



Ohio Administrative Code

Rule 122-4-03 Obtaining confirmations in advance -- notice of intent; notice of issuance.

Effective: July 23, 2020

(A) Confirmation required. An allocation of a portion of the set-asides described in paragraph (A)(1), (A)(2), (A)(3), (A)(4), (A)(5), or (A)(6) of rule 122-4-02 of the Administrative Code, as applicable, may be obtained only prior to the issuance of such bonds and only by filing with the director a notice of intent and the issuance by the director of a confirmation as provided in this rule.

(B) Effectiveness of confirmation. Subject to the issuance of carryforward confirmations as set forth in rule 122-4-05 of the Administrative Code, a confirmation issued for an allocation from the set-asides described in paragraph (A)(2), (A)(3), (A)(4) or (A)(5) of rule 122-4-02 of the Administrative Code will cease to be effective unless: (1) the applicable bonds have been issued and a notice of issuance has been filed with the director within the earlier of (a) one hundred twenty days after the date of such confirmation and (b) eleven fifty-nine p.m. on December thirty-first of the year in which the confirmation was issued, provided that the notice of issuance must be filed with the director by five p.m. on January fifteenth of the next subsequent year, or (2) an extension of the confirmation has been obtained pursuant to paragraph (C) of this rule.

(C) Extension of confirmation.

(1) A confirmation issued for an allocation from the set-aside described in paragraph (A)(2), (A)(3), (A)(4), or (A)(5) of rule 122-4-02 of the Administrative Code may be extended once for a period that is the earlier of (i) sixty days after the date of expiration of the confirmation pursuant to paragraph (B) of this rule or (ii) December thirty-first of the year in which the confirmation was issued, if a request for the extension, accompanied by the fee required by paragraph (D)(4) of rule 122-4-06 of the Administrative Code, is filed with the director prior to the date of the expiration of the one hundred twenty day confirmation period provided in paragraph (B) of this rule. A confirmation so extended will cease to be effective unless the applicable bonds have been issued and a notice of issuance has been filed with the director within the earlier of (x) one hundred eighty days after the date of the original confirmation and (y) eleven fifty-nine p.m. on December thirty-first of the year in which the confirmation was issued, provided that the notice of issuance must be filed with the



director by five p.m. on January fifteenth of the next subsequent year.

(D) Issuance of bonds in lesser amounts than confirmation - eighty-five per cent requirement. A confirmation shall be effective as to bonds issued in lesser amounts for all or part of the applicable project, provided that the amount issued within the period of effectiveness of the confirmation is not less than eighty-five per cent of the amount set forth in the confirmation. A confirmation shall not be effective for bonds issued in an amount less than eighty-five per cent of the amount of the confirmation, provided that this paragraph shall not impair the effect of a confirmation if it is demonstrated to the satisfaction of the director that there is good cause for the decrease in the amount of the bonds issued and that the decrease was not the result of exaggerating costs or demand in connection with the notice of intent. The satisfaction of the director may be evidenced by a notation of a waiver of this paragraph made by the director on the receipt and certification of the notice of issuance. This paragraph shall not apply to bonds issued pursuant to a confirmation from the set-aside under paragraph (A)(1) or (A)(6) of rule 122-4-02 of the Administrative Code (except to the extent that this paragraph (D) is made applicable by the director to a confirmation from the set-aside under paragraph (A)(6) of rule 122-4-02 of the Administrative Code) or to mortgage credit certificates provided for in section 25 of the Internal Revenue Code.

(E) Single family housing bonds and mortgage credit certificates. Notwithstanding the provisions of paragraphs (B) to (D) of this rule to the contrary:

(1) With respect to bonds given a confirmation from the set-aside described in paragraph (A)(1) of rule 122-4-02 of the Administrative Code, the confirmation will remain effective if the bonds are issued within the year in which the confirmation is issued in any amount not to exceed the confirmation amount and a notice of issuance is filed with the director before five p.m. of the fifteenth day of January of the following year.

(2) With respect to mortgage credit certificates, for information purposes a notice of issuance (or, in lieu thereof, copy of the applicable form filed with the internal revenue service) of the mortgage credit certificates actually issued to home mortgagors shall be filed with the director for the period, and not later than the date upon which, such information must be filed with the internal revenue service, and if not required to be filed with the internal revenue service shall be filed with the director for each calendar quarter by the fifteenth day of the second month following the calendar



quarter in which the mortgage credit certificates were issued to home mortgagors. This paragraph applies to mortgage credit certificates whether issued pursuant to a confirmation for bonds, but in lieu of which (subject to paragraph (E)(4) of this rule) mortgage credit certificates are to be issued pursuant to an election under the code, or issued pursuant to a confirmation directly for mortgage credit certificates (if such confirmation is from an allocation made under paragraph (A)(1) of rule 122-4-02 of the Administrative Code).

(3) Except for mortgage credit certificates issued pursuant to an election made to issue such certificates in lieu of bonds for which bonds a carryforward election had been made in a previous year, an allocation may be made for mortgage credit certificates only by the prior filing of a notice of intent and the issuance of a confirmation, which will not expire or terminate except as provided in paragraph (E)(5) of this rule, and no election to issue mortgage credit certificates shall be filed with the internal revenue service until such confirmation is issued.

(4) In the event that a confirmation of allocation to bonds to be issued to provide funds to acquire mortgages for single family housing is made and the issuer chooses in a subsequent year to elect to convert all or a portion of such confirmed amount to mortgage credit certificates under the Internal Revenue Code, the issuer must first file with the director a new notice of intent for the mortgage credit certificates, together with a certified copy of the resolution of the issuer and any filings to be made with the internal revenue service by which the amount of the bonds is to be converted to mortgage credit certificates, and must obtain a new confirmation whereupon the prior confirmation, or appropriate portion of it, is terminated.

(5) In the event that a confirmation of allocation to mortgage credit certificates has been made, and the issuer chooses to reconvert all or a portion of those mortgage credit certificates to bonds pursuant to section 25 of the Internal Revenue Code, the issuer must first file with the director a new notice of intent for the bonds, together with a certified copy of the resolution of the issuer and any relevant filing to be made with the internal revenue service by which such mortgage credit certificates are to be reconverted to bonds, and must obtain a new confirmation, whereupon the prior confirmation, or appropriate portion of it, is terminated.

(F) Director's allocations. Notwithstanding the provisions of paragraphs (B) to (E) of this rule to the contrary, with respect to bonds given a confirmation from the set-aside provided in paragraph (A)(6)



of rule 122-4-02 of the Administrative Code, the director may provide in the confirmation any period of time that the confirmation will remain effective if the bonds are issued in any amount of the confirmation amount determined by the director, and a notice of issuance is filed with the director before five p.m. of the last day of the period of time provided. If the director does not provide in the confirmation a specific period of time that the confirmation will remain effective, the confirmation will remain effective if the bonds are issued by December thirty-first of that calendar year and a notice of issuance is filed with the director by five p.m. on January fifteenth of the next subsequent year.