

BUILD AMERICA BONDS: IRS SENDS OUT QUESTIONNAIRE TO ISSUERS OF BUILD AMERICA BONDS REGARDING POST ISSUANCE COMPLIANCE

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Beginning the week of February 8, 2010, the IRS began sending compliance check letters and questionnaires to all issuers of Build America Bonds.¹ Issuers of these bonds will receive a letter explaining the compliance check procedures and the questionnaire to be completed. The questionnaire is designed to measure several aspects of the post-issuance compliance knowledge and practices of governmental issuers of Build America Bonds. The questionnaire covers:

- Record retention requirements;
- Proper calculation and timely expenditure of bond proceeds;
- Arbitrage yield restriction and rebate requirements;
- Issue premium limitation requirements;
- Costs of issuance limitation requirements; and
- Proper and timely filing of Form 8038-CP requirements.

For your information, we have attached a sample copy of the cover letter and compliance check questionnaire that the IRS is sending to issuers. These documents can also be found online [here](#).

We recommend that issuers respond in a diligent and timely manner. IRS officials have indicated that failure to respond to the questionnaire will likely result in the IRS targeting an issuer for an audit of its Build America Bonds.

The official transcript of proceedings, the official record book the issuer is required by law to maintain, and the post-closing compliance checklist, both provided by Quarles & Brady after the closing, describe the issuer's post-closing compliance obligations and may be helpful in completing the questionnaire. If issuers need assistance in completing the questionnaire, they should contact any of the Quarles & Brady public finance attorneys.

¹ The questionnaire will be sent only to issuers that elected to receive a direct payment from the U.S. Treasury equal to 35% of the interest to be paid on the Bonds.