

Resolution No: 14-658
Introduced: September 26, 2000
Adopted: October 3, 2000

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the County Executive

SUBJECT: Tax-Exempt Financing (Conduit Debt) Program Policies and Criteria

Background

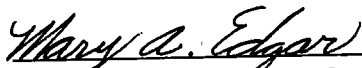
1. On January 13, 1998, the County Council adopted Resolution No. 13-1133 approving certain policies and criteria for eligibility for economic development revenue bonds.
2. During Fiscal Year 2000, responsibility for the County's tax-exempt financing program and the issuance of economic development revenue bonds was transferred from the Department of Economic Development to the Department of Finance. A dedicated position was approved for FY00 to manage the program.
3. The Department of Finance has reviewed the policies and criteria, and the tax-exempt financing program in general, and has proposed certain changes to the policies and criteria previously approved by the County Council. In addition, the Department of Finance proposed that certain detailed matters regarding the tax-exempt financing program, such as application and ongoing administrative fees to be charged, and information to be provided during the application and review process, be delegated to the County Executive, as with other debt financing programs.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

1. The County Council approves the attached Tax-Exempt Financing (Conduit Debt) Program Policies and Criteria for eligibility for revenue bonds.
2. The County Executive must specify or approve, by executive order or otherwise, all matters, forms, documents, or procedures to authorize, sell, secure, issue, deliver, and pay for the bonds, subject to the provisions of each Resolution approved by the County Council authorizing a particular economic development revenue bond issue.

This is a correct copy of Council action.



Mary A. Edgar, CMC
Clerk of the Council



Montgomery County Department of Finance

TAX-EXEMPT (CONDUIT) FINANCING PROGRAM POLICIES AND CRITERIA

Montgomery County provides access to the municipal tax-exempt markets for non-profit organizations and selected for-profit businesses as part of its overall economic development mission. An appropriate mix of non-profit organizations and for-profit businesses enhances the employment base of the County and serves the general health and welfare of County residents.

Montgomery County supports requests for tax-exempt financing from non-profit organizations and selected for-profit businesses seeking to locate or expand their operations within the County on a case-by-case basis. It is the policy of Montgomery County to participate in financing programs only with non-profit organizations and selected for-profit businesses which comply with the policies and criteria stated herein.

GENERAL REQUIREMENTS

1. All economic development revenue bonds (EDRBs) shall contain on the face thereof a statement to the effect that neither the full faith and credit nor the taxing power of Montgomery County or of any other political subdivision is pledged to the payment of the principal, interest or other costs of the bond. The County is solely acting as a conduit between borrowers and bondholders. EDRBs are also referred to as industrial revenue bonds (IRBs) or industrial development bonds (IDBs). The County may restrict the placement of bonds by the underwriter.
2. Non-profit organizations and for-profit businesses benefit greatly from the lower costs of financing typically realized through the County's tax-exempt financing program. The County incurs costs in review, processing, and ongoing administrative tasks. To ensure that these costs are borne by those benefiting from the program, the County charges an initial application fee and an annual administrative fee for each financing. The non-refundable processing fee will be due at the time the application is submitted to the Montgomery County Department of Finance. An annual administrative fee, based on the original issue amount, is due and payable at closing and on an annual basis thereafter while the bonds are outstanding. The Department of Finance determines current fee amounts, which cannot be waived.

All other legal and administrative costs incurred in the course of reviewing and/or pursuing these financing agreements shall be borne by the applicant/borrowers, regardless of whether a financing agreement is ever ultimately consummated.

3. By accepting the Application for Tax-Exempt Financing or by approving the bond issue, the County does not provide or guarantee the extension of any other governmental approvals.
4. The Applicant shall be required to obtain, in a timely manner, any and all necessary permits, certificates, licenses or other authorizations required for the proposed use of the facility or conduct of business and observe and comply with all the conditions and requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, franchises and concessions which are now applicable to the facility or conduct of business or which may be applicable in the future.

POLICIES AND OBJECTIVES

A. NON-PROFIT ORGANIZATIONS

1. The objectives of County participation in tax-exempt financing for non-profit organizations are to:

- i) Support the presence of significant non-profit organizations in the County which not only strive to achieve its non-profit mission but also enhance the employment base of the County; and
- ii) Promote the general health and welfare of County residents through the support of medical, educational, and other charitable endeavors.

2. It is the policy of Montgomery County to participate in tax-exempt financing programs for projects that meet all of the following criteria:

- i) The project is of a non-speculative nature (i.e., projects which are developed for a specific occupant).
- ii) The project complies with federally mandated tax legislation restricting the use of tax-exempt financing to qualified Section 501(c)(3) organizations.
- iii) The project furthers the charitable purposes of the non-profit.

3. It is the policy of Montgomery County to participate in tax-exempt financing programs for organizations desiring to finance facilities when they meet the following additional requirements:

- i) The organization must be a tax-exempt entity qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended

- ii) The Underwriter must review the financial aspects of the proposed project and deem the project financially feasible.
- iii) Any school which is a non-collegiate educational institution as defined under Education Article 2-206 of the Annotated Code of Maryland must hold a Certificate of Approval issued by the State Board of Education. Schools which have a relationship with a bona fide church organization must have received a determination from the State Board of Education stating that they are exempt from the need for a Certificate of Approval.
- iv) Organizations that provide medical or health services must be properly licensed by the County, the State, and/or the Federal government, as applicable.
- v) Religious organizations or organizations with affiliation with a religious organization must obtain a letter of preliminary advice from the County's bond counsel to the effect that the sectarian benefit, if any, to a religious organization from the use of the facilities that are to be bond financed is not in violation of state or federal constitutional limits on the separation of church and state such as to preclude the issuance of tax exempt bonds under state or federal law.
- vi) The organization must be in good standing with the State of Maryland Department of Assessment and Taxation at the time the application is filed.

B. FOR-PROFIT BUSINESSES

1. The objectives of County participation in making available tax-exempt financing to for-profit businesses are to:

- i) support the growth of local businesses;
- ii) promote the growth of the manufacturing industry in the County. Focus will be on high tech, bio tech, info tech, and telecommunication industries; and
- iii) enhance the fiscal posture of the County.

2. It is the policy of Montgomery County to participate in tax-exempt financing programs for projects that meet all of the following criteria:

- i) The project is of a non-speculative nature (i.e., projects are developed for a specific occupant).
- ii) The project complies with federally mandated tax legislation restricting the use of tax-exempt financing.

- iii) The business and/or project's landlord pays County property taxes and is current in all property taxes and other amounts due and payable to the County and the State of Maryland.
- iv) The business is in good standing with the State of Maryland Department of Assessment and Taxation at the time the application is filed.
- v) Projects should have a positive economic and fiscal impact on the County, based on an assessment of relevant costs and benefits.

3. Special consideration will be given to businesses that:

- i) Offer significant opportunities to unemployed and under-employed residents of the County;
- ii) Are located or to be located in areas designated for:
 - a) urban revitalization
 - b) strategically targeted growth
- iii) Are displaced as a result of government action; or
- iv) Include plans for significant expansion within, or relocation into the County.

Last updated September 21, 2000