

OFFICIAL

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**2016
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A Compilation of Permanent Rules
Including updates filed with the Secretary of State as of August 15, 2016

Title 90

Council of Bond Oversight

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Preface

This Title publication has been extracted from the *2016 Edition* of the *Oklahoma Administrative Code (OAC)*, which supersedes all previous editions and supplements to the *OAC*. The *OAC*, prepared under the authority of 75 O.S., § 256, comprises the only *official* publication of Oklahoma's permanent rules and executive orders. The *2016 Edition* is a compilation of permanent rules that have been issued by agencies, as well as Executive Orders issued by the Governor, and includes updates filed with the Secretary of State as of August 15, 2016.

Full editions of the *OAC* are published every five years, and between full edition publications, cumulative supplements are published annually. Also, until each year's edition or supplement is published at the end of the year, the semi-monthly issues of *The Oklahoma Register* serve as additional official supplementation. At any given point in time, therefore, **current rules can be found** by checking the latest full edition of the *OAC* and the latest cumulative annual supplement, and by checking issues of the *Register* for permanent, preemptive, and emergency rule updates filed with the Secretary of State after the August 15 closing date for the latest annual *OAC* publication (full edition or supplement).

The *OAC*, its supplements, and the semi-monthly issues of the *Register* are available for public inspection at Oklahoma's depository libraries [as designated by the Oklahoma Department of Libraries at <http://libraries.ok.gov/state-government/publications/depository-library-system/>], as well as at many County Clerks' offices around the state. They are also available at the Jan Eric Cartwright Memorial Law Library in the State Capitol Building and at the Secretary of State's Office of Administrative Rules.

OAC publications are also available for purchase. Each edition and each supplement can be purchased as a full set or by individual Title. Full set publications include a comprehensive *General Index*, and individual Title publications include a Title index. A *User's Guide to the OAC* is also available, and may be purchased separately.

For additional information about the *OAC*, or to order the *2016 Edition* or individual Titles, earlier *OAC* publications, the *General Index*, the *User's Guide*, or *The Oklahoma Register*, contact the Office of Administrative Rules:

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Secretary of State
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How to cite the *OAC* and its supplements

- To cite the *most recent* codification of a Section or Appendix in the *OAC*, do not cite a publication date. For example:

OAC 165:56-5-3
OAC 165:56, Appendix C

- To cite a *specific* codification of a Section or Appendix in the *OAC*, cite to the specific publication date. For example:

OAC (2016) 165:56-5-3
OAC (2016) 165:56, Appendix C

OAC (2015 Supp.) 165:56-5-3
OAC (2015 Supp.) 165:56, Appendix C

OAC (2014 Supp.) 165:56-5-3
OAC (2014 Supp.) 165:56, Appendix C

OAC (2013 Supp.) 165:56-5-3
OAC (2013 Supp.) 165:56, Appendix C

OAC (2012 Supp.) 165:56-5-3
OAC (2012 Supp.) 165:56, Appendix C

OAC (2011) 165:56-5-3
OAC (2011) 165:56, Appendix C

- For information about citing Parts, Subchapters, Chapters, and Titles in the *OAC*, see the *User's Guide to the OAC*.

TITLE 90. COUNCIL OF BOND OVERSIGHT

***EDITOR'S NOTE:** Title 90 was previously assigned to the Oklahoma Executive and Legislative Bond Oversight Commissions. However, on 9-24-02, the Oklahoma Supreme Court ruled that the Oklahoma Legislative Bond Oversight Commission violated the separation of powers doctrine of the Oklahoma Constitution, "caus[ing] . . . the powers, duties, and responsibilities of the [Commissions] to devolve upon the Council of Bond Oversight." [See 2002 OK 74, 64 P.3d 546, Case No. 97419 (Supreme Court of the State of Oklahoma, 9-24-02)] Pursuant to 62 O.S., Section 695.11A, "in the event either of the [Commissions] is found unconstitutional by a . . . court of competent jurisdiction, all powers, duties and responsibilities of the Commissions shall devolve upon the Council of Bond Oversight, and previous joint or individual actions, approvals or disapprovals of the Executive and Legislative Bond Oversight Commissions are hereby confirmed, ratified, validated and deemed incontestable."*

Chapter	Section
1. Administrative Operations	90:1-1-1
10. Administration of the Oklahoma Bond Oversight and Reform Act	90:10-1-1
15. Administration of the Oklahoma Private Activity Bond Allocation Act	90:15-1-1

CHAPTER 1. ADMINISTRATIVE OPERATIONS

Subchapter	Section
1. General Provisions	90:1-1-1
3. General Operations of the Council	90:1-3-1
5. Procedures for Adoption, Amendment and Repeal of Rules	90:1-5-1
7. Requests for Declaratory Rulings	90:1-7-1
9. Severability and Interpretation	90:1-9-1

[Authority: 62 O.S., §§ 695.8(A) and 695.11A]
 [Source: Codified 3-25-91]

SUBCHAPTER 1. GENERAL PROVISIONS

Section	Purpose and scope
90:1-1-1.	Purpose and scope
90:1-1-2.	Statutory definitions
90:1-1-3.	Clarification of certain definitions
90:1-1-4.	Additional definitions

90:1-1-1. Purpose and scope

The Council of Bond Oversight was created to implement the Oklahoma Bond Oversight and Reform Act found at 62 O.S., Section 695.1 et seq. The Council is responsible for providing systematic oversight of debt issuances by State Governmental Entities. The rules of this Chapter establish the operations of the Council in order to facilitate the business of the Council and State Bond Advisor and of such entities.

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 20 Ok Reg 453, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2258, eff 7-11-03]

90:1-1-2. Statutory definitions

The following terms are defined in 62 O.S. 695.1 et seq.:

- (1) Council
- (2) State Governmental Entity
- (3) Local Governmental Entity
- (4) Purpose

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 20 Ok Reg 453, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2258, eff 7-11-03]

90:1-1-3. Clarification of certain definitions

(a) "Authorized and Proper Public Functions or Purposes". The Council is directed to make determinations regarding the public purpose for which obligations are to be issued by State Governmental Entities in accordance with Title 60 of the Oklahoma Statutes, Sections 176, et seq, the Oklahoma Public Trust Act (the "Public Trust Act"). The Public Trust Act authorizes obligations to be issued for authorized and proper public functions or purposes. Limitations imposed in regard to public purpose as set out in the Public Trust Act and imposed as a result of statutory language therein may be specified by indenture documents that are the charter documents for a particular

entity and/or in statutory language pertaining to a particular Issuer or bond issue in other federal or state laws. Specific prohibitions in Title 60 in regard to the definition of a "proper public purpose" can be found at Section 177.2 and Section 178.4 of that title. In order to provide systematic oversight, in determining "public purpose", the Council shall review the end sought to be reached and the means to be used in reaching that end in order to promote the public health, safety, morals, security, prosperity and general welfare and contentment of all citizens.

(b) "Authorized Public Functions or Purposes" include functions or purposes which are authorized by law. State governmental entities will be limited to the authority given them by the State Constitution or state statutes. State beneficiary trusts will be limited to the authority stated in their charter or trust indenture if the function and purpose is one which the State could be authorized to perform.

(c) "Proper Public Function or Purpose" are those functions and purposes which are authorized public functions or purposes. Such public functions or purposes are proper if they benefit a large class of the public, lessen the burdens of government or are deemed proper by the State Constitution.

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 20 Ok Reg 453, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2258, eff 7-11-03]

90:1-1-4. Additional definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**The Act**" means the Bond Oversight and Reform Act, 62 O.S., Section 695.1 et seq. when used in Chapter 1 of this title.

"**Applicant**" means the State or Local Governmental Entity making application to the Council for approval and/or with respect to the reporting requirements specified in these rules.

"**Open Meeting Act**" means the Oklahoma Open Meeting Act, 25 O.S. Section 301, et. seq.

"**Open Records Act**" means the Oklahoma Open Records Act, 51 O.S. Section 24 A.1. et seq.

[Source: Amended at 20 Ok Reg 453, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2258, eff 7-11-03]

SUBCHAPTER 3. GENERAL OPERATIONS OF THE COUNCIL

Section

90:1-3-1.	Official office
90:1-3-2.	Meetings of the Council
90:1-3-3.	Executive sessions
90:1-3-4.	Notice of meetings
90:1-3-5.	Agenda items
90:1-3-6.	Confidential or commercially sensitive information
90:1-3-7.	Open records

90:1-3-1. Official office

The Offices of the Council of Bond Oversight and the State Bond Advisor are located at 9220 N. Kelley Avenue, Oklahoma City, Oklahoma 73131. The telephone number is (405) 602-3100 and telecopier number is (405) 848-3314. The office hours are from 8:00 a.m. to 5:00 p.m. Central Time, Monday through Friday, except legal holidays.

[Source: Amended at 10 Ok Reg 2567, eff 6-26-93; Amended at 20 Ok Reg 453, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2258, eff 7-11-03; Amended at 33 Ok Reg 1272, eff 9-11-16]

90:1-3-2. Meetings of the Council

The Council will set the schedule of regular meetings each year and file the schedule with the Secretary of State. A schedule of meetings may be obtained upon request of the office.

[Source: Amended at 9 Ok Reg 2249, eff 6-25-92; Amended at 20 Ok Reg 453, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2258, eff 7-11-03; Amended at 33 Ok Reg 1272, eff 9-11-16]

90:1-3-3. Executive sessions

The Council may hold executive sessions at such meetings as is permitted by the Open Meeting Act.

[Source: Amended at 20 Ok Reg 453, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2258, eff 7-11-03]

90:1-3-4. Notice of meetings

Notice of regular and special meetings will be given in accordance with the provisions of the Open Meeting Act.

[Source: Amended at 20 Ok Reg 2258, eff 7-11-03]

90:1-3-5. Agenda items

The State Bond Advisor prepares an agenda on behalf of the Council for each meeting of the Council. The agenda is filed and posted in accordance with the Open Meeting Act, supra. Members of the public may request the Council to place matters on the agenda for a meeting. The Council may adopt such procedures from time to time as it deems necessary for the orderly and efficient conduct of meetings.

[Source: Amended at 20 Ok Reg 453, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2258, eff 7-11-03]

90:1-3-6. Confidential or commercially sensitive information

Any information submitted to the Council which may be kept confidential by the applicant shall be kept confidential by the Council.

[Source: Amended at 20 Ok Reg 453, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2258, eff 7-11-03]

90:1-3-7. Open records

The records of the Council are subject to the Open Records Act. All requests for the public records of the Council will be made through the State Bond Advisor who will be charged with making the public records of the Council available for inspection by or copying to the requesting party during normal hours. The Council will charge \$0.25 per page for each copy of a public record made upon written request. The State Bond Advisor will decide if the request is for a record not otherwise made confidential under Oklahoma Law. The State Bond Advisor is authorized to discuss this decision with the Office of the Attorney General of the State of Oklahoma as may become necessary. Except information that is confidential or commercially sensitive as described in 90:1-3-6, or specifically kept confidential under Oklahoma or federal law, all documents or other records of the Council will be open for public inspection and copying.

[Source: Amended at 20 Ok Reg 453, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2258, eff 7-11-03]

SUBCHAPTER 5. PROCEDURES FOR ADOPTION, AMENDMENT AND REPEAL OF RULES

Section

90:1-5-1.	Procedures for adoption, amendment and repeal of rules
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90:1-5-1. Procedures for adoption, amendment and repeal of rules

(a) The Council may adopt, amend or repeal a rule on its own initiative, and may adopt, amend or repeal a rule at the request or recommendation of the State Bond Advisor.

(b) The Council may on its own motion, conduct hearings on proposed new rules, amendments or repeal of rules.

(c) Any interested person may petition the Council, requesting the adoption, amendment, or repeal of a rule. All such petitions shall be in writing, and be filed with the principal office. The petition shall include the name and address of the petitioning party and shall state clearly and concisely all matters pertaining to the requested action and the reasons for the request.

(d) The time and location of hearings shall be stated in the notice as required under the Open Meeting Act and shall be conducted in accordance with the Administrative Procedures Act.

(e) Any person who is interested or affected by proposed actions may appear at the hearing. An appearance may be made individually, by an attorney, or by an authorized agent.

(f) Prior to the adoption, amendment or repeal of a rule, the Council shall afford any interested person a reasonable opportunity to submit data, views and arguments either oral or written. If the rule under consideration affects the substantive rights of any person, the Council shall grant any person or entity a reasonable opportunity to participate in an oral hearing if requested by the person or entity.

[Source: Amended at 20 Ok Reg 453, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2258, eff 7-11-03]

SUBCHAPTER 7. REQUESTS FOR DECLARATORY RULINGS

Section
90:1-7-1. Requests for declaratory rulings

90:1-7-1. Requests for declaratory rulings

(a) Any interested person or entity may petition the Council for a declaratory order as to the applicability of any rule of the Council.

(b) The petition must identify the rule questioned, the date on which such rule became effective, and shall set forth the contents of the rule. The petition shall contain a brief statement of the issue or issues raised by the rule which cause such a request to be made and a statement of the petitioner's personal interest in the ruling of the Council and how a ruling of the Council would affect those interests.

(c) Upon receipt of the petition for declaratory ruling the Council shall consider the petition and within a reasonable time following receipt thereof, either deny the petition in writing,

stating its reasons for denial, or issue a declaratory ruling on the matter(s) contained in the petition.

[Source: Amended at 20 Ok Reg 453, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2258, eff 7-11-03]

SUBCHAPTER 9. SEVERABILITY AND INTERPRETATION

Section
90:1-9-1. Severability
90:1-9-2. Interpretation of Title

[Source: Codified 6-25-92]

90:1-9-1. Severability

Each provision of this Title is severable. If any provision is declared invalid, the invalidity will not affect any other provision(s) of this Title.

[Source: Added at 9 Ok Reg 2249, eff 6-25-92]

90:1-9-2. Interpretation of Title

This Title and procedures are adopted to simplify procedure, avoid delays, save expenses and facilitate implementation of the Oklahoma Bond Oversight and Reform Act and the Oklahoma Private Activity Bond Allocation Act by the Council of Bond Oversight and the State Bond Advisor. To that end, this Title will be given a fair and impartial construction. This Title shall be cumulative to the Oklahoma Administrative Procedures Act [75 O.S., Section 250 et seq.].

[Source: Added at 9 Ok Reg 2249, eff 6-25-92; Amended at 20 Ok Reg 453, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2258, eff 7-11-03]

CHAPTER 10. ADMINISTRATION OF THE OKLAHOMA BOND OVERSIGHT AND REFORM ACT

Subchapter	Section
1. General Provisions	90:10-1-1
3. Application Procedure	90:10-3-1
5. Fees	90:10-5-1
7. Evaluation Standards and Criteria	90:10-7-1
9. Reporting	90:10-9-1
11. Credit Enhancement Reserve Fund Applications	90:10-11-1

[Authority: 62 O.S., §§ 695.8(A) and 695.11A]
 [Source: Codified 3-25-91]

SUBCHAPTER 1. GENERAL PROVISIONS

Section	
90:10-1-1.	Purpose and scope
90:10-1-2.	Statutory definitions
90:10-1-3.	Clarification of certain terms [REVOKED]
90:10-1-4.	Additional definitions

90:10-1-1. Purpose and scope

The Council of Bond Oversight was created to implement the Oklahoma Bond Oversight and Reform Act found at 62 O.S., Section 695.1 et seq. ("the Act") The Council is responsible for oversight of debt issuance by State Governmental Entities and certain Local Governmental Entities as provided in 62 O.S., Section 695.9(C) . To implement the Act, the rules of this Chapter establish time frames, methods, criteria for evaluation, fees, and information required on application forms for such entities in order to facilitate the business of the Council and State Bond Advisor and of such entities.

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 12 Ok Reg 1991, eff 7-14-95; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-1-2. Statutory definitions

The following terms are defined in 62 O.S., Section 695.3 et seq.:

- (1) Council of Bond Oversight
- (2) State Governmental Entity
- (3) Local Governmental Entity
- (4) Purpose

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-1-3. Clarification of certain terms [REVOKED]

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 12 Ok Reg 1991, eff 7-14-95; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Revoked at 20 Ok Reg 2260, eff 7-11-03]

90:10-1-4. Additional definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Bond Oversight and Reform Act, 62 O.S., Section 695.1 et seq.

"Applicant" means the State or Local Governmental Entity making application to the Council for approval and/or with respect to the reporting requirements specified in these rules.

"The Committee" means the Program Development and Credit Review Committee established pursuant to Title 74, Section 5062.6a.

"Formal preliminary action" means Board or Agency adoption of an inducement resolution or obligation resolution.

"Issued" or "Closed" shall have the meaning provided in 62 O.S., Section 695.23 (11).

"Lease purchase" means an agreement by which a party pays the owner of tangible property for the right to use the property, and the party also obtains the right or option to purchase the property. If the option to purchase the property in a lease agreement is only the option to purchase the property for equal to or greater than the fair market value of the property, with no credit given to the lessee for prior lease payments, such an agreement shall not be considered an "obligation" for purposes of the "Act". It shall further mean lease agreements where the state governmental entity has the contractual right to occupy the premises for no consideration or nominal consideration after making lease payments for a period of time, whether or not the state governmental entity has an option to purchase or acquire the property. It shall also mean lease agreements where the lease payments are paid to a political subdivision, trust authority or similar entity, and the payments are used to solely retire a debt or obligation of the political subdivision, trust authority or similar entity.

"Obligations" means revenue or tax-supported bonds, certificates, lease purchase agreements, note, debenture, loan or other evidence of indebtedness of a state or local governmental entity with a maturity longer than 12 months or a maturity which encompasses more than one (1) fiscal year, regardless of whether such obligations are subject to annual governmental appropriations.

"Plurality of persons" means at least three persons or firms as well as any firm or person who has contacted the issuer

and requested to be placed on the mailing list for Request for Proposals. [62 O.S., Section 695.7(C)]

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 9 Ok Reg 2251, eff 6-25-92; Amended at 12 Ok Reg 1991, eff 7-14-95; Amended at 20 Ok Reg 2260, eff 7-11-03]

SUBCHAPTER 3. APPLICATION PROCEDURE

Section

90:10-3-1.	General
90:10-3-2.	Submission of Provisional Approval Application
90:10-3-3.	Provisional Approval Application form information
90:10-3-4.	Final approval form
90:10-3-5.	State Bond Advisor review of request for proposals and approval of fees
90:10-3-6.	Program approval
90:10-3-7.	Lease Purchase Request for Approval form
90:10-3-8.	Substantial changes to Council of Bond Oversight approved applications

90:10-3-1. General

(a) The Council needs sufficient information to make informed decisions regarding the nature, purpose, necessity and legality of proposed financing and they need access to any other information required for decisions in special circumstances. In general, the Council will not require primary source data but rather require that such information be made available to them in special circumstances. The Council will require an applicant to collect and evaluate information from borrowers or beneficiaries of obligation financing, and rely on the competent performance of the issuer boards, staffs, or members of financing teams to perform competent due diligence on a financing.

(b) Some complex transactions may involve multi-stage processes. Information available to an issuer may be general at the beginning of the process and become more specific as the transaction progresses. For this reason, application approval may occur in two steps: provisional approval and final approval.

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 12 Ok Reg 1991, eff 7-14-95; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-3-2. Submission of Provisional Approval Application

(a) Provisional Approval Applications must be made on a form provided by the State Bond Advisor. Each completed application must be submitted to the State Bond Advisor at the official office in Oklahoma City. All applications shall be submitted as an original and one copy.

(b) The State Bond Advisor may reject any application which is incomplete or filed with insufficient information. Such a rejection shall be in writing, outlining additional information needed and/or reasons for rejection of the application. An application shall not be considered filed until after such

time that all required and requested information has been received and accepted.

(c) Applications must be filed with the official office no later than 20 calendar days prior to a regularly scheduled meeting. The State Bond Advisor is authorized to waive this provision in his discretion if the proposed issuance will be jeopardized by further delay.

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 9 Ok Reg 2251, eff 6-25-92; Amended at 12 Ok Reg 1991, eff 7-14-95; Amended at 16 Ok Reg 1735, eff 6-1-99]

90:10-3-3. Provisional Approval Application form information

The Request for Provisional Approval form shall be provided by the State Bond Advisor, and shall include but not be limited to the following:

- (1) **Proposed issue.** An applicant must submit information regarding the anticipated amount, schedule and structure for the bond issue. An applicant must also include information regarding professionals selected for the bond issue along with their quoted fees and expenses.
- (2) **Project information.** The Application must provide the name and address of the borrower as well as a one page description of the purpose, nature and need for the project.
- (3) **Outstanding obligation information.** An applicant must provide information on the status of its outstanding obligations and anticipated issuances. This information will enable the Council to make decisions on individual applications within a broader context.

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 12 Ok Reg 1991, eff 7-14-95; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-3-4. Final approval form

(a) The Request for Final Approval form shall be provided by the State Bond Advisor, and shall include but not be limited to the following:

- (1) **Material changes.** The Applicant is required to list and explain any material changes from the information provided on the issuer's Provisional Approval form that have taken place since the date of provisional approval.
- (2) **Project information.** The Applicant is required to provide more detailed information on the status of the project, including the anticipated construction draw schedule and the estimated completion date. Descriptions of any collateral pledged for the borrowing, the revenue stream dedicated for repayment of the loan, and any credit enhancement provider are also required.
- (3) **Attachments.** The following attachments are required:
 - (A) Evidence of provisional approval from the Council unless the applicant elects to apply for provisional and final approval simultaneously, pursuant to 90:10-3-4(b).
 - (B) Letter from issuer certifying that due diligence has been completed.

(C) Letter from issuer's attorney or bond counsel stating that they have reviewed the proposed transaction and it will comply with state and federal law.

(D) Copy of the document that authorizes the bond issue. Such documentation would include enabling act, legislation, resolution or ordinance from the issuer's governing board, and/or other documentation authorizing the obligation.

(E) Letter from the issuer stating that there are no conflicts of interest between the Applicant, any borrowers, service providers affiliated with the issuance, or any other participants in the transaction.

(F) Form of Opinion Letter from Bond Counsel regarding the valid authorization and tax status of the issue. The Council may approve an application pending receipt of bond counsel opinion letter; however, the letter must be received prior to closing.

(G) In the case of obligations backed by the Credit Enhancement Reserve Fund, the report prepared by the Program Development and Credit Review Committee and the Credit Enhancement Reserve Fund Supplemental Information form.

(H) Preliminary Official Statement, Offering Circular or Private Placement Memorandum. This information may be submitted in draft form, provided the issuer identifies any missing information or data that is incomplete and/or subject to change.

(I) Letter from issuer's attorney or bond counsel stating that there is no litigation pending or threatened relating to outstanding or proposed obligations or the issuer's authority to enter into any agreements necessary to complete the proposed transaction.

(b) In addition to the above, the State Bond Advisor may require an issuer to submit any other materials or information deemed by the State Bond Advisor to be necessary to consideration of the application.

(c) An issuer may elect to apply for final and provisional approval simultaneously. An application must include both the provisional and final approval request forms and all required supporting documentation and be submitted together in accordance with the provisions of 90:10-3-2.

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 12 Ok Reg 1991, eff 7-14-95; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-3-5. State Bond Advisor review of request for proposals and approval of fees

(a) State and Local Governmental Entities subject to the provisions of Section 695.7(C) of the Act, must submit request for proposals to the State Bond Advisor for review and comment. The State Bond Advisor shall have seven days from the date requests for proposals are submitted to provide written or oral comment to the applicant, State or Local Government Entity, prior to an applicant's use of a request for proposals. Requests for proposals shall make provision for the submission of cost information in a format approved by the State Bond Advisor. Applicants shall also provide to the State Bond Advisor copies

of final Requests for Proposals. One copy of each response to a request for proposals shall be provided to the State Bond Advisor within seven days of its receipt. State or Local Governmental Entities subject to Section 695.7(C) of the Act shall prepare a written statement indicating the basis for selections, and make such statement available on request to the Council.

(b) State or Local Governmental Entities subject to the provisions of Section 695.7(C) of the Act, must submit fee approval requests in such form as the State Bond Advisor may require at any time. The State Bond Advisor shall approve or disapprove the fees and expenses for goods and services requisite or deemed desirable in the issuance of obligations, including, but not limited to the following:

- (1) Underwriter's Discount:
 - (A) Management Fee
 - (B) Expenses
 - (C) Underwriting
 - (D) Average Takedown
- (2) Bond Counsel or Tax Counsel
- (3) Trustee/Paying Agent (new money and escrow agent)
- (4) Financial Advisor
- (5) Financial Printer
- (6) Credit Enhancement
- (7) Cash Flow Validation
- (8) Bond Pricing
- (9) Investment Contracts
- (10) Remarketing Agent
- (11) Escrow Verification Agent

(c) Unless otherwise provided by law, the provisions of (a) and (b) of this section shall be applicable to an applicant, regardless of whether or not the applicant directly engages such services or such services are engaged by another party to a financing transaction.

(d) State and Local Governmental Entities subject to the Act may request proposals for services in connection with multiple issuances if the services will be performed and completed in a 12 month period and where each issue is part of a single program or related plan of financing as determined by the State Bond Advisor. The 12 month period will begin at the date of first issuance. The State Bond Advisor may extend any engagement under this section if he determines that a change in the financing team would result in unnecessary delays and/or additional cost.

[Source: Amended at 9 Ok Reg 2251, eff 6-25-92; Amended at 12 Ok Reg 1991, eff 7-14-95; Amended at 16 Ok Reg 1735, eff 6-11-99; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-3-6. Program approval

The Council recognizes that certain potential applicants may not wish to incur time and expense in developing programs or plans of financing without first obtaining tentative approval of the general purpose and intent of the program. Such potential applicants may request such approval from the Council prior to taking formal preliminary action on any

specific issuance without making the formal application for approval under 62 O.S., Section 695.9.

[Source: Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-3-7. Lease Purchase Request for Approval form

(a) State governmental entities requesting approval of a lease purchase obligation must complete and submit the Lease Purchase Request for Approval form provided by the State Bond Advisor to the Council. The Request for Provisional Approval form and Request for Final Approval form are not applicable to lease purchase agreement applications. Such a submission shall be governed by the filing periods and procedures at 90:10-3-2. The Lease Purchase Request for Approval form is comprised of:

- (1) **Proposed lease purchase agreement.** The applicant must provide information regarding the anticipated amount, financing terms, equipment or real property description and budget implications of the proposed lease purchase. An analysis of the method of financing must be obtained from the State Bond Advisor if the amount of the financing is \$1 million or greater, or if determined by the State Bond Advisor and Director of Central Purchasing to be in the best interest of the issuer. Requests for negotiated sale of such lease obligations must be approved by the State Bond Advisor. [Title 74 O.S., Sections 85.4(G) and 85.4(I)]
- (2) **User information.** The applicant must provide a description of the purpose, nature and need for the lease purchase.
- (3) **Attachments.** The attachments requested include:
 - (A) Letter from body approving lease purchase agreement. (Examples: Regents, Regents for Higher Education, Commission, Board, etc.)
 - (B) Letter indicating whether litigation is pending or threatened concerning the applicant's outstanding and/or proposed obligations.
 - (C) If the applicant is a College or University, it must complete the Outstanding Lease Purchase Information form provided by the State Bond Advisor.
 - (D) Where applicable, each applicant must provide a completed Department of Central Services Central Purchasing or Construction & Properties Requisition, Justification, etc.
 - (E) If lease purchasing computer or telecommunications equipment, the application must include a letter from Office of State Finance Information Services Division stating compliance with budget request; as well as the provisions of Title 62 O.S., Sections 41.5(m) and 41.5(j).
 - (F) For lease purchase requests of equipment related to an energy savings program (including those done through the Oklahoma Development Finance Authority's Master Lease Program), the following documentation must be provided with an application.
 - (i) Any proposed Master Agreement; including, but not limited to, Guaranteed Savings Contract, Construction Draw Schedule, and Maintenance Agreement.
 - (ii) Any performance-based energy contract relating to the proposed lease obligation. Any such contract should be structured to allow the State adequate remedies in the event of an Energy Services Company's (Vendor's) default under the terms of the contract(s).
 - (iii) Any other bonds or guarantees to be entered into by the applicant in connection with the proposed lease obligation.

(b) Refer to 74 O.S., Section 85.4 for statutory limitations and requirements of State Governmental Entities entering into lease purchase agreements. The provisions of (a)(1) of this section do not exempt any application for lease purchase financing from the provisions of the statutes referenced.

(c) Applicants proposing to lease purchase equipment or real property with a cost of \$1 million or more, must consult with the State Bond Advisor as to the most cost-effective method of financing. Title 74 O.S., Section 85.4 authorizes negotiated financings when determined by the Council of Bond Oversight to be more cost-effective than competitive bidding through the Department of Central Services Central Purchasing Division. All provisions of the Bond Oversight and Reform Act apply to such negotiated financings. Prior to submitting an application for approval of a lease purchase of \$1 million or greater cost, an applicant should send notification to the State Bond Advisor. This notification shall include the following information, in order to determine the method of financing:

- (1) Description of equipment and/or real property;
- (2) Desired term of financing;
- (3) Cost of equipment and/or real property;
- (4) Source of funding of lease payments; and
- (5) If equipment, letter from Director of Central Purchasing quoting interest rates which could be obtained through competitive bidding. The Director of Central Purchasing will contact at least three (3) certified leasing companies for interest rate quotations. The State Bond Advisor shall notify the issuer of the recommended method of financing. Issuers should give the State Bond Advisor at least two weeks to perform such analysis.

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 9 Ok Reg 2251, eff 6-25-92; Amended at 12 Ok Reg 1991, eff 7-14-95; Amended at 16 Ok Reg 1735, eff 6-11-99; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-3-8. Substantial changes to Council of Bond Oversight approved applications

- (a) The following shall be considered substantial changes to the nature of an obligation and shall require the issuer to submit a new application to the Council for approval:
- (1) a change in the mode of the obligation from fixed rate to variable rate;

- (2) an increase of more than 10% in the amount of variable rate obligations to be issued;
 - (3) an extension of the final maturity of the proposed issue;
 - (4) a change in the security pledge, excluding any decision by the issuer to utilize widely accepted credit enhancement techniques; and/or
 - (5) any other change the State Bond Advisor deems substantial.
- (b) A change in the amount of the obligation shall not be deemed substantial if the amount of the proposed increase is not greater than 10% of the authorization.
- (c) If the amount of the change of an approved obligation is between 10% and 20% of the authorization, the State Bond Advisor shall, in his discretion, determine whether or not such change is substantial. The State Bond Advisor shall prepare a memorandum for the Council stating reasons as to why the increase is not considered a substantial change and does not need to be returned to the Council for approval.
- (d) Any change in the amount of the obligation greater than 20% of the original amount approved shall be deemed a substantial change and must be resubmitted to the Council.
- (e) All increases in the amount of obligations backed by the Credit Enhancement Reserve Fund shall be deemed substantial changes. For purposes of applications to approve obligations backed by the Credit Enhancement Reserve Fund, any resubmission of a previously approved application shall not constitute an "appeal" pursuant to 62 O.S., Section 695.9(B)(2).
- (f) Approval shall expire one hundred eighty (180) days after such approval. If such approval expires, nothing shall prevent the State Governmental Entity from submitting a new application for Council approval.
- (g) Applicants having received approval may request and the Oklahoma State Bond Advisor may grant, at the Oklahoma State Bond Advisor's discretion, a single one-hundred-eighty-day extension. Any request for an extension must be made at least five (5) business days prior to the expiration of the original approval. Applicants failing to request an extension in this manner may re-file with the Council.

[Source: Added at 9 Ok Reg 2252, eff 6-25-92; Amended at 9 Ok Reg 3831, eff 9-15-92; Amended at 10 Ok Reg 2569, eff 6-26-93; Amended at 16 Ok Reg 673, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1735, eff 6-11-99; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

SUBCHAPTER 5. FEES

Section	
90:10-5-1.	Fee payment requirements
90:10-5-2.	Fee schedule

90:10-5-1. Fee payment requirements

(a) Applicants must pay a fee to the Council if their submitted application is approved by the Council or if their application is deemed approved by operation of law, but only if the financing subject to an application is issued and closed. The State Bond Advisor may enter into written agreements

with issuers to provide for periodic payment if the approved obligation will be in the form of draws or a line of credit. The State Bond Advisor may waive fee payment if the issue is a conduit financing with a state entity loan program financed with bond proceeds.

(b) The fee shall be paid to the Council by means of a check or negotiable instrument upon receipt of an invoice from the official office of the Council and shall be paid within two weeks.

[Source: Amended at 8 Ok Reg 2531, eff 6-27-91; Amended at 9 Ok Reg 2251, eff 6-25-92; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-5-2. Fee schedule

Fees (calculated by multiplying the principal amount times the applicable fee, as shown in the table below):

Principal Amount	Fee (expressed as basis points times principal amount of issuance or obligation)
First \$5 million	3 basis points (.0003)
In excess of \$5 million, up to and including \$50 million	2 basis points (.0002)
All amounts in excess of \$50 million	1 basis point (.0001)

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 12 Ok Reg 1991, eff 7-14-95; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03; Amended at 33 Ok Reg 1272, eff 9-11-16]

SUBCHAPTER 7. EVALUATION STANDARDS AND CRITERIA

Section	
90:10-7-1.	General
90:10-7-2.	Legal compliance
90:10-7-3.	Authorized and proper public function or purpose
90:10-7-4.	Criteria applicability
90:10-7-5.	Documentation of Council action

90:10-7-1. General

The Council is mandated to make determinations regarding public purpose for which obligations are to be issued by State or Local Governmental Entities subject to Section 695.8 of the Act, in accordance with Title 60 of the Oklahoma Statutes, Sections 176, et seq, the Oklahoma Public Trust Act (the "Public Trust Act"). The Public Trust Act authorizes that obligations may be issued for authorized and proper public purpose. Limitations imposed in regard to public purpose as set out in the Public Trust Act and imposed as a result of statutory language therein may be specified by indenture documents that are the charter documents for a particular entity

and/or in statutory language pertaining to a particular Issuer in other federal or state laws. Specified prohibitions in Title 60 in regard to the definition of a "proper public purpose" are previously set out in the definition section of this Chapter.

[Source: Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-7-2. Legal compliance

Bearing the criteria of this Chapter in mind and within the limitations set thereby, the Council may consider the following items:

- (1) **Compliance with state laws.** All issuances must be in compliance with applicable state laws.
- (2) **Compliance with applicable Federal Laws, Rules, and Regulations.** Compliance with federal laws affecting environment, taxes, and other aspects of a particular program or project.
- (3) **Compliance with trust indenture or enabling statutes of issuer.** The application and proposed project or program must be in compliance with the enabling document or statutes regarding each issuer subject to Council approval.
- (4) **Eligibility.** The user of the proceeds for the proposed project or program must be eligible for the assistance sought.

[Source: Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-7-3. Authorized and proper public function or purpose

(a) In its review of applications, the Council will determine whether the proposed obligations carry out an authorized and proper public function or purpose. The Council may consider the structure of the proposed transaction, the method of sale, and the extent to which the obligations will serve the purposes of the project or program and promote the interests and public welfare of the State of Oklahoma.

(b) In the case of proposed refunding and advance refunding bond issues, the Council of Bond Oversight will interpret public purpose to be the extent to which the financing will achieve one or more of the following objectives:

- (1) a net present value savings;
- (2) changes to restrictive covenants in financing documents; and/or
- (3) a restructuring of existing obligations in the event of fiscal distress that will provide relief from such distress.

(c) To ensure that an issue will achieve a public purpose, the Council may approve financing requests subject to the satisfaction of certain conditions, in accordance with 90:10-7-5(b).

[Source: Amended at 9 Ok Reg 2251, eff 6-25-92; Amended at 12 Ok Reg 1991, eff 7-14-95; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-7-4. Criteria applicability

The general criteria set forth in this subchapter shall constitute general guidelines and standards for application review

and consideration by the Council. In all instances, each individual application must be reviewed and considered on its own merit. The criteria and standards set forth shall accordingly, be interpreted and applied to allow sufficient flexibility in the ultimate exercise of the Council's judgement and discretion.

[Source: Amended at 16 Ok Reg 1735, eff 6-11-99; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-7-5. Documentation of Council action

(a) The Council shall provide a written determination by means of a statement signed by the State Bond Advisor reflecting the decision of the Council with respect to its consideration of any application. Such statement shall be copied and sent to the applicant. If the application is disapproved, the statement will indicate the reason(s) for this determination.

(b) The Council may make its provisional or final approvals contingent upon certain conditions being met or material submitted. The Council may delegate the authority to determine if these conditions have been met or the sufficiency of the material to the State Bond Advisor on an application by application basis. The Council may also delegate to the State Bond Advisor the authority to sign, on behalf of the Council, written statements setting forth the Council's actions on applications to the Council.

(c) The Council may grant conditional final approval in cases where additional information is needed. In such a conditional approval, the Council may require the issuer to appear before the Council at a later time to present additional information before final approval. Where a delay until the next Council meeting would be detrimental to the issuer, the Council may authorize the State Bond Advisor to determine if the additional information provided is sufficient to meet the stated requirements of the Council.

(d) In the case of disapproval, except of proposed obligations supported by the Credit Enhancement Reserve Fund, the applicant may request rehearing or reconsideration of the disapproval by submitting a new application to the Council along with an explanation of the basis for the appeal or reconsideration within ten (10) days of disapproval.

(e) If a previously disapproved application is reconsidered, the Council shall first vote on whether or not to reconsider the application. Only if the Council affirmatively votes to reconsider such an application shall the Council proceed to vote on the merits of the proposed financing.

[Source: Amended at 9 Ok Reg 2251, eff 6-25-92; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

SUBCHAPTER 9. REPORTING

Section

- | | |
|------------|---|
| 90:10-9-1. | Closing documentation to the State Bond Advisor |
| 90:10-9-2. | Local governmental entities |
| 90:10-9-3. | Confirmation of issuance [REVOKED] |

90:10-9-1. Closing documentation to the State Bond Advisor

(a) Prior to closing, issuers subject to Council approval must obtain the State Bond Advisor's approval of all fees and expenses paid or to be paid in connection with the transaction. Such approval shall be obtained on a form provided for that purpose by the State Bond Advisor. For the approval of any fees or expenses that may not be known prior to closing, the issuer shall make arrangements with the State Bond Advisor for formal approval of such fees and expenses when final information is available. Such post-closing approval will become a part of the official record of the transaction.

(b) In the case of State or Local Governmental Entity obligations subject to Council approvals, the following documents shall be submitted to the State Bond Advisor within thirty days of the closing of a bond issue or obligation transaction:

- (1) Official Notice of Sale, Official Statement, Private Placement memorandum or other applicable document indicating the conditions, amortization, pricing, and terms of a bond or Certificate of Participation sale; or
- (2) a copy of an executed lease purchase agreement along with amortization schedules. For all certificated lease obligations, whether sold publicly or privately placed, the issuer shall provide a schedule showing the dates of repayment for all certificates.

(c) Within two working days of a bond closing, a State or Local Governmental Entity subject to Council approval shall notify the State Bond Advisor in writing and/or orally of such closing including, but not limited to, the date and amount of issuance.

[Source: Amended at 8 Ok Reg 2532, eff 6-27-91; Amended at 9 Ok Reg 2251, eff 6-25-91; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-9-2. Local governmental entities

(a) Local Governmental Entity issuers whose obligations are not subject to Council approval, must file a copy of the Official Statement, Offering Circular or Private Placement Memorandum within ten days following the date funds become available to the issuer from the sale of the obligations. In addition, the Local Governmental Entity must also complete and file the Notice by Local Governmental Entity form provided by the State Bond Advisor. This form shall include, but not be limited to the following:

- (1) issue information including size, dated date, delivery date and maturity schedule;
- (2) interest rates and reoffering yields; and
- (3) call provisions; and
- (4) a listing of the fees paid by the issuer, or by any third party on behalf of the issuer, for services rendered in connection with the issuance or sale of the obligations, whether or not such fees are paid with proceeds of the obligations.

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 12 Ok Reg 1991, eff 7-14-95; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-9-3. Confirmation of issuance [REVOKED]

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Revoked at 12 Ok Reg 1991, eff 7-14-95]

SUBCHAPTER 11. CREDIT ENHANCEMENT RESERVE FUND APPLICATIONS

Section

- | | |
|-------------|-----------------------------------|
| 90:10-11-1. | General |
| 90:10-11-2. | Evaluation standards and criteria |

90:10-11-1. General

When the Oklahoma Development Finance Authority ("ODFA") submits an application for approval of a Credit Enhancement Reserve Fund ("Fund") financing, the Council shall evaluate the application for approval of the issuance of the ODFA's underlying obligation, and the request for coverage by the Fund, as two (2) separate matters. The issuance of the underlying obligation shall be evaluated using the criteria and standards contained in Subchapter 7 [90:10-7]. The Application for the granting of credit enhancement by the Fund shall be considered by the Council using the standards and criteria of this subchapter.

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

90:10-11-2. Evaluation standards and criteria

(a) Pursuant to Section 5063.4 (F) of Title 74 and Section 695.8 (A)(4) of Title 62, the Council is given the authority to approve or disapprove the granting of credit enhancement on any obligation of the ODFA, to the extent they are to be enhanced or supported by the Fund. Because the granting of credit enhancement from the Fund carries with it a pledge to issue general obligation bonds of the State of Oklahoma to be paid by the taxpayers of Oklahoma, it is necessary for the Council to adopt standards and criteria with which to evaluate such applications. When evaluating applications for the granting of credit enhancement by the Fund, the Council shall consider the following:

- (1) Whether the ODFA adopted sufficient rules, policies, and regulations to insure that it can adequately perform its statutory duties relating to the management of the Fund and the evaluation of obligations proposed to be covered by the Fund consistent with 5063.3(A) and 5063.4 of Title 74 of the Credit Enhancement Reserve Fund Act.
- (2) Whether rules, regulations, and policies governing the Credit Enhancement Reserve Fund program adequately and sufficiently fulfill the intents and purposes of the Credit Enhancement Reserve Fund Act. In making this determination, the Council shall review the findings of the Program Development and Credit Review Committee [74 O.S., Section 5062.6a].

(3) With respect to individual applications for Council approval, in making a determination to approve or disapprove such applications, the Council shall consider a written report for each application prepared by the Committee. While the Council shall consider the information contained in reports filed by the Committee, the Council shall not be bound to accept the conclusions reached by the Committee in making its determination to approve or disapprove an application. The individual reports shall include:

(A) a determination by the Committee regarding the extent to which an application complies with Rules Regarding the Administration of the Credit Enhancement Reserve Fund as implemented by the Oklahoma Development Finance Authority; and

(B) the assignment of a credit rating indicating the level of risk associated with each application.

(b) The Council of Bond Oversight may establish maximum compensation levels to be paid to individuals and firms acting in a fiduciary capacity in connection with Credit Enhancement Reserve Fund Program financings, as provided in 62 O.S. 695.8A.4.c.

[Source: Amended at 8 Ok Reg 2527, eff 6-27-91; Amended at 16 Ok Reg 673, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1735, eff 6-11-99; Amended at 20 Ok Reg 455, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2260, eff 7-11-03]

CHAPTER 15. ADMINISTRATION OF THE OKLAHOMA PRIVATE ACTIVITY BOND ALLOCATION ACT

Subchapter	Section
1. General Provisions	90:15-1-1
3. General Operations of the State Bond Advisor	90:15-3-1
5. Annual State Ceiling: General [REVOKED]	90:15-5-1
7. State Ceiling Pools and Allocations to Pools	90:15-7-1
9. Application and Logging Procedures	90:15-9-1
11. Consolidated Pool and Register	90:15-11-1
13. Carryforward Applications	90:15-13-1
15. Mortgage Credit Certificate Programs	90:15-15-1
17. Severability and Interpretation [REVOKED]	90:15-17-1

[Authority: 62 O.S., §§ 695.8(A), 695.11A, and 695.21 et seq.]
 [Source: Codified 6-27-91]

SUBCHAPTER 1. GENERAL PROVISIONS

Section	
90:15-1-1.	Purpose and scope
90:15-1-2.	Statutory definitions
90:15-1-3.	Additional definitions
90:15-1-4.	Severability
90:15-1-5.	Interpretation of Chapter

- (6) Final certification or final certificate
- (7) Internal Revenue Code
- (8) Issued
- (9) Issuer or issuing authority
- (10) Local issuer
- (11) Mortgage credit certificate election
- (12) Mortgage credit certificates
- (13) Private activity bonds or bonds
- (14) Qualified small issue
- (15) Qualified student loan bonds
- (16) State
- (17) State Bond Advisor
- (18) State ceiling
- (19) State issuer

90:15-1-1. Purpose and scope

The State Bond Advisor is responsible for implementing the Oklahoma Private Activity Bond Allocation Act found at 62 O.S., Section 695.21 et seq. The State Bond Advisor is engaged by the Council of Bond Oversight. This Chapter is issued pursuant to the rulemaking authority of the Council of Bond Oversight. In order to provide guidelines to local and state bond issuers which are subject to the Act and wish to issue Private Activity bonds or Mortgage Credit Certificates subject to annual volume ceilings pursuant to federal law, this Chapter establishes pools and registers, including the Consolidated Pool and the Carryforward register, from which certain types of private activity bonds or mortgage credit certificates may be issued, allocation procedures, time frames, and information required on application forms provided by the State Bond Advisor for such entities in order to facilitate the business of the State Bond Advisor and such entities.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 20 Ok Reg 462, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2269, eff 7-11-03]

90:15-1-2. Statutory definitions

The following terms are defined in 62 O.S., Section 695.23:

- (1) Application for state ceiling allocation
- (2) Carryforward
- (3) Confirmation
- (4) Consolidated Pool
- (5) Exempt facility bonds

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 12 Ok Reg 1997, eff 7-14-95; Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Amended at 20 Ok Reg 2269, eff 7-11-03]

90:15-1-3. Additional definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Accepted allocation" means an allocation made and not rejected by the applicant within ten (10) days.

"Act" shall refer to the Oklahoma Private Activity Bond Allocation Act [62 O.S., Section 695.21 et seq. as amended].

"Allocation" means a portion of the state's volume ceiling. An issuer receives an allocation upon receipt of a written confirmation of an allocation by the State Bond Advisor.

"Beneficiary" means the person, firm or other entity on whose behalf obligations are issued and used.

"Chronological order" for purposes of administering the Act, means the order in which applications are received, as evidenced by the date and time stamp recorded on each application by the State Bond Advisor. All completed applications received prior to or at 8:00 a.m. on the first business day of each year shall all be recorded as having been received at the same time.

"Completed application" means a completed Private Activity State Ceiling Allocation Application, provided by the State Bond Advisor, and all required attachments and supporting information, as determined by the State Bond Advisor.

"Identical beneficial use" means obligations issued for the acquisition, construction or rehabilitation of the same facilities serving the same geographic area or population.

"Issuer's agents or representatives" means legal counsel, underwriters or financial advisors employed by an issuer to sell bonds or assist with filing or administering mortgage credit certificate programs.

"Open Records Act" means the Oklahoma Open Records Act, 51 O.S. Section 24A.1. et seq.

"Partial confirmation" means a confirmation in an amount less than a requested allocation.

"Permanent status on a register" means an application, as determined by the State Bond Advisor, that is complete and meets the requirements, where appropriate, of 90:15-9-2 through 90:15-9-4.

"Pools", unless otherwise noted, refer to the various pools created by the Act.

"Project", unless otherwise noted, means a bond, the proceeds of which are used for discrete purposes and/or a single facility.

"Provisional status on a register" means the date and time of receipt of an application prior to a determination of completeness, or where appropriate, a determination of demand pursuant to 90:15-9-2 through 90:15-9-4.

"Register" means a record of entries made of applications according to the chronological order of applications. Confirmations shall be issued based on an application's chronological order on a register, provided only applications classified as permanent shall establish chronological order. Registers shall be established for each of the pools created by the Act, as well as carryforward applications. Registers will be used to track the status of applications from the time of application through the issuance of any confirmations, and receipt of final confirmations.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 12 Ok Reg 1997, eff 7-14-95; Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Amended at 20 Ok Reg 2269, eff 7-11-03]

90:15-1-4. Severability

Each provision of this Chapter is severable. If any provision is declared invalid, the invalidity will not affect any other provisions of this Chapter.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91]

90:15-1-5. Interpretation of Chapter

This Chapter and procedures are adopted to simplify procedure, avoid delays, save expenses, and facilitate implementation of the Oklahoma Private Activity Bond Allocation Act by the State Bond Advisor. To that end, this Chapter will be given a fair and impartial construction. This Chapter shall

be cumulative to the Oklahoma Administrative Procedures Act. [75 O.S., Section 250 et seq.]

[Source: Added at 8 Ok Reg 2517, eff 6-27-91]

SUBCHAPTER 3. GENERAL OPERATIONS OF THE STATE BOND ADVISOR

Section

90:15-3-1.	Official office
90:15-3-2.	Records

90:15-3-1. Official office

The Office of the State Bond Advisor is located at 5900 N. Classen Court, Oklahoma City, Oklahoma 73118. The telephone number is (405) 602-3100 and the facsimile number is (405) 848-3314. The official office hours are from 8:00 a.m. to 5:00 p.m. Central Time, Monday through Friday, except legal holidays.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 10 Ok Reg 2571, eff 6-26-93; Amended at 20 Ok Reg 462, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2269, eff 7-11-03]

90:15-3-2. Records

(a) **Open Records.** All requests for the public records of the Council will be made through the State Bond Advisor who will be charged with making the public records of the Council available for inspection by or copying to the requesting party during normal hours. The Council will charge \$0.25 per page for each copy of a public record made upon written request, except as provided in (b) of this section. The State Bond Advisor will decide if the request is for a record not otherwise made confidential under the Open Records Act and other Oklahoma Law. The State Bond Advisor is authorized to discuss this decision with the Office of the Attorney General of the State of Oklahoma as may become necessary. Except information that is confidential or commercially sensitive as described above, or specifically kept confidential under Oklahoma or federal law, all documents or other records of the Council will be open for public inspection and copying.

(b) **Confirmation records.** The State Bond Advisor will keep continuous and cumulative records to track bond issuances and/or mortgage credit certificate elections that use a portion of the state's annual volume ceiling. The State Bond Advisor shall not award any new confirmations, if such confirmations would cause the state's volume ceiling to be exceeded. Records will include:

- (1) final certification of actual bond issuances and mortgage credit certificate elections subject to confirmations;
- (2) confirmations of allocations of the volume ceiling for bonds or mortgage credit certificates which have not been closed or elections filed (i.e. confirmations pending final certifications); and;

(3) confirmations of carryforward assignments to issuers.

(c) **Fee for confirmation records.** State or local issuers may obtain a copy of these records upon written request and payment of a \$15 fee. Fees collected shall be deposited to the General Revenue Fund.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 20 Ok Reg 462, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2269, eff 7-11-03]

SUBCHAPTER 5. ANNUAL STATE CEILING: GENERAL [REVOKED]

Section

90:15-5-1. Notice publication; calculation [REVOKED]

90:15-5-1. Notice publication; calculation [REVOKED]

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Revoked at 10 Ok Reg 2571, eff 6-26-93]

SUBCHAPTER 7. STATE CEILING POOLS AND ALLOCATIONS TO POOLS

Section

- 90:15-7-1. General scope and applicability; calculation of deadlines and time periods
- 90:15-7-2. Qualified Small Issue Pool [REVOKED]
- 90:15-7-3. Exempt Facility Pool [REVOKED]
- 90:15-7-4. Student Loan Pool [REVOKED]
- 90:15-7-5. State Issuer Pool [REVOKED]
- 90:15-7-6. Local Issuer Single Family Pool [REVOKED]
- 90:15-7-7. Beginning Agricultural Producer Pool [REVOKED]
- 90:15-7-8. Oklahoma Housing Finance Agency Pool [REVOKED]
- 90:15-7-9. Economic Development Pool [REVOKED]

90:15-7-1. General scope and applicability; calculation of deadlines and time periods

(a) For the period of January 1st to September 1st at 5:00 p.m. of each calendar year, the Act establishes various pools from which allocations can be made. The provisions of this Subchapter apply to this time period. Each pool represents a categorical set-aside of the state ceiling for one or more types of private activity bonds or mortgage credit certificates.

(b) The State Bond Advisor shall accept applications for allocation of private activity cap beginning at 8:00 a.m. on the first business day of each calendar year. All applications received on or before 8:00 a.m. on the first business day of each calendar year shall be logged as having been received at the same time. As a convenience to applicants, the State Bond Advisor may review applications prior to 8:00 a.m. on the first business day of each year to ensure that such applications are complete. However, no such application will be logged or

recorded as having been received until 8:00 a.m. on the first business day of the applicable year.

(c) If any prescribed dates of this Chapter or the Act fall upon non-official business days, then the official business day that such action will take place will be the last official business day before a deadline and/or the first official business day following a new time period prescribed by this Chapter.

(d) If federal law fails to extend any of the tax-exempt programs related to the private activity bond cap allocation, the amounts that would be allocated to the respective pools may be used for other qualified private activity bonds on a first-come, first-served basis. All other provisions of this Chapter and the Act will be applicable.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 9 Ok Reg 2255, eff 6-25-92; Amended at 10 Ok Reg 2571, eff 6-26-93; Amended at 12 Ok Reg 1997, eff 7-14-95; Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Amended at 20 Ok Reg 2269, eff 7-11-03]

90:15-7-2. Qualified Small Issue Pool [REVOKED]

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Revoked at 10 Ok Reg 2571, eff 6-26-93; Added at 12 Ok Reg 1997, eff 7-14-95; Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

90:15-7-3. Exempt Facility Pool [REVOKED]

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Revoked at 10 Ok Reg 2571, eff 6-26-93; Added at 12 Ok Reg 1997, eff 7-14-95; Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

90:15-7-4. Student Loan Pool [REVOKED]

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 10 Ok Reg 2571, eff 6-26-93; Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

90:15-7-5. State Issuer Pool [REVOKED]

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Revoked at 10 Ok Reg 2571, eff 6-26-93; Added at 12 Ok Reg 1997, eff 7-14-95; Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

90:15-7-6. Local Issuer Single Family Pool [REVOKED]

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Revoked at 10 Ok Reg 2571, eff 6-26-93; Added at 12 Ok Reg 1997, eff 7-14-95; Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

90:15-7-7. Beginning Agricultural Producer Pool [REVOKED]

[Source: Added at 12 Ok Reg 1997, eff 7-14-95; Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

90:15-7-8. Oklahoma Housing Finance Agency Pool [REVOKED]

[Source: Added at 16 Ok Reg 675, eff 12-28-98 (emergency); Added at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

90:15-7-9. Economic Development Pool [REVOKED]

[Source: Added at 16 Ok Reg 675, eff 12-28-98 (emergency); Added at 16 Ok Reg 1739, eff 6-11-99; Amended at 20 Ok Reg 462, eff 1-2-03 (emergency); Revoked at 20 Ok Reg 2269, eff 7-11-03]

SUBCHAPTER 9. APPLICATION AND LOGGING PROCEDURES

PART 1. APPLICATION

Section

- 90:15-9-1. Application submission
 90:15-9-2. Review of single family bond and mortgage credit certificate programs applications
 90:15-9-3. Review of student loan bond applications
 90:15-9-4. Rejection of applications following insufficient demand determination; appeals
 90:15-9-5. Applications accepted to permanent status; issuance of confirmations; Final Certification
 90:15-9-6. Supplemental applications

PART 3. REGISTER LOGGING

- 90:15-9-7. Assignment of applications to pool registers
 90:15-9-8. Qualified Small Issue Pool register [REVOKED]
 90:15-9-9. Exempt Facility register [REVOKED]
 90:15-9-10. Student Loan Bond register [REVOKED]
 90:15-9-11. Local Issuer Single Family Pool register [REVOKED]
 90:15-9-12. Beginning Agricultural Producer Pool register [REVOKED]
 90:15-9-13. State Issuer Pool register [REVOKED]
 90:15-9-14. Economic Development Pool register [REVOKED]
 90:15-9-15. Oklahoma Housing Finance Agency Pool register [REVOKED]

PART 1. APPLICATION

90:15-9-1. Application submission

(a) Unless otherwise noted, the provisions of this Subchapter are applicable to the various pools created by the Act. Each calendar year, a state or local issuer must make application for a confirmation of the state ceiling on the Private Activity State Ceiling Allocation Application form provided by the State Bond Advisor, requiring the following:

- (1) The name and mailing address of the issuer, the beneficiary and jurisdiction thereof, the name of the presiding officer of the issuer and the respective pool from which an allocation is requested;
- (2) The name and mailing address or other definitive description of the location of the project or bonds and

the purpose for which an allocation of the state ceiling is requested, the name and mailing address of both the initial owner or operator of the project, where applicable, and an appropriate person from whom information regarding the project or bonds can be obtained, and the name and address of the person to whom the confirmation should be sent;

(3) The amount of the state ceiling which the issuer is requesting;

(4) A statement of bond counsel for the issuer that the proposed issue requires, pursuant to Section 103, Section 146 or such other applicable sections of the Internal Revenue Code, an allocation of a portion of the state ceiling;

(5) Where applicable, the intention to exchange single family mortgage bond authority for mortgage credit certificates [62 O.S., Section 695.25, as amended]; and

(6) For applications against the Student Loan Pool, documentation supporting demand, as described in 90:15-9-3; and

(7) Single-family mortgage and mortgage credit certificate applications must provide documentation supporting demand as described in 90:15-9-2.

(b) No applications are grandfathered from a prior calendar year. Except for supplemental, appeal, and carryforward applications, an applicant may submit only one application of the same beneficiary for the identical beneficial use. For example, a single applicant may submit only one qualified small issue application on behalf of an identified company, although other applications may be submitted for other companies. A single applicant may submit only one application for the same project, such as an identified exempt facility project, although other applications may be submitted for different exempt facility projects. Single family mortgage and mortgage credit certificate program applications from the same applicant or serving the same geographic area shall be considered identical for purposes of this section.

(1) Applications will be accepted by mail, courier, fax, or hand delivery during official office hours. For issuers electing to file an application by facsimile, an original application must be filed by the end of the third business day following the facsimile transmission.

(2) Applications will be date and time stamped at the time of receipt and provisionally placed on one or more pool registers pursuant to this Subchapter and the Act. For applications submitted by facsimile, in the event that an original application has not been received by the end of the third business day following facsimile transmission, the State Bond Advisor may reject the issuance of allocation. In the case of applications determined to be complete by the State Bond Advisor, pursuant to (b)(4), (b)(5) and (b)(6) of this section, the provisionally logged time and date of receipt shall be recorded as the permanent date and time of receipt, provided the determination of complete and demand, where appropriate, are solely based on the content of applications and attachments first submitted by an applicant; i.e. contents of application provisionally logged. Two or more applications received at the same time by mail or otherwise, shall be date and time

stamped identically. In the case of identically date and time stamped applications achieving permanent status, such applications will be logged identically on appropriate registers.

(3) One additional information submission is permitted as a basis for reversing an office determination that an application is incomplete. If such submission of additional information is sufficient to cause a determination of the application to be complete, the permanent chronological order will be determined according to the date of the additional information submission rather than the original application date.

(4) Hand delivered applications for all registers, including the Consolidated Pool and Carryforward register, will be provisionally date and time stamped when received. If a person hand delivers two or more applications at the same time the person may establish the chronological order of such applications for purposes of time and date stamping. Otherwise, multiple applications received at the same time will be time stamped identically and allocations will be made in accordance with (b)(2) of this section.

(5) The State Bond Advisor may reject incomplete applications based on the adequacy of information submitted on the Private Activity State Ceiling Allocation Application form referenced in (a) of this section and required attachments:

(A) Attachment I for qualified small issue and exempt facility bond applicants is a resolution of the issuer that constitutes official action as defined by the Federal Tax Code. All other qualified private activity bond applicants must include a resolution of the issuer approving the issuance of the bonds.

(B) Attachment II requires a final resolution of the beneficiary of the issuer evidencing its approval of the issuance of the issuer's obligations not a TEFRA public hearing and certification if the issuer is a municipal or county public trust. If an issuer is a public trust having the state as its beneficiary then a TEFRA certification signed by the Governor of the state evidencing his/her approval of the issuance of the issuer's obligations is required.

(6) Notwithstanding other Subchapters and sections of this Chapter, the state ceiling allocation request amount logged on any pool register, including the Consolidated Pool and Carryforward register, shall not exceed the lesser of the requested allocation, the maximum allocation available to an applicant from a pool or register, including the Consolidated Pool and Carryforward register, or as limited by state or federal law.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 10 Ok Reg 2571, eff 6-26-93; Amended at 12 Ok Reg 1997, eff 7-14-95; Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Amended at 20 Ok Reg 462, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2269, eff 7-11-03]

90:15-9-2. Review of single family bond and mortgage credit certificate programs applications

(a) The State Bond Advisor may reject single family mortgage bond or mortgage credit certificate program applications that fail to demonstrate a reasonable expectation to use a state ceiling confirmation for its intended purposes. The general criteria and standards for making this determination, as set forth in this section, shall be interpreted and applied to allow sufficient flexibility in the ultimate exercise of the State Bond Advisor's determination.

(b) A determination of demand for mortgage revenue bond or credit certificate programs shall be based on such factors as:

(1) the dollar volume of prior mortgage revenue bond supported mortgages originated in the geographic area subject to an application over the 24 month period preceding the date of application;

(2) the dollar volume of conventional mortgages originated where borrowers received a mortgage credit certificate as well as the dollar volume of mortgage credit certificates committed over the 24 month period preceding the date of application in the geographic area subject to an application;

(3) the dollar volume of all single-family mortgages originated in the geographic area subject to an application;

(4) the number of renters in an applicant's service area likely to financially qualify for single-family home ownership under the terms of the mortgage revenue bond and credit certificate programs;

(5) the impact of competing, subsidized home ownership programs on demand such as programs of the Farmers Home Administration or outstanding mortgage revenue bond or credit certificate programs in the geographic area subject to an application; and

(6) evidence of lender participation in a proposed single family mortgage revenue bond or mortgage credit certificate program.

(c) After taking into consideration some or all of these factors and the availability of prior allocations for the applicant's purposes, the State Bond Advisor shall determine if there is a reasonable expectation to use a confirmation of the volume ceiling for its intended purpose during the period in which loans or mortgage credit certificates may be issued pursuant to an application or federal law.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 12 Ok Reg 1997, eff 7-14-95]

90:15-9-3. Review of student loan bond applications

The State Bond Advisor may reject a student loan bond application that fails to show a reasonable expectation to use a confirmation of the state ceiling for its intended purpose. The general criteria and standards for making this determination, as set forth in this section, shall be interpreted and applied to allow sufficient flexibility in the ultimate exercise of the State Bond Advisor's determination. In making this determination the State Bond Advisor shall consider:

- (1) historical student loan bond lending activity over the 24 months preceding the date of application by the applicant and/or other student loan bond issuers in the applicant's service area;
- (2) incremental demand caused by increased student enrollment, tuition or eligibility changes made to federally guaranteed and subsidized student loan programs; and other evidence of demand; and
- (3) demonstration of administrative arrangements for originating loans to students.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 10 Ok Reg 2571, eff 6-26-93]

90:15-9-4. Rejection of applications following insufficient demand determination; appeals

- (a) The State Bond Advisor shall have five (5) days in which to send a denial following a determination of insufficient demand for single-family mortgage revenue bond, mortgage credit certificate, or student loan bond applications. The notice will contain the reason(s) for such determination. Such applications shall be removed from the appropriate pool(s) for purposes of establishing chronological order.
- (b) The Bond Advisor shall determine the extent to which demand is demonstrated for single family mortgage bonds, mortgage credit certificate programs and student loan bonds, which amount may be less than a requested confirmation. In such cases, a confirmation notice will be sent to the applicant for the demand amount so determined and a denial notice for the difference of the request. The portion of the request that is denied may be appealed by making an additional information submission or an appeal application.
- (c) An applicant may appeal such denials by submitting a new application to the Council of Bond Oversight, through the State Bond Advisor's Office, along with an explanation justifying why the State Bond Advisor's denial should not be sustained. Such appeal applications will be stamped with the date and time of receipt and provisionally placed on the appropriate pool register(s). The appeal will be placed on the agenda for the next Council of Bond Oversight meeting in a manner consistent with the requirements for preparation of such agendas.
- (d) By affirmative action of the Council of Bond Oversight, an application denied by the State Bond Advisor may be accepted and the Council may order the State Bond Advisor to issue a confirmation, subject to availability of state ceiling in the appropriate pool(s). For chronological ordering purposes, such appeal applications shall be converted to permanent status on pool(s) registers, including the Consolidated Pool and Carryforward register, at the time of Council of Bond Oversight approval based upon the date and time of receipt of the appeal application. Any allocations made from the date of an appeal application to the date of Council of Bond Oversight approval shall not be rescinded.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 10 Ok Reg 2571, eff 6-26-93; Amended at 12 Ok Reg 1997, eff 7-14-95; Amended at 20 Ok Reg 462, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2269, eff 7-11-03]

90:15-9-5. Applications accepted to permanent status; issuance of confirmations; Final Certification

- (a) Upon a determination of receipt of a completed application by the State Bond Advisor and demand, where appropriate, the State Bond Advisor will transfer applications on pool register(s) from provisional to permanent status. In the case of applications determined to be complete by the State Bond Advisor, pursuant to 90:15-9-1(b)(5), the provisionally logged time and date of receipt shall be recorded as the permanent date and time of receipt, provided the determination of completeness and demand, where appropriate, are solely based on the content of applications and attachments first submitted by an applicant.
- (b) Confirmations of the state ceiling shall be issued by the State Bond Advisor based on the chronological order of applications classified as permanent on registers established for each pool including the Consolidated Pool and the Carryforward register. Within five business days of classification of an application as permanent, the State Bond Advisor shall send an applicant a confirmation of a requested allocation of the state ceiling, provided the amount of state ceiling requested is available from a pool or register, or give notice of a denial of a confirmation and the reasons therefor.
- (c) Applications determined to be incomplete shall not be logged for chronological ordering purposes until an application is considered complete. Within five business days of a determination by the State Bond Advisor that an application is incomplete, the State Bond Advisor shall give notice to an applicant of such a determination and the reasons therefore. If an applicant submits additional information addressing the causes of an incomplete application determination within five business days following receipt of such information, the State Bond Advisor shall give notice to the applicant:
 - (1) accepting the application as complete and transferring the application to permanent status, or
 - (2) give notice of the continued rejection of an application and the reasons therefore.
- (d) If there is not sufficient uncommitted state ceiling capacity in a pool to issue a confirmation in the full amount of a requested application, except as limited by 90:15-9-1(b)(6), the State Bond Advisor shall issue a partial confirmation to the extent uncommitted state ceiling capacity from a pool is available. In such cases, the difference between the amount of a partial confirmation and requested allocation of the state ceiling shall retain its chronological status on a pool register in the event additional state ceiling capacity on a register becomes available.
- (e) An applicant to which a partial confirmation is issued, may reject such confirmation within ten business days of issuance. Such rejections must be made in writing to the State Bond Advisor. A notification by an applicant rejecting a partial confirmation shall act to maintain an applicant's chronological status on a pool register(s) in the full amount of the state ceiling request, except as limited by 90:15-9-1(b)(6). Future confirmations to applicants that have rejected a partial confirmation within ten days will only be made only when confirmations in excess of one dollar (\$1.00) of the original allocation can

be made. A confirmation, including a partial confirmation, may be rejected by an issuer after ten days, however, the confirmation amount will be removed from the appropriate pool register(s). Confirmation will be issued pursuant to specific applications only. Confirmations cannot be transferred from one applicant to another and/or to a different project(s) or program.

(f) All confirmations issued by the State Bond Advisor from pools, including the Consolidated Pool, shall be effective for the earlier of 120 days from the date of issuance of the confirmation by the State Bond Advisor, or until 9:00 a.m. on December 20th of each calendar year. Within this time period, issuers to whom confirmations have been issued shall file the Final Certification of Private Activity Bond Issuance or Mortgage Credit Certificate (MCC) Program Election form provided by the State Bond Advisor, with the State Bond Advisor evidencing use of a confirmation through issuance of bonds or the filing of mortgage credit certificate elections. The Final Certification shall require the following:

- (1) Name of government issuer;
- (2) Project name;
- (3) Type of qualified private activity bond or mortgage credit certificate election;
- (4) Amount of state ceiling or carryforward used; and
- (5) Date of bond issuance or mortgage credit certificate election filed or carryforward election filed.

(g) If an issuer fails to file the Final Certification form within the required time period, the confirmation:

- (1) ceases to be effective;
- (2) the amount of state ceiling allocated pursuant to the confirmation with respect to an application shall be removed from the appropriate pool register(s); and
- (3) the confirmation amount shall be returned to the pools/registers from which it was derived for purposes of reallocation, except that state ceiling amounts recaptured in this manner after September 1st and prior to 9:00 a.m. on December 20th shall revolve to the Consolidated Pool and thereafter to the end of the calendar year to the Carry-forward register.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 10 Ok Reg 2571, eff 6-26-93; Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Amended at 20 Ok Reg 462, eff 1-2-03 (emergency); Amended at 20 Ok Reg 2269, eff 7-11-03]

90:15-9-6. Supplemental applications

Supplemental applications shall be chronologically logged and processed as new applications. A supplemental application is one that requests an increase in the requested amount of state ceiling with respect to a previously submitted application. Any confirmations issued with respect to supplemental applications shall have a term equal to the term of the most recent confirmation issued with respect to the prior application it supplements.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91]

PART 3. REGISTER LOGGING

90:15-9-7. Assignment of applications to pool registers

(a) A register shall be established for each pool created by the Act.

(b) Each applicant must indicate the pool or pools from which it is requesting an allocation and the application must include a statement from the applicant's bond counsel that the project or program is eligible for an allocation from the requested pool or pools.

(c) The State Bond Advisor shall make no independent determination of an applicant's eligibility under federal or state law. The State Bond Advisor may consult with the Oklahoma Attorney General concerning an applicant's eligibility.

(d) Each application for an allocation of the state ceiling shall be placed on appropriate register(s).

(e) An application for an allocation from any pool may not exceed the amount available in that pool. However, where permitted by law, a project or program application may be recorded on more than one pool register.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 10 Ok Reg 2571, eff 6-26-93; Amended at 20 Ok Reg 2269, eff 7-11-03]

90:15-9-8. Qualified Small Issue Pool register [REVOKED]

[Source: Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

90:15-9-9. Exempt Facility register [REVOKED]

[Source: Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

90:15-9-10. Student Loan Bond register [REVOKED]

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Revoked at 20 Ok Reg 2269, eff 7-11-03]

90:15-9-11. Local Issuer Single Family Pool register [REVOKED]

[Source: Amended at 16 Ok Reg 675, eff 12-28-98 (emergency); Amended at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

90:15-9-12. Beginning Agricultural Producer Pool register [REVOKED]

[Source: Amended at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

**90:15-9-13. State Issuer Pool register
[REVOKED]**

[Source: Added at 16 Ok Reg 675, eff 12-28-98 (emergency); Added at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

**90:15-9-14. Economic Development Pool register
[REVOKED]**

[Source: Added at 16 Ok Reg 675, eff 12-28-98 (emergency); Added at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

**90:15-9-15. Oklahoma Housing Finance Agency
Pool register [REVOKED]**

[Source: Added at 16 Ok Reg 675, eff 12-28-98 (emergency); Added at 16 Ok Reg 1739, eff 6-11-99; Revoked at 20 Ok Reg 2269, eff 7-11-03]

SUBCHAPTER 11. CONSOLIDATED POOL AND REGISTER

Section

- 90:15-11-1. Establishment of Consolidated Pool and register
90:15-11-2. Outstanding requests and new applications
90:15-11-3. Allocation priorities of Consolidated Pool
[REVOKED]

**90:15-11-1. Establishment of Consolidated Pool
and register**

(a) All pools and registers established and maintained pursuant to Subchapter 9 of this Chapter and the Act terminate at 5:00 p.m. on September 1st of each calendar year. After 8:00 a.m. on September 2nd to 9:00 a.m. on the date designated in the Act a Consolidated Pool and register is established and maintained for purposes of issuing confirmations.

(b) All uncommitted state ceiling amounts remaining in the Pools established by the Act, as of 5:00 p.m. on September 1st of each calendar year, are transferred to the Consolidated Pool on September 2nd of each calendar year. Uncommitted state ceiling amounts represent the difference between the sum of the individual state ceiling pool set-aside amounts and outstanding confirmations plus final certifications. In addition, any committed state ceiling amounts from the pools that become uncommitted after September 1st through the term of the Consolidated Pool are transferred to the Consolidated Pool.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 10 Ok Reg 2571, eff 6-26-93; Amended at 20 Ok Reg 2269, eff 7-11-03]

**90:15-11-2. Outstanding requests and new
applications**

(a) All eligible outstanding state ceiling allocation requests from the Pools logged with permanent status are transferred to the Consolidated Pool register on September 2nd of each calendar year. Such outstanding requests shall be chronologically logged and entered on the Consolidated Pool register based on the date and time an application was logged on the pools from

which it was transferred (i.e. date and time of permanent status classification). New applications may also be submitted.

(b) New applications may be submitted for any type of private activity bond or mortgage credit certificate program but only after 8:00 a.m. on September 2nd through December 19th of each calendar year during official office hours. Unless otherwise provided for in this Subchapter, the provisions of Part 1 of Subchapter 9 apply to such new applications.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 10 Ok Reg 2571, eff 6-26-93; Amended at 20 Ok Reg 2269, eff 7-11-03]

**90:15-11-3. Allocation priorities of Consolidated
Pool [REVOKED]**

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Revoked at 10 Ok Reg 2571, eff 6-26-93]

SUBCHAPTER 13. CARRYFORWARD APPLICATIONS

Section

- 90:15-13-1. General
90:15-13-2. Preference

90:15-13-1. General

The State Bond Advisor will accept applications for eligible carryforward bonds or mortgage credit certificate programs in accordance with the dates designated in the Act. Except as provided in this Subchapter, applicable provisions of Part 1 of Subchapter 9 shall apply to carryforward applications. The amount of state ceiling available for purposes of issuing carryforward confirmations shall be the amount of uncommitted state ceiling as of the expiration of the Consolidated Pool as determined by the Act. A Carryforward register shall be maintained by the State Bond Advisor. Confirmations shall be issued based on the chronological order of permanent status applications. Issuers to whom a confirmation is made shall file, within 15 days of the date of a confirmation, with the State Bond Advisor, a copy of the applicable federal carryforward form filed by an issuer with the Internal Revenue Service along with a completed Final Certification of Private Activity Bond Issuance or Mortgage Credit Certificate (MCC) Program Election form as referred to at 90:15-9-5(e).

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 10 Ok Reg 2571, eff 6-26-93]

90:15-13-2. Preference

Regardless of the chronological order of carryforward applications, issuers or projects with more than \$20 million of outstanding carryforward issuance authority as of the date of application for carryforward, shall not be eligible for a Carryforward confirmation until all other application requests are satisfied. Pursuant to this section, issuers making application with more than \$20 million of outstanding carryforward issuance authority as of the date of application shall not be

eligible for additional carryforward confirmations until 9:00 a.m. on December 30th of each calendar year or the next to last official business day of the calendar year.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91; Amended at 20 Ok Reg 2269, eff 7-11-03]

SUBCHAPTER 15. MORTGAGE CREDIT CERTIFICATE PROGRAMS

Section

90:15-15-1.	Recordkeeping
90:15-15-2.	Penalty for over issuance of mortgage credit certificate authority

90:15-15-1. Recordkeeping

Issuers of mortgage credit certificates shall file with the State Bond Advisor a record of all issuances of certificates. Such record shall indicate the amount of certificate authority used. Such issuers shall file a statement with the State Bond Advisor on or after December 31st of each calendar year but no later than January 5th of the following calendar year, and such statement shall indicate the amount of mortgage credit certificate authority available pursuant to an allocation of the state ceiling from a current or prior calendar year and the uncommitted balance of mortgage credit certificate authority available from each such allocation. This Subchapter is applicable to mortgage credit certificate programs effective prior and subsequent to the effective date of this Chapter.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91]

90:15-15-2. Penalty for over issuance of mortgage credit certificate authority

A state or local issuer administering a mortgage credit certificate program, who over issues mortgage credit certificates pursuant to its limit established by an allocation of the state ceiling, shall be prohibited from making application for an allocation of the state ceiling for any purpose, including bonds or mortgage credit certificate programs, for a period of three years following discovery of such over issuance. This provision is applicable to mortgage credit certificate programs effective prior and subsequent to the effective date of this Chapter.

[Source: Added at 8 Ok Reg 2517, eff 6-27-91]

SUBCHAPTER 17. SEVERABILITY AND INTERPRETATION [REVOKED]

Section

90:15-17-1.	Severability [REVOKED]
90:15-17-2.	Interpretation of Chapter [REVOKED]

90:15-17-1. Severability [REVOKED]

[Source: Added at 8 Ok Reg 2525, eff 6-27-91; Revoked at 9 Ok Reg 2255, eff 6-25-92]

90:15-17-2. Interpretation of Chapter [REVOKED]

[Source: Added at 8 Ok Reg 2525, eff 6-27-91; Revoked at 9 Ok Reg 2255, eff 6-25-92]