

COUNTY OF MILWAUKEE
INTEROFFICE COMMUNICATION

DATE: February 27, 2017

TO: Supervisor Steve Taylor, Chair, Economic & Community Development Committee

FROM: James Tarantino, Economic Development Director, Department of Administrative Services

SUBJECT: A written informational update regarding Milwaukee County's conduit bonding authority and standards of approval in regards to Public Finance Authority requests per adopted policies in File No. 16-418.

REQUEST

An informational report related to procedures and standards of approval for conduit revenue bonding.

BACKGROUND

Previous legislation –

- File 13-744 "A resolution approving the revenue bond financing by the Public Finance Authority of projects located in Milwaukee County for the benefit of Hope Christian Schools."
- File 14-247 "A resolution approving the revenue bond financing by the Public Finance Authority of projects located in Milwaukee County for the benefit of Crown Court Prairie Haven, LLC."
- File 16-418 "From the Director of Economic Development, Department of Administrative Services, requesting approval of revenue bond financing in an amount not-to-exceed \$8,300,000 by the Public Finance Authority for the benefit of BHP, Inc., doing business as Global Power Components for the acquisition, construction, renovation, and equipping and/or equipment of land and a building located at 2300 South 51st Street in the City of Milwaukee."

CONDUIT REVENUE BONDING

Conduit financing is a funding mechanism for private companies, non-profits and public authorities to fund projects through the issuance of tax-exempt municipal bonds. These are essentially revenue bonds and are also known as conduit, private activity or pass-through bonds. Conduit financing can support a wide variety of projects including public works projects and private development.

Conduit bonds are issued by a public governmental entity, which is known as the conduit issuer. The taxes, fees and revenues that secure the bond are collected by the conduit issuer from the borrower and then paid to the bondholders through the conduit issuer. The conduit issuer is not responsible for repayment. With conduit financing, the borrowing organization is obligated to repay interest and principal on the bonds.

Conduit bonds can be attractive to investors due to higher yields than general obligation municipal bonds, while also having the same benefit of federal interest income

tax exemption. The tax-free benefit from any municipal bond applies only to the interest income from the bond, and any capital gains must be reported to the Internal Revenue Service and are subject to the capital gains tax. Higher returns come with a higher degree of risk, and unlike general obligation bonds, conduit bonds are not backed by the full faith and credit of the issuing government or agency. In addition to a project's probability of success, the credit quality of the bond is important. The credit rating must always be considered with any bond investment. Ratings for a prospective bond investment can be checked with the bond rating agencies.

Public Finance Authority description

The Public Finance Authority (PFA) is a unit of government and body corporate and politic of the State of Wisconsin created pursuant to the provisions of Sections 66.0301, 66.0303 and 66.0304 of the Wisconsin Statutes that is authorized to, among other things, issue bonds, notes or other evidences of indebtedness in connection with, and to make loans to assist in the financing of, projects located inside and outside of the State of Wisconsin. Section 66.0304(11)(a) of the Wisconsin Statutes provides that the Public Finance Authority may not issue bonds to finance a capital improvement project in the State of Wisconsin unless all of the political subdivisions within whose boundaries the project is to be located have approved the financing of the project. The Milwaukee County Board of Supervisors must pass a resolution supporting such bond issuance, as referenced in the previous legislation above.

The Bonds, when and if issued, do not constitute a debt or pecuniary liability, or a legal or moral obligation of Milwaukee County for any reason whatsoever.

PFA Process

The following is the process and criteria that the PFA follows when issuing conduit revenue bonds¹.

- Economic Development/Public Benefit - The project to be financed or applicant requesting financing must promote economic development and demonstrate tangible public benefits to the community in which it resides.
- Local Approval - The proposed financing shall be subject to a public hearing and must receive approval by the political subdivision in the jurisdiction in which the project resides in accordance with the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") and Section 4 of PFA's Joint Exercise of Powers Agreement.
- Bond Counsel review - PFA will consider an applicant's recommendation of bond counsel for the financing; however, PFA shall reserve the right to select bond counsel for any particular financing.
- Issuer Counsel - PFA will engage legal counsel to review each proposed financing transaction on its behalf.
- Management review – A PFA Program Manager reviews the proposed bond financing in order to ensure that it meets all applicable PFA policies and procedures. The Program Manager may also conduct a site visit and/or meet with the Borrower prior to PFA's consideration of approval of the financing.

¹ <http://www.pfauthority.org/policies-and-fees/general-policies/>, accessed 2/21/17

- Financial underwriting approval - PFA approves each finance team member proposed by the Borrower and reserves the right to require an independent study of the project.
- Indemnity review - The bond documents will contain provisions requiring the Borrower to defend and indemnify PFA, the Members, the Sponsors and their respective affiliated persons and organizations for all costs, expenses and attorney fees, as well as any claim, judgment or settlement costs arising out of or involved in the financing, or in any documentation related thereto.
- MBE and WBE Participation - PFA encourages minority and women-owned business participation in all aspects of a financing including legal, trustee and underwriting services. PFA encourages all senior underwriters to provide the opportunity for minority and women-owned underwriting firms to sell a portion of the bonds. Selection of minority and women-owned underwriting firms shall be left to the senior managing underwriter.

Proposed Standards and Review Process for PFA Conduit Revenue Bond Requests of Milwaukee County:

In order to issue conduit revenue bonds for projects located within Milwaukee County, the PFA must first seek the support of Milwaukee County in addition to the local municipality where the project is located. Milwaukee County seeks to outline standards for reviewing such requests, the following is a recommended set of procedures and criteria to apply to that review.

The procedures and criteria for review that are applied by the PFA and listed above is illustrative of the scrutiny that is already applied to bond requests before projects are presented to Milwaukee County for consideration. In order to provide certainty to the process for requesters, and in order to ensure that adequate information is provided with a request in a timely manner, the procedures outlined on the following page are recommended for adoption.

Recommended Procedures for Milwaukee County Review of PFA Conduit Revenue Bonding Requests –

1. The PFA or bond counsel representing a conduit revenue bond transaction will contact Milwaukee County's Economic Development Director at least sixty (60) days prior to when the County's consent is required. This initial communication will contain at least -
 - a. A project description and economic impact analysis as described in 4(a) and 4(b) below, and
 - b. A written request for County Board consent of bond issuance.
 - c. Evidence of support from the local municipality as described in 4(e) below.
2. A copy of this request will be sent to the Director of the Department of Administrative Services, the Comptroller, and the County Board Chairperson
3. The Economic Development Director will acknowledge receipt of a request by providing a written response within seven (7) days of receiving such a request. In that acknowledgment, the ED Director will describe the procedures and criteria for review prior to the County issuing its consent.
4. The Economic Development Director and Office of the Comptroller will review requests within thirty (30) days of acknowledging receipt. The following criteria will be applied to that review –
 - a. Project description
 - i. A description of the project including the borrower, municipality where the issuance will occur, project end use, and
 - ii. A description of the type of bond being issued.
 - b. Economic Impact –
 - i. Estimated total jobs created in the project and induced through construction.
 - ii. Anticipated tax base created.
 - c. Project viability
 - d. No County Liability
 - i. Bond counsel must confirm as a condition of Milwaukee County's consent that the bonds, when and if issued, do not constitute a debt or pecuniary liability, or a legal or moral obligation of Milwaukee County for any reason whatsoever. A written statement or other similar contract from the requesting entity declaring the same shall be submitted with the request for consent to the County Board.
 - e. Municipal Support
 - i. Milwaukee County will begin its review after receiving written consent from the local municipality where the bonds will be issued. A certified resolution of this support shall be submitted with the initial request.
5. If it is determined that the project and request for consent of conduit revenue bonding is sufficient, the request will be sent to the Milwaukee County Board of Supervisors for action along with the (1) Project Description, (2) Economic Impact Analysis, (3) statement of no liability, and (4) Resolution indicating municipal approval.

RECOMMENDATION

This report is for informational purposes only, though future action is recommended to memorialize the set of procedures described in this report.

A handwritten signature in black ink, appearing to read 'James Tarantino', written over a horizontal line.

James Tarantino

Economic Development Director, Department of Administrative Services

cc: Chris Abele, County Executive
Sup. Theodore Lipscomb, County Board Chair
Economic and Community Development Committee Members
Teig Whaley-Smith, Director, Department of Administrative Services
Raisa Koltun, Chief of Staff, Office of the County Executive
Kelly Bablitch, Chief of Staff, County Board of Supervisors
Eric Peterson, Government Affairs, Office of the County Executive
Steve Cady, Research & Policy Director
Shanin Brown, Committee Coordinator
Scott Manske, Comptroller
Pam Bryant, Capital Finance Manager

