

N.J.A.C. 6A:25, QUALIFIED ZONE ACADEMY BOND PROGRAM

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CHAPTER 25. QUALIFIED ZONE ACADEMY BOND PROGRAM

SUBCHAPTER 1. GENERAL PROVISIONS

6A:25-1.1 Purpose and applicability of rules

- (a) This chapter implements the Federal Qualified Zone Academy Bond (QZAB) Program in this State. Under 26 U.S.C. § 54E, bond cap is allocated to the Department of Education, for bonds issued by the State, to be used by public schools, including charter schools, with needy populations (qualified academy zones) for Federally qualified purposes such as to rehabilitate and repair schools providing the schools develop in cooperation with business an educational plan to expand learning opportunities. Bondholders receive a tax credit as an incentive for holding bonds and the issuer is responsible only for paying the principal of the QZAB bonds. Since the initial phase of the QZAB Program, QZABs financed the costs of school facilities projects approved pursuant to the Educational Facilities Construction and Financing Act (EFCFA), P.L. 2000, c. 72, and charter school capital projects.
- (b) This chapter applies to all district boards of education and charter schools in the State, as well as to the bondholders and private entities that participate in the State QZAB Program.

6A:25-1.2 Definitions

- (a) The following words and terms shall have the following meanings when used in this chapter unless the context clearly indicates otherwise:

“Charter school” means a public school established in accordance with N.J.S.A.

18A:36A-1 et seq.

“Charter school capital project” means a rehabilitation project for a charter school as described in N.J.A.C. 6A:25-4.2.

"Comprehensive education plan" means a plan established by the qualified zone academy, or the school district or charter school on behalf of the qualified zone academy, in conjunction with one or more private entities to provide education and training to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the workforce.

"EFCFA" means the Educational Facilities Construction and Financing Act, P.L. 2000, c.72 (N.J.S.A. 18A:7G-1 et seq.).

“Issuer” means the entity fiscally responsible for the sale and repayment of principal on QZABs. Such an entity may include, but not be limited to, a school district, county, municipality, charter school, improvement authority, or the State.

"New Jersey Economic Development Authority" or "NJEDA" means the authority established pursuant to N.J.S.A. 43:1B-1 et seq.

"Private entity" means any person (as defined in section 7701(a) of the Internal Revenue Code) other than the United States, a State or local government, or any agency or instrumentality thereof, that enters into a collaboration with a school or school district for the purpose of establishing a qualified zone academy, and making a qualified

contribution pursuant to 26 U.S.C. § 54E and this chapter. A private entity may be an individual, a trust, a partnership, a non-profit organization, or for-profit corporation.

"Qualified zone academy" means a public school (or academic program within a public school) that meets the eligibility criteria of the QZAB Program.

"Qualified contribution" means contributions that are made by private entities, are of a type and quality acceptable to the qualified zone academy, and consist of technical assistance in developing curriculum or in training teachers, services of employees as volunteer mentors, internships, field trips, or other educational opportunities for students, or any other property or service specified by the qualified zone academy. Cash received from a private entity constitutes a qualified contribution if it is used to purchase a property or service described above.

"QZAB funding" means the financing of school facilities projects or charter school capital projects through QZABs issued pursuant to the QZAB Program.

"QZAB Program" means this State's implementation of the Federal qualified zone academy bond provisions of 26 U.S.C. § 54E, subject to Federal appropriation available therefor.

"Rehabilitation" means as defined in 26 U.S.C. § 47, which is broader than the meaning defined in N.J.A.C. 6A:26-1.2. The Federal meaning encompasses both the term as defined in N.J.A.C. 6A:26-1.2 and additions to existing school facilities.

- (b) Terms not defined in (a) above shall have the meanings defined for qualified zone academy bonds by 26 U.S.C. § 54E and regulations thereunder (see 26 CFR 1.1397E-1) and the meanings defined for the State program of school construction under EFCFA and N.J.A.C. 6A:26, Educational Facilities.

SUBCHAPTER 2. ELIGIBILITY FOR QZAB FUNDING

6A:25-2.1 School requirements

- (a) To qualify for designation as a qualified zone academy and receive QZAB funding, a school shall:
1. Be in a school district as that term is defined in N.J.S.A. 18A:7G-3 and N.J.A.C. 6A:26-1.2; and
 2. Have a student body composed of at least 35 percent of students who will be eligible for free or reduced-price lunch under the National School Lunch Act as of the date of issuance of the QZABs based on a reasonable expectation; be located in a Federal empowerment zone; or be located in a Federal enterprise community.
- (b) The school district, or the Department on behalf of the school district, must supply on the QZAB application form the eligibility information required by (a) above for each school seeking designation as a qualified zone academy.

6A:25-2.2 QZAB project requirements

- (a) To be eligible for QZAB funding, a school facilities project shall:
1. Be located in a school that qualifies pursuant to N.J.A.C. 6A:25-2.1(a);

2. Be included in a school district's approved long-range facilities plan pursuant to N.J.A.C. 6A:26-2.3;
 3. Be approved as a school facilities project by the Department pursuant to N.J.A.C. 6A:26-3.3 or N.J.S.A. 18A:7G-4.b or 9.c;
 4. Not be completed at the time of submission of an application for QZAB Program funding;
 5. Consist of rehabilitation work, including equipment related to the rehabilitation of the school facility that houses a qualified zone academy; and
 6. Be located in a school facility eligible for a private business contribution by a private entity.
- (b) A school district, or the Department on behalf of a school district, may apply for one or more school facilities projects in one or more school facilities, provided each school and each project meet all of the requirements to qualify for the QZAB Program under this chapter.

6A:25-2.3 Private collaboration requirement

- (a) The school district shall establish, via written commitment, a collaboration between the school and one or more private entities under which the private entity evidences in writing that it will make a contribution having a present value (as of the date of issuance of the issue) of not less than 10 percent of the bond issue's proceeds.
- (b) Contributions by the private entity shall be described in the written commitment and may include the following general types of contributions:
 1. Equipment for use in the qualified zone academy (including technology and vocational equipment);

2. Technical assistance in developing curriculum or in training teachers to promote appropriate market-driven technology in the classroom;
 3. Services of employees as volunteer mentors;
 4. Internships, field trips, or other educational opportunities for students outside the qualified zone academy;
 5. Any other property or service specified by the school district; or
 6. Cash received if used to purchase property or services described in (b)1 through 5 above.
- (c) Services of employees of the qualified zone academy shall not constitute qualified contributions.

6A:25-2.4 Comprehensive educational plan requirements

- (a) The qualified zone academy, or school district on behalf of the qualified zone academy, shall design a comprehensive educational plan in cooperation with one or more private entities.
- (b) Students enrolled in the qualified zone academy shall be subject to the same academic standards and assessments as other students in the school district.
- (c) The school district shall approve the comprehensive educational plan prior to submission to the Department of an application for QZAB funding.

SUBCHAPTER 3. APPLICATION FOR QZAB FUNDING

6A:25-3.1 Application requirements

- (a) A school district seeking to initiate a school facilities project funded by a QZAB shall apply to the Department on a Commissioner-provided form for approval of the school facilities project for QZAB funding.
- (b) The application must demonstrate the school facilities project meets the requirements for participation in the QZAB Program, as set forth in N.J.A.C. 6A:25-2.1 through 2.4, as well as the Federal requirements set forth in 26 U.S.C. § 54E and regulations thereunder (see 26 CFR 1.1397E-1).
- (c) The application must include the following:
 - 1. Evidence the school facilities project is for a school facility meeting the school location or student body composition requirements of N.J.A.C. 6A:25-2.1;
 - 2. Evidence the school facilities project has been approved by the Department for rehabilitation, pursuant to N.J.A.C. 6A:25-2.2;
 - 3. A copy of the comprehensive educational plan approved by the school district, pursuant to N.J.A.C. 6A:25-2.4;
 - 4. Certification by the issuer that it has the written commitment of the private entity to satisfy the private contribution requirement, pursuant to N.J.A.C. 6A:25-2.3, or to make qualified contributions for one or more qualified zone academy school district applicants sufficient to meet the private contribution requirement for each school district applicant; and
 - 5. Certification by the issuer that it has the school district's written approval of the QZAB bond issuance.
- (d) A school district applying for QZAB funding may submit to the Department an application for one or more school facilities projects for which it seeks funding, provided the application satisfies this subsection's requirements for each school facilities project.

6A:25-3.2 Application review and approval

- (a) The deadline for accepting applications shall be July 1 annually.
- (b) The Department must assess each application to determine on a first-come, first-served basis if it is complete. The Department must verify the school facilities project in the application is the same as the previously approved school facilities project. If the application is determined to be incomplete, the Department must inform the school district in writing, listing all deficiencies and missing required information. If the application is determined to be complete, the Department must review the application for eligibility for QZAB funding within 30 days of the determination of completeness.
- (c) The Department must approve all applications that meet the QZAB Program requirements as described or referenced in this chapter, subject to the availability of bond cap under 26 U.S.C. § 54E.
- (d) If a school district's application is approved, the Department must notify the school district that a qualified zone academy(ies) in the school district is eligible for QZAB funding. The Department must also provide notice to the NJEDA of school district eligibility for QZAB funding. State share funded through QZAB financing will be available in the same way that State share funded through other financing is available for school facilities projects approved pursuant to EFCFA, that is, available pursuant to N.J.S.A. 18A:7G-5, 9, 10, or 15 as applicable.
- (e) If a school district's application does not meet the QZAB Program requirements, the Department must notify the school district in writing, informing it of the reason for the denial.

6A:25-3.3 Appeals of Department determinations

Appeals of Department determinations with respect to the QZAB Program shall be made in accordance with N.J.A.C. 6A:3, Controversies and Disputes.

SUBCHAPTER 4. CHARTER SCHOOL ELIGIBILITY FOR QZAB FUNDING

6A:25-4.1 Charter school requirements

- (a) To qualify for designation as a qualified zone academy and receive QZAB funding, a charter school shall:
1. Have an approved charter; and
 2. Meet the requirement stated in N.J.A.C. 6A:25-2.1(a)2.

6A:25-4.2 QZAB project requirement

- (a) To be eligible for QZAB funding, a charter school capital project shall:
1. Consist of rehabilitation work, including equipment related to the rehabilitation of the charter school facility that houses a qualified zone academy;
 2. Not be completed at the time of submission of an application for QZAB Program funding;
 3. Be located in charter school that qualifies pursuant to N.J.A.C. 6A:25-2.1(a); and
 4. Be located in a charter school eligible for a private business contribution by a private entity.

6A:25-4.3 Private collaboration requirement

- (a) The charter school shall establish, via written commitment, a collaboration between the charter school and one or more private entities under which the private entity evidences in writing that it will make a contribution having a present value (as of the date of issuance of the issue) of not less than 10 percent of the bond issue's proceeds.
- (b) Contributions by the private entity shall be described in the written commitment and may include items referenced in N.J.A.C. 6A:25-2.3(b)1.

6A:25-4.4 Comprehensive educational plan requirements

- (a) The qualified zone academy, or charter school on behalf of the qualified zone academy, shall design a comprehensive educational plan in cooperation with one or more private entities.
- (b) Students enrolled in the qualified zone academy shall be subject to the same academic standards and assessments as other students in the school district.

SUBCHAPTER 5. CHARTER SCHOOL APPLICATION FOR QZAB FUNDING

6A:25-5.1 Application requirements

- (a) A charter school seeking to initiate a charter school capital project funded by a QZAB shall apply to the Department on a Commissioner-provided form for approval of the charter school capital project for QZAB funding.
- (b) The application must demonstrate the charter school capital project meets the requirements for participation in the QZAB Program, as set forth in N.J.A.C. 6A:25-4.1 through 4.4, as well as the Federal requirements set forth in 26 U.S.C. § 54E and regulations thereunder (see 26 CFR 1.1397E-1).

- (c) The application must include the following:
1. The name of the school and the name, street address, phone number, and e-mail address of a contact person;
 2. A description of the capital project, including evidence the charter school capital project is for a school facility meeting the charter school location or student body composition requirements of N.J.A.C. 6A:25-2.1 and 4.2, respectively;
 3. Evidence the charter school capital project is for rehabilitation, pursuant to N.J.A.C. 6A:25-4.2;
 4. A copy of the comprehensive educational plan approved by the charter school, pursuant to N.J.A.C. 6A:25-4.4;
 5. Identification of the issuer of QZABs for the charter school;
 6. Certification by the charter school that it has the written commitment of the private entity to satisfy the private contribution requirement, pursuant to N.J.A.C. 6A:25-4.3. This requirement may also be satisfied by the issuer's certification that it has the written commitment of the private entity to make qualified contributions to meet the private contribution requirement for the charter school applicant; and
 7. A resolution evidencing that the issuer has the charter school's written approval of the QZAB bond issuance.
- (d) A charter school applying for QZAB funding may submit to the Department an application for one or more charter school capital projects for which it seeks funding, provided the application satisfies this subsection's requirements for each charter school capital project.

6A:25-5.2 Application review and approval

- (a) The deadline for accepting applications shall be July 1 annually.

- (b) The Department must assess each application on a first-come, first-served basis to determine if it is complete. If the application is determined to be incomplete, the Department must inform the charter school in writing, listing all deficiencies and missing required information. If the application is determined to be complete, the Department must review the application for eligibility for QZAB funding within 30 days of the determination of completeness.
- (c) The Department must approve all applications that meet the QZAB Program requirements as described or referenced in this chapter, subject to the availability of bond cap under 26 U.S.C. § 54E.
- (d) If a charter school's application is approved, the Department must notify the charter school and the issuer that a qualified zone academy in the charter school is eligible for QZAB funding.
- (e) If a charter school application does not meet the QZAB Program requirements, the Department must notify the charter school and the issuer in writing, informing them of the reason for the denial.
- (f) If the NJEDA is the issuer of QZABs for the charter school, the Department must notify in writing the charter school eligible for funding to apply to the NJEDA pursuant to N.J.A.C. 19:31, to the extent applicable, and to utilize the NJEDA application for financial assistance available at <http://www.njeda.com/applications.asp>.

6A:25-5.3 Appeals of Department determinations

Appeals of Department determinations with respect to N.J.A.C. 6A:25-5.1 and 5.2 shall be made in accordance with N.J.A.C. 6A:3.