



Programs

TAX CREDIT FOR CONTRIBUTION PROGRAM PROGRAM GUIDELINES

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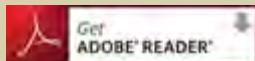
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Governor Office Building
200 Madison Street
Suite 1000
P.O. Box 567
Jefferson City, MO 65102
Phone: 573/751-8479
Fax: 573/526-4418
E-mail: mdfb@ded.mo.gov



The Missouri Development Finance Board (the “Board”) is authorized by Section 100.286.6 of the Missouri Statutes (the “Tax Credit Statute”) to grant a tax credit equal to 50% on the value of any eligible contribution to the Board by any taxpayer. To be eligible for the credit, the contribution must be made to one of three funds established by the Board’s statutes: the Industrial Development and Reserve Fund, the Infrastructure Development Fund, or the Export Finance Fund.

I. ELIGIBILITY

There are four eligibility requirements under the Tax Credit for Contribution Program – A. Applicant Eligibility; B. Project Eligibility; C. Contributor/Donor Eligibility; and D. Contribution/Donation Eligibility:

A. **Applicant Eligibility**

To be eligible, an applicant must be a local political subdivision, a local governmental entity created on behalf of or for the benefit of a local political subdivision, or a state agency. Applications from local governments must be authorized by duly adopted resolutions or ordinances of the elected governing body, and signed by the chief elected official or designated city representative. A duly executed copy of the authorizing resolution must be attached to the application. Applications from state agencies must be signed by the agency director.

B. **Project Eligibility**

For contributions made to the Infrastructure Development Fund and for which the applicant is requesting a grant of contribution proceeds from the Board, the project must qualify as a public infrastructure facility as determined under Chapter 100.255(9) and (14) of the Board’s statutes. The Infrastructure Fund is the only fund from which the Board is authorized to make a grant of proceeds from. Grants can only be made to local governments and state agencies, and only for land acquisition and attendant depreciable capital costs incurred or to be incurred on improvements to real property for qualified public infrastructure projects. Proceeds cannot be granted to pay for operating costs, short-term assets that are typically expensed, rolling stock, or furniture, fixtures and equipment having a depreciable life of less than five (5) years.

“Infrastructure facilities” means the highways, streets, bridges, water supply and distribution systems, mass transportation facilities and equipment, telecommunication facilities, jails and prisons, sewers and sewage treatment facilities, wastewater treatment facilities, airports, railroads, reservoirs, dams and waterways in this State, acquisition of blighted real estate and the improvements thereon, demolition of existing structures and preparation of sites in anticipation of development, public facilities and any other improvements provided by any form of government or development agency.

“Public facility” means any facility or improvements available for use by the general public including facilities for which user or other fees are charged on a nondiscriminatory basis.

By policy the Board will not consider applications under this program for health and/or medical facilities, including nursing or retirement facilities or combination thereof, or for private or public educational facilities. The Board may make exceptions to this policy at its sole discretion.

Contributions may be made to other Board funds from which the Board can use the proceeds to capitalize Board-operated small business loan or loan guarantee programs or other qualified uses as set forth in Board statutes.

C. Contributor/Donor Eligibility

Any taxpayer making a contribution to the Board, including any charitable organization that is exempt from federal income tax and whose Missouri unrelated business taxable income, if any, would be subject to the state income tax imposed under Chapter 143, may, subject to certain limitations, be eligible to receive the credit.

The Tax Credit Statute entitles the Donor (individuals, estates, trusts, and corporations) to receive a credit upon any tax otherwise due under Chapter 143 (excluding Chapters 143.192 to 143.261), Chapter 147, and Chapter 148 of the Missouri Statutes. The exclusions are certain withholding taxes identified in the Tax Credit Statute. The amount of the credit is equal to 50% of the value of the contribution as determined under Contribution Eligibility below. Each Donor should consult his or her tax advisor before making a Contribution.

If the Donor is a for-profit private corporation or person, the Board will not use the Contribution in a manner which will directly or indirectly benefit the Donor beyond the benefit conferred by the credits, unless the Donor demonstrates to the sole satisfaction of the Board that such use is based upon fair market value considerations and is an arms-length transaction from the Donor.

D. Contribution/Donation Eligibility

The amount (or value) of each Contribution shall be determined by the Board as follows:

Cash — The amount of cash Contributions shall be the face amount of such Contribution.

Marketable Securities — The amount (or value) of marketable securities shall be the proceeds received by the Board from the liquidation of such marketable securities in accordance with the Donor's instructions approved and accepted by the Board, less the Board's costs of selling such securities.

Unmarketable Securities — Unmarketable securities are not eligible for contribution.

Real Property — The value of Contributions consisting of real property shall be the lesser of two independent MAI appraisals completed less than 12 months prior to the donation with the following restrictions applied:

- Title must be held free and clear by the donor and all taxes and assessments must be paid current;
- A current, clean Phase 1 Environmental Site Assessment as deemed acceptable by the Board must be submitted with the application on all non-residential real estate; and
- Transactional costs associated with the valuation, acquisition, sale or transfer of real property are not eligible to receive credits.

All determinations by the Board of the amount (or value) of each Contribution shall, absent manifest error, be conclusive and binding upon the Contributors and the Applicant. No other forms of contribution, including non-cash donations of materials, labor, in-kind or professional services, are eligible. The Board reserves the right to reject any Contribution.

II. DONOR USE OF THE TAX CREDIT

Upon acceptance of Contributions and submission of the necessary forms, the Donor will be issued a certificate evidencing the tax credit in an amount equal to 50% of the amount of the Contribution. All forms necessary to submit a contribution and qualify for the credit are in Exhibit D attached.

The Tax Credit Statute provides that tax credits are to be taken in the taxpayer's current tax year, although such credit may be carried forward for up to five years. Credits may be sold for not less than 75% or more than 100% of their par value, provided that all credits must be claimed within 10 years of the date the Contribution is made. Tax credits issued by the Board are not "refundable" and cannot be "carried-back," but can be carried forward to offset future tax liabilities for up to five years. These credits cannot be used to amend a previously filed return by the original contributor or any subsequent assignee for any tax year beyond the immediately preceding tax year in which the credit is acquired, and only if that preceding tax year return has not yet been filed with Department of Revenue.

To effectuate a sale or transfer, the assignor and assignee must complete and

submit a Form L to the Board. A sample Form L is attached in Exhibit E.

III. TOTAL ANNUAL CREDIT AMOUNTS, LAPSE OF CREDITS

The Board is authorized to approve and award up to \$10 million in credits (equaling up to \$20 million in contributions) per calendar year. Of this \$10 million in credits, \$1 million has been set aside for applications from small cities and rural areas only (cities with a population less than 50,000 and counties less than 200,000 in population). The Board reserves the right to shift credits from one population category to another if the demand for credits is present.

Section 100.286.8 of the Board's statutes provides that the \$10 million limitation may be exceeded by mutual agreement of the Commissioner of the Office of Administration, the Director of the Department of Economic Development, and the Director of the Department of Revenue provided that such approval is essential to ensure retention or attraction of investment in Missouri. The Board cannot approve more than \$25 million in tax credits during any calendar year.

Any calendar year credits not approved and awarded by the Board lapse at the end of the calendar year and do not carry-forward to the following year.

IV. APPLICATION SUBMISSION PROCESS

Prior to submission of a written draft, Applicants are encouraged to contact Board staff and discuss the proposal to confirm eligibility.

Preliminary Review of Draft of Completed Application – Once the Application is fully completed, the Applicant should submit two (2) copies of the Application in draft form to mdfb@ded.mo.gov or to the following address:

Missouri Development Finance Board
200 Madison Street, Suite 1000
P.O. Box 567
Jefferson City, MO 65102

Within approximately two (2) weeks from the receipt of the draft Application, Board staff will contact you regarding any additional information necessary to complete the Application. The Applicant should then address such comments before submitting a complete and executed final Application to the Board.

Submission of Completed Application – Once the Application is fully completed (which includes any changes or additional information requested pursuant to the preceding paragraph), the Applicant should submit to the Board two (2) copies of the final executed Application to the mailing address set forth above.

Applications also may be submitted electronically at mdfb.org. When submitting applications, please submit only the application form **and** supplemental narrative attachments further explaining the project, and any economic impact studies prepared for the project. Benefits, outcomes and measurements should be clear, concise, and quantifiable. Methodologies used in estimating benefits

and outcomes should be clearly explained.

Narrative attachments should contain a brief heading denoting its subject matter, be single-sided, typed, with either an 11 or 12-point font, with approximately 1-inch margins. The application and attachments may be bound into binders or other type folders, but should not be stapled either in whole or component parts.

If the Executive Director determines that the Application is complete, the Executive Director will schedule the Application for consideration at the Board's next regularly scheduled meeting. The Board normally meets the third Tuesday of each month at its office in Jefferson City.

Consideration of the Application – The Board will notify the Applicant as soon as possible of the time and date of the Board meeting. At such meeting the Applicant will be expected to make a complete and detailed presentation concerning the matters covered by the Application. The Board reserves the right to postpone any action on the Application and to request additional information the Board determines is necessary to properly consider the Application. In practice, the Board generally requires a preliminary presentation at which time no action is taken, and a final presentation at a subsequent meeting where action is taken. Incomplete applications will not be considered and will be returned to the Applicant together with an explanation of why the application was determined incomplete.

Approval – If the Board approves the Application, the Applicant and the Board staff will then proceed to prepare the Tax Credit Agreement for execution and delivery. This agreement defines the relationship between the Applicant and Board and governs the use of Contributions made available to the Applicant for the Project.

V. BOARD FEES

There is no application fee for submissions. A 4% fee on the value of the Contribution Amount will be assessed on approved applications and deducted from contributions made to the Board.

VI. EVALUATION CRITERIA

Once the Board determines that the Application is eligible for tax credits under the Program, the Board will evaluate applications based upon the following criteria:

- State and Local Economic Impact – This criteria will assess the projected benefit of the Project on state and local taxes. It includes such factors as the number and quality of jobs the project will create, the promotion of tourism, elimination of blighted conditions, and total project investment.
- Local Governmental Financial Participation in the Project – This criteria

will assess the amount of local support for the Project. Direct and indirect support will be considered.

- Ratio of Public to Private Investment in the Project – This criteria will assess the private contribution to the cost of the Project to the total state and local support for the Project.
- The “But For” Test – This criteria will assess the extent to which the Project would not proceed but for the approval of the assistance requested from the Board. It also includes an assessment that the charitable contributions can be raised and whether the Project is sustainable without additional assistance from the state.
- Public Purposes – This criteria will assess the extent the Project will support other public policy goals including encouraging and leveraging private investment in distressed and blighted areas, enhancing employment opportunities to disadvantaged persons and businesses, and/or providing funding to support the construction or expansion of facilities resulting in expanding the delivery of services that benefit public health, safety and welfare, and/or the promotion of tourist and cultural facilities. It will also include an assessment of the importance of the public infrastructure facilities to the state and local government.

The decision to accept any Contribution with stated conditions will be made by the members of the Board after consideration of the foregoing factors. The Board reserves the right to approve in whole or in part or reject any request, and to request any additional information it deems necessary.

VII. APPROVAL

Approval of the Application shall be evidenced by action of the members of the Board at a duly held meeting. The amount of an approval may be less than the amount requested by the applicant. Any approval may include conditions which must be satisfied prior to the issuance of tax credits.

Each Applicant and Project Beneficiary will be required to execute a Tax Credit Agreement containing the terms on which the Board will accept Contributions and the requirements for expending such Contributions, including requirements regarding compliance with the Board's standard guidelines and practices.

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