

**Virginia Small Business Financing Authority
Industrial Development Bond
Allocation Guidelines**

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FORM IDB APPLICATION

**Virginia Small Business Financing Authority
Industrial Development Bond
Allocation Guidelines**

PART I.
DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these guidelines, shall have the following meaning, unless the context clearly indicates otherwise.

“Allocation” or “award” means the notice given by the Commonwealth to provide a project with a specified amount from the state ceiling for a specific issue of bonds.

“Carryforward purpose” means certain projects that are eligible to receive an allocation during a calendar year and issue the bonds from the allocation in a later year pursuant to § 146 of the Code.

“Chief appointed official” means the chief administrator of the locality and includes the city manager, the town manager, the county administrator, the county executive, and others.

“Code” means the Internal Revenue Code of 1986, as amended, together with the regulations and rulings issued pursuant thereto.

“Exempt facility” means a project for any of the following:

1. Sewage, solid waste, and qualified hazardous waste disposal facilities;
2. Facilities for the local furnishing of electric energy or gas;
3. Facilities for the furnishing of water (including irrigation systems);
4. Mass commuting facilities; and
5. Local district heating and cooling facilities.

“Governing body” means the board of supervisors of each county and the council of each city and of each town.

“Industrial development bond” means any obligation requiring allocation from the state ceiling for financing any of the following:

1. Manufacturing facility;
2. Exempt facility.

“Issued” means that the private activity bonds have been issued within the meaning of § 103 of the Code.

“Issuing authority” means any political subdivision, governmental unit, authority, or other entity of the Commonwealth which is empowered to issue private activity bonds.

“Locality” or “localities” means the individual and collective cities, towns and counties of the Commonwealth.

“Manufacturing facility” means any facility which is used in the manufacturing or production of tangible personal property, including the processing resulting in a change of condition of such property.

“Population” means the most recent estimate of resident population for Virginia and the counties, cities, and towns published by the United States Bureau of the Census or the Center for Public Service of the University of Virginia before January 1 of each calendar year.

“Private activity bond” means a part or all of any bond (or other instrument) required to obtain an allocation from the Commonwealth's volume cap pursuant to § 146 of the Code in order to be tax exempt, including but not limited to the following:

1. Exempt facility bonds;
2. Industrial development bonds;
3. Multifamily housing bonds;
4. Single family housing bonds;
5. Any other bond eligible for a tax exemption as a private activity bond pursuant to § 141 of the Code.

“Project” means the facility (as described in the application) proposed to be financed, in whole or in part, by an issue of bonds.

“State Allocation” means the portion of the state ceiling set aside for projects of state issuing authorities and for projects of state or regional interest as determined by the Governor.

“State ceiling” means the amount of private activity bonds that the Commonwealth may issue in any calendar year under the provisions of the Code.

“VSBFA” means the Virginia Small Business Financing Authority.

“DHCD” means the Virginia Department of Housing & Community Development.

“VHDA” means the Virginia Housing Development Authority.

PART II. ADMINISTRATION.

§ 2.1. Virginia Small Business Financing Authority.

VSBFA shall administer the private activity bond program for the industrial development bond allocation pool in the Commonwealth. In administering the program, VSBFA's activities shall include, but are not limited to, the following:

- A. To receive and review project applications for private activity bond authority to be awarded from the portion of the state ceiling reserved for industrial development bonds.
- B. To allocate private activity bond authority to projects requesting bond authority from the portion of the state ceiling reserved for industrial development bonds.
- C. To recommend to the Secretary of Commerce and Trade and the Governor, such manufacturing and exempt facility allocation requests qualifying for State Allocation.

§ 2.2. State Allocation.

A portion of the annual state ceiling on private activity bonds will be reserved for allocations to projects of state issuing authorities and projects of state or regional interest as determined by the Governor. The Governor may transfer any portion of the State Allocation to DHCD for allocation to specific projects or for allocation to specific project types in accordance with the provisions of these guidelines.

§ 2.3. Program Dates.

The following is a listing of important application and allocation dates and deadlines concerning the portion of the state ceiling administered by VSBFA. VSBFA will accept applications at any time during the year and they will be ordered as described below. Projects that do not receive an allocation during the current calendar year will remain on file with VSBFA and do not need to resubmit an application for the following calendar year(s), except as is necessary to update the documentation accompanying the application.

January 1 - December 15

Specified amounts of the state ceiling are reserved for different project types in the Commonwealth by either state law or Governor's Executive Order in each calendar year. Allocations of private activity bond authority for qualifying industrial development bonds will be awarded by VSBFA to projects in accordance with state law or Governor's Executive Order and these guidelines. The set-aside for specified project types ends on December 15 of each calendar year.

July 31 (or the previous state working day) at 5:00 p.m.

Deadline for receipt of applications for exempt facility projects to be included in the August 1 lottery.

December 15

Last day for the issuance of private activity bonds for projects that received allocations from the industrial development pool prior to this date.

December 20 - 31

All unused allocation will be reported to the Director of DHCD for reallocation to VHDA per §15.2-5004 of the Virginia Code. Unless otherwise permitted by federal law, there is no carryforward permitted for projects qualifying under the industrial development pool.

§ 2.4. Weekend and Holiday Dates.

For all references to July 31 in these guidelines, if July 31 falls on a weekend or a state holiday, the applicable date shall be the previous date to July 31 that falls on a regular state working day.

Except as otherwise specified in this section and except where federal law precludes an extension to a later date, if any date specified in these guidelines falls on a weekend or a state holiday, the date shall be moved to the next following regular state working day.

§ 2.5. State Guidelines to Change as Federal Law Determines Eligibility.

If federal law terminates the eligibility or terminates and reauthorizes the eligibility for private activity bond financing for any "private activity bond" as defined in § 1.1 of these guidelines, the effect shall be to exclude or include, as the case may be, that portion of the "private activity bond" from these guidelines.

PART III.
ALLOCATIONS TO INDIVIDUAL PROJECTS BY VSBFA.

§ 3.1. State Private Activity Bond Legislation.

Chapter 50 (§§ 15.2-5000 through 15.2-5005) of Title 15.2 of the Code of Virginia sets aside specified amounts of the Commonwealth's limited private activity bond issuing authority for different types of projects. VSBFA will allocate private activity bond authority to projects requesting bond authority for the portion of the state ceiling reserved for industrial development bonds.

§ 3.2. Order in which the bond authority reserved for industrial development bonds shall be allocated.

The bond authority reserved for industrial development bonds will be allocated only to qualifying manufacturing facility projects from January 1 - July 31 of each calendar year. On August 1, allocations will be opened to exempt facility projects, and exempt facility projects will have priority over manufacturing facility projects until December 15 of each calendar year.

Allocations shall be made by VSBFA to qualifying manufacturing facility projects from January 1 - July 31 of each year in chronological order of the receipt of complete applications (including all documentation specified in § 5.3 of these guidelines) that are received by VSBFA by 5:00 p.m. on July 31. Any industrial development bond authority that is unallocated, that is returned to VSBFA, or that otherwise becomes available to VSBFA by 5:00 p.m. on July 31 of each calendar year will be available for awards to manufacturing facility projects with applications on file with VSBFA by 5:00 p.m. on July 31.

On August 1 of each year, allocations will be opened to exempt facility projects. If there is insufficient unallocated industrial development bond authority on August 1 to award to the exempt facility projects with complete applications (including all documentation specified in § 5.3 of these guidelines) on file with VSBFA by 5:00 p.m. on July 31 of each year, VSBFA will award allocation to such exempt facility projects in such manner that the allocation to each such project bears the same ratio to the requested allocation for such project as the available amount of allocation bears to the total of all requests for allocation. In the event of multiple applications that arrive by the above specified date and time and that total an amount above the available cap, the remaining allocation will be granted on a pro-rata basis. Specific projects that are of state interest and which have unfulfilled requests can then request state allocation.

Any industrial development bond authority that is unallocated, that is returned to VSBFA, or that otherwise becomes available to VSBFA after 5:00 p.m. on July 31 and until December 15 of each calendar year shall be awarded to applications on file with VSBFA in the following priority order:

1. For un-issued exempt facility projects with applications on file as of 5:00 p.m. on July 31, and not receiving full allocation in the manner described above, shall receive additional allocation in the matter as determined above.

2. Exempt facility projects in chronological order of the receipt of complete applications that are received by VSBFA after 5:00 p.m. on July 31.

3. Manufacturing facility projects in chronological order of the receipt of complete applications.

§ 3.3. Limitation on size of allocations.

All allocations awarded by VSBFA from the portion of the state ceiling reserved for industrial development bonds for manufacturing facility projects shall be limited to \$10 million per project in any calendar year.

All allocations awarded by the VSBFA from the portion of the state ceiling reserved for industrial development bonds for exempt facility projects shall not be limited in any amount with respect to any exempt facility project (including a project which received a partial allocation) up to the unallocated maximum amount remaining in the industrial development allocation pool.

§ 3.4 Effective period of allocations.

An allocation of private activity bond authority awarded by VSBFA from the portion of the state ceiling reserved for industrial development bonds for manufacturing facility projects and exempt facility projects shall be effective for ninety (90) days after the allocation award date or until December 15, whichever is earlier unless otherwise permitted by these rules.

§ 3.5. Reapplying for a second allocation for the same project.

A project that receives an allocation and is unable to issue bonds within the effective period of the award may reapply for another allocation upon the expiration or return of the original allocation. The reapplication will be dated by VSBFA as received on the date the reapplication request is submitted and no portion of the original allocation is outstanding. Each project shall be limited to two allocations during any calendar year.

§ 3.6. Returned or Unused Allocation.

In the event of unused or returned allocation for applicants whose request is not fulfilled, who have requested to be so notified per the application that is on file with VSBFA by December 15, VSBFA will notify any such applicant about the availability and amount of returned or unused allocation. VSBFA may notify the applicant by contacting the individual listed as bond counsel in the Application. Such notification may be by telephone, facsimile or other electronic means. Upon such notification, the applicant shall in writing no later than 4:00 p.m. on the second full business day following the day of VSBFA's delivery of such notice, accept unused allocation, specify the amount to be used and provide written assurances as to the use of such amount by the end of the applicable time period. Failure to accept in such manner and within such timeframe, shall be deemed a denial. It shall be in VSBFA's sole discretion to determine whether the acceptance is compliant. VSBFA will award such unused allocation in such manner that the amount awarded to each such requesting applicant bears the same ratio to the amount of such request as the available amount of all unused allocation bears to the total of all requests for unused allocation.

PART IV.
YEAR-END ALLOCATIONS TO CARRYFORWARD PURPOSES.

§ 4.1. Virginia Housing Development Authority.

In accordance with §15.2-5004 of the Virginia Code, any bond issuing authority that remains with VSBFA after December 15 shall be transferred to the VHDA upon their written request to the Director of DHCD, after notification by VSBFA to the Director of DHCD of the amount of bond authority available.

To the extent that VHDA does not submit a request to use the unused allocation pursuant to and in accordance with §15.2-5004 of the Virginia Code, VSBFA shall award such unused authority by December 20 in the manner provided in Section 3.6 above and in the following priority: (i) to manufacturing facilities, (ii) exempt facilities, (iii) for exempt facilities projects requesting carryforward; and (iv) to VHDA. VSBFA will notify the applicant on the business day next succeeding December 20 about the availability and amount of unused allocation.

PART V.
APPLICATION PROCEDURE.

§ 5.1. Project Approval.

Projects of local issuing authorities must be approved by the governing body having jurisdiction over the authority as well as by the governing body having jurisdiction over the locality in which the project is located. This is often the same governing body. Projects of state issuing authorities must be approved by the Governor.

§ 5.2. Where to Apply.

All industrial development bond project applications shall be submitted to the VSBFA. Requests from qualifying manufacturers and exempt facilities for private activity bond authority from the State Allocation will be submitted to DHCD with input from VSBFA and VHDA. The Director of DHCD will forward the application for State Allocation to the Governor, through the Secretary of Commerce & Trade and the Secretary of Finance. The Governor must approve all requests for use of the State Allocation. Applicants should allow a minimum of 45 working days for decisions using the State Allocation.

§ 5.3. Application Forms.

All projects seeking an allocation of private activity bond authority from VSBFA or the State Allocation must file an application. Application forms are available from VSBFA and can also be downloaded from its web site.

The application forms to be used are as follows:

1. Authorities seeking an allocation of bond authority for manufacturing and exempt facility projects shall file Form IDB.

2. Local housing authorities seeking an allocation of bond authority for housing projects shall contact the Department of Housing and Community Development for the appropriate form.

All applications and requests for private activity bond authority from VSBFA shall be accompanied by the following documentation for each project:

1. Inducement resolution or other documentation of the preliminary approval of the project by the issuing authority, in conformity with applicable federal and state law;
2. Documentation of the appropriate governing body's or bodies' (see § 5.1 of these guidelines) or elected official's approval of the project, in conformity with applicable federal and state law;
3. Written opinion of bond counsel that the project is eligible to utilize private activity bonds pursuant to the Code and that an allocation of bond issuing authority from the state ceiling is required;
4. A definite and binding financing commitment from the buyer or underwriter of the bonds for the project.

§ 5.4. When to Apply.

Project applications for allocation may be submitted to VSBFA at any time prior to December 15 of each year.

PART VI. REPORTING REQUIREMENTS FOR ALLOCATIONS.

§ 6.1. Reporting Bond Issuance.

For all private activity bonds issued in the Commonwealth from the portion of the state ceiling allocated to the industrial development allocation pool during any calendar year, a copy of the federal Internal Revenue Service (IRS) Form 8038 must be received by VSBFA by 5:00 p.m. on the expiration date of the allocation award. Bond authority that has not been documented as having been issued by the filing of IRS Form 8038 with VSBFA by this deadline will revert to VSBFA for reallocation to other projects.

For all manufacturing facility or exempt facility private activity bonds issued in the Commonwealth from the portion of the state ceiling allocated to the State Allocation during any calendar year, a copy of IRS Form 8038 must be received by VSBFA within ten (10) days following issuance of the bonds.

For all manufacturing facility or exempt facility allocations to carryforward purposes, a copy of IRS Form 8328 must be filed with VSBFA by February 15 following the calendar year in

which the carryforward award was received. In order to document the amount of bonds issued, a copy of IRS Form 8038 must be sent to VSBFA when the bond(s) are issued.

**APPLICATION
INDUSTRIAL DEVELOPMENT BOND ALLOCATION**

1. GENERAL INFORMATION

A. Issuing Entity _____

B. Name of Project _____

C. Use of Bond Proceeds

Manufacturing

Exempt facility

D. Bond allocation requested \$ _____

E. Notify in the event of unused allocation if requested amount is not fulfilled

F. Project is eligible for carryforward

2. PROJECT INFORMATION

A. General Description of the Project.

B. Number of jobs to be created (net) and/or retained within two years of project completion. _____

C. Average hourly wage of jobs created and/or retained. \$_____

D. Location of Project (City, County, or Town) _____

E. Name, address, phone number, and tax ID number of each proposed borrower and developer.

F. Name, address, and phone number of bond counsel.

3. ATTACHMENTS - ALL FOUR ATTACHMENTS MUST BE SUBMITTED WITH THIS FORM. ALLOCATIONS CANNOT BE AWARDED UNTIL ALL ATTACHMENTS HAVE BEEN RECEIVED. ALL DOCUMENTATION MUST BE CURRENT.

A. Copy of inducement resolution or other documentation of the preliminary approval of the project by the issuing authority, in conformity with applicable federal and state law.

B. Copy of appropriate elected official's or governing body's (or bodies') formal approval of the project, in conformity with applicable federal and state law.

C. Written opinion of bond counsel that the project is eligible to utilize private activity bonds pursuant to the Internal Revenue Code of 1986, as amended, and that an allocation of bond issuing authority from the state ceiling on private activity bonds is required.

D. A definite and binding financing commitment from the buyer or underwriter of the bonds for the project.

4. CERTIFICATION

I hereby certify that the information filed herewith is accurate to the best of my knowledge.

Name of Issuing Entity

By: _____
Signature of Authorized Representative

Name (please print) _____

Title _____

Full Address _____

Date _____

Submit completed applications to:

Virginia Small Business Financing Authority
P.O. Box 446
Richmond, VA 23218-0446
Attn: Allocation Administrator