

	<b>PRIVATE ACTIVITY BOND ALLOCATION POLICY</b>	<b>Approval Date</b> 1/23/2008
	<b>DIVISION AND POLICY NUMBER</b> <b>FINANCE - 6675</b>	<b>Revision Date</b> 5/21/2019

**PURPOSE:**

The purpose of this policy is to establish an orderly process for the use of, and/or assignment of the County’s Private Activity Bond (PAB) allocation to issue tax-exempt PABs in compliance with the Internal Revenue Code of 1986 (the “Code”) and the Colorado Private Activity Bond Ceiling Allocation Act (24-32-1701 et seq., C.R.S). PABs are a form of tax-exempt financing in which governments act as a conduit issuer, but assumes no debt responsibility. PABs are authorized to allow counties and municipalities a financial opportunity to promote industry and develop trade or other economic activity by inducing for-profit and non-profit entities to locate, expand or remain in the community. Borrowers typically receive lower interest rates since bonds are exempt from federal and state income tax.

Each year, Adams County receives a PAB allocation from the Department of Local Affairs at the State of Colorado and has until September 15 to determine how the annual PAB allocation will be used. The County has three options: use the allocation, assign the unused PAB allocation to another entity within a certain proximity of the County, or return the unused portion of the allocation to the State of Colorado. If there is not an entity that has requested or will request the annual allocation where the County would be the issuer, the County may assign the allocation to an eligible entity with a preference given to one that would have a direct or indirect benefit to the County. In absence of an eligible County project as described in the policy or an approved project to receive an assignment, the County will allow the unassigned allocation to return to the State. The County has until September 15 of each year to declare a use for the allocation, otherwise the allocation is automatically recaptured by the State for use elsewhere in Colorado. However, if a different use is identified after September, the County can amend its declaration.

Uses of PAB allocations include: single-family housing bonds, student loans, and multi-family housing projects. In Colorado counties and municipalities, housing and industrial development projects are less common, and small issue or manufacturing uses are also

minimal. It is the intention of Adams County's Board of County Commissioners not to use PABs for small issue manufacturing projects and instead allocate available PABs to affordable housing projects, eligible veteran, or non-first time home buyers and renovation and new construction rental projects.

PABs, in their principal amount, cannot exceed the volume cap allocation (total allocation) made to the County or assigned to the County. If necessary, the allocation applicant may work with the County to obtain additional volume cap allocation from other jurisdictions in Colorado or from the Statewide Balance held by the Department of Local Affairs.

## **POLICY:**

### 1. County Empowered to Issue PABs

The State of Colorado, in recognition of a local government's need for investment in its community has provided local governments with the authority to issue PABs.

### 2. Authority to Issue Private Activity Bonds

The Board of County Commissioners retains the authority to approve the issuance of PABs by Adams County. The decision may take into account analysis and recommendations made by municipal and/or County officials, staff, and consultants as outlined in this policy, as well as any other information that the County may require.

### 3. Resolution of Inducement

Upon receipt of any inquiry for the issuance of PABs by the County, any affected local municipality shall be consulted, and the Board of County Commissioners may require such analysis of, and such expression of support for, the applicant's request, as it may deem appropriate under the circumstances. Upon an initial determination that the applicant and the request meet the criteria of this policy, and that the issuance of the PABs are likely to meet the criteria of this policy, the Board of County Commissioners shall adopt a Resolution of Inducement, which shall reflect the intent of the County to issue the bonds, and permit the applicant to reimburse itself from the subsequent bond proceeds.

### 4. Recommendations by Local Municipalities

Where a request from an applicant proposes to locate a development within one of the County's local municipalities, it must be recommended by such city or town. The applicant and the local municipality must demonstrate to the Board of County Commissioners that applicant's request has been completed on the basis of local policy and that the request is consistent with such policy.

### 5. Procedure for Issuance of PABs

Applicants for PABs to be issued by the County will submit the original application to the Adams County's Finance Director or designee. In addition, the applicant will provide:

- a. A description of the company/organization receiving benefit of the proposed PAB issue, with accompanying current financial statements.
- b. A description of the project in terms of economic impact.
- c. A legal description of the property with evidence that the proposed use is in compliance with the Adams County Comprehensive Plan and zoning regulations or those of the municipality where the project is located.
- d. A general description of the assets to be purchased and/or constructed and any other use of the proceeds of the bond issue.
- e. Cost estimates for the proposed facility or facilities, and the amount of the proposed PAB issue.
- f. Demonstration of repayment abilities and schedules.
- g. Project timetable.
- h. Any other information or matters desired by the Board of County Commissioners.

#### 6. Procedure for Issuance of PABs

The Adams County Finance Director or designee will present the application to the Board of County Commissioners. By consent, the Board of County Commissioners may direct the Finance Director or designee submit to bond counsel for the County a Resolution of Inducement prepared by recognized bond counsel retained by the applicant.

After a favorable review by the bond counsel for the County, the Finance Director or designee will present the Resolution of Inducement to the Board of County Commissioners for consideration. If the Board of County Commissioners favorably reviews the documents, it will schedule adoption of an Inducement Resolution through a hearing before the Board of County Commissioners.

#### 7. Fees and Other Economic Factors Relating to Issuance of PABs

The following fees apply to the Issuance of PABs:

- a. All applications for PABs issued by Adams County shall be accompanied by the applicant's demonstration of commitment to the overall economic health and vitality of Adams County.
- b. There shall be imposed a service fee by the County equal to three-eighths of one percent ( $\frac{3}{8}$  of 1%) of the face amount of the bonds issued, with a minimum fee of Twenty-Five Hundred Dollars (\$2,500) and no maximum fee. The \$2,500 minimum service fee shall be payable to Adams County at the time of application and shall not be refundable, but will be deducted from the service fee at closing. Such service fees will be credited to the County General Fund of Adams County.
- c. The applicant shall pay for reasonable attorney fees of the County's bond counsel that the County incurs as a direct result of the PAB application and subsequent issuance, if applicable.
- d. The applicant shall be responsible for all other fees that may be charged by the state or other entities.

#### 8. Refunding and Restructuring of PABs

Requests for refunding and restructuring shall be submitted in writing to the Finance Director or designee. The procedure for refunding and restructuring is the same as the procedure for an original issue, as described earlier in this policy. Requests for refunding and restructuring of PABs shall be accompanied by a non-refundable application fee of two thousand five hundred dollars (\$2,500), payable to Adams County.

#### 9. Applicant's Financial Statements.

In the event that the application for the Issuance of PABs is approved and the bonds issued, the applicant will be responsible for providing an annual audited financial statement to the County within 30 days from the completion of such financial statements for the duration of the term of the bonds. The applicant shall also make arrangements for and complete required arbitrage rebate compliance calculations as required by IRS regulations. The cost for such calculations shall be at the expense of the applicant. A copy of this report shall be forwarded to the County immediately upon completion.

#### 10. First Come, First Served Basis

Applications for the use of the County's PAB allocation will be considered on a first-come, first-served basis. The County reserves the right to deny an application for use of its PAB allocation.

Adams County periodically receives requests to assign its PAB allocation to another eligible entity to issue PABs. Requests for such assignments will be presented to the Board of County Commissioners for their direction on a first-come, first-served basis. Proposals need to include a description of the project and the benefits to the Adams County community. Projects in Adams County will be preferred over projects in other counties. Projects adjacent to or having an indirect benefit Adams County will be preferred secondarily.

#### 11. Unused PAB Allocation Returned to the State

If Adams County does not issue PABs and has no intention of issuing PABs using the current year's allocation, and no other eligible entity requests an assignment of the County's PAB allocation, then the allocation will be returned automatically to the State of Colorado by the established deadline. Effort should be made to let the State of Colorado know whether or not the allocation will or will not be used by that deadline. However, such notification is not required.

#### 12. May Divide PAB Allocation for Multiple Projects

Adams County may divide its PAB allocation and be an issuer or make assignments to several projects.

#### 13. Policy Review

Adams County will periodically review policy every five years or sooner as regulations and processes necessitate change.

**EXCEPTIONS:**

The Board of County Commissioners may waive or reduce service fees for any bonds, the proceeds of which are to be used exclusively for the use and benefit of Adams County and its citizens. The Board may also, at their discretion, waive or modify any other provisions of this policy within current PAB laws and regulations.