

Texas Public Finance Authority

Board of Directors:
R. David Kelly, Chairman
H.L. Bert Mijares, Jr., Vice-Chairman
J. Vaughn Brock, Secretary
Linda McKenna
Ruth C. Schiermeyer
Marcellus A. Taylor



Post Office Box 12906
Austin, Texas 78711-2047
Telephone: 512/463-5544

300 West 15th Street
Suite 411
Austin, Texas 78701
Fax: 512/463-5501
www.tpfa.state.tx.us

Kimberly K. Edwards
Executive Director

MINUTES OF THE MEETING OF THE TEXAS PUBLIC FINANCE AUTHORITY CHARTER SCHOOL FINANCE BOARD MEETING December 19, 2005

The Board of Directors (the "Board") of the Texas Public Finance Authority Charter School Finance Corporation (the "CSFC") convened in open meeting, notice duly posted pursuant to law (a copy of which notice is attached hereto as Exhibit "A") at 10:28 A.M., Monday, December 19, 2005, Capitol Extension Hearing Room E2.010, Austin, Texas. Present were: Ms. Marina Walne, Vice President and Mr. Omar Garcia, Secretary. Representing TPFA's staff were: Ms. Kimberly Edwards, Executive Director, Ms. Judith Porras, General Counsel, John Hernandez, Deputy Director, and Paula Hatfield.

Present in their designated capacities were the following persons: Pasty O'Neill, Resource Center for Charter Schools; Mary Perry, Texas Education Agency; Nancy Hagquist, Winstead, Sechrest & Minick; Chris Allen, Public Financial Management; Tom Sage, Vinson & Elkins; Lewis Wilks, Coastal Securities; and Jerry Kyle, Andrews & Kurth.

Item 1. Call to order.

Ms. Walne called the meeting to order at 10:28 A.M.

Item 2. Approval of minutes of the December 7, 2004 Board meeting.

Ms. Walne asked if there were any corrections or additions to the minutes of the Board meeting of December 7, 2004. Mr. Garcia moved to approve the minutes. Ms. Walne seconded. The motion passed unanimously.

Item 3. Consideration and discussion of an application process and application form for the Texas Credit Enhancement Program for Charter Schools, and possible action to adopt the application form, and resolve other necessary related matters.

Ms. Walne opened the floor to discussion of the application process and draft application form. As background, Patsy O'Neill, Executive Director for the Resource Center, explained that the CSFC, the Texas Education Agency and the Resource Center formed a consortium and applied to the U. S. Department of Education for a multi-million dollar grant. The consortium was awarded a \$6.9 million grant for the Texas Credit Enhancement Program ("TCEP"). She stated that Texas might be awarded an additional \$3 million, depending on the level at which Congress funds the program for 2006. Kim Edwards, TPFA, added that the TCEP funds are available to provide credit enhancement by funding a debt service reserve fund for bonds issued by the CSFC. In the event of a payment default, the funds could be paid to the trustee, on behalf of the bondholders, or directly to the bondholders. The debt service reserve funds would be held in the State treasury, and not provided directly to the grant recipients.

Beginning the review of the application form, Mary Perry, TEA, explained it is intended that charter schools will have to have a rating of academically acceptable or higher for two consecutive years, including 2006, and be fiscally sound as determined under the Financial Integrity Rating System of Texas ("FIRST"), to be eligible for an award.

Ms. Edwards directed the Board's attention to an initial policy issue of setting a cap on the amount that would be available to any particular applicant, in order to balance the two objectives of allocating all of the grant proceeds to benefit charter schools, but ensuring availability to as many charters as possible. She said the work group had discussed setting the cap at \$1 million or \$1.5 million. The Board recognized Mr. Tom Sage, Vinson & Elkins, who has served as Bond Counsel for a number of charter school transactions. Mr. Sage commented that a cap made sense and a maximum amount known ahead of time also helps with managing expectations in planning transactions. Mr. Sage said this leads to other issues concerning the timing of the awards and whether the guarantee fund would be available for transactions that have already closed. With respect to setting a cap, Mr. Sage asked whether a combination approach would be possible where there is a cap per bond issue and a total cap per borrower. Ms. Edwards asked whether \$1 million per series of bonds with no more than \$3 million per charter holder would be reasonable.

Mr. Lewis Wilks, Coastal Securities, who has served as a financial advisor on a number of charter school financings, explained that he has worked on one transaction of about \$15 million par, which had a maximum annual debt service of \$1.2 million, but from his experience most transactions are in the range of \$3- \$6 million par amount, and typically the schools do not have more than one bond issue outstanding at one time. Considering Mr. Sage's and Mr. Wilks' comments, the Board concluded that setting a cap at \$1 million per bond issue and \$3 million per charter holder, as Ms. Edwards suggested, would be acceptable.

The Board further questioned the timing of the awards, the need for specific criteria evaluating the applicants and a process to rank them if the requests for funds exceed the program's capacity.

Ms. Walne asked whether an applicant who has already secured financing would be a more attractive applicant for the TCEP funds. Ms. Edwards responded they would be and suggested this raises the fundamental issue previously mentioned by Mr. Sage; that is, whether TCEP funds could be used to replace the debt service reserve funds on bonds that have already been issued by other issuers, and whether the TCEP funds could be used for bonds issued by entities other than the TPFA CSFC. Discussion ensued as to whether such use of the grant funds would comply with the terms of the federal grant and governing state law, policy considerations, and the market need for such a program. From a policy perspective, Ms. Edwards commented, in theory, the TEA could have applied for the grant, and used it as they chose, without involving the CSFC. The CSFC was included in the consortium because it issues bonds. Secondly, it seems the overriding goal of the federal program is to assist schools in accessing capital markets; using the funds for schools that have been paying debt service for years might make it difficult to argue that the program is achieving the federal purposes. With respect to the state law issue, Mr. Sage clarified that under current state law, the federal grant would have to be used for bonds issued by the CSFC, but he suggested that an amendment to the statute to permit an expanded use of the grant would not be difficult to draft, and at the same time, existing administrative difficulties with the current law could be fixed. Mr. Sage emphasized that his firm would not proceed with such work unless the Board approved such a policy direction.

Mr. Sage, joined by Mr. Wilks, explained how charter school bonds are typically issued and marketed, which prompted the discussion of the potential merits of a modified program. Most of the charter school bond issues have been "bank qualified" issues. Federal tax law provides an incentive to banks to purchase bonds from small issuers - entities that issue less than \$10 million of bonds per calendar year - through favorable tax treatment on the interest earnings from the bonds. As a result, bank qualified bonds sold to banks carry a lower interest rate than comparable municipal bonds. Bonds issued by the CSFC are not bank qualified, because the CSFC is created by the State of Texas, which issues more than \$10 million bonds every year. In Mr. Wilks' opinion, the trading difference between a bank qualified and a non-bank qualified bond is about 25 basis points, assuming a similar credit. Therefore, the financial benefit to the schools by issuing bonds through a bank qualified issuer, i.e., a local education facilities authority, is lost if they issued bonds through the CSFC. So while TCEP participants would receive the benefit of the reserve fund guarantee, they would lose the benefit of the lower bank qualified interest rate.

Ms. Edwards commented this is only relevant if a bank is going to be purchasing the bonds. If national mutual funds are going to buy them, they would not care whether the bonds are bank qualified. She noted that this was the case for the only bonds issued to date by the CSFC (The \$9 million issue for the School of Excellence in December 2004). Mr. Wilks added that in his experience it has been more difficult to issue non-bank qualified bonds, and sometimes it could be almost impossible because of the school's credit. Mr. Wilks said that some

of the transactions he had worked on probably could not have been completed without the ability and interest of the banks, usually a local bank, to buy the bonds. Ms. Edwards concurred and noted that you would have to look at each financing on a case by case basis to determine what offers the most benefit: bank qualified status or the TCEP guarantee. This is the work of the investment banker and the financial advisor, to identify potential investors and the interest rate they are willing to pay, and then determine if bank qualified would be cheaper.

Following the discussion, the Board concluded that it would be appropriate to go forward with the TCEP as currently structured and consider modification or an expansion of the use of the program funds if the state law amendments are enacted. The Board continued reviewing and editing the draft application form.

The Board requested that language be added to limit the amount of credit enhancement funds to \$1 million per series of bonds with no more than \$3 million per charter holder, as previously discussed. The timeline is to be amended reflecting that after the first round of grants is awarded, an annual process would be established to award any unallocated grant funds. However, schools could also submit an application on an ad-hoc basis if necessary to meet their bond issuance schedule. The bond issue must close within twelve (12) months of the credit enhancement grant award. Extensions could be granted, but the awarded funds could not be held indefinitely.

Mr. Garcia asked that the phrase "large proportion", under the "Criteria," section be changed to a specific percentage. The Board further discussed the application of the FIRST rating to the charter applicants, requesting that the phrase "fiscally sound" be clarified to apply a standard that the applicants would have to be rated either A (Superior) or B (Standard/above standard) under the FIRST system. In the event FIRST will not be used, an alternative standard that provides a comparable rating will have to be specified.

The Board discussed the need to provide an evaluation or grading criteria. Ms. O'Neill suggested a priority system of awarding points based on exemplary, recognized and acceptable ratings. She said the application would be revised to include scoring criteria using the academic rating and the financial rating, possibly incorporating criteria used by NCLR, as Bob Schulman had suggested to her. TEA and the Resource Center will incorporate that into the application form.

Ms. Walne stated that a determination of the value of the project based on its relationship to the fundamental issue of educating must be made. That is, projects for classrooms should be given priority over projects for ancillary services. This factor will require evaluation of the applicant's detailed project description and project budget, which will be part of the application. Ms. Walne also said she would place an emphasis on the quality of the charter's financial projections. The application is to be amended to require submission of 3 years of pro forma operating budgets.

Mr. Garcia requested inclusion of a Payment Ledger Report, an online report compiled by TEA, showing whether the charter owes TEA money or whether TEA owes the charter money. He also requested charter schools provide a Cash Flow Statement. Ms. Edwards requested the enrollment assumptions be clarified.

Ms. Walne also requested that a letter of completion of a Phase I environmental assessment showing no toxic wastes be required, if charters are acquiring land as part of their projects.

Ms. Edwards recapped the changes for the application.

Mr. Garcia moved to amend the draft application and instructed staff to make the changes for reconsideration by the Board. Ms. Walne seconded. The motion passed unanimously.

Item 4. Consideration, discussion and possible action to amend the Rules of the Texas Public Finance Authority Charter School Finance Corporation, adopted December 7, 2004.

This item was deferred until a later meeting date.

Item 5. Consideration, discussion, and possible action concerning the renewal of a Directors and Officers Liability Insurance Policy.

Ms. Porras explained that the Directors and Officers Liability Insurance Policy had recently expired. The insurance agent agreed to leave the policy open for the Board to determine whether to renew the policy. She reminded the Board they were not individually responsible for any action on the bond issue, and are protected as volunteers under Chapter 284, Civil Practices and Remedies Code. Ms. Porras stated the coverage was for \$1 million with a premium cost of \$1,500 per year. When the financing for the School of Excellence was completed last year, the amount for an insurance premium was sized in to pay a premium of \$1,500 a year for three years.

Mr. Garcia moved to accept the Mid-Continent Casualty Company coverage. Ms. Walne seconded. The motion passed unanimously.

Item 6. Adjourn.

The meeting adjourned at 11:56 A.M.

The foregoing minutes were approved and passed by the Board of Directors on January 31, 2006.



Omar Garcia
Secretary, Board of Directors

ATTACHMENT: Posting Notice - Exhibit "A"

Open Meeting Submission

Success!
Row inserted

TRD: 2005010181
Date Posted: 12/09/2005
Status: Accepted
Agency Id: 0113
Date of Submission: 12/09/2005
Agency Name: Texas Public Finance Authority
Board: Texas Public Finance Authority Charter School Finance Corporation
Liaison Id: 3
Date of Meeting: 12/19/2005
Time of Meeting: 10:00 AM (##:## AM Local Time)
Street Location: Capitol Extension Hearing Room E2.010
City Location: Austin
State Location: TX
Liaison Name: Paula Hatfield
Additional Information Obtained From: If you need any additional information contact Paula Hatfield, 512/463-5544, 300 W. 15th Street, Suite 411, Austin, Texas 78701.

TEXAS PUBLIC FINANCE AUTHORITY
 CHARTER SCHOOL FINANCE CORPORATION
 MONDAY, DECEMBER 19, 2005 10:00 A.M.
 CAPITOL EXTENSION HEARING ROOM E2.010
 AUSTIN, TEXAS 78701

- Agenda:**
1. Call to order.
 2. Approval of minutes of the December 7, 2004 Board meeting.
 3. Consideration and discussion of an application process and application form for the Texas Credit Enhancement Program for Charter Schools, and possible action to adopt the application form, and resolve other necessary related matters.
 4. Consideration, discussion and possible action to amend the Rules of the Texas Public Finance Authority Charter School Finance Corporation, adopted December 7, 2004.
 5. Consideration, discussion, and possible action concerning the renewal of a Directors and Officers Liability Insurance Policy.
 6. Adjourn.

Persons with disabilities, who have special communication or other needs, who are planning to attend the meeting should contact Paula Hatfield or Donna Richardson at

512/463-5544. Requests should be made as far in advance as possible.

Certification: I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements. Kimberly K. Edwards, Executive Director, Certifying Official; Paula Hatfield, Agency Liaison.

New

HOME | TEXAS REGISTER | TEXAS ADMINISTRATIVE CODE | OPEN MEETINGS |