

6A-2.0030 Qualified School Construction Bond Program

(1) Qualified School Construction Bonds (QSCBs). The American Recovery and Reinvestment Act of 2009 authorized the issuance of Qualified School Construction Bonds (QSCBs) to finance school construction and other eligible projects for public schools. The amount of QSCBs issued in each state is limited under federal law. This rule is created pursuant to Section 159.841, 159.842, 159.843, 159.844, and 159.845, Florida Statutes, which authorizes the Department of Education (Department) to establish a program for allocating the available allocation authority in Florida. Under this program, qualified school districts, charter schools or state education agencies can borrow funds with no interest cost. A Qualified School Construction Bond is an interest-free bond issued by a state or local governmental entity, the proceeds of which are used to construct or improve certain eligible public schools, or for certain land or equipment purchases. Instead of receiving periodic interest payments from the issuer, the QSCB bondholder (potential bondholders include banks, insurance companies, and corporations actively involved in the business of lending money) receives a federal income tax credit while the bond is outstanding, in an amount equal to a percentage of the face amount of the bond. The education agency's debt service obligation is only for the principal amount of the bonds. The full faith and credit of the State of Florida is not pledged to QSCB bonds issued by agencies other than the Florida Department of Education.

(a) Eligibility Criteria.

1. All school districts, charter schools or state education agencies are eligible to apply.
2. Eligible QSCB projects include all projects permitted to be financed with QSCBs under federal law, including:
 - a. New construction of a public school owned facility,
 - b. Rehabilitation or repair of an existing public school owned facility,
 - c. Land acquisition for the facility to be constructed with the QSCB proceeds, and
 - d. Equipment to be used in the facility that is being constructed, rehabilitated, or repaired with the proceeds of QSCBs.

NOTE: Lease payments may not be made with QSCB proceeds.

(b) Application Process.

1. Application shall be made through submission of Form OEF 411, Qualified School Construction Bond (QSCB) Program Notice of Intent to Issue Bonds and Request for Written Confirmation, which is hereby incorporated by reference to become effective with the effective date of this rule. Form OEF 411 may be obtained from the Department's website at <http://www.fldoe.org/edfacil/oef/federalbond.asp>.
2. Applications must be received from the districts or charter schools on or before October 1, or such other date as established by the Department.
3. Districts or charter schools should not request more bonding authority than can be reasonably expected to be repaid, and the district or charter school

must expect that the QSCBs will be issued prior to the end of the calendar year in which an application is made.

4. Applications must clearly explain the pledged revenue from which the district or charter school intends to repay the bond principal upon maturity.
5. The application must include the following documents:
 - a. A copy of the resolution referenced in the Certification of Eligibility section of Form OEF 411.
 - b. A completed Project Spending Plan, Form OEF 412, which is hereby incorporated by reference to become effective with the effective date of this rule. Form OEF 412 may be obtained from the Department's website at <http://www.fldoe.org/edfacil/oef/federalbond.asp>.
6. Charter schools must submit a copy of the most current financial audit containing an auditor's opinion that the charter school will remain a "going concern" until the QSCBs mature.

(c) Allocation Process.

1. After the federally imposed state bonding authority is known for each calendar year, the school districts and charter schools will be notified by the Department.
2. The total available state volume cap limitation will be divided between two pools, the school district's pool and the charter school's pool. The pools will be established based on the ratio of the number of charter schools divided by the number of students served, as compared to the total student population.
3. Applications are reviewed for eligibility and completeness. Districts or charter schools may be contacted for further information or clarification.
4. Applications from school districts must include only survey recommended projects.
5. District applications will be considered and allotments awarded based on the following factors:
 - a. Existing classroom funding needs for compliance with the constitutionally mandated class-size reduction requirements;
 - b. Increasing enrollment growth of greater than one (1) percent per year;
 - c. Need to replace aging facilities, fifty (50) years and older, based on a Department approved analysis; or
 - d. Existing funding needs for survey recommended projects included in a current Educational Plant Survey approved by the Department.
6. Charter school applications will be considered and allotments awarded based on the review and evaluation of the description of the facility; including, but not limited to, the age, condition, ownership, number of students currently being served, projected number of students to be served, and a photograph(s) of the existing facility demonstrating a need for the project to be financed with QSCB proceeds.
7. Once the Department determines the allocations to be awarded, each district or charter school will be notified in writing. Districts or charter schools whose applications have been denied and those with ineligible projects will also be notified.

8. Any allotment balance remaining after the initial allocation process will revert to a state-wide allocation pool, to which unissued / returned allotments will be added. The state-wide pool may be reallocated at a later date or retained for use by the state.
9. A final confirmation letter of the allocation will be provided upon the districts or charter schools submission of the Issuance Report, Form OEF 413 and a copy of the official statement cover, which is hereby incorporated by reference to become effective with the effective date of this rule. Form OEF 413 may be obtained from the Department's website at <http://www.fldoe.org/edfacil/oef/federalbond.asp>.

(d) Administration. In addition to previously stated requirements, there are a number of administrative items school districts or charter schools must keep in mind:

1. Qualified School Construction Bond (QSCB) proceeds cannot be used to pay debt service or other outstanding debt obligations incurred to finance project costs.
2. Qualified School Construction Bond (QSCB) proceeds cannot be used to make lease payments.
3. The district or charter school must comply with all information requests from the Department so that federal accountability and reporting requirements can be met.
4. Each district or charter school must determine whether the purposes for which QSCBs are issued conform to state law regarding indebtedness.
5. Each district or charter school is responsible for repayment of the principal upon maturity.
6. School districts shall not use PECO or CO&DS revenues to pay QSCB debt service obligations, but may use District School Tax revenues pursuant to Section 1011.71, F.S. (often referred to as local discretionary capital outlay millage).
7. If District School Tax proceeds are proposed for repayment of QSCB debt, those proceeds shall not exceed the Certificates of Participation (COPs) limit established for District School Tax revenue in Section 1011.71, F.S.
8. If a district or charter school determines that its allotment will not be used, the district or charter school should notify the Department as soon as possible.
9. If the scope of one of a district's or charter school's approved projects changes, the district or charter school must receive the approval of the Department before reallocating the funds to other projects. Requests will be reviewed on a case-by-case basis.
 - a. The Department may allow reallocations among approved projects, as identified on the current QSCB award letter, to another current approved project.
 - b. The Department will disallow the reallocation of funds to new or unapproved projects.
10. Districts or charter schools must have all bonds issued by December 31 of its funding year.

- 11.** As districts or charter schools issue QSCB bonds, Form OEF 413 and a copy of the cover of the official statement must be forwarded to the Department upon issuance of the bonds in order to receive a final confirmation of the volume cap allocation.
- 12.** On December 31 of the district's or charter schools' funding year, unused allotments will revert back to the State for reallocation or retained for use by the state.
- 13.** Allocations of the volume limitation are granted first from carried-forward balances from previous years and then from the current year balance.

Rulemaking Authority - 159.845 FS. Law Implemented - 159.841, 159.842, 159.843, 159.844 159.845 FS. History – New