

Provision	Form of VCAP Closing Agreement	Form of Audit Closing Agreement
Recital A	Lists the specific bond issues covered by the closing agreement.	
Recital B	The issuer and the borrower make certain numbered representations about the issuance of the bonds and the action that led to the violation that led to the VCAP.	The issuer filed an 8038-series form for the bonds (so the issuer intended them to be tax-exempt bonds).
Recital C	The IRS “has a basis to conclude” that the bonds have violated the tax requirements based on the issuer or borrower’s conduct.	
Recital D	“The IRS has not formally asserted any claims against the Issuer or Borrower, or sought to tax interest on the Bonds.”	
Recital E	“The Issuer, the Borrower and the IRS desire to resolve the violation described in paragraph C.”	
Recital F	“The terms of this Agreement were arrived at pursuant to negotiation among the Issuer, the Borrower and the IRS and may differ from the resolution terms of other closing agreements.”	
Recital G	The Issuer and the Borrower represent that they will not use tax-advantaged bond proceeds to pay the closing agreement amount, and describe how many bonds the issuer redeemed and that the issuer didn’t use tax-advantaged bond proceeds to redeem these bonds. (If the bonds are not yet callable, presumably a description of the defeasance escrow would go here.)	
Section 1	Describes the closing agreement amount.	
Section 2	The issuer and borrower cannot get a refund or offset of a closing agreement amount.	
Section 3	No one can deduct or amortize the closing agreement amount.	
Section 4	No one has to treat the closing agreement amount as gross income for tax purposes.	
Section 5	Bondholders are safe from the potential effect of the violation in Recital C on interest on the bonds.	
Section 6	The IRS reserves the right to declare the bonds taxable for any tax problem not in Recital C.	
Section 7	“[G]ross proceeds of the Bonds are unspent proceeds” for arbitrage purposes.	
Section 8	The closing agreement isn’t based on an audit, and the IRS reserves the right to examine “the Bonds, the Issuer, the Borrower, or any Bondholder.”	[Omitted]
Section 9	No one can rely on the closing agreement as precedent to resolve any other audit.	
Section 10	The closing agreement is final except that it can be reopened in the case of fraud, malfeasance, or misrepresentation; “it is subject to sections of the Code that expressly provide that effect be given to their provisions notwithstanding any other law or rule of law,” and if the closing agreement relates to future tax periods, the agreement technically faces change-in-law risk.	
Exhibit A	The trustee must certify to the issuer that the bonds noted in Recital G were in fact redeemed in the amounts shown in Recital G, and that a pro rata portion of each nonqualified bond was redeemed in accordance with Reg. 1.141-12(j).	

Exhibit B	The wiring instructions for the closing agreement amount.
Consent to Disclose Tax Information	