



Treasury Department Fact Sheet: Tribal Economic Development Bonds

Background and Uses of Tribal Economic Development Bonds

Tribal Economic Development Bonds or TED Bonds are tax-exempt bonds that Indian Tribal Governments can issue to finance any project or activity for which State or local governments could issue tax-exempt bonds. For example, TED Bonds could be used to finance water treatment facilities, sewage facilities, solid waste disposal facilities, and qualified residential rental projects. TED Bonds are not subject to the limits Indian tribal governments have in their use of tax-exempt bonds to the financing of “essential governmental function” activities that are customarily performed by State and local governments.

TED Bonds were created by the American Recovery and Reinvestment Act of 2009 (Recovery Act), with a total issuance limit of \$2 billion, much of which was outstanding as of June 2014. The President’s 2015 Budget recommends repealing the existing essential governmental function limit for Indian Tribal tax-exempt bond financing and adopting standards similar to those for TED Bonds on a permanent basis for tax-exempt bonds issued by tribes; see the [General Explanations of the Administration’s Fiscal Year 2015 Revenue Proposals](#).

Allocations of Authority to Issue TED Bonds

The Recovery Act limited the dollar amount of TED Bonds issuance to \$2 billion in the aggregate. Thus, a tribe interested in issuing TED Bonds must apply for an allocation from the IRS, which grants the tribe authority to issue a specific volume of tax-exempt bonds. The maximum allocation amount available is equal to the greater of \$100 million or 20 percent of the total unallocated volume cap. The IRS updates the total unallocated volume cap amount every few months. As of June 1, 2014, the maximum allocation is \$278,540,908 (20% of the amount of available volume cap of \$1,392,704,538). Updated information can be found at the following web site: <http://www.irs.gov/Tax-Exempt-Bonds/Published-Volume-Cap-Limit-for-Tribal-Economic-Development-Bonds>. If a tribe obtains an allocation for less than the maximum amount, it can submit another application for additional projects.

However, the allocations are not grants but rather confer the right to issue tax-favored bonds to raise money from investors. For example, if a tribe receives a \$50 million TED Bond allocation, the tribe would not receive \$50 million from the federal government. Instead, the tribe receives the authority to borrow \$50 million from private investors by issuing bonds. Because interest income paid on TED Bonds is not subject to federal income tax, investors are generally willing to accept a lower interest rate than they would if they were lending to the same borrower and on the same terms, but the interest were taxable. As

a result, a tribe may be able to borrow at lower interest rates through the issuance of TED Bonds than it would otherwise.

Application for an Allocation from the IRS

As mentioned above, in order to issue TED Bonds, a tribe must first obtain an allocation of volume cap. [Notice 2012-48](#) provides application requirements and forms for requesting an allocation. The notice includes the following requirements:

- The application must be submitted by a federally recognized Indian Tribal Government. This program is not open to state recognized tribes unless they are also federally recognized tribes.
- The application must describe in reasonable detail the project or projects that will be financed by the TED Bonds.
- The application must include the expected cost of the project.
- The application must include a plan for financing the project and documentation from an independent third party showing the bonds are expected to be marketable.
- The projects must be located within the applicant tribe's Indian reservation. If there is a joint project between tribes, the project must be located within one or more of the applicant's reservations.

Gaming

TED Bonds cannot be used to finance any portion of the building in which Class 2 or Class 3 gaming is conducted or housed, any other property actually used in the conduct of those classes of gaming, or any facility located outside the Indian reservation.

[Notice 2009-51](#) provides a safe harbor with respect to this restriction, however. This guidance states that a structure will be treated as separate from another building in which gaming is conducted if it has an independent foundation, independent outer walls, and an independent roof. Connections between the two adjacent independent walls of separate buildings, such as the doorways covering the walkways or other enclosed common area connections, may be disregarded as long as such connections do not affect the structural independence of either wall.

More Information

For more information, please listen to the IRS' presentation on tribal bond financing, which includes a discussion on TED Bonds. An audio recording, transcription, and reference materials can be found at www.irsvideos.gov/Governments/Tribes/TribalBondsFinancingTheBasics.

Contact Information

- For information regarding Notice 2012-48, contact Timothy L. Jones at 202-317-4563 (not a toll-free call).
- For information about submitted Applications, contact Mark Helfer at (636) 255-1201 (not a toll-free call).
- Submit completed applications to
Internal Revenue Service
SE:T:GE:TEB:CPM
Attention: Mark Helfer
1122 Town & Country Commons
St. Louis, MO 63017