



## Qualified Energy Conservation Bonds: Frequently Asked Questions from State and Local Governments

Qualified Energy Conservation Bonds (QECBs) are federally subsidized bonds available to qualified states, local, and tribal issuers. A QECB is not a grant, but is among the lowest-cost public financing available for eligible energy efficiency,

renewable energy, and mass commuting projects. *There is currently no expiration date for the use of QECB allocations.*

### What types of projects are suitable for QECBs?

Proceeds from QECB issuances must be spent on eligible measures. The Internal Revenue Service (IRS) determines project eligibility per interpretation of the Internal Revenue Code. For detailed guidance from the IRS, see [here](#). QECBs must be issued by a public entity, but funds may be spent on a *public* or *private* activity so long as funds are going towards an eligible expenditure. Private activity investment is limited to 30 percent of the total allocation; use for valid green community programs is not treated as private use. Proceeds from QECB issuances have been spent on a number of uses, including:

- To reduce energy consumption in publically owned buildings by at least 20%;
- To implement green community programs;
- For rural development (including the production of renewable energy);
- For certain renewable energy facilities;
- For certain mass commuting projects.

For case studies of projects supported through QECB proceeds, see pages 21-42 [here](#).

### How much QECB funding is available in my state?

As much as \$1.87 billion of QECB volume cap (58.4% of the \$3.2 billion allocated) remains available for use. Some states, such as Kansas, Kentucky and Nebraska have fully or almost fully used their allocations, while up to 13 states have yet to use any portion of their allocation. 32 states, 5 U.S. territories, and the District of Columbia have used less than half of their original allocation. A list of known bond issuances and remaining funding by state can be found [here](#).

QECBs were authorized by Congress in the 2008 Energy Improvement and Extension Act (EISA). The original legislation authorized \$800 million of QECBs nationwide. In the American Recovery and Reinvestment Act of 2009 (ARRA), Congress increased funding to \$3.2 billion, which was allocated to states, territories, large local governments, and tribal governments to issue QECBs to finance renewable energy and energy efficiency projects.

### Did states have to apply for their QECB allocation?

No. States did NOT have to apply for a QECB allocation. Instead, the QECB authorizing legislation (EISA, as amended by ARRA) provides for allocation of the total QECB volume amongst the states and territories in proportion to their respective populations. IRS Notice 2009-29 provides the allocations.

The QECB legislation further indicated that the states and territories “shall” sub-allocate a portion of their allocations to their large local governments and municipalities (defined as those with a population of 100,000 or more). However, states generally must authorize issuance of the bonds and make such a sub-allocation in order for would-be sub-allocates to issue QECBs. This is usually done by executive order or state legislation. Most states have sub-allocated their allocation.

## Did states have to sub-allocate most or all of their allocations down to the local government level?

It depends, but generally no. The sub-allocation to local governments must be the same fraction of the state allocation as that large local government's population is of the state population. In at least one state (New Jersey) this resulted in the entire allocation being sub-allocated to large local governments while in others (such as Kentucky) most of the allocation remained at the state level.

In addition, some states that initially sub-allocated a portion of their allocation down to large local governments subsequently conducted a waiver process by which much of the allocation was returned to the state if sub-allocates did not use or express an intent to use their sub-allocations. For example, Michigan established a waiver process for large local governments to return their sub-allocations, and funds were subsequently returned to the state for reallocation. For a full list of states that retained and/or waived allocations in excess of \$10 million, see [here](#).

## What state agency has the administrative authority over QECBs?

The determination as to what agency has the administrative authority over the QECB allocation is made at the state (and local government) level. It is often indicated in the state's executive order or legislation authorizing QECBs, and authority is typically placed with a finance authority or state energy office. For a state-by-state list, see [here](#).

## What if the QECB allocation amount is too small to justify a bond issuance?

States and local governments may bundle QECB-eligible projects and non-eligible projects into a single bond issuance via a series designation. By bundling projects in this manner, state and local governments can spread out the fixed costs associated with bond issuance and achieve a more cost-effective outcome. State and local governments would file for the subsidy respective to their allocation and the portion of QECB eligible projects within the issuance. For guidance from the IRS, see [here](#).

## Are projects financed with QECBs subject to ARRA requirements?

Yes, some (but not all) ARRA requirements apply to QECB-financed projects. Davis Bacon compliance is required, but other ARRA requirements such as Buy American do not apply. Therefore, QECB-financed projects must comply with Davis Bacon requirements unless specifically exempted. It is applicable to all QECB-financed projects (with an exception made for QECB-funded loan programs that make loans to single-family homeowners).

## What is considered a Green Community Program?

A Green Community Program must promote energy conservation, energy efficiency, or environmental conservation initiatives related to energy consumption and involve property that is for general public use, or provide loans/grants that are broadly available to the public. A Green Community Program can finance retrofits of existing private buildings through loans, grants, or other financing mechanisms. If QECBs are used to provide funding for loans, grants, or other financial repayment mechanisms, they are often not treated as private activity bonds. For example, New York used QECB proceeds to replenish a revolving loan fund for residential efficiency improvements. For guidance from the IRS, see [here](#). ■



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