

PRIVATE ACTIVITY BOND VOLUME CAP APPLICATION PROCEDURES
(PLEASE SEE NMAC 2.61.4.8(B) FOR SPECIFIC DETAILS)

The applicant must provide:

One (1) original hard copy and one (1) identical, bookmarked PDF file on a CD or jump drive delivered to our office or via email to bof.administrator@state.nm.us of the following items:

(1) For all requests:

(A) A letter from the issuing authority setting forth the amount of the state ceiling requested, the actual or expected date of adoption of the bond resolution or similar documentation by the issuing authority, the expected date of the sale of the bonds, the expected date of closing of the bonds, a statement of any significant condition that need to be satisfied before the bonds can be issued, and a statement categorizing the private activity bonds as education purpose bonds, single family housing purpose bonds, multifamily housing purpose bonds, small issue economic development purpose bonds or exempt facility purpose bonds, in accordance with the definitions contained in this part, which categorization is subject to Board review and recategorization, if appropriate;

(B) A letter from Bond Counsel for the issuing authority or the user, with supporting citations to state statutes, stating that the private activity bonds can validly be issued under state law by the issuing authority, which the Board may refer to its Bond Counsel or to the State's Attorney General for review and comment; if the Board is advised by its Bond Counsel of the Attorney General that the opinion of the issuing authority's Bond Counsel is incorrect, the Board may refuse to issue the allocation requested;

(C) A letter from Bond Counsel for the issuing authority of the user, with supporting citations to the code and the regulations, stating that the bonds are private activity bonds requiring an allocation of the state ceiling; and

(D) A letter from issuing authority or the user stating why the public purpose to be served by the issuance of the private activity bonds could not be as economically or effectively served by a means not involving an allocation of the state ceiling;

(E) Any fees required by section 2.61.4.9 NMAC.

(2) For all requests not involving a project, i.e., for single family housing purpose bonds and education purpose bonds, a letter from the issuing authority setting forth the following:

(A) A general description of the location of the proposed borrowers;

(B) Experience of the issuing authority in utilizing allocations of the state ceiling.

- (3) **For all requests involving a project**, a letter from the issuing authority or the user including the following:
- (A) A copy of the inducement resolution, certified by an official of the issuing authority;
 - (B) A description of the user, the project and the project's specific location;
 - (C) The estimated number and types of jobs, both construction and permanent, indicating which are expected to be filled by persons who are residents of the state at the time of submission of the request for allocation and which are expected to be filled by persons who are non-residents at the time of submission of the request for allocation; and a representation that the issuing authority, if it receives an allocation of the state ceiling for the project and issues the related bonds, will provide to the Board annually, for four (4) years following the issuance of the bonds, on or before June 1, and after that period upon request of the Board, employment reports on a form prescribed by the Board setting forth in reasonable detail the numbers and types of workers, and their residency, employed at the project on a full-time equivalent basis during the preceding 12 month period;
 - (D) The present use of conditions of the project site and evidence that the proposed user of the project has obtained a legally enforceable right to acquire the project site; evidence of approved zoning of the proposed site must be submitted; this requires that project types for which the cap is being requested are not prohibited by the existing zoning of the proposed site;
 - (E) The maximum amount of the private activity bonds and other obligations to be issued;
 - (F) A proposed starting date and estimated completion date of the construction of the project, if applicable;
 - (G) Information relating to the feasibility of the proposed project showing that the project or the user will generate revenues and cash flow sufficient to make payments to pay debt service on the bonds, if applicable;
 - (H) The amount and source of private capital which will be used for the project in addition to bond financing, as well as a brief table showing estimated sources and uses and funds;
 - (I) Conceptual site plans for the project and a map locating the project area;
 - (J) In the case of multifamily housing purpose bonds, an explanation of why the housing needs of individuals whose income will make them eligible under Section 142(D) of the code are not being met by existing multifamily housing; information as to the number and percentage of units set aside for households at various income levels or with special needs; the legal mechanisms to monitor and enforce

compliance with the set-aside provisions and the experience of the monitoring entity with respect to similar projects; a representation that the issuing authority, if it receives an allocation of the state ceiling for the project and issues the related bonds, will provide to the Board annually, for four (4) years following the issuance of the bonds, on or before June 1, and after that period upon request of the Board, occupancy reports on a form prescribed by the Board setting forth in reasonable detail information as to the occupancy of the rental units by category of household; and the duration of the set-aside provisions;

(K) Information relating to the feasibility and proposed utilization of environmentally protective technologies, energy and water efficiencies, and sustainable development practices;

(L) Any information regarding the economic benefits to the projects community and to the state or which the user believes will aid the Board in considering the request for allocation; and

(M) A commitment letter or letter of intent, which may be subject to common contingencies or closing conditions, from the proposed underwriter, placement agent or bond purchaser to underwrite, place or purchase the bonds.

- (4) **For all requests for an allocation for single family housing purpose bonds where the issuing authority seeks an allocation to be used by the issuing authority for mortgage credit certificates or, in its discretion, for either qualified mortgage bonds or mortgage credit certificates,** A letter from the issuing authority stating that a qualified mortgage credit certificate program has been adopted by the issuing authority and a description of how the issuing authority is proposing to use the mortgage credit certificates.
- (5) **For all requests for an allocation for multifamily housing purpose bonds,** the Board may condition any allocation on the agreement, on behalf of the issuer or the user of the project or projects, to set aside a specified minimum number of units for households at certain income levels or with special needs.

NOTE: Submission of electronic files in multiple PDF files, without bookmarks, or with other formatting problems may result in the delay of requests appearing before the State Board of Finance.

Submit requests to:

Ashley Leach
Director
State Board of Finance
Bataan Memorial Building
Room 181
Santa Fe, NM 87501

For more information contact:
Marcos Trujillo, Deputy Director
State Board of Finance
MarcosB.Trujillo@state.nm.us
505-827-3936

Fees

The following fees apply to all PAB allocation requests and extension requests and must be paid by bank cashier's check, money order, or by wire transfer in US funds:

The **application fee** is \$750 for allocation requests of \$15 million or less, \$1,500 for allocation requests greater than \$15 million and up to \$30 million, and \$3,000 for allocation requests greater than \$30 million. Application fees are due on the date a request to appear on the Board's agenda is due.

An **extension fee** of \$750 is due on the date a request to appear on the Board's agenda is due for all extension requests. If the extension is not approved by the Board, the extension fee will be returned.

An **allocation deposit** of \$250 per million allocated is due seven (7) business days following Board approval of an allocation.