

ST. LOUIS COUNTY

**PROCEDURES FOR
APPLICATION AND ALLOCATION OF
RECOVERY ZONE FACILITY BONDING AUTHORITY**



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Related Documents

- Application for Allocation of Recovery Zone Facility Bonding Authority

I. Introduction

This application and allocation process was developed by St. Louis County to prescribe the policies and procedures to be used when allocating its bonding authority for the issuance of Recovery Zone Facility Bonds (RZFBs).

In agreeing to allocate its RZFB Authority, St. Louis County assumes no liability with respect to the project feasibility, the quality or structuring of the offering, representations made to investors, the security or tax-exempt status of the obligations issued, the credit worthiness of the project, the repayment of any financing; or the establishment of the Recovery Zone, Empowerment Zone, or Renewal Community area.

Applications will only be accepted from local units of government or qualified issuers in St. Louis County that are authorized under Federal and State laws to issue bonds. Applicants are required to possess financial advisors and bond counsel knowledgeable regarding the development, legal, and financial aspects of RZFBs and the project to be financed.

II. Policy Statement

Allocation of RZFBs is undertaken pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA) and the Internal Revenue Service (IRS) tax code.

Recovery Zone Facility Bonds are tax-exempt private activity bonds, similar to Industrial Revenue Bonds. A qualified business must be undertaking project costs that entail any depreciable property that is to be constructed, reconstructed, renovated, or acquired by a private user within a recovery zone as designated by the issuer of the bonds, i.e., local unit of government (“Recovery Zone Property”). Projects can be for any trade or business conducted within the recovery zone (“qualified business”). A “qualified business” does not include residential rental housing and other limited businesses.

St. Louis County has been allocated \$6.088 million of RZFB bonding authority by the U.S. Department of the Treasury. St. Louis County can re-allocate its bonding authority to local units of government or qualified issuers within the county or to the state of Minnesota in accordance with ARRA and the IRS tax code.

St. Louis County will provide bonding authority in accordance with these procedures. St. Louis County will not issue RZFBs on its own behalf, will not issue on behalf of any other government jurisdiction in St. Louis County, nor will the county issue on behalf of a private entity. By these procedures, St. Louis County will consider allocating its bonding authority to other qualified government jurisdictions or issuers so they may issue RZFBs on their own behalf.

A qualified business must substantially operate within a Recovery Zone. Recovery Zone Facility Bonds must be issued by December 31, 2010, according to Federal ARRA legislation.

III. Definitions

“AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, OR ARRA” – Federal legislation enacted in 2009 that authorizes the issuance of Recovery Zone Facility Bonds and prescribes eligible uses, allocation limits, and deadline for issuance.

“APPLICANT” – the local unit of government or qualified issuer that is applying to the county to be granted RZFB bonding authority. Applicants must be qualified to issue such obligations under Federal and State laws.

“APPLICATION FEE” – the non-refundable fee that is payable to the county by each applicant and must accompany the submitted application form. The fee is equal to \$20 for every \$100,000 of entitlement requested rounded up to the nearest \$100,000, or \$500, whichever is greater.

“APPLICATION FORM” – the form established by the county that must be submitted by the applicant to the county to apply for bonding authority to issue Recovery Zone Facility Bonds.

“BOARD, or COUNTY BOARD” – the St. Louis County Board of Commissioners.

“BOND” – a qualified Recovery Zone Facility Bond issued in accordance with the American Recovery and Reinvestment Act of 2009 and Federal and State laws.

“BOND COUNSEL” – the attorney or firm of attorneys, appointed by the local government issuer, who will render an approving legal opinion as to the bonds and as to the qualified tax exempt status of the Bonds.

“COUNTY” – St. Louis County, Minnesota

“FEDERAL TAX LAW” – includes those provisions of the Internal Revenue Code of 1986, as amended, and the American Recovery and Reinvestment Act of 2009, that define and limit the types of obligations that can be issued whose interest is excluded from gross income for purposes of federal income taxation.

“HUD DESIGNATED AREA” - areas designated by the U.S. Department of Housing and Urban Development to be eligible for funding, including Community Development Block Grant (CDBG) low-moderate income area benefits and Neighborhood Stabilization Program (NSP).

“ISSUER” – the local unit of government or qualifying entity serving as the issuer of the bonds that is qualified to issue Recovery Zone Bonds under Federal and State laws.

“PROCEDURES” – requirements established by this document, “Procedures for Application and Allocation of Recovery Zone Facility Bonding Authority”, as approved by the St. Louis County Board.

“PROJECT COSTS” – an undertaking that entails any depreciable property that is to be constructed, reconstructed, renovated, or acquired by a private user within a recovery zone.

“QUALIFIED BUSINESS” – any trade or business except a) residential rental, and b) the operation of businesses such as private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or off-sale liquor sales.

“RECOVERY ZONE” – any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosures, or general distress; or within an area that is economically distressed by reason of the closure or realignment of a military installation; or within a designated Empowerment Zone or Renewal Community area.

“RECOVERY ZONE FACILITY BONDS, OR RZFBs” – tax exempt private activity bonds are authorized under the American Recovery and Reinvestment Act of 2009.

“STATE OF MINNESOTA” – the Commissioner of Management and Budget, Department of Employment and Economic Development, or any other state agency or department that is authorized to receive bonding authority and issue Recovery Zone Facility Bonds.

“TAX-EXEMPT BONDS” – Bonds with interest that are exempt from federal taxation under Internal Revenue code (IRC), Section 103.

IV. Application Process

All applications and official correspondence regarding the Recovery Zone Facility Bond application and allocation process in St. Louis County should be directed to:

St. Louis County Planning and Development
Attn: Recovery Zone Facility Bond Applications
227 W. First Street, Suite 100
Duluth, MN 55802

Questions may be directed to Barbara Hayden, St. Louis County Planning and Development Director, at (218) 725-5000 or haydenb@co.st-louis.mn.us

A. Deadline Dates and Times

All applications and other materials required to be filed or submitted pursuant to these procedures must be postmarked or received by the county no later than 4:30 p.m. on the deadline day or date outlined below. When an application or other required material is required to be filed or submitted to the department on or before a prescribed day or date and the prescribed day or date falls on a Saturday, Sunday, or legal holiday, it is timely filed or submitted if it is received by the department by 4:30 p.m. on the next succeeding date which is not a Saturday, Sunday, or legal holiday.

First round of applications – The first round of allocations will be awarded by the Board for applications received or postmarked by Monday, March 1, 2010. If there are two or more applications and there is insufficient authority to provide allocation for all applicants, the available bonding authority shall be awarded by the County Board.

Second round of applications – Applications received or postmarked from March 2, 2010, through August 31, 2010, will be awarded by the Board on a first-come, first-served basis.

Closing of the application period – No applications will be accepted by the county after August 31, 2010. Any bonding authority remaining after September 30, 2010 will be transferred by the Board to the State of Minnesota for re-allocation and use by the state for statewide projects, in accordance with applicable state program rules and requirements.

The county will notify applicants within five (5) business days of the receipt of the application whether the application materials are complete. Any allocation, award, or transfer of RZFB bonding authority as specified in these procedures must be authorized by adoption of a Board resolution. County staff will attempt to schedule a meeting of the Board to take action on the request within 30 days of the receipt of the application or application deadline date, and will prepare required agenda materials.

B. Application Fee

Every applicant shall pay a nonrefundable application fee to the county to offset the cost of program administration. The application fee is \$20 for each \$100,000 of allocation authority requested with the request rounded to the nearest \$100,000, or \$500, whichever is greater. Fees received by the county will be credited to Fund 100, Agency 109002.

C. Application Form

The applicant must be a local government or qualified entity that is qualified to issue obligations under Federal and State laws and must prepare an application form according to these procedures. The completed application form must be accompanied by:

1. A nonrefundable application fee payable from the issuer to St. Louis County of \$20 for each \$100,000 amount of issuance authority requested with the request rounded to the nearest \$100,000, or \$500, whichever is greater;
2. A resolution adopted by the governing body establishing a Recovery Zone, or a statement from the issuer that the project will be located in a Recovery Zone.
3. A map showing the location of the Recovery Zone.
4. A statement of the criteria used for establishment of the Recovery Zone.
5. A site plan showing the boundaries of the proposed development, public infrastructure, parking, and the size and location of the building(s) and other improvements.

6. A general description of the project, including business type or use; nature of improvements; parking capacity, projected vehicle counts and traffic flows;
7. A preliminary Sources and Uses statement with the status of funding request for each identified source;
8. A statement from the issuer's bond counsel that the applicant (local government or qualified entity) is qualified to issue bonds under Federal and State laws and the proposed issue of obligations qualifies under the American Recovery and Reinvestment Act as a Recovery Zone Facility Bond;
9. A preliminary term sheet prepared by the selected underwriter.

D. Application Evaluation

County staff will receive and review applications and report on how application meets the following criteria. The County Board will make Recovery Zone Facility Bond allocations and the issuer will establish the Recovery Zone.

1. The number of direct new jobs to be created in the county generated by the proposed project for the next two years;
2. The number of direct existing jobs to be retained in the county due to the proposed project for the next two years;
3. The hourly wage and benefits paid to employees by the proposed project for the next two years, exclusive of benefits mandated by law;
4. The estimated total net increase in property taxes generated in the county by the project in the first full year of operation;
5. The seasonally unadjusted unemployment rate in the community where the proposed project is located at the time of application;
6. A complete application has been submitted with all required information.

V. LEGAL COMPLIANCE

A. Reservation of Rights

The county reserves the right to:

- Reject any application in whole or in part.
- Decide not to issue any bonding authority allocations to any applicant.
- Require corrections or amendments to any application materials and required documents.
- Impose any other requirements or conditions prior to the issuance of its bonding

authority.

- Consult with the applicant's bond counsel concerning the project or issuance of bonds. Any resulting fees for such consultation shall be paid by the applicant.
- Change or waive any requirements or procedures included herein at any time if the county feels it is in the best interests of the county to do so.

B. Bond Issuance

Issuance of bonds by the local issuer must be consistent with these procedures and the allocation awards granted by the Board.

Bonds issued by the applicant must be issued by December 31, 2010, in accordance with Federal Tax Law.

The county may not revoke an allocation to any applicant after it is awarded by the Board, unless the applicant notifies the county in writing that it is unable to issue bonds for the project.

Bonds may only be issued for the project contained in the application and as awarded by the Board. Bonding authority may not be transferred by the applicant to another project or issuer.

C. County Held Harmless

The county is not liable in any manner to any applicant, issuer, holder of obligations, or other person for carrying out the duties imposed on it by these procedures.

D. Notice of Available Authority

The county will send a written notice of these procedures to each municipality in St. Louis County upon adoption of these procedures by the Board. The county will post a copy of these procedures, and a statement of the amount of bonding authority that is available for allocation on its official website until December 31, 2010.

E. Return of Allocation Authority

If the applicant that is awarded an allocation by the Board determines that it will not be able to issue bonds for the project, the applicant must notify the county in writing immediately. Upon receipt of this written notification, the original allocation is immediately cancelled to the applicant and is available for re-allocation by the county.

F. Exclusive Method of Allocation

These procedures, until and unless amended by the Board, are the exclusive method of allocating RZFB bonding authority by the county for the purpose of complying with the American Recovery and Reinvestment Act and Federal Tax Law.