




PUBLIC SCHOOLS OF NORTH CAROLINA

STATE BOARD OF EDUCATION William C. Harrison, Ed.D., *Chairman and Chief Executive Officer*
DEPARTMENT OF PUBLIC INSTRUCTION June St. Clair Atkinson, Ed.D., *State Superintendent*
WWW.NCPUBLICSCHOOLS.ORG

MEMORANDUM

TO: Chairs of County Boards of Commissioners
Public School Superintendents

FROM: Benjamin J. Matthews, PhD., 
Director, School Support Division

DATE: March 26, 2010

SUBJECT: Qualified Zone Academy Bonds

The Qualified Zone Academy Bonds program is a tax code provision (Internal Revenue Code 1397E) created under the Taxpayer Relief Act of 1997 (Public law 105.34-August 5, 1997) and designed to assist eligible local education agencies and schools to establish qualified zone academies in partnership with local businesses. The Secretary of Education extols the bonds as a valuable additional resource for education in North Carolina. QZABs allow schools to focus resources more effectively on achieving high standards that will equip students in high-poverty schools for the challenging demands of the 21st century workplace.

Educators and employers have expressed concerns about the ability of high-poverty schools to address the vital issue of how they prepare their students for a more competitive global economy. Under this program, a qualifying school must join a partnership with private business to design its academic program, which must then have approval from the LEA. In addition, the school must have commitment from private business equal to at least 10 percent of the interest free capital provided under the program.

The enclosed packet of materials will explain Qualified Zone Academy Bonds, provide information and cite additional sources, and offer instructions for utilizing this financial resource for eligible schools within your jurisdiction. Pay particular attention to the stated deadlines as the procedure for issuing these bonds is time sensitive. Feel free to request additional clarification from Dr. Ben Matthews, Director of School Support, at (919) 807-3501 or Mary Spradling, School Planning at (919) 807-3556.

I hope this program will serve our children well, as we continue our journey toward "First in America". Best wishes for every success.

BJM/pjr

CC: LEA Finance Directors
County Finance Directors
LEA Maintenance Directors

QUALIFIED ZONE ACADEMY BONDS
(QZAB)
North Carolina Guidelines

The following define and describe the QZAB program and its implications for public schools in North Carolina.

1. The Qualified Zone Academy Bonds program is a tax code provision (Internal Revenue Code 1397E) created under the Taxpayer Relief Act of 1997 (Public Law 105-34 - AUG. 5,1997) and designed to assist eligible local education agencies and schools to establish qualified zone academies in partnership with local businesses. This program has been included in the American Recovery and Reinvestment Act of 2009 (ARRA).

2. A qualified zone academy is a public school or academic program within a public school that is established by and operated under the supervision of an eligible LEA (local education agency) to provide education or training below the postsecondary level and which meets the following criteria.

a. The school or program must be designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for college and the workforce.

b. Students must be subject to the same academic standards and assessments as other students educated by the LEA.

c. The comprehensive education plan of the school or program is approved by the eligible LEA.

d. The school must have established a partnership with one or more businesses (Note: Governmental agencies do not qualify as business partners.) and be located either within an Empowerment Zone (EZ) or an Enterprise Community (EC). To confirm on-line that a school is included in an EC, go to <http://www.hud.gov/ezec/locator>. If a school desiring to use QZABs is not so located, school officials must have a reasonable expectation (as of the date of bond issuance) that at least 35 percent of the school's students will be eligible for free or reduced-cost lunches, as authorized by the National School Lunch Act. More than 1,250 schools in North Carolina meet this criterion.

3. 100% of bond proceeds must be used for a qualified zone academy (up to 2% of the bond proceeds may be used for QZAB issue administrative costs). In North Carolina, proceeds from bonds issued under the Provision may only be used to:

a. Rehabilitate or repair the public school facility in which a qualified zone academy is located, which may include wiring and other infrastructure improvements related to providing technology; and

b. Provide equipment related to the rehabilitation or repair, but not personal computers or

similar technology equipment.

4. The QZAB program is intended to be interest free bonds. In order to ensure this is the case there are two methods available to issue these bonds.

a. The 2009 IRS guidance offers tax credits, at a level set by the Treasury Department that is intended to allow the issuance of bonds without interest, to holders of the bonds. QZAB holders (these include banks, insurance companies, and corporations actively involved in the business of lending money, as well as private and individual businesses) receive a federal income tax credit in an amount equal to a percentage of the face value of the bond.

OR-

b. The installment of the Jobs Act (HR 2847) allows for interest subsidy payments from the federal government to pay the interest on the QZAB taxable interest bearing bonds, similar to the Build America Bonds (BAB). To receive this subsidy the borrower must file Form 8038-CP with the IRS 90 days prior to any interest payment, for each interest payment, as long as the bonds remain outstanding. The amount of repayment will be determined by the county bond rating or the tax credit given to lenders. Please contact the LEA's bond council for further information.

5. The maximum term of indebtedness is set by the U.S. Treasury so that the local government's obligation to repay in present value terms will be 50 percent of the borrowed amount.

6. The Treasury Department has allocated for 2010 the authority to issue QZABs in North Carolina in the face value amount of \$44,454,000. There was a remainder of 2009 QZAB funds in the amount of \$24,862,700 that is also still available and will be allocated first.

7. Before QZABs may be issued, there must be a written agreement between a qualified zone academy and one or more local businesses, under which the businesses pledge contributions having a present value (as of the date of bond issuance) of at least 10 percent of the gross proceeds of the QZABs and which may be spread over the term of the bonds. For this purpose, the following are eligible contributions:

a. equipment, including state-of-the-art technology and vocational equipment;

b. technical assistance in curriculum development or teacher training;

c. services of employees as volunteer mentors;

d. internships, field trips, or other educational opportunities for the students outside the academy proper; and

e. any other property (including cash) or service specified by the LEA.

8. It is the responsibility of the State Board of Education to allocate portions of the amount of

QZAB authority allocated to the State to one or more qualified zone academies. The Board will develop its own process to implement the QZAB provisions.

9. QZABs may be issued by local governments, which will then be responsible for repaying the principal amount. Proceeds may be held in an interest-bearing sinking fund account.

10. The U.S. Department of Education's guidance on the Qualified Zone Academy Bonds program can be found in its entirety at <http://www2.ed.gov/programs/qualifiedzone/index.html>.

11. QZAB indebtedness might qualify for federal government loan guarantees issued by the United States Department of Agriculture's Rural Housing Service. For information, contact Eddie Miller at (919)873-2011 or eddie.miller@nc.usda.gov

12. Local officials will be responsible for:

a. Determining whether the purposes for which QZABs are issued conform to state law regarding indebtedness;

b. Obtaining written agreement(s) between a qualified zone academy and one or more local businesses that must pledge contributions having a present value, at the time of issue of the bonds, of at least 10 percent of the gross proceeds of the QZABs and which contributions may be spread over the term of the bonds.

c. Working with the financial institution(s) to issue the QZABs;

d. Payment of the principal, upon maturity;

e. Reporting requirements (See Appendix "A"); and

f. Following all state statutes involving bidding bonds, including but not limited to GS 143-134.1 which refers to retainage fees.

13. It will be the responsibility of the governmental entity that issues the bonds to certify to prospective purchasers that it has met all requirements under the program. The IRS has indicated that bond holders may rely on these certifications if they are reasonably made. The Department of Public Instruction will not be involved in reviewing or assessing an issuer's eligibility under this program. Potential issuers are strongly encouraged to consult bond counsel before making any certification of eligibility.

14. In addition to federal requirements, any bonds issued for these purposes must also meet the requirements of North Carolina law, which, in some cases, might be more restrictive than federal rules. Borrowing under this plan requires the same authorization as any other municipal borrowing, including approval by the LGC.

15. There is no minimum or maximum amount of bonding authority that will be allotted to an eligible applicant LEA.

16. Incomplete applications will not be considered.

17. Applications will be reviewed by a committee comprised of the Superintendents' Bond Advisory Council (SBAC), the executive director of the North Carolina School Boards Association, and the general counsel of the North Carolina Association of County Commissioners, in cooperation with School Planning staff. The committee will recommend allocations of authority.

18. Authority will be allotted upon recommendation of the SBAC, upon its review of formal applications. Formal application packets will be forwarded to each LEA. If requested authority exceeds the statewide bonding allocation, the remaining requests will be denied. If requested authority is less than the statewide bonding allocation, the application process will remain opened.

19. Copies of the following are a required part of a formal application:

- a. Board of education resolution certifying the eligibility of the academy
- b. Written agreement from partnering business(es) to make in-kind qualified contributions over the term of the bonds of at least 10% of the face value of the bonds on their issue date
- c. Value of 10% match affidavit
- d. Proposed spending plan and project schedule

20. A separate application must be submitted for each individual project.

21. All formal applications must be submitted via certified mail. Hand deliveries will not be accepted.

22. Note: Charter Schools are not eligible for the QZABs program.

23. QZAB bonds must be issued within 2 years after the year of Federal allocation to NC (2009 bonds issued by December 31, 2011 and 2010 bonds issued by December 31, 2012).

24. 10% of the QZAB proceeds must be committed by contract with a third party within 6 months after issuance of the bonds.

25. The proceeds must be spent within 3 years after bonds issuance.

26. Go to www.schoolclearinghouse.org for a copy of the 2010 Qualified Zone Academy Bonds (QZABs) package.

27. Go to www.qzab.org for a comprehensive website for QZAB information furnished by the National Education Foundation (NEF), including how LEAs can take advantage of the nonprofit NEF's offer to participate in the 10% match and in setting up the academy required by the

QZAB program.

28. LEA's shall comply with the Solicitation Provisions and Contract Clauses required by the America Recovery and Reinvestment Act (ARRA) of which include the Reporting Requirements of March 2009, among others.

QUALIFIED ZONE ACADEMY BONDS (QZAB)
APPENDIX A - Reporting

1. Section 1601 of the ARRA requires payment of the Davis-Bacon Act (40 USC 31) wage rates to “laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government” pursuant to the Recovery Act (ARRA).

a. The Payroll form, attached at the end of this package, must be completed in accordance with Federal requirements. Instructions for completing this form can be found at www.dol.gov/esa/whd/forms/wh347instr.htm

Note: While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. 3.3, 5.5(a). The Copeland Act (40 U.S.C. 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to “furnish weekly a statement with respect to the wages paid each employee during the preceding week.” U.S. Department of Labor (DOL) regulations at 29 C.F.R 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed “Statement of Compliance” indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

2. Within 30 days of bond issuance written notification must be sent to School Planning of North Carolina Department of Public Instruction. The form is found at www.schoolclearinghouse.org.

3. Within 30 days of project completion written notification must be sent to School Planning of North Carolina Department of Public Instruction. The form is found at www.schoolclearinghouse.org.

4. The following is required to be submitted to the Office of Economic Recovery and Investment (OERI):

a. LEA’s must post solicitation for design services and construction bids on IPS.

b. Contractors and subcontractors must post job listings with the ESC.

c. HUB utilization must be reported on a monthly basis as needed. These reports are not cumulative and only need to be filed in the months where there is new participation information.

QUALIFIED ZONE ACADEMY BONDS PROGRAM (QZAB) APPLICATION FOR AUTHORIZATION

NOTE: A separate application is required for each individual project.

Submittal Date:	Contact Person:
LEA:	Title:
School:	Address:
Address:	City:
City:	Phone/Fax: E-mail:

Certification of Eligibility
<p>The Board of Education of the above-named LEA certifies, through a board resolution dated _____, that the school in which the proposed academy will be located has satisfied Criterion 1a <u>or</u> 1b and Criteria 2 through 4. Please check the appropriate boxes below.</p> <p><i>Note: A copy of the resolution must accompany this application.</i></p>

Criterion 1: Qualified by virtue of location or composition of student body

- Location
a. The school is located in an Empowerment Zone or Enterprise Community.

OR

- Composition of student body
b. There is a reasonable expectation that, as of the date of issuance of the bonds, at least 35% of the students attending the school will be eligible for free or reduced-cost lunches under the National School Lunch Act.

Criterion 2: Qualified by virtue of private business contribution

- The eligible school has written commitment from private entities to make qualified contributions (over the term of the bonds) having a value, as of the date of issuance of the bonds, of not less than ten percent of the proceeds of the bond issue, to include such items as equipment for the academy, technical assistance in developing curriculum, teacher training, volunteer mentoring, internships, cash, and other items approved by the LEA. Providers of services or materials for the proposed project are not eligible as contributors to meet the 10% contribution requirement. Neither are governmental entities eligible.
- The application must also include an affidavit signed by the school Superintendent, financial advisors, bond counsels, and the 10% match partners stating that the value of the 10% match is below the fair market value offered by any entity providing similar products or services.

Note: A copy of the written agreement must accompany this application.

Criterion 3: Qualified by virtue of the characteristics of the program

The public school or academic program within the public school is established by and operated under the supervision of an eligible LEA.

1. Such school or program is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce;

2. Students within the academy are subject to the same academic standards and assessments as other students educated by the LEA; and

3. The comprehensive education plan of the program is approved by the LEA.

Criterion 4: Qualified by virtue of use of bond proceeds

For the purposes of this application, proceeds of the QZABs will be used for:

1. Rehabilitation and/or repair of the public school facility in which the qualified zone academy is located, which may include wiring and other infrastructure improvements related to providing technology; and/or

2. Provision of equipment related to the rehabilitation or repair, but not personal computers or similar technology.

Note: A copy of the value of 10% Match Affidavit, proposed spending plan and project schedule must accompany this application.

_____	Board of Education	_____	County Board of Commissioners
_____	Chair	_____	Chair
_____	Secretary	_____	Clerk
_____	Date	_____	Date

Please return original via certified mail post marked no later than **June 15, 2010** to:

QZAB VI
School Planning Section
North Carolina Department of Public Instruction
6319 Mail Service Center
Raleigh NC 27699-6319

LEA _____

School _____

Project Description

Provide a brief narrative that describes the academy, to include as a minimum:

1. Purpose and goals
2. Target student population, including estimated number of participants
3. Curriculum enhancement
4. Partnership with business
5. Administration and management

VALUE OF 10% MATCH
AFFIDAVIT

We the undersigned, agree that the value of the contribution pledged by the private business partner(s) to match 10% of the value of the gross proceeds of the QZABs is below the fair market value offered by any entity providing similar products or services.

_____ School Superintendent Date _____

_____ Financial Advisor(s) Date _____

_____ Bond Counsel(s) Date _____

_____ 10% Match Partner(s) Date _____

Public Schools of North Carolina
Qualified Zone Academy Bonds Program

PROPOSED SPENDING PLAN AND PROJECT SCHEDULE

LEA _____ Date _____

LEA Code ___ __ ___ School Code ___ __ ___ DSP Property Number (if known) ___ __ ___

School _____ Grades _____

Name of Academy _____

Proposed Spending Plan

Administration cost (max 2%) \$ _____

Design fees \$ _____

Renovation cost \$ _____

Total project cost \$ _____

Amount of QZAB authority requested \$ _____

Cash contributions (if any) from partnering business(es) to be used for renovation \$ _____

To comply with the Federal QZAB requirements, we understand that a commitment in the form of contracts for the renovation work with the architects / engineers or other third party for 10% of the funds must be made within 6 months and the remainder must be spent within 3 years after the issue of QZAB bonds. Signed _____

Provide a written explanation clearly showing the means by which the district intends to repay the bond principal upon maturity.

Proposed Project Schedule

Date of design start _____

Date of renovation start _____

Estimated completion date _____