



December 15, 2009

**To: Cities of Kansas City, St. Louis, Springfield and Independence
Counties of Boone, Clay, Greene, Jackson, Jasper, Jefferson, St. Charles and St. Louis**

OFFICIAL NOTICE

Re: Federal Stimulus Bill – Qualified Energy Conservation Bond Allocations

Dear Local Elected Official:

In February 2009, Congress signed into law the omnibus American Recovery and Reinvestment Act of 2009 (“ARRA”). ARRA created new bond program opportunities for state and local government, including the expansion of federal tax credit bond programs. This Notice provides important information for your community relating to an expanded type of tax credit bond: Qualified Energy Conservation Bonds (“QECBs”), a brief description of which is attached to this Notice as Attachment 2.

The QECBs program is capped by a national limitation amount, which was allocated among the States and to certain counties and cities within each state (collectively, the “Original Allocation Designees”). A list of the Original Allocation Designees and the amount allocated to each is attached to this Notice as Attachment 1. Original Allocation Designees should consult with their legal and financial advisors for the details of these bonds and should not rely solely on this Notice or the attachments.

Because QECBs could provide a valuable incentive for both public projects and private development in your community, and since the allocations are limited, this Notice is intended to provide information concerning the specifics and accessibility of the QECBs program. The State recognizes the federal allocation amounts, but also creates a mechanism for maximum distribution of the State’s ultimate allocation. The purpose of the allocation process is to assure that the State as a whole takes full advantage of this federally tax-advantaged bonding opportunity.

An Original Allocation Designee may use its original allocation, but ARRA also allows Original Allocation Designees to reallocate all or a portion of their original allocation back to the State if surplus allocation amounts exist in order to further economic activity in other areas of the State. It is truly a way for local government to participate in the economic recovery of the State as a whole, without regard to boundary or jurisdiction. The Department of Economic Development (the “Department”) has been named as the agency to manage the bond allocation and reallocation process. This Notice outlines how the Department will administer the QECB allocation and how an allocation of QECBs can be used.

The Department hereby notifies you that your jurisdiction is an Original Allocation Designee and has received an allocation of QECBs pursuant to Notice 2009-29 issued by the

Internal Revenue Service on July 20, 2009, in the amounts specified in Attachment 1 to this Notice (the “QECB Allocation”). A copy of IRS Notice 2009-29 is attached to this Notice as Attachment 3.

Pursuant to ARRA and IRS Notice 2009-29, you are notified as follows:

1. Each Original Allocation Designee may, at any time, waive any QECB Allocation by providing written notice, included in this Notice as Attachment 6, to the Department at the address set forth above. Timely waivers will benefit those communities and projects having a need for QECB allocation.

2. Any public entity (including but not limited to an Original Allocation Designee) may apply to the Department for a QECB Allocation. A copy of the QECB Application is attached to this Notice as Attachment 4.

3. Every public entity receiving a QECB allocation (including but not limited to an Original Allocation Designee), must notify the Department in writing of the issuance of QECBs, the form of which is attached to this Notice as Attachment 5, whether the QECBs are issued by the public entity directly, an entity on behalf of the Allocation Designee, or another unrelated state or local governmental issuer.

4. Any public entity that receives a QECB allocation may authorize another eligible issuer to issue QECBs on behalf of the public entity (*e.g.* a county Industrial Development Authority or a county public building corporation). Similarly, a public entity may use another entity authorized by state law to issue bonds (for example, the Missouri Development Finance Board) pursuant to an arrangement where the proceeds of the bonds will be loaned to the entity and used to finance a specific project. As noted in paragraph 3 above, even if the public entity does not itself issue QECBs, it remains responsible for notifying the Department of the issuance of QECBs.

Additional information concerning QECBs can be found at www.ded.mo.gov

If you have any questions concerning this Notice please contact either Sallie Hemenway (573-751-5097 or sallie.hemenway@ded.mo.gov) or Ronda Anderson (573-522-9062 or ronda.anderson@ded.mo.gov).

David D. Kerr
Director

C: Sallie Hemenway
Brenda Horstman
Ronda Anderson

Attachments:

1. Missouri Allocations
2. Overview of QECBs
3. IRS Notice 2009-29
4. QECB Application
5. Report of QECB Issuance
6. Notice of Waiver of QECB Allocation

Attachment 1

Missouri Allocations

TOTAL MISSOURI QECBS ALLOCATION: \$61,329,000
2008 MISSOURI POPULATION: 5,911,605
QECBS ALLOCATION PER CAPITA: \$10.374

<u>Original Allocation Designee</u>	<u>2008 Population</u>	<u>QECBs Allocation</u>
City of Kansas City	450,375	\$4,670,389
City of St. Louis	350,759	3,637,371
City of Springfield	154,777	1,605,037
City of Independence	110,704	1,148,000
Boone County	152,049	1,577,408
Clay County (residual)*	96,594	1,192,333
Greene County (residual)*	109,016	1,130,969
Jackson County (residual)*	313,514	3,656,810
Jasper County	115,049	1,193,557
Jefferson County	215,764	2,238,409
St. Charles County	343,207	3,560,546
St. Louis County	<u>993,512</u>	<u>10,307,031</u>
TOTALS	3,405,320	<u>\$35,917,860</u>
MISSOURI RESIDUAL ALLOCATION		\$25,411,140

* Residual population and allocation of the applicable county after subtracting from the county population any city within the county having a population in excess of 100,000.

Attachment 2

Overview of Qualified Energy Conservation Bonds

The American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (“ARRA”) created several new tax credit bond programs, and greatly expanded others, for use by State and local governments for certain enumerated purposes. Although tax credit bonds are taxable bonds, they provide a Federal tax credit to bond holders on quarterly credit allowance dates. The exact credit rate and maximum maturity date for QECBs are set by the Treasury as of the date on which there is a binding contract for sale of the QECBs. The tax credit works as a Federal subsidy that results in the issuer paying significantly lower interest costs than on a comparable tax-exempt bond. Accordingly, tax credit bonds are subject to numerous restrictions to ensure that bond proceeds are used for their intended purposes. This memorandum focuses on one type of tax credit bond program, Qualified Energy Conservation Bonds, that may be issued for specified energy conservation purposes.

ARRA imposes a national bond volume limitation (the “Volume Cap”) for Qualified Energy Conservation Bonds of \$3.2 Billion, which was allocated among the States and “large local governments” (defined as any county or city having a population of at least 100,000) within the States based on population (collectively, the “Original Allocation Designees”). Any amount allocated to a large local government may be reallocated back to the State or to another eligible issuer of QECBs (generally, political subdivisions and entities empowered to issue bonds on behalf of such entities). In all events, QECBs must be issued to finance qualified conservation purposes located within or attributable to both the jurisdiction of the issuer of the QECBs and the jurisdiction of the Original Allocation Designee. And although there is no deadline by which QECBs must be issued, the amount of QECBs that may be issued cannot exceed the amount allocated to a given issuer.

It is important to remember that Qualified Energy Conservation Bonds are created by Federal tax law, and thus all Missouri bond laws apply. Before determining whether Qualified Energy Conservation Bonds could benefit your community, you must first determine what type of Missouri bond could be issued. In general, if issued as governmental bonds for public purposes, Qualified Energy Conservation Bonds will likely be general obligation bonds, utility revenue bonds, leasehold revenue bonds, certificates of participation or special obligation bonds. Alternatively, if issued for privately owned or used projects, Qualified Energy Conservation Bonds will likely be Chapter 100 Bonds, industrial revenue bonds, industrial development bonds or another type of private activity bond.

ARRA provides that 100% of “Available Project Proceeds” (essentially, sale proceeds plus investment earnings less amounts in a reserve fund) of Qualified Energy Conservation Bonds must be spent to finance “qualified conservation purposes” within three years of the issue date. In addition, the issuer or borrower, as applicable, must enter into a binding commitment with a third party within six months of the issue date to spend at least 10% of the Available Project Proceeds, and not more than 2% of sale proceeds may be used to pay costs of issuing the bonds. Qualified conservation purposes are defined as:

- (1) capital expenditures for the purpose of (a) reducing energy consumption in publicly-owned buildings by at least 20%, (b) implementing green community programs (including the use of loans, grants, or other repayment mechanisms to implement such programs), (c) the production of electricity from renewable energy resources in rural areas, or (d) any of the following qualified facilities if meeting specific criteria set forth under the Code for electricity produced from certain renewable energy resources;
- (2) expenditures for research facilities and research grants to support research in the development of: (a) cellulosic ethanol or nonfossil fuels, (b) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels, (c) increasing the efficiency of existing technologies for producing non-fossil fuels, (d) automobile battery technologies and other technologies to reduce fossil fuels consumption in transportation, or (e) technologies to reduce energy use in buildings;

- (3) expenditures for mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting;
- (4) demonstration projects designed to promote the commercialization of: (a) green building technology, (b) conversion of agricultural waste for use in the production of fuel or otherwise, (c) advanced battery manufacturing technologies, (d) technologies to reduce peak use of electricity, or technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity; or
- (5) public education campaigns to promote energy efficiency.

Additional restrictions apply to “private activity bonds” (defined below), including QECCBs, that do not apply to governmental bonds. Principally, any allocation to a State or large local government must be reallocated in a manner that results in the use of not less than 70% of the allocation to the State or large local government to designate bonds that are not private activity bonds. Without any Treasury Regulations or other guidance from the IRS on this limitation, it appears as though this limitation applies to both the allocation to the State and any reallocation to a large local government. Solely for purposes of this limitation, a special rule for bonds to finance green community programs provides that bonds issued for the purpose of providing loans, grants or other repayment mechanisms for capital expenditures to implement green community programs are not treated as private activity bonds. Secondly, the term “qualified conservation purpose” includes only those expenditures that are considered a capital expenditure for Federal tax purposes. For example, QECCBs may be issued to finance public education campaigns to promote energy efficiency, but, to the extent expenditures for this purpose are not capital expenditures, proceeds of a private activity QECCB may not be used to finance costs of these public education campaigns.

A “private activity bond” is defined as any bond that meets either the private business tests of Code § 141(b) or the private loan financing test of Code § 141(c). In general, the private business tests are met if more than 10% of the proceeds of the issue are (1) used for any private business use, and (2) directly or indirectly (A) secured by any interest in property used for a private business use, or payments in respect of property used in a private business use, or (B) derived from payments in respect of property, or borrowed money used for a private business use. The private loan financing test is met if the proceeds of a QECCB are used to make or finance loans to a private business in excess of the lesser of 5% of QECCB proceeds or \$5,000.

Attachment 3

IRS Notice 2009-29

Attachment 4
QECB Application

State of Missouri
Notice of Intent to Issue
Qualified Energy Conservation Bond

Date _____

City or County _____

Street Address _____

Telephone _____ Fax _____

Name of Chief Elected Official _____

Name of Authorized Representative (if applicable) _____

Amount of Original Allocation of **Qualified Energy Conservation Bonds**: \$ _____

Amount of Qualified Energy Conservation Bonds to be Issued: \$ _____

Estimated Date of Bond Closing: _____

Issuing Entity, if Other than City or County: _____

Amount of Qualified Energy Conservation Bonds Waived (use Waiver Form): \$ _____

Remaining Amount of Qualified Energy Conservation Bonds: \$ _____

(Please attach separate page description of project(s) using QECCB. Include a description of activities, beneficiaries and numbers of jobs created or retained.)

I hereby certify that the city/county of _____, as duly authorized by its governing body, intends to issue Qualified Energy Conservation Bonds, as specified above.

Signature _____ Date _____
Chief Elected Official or Authorized Representative

Submit original form to:
Missouri Department of Economic Development
Qualified Energy Conservation Bonds
301 West High Street, P.O. Box 1157
Jefferson City, Missouri 65102

Attachment 5

Report of QECB Issuance



REPORT OF QUALIFIED ENERGY CONSERVATION BOND ISSUANCE

Issuance of Qualified Energy Conservation Bonds should be reported to the Department of Economic Development using this form. Complete one Report for each bond issue. Please type or print.

Part A – Bond Issuer

Name of Issuer		Issuer's Federal Identification Number		
Issuer's Street Address	County	City or Town		Zip
Issuer's Mailing Address (if different)	PO Box	City or Town		Zip
Name of Issuer's Spokesperson	Title	Telephone	E-mail	
Name of Bond Counsel for Issuer	Firm Name	Telephone	E-mail	
Address	PO Box	City or Town	State	Zip

Part B – Description of Project of Financing

Project Name			
Project's Street Address	City or Town		Zip
Principal Beneficiary Name			
Principal Beneficiary Street Address	City or Town	State	Zip

Part C – Bonds, Terms and Conditions

Name of Bonds	CUSIP number of bond with latest maturity if assigned	Interest Rate(s)
Term of Bond Issue (Principal Amortization Period)	Date Bonds Issued	Expiration Date (Including Extension)
Type of Bond Issued		Disposition of Bond Proceeds
<input type="checkbox"/> Qualified Energy Conservation Bonds Type of bond issued _____		Land
		New Building Construction
		Capital Improvements
		Machinery & Equipment
		Issuance Expenses
		Other _____
		Total amount of bond issuance

Attestation of Issuer

I certify that the above information is accurate to the best of my knowledge and that I am authorized to submit this report on behalf of the bond issuer.

Signature of Issuer's Spokesperson		Date
Printed Name of Issuer's Spokesperson	Title	

Signature of County/City Allocatee

Signature of County/City Representative		Date
Printed Name of County/City Representative	Title	

Send to: Department of Economic Development
Qualified Energy Conservation Bond
301 West High Street
PO Box 1157
Jefferson City, MO 65102

Phone: (573) 751-5097
Fax: (573) 522-5033

Attachment 6

Waiver of Qualified Energy Conservation Bond Allocation

State of Missouri
Qualified Energy Conservation Bond
Notice of Waiver of Allocation

Date _____
City or County _____
Street Address _____
Telephone _____ Fax _____
Name of Chief Elected Official _____
Name of Authorized Representative (if applicable) _____

Amount of Original Allocation of Qualified Energy Conservation Bonds :	\$ _____
Amount of Qualified Energy Conservation Bonds Waived:	\$ _____
Amount of Qualified Energy Conservation Bonds Issued to Date:	\$ _____
Amount of Qualified Energy Conservation Bonds Previously Waived:	\$ _____
Remaining Amount of Qualified Energy Conservation Bond Allocation:	\$ _____

I hereby certify that the city/county of _____, as duly authorized by its governing body, has waived all or a portion of its Qualified Energy Conservation Bond allocation, as specified above.

Signature _____ Date _____
Chief Elected Official or Authorized Representative

Submit original form to: Missouri Department of Economic Development
Qualified Energy Conservation Bonds
301 West High Street, P.O. Box 1157
Jefferson City, Missouri 65102