

STATE INDUSTRIAL DEVELOPMENT AUTHORITY
Policies and Procedures Concerning Allocation
of the State Ceiling
for
Private Activity Bonds

Background

The Internal Revenue Code of 1986, as amended, limits the principal amount of "private activity bonds" which may be issued in each state within any calendar year to an aggregate amount equal to the greater of \$296,825,000 or \$100.00 per capita based upon the state's most recent estimate of resident population as established by the United States Bureau of the Census. The Internal Revenue Code establishes a method of allocating the State Ceiling among issuers of private activity bonds and permits each state to adopt a different method of Allocation if it chooses to do so.

In September 1988, the Alabama Legislature adopted Act No. 88-870 (the "Act"), codified at Section 41-10-35, et seq., Code of Alabama 1975, which provides the method by which Alabama allocates its available State Ceiling. The Act also designates the State Industrial Development Authority (the "Authority") as the entity responsible for Allocation of the State Ceiling in Alabama. Although Alabama's total State Ceiling is small relative to more populous states, the amounts historically available have generally been sufficient to satisfy the demand. However, the increased economic activity experienced by the United States in general and by Alabama in particular during calendar year 1994 resulted, for the first time in recent years, in Applications for Allocations of State Ceiling which exceeded the total amount available. Several of the Applications for 1994 Allocations which went unfulfilled were converted to Applications for 1995 Allocations which, when combined with additional new Applications, resulted in virtually the entire available State Ceiling for 1995 being committed during the first calendar quarter of the year. The Allocations of the State Ceiling for 1996 issuers of Qualified Small Issue Bonds and Exempt Facility Bonds were committed during January of that year.

The Act authorizes the Authority to adopt rules, policies, regulations and forms governing Allocation of the State Ceiling and acting pursuant thereto, the Authority has, from time to time, adopted policies relating to certain aspects of the Allocation procedures. The Authority has determined to adopt and publish the following policies in order to consolidate the previous pronouncements in a single instrument and to make certain changes which are intended to improve the system of Allocations and to provide a fair and objective method of responding to Applications. These policies may be amended, supplemented or replaced from time to time as deemed appropriate by the Authority to reflect changes to state or federal law or to provide new or different procedures, consistent with existing law, for administering Alabama's State Ceiling Allocation program.

Unless otherwise indicated, all capitalized terms used herein are used with the meanings assigned to those terms by the Act.

Allocation Categories

The Act reserves portions of the total State Ceiling available in each calendar year to the following entities and categories of bonds:

	Entity/Category	Reservations of State Ceiling
(i)	Alabama Housing Finance Authority for the issuance of Qualified Mortgage Bonds and multi-family housing bonds	25%
(ii)	Alabama Higher Education Loan Corporation for the issuance of Qualified Student Loan Bonds	10%
(iii)	Issuers of Qualified Small Issue Bonds	35%
(iv)	Issuers of Exempt Facility Bonds	15%
(v)	Issuers of Affected Bonds in the discretion of the Authority	15%
	Total	100%

The Act also permits the amounts reserved for the Alabama Higher Education Loan Corporation, for issuers of Qualified Small Issue Bonds and for issuers of Exempt Facility Bonds, to be reallocated in the discretion of the Authority, if the Authority determines that the reservations in (ii), (iii) or (iv) above are being inefficiently used or are otherwise inappropriate.

The Authority will monitor the Allocations granted, and the Applications received for Allocations to be granted, from each of the foregoing categories and will exercise its authority to reallocate amounts within the said categories as necessary or desirable.

Application Procedures and Fees

Applications may be submitted in either of two forms:

- (i) "Current Application" -- an Application for a current Allocation pursuant to Section 3 of the Act; and

(ii) "Carryforward Application" -- an Application seeking an elective carryforward of unused State Ceiling for a "carryforward purpose" (as defined in Section 146(f)(5) of the Internal Revenue Code) pursuant to Section 5 of the Act.

Current Applications shall be submitted in duplicate to the Authority in the form attached as Exhibit A hereto and at the address established by the President of the Authority. Current Applications by Issuers of Qualified Small Issue Bonds and Issuers of Exempt Facility Bonds shall be placed in line for Allocation, by category, in chronological order of receipt of completed Applications.

Carryforward Applications seeking a Carryforward Allocation of any unused and available State Ceiling as of the end of any calendar year shall be submitted in duplicate to the Authority on the form attached as Exhibit B hereto on or after December 1 of such calendar year.

All Current Applications and Carryforward Applications must be delivered BY HAND DELIVERY ONLY to the Authority at the address established by the President of the Authority. Applications delivered by mail, courier service or means other than hand delivery will not be accepted by the Authority.

Each Current Application and each Carryforward Application shall be accompanied by an administrative fee in the form of a check payable to the Authority in an amount equal to 1/10 of 1% of the principal amount of the Allocation requested by such Application, but in no event less than \$500.00. Each Application shall be signed by an officer or agent of the Issuer.

Each Current Allocation extension request shall be in writing accompanied by an administrative fee in the form of a check payable to the Authority in an amount equal to 1/20 of 1% of the principal amount of the Allocation, but in no event less than \$500.00. Each Current Allocation extension request shall be signed by either an officer or agent of the Issuer or by the bond counsel designated in the Current Application. Current Allocation extension requests shall be delivered to the Authority at the address established by the President of the Authority.

Upon issuance of the requested current Allocation, current Allocation extension, or Carryforward Allocation of State Ceiling, the administrative fee paid by the applicant will immediately become the property of the Authority; provided, however, that any Application which is partially granted shall entitle the applicant to a pro-rata refund based upon the portion of the requested Allocation actually granted. In the event that State Ceiling is not available to meet a requested Allocation by December 10th of a calendar year, then the administrative fee shall be returned to the applicant by no later than December 31st of such year. Any refunds or other returns of administrative fees shall be without interest.

Allocation Procedure

Subject to the reservations provided in the Act for bonds to be issued by Alabama Housing Finance Authority and Alabama Higher Education Loan Corporation, Allocations of the State

Ceiling for any calendar year shall be granted by the Authority on or after January 1 of such calendar year in the chronological order of receipt of completed Current Applications within the categories described above. In order to maximize the number of projects for which such an Allocation may be available, the total Allocation awarded to any single project will be limited to \$20,000,000 per project. In general, a "project" shall mean any facility that, under the Internal Revenue Code, is eligible for tax-exempt financing by an affected bond (as defined in Section 41-10-36 of the Code of Alabama 1975). No more than one Application may be submitted for a single project. The projects described in two or more Applications will be considered a single project if the beneficiary or beneficiaries of the financing provided by the affected bonds are the same person or persons (within the meaning of provisions of the Internal Revenue Code relating to the affected bonds) and, based on one or more of the following factors, such projects should be considered a single project for purposes of these rules: (1) such projects will be located on the same parcel of land or contiguous parcels, (2) the projects are functionally related and cannot be operated independently, or (3) the projects are being constructed or fabricated pursuant to a single contract or a series of related contracts. Before granting an Allocation, the Authority may request that any applicant supplement its Application with a statement of facts and circumstances that will permit the Authority to determine whether the project described in that Application should be considered part of a single project that has been, or is, the subject of a separate Application.

If a project has received an Allocation, an additional Allocation or Allocations may be awarded for a contiguous expansion or expansions that enhance the current operations of such project provided that:

- The capital expenditure for each expansion totals at least fifty percent of the capital expenditure of the most recent phase of the project or most recent expansion.
- Three years have elapsed since the most recent project or expansion phase was placed in service. Placed in service is defined by the Alabama Department of Revenue with respect to the 1995 Capital Credit Act.

The Authority will specify the effective date of each Allocation to commence on the date that the Allocation is granted by the Authority. Unless a notification confirming the issuance of bonds covered by such Allocation (in the form included in the Authority's notice of Allocation) is received in the office of the President of the Authority within the time provided below, an Allocation effective prior to December 1 of a calendar year shall expire on the earlier of (i) 60 calendar days following the effective date of the Allocation, or (ii) midnight on November 30 of the calendar year in which the Allocation is made. Any Application for Allocation not granted by the Authority on or before November 30 shall expire at midnight on November 30. However, on or before November 30 of each year, an applicant may request in writing to the Authority that Applications remain active beyond November 30. On the first business day of each calendar year, all active Applications will be placed in line for Allocations in chronological order of receipt and shall remain active until an Allocation is awarded pursuant to the Application, the Application expires on November 30 because the Authority did not receive a request to keep the Application active, or the applicant requests that the Application be withdrawn from consideration for an Allocation.

Applications for current Allocations to be granted on or after December 1 may be submitted to the Authority on or after such date. Allocations (other than Carryforward Allocations) effective on or after December 1 of a calendar year shall expire at such time as is designated by the Authority in its notice of Allocation, but not later than December 28.

Current Allocations may be extended upon written request for an additional period of up to 45 days. Any request for a special extension period in excess of 45 days will be granted only upon a showing of cause by the applicant and will require the specific approval of the Authority, including the determination of an appropriate administrative fee for such special extension period. Extensions shall be effective only if granted by the Authority prior to the expiration of the then-existing current Allocation.

Every Allocation shall be subject to the condition subsequent that a notification confirming issuance of the bonds covered by such Allocation must be received in the office of the president of the Authority within seven (7) business days after the date of issuance of the bonds; provided, however, that as to bonds issued on or after each December 1, such notification must be received prior to 5:00 p.m. on the business day next following the date of issuance of the bonds; and provided further that as to bonds issued on December 28th, such notification must be received prior to 5:00 p.m. on December 28th. The notification may be executed by any officer, representative or agent of the Issuer, and may be delivered by hand delivery, or by regular, certified or registered mail, and shall be effective upon receipt at the address established by the President of the Authority. Failure to provide such a notification within the appropriate time period shall authorize the Authority to revoke the related Allocation.

Carryforward Allocations will be granted by the Authority, subject to the availability of unused State Ceiling, during the month of December of each year in the sole discretion of the Authority, giving due regard to the likelihood of the use of the remaining State Ceiling prior to December 31 of such year. Carryforward Allocations shall be effective for the period provided in Section 146(f) of the Internal Revenue Code.

ADOPTED:
January 11, 2007