

## 2009, 2010, and 2011 Qualified Zone Academy Bond Program Application Process and Requirements

The Qualified Zone Academy Bond (QZAB) program is a federal tax credit program. QZABs 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 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 QZAB 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 or 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 QZABs that can be used for appropriate qualified purposes. Qualified purposes include repairing or rehabilitating the public school facility in which the academy is established (but not new construction or additions), providing equipment for use at the academy, developing course materials for education to be provided at the academy, or training teachers and other school personnel in the academy.

For a district or charter to gain QZAB 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 district’s or charter’s 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 QZAB debt. State facilities funding, if applicable, will be based on the net debt service costs to be paid by the district.

Following is a summary of the various requirements that districts and charters must meet to obtain QZAB eligibility.

1. The proposed program must be established by and operated under the supervision of a local education agency.
2. The proposed program must be designed in cooperation with business partners to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex work world. The applicant, along with at least one of the business partners, together must create a plan for **a new academic program** and indicate how their combined efforts can improve student education. Postsecondary education and training programs, and existing programs, are not eligible. Students in the proposed program must be subject to the same academic standards and assessments as other students educated by the eligible local education agency.
3. The proposed program must be located on a campus in an empowerment zone, on a campus in an enterprise community, or on a campus where at least 35 percent of the students attending (as of the date of issuance of the bonds) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act. Initial eligibility will be confirmed by identifying the number of economically disadvantaged students reported to the Public Education Information Management System for the previous fall.
4. The district or charter establishing the qualified zone academy must have written commitments from private entities to make qualified contributions having a present value of not less than 10 percent of the proceeds of the issue. Qualified contributions are as follows:

- equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment);
  - technical assistance in developing curriculum or in training teachers in order to promote appropriate market-driven technology in the classroom;
  - services of employees as volunteer mentors;
  - internships, field trips, or other educational opportunities outside the academy for students; or
  - any other property or service specified by the eligible local education agency.
5. 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.
6. One hundred percent of the bond proceeds must be used by the close of three years after the issue of the QZABs for one or more of the following qualified purposes:
- repairing or rehabilitating the public school facility in which the academy is established (but not new construction or additions);
  - providing equipment for use at the academy;
  - developing course materials for education to be provided at the academy; or
  - training teachers and other school personnel in the academy.

Eligible expenditures also include issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of the proceeds).

7. The district or charter must commit to spend at least 10 percent of the proceeds within six months of issue of the QZABs, and to spend 100 percent of the proceeds within three years of issue of the QZABs.
8. The district or charter must acknowledge intent to comply with any arbitrage requirements.
9. The district or charter must acknowledge intent to comply with the Davis-Bacon Act.
10. The district or charter must provide costs and project descriptions for the expenditures of the bond funds.
11. The application must be signed by the superintendent or another authorized district or charter school official.

Completed applications will be considered on a first-come, first-served basis, until the state's allocation is fully committed. As of May 9, 2011, \$118,193,000 remained available from Texas's 2009 allocation; \$120,252,000 remained available from Texas's 2010 allocation; and \$37,014,000 remained available from Texas's 2011 allocation. Only the *Qualified Zone Academy Bond (QZAB) Program Application for 2009, 2010, and 2011* will be accepted. **There is no limit to the amount of bond authorization that may be requested per district or charter.** Applications are retained in a queue based on the date the application was received and/or was first deemed complete, whichever is later.

Districts and charters identified for allocations will be notified of the amount of debt authorization that may be designated as QZAB eligible. On receipt of the QZAB designation, the district or the charter will have one year to issue the QZABs. If the QZABs are not issued within the one-year period, the QZAB designation will lapse. **EXCEPTION:** Districts and charters that are given debt authorizations from Texas's 2009 allocation will have until December 31, 2011, to issue the QZABs, a deadline that corresponds with the federal deadline for the 2009 allocation. The federal deadline for the 2010 allocation is December 31, 2012, and the federal deadline for the 2011 allocation is December 31, 2013.

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 the Texas 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 QZAB program. Because of the complexity and very specific eligibility requirements of the program, no district, charter, or lending institution should participate in this program without seeking legal advice from bond counsel.

The statutory authorizations for the QZAB program can be found in Internal Revenue Code, §54E, as added by the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (Public Law 110-343) and as amended by the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5). Additional information can be found in Internal Revenue Notice No. 2009-30 (<http://www.irs.gov/pub/irs-drop/n-09-30.pdf>), Internal Revenue Notice No. 2010-22 (<http://www.irs.ustreas.gov/pub/irs-drop/n-10-22.pdf>), and Internal Revenue Bulletin No. 2011-6 ([http://www.irs.gov/irb/2011-06\\_IRB/ar12.html](http://www.irs.gov/irb/2011-06_IRB/ar12.html)).