

Tribal Finance Options in the Stimulus

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Background: Why Government Bond Provisions were included in ARRA

Congress and the Obama Administration wanted to enable cities, states and tribal governments to be able to fund

- infrastructure improvements
- economic development (job creation)
- school construction
- energy conservation
- renewable energy production



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Background: Why Government Bond Provisions were included in ARRA

- Collapse of credit market and adverse impact on municipalities and governmental entities (including tribal governments)
- Market has improved for AAA-rated municipalities issuing short-term debt
- However, the market for lower-rated bond issuers, long term debt and revenue bonds remains very difficult and challenging



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Overview of Bond Provisions Specific to Tribal Governments

- Tribal Economic Development Bonds
(\$2 billion of bond issuing authority)
- School Construction (\$200 million for BIA-funded schools in 2009; \$200 million for 2010)
- Clean Renewable Energy Bonds (\$1.6 billion in new CREBs will be allocated to qualifying projects; 1/3 to governments)
- Qualified Energy Conservation Bond (\$2.4 billion in new QECBs in total)



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Overview of Bond Provisions Not Specific to, but of Interest to Tribes

- Build America Bond programs (no **dollar limitation** on this program)
- Increase in Annual Limitation or Bank-Qualified Tax-Exempt Financing (from \$10 million to **\$30 million** per issuer per year)



Tribal Economic Development Bonds

- May be issued to fund projects that are not essential government functions so long as:
 - Financed project is located on reservation
 - Project is owned and operated by the tribe
 - Debt does not exceed the tribe's portion of the national bond volume cap allocated to it.
- How will Treasury (in consultation with Interior) allocate the volume cap?



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Tribal Economic Development Bonds (cont'd)

- Formula approach
 - pro rata to all tribes (\$2 billion divided by 562 = >\$4 million)
 - pro rata to all tribes based on objective factors, such as population, poverty or unemployment levels, other measures of economic need
- Project-based approach
 - Would require tribes to apply for allocation and would then award allocations on some basis (e.g., first-come first-serve or based on evaluation of various factors)
 - Information likely to be solicited would include project description and size, bond amount sought, other sources of financing, credit information, expected dates of bond sales, and expected time for project completion



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Tribal Economic Development Bonds – Examples of qualifying projects

- Hotels
- Golf Courses
- Energy projects that generate revenues
- Clinics that serve the wider community
- **But not**---Gaming facilities per se
- **Not necessary** to use these bonds for roads, tribal buildings, schools, etc.



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Tribal School Construction Bonds

- Creates a new category of tax-credit bonds
- Qualified school construction bonds must meet 3 requirements: (1) use only for construction, rehab or repair of public school; (2) bond issued by government where school is located, and (3) issuer designates such bond as a qualified school construction bond
- Secretary of Interior may allocate up to \$200 million in 2009 and in 2010 for BIA-funded schools.



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Clean Renewable Energy Bonds (CREBs): Nature of Incentive

- Bond-holders furnishing the financing for a project receive a tax credit in lieu of interest.
- Any borrower that secures an allocation to issue tax-credit financing potentially receives the equivalent of a “no-interest” loan (if the credit is sufficient to compensate for interest).



Clean Renewable Energy Bonds (CREBs): Eligible Projects

- Government-owned projects eligible for special tax-credit financing are those which involve the construction or renovation of facilities producing electricity from certain "renewable" resources.
- The renewable resources include the following:
 - **a wind energy facility**
 - **a closed-loop biomass** facility (*i.e.*, a facility that uses organic material planted exclusively to produce electricity)



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Clean Renewable Energy Bonds (CREBs): Eligible Projects (cont'd)

- an **open-loop biomass** facility (*i.e.*, facilities that use agricultural livestock waste nutrients, certain wood waste or waste from forest-related or agricultural resources)
- a **geothermal or solar energy** facility
- a **small irrigation power** facility
- a **landfill gas** facility
- a **trash combustion** facility
- a **refined coal** production facility
- a qualified **hydropower** facility



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CREBs: Locational or Ownership Requirements

- No locational requirement; however, there is a tribal government ownership requirement.
- The project owner (or sponsor) must be a governmental entity or a political subdivision.



CREBs: Project-based Allocation

- IRS will soon release guidance on how to apply for an allocation of the new CREBs
- In earlier guidance, IRS required CREB applicants to provide the following info:
 - the identity of the project's owners and its qualified borrowers;
 - the qualified project, including the project location;
 - a plan describing how all regulatory approvals will be obtained;
 - a financing plan; and
 - the dollar amount of allocation requested



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Qualified Energy Conservation Bonds (QECCBs)

- What are QECCBs?
- Tax-credit bonds used to finance government initiatives designed to reduce greenhouse emissions.



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QECBs: Eligible Projects

- Retrofit or rehab existing government building (e.g., tribal community center or admin building) to reduce energy consumption by at least 20 percent
- Implement Green community programs
- Rural development involving the production of electricity from renewable energy sources



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QECBs: Eligible Projects (continued)

- Green building demonstration projects
- Agricultural waste conversion demonstration projects
- Public education campaigns to promote energy efficiency



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QECCBs: Allocation and Utilization Limits

- Allocations of QECCBs are made to states based on proportionate population.
- State must then sub-allocate a proportionate amount to "large local governments" (towns and counties with more than 100,000 residents).
- Tribes may be treated as large local governments (irrespective of population),
- Tribe may only issue QECCBs for essential governmental functions



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Build America Bond Program

- Offers Tribes the option of offsetting interest costs by issuing tax-exempt bonds
 - as tax credit bonds, or
 - as taxable bonds subsidized by Treasury grants
- Limitations
 - Financed projects must qualify as tax-exempt government issued bonds under current law
 - For tribes, what does this mean?
 - the bonds finance essential government functions, or
 - they qualify as tribal economic development bonds



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Bank-Qualified Financing Limits

- Increase in annual limitation per issuer (i.e., per tribe) from \$10 million to \$30 million
- Could be used in combination with Build America Bond elections
- Could also be used in combination with Community Reinvestment Act (CRA) credits



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Question and Answer Session

- Options for submission of questions
- If we cannot answer your question now, we will get back to you.

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