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Questions and Answers Regarding Qualified School Construction Bonds

As part of the American Recovery and Reinvestment Act of 2009 (ARRA), Ohio school districts may now be able to take advantage of a new type of financing: Qualified School Construction Bonds (QSCBs). This Alert answers some basic questions regarding QSCBs and provides a link to the application for QSCB allocation that was released on May 26, 2009 by the Ohio School Facilities Commission (OSFC). To learn more please contact one of the lawyers listed in this Alert or any Squire Sanders lawyer with whom you work.

Question: What are QSCBs?

Answer: QSCBs are a new type of tax-credit bond, the holders of which are entitled to claim federal income tax credits at a rate, set by the US Treasury, that is intended to enable an issuing school district to sell QSCBs with zero (or very low) interest rates. QSCBs may currently be structured as general obligation bonds, lease-purchase or possibly other financing arrangements.

Question: Are QSCBs a grant?

Answer: No. QSCBs offer an issuing school district the ability to borrow money at a zero (or very low) interest rate, but the principal and any interest must be repaid.

Question: How may a school district spend the proceeds of a QSCB issue?

Answer: Proceeds of QSCBs must be spent on the construction, rehabilitation or repair of a public school facility or for the acquisition of land on which a facility is to be constructed with part of the proceeds of the QSCB issue.

Question: Can QSCB proceeds be spent on equipment?

Answer: Yes. Eligible expenditures include costs of

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acquisition of equipment to be used in such portion or portions of the public school facility being constructed, rehabilitated or repaired with the proceeds of QSCBs.

Question: What is the maximum maturity for QSCBs?

Answer: The US Treasury establishes the maximum maturity for QSCBs each month. In May 2009 the maximum term is 15 years.

Question: Do federal prevailing wage requirements apply to projects financed with QSCBs?

Answer: Yes, federal prevailing wage requirements apply.

Question: What is Ohio's QSCB allocation?

Answer: The federal government has provided to the State of Ohio a 2009 QSCB allocation of \$267,112,000. In addition, the federal government provided 2009 QSCB allocations directly to five large urban school districts in Ohio (Akron CSD, Cincinnati CSD, Cleveland MSD, Columbus CSD and Toledo CSD). In order for an Ohio school district (other than those five) to issue QSCBs, that school district must receive a "sub-allocation" from the State. A school district that has received a QSCB allocation (or sub-allocation) may issue QSCBs in a principal amount up to the amount so allocated.

Question: How does a school district receive a QSCB sub-allocation from the State?

Answer: On May 26 the OSFC released an [application form for QSCB sub-allocation](#) as well as [guidelines regarding the sub-allocations](#) to be made by the State in 2009. The OSFC will make the sub-allocations from three pools as follows:

- Pool A: \$100 million for entities that are ready to issue bonds for a major school facility project (with a target minimum allocation of \$2 million and a target maximum allocation of \$20 million);
- Pool B: \$100 million for entities with major school facility projects that are in the planning stage and do not yet have the bond issue approval or other revenue in place to be able to issue bonds for the project (with a target minimum allocation of \$2 million and a target maximum allocation of \$20 million); or
- Pool C: \$67,112,000 for Energy Conservation Program (HB 264) projects and other smaller construction projects (with a target minimum allocation of \$0.5 million and a target maximum allocation of \$2.5 million).

Question: How long after a QSCB sub-allocation is received by a school district must QSCBs be issued?

Answer: The OSFC guidelines currently state that a district will have 120 days after receiving its QSCB sub-allocation to complete its issuance of the QSCBs.

Question: Is there an application deadline? When will the sub-allocations be made?

Answer: No deadline for applications is specified. A committee composed of representatives from the OSFC, Ohio Department of Education, Office of Budget and Management and the State Treasurer's office will review applications on a regular basis and make recommendations to the OSFC's Executive Director for approval. Applications made under Pool B will not be recommended by the reviewing committee until after July 1, and the committee will be "reluctant" to recommend approvals for applications under Pools A and C before July 1.

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations. Counsel should be consulted for legal planning and advice.

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