

# **Texas Qualified Energy Conservation Bonds**

**Rob Latsha**

**Texas Bond Review Board**

# Qualified Energy Conservation Bonds FAQs

from the Department of Energy's CLEAN ENERGY FINANCE GUIDE, THIRD EDITION

## 1. What are qualified energy conservation bonds (QECBs)?

- QECBs are debt instruments; they are not grants. “Qualified issuers” can issue QECBs to fund “qualified energy conservation projects.” The bonds may be structured as either a “tax credit” bond in which the bondholder receives a tax credit as a part of its return together with taxable interest, or a “direct payment subsidy option” in which the bondholder receives taxable interest and the issuer receives a direct subsidy (Direct Payment) from the U.S. Treasury for a portion of the interest paid to the bondholder. Virtually all QECBs are expected to be issued using the direct payment subsidy due to the relative benefits of these options and the lack of investor appetite for tax credit bonds.

## 2. What is a qualified issuer?

- A qualified issuer is a state, local, or tribal government that has been allocated the right to issue QECBs. Under the federal tax rules, certain authorities may issue the QECBs on behalf of state, local, and tribal governments.

## 3. Why are QECBs attractive?

- QECBs reduce borrowing costs for qualified issuers. Simply put, QECBs are among the cheapest public financing tools.

## 4. Where did QECBs come from?

- QECBs were established by The Energy Improvement and Extension Act of 2008 (EIEA). EIEA authorized the issuance of \$800 million in the principal amount of QECBs. ARRA expanded the issuance capacity from \$800 million to \$3.2 billion.

## 5. How are QECBs allocated?

- The U.S. Treasury allocated \$3.2 billion of QECB issuance capacity to states based on population. Each state allocated issuance capacity to municipalities with populations above 100,000 based on the municipality's percentage of total state population, based on 2008 population figures.

# Challenges

## State Concerns

- Legal Authorization to administer
  - Texas Legislature meets biennially
- No explicit claw-back provision
- No funds for marketing the program
- Notification to local allocation recipients
  - 59 local recipients
  - 41 recipients received less than \$3.0 Million in Bonding Authority

## Local/Issuer Concerns

- Federal subsidy reductions
  - Sequestration
  - Treasury Offsets
- Small allocations create difficulties

# Allocation of Bond Ceiling

- Statute originated from Hurricane Ike legislation (Texas Government Code 1372.101)
- “The board is authorized to administer programs established by the applicable official for the allocation of a *miscellaneous bond ceiling* or the designation of bonds entitled to the federal subsidy limited by a miscellaneous bond ceiling.”

# Initial Local Notification

- Phone calls to Mayors'/County Judges' Offices
- Certified notification letters
  - with the option to waive included
- 6 local municipalities waived bonding authority back to the state (cities Plano, Mesquite, Carrollton, and counties Bell, El Paso, McLennan)

# As of early 2013

- No QECCB closings
- 54 local authorities with allocated bonding authority ranging from \$23.4 M to \$1.1M
- State had \$54.7 M in total authority
- *ESPC Contractors seem to be the most interested in QECCB authority in Texas*
- Texas still leads the nation in Wind Power

# Uses of State Authority

- Hamshire-Fannett ISD closed the first project for just over \$2.6 million in late 2013.
- Seven projects have received state reservations.
- Number of closings evenly split between cities and ISDs, although cities have closed over 65% of allocated authority.
- The majority of the state issuers have used at least in part an Energy Savings Performance Contract.

# What is a qualified energy conservation project?

The EIEA permits QECBs to fund capital expenditures for the following conservation purposes:

1. **Reducing energy consumption in publicly owned buildings by at least 20%.**
2. **Implementing green community programs** (including loans, grants, or other repayment mechanisms).
3. Developing rural capacity, specifically involving the production of electricity from renewable energy resources.
4. Improving any “qualified facility,” including for example, solar, wind energy, geothermal and biomass facilities.
5. Supporting research facilities, research grants, and research in fossil fuel mitigation.
6. Implementing mass commuting and related facilities that reduce energy consumption and pollution.
7. Designing/running demonstration projects to promote the commercialization of: green building technology, conversion of agricultural waste to fuel, advanced battery manufacturing technologies, technologies to reduce peak use of electricity, or technologies for the capture and sequestration of carbon dioxide produced from making electricity.
8. Launching public education campaigns to promote energy efficiency.

# Items Needed Before Applying for Texas state-level QECB Authority

- **Legal Counsel Opinion** (QECB and authorization under state law)
- If within an allocated government, rejection letter
- Inducement Resolution or Preliminary Action
- Estimated Sources and Uses of Funds
- Detailed Report of Energy Savings Analysis
- Energy Savings Performance Contract Addendum (if ESPC)

# As of 7/20/16

- Six state allocated QECCB closings
- 52 local authorities with allocated bonding authority ranging from \$23.4 M to \$1.1M
- State has **\$38.1 M** in remaining authority
- *ESPC Contractors seem to be the most interested in QECCB authority in Texas*
- Texas still leads the nation in Wind Power

[http://www.brb.state.tx.us/programs\\_qecb.aspx](http://www.brb.state.tx.us/programs_qecb.aspx)