

Jaime Alvarez, Chair & Designee
Office of the State Treasurer

Rhonda L. Nelson, Designee
Oregon Department of Administrative Services

Theresa K. Deibele, Public Member



**PRIVATE ACTIVITY
BOND COMMITTEE**
867 Hawthorne Ave SE
Salem, OR 97301-5241
(503) 378-4930
Fax (503) 378-2870
DMD@ost.state.or.us

April 10, 2024

TO: Members of the Private Activity Bond Committee

FROM: Jaime Alvarez, Chair
Office of the State Treasurer, Director of Debt Management Division

SUBJECT: Meeting on Wednesday, April 17, 2024

The Private Activity Bond Committee will meet on Wednesday, April 17, 2024, to discuss the 2024 Volume Cap Allocation requests and other agenda topics.

This meeting will be conducted from 10:00 am – 12:00 pm (estimated end time) via a hybrid system; Microsoft Teams will be used for the virtual meeting side, while the Jim Hill Conference room located at the Oregon State Treasury building will house anyone that would like to physically attend the meeting; see enclosed Public Meeting Notice and Agenda for participation details.

An e-copy of the meeting packet is provided on the [PAB webpage](#). Due to remote working locations of staff, a hard copy is not distributed; please print if hard copy is preferred.

Please contact us at 503-378-4930 if you have any questions.

TAB 1 –

PUBLIC MEETING NOTICE & AGENDA

April 17, 2024

Jaime Alvarez, Chair & Designee Office
of the State Treasurer

Rhonda L. Nelson, Designee
Department of Administrative Services

Theresa Deibele, Public Member



**PRIVATE ACTIVITY
BOND COMMITTEE**
867 Hawthorne Ave SE
Salem, OR 97301-5241
(503) 378-4930
Fax: (503) 378-2237
DMD@ost.state.or.us

PUBLIC MEETING NOTICE AND AGENDA

THE PRIVATE ACTIVITY BOND COMMITTEE WILL HOLD A REGULARLY SCHEDULED

HYBRID MEETING ON

Wednesday, April 17, 2024

10:00am – 12:00pm¹

AUDIO AND VIDEO PARTICIPATION: [Click here to join the meeting](#)

AUDIO PARTICIPATION ONLY: Dial-In Access 971-279-6217
 Dial-In Toll Free 833-213-7399
 Conference ID # 839 294 584#

IN-PERSON PARTICIPATION: 867 Hawthorne Ave SE, Salem, OR
 Jim Hill Conference Room (Lobby)

AGENDA¹

- | | | | |
|----|---|----------|----------|
| 1. | Call to Order & Roll Call | 10:00 AM | 10:05 AM |
| 2. | Chair Message | 10:05 AM | 10:10 AM |
| 3. | Private Activity Bond Status | 10:10 AM | 10:15 AM |
| | • 2023 Carryforward Summary | | |
| | • 2024 Volume Cap Status | | |
| | • 2024 Current Allocation Status | | |
| 4. | <u>2024 Volume Cap Request</u> | 10:15 AM | 10:30 AM |
| | Oregon Business Development Department | | |
| | • \$32,000,000, <i>Bulk Handling Systems Project</i> | | |
| | • Public Comment ² | | |
| | • Vote | | |
| 5. | <u>Projects Update</u> | 10:30 AM | 10:45 AM |
| | Oregon Housing & Community Services Department | | |
| | • Public Comment ² | | |
| 6. | <u>PAB Administrative Rule Amendment Draft Proposal</u> | 10:45 AM | 11:15 AM |
| | • Public Comment ² | | |
| 7. | Adjournment | | |

¹ Estimated times

² Public comment, each person will be restricted to 2 minutes

TAB 2 – PAB STATUS

2023 CARRYFORWARD SUMMARY UPDATE

2024 VOLUME CAP STATUS AND UPDATE

2024 VOLUME CAP ALLOCATIONS

Private Activity Bond Carryforward Allocation History

ALLOCATION YEAR	ALLOCATED TO/USED BY:	AMOUNT ALLOCATED	USED	Closed or Issued	Issuer Remaining / Expiring	PURPOSE	IRS 8328 File Date
		\$287,155,474.00				Affordable Housing	2/12/2024
2023	Oregon Housing and Community Services Department IRC 142(a)(7) and 142(d) Housing Development Bond (Kafoury Court), 2024 Series C Housing Development Bond (Pacific Flats), 2024 Series E		\$14,300,000.00 \$13,200,000.00	2/23/2024 2/28/2024			
	expires: 12/31/2026						
	Subtotal - OHCS D		<u>\$27,500,000.00</u>				
			*Verified figures with OHCS D on 3/20/24				
	Total	\$287,155,474.00	\$27,500,000.00			\$259,655,474.00	

2024
STATE OF OREGON
PRIVATE ACTIVITY BOND (PAB) VOLUME CAP
\$529,169,750
As of 4/10/24

	Legislatively Allocated	Amount Requested To Date	Amount Approved To Date	Allocation			Date Allocated	Date Used	Date Expires/ Returned
				Used To Date	Remaining	Returned To Committed			
PAB Committee - Allocation x HB 5005 (2023-25 Legislature)	\$58,538,600								
Additional Allocation based on 07-01-2023 U.S. Census Data/2024 IRS	\$19,631,150								
TOTAL PAB Committee Allocation for 2024:	<u>\$78,169,750</u>								
 Oregon Business Development Department <i>Bulk Handling Systems Project at Lane County , LLC</i>		\$ 32,000,000.00							
 TOTALS		\$ 32,000,000.00	\$ -	\$ -	\$ -	\$ -			

TOTAL PAB Committee Allocation for 2024: \$78,169,750.00
Allocation Approved to Date: \$0.00
Allocation Returned to Committee: \$0.00
Total Remaining Available to Allocate: \$78,169,750.00

Total Amount Volume Cap Requested for Today's Meeting: \$32,000,000.00

State Agency Allocation x HB 5005 (2023-25 Session)

Oregon Housing & Community Services Department	\$450,000,000.00			
<i>Housing Development Note (Olive Plaza), 2024 Series A-1, A-2</i>			\$28,130,000.00	
<i>Housing Development Note (Killingsworth Plaza), 2024 Series D</i>			\$27,785,000.00	
<i>Housing Development Note (Julia West), 2024 Series B</i>			\$28,340,355.00	
			<u>\$365,744,645.00</u>	
 Oregon Business Development Department				
Beginning & Expanding Farmer Loan Program	\$1,000,000.00		\$0.00	
			<u>\$1,000,000.00</u>	
 Total amount Allocated for 2024 to State Agencies:	<u><u>\$451,000,000.00</u></u>		<u><u>\$84,255,355.00</u></u>	<u><u>\$366,744,645.00</u></u>

2024 PAB Allocation [population estimate x \$cap/capita]: ¹

FY24 U.S. Census Population for Oregon	IRS \$ Cap per Capita	Oregon Total PAB Volume Cap
4,233,358	\$125.00	\$529,169,750

¹ FY24 U.S. Census Bureau population estimates for July 2023 released late December 2023
For information regarding population estimates visit the U.S. Census Bureau at <http://www.census.gov/popest>
<https://www2.census.gov/programs-surveys/popest/tables/2020-2023/state/totals/>

**Private Activity Bond Committee
2024 Current Allocations
As of 4/10/2024**

	Legislative Cap Allocations ¹	PAB Current Requests	PAB Committee Approved Allocations	Allocations	Meeting PAB Committee Approved Allocations
State Agencies					
Oregon Housing & Community Services Department	450,000,000.00			450,000,000.00	
Oregon Business Development Department-- <i>Beginning & Expanding Farmer L</i>	1,000,000.00			1,000,000.00	
State Agency Subtotals	451,000,000.00			451,000,000.00	

Total PAB Committee Allocation² 78,169,750.00 (or \$19,542,437.50/quarter)³

Local Government			
Oregon Business Development Department		32,000,000.00	
Local Government Subtotals		\$ 32,000,000.00	\$ -

Oregon PAB Volume Cap Totals⁴	\$ 529,169,750.00	\$ 32,000,000.00	\$ -
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2024 Committee PAB Current Allocation Summary	
Committee Available Allocation Cap:	\$78,169,750.00
Current Approved: -	\$0.00
Current Requests: -	-\$32,000,000.00
Expired/Returned to Committee ⁵ : +	\$0.00
Potential Remaining Allocation:	\$46,169,750.00

¹ House Bill 5005 (2023 Legislative Session for 2023-2025 biennium)

² PAB Legislative Allocation for 2024 + Additional Allocation Based on Census Data & IRS Cap per Capita

³ The Committee agrees to allocate its annual current volume cap in equal amounts throughout the year with any unallocated quarterly portions added to the next quarter.

$$\text{U.S. Census-Oregon} \times \text{IRS Cap per Capita} = \text{OR Total Volume Cap}$$

⁴ Calculated by multiplying U.S. Census FY24 Population by 2024 IRS Cap per Capita: 4,233,358 x \$125.00 = \$529,169,750

⁵ Balance of expired/returned 2024 Committee Current Allocations

Any excess resulting from an increase in population and/or dollar cap subsequent to adoption of the bond bill is allocated to the PAB committee for allocation.

TAB 3 -

2024 VOLUME CAP REQUEST

Oregon Business Development Department

Bulk Handling Systems Project

Qualifying IRS 142(a)(6)

\$32,000,000

Project Presentation

Jaime Alvarez, Chair & Designee
Oregon State Treasury

Rhonda L. Nelson, Designee
Department of Administrative Services

Theresa K. Deibele, Public Member



PRIVATE ACTIVITY BOND COMMITTEE

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PRIVATE ACTIVITY BOND ALLOCATION REQUEST

ALLOCATION REQUEST TYPE

Current Year Allocation Request
Carry Forward Allocation Request

DATE:

ISSUER DETAILS

Issuer:

Address:

City, State, Zip:

Contact Name:

Contact Phone:

Contact Email:

PROJECT INFORMATION

Title of Project:

Project Amount:

Bond Amount:

Request Amount:

Sale Date:

Closing Date:

IRC Section & Paragraph Applicable to Qualifying Private Activity Bond Project *(if selecting 'Other', specify below)*:

Please describe the project:

Expected Number of Family Wage Jobs Created/Saved:

Describe how the project meets statutory standards:

HOUSING PROJECT INFORMATION, if applicable

Expected Number of Resulting Housing Units:

Describe how the affordability status of housing units was determined:

If project qualifies for 4% low income housing tax credit (LIHTC), submit a [Low Income Housing Tax Credit Uses & Sources](#) (see sample).

Has either a pre-application package or a final application package been submitted to [Oregon Housing & Community Services for 4% LIHTC?](#)

PRINCIPAL USER OF ISSUE PROCEEDS, if different from Issuer

Company:

Address:

City, State, Zip:

Contact Name:

Contact Phone:

Contact Email:

BOND COUNSEL

Firm Name:

Address:

City, State, Zip:

Contact Name:

Contact Phone:

Contact Email:

*Requests must be received by Oregon State Treasury – Debt Management Division (contact details on page 1) **at least 2 weeks prior to a scheduled Private Activity Bond Committee meeting and must include a non-refundable \$200 application fee payable to the Office of the State Treasurer with “PAB” in the memo field. Payments by wire are preferred; wire instructions can be provided by fax or phone.***



March 5, 2024

Dear Chair Kanth Gopalpur and members of the Business Oregon Commission,

I am writing on behalf of the Eugene Area Chamber of Commerce to express our enthusiastic support for Bulk Handling System's tax exempt bond inducement request for a public-private partnership with Lane County. This project, the Integrated Materials Energy and Recovery Facility (IMERF) strongly aligns with our mission, fostering economic vibrancy and opportunity and providing long-term positive impacts to the community.

Our chamber represents a diverse array of over 1200 businesses in the Eugene and surrounding area. Our business community recognizes the critical opportunity this project provides to our region and state, aiming to modernize the waste system, reduce landfill emissions, and promote economic development, equity, and environmental sustainability. With \$100 million in private investment committed by Bulk Handling Systems, we anticipate significant job creation, economic stimulation, and support for innovative local technologies.

Additionally, the IMERF project extends economic and environmental benefits, working to safeguard and extend the life of a valuable local asset—the Short Mountain landfill—and mitigate long-term costs.

In closing, I urge your support for this project, recognizing its potential to yield far-reaching benefits for our community and economy. The Eugene Chamber and ONWARD Eugene, our regional economic development organization, are committed partners, dedicated to ensuring our region maximizes opportunities for growth and prosperity.

Thank you for your attention and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Brittany Q", written in a cursive style.

Brittany Quick-Warner
President & CEO, Eugene Area Chamber of Commerce
brittanyw@eugenechamber.com



Lane County Government

April 3, 2024

Jaime Alvarez, Chair
Oregon Private Activity Bond Committee
Oregon State Treasury

Dear Chair Alvarez and Members of the Committee:

We write to offer our full support of a project that will be coming to the Committee for your consideration in issuing Industrial Development Revenue bonds. The applicant, BHS Projects @ Lane County, LLC, has been working in close partnership with county government for the construction of a solid waste-to-energy facility located in Lane County at 85665 OR-99 Goshen, OR 97405.

The project is sited in an area that was designated as a Regionally Significant Industrial Area (RSIA) by Business Oregon and the Infrastructure Finance Authority in 2012. Although the RSIA program is no longer active, the project aligns with the County's "Goshen Region Employment and Transition" (GREAT) Plan that included a Goal 14 (Urbanization) exception and a zoning change to allow urban levels of industrial development. The benefits of this project are manifold for our communities in Lane County with respect to job creation, contributions to statewide climate emissions reduction goals, and positioning our region as a sustainability leader for innovative waste reduction solutions.

We are grateful for your consideration of the project.

Sincerely,

Dan Hurley
Director, Lane County Public Works
Dan.Hurley@lanecountyor.gov

Steve Adams
Policy Director
Stephen.Adams@lanecountyor.gov



April 8, 2024

Private Activity Bond Committee
Sent via email: DMD@ost.state.or.us

RE: Integrated Material and Energy Recovery Facility

To whom it may concern,

Chambers Construction has been collaborating with Bulk Handling Systems since April of 2022 on this project. We have put extensive work into multiple designs and budgets to ensure the County has accurate information to base decisions. I want to take a moment to provide further input about why Chambers Construction feels the IMERF project is important to Lane County.

I want to emphasize why Chambers Construction supports the project. This project will create jobs, high paying local jobs with design teams, subcontractors, fabricators, suppliers, and our own employees. Lane County is struggling to create economic development, this project could not happen at a more opportune time as the forecast for construction in Lane County is low. We constantly beat the drum of using local contractors, fabricators, and suppliers whenever we can, on all projects. The trickle-down effect of us doing that spreads out to all of Lane County. This project will create a substantial number of jobs onsite and will support the operations of multiple businesses in the County, which in turn will trickle down to people and families. The creation of jobs to build the project is one thing; the creation of jobs to operate the project is a long-term benefit to Lane County. To me, the opportunity to create 50 or 60 long-term jobs in a state-of-the-art facility is an opportunity that just makes sense; at a low cost for the size of project and benefit it will bring.

We are anxious to start on the next phase of the project to get ready for construction this summer. We are hopeful project agreements can be in place for that to happen.

Sincerely and with all respect,

David Bakke

David Bakke
CEO/President



Date: April 3, 2024
To: Private Activity Bond Committee
From: Kate Sinner, Innovation & Business Resources Director
RE: 2024 PAB Allocation Request for BHS Projects @ Lane County, LLC

Chair Alvarez and members of the Private Activity Bond Committee.

The following memo is provided to supplement Oregon Business Development Department's ("OBDD") application for \$32,000,000 in Private Activity Bond ("PAB") allocation. OBDD respectfully requests that the Committee consider allocation for the outlined project below for BHS Projects @ Lane County, LLC.

The project was brought before the OBDD Finance Committee, which adopted a Resolution for Project Eligibility and Declaration of Intent. Year-to-date, the Oregon Business Development Department/Commission has received zero (\$0) volume cap for calendar year 2024, which is not adequate to cover the proposed \$32,000,000 tax exempt bond request.

Project

The applicant, in a public-private partnership with Lane County, is requesting \$32,000,000 in tax-exempt bond financing through the Exempt Facility Industrial Development Bond program to finance a portion of their contribution to a 141,355sf waste to energy and materials recycling facility just south of Eugene on an approximately 26-acre site in the rural unincorporated community of Goshen, Oregon. Lane County has been determined to be economically distressed under agency administrative rule OAR 123-024-0001. The project is estimated to create 69 full time jobs for the local economy, generate natural gas via methane capture for use locally, and provide valuable recyclables for sale to businesses in Oregon and elsewhere.

The facility, known as a Materials and Energy Recovery Facility or MERF, will operate with the intent of diverting a minimum of 63% of solid waste currently entering the Short Mountain Landfill, create long-term jobs, and recycle raw materials which can be used by Oregon businesses. According to the Lane County Public Works Department webpage, the Short Mountain Landfill takes in 275,000 tons of material annually.

Organic waste will be processed through an Anaerobic Digester (AD). The main output of this AD system will be methane (natural gas) which will be further cleaned on site and pumped directly into a NW Natural gas pipeline. The production of this Negative Carbon Fuel under the State of Oregon's Clean Fuel Program will be a major benefit provided by the system. Natural gas produced on site will also be used to heat and power the facility.

A visitor and educational center will be located on site, offering public tours of the facility and education on the processes and technologies used. BHS intends to have this project serve as a showcase demonstration of their advanced technologies for prospective clients.

Application materials provided by the company indicate 69 permanent full-time jobs will be created to operate the facility. The Materials Recovery Facility portion of the project will create 54 full time jobs, Anaerobic Digestion will create 10, and the remaining 5 will be for Transportation (drivers).

Applicant

Emerging Acquisitions, LLC dba Bulk Handling Systems (BHS) is an equipment engineering and manufacturing company formed in 1976 and based in Eugene, Oregon. BHS specializes in the design, engineering, manufacturing and installation of sorting systems and components for the solid waste, recycling, waste-to-energy, and construction and demolition industries. They offer a range of equipment and software used primarily in waste management. Their technology includes the first single stream recycling system produced in the U.S., the first company to use optical sorting technology to process PET plastics, and the first company to produce an Artificial Intelligence and Robotics sorter at commercial scale for use in the waste and recycling industry. BHS equipment and technology is used in municipal solid waste projects globally.

BHS owns numerous subsidiaries for their various products and services. The BHS portion of the project will be owned and operated by "BHS Projects @ Lane County, LLC", and the commodities will be sold by "Zero Waste Operations, LLC". Both are subsidiaries of BHS.

The company has made significant strides towards shovel ready status including a nearly completed public-private partnership agreement. They plan to finish permitting and engineering over the summer and break ground in 4Q 2024, on schedule for a grand opening in 2026.

A condition of the OBDD Finance Committee Resolution for Project Eligibility is that the applicant execute a private-public partnership agreement with Lane County. Our current understanding of the proposed terms of the agreement is as follows:

The facility will be owned by Lane County for the entire term of the agreement. BHS, via subsidiaries, will lease the facility from the County during this time.

Lane County will be responsible for purchasing the property, developing the site, constructing the buildings, and obtaining government permits associated with developing the facility. The County will be responsible for ensuring that the facility complies with all local laws and regulations pertaining to land use and zoning. The County will pay a Service Fee to the applicant for each load of acceptable materials (i.e. comingled recyclables, municipal solid waste, etc.) Lane County will be responsible for ensuring the facility has sufficient feedstock to operate.

The applicant will be responsible for designing the facility in cooperation with Lane County as well as providing substantial engineering for construction. The applicant will be responsible for the purchase,

design, engineering, manufacturing, and installation of equipment. The applicant will be responsible for general operation of the facility upon its completion and commissioning.

Findings:

OBDD Staff finds the subject project is suitable for the Industrial Development Bond program based on the following factors:

1. This project is consistent with the Department's policy and programs. Bond financing as used for the project will further the objectives of the Department's mission.
2. Job Creation: 69 new full-time jobs are proposed to be created.
3. The project will produce goods that are sold in markets for which national or international competition exists.
4. This project is eligible for industrial development revenue bond financing under ORS 285B.323, OAR 123-011-0035(2)(a)(A) and Business Development Commission policy as a Management of Waste project.
5. Lane County has provided evidence that the project, once zoning is converted from Light Industrial to Heavy Industrial, complies with local land use planning requirements and is consistent with applicable adopted local economic development plans.

Private Activity Bond Committee

BHS Project @ Lane County LLC

4/17/2024



Exempt Facility Industrial Development Bond

- Requesting \$32,000,000 private activity bond allocation
- BHS Project @ Lane County LLC is a planned solid waste processing center located in Goshen, Oregon
- Goshen is an unincorporated community in Lane County. For OBDD programs, Lane County is considered economically distressed.
- Processes Municipal Solid Waste (MSW), Single Stream Recycling and Organic Wastes generated within Lane County
- Expected to divert a minimum of 63% of solid waste entering the Short Mountain Landfill

Exempt Facility Industrial Development Bond

Per ORS 285B.320 to 371, specifically ORS 285B.323(e):

- “Exempt facility” means any facility described in section 142(a) of the Internal Revenue Code of 1986, as amended and in effect as of July 1, 2011.
- 26 U.S.C. 142(a) – “Exempt facility bond” means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide: (6) solid waste disposal facilities

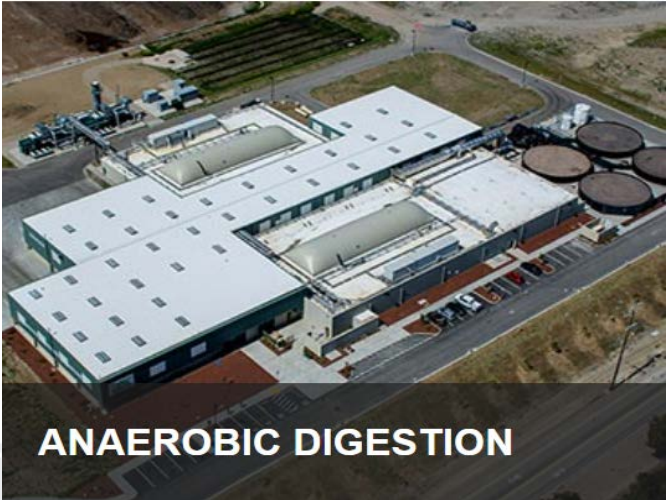
Exempt Facility Industrial Development Bond

- This project is consistent with the Department's policy and programs. Bond financing as used for the project will further the objectives of the Department's mission.
- Job Creation: 69 new full-time jobs are expected to be created.
- The project will produce goods that are sold in markets for which national or international competition exists.
- This project is eligible for industrial development revenue bond financing under ORS 285B.323, OAR 123-011-0035(2)(a)(A) and Business Development Commission policy as a Management of Waste project.

Exempt Facility Industrial Development Bond

- BHS Project @ Lane County LLC has requested \$32,000,000 exempt bond financing for their project
- Total project cost is \$105,469,052

Exempt Facility Industrial Development Bond



Contact Information:

Kate Sinner

Innovation & Business Resources Director

kate.sinner@biz.oregon.gov

(971) 291-3332



TAB 4 -

PAB ADMINISTRATIVE RULE DRAFT

PROPOSAL

Oregon State Treasury

Chapter 170

Division 71

PRIVATE ACTIVITY BOND COMMITTEE PRIVATE ACTIVITY BONDS

170-071-0005

Allocation of Private Activity Bond Limit

(1) Definitions.

(a) "CAP" means the state's private activity bond volume limit.

(b) "OST" means the Office of the State Treasurer.

(c) "Committee" means the Private Activity Bond Committee established pursuant to ORS 286a.615.

(d) "Issuer" has that meaning given to it by ORS 286A.605.

(e) "Private Activity Bonds" has the meaning given in Section 141 of the Internal Revenue Code of 1986.

(2) Meetings of the Committee. Committee meetings will be held as necessary, and on dates determined by the Committee to be consistent with the efficient allocation of the CAP, with public notice given as required by law. Committee meetings are open to the general public and may be held in any location permitted under the public meetings law, ORS 192.610 to 192.690, where the Committee deems appropriate. The Committee reserves the right to change its meeting schedule as allowed by the Oregon Public Meetings Law.

(3) Allocation Requests. Applications for current year CAP must be submitted no earlier than 30 days prior to the year for which the allocation is requested. Requests must be received no later than 10 business days before the scheduled meeting of the Committee at which the request is to be considered. Private activity bond issuers not specifically granted CAP by the legislature must submit requests for CAP to the Committee. Issuers who have been granted a CAP allocation by the legislature may also apply to the Committee for additional CAP. Each applicant for CAP must submit with its application a fee in the amount set forth in OAR 170-061-0015. CAP requests may be made for a specific project or for an amount to be further allocated by the requestor among a class of projects or activities that meet the allocation criteria. CAP requests and all communications must be sent to the Committee through the OST as provided in OAR 170-055-0001(4) and include:

(a) The name of the governmental bond issuer,

(b) The title of the obligation to be issued,

(c) The principal amount of the obligation,

(d) The amount of the allocation request,

- (e) The date of any purchase commitment if such commitment has been made,
- (f) The name and address of the original purchaser(s) of the obligation if such purchase has been made;
- (g) The name, address and telephone number of the principal user(s) of the proceeds from the issue;
- (h) The anticipated sale date of the issue;
- (i) The anticipated closing date of the issue;
- (j) The name, address and phone number of bond counsel;
- (k) The section and paragraph of the Internal Revenue Code, as identified by bond counsel, under which the bonds are deemed private activity bonds;
- (l) How the project or activity for which an allocation is requested meets statutory standards;
- (m) The expected number of jobs created or saved as a result of the allocation;
- (n) The expected number of housing units to be constructed or renovated as a result of the allocation, (describe how the affordability requirements of the Internal Revenue Code and your local requirements, if applicable, are to be met); and
- (o) Any additional material, as required by the Committee, in support of the requested allocation.

(4) Suballocation. State agencies to whom current CAP allocations have been made may choose to suballocate any amount of the agency's allocation to another issuer provided that the allocation is used for the same category of project for which the initial request was made, and the suballocation complies with requirements set forth in section (9) of this rule. Report of the suballocation must be sent to the Committee through the OST as provided in OAR 170-055-0001(4) within 150 days after receiving such allocation or by December 15 of the current calendar year, whichever is earliest, and include the information required in section (3) of this rule.

(5) Allocation Standards. The purpose of private activity bonding in this state is to maximize the economic benefits of such bonding to the citizens of this state. To this end, the Committee shall make allocations that are expected to further economic development, housing, education, redevelopment, public works, energy, waste management, transportation and other activities that the Committee determines will benefit the citizens of the state. The Committee, in determining whether an allocation is made to a project or class of projects or activities, will consider criteria including but not limited to the following:

- (a) Support projects that increase the number of family wage jobs in Oregon,
- (b) Promote economic recovery in small cities heavily dependent on a single industry,
- (c) Emphasize development in underdeveloped rural areas of this state,
- (d) Utilize educational resources available at institutions of higher education,
- (e) Support development of the state's small businesses, especially businesses owned by women and members of minority groups,

(f) Encourage use of Oregon's human and natural resources in endeavors, which harness Oregon's economic comparative advantages.

(65) Decision Factors. The Committee shall consider the following factors in reaching its allocation decision:

(a) The amount of CAP remaining within the Committee's allocation discretion and the total amount of unused CAP remaining at the time the request is received;

(b) The amount of allocation requested;

(c) Whether the project(s) or activities promote one of the standards listed in section (4) of this rule; and

(d) The type of bond issuer making the request.

(76) Allocation Methods.

(a) The Committee may grant more or less than the originally requested amount of CAP. Issuers must submit requests in the form and manner described in section (3) of this rule.

(b) At the Committee's discretion, a portion of their CAP may be reserved for the last six months of the calendar year.

(87) Committee Decision Final. Issuers have the right to submit additional information, germane to their request, to the Committee at its meeting described in section (6) of this rule. Action of the Committee is final, however, if a CAP request is denied, a new application may be re-submitted through the procedures outlined in this rule.

(98) Bond Closing Fee and Post-Allocation Report. Issuers to whom current CAP allocations have been made under this rule must submit to the Committee, within 150 days after receiving such allocation or by December 15 of the current calendar year, whichever is earliest, a confirmation of bond closing. The Issuer shall pay the respective fees set forth in ORS 170-061-0015 to OST. In the event an issuer fails to file written confirmation of bond closing as required by this section, the CAP allocation shall automatically lapse. Bond closing confirmations must be delivered to the Committee as provided in OAR 170-055-0001(3) and includes:

(a) The name of the governmental bond issuer,

(b) The title of the obligation issued,

(c) The principal amount of the obligation issued and allocation used;

(d) The date of closing;

(e) The date of the bond allocation;

(f) The name and address of the individual submitting the bond closing confirmation; and

(g) Any additional material, which may be required by the Committee in support of the closing confirmation.

(109) Lapse or Extension of Allocation. Lapse of an allocation does not preclude the issuer from applying for a subsequent allocation for the same project. Subsequent allocation requests require a subsequent application fee as required by 170-061-0015(4). Issuers may, under compelling circumstances, request an extension of time to their initial 150-day period. Such requests must be filed with the Committee for approval or denial of the extension. Extension requests do not require subsequent application fees. All current year CAP allocations automatically lapse on December 15 of the calendar year for which the allocation is made, unless the issuer who has received the allocation files with the Committee a binding commitment to purchase and close the bond issue on or before December 31.

(110) Carry Forward Allocations.

(a) The Committee, on behalf of the state's agencies, commissions, and governmental units, may elect to carry forward all unused CAP. To receive a carry forward CAP allocation, an issuer must file a carry forward request with the Committee not later than December 15 or earlier than September 30 of the current calendar year. The Committee will require information necessary for it to determine whether such carry forward request qualifies under the Internal Revenue Code and associated regulations. The Committee, not later than January 31 of the following year, shall make carry forward allocations to eligible issuers for specified purposes. Carry forward requests must include the information required in section (3) of this rule and be submitted with the application fee set forth in OAR 170-061-0015.

(b) An issuer receiving a carry forward allocation must forward to the Internal Revenue Service a document indicating the carry forward election made to that issuer by the Committee, in such manner and format proscribed by the Internal Revenue Service and any relevant state or federal regulations.

(c) It is the responsibility of the issuers to whom carry forward CAP is granted to file Form 8328 "Carry Forward Election of Unused Private Activity Bond Volume Cap" with the Internal Revenue Service Center, Ogden, UT 84201 on or before February 15 of the year in which the carry forward is granted, in order to validate the carry forward with the federal government. A signed copy of the issuer's filing with the Internal Revenue Service must also be sent to the Committee on or before February 15 of the year in which the carry forward CAP is granted.

(d) Use Report. Issuers to whom carry forward CAP is granted must submit to the Committee, within 30 days of closing, a confirmation of CAP use and bond closing information including:

(A) The name of the governmental bond issuer;

(B) The title of the obligation issued;

(C) The principal amount of the obligation issued and allocation used;

(D) The date of closing;

(F) The date of the carry forward bond allocation;

(G) The name and address of the individual submitting the bond closing confirmation; and

(H) Any additional material, which may be required by the Committee in support of the closing confirmation.

(e) Carry Forward Allocation Fees. The issuer shall pay the respective fees set forth in OAR 170-061-0015 to OST.

(124) Annual Needs Survey. The Committee during the final quarter of each calendar year will inquire of the private activity bond issuers of the state as to their anticipated private activity bond issuance and the need for private activity bond allocation in the ensuing year. To be taken into consideration by the Committee for future allocation, issuers should provide their information to the Committee on or before December 15 of the calendar year prior to the year for which private activity bond projections are made.

(132) Additional Allocation. The Committee may allocate amounts, subject to the standards set forth in subsection (4) of this rule, among issuers without a request for allocation from the issuer in the event additional bond limit becomes available, because of changes in federal law or otherwise, that has not been specifically allocated to an issuer by the Legislative Assembly.

(143) Exceptions. The Committee, at its discretion, may waive any or all provisions of this rule.

Statutory/Other Authority: ORS 286A.005 & 286A.615

Statutes/Other Implemented: ORS 286A.015 & 286A.615

History:

OST 7-2008, f. & cert. ef. 12-29-08

OST 4-2008, f. & cert. ef. 8-28-08

OST 3-2008(Temp), f. & cert. ef. 7-9-08 thru 1-4-09

Reverted to OST 4-2006, f. & cert. ef. 10-25-06

OST 2-2007(Temp), f. & cert. ef. 11-20-07 thru 4-15-08

OST 4-2006, f. & cert. ef. 10-25-06

OST 1-2001, f. 7-23-01, cert. ef. 8-1-01

TD 1-1997, f. & cert. ef. 7-23-97

TD 2-1995, f. & cert. ef. 12-26-95

TD 2-1994, f. & cert. ef. 9-9-94

TD 4-1988, f. & cert. ef. 12-30-88

Reverted to TD 3-1986, f. & ef. 9-18-86

TD 3-1988(Temp), f. & cert. ef. 6-14-88

TD 3-1986, f. & ef. 9-18-86