

PART 20

BOND-VOLUME ALLOCATION

SECTION 2001. PURPOSE AND AUTHORITY. The purpose of this Part is to describe the requirements of the Schoharie County Industrial Development Agency (the "Agency") pursuant to Title One of Article 18-A of General Municipal Law (collectively, the "Act") and Chapter 110 of the Laws of 2008 (the "Private Activity Bond Allocation Act of 2008").

SECTION 2002. DEFINITIONS. All words and terms used herein and defined in the Act shall have the meanings assigned to them in the Act, unless otherwise defined herein or unless the context or use indicates another meaning of intent. The following words and terms used herein shall have the respective meanings set forth below, unless the context or use indicates another meaning or intent:

"Code" means the Internal Revenue Code of 1986, as amended.

"Volume Cap" means the amount of tax-exempt private activity bonds that may be issued pursuant to Section 146 of the Code.

SECTION 2003. BACKGROUND. The Private Activity Bond Allocation Act of 2008 describes the procedures and requirements for the Agency to obtain portions of the New York State Volume Cap.

SECTION 2004. REQUIREMENTS. Attached to this Part is a copy of a Memorandum dated July 24, 2008 from the New York State Department of Economic Development describing the requirements of the Private Activity Bond Allocation Act of 2008.

SECTION 2005. FORMS. Attached to this Part are the following forms to be used by the Agency in connection with complying with the requirements of the Private Activity Bond Allocation Act of 2008:

- (A) Application for Additional Allocation from the Statewide Reserve.
- (B) Request for Certification.
- (C) Overlapping Jurisdictions: Election to Surrender Share.

MEMORANDUM

July 24, 2008

TO: Industrial Development Agencies
FROM: Robert W. Meyer *RWM*
SUBJECT: Private Activity Allocations for 2008

The Legislature has passed and Governor Paterson has signed into law the Private Activity Bond Allocation Act of 2008 (Chapter 110 Laws of 2008). This law establishes a system for allocating the State's Private Activity Bond Volume Cap that is similar in structure and process to that which has been in effect for several years. Following are some of the key features of the law which may affect upon your activities:

- (1) Initial Allocations -- Each industrial development agency receives an initial allocation that is computed by applying the percentage that the population within the agency's jurisdiction bears to the total State population, to one-third of the State's Volume Cap. In the case of overlapping jurisdictions (e.g., a county and a town) the population of the overlapping jurisdiction is divided equally between the two agencies for the purpose of computing the allocation. A notification of your initial allocation is enclosed.
- (2) Bond Reserve -- One-third of the State's Volume Cap is set aside as a Statewide Bond Reserve. If you have a project that requires an allocation in excess of your agency's remaining initial allocation, you may apply to the Commissioner of Economic Development for a supplemental allocation from the Statewide Bond Reserve. An application for this purpose is enclosed and will be required along with the authorization for the release of Unemployment Insurance Records.
- (3) If your agency received an allocation this year prior to the enactment of Chapter 110, under the interim process established by Governor Paterson, the amount of that allocation has been deducted from your agency's set aside and any excess from the Statewide Bond Reserve. This adjustment is not reflected in the enclosed notification.

New York State Department of Economic Development
30 South Pearl Street Albany New York 12245 Tel 518 292 5100
Website www.empire.state.ny.us

- (4) Transfer of allocations -- The law permits initial allocations to be transferred between agencies with overlapping jurisdictions. The Department of Economic Development must be notified if this occurs, using the enclosed form.
- (5) Allocation Recapture -- On or before October 1, 2008, your agency must report to the Commissioner of Economic Development on the status of your allocation and anticipated bond issuing activity for the remainder of 2008. On October 15, 2008, any unused and uncommitted local allocations will be transferred to the Statewide Bond Reserve to be available for reallocation.
- (6) Carryforward Allocations -- Federal Tax Law permits the carryforward of unused Volume Cap for public purpose projects, but not for manufacturing projects. Eligible projects include housing, solid waste, sewage, water and energy. Carryforward elections by local agencies may be made only after approval by the Commissioner of Economic Development. If you wish to apply for an allocation for the purpose of filing a carryforward election, please notify us by November 15 and supply us with as much detail as possible about the project for which the carryforward is needed.
- (7) Access to Employment Opportunities -- the law requires that any new employment opportunities created in connection with manufacturing projects financed with qualified small issue bonds be listed with the State Job Service and the administrative entity of the service delivery area created pursuant to the Job Training Partnership Act. It further requires that in filling these jobs, consideration be given to the JTPA-eligible applicants referred by these agencies. Instructions on the implementation of this provision are enclosed.

Encs.

**EMPIRE STATE DEVELOPMENT
APPLICATION FOR ADDITIONAL ALLOCATION
FROM THE STATEWIDE RESERVE**

Name and of Issuing Agency and contact information:

| | |
|---|-----------------|
| Amount of initial allocation | \$ _____ |
| Amount of previous allocation(s) from the reserve | \$ _____ |
| Total bonds issued from above allocations | \$ _____ |
| Amount of additional allocation requested | \$ _____ |

Principal User FEIN # _____

NYS UI Employer Registration # _____

List the Principal User and Use, the location, and amount for each project for which additional allocation is requested. Please detail the impact on workforce, business operations, and economic activity resulting from the proposed use of allocation. Attach additional pages as necessary.

Proposed Project Costs and Financing

| | |
|--|-----------------|
| IDA Financing (would include bond issuances) | \$ _____ |
| Company equity | \$ _____ |
| Other grants | \$ _____ |
| Private loans | \$ _____ |
| Total Project Cost | \$ _____ |

Signed _____
(for the Issuing Agency)

Date _____

Attached: Copy of "Inducement Resolution" and copy of firm's application for Incentives and Services to IDA.

REQUEST FOR CERTIFICATION

The _____ (the Issuer) hereby requests a Certification to fulfill the information reporting requirements provided in the Internal Revenue Code, Section 194(e). The undersigned, who is the _____ of the Issuer certifies that the bonds issued for the project(s) and the amounts listed below:

- (i) are subject to the State ceiling;
- (ii) have been issued from an initial allocation or Statewide Reserve allocation received by the Issuer; and
- (iii) that the aggregate face amount of the Private Activity Bonds listed, when added to the aggregate face amount of tax-exempt Private Activity Bonds previously issued by such Issuer since January 1, 2008, does not exceed this Issuer's 2008 Private Activity Bond allocation pursuant to Section 146 of the Code.

ISSUER

BY:

DATE:

Title of Issue

Amount

Date Issued

OVERLAPPING JURISDICTIONS: ELECTION TO SURRENDER SHARE

Pursuant to Section § of Chapter 110, Laws of 2008, the _____
Industrial Development Agency, a local agency, hereby elects to surrender ~~all or a portion of its~~
private activity bond volume allocation ~~for~~ calendar year 2008, an amount equal to
\$ _____ to the _____ Industrial Development Agency, another
local agency with overlapping jurisdiction, and agrees that such election is effective immediately.

Date:

By:

For:

Political Subdivision
Electing to Surrender

By:

For:

Industrial Development Agency
Recipient of Surrendered Allocation