



ARIZONA DEPARTMENT
OF COMMERCE

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Qualified Energy Conservation Bonds (QECBs)

2010 Program Guidelines

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Qualified Energy Conservation Bond Program Guidelines

Background

Qualified Energy Conservation Bonds (“QECBs”) are qualified tax credit bonds that were originally authorized by the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (Pub. L. 110-343) with a national limitation of \$800 million. The American Recovery and Reinvestment Tax Act of 2009 (the “Act”), which was signed into law on February 17, 2009, increased the amount of QECBs that may be issued from \$800 million to \$3.2 billion. This expansion is intended to enable states to issue QECBs to finance, among other purposes, retrofits of existing public and private buildings through loans, grants or other repayment mechanisms to individual homeowners or businesses. Other repayment mechanisms can include periodic fees assessed on a government bill or utility bill that approximates the energy savings of energy efficiency or conservation retrofits. Retrofits can include heating, cooling, lighting, water-saving, storm water-reducing, or other efficiency measures. For additional information on QECBs, please visit: <http://www.irs.gov/pub/irs-drop/n-09-29.pdf>

The Act provides that the term “qualified tax credit bond” means, in part, a qualified energy conservation bond that is part of an issue that meets the requirements of §54A(d)(2), (3), (4), (5), and (6) regarding expenditures of bond proceeds, information reporting, arbitrage, maturity limitations, and prohibitions against financial conflicts of interest. As a tax credit bond, holders of QECBs receive payments in the form of tax credits from the federal government. The tax credits permit an issuer of QECB to potentially borrow for “qualified conservation purposes” at rates of interest which may be significantly lower than rates of interest on taxable debt or even tax-exempt bonds. The credit rate is 70% of the credit rate that would allow the QECB to sell at par.

Key highlights:

- The Governor of Arizona issued [Executive Order 2009-12](#), giving the Arizona Department of Commerce (“Commerce”) authority to administer the QECB program on behalf of the State.
- Arizona received a volume cap allocation of \$67,436,000.
- The program authorizes QECBs to be issued by the State, municipalities and tribal governments to finance government programs and initiatives designed to reduce greenhouse gas emissions.
- QECB provisions instruct the states to distribute separate allocations to each large city or county (greater than 100,000 in population) and all tribes within the state based on a ratio of the jurisdiction’s population to the State’s population as a whole.
- The State will directly allocate the remaining volume cap to projects statewide through a competitive process.
- At least 70% of QECB authority must be used for government projects. No more than 30% may be used for private activities. Private activity QECB proceeds may only be used for capital expenditures.
- 100% of the available project proceeds of QECBs are to be used for one or more qualified conservation purposes.

The U.S. Treasury and the Internal Revenue Service determined individual state QECB volume caps. Arizona received a volume cap allocation of \$67,436,000. The Act provides that each city or county meeting a certain population requirement will receive volume cap allocation. Additionally, all tribal communities are eligible to receive a volume cap allocation. In Arizona, nine counties and nine cities met the population requirement and are eligible for a combined total volume cap allocation of \$63,890,733.63. Twenty tribes in Arizona are eligible for a combined total volume cap allocation of \$1,905,004.99. The State’s remaining allocation of \$1,640,261.38 will be distributed by Commerce through a competitive application process open to rural, urban and tribal communities statewide.

This Guideline is provided to remind applicants of existing federal guidance and is to assist when receiving and/or awarding contracts/subcontracts using funds made available under the American Recovery and Reinvestment Act of 2009, Pub L. 111-5 (ARRA or the Act). It is the responsibility of awarded applicants to ensure compliance with all ARRA regulations and requirements imposed by the Qualified Energy Conservation Bond.

Contact Information

For more information about QECB and other bond financing opportunities, visit Commerce’s website at <http://www.azcommerce.com>, or contact Tiffany Frechette, Director of the Business Development Finance division at 602-771-1154 or tiffanyf@azcommerce.com.

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Eligible Project Types

According to QECB Federal Guidance and the Recovery Act, qualified projects include:

- A. Capital expenditures incurred for purposes of:
 - i. reducing energy consumption in publicly-owned buildings by at least 20 percent
 - ii. implementing green community programs
 - iii. rural development involving the production of electricity from renewable energy resources
 - iv. any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date).
- B. Expenditures with respect to research facilities, and research grants, to support research in:
 - i. development of cellulosic ethanol or other non-fossil fuels
 - ii. technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels
 - iii. increasing the efficiency of existing technologies for producing non-fossil fuels
 - iv. automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation
 - v. technologies to reduce energy use in buildings.
- C. Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.
- D. Demonstration projects designed to promote the commercialization of:
 - i. green building technology
 - ii. conversion of agricultural waste for use in the production of fuel or otherwise
 - iii. advanced battery manufacturing technologies
 - iv. technologies to reduce peak use of electricity
 - v. technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity
- E. Public education campaigns to promote energy efficiency.

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Statewide Portion of the QECBs

I. Timeline

Commerce will endeavor to begin accepting Requests for Allocations for the State's portion of volume cap during the first quarter of 2010. Commerce will endeavor to make a determination and notify the applicant within 15 days of receipt of the request for allocation. Decisions will be based on the Allocation Criteria described below.

II. Procedures

Projects located in rural areas of the state, or projects in urban areas that are not able to get an allocation from the local jurisdiction, may work with either a local or a state issuer to apply for QECB volume cap. Local issuers that may assist include the local city or county, an Economic or Industrial Development Corporation, or public utility district. State issuers include the Greater Arizona Development Authority (GADA), Water Infrastructure Finance Authority (WIFA) and the Arizona Housing Finance Authority. If you are developing a project and need assistance to identify an authorized bond issuer to work with, you can visit Commerce's website or contact the Commerce Business Development Finance Division.

Commerce will be utilizing the State's portion of the volume cap allocation (\$1,640,261.38) along with allocations not utilized by the communities and subsequently returned by other jurisdictions. All State allocations will be competitive and made on a first-come, first-served basis. All volume cap allocations are conditioned upon veracity of information provided by the applicant and will require accountability and reporting.

To apply for an allocation of QECB volume cap, the issuer will need to submit the following materials to Commerce:

- a) A completed QECB Request for Allocation form.
- b) A copy of the inducement resolution for the project.
- c) Evidence of community support for the project (e.g. letters of support from the local jurisdiction, grant or loan funding available to the project from other sources, etc.).
- d) A non-refundable application fee of \$250.00 per application.

Additional information may be requested by Commerce from applicants prior to final award determination.

III. Criteria

In accordance with the intent of the QECB Federal Guidance, the Recovery Act, and state law, Commerce intends to use the following criteria to prioritize allocation requests (not all criteria need to be demonstrated in a single project):

- At least 70 percent of the State's allocation must be used for government projects and no more than 30 percent for private activities.
- The extent to which the project demonstrates the potential to directly conserve energy.
- The extent to which the project supports the development or implementation of innovative energy conservation technology.
- The extent to which the project uses renewable resources to produce energy.
- The number of citizens benefiting from the project.
- The number of jobs produced by the projects and the amount of QECB authority per job produced (for private activity allocations).
- The readiness of the project to proceed.
- The certainty of the issuer closing the allocation within the program timelines.
- The amount of other public and private funding leveraged by the QECB allocation.
- The amount of local community support for the project.

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IV. Ability to Issue Bonds

By submitting an application, the applicant affirms its acceptance of the terms and requirements of the QECB program as established by ARRA, the U.S. treasury and the State of Arizona. The applicant must be willing and able to issue QECBs within six months of the volume cap award. Financing timelines longer than six months will be considered by Commerce, but may not have priority over more “shovel ready” applications. If the QECBs are not issued by the six month deadline, the allocation will automatically be returned to the State for reallocation to other projects.

V. Award Decisions

- Volume cap allocation decisions are final.
- Bonding capacity is limited.
- Allocations are awarded on a first-come, first-served basis through a competitive process.
- Applications meeting all of the program’s general policy guidelines may not necessarily receive an award.
- Commerce reserves the right to vary from the allocation criteria as necessary or appropriate based on guidelines given by the U.S. Treasury and the Internal Revenue Service.
- Commerce will endeavor to make volume cap allocation decisions within 15 days after receipt of a request for allocation. Applicants will be notified of the determinations via email.
- Significant changes in the scope of work after QECBs are issued may result due to actions by the U.S. Treasury.

VI. Reporting

Awarded Applicant(s) shall comply with the reporting requirements as determined by the U.S. Treasury, the Internal Revenue Service, and the State Treasurers’ Office and/or the Department of Commerce.

Commerce’s reporting requirements are as follows:

1. Until the awarded portion of the QECB volume cap is closed, a quarterly status report must be submitted to Commerce on the last day of January, April, July and October following receipt of QECBs. The quarterly report should identifying at a minimum: information about any project that received an allocation, the amount of volume cap that has been issued, the amount of volume cap that has been closed and a list of projects awaiting an allocation and the amount being requested.
2. After the QECB allocation is closed, the applicant must submit a Certificate of Closing form and attach proof of delivery and payment of the bonds.
3. Upon completion of the project, a final report shall be submitted that includes a one page summary of: new jobs created, jobs retained, economic impacts and environmental impacts of the project as well as any assumptions used to determine that information.

VII. News Releases

News releases pertaining to any resulting award from this program shall **NOT** be made prior to Commerce’s announcement of the allocation awarded or without prior written approval of Commerce.

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Cities, Counties and Tribal Governments Portion of the QECBs

I. Timeline

Commerce will attempt to notify each jurisdiction of its QECB allocation amount by January 31, 2010.

II. Procedures

Commerce will determine allocation amounts using the population figures for cities and counties based on available data from the United States Census Bureau, for the period that is closest in time to that used for the State and released by the Census before 2009, which consists of information as of July 1, 2007. The 2000 Census population numbers will be used to determine the tribal allocations. Refer to Exhibit A - Arizona's QECBs Volume Cap Allocations for details.

Each city, county and tribal government will be responsible for dividing their allocations among eligible projects within their jurisdictions. It is also the responsibility of each city, county and tribal government to ensure compliance with all ARRA regulations and requirements imposed by the Qualified Energy Conservation Bond. Commerce will monitor bond issuances to ensure that each jurisdiction and the state do not exceed their total allowable amount of bond issuing authority.

With twenty tribes in the state, many of which have small populations, each tribe's allocation may be too small to make a bond issuance cost effective. Tribes may cooperate with each other to develop a project and share allocation amounts, and may also apply for additional volume cap from the Statewide Portion of the QECBs in order to accumulate enough authority to warrant the costs of a bond issuance. For example, several tribes might work together to issue a bond to establish a revolving loan fund for energy conservation projects on tribal lands. Similarly, a jurisdiction may have a project requiring a larger allocation than the jurisdiction's initial allocation amount, or have additional projects needing a QECB allocation. Consider applying for additional volume cap amounts, by submitting an application following the procedures for the Statewide Portion of the QECBs.

III. Reporting

Awarded Applicant(s) shall comply with the reporting requirements as determined by the U.S. Treasury, the Internal Revenue Service, and the State Treasurers' Office and/or the Department of Commerce.

Commerce's reporting requirements are as follows:

1. By April 30, 2010, submit to Commerce the "Waiver of QECB Volume Cap Allocation" form, to release of any or all of the QECB volume cap initially allocated to the jurisdiction.
2. Until the awarded portion of the QECB volume cap is closed, a quarterly status report must be submitted to Commerce on the last day of January, April, July and October following receipt of QECBs. The quarterly report should identify at a minimum: information about any project that received an allocation, the amount of volume cap that has been issued, the amount of volume cap that has been closed and a list of projects awaiting an allocation and the amount being requested.
3. After the QECB allocation is closed, the applicant must submit a "Certificate of Closing" form and attach proof of delivery and payment of the bonds.
4. Upon completion of the project, a final report shall be submitted that includes a one page summary of: new jobs created, jobs retained, economic impacts and environmental impacts of the project as well as any assumptions used to determine that information.

IV. News Releases

News releases pertaining to any resulting award from this program shall **NOT** be made prior to Commerce's announcement of the allocation awarded or without prior written approval of Commerce.

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EXHIBIT A - Arizona's QECBs Volume Cap Allocations

Jurisdiction	Population	QECB Population	Volume Cap Allocation	70% of Allocation To Be Used For Government Projects	30% Maximum Allocation Amount Used For Private Activities
State of Arizona^	*6,338,755	154,179	\$1,640,261.38	\$1,148,182.97	\$492,078.41
Ak-Chin Indian Community	742**	742	\$7,893.90	\$5,525.73	\$2,368.17
Chandler city	246,399	246,399	\$2,621,360.66	\$1,834,952.46	\$786,408.20
Cochise County	127,866	127,866	\$1,360,325.74	\$952,228.02	\$408,097.72
Coconino County	127,450	102,590	\$1,091,422.41	\$763,995.68	\$327,426.72
Cocopah Tribe	1,025**	1,025	\$10,904.65	\$7,633.25	\$3,271.39
Colorado River Indian Tribe	7,466**	7,466	\$79,428.40	\$55,599.88	\$23,828.52
Fort McDowell Yavapai Nation	824**	824	\$8,766.27	\$6,136.39	\$2,629.88
Fort Mohave Indian Tribe	773**	773	\$8,223.70	\$5,756.59	\$2,467.11
Fort Yuma-Quechan Tribe	36**	36	\$382.99	\$268.09	\$114.90
Gila River Indian Community	11,257**	11,257	\$119,759.65	\$83,831.75	\$35,927.89
Gilbert town	207,550	207,550	\$2,208,058.49	\$1,545,640.94	\$662,417.55
Glendale city	253,152	253,152	\$2,693,203.68	\$1,885,242.57	\$807,961.10
Havasupai Tribe	503**	503	\$5,351.26	\$3,745.88	\$1,605.38
Hopi Tribe	6,946**	6,946	\$73,896.29	\$51,727.40	\$22,168.89
Hualapai Tribe	1,353**	1,353	\$14,394.14	\$10,075.90	\$4,318.24
Kaibab-Pauite Tribe	196**	196	\$2,085.18	\$1,459.63	\$625.55
Maricopa County	3,880,181	594,256	\$6,322,100.73	\$4,425,470.51	\$1,896,630.22
Mesa city	452,933	452,933	\$4,818,610.25	\$3,373,027.17	\$1,445,583.07
Mohave County	194,944	192,629	\$2,049,318.71	\$1,434,523.10	\$614,795.61
Navajo County	111,273	68,035	\$723,802.74	\$506,661.92	\$217,140.82
Navajo Nation	104,565**	104,565	\$1,112,433.80	\$778,703.66	\$333,730.14
Pascua-Yaqui Tribe	3,315**	3,315	\$35,267.23	\$24,687.06	\$10,580.17
Peoria city	146,743	146,743	\$1,561,152.14	\$1,092,806.50	\$468,345.64
Phoenix city	1,552,259	1,552,259	\$16,513,990.20	\$11,559,793.14	\$4,954,197.06
Pima County	967,089	435,446	\$4,632,571.61	\$3,242,800.13	\$1,389,771.48
Pinal County	299,246	289,151	\$3,076,185.60	\$2,153,329.92	\$922,855.68
Salt River Pima-Maricopa Indian Community	6,405**	6,405	\$68,140.76	\$47,698.53	\$20,442.23

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Jurisdiction	Population	QECB Population	Volume Cap Allocation	70% of Allocation To Be Used For Government Projects	30% Maximum Allocation Amount Used For Private Activities
San Carlos Apache tribe	9,385**	9,385	\$99,844.03	\$69,890.82	\$29,953.21
Scottsdale city	235,677	235,677	\$2,507,292.71	\$1,755,104.89	\$752,187.81
Tempe city	174,091	174,091	\$1,852,098.82	\$1,296,469.18	\$555,629.65
Tohono O'odham Nation	10,787**	10,787	\$114,759.46	\$80,331.63	\$34,427.84
Tonto-Apache Tribe	132**	132	\$1,404.31	\$983.01	\$421.29
Tucson city	525,529	525,529	\$5,590,936.02	\$3,913,655.21	\$1,677,280.81
White Mountain Apache Tribe	12,429**	12,429	\$132,228.18	\$92,559.73	\$39,668.45
Yavapai County	212,635	211,710	\$2,252,315.41	\$1,576,620.79	\$675,694.62
Yavapai-Apache Nation	743**	743	\$7,904.54	\$5,533.18	\$2,371.36
Yavapai-Prescott Indian Tribe	182**	182	\$1,936.24	\$1,355.37	\$580.87
Yuma County	190,557	189,496	\$2,015,987.72	\$1,411,191.41	\$604,796.32
TOTALS		6,338,755	\$67,436,000.00	\$47,205,200.00	\$20,230,800.00

* Population numbers are based on July 1, 2007 US Census Population Estimates

** Tribal population numbers are from the 2000 Census.

^Populations of large local governments and tribal communities within Counties are subtracted out of the State of Arizona's population number per Federal Guidance for the purposes of volume cap allocation. The State's allocation is the remaining amount after all large local governments and tribes have received their allocations in proportion to the ratio of their population to the state's population.

Notes:

1. Under QECB regulations, at least 70 percent of each jurisdiction's allocation must be used for government projects, and no greater than 30 percent may be used for private activities.
2. Six counties did not meet the QECB population of 100K or more and will not receive an initial allocation. These counties are: Apache, Gila, Graham, Greenlee, La Paz and Santa Cruz. If any of the jurisdictions who received an initial allocation releases all or a portion of its volume cap to Commerce, that cap can be reallocation to either; 1) any jurisdiction submitting an eligible application via a competitive process or, 2) to a statewide issuer such as GADA to issue the bonds on behalf of eligible borrowers.

Disclaimer

All statistical and fiscal information contained within this application, and any amendments and modifications thereto, reflect the best and most accurate information available to Commerce at the time of preparation of the QECB Guidelines.