

CHEMUNG COUNTY INDUSTRIAL DEVELOPMENT AGENCY

INDUSTRIAL REVENUE BOND GUIDELINES

The Chemung County Industrial Development Agency (CCIDA) is a public benefit corporation created in 1970 by act of the New York State Legislature. The Agency's primary purpose is to promote and assist private sector industrial development and, thereby, advance the job opportunities and economic welfare of the people of Chemung County.

Bonds

Bonds can provide significant incentives for capital investment through the state and local tax exemptions accorded such projects. Exemptions from sales tax on construction materials and equipment along with the mortgage recording tax can represent a substantial value in relation to total project costs. Our Payment-in-lieu-of-tax ("PILOT") Policy also provides a major saving through abatement of real property taxes on the value added by new construction or renovation.

Eligible Projects

Eligible projects generally include those involving the acquisition, construction and/or substantial renovation of facilities suitable for manufacturing, warehousing, research and development and other industrial purposes. Certain eligible commercial projects, office facilities and machinery and/or equipment may also be financed with Bonds. Specific project eligibility is determined in accordance with the New York State law and CCIDA policy. At least 33 1/3% of the total project costs must be financed through bonds issued by CCIDA with respect to land and building, and at least 10% of total equipment costs must be financed through bonds.

Project Financing

Bonds issued by CCIDA are secured only by the value of the project financed with the bonds and the company's credit. Although the title to the project is technically held by CCIDA under a financing lease, all benefits and risks of ownership belong to the company and when the bonds are paid off, title to the assets return to the company.

Bonds may be purchased by financial institutions, corporations or individuals. Bonds may be purchased by parties related to the company.

The interest rate, maturity, method of amortization and all other financial terms and conditions of the bonds are negotiated between the company and the bond purchaser. Actual preparation of bond documents cannot begin until the company and bond purchaser's agreement on such terms and conditions are evidenced by a mutually executed commitment letter.

Restrictions

No expenditures or commitments for expenditures on the project should be made prior to project approval (Inducement) by the CCIDA.

The face value of the bonds to be financed must be equal to a minimum of 33 1/3% of the total project cost.

Bond proceeds may not be used for working capital purposes.

Due to the legal and other "soft costs" associated with such financing, projects for bond financing should not, generally, be less than \$1,000,000. There is no upper limit on the amount that may be financed with Taxable bonds. There is a limit on Tax-Exempt Bonds.

APPLICATION PROCEDURES

Requests for Application

Requests for application to the CCIDA for Industrial Revenue Bond project financing may be initiated by the principals of a company directly or by a company's professional advisors (attorney's, bankers, accountants). All requests for applications are subject to a project feasibility meeting. The purpose of the feasibility meeting is to determine whether the proposed project could be beneficially assisted with the Agency's programs.

Application Submittal

In order to receive consideration for processing during a given month, a complete application packet including one original and one copy of all documents must be submitted to CCIDA at least two weeks before desired board action.

Project Eligibility Review

Upon receipt of the application, the staff reviews the application for completeness and submits it to counsel for review. Agency counsel reviews the application to determine if the project complies with State laws governing industrial revenue bond project financing. If the project is deemed eligible, Agency counsel submits an inducement resolution to CCIDA for subsequent action.

Project Approval

The CCIDA Board of Directors convenes, as needed, to consider applications deemed eligible for approval. Upon approval, the CCIDA adopts an Inducement Resolution declaring the project to be of public benefit and authorizing the applicant to proceed. A transmittal letter with copies of the Inducement Resolution and Inducement Agreement are submitted to the company, the company's attorney and the company's bond purchaser, if designated.

The Inducement Resolution and Inducement Agreement must be accepted by the company and returned to CCIDA for filing. The Inducement Resolution expires one year after the date of its adoption by CCIDA unless an extension is requested in writing by the company. Approval of the Inducement Resolution by CCIDA and its acceptance by the company allows the project to commence. The company is permitted to proceed with the project, using interim financing if necessary, while requirements for bond closing are being finalized.

Bond Closing

The bond closing process begins upon submittal to CCIDA of a letter of commitment from the company's designated bond purchaser.

Draft documentation and a Bond Sale Resolution are prepared by Agency counsel and submitted to CCIDA. The resolution approving sale of the bonds is presented to the CCIDA Board of Directors. The actual date of the bond closing is determined by mutual consent of all parties involved in the transaction.

Fees and Expenses

A non-refundable application fee of seven hundred fifty dollars (\$750) must accompany all applications submitted to CCIDA.

The CCIDA Administrative Fee is a one-time, lump-sum fee payable at closing. (See Administrative Fee Policy).

Additional fees payable by the company at closing include those of the Agency's counsel and bond counsel as well as those of the purchaser and trustee, if any. Total costs vary with the size and complexity of the bond issue. These fees may be included in the total principal amount of the bond. The company is responsible for legal fees incurred even if the project is never funded.

Should law or the nature of a project require that the CCIDA take other than routine action with respect to the environmental impact of a proposed project, the company will be additionally responsible for all costs incurred by the CCIDA in achieving any project environmental approvals.

CHEMUNG COUNTY INDUSTRIAL DEVELOPMENT AGENCY

TAX EXEMPT INDUSTRIAL REVENUE BOND POLICY

Policy for the Issuance of Tax Exempt Industrial Revenue Bonds for Industrial Projects:

1. For the purpose of this policy:

Industrial shall mean those projects which qualify as “manufacturing” under section 144 (a) (12) (c) of the Internal Revenue Code of 1986, as amended.

2. The project shall meet the following criteria:

- a. Tax exempt Industrial Development Bonds shall not exceed the statutory limit established by New York State.
- b. The project applicant shall demonstrate that the Project will have a beneficial effect on the local economy.
- c. The project must comply with appropriate zoning, land use, environmental, building ordinances and development plans of the municipality where the Project will be located and take into consideration regional and local comprehensive land use plans and state designated urban cultural management plans.
- d. The project applicant shall demonstrate that the Project will expand employment or retain employment.
- e. The project applicant must have a written commitment from a qualified purchaser to purchase the requested taxable industrial revenue bonds. If additional financing is needed, the applicant must submit written proof that such financing has been obtained or will be obtainable.
- f. The agency may require that project applicant to demonstrate a substantial capital investment in the project.
- g. The Agency requires the project applicant to present its proposal for taxable revenue bond financing at a public hearing. Notice of the public hearing shall be published, once, in a newspaper of general publication in the area of the Project at least 10 days before the public hearing is to be held.

3. Prior to the Agency’s sale of the taxable industrial revenue bonds, the project applicant shall have entered into a payment-in-lieu of tax agreement with the appropriate taxing authorities.

4. The Agency may disapprove the issuance of taxable industrial revenue bonds where substantial evidence is presented that the Project would result in an unfair competitive advantage causing an adverse decline in the utilization of similar existing facilities, thereby resulting in an economic loss which may jeopardize the continuation of such existing facilities.

5. Specific project eligibility is determined in accordance with the New York State Industrial Development Agency Act and the General Municipal Laws of New York State.

6. Except as otherwise provided by collective bargaining contracts, (a) new employment opportunities created as a result of projects of an IDA shall be listed with the NYS Department of Labor community services division and with the administrative entity of the service delivery area created by the federal job training partnership act (“JTPA”), and (b) the project sponsor shall agree, where practicable, to first consider for such new employment opportunities persons eligible to participate in the JTPA programs who are referred by such administrative entity.

CHEMUNG COUNTY INDUSTRIAL DEVELOPMENT AGENCY
TAXABLE INDUSTRIAL REVENUE BOND POLICY

Policy for the Issuance of Taxable Industrial Revenue Bonds for Industrial, Commercial, Retail, and 501C Projects.

1. For the purpose of this policy:

Industrial shall mean those projects which qualify as “manufacturing” under section 144 (a) (12) (c) of the Internal Revenue Code of 1986, as amended.

Commercial shall mean all projects except manufacturing and retail facilities.

Retail shall mean those projects that are used in making retail sale of goods or services, to customers who personally visit such facilities to obtain said goods or services, constitute more than one-third of total project cost. Notwithstanding the foregoing, a retail project can be funded if (A) the IDA finds that (1) the project occupant would, but for the project, located the related jobs outside the state, or (2) the project is located in a highly distressed area in (an economic development zone, a city of 1,000,000 or more, or a census tract with (i) a 20% poverty rate or 20% of households receiving public assistance and an unemployment rate of as least 1.25 times the statewide unemployment rate or (3) the predominant purpose of the project would be to make available goods or services which would not, but for the project, be reasonably accessible to residents of the city, town, or village within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services, and (B) the IDA finds that the project will preserve permanent, private sector jobs in the state, and (C) the chief executive officer of the sponsoring municipality confirms the proposed action of the IDA.

2. The project shall meet the following criteria:

- A. The project applicant shall demonstrate that the Project will have a beneficial effect on the local economy.
- B. The project must comply with appropriate zoning, land use, environmental, building ordinances and development plans of the municipality where the Project will be located and take into consideration regional and local comprehensive land use plans and state designated urban cultural management plans.
- C. The project applicant shall demonstrate that the Project will expand employment, or retain employment.
- D. The project applicant must have a written commitment from a qualified purchaser to purchase the requested taxable industrial revenue bonds. If additional financing is needed, the applicant must submit written proof that such financing has been obtained or will be obtainable.
- E. The Agency may require the project applicant to demonstrate a substantial capital investment in the Project.
- F. The Agency requires the project applicant to present its proposal for taxable revenue bond financing at a public hearing. Notice of the public hearing shall be published, once, in a newspaper of general publication in the area of the project at least 10 days before the public hearing is to be held.

3. Prior to the Agency’s sale of the taxable industrial revenue bonds, the project applicant shall have entered into a payment-in-lieu of tax agreement with the appropriate taxing authorities.

4. The Agency may disapprove the issuance of taxable industrial revenue bonds where substantial evidence is presented that the Project would result in an unfair competitive advantage causing an adverse decline in the utilization of similar existing facilities, thereby resulting in an economic loss which may jeopardize the continuation of such existing facilities.
5. Specific project eligibility is determined in accordance with the New York State Industrial Development Agency Act and the General Municipal Laws of New York State.
6. Except as otherwise provided by collective bargaining contracts, (a) new employment opportunities created as a result of projects of an IDA shall be listed with the NYS Department of Labor community services division and with the administrative entity of the service delivery area created by the federal job training partnership act (“JTPA”), and (b) the project sponsor shall agree, where practicable, to first consider for such a new employment opportunities persons eligible to participate in the JTPA programs who are referred by such administrative entity.

CHEMUNG COUNTY INDUSTRIAL DEVELOPMENT AGENCY

UNIFORM TAX-EXEMPTION POLICY

The Chemung County Industrial Development Agency is empowered under Article 18A of the New York State General Municipal Law to issue Industrial Revenue Bonds to be used by companies to finance the purchase and improvement of land, building(s), and property(ies). The purpose of the bonds is to encourage the attraction, expansion, and retention of business and industry in Chemung County.

If a project is eligible for bond financing under the laws of New York State and the policies established by the Chemung County Industrial Development Agency and induced by the Board of Directors, it will be eligible for sales tax, and mortgage recording tax exemptions based on the following criteria:

1. Mortgage Recording Tax – All projects are exempt from the New York State Mortgage Recording Tax up to the full face value of the bonds induced by the CCIDA.
2. Sales Tax – All aspects of the project that are included in bond financing and subject to New York State and local sales tax are exempt.
3. Property Tax – All projects financed through Industrial Development Bonds induced by the CCIDA are eligible for property tax abatements (“PILOT”) with the following provisions:
4. GENERAL PROVISIONS:

ELIGIBILITY – The tax abatement applies only to new construction and/or value added renovations which raise the assessment value of the property.

A. ASSESSED VALUE

1. Assessed value is established by local assessor.

- B. PAYMENTS – Payment under the PILOT Program must be made by the project occupant (applicant) directly to the appropriate taxing entity at the time or times real property taxes must be paid.

Unless otherwise agreed to by the affected taxing entities, the PILOT sale be allocated among the affected jurisdictions in the same proportion as normal taxes would have been allocated but for the CCIDA’s involvement.

- C. SPECIAL DISTRICT TAXES & ASSESSMENTS – PILOT Program does not abate special assessments, special district taxes or other special levies.

- D. RESPONSIBILITY – It is the responsibility of Applicant to make sure the local municipalities know the project is subject to the PILOT program and receive copies of any PILOT agreement.

PILOT SCHEDULE

5. INDUSTRIAL – TAX EXEMPT & TAXABLE/SALE LEASEBACK-NON-EMPIRE ZONE

<u>TAX YEAR</u>	<u>ABATEMENT – NEW CONSTRUCTION/RENOVATION</u>
1	50%
2	50%
3	50%
4	50%
5	50%
6	50%
7	50%
8	50%
9	50%
10	50%
11-15	50%
16	100%

6. COMMERCIAL – TAXABLE BONDS/SALE LEASEBACK- NON-EMPIRE ZONE

<u>TAX YEAR</u>	<u>NEW CONSTRUCTION/RENOVATION</u>
1	50%
2	50%
3	50%
4	50%
5	50%
6	50%
7	50%
8	50%
9	50%
10	50%
11	100%

7. RETAIL – EZ OR TOURIST DESTINATION CENTER

<u>TAX YEAR</u>	<u>NEW CONSTRUCTION/RENOVATION</u>
1	50%
2	45%
3	40%
4	35%
5	30%
6	25%
7	20%
8	15%
9	10%
10	5%
11	0%

8. CORPORATE HEADQUARTERS WITH 100 JOBS

<u>TAX YEAR</u>	<u>NEW CONSTRUCTION/RENOVATION</u>
1-2	100%
3-4	90%
5-6	80%
7-8	70%
9-10	60%
11-15	50%
16	0%

6. EMPIRE ZONE

Projects located in an Empire Zone must first apply for eligibility of Real Property Tax Credits (RPTC) or their equivalent, under the New York State Empire Zone. Should the project not qualify for RPTC, the company would be eligible for a property tax abatement per the schedule above, or as otherwise specified in PILOT Agreement.

Should the project require an amendment to the Empire Zone boundary to accommodate the project, the first 10% of PILOT paid by the project will be paid to the Agency the remainder will be pro-rated among the affected jurisdictions.

7. PROCEDURE FOR DEVIATION FROM UNIFORM TAX-EXEMPTION POLICY:

The CCIDA maintains the authority to deviate from the uniform Tax-Exemption Policy outlined above under circumstances deemed to be in the vital interests of the economic health of the community (e.g. Project located within the Elmira Economic Development Zone or involves Urban Renewal Project or other strategically designated area considerable job creation or retention whereby it can be substantiated that but for special tax abatement incentives these jobs will not be created or will be lost in the community).

All chief elected officials of affected taxing entities must be notified in writing prior to deviating from this policy.

INVESTMENT POLICIES AND GUIDELINES
OF THE
CHEMUNG COUNTY INDUSTRIAL DEVELOPMENT AGENCY

The objective of the investment policy of the Chemung County Industrial Development Agency are to minimize risk; to insure that investment mature when the cash is required to finance operations; and to insure a competitive rate of return. In accordance with this policy, the Treasurer of the IDA is hereby authorized to invest those funds as follows:

- Time deposits and checking accounts in a bank or trust company authorized to do business in New York State.
- Certificates of Deposit in a bank or trust company authorized to do business in New York State.
- Obligations of New York State.
- Obligations of the United States Government.
- All funds are to be insured by the Federal Deposit Insurance Corporation or by obligations of the State of New York of the United States Government or those State and Federal Agencies which are guaranteed by said state and federal governments.
- Said funds on deposit are public funds and shall have a Pledge of Collateral by the bank or trust company in which the funds are deposited.

All investments made pursuant to this investment policy shall comply to the following conditions:

- That the Treasurer shall determine the amount and length of time all funds are to be invested.
- The ultimate goal of the Agency will be to maintain strong banking relationships with banks or trust companies doing business with the IDA and secure the best possible return for the Agency.
- The Treasurer shall require notification by its depositories of all requested transfer of collateral. Written permission must be given by the Treasurer for all transfers and releases of collateral or securities.
- This policy authorizes the use of the United States Post Office for delivery of Certificates of Deposit to and from banks which are not local.
- Members of the Agency will, at least annually, or more frequently if required, review its investments and also discuss with the Agency Treasurer any changes contemplated in the established investment policy of the Agency. The Treasurer will prepare any reports requested by the Agency's Board to aid them monitoring the Agencies investment policy and performance.

CHEMUNG COUNTY INDUSTRIAL DEVELOPMENT AGENCY

ADMINISTRATIVE FEE POLICY

BOND/SALE LEASEBACK FINANCING

The Chemung County Industrial Development Agency charges the following administrative fees for the issuance of industrial revenue bonds, sale leaseback transaction or related IDA transactions.

<u>RETAIL</u>	<u>COMMERCIAL</u>	<u>INDUSTRIAL OR NOT-FOR-PROFIT</u>
1%	.75%	.50%

BOND REFINANCING

The Chemung County Industrial Development Agency charges the following administrative fees for the refinancing of bonds.

<u>PRIVATE</u>	<u>NOT-FOR-PROFIT</u>
Retail/Commercial/Industrial	501c3/Civic Facility
.50%	.25%

TRANSFER FEES

The Chemung County IDA charges an administrative fee of .10%, with a cap of \$5,000 for the transfer of Bonds or Leases to new property owners. The new property owner is also obligated to pay for any legal fees associated with such transfer.

APPLICATION FEE

A non-refundable application fee of \$750 is also required for all proposed bond issues and lease-back transactions. In addition, all necessary legal expenses associated with the issuance will be paid by the applicant.

ENVIRONMENTAL REVIEW/LEAD AGENCY FEE

Dependent upon the nature of a given project, the agency may charge a fee for serving as Lead Agency for the purpose of SEQRA. Such fees will be agreed to in writing prior to any commitment.