

NOTICE OF RULEMAKING

THE IDAHO HOUSING AND FINANCE ASSOCIATION CONCERNING THE AMENDED AND RESTATED ADMINISTRATIVE POLICY OF IDAHO HOUSING AND FINANCE ASSOCIATION FOR THE IDAHO PUBLIC CHARTER SCHOOL FACILITIES PROGRAM

NOTICE IS HEREBY GIVEN that the Idaho Housing and Finance Association (“IHFA”) is considering comments to an amendment to the IHFA Administrative Policy of Idaho Housing and Finance Association for the Idaho Public Charter School Facilities Program (the “Amended Policy”). The Amended Policy is being adopted in accordance with Section 67-6206(q), Idaho Code, as amended.

Copies of the said Amended Policy may be obtained from the Vice President, Project Finance of IHFA at 565 W. Myrtle Street, P.O. Box 7899, Boise, Idaho 83707-1899, (208) 331-4889 or viewed on the IHFA website at: <https://www.idahohousing.com/about/events-public-notice/>. Written comments on the amendments may be submitted to the Vice President, Project Finance at the above address until 5:00 p.m. on the twenty-first (21st) calendar day after publication of this Notice of Rule Making.

IDAHO HOUSING AND FINANCE ASSOCIATION

AMENDED AND RESTATED **ADMINISTRATIVE POLICY FOR** **THE IDAHO PUBLIC CHARTER SCHOOL FACILITIES PROGRAM**

ARTICLE I.

INTRODUCTION

Section 1.01. Authority and Purpose. The Idaho Housing and Finance Association (“IHFA”) is authorized under Idaho Code, Section 67-6206(q), as amended, to prescribe rules and policies in connection with performance of its functions and duties. Pursuant to Idaho Code, Section 33-5218 (the “Program Act”), the Idaho Public Charter School Facilities Program was created to establish a credit enhancement to help seasoned and-stable Idaho public charter schools obtain lower interest rates on bonds and reduce borrowing costs when financing and/or refinancing improvements to public charter school facilities (the “Program”). Pursuant to the Program Act, IHFA is required to (i) approve the eligibility of each Idaho public charter school seeking to use the Program to finance and/or refinance its public charter school facilities, and (ii) issue and sell its nonprofit facility revenue bonds using the credit enhancement provided by the Program to finance and/or refinance such improvements. The purpose of this IHFA Amended and Restated Administrative Policy for the Idaho Public Charter School Facilities Program (this “Policy”) is to set forth the administrative procedures followed by IHFA to carry out its duties and functions under the Program Act.

Section 1.02. Definitions. The definitions set forth herein shall apply to any capitalized term used in this Policy unless otherwise defined herein. In addition to the terms defined above, as used in this Policy, the following capitalized terms shall have the following meanings:

“Bond Documents” means the Trust Indenture and Loan Agreement.

“Borrower” means any Idaho nonprofit public charter school eligible and deemed qualified by IHFA to participate in the Program.

“Charter School Facility Payments” means the facility payments made by the State Department of Education to the Trustee pursuant to § 33-5208(5), Idaho Code.

“Debt Service Reserve Fund” means the fund by that name held by the Trustee solely for the payment of the principal of, premium, if any, and interest on the respective Program Bonds in the event State Payments are insufficient to make such payments when due.

“Debt Service Reserve Fund Requirement” means with respect to each series of Program Bonds an amount equal to not less than twelve (12) months of debt service on such Program Bonds pursuant to the requirement of the Program.

“Direct Deposit Authorization” means the form signed by the Borrower and delivered to the State Controller providing for deposit of State Payments, Charter School Facility Payments, and Special Disbursements directly with the Trustee.

“Foundation Payments” means the payments made by the State Department of Education to the Trustee on behalf of the Borrower each year on August 15, November 15, February 15, May 15, and July 15, or by July 31 for an Advance Payment.

“IHFA” means the Idaho Housing and Finance Association, an independent public body corporate and politic duly organized and existing under the laws of the State, and its successors and assigns.

“Indenture” means the Trust Indenture between IHFA and the Trustee pursuant to which the Program Bonds are issued.

“Loan Agreement” means the Loan Agreement between IHFA and the Borrower pursuant to which the proceeds of the Program Bonds are loaned by IHFA to the Borrower.

“Program Bonds” means each series of credit enhancement nonprofit facilities revenue bonds issued by IHFA in accordance with the Program.

“Program” means the Public Charter School Facilities Program established under Idaho Code, § 33-5218.

“Special Disbursements” means all payments made by the State to the Trustee for certain designated purposes and which are not permitted to be used as Pledged Revenues; “Special Disbursements” shall not include Foundation Payments.

“State” means the State of Idaho.

“State Controller” means the State of Idaho Controller.

“State Department of Education” mean the Idaho State Department of Education.

“State Payments” means the Foundation Payments, which are permitted to be used as Pledged Revenues; provided, however, “State Payments” shall not include Special Disbursements.

“State Treasurer” means the State of Idaho Treasurer.

“Trustee” means each trustee designated as paying agent, registrar and trustee for each series of Program Bonds.

ARTICLE II.

PROGRAM ELIGIBILITY AND IHFA APPROVAL TO PARTICIPATE

Section 2.01. Eligibility. A Borrower seeking to use the Program must receive approval from IHFA pursuant to its requirements for issuance of nonprofit facilities bonds under the IHFA Statement of Policy and Rules Concerning Issuance of Bonds for Nonprofit Facilities (the “Nonprofit Facilities Policy”), and meet the criteria set forth in Idaho Code, Section 33-5218(2). To qualify for the Program, a Borrower must submit an application to IHFA containing the following documentation:

- (a) A letter of commitment from a qualified lender or underwriter;
- (b) Evidence that the Borrower has been in academic, operational, and financial good standing according to its authorizer for each of the previous three (3) years;
- (c) Annual budgets and cash flow statements projecting that the cost to operate its facilities, including future debt service, future occupancy cost, and facility operating expenses, will not exceed twenty percent (20%) of ongoing revenues;
- (d) Evidence that the Borrower has operating reserves greater than sixty (60) days of cash on hand and a debt service coverage ratio equal to or greater than one and two-tenths (1.2);
- (e) An audit opinion or opinions demonstrating:
 - (i) An unqualified audit opinion, or a qualified opinion qualified only on the basis of not reporting the actuarial value of the PERSI sick leave plan pursuant to statement no. 45 of the governmental accounting standards board;
 - (ii) An audit devoid of significant findings and conditions, material weakness, or significant internal control weakness; and
 - (iii) An audit that does not include a going concern disclosure in the notes or an explanatory paragraph within the audit report for three (3) consecutive years;
- (f) Certification from the Borrower’s Board Chair or Treasurer that projected future budgets and cash flows are based on reasonable assumptions related to level or increasing projected enrollment or waitlist and projected total income, including any matching funds and donations contingent on receipt of a loan under the Program;
- (g) Evidence of strong academic results, including above state average growth or proficiency on the Idaho standards achievement test; and
- (h) Any additional information requested by IHFA.

Section 2.02. Approval.

(a) Upon receipt of documentation from the Borrower satisfying the eligibility criteria set forth in Section 2.01. above, as determined by the President and Executive Director (the "President"), the Vice President, Project Finance, or other IHFA staff delegated authority by the President to make such determination, IHFA will ~~conditionally approve request initial approval from the IHFA Board of Commissioners (the "Board") for~~ the Borrower to participate in the Program ~~subject to approval from the IHFA Board of Commissioners (the "Board"). and, pursuant to the Nonprofit Facilities Policy, initial approval from the Board of the issuance of nonprofit facilities revenue bonds using the credit enhancement provided by the Program.~~ Upon such ~~initial IHFA Board~~ approval, IHFA will notify the State Treasurer through written certification that initial approval of the Borrower's participation in the Program has been granted.

(b) Following initial ~~IHFA Board~~ approval ~~of the Borrower's participation in the Program~~, once the Bond Documents are prepared incorporating the Program specific requirements and IHFA, the Borrower, lender/underwriter, and Trustee are each signed off on the substantially final forms of the Bond Documents and IHFA's requirements for final approval of the issuance of nonprofit facilities bonds pursuant to the Nonprofit Facilities Policy have been satisfied, IHFA will request ~~final~~ approval from its Board authorizing the issuance of the Program Bonds, subject to the limitations set forth in Idaho Code, Section 33-5218(8).

(c) Following final Board approval, prior to issuing Program Bonds, IHFA shall notify the State Department of Education of IHFA's final approval of a Borrower's participation in the Program and the issuance of Program Bonds.

ARTICLE III.

IHFA'S PROGRAM FEES

Section 3.01. Administration Fee. IHFA's administration fee payable by the Borrower on the Closing Date is equal to 0.50% of the original principal amount of the Program Bonds.

Section 3.02. Compliance Monitoring Fee. IHFA's annual compliance monitoring fee due on the Closing Date is equal to 0.125% of the original principal amount of the Program Bonds and is due on the anniversary of the Closing Date each year thereafter in an annual amount equal to the greater of 0.0625% of the then outstanding principal amount of the Program Bonds or \$1,000.

Section 3.03. Waiver and Modification of Fees. The President or the Vice President, Project Finance may waive or modify IHFA's administrative fee and/or compliance monitoring fee set forth in Section 3.01 and Section 3.02 above, respectively, on a case-by-case basis.

ARTICLE IV

COVERAGE COVENANT/ANNUAL MONITORING/REPORTING

Section 4.01. Coverage Covenant.

(a) Effective as of July 1, 2025, all new Borrowers participating in the Program shall covenant in each respective Loan Agreement to maintain a coverage ratio of the Borrower's income over indebtedness of not less than 1.10 times coverage during the then current fiscal year of such Borrower (the "Coverage Ratio"). The detailed methodology used to calculate the Coverage Ratio shall be determined time-to-time by the President, the Vice President, Project Finance, or other IHFA staff delegated authority by the President to make such determination, as evidenced by execution of the Loan Agreement.

(b) If a Borrower's Coverage Ratio as of the end its then current fiscal year is less than 1.10 times for such fiscal year, as evidenced by the Borrower's audited financial statements for such fiscal year, the President, the Vice President, Project Finance, or other IHFA staff delegated authority by the President to make such determination, may, pursuant to any new Loan Agreement for the Program entered on or after July 1, 2025, direct the Borrower to employ a management consultant approved by IHFA to review and analyze the operations and administration of the Borrower, inspect the Borrower's facilities financed by the Program, and submit to the Borrower, IHFA and the Trustee written reports, and make such recommendations as to the operation and administration of the Borrower as such management consultant deems appropriate, including any recommendation as to a revision of the methods of operation of the Borrower. The Borrower shall agree to consider any recommendations by the management consultant and, to the fullest extent practicable, to adopt and carry out such recommendations.

Section 4.02. Annual Monitoring/Reporting.

(a) Pursuant to the Indenture, the Trustee shall certify to IHFA and the State Treasurer by November 5th of each year the amount, if any, required to restore amounts on deposit in the Debt Service Reserve Fund to the Debt Service Reserve Fund Requirement for each respective Borrower.

(b) Pursuant to Section 8.5 of the Loan Agreement, the Borrower shall provide to IHFA on an annual basis financial reports, enrollment reports, and any other operating or financial information requested by IHFA.

(c) Upon receipt of such information, IHFA will prepare an annual report summarizing the financial condition of the Borrower and present such report to the State of Idaho's Credit Rating Enhancement Committee at its annual fall meeting.

ARTICLE V.

INTERCEPT OF STATE PAYMENTS, CLOSING CERTIFICATIONS, ISSUANCE OF PROGRAM BONDS

Section 5.01. Intercept. Prior to the issuance of Program Bonds, IHFA, pursuant to Idaho Code, Section 33-5218(5) and Section 2.6 of the Loan Agreement, shall cause the Borrower to provide the Direct Deposit Authorization to the State Department of Education directing the State Controller to make all State Payments, Charter School Facility Payments, and Special Disbursements directly to the Trustee.

Section 5.02. Closing Certifications. Prior to the issuance of Program Bonds:

- (a) IHFA shall request from the State Treasurer a certification confirming the par amount of bonds guaranteed by the Idaho School Bond Guaranty Act; and
- (b) IHFA shall request from the State Department of Education a certification confirming (i) the total number of public school students attending public schools in the State, (ii) the number of public school students attending public charter schools in the State, and (iii) the percentage of public school students attending public charter schools in the State; and
- (c) IHFA shall calculate and certify that the total par amount of Program Bonds outstanding under the Program, plus the par amount of the Program Bonds to be issued, does not exceed the percentage of all Idaho public school students attending public charter schools multiplied by the par amount of the bonds guaranteed under the Idaho School Bond Guaranty Act.

Section 5.03. Program Capacity. So long as IHFA can certify that the maximum aggregate annual debt service of all ~~total par amount of the~~ Program Bonds outstanding under the Program, plus the maximum annual debt service ~~par amount~~ of the Program Bonds to be issued, does not exceed the balance of funds held by the State Treasurer in the Idaho Public Charter School Facilities Program Fund~~percentage of all Idaho public school students attending public charter schools multiplied by the par amount of the bonds guaranteed under the State of Idaho School Bond Guaranty Act~~, and all other conditions to issuance of the Program Bonds have been satisfied, IHFA will issue and deliver the new Program Bonds.

ARTICLE VI.

PROGRAM RATINGS

Section 6.01. Program Ratings. The Program was initially ~~is~~ rated by Moody's Investors Service, Inc. ("Moody's") and ~~S&P~~ Global Ratings ("S&P" and together with Moody's, collectively the "Rating Agencies"). As of June 1, 2025 ~~July 1, 2021~~, the Moody's rating for the Program is Aa~~23~~ and the S&P rating for the Program is A+. The Program is not currently rated by Fitch Ratings, Inc. ("Fitch").

Section 6.02. Program Rating Change. If there is a rating change for the Program by Moody's and/or S&P and/or Fitch if the Program is then rated by Fitch, IHFA shall notify the State Treasurer within one (1) business day of receipt of notification from the respective Rating Agency.

Section 6.03. Requests for Program Ratings. IHFA shall coordinate with the State Treasurer all requests to the Rating Agencies for a new Program rating or confirmation of a Program rating.