

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20041096

1. REQUESTED MOTION:

ACTION REQUESTED: Board approval and Chairman's signature on Form 8038-T for payment of arbitrage liability, as required by the 1993 Regulations, to the U.S. Treasury for a total of \$17,372.88.

WHY ACTION IS NECESSARY: To comply with 1993 Regulations as set forth by the Internal Revenue Service (IRS).

WHAT ACTION ACCOMPLISHES: Remits yield reduction payment for Lee County, Florida Capital Refunding Revenue Bonds, Series 1999A.

2. DEPARTMENTAL CATEGORY:

C15B

3. MEETING DATE:

09-07-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN.
- CODE
- OTHER
- Federal Internal Revenue
- Service Regulations 1.148

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
 - B. DEPARTMENT Clerk of Circuit Court
 - C. DIVISION Finance/Records Dept.
- BY: Donna G. Harn *dgh*

7. BACKGROUND:

IRS regulations require that a bond issuer remit a yield reduction payment on positive arbitrage earned on the investment of bond proceeds to the federal government every five years from date of bond issuance. The yield reduction payment is due within 60 days of that date. The five-year calculation on the Lee County Capital Refunding Revenue Bonds, Series 1999A has been prepared by the Clerk's Finance and Records Department and confirmed by arbitrage consulting firm, MuniFinancial. Payment of \$17,372.88 is due to the U.S. Treasury by September 11, 2004.

The funding source is listed below:

Lee County, Florida Capital Refunding Revenue Bonds, Series 1999A GB5199023669.504983 \$17,372.88

After approval by the Board and Chairman's signature, please return the original Form 8038-T to Finance for submission to the U.S. Treasury by September 10, 2004.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services			G County Manager
<i>dgh</i>				<i>A. Gray</i>	<i>QA</i>	<i>ADM</i>	<i>Risk</i>	<i>GC</i>
					<i>8/25/04</i>	<i>8/26/04</i>	<i>8/26/04</i>	<i>8/26/04</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: 8/24/04
Time: 1:00 PM
Forwarded To:
Co. Adm.
8/24/04 3:08pm

RECEIVED BY
COUNTY ADMIN:
8/24/04
3:57 pm
COUNTY ADM. V
FORWARDED TO: RL
8/24/04
3pm

TD
HS

Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate

Department of the Treasury
Internal Revenue Service

▶ Under Sections 143(g)(3) and 148(f)
and Sections 103(c)(6)(D) and 103A(i)(4) of the Internal Revenue Code of 1954

Part I Reporting Authority Check box if Amended Return

1 Issuer's name Lee County, Florida		2 Issuer's employer identification number 59 : 6000702	
3 Number and street (or P.O. box no. if mail is not delivered to street address) 2115 Second Street		Room/suite	4 Report number 7 G1999-4
5 City, town, or post office, state, and ZIP code Fort Myers, FL 33901		6 Date of issue July 13, 1999	
7 Name of issue Capital Refunding Revenue Bonds, Series 1999A		8 CUSIP number 52348LAW6	
9 Name and title of officer or legal representative whom the IRS may call for more information Donna G. Harn		10 Telephone number of officer or legal representative (239) 335-2300	
11 Type of issue ▶ Refund outstanding obligations		Issue price ▶	11 \$ 36,109,633.15
12 Amount of arbitrage rebate previously paid for this issue			12 \$ 0
13 If Form 8038, Form 8038-G, or Form 8038-GC was not filed, check here ▶ <input type="checkbox"/>			
14 Date of most recently filed Form 8038-I for this issue (MMDDYYYY)			
15 Is this the final Form 8038-T for this issue? ▶ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

Part II Yield Reduction, Arbitrage Rebate, and Penalty in Lieu of Arbitrage Rebate

Yield Reduction			
16 Amount of yield reduction payment (see instructions)		16 \$	17,372.88
Arbitrage Rebate			
17 Amount of rebate paid for the period (MMDDYYYY) from ▶ to ▶		17 \$	
18 Penalty for failure to pay arbitrage rebate on time (attach statement)		18 \$	
19 Interest on underpayment of arbitrage rebate (see instructions)		19 \$	
Penalty in Lieu of Arbitrage Rebate			
20 Number of months since date of issue, check the box: <input type="checkbox"/> 6 mos <input type="checkbox"/> 12 mos <input type="checkbox"/> 18 mos <input type="checkbox"/> 24 mos <input type="checkbox"/> Other. No. of mos ▶			
21 Available construction proceeds ▶ \$ Unspent ▶ \$			
22 If you elected to terminate the election to pay the penalty in lieu of arbitrage rebate, check one of the following (see instructions): <input type="checkbox"/> A <input type="checkbox"/> B Date of termination (MMDDYYYY)			
23 Penalty in lieu of rebate		23 \$	
24 Penalty upon termination		24 \$	
25 Penalty for failure to pay on time (attach statement)		25 \$	
26 Interest on underpayment of penalty in lieu of rebate or upon termination (see instructions)		26 \$	
27 Total payment. Add lines 16, 17, 18, 19, 23, 24, 25, and 26. Enter total here ▶		27 \$	17,372.88

Part III Elections by the Issuer Check "Yes" or "No" for each question (see instructions)

	Yes	No
A. Elections made under the 1992 regulations. Did you elect to:		
28 Apply the rules under section 148 to determine if the bond complies with section 103(c)(6)(D) of the 1954 Code?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
29 Treat the last day of the bond year on a variable yield issue as the computation date?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
30 Treat a transitioned variable yield issue as a fixed yield issue?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
31 Treat a variable yield bond that is not a tender bond as a fixed yield bond after it converted to a fixed rate?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
32 Continue treating an issue as a variable yield issue after all the bonds in the issue converted to a fixed rate?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
33 Recompute the yield on a transitioned fixed yield issue?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Elections made under the 1993 regulations. Did you elect to:		
34 Identify a hedge?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
35 Use an actual facts analysis?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
36 Exclude earnings on a reasonably required reserve or replacement fund from available construction proceeds?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
37 Treat the different purposes of a multipurpose issue as separate issues for purposes of the 2-year exception?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
38 Treat each loan of a pooled financing issue as a separate issue for purposes of applying the spending exception?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
39 Apply certain provisions of section 1.148-11(b) before the effective date?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
40 Apply certain provisions of section 1.148-11A(i) before the effective date?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Under penalties of perjury, I declare that I have examined this return, and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Sign Here

Signature of officer	Date	Type or print name and title
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August 13, 2004

Ms. Marcia Simons
Debt Analyst
Lee County Clerk of the Circuit Court
Finance and Records Department
P.O. Box 2238
Fort Myers, Florida 33902-2238

**Re: Capital Refunding Revenue Bonds, Series 1999A - \$36,190,000
Arbitrage Rebate Liability Calculation Review**

Dear Ms. Simons:

At the request of Lee County (the "County"), MuniFinancial has completed the Confirmation of Internal Calculation Methodology for the Capital Refunding Revenue Bonds, Series 1999A (the "Obligations"). Our review has led us to concur that there is no arbitrage rebate payment for the period beginning July 13, 1999, the *delivery date*, and ending July 13, 2004, the *installment computation date*. However, a *yield reduction payment* of \$17,372.88 is due to the Internal Revenue Service by September 11, 2004, 60 days from the end of the fifth bond year.

In the process of confirming the methodology used in the arbitrage rebate liability calculated by Lee County, MuniFinancial has reviewed the following documents: Official Statement, Certificate as to Arbitrage and Certain Other Tax Matters, and IRS Form 8038-G (the "Documents"). MuniFinancial assumes the Documents are accurate and contain no errors or omissions that would affect the calculation of the rebate liability or the yield reduction payment.

MuniFinancial has reviewed the mathematical spreadsheets (the "Spreadsheets") prepared by Lee County and agrees with the conclusions. MuniFinancial assumes the information used in the Spreadsheets is accurate, and contains no errors or omissions that would affect the calculation. MuniFinancial has not independently verified any of the information included in the Spreadsheets.

MuniFinancial is of the opinion that Lee County has employed methodology consistent with the requirements of the Internal Revenue Code and Regulations with respect to calculation of the arbitrage rebate liability and yield reduction payment.

This report is intended for the information of Lee County and should not be used for any other purpose.

If you have questions regarding this calculation, or any other concerns, please feel free to call either Anne Pelej or me at (800) 755-6864.

Sincerely,
MuniFinancial



Marshall Eyerman, Principal Consultant
Federal Compliance Division