

Tax Extenders and Alternative Minimum Tax Relief Act of 2008 American Reinvestment and Recovery Act

Qualified Energy Conservation Bond (QECCB)

GUIDELINES AND APPLICATION

Application must be submitted electronically and received by the CEO by:
March 1, 2013 at 5:00 p.m.



January 2013

THE COLORADO ENERGY OFFICE
1580 Logan Street, Suite 100
Denver, CO 80203

www.colorado.gov/energy
Colorado Energy Office

www.colorado.gov/recovery
Colorado's American Recovery & Reinvestment Act updates –all programs

www.recovery.gov
White House recovery website

**Colorado Energy Office
American Recovery and Reinvestment Act
Tax Extenders and Alternative Minimum Tax Relief Act of 2008
Qualified Energy Conservation Bond (QECB)
Table of Contents**

- I. Opportunity Background Information**
 - A. ARRA-QECB**
 - B. ARRA-Goals**

- II. Administrative Information**
 - A. QECB / ARRA Specific Requirements**
 - B. Proprietary/Confidential Information**
 - C. Ability to Issue Bonds**
 - D. RFA Response Material Ownership**
 - E. Doing Business in Colorado**
 - F. News Releases**
 - G. Disclaimer**
 - H. Inquiries**

- III. QECB Application**
 - A. General Objective**

- IV. Response Format & Application Requirements**
 - A. General Instructions**
 - B. Application Response Requirements**
 - C. Application Submission**

- V. Evaluation**
 - A. Evaluation Team**
 - B. Scoring Process & Scale**
 - C. Decisions**

- VI. Awarded Applicant Reporting and Payment Schedule**
 - A. Reporting**

Attachments:

Attachment A-Application Summary Sheet (Excel format provided by CEO is required with application submission) – NOTE: REQUIRED- Attachment A MUST be signed by a person legally authorized to bind the applicant to the proposal.

I. Opportunity Background Information

A. ARRA – QECB

Qualified Energy Conservation Bonds (QECBs) were first authorized by the United States Congress in October 2008. The 2009 American Recovery and Reinvestment Act (ARRA) appropriated \$3.21 billion nationally for QECBs. The Colorado Energy Office (CEO) is responsible for assigning the state's allocation to qualified projects that are selected through a competitive process. This Request for Applications (RFA) will be used to compile and select proposals in the public **and** private sectors that will use QECBs to assist in the financing of energy conservation projects in Colorado.

Section 301(a) of Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Division C of Pub. L. 110-343, 122 Stat. 1365 (2008) (the "Act") added new § 54D to provide program provisions for QECBs. The Act amended § 54A(d)(1) to provide that the term "qualified tax credit bond" means, in part, a qualified energy conservation bond that is part of an issue that meets the requirements of § 54A(d)(2), (3), (4), (5), and (6) regarding expenditures of bond proceeds, information reporting, arbitrage, maturity limitations, and prohibitions against financial conflicts of interest. The Act also amended § 54A(d)(2) to provide that, for purposes of § 54A(d)(2)(C), the term "qualified purpose" for a QECB means a purpose specified in § 54D(a)(1) described below.

The Act added § 54D(d) to provide a national bond limitation ("national bond volume cap") authorization for QECBs of \$800 million. Section 1112 of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) ("2009 Act") amended §54D(d) to increase the national bond volume cap authorization for QECBs from \$800 million to \$3.2 billion.

The U.S. Treasury and the Internal Revenue Service determined individual state bond limitations ("state caps"). The maximum face amount of bonds (volume cap allocation) was determined in proportion to the population of the states. For Colorado, this allocation was \$51,244,000. Within Colorado, each large local government (defined as any municipality or county with a population of at least 100,000) and the state government was allocated an initial portion of the total volume cap allocation in accordance with the population of the large local government. Colorado House Bill (HB) 09-1346 stated that any portion of these large local government allocations that had not been used on or before November 10th, 2009 would automatically revert back to the CEO.

After this reversion date, a competitive application was offered for issuers interested in a QECB allocation. In February 2010, the CEO awarded just under \$39 million of QECB allocations to an assortment of local governments, universities and other qualifying quasi-governmental organizations.

After the 2010 round of allocations, the CEO pinpointed QECBs that remained unused. Consequently, the CEO conducted an inventory of all unused QECBs in the state and offered an additional round of allocations. That round of allocations in 2011 focused on private-use projects as opposed to the initial round that focused solely on public-use projects. Thirty percent of a state's allocation may be used for private activity bonds, which are bonds that benefit private companies and/or privately owned or operated projects.

After the 2011 round of allocations, the CEO has conducted two additional inventories of unused QECBs across the state and has determined that a sufficient amount remains to warrant an additional, and hopefully final, round of allocations.

This current round of QECB allocations will focus on both public and private uses and will be open to all eligible energy conservation projects, per the eligibility guidelines of the QECB program.

B. QECB – Goals

When considering projects for funding, the CEO will weigh a number of factors, including but not limited to:

- **The stage of project development** which will be analyzed based on the technical merits of the project, the maturity of the technology used in the project, and the viability of the project (to be determined based on the feasibility of tasks, budget, timeline and resource capabilities). The security and stability of the revenue source to pay back the QECB, strength of the applicant’s finance plan, quantity and availability of matching funds, and the ability to secure financing are all important factors that will speak to the level of project development as well.
- **The impact to the State** of a QECB-funded project from the perspective of economic development, job creation, energy security, consumer costs associated with energy, and environmental stewardship.
- **The alignment of project objectives with the priorities of the CEO/state.**

II. Administrative Information

A. QECB / ARRA Specific Requirements

Qualified Energy Conservation Bonds (QECB) may be issued by a public entity as defined by 11-59.7-103(20), C.R.S., and under QECB federal guidelines, private entities may also participate and are available to finance the following:

(a) Capital expenditures incurred for purposes of (i) reducing energy consumption in publicly-owned buildings by at least 20 percent, (ii) implementing green community programs (including the use of loans, grants, or other repayment mechanisms to implement such programs), (iii) rural development involving the production of electricity from renewable energy resources, or (iv) any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date).

(b) Expenditures with respect to research facilities, and research grants, to support research in (i) development of cellulosic ethanol or other nonfossil fuels, (ii) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels, (iii) increasing the efficiency of existing technologies for producing nonfossil fuels, (iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or (v) technologies to reduce energy use in buildings.

(c) Mass commuting facilities and related facilities that reduce consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

(d) Demonstration projects designed to promote the commercialization of (i) green building technology, (ii) conversion of agricultural waste for use in the production of fuel or otherwise, (iii) advanced battery manufacturing technologies, (iv) technologies to reduce peak use of electricity, or (v) technologies for

the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

(e) Public education campaigns to promote energy efficiency.

As mentioned above, up to 30% of each state's volume cap allocation may be used for private activity bonds, meaning proceeds may be loaned to private companies and/or for privately owned or operated projects. It is the purpose of this application to solicit responses from both the **public and private** sectors.

This guidance is provided to remind applicants of existing federal guidance and to assist when receiving and/or awarding contracts/subcontracts using funds made available under the American Recovery and Reinvestment Act of 2009, Pub L. 111-5 (ARRA or the Act). It is the responsibility of successfully awarded applicants to ensure compliance with all ARRA regulations and requirements imposed by the Qualified Energy Conservation Bond. The **Appendix 1, Terms and Conditions Use of American Recovery and Reinvestment Act of 2009 (ARRA) Funds** provides specific requirements specifically for this bond.

B. Proprietary/Confidential Information

Any restrictions on the use of or inspection of material contained within the responses to the application shall be clearly stated in the response to the application itself. Written requests by the applicant for confidentiality shall be submitted to the CEO in advance of the application submission deadline. Please allocate sufficient time prior to the application submission deadline to allow for a response by the CEO. The applicant must state specifically what elements of the applicant's response and proposal are to be considered confidential/proprietary and must state the statutory basis for the request under Section 24-72-201 et. seq., C.R.S. (the "Colorado Open Records Act").

Confidential/Proprietary information must be readily identified, clearly marked and packaged separately from the rest of the applicant's response/proposal. Co-mingling of confidential/proprietary and other information is not acceptable. Neither a response to an application, in its entirety, nor application price/cost information will be considered confidential or proprietary. Materials that would not be considered confidential in response to a request for proposal will NOT be considered confidential for this RFA. If an applicant is successful and receives ARRA Funds, any information that will be included in any contract cannot be considered confidential. The CEO will make a written determination as to the apparent validity of any written request for confidentiality. In the event the CEO does not concur with the applicant's request for confidentiality, the written determination will be sent to the applicant.

C. Ability to Issue Bonds

By submitting an application, the applicant affirms its acceptance of the terms and requirements of the QECB program as established by ARRA, the U.S. Treasury and the state of Colorado. **The applicant must be willing and able to issue QECBs within nine months of the date of the volume cap award.** Financing timelines longer than nine months will be considered by the CEO, but may not have priority over more "shovel ready" applications. Based on the type of project and financing plan, other milestones may be asked of the applicant through its project development.

D. RFA Response Material Ownership

The state has the right to retain any applicant's original applications and other RFA response materials for its files. As such, the state may retain or dispose of all copies as is lawfully deemed appropriate. Application materials may be reviewed by any person after the "Notice of Intent to Make an Award"

letter(s) has/have been issued, subject to the terms of the Colorado Open Records Act. The State has the right to use any or all information/material presented in reply to the RFA, subject to limitations outlined in the clause, Proprietary/Confidential Information. Each applicant expressly agrees that the State may use the materials for all lawful State purposes, including the right to reproduce copies of the materials submitted for purposes of evaluation, and to make the information available to the public in accordance with the provisions of the Colorado Open Records Act.

E. Doing Business in Colorado

An applicant or any vendor wanting to do business in Colorado must register with the Colorado Secretary of State in accordance with C.R.S. Section 7-90-801. This is the link for the Colorado Secretary of State's Web site: <http://www.sos.state.co.us> (recommend going to the "Business Center" section, then opening the "Business Home" page, under the "General Information" section review the FAQs). A copy of the business entity's Articles of Incorporation and/or Bylaws and a Certificate of Good Standing may be requested by the State.

F. News Releases

News releases pertaining to resulting awards from this application shall NOT be made prior to the announcement of the allocation award or without prior written approval of the CEO.

G. Disclaimer

All statistical and fiscal information contained within this application, and any amendments and modifications thereto, reflect the best and most accurate information available to the CEO at the time of the QECB Application preparation.

H. Inquiries

Applicants should not rely on any other statements, either written or oral, that alter any specification or other term or conditions of this application during the open solicitation period. Applicants should consult with bond counsel regarding the legal requirements and issuance of Qualified Energy Conservation Bonds or other ARRA specific requirements. The CEO will provide information regarding best practices and RFA guidelines, as well as a "canned" Q&A guide. All written inquires should be emailed to paul.scharfenberger@state.co.us by 5:00pm on Friday, February 1, 2013. Responses will be answered in writing and posted on the CEO website under this solicitation at <http://www.colorado.gov/cs/Satellite/GovEnergyOffice/CBON/1251610998028> by Friday, February 15, 2013.

III. QECB Application

A. General Objective

CEO will provide QECB allocations for the following purposes:

- Public and private uses of QECBs for projects in any of the eligible categories listed above in section "A. QECB / ARRA Specific Requirements".

Awardees of QECB allocations are required to be in full compliance with state and federal laws, and the State Constitution, in particular, Section 20 of Article X of the State Constitution, the Taxpayer's Bill of Rights or "TABOR." Successful awardees should consult with legal counsel. The State shall not provide legal advice.

IV. Response Format & Application Requirements

A. General Instructions

This application, shall **not** exceed ten (10) consecutively numbered (bottom center), 8.5x11-inch pages of single-spaced, standard 11-point type with 1-inch margins. NO hard copy applications will be accepted. All electronic copies must be sent to paul.scharfenberger@state.co.us.

B. Application Response Requirements

Applicants shall include all of the following information about the proposed project:

Project Abstract

Provide a brief description of the project or program for which funding is being requested and clearly state how it will help meet the goals and objectives of the QECB program and ARRA. The abstract should be no more than 125 words. Please keep this paragraph free of any proprietary information.

Project Narrative

Provide a project background and narrative that demonstrates, with specificity, a thorough explanation of how the project will contribute to stated QECB goals as referenced in Section I.B and Section II. A. Describe the location of the project and why the applied technology is appropriate.

Describe the project including the impacts that it will have on the state from the perspective of economic development, job creation, energy security, consumer costs associated with energy, and environmental stewardship. Provide information on how this fits into the facility's energy plan or larger related effort. Also include an explanation of the stage of development that the project is currently in and the technical merits of the project, including the cost effectiveness of the proposed technology. Finally, based on your knowledge and research, discuss how you feel this project aligns with the priorities of the CEO and the state.

Preference will be given to proposals that demonstrate the greatest potential for positive impact to the state, the most advanced project development, the most feasible finance plan, and the greatest alignment with the priorities of the CEO and the state.

Project Budget

Provide an itemized spreadsheet of all project costs, including, but not limited to, personnel, showing budgeted hours and rates, equipment, materials, supplies, subcontractor overhead and profit, etc. Travel costs should be limited to those that are directly essential to accomplishing the project. Include any other funding sources that will be used for this project and indicate any plans to attract additional funding. **Note: Please refer to Section (d) of Appendix 1 as it pertains to specific Wage Rate Requirements.**

For Example:

Project Cost		Project Funding	
GE Boiler Mod 345mm7	\$100,000	Utility Rebate	\$10,000
ABC installers	\$75,000	QECB volume cap allocation (requested in this application)	\$100,000
Permitting Fees	\$500	County EECBG grant (pending)	\$50,000
Commissioning	\$50,000	Facility Capital	\$67,500
Administration	\$1000		
Personnel	\$1000		
Total Project Cost	\$227,500	Total Project Funding	\$227,500

Budget Narrative

Provide a budget narrative that describes how the budget costs are determined and how they relate to the project. Indicate any other funding sources that will be used for this project and describe any plans to attract additional funding. If not included elsewhere in the application, list all grant funds received to date, whether from public or private sources, **including all applications for funding pending with other entities. If funding is not yet secured or awarded from any source, please indicate that clearly.**

Plan of Finance

Provide an explanation of how the QECBs will be financed (i.e., industrial development bonds, General Obligation Bonds which would require voter approval, capital leases or certificates of participation, etc), and the term of the loan. Identify the revenue stream, how the annual amount is estimated, and demonstrate, in a table format, how this revenue stream will repay the QECB in the prescribed time period. Also provide an explanation of how these funds are being secured and what safeguards are in place to insure that QECB can be paid back. Please also identify who the issuer would be for this project.

Please also indicate whether a partial award of QECBs would be feasible to the project.

Staff Project Management Experience, Qualifications and Facilities Requirements

Describe the project staff responsibilities and qualifications. Biographical sketch of the staff and/or development team to include a brief resume/summary of qualifications and previous accomplishments (for similar projects) for project manager(s).

Describe the internal resources available to the project team or partners, including facilities, major equipment and other technical aspects, permits, and administrative resources that will be required for the project.

Project Tasks

A list of project tasks that must be completed in order for the project to be completed must be submitted. These tasks will directly feed into the milestone progress and will be included in the contract. Tasks should identify core areas of work, the lead and the amount of time to complete. A chart (Gantt or similar) should be used to describe timeframes for the project’s tasks.

Project Milestones

Include a schedule of project milestones that demonstrate a project start date until the end of the project. Identify what issues/conditions still need to be resolved before the project can begin and what barriers might be foreseeable. The milestones should reflect major events in the life of the project and should help determine progress to success.

C. Application Submission

Applications must be received by **5:00 p.m. (MST) on March 1, 2013.**

Only electronic applications will be accepted. Hard copy applications will **not** be accepted.

Please e-mail your application to paul.scharfenberger@state.co.us with the subject heading "QECB Application 2013 – ENTITY NAME." The CEO requests that all materials be included as attachments to one email; however, if your documents are too large to send in one email, you may send multiple emails. If you must do this, please use the same email subject each time to assist with processing your materials efficiently.

The application shall not exceed ten (10) consecutively numbered (bottom center), 8.5x11-inch pages of single-spaced, standard 11-point type with 1-inch margins and be submitted as a single electronic document, in either Adobe PDF or Microsoft Word format.

Incomplete applications or applications received after the deadline will **not** be considered.

Applicants will receive a response notification of the receipt of their application immediately upon submission.

V. Evaluation and Award Selection Process

A. Evaluation Team

All applications will be reviewed by an evaluation team comprised of CEO staff and other evaluators as appropriate. Applicants will be notified when/if additional information, documentation or personal interviews with project principals are required. All information required to complete the application for allocation is provided herein. No additional information, including email and phone calls, will be considered during the selection process.

When considering projects, the evaluation team will weigh a number of factors, including but not limited to:

- **The stage of project development** which will be analyzed based on the technical merits of the project, the maturity of the technology used in the project, and the viability of the project involving feasibility of tasks, budget, timeline and resource capabilities. The security and stability of the revenue source to pay back the QECB, strength of the applicant's finance plan, and the ability to secure financing are all important factors that will speak to the level of project development as well.

- **The impact to the State** of a QECB-funded project from the perspective of economic development, job creation, energy security, consumer costs associated with energy, and environmental stewardship.
- **The alignment of project objectives with the priorities of the CEO/state**, as outlined in the Governor’s Bottom-Up Economic Development Plan Initiative and the CEO’s website.

B. Scoring Process & Scale

When considering applications, CEO’s review team will score proposals in the following categories. A total of 50 points per proposal is possible.

- **Project Development** - When considering the development of the project, application evaluators will take into account the project narrative, budget, plan of finance, staff project management experience, qualifications and facilities requirements, project tasks, and project milestones.

0 points – 5 points = This project is not developed. There is no sound plan for implementation and/or the plan for finance is unrealistic and/or the project team lacks experience and/or the project plan and timeline lacks insight and preparation.

6 points – 10 points = This project’s development is questionable. There is a questionable plan for implementation and/or the plan for finance is either vague or suspect and/or the project team’s experience is questionable and/or the project plan does not contain enough insight and preparation to adequately address concerns.

11 points – 15 points = This project has a reasonable level of development. The plan for implementation is adequate and/or the plan for finance is sufficient and/or the project team has some proven experience and/or the project plan and timeline is reasonable and relatively insightful and/or some level of matching funds are provided.

16 points – 20 points = this project is completely developed and will most likely be successful. The plan for implementation is sound and/or the plan for finance is logical and clearly well thought out and/or the project team has significant proven experience and/or the project plan and timeline is of great quality and superior to others reviewed and/or significant matching funds are provided.

- **Impact to the State** – When considering the impact that a project will have on the state, application evaluators will consider the potential for spurring economic development, job creation, improved energy security, reduced consumer costs associated with energy, and environmental stewardship. The legitimacy of these impacts will be reviewed based on what is provided in the Project Narrative, therefore it is important for applicants to attempt to quantify the metrics mentioned above to the best of their abilities.

0 points – 5 points = This project either has unrealistic or absent estimates relating to the positive impact that it will have on the state or the project has no potential to positively impact the state from the perspective of economic development, job creation, energy security, consumer costs, and environmental stewardship.

6 points – 10 points = This project provided estimates relating to the positive impact that it will have on the state and those estimates appear to be reasonable, but they are either poorly justified or explained and/or the positive impacts are limited from the perspective of economic development, job creation, energy security, consumer costs & environmental stewardship.

11 points – 15 points = This project provided estimates relating to the positive impact that it will have on the state and those estimates are reasonable and well justified and explained. Further, the positive impacts to the State are noteworthy from the perspective of economic development, job creation, energy security, consumer costs & environmental stewardship.

15 points – 20 points = This project provided estimates relating to the positive impact that it will have on the state and those estimates are reasonable and well justified and explained. Further, the positive impacts to the State are significant from the perspective of economic development, job creation, energy security, consumer costs, & environmental stewardship AND are superior to the benefits projected by other applying projects.

- **Alignment with Priorities of the CEO/State** – When considering the level of alignment of a project with the priorities of the State, application evaluators will consider the project objectives, the Governor’s Bottom-Up Economic Development Plan Initiative, and the CEO’s focus (as outlined on its website - <http://www.colorado.gov/energy/>). The level of alignment will be reviewed based on what is provided in the Project Narrative.

0 points = This project either did not provide a discussion for how this project is aligned with the priorities of the CEO/state or the project clearly is not aligned with the priorities of the CEO/state.

2.5 points = This project discussed how it is aligned with the priorities of the CEO/state, but the discussion was vague and/or the alignment is weak.

5 points = This project discussed how it is aligned with the priorities of the CEO/state and the discussion was clear and reasonable and the alignment was satisfactory.

7.5 points = This project is aligned with the priorities of the CEO/state.

10 points = This project is aligned with multiple priorities of the CEO/state and/or is more aligned than others reviewed.

D. Decisions

Additional financial information may be requested by the CEO from applicants prior to final award determination.

Bonding capacity is limited. Applications meeting all of the program's general policy guidelines may not necessarily receive an award.

The CEO reserves the right to vary from the criteria as necessary or appropriate based on guidelines given by U.S. Treasury and the Internal Revenue Service.

Volume cap allocation decisions will be made on or near the 3rd week of March, 2013 and applicants will be notified of the Selection Committee's determinations via email.

Volume cap allocation decisions are final. Allocations awarded are based on a competitive process where applications are weighed against other applications. Significant changes in the scope of work after QECBs are issued may result in actions by the U.S. Treasury.

VI. Awarded Applicant Reporting

A. Reporting

All volume cap allocations are conditioned upon veracity of information provided by the applicant and will require accountability and reporting.

Awarded Applicant(s) shall comply with the reporting requirements as determined by the U.S. Treasury , the Internal Revenue Service, the State Treasurers' Office and or the Colorado Energy Office.

In addition, a final report shall be submitted to the CEO upon project completion that includes a one page summarization of: economic development impacts, new jobs created, energy security improvements, reductions in consumer costs associated with energy, and environmental benefits associated with the project as well as any assumptions used to determine that information.