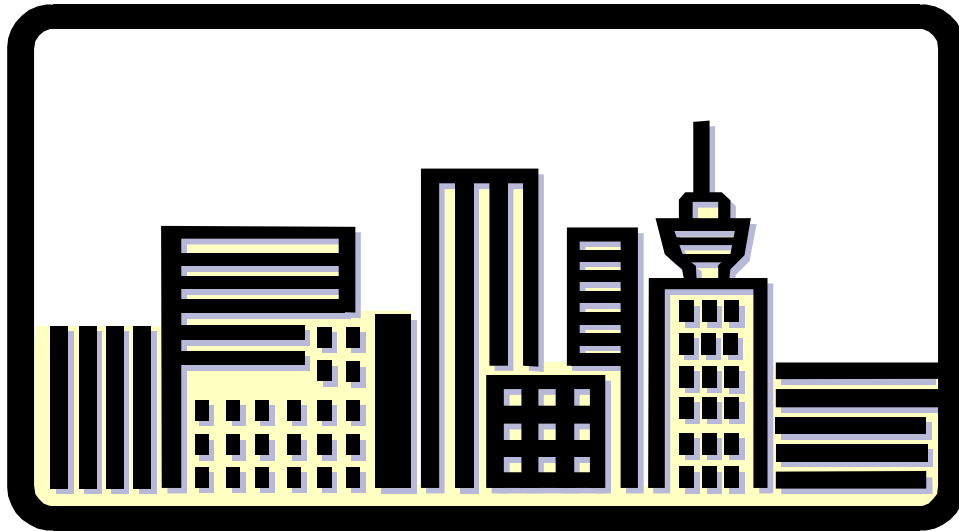


## INFORMATION REQUIREMENTS

### FOR PROJECTS TO BE REVIEWED FOR POSSIBLE ALLOCATION OF PRIVATE ACTIVITY BOND VOLUME CAP FROM DIRECTOR'S DISCRETION CATEGORY



#### PLEASE NOTE:

The Arizona Commerce Authority will soon update the statutes for the Private Activity Bond program (A.R.S. §35-901 *et seq.*), to reflect the 2011 legislative changes made via [House Bill 2001](#). Amendments to the Private Activity Bond program made under the bill include:

- On July 1, 2011, the Arizona Commerce Authority succeeds to the remaining functions and responsibilities formerly performed by the Arizona Department of Commerce;
- Any reference to "department" in this section is considered to refer to the Arizona Commerce Authority;
- Any reference to "director" in this section is considered to refer to the Chief Executive Officer (CEO) of the Arizona Commerce Authority;

# **INFORMATION REQUIREMENTS FOR PROJECTS TO BE REVIEWED FOR DIRECTOR'S DISCRETION**

## **Introduction**

Arizona Revised Statutes §35-902(B) states that ten per cent of the state ceiling of private activity bond volume cap shall be allocated to projects that are designated at the sole discretion of the director of the Arizona Department of Commerce. In order to facilitate a fully informed orderly process of review for each Project seeking volume cap from the Director, this pamphlet setting forth minimum information requirements has been established.

## **Application Procedures**

Commerce requires all applicants requesting director's discretion volume cap to submit to Commerce, two (2) complete applications in accordance with the requirements of this pamphlet. An application shall be submitted by the industrial development authority, ("Corporation"), the AzHFA or on behalf of the Corporation by the User, bond counsel or underwriter as so authorized by the Corporation. Copies of the application will be distributed to other persons, as Commerce deems necessary. No application will be considered completed unless all documents required by this pamphlet are submitted.

The application, files and records of the Applicant (and any Guarantor) filed with Commerce will be available for inspection by the public. Thus the Applicant, by filing the application, agrees that any information delivered to Commerce by or on behalf of such Applicant is not privileged and may be disclosed to the public. By making the application, the Applicant is expected to have disclosed any and all matters, which could be in any way material to the proposed financing at the date of application.

## **Application Format**

Material must be in 8-1/2 x 11 format, side bound, indexed and tabbed to correspond with the enumeration prescribed below. Exceptions: items of significant volume may be submitted as separate bound items. The following items must be tabbed as follows:

Please provide a copy of the application made to the Industrial Development Authority or the Arizona Housing Finance Authority in addition to the information listed below:

## **Parties**

1. With respect to the Applicant, User or beneficiary of the Bond proceeds (if not the Applicant) and the Guarantors, provide the following information:
  - a. Name:
  - b. Type of legal entity (if 501(c)(3) provide IRS determination letter):
  - c. Address:
  - d. Phone:
  - e. Fax:
  - f. E-mail:
  - g. Contact person:
  
2. Issuer
  - a. Name:
  - b. Address:
  - c. Phone:
  - d. Fax:
  - e. E-mail:

- f. Contact person:
- 3. Underwriter
  - a. Name:
  - b. Address:
  - c. Phone:
  - d. Fax:
  - e. E-mail:
  - f. Contact person:
- 4. Bond Counsel
  - a. Name:
  - b. Address:
  - c. Phone:
  - d. Fax:
  - e. E-mail:
  - f. Contact person:

### Project

1. Short statement describing the type of Project, including:
  - a. Reference to the relevant sections of the Internal Revenue Code and regulations that cause the financing to be tax-exempt;
  - b. The timetable for acquisition or construction and commencing operations; and
  - c. The total investment made in connection with the Project if different from the amount of the Bonds.
2. Description of Project location (by address if available), name of present owner, if not the Applicant, of the Project, zoning and the environmental impact of the Project on the area.
3. Describe in detail the public benefit of the Project. For example, number of jobs created; average wages/salaries of jobs created; benefits available to employees; Project's impact on the Local or State tax base or amount of taxes paid; economic benefits to the local and state economy; market area served by utility extension; type and number of set aside units; any special needs populations served; special services; and any other public benefit.
4. Provide Project financial information, including but not limited to Project pro forma income and expense statement for five (5) years, including debt service coverage ratios of the bonds. The financial statements should clearly state all material assumptions. For existing Projects, submit the past three (3) years income and expense statements.
5. Terms of the purchase of the Project or Project land.

## Applicant/User/Guarantor

1. Submit the following:
  - a. Short statement of the type of business engaged in by the Applicant.
  - b. Description of the Applicant's corporate structure, including Applicant's parent, subsidiaries, affiliated corporation and general partners.
  - c. Description of Applicant's (or User's) experience in operating other projects similar to the Project for which volume cap is requested.
  - d. Provide last three years (audited, if available), financial statements and most recent quarterly reports for the Applicant, User and Guarantor.
  
2. Submit the following:
  - a. A statement describing any pending litigation either by or against the User, its subsidiaries or any related concern. If litigation of any nature is pending or threatened concerning either the Project, proposed site, or the bonds sought to be issued, such litigation must be noted.
  - b. A list of all executive or managing officers, directors and general partners of the Applicant and User. The application must state if any such officer, director, general partner or officer, director or general partner of any Related Concerns has been convicted, is currently under indictment or is the subject of a complaint alleging the commission of a felony or of a misdemeanor involving fraud or moral turpitude in any court of any state or of the courts of the United States or Canada or is now or ever has been charged or convicted of any civil, administrative or criminal offense regarding or growing out of the conduct of the business of the User or a similar Concern or out of the issuance, sale or solicitation of any type of security.

## Bonds

1. Describe the terms and provisions of all Bonds and other financial commitments, including but not limited to estimated debt service schedules. In the case of a bond structure that does not allow bond proceeds to be spent on the Project on the day of bond closing, provide a complete list of all conditions that must be satisfied in order for all Bond proceeds to be spent on Project costs and the date each condition is expected to be satisfied.
2. Provide a detailed sources and uses of funds.
3. Provide a detailed list of all costs of issuance.
4. Provide bond rating, if applicable
5. Describe all credit enhancements for the Bonds.
6. Discuss the method of sale, including but not limited to:
  - a. Timetable for mailing the preliminary official statements, bond sale and bond closing
  - b. Public or private sale; and
  - c. Investor suitability letters, minimum denominations or other transfer restrictions;
7. Copy of the IDA or AzHFA approval resolution.

## Miscellaneous

1. With respect to any multifamily residential rental projects:
  - a. Provide an independent market demand analysis or other third party information which demonstrates demand for the Project. All market studies submitted should conform to the Department of Housing's Market Study Guide. The guide is available by contacting the Department of Housing at (602) 771-1000 or on the Department of Housing website at <http://www.housingaz.com/>
  - b. Provide a list of all apartment projects (including the number of units) within a two-mile radius of the Project;
  - c. Provide a schedule of rents and fees to be charged for the different units;
  - d. Provide a schedule of Project expenses;
  - e. Provide a marketing plan for low and moderate-income families and any other special needs populations.
2. Provide an Affidavit to be executed by a general partner, managing partner, one officer or one director of the Applicant, stating that all facts and statements contained in the materials and the attachments are true and correct to the best of such general partner's, managing partner's, officer's or director's knowledge and belief that he/she knows of no material adverse fact relating to the Applicant and/or User having authority to make such statement and the application is made in accordance with these requirements and the Applicant consents to all investigations deemed reasonably necessary by Commerce as set forth therein.
3. An application and all exhibits, appendices and attachments thereto and all legal proceedings submitted to Commerce are an "instrument" for purposes of A.R.S. §39-161. The knowing inclusion of any false information is a Class 6 felony.
4. The information requested by this pamphlet will be considered to set forth minimum requirements and Commerce reserves the right to add additional requirements on a case-by-case basis.
5. All applications shall be delivered to:

Arizona Commerce Authority  
Attn: Annabelle Molina  
333 North Central Avenue | Suite 1900  
Phoenix, AZ 85004
6. Commerce and its members are covered by Arizona's conflict of Interest Law (Section §38-501, et seq., Arizona Revised Statutes). The Applicant should take every precaution available to it to learn of any possible conflict between itself, Commerce or officers or employees of Commerce or any "relative" (as defined in the Conflict of Interest Law) of any of the foregoing which might prohibit Commerce from completing the financing, especially where construction or other contracts may be signed before the bonds are authorized or issued.

## Review

1. Commerce may refer the information to its legal counsel, financial advisor, and such others, as it deems necessary for their review.
2. The Director's decision in selecting a Project for receipt of volume cap is made solely in her or his sole and absolute discretion and is final.
3. It is the department's policy that bonds which are to be publicly placed shall receive an investment grade rating of "A" or higher from a nationally recognized rating organization, or the bond recipient company is both a registered reporting company under the federal securities laws and possesses a "BBB" rating or better. This clause will be retroactive for all carry forward applications submitted on or after December 15, 2007 and hence forth pursuant to the 34 Act.
4. Any bonds not rated or rated in a category less than a "BBB" shall be sold in a private placement and shall be purchased, and transfer restricted to, Accredited Investors or Qualified Institutional Buyers as those terms are redefined in the federal securities laws. This clause will be retroactive for all carry forward applications submitted on or after December 15, 2007 and hence forth pursuant to the 34 Act.
5. Upon receipt of the complete information required in this pamphlet, Commerce will commence a review and analysis process lasting not more than three weeks. Applicant will be notified of the Director's Discretion determination at that time.