

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]

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]

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

(a) 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)
\$200,00 or less	No Fee
Greater than \$200,000 up to and including \$2 million	5 basis points (.0005)
Next \$3 million	3 basis points (.0003)
Next \$10 million	2 basis points (.0002)
Over 15 million	1 basis point (.0001)

(b) Examples reflecting the calculation of fees are:

(1) The fee for a \$205,000 lease purchase obligation is calculated as follows:

$$\$205,000 \times .0005 = \$102.50 \text{ (fee due)}$$

(2) The fee for a \$5,500,000 bond issue or lease purchase obligation is calculated as follows:

$$\$2,000,000 \times .0005 = \$1,000$$

$$\$3,000,000 \times .0003 = \$ 900$$

$$\$500,000 \times .0002 = \$ 100$$

$$\text{Fee due} = \$2000$$

[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]

90:10-7-1. 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]

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]

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]

