

Industrial Development Bond Program

Policy and Evaluation Criteria
General Guidelines
Application Documents



DENVER

*Mayor's Office of Economic Development
216 16th Street, Suite 1000
Denver CO 80202*

THE WORLD'S MOST CENTRAL BUSINESS DISTRICT™

**INDUSTRIAL DEVELOPMENT REVENUE BOND PROGRAM
CITY AND COUNTY OF DENVER**

— Application Process —

- STEP 1** Read the information contained in this packet and contact the Mayor's Office of Economic Development (MOED) at (303) 640-7064 to ask any questions you might have regarding Denver's Industrial Development Revenue Bond (IDRB) Program.
- STEP 2** If you feel your company qualifies for funding under Denver's IDRB Program, contact MOED to schedule a preliminary meeting to discuss your company's financing requirements.
- STEP 3** If your company's situation meets the requirements of Denver's IDRB Program, and if adequate funding is available to meet your company's needs, you may submit a complete application to MOED based on the *Application Requirements* document contained in this packet. Your application must include a non-refundable deposit in the amount of \$2,500.
- STEP 4** MOED will review your application to determine that all required information has been provided. When the application is complete, it will be submitted to Denver's IDRB Review Committee and Bond Counsel for further review. Any questions posed by members of the Committee or by Bond Counsel will be referred back to the applicant by MOED.
- STEP 5** If your company's completed application is approved for funding by Denver's IDRB Review Committee, MOED will sponsor an inducement ordinance for approval by Denver City Council declaring the intent of the City to issue IDRB's in the amount and for the purpose stated in the application.
- STEP 6** The applicant and the applicant's underwriter then finalize the details of the financing of the project, and the City's Bond Counsel prepares the legal documents for the transaction and forwards them with a recommendation to the IDRB Review Committee.
- STEP 7** If the transaction is approved by the Review Committee, MOED will sponsor a second ordinance for approval by Denver City Council to authorize the issuance, sale, and delivery of the bonds.
- STEP 8** The transaction is then closed, documents are executed, and funds are advanced to the appropriate parties, including reimbursement to the City for its costs and payment of the balance of the application fee.

INDUSTRIAL DEVELOPMENT REVENUE BOND PROGRAM CITY AND COUNTY OF DENVER

---- Policy and Evaluation Criteria ----

POLICY

Recognition of Need: The City and County of Denver recognizes that it is essential to maintain the strength and vitality of its economic base, to stimulate economic growth and development in order to provide necessary services for its citizens, and to maintain the City's position as the primary center of economic activity in the Rocky Mountain region and as an important participant in the nation's economy.

It is further recognized that the stimulation of balanced economic development in the City and County of Denver is a joint responsibility of the private and public sectors, working in close cooperation to provide increased opportunities for employment, business development and private investment, which act to strengthen the City's revenue base.

Authority to Issue Industrial Development Revenue Bonds: The State of Colorado, in recognition of local government's need and responsibility to promote balanced economic development, has provided local governments with the authority to issue Industrial Development Revenue Bonds (IDRB) under State statute. The City and County of Denver must abide by its Home Rule Charter and applicable Federal and State laws and regulations in its approval and issuance of all IDRB's.

Endorsement of the Use of Industrial Development Bonds: The City and County of Denver endorses the concept of positive local governmental action to stimulate balanced economic development within its boundaries in close cooperation with private institutions. This includes the use of IDRB's as one means available to the City to achieve its economic development goals.

Consideration of Industrial Development Revenue Bond Proposals: The City and County of Denver will consider proposals for the issuance of IDRB's for the achievement of its economic development goals within the context of this policy.

EVALUATION CRITERIA

Demonstration of Benefit: The City and County of Denver will consider issuing Industrial Development Revenue Bonds only when the project demonstrates a clear and significant benefit to the City. The following are some of the factors that may be considered in evaluating the extent of the benefit to Denver:

Policy and Evaluation Criteria (continued)

- A. Employment impact - including the number and types of jobs created and retained, the average wages and benefits paid by the employer, and the number of existing employees residing within the City and County of Denver;
- B. Financial impact - including the amount of net new local taxes to be generated by the project, the stimulation of other investment that will occur in the project area, the new services and facilities that will be provided by the project to Denver residents, and the additional facilities and services that the City will be required to provide as a result of the project; and
- C. Neighborhood and environmental impact - including conformance with City plans and codes, the design and location of the proposed facility, and pollution and traffic congestion generated by the project.

Preservation of Competition: The issuance of IDR's for projects which directly compete with established Denver companies will not be approved in the absence of evidence of substantial overriding benefit to the City.

Financial Responsibility: IDR applicants will be required to show substantial financial responsibility and capacity to assure that the project will be successful after funding has been approved. In addition, the applicant or the underwriter will need to demonstrate that a market exists for the bonds once issued. The extent that collateral or credit enhancement is needed to secure the bonds and the availability and quality of collateral or credit enhancement offered, will also be evaluated.

**INDUSTRIAL DEVELOPMENT REVENUE BOND PROGRAM
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--- General Guidelines ---

- A. In General: The proceeds of a bond issue may be expended by a borrower only to acquire, construct, reconstruct, rehabilitate and improve or equip either land or depreciable property for manufacturing facilities. Proceeds of a bond issue cannot be used to provide working capital or to refinance existing indebtedness.
1. Manufacturing facilities include any facility for the production of tangible personal property or the processing of such property that results in a change in condition of the property.
 2. Financing of manufacturing facilities can only be for the cost of the core production or processing facilities. However, up to twenty-five percent (25%) of the proceeds may also finance directly related and ancillary facilities, such as shipping and storage facilities, and up to two percent (2%) may also finance costs of issuance.
- B. Use of Proceeds: Bond proceeds generally may be used by borrowers to finance the following costs for manufacturing facilities:
1. Acquisition of land and buildings;
 2. Acquisition and installation of new machinery, equipment, and furnishings;
 3. Construction, expansion, renovation, modernization and/or equipping of industrial buildings;
 4. Soft costs associated with a project, including:
 - a) interest on the bond issue during the construction period;
 - b) bond issuance charges;
 - c) professional services such as appraisal, engineering, and legal
 - d) local permit fees and licenses; and
 - e) reasonable contingencies.
 5. Refunding of currently outstanding IDR's
- C. Relocation Exclusion: A project must be for new development or expanded operations. Relocation of a business operation in and of itself is not eligible.
- D. Capital Expenditures: Under IRS regulations, small issue projects are limited in size to \$10 million. In addition, if a project is larger than \$1 million, a six (6) year capital expenditure rule applies. The project owner, or principal user, is limited to \$10 million in capital expenditures (including the bond project) within the issuing jurisdiction for three years both before and after the bonds are issued. The capital expenditure does not apply for projects of less than \$1 million, and all borrowers are limited to \$40 million in bond financing nationwide.

General Guidelines (continued)

- E. Existing Facilities: Bonds can be used to finance existing facilities only if at least 15% of the purchase price is used for rehabilitation of the facility, excluding costs to expand the facility.
- F. Existing Equipment: Funding of existing equipment is limited to the cost of equipment refurbishing.
- G. Land Acquisition: No more than 25% of the proceeds of a bond issue can be used for the purchase of land.
- H. Reporting: Information regarding all tax-exempt bonds must be reported quarterly to the Internal Revenue Service by bond issuers. The City and County of Denver reports each issue at the time documents are signed for closing.
- I. Bond Maturity: The weighted average maturity of all obligations of an issuance cannot exceed the weighted average estimated economic life of the assets financed by more than 20%.
- J. Depreciation Method: The straight line recovery method of depreciation must be used over the normal cost recovery periods; real estate is extended to forty years and personal property is the next longer class life for the type of asset.
- K. Public Hearing: A public hearing must be held before an industrial development revenue bond can be issued.
- L. Local Approval: Denver City Council must approve all IDRBS issued by the City and County of Denver.
- M. Review Committee: The City and County of Denver's IDRBS Review Committee will review IDRBS applications and legal documents and make recommendations to the Mayor and City Council regarding each IDRBS project. The IDRBS Review Committee is made up of representatives of appropriate City agencies designated by the Mayor.
- N. Time Periods: The City must approve an inducement ordinance no later than sixty days after project expenditures have been made; bonds must be issued within one year after the project financed is placed in service; and proceeds from the IDRBS must be spent within three years of closing.
- O. Arbitrage: All arbitrage profits must be rebated unless all proceeds of the issue are spent within six months or meet other spend down requirements.

**INDUSTRIAL DEVELOPMENT REVENUE BOND PROGRAM
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--- Application Requirements ---

The following information must be provided for all proposed Industrial Development Revenue Bond projects located in the City and County of Denver.

A. Applicant's Business Data:

1. Business name, headquarters address, telephone and fax numbers
2. Contact name, address, telephone and fax numbers
3. Locations of all operations in the metro Denver area
4. Legal structure, effective date, and name of state where registered
5. Names, addresses, telephone and fax numbers of attorney, accountant, underwriter and banker
6. Names of board members, officers, directors, partners, and key managers
7. Description of operations, facilities, products, and services
8. Description of markets and major competitors, both local and national

B. Applicant's Financial and Legal Data:

1. Last three years of financial statements and interim financial statements for the current fiscal year
2. Summary of corporate securities, including recent trading history and credit rating
3. Summary of previous participation in IDRFB financing nationwide
4. Financial pro forma for the proposed project covering the construction period and three years after construction
5. Description of all outstanding litigation

C. Project Description:

1. Site location, site diagram, and legal description
2. Status of control of site, or purchase price and date of purchase, or copy of lease agreement
3. Zoning of site and summary of required zoning approvals
4. Description of the land and building improvements, including construction cost estimates
5. Description and cost estimates of equipment to be purchased
6. Project funding and construction schedules, including start date of operations
7. Description of additional public facilities and services required by the project
8. A list of all sources and uses of funds for all associated project activity

Application Requirements (continued)

D. Industrial Development Revenue Bond Terms and Feasibility

1. Amount, term and amortization schedule
2. Anticipated interest rate and comparable rate for applicant's taxable debt
3. Proposed security, if any
4. Itemized allocation of bond proceeds
5. Evidence that a market exists for the proposed bonds
6. Evidence that the bonds will be repaid by the applicant on schedule

E. Justification for the IDRB Application

1. Statement as to why public assistance is necessary and appropriate for this project
2. Number and types of jobs created and retained, including average wages and employee benefits paid by the employer
3. Net new local taxes generated as the result of the project, including sales, use, property, and occupational privilege taxes
4. New suppliers and subcontractors that might locate in Denver to serve the applicant
5. New development projects that might occur in the project area as a result of this project
6. New products and services that will be made available to Denver residents as a result of the project
7. Number of Denver residents already employed by the applicant or user
8. Description of other public incentives associated with this project

F. Other Information

1. A cover letter addressed to the Director, Mayor's Office of Economic Development requesting IDRB financing assistance
2. A \$2,500 non-refundable payment made payable to the City and County of Denver (see attached *Agreement to Pay Bond Issuance Expenses*)
3. A fully executed *Agreement to Pay Bond Issuance Expenses*
4. Any other information that the applicant feels will assist the City and County of Denver in reviewing the IDRB application

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--- Agreement to Pay for Bond Issuance Expenses ---

I understand that the City and County of Denver charges an evaluation fee to apply for funding approval under Denver's Industrial Development Revenue Bond Program. The fee amount is 1/2% of the face dollar amount of the requested bond, up to a maximum of \$50,000, with a minimum of \$5,000. I further understand that this fee is payable on the following terms:

- \$2,500 non-refundable payment due at the time of application submittal
- the remaining balance due at closing

If the project being proposed for industrial development revenue bond (IDRB) financing is of sufficient complexity that substantial evaluation beyond that required for the average IDRB application is necessary, additional fees may be required. Notification to the IDRB applicant will be made regarding any additional fees prior to the fees being incurred.

Further, I understand that the law firms of Kutak Rock and Powers Phillips, P.C., Co-Bond Counsel, are required bond counsel on Denver IDRB projects and that I am financially responsible for their fees covering work undertaken on this project, regardless of whether or not industrial development bonds are successfully issued for the project.

I hereby agree to pay the required fees under the terms specified above.

Date

Signature

Name of Signer

Title of Signer

Company Name