

## AN 'EXCEL'LENT OPTION: *EXCEL Aid On The Horizon*

**E**XCEL (**EX**panding our **C**hildren's **E**ducation and **L**earning) is a program created by the New York State legislature in its most recent session to provide project financing or assistance in the form of grants to eligible school districts for school building construction projects. The maximum *potential* EXCEL aid for each school district is shown at the bottom of each district's State Aid Output Report for the 2006-07 Legislative Budget and can be found on the New York State Education Department's ("SED") website. The amount of aid shown is only attainable if the District meets certain requirements which include having an eligible project that has been approved by NYS Facilities Planning and signed construction contracts (SA-139) on or after April 1, 2006.

To fund the program, the New York State Dormitory Authority will sell \$2.6 billion bonds and then divide the proceeds with approximately \$1.8 billion going to New York City Public Schools and the balance, approximately \$800 million, to the rest of the State's school districts. Each district's share is preserved and may be expended over multiple years, as necessary. Currently, EXCEL appears to be a one time aid mechanism not a continuing aid program.

The original budget bill language limited EXCEL aid to the difference below the maximum "approved cost" (cost allowance) and the district's Building Aid Ratio significantly benefiting low building aid ratio districts. The surviving language now refers only to the "Total Project Cost" and apparently can fund all costs, or the difference above regular building aid up to the actual project cost, thus funding expenses otherwise not traditionally eligible for aid. This will have to withstand the SED State Aid administrative interpretation which has generally not been favorable to aiding costs exceeding the maximum cost allowance. The language does not make reference to voter approval for an EXCEL project. However, if both borrowing and EXCEL aid are used, then voter approval is likely still necessary for the borrowed portion, and possibly both.

If you have any questions regarding your district's EXCEL status, please contact CMA Vice President Roy McMaster.

## It's Baaack!: *Arbitrage Opportunities Abound*

**W**hile investment rates have risen steadily over the past year, borrowing rates for bond issues have remained relatively low, giving rise once again to potential arbitrage earnings. Arbitrage is the difference between the interest paid on borrowed funds and the interest earned on those funds while they are invested prior to being spent. For example, a town on Long Island recently sold \$31 million serial bonds at a rate of 4.29% and expects to invest the bond proceeds in a money market account at a rate of approximately 4.75%. The 46 basis points between the town's cost of capital and its anticipated yield represents positive arbitrage earnings which should be used to offset the next debt service payment on the bonds. An issuer is permitted to keep its arbitrage earnings if it complies with the Internal Revenue Service regulations that govern arbitrage of debt proceeds. If an issuer does not comply with the IRS rules regarding timely spending of arbitrated bond proceeds, the issuer is required to rebate any arbitrage earnings back to the Federal government. If the Long Island town were deemed a "small issuer" under the IRS rules, it would be permitted to keep its arbitrage earnings so long as the proceeds from the bond issue, and the earnings thereon, were spent within three years of the date of their receipt by the town.

*Cont'd on back*

**"Money is better than poverty, if only for financial reasons"**  
- Woody Allen

## Recent Sale Results

Issuer	Issue Type	Par Amount	Sale Date	Term	Rate	Purchaser(s)
Rockland County	BAN	\$5,100,000	June 1	1 year	3.67%	Commerce Bank, R&C
Lackawanna CSD	BAN	12,145,000	June 1	1 year	3.71	Stone & Youngberg
East Hampton Town	Bonds	31,000,000	May 31	20 years	4.29	Citigroup
Hampton Bays UFSD	BAN	6,640,000	May 17	4 months	3.62	Commerce, R&C
Suffolk County	Bonds	65,955,000	May 11	20 years	4.23	Merrill Lynch
Jamestown CSD	BAN	14,500,000	May 10	1 year	3.84	S&Y, Key Banc

## **SCHOOL BUDGET VOTE RECAP: MORE BUDGETS PASS IN 2006**

**F**ollowing the May 16th statewide budget vote for school districts, with 679 districts reporting, nearly 89% of school budgets passed, up from almost 84% last year. The passage rate on Long Island was 84.3% with 102 of 121 districts reporting approved budgets. This is up from a 64% passage rate last year. Upstate, the passage rate was 89.9% with 482 of 536 budgets getting the green light. School districts in Erie and Niagara counties had some of the best results in the State with 100% of the budgets up for vote receiving approval in each of these counties.

School districts with budgets that were defeated have the option of putting the same or revised budget up for a revote on June 20th or going on an austerity budget for the next fiscal year.

### *Arbitrage cont'd:*

For purposes of the IRS rules, a "small issuer" is defined as a jurisdiction that will issue no more than \$5 million in debt in the calendar year. The vast majority of jurisdictions issuing more than \$5 million in debt in a calendar year have a more restrictive set of rules to comply with. If bonds are issued by a jurisdiction that is not a "small issuer" to fund a construction project and the issuer complies with the following two-year spend down rule, it can keep its arbitrage earnings. The two-year rule for construction projects requires an issuer to spend 10% of its bond proceeds, and the interest earnings thereon, within 6 months of the date it receives the bond proceeds. Subsequently, 45% of the proceeds and earnings must be spent in 12 months, 75% within 18 months and substantially all of the proceeds and earnings within 24 months. If less than 5% of the proceeds remain unspent after 24 months, the issuer has 12 more months to spend the remaining balance. For bonds issued to fund equipment acquisition and other non-construction related projects, the issuer must spend substantially all of the proceeds within 6 months of their receipt.

Regardless of what spend down rule an issuer is subject to, five years from the date of issuing tax exempt bonds, a jurisdiction should have available for review by the IRS, an arbitrage rebate analysis that shows how borrowed funds were invested prior to being spent. If you need a refresher on the IRS Arbitrage Rules please call your Bond Counsel or CMA.

Questions? Call Richard Tortora at 516-487-9815, Michael Neumeister at 716 -662-3910, or Andrew Geiger at 212-946-2854



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### **Interest Rate Update: 16 and Counting...**

**T**he Federal Reserve raised a key interest rate again in May - the 16th straight increase - and didn't give a definitive answer about what to expect in the coming months.

In addition, the Fed raised its short-term rate target another quarter-point to 5 percent and said it may need to keep raising rates, but that the timing of any increases will depend on how the economy is doing.

The central bank's fed funds rate now stands at 5 percent, the highest since March 2001. Short-term rates were at historical lows when the Fed began its rate-hiking campaign in June 2004. Good times!