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PRIVATE ACTIVITY BOND PROGRAM

# Private Activity Bond Program- Policies (“Policies”)

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# The Private Activity Bond Program

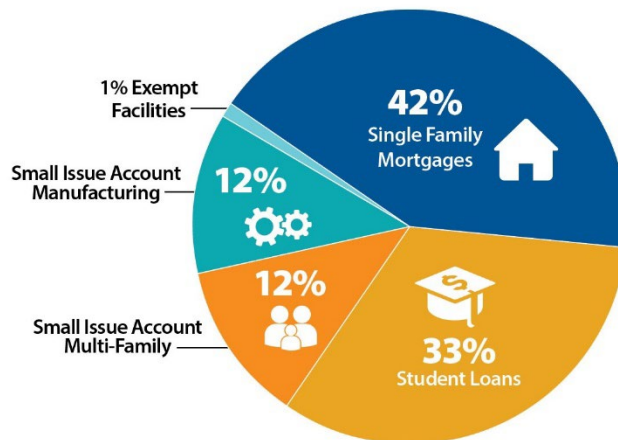
## Introduction

The Private Activity Bond Program (“PAB”) administers Utah’s tax-exempt bonding program created by the Internal Revenue Code (“Code”). The federal government annually allocates a certain amount of tax-free bonds (“volume cap” or “cap”) to states based on state population, as detailed in Section 146 of the Code. The annual amount is adjusted each year based on inflation and state population. States may establish their own usage priorities and distribution methods for this volume cap, as long as they do not violate federal requirements. Utah has established its priorities by dividing its annual cap into four allotment accounts, detailed in Title 35A, Chapter 8, Part 21 of the Utah Code.

Why use tax-exempt bonds? The owner of a tax-exempt bond does not need to pay federal income taxes on the interest received on such bonds. Consequently, tax-exempt bonds bear interest at lower rates than bank loans or taxable bonds. This lower borrowing cost is passed on directly to the borrowing entity under the bonding program.

Volume cap allocations require qualified bond counsel and an underwriter. Cap is allocated by the PAB’s Board of Review (“Board”) in 90-day certificates at its regularly scheduled meetings. Applications are submitted 50 days in advance of each Board meeting.

The Private Activity Bond (PAB) Program is Utah’s tax-exempt bonding authority creating a lower cost, long-term source of capital under the Federal Tax Act of 1986. The Federal Government allocates many billions of dollars per year to states on a per capita basis. Each state establishes its usage priorities by statute. The Utah State Legislature has distributed our volume cap into the various allotment accounts listed below:





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The PAB Program administers the following accounts: Small Issue Multi-Family, Small Issue Manufacturing and Exempt Facilities Accounts. Interested applicants may contact staff with questions or reference the Policies or website. The only applicant for the Student Loan Account is the Utah Board of Higher Education (contact information: <https://uheaa.org/contact-us/> or 801-321-7200). The only applicant for the Single Family Housing Account is the Utah Housing Corporation. For more information, please visit their website at <https://utahhousingcorp.org> or call 801-902-8200).

## Board Policies

1. The application process for the receipt of volume cap is a competitive one. The Board awards cap in its sole discretion. Cap is not allocated on a first-come-first-served basis.
2. The Board has adopted the guidelines and criteria (“criteria”) detailed below for the evaluation of applications for volume cap. After a detailed legal review and to the best of the Board’s knowledge, these criteria align with all applicable state and federal statutes and regulations. To the extent any of the criteria or the Policies conflict with any such applicable statute or regulation, the statute or regulation shall govern.
3. The Board reserves the right to amend the criteria in its sole discretion. In case of such amendment, the Board will give advance notice to the public.
4. The criteria are used by the applicants, Program staff, and the Board.
5. Program staff will grade applications and present graded applications to the Board, which has the sole power to allocate cap. The Board reserves the right to accept or reject the staff’s evaluations and recommendations. The Board will exercise this power in a prudent manner.
6. Only those projects that best meet the goals and objectives of the Program will be selected by the Board for an allocation.
7. All allocations shall take place at public Board meetings.
8. The Board will determine the time and place of public meetings for the allocation of volume cap.
9. Once the Board votes to allocate cap, the allocation is final. The Board reserves the right to require relinquishment of the allocated cap if it finds out that the applicant falsified information or otherwise misled the Board during the application process, as further detailed in the Utah Administrative Rules that govern the Board and the Program.
10. Applicants requesting new volume cap or extension requests must attend (either virtually or in-person) the PAB meeting in which their request will be heard. If an applicant fails to attend, staff shall recommend that the Board reject the request.
11. If an applicant relinquishes an allocation, a project fails to close on an allocation, or the Board of Review revokes an allocation then the allocation will be subject to a “resting period,” and not be available for reallocation at the next quarterly meeting if the application date for that quarterly meeting has already passed.



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The relinquished allocation will be available to be allocated beginning with the funding cycle following the resting period so that all applicants have an equal and fair timeline to apply for the allocation.

For example, if a project relinquishes their allocation in June, then their relinquished allocation will not be available for reallocation in July's meeting, but it will be available at the October meeting because the July application deadline would have already passed.

## Calendar

The Board is the sole entity with the authority to allocate Utah's annual volume cap. Utah Code § 35A-8-2104. (The Board is **not** an issuing authority, or "issuer.") The Utah Legislature has created certain "allotment accounts" into which Utah's cap must be deposited, as well as certain percentages of the total cap that each allotment account must receive at specific dates. *See generally* Utah Code § 35A-8-2106.

The Board shall allocate any accounts relinquished prior to January 1 of any year, into the Pool Account at the first Board Meeting of the year. (Example, if the allocation of the Student Loan Account is relinquished prior to January 1, 2023; then in the January 11, 2023 meeting, the Board shall allocation the total allocation to the Pool Account.) The Board reserves the right to not fully award all available allocation based on applicant scoring, project accuracy and readiness.

## Bonding Process

The participants in a bond deal are:

1. Developer and its counsel;
2. Bond counsel;
3. Issuer and its counsel;
4. Credit enhancer and its counsel;
5. Tax credit purchaser and its counsel;
6. Bond trustee and its counsel; and
7. Underwriter and its Counsel.

The following steps outline the bonding process for a tax-exempt project. The time period shown for each step is the anticipated amount of time it should take to complete that particular phase. These are estimated times only. Each project will vary in the amount of time it takes to complete each phase and sell the bonds.



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1. Planning Phase (1 – 12 Months)
  1. Inducement Resolution adopted by Issuer.
  2. Application for and receipt of volume cap allocation.
  3. Interview and retain personnel.
  4. Determine bond structure (Private Placement, Public Offering, Fixed or Variable Rate, Credit Enhancement Program, etc.).
  5. Application for credit enhancement/purchase and receipt of preliminary approval.
2. Document Drafting/Due Diligence Phase (1 – 2 Months)
  - a. Drafting and approval of bond documents and terms.
  - b. Drafting of offering/sale documents.
  - c. Real-estate due diligence (appraisals, environmental reports, surveys, etc.).
  - d. Drafting and execution of construction contracts and cost determination.
  - e. Drafting of partnership documents.
3. Sale and Closing Phase (2 Weeks – 1 Month)
  - a. Drafting opinions and closing documents.
  - b. Mailing offering documents.
  - c. Publication of notice of public hearing.
  - d. Hearing.
  - e. Adoption of bond resolution by Issuer.
  - f. Sale of bonds and execution of bond purchase agreements.
  - g. Pre-closing and closing (delivery of executed documents and opinions).

## Before Submitting a PAB Application

Applicants are strongly encouraged to do each of the following before submitting their application:

1. Begin discussions with appropriate jurisdiction and issuer of the bonds regarding the inducement resolution and TEFRA Hearing (if needed).
2. Select bond counsel and obtain bond counsel's opinion letter stating the project qualifies to use tax-exempt bonds.
3. Initiate discussions with financial institutions willing to issue a letter of credit for the full amount of the bonds to be issued (if public offering).
4. Select investment banker or, if a private placement, the buyer of the bonds. Obtain detailed commitment letters from all financial entities involved.
5. Complete the necessary financing steps at the time of submission.
6. Stay in regular contact with applicant's principal bank.

## Enabling Legislation

U.S. Code





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Private Activity Bonds and their purpose are outlined in 26 U.S. Code § 142, Title 26, Subtitle A, Chapter 1, Subchapter B, Part IV, Subpart A and can be found [here](#). The amount of private activity volume cap is the greater of \$225,000,000 or an amount determined by multiplying the state population by \$120.

## State Code

The Program is established and governed by Utah Code Section 35A-8-2101, et seq., which can be found [here](#).

## Administrative Rule

The Program is governed by Utah Administrative Rule R990-200, which can be found [here](#).

## Internal Revenue Service

The Program promotes and supports IRC 42 which governs the 4% Low Income Housing Tax Credits.

## Conditions and Disclaimers

The Board implements an evaluation process to objectively compare competing applications to ensure an optimum use of volume cap.

No member, officer, agent, or employee of the Board, or any other official of the State of Utah, including the Governor, shall be personally liable concerning any matters arising out of or in relation to the allocation of volume cap.

## Energy Star Policy

ENERGY STAR units and energy-saving features are typically 15% more energy efficient than units built to the standard IRC (International Residential Energy Code). ENERGY STAR units and products use substantially less energy, which has the following results:

- Long-term affordability of units.
- Lower maintenance costs.
- Lower heating, cooling and water heating utility bills.



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- Better protection and greater durability against the elements.
- Quieter and more comfortable living space.
- Improved air quality for consumer's health.
- Helps prevent greenhouse gas emissions.

For these reasons, projects receiving volume cap must be ENERGY STAR-qualified unless all cost effective measures have been implemented and a waiver is granted by the Department of Workforce Services' Division of Housing and Community Development. All multi-unit facilities must be rated by an independent certified Home Energy Rater.

PAB-funded units built and qualified as ENERGY STAR may use the ENERGY STAR Utility Allowance Baseline for proposed rents and calculation of project cash flow during the first year of occupancy following construction or rehabilitation. When units are ENERGY STAR qualified, the Differential Utility Allowances can be shifted to rent and cash flow. Since PAB uses a joint application with Utah Housing Corporation (UHC) for the allocation of 4% tax credits, applicants may need to use UHC's Utility Allowance Baseline or work with the local housing authority to create an ENERGY STAR-based utility allowance.



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## Multi-Family

Applicants of this account are usually developers interested in building or rehabilitating multi-family apartments, which are totally, or have a large percentage of, affordable units compared to market rate units.

### General Rules

#### Bond Proceeds vs. Operation Requirements

##### Private Business Use Test

More than 10% of proceeds must be for a private business use.

Property financed must be used to secure the payment of more than 10% of the debt service.

##### Limitation on Use of Bond Proceeds

95% or more of costs financed with bonds must be for good costs (architect and engineering fees, permits (limited amount), land, depreciable costs, and any expense paid or incurred after the Inducement Resolution date).

5% bad costs include: expenses incurred prior to Inducement Resolution, intangible assets, bond issuance costs and underwriting, loan origination fees.

Issuance costs (bond counsel, underwriter and trustee fees) cannot exceed 2% of proceeds.

##### Use of 4% Low Income Housing Tax Credit (LIHTC)

Multi-family rental projects using volume cap must also use the 4% Low Income Housing Tax Credit (LIHTC); therefore, recipients of volume cap must also meet the requirements of the Qualified Allocation Plan (QAP) administered by Utah Housing Corporation (UHC) and found on their website.

##### Tenant Income Restrictions

Federal law requires that a portion of the rental project units financed by tax-exempt bonds be rented to, or if not rented, be vacant and available for low-income tenants. For each rental situation, the income requirements are adjusted for household size and are determined by HUD. The Code requires



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that not less than:

- 20% of the units of a project be occupied by, or vacant and available for, tenants with annual incomes of 50% or less of the “area median income” (AMI), OR
- 40% of the units of a project be occupied by, or vacant and available for, tenants with annual incomes of 60% or less of AMI.

Rent restrictions and income limits must be met annually for 15 years for Federal standards. UHC’s QAP also has a specific number of years that the rent restrictions and income limits must be met. The Utah Housing Corporation monitors tenant income restrictions.

Additionally, the Board may require that all units be “rent-restricted” and the remaining units not restricted in “A” or “B” above, be rent-restricted and occupied by individuals whose income averages 80% or less of AMI. An occupant’s income may not only exceed 130% of AMI at the time of their initial occupancy. A unit is rent-restricted if the gross rent does not exceed 30% of the imputed income limitation. If the owner utilizes Federal Low-Income Housing Tax Credits, additional income restrictions may apply.

Income Certifications: Each qualified tenant’s income must be re-verified at least once each year. Each tenant household will be treated as a qualified tenant unless their household income exceeds a level greater than 140% of the maximum level under which they qualified (50%, 60% or 80%) of median. Tenants need not be evicted if their incomes have raised above qualifying income levels; however, the next project unit that becomes available for rent must be rented to, or if not rented, be vacant and available for, tenants with incomes that will enable the project to remain in compliance. The project owner must maintain records evidencing compliance with the rent and occupancy requirements. The project owner must file reports with the Treasury Department and with UHC, at least annually, certifying the project meets the income set-aside requirements.

Residential Rental Property must:

- a. Have complete facilities within each unit;
- b. Rent on a non-transient basis; AND
- c. Be available to the general public.

Financing Restrictions

- No more than 25% of proceeds for land acquisition.
- Projects financed with bonds must be completed within three (3) years after issuance.
- 15% Rehab Requirement-Acquisition Financings
  - Fifteen percent (15%) or more of the costs for the building(s) and fixtures must be financed with bonds.



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- Rehabs must be completed within 24 months.
- At least 50% of the project’s aggregate basis (land and building) must be financed by bond proceeds (plus earned interest) to be exempt from 9% tax credit competitive allocation process. Any less, the project is not shielded from 9% allocation process and forfeits 4% tax credits.
- Cannot finance: hotels, motels, student housing, rooming houses, retirement homes, nursing homes, rest homes or trailer parks.
- Additional restrictions as outlined in Code.

## PAB Volume Cap Provision for Multi-Family

Multi-family developers must certify their allocation of cap does not exceed 58% of the aggregate basis of the proposed project. Any requests for additional volume cap will be added to their original volume cap allocation and compared to their aggregate basis at the time of application, and are not to exceed 58% of the proposed project.

## Scoring

In response to the intense competition for volume cap and recognizing it is a scarce and important financial resource, PAB has adopted certain criteria to evaluate applications.

In order for a project to be presented before the Board, the applicant must score at least 217 total points.

The following criteria are to be used to score all multi-family applications:

### Scoring Criteria Definitions

**1. Efficiency**

- a. **Tax-Exempt (TE) Bonds per Individual:** Projects will be scored by the amount of TE bonds per individual served by affordable unit. The calculation for the formula will follow the U.S. Code Section 42 Low-Income Housing Credit’s impute income limitation applicable to unit (Section 42(g)(2)(C): (i) In the case of a unit which does not have a separate bedroom, 1 individual. (ii) In the case of a unit which has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom.) and be as follows:

Bedrooms	Number of Individuals Served
Studio	1



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1-bedroom	1.5
2-bedroom	3
3-bedroom	4.5
4-bedroom	6

The lower the amount of TE bonds per individual, the higher the score.

*Example:* Project A is requesting \$10,000,000 in bond allocation with a unit mix of 10 studios, 10 one-bedroom units, and 10 two-bedroom units, the project will be serving  $[10+15+30=]$  55 individuals and is requesting \$181,818 / 1 individual. If Project B is also requesting \$10,000,000 in bond allocation, but their unit mix is 10 studios and 10 one-bedroom units, the project will be serving  $[10+15=]$  25 individuals and is requesting \$400,000 / 1 individual. In this case, Project A would have a lower ratio than Project B and therefore be awarded more points.

Points will be awarded as follows:

<b>Placement</b>	<b>Points Awarded</b>
1st Lowest Ratio	100
2nd Lowest Ratio	90
3rd Lowest Ratio	80
4th Lowest Ratio	70
5th Lowest Ratio	60
6th Lowest Ratio	50
7th Lowest Ratio	40
8th Lowest Ratio	30
9th Lowest Ratio	20
10th Lowest Ratio	10



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- b. **Project Costs Efficiency:** In an effort to coordinate with the Utah Housing Corporation on criteria used for scoring Project Costs Efficiency, the Utah Private Activity Bond Program follows similar scoring for cost efficiency.

Each project’s costs will be calculated at four levels:

- Hard Costs (HC) per unit;
- HC per Net Residential Square Footage (NRSF);
- Total Development Costs (TDC) per unit;
- TDC per NRSF

Hard Costs are calculated as the sum of costs for existing structures, site work, rehab and/or new construction, and hard cost contingency, as related to the housing components of the development only. The costs considered for calculating these points will not include any costs related to commercial or retail space.

Land costs are included in total development costs for the purposes of calculating credit efficiency. If the project will lease the land instead of purchasing the land, a copy of the land lease agreement must be provided with the Application, along with a statement from a Certified Public Accountant providing a valuation of the leasehold agreement. The determined value will be added to total development costs for the purposes of calculating credit efficiency.

Each cost category (Hard Costs per unit, Hard Costs per NRSF, TDC per unit, and TDC per NRSF) will then be measured against the rolling average, plus an inflation factor for the cost of construction determined by a third party consultant. Those averages will be published in the Utah Housing Corporation’s Qualified Allocation Plan found [here](#).

Scores are awarded as follows:

<b>Percentage of Average</b>	<b>Points</b>
<100% of Average	25
100.1% - 125% of Average	10
≥ 125.1% of Average	0

**2. Location**

- a. **Counties Classification:** According to Utah Code Section 17-50-501, each county shall be classified according to population. Projects may score points for developing in counties



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not of the 1st Class. Please see the Utah Association of Counties website for reference to each county's class (<https://www.uacnet.org/utah-s-29-counties>).

- b. **Within a ½ Mile Radius of Public Transit:** If a project is located within ½ mile of public transit (including Frontrunner, TRAX, Bus Rapid Transit, or a Bus Core Route) it may score points.

**3. Readiness**

**a. Architect Services:**

- i. *Signed Contract/Identified In-House Architect:* A project may receive points for EITHER a signed contract OR identify an in-house architect.
- ii. *Architectural Plan Set:* A project may receive points for an Architectural Plan that includes the following: displayed layout and aesthetics of a proposed project and includes details regarding site plan, floor plans, elevations, sections and details, material schedules.

**b. Building Readiness**

- i. *Evidence of Site Control:* A project will receive points for only a purchase agreement, a lease agreement, or executed option agreement. **(THRESHOLD)**
- ii. *Final Density Approved:* A project will receive points if they provide a zoning letter from the relevant municipality or jurisdiction that the final density for the development is permitted under the municipality or jurisdiction's zoning regulations. **(THRESHOLD)**
- iii. *Signed Contract with General Contractor:* A project will receive points for a signed contract with a general contractor. Only the following contracts will be accepted for points: cost-plus construction contract, design and build contract, guaranteed maximum price contract, incentive construction contract, integrated project delivery contract, lump-sum contract, time and materials contract, unit price contract.
- iv. *Applied for Building Permit:* A project will receive points if they can provide proof that they have applied for a building permit.
- v. *\*Plan Sets:* An applicant may receive points for providing the following Plan Sets:
  - Structural - Display the overall engineering of a building and include connections and anchorage, beams, columns, and slabs, floor, ceiling, and wall components, structural calculations;
  - Civil - Specific to the exterior of a lot that include grading, landscaping, water retention, drainage, utilities, erosion control;
  - MEP - Mechanical, Electrical, Plumbing





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- a. Mechanical - Provide the mechanical layout and equipment to be installed for a project and include heating, cooling, kitchen equipment, smoke control/evacuation systems, duct layouts;
- b. Electrical - Provide any electrical components that will be installed for a project and includes lights, switches, outlets, transformers, switch gears, electrical calculations;
- c. Plumbing - Provide water, waste and gas piping plans and include riser diagrams, plumbing floor plans, hydraulic calculations, water, waste, grease, gas, fire sprinklers, and greywater systems.

Each plan set may receive points individually to be added together for a total cumulative points for this criteria.

\*Rehabilitation projects shall submit all applicable Plan Sets as outlined by their plans for rehabilitation to the site.

**c. Financial Readiness**

- i. Signed Letter(s) of Intent from lender(s) – must be the “long form,” showing a level of underwriting and present specific conditions relating to the commitment of the project.
- ii. Signed Letter(s) of Intent from investor(s) – must show a level of underwriting and present specific conditions of underwriting, e.g., schedule of investor payments, pay rate for credits, etc.
- iii. Letters of intent from lender(s) and investor(s) are accepted and signed by the developer.

**4. Experience**

A project may receive points for (1) subsections a, b, c and d, OR (2) subsection e. If a project applicant has been issued Certificates of Occupancy for three or more projects that have received volume cap from the Board within the last five years, the project will only be scored based on subsection e. If a project has been issued Certificates of Occupancy for two or fewer projects which have received volume cap from the Board within the last five years, the applicant may choose to be scored by (1) subsections a, b, c, and d, OR (2) subsection e. All other projects will be scored based on a combination of subsection a through d.

- a. **Previous Multi-Family Experience Outside Utah:** A project will receive points if the primary applicant or a designated secondary applicant have previously developed a multi-family project of 50 or more units outside of Utah.



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- b. **Previous Multi-Family Experience in Utah:** A project will receive points if the primary applicant or designated secondary applicant have previously developed a multi-family project of 50 or more units in Utah.
- c. **Previous Multi-Family Experience using PAB:** A project will receive points if the primary applicant or secondary applicant have previously developed a multi-family project using Private Activity Bonds and/or 9% LIHTC.
- d. **Extensive PAB Experience:** A project may receive additional points if the primary applicant or designated secondary applicant can demonstrate that it has had an ownership interest in, or has been an essential member of a development team of, three or more projects using Private Activity Bonds and/or 9% LIHTC.
- e. **Good Standing Scoring:** The primary applicant (See Glossary) of a project with previous PAB experience may receive points for this criterion. Only projects that have received volume cap in the previous five years will qualify for points. An applicant may only apply the cumulative Good Standing points from four projects. Only projects which have acquired a Certificate of Occupancy will qualify towards the applicant's cumulative Good Standing scoring.

If a project has only one or two projects completed within the Good Standing scoring, the applicant may double the scoring of those two projects.

Once a project is allocated volume cap, the project will automatically receive 200 points in the Good Standing Scoring Table. An applicant's Good Standing score will be affected by how many extension requests an applicant has made, whether an applicant requests additional volume cap, whether an applicant requests additional volume cap after a bond has been closed, and whether an applicant relinquishes volume cap. Please see the table below for points for each action:

Action Item	Points
First Extension Request (ER)	0
Second Extension Request	-10
Third Extension Request	-20
Fourth Extension Request	-40
Fifth Extension Request	-60
Additional Volume Cap Request (AVC)	-70
Additional Volume Cap After Bond is Closed (AVCABC)	Total Project Score is -60



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Relinquishment of Volume Cap	Zeros Out
Relinquishment of Volume Cap after 4th Extension Request	Total Project Score is -40

A project may also receive additional points for where the project falls within the 50% Test when the bond is closed. A project may choose to relinquish partial volume cap before a project closes to fall within a lower percentage. The amount of points a project is eligible to receive is directly correlated to where the project falls within the 50% test at the time of bond closure.

<b>50% Test at Time of Bond Closure</b>	<b>Points</b>
50%-51.9%	15
52%-53.9%	14
54%-54.9%	10
55%-58%	0

*Example:* Average Point Total for Developer A. Developer A has four projects which have been issued a Certificate of Occupancy within the past five years. Each project's total points will count toward Developer A's average Good Standing Score.

<b>Project</b>	<b>Project #1</b>	<b>Project #2</b>	<b>Project #3</b>	<b>Project #4</b>
<b>Bond Receives Allocation</b>	200 points	200 points	200 points	<del>200 points</del>
<b>ER #1</b>	0	0	0	0
<b>ER #2</b>	-10	-10	-10	<del>-10</del>
<b>ER #3</b>	-20		-20	<del>-20</del>
<b>ER #4</b>	-40		-40	<del>-40</del>
<b>ER #5</b>			-60	<del>-60</del>
<b>AVC</b>	-70			
<b>AVCABC</b>				<del>-60</del>
<b>Relinquishment</b>			YES	



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<b>Relinquishment after 4th Extension</b>			-40	
<b>50% Test</b>	14	0	14	<del>10</del>
<b>Total Project Points</b>	74	190	-40	<del>-60</del>
<b>Average Total</b>	74			

A developer may choose to drop their lowest scoring project. If Developer A chooses to drop their lowest score (-60) then their average Good Standing Score would be 74  $(74+190+-40=224/3)$ .

**5. Mixed-Income Project**

A project may choose to receive points for subsection a or b, but not both.

- a. **Mixed-Income Project:** A mixed-income project uses three or more different rent schedules, including market-rate units. A mixed-income project will receive 10 points if:
  - i. The following three rent schedules are used: 1) market-rate which are units without a deed restriction; 2) 60%; and 3) 40-50% AMI; AND
  - ii. Each rent tier must have at least 10% of the total number of units in the project, except the 40% AMI tier, which can have 7% of the project’s units.
- b. **Income Averaging:** A project may choose to implement an income averaging rent restriction for additional points. At least 40% of the units must be both rent-restricted and occupied by individuals whose incomes do not exceed the imputed income limitation designated by the taxpayer; the average of the imputed income limitations designated cannot exceed 60% of AMI; and, the designated imputed income limitations must be in 10 percent increments, i.e., 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent, or 80 percent.

**6. Community Involvement**

- a. **Moderate Income Housing Plan:** Demonstrate that proposed development will support the municipality’s Moderate Income Housing Plan in which the project is located.
- b. **Community Concession:** If the community makes a concession, which is out of the ordinary and benefits the project, the applicant may receive points.

**7. Site Details**



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- a. **Environmental Site Mitigation:** A project developed on a site that has documented environmental issues may receive points.
- b. **Correction of Environmental Site Issues:** Applicants working to correct the environmental issues with the site will receive points, if all the following requirements are met: 1) define the environmental issues to be addressed; 2) submit a firm written commitment to mitigate the issues; and 3) submit a process schedule to correct all environmental issues along with a financial analysis/cost estimate.
- c. **Energy Star Requirements:** Energy Star is a nationally recognized standard for housing construction and appliances used to foster more energy-efficient housing. The Energy Star Certification requires a 15% improvement over Utah’s current residential energy code. **(THRESHOLD)**
- d. **Enterprise Green Communities Certification:** Projects claiming points in this category must submit with the Application a narrative detailing the upgrades that are considered “green,” over and above costs that would be incurred for the baseline standards of building to Energy Star requirements. For example, Low-E windows are baseline Energy Star enhancements, and therefore would not be considered an enhancement for the Enterprise Green Communities Initiative. (This example is for purposes of differentiating costs only. The Applicant may in fact receive credit toward certification for Low-E windows through the Enterprise Green Initiatives Certification program.) A reflective white roof, however, is not an Energy Star minimum standard and therefore would be considered an enhancement for purposes of claiming points in this scoring category. The narrative must contain a detailed itemization of such improvements and an estimate of the additional cost. The total cost of the improvements will be entered on a separate line in the construction budget portion of the Application and will be included in Eligible Basis for purposes of calculating the amount of credits requested.
- e. **Other Sustainable Initiatives:** Localscapes landscaping, National Green Building Standards, the implementation of solar panels, or other locally or nationally recognized sustainable initiatives that the project integrates into the design of the project will be eligible for additional points.

**8. Project Details**

- a. **Historic Designation Building:** Projects that include buildings with historic designation by appropriate state and federal agencies will be eligible for additional points.
- b. **Historic Tax Credit Use:** Projects that use historic tax credits will be eligible for additional points.
- c. **Fully accessible units above 5% minimum requirement:** All multifamily housing is required to construct a minimum of 5% of its dwelling units as fully accessible. No points are awarded for meeting this minimum requirement. Points are awarded for the



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number of units over and above the 5% requirement. For instance, if a project is required by the formula to have 4 fully accessible units and the Applicant provides 5 units, two points will be awarded for the one excess unit, up to five additional units and ten additional points. These units are to include accessible food preparation areas, bathrooms, bedrooms and living areas.

- d. **Provides 100+ newly constructed units:** Additional affordable units (100 or more units) added to any area of Utah are eligible for points.
- e. **Minimum Rehabilitation Costs per Unit:** The following minimum rehabilitation expenditures for 4 percent projects are based on the age of building(s).

Age of Building(s)	Minimum Rehab Per Unit
Pre 1940	\$90,000
1941-1970	\$85,000
1971-2023	\$80,000

- f. **Maintain or reduce rents for an acquisition/rehab project:** An acquisition/rehab project may qualify for points if the new aggregate AMI in the rent tiering section is the same or lower than the aggregate AMI rent under the existing LURA. Vacant units are not considered in the analysis. Preservation projects that maintain rent levels or reduce rent levels also qualify for this score.
- g. **Qualifies for 4% LIHTC QAP:** A project will be required to meet 4% Low Income Housing Tax Credits Qualified Allocation Plan requirements. The Utah Housing Corporation will provide certification that a project will qualify for 4% LIHTC via a QAP pre-certification. This item will be treated as a disqualifying item. If all items in the checklist are not completed to UHC's standards after ARC meetings, the application will not be considered by the PAB Board of Review. See Exhibit B-1 for the example checklist.

**Scoring Criteria Matrix**

Criteria	Individual	Max Points	Percentage of Total Points/Notes
1. Efficiency		200	26%
a. Bonds/Individual Served			



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i. 1st Lowest	100		
ii. 2nd Lowest	90		
iii. 3rd Lowest	80		
iv. 4th Lowest	70		
iv. 5th Lowest	60		
iv. 6th Lowest	50		
iv. 7th Lowest	40		
iv. 8th Lowest	30		
iv. 9th Lowest	20		
iv. 10th Lowest	10		
b. Project Costs Efficiency			
i. Hard Costs (HC) per unit	25		
ii. HC per Net Residential Square Footage (NRSF)	25		
iii. Total Development Costs (TDC) per unit	25		
iv. TDC per NRSF	25		
<b>2. Location</b>		<b>25</b>	<b>3%</b>
a. Counties Classification			
i. 2nd Class	7		
ii. 3rd Class	10		
iii. 4-6 Class	15		
b. 1/2 mile of transit	10		
<b>3. Readiness</b>		<b>210</b>	<b>32%</b>



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a. Architect Services			
i. Contract/In-House Architect	5		
ii. Architectural Plan Set	30		
b. Building Readiness			
i. Purchase/Lease	5		<b>THRESHOLD</b>
ii. Final Density Approved	5		<b>THRESHOLD</b>
iii. Signed Contract with GC	10		
iv. Applied for Building Permit	50		
v. Plan Sets: Structural, Civil, Mechanical/Electrical/Plumbing	30	90	Builds, 30 for each
c. Financial Readiness			
i. LOI from lender	5		
ii. LOI from investor	5		
iii. Accepted LOIs	5		
<b>4. Experience</b>		<b>200</b>	<b>26%</b>
a. Previous MF Outside of Utah	25		May receive points for a, b, c, and d OR e
b. Previous MF Utah	50		
c. Previous MF PAB	50		
d. Extensive PAB Experience	25		
c. Good Standing	200	200	Four project average
<b>5. Mixed-Income Project</b>		<b>10</b>	<b>1%</b>
a. Qualified Mixed-Income Project	10		





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b. Income Averaging Project	10		
<b>6. Community Involvement</b>		20	3%
a. Moderate Income Housing Plan	10		
b. Community Concession	10		
<b>7. Site Details</b>		32	4%
a. Environmental Site Mitigation	2		
b. Correction of Environmental Site	5		
c. Energy Star Requirements	5		<b>THRESHOLD</b>
d. Enterprise Green Communities Certification	5		
e. Other Sustainable Initiatives	5	15	Builds, max 3 sources
<b>8. Project Details</b>		24	4%
a. Historic Designation Building	2		
b. Historic Tax Credit Use	2		
c. Fully accessible units above 5% minimum requirement	2	10	Builds, max 5 units, each additional unit is 2 points
d. Provides 100+ newly constructed units	10		
e. Minimum Cost of Rehab Per Unit	5		<b>THRESHOLD</b>
f. Maintain or reduce rents for rehab project	5		
g. Qualifies for 4% LIHTC QAP	5		
	<b>Max Points</b>	756	217 Minimum Point Threshold



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# Manufacturing

## General Rules

Private activity bonds are not tax-exempt unless they are “qualified bonds.” Code Section 144(a)(1) defines “qualified small issue bond” as any bond issued as part of an issue:

1. The aggregate authorized face amount of which is \$1,000,000 (or, subject to additional limitations, \$10,000,000) or less; and
2. 95% or more of the net proceeds of which are to be used for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation or to redeem part of all of a prior issue which was used.

This means that any bond issued as part of an issue the aggregate authorized face amount of which is \$10,000,000 or less and 95% or more of the net proceeds of which are to be used for the acquisition, construction, reconstruction or improvement of land or property of a character subject to the allowance for depreciation or to redeem part or all of a prior issue which was so used. There is a cap of \$10,000,000 as mandated by the Federal Government for each allocation request per project. **Bond proceeds cannot be used to refinance debt, inventory, or operating capital.**

## 95% Test

Manufacturing projects must pass the 95% test, which is that 95% of the net proceeds (see Glossary) are to be used (1) for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation, OR (2) to redeem part or all of a prior issue described below (26 USC Code Section 144(a)).

## Prior Issues

In addition to the principal amount of bonds that are being issued, the issuer must include all prior qualified small issue bonds that financed facilities in the same incorporated municipality or in the same county (but not in any incorporated municipality). A principal user is the same person as a principal user of the facility being financed. The principal user is defined as any person who owns or leases 10% or more of or purchases more than 10% of the output of a facility.

## Capital Expenditures



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For tax exemption, the total amount of outstanding bonds issued in favor of a manufacturing facility (and its related entities) plus the total capital expenditures at the facility within three years before and after the bonds' issuance cannot exceed \$20,000,000. It's important to keep in mind that under this \$20 million capital expenditure limitation, the bond amount of \$10 million remains constant. Thus, with \$10 million in bonds, an owner may utilize a total \$10 million capital expenditures amount three years before and/or after the issuance of the bonds. If an applicant desires to utilize this option, they must consult with their own independent bond counsel as there are additional issues and nuances related to individual projects.

Capital expenditures can include expenditures made by local government to assist with the facility. Capital expenditures do not include the following types of expenditures:

- Public utility improvements for the facility.
- Leased personal property provided it is leased by a person in a trade or business of leasing property or by the manufacture of that property.
- Expenditures required by a change in law or due to a casualty.
- Expenditures up to \$1,000,000 that could not be reasonably foreseen when the bonds were issued.

If the \$20,000,000 limit is exceeded due to a capital expenditure, the bonds become taxable on the date the expenditure is made and not retroactive to the date of issue. This will result in the disallowance of a deduction for interest for the period such bond ceases to be a qualified small issue bond. (Code Section 144(a)(4)(A)(i)) and 144(a)(4)(G). Tax-exempt bonds can finance the construction or renovation of manufacturing facilities and the acquisition of new and used equipment. It is the responsibility of the applicant to demonstrate that these costs and expenses are competitive.

### **IRS Bond Audit Program**

Small issue bonds continue to be reviewed under the IRS's bond audit program. The most common problems identified include violations of the \$10,000,000 limit and improper depreciation of bond-financed equipment. Additionally, the sum of all other industrial development revenue bonds used by the developer cannot exceed \$40,000,000 nationwide.

### **Financing Restrictions (All Projects)**

- No more than 25% of proceeds for land acquisition.
- Projects financed with bonds must be completed within three (3) years after issuance.
- 15% Rehab Requirement-Acquisition Financings



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- Fifteen percent (15%) or more of the costs for the building(s) and fixtures must be financed with bonds.
- Rehabs must be completed within 24 months.

## Public Approval

Code Section 147(f) provides that a private activity bond shall not be a qualified bond unless public approval has been obtained with respect to the issuance of such bond.

## Manufacturing Bond Expiration

Under Administrative Rule 990-200-7(1)(a), bonds allocated for manufacturing projects must close by the third Saturday in December of the calendar year in which the Board made the allocation. It is essential to have the necessary financing steps completed at the time of submission.

## Scoring

In response to the intense competition for volume cap and recognizing it is a scarce and import financial resource, PAB has adopted certain criteria to evaluate applications as outlined and written in the enabling legislation. The criteria used to evaluate the applications are guidelines used by the applicants, staff and the PAB Board of Review. The PAB Board of Review reserves the right to accept or reject the conclusions of the staff's evaluations and recommendation. The Board will exercise its prerogative in a prudent manner. Furthermore, PAB reserves the right not to allocate tax-exempt bonds at any meeting(s) held for that purpose.

Applicants are responsible to provide complete, accurate and verifiable information. The Private Activity Bond Authority Review Board reserves the right to use other criteria, if appropriate.

## Scoring Criteria Definitions

### **1. Employment**

- a. **Bond/Job Ratio:** The efficient use of volume cap is a singularly important objective. One measure used to gauge the efficiency is a bond-per-job ratio, or the amount of bonds requested per new job created. Using less volume cap allocation per new job is a positive. To achieve this, applicants are encouraged to combine bonds with other



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financing. A project requesting \$5 million that generates 100 new jobs has a bond per job ratio of \$50,000 (\$5 million/100 jobs). A project requesting \$5 million that generates 50 new jobs has a bond per job ratio of \$100,000.

Bond/Job Ratio	Points
>\$50,000	
\$50,001-\$100,000	
\$100,001<	

- b. **Creation of New Jobs:** A primary goal of manufacturing bonds allocated by the Board is to generate new jobs. Temporary jobs, such as construction, are not considered. Companies currently in operation that have existing employment, will only have the net job gain associated with the bond request considered.

Jobs Added	Points
>25	
26-50	
51<	

Jobs expected to be created in the first three years of the facility's operations will be considered in the evaluation. Further, only jobs located in Utah or those at the facility are considered.

- c. **Above Average Wages:** The Board seeks to reward manufacturing facilities that generate new jobs or retain existing jobs at higher-than-average wages. Pay wages that are between 105% and 125% of the state median for similar jobs and skills will be eligible for points. The Board may also consider the distribution of wages for new and existing jobs.
- d. **Retention of Jobs:** Retaining existing jobs is as important as creating new jobs. Recognizing it is difficult to quantify retention, applicants may receive additional points to present as much information and data regarding job retention as possible and its impact on the community.
- e. **Training and Education of Employees:** Companies offering job training, education, and assistance to an employee's education will be eligible for points. For this consideration, applicants are required to detail the job and education programs offered by the company and if possible, data summarizing employee participation.



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**2. Location**

- a. **Counties Classification:** According to Utah Code Section 17-50-501, each county shall be classified according to population. Projects may score points for developing in counties not of the 1st Class. Please see the Utah Association of Counties website for reference to each county's class (<https://www.uacnet.org/utah-s-29-counties>).
- b. **Target Area**
  - i. Projects developed in census tract or city, town or county where the AMI is 60% of the State's AMI will receive additional points.
  - ii. Projects developed on Native American property will receive additional points.

**3. Readiness**

- a. **Zoning Approval:** Property for the manufacturing facility must be zoned for manufacturing use. (**THRESHOLD**)
- b. **Site Details:** The applicant should address the following items in their application:
  - i. Proximity of infrastructure to site.
  - ii. Need for special infrastructure (i.e. spur line).
  - iii. Environmental study.
  - iv. Current title report and site plan of project.
  - v. If available, building description (this should also be included in construction costs).
  - vi. Letter(s) from appropriate city and county departments to verify the accuracy of any representation made by the applicant.
- c. **Financial Readiness:** Board allocations for manufacturing projects must close by the third Saturday in December of the calendar year in which the Board made the allocation. It is vital the applicant details the status of the project's financing at the time of application. The applicant should be aware that staff of PAB may contact the lender. Points will be awarded for each of the related steps:
  - i. Selection of bond counsel.
  - ii. Letter of Intent from investment banker or if private placement, buyer of the bonds.
  - iii. Detailed commitment letters from all financial entities involved (especially the creditor).
  - iv. Opinion letter from bond counsel that the project qualifies for PAB.

**4. Experience**

- a. Previous development in this area: A project will receive points if the primary applicant has previously developed a project in this same area of manufacturing or exempt facilities.
- b. Previous private activity bond placement experience: A project will receive points if the primary applicant has previously experienced the successful closing of at least one private activity bond in the same area of manufacturing or exempt facilities.



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**5. Public Benefits**

- a. Pay property taxes;
- b. Purchase goods and services from other Utah companies; and
- c. Export their products out of state

**6. Community Support**

- a. **Public Inducement Resolution:** Please see the Glossary for more information regarding a Public Inducement Resolution. **(THRESHOLD)**
- b. **Approved TEFRA Hearing:** Please see the Glossary for more information regarding a TEFRA Hearing. **(THRESHOLD)**
- c. **Community Concession:** If the community makes a concession, which is out of the ordinary and benefits the project, the applicant may receive points.
- d. **Public Financing Sources:** Projects that include grants, loans, or financial concessions applied for from a public entity or have formally applied for grants, loans or financial concessions will receive points. This community involvement does not include acquisition of property from a public entity. The total amount of each financing source must equal at least ¼ of 1% of the total project cost. For every source of financing, up to a maximum of five sources, the applicant is eligible for additional points. Examples of Public Financing Sources include (but are not limited to): TIF, RDA grants and loans, waivers of fees, etc. (max 5 sources)

**7. Demonstrated Need**

- a. **Cash Flow Analysis:** Realistic cash flow for the first three (3) years of operation, which demonstrates the need for tax-exempt financing.
- b. **Variable and Fixed Rates Comparison:** As part of the cash flow analysis, the applicant should also compare variable and fixed rates and explain the reasons for the selection.
- c. **Equity Contribution:** If the applicant is making an equity contribution, this should be explained in detail.

Scoring Criteria Matrix

Criteria	Individual	Max Points	Percentage of Total Points/Notes
1. Employment		135	18%
a. Bond/Job Ratio			
i. >\$50,000	50		





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ii. \$50,001-\$100,000	30		
iii. \$100,001<	10		
b. Creation of New Jobs			
i. >25	10		
ii. 26-50	30		
iii. 51<	50		
c. Above Average Wages	15		
d. Retention of Jobs	10		
e. Training and Education of Employees	10		
<b>2. Location</b>		<b>70</b>	<b>10%</b>
a. Counties Classification			
i. 2nd Class	5		
ii. 3rd Class	30		
iii. 4-6 Class	50		
b. Target Area			
i. 60% or less of State's AMI	10		
ii. Native American Property	10		
<b>3. Readiness</b>		<b>205</b>	<b>28%</b>
a. Zoning Approval	5		<b>THRESHOLD</b>
b. Site Details			
i. Proximity of infrastructure to site	5		
ii. Need for special infrastructure	5		



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iii. Environmental study	15		
iv. Current title report and site plan	15		
v. Building Description	10		
vi. Letters from appropriate city and county departments	50		
c. Financial Readiness			
i. Selection of bond counsel	25		
ii. Letter of Intent from investment banker or private placement	25		
iii. Detailed commitment letters from all financial entities	25		
iv. Opinion letter from bond counsel	25		
<b>4. Experience</b>		<b>150</b>	<b>21%</b>
a. Previous development in this area	75		
b. Previous private activity bond placement experience	75		
<b>5. Public Benefits</b>		<b>60</b>	<b>8%</b>
a. Pay Property Taxes	20		
b. Purchase goods and services from other Utah companies	20		
c. Export products out of state	20		
<b>6. Community Support</b>		<b>60</b>	<b>8%</b>
a. Public Inducement Resolution	5		<b>THRESHOLD</b>
b. Approved TEFRA Hearing	5		<b>THRESHOLD</b>
c. Community Concessions	25		



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d. Public Financing Sources	5	25	Builds, max 5 sources
7. Demonstrated Need		50	7%
a. Realistic cash flow	20		
b. Compared variable and fixed rates	20		
c. Equity contribution explanation	10		
	<b>Max Points</b>	730	



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## Exempt Facilities

One of the eligible purposes for allocation of volume cap is to help finance capital facilities for exempt facility businesses in Utah. This is to help provide the developers of exempt facilities in Utah with an alternative, low-cost source of funds to finance capital expenditures for their facility. Examples of Exempt Facilities can be found in the Glossary under “Exempt Facilities”.

The Board has a suggested cap of \$10,000,000 for each Exempt Facilities request; however, if the project can show good reason for a waiver of this cap, the Board can allocate a higher amount.

One requirement for Exempt Facilities project is at least 20 percent of the financing must be taxable.

## Eligibility

The following are eligible uses for exempt facilities bond proceeds:

- Land
  - Cost of the land cannot exceed 25% of the bond financing. This includes acquisition, site preparation and improvements, infrastructure development (e.g., water, sewer and rail, etc.), environmental testing and landscaping. If land costs exceed 25%, users can contribute equity toward the land cost without violating this rule.
- Buildings
  - Bond proceeds can be used for new construction of an exempt facility. Office, warehousing and research and development space can be financed with bond proceeds, provided they are: 1) located on the same site as the manufacturing facility; and 2) directly related to the manufacturing operation. No more than 25% of the bond financing can be used for these facilities.
  - Corporate headquarter offices do not qualify because they exceed what is needed to supervise the specific manufacturing facility being financed.
  - Existing building acquisition requires at least 15% of the bond proceeds to renovate the facility and any equipment contained in the building. Rehabilitation must be done within two (2) years of the funding date.
- Equipment
  - New equipment includes acquisition, delivery and installation of new machinery, equipment and fixtures used in production lines.
  - Used equipment may only qualify if contained in a building acquired through tax-exempt financing. No used equipment can be financed with proceeds, even if 100% rehabilitated.
    - The used components in Remanufactured Equipment are regarded as only a small portion of the cost basis; then, it may be treated as new property.



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- Soft Costs
  - These include legal, architectural, engineering, surveying, test boring, title insurance, appraisals, accounting and financing costs for the project.

## Bond Limitations

- Taxable Financing
  - At least 20% of the financing must be taxable.
- Bond Proceed Use
  - 95% of the net proceeds from the bond issuance must be used for the defined project.
  - Bond proceeds cannot be used to refinance debt, inventory or operating capital.
- Issuance Costs
  - These costs cannot exceed 2% of bond proceeds.
- Other Limitations
  - Please see other limitations on the use of the bond proceeds in US Code Title 26, Subtitle A, Chapter 1, Subchapter B, Part IV, Subpart A, § 142

## Scoring

In response to the intense competition for volume cap and recognizing it is a scarce and import financial resource, PAB has adopted certain criteria to evaluate applications as outlined and written in the enabling legislation. The criteria used to evaluate the applications are guidelines used by the applicants, staff and the PAB Board of Review. The PAB Board of Review reserves the right to accept or reject the conclusions of the staff’s evaluations and recommendation. The Board will exercise its prerogative in a prudent manner. Furthermore, PAB reserves the right not to allocate tax-exempt bonds at any meeting(s) held for that purpose.

Applicants are responsible to provide complete, accurate and verifiable information. The Private Activity Bond Authority Review Board reserves the right to use other criteria, if appropriate.

## Scoring Criteria Definitions

1. **Employment**
  - a. **Bond/Job Ratio:** The efficient use of volume cap is a singularly important objective. One measure used to gauge the efficiency is a bond-per-job ratio, or the amount of bonds requested per new job created. Using less volume cap allocation per new job is a positive. To achieve this, applicants are encouraged to combine bonds with other



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financing. A project requesting \$5 million that generates 100 new jobs has a bond per job ratio of \$50,000 (\$5 million/100 jobs). A project requesting \$5 million that generates 50 new jobs has a bond per job ratio of \$100,000.

Bond/Job Ratio	Points
>\$50,000	50
\$50,001-\$100,000	30
\$100,001<	10

- b. **Creation of New Jobs:** A primary goal of manufacturing bonds allocated by the Board is to generate new jobs. Temporary jobs, such as construction, are not considered. Companies currently in operation that have existing employment, will only have the net job gain associated with the bond request considered.

Jobs Added	Points
>25	10
26-50	30
51<	50

Jobs expected to be created in the first three years of the facility's operations will be considered in the evaluation. Further, only jobs located in Utah or those at the facility are considered.

- c. **Above Average Wages:** The Board seeks to reward manufacturing facilities that generate new jobs or retain existing jobs at higher-than-average wages. Pay wages that are between 105% and 125% of the state median for similar jobs and skills will be eligible for points. The Board may also consider the distribution of wages for new and existing jobs.
- d. **Retention of Jobs:** Retaining existing jobs is as important as creating new jobs. Recognizing it is difficult to quantify retention, applicants may receive additional points to present as much information and data regarding job retention as possible and its impact on the community.
- e. **Training and Education of Employees:** Companies offering job training, education, and assistance to an employee's education will be eligible for points. For this consideration, applicants are required to detail the job and education programs offered by the company and if possible, data summarizing employee participation.



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**2. Location**

- a. **Counties Classification:** According to Utah Code Section 17-50-501, each county shall be classified according to population. Projects may score points for developing in counties not of the 1st Class. Please see the Utah Association of Counties website for reference to each county's class (<https://www.uacnet.org/utah-s-29-counties>).
- b. **Target Area**
  - i. Projects developed in census tract or city, town or county where the AMI is 60% of the State's AMI will receive additional points.
  - ii. Projects developed on Native American property will receive additional points.

**3. Readiness**

- a. **Zoning Approval:** Property for the manufacturing facility must be zoned for manufacturing use. (**THRESHOLD**)
- b. **Site Details:** The applicant should address the following items in their application:
  - i. Proximity of infrastructure to site.
  - ii. Need for special infrastructure (i.e. spur line).
  - iii. Environmental study.
  - iv. Current title report and site plan of project.
  - v. If available, building description (this should also be included in construction costs).
  - vi. Letter(s) from appropriate city and county departments to verify the accuracy of any representation made by the applicant.
- c. **Financial Readiness:** Board allocations for manufacturing projects must close by the third Saturday in December of the calendar year in which the Board made the allocation. It is vital the applicant details the status of the project's financing at the time of application. The applicant should be aware that staff of PAB may contact the lender. Points will be awarded for each of the related steps:
  - i. Selection of bond counsel.
  - ii. Letter of Intent from investment banker or if private placement, buyer of the bonds.
  - iii. Detailed commitment letters from all financial entities involved (especially the creditor).
  - iv. Opinion letter from bond counsel that the project qualifies for PAB.

**4. Experience**

- a. Previous development in this area: A project will receive points if the primary applicant has previously developed a project in this same area of manufacturing or exempt facilities.
- b. Previous private activity bond placement experience: A project will receive points if the primary applicant has previously experienced the successful closing of at least one private activity bond in the same area of manufacturing or exempt facilities.



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**5. Public Benefits**

- a. Pay property taxes;
- b. Purchase goods and services from other Utah companies; and
- c. Export their products out of state

**6. Community Support**

- a. **Public Inducement Resolution:** Please see the Glossary for more information regarding a Public Inducement Resolution. **(THRESHOLD)**
- b. **Approved TEFRA Hearing:** Please see the Glossary for more information regarding a TEFRA Hearing. **(THRESHOLD)**
- c. **Community Concession:** If the community makes a concession, which is out of the ordinary and benefits the project, the applicant may receive points.
- d. **Public Financing Sources:** Projects that include grants, loans, or financial concessions applied for from a public entity or have formally applied for grants, loans or financial concessions will receive points. This community involvement does not include acquisition of property from a public entity. The total amount of each financing source must equal at least ¼ of 1% of the total project cost. For every source of financing, up to a maximum of five sources, the applicant is eligible for additional points. Examples of Public Financing Sources include (but are not limited to): TIF, RDA grants and loans, waivers of fees, etc. (max 5 sources)

**7. Demonstrated Need:** Too often applicants express the need for volume cap as simply wanting a lower interest rate. The application requires

- a. **Cash Flow Analysis:** Realistic cash flow for the first three (3) years of operation, which demonstrates the need for tax-exempt financing.
- b. **Variable and Fixed Rates Comparison:** As part of the cash flow analysis, the applicant should also compare variable and fixed rates and explain the reasons for the selection.
- c. **Equity Contribution:** If the applicant is making an equity contribution, this should be explained in detail.

**Scoring Criteria Matrix**

<b>Criteria</b>	<b>Individual</b>	<b>Max Points</b>	<b>Percentage of Total Points/Notes</b>
1. Employment		135	18%
a. Bond/Job Ratio			
i. >\$50,000	50		





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ii. \$50,001-\$100,000	30		
iii. \$100,001<	10		
b. Creation of New Jobs			
i. >25	10		
ii. 26-50	30		
iii. 51<	50		
c. Above Average Wages	15		
d. Retention of Jobs	10		
e. Training and Education of Employees	10		
<b>2. Location</b>		<b>70</b>	<b>10%</b>
a. Counties Classification			
i. 2nd Class	5		
ii. 3rd Class	30		
iii. 4-6 Class	50		
b. Target Area			
i. 60% or less of State's AMI	10		
ii. Native American Property	10		
<b>3. Readiness</b>		<b>205</b>	<b>28%</b>
a. Zoning Approval	5		<b>THRESHOLD</b>
b. Site Details			
i. Proximity of infrastructure to site	5		
ii. Need for special infrastructure	5		



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iii. Environmental study	15		
iv. Current title report and site plan	15		
v. Building Description	10		
vi. Letters from appropriate city and county departments	50		
<b>c. Financial Readiness</b>			
i. Selection of bond counsel	25		
ii. Letter of Intent from investment banker or private placement	25		
iii. Detailed commitment letters from all financial entities	25		
iv. Opinion letter from bond counsel	25		
<b>4. Experience</b>		<b>150</b>	<b>21%</b>
a. Previous development in this area	75		
b. Previous private activity bond placement experience	75		
<b>5. Public Benefits</b>		<b>60</b>	<b>8%</b>
a. Pay Property Taxes	20		
b. Purchase goods and services from other Utah companies	20		
c. Export products out of state	20		
<b>6. Community Support</b>		<b>60</b>	<b>8%</b>
a. Public Inducement Resolution	5		<b>THRESHOLD</b>
b. Approved TEFRA Hearing	5		<b>THRESHOLD</b>
c. Community Concessions	25		



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d. Public Financing Sources	5	25	Builds, max 5 sources
<b>7. Demonstrated Need</b>		<b>50</b>	<b>7%</b>
a. Realistic cash flow	20		
b. Compared variable and fixed rates	20		
c. Equity contribution explanation	10		
	<b>Max Points</b>	<b>730</b>	

## Application Process

Persons or entities applying for tax-exempt bond financing must comply with the following procedures. Failure to do so may result in the disqualification of the application. Applications are to be used by the Housing and Community Development Division staff in assembling, reviewing, qualifying, and recommending projects to the Board for allocation. Program Staff may assist applicants and answer questions regarding the application process and evaluation that is outlined in written PAB policy and website resources. Applicants are encouraged to use this resource. However, staff is not allowed to “coach” an applicant. Coaching can include: making suggestions, recommendations, or otherwise assisting an applicant regarding the proposed project with guidance outside of written PAB policy. It is the sole responsibility of the applicant to ensure that the application is submitted as required. If desired, a pre-application meeting can be arranged with staff.

An applicant may be allowed to submit forgotten or omitted information pertinent to their application, but not make any changes or adjustments to an application once submitted.

The exhibits of the application include, but are not limited to:

- Complete application with signature and all necessary exhibits.
- Non-refundable fee. (The fee schedule can be referenced through the Index.)
- Brief narrative description of the development.
- Preliminary opinion from Bond Counsel.
- Evidence of site control.
- Inducement Resolution



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- Signed letters of intent or commitment from all financial sources (banks, lender, investors) detailing terms and conditions of commitment(s).
- Resumes of development team: architect, general contractor, and project manager.
- Evidence of property zoning.
- Current title report and site plan of project.
- Building description, if available. (Include in construction costs.)
- Construction readiness (plans, specs approved, permit ready).
- Development schedule of activities, including commencement and completion dates of construction and bond closing dates.
- Infrastructure proximity to site and special infrastructure need (i.e. spur line).
- Environmental study, if required by the lender.

Once the application is submitted, no further information can be submitted unless requested by staff.

Staff will review the application for completeness. In the event staff requests additional information or clarification, the applicant has five (5) business days to respond. Failure to respond can result in the rejection of the application for the current round.

Staff will rate the project using the goals and objectives established by the Board. Developments must meet PAB threshold qualifications, which include appropriate zoning for the facility and evidence of site control.

The Board has established priorities as guidelines for the allocation of volume cap. The Board may consider any additional criteria it deems necessary in its discretion to achieve maximum benefit of the available resources.

If, after review by staff, there is disagreement or inconsistency with any information submitted, applicant shall be notified by email outlining the difference(s). Applicant will have five (5) working days to respond to staff's findings. PAB reserves the right to disqualify any application for incompleteness or other failings. If disqualified, an e-mail or letter will be sent notifying the applicant.

Upon submission of the application and material, each applicant will receive the opportunity to review the preliminary application scoring with staff in an Application Review Committee (ARC). During each ARC, applicants and staff will review the preliminary application scoring and executive summary. Applicants will have the opportunity to ask for clarification on any application items. After meeting with ARC, each applicant will receive a follow-up email and have the opportunity to resubmit any material discussed in the meeting within five (5) business days of the meeting. Staff will then re-evaluate application scoring, and send each final score to each applicant.

Applicants will have the opportunity to present the details of their project to the Board. Only the applicant may make such presentations. The applicant can invite others to the meeting but unless asked



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a specific question by the Board, the guests may not add to the presentation. Applicants will only have a specified amount of time to make the presentation unless the Board extends the time. Every applicant has an obligation to notify the HCDD staff (hereafter referred to as staff), of any new or additional federal, state, or local funding utilized by a project, along with any changes in project configuration.

The Board reserves the right to reduce the volume cap allocation from the amount of cap requested in its sole discretion. The Board reserves the right to reject any application or impose additional conditions before approving an allocation. The Board reserves the right to rescind a volume cap funding approval if it receives, subsequent to Board approval, information inconsistent or contrary to the representations made in the borrower's original or revised application(s).

Volume cap is allocated for particular projects. Applicants awarded volume cap may not transfer the award to other projects or persons. All costs incurred in the application or development process are the sole responsibility of the applicant.

All decisions of the Board are subject to additional conditions, restrictions and requirements as determined by the Board in its sole discretion, subject to the constraints of the Code, state law, and applicable rules or regulations. Applicants will be notified in writing of the additional requirements.

## Multi-Family Applications

Applicants wishing to submit a Multi-Family Application must apply through the Utah Housing Corporation portal. Information regarding the submission of such applications can be found below. After submitting an application, PAB staff will score and then offer meetings with the Applicant Review Committee (ARC) to review preliminary scoring and all items that shall be presented to the Board. ARC meetings are optional and will not affect the scoring or standing of the applicant before the Board, but do offer the applicant the unique opportunity to review scoring and items to be presented as well as to talk with PAB staff.

### Utah Housing Corporation

The PAB Multi-Family Application is combined with the Utah Housing Corporation (UHC) Low-Income Housing Tax Credit 4% (LIHTC) Application. The application is available at [utahhousingcorp.org/multifamily](http://utahhousingcorp.org/multifamily). Please visit the Utah Housing Corporation website for additional information and Qualified Allocation Plan requirements, or you may contact UHC directly at (801) 902-8200. Applicants are responsible to provide complete, accurate and verifiable information on the application. PAB applications are due for submission no later than 5:00 p.m. on the final date of submission. Only electronic submission submitted via UHC will be accepted. Late applications will not be



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accepted. Once the application is submitted, no further information can be submitted unless requested by staff.

## Manufacturing and Exempt Facilities Applications

An application for tax-exempt bonds is available through a link on the web site for the State of Utah, Department of Community and Culture, Private Activity Bond Authority Review Board (<http://housing.utah.gov/pab/index.html>).

Applications must be electronic copies and may be accepted via thumb drive, electronic CD, or via a file drop application. Late applications will not be accepted.

Complying with federal regulations, the Board has established the following guidelines for manufacturing projects: a maximum allocation of \$10 million for any one manufacturing facility requesting Volume Cap. Each project received will be assessed on its own merit and determine what the state gains from funding it, e.g., jobs, salaries and wages, new technology, new processes, potential of helping the multiplier factor, long-range benefits, etc.



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## After Receiving Bond Allocation

### Certificates of Allocation

Staff will have a certificate complete for each project applying for allocation on the date of each meeting. Upon the close of the meeting, each certificate will be given to the Chairman of the Board to sign and accept each certificate. The signed certificates for multi-family projects will be forwarded to the Utah Housing Corporation and will be held there until bond confirmation payment is received by Program staff. The signed certificates for exempt facilities and manufacturing projects will be held by Program staff until bond confirmation payment is received by Program staff.

The Certificate of Allocation will state the allocation recipient, details of the approved project, the amount of the allocation, the allocation's expiration date, and the allotment account from which the allocation is made. The Certificate will remain in effect for a period of 90 days from approval or the next scheduled quarterly meeting, whichever is earlier. If the applicant is unable to close on the bond funding, they will need to apply for an extension of an additional 90 days, to be reviewed and approved by the Board. Failure to apply for and/or obtain an extension will result in rescinding the allocation and return of the funds to the applicable allotment account for reallocation. Certificates of Allocation are forwarded to the appropriate bond counsel upon the applicant preparing to close on the allocated bonds. Examples of Certificates of Allocation are shown in EXHIBITS A-1 and A-2.



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## Extensions / Additional Bond Allocation

### Extensions

Recognizing the complexity of tax-exempt financing, extensions may be requested by those who have been awarded volume cap. Board approval is required for all extensions. Extensions are for 90 days. An applicant may request up to five (5) extensions.\*

The Board, without requiring a fee or imposing any special conditions, will approve the first extension after the date of allocation.

Extensions must meet the following:

- A fee for the extension, after the first extension, will be required (The fee schedule can be referenced through the Index).
- Completion of the “Extension Request Project Activity Progress Report” for projects requesting an extension. All information requested and the progress report must be submitted at the application deadline. Applications for extension requests are due at the application deadline for the meeting. See Meeting Schedule on PAB website.
  - Acting on behalf of the board, staff may request additional information and such information must be within five (5) days of such request. Failure to comply with the request can result in disqualification.
- If there are any changes, whatsoever, to the project, the applicant is required to notify staff as soon as possible, prior to the next PAB Meeting. If changes significantly alter the project (see Glossary, “Significant Changes” for exact details as to what constitutes a significant change), the applicant may be required to submit a new application. PAB reserves the right to withdraw the original allocation and evaluate the newer application.
- A revised schedule of activities.
- A summary detailing the reason(s) for the extension.

At the discretion of the Board, applicants may make a brief presentation explaining the need for the extension. The Board reserves the right to postpone a decision for any reason.

If the PAB Board does not grant an extension, the applicant can compete for volume cap by submitting a new application at any time. The applicant must pay the full application fee. The application shall be reviewed without prejudice.

\*Manufacturing projects have different rules governing the extensions than those for other projects. Manufacturing projects approved for volume cap must close within the calendar year of the awarded





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allocation. Further, closing (selling or placement of the bonds) must occur no later than the third Saturday in December of the year of allocation.

Extension certificates for multi-family projects issued in the December Meeting are valid until the April Board meeting of the following year. They do not come up for extension renewal in the January Board meeting. This will only apply as long as the issuer of the bonds elects to carry forward the allocation in accordance with the Code. If the issuer does not do so, then the bonds must close by the third Saturday in December of the same year in which the applicant received the allocation; otherwise, the volume cap will automatically relinquish back to the Board.

Learn more about Extension Requirements for Applicants Issued CarryForward Certificates of Allocation [here](#).

## Additional Bond Allocation

Price increases may occur after an applicant has been awarded volume cap. Applicants who have been allocated volume cap may request additional volume cap before their bond allocation closes during the period of their five extensions.

Additional volume cap cannot be requested for bonds that have already closed. If additional volume cap is needed for a project whose bonds have already closed, the applicant may apply as a new applicant in an upcoming Board meeting and will be scored alongside any new applicants.



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# Compliance and Monitoring

## Compliance

Any conditions or restrictions required by PAB must be adhered to.

The applicant agrees to provide documentation demonstrating compliance to PAB staff upon request.

The applicant understands that representations made in the application are binding and subject to verification by PAB or its agent(s). PAB also understands the uncertainty of meeting some representations (sales and cash flow projections, construction costs, financing costs) and acknowledges the applicant is not strictly held to these representations unless significant changes are made to the project (see Glossary, "Significant Changes" for exact details as to what constitutes a significant change). If it is determined that significant changes have been made to the project, the volume cap awarded may be revoked.

If for any reason, the applicant is unable to meet conditions or restrictions required by PAB, the applicant will notify PAB in writing as to the circumstances preventing or modifying compliance. PAB reserves the right to accept or reject the explanation.

## Monitoring

PAB monitoring shall take a two-pronged approach by monitoring both the projects and the applicant. Monitoring shall take place after a project has received a bond allocation and before the bonds have been closed. Any applicant which closes bonds in escrow shall continue to be monitored until escrow conditions have been met.

## Projects

After an applicant has received a bond allocation, staff reserves the right to request to attend regular meetings to discuss the progress of project financing. If the applicant fails to invite staff to meetings, the Board may be informed of this failure at each meeting in which an extension for the bond allocation is requested. The Board may choose to refuse an extension request based upon failure of invitation.

## Applicants



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A record of Good Standing shall be kept of the good standing of each applicant.

As stated in Utah Administrative Code, Workforce Services, Housing and Community Development, Rule 200: Private Activity Bonds R990-200-3: “Good standing means the applicant or recipient has, for the immediately preceding five years: timely remitted to the Board of Review all required fees and payments; timely submitted to the Board of Review all required reports; has not failed to close any projects for which the Board of Review has made an allocation; and has not made to the Board of Review any misrepresentations about an application for allocation or any previous or current project. In addition, for multi-family projects for which the Board of Review has provided allocations, the applicant or recipient, for the immediately preceding five years: has not exceeded rent or income limits, has not converted any affordable unit into a market rate unit, and has rented designated affordable units only to qualified Low and Moderate Income tenants.” The Utah Housing Corporation conducts monitoring on projects which have received allocation from the PAB Board of Review and is obligated to reach out to PAB staff if any project moves to Not in Good Standing.

An applicant wishing to receive volume cap must also be in good standing with the Utah Housing Corporation.

Additionally, PAB staff will track how many extensions and additional allocations have been requested on projects that have received volume cap which is elaborated in Multi-Family Scoring.



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## Fee Schedule

Applicants to the PAB Program are required to pay certain fees. All fees (except extension requests) owed by an applicant must be paid prior to the meeting in which an applicant makes a request. Fees for extension requests may be paid after the Board approves the extension request approval. No certificates shall be released until an applicant is current on all fees. All fees are non-refundable and must be paid via physical checks. No other form of payment will be accepted. Payments shall be mailed to Private Activity Program, ATTN: PAB Program Manager, 140 East 300 South, Salt Lake City, Utah 84111. Fees shall be assessed as follows:

### Application Fees

Application fees are due at the time of application submission. Failure to timely pay fees will render applications incomplete and subject to disqualification.

The Application Resubmission Fee only applies to projects that were previously submitted, approved, and received an allocation of volume cap, but were not able to issue the bonds. Resubmitted applications must be the exact same one that was previously approved. Any changes to the application, including the amount of volume cap requested, will be considered “First Time” applications.

<b>Application Amount</b>	<b>First Time Application Fee</b>	<b>Application Resubmission Fee</b>
Under \$3,000,0000	\$1,500	\$750
\$3,000,000-\$5,000,000	\$2,000	\$1,000
Over \$5,000,0000	\$3,000	\$1,500

### Confirmation Fees

A confirmation fee is charged for all applications approved by the Board for an allocation of volume cap, including additional bond allocation. Applicants will be invoiced within five (5) business days after the Board Meeting in which the approval was granted. Confirmation Fees are due within 10 days of invoice receipt.



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<b>Confirmation Fee</b>
\$300 per Million Dollars of Volume Cap Received

### Additional Allocation Fees

In cases where a project has been awarded volume cap and is in need of additional volume cap, an applicant may apply for additional volume cap. A confirmation fee is charged for additional allocation.

<b>Confirmation Fee</b>
\$300 per Million Dollars of Volume Cap Received

### Extension Requests

Applicants who are not able to close their bonds during the initial 90-day period may request an extension from the Board. An Applicant may request up to five extensions. Manufacturing Projects must close their bonds before Manufacturing Bond Expiration.

<b>Extension Request</b>	<b>Fee</b>
1st 90-day period	No charge
2nd 90-day period	\$2,000
3rd-5th 90-day period	\$4,000



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## Revocation of Allocation

### Change of Ownership (R990-200-5-7(b))

If an approved applicant would like to propose any change of ownership or management, they shall provide the following to the staff to form a recommendation for the Board of Review:

1. A memo of the change which shall:
  - a. State the requested change
  - b. The reason of the change
  - c. Current ownership structure and new ownership structure (include original percentages of ownership and new proposed percentages of ownership)
  - d. Other details as applicable
2. An anticipated timeline of the change of ownership and the closing on the volume cap (including significant dates in the closing of the bond)
3. Resumes/Experience outline for the new proposed owners

### Significant Changes (R990-200-8)

The criteria are:

- a. Reduction of the total project's **affordable** units is 10% or more.
- b. Reduction of the total project's units is 15% or more.
- c. Change in project to a new site location.
- d. Increased total costs/unit is 15% or more.
- e. Increased total project costs are 20% or more.



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## Public Notice & Public Hearing Policy

The Private Activity Bond Board of Review shall be subject to the Department of Workforce Service's Housing and Community Development Division's Public Notice & Public Hearing Policy. The Policy is available upon request.

## Frequently Asked Questions

- What are Private Activity Bonds (PAB)?
  - Issued for the benefit of private individuals or entities.
  - Issued on a tax-exempt basis if they are "qualified." This means they fit under any of the seven categories of qualified bonds outlined by the Internal Revenue Code ("IRC"). (Utah uses four of the categories.)
  - The owner (buyer) of a tax-exempt bond does not pay federal income tax on the interest received on such bonds; consequently, tax-exempt bonds bear lower interest rates than bank loans or taxable bonds. This lower borrowing cost is passed on directly to the borrowing entity.
- What are the Benefits of Tax-Exempt Bonds?
  - Interest rates on tax-exempt bonds are considerably lower than rates on comparable taxable bonds.
- What are the Benefits of Exempt Facility Bonds?
  - The major advantage is a lower interest rate on financing compared to a taxable bond or conventional financing.
    - Example: investor in 25% tax bracket receives same after-tax income from tax exempt bond at 6% interest compared to taxable bond at 8% interest.
    - Long-term capital is available at 100 to 300 basis points (1 to 3 percentage points) less than market rates for periods of 20-40 years.
- How does a local community benefit from having a PAB Funded Exempt Facility?
  - Long-term creation and/or addition of new jobs with above average wages.
  - Financial profits produced by the construction of the project.
  - Dollars spent in local businesses.
  - Additional tax revenues generated.
- What are the Limitations of Tax-Exempt Financing?
  - Nationwide Limitation on Outstanding Tax-Exempt Bonds of \$40 million.
    - Applies to project owner and other principal users.
    - Proposed issue, plus the principal of any outstanding Qualified Small Issues or tax-exempt issues for exempt facilities, whenever or wherever they were issued.



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- All prior issues are counted nationwide; not just the ones in the same jurisdiction of a proposed project.
- No time period limitations.
- What can be financed with Tax-Exempt Bond Proceeds?
  - Proceeds can be used for the following purposes:
    - New construction of facility.
    - New Equipment and fixtures used in production lines.
    - New Machinery.
    - Land, Landscaping (not to exceed 25%).
    - Issuance costs (not to exceed 2%).
    - Cost of architects, engineers, attorneys, permits (limited amounts).
  - Bond proceeds cannot be used to refinance debt, inventory, or operating capital.
- Can Eligible Project Costs be Paid Prior to the Bond Issuance Date?
  - Eligible project costs may be paid prior to the date the bonds are issued if:
  - Issuer of the bonds (the tax-exempt entity, not the company) takes “official action,” typically in the form of an “Inducement Resolution” or “Declaration of Intent.”
  - “Official Action” must be taken within 60 days after eligible project expenditures are paid.
  - Exceptions to 60 day requirement:
    - “Preliminary Expenditures” – not in excess of 20% of bond proceeds (architectural, engineering, surveying, construction, project rehabilitation, other land acquisition, site preparation, beginning construction costs, etc.
    - “Official Action” does not need to be taken if expenditures do not exceed the lesser of \$100,000 for any issue or 5% of the issue proceeds.
- Eligible projects costs cannot be paid from bond proceeds if it was paid for:
  - More than 18 months after the later of the following dates:
    - When the financed facility was placed in service OR
    - The reimbursed cost was paid.
    - More than three (3) years prior to receiving volume cap allocation.
  - How Does the Financing Work?
    - Applicants are responsible for arranging the necessary financing steps, including a buyer for the bonds. PAB is not a fiscal advisor or an authorized issuer of tax-exempt bonds.
    - Applicants are encouraged to have financing completed at the time of application submission.
    - Applicant must detail status of the project’s financing at the time of application.
    - Applicants are responsible to provide complete, accurate and verifiable information.
    - PAB staff may contact lender to verify financing information.
  - What other steps are involved in a Tax-Exempt Bond Transaction?
    - Selection of bond counsel.
    - Selection of investment banker or if private placement, buyer of the bonds.





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- Detailed commitment letters from all financial entities involved.
  - Opinion letter from bond counsel stating project qualifies for PAB.
- Why use Private Activity Bonds
  - Lower Interest Rates than conventional loans of comparable maturity.
  - Higher Loan Amounts (greater leverage) due to lower interest rates.
  - Greater Variety of Financing Tools
    - Variable Rate Demand Bonds to provide greater cash flow.
    - Derivative products to customize financing to desired risk tolerance.
  - Equity from 4% Low-Income Housing Tax Credits (LIHTC) for MF Housing projects.
    - Provides 25% to 30% more capital as a source of funds.
- How Does the Financing Work?
  - Applicants are responsible for arranging the necessary financing steps, including a buyer for the bonds. **PAB is not a fiscal advisor or an authorized issuer of tax exempt bonds.**
  - Applicants are encouraged to have financing completed at the time of application submission.
  - Applicant must detail status of the project's financing at the time of application.
  - Applicants are responsible to provide complete, accurate and verifiable information.
  - PAB staff may contact lender to verify financing information.
- Who is a part of the applicant's transaction team?
  - The applicant's transaction team includes (but is not limited to):
    - Issuer
    - Issuer's Counsel/Financial Advisor
    - Bond Counsel
    - Owner
    - Owner's Counsel
    - Owner's Financial Advisor
    - Credit Enhancer
    - Credit Enhancer's Counsel
    - Construction Phase Credit Enhancer and Counsel
    - Tax Credit Equity Provider and Counsel
    - Underwriter
    - Underwriter's Counsel
    - Trustee and Trustee's Counsel
    - Rating Agency
- What is the Issuance Process?
  - a. Engage required bond professionals:
    - i. Issuer
    - ii. Bond Counsel
    - iii. Investor for bonds and tax credits
  - b. Inducement Resolution
    - i. Obtain within 60 days from date of expenditures financed with bonds
    - ii. Especially important if purchasing land with private funds prior to closing



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- c. Submit required fees and application with all exhibits
  - d. Attend PAB Board Meeting to present project for approval of volume cap
  - e. If cap is awarded, PAB sends MF application to UHC for tax credit approval. Applicants applying for tax credits must meet Qualified Action Plan (QAP) requirements. Volume Cap allocation by PAB does not ensure approval for tax credits by UHC
  - f. Develop all aspects of transaction
  - g. TEFRA Hearing
    - i. Public Hearing conducted by the issuer of the bonds
    - ii. Hearing held at least two weeks prior to bond closing
  - h. Bond Counsel will prepare documents for closing when financing is finalized
  - i. Attend bond closing with issuer. Proceeds from issuance are given to applicant to start construction on project.
- What are types of bond issues?
    - Public Offering
      - Sale to the general public through the marketplace.
      - Buyer of the bonds may resell them to other investors.
      - Must be rated by one of the three bond rating services – Moody’s, Standard and Poor’s or Fitch’s with AA- or AAA-rating for best interest rates.
    - Private Placement
      - Sold to bondholder(s); stays in their own investment portfolio.
      - Bond does not need to be rated; due diligence done by investor.
      - No need for Credit Enhancement. Interest rate may be higher.
      - No need for Trustee or Underwriter.
      - Transaction:
        - Takes less time;
        - Has fewer hurdles; and
        - Is often less expensive to structure.
  - What is the work and costs associated with private bond issuance?
    - Bond issues involve a substantial amount of work by many parties.
    - Costs related to transaction can be substantial, including fees for: application, underwriter, underwriter’s counsel, bond counsel, credit enhancement, construction lender, permanent lender, real estate counsel, issuer, and trustee.
    - Out of pocket expenses for any of the foregoing, printing costs, rating service costs, etc.
  - Why should manufacturers use tax-exempt bonds?
    - State and Federal laws allow manufacturing companies to use a city or county’s name and tax-exempt financing status to issue tax-exempt bonds.
    - If all tax requirements are met, bond issues are exempt from federal income taxes and possibly state and local taxes.
    - Interest rates of tax-exempt bonds are usually lower than taxable bonds.
    - There is no guarantee, debt, liability, obligation or pledge of faith by the city or county issuing the bonds.



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- Governmental entities are willing to do this because PABs meet a public purpose or create a public benefit, i.e. creation of jobs from a new manufacturing facility.
- Tax-exempt bonds provide an alternative, low-cost, source of funds to finance capital expenditures.
- Why should developers use tax-exempt bonds?
  - Lower interest rates than conventional loans of comparable maturity.
  - Higher loan amounts (greater leverage) due to lower interest rates.
  - Access to a greater variety of financing tools.
    - Variable rate demand bonds to provide greater cash flow.
    - Derivative products to customize financing to desired risk tolerance.
    - Provides 25 percent to 30 percent more capital as a source of funds.
  - Access to equity from 4 percent Low-Income Housing Tax Credits (“LIHTCs”).
    - Provides 25 percent to 30 percent more capital as a source of funds
  - Easier and quicker path to obtain necessary authorization to proceed.



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**PRIVATE ACTIVITY BOND PROGRAM**

# Exhibits

## Exhibit A-1 - Manufacturing

**Utah Private Activity Bond Review Board  
Certificate of Allocation**

Pursuant to Section 146 of the United States Tax Reform Act of 1986 and Section 35A-8-21, Utah Code Annotated 1953 as amended, establishing an alternative methodology for allocating the “volume cap” for certain tax-exempt bonds in Utah, John T. Crandall, as the duly authorized official in conformance with Subsection 35A-8-2108, et seq, issues this certificate to Juab County, on this date for the purpose described below:

- |   |  |
|---|--|
| <b>A. NAME &amp; ADDRESS OF INITIAL OWNER OR USER OF PROJECT:</b> | Manufacturing Company<br>Street Address<br>City, Utah 84000<br>Attn: Manufacturer  |
| <b>B. PROJECT LOCATION &amp; DESCRIPTION:</b>                     | The proceeds of the bonds will be used for new construction of a 100 square-foot manufacturing facility for processing manufacturing materials on 100 acres of land. |
| <b>C. PRINCIPAL AMOUNT OF BONDS:</b>                              | \$10,000,000   |
| <b>E. CERTIFICATE EXPIRATION DATE:</b>                            | 90 days [date] or next scheduled quarterly meeting, whichever is earlier.  |
| <b>F. BOND COUNSEL:</b>   | Manufacturing Bond Counsel<br>Manufacturing Bond Counsel Firm<br>Street Address<br>City, State, 84000  |



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**G. SUBSECTION 35A-8-2108 REQUIREMENTS:**

- (1) (a) Notwithstanding any law to the contrary, an issuing authority issuing bonds without a certificate of allocation issued under Section [35A-8-2107](#), or an issuing authority issuing bonds after the expiration of a certificate of allocation, is not entitled to an allocation of the volume cap for those bonds.
- (b) An issuing authority issuing bonds in excess of the amount set forth in the related certificate of allocation is not entitled to an allocation of the volume cap for the excess.
- (2) Each issuing authority shall:
  - (a) advise the board of review, within 15 days after the issuance of bonds, of the principal amount of bonds issued under each certificate of allocation by delivering to the board of review a copy of the Form 8038 that was delivered or shall be delivered to the Internal Revenue Service in connection with the bonds, or, if no Form 8038 is required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the board of review with respect to the bonds; and
  - (b) if all or a stated portion of the bonds for which a certificate of allocation was received will not be issued, advise the board of review in writing, within 15 days of the earlier of:
    - (i) the final decision not to issue all or a stated portion of the bonds; or
    - (ii) the expiration of the certificate of allocation.
- (3) Failure by an issuing authority to notify the board of review under Subsection [\(2\)](#), including failure to timely deliver a Form 8038, may, in the sole discretion of the board of review, result in the board of review denying further consideration of applications from the issuing authority.

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John T. Crandall, Chair  
Private Activity Bond Review Board

Date



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## Exhibit A-2 – Multi-Family

### Utah Private Activity Bond Review Board Certificate of Allocation

Pursuant to Section 146 of the United States Tax Reform Act of 1986 and Section 35A-8-21, Utah Code Annotated 1953 as amended, establishing an alternative methodology for allocating the “volume cap” for certain tax-exempt bonds in Utah, John T. Crandall, as the duly authorized official in conformance with Subsection 35A-8-2108, et seq, issues this certificate Utah Housing Corporation, on this date for the purpose described below:

- A. NAME & ADDRESS OF INITIAL OWNER OR USER OF PROJECT:** Multi-Family Development  
Street Address  
City, Utah 84000  
Attn: Developer
- B. PROJECT LOCATION & DESCRIPTION:** The proceeds of the bonds will be used for the new construction of a 100-unit multi-family apartment complex called The Development. This complex is to be located at Street Address, City, UT 84000.
- C. PRINCIPAL AMOUNT OF BONDS:** \$100,000,000
- E. CERTIFICATE EXPIRATION DATE:** 90 days [date] or next scheduled quarterly meeting, whichever is earlier.
- F. BOND COUNSEL:** Ryan R. Warburton  
Gilmore & Bell, P.C.  
15 West South Temple, Suite 1450  
Salt Lake City, Utah 84101



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**G. SUBSECTION 35A-8-2108 REQUIREMENTS:**

- (1) (a) Notwithstanding any law to the contrary, an issuing authority issuing bonds without a certificate of allocation issued under Section [35A-8-2107](#), or an issuing authority issuing bonds after the expiration of a certificate of allocation, is not entitled to an allocation of the volume cap for those bonds.
- (b) An issuing authority issuing bonds in excess of the amount set forth in the related certificate of allocation is not entitled to an allocation of the volume cap for the excess.
- (2) Each issuing authority shall:
  - (a) advise the board of review, within 15 days after the issuance of bonds, of the principal amount of bonds issued under each certificate of allocation by delivering to the board of review a copy of the Form 8038 that was delivered or shall be delivered to the Internal Revenue Service in connection with the bonds, or, if no Form 8038 is required to be delivered to the Internal Revenue Service, a completed copy of a Form 8038 prepared for the board of review with respect to the bonds; and
  - (b) if all or a stated portion of the bonds for which a certificate of allocation was received will not be issued, advise the board of review in writing, within 15 days of the earlier of:
    - (i) the final decision not to issue all or a stated portion of the bonds; or
    - (ii) the expiration of the certificate of allocation.
- (3) Failure by an issuing authority to notify the board of review under Subsection [\(2\)](#), including failure to timely deliver a Form 8038, may, in the sole discretion of the board of review, result in the board of review denying further consideration of applications from the issuing authority.

**H. ADDITIONAL CONDITIONS:** This Certificate of Allocation is also subject to the Additional Conditions listed below:

As a condition of an allocation of Private Activity Bond Volume cap, the Issuer of Bonds shall require the owner of the related project to enter into the following covenants:

The project must meet the requirements of subparagraph (A) or (B), whichever is elected by the owner, for a period of not less than 51 years:

- (A) 20-50 Test. 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income.
- (B) 40-60 Test. 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

Project owners shall maintain records evidencing compliance with the rent and occupancy requirements set forth above, shall deliver compliance reports to the related Bond Issuer at least once each year and shall allow audits by the related Bond Issuer or by representatives of the State of Utah of its records and the related project upon request.

The provisions hereof, including terms which are not defined, shall be interpreted and construed in accordance with the rules, definitions and requirements of Section 42 of the Internal Revenue Code of 1986, as amended.



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John T. Crandall, Chair  
Private Activity Bond Review Board

Date





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## Exhibit B-1 – QAP pre-certification

**BOND Application Review: *Threshold Only***

**9/26/2023**

Project Name: _____		Project ID: _____	
City: _____		New/Acq.&Rehab: _____	
Investor Name: _____		Resyndication: _____	
Federal Credits: _____		Purchase Rate (F): _____	
State Credits: _____		Purchase Rate (S): _____	
Building Count: _____	# of LIHTC Units: _____	Total Units: _____	App Match: <input type="checkbox"/>
<i>Project Data Summary:</i>			
Rent & Income AMIs: _____	General Requirements: _____		
Vacancy Percentage: _____	Reductions in Elig. Basis: _____		
Replacement Reserve: _____	Total Qualified Basis: _____		
Bedroom Mix: _____	Open Project Count: _____		
Developer Fee: _____	Total Cost: _____		
Market Unit Count: _____	Gap in Funding (must be 0): _____		
DCR (between 1.15 - 1.25): _____	Boost Percentage: _____		
Re/Expense Variation (1 or more): _____	Rehab (Cost/Unit): _____		
Unit Cash Flow: _____	Expenses Per Unit: _____		

TAB 1		Executive Summary
TAB 2		<b>Spreadsheet Application</b>
		<b>Exhibit 2A - Signed &amp; Dated</b>
		<b>Program Goal Explanation</b>
		Certifications & Representations
		Required Forms
		<b>Project Unit Breakout</b>
TAB 6		<b>Comprehensive Financials (Exhibit 4D)</b>
TAB 10		<i>Set-Aside Service Provider Letters (on letterhead)</i>
		<i>Detailed Narrative</i>
		<i>Service Provider Experience Letter (PSH only)</i>
TAB 16		<b>Title Report (dated 90 days, or less, from Application)</b>
TAB 17		<b>Evidence of Site Control</b>
TAB 20		<b>Zoning Letter (on letterhead, signed)</b>
		<b>Complete Zoning Ordinance</b>
		<b>Zoning Map</b>
TAB 21		<i>Conditional Use Permit (Stamped &amp; Filed)</i>
		<i>Acknowledge of receipt by City/County</i>
		<i>Evidence/Receipt of fees due and paid</i>
TAB 25		<b>Letters of Interest from each Source of Funds</b>
TAB 27		<b>Market Study (expires 90 days from App)</b>
TAB 28		<b>Land Appraisal (expires 6-mos from App)</b>
<b>Rehabs Only</b>		
TAB 30		Operating Statement (RD/HUD Voucher)
TAB 32		Tenant Relocation Plan
TAB 33		Capital Needs Assessment (Exhibit 4C)
TAB 37		Unit Inspection Certification



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## Glossary

<b>Affordable</b>	At least 20% of the residential units in the project are set aside for families whose incomes do not exceed 50% of Area Median Income (AMI), adjusted for family size; or at least 40% of the residential units in the project are set aside for families whose incomes do not exceed 60% of AMI, adjusted for family size.
<b>Allocation</b>	The terms Allocation an Application that has been successful in competition for Private Activity Bonds and through the period before the project has closed their volume cap allocation.
<b>Applicable Fraction</b>	The lesser of the following two ratios: 1. Percentage of qualified low-income units compared to the total units within the project; 2. Percentage of qualified square footage compared to the total square footage within a project.
<b>Applicant</b>	Applicant means the individual or entity who submits an application for allocation of volume cap from the Board.
<b>Applicant Review Committee (ARC)</b>	The Application Review Committee may consist of the PAB program manager, other PAB staff, and other HCD staff including HCD director and assistant director.
<b>Application</b>	Application means the Private Activity Bond Application submitted by an Applicant for a project. The Application includes all information submitted through the online portal, and any subsequent documentation, whether submitted electronically or in hard copy.
<b>Area Median Income</b>	Mid-point income with half the population above and half below in a particular area. The HUD Area Median Incomes are published every year for metropolitan and county areas. The AMI is adjusted for household size.
<b>Areas of High Unemployment</b>	Towns, cities, or areas with unemployment 150% of the state unemployment average.
<b>Associate Applicant</b>	Each multi-family applicant may include associate applicants (Owners, Development Team, General Partners or anyone not identified as the Primary Applicant) who are also coordinating the development of the project. Their experience will not qualify for “Good Standing” points, but may qualify other experience points.
<b>Available Volume Cap</b>	Unencumbered Volume Cap.



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<b>Carryover Allocation</b>	This is the remaining amount in the Pool Account that the Board sets aside at the end of a calendar year.
<b>Closed/Close Volume Cap</b>	The time at which bonds are exchanged for funds.
<b>Code</b>	The Internal Revenue Code of 1986, as amended, together with corresponding and applicable temporary, proposed, and final Treasury Regulations, and Revenue Rulings and pronouncements issued or amended regarding it by the U.S. Department of the Treasury or IRS.
<b>Common Areas</b>	Land, improvements, and amenities for the benefit and use of all occupants, as well as the property owner. Examples are corridors, hallways, playgrounds, community rooms, management offices, and elevators.
<b>Concerted Community Revitalization Plan (CCRP)</b>	<p>A CCRP is a plan from a local jurisdiction which is evidenced by a written document which establishes an active partnership between local government(s) and community-based organizations and which commits each signatory to specific and measurable goals, actions and timetables to foster, among other things, the construction or rehabilitation of affordable housing. Is a published document, approved and adopted by the jurisdiction's governing body with binding legal authority, by ordinance, resolution, or other legal action, and targets funds or tax incentives to a defined geographic area for either of the following:</p> <ol style="list-style-type: none"><li>1. economic development, including economic related initiatives; or</li><li>2. commercial/retail development, including infrastructure and community facility improvement.</li></ol> <p>For the purposes of claiming points under the QAP the CCRP must commit specific financial resources to the project, and commit specific additional investments in neighborhood assets such as schools, infrastructure, transportation, jobs, and crime reduction. Scattered site developments must have all sites included in a CCRP (or multiple CCRPs) in order to claim points under the scoring related to CCRPs.</p> <p>The jurisdiction's 5 Year Consolidated Plan or Long Term Land Use Plan is insufficient to meet the requirements under this section.</p>
<b>DCR Debt Service Coverage Ratio.</b>	This is a commonly used measure of project feasibility. It is the annual net operating income before income taxes divided by the annual debt service.



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<b>Developer</b>	The party responsible for preparing the project for residential use as a PAB project and who is responsible for ensuring that a material portion of all phases of the development process are accomplished.
<b>Energy Star</b>	Energy Star qualified construction incorporates: 1. Tight construction (reduced air infiltration) 2. Tight ducts 3. Improved insulation 4. High performance windows 5. Energy efficient heating & cooling equipment. The Utah Energy Conservation Coalition (UECC) does the rating certification and certifies other analysts. A project must be rated by UECC, or equivalent, and then certified after construction to be an Energy Star qualified project. See website <a href="http://www.energystar.gov">www.energystar.gov</a>
<b>Equity</b>	Funds a Developer receives from an investor or syndicator resulting from the sale of Housing Credits that were awarded to a project in the Housing Credit Program.
<b>Equity Gap</b>	This is the difference between long-term financing and project construction and interim expenses, including reasonable Soft Costs and reserves.
<b>Exempt Facility</b>	<p>Airports, docks, and wharves, mass commuting facilities, facilities for the furnishing of water, sewage facilities, solid waste disposal facilities, qualified residential rental projects, facilities for the local furnishing of electric energy or gas, local district heating or cooling facilities, qualified hazardous waste facilities, high-speed intercity rail facilities, environmental enhancements of hydroelectric generating facilities, qualified public educational facilities, qualified green building and sustainable design projects, qualified highway or surface freight transfer facilities, qualified broadband projects, or qualified carbon dioxide capture facilities all qualify as exempt facilities under Code § 142(a).</p> <p>Certain Exempt Facilities must be governmentally owned. Airports, docks and wharves, mass commuting facilities, and environmental enhancements of hydroelectric generating facilities are treated as such if all the property to be financed by the bond issue is owned by a governmental unit.</p>
<b>Firm Commitment</b>	A lender's irrevocable agreement to loan a specific sum of money to an owner at a specified interest rate for a definite term, subject to certain conditions.
<b>GRAMA</b>	Utah's Government Records Access and Management Act (Utah Code § 63G-2-101, et seq.).
<b>General Partner</b>	A natural person, partnership, corporation, or other person or entity in its own or any representative capacity who has been admitted to a limited partnership as a General Partner in accordance with the partnership agreement.



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<b>Good Standing</b>	See Utah Administrative Rule R990-200-3.
<b>HAP Contract</b>	The HAP Contract is an agreement between the Public Housing Authority and the owner of a unit occupied by an assisted household. The HAP Contract provides sufficient operating subsidies.
<b>Housing and Community Development Division (HCD)</b>	The Housing and Community Development Division (HCD) within the Utah Department of Workforce Services. HCD oversees the administration of the PAB program.
<b>Hard Costs</b>	Costs incurred by the contractor in providing all labor, materials, equipment, general conditions, overhead, and profit for the construction of a project. For the purposes of calculating credit efficiency, Hard Costs include the purchase price of any improvements and demolition.
<b>High Poverty Rates</b>	Towns, cities, or areas with poverty rates at least 125% of the state average.
<b>Housing Credit Program</b>	The Utah Housing Corporation's program for awarding, reserving, and allocating Housing Credits and monitoring projects for compliance with Housing Credit Program and §42 of the Code, as set forth in the QAP, and UHC's agreements, contracts, manuals, guides, and other documents.
<b>Housing Unit</b>	Housing Unit means an Affordable Housing Unit and/or market rate Housing Unit in a building that is available for rent or rented by residents. A common area unit is not a Housing Unit in a project.
<b>Identity of Interest</b>	A financial, familial, or business relationship that permits less than arm's length transactions. For example: Related Parties; persons, entities, or organizations affiliated with or controlled by or in control of another; existence of a reimbursement program or exchange of funds; common financial interests; etc.
<b>Investor Member</b>	An investor who is admitted into the ownership of a project through an Operating Agreement or Limited Partnership Agreement, typically acquiring the interest without becoming involved in the daily management of the project. Its main role is to invest in the project.
<b>Income Averaging</b>	The Minimum Set-Aside Election in which at least 40% of the units must be both rent-restricted and occupied by individuals whose incomes do not exceed the applicable income limitation; the average of the applicable income limitations cannot exceed 60% of AMI; and, the applicable income limitations must be in 10



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percent increments, i.e., 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent, or 80 percent.

<b>Manufacturing Facility</b>	Any facility which is used in the manufacture or production of tangible personal property (including the processing resulting in a change in the condition of such property). Facilities that are: (a) “functionally related and subordinate” to a manufacturing facility; and (b) located at the same site are treated as part of the manufacturing facility, and not subject to the 25% limit on financing for “ancillary facilities” under the regular rules. (Code Section 144(a)(12)(C). Under The American Recovery and Recovery and Reinvestment Act of 2009 (HR1) the definition of “manufacturing facility” has been modified and expands the authorization for small issue Industrial Development Bond’s to include facilities for manufacturing intangible property, including patents, copyrights, formulas, process design, know how, format or similar items. A manufacturing facility can also include other facilities so long as they are (i) “functionally related and subordinate” to a manufacturing facility, and (ii) located at the same site as the manufacturing facility.” Section 142(b)(2) states that office space cannot be financed unless the office is located on the premises of the facility and not more than a de minimis amount of the functions to be performed at such office is not directly related to the day-to-day operations of the facility.
<b>Market Rate Units</b>	Housing units that are above 80% of AMI.
<b>Moderate Income</b>	Households or persons whose incomes are from 60% to 80% of the AMI.
<b>Moderate Income Housing Plan</b>	Per Utah Code (Sections 10-9a-408 and 17-27a-408), certain jurisdictions are required to report on their moderate income housing efforts on an annual basis. Please visit ( <a href="https://jobs.utah.gov/housing/affordable/moderate/reporting/">https://jobs.utah.gov/housing/affordable/moderate/reporting/</a> ) for a list of required Utah cities and additional information regarding Moderate Income Housing Plans.
<b>Net Proceeds</b>	The sale proceeds less any amount deposited in a reserve fund and does not appear to include investment proceeds. (26 USC Code Section 150(a)(3)).
<b>Net Residential Square Footage (NRSF)</b>	The area of an individual unit that is available for the exclusive use of the tenant. NRSF for each unit is measured from the inside finished surface of surrounding permanent walls, and excludes walls, columns, and projections enclosing the structural elements of the building within the unit. Exterior space including patios and balconies that are available for the exclusive use of tenants is also included in this calculation.



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<b>Non-Compliance</b>	Failure to observe or perform any covenant, condition, or term of any agreement between the Applicant and PAB and/or UHC, as applicable, or any terms imposed by the Board upon allocation of volume cap.
<b>Nonprofit Organization</b>	An organization organized and operated exclusively for charitable purposes and that is tax-exempt under the Code. Examples of these are organizations described in Sections 501(c)(3) and 501(c)(4) of the Code. A Nonprofit Organization also includes PHA's and public development corporations and agencies that are tax exempt.
<b>Not in Good Standing</b>	A designation issued by PAB to an Applicant, owner, property management company, or any other party to a project, so issued as a result of failure to pay required fees on time, failure to complete required reporting on time, failure to address noncompliance issues on time, exhibiting a pattern of ongoing noncompliance in the Housing Credit Program or in violation of the LURA, or for any other reason of malfeasance, misconduct, or abuse of the Housing Credit Program as determined by UHC or the Board, as applicable. Anyone found to be Not in Good Standing may be disqualified from future participation in the Housing Credit Program or PAB for a determined period of time.
<b>Operating Agreement</b>	Document that defines and governs the business relationship between the members of a limited liability company.
<b>Operating Expenses</b>	Periodic expenses which are essential for a project's continuous operation and maintenance. Operating Expenses may be fixed, such as property taxes and insurance, or they may be variable, such as utilities or payroll. Operating and Replacement Reserve contributions are Operating Expenses; mortgage principal and interest and depreciation are not.
<b>Permanent Supportive Housing (PSH)</b>	Permanent Supportive Housing, or PSH, is a model that combines low-barrier access to affordable housing and dedicated supportive services in an effort to help individuals and families lead more stable lives. PSH targets the homeless or chronically homeless and those with psychiatric disabilities, chronic health challenges, or other barriers to accessing or retaining stable housing. PSH provides robust supportive services to reduce instability in housing. PSH projects will deliver supportive services through a combination of on-site services and linkages to available community services. PSH projects will have tenant selection policies that prioritize people who have been homeless the longest or have the highest service needs as evidenced by vulnerability assessments. PSH projects are 100% PSH units and must be rent restricted at or below 35% AMI and are required to have a minimum 15-year commitment of project-backed rent subsidy.



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<b>Pre-development Costs</b>	Costs incurred in conjunction with, but prior to, the actual commencement of the project's construction, such as site option costs, site carrying charges, architectural and engineering fees, and appraisal fees.
<b>Primary Applicant</b>	Each multi-family applicant must designate a "primary applicant" for the project. Only the primary applicant's experience will qualify for "Good Standing" points.
<b>Project</b>	The facility/construction/development for which the applicant is seeking an allocation of private activity bonds..
<b>Public Inducement Hearing</b>	<ol style="list-style-type: none"><li>1. Public Inducement approval must be obtained with respect to the bond issuance. The inducement is done at the issuing authority level; the Board is not involved in inducements.</li><li>2. State law authorizes local agencies, cities, or counties to induce projects that create jobs and provide a public benefit to the community.</li><li>3. Approval must be done in a city/county council meeting where an Inducement Resolution will be adopted for the project.</li><li>4. Once the project is induced the applicant can use the bond proceeds to reimburse them for all project costs paid or incurred 60 days prior to the date of the inducement resolution. Bond proceeds may also be used under specific conditions to pay for "preliminary costs."</li></ol>
<b>Public Tax Equity and Fiscal Responsibility Act Hearing (TEFRA)</b>	<ol style="list-style-type: none"><li>1. Before issuance of the bonds there must be a public hearing, commonly referred to as a "TEFRA Hearing."</li><li>2. An elected official or elected body responsible for the bond issue, and with jurisdiction over the project site, must give its approval.</li><li>3. While an applicant can apply for tax-exempt bonds prior to a TEFRA Hearing, the applicant must provide evidence from the jurisdiction, in the form of an Inducement Resolution that states they are aware of the project and that a TEFRA Hearing is scheduled.</li><li>4. Applicants should be aware that the TEFRA process can take longer than anticipated.</li></ol>
<b>Qualified Allocation Plan (QAP)</b>	A plan prepared by the Utah Housing Corporation and adopted by the State of Utah pursuant to §42 that establishes the criteria and preferences for allocating Housing Credits.
<b>Qualified Census Tract (QCT)</b>	Census tracts where 50% or more of households have incomes of less than 60% of the AMI. Projects located in a QCT can increase their Eligible Basis by 30%. A list of Qualified Census Tracts is published by HUD and updated annually. See <a href="https://www.huduser.gov/portal/datasets/qct.html">https://www.huduser.gov/portal/datasets/qct.html</a> for more information.





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**PRIVATE ACTIVITY BOND PROGRAM**

<b>Recipient</b>	A borrower or issuing authority that has been awarded an allocation of volume cap.
<b>Replacement Reserve</b>	The amount set aside at the time of initial occupancy, or each month thereafter, for the future replacement of items including, but not limited to, flooring, plumbing systems, heating systems, security systems, electrical systems, roofs, and window and door units.
<b>Restricted Rent</b>	The rent limitation for a dwelling unit for purposes of qualifying for Housing Credits through the Utah Housing Corporation.
<b>Scoring Criteria</b>	Criteria set forth in the Policies to assess the degree to which a proposed project promotes the priorities determined by PAB and State Statute.
<b>Secondary Applicant</b>	A “secondary applicant” experience may qualify for specific experience points. A secondary applicant must have and provide proof of 1. A significant ownership (greater than 10%) in the developer/managing member/general partnership interest or general partnership or managing member or 2. A long term contract to provide assistance with the project until the issuance of Form 8609.
<b>Significant changes</b>	Significant changes to an application may consist of one or more of the following to an application after it has been approved and received volume cap: <ul style="list-style-type: none"><li>• Affordable units are reduced from 10%</li><li>• The site location of the project is changed</li><li>• Total costs per unit are increased by 15% or more</li><li>• Total project costs are increased by 20% or more</li></ul>
<b>Site Control</b>	Site Control must encompass the entire parcel or parcels of land, or existing building or buildings and land, that is (are) the subject of the Application. Control of the site must be possessed by the Owner, and no other entity whether an affiliate, a subsidiary, parent entity, or any individuals who are affiliated with the Owner. Each and every document evidencing Site Control must be binding until or beyond 180 days after an Application has been submitted to PAB.
<b>Soft Costs</b>	Costs, other than for acquisition and construction/ rehabilitation, which are incurred while holding unimproved property or during construction. Soft Costs may include such items as carrying charges (interest, real estate taxes, and ground rents), professional service and audit fees, offering plan/prospectus costs, surveys, relocation expenses, insurance, assessment, mortgage insurance premiums, inspection, recording and filing fee, not-for profit Developer's allowance, FNMA/GHMA fee, mortgage recording tax, title examination costs, and others.



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**PRIVATE ACTIVITY BOND PROGRAM**

<b>Tax Exempt Bond</b>	<p>Congress established government bonds that could be used for private activities; these activities include mortgages, student loans, and industrial loans. States may issue these bonds to foster economic and housing development. Interest paid to owners of these bonds is exempt from federal and in some cases state income taxes.</p> <ul style="list-style-type: none"><li>• An obligation of a state or political subdivision.</li><li>• The interest is exempt from federal income taxation.</li><li>• The interest income is also usually exempt from state income taxation where the issuer of the obligation is located.</li></ul>
<b>Tax Increment Financing (TIF)</b>	<p>A value capture revenue tool that uses taxes on future gains in real estate values to pay for new infrastructure improvements.</p>
<b>Tax Equity and Fiscal Responsibility Act of 1982 Hearing (TEFRA Hearing)</b>	<p>For certain types of tax-exempt private activity bonds, a public hearing (also known as a TEFRA Hearing) is required by federal tax regulations as a form of public approval. The hearing provides a reasonable opportunity for interested individuals to express their views, either orally or in writing, on the proposed issue of bonds, location, and nature of the project to be financed.</p>
<b>Threshold Requirements</b>	<p>The requirements that must be met in the Application before a project may submit an Application to be considered for a Volume Cap Allocation from PAB.</p>
<b>Transit Oriented Development (TOD)</b>	<p>PAB places a priority on the development of projects located within 1/2 mile of walking distance along public access to an existing or currently under construction Trax or FrontRunner stop/station or core bus routes.</p>
<b>Volume Cap (Cap)</b>	<p>Tax-exempt bonds allocated by the Board to issuing authorities in accordance with the Code and Utah statute in a certain amount. See IRC § 141 et seq and Utah Code § 35A-8-2101 et seq.</p>
<b>Voluntary Relinquishment</b>	<p>A recipient's decision, made of the recipient's own volition, to relinquish all or part of a previously awarded allocation.</p>
<b>50% Test</b>	<p>The Code's requirement that, for a project to receive the 4% Low Income Housing Credit for each unit in the project, the project must be financed at least 50% with tax-exempt bonds. Internal Revenue Code § 42(h)(4)(B).</p>