

Memorandum

DATE: April 19, 2013

TO: Agency Heads or Capital Project Directors Receiving Severance Tax Bond Appropriations

CC: Stephanie Schardin Clarke, Director, State Board of Finance
Sharon Romero, Financial Coordinator, State Board of Finance
Tom Clifford, Secretary of Finance and Administration

FROM: Julie A. Krogh

RE: Questionnaires Relating to June sale of Severance Tax Bonds and Notes

The New Mexico State Board of Finance ("SBOF") is preparing to issue publicly-sold severance tax bonds to fund projects authorized by the New Mexico Legislature. The publicly-sold bonds are expected to be issued on or about June 27, 2013. The SBOF will also issue a separate note in late June 2013 for new projects that cannot be financed with the publicly-sold tax-exempt bonds. Your agency is authorized to certify the need for severance tax bond proceeds, as reflected on the attached questionnaires.

Please complete, or have the ultimate recipient of the appropriation complete, the enclosed questionnaire for each of the projects that the legislature has appropriated to your agency. Return the questionnaires to the SBOF, with a copy to us (as indicated at the top of the questionnaire), no later than Friday, April 26, 2013.

The signature of an authorized officer on the questionnaire will be sufficient at this time. After a determination has been made on the projects to be included in each of the sales, a certification form will be presented to each state agency or other state entity for signature. At that time, and only from the universities and colleges, a certification from the governing body will be required. The universities and colleges that expect to request proceeds from the June bond sales should plan to meet no later than June 5, 2013 to approve the request and adopt the resolution set forth in the enclosed "Resolution, Notification and Certification" form. Other state agencies and entities are not required to provide a certification from their governing bodies.

The SBOF requests that agencies assist non-agency appropriation recipients, including cities and counties, tribes, pueblos and non-profit organizations, in proceeding to sale and project completion.

Please contact me (303) 223-1199 or Sharon Romero (505) 827-3886 should you need any additional information.

Return Questionnaire to:

State Board of Finance
181 Bataan Memorial Bldg.
Santa Fe, New Mexico 87501
Attn: Sharon Romero
Financial Coordinator
505-827-3886 Office
505-827-3985 Fax
sharon.romero@state.nm.us

With a copy to:

Brownstein Hyatt Farber Schreck, LLP
410 Seventeenth St, Suite 2200
Denver, CO 80202
Attn: Julie Krogh
303-223-1199 Office
303-223-0999 Fax
jkrogh@bhfs.com

DEADLINE TO SUBMIT: APRIL 26, 2013

*Email or Facsimile transmission (followed by mail) or hand delivery of the original Questionnaire, is acceptable. Exhibit A need not be returned with the Questionnaire. **Agencies must respond to every question. Failure to do so may cause delays in the review of your project for the funding process.***

STATE OF NEW MEXICO
SEVERANCE TAX BONDS AND NOTES
JUNE 2013 (the "2013 Bonds")

QUESTIONNAIRE

(All questions relate only to projects to be financed
with the proceeds of the 2013 Bonds)

Project Number: 13-1573

Amount: \$50,000

Agency: INTERSTATE STREAM COMMISSION PROJECTS

Project Description & Section #: [Section 29.6 to construct improvements to la acequia de Santa Cruz in Santa Fe and Rio Arriba counties [Chapter 226]

Complete the following:

Governmental Unit: ACEQUIA DE SANTA CRUZ

Contact Person: MEL E. MARTINEZ

Telephone Number: 1-505-953-4544

Amount of 2013 Bond proceeds requested: \$ 50,000.00

XXV. OWNERSHIP, OPERATION, AND USE OF AUTHORIZED PROJECT. The constitution of New Mexico has two provisions that prohibit the State from making any donation or appropriation to any person, association, or corporation (including nonprofit corporations, even for charitable, educational or other purposes) not under the absolute control of the State.

In addition, federal law governing certain of the State's bonds limits the amount of private activity that can take place in bond-financed projects.

With these rules in mind. answer the following questions:

1. **Use:** How will these particular bond proceeds be used for the project? Please do not merely repeat the appropriation language. *Construct Improvement*
2. **Ownership:** Who will own the property or equipment to be funded by these particular bond proceeds? *ACEQUIA DE SANTA CECILIA*
3. **Operation:** Who will operate or use the property or equipment to be funded by these particular bond proceeds? If there is a lease or operating agreement, please attach a copy of that agreement. If there is a §501c (3) organization involved, please identify and explain its role in project. *ACEQUIA DE SANTA CECILIA*
4. Will the general public have access to and use of this project, or does the project fulfill a governmental function for the benefit of the general public? (check one)
 Yes No

XXVI. OTHER FUNDING SOURCES.

1. Are other funding sources required for the project? (check one)
 Yes No ***if yes***, please specifically describe the sources, amounts and availability of the necessary funds, including whether any additional state capital appropriations are needed.
2. Has this project, or any portion of it, been included in any prior severance tax bond issues? (check one)
 Yes No ***if yes***, what is the amount, if any, of unspent bond proceeds as of April 1, 2013? Explain expected time frame for expenditure.
3. Considering other available funding sources, is the amount of this bond funding sufficient to complete the project or a well-defined phase of the project? (check one)
 Yes No ***if no***, would you consider waiting until one of the next Board bond sales (expected in December 2013 and June 2014) to certify the need for this funding? (check one)
 Yes No

XXVII. PROJECT READINESS, PRIORITY AND SPEND-DOWN OF BOND PROCEEDS.

Before answering the following questions about project readiness and spend-down of bond proceeds, please note that if not included in this sale, your project may be eligible to be included in one of the next sales. The authorization is in place until the end of fiscal year 2015. It is important that you have a high degree of confidence on the readiness of the project.

1. When will you or did you begin the project or purchase the equipment?
PROJECT WILL BEGIN WHEN FUNDS ARE AVAILABLE
If the project has already begun, please explain what state the project is in (e.g., ready to issue design professional requests for proposals, construction documents complete, etc.)?
2. By December 27, 2013, will you be able to enter into one or more contracts with vendors to spend at least 5% of the bond proceeds for the project and, thereafter, will work on the project proceed diligently to completion? (check one)
 Yes No

3. Will at least 85% of the bond proceeds requested for the project be used by June 27, 2016? (check one)

Yes No

XXVIII. CONTINGENCIES.

1. If there are contingencies stated in your project appropriation, please state how and the date when each contingency is expected to be satisfied. **If no contingencies**, answer None. *None*

2. Are there any other contingencies that need to be addressed for the project to proceed? (check one)

Yes No **If yes**, please explain.

XXIX. REIMBURSED ADVANCES AND REPAYMENT OF PREVIOUSLY INCURRED DEBT.

Do you intend to use the bond proceeds to reimburse for moneys already spent on the project? (check one)

Yes No **If yes**, please describe the expenses to be reimbursed and when incurred.

XXX. ACKNOWLEDGMENT OF SEVERANCE TAX BOND RESTRICTIONS. **Please read Exhibit A (attached)**. This brings to your attention requirements included in the legislation relating to (a) reversion provisions and (b) the prohibition (with one exception for projects funded from the capital program fund) on the use of these proceeds to pay indirect costs.

TO ACKNOWLEDGE YOUR RECOGNITION OF THESE RESTRICTIONS, CHECK HERE
IF THIS BOX IS NOT CHECKED, THE 2013 BONDS WILL NOT BE SOLD FOR THIS PROJECT.

By: *[Signature]*
(Signature)*

MEL MARTINEZ
(Printed Name)

TREASURER
(Title)

1-505-153-4544
(Telephone Number)

* Must be signed by authorized officer who has knowledge of the representations contained in this Questionnaire.

EXHIBIT A

SEVERANCE TAX BOND RESTRICTIONS

The unexpended balance from the proceeds of severance tax bonds issued for a project shall revert to the severance tax bonding fund no later than the following dates:

(1) for projects for which severance tax bonds were issued to match federal grants, six (6) months after completion of the project;

(2) for projects for which severance tax bonds were issued to purchase vehicles, including emergency vehicles or other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two (2) years following the fiscal year in which the severance tax bonds were issued for the purchase (with respect to projects financed with the publicly-sold 2013 Bonds or financed with a taxable note issued in June 2013, this reversion date is June 30, 2015); and

(3) for any other projects for which severance tax bonds were issued, within six (6) months of completion of the project, but no later than the end of fiscal year 2017. All remaining balances from the proceeds of severance tax bonds issued for projects shall revert to the severance tax bonding fund three (3) months after the latest reversion date specified above for that type of project.

Except for appropriations to the capital program fund, money from severance tax bond proceeds shall not be used to pay indirect project costs.

“Unexpended balance” means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties. The Department of Finance and Administration interprets that an “expense” occurs, according to generally accepted accounting principles, at the point in time when goods or services are actually received.

NOTE: After the time frames outlined above, the unexpended balance of the proceeds of the severance tax bonds for your project shall automatically revert to the severance tax bonding fund without any further notification to you. If you believe that as of the reversion date there are unpaid costs and expenses covered by binding written obligations to third parties, you must notify the State Board of Finance no later than ten (10) days after the scheduled reversion date. You will have only three (3) months to pay those unpaid third-party costs and expenses.

After bonds are issued for your project, you may refer to the State Board of Finance Capital Projects Search for reversion date information at <http://bof.sks.com/cps/Default.aspx>.