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County Executive

PRIVATE ACTIVITY BOND PROGRAM (INDUSTRIAL REVENUE BONDS)

WHAT IS PRIVATE ACTIVITY BOND FINANCING?

Private activity bonds are an attractive source of financial assistance to certain eligible economic development projects. They provide profitable firms with capital cost savings stemming from the difference between taxable and tax-exempt interest rates.

Public facilities (e.g. parking structures), which generate a revenue stream, have traditionally been financed by municipalities through tax-exempt “revenue bonds”. Private activity bonds apply this same tax-exempt financing mechanism to the “public purpose” of economic development for certain types of projects which are eligible for tax-exempt bond financing under the federal tax code. The governmental unit borrows money from the private capital markets, secured only by the project’s revenues and other credit support provided by the private company borrower, rather than the government’s full faith and credit. Interest income earned on bonds issued by a governmental entity to finance an eligible project for a private company is exempt from federal, state, and local income taxes, thereby reducing the cost of capital.

WHO IS ELIGIBLE?

Pursuant to Public Act 338 of 1974, the Wayne County Economic Development Corporation (the “EDC”) may issue revenue bonds and use the proceeds thereof to make loans to private companies to finance a “project” (as defined by PA 338) in order to promote economic development within Wayne County. These loans can be made for manufacturing projects, qualified 501(c)(3) corporation projects, solid waste disposal facilities, and certain other types of exempt facilities under Section 142 of the Internal Revenue Code.

For manufacturing projects, 95% of the bond proceeds must be used to acquire land, building, and equipment directly related to the manufacturing process. Warehouse space and other “non-core” items are ineligible unless they are directly related to the manufacturing process, and then are limited to 25% of the project. For the acquisition of an existing facility, a minimum of 15% of the acquisition costs financed with the bond proceeds must be used to make qualifying rehabilitation expenditures of the facility. Used equipment is generally ineligible. Bond proceeds may not be used to finance working capital or inventory.

For a manufacturing facility project, the maximum size of bonds is limited to \$10 million subject to the condition that the total capital expenditures of the company and any related person to the company or principal user of the facility in the municipality where the project is located cannot exceed \$20 million during a six year period measured from three years before and three years after the date of issuance of the bonds.

Public Act 338 also requires that all persons performing work on the construction of the project must be paid prevailing wages in compliance with the state prevailing wage law and/or the federal Davis Bacon law.

There is no limit on the size of bonds issued to finance qualified 501(c)(3) corporation projects, solid waste disposal facilities, or other exempt facilities under Section 142 of the Internal Revenue Code.

WHAT IS THE APPLICATION PROCESS?

The following steps summarize the actions necessary to obtain tax-exempt bond financing through the EDC:

1. Applicant prepares an application for the loan and submits it to EDC staff by the first day of the month to be on the agenda for that month’s EDC Board meeting. (The applicant or a representative of the applicant may be asked to make a brief presentation to the EDC Board describing the project.)
2. EDC Board considers an inducement resolution at its public meeting recognizing the public purpose of the project.
3. Applicant structures the financing and bond counsel begins to prepare documents.
4. County Board of Commissioners appoints two additional neighborhood directors to the EDC Board for the project. EDC staff and Applicant develop a Project Plan in accordance with the requirements of PA 338. Also, the local municipality where the project is located approves the project plan.

5. EDC staff publishes a public hearing notice at least 14 days prior to the date of hearing (Please note: applicant pays for publication costs); holds public hearing and obtains required government approvals.
6. Financing documents are prepared by bond counsel and reviewed and accepted by all parties to the transaction.
7. EDC Board adopts a bond resolution authorizing the issuance of the bonds.
8. EDC, borrower, purchaser and bond counsel close on the project financing.

EDC FEE SCHEDULE

A non-refundable fee shall be due and payable in the sum of \$1,000 at the time of filing the application.

The issuance fee is required on or before the closing of the project financing. The fee structure is: 1/4 of 1% of the face amount of the bond.