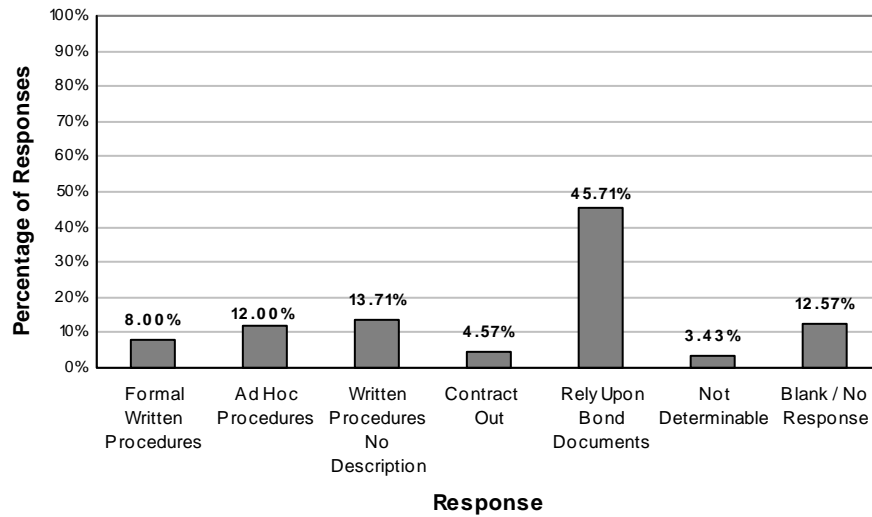
The following charts show the analyzed responses after the narratives were reviewed:

**Written Procedures or Guidelines
Number of Responses After Narrative Analysis**



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**Written Procedures or Guidelines
Percentage of Total Responses**



Of the 175 respondents: 14 (8.00%) demonstrated conclusively that they had formal written procedures; and 21 (12.00%) indicated that they performed, on an “ad hoc” basis, procedures necessary to ensure post-issuance bond compliance. Twenty-four (13.71%) respondents indicated that they had written procedures but their narrative failed to describe them adequately. Eight (4.57%) of the 175 respondents indicated that they contract out or engage specialists to monitor and maintain post-issuance compliance of their bond-financed activities and facilities.

Our analysis of the narrative responses and supplemental information found that 80 (45.71%) relied solely on the requirements stated in the tax certificates or other descriptive bond documents as their means to comply with their post-issuance requirements. Finally, 6 (3.43%) of the respondents provided a non-responsive description in their narrative and 22 (12.57%) of the respondents either did not answer the question or answered in the negative and provided no narrative at all.

Fifty-nine (33.71%) of the 175 respondents to this question referred to or appeared to be using the 2007 ACT Report recommendations in their narrative responses. The 14 respondents who submitted proof of formal, written procedures in their narrative responses showed that their procedures generally followed the recommendations of the 2007 ACT Report. Moreover, the 21 respondents who indicated “ad hoc” procedures, and the 24 who did not adequately describe their procedures, generally indicated in their narratives that they also were taking steps similar to the 2007 ACT Report recommendations.

To summarize, at least 55% of the respondents answered Yes to each of the questions asking whether they had written policies or procedures to assure post-issuance compliance in all the key areas (use of proceeds, timely expenditure of proceeds, use of bond-financed property, arbitrage yield restriction and rebate, timely filings and compliance with general requirements, and documenting their

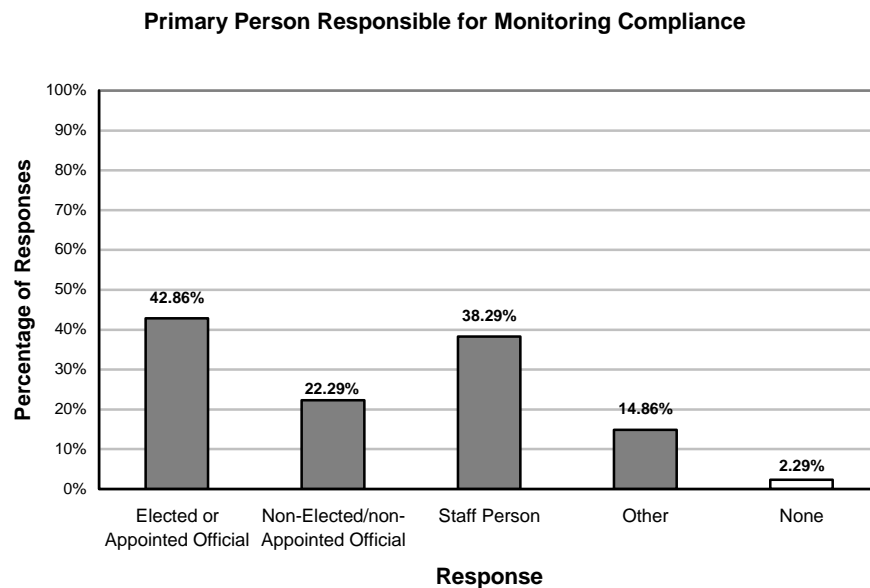
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compliance with other general requirements). However, when asked to describe their written policies and practices, only 8% of the respondents provided a description or other information that clearly demonstrated that they had such written policies or procedures.

Certain respondents indicated, based on the descriptions and supplemental information, that they either performed ad hoc procedures (12%) or relied solely on bond documents (45.71%) to comply with post-issuance compliance requirements. Other respondents (16%) provided no meaningful information to describe their policies or procedures, and 4.57% reported they contracted out the process to others. Altogether, approximately 80% of the respondents neither demonstrated that they had written compliance procedures nor demonstrated that they utilized ad hoc compliance procedures.

Question 2, Primary Person Responsible for Monitoring Compliance:

The purpose of this question was to ascertain the individual(s) primarily responsible for monitoring post-issuance compliance of bond financings, to assess, in part, the level of importance assigned by governmental issuers to their post-issuance tax compliance requirements.



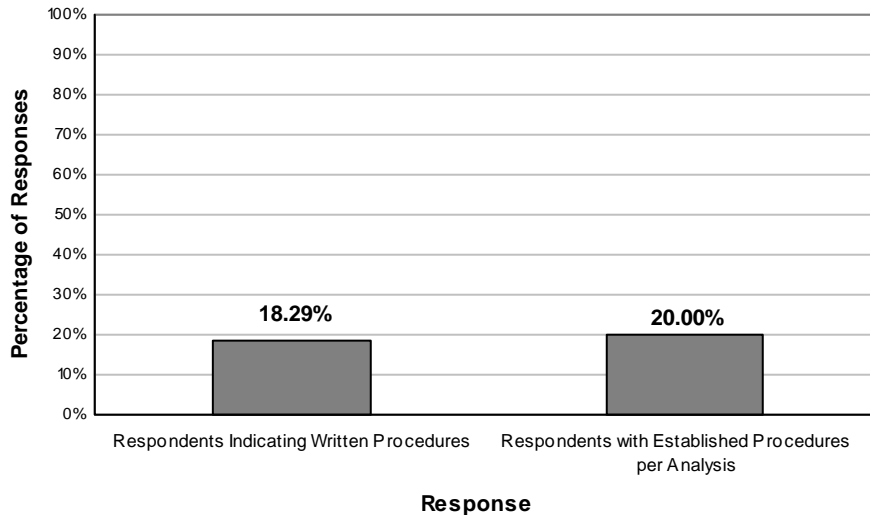
Of the 175 respondents, 75 (42.86%) reported that they had an elected or appointed official and 39 (22.29%) reported they had as their primary responsible person a non-elected or non-appointed official. Sixty-seven (38.29%) and 26 (14.86%), respectively, reported that either a staff or other person held this responsibility. Four (2.29%) respondents reported that they had no one responsible for monitoring compliance. Several respondents indicated multiple individuals were responsible for monitoring their post-issuance compliance requirements.

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Question 3, Written Procedures When More Than One Individual is Responsible:

The purpose of this question was to ascertain if governmental bond issuers, generally, have written procedures or guidelines for individuals to follow when more than one individual is responsible for maintaining post-issuance tax compliance of bond financings.

Established Procedures for Monitoring Official



Of the 175 respondents, 32 (18.29%) reported having written procedures or guidelines to coordinate post-issuance compliance when more than one individual shares this responsibility. However, as described with respect to question 1, our analysis of the supplemental responses found 35 of the 175 respondents (20.0%)² actually had either formal written, “ad hoc,” or some other form of established procedures, and only 14 definitively had formal written procedures with respect to compliance generally.

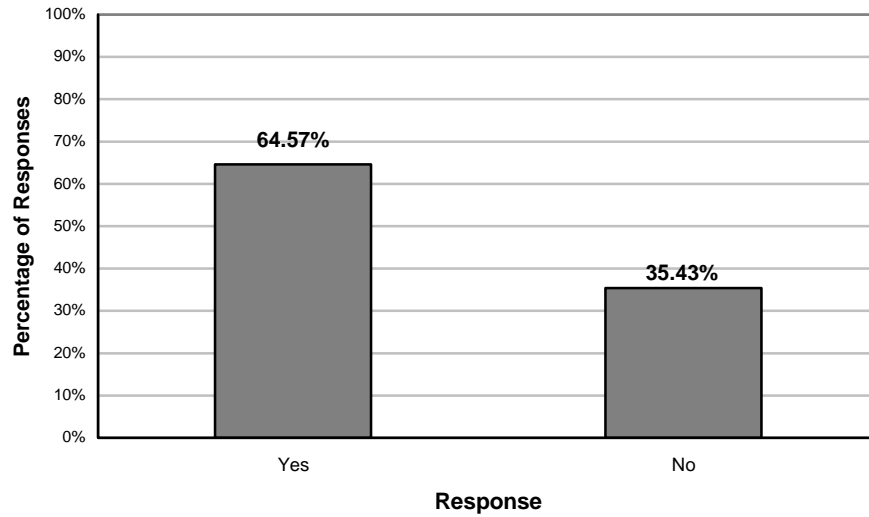
Question 4, Training or Education:

The purpose of this question was to ascertain whether or not governmental bond issuers provided specific training or educational resources to the personnel responsible for ensuring post-issuance tax compliance.

² Formal written procedures	14 respondents
Ad Hoc procedures	21 respondents
Total	35 respondents
Total respondents	192
% of Total Respondents	20.0%

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Issuers Providing Training or Education

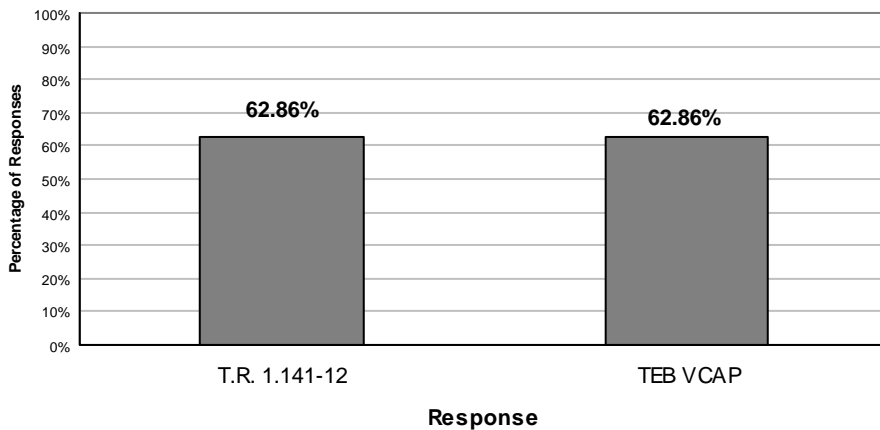


Of the 175 respondents, 113 (64.57%) reported that they provide educational or training resources to the individuals responsible for ensuring post-issuance compliance.

Question 5, Awareness of Remedial Actions and VCAP:

The purpose of this question was to ascertain the awareness of governmental bond issuers of either the self-correction remedial action provisions available under the Treasury Regulations or voluntary compliance options available under TEB VCAP.³

Voluntary Compliance Awareness



³ Tax Exempt Bonds Voluntary Closing Agreement Program (see Part II – Post-Issuance Compliance for Tax-Exempt Bonds, footnote 32).

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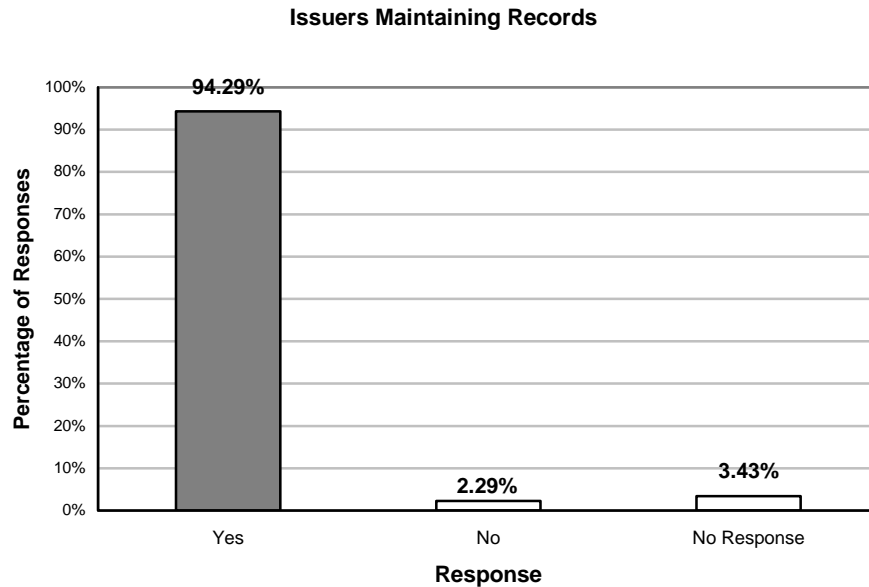
Of the 175 respondents, 110 (62.86%) reported that they are aware of the remedial action provisions described under Treas. Reg. § 1.141-12 and 110 (62.86%) reported that they are aware of TEB VCAP. All but 4 of these responses indicated awareness of both Treas. Reg. § 1.141-12 and TEB VCAP.

Part II, General Recordkeeping

The purpose of this part of the questionnaire was to ascertain the retention practices for tax-exempt bond related records and what specific records governmental bond issuers are maintaining.

Question 6, Tax-Exempt Bond Records:

The primary purpose of this question was to ascertain whether issuers of governmental bonds maintained records pertaining to their tax-exempt bonds. Secondly, the question also sought to determine how long the governmental bond issuers maintained such records.



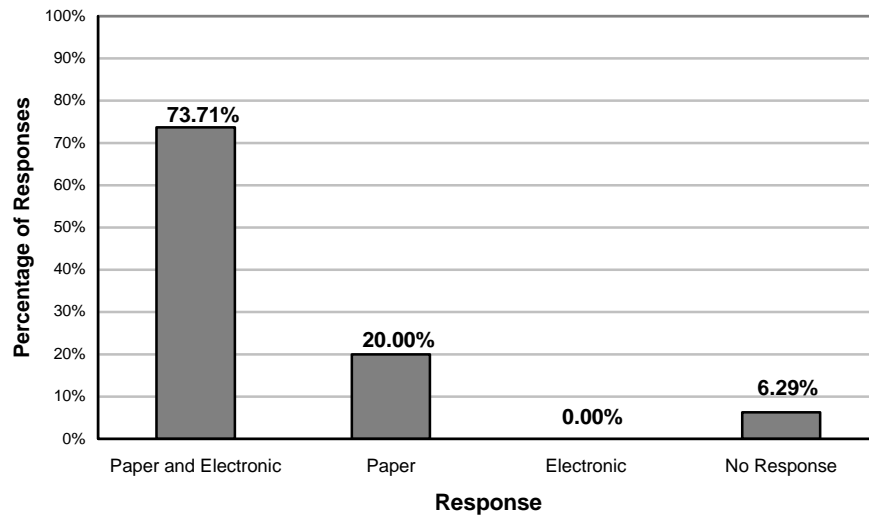
A high percentage of the respondents (165 (94.29%)) reported that they maintain records pertaining to their tax-exempt bonds. Four (2.29%) reported they did not maintain these records, and six (3.43%) did not answer the question either positively or negatively. In addition, 160 (91.43%) reported that they retain these records for at least the life of the bonds.

Question 7, Record Medium:

The purpose of this question was to determine what media governmental issuers typically use to maintain their bond-related records.

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Medium for Maintaining Records



Of the 175 respondents, 129 (73.71%) reported that they used both paper and electronic media to maintain their records. Thirty-five (20.00%) reported that they used only paper media. None of the governmental issuers reported that it used only electronic media, but the failure of the other responses to total to 175 indicates some distortion in the responses to this question. Eleven respondents (6.29%) did not provide an answer.

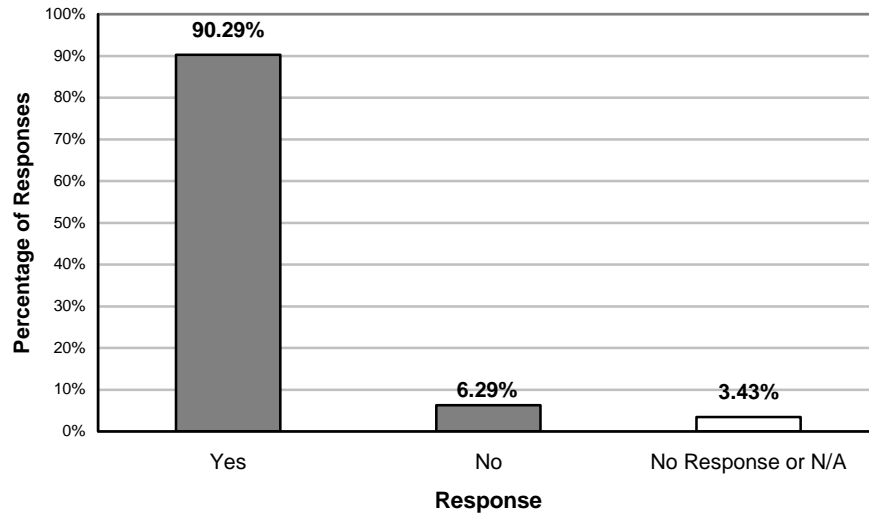
Question 8 (parts a through l), Retention of Copies of Records:

The purpose of this question was to determine what records the governmental bond issuers are maintaining. The specific records inquired about included both the issuer's audited financial statements and records pertaining to the issuer's tax-exempt governmental bond financings.

The responses to the different parts of this question varied. One issuer indicated that some parts of the question were not applicable to it (e.g., parts a and b), even though parts a and b did not provide for a not applicable ("N/A") response.

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Maintain Copy of Form 8038 Series Return



A significant majority, 158 (90.29%), of the respondents reported, for part a, that they maintained a copy of their federal tax or information returns (e.g., Form 8038 series returns). Eleven respondents (6.29%) reported that they did not. One (0.57%) indicated that the question did not apply and 5 (2.86%) did not respond.

Almost all (166 or more respondents) indicated that they maintained copies of the following records:

1. Audited financial statements (part b);
2. Bond transcripts, official statements and other offering documents of their bond financings (part c);
3. Minutes and resolutions authorizing the issuance of bond (part d); and
4. Certifications of the issue price (part e).

For the other categories of records, significant percentages of the respondents reported that the category was not applicable to them, resulting in the following report on maintenance of records:

<u>Category</u>	<u>Maintained records</u>	<u>Not Applicable</u>
formal elections (part f)	96 (54.86%)	69 (39.43%)
appraisals, etc. (part g)	112 (64.00%)	54 (30.86%)
grant documents (part h)	100 (57.14%)	66 (37.71%)
publications, etc. (part i)	131 (74.86%)	27 (15.43%)
trustee statements (part j)	114 (65.14%)	51 (29.14%)
correspondence (part k)	159 (90.86%)	0 (0.00%)
reports of examinations (part l)	51 (29.14%)	116 (66.29%)

Part III, Investments and Arbitrage Compliance

The purpose of this part of the questionnaire was twofold. One question sought to determine the retention level of specific records relating to investments and arbitrage compliance. The second question sought to identify the procedures or guidelines issuers of governmental bonds have implemented to monitor compliance with arbitrage yield restriction and rebate requirements.

Question 9, Maintenance of Allocations of Investments and Investment Earnings:

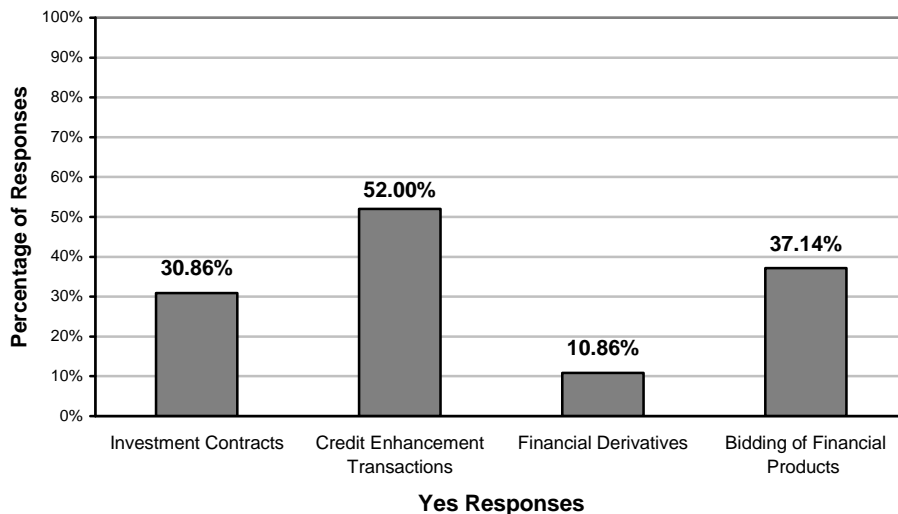
The purpose of this question was to ascertain the extent to which issuers of governmental bonds maintained records of their allocations of investments and investment earnings to their bond financings. These records are integral for investment and arbitrage compliance.

Almost all (164 (93.71%)) of the respondents reported that they maintained these records.

Question 10 (parts a through d), Records of Investments of Bond Proceeds:

The purpose of this question was to determine whether issuers of governmental bonds were maintaining specific records relating to the investment of their bond proceeds. These records are integral in determining whether a bond issue meets the yield restriction and rebate requirements or is in jeopardy of being viewed as an arbitrage bond.

Maintenance of Records of Investments of Bond Proceeds

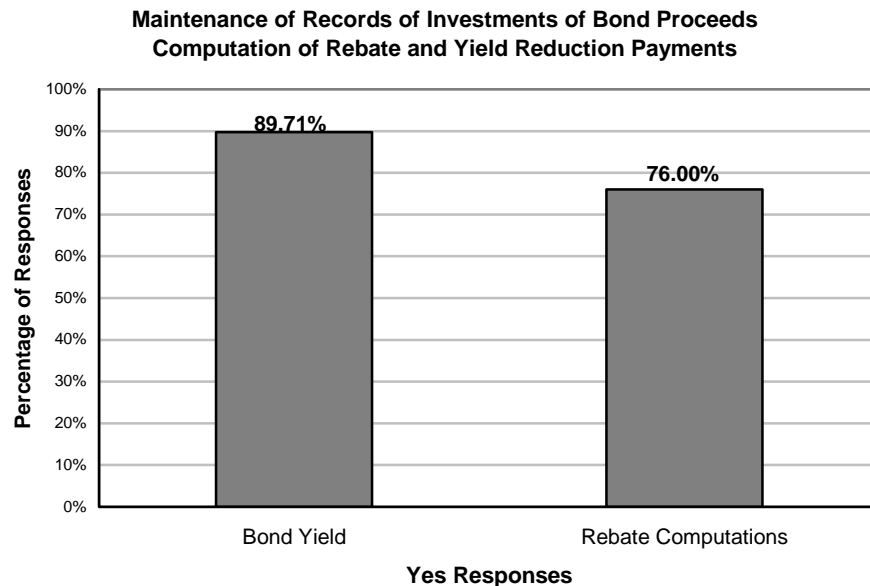


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At least 78 (44.57%) of the respondents reported that this question was not applicable. Fifty-four (30.86%) reported that they maintained records of investing in investment contracts, 91 (52%) maintained records of credit enhancement transactions, only 19 (10.86%) maintained records of financial derivatives (147 reported this question was not applicable to them) and 65 (37.14%) reported they maintained records of bidding of financial products. Depending on the category, between 3 (1.71%) and six (3.43%) of the respondents indicated that they did not maintain these records.

Question 11 (parts a through d), Maintenance of Arbitrage Related Records:

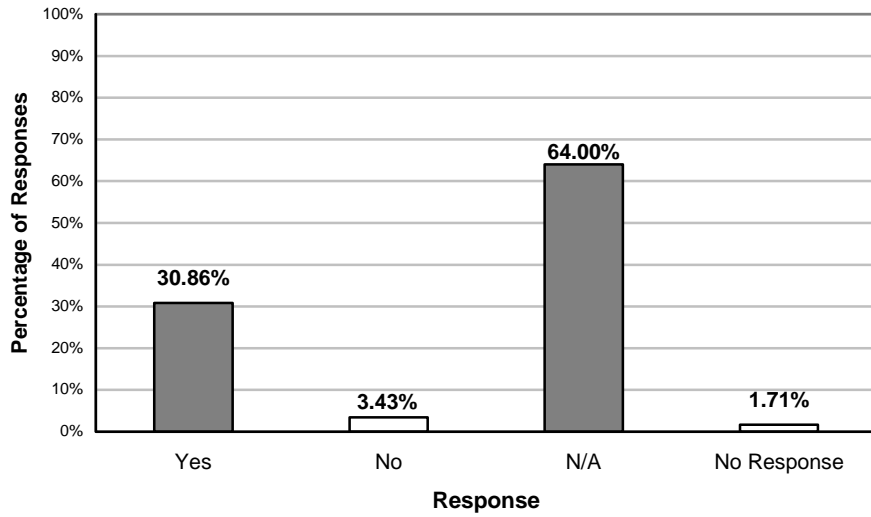
The purpose of this question was to determine whether issuers of governmental bonds were maintaining specific records relating to the investment of proceeds of their bond issue. These records are integral in determining the amount of arbitrage realized as well as the timely submission of rebate or yield reduction payments.



Of the 175 respondents, 157 (89.71%) reported that they maintained records relating to their computations of bond yield (question 11a), and 133 (76%) reported that they maintained records relating to their computations of rebate and yield reduction payments (question 11b).

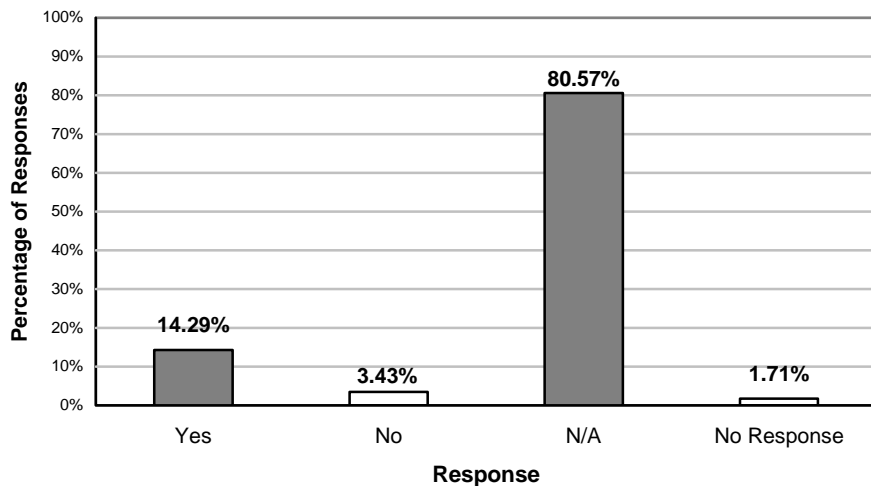
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**Maintenance of Records of Investments of Bond Proceeds
Form 8038-T**



For question 11c, of the 175 respondents, 54 (30.86%) indicated that they retained copies of Form 8038-T; 6 (3.43%) indicated that they did not retain this form; 112 (64%) indicated that this question was not applicable to them; and 3 (1.71%) did not respond.

**Maintenance of Records of Investments of Bond Proceeds
Form 8038-R**



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For question 11d, of the 175 respondents, 25 (14.29%) indicated that they retained copies of Form 8038-R; 6 (3.43%) indicated that they did not retain this form; 141 (80.57%) indicated that this question was not applicable to them; and 3 (1.71%) did not respond.

Questions 12 and 13, Procedures Relating to Monitoring Arbitrage Activities:

The purpose of these questions was to determine whether governmental issuers had written procedures or guidelines for monitoring their compliance with applicable arbitrage yield restriction and rebate requirements. In order to ensure compliance with the arbitrage requirements under § 148 of the Code (including the requirement to rebate excessive arbitrage earnings to the U.S. Treasury), procedures should be instituted to monitor investment activities that may result in arbitrage noncompliance.

For question 12, 51 respondents (29.14%) reported that they have written procedures to monitor compliance with applicable yield restriction requirements on subsequent reinvestment of bond proceeds in lower yielding investments. Fifty-three respondents (30.29%) indicated that they did not have written procedures for monitoring yield restriction requirements. Sixty-eight entities (38.86%) reported that this was not applicable to them and 3 (1.71%) did not respond.

For question 13, 71 respondents (40.57%) reported that they have written procedures to monitor compliance with application of a temporary period exception or spending exception. Fifty-five respondents (31.43%) indicated that they did not have written procedures for monitoring application of a temporary period exception or a spending exception. Forty-six entities (26.29%) reported that this was not applicable to them and 3 (1.71%) did not respond.

Part IV, Expenditures and Assets

Questions 14 through 21, Expenditures and Assets Records:

The purpose of this part of the questionnaire was to determine the retention level of specific records relating to allocations of bond proceeds to expenditures, including whether governmental entities were maintaining records of the expenditures made from bond proceeds; and whether they were maintaining records of assets purchased with bond proceeds.

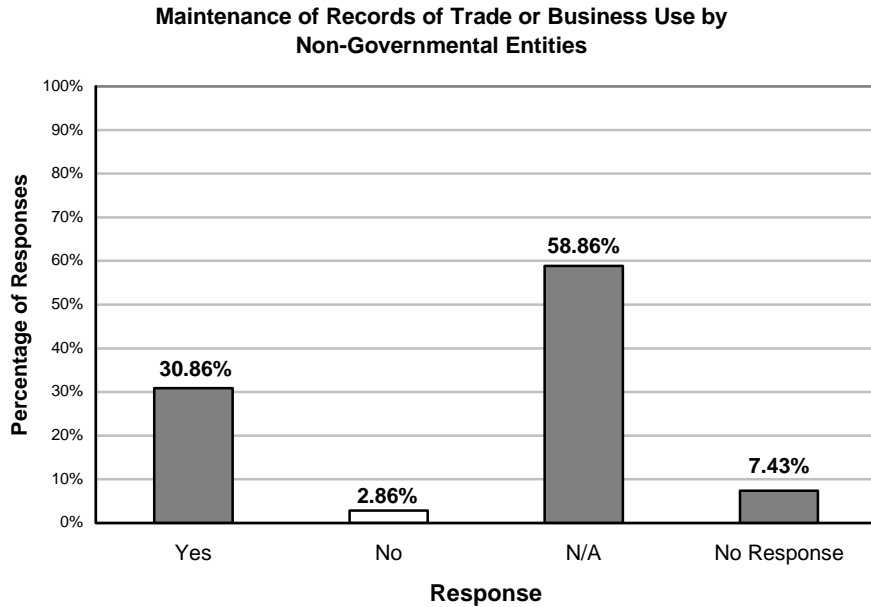
Most respondents to these questions (88% to 94.29%) reported that they do maintain these records, except for retention of depreciation schedules for bond-financed property (only 79.43% indicating retention).

Part V, Private Business Use

The purpose of this part of the questionnaire was to determine the retention level of specific records relating to private business use of bond-financed facilities by third parties who utilize the bond-financed facilities. In addition, this part also attempted to ascertain what types of arrangements governmental entities entered into with respect to their bond-financed property. These questions are integral in determining whether the bond issue remains in compliance with the private business test,⁴ which generally limits to only 10% the amount of governmental bond proceeds that may be used to finance private business use of bond-financed property.

Question 22, Maintenance of Trade or Business Use Activity Records of Bond-Financed Property by Nongovernment Entities:

The purpose of this question was to determine whether governmental entities maintained records of the trade or business activities of nongovernment entities or persons who had use of the bond-financed facilities.



Of the 175 respondents, 54 (30.86%) indicated that they keep these records. Five (2.86%) stated they did not keep these records. One hundred three respondents (58.86%) indicated that this question was not applicable. Thirteen (7.43%) provided no response.

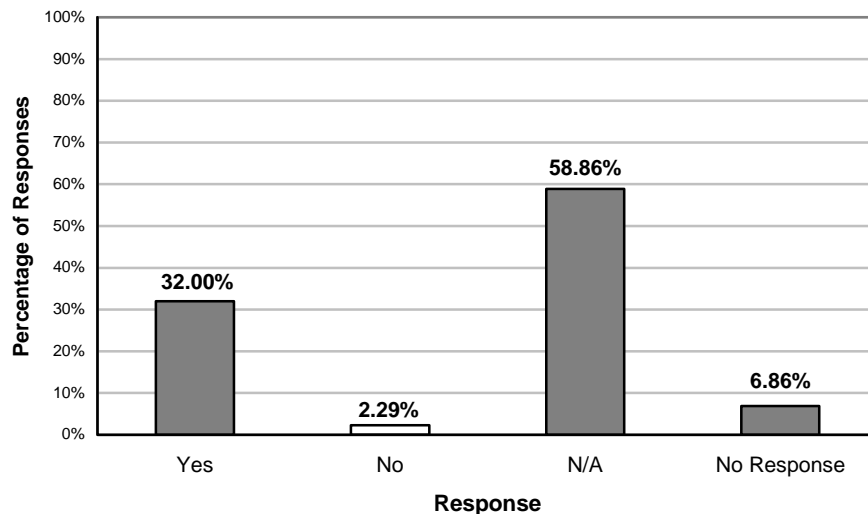
⁴ § 141(b).

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Question 23, Arrangements for Bond-Financed Property:

The purpose of this question was to determine what types of potentially nonqualified or “bad” use arrangements were entered into with respect to property financed by governmental bonds and whether records were maintained by the issuer with respect to these business arrangements. Each of the arrangements could potentially jeopardize the tax-exempt status of the bond issue if it results in private business use. The following chart shows the responses to question 23a regarding whether they maintained copies of any management and other service agreements.

Question 23a Management/Service Agreements



Of the 175 respondents, 56 (32%) indicated that they keep these records. Four (2.29%) stated they did not keep these records. One hundred three respondents (58.86%) indicated that this question was not applicable. Twelve (6.86%) provided no response.