

Instructions for Application for Ministerial Approval of Bonded Debt Pursuant to Rhode Island General Law 45-12-2.1

General Instructions

In accordance with Rhode Island General Law 45-12-2.1, the Office of the Auditor General has established the following process for the submission of applications for the approval of debt issuance. The Auditor General's role under Section 45-12-2.1 of the General Laws is purely ministerial in nature. The law sets forth five (5) specific standards which must be satisfied in order to obtain the approval for the issuance of bonded debt which is subject to approval under Section 45-12-2.1. If the municipality satisfies the standards prescribed in Section 45-12-2.1, the law requires approval of the application. However, the municipality is not relieved of any other legal conditions precedent to the issuance of said bonded debt. The applicant is strongly urged to consult with bond counsel, and other legal professionals as to the applicability of Section 45-12-2.1 to the particular bond issue, as well as compliance with local, state, and federal law affecting the issuance of bonds. Under the law, the Auditor General is not required to conduct an audit nor to evaluate the fiscal prudence of the issuance of bonds.

No ministerial approval pursuant section 45-12-2.1 of the General Laws shall be given by the Auditor General for tax year synchronization bonds, pension obligation bonds or bonds to fund other post employment benefits.

The Statutory Standards Under General Law 45-12-2.1

Under the law, the following standards must be satisfied in order to receive approval by the Auditor General:

- (1) The city or town has a long-term un-enhanced credit rating from one nationally recognized credit rating agency in at least the "A" rating category without regard to gradations within such category;
- (2) The city or town has represented in the application that the proposed bonds will finance a capital asset or assets and the average useful life of the capital asset or assets to be financed will be greater than or equal to the average maturity of the proposed borrowing as determined by an appropriate official of the city or town at the time of the issuance of bonds therefore under this section or notes therefore under section 45-12-18;
- (3) The city or town is in compliance with financial reporting requirements as set forth in section 45-10-5 and is not subject to enforcement proceedings or remedies as provided for in section 45-12-22.7; and
- (4) The authorization for the issuance of such bonds has been approved by local referendum at a general or special election or financial town meeting.
- (5) Notwithstanding any provision of the general or public laws, or rule or regulation to the contrary, the projects or activities set forth in this act receiving ministerial approval shall not qualify for school housing aid as set forth in Chapter 16-7 of the general laws.

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Application Process and Notice of Decision

1. Application Form: The Office of the Auditor General has provided a form of application which is to be utilized by the municipality in seeking approval under 45-12-2.1. This application can be obtained on the Office of the Auditor General website or directly from the Office of the Auditor General upon request. The application must be complete before the Office of the Auditor General will evaluate the request. The application must be signed by the chief executive officer of the municipality [Mayor, Town or City Manager or highest ranking finance official], whose signature must be notarized.
2. Notification of Decision: Upon the submission of a complete application from a city or town, the auditor general shall within thirty (30) days determine whether the standards set forth in this section have been met. The thirty (30) day period shall not commence until a complete application with supporting documentation is submitted.
3. Notification of Decision: If the standards have been met, then the auditor general shall give approval to the application and the city or town shall have the power under law to issue bonds, provided it is otherwise lawful. If the auditor general finds that the borrowing does not meet said standards, the city or town shall be notified that the certification standards have not been met, which notification shall state the standards that were and were not met. Since the law affords the auditor general thirty (30) days within which to evaluate applications and render a decision, it is important that the applicant submit its application sufficiently in advance of other timing deadlines relative to the issuance of debt. The auditor general shall promptly provide the applicant with a written approval or rejection as the case may be.
4. Filing of Decision: The auditor general shall submit a copy of each approval or denial within five (5) business days after issuance of his decision, to the director of administration and the chairpersons of the house committees on corporations and finance and the chairpersons of the senate committees on housing and municipal government and finance.

Contact Information

Any questions regarding applications for approval under section 45-12-2.1 may be directed to Linda Ide or Lori Gelfuso at 222-2435 or email to linda.ide@oag.ri.gov or lori.gelfuso@oag.ri.gov