

## 2010 Qualified School Construction Bond Program Application Process & Requirements

The Qualified School Construction Bond (QSCB) program is a federal tax credit program. QSCBs are bonds that school districts (hereinafter referred to as “districts” or “district”) and open-enrollment charter schools (hereinafter referred to as “charters” or “charter”) can use to save money on school construction (including land purchase), rehabilitation, or repair projects. For districts, a “bond” may be in the form of a bond, lease purchase, time warrant, or maintenance tax note. For charters, a “bond” may only be in the form of a revenue bond.

Under the QSCB program, eligible districts and charters will be permitted to issue low-interest or no-interest bonds for sale to eligible bond holders. The holders of the bonds will receive tax credits on their federal income tax returns intended to compensate them for the value of the forgone interest. The amount of the tax credit is based on the face amount of the bonds and a credit rate established by the secretary of the treasury. The program is designed to provide tax credits to bond holders that are approximately equal to the interest that issuers would ordinarily pay the holders of taxable bonds. A recent modification to federal law (found in Public Law No. 111-147) allows a refundable tax credit to issuers of specified tax credit bonds. The secretary of the treasury will also establish a maximum term for each bond issue. Information concerning the credit rate may be found at the following website: [https://www.treasurydirect.gov/govt/rates/irs/rates\\_irstcb.htm](https://www.treasurydirect.gov/govt/rates/irs/rates_irstcb.htm). There is no guarantee that eligible lenders will elect to purchase these bonds.

**This program does not grant funding. No monetary payments/awards are issued from the state.** This program allows the state to grant program authorization to a limited number of qualifying districts and charters. The granting of program authorization allows those districts and charters to issue QSCBs that can be used for appropriate qualified purposes. Qualified purposes include the construction, rehabilitation, or repair of a public school facility or the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue.

For a district or charter to gain QSCB program authorization, it must meet the program’s proof of eligibility requirements. Additional requirements may have to be met after receipt of an authorization to comply with federal tax law regarding the authorization. For more information on those additional requirements, consult with your legal counsel. An application must be filed and the program authorization must be granted before the district’s or the charter’s issuance of its QSCB debt. State facilities funding, if applicable, will be based on the net debt service costs to be paid by the district.

The following is a summary of the various requirements that districts and charters must meet to obtain QSCB eligibility.

1. For district applications, the bonds, lease purchases, maintenance tax notes, or time warrants must be issued by the district; for charter applications, the revenue bonds must be issued by the charter.
2. The QSCB proceeds must be used for one or more of the following qualified purposes:
  - construction of a public school facility;
  - the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue;
  - rehabilitation of a public school facility; or
  - repair of a public school facility.

Eligible expenditures include the acquisition of equipment to be used in the portion or portions of the public school facility that are being constructed, rehabilitated, or repaired with the proceeds of QSCBs. Eligible expenditures also include issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds).

3. The district or charter must commit to spend at least 10 percent of the proceeds within six months of issue of the QSCBs and to spend 100 percent of the proceeds within three years of issue of the QSCBs.
4. The district or charter must acknowledge intent to comply with any arbitrage requirements.

5. The district or charter must acknowledge intent to comply with the Davis-Bacon Act.
6. The district or charter must acknowledge intent to achieve certification under a high-performance building standard if the district or charter will receive additional allocation for such purpose.
7. The district or charter must provide costs and project descriptions for the expenditures of the bond funds.
8. The application must be signed by the superintendent or another authorized district or charter school official.

**The 2010 Texas QSCB program application cycle is now open. Applications will be accepted until 5:00 p.m. (CDT), June 30, 2010.**

Completed applications will be considered on a first-come, first-served basis until the state's allocation is fully committed. The 2010 QSCB allocation for Texas is \$547.674 million. Of the state's general allocation, \$100 million is reserved exclusively for charter schools, and an additional amount, still to be determined, will be reserved exclusively for use by some of the large school districts that were not able to fully use their 2009 direct allocations. If the allocations reserved for charter schools and the allocations reserved for the large school districts are not fully committed by the application deadline of June 30, 2010, the reservations will lapse, and the uncommitted allocations will return to the state's overall allocation balance.

The Qualified School Construction Bond Program Application for 2010 must be completed in order to be considered. Only complete applications, which must include project descriptions, will be considered. After the deadline date, all district or charter applications that fully meet the eligibility requirements will be placed in one of two groups: the first group will be those districts and charters that did not receive an authorization from the 2009 QSCB allocation, and the second group will be those districts and charters that did receive an authorization from the 2009 QSCB allocation. Districts and charters that received either a direct allocation or a TEA allocation in 2009 and subsequently chose not to use the allocation will be placed in the second group. Applications within each group will be placed in order based on the date the application was received and/or was first deemed complete, whichever is later. Allocation requests from the first group will be filled before those in the second group. Allocation requests will be filled until the state's allocation is fully committed. Districts and charters identified for allocations will be notified of the amount of debt authorization that may be designated as QSCB eligible. Upon receipt of the QSCB designation, the district or the charter will have one year to issue the QSCBs. If the QSCBs are not issued within the one-year period, the QSCB designation will lapse.

The maximum bond authorization that may be requested per district or charter has been precalculated and can be found in the third column of the spreadsheet at the following TEA website: <http://www.tea.state.tx.us/index4.aspx?id=2147484089>. The maximum calculated amount for each district or charter is based on the greater of:

- 1) \$5,000,000; or
- 2)  $\{\$5,000,000 + [\$500 \times (2009-2010 \text{ PEIMS student enrollment} - 400)]\}$  (Results from this calculation were rounded up to the nearest thousand.)

The maximum bond authorization that may be requested per district or charter per allocation year will be increased by an additional 5 percent (rounded up to the nearest thousand) if the district or charter commits to designing and constructing their projects so that they receive certification under a high-performance building standard such as:

- the Leadership in Energy and Environmental Design (LEED) Green Building Rating System;
- the Texas Collaborative for High Performance Schools (TX-CHPS) criteria;
- the Green Building Initiative's Green Globes criteria; or
- an equivalent standard adopted by the municipality or county in which the projects are located.

This amount has been precalculated for each district and charter and can be found in the fourth column of the spreadsheet at the following TEA website: <http://www.tea.state.tx.us/index4.aspx?id=2147484089>.

For districts: 1) a bond must be authorized and issued under the authority of the Texas Education Code, Chapter 45, Subchapter A; 2) lease purchases must be qualified under Local Government Code, §271.004 or §271.005; 3) a time warrant must meet the requirements of the Texas Education Code, §45.103; and 4) a maintenance tax note must meet the requirements of the Texas Education Code, §45.108. For charters, a revenue bond must be authorized and issued under the authority of the Texas Education Code, Chapter 53, Subchapter C.

The information provided in this document is a summary of the main requirements districts and charters must meet to be eligible for the QSCB program. Because of the complexity of the program, and its very specific eligibility requirements, no district, charter, or lending institution should participate in this program without seeking legal advice from bond counsel.

The statutory authorization for the QSCB program can be found in Section 1521 of the American Recovery and Reinvestment Act of 2009 (Section 54F of the Internal Revenue Code). Additional information may be found in Internal Revenue Notice No. 2010-17 (<http://www.irs.gov/pub/irs-drop/n-10-17.pdf>) and Notice No. 2010-28 (<http://www.irs.gov/pub/irs-drop/n-10-28.pdf>).