

**Private Activity Bond Authority Review Board
Policies and Procedures
for
Manufacturing Facility Applications**

The Private Activity Authority Bond Review Board (PAB) for the State of Utah is the designated allocating and administrating authority for tax-exempt bonds commonly referred to as “Volume Cap.” Each year the state of Utah is granted authority by federal regulations to allocate tax-exempt bonds (Volume Cap) for qualified developments. The percentage of the annual Volume Cap allocated for manufacturing projects has been defined in statute by the State Legislature. The PAB Program runs on a calendar year. In January of each year, the State’s Volume Cap is divided by the designated percentages into the authorized accounts. Multi-Family affordable housing developments and manufacturing projects receive equal percentages from the Small Issues Account. On July 1, the unused Volume Cap for Multi-Family housing, manufacturing facilities, qualified redevelopment project and exempt facilities is combined into the Pool Account with 50% of the total cap redistributed to the manufacturing category. All unused Volume Cap is combined in the Pool Account on October 1. Any volume cap not allocated to specific projects is distributed by the PAB Board in the December Board Meeting according to the governing rules.

In response to the intense competition for Volume Cap and recognizing it is a scarce and important financial resource, PAB has approved the Application for Manufacturing Facilities and has also adopted guidelines to evaluate the applications for manufacturing facilities. Applications will be evaluated by certain criteria established by PAB as outlined and written in the enabling legislation. PAB reserves the right to change or amend the criteria when, or if, PAB deems necessary and giving sufficient notice to the public.

The criteria used to evaluate the applications are guidelines used by the applicants, staff and the Private Activity Bond Authority Review Board. The PAB Board reserves the right to accept or reject the conclusions of the staff’s evaluations and recommendations. The Board will exercise its’ prerogative in a prudent manner; furthermore, it reserves the right not to allocate any tax-exempt Volume Cap at any meeting(s) held for that purpose.

PAB will determine the time and place of the public meetings for the allocation of Volume Cap.

The allocation of tax-exempt bonds for a manufacturing facility must meet the goals of PAB, which are outlined as follows:

Application - Creation of New Jobs

A primary goal of bonds provided by PAB is to generate new jobs. In evaluating this, only the jobs created in the first three years of the facility’s operations are considered in the evaluation, although new jobs in the future are important. Further, only the direct

jobs or those at the facility are considered. Companies building and operating a new facility or renovating an older building in areas of high unemployment receive special consideration.

Above Average Wages

Manufacturing facilities that generate new jobs or retain existing jobs at higher than average wages meet an important goal of the program. Additionally, the distribution of wages for new and existing jobs is an important and related consideration. If possible, the facility's wages will be compared to the community in which the facility is located. If data is not available, they will be compared to the countywide wages.

Retention of Jobs

In this fluid economic environment, retaining existing jobs is as important as creating new jobs. Recognizing it is difficult to quantify retention, applicants should present as much information and data regarding job retention as possible and its impact on the community.

Training and Education of Employees

Companies offering job training, education and assistance to an employee's education will be favorably considered by PAB. For this consideration, applicants are required to detail the job and education programs offered by the company and if possible, provide data summarizing employee participation.

Bonds/Job Ratio

The efficient use of Volume Cap is a singularly important objective. One measure used to gauge the efficiency is a bond per job ratio or the amount of bonds requested per new job created. Using less Volume Cap allocation per new job is positive. To achieve this, applicants are encouraged to combine bonds with other financing.

Community Support

PAB considers community support important. Community support includes an approved TEFRA Hearing, financial support, zoning approval, the reaction of special improvement districts, tax increment financing and/or deferral or waiver of fees. As evidenced by these examples, community support must be a tangible contribution to the proposed project.

Building and Equipment

Tax-exempt bonds can finance the construction or renovation of manufacturing facilities and the acquisition of new and used equipment. It is the responsibility of the applicant to demonstrate that these costs and expenses are competitive.

Need

Too often applicants express the need for Volume Cap as simply wanting a lower interest rate. The application requires a realistic cash flow for the first three (3) years of operation, which demonstrates the need for tax-exempt financing. As part of the cash flow analysis, the applicant should also compare variable and fixed interest rates with an explanation for their selection. If the applicant is making an equity contribution, this should be explained in detail.

Ready-To-Go Status

Property for the manufacturing facility must be zoned for use. This is a threshold requirement. The applicant should also address:

- Proximity of infrastructure to site.
- Need for special infrastructure (i.e. spur line).
- Environmental study, if required by the lender.
- Current title report and site plan of project.
- If available, building description (this should also be included in construction costs).

Financing

PAB allocations for manufacturing projects face a limited period to close the bonds, depending when the volume cap was awarded. It is vital the applicant detail the status of the project's financing at the time of application. Other related steps are:

- The selection of bond counsel.
- The selection of the investment banker; or if a private placement, the buyer of the bonds.
- Obtaining detailed commitment letters from all financial entities involved.
- Obtaining bond counsel's opinion letter stating the project qualifies to use tax-exempt bonds.

Applicants are encouraged to have the necessary financing steps completed at time of submission.

Applications will be evaluated using these factors. Applicants are responsible to provide complete, accurate and verifiable information. The PAB Review Board reserves the right to use other criteria, if appropriate.

Application Process

Persons or entities applying for tax-exempt bond financing must comply with the following procedures. Failure to comply with any procedure or requirement can result in disqualification of the application. PAB Staff is willing to assist applicants and answer questions regarding the application process and evaluation. Applicants are encouraged to use this resource; however, staff is not allowed to make suggestions, recommendations or otherwise assist an applicant regarding the proposed project.

An application for tax-exempt bonds is available through a link on the web site for the Utah Governor's Office of Economic Development, Private Activity Bond Authority Review Board. <http://business.utah.gov/relocate/PAB>. Prior to application submission, staff is available to answer questions from the applicant. A preapplication meeting can be arranged with staff.

Submit two (2) paper copies of the completed and **signed** PAB Application, including all applicable exhibits and one (1) electronic copy on CD. Applications and **application fees** must be delivered to the Utah Governor's Office of Economic Development, 60 East South Temple, 3rd Floor, Salt Lake City, 84111, no later than 5:00 p.m., on the final date of submission. Late applications will not be accepted for that cycle.

Application components include, but are not limited to:

- Complete application with signature and all necessary exhibits.
- **Non-refundable fee**. (Schedule of fees available on the PAB website.)
- Brief narrative/description of the development.
- Evidence of site control.
- Signed letters of intent or commitment from all financial sources (banks, lenders, investors) detailing terms and conditions of commitment(s).
- Resumes and financial statements for the applicant and/or sponsor.
- Evidence of property zoning.
- Development schedule of activities, including commencement and completion dates of construction and bond closing dates.
- Resumes of development team: architect, general contractor and project manager.

Once the application is submitted no further information can be submitted unless requested by staff.

PAB Staff will review the application as to its completeness, including contacting the lender and appropriate city and/or county departments. In the event staff requests additional information or clarification, the applicant has 10 working days to respond. Failure to do so can result in the rejection of the application for the current round.

Staff will rate the project using the goals and objectives established by the PAB Board. Developments must meet PAB threshold qualifications, which are, appropriate zoning for the facility and evidence of site control.

PAB has established priorities as guidelines for the allocation of Volume Cap. PAB may consider such additional criteria it deems necessary in its discretion to achieve maximum benefit of this valuable resource.

After review by staff, if there is a disagreement or inconsistency with any information submitted the applicant will be notified by e-mail outlining the difference(s). The applicant will have ten (10) working days to respond to staff's request. PAB reserves the right to disqualify any application for incompleteness or other failings. If disqualified,

the applicant will be notified via e-mail or letter. A meeting with PAB Staff can be requested for clarification of the disqualification.

Applicants will have the opportunity to present the details of their project to the PAB Board. Only the applicant can make the presentation. The applicant can invite others to the meeting but unless asked a specific question by the Board, they may not add to the presentation. Applicants will have a specified amount of time to make the presentation unless extended by the Board.

Applicants awarded Volume Cap may not transfer the award to other projects and/or persons. **All costs incurred in the application or development process are the sole responsibility of the applicant.**

Complying with Federal regulations, the PAB Board can award a maximum allocation of \$10 million in Volume Cap for any one manufacturing facility project. Each application will be evaluated on its own merits and what benefits the State will gain if funded, e.g., new or additional jobs, higher salaries and/or wages, new technology, new processes, potential of helping the multiplier factor, long-range benefits, etc.

PAB may disallow developments with a conflict of interest, identity or affiliation between any of the principal parties. PAB may consider the applicant's financial, development and/or management abilities beyond the information provided in the application as factors for selection.

All decisions of the PAB Board are subject to additional conditions, restrictions and requirements as determined by PAB in its sole discretion. Applicants will be notified in writing of the additional requirements.

PAB is committed to a policy, which prohibits discrimination against persons based on race, religion, gender, national origin, handicap, familial status or age in its program.

Process for Extensions

Manufacturing projects approved for Volume Cap must close within the same calendar year in which the allocation was received. Closing (selling or placement of the bonds) must occur no later than the third Saturday in December of the year of allocation.

Manufacturing projects have different rules regarding extension requests than those of other Private Activity Bond projects. Applicants are encouraged to review the specific rules for manufacturing or make inquiries from bond counsel.

Recognizing the complexity of tax-exempt financing, extensions may be requested by those who have been awarded Volume Cap. Approval of the Board is required for all extensions. Extensions are for 90 days.

The PAB Board, without requiring a fee or imposing any special conditions, will approve the first extension after the date of allocation.

Extensions after the first extension must meet the following:

- A fee for the extension will be required (schedule of fees is available on the web site).
- Acting on behalf of the board, additional information can be requested and such information **must** be submitted two (2) weeks before the Board Meeting. Failure to comply with the request can result in disqualification.
- If there are **any** changes to the project, the applicant is required to notify staff as soon as possible, prior to the next PAB Board Meeting. If these changes significantly alter the project, the applicant may be required to submit a new application. PAB reserves the right to withdraw the original allocation and evaluate the newer application.
- A revised schedule of activities.
- A summary detailing the reason(s) for the extension.

At the discretion of the PAB Board, applicants may make a brief presentation explaining the need for the extension. PAB reserves the right to postpone a decision for any reason.

If the PAB Board does not grant an extension, the volume cap is automatically relinquished back to the PAB Board. The applicant can resubmit a new application at any time for their project. The applicant must pay the full application fee. The application shall be reviewed without prejudice.

Compliance

Any conditions or restrictions required by PAB must be adhered to. The applicant agrees to provide documentation demonstrating compliance.

The applicant understands that representations made in the application are binding and subject to verification by PAB or its agent(s). PAB also understands the uncertainty of meeting some representations (sales and cash flow projections, construction costs, financing costs) and acknowledges the applicant is not strictly held to these representations.

If for any reason, the applicant is unable to meet conditions or restrictions required by PAB, the applicant will notify PAB in writing as to the circumstances preventing or modifying compliance. PAB reserves the right to accept or reject explanation.

The Private Activity Bond Authority Review Board implements an evaluation process to objectively compare competing applications to ensure an optimum use of the State's Volume Cap.