



Alaska Industrial Development and Export Authority Conduit Revenue Bond Application

Program Description

Overview

Alaska Industrial Development and Export Authority (AIDEA) is authorized by statute to issue conduit revenue bonds for qualified projects throughout Alaska. Bonds can be issued on a tax-exempt basis if federal requirements are met, or on a taxable basis for projects which do not meet these requirements. If a project qualifies for tax-exempt financing, interest paid to the bondholders is exempt from federal income tax. Tax-exempt rates are typically 75 to 80 percent of conventional rates.

Bonds issued under AIDEA's Conduit Revenue Bond Program are not direct obligations of AIDEA or the State of Alaska. Revenues from the project along with any credit enhancements provided by the borrower are the sole source of repayment. AIDEA has no obligation to repay the bondholders and does not guarantee the bonds.

Federal Requirements

Bonds issued by AIDEA for the benefit of private firms fall in the class of bonds defined by the federal government as private activity bonds. The U.S. Internal Revenue Code of 1986 as amended governs the issuance of tax-exempt private activity bonds. There are a number of restrictions on these tax-exempt bonds and, if these restrictions are ignored or not met, the bonds may lose their tax-exempt status.

AIDEA issues tax-exempt private activity bonds under three categories: bonds issued for projects of certain 501(c)(3) not-for profit organizations; bonds issued for "exempt facilities"; and small-issue bonds for manufacturing projects.

To qualify under the small-issue manufacturing exemption, the bonds must be used to finance a manufacturing facility. The Internal Revenue Code defines a manufacturing facility to be "any facility which is used in the manufacturing or production of tangible personal property (including the processing resulting in a change of condition of such property)."

Small-issue manufacturing bonds may qualify in one of two ways. First, the amount of the bond itself must be \$1,000,000 or less. Alternatively, the total of all capital expenditures of all users of the project and anyone related to those users in the incorporated municipality where the project is located, including the face amount of the bonds, cannot exceed \$10,000,000 for a period extending from

three years prior to three years after the date of bond issuance.

Exempt facilities which may be financed with tax-exempt bonds include: airport facilities, docks and wharves, facilities for furnishing of water, sewage facilities, solid waste disposal facilities, mass commuting facilities, facilities for the local furnishing of electric energy or gas, qualified hazardous waste facilities, high-speed intercity rail facilities, and environmental enhancements of hydroelectric generating facilities. There are numerous restrictions to tax-exempt financing of these various facilities and you should consult with your attorney.

In addition, there are a number of other federal requirements that must be met to qualify for tax-exempt financing, and to retain tax-exempt status for the bonds. Please consult with AIDEA staff to determine whether other restrictions apply.

Eligible Purchasers

Industrial development bonds may be sold publicly or privately.

Private placements of bonds are permitted only to sophisticated investors including insurance companies, banks, pension funds, and other institutional investors that meet certain requirements. These purchasers must agree at the time of purchase that they intend to purchase the bonds for investment and not for resale, except to other sophisticated investors.

Bonds may also be offered for sale to the general public, but only if certain conditions are met.

Application Procedures

Prospective conduit revenue bond applicants must answer each section of the attached application and submit it to AIDEA approximately four weeks prior to a scheduled meeting of AIDEA's board of directors if the project is expected to be financed with tax-exempt bonds. Application materials must be complete with required signatures and non-refundable application fee of \$1,000.

If the application is for financing of a proposed tax-exempt project, AIDEA's bond counsel will review the application and make a preliminary determination of whether the project qualifies for tax-exempt financing under the Internal Revenue Code of 1986, as amended. If AIDEA's bond counsel makes a preliminary determination that the project does qualify for tax-exempt financing, AIDEA's Board

is then requested to approve an eligibility resolution.

If the application is for financing of a proposed taxable project, AIDEA's staff will make the determination if the project meets the mission and goals of AIDEA and appears to be a viable project.

If the amount of bonds issued by AIDEA exceeds \$10,000,000, the governing body of the political subdivision of the state in which the project will be located must approve the project before final approval by AIDEA's board of directors.

Once the bond financing structure and documents are complete, AIDEA's board of directors must approve a bond sale resolution before bonds can be sold.

Private Fees

The financial institution and other parties involved in the issuance and purchase of a conduit revenue bond may charge a variety of fees, depending on what services are rendered. They can include attorney fees, AIDEA's bond counsel, underwriting fees, placement fees, letter of credit fees, rating agency fees (if the bonds will be rated), registrar fees, trustee or depository fees, and transfer agent fees. Please keep in mind that these fees are in addition to other fees typically charged with commercial loans and with real and personal property transactions such as appraisals, surveys, permits, filings, recordings, and title insurance.

AIDEA Fees

In addition to the non-refundable application fee of \$1,000 for proposed tax-exempt projects, AIDEA's regulations require an issuance fee for all bonds issued equal to:

- Fifty (50) basis points of the first \$10 million of the principal amount of the bonds issued;
- Twenty (20) basis points of the next \$40 million of the principal amount of the bonds issued; and
- Fifteen (15) basis points of the principal amount of the bonds issued in excess of \$50 million.

If the bonds are not subject to the volume cap provision of 26 U.S.C. 147, the issuance fee is equal to:

- Forty (40) basis points of the first \$10 million of the principal amount of the bonds issued;
- Ten (10) basis points of the next \$40 million of the principal amount of the bonds issued; and
- Nine (9) basis points of the principal amount of the bonds issued in excess of \$50 million.

Consult with AIDEA staff to determine fees for AIDEA's bond counsel.

Confidentiality Statement

Documents in the possession of AIDEA are open to inspection by the public in accordance with the Public Access to Records Booklet adopted under 6 AAC 96.100. However, AS 44.88.215 sets forth certain records, files, and information that shall be kept confidential upon request of the person supplying the information or upon the request of the project or bond applicant.

Continuing Disclosure

As municipal securities, AIDEA's conduit revenue bonds are subject to Securities and Exchange Commission (SEC) Rule 15c2-12. The rule requires, among other things, that obligated persons disclose annual financial information and operating data, and that they provide notice of certain material events. There are a number of exemptions under this rule, and it is possible to structure the transaction so that the bonds will not be subject to these disclosure requirements, or will be subject to the requirements only if certain events occur. AIDEA will require conduit revenue bond recipients to covenant to comply with the requirements of Rule 15c2-12.

Frequently Asked Questions

How long does it take to issue conduit revenue bonds?

Generally it takes about four to five months from the time the application is submitted to AIDEA until the final closing of the bond issue takes place. It can be closed in as little as two months. The length of time depends primarily on how quickly a purchaser for the bonds can be found, the structure of the financing, the schedules of other participants, and other variables. (See attached timeline)

Can I be reimbursed for expenditures on the project made prior to bond issuance?

As a rule, expenditures made more than 60 days prior to the board of director's approval of an eligibility resolution may not be included in the proceeds of a tax-exempt bond issue. Therefore, applicants should be prepared to obtain this approval *before* incurring significant expenditures on the project. Certain exceptions do apply to this general rule.

What is the interest rate?

Interest rates on conduit revenue bonds can be fixed or variable, and are dependent on a number of factors including the credit quality of the applicant, and whether or not the bonds are secured by a letter of credit from a rated financial institution or bond insurance. AIDEA does not set or negotiate any rates on your behalf. Other terms and conditions will depend on what you are able to negotiate with the purchaser of the bonds.

For how long can bonds be issued?

Generally, the maximum term of a tax-exempt bond is 120 percent of the average economic life of the project assets. For example, if the bonds will finance assets with an average economic life of 20 years, the maximum term is 24 years. Despite this guideline, the bond purchaser may not be willing to finance the project for the maximum term. This will be part of the negotiations with the purchaser.

Where should I start first in making an application?

The first question to ask is whether a bank, underwriter, insurance company, or other financial institution will buy the bonds for your project. Without a buyer for the bonds, all other efforts are in vain. If you think there is interest in buying the bonds, there are two steps that should be done simultaneously:

1. Discuss your project with AIDEA staff
2. Complete AIDEA's Conduit Revenue Bond Application

How large or small a bond issue can I apply for?

There is no maximum, however, if tax-exempt bonds issued for your project are subject to the volume cap provisions of 26 U.S.C. 147, availability of state volume cap may delay issue of the bonds. There is no legal minimum, however,

costs of issuance may offset any interest rate savings if the issue size is less than \$10 million. If your project is less than this cost-effective minimum size, we suggest that you discuss your project with AIDEA staff. We offer other finance programs that may be able to meet your needs.

What can bond proceeds be used for?

Basically, you can purchase land, building, and equipment with bond proceeds. As a rule, conduit revenue bonds cannot be used to finance working capital, inventory, payroll or similar items, or to refinance existing debt. There are some exceptions to the refinance rule with regard to 501 (c)(3) entities. There are restrictions on the use of conduit revenue bonds to acquire land, existing real property, and used equipment. For tax-exempt bonds, no more than two percent (2%) of the bond proceeds can be used to pay issuance costs. We urge you to discuss your project with AIDEA staff and your attorney.

Why does AIDEA need a bond counsel?

Bond counsel provides a very valuable role in bond financing. They prepare most of the major documents needed to sell a bond, such as trust indentures, loan agreements, bond purchase agreements, tax certificates, and approval documents. Without bond counsel's legal opinion, AIDEA will not issue the bonds. Bond counsel also can help you in preparing options to purchase land, building, and equipment to meet the Internal Revenue Service's requirements.

Why do I need an attorney?

Your attorney will help prepare and review documentation for your financing. AIDEA will request an opinion from your attorney that will include statements, among other things, verifying the legal existence of the borrowing entity, the borrowing entity's legal ability to enter into the transaction, and the enforceability of the financing documents against the borrowing entity.

Do I need a financial advisor to assist me in this process?

A financial advisor's only duty is to protect your financial interests. To do that, the financial advisor works on your behalf to help you understand how a proposed financing will work, what its advantages and disadvantages are, and what alternatives may be available to you. The financial advisor should have at least as much expertise in financing as the bank or other financial institution proposing to make the loan. To provide maximum independence, the financial advisor's fee is usually a fixed amount that does not vary based on the type of financing pursued or any other factor. Also, the financial advisor's fee should be paid regardless of whether the financing is completed. It is, of course, your decision whether you will benefit from engaging a financial advisor.

Application for AIDEA Conduit Revenue Bond

EACH EXHIBIT LISTED MUST BE ATTACHED TO THE APPLICATION.

Company Information

- A. Legal name of business (applicant), address, phone number, and fax number.
- B. Type of business (corporation, partnership, individual, sole proprietorship, etc.), and state and date of incorporation if a corporation.
- C. Name, title, address, phone number, fax number, and e-mail address of contact person.
- D. Is the company listed on any securities exchanges? If yes, please list the exchange on which the company's stock is traded and the company's stock symbol.
- E. If the company is not listed on a securities exchange, please list the names and titles of corporate officers. Also list principal stockholders and percentage of ownership.
- F. If a partnership, list names and addresses of all general partners and percentage of ownership.
- G. Attach company financial statements for the past three fiscal years, and the most recent interim statements. In addition:
 1. If the company has an operating history of one year or less, include a three year pro-forma balance sheet and income statement and a monthly cash flow projection for a period of one year.
 2. In the case of a corporate applicant that is not publicly traded, or a partnership, include personal financial statements from :
 - a. All persons owning 20 percent or more of the company; and
 - b. All persons have a controlling interest in the applicant.
- H. Provide a narrative history of the company and the type of business in which the company is engaged, including events leading to current operations.

Project Information

- A. Proposed location of the project, including complete legal description and street address.
- B. Dates of project start-up and projected completion.
- C. Description of project, including physical description and a description of the uses of the project. Include land acreage, proposed buildings, products, services, equipment required, etc.
- D. Description of product or service to be produced and users of your product or services.

E. Bond Proceeds:

- | | |
|---|----------|
| 1. Equipment | \$ _____ |
| 2. Buildings | \$ _____ |
| 3. Land | \$ _____ |
| 4. Other (specify) | \$ _____ |
| 5. Total Bond | \$ _____ |
| 6. Total Project | \$ _____ |
| 7. Bond Issue as a Percent of Total Project | _____ % |

F. If there is a purchase of real or personal property, provide a copy of the purchase agreement.

G. Describe the impact of the proposed project on the local economy, relating to:

1. The locale's ability to provide support services including, among others, roads, sewer, water, and power.
2. Local need for the project and effect on the local economic base in terms of direct and indirect jobs, diversification, tax base, etc.

H. If applicant is a 501(c)(3) organization, provide the following:

1. IRS Letter of Determination with regard to 501(c)(3) status.
2. Articles of Incorporation indicating exempt purpose of applicant under IRS Code. If Articles of Incorporation do not state exempt purpose of applicant, then a letter must be included that does the same.
3. Statement from the applicant clearly setting forth how the proceeds from the tax-exempt financing will be used to further its tax-exempt purpose.
4. A statement showing the principal amount of tax-exempt bonds issued
 - (a) for any building which the organization occupies, and
 - (b) which were issued for the benefit of the organization.

The remaining questions relate to the issuance of tax-exempt bonds and use two terms from the federal tax code; "related persons", and "principal user". Generally, the term "related persons" includes: (1) any family members (spouse or blood relative) of the applicants(s); (2) any partnership or corporation in which the applicant (or individuals comprising the applicant) has a majority (over fifty percent) interest; or (3) any person who has a majority interest in the applicant. Generally, the term "principal user" of a facility refers to someone who uses 10% or more of a facility.

- I. Does the applicant (or related persons) have any outstanding tax-exempt financing in Alaska or elsewhere in the United States. If so, provide the name of the borrower, location of the facility, and the amount of outstanding tax-exempt financing for the facility.
- J. Is the applicant (or related persons) a principal user in any facility that has outstanding tax-exempt financing in Alaska or elsewhere in the United States. Is so, provide the name of owner(s) of the facility, location of the facility, amount of

outstanding tax-exempt financing for the facility, and each principal user percentage use of the facility.

- K. Does the applicant (or related persons) have an application pending for tax-exempt financing in Alaska. If so, provide the name of the borrower, location of project, amount of tax-exempt financing requested, and through whom was the application made.

Attach the Following Exhibit to the Application:

Exhibit A: Certification.

Exhibit A

CERTIFICATION

I hereby certify that all information provided in connection with this application for Alaska Industrial Development and Export Authority bond financing is, to the best of my knowledge, true, accurate, complete, and current. I further certify that, except as described in this application:

- (1) No litigation is current, pending or threatened in any court or other tribunal of competent jurisdiction, state, local, or federal, in any way contesting, questioning or affecting the eligibility of the applicant to apply for this financing, the ability of the applicant to complete the project, or the validity or enforceability of any covenant or document executed by the applicant in connection with the application or any of the procedures for the authorization of sale, execution, registration or delivery of the bonds, nor are there any unasserted claims outstanding.
- (2) The applicant has never filed for reorganization or sought relief or been involuntarily declared bankrupt under any provision of the United States Bankruptcy Code.
- (3) No officer, director, partner, or owner of a five percent interest (legal or beneficial) of the applicant has ever filed for reorganization or sought relief or been involuntarily declared bankrupt under any provision of the United States Bankruptcy Code.

I agree that material misrepresentation of fact is ground for Alaska Industrial Development and Export Authority to deny or withdraw project eligibility at any time.

Attest:

Authorized Company Representative (Signature) _____

Name & Title (Print or type): _____

Date: _____

PLEASE NOTE: The following schedule is only an estimated schedule that reflects previous experience. Each financing is unique, and its schedule will depend upon several variables, including the size and complexity of the financing, the availability and schedules of other parties to the financing, and other external factors. Accordingly, the schedule for your financing may be longer or shorter than the estimated schedule below.

Estimated Time Schedule for Bond Issuance

- 1. AIDEA receives application for conduit bond issuance from borrower and lender [DAY 1]
- 2. AIDEA's bond counsel determines apparent eligibility of project for tax-exempt bond financing [DAY 5]
- 3. AIDEA's Board adopts eligibility (also called reimbursement or inducement) resolution [DAY 20]
- 4. AIDEA publishes notice of TEFRA hearing [DAY 25]
- 5. At least 14 days after publication of TEFRA notice, AIDEA conducts TEFRA hearing and obtains consent of Governor [DAY 45]
- 6. State Bond Committee meets and allocates volume cap (if necessary) [DAY 50]
- 7. AIDEA schedules bond approval resolution for Board meeting and, at least 10 days before Board meeting, delivers major documents in substantially final form for inclusion in Board packets [DAY 60]
- 8. For bonds greater than \$10,000,000, borrower arranges for and obtains adoption of consent resolution by local government [DAY 70]
- 9. AIDEA Board meets to consider bond resolution [DAY 75]
- 10. Working Group finalizes major documents and closing documents [DAY 100]
- 11. Pre-closing and closing [DAY 101]
- 12. Preparation and distribution of closing transcripts [DAY 131]

All DAY numbers are estimates of the minimum reasonable amount of time needed to accomplish each task. These estimates vary with each transaction depending on many circumstances.