

Qualified Zone Academy Bond Program Application Process and Requirements

Description of the Program

The Qualified Zone Academy Bond (QZAB) program is a federal tax credit program. QZABs are bonds that school districts (referred to as “districts” or “your district”) and open-enrollment charter schools (referred to as “charters” or “your charter”) can use to save money on school rehabilitation or repair projects. For districts, a “bond” may be in the form of a bond, lease purchase, time warrant, or maintenance tax note. For charters, a “bond” may be only in the form of a revenue bond.

How the Program Works

Under the QZAB program, eligible districts and charters may issue low-interest or no-interest bonds for sale to eligible bond holders. The bond holders receive tax credits on their federal income tax returns instead of interest. The amount of the tax credit:

- is based on:
 - the face amount of the bonds, and
 - a credit rate established by the secretary of the treasury; and
- is designed to approximately equal the interest that issuers would ordinarily pay the holders of taxable bonds.

There is no limit to the amount of bond authorization that a district or charter may request.

A recent change to federal law (found in Public Law No. 111-147) allows a refundable tax credit to issuers of specified tax credit bonds. The secretary of the treasury will also establish a maximum term for each bond issue. Information concerning the credit rate may be found at the following website: https://www.treasurydirect.gov/govt/rates/irs/rates_irstcb.htm.

There is no guarantee that eligible lenders will elect to purchase these bonds.

This program does not provide funding. The state does not issue monetary payments or awards.

Under the program, the state may authorize a limited number of qualifying districts and charters. The authorization allows those districts and charters to issue QZABs that can be used for qualified purposes. Qualified purposes include:

- repairing or rehabilitating the public school facility in which the academy is established (but not new construction or additions),
- providing equipment for use at the academy,
- developing course materials for education to be provided at the academy, or
- training teachers and other school personnel in the academy.

State facilities funding, if applicable, is based on the net debt service costs to be paid by the district.

How to Apply for QZAB Authorization

To gain QZAB program authorization, your district or charter must file an application with the Texas Education Agency (TEA) and meet the program's eligibility requirements. After gaining the authorization, your district or charter may have to meet additional requirements to comply with federal tax law regarding the authorization. For more information on those additional requirements, consult with your district's or charter's legal counsel. Your district or charter must receive its program authorization before issuing its QZAB bonds.

Eligibility Requirements for the QZAB Program

The following is a summary of the various requirements that districts and charters must meet to be eligible for QZAB.

1. A district or charter must establish and supervise the operation of the proposed program.
2. The district or charter must design the proposed program in cooperation with business partners to:
 - enhance the academic curriculum,
 - increase graduation and employment rates, and
 - better prepare students for the rigors of college and the increasingly complex work world.

The district or charter and at least one of the business partners together must create a plan for a **new academic program** and indicate how their combined efforts can improve student education. Postsecondary education and training programs and existing programs are not eligible. Students in the proposed program must be subject to the same academic standards and assessments as other students educated by the local education agency.

3. The proposed program must be located on a campus:
 - in an empowerment zone,
 - in an enterprise community, or
 - at which at least 35 percent of the students attending (as of the bond issue date) are eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act. We will confirm initial eligibility by identifying the number of economically disadvantaged students reported to the Public Education Information Management System for the previous fall.
4. The district or charter establishing the qualified zone academy must have written commitments from private entities to make qualified contributions having a present value of not less than 10 percent of the proceeds of the issue. Qualified contributions are as follows:
 - equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment)
 - technical assistance in developing curriculum or in training teachers in order to promote appropriate market-driven technology in the classroom
 - services of employees as volunteer mentors
 - internships, field trips, or other educational opportunities outside the academy for students
 - any other property or service specified by the eligible district or charter

5. For district applications, the district must issue the bonds, lease purchases, maintenance tax notes, or time warrants. For charter applications, the charter must issue the revenue bonds.
6. One hundred percent of the bond proceeds must be used by the close of three years after the issue of the QZABs for one or more of the following qualified purposes:
 - repairing or rehabilitating the public school facility in which the academy is established (but not new construction or additions)
 - providing equipment for use at the academy
 - developing course materials for education to be provided at the academy
 - training teachers and other school personnel in the academy

Eligible expenditures also include issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of the proceeds).

7. The district or charter must commit to spending at least 10 percent of the proceeds within six months of issuing the QZABs, and to spending 100 percent of the proceeds within three years of issuing the QZABs.
8. The district or charter must acknowledge intent to comply with any arbitrage requirements.
9. The district or charter must acknowledge intent to comply with the Davis-Bacon Act.
10. The district or charter must provide costs and project descriptions for the expenditures of the bond funds.
11. The superintendent or another authorized district or charter school official must sign the application.

The TEA will consider completed applications on a first-come, first-served basis, until the state's allocation is fully committed. As of October 31, 2013, \$845,500 remained from Texas's 2011 allocation; \$20,605,000 remained from Texas's 2012 allocation; and \$36,825,000 remained from Texas's 2013 allocation. We will accept only the *Qualified Zone Academy Bond (QZAB) Program Application for Texas*. We will keep applications in a queue based on the date we received the application and/or determined that the application was complete, whichever is later.

We will notify districts and charters identified for authorizations of the amount of debt that may be designated as QZAB-eligible. On receipt of the QZAB authorization, the districts or the charters will have one year to issue the QZABs. If they do not issue the QZABs within the one-year period, the QZAB designation will lapse. The following federal deadlines apply for the following allocations:

- for the 2011 allocation, December 31, 2013
- for the 2012 allocation, December 31, 2014
- for the 2013 allocation, December 31, 2015

Statutory Authorizations for the QZAB Program

For districts, the following statutory authorizations apply:

1. A bond must be authorized and issued under the authority of the Texas Education Code, Chapter 45, Subchapter A.

2. Lease purchases must be qualified under the Texas Local Government Code, §271.004 or §271.005.
3. A time warrant must meet the requirements of the Texas Education Code, §45.103.
4. A maintenance tax note must meet the requirements of the Texas Education Code, §45.108.

For charters, a revenue bond must be authorized and issued under the authority of the Texas Education Code, Chapter 53, Subchapter C.

The statutory authorizations for the QZAB program can be found in Internal Revenue Code, §54E:

- as added by the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (Public Law 110-343), and
- as amended by the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

The following documents provide additional information:

- Internal Revenue Notice No. 2009-30 (<http://www.irs.gov/pub/irs-drop/n-09-30.pdf>)
- Internal Revenue Notice No. 2010-22 (<http://www.irs.ustreas.gov/pub/irs-drop/n-10-22.pdf>)
- Internal Revenue Bulletin No. 2011-6 (http://www.irs.gov/irb/2011-06_IRB/ar12.html)
- Internal Revenue Bulletin No.2013-3 (http://www.irs.gov/irb/2013-07_IRB/ar07.html)

The Need for Legal Counsel

The information provided in this document is a summary of the main requirements that districts and charters must meet to be eligible for the QZAB program. Because of the complexity and specific eligibility requirements of the program, no district, charter, or lending institution should participate in this program without seeking legal advice from bond counsel.