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GENERAL MEMORANDUM 09-124

U.S. Treasury Department Announces \$1 billion in Bond Allocations to Tribes; Second Round Applications are due January 1, 2010

As we reported in our General Memorandum 09-101, dated July 24, 2009, the American Recovery and Reinvestment Act (Recovery Act) authorizes American Indian and Alaska Native tribes to issue tax-exempt Tribal Economic Development Bonds (TEDBs) in the amount of \$2 billion over two years.

We report to you on the first round of funding awarded on September 15, 2009, under the Recovery Act. The U.S. Department of the Treasury announced that 58 tribes who requested bond allocations by the August 15, 2009, deadline were awarded a total of \$1 billion.

Under the Recovery Act provisions, individual Indian tribes were authorized to request up to \$30 million in bond authority out of the first \$1 billion in volume cap for TEDBs. The Internal Revenue Service (IRS) previously announced the availability of a second round of tribal volume cap applications for the remaining \$1 billion in bond authority. *Second round applications are due by close of business January 1, 2010.*

The IRS also clarified that tribes could also issue Build America Bonds. Build America Bonds offer tribes an option to receive direct cash payments from the IRS in an amount equal to 35 percent of the interest payment on the bonds.

Because of the large number of tribes requesting bond allocation authority, the IRS reduced the requests by a pro rata amount resulting in 30 tribes receiving \$22, 565, 088.46 allocations each, with the remaining 28 tribes receiving smaller amounts ranging from \$1.5 million to \$15.8 million.

The IRS awarded bond allocation authority to tribes for a diverse range of purposes including refinancing previous debt; land acquisition; tourism; water facilities; hotels; transportation; retail facilities; manufacturing; health care facilities; tribal offices; detention centers; and parking garages.

Tribes that received first round of bond allocation have until the end of 2010 to issue TEDBs. Tribes that submit an application by the January 1, 2010, deadline and receive a bond allocation will have until the end of 2011 to issue TEDBs.

A tribe that applies for, and receives, a bond allocation may use an agent – another tribe, for instance – to issue bonds on its behalf. The issuing tribe may then loan the money back to the tribe that initially received the allocation. Bond pool financing allows smaller tribes or tribes with lower borrowing requirements to reduce their underwriting costs and benefit from greater bond ratings which translate into lower interest rates.

Based on the popularity of the first round of tribal bond allocation, tribes interested in issuing TEDBs under the second round or Build America Bonds will need to identify the projects they want to finance; determine if they want to enter into a pool financing arrangement; develop a financing plan; work with rating agencies; underwriters; bond buyers; and bond counsel; and complete the Treasury Department's application.

We expect that the IRS will continue to allow individual tribes to apply for up to \$30 million in bond authority in the second round. Tribes may apply for bond allocations for the TEDBs now through January 1, 2010.

The IRS Notice includes a sample application (Appendix A) which can be found at http://www.irs.gov/pub/irs-tege/tribal_development_bonds_-_application.rtf

Please let us know if we may provide additional information regarding Tribal Economic Development Bonds.

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