

Private Activity Bond Authority Program
ADMINISTRATIVE RULE

R357. Governor, Economic Development.

R357-8. Allocation of Private Activity Bond Volume Cap.

R357-8-1. Purpose.

The purpose of this rule is to establish a formula for determining the amount of volume cap to be allocated to an applicant applying for an allocation of private activity bond volume cap.

R357-8-2. Authority.

UCA 63M-1-3004 requires the Private Activity Bond Review Board to promulgate rules for the allocation of volume cap for private activity bonds.

R357-8-3. Definitions.

(1) "Applicant" means an issuing authority submitting an application for an allocation of volume cap or a project sponsor submitting an application on behalf of an issuing authority for an allocation of volume cap.

(2) "Available Volume Cap" means the unencumbered volume cap.

(3) "Application" means:

- (a) the State of Utah Federal Low-Income Housing Credit Consolidated Application Form for multi-family applicants;
- (b) the Private Activity Bond Authority Manufacturing Facility Application for the manufacturing, redevelopment or exempt facility applicants; or
- (c) the Private Activity Bond Authority Application for Single Family or Student Loan applicants.

(4) "Project" or "Program" means the applicant's plan for which the private activity bonds are being sought.

(5) All other terms are used as defined by UCA 63M-1-3002.

R357-8-4. Formula for Allocating Volume Cap.

(1) Allocations of the volume cap will be made during each calendar year based upon available volume cap. Availability shall depend upon the date an applicant submits a completed application.

(2) The decision to allocate volume cap to an applicant shall be determined by the board of review.

(a) When deciding to allocate volume cap to an applicant, the board of review shall consider the criteria outlined in UCA 63M-1-3005 and shall consider the following additional criteria.

(i) Multi-Family Housing applicants:

- (A) Bond amount per unit;
- (B) Percentage of private activity bonds per percentage of total cost;
- (C) Bond amount per number of households served;
- (D) Percentage of public financing;
- (E) Total cost per unit;
- (F) Percentage of developer fee contributed to project;
- (G) Average rent as a percentage of Area Median Income;
- (H) Number of special needs units;
- (I) Cash flow per unit;
- (J) Percentage of taxable bonds;
- (K) Project location--stronger consideration is given to projects located in:
 - (I) Underserved areas;
 - (II) Communities without projects; and
 - (III) Difficult to develop areas as defined by HUD.
- (L) Project characteristics including:
 - (I) Day Care;
 - (II) Education center;
 - (III) Applicant's experience with bonds; and
 - (IV) Size of project developed.
- (M) Other considerations deemed appropriate by the board of review.

(ii) Manufacturing Facility, Redevelopment and Exempt Facilities applicants:

- (A) New job creation;
- (B) Retention of jobs;
- (C) Training and education of employees;
- (D) Bond amount to jobs ratio;
- (E) Jobs created and/or retained that provide above average wages when compared to the community average wage;
- (F) Demonstrated need for tax-exempt financing;

- (I) Show of realistic cash flow for the first three years of operation; and
- (II) Explanation for selecting variable or fixed rates.
- (G) Community Support;
 - (I) Financial support;
 - (II) Zoning approval;
 - (III) Tax increment financing; and
 - (IV) Deferral of fees.
- (H) Competitive costs for construction and equipment related expenses;
- (I) Ready-to-go Status;
 - (I) Manufacturing Facility zoned for use;
 - (II) Proximity of infrastructure to site;
 - (III) Need for special infrastructure;
 - (IV) Environmental study, if required by lender;
 - (V) Current title report and site plan of project; and
 - (VI) Building description.
- (J) Status of project's financing at time of application;
- (K) Selection of bond counsel;
- (L) Letter from bond counsel opining the project qualifies for private activity bonds;
- (M) Selection of investment banker or, if private placement, buyer of the bonds;
- (N) Detailed commitment letters from financial entities involved;
- (O) Ability to cause bonds to be issued within the calendar year of allocation; and
- (P) Other considerations deemed appropriate by the board of review.

(iii) Student Loan and Single Family Housing applicants:

- (A) Completed application; and
- (B) Payment of all mandatory fees.

(iv) All applicants:

- (A) Overall community need and impact of the project or program;
- (B) Applicant's past and current experience and utilization of private activity bonds; and
- (C) Other considerations deemed appropriate by the board of review.

(b) When considering multiple applications at a meeting, the board of review may choose to award each applicant an equal share, pro rata share, or other division of available volume cap determined by the Board, provided that each applicant

shall have submitted its application prior to the deadline posted on the website of the board of review.

(c) The staff of the board of review will work with each applicant prior to each board of review meeting to ensure that all materials necessary to be considered by the board of review are completed and available at such meeting. Forms of applications and other materials shall be made available on the website of the board of review. Applications will not be considered unless and until all materials are provided and complete.