Private Activity Bonds
Private Activity Bonds

• Subject to U.S. Treasury Regulations

• Below market interest rates

• Issued in the name of a City, County, or State Authority (NIFA)

• Interest on the bonds is exempt from federal and Nebraska state income tax on the interest (extent of deduction depends upon investor’s individual circumstances and type of project financed)

• The proceeds of a private activity bond (or “PAB”) generally benefit a private user
Types of Tax Exempt Bonds

- Tax-Exempt Bonds
  - Private Activity Bonds
    - Exempt Facility Bonds (Section 142)
    - Qualified Mortgage Bonds (Section 143)
  - Governmental Bonds
    - Small Issue Bonds (Section 144(a))
    - 501(c)(3) Bonds (Section 145)
Allocation of State Volume Cap

- The State Bond Volume Cap resource is limited by federal law
- 2017 Nebraska Volume Cap: $305,315,000
- An allocation from the State Bond Volume Cap must be obtained for each project that constitutes a “private activity bond” (501(c)(3) bonds)
- Executive Order 98-3
  - 50% to Qualified Mortgage Bonds
  - 20% to Multifamily, Agriculture, and IDB
  - 30% to Governor Discretionary
Public Purpose

- Create new or additional employment (number, duration, type average wage)
- Expand tax base and increased property, sales or other taxes
- Maintain and promote a stable, balanced and diversified economy
Eligible Projects

• Small Issue IDBs
  – Manufacturing enterprises

• Exempt Facility
  – Qualified residential rental housing
  – Solid waste disposal facilities
Eligible Expenses

- Building and Equipment
- Land (25% limit)
- Preliminary costs of architects, engineers, attorneys and permits
- Costs of bond issuance (2% limit)
Size ($$) of Small Issue IDBs

• $10 million limit (election)
  – Outstanding bonds for facilities in same incorporated municipality
  – Aggregate amount of capital expenditures for facilities paid or incurred during six year period (3 yrs before issuance, 3 years after)

• No company can use or benefit from a “small issue” IDB if the company’s total outstanding IDBs will exceed $40 million nationwide
Federal Restrictions

- At least 95% of the proceeds must be used for land or depreciable property
- No more than 2% of bond proceeds used for costs of issuance
- No more than 25% of bond proceeds may be used for land costs
- If an existing building is acquired, rehabilitation in an amount at least equal to 15% of the bond proceeds must be used to renovate the facility
- The life of the bond issue may not exceed 120% of the estimated useful life of the assets being financed
A Bond Transaction

Uses: Finance land or depreciable property
Parties to the Transaction

- Issuer (NIFA/City/County)
- Borrower
- Trustee
- Investment Banker/Underwriter
- Letter of Credit Lender
- Bond Counsel for Issuer
- Counsel for Borrower
Credit Enhancement

• Guarantee that the principal and interest on the bonds will be paid when due

• Private Placement vs. Public Sale
  – Public Sale: NIFA requires a rating of “AA” or better by Moodys, Standard and Poors, or Fitch Ratings
  – Private Placement: must use NIFA’s Private Investor Letter
NIFA Bond Issuance Process

• Submit tax-exempt financing application to NIFA
• NIFA staff review to determine project eligibility
• NIFA Board will consider the adoption of an Intent Resolution. Costs incurred more than 60 days prior to Intent Resolution will not qualify for tax-exempt financing
• Applicant contacts a financial institution or an investment banker (deal structuring)
• Applicant hires bond counsel to draft documentation for the financing
• Documents submitted to NIFA and its legal counsel for review
NIFA Bond Issuance Process

• Submit a request to NIFA for private activity bond allocation

• Public Hearing on the project (at least 14 days) prior to final Board approval

• Applicant may request final approval from the NIFA Board when all terms are finalized

• NIFA may then approve a final Bond Resolution

• After adoption of the Bond Resolution and subject to final review by NIFA staff and NIFA counsel, all parties may execute documents and close the bond issue
NIFA Contacts

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