Brad Henry
Governor

FILED
AUG 23 2010
OKLAHOMA SECRETARY OF STATE

EXECUTIVE DEPARTMENT

EXECUTIVE ORDER 2010-35

I, Brad Henry, Governor of the State of Oklahoma, pursuant to the authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby direct and order as follows:

New and rehabilitated school facilities are urgently needed across the state. Section 1541 of the American Recovery and Reinvestment Act of 2009 (ARRA), codified at 26 U.S.C. 54F, provides an allocation of $22 billion nationally for Qualified School Construction Bonds to be issued by state and local governments. A Qualified School Construction Bond (QSCB) is one in which 100% of the available proceeds are used for the construction, rehabilitation or repair of public school facilities or for the acquisition of land on which a public school facility will be constructed. Bond issuers are entitled to direct federal payments equal to approximately one hundred percent (100%) of the interest on such bonds. The intent of these payments is to make QSCBs, effectively, zero-interest bonds.

Applicable federal law limits the dollar amount of QSCB obligations that may be issued in Oklahoma in a calendar year. The amount of QSCBs that may be issued in the state is divided between an amount specifically designated for identified local school districts pursuant to ARRA (local allocation) and amounts allocated to the entire state for use throughout the state (statewide allocation). Oklahoma has received local and statewide allotments (Volume Cap) for 2009 and 2010 that total Two Hundred Forty-four Million One Hundred Ninety-eight Thousand Dollars ($244,198,000.00), which the state may allocate among school districts seeking capital for school construction projects. Any allocation unused from 2009 and 2010 may be carried forward to the next calendar year.

This Executive Order will facilitate the use of ARRA financing of new and refurbished schools with review and coordination at the state level. The State Department of Education (Department) is hereby designated the state education agency responsible for administering the statewide allocation of authority to issue QSCB financing under 26 U.S.C. Section 54F. The Department shall perform the functions required to implement and utilize the statewide allocation for the QSCB program in Oklahoma. Those functions include, but shall not be limited to, the following:

1. The Department shall solicit requests from school districts for allocations of QSCB Volume Cap for specified projects eligible for QSCB financing;

2. The Department shall design an application process, including providing requirements for applications and other information necessary for the Department to evaluate, prioritize and approve

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requests for QSCB Volume Cap from school districts. Such process shall allow for the individual school districts to issue QSCBs before their expiration;

3. In prioritizing projects, the Department's consideration shall include, but shall not be limited to:

a. the age and condition of existing facilities,
b. the need for new facilities to accommodate growth in student population,
c. the ability of the school district to successfully finance the facilities without allocation of QSCB Volume Cap, and
d. the cost of the facilities relative to the availability of funds;

4. The Department shall select school districts for allocation of the statewide QSCB Volume Cap and establish conditions for the use of the allocation. These conditions shall include, but shall not be limited to:

a. requiring that the bond proceeds be used only for purposes permitted under 26 U.S.C. Section 54F,
b. ensuring that the allocations are used in a timely manner and are made in accordance with the requirements of federal law, and
c. requiring that school districts acknowledge and agree that they will timely report to the Department the amount and date of issuance of any bonds issued according to the QSCB Volume Cap allocations, the projects funded with the proceeds of such bonds, and any other information required to demonstrate compliance with the requirements of federal law within 90 days of completion of any funding;

5. The Department shall confirm that the terms of any QSCB financing issued in accordance with this program are consistent with the terms of the federal program;

6. The Department shall receive notice from any local school district stating that such district will not use its local allocation in a manner which results in the unused resource becoming part of the statewide allocation. Local school districts receiving a local allocation are hereby directed to coordinate the use of such allocation with the Department so that any local allocation not used by the local school district shall become eligible for use as part of the statewide allocation; and

7. The Department shall make reasonably available to the public information concerning the amount of QSCB Volume Cap available to the State by statewide allocation and local allocation, as well as all allocations made by the Department of QSCB Volume Cap as authorized and directed in this Executive Order.

This Executive Order shall be distributed to all members of the ARRA Coordinating Council, all members of the Governor's Executive Cabinet, the State Superintendent of Public Instruction and the chief executives of all appropriate and affected state agencies, all of whom shall cause the provisions of this order to be implemented by all appropriate officials and agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City this 23 day of ~~July~~ August, 2010.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA

BRAD HENRY

ATTEST:

SECRETARY OF STATE