

Tax Extenders and Alternative Minimum Tax Relief Act of 2008

American Reinvestment and Recovery Act

Qualified Energy Conservation Bond (QECCB)

GUIDELINES AND APPLICATION

Application must be submitted electronically and received by:
November 16, 2009 at 5:00 p.m.



RECOVERY.gov

September 2009

THE GOVERNOR'S ENERGY OFFICE
1580 Logan Street, Suite 100
Denver, CO 80203

www.colorado.gov/energy/recovery

Governor's Energy Office energy efficiency and renewable energy updates

<http://www.colorado.gov/recovery/>

Colorado's American Recovery & Reinvestment Act updates --all programs

www.recovery.gov

White House recovery website

**Governor's Energy Office
American Recovery and Reinvestment Act
Tax Extenders and Alternative Minimum Tax Relief Act of 2008
Qualified Energy Conservation Bond (QECB)
Table of Contents**

- I. Opportunity Background Information**
 - A. ARRA-QECB**
 - B. ARRA-Goals**

- II. Administrative Information**
 - A. ARRA Specific Requirements**
 - B. Proprietary/Confidential Information**
 - C. Ability to Issue Bonds**
 - D. News Releases**
 - E. Disclaimer**
 - F. Inquiries**

- III. QECB Application**
 - A. General Objective**

- IV. Response Format & Application Requirements**
 - A. General Instructions**
 - B. Application Response Requirements**
 - C. Application Submission**

- V. Evaluation**
 - A. Evaluation Team**
 - B. Scoring Process & Scale**
 - C. Decisions**

- VI. Awarded Applicant Reporting and Payment Schedule**
 - A. Reporting**
 - B. Payment Schedule**

Attachments:

Attachment A-Application Summary Sheet (Excel format provided by GEO is required with application submission) - NOTE, this must be signed by a person legally authorized to bind the applicant to the proposal-Required

I. Opportunity Background Information

A. ARRA – QECB

Section 301(a) of Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Division C of Pub. L. 110-343. 122 Stat. 1365 (2008) (“Act”) added new § 54D to provide program provisions for QECBs. The Act amended § 54A(d)(1) to provide 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. The Act also amended § 54A(d)(2) to provide that, for purposes of § 54A(d)(2)(C), the term “qualified purpose” for a QECB means a purpose specified in § 54D(a)(1) described below.

The Act added § 54D(d) to provide a national bond limitation (“national bond volume cap”) authorization for QECBs of \$800 million. Section 1112 of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (“2009 Act”) amended §54D(d) to increase the national bond volume cap authorization for QECBs from \$800 million to \$3.2 billion.

The U.S. Treasury and the Internal Revenue Service determined individual state caps. The volume cap allocation for Colorado is \$51,244,000. The Act provides that a city or a county meeting a population requirement will receive a large local government volume cap allocation. In Colorado, ten counties and eight cities met the population requirement, and are eligible for a combined total volume cap allocation of \$42,158,933.

The Colorado general assembly passed HB09-1346, giving the Governor’s Energy Office (GEO) authority to distribute the remaining QECB allocation of \$9,085,067 and large local government volume cap allocation which reverts to GEO. Through this competitive application, GEO will determine the volume cap allocations for small local governments and the State of Colorado.

The QECB provides financing for qualified efficiency and conservation purposes as defined in Section 54D(f) Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (and provided below in general objectives). GEO will select small local government and State projects to receive an allocation through this competitive process.

This application attempts to gather all the necessary information required for project selection. If, at any time, GEO determines that additional information is required, it has the ability to reissue an application.

Public entities may apply to the Governor’s Energy Office for a QECB volume cap allocation.

“Public entity” means the state, any agency, department, or political subdivision of the state, any quasi-governmental entity, or any other entity created by or pursuant to the constitution or laws of the state that is authorized under state law to issue bonds or enter into a lease-purchase agreement, including but not limited to:

- (a) the state treasurer or the state treasurer, acting on behalf of the state;
- (b) a state agency or department;
- (c) a state authority;

- (d) a public institution of higher education, state educational institution, or other state institution, including its governing body or any other issuing authority of the institution constituting a body corporate;
- (e) a county or city and county;
- (f) a municipality;
- (g) a school district;
- (h) a special district organized or acting pursuant to the provisions of title 32, C.R.S.;
- (i) a district or authority organized or acting pursuant to the provisions of title 29, 30, or 31, C.R.S.;
- (j) a water conservancy district created pursuant to article 45 of title 37, C.R.S.;
- (k) any other political subdivision or governmental or quasi-governmental entity of the state;
- (l) any other public entity as defined in section 24-75-601 (1),C.R.S.;
- (m) a recovery and reinvestment act finance authority;
- (n) an enterprise of any public entity listed in above; and
- (o) a nonprofit corporation organized under the laws of the state that is authorized by law, or a trust created under the laws of the state that is authorized under its governing documents, to issue bonds or enter into lease-purchase agreements on behalf of one or more public entities listed above.

B. QECB – Goals

When considering projects for funding, the GEO will weigh a number of factors, including but not limited to:

- The technical merits of the project/project viability involves maturity of technology used in project application and project viability involves feasibility of tasks, budget, timeline and resource capabilities;
- Security and stability of revenue source to pay back QECB.
- Geographic/market diversity favors projects that impact geographic areas, technology, and a variety of state and local government projects;

Please Note: Any county or municipality who has already received a large local government volume cap allocation of QECB is encouraged to contact and work with GEO on how best to use their allocation, before it reverts back to GEO on 11/10/2009.

Municipalities who have already received an allocation of QECB's may also use this application to request a larger volume cap amount if they have a project that requires a greater amount of funds than their current allotment.

II. Administrative Information

A. QECB Specific Requirements

Qualified Energy Conservation Bonds (QECB) may be issued by a public entity as defined by 11-59.7-103(20), C.R.S., and are available to finance;

(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 (including the use of loans, grants, or other repayment mechanisms to implement such programs), (iii) rural development involving the production of electricity from renewable energy resources, or (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 nonfossil 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 nonfossil fuels, (iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or (v) technologies to reduce energy use in buildings.

(c) Mass commuting facilities and related facilities that reduce 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, or (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.

This guidance 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. The **Appendix 1, Terms and Conditions Use of American Recovery and Reinvestment Act of 2009 (ARRA) Funds** provides specific requirements specifically for this bond.

B. Proprietary/Confidential Information

Any restrictions of the use of or inspection of material contained within the application shall be clearly stated in the application itself. Written requests by the Applicant for confidentiality shall be submitted to the GEO in advance of the application submission deadline. Please allocate sufficient time prior to the application submission deadline to allow for a response by the GEO. The Applicant must state specifically what elements of the proposal are to be considered confidential/proprietary and must state the statutory basis for the request under Public (open) Records Act. (Section 24-72-201 et. seq., C.R.S.). Confidential/Proprietary information must be readily identified, marked and separated/packaged from the rest of the proposal. Co-mingling of confidential/proprietary and other information is not acceptable. Neither an application, in its entirety, nor application price information will be considered confidential and proprietary. Any information that will be included in any resulting contract cannot be considered confidential. The GEO will make a written determination as to the apparent validity of any written request for confidentiality. In the event the GEO does not concur with the Applicant's request for confidentiality, the written determination will be sent to the Applicant. Ref. Section 24-72-201 et. seq., C.R.S., as amended, Public (open) Records Act.

C. 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 Colorado. If the applicant is a local government, 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 the GEO, but may not have priority over more “shovel ready” applications.

D. News Releases

News releases pertaining to resulting awards from this application shall NOT be made prior to the announcement of the allocation award or without prior written approval of the State.

E. 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 the GEO at the time of the QECB Application preparation.

F. Inquiries

Applicants should not rely on any other statements, either written or oral, that alter any specification or other term or conditions of this application during the open solicitation period. Applicants should consult with bond counsel regarding the legal requirements and issuance of Qualified Energy Conservation Bonds or other ARRA specific requirements. Other inquiries can be directed to Brett Johnson at Brett.J.Johnson@state.co.us. State Agencies should contact Mary Wickersham at Mary.Wickersham@state.co.us for Bond assistance.

III. QECB Application

A. General Objective

GEO will provide a QECB volume cap allocations for the following purposes:

- Capital expenditures incurred for purposes of reducing energy consumption in publicly-owned buildings by at least 20 percent,
- or-
- Another qualified QECB purpose, as stated above, that has been approved by a vote of the public entity’s residents on November 10, 2009, or that the public entity intends to seek other modes of financing.

B. Awardees of QECB allocations are required to be in full compliance with TABOR.

IV. Response Format & Application Requirements

A. General Instructions

This application, **excluding the required forms and attachments**, shall not exceed five (5) consecutively numbered (bottom center), 8.5x11-inch pages of single-spaced, standard 11-point type with 1-inch margins. NO hard copy applications will be accepted. All electronic copies must be sent to grants@state.co.us.

B. Application Response Requirements

Applicants shall include the following information about the proposed project:

Project Abstract

Provide a brief description of the project or program for which funding is being requested and clearly state how it will help meet the goals and objectives of the QECB program and the American Recovery and Reinvestment Act. The abstract should be no more than 125 words. Please keep this paragraph free of any proprietary information.

Project Narrative

Provide a project background and narrative that demonstrates, with specificity, a thorough explanation of how the project will contribute to, stated goals of the “General Guidelines.” Describe the location of the installation and why the applied technology is appropriate.

Describe the project including the type and size of the energy efficiency and/or renewable energy included and the county(ies) in which the project is located. Provide information on how this fits into the facility’s energy plan or larger related effort. Also include an explanation of the technical merits of the project, including the cost effectiveness of the proposed technology.

Preference will be given to proposals that demonstrate the greatest projected energy savings, cost effectiveness, a performance guarantee through an energy performance contract, and the ability to leverage other funds and partnerships.

Project Budget

Provide an itemized spreadsheet of all project costs, including, but not limited to, personnel, showing budgeted hours and rates, equipment, materials, supplies, subcontractor overhead and profit, etc. Travel costs should be limited to those that are directly essential to accomplishing the project. Include any other funding sources that will be used for this project and indicate any plans to attract additional funding. **Note: Please refer to Section (d) of Appendix 1 as it pertains to specific Wage Rate Requirements.**

For Example;

Project Cost		Project Funding	
GE Boiler Mod 345mm7	\$100,000	Utility Rebate	\$10,000
ABC installers	\$75,000	QECB volume cap allocation (requested in this application)	\$100,000
Permitting Fees	\$500	County EECBG grant (pending)	\$50,000
Commissioning	\$50,000	Facility Capital	\$67,500
Administration	\$1000		
Personnel	\$1000		
Total Project Cost	\$227,500	Total Project Funding	\$227,500

Budget Narrative

Provide a budget narrative that describes how the budget costs are determined and how they relate to the project. Indicate any other funding sources that will be used for this project and describe any plans to attract additional funding. If not included elsewhere in the application, list all grant funds received to date, whether from public or private sources, **including all applications for funding pending with other entities. If funding is not yet secured or awarded from any source, please indicate that clearly.**

PLAN OF FINANCE

Provide an explanation of how the QECB's will be financed (i.e., General Obligation Bonds which would require voter approval, capital leases or certificates of participation, etc), and the term of the loan. Identify the revenue stream, how the annual amount is estimated, and demonstrate, in a table format, how this revenue stream will repay the QECB in the prescribed time period. Also provide an explanation of how these funds are being secured and what safeguards are in place to insure that QECB can be paid back.

Staff Project Management Experience, Qualifications and Facilities Requirements

Describe the project staff responsibilities and qualifications. Biographical sketch of the staff and/or development team to include a brief resume/summary of qualifications and previous accomplishments (for similar projects) for project manager(s).

Describe the internal resources available to the project team or partners, including facilities, major equipment and other technical aspects, permits, and administrative resources that will be required for the project.

Project Tasks

A list of project tasks that must be completed in order for the project to be completed must be submitted. These tasks will directly feed into the milestone progress and will be included in the contract. Tasks should identify core areas of work, lead and the amount of time to complete. A chart (Gantt or similar) should be used to describe timeframes for the project's tasks.

Project Milestones

Include a schedule of project milestones that demonstrate a project start date until the end of the project. Identify what issues/conditions still need to be resolved before the project can begin and what barriers might be foreseeable. The milestones should reflect major events in the life of the project and should help determine progress to success.

Project Impacts

Attachment A includes information on energy savings, energy baseline information and jobs created. Explain how these numbers were derived providing supporting information if appropriate. If sections in **Attachment A** are left blank, provide an explanation.

Required Forms and Attachments

These documents are not included in the five (5) page application limit, but are required as noted:

Attachment A – application summary sheet (submitted in the Excel format provided by GEO) – NOTE, this must be signed by a person legally authorized to bind the applicant to the proposal-required for all applications

C. Application Submission

Applications must be received by 5:00 p.m. (MST) on November 16, 2009.

Only electronic applications will be accepted. Hard copy applications will not be accepted.

Please e-mail your application to grants@state.co.us Subject: "QECB Application – ENTITY NAME." The GEO requests that all materials be included as attachments to one email, however if your documents are too large to send in one email, you may send multiple emails. If you must do this, please use the same email subject each time to assist with processing your materials efficiently.

The application, **excluding attachment A** and shall not exceed five (5) consecutively numbered (bottom center), 8.5x11-inch pages of single-spaced, standard 11-point type with 1-inch margins and be submitted as a single electronic document, in either Adobe PDF or Microsoft Word format. **Attachment A must be submitted as an Excel Spread sheet, in the format provided, without adding, deleting or reformatting rows.**

Incomplete applications or applications received after the deadline will **not** be considered.

Applicants will receive an e-mail auto-response notification of the receipt of their application immediately upon submission.

Please note that **Attachment A** is required for all applications.

V. Evaluation and Award Selection Process

A. Evaluation Team

All applications will be reviewed by an evaluation team comprised of GEO staff, representatives from the State Treasurer's Office and other evaluators as appropriate. Applicants will be notified when/if additional information, documentation or personal interviews with project principals are required. All information required to complete the application for allocation is provided herein. No additional information, including email and phone calls, will be considered during the selection process.

When considering projects, the evaluation team will weigh a number of factors, including but not limited to:

- The amount of energy efficiency gained through the completion of the project;
- The technical merits of the project. Viability includes the ability of the applicant to identify a funding stream to pay off the QECB in a timely manner.
- Feasibility of tasks, budget, timeline and resource capabilities;
- Funds leveraged and comparison of measurable merits. Funds leveraged relates to the composition of current funding sources as compared to the amount of QECB allocation request. Measurable merits relates to CO2 reduction from project and net energy expenditures;
- The quantity and quality of jobs created by the project;
- Geographic diversity

B. Scoring Process & Scale – Energy Efficiency Modifications to Public Buildings

When considering energy efficiency projects in state or local government buildings, reviewers will score proposals in the following categories. A total of 55 points per proposal is possible.

- **Project Development** - When considering the development of the project, reviewers will take into account the project narrative, staff project management experience, qualifications and facilities requirements, project tasks, and project milestones.

0 point – 3 points = this project is not developed. The technology is not proven at a commercial level. There is no sound plan for implementation.

4 points -8 points = this project's development is questionable. The project may have been partly developed but is not feasible based on the present implementation plan. The implementation plan is vague or missing key elements. The applicant is not currently tracking building energy use.

9 points -13 points = this project has a reasonable level of development. The proposed technology is proven, and the implementation plan is primarily thought out. The applicant has demonstrated that the project will result in a minimum 20% reduction in building energy consumption. The applicant has been tracking energy use for less than one year.

14 points – 18 points = this project is well developed and implementation will most likely be successful. The plan is well thought out and is realistic. The applicant has demonstrated that the project will result in a minimum 20% reduction in building energy consumption. The applicant has been tracking energy use for less than one year or more.

19 points – 25 points = this project is completely developed and will most likely be successful. All key elements of the implementation plan have been carefully thought out, organized and planned. Obstacles to completion have been identified and a plan to address them has been created. The applicant has demonstrated that the project will exceed the minimum 20% reduction in building energy consumption. The applicant has

been tracking energy use for one year or more and has an established energy management plan and a person responsible for implementing the plan.

- **Economy and Environment** - Considers the quantity of the jobs to be created and the overall emission reduction (as provided in attachment A) as well as the legitimacy of these reductions estimated as explained in the project impact narrative.

0 points = this project has no additional funding sources leveraged or partners (such as utilities) committed to the project. Job creation and emission reduction estimates are not realistic or absent.

1 points -10 points = leveraged funds and or partners for this project are questionable or insufficient. Job creation and emission reduction estimates are poorly estimated or justified.

11 points -15 points = leveraged funds and or partners for this project are reasonable. QECB funds will account for a large percentage of the project funding, commitment from other partners has been identified (30-50%). Job creation and emission reduction estimates are reasonable but poorly justified or explained.

16 points – 20 points = leveraged funds and or partners for this project are substantial. QECB funds account for a small percentage of the project funding (50-75%). Job creation and emission reduction estimates are reasonable and well justified or explained.

21 points – 25 points = leveraged funds and committed partners will provide the majority of funding and are heavily invested in the project (75% and above). Job creation and emission reduction estimates are reasonable and well justified or explained, and a guarantee of savings is provided.

- **Geographical Diversity** – the QECB will provide funding to a diversity of locations throughout the state. State of Colorado projects involving multiple buildings across multiple counties will be awarded the points associated with the smallest effected county.

1 point= this project is located in a county with a population of more than 100,000.

2 points = *this project is located in a county with a population of 50,000 to 99,999.*

3 points = *this project is located in a county with a population of 25,000 to 49,999.*

4 points = *this project is located in a county with a population of 10,000 to 29,999.*

5 points = *this project is located in a county with a population of less than 10,000.*

When considering applications for projects OTHER THAN energy efficiency projects in public buildings, reviewers will score proposals in the following categories. A total of 65 points per proposal is possible.

C. Scoring Process & Scale -

When considering other types of local government projects and programs to be financed with QECBs, the review team will score proposals in the following categories. A total of 65 points per proposal is possible.

- **Project Development** - When considering the development of the project, reviewers will take into account the project narrative, staff project management experience, qualifications and facilities requirements, project tasks, and project milestones.

0 point – 3 points = this project is not developed. There is no sound plan for implementation.

4 points -8 points = this project's development is questionable. The project may have been partly developed but is not feasible based on the present implementation plan. The implementation plan is vague or missing key elements. The applicant is not currently tracking community energy use.

9 points -13 points = this project has a reasonable level of development. The proposed project or program is an established, tested initiative in another community, and the implementation plan is primarily thought out. The applicant has demonstrated that the project will result in a minimum 3% reduction in community energy consumption. The applicant has been tracking community energy use for less than one year.

19 points – 25 points = this project is completely developed and will most likely be successful. All key elements of the implementation plan have been carefully thought out, organized and planned. Obstacles to completion have been identified and a plan to address them has been created. The applicant has demonstrated that the project will exceed 3% reduction in community energy consumption. The applicant has been tracking community energy use for one year or more and has an established community energy management plan and a person responsible for implementing the plan.

- **Economy and Environment** - Considers the quantity of the jobs to be created and the overall emission reduction (as provided in attachment A) as well as the legitimacy of these reductions estimated as explained in the project impact narrative.

0 points = this project has no additional funding sources leveraged or partners (such as utilities) committed to the project. Job creation and emission reduction estimates are not realistic or absent.

1 points -10 points = leveraged funds and or partners for this project are questionable or insufficient. Job creation and emission reduction estimates are poorly estimated or justified.

11 points -15 points = leveraged funds and or partners for this project are reasonable. QECB funds will account for a large percentage of the project funding, commitment

from other partners has been identified. Job creation and emission reduction estimates are reasonable but poorly justified or explained.

16 points – 20 points = leveraged funds and or partners for this project are substantial. QECB funds account for a small percentage of the project funding. Job creation and emission reduction estimates are reasonable and well justified or explained.

21 points – 25 points = leveraged funds and committed partners will provide the majority of funding and are heavily invested in the project (75% and above). Job creation and emission reduction estimates are reasonable and well justified or explained, and a guarantee of savings is provided.

- **Geographical Diversity** – the QECB will provide funding to a diversity of locations throughout the state.

1 point = this project is located in a county with a population of more than 100,000.

2 points = this project is located in a county with a population of 50,000 to 99,999.

3 points = this project is located in a county with a population of 25,000 to 49,999.

4 points = this project is located in a county with a population of 10,000 to 29,999.

5 points = this project is located in a county with a population of less than 10,000.

D Decisions

Additional financial information may be requested by the GEO from applicants prior to final award determination.

Bonding capacity is limited. Applications meeting all of the program's general policy guidelines may not necessarily receive an award.

The GEO reserves the right to vary from the criteria as necessary or appropriate based on guidelines given by U.S. Treasury and the Internal Revenue Service.

Volume cap allocation decisions will be made on or near the 3rd week of November, 2009 and applicants will be notified of the Selection Committee's determinations via email. Local governments are responsible for issuing the QECB once the volume cap allocations are determined.

The GEO will present selected State government projects to the State General Assembly in the 2010 legislative session. Legislative approval of these projects and the certificate of participation necessary to retire the QECB is required. The State Treasurer will issue QECBs (certificates of participation) on behalf of state government projects.

Volume cap allocation decisions are final. Allocations awarded are based on a competitive process where applications are weighed against other applications. Significant changes in the scope of work after QECBs are issued may result in actions by the U.S. Treasury.

VI. Awarded Applicant Reporting

A. Reporting

All volume cap allocations are conditioned upon veracity of information provided by the applicant and will require accountability and reporting.

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

In addition, a final report shall be submitted to the GEO upon project completion that includes a one page summarization of: new jobs created, jobs retained, economic impacts and environmental impacts of the project as well as any assumptions used to determine that information.