

Supporting Statement
Internal Revenue Service
(REG-128841-07)
Public Approval of Tax-Exempt Private Activity Bonds
OMB Control No. 1545-2185

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The collection of information is the requirement that various governmental units gather and disclose to the public certain information about the private activity bonds and the property to be financed with those bonds. Section 147(f) requires that an issue of private activity bonds be approved by both the issuing governmental unit and the governmental unit in which the financed property will be located. The statute further provides that a governmental unit approves the issue only if the issue is approved either by an elected representative following public notice and a public hearing or by a voter referendum. The regulations restate these requirements and describe the information that a public notice and public approval must contain. The disclosure of some information in the public notice and public approval is necessary to comply with section 147(f), and the provisions in the proposed regulations that specify which information must be contained in the public notice and public approval are necessary to ensure that the approving party understands what it is approving.

2. USE OF DATA

In the case of a public notice, the public may use the information to determine whether and how to participate in the required public hearing. In the case of a public approval, either the public may use the information to determine how to vote in the voter referendum or the applicable elected representative may use the information to determine whether to approve the bonds.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The proposed regulations permit public notice to be published on a website.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source. We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

The proposed regulations will not have a significant economic impact on a substantial number of small entities because the statute and existing regulations already impose essentially the same recordkeeping burden on small entities as that in the proposed regulations. Any additional burden imposed by the proposed regulations would not be significant.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Less frequent collection would be contrary to the rules prescribed in section 147(f), as the statute establishes the frequency of collection. The IRS would be endangering its mission to enforce the statutory public approval requirement.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding REG-128841-07.

We received several comments during the comment period in response to the Federal Register notice dated September 28, 2017 (82 FR 45233). Most of these comments are available at www.regulations.gov. Many of the comments do not address the collection of information and, consequently, are not described here.

One commenter requested that notice and hearing performed pursuant to state or local laws satisfy the notice and hearing requirements under §147(f), regardless of the form or conduct of that notice and hearing. Commenters requested that public notice be

permitted to be posted not only on the approving government's website but also, alternatively, on the issuer's website. Commenters requested removal of the requirement that, in the case of notice posted to a website, the governmental unit offer a reasonable, publicly known alternative for residents without internet access. One commenter request resolution of a perceived inconsistency between the proposed rules regarding a public notice and the proposed rules regarding a public hearing. One commenter requested that the notice and approval be required to state the aggregate max stated principal amount of the bonds of the issue that may be used to finance all of the projects financed by the issue. One commenter requested clarification on how to compute the max stated principal amount of bonds to be allocated to each project. One commenter requested that the phrase "maximum stated principal amount" be defined to mean "maximum stated par amount." One commenter requested that, in cases where the principal user or initial owner is a limited partnership structured so that the limited partners hold the majority of the financial interest in the project but the general partner is responsible for the operation and management of the project, the name of the general partner satisfy the requirement that the notice and approval include the name of the expected initial owner or principal user. One commenter requested that the language from the proposed regulation stating "or other description of the specific geographic location that is reasonably designed to inform readers of the location" be replaced with the language from the existing regulation stating "or a general description designed to inform readers of its specific location." These comments were considered and are addressed in the preamble to the final regulations.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No PII associated with this collection.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

In general, the Proposed Regulations provide updating, clarifying, and simplifying guidance on discrete aspects of the public approval requirement under section 147(f). The Proposed Regulations provide guidance that focuses generally on the scope, content, process, and timing for reasonable public notices, public hearings, and public approvals of tax-exempt private activity bonds under section 147(f).

Burden estimate as follows:

Authority	# Respondents	# Responses Per Respondent	Annual Responses	Hours Per Response	Total Burden
147(f)	2000	1	2000	1.3 hrs.	2,600

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

For public approvals requiring public notice, respondents will bear the cost of publishing the notice in a manner permitted by the proposed regulations. An issuer will incur the cost of publishing a public notice one time per approval by an elected representative. The cost of publication will vary widely depending on the publication medium chosen and the amount of information required to be included in the public notice. For instance, publishing a lengthy notice in a newspaper of general circulation in a large city could cost the issuer as much as \$10,000. Conversely, publishing a notice of any length on the issuer's existing website may not cost the issuer any additional money. Based on consultation with respondents, the average cost of publishing notice is between \$200 and \$900.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

15. REASONS FOR CHANGE IN BURDEN

This is a new collection.

Two previous notices of proposed rulemaking on tax-exempt private activity bonds were withdrawn. These proposed regulations would update the existing regulations on the public approval requirement to reflect statutory changes, to streamline the public approval process, and to reduce burden on State and local governments that issue tax-exempt private activity bonds.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.