



Private Activity Bond Volume Cap Application Policy

I. Scope

This Policy applies to the application and use of Private Activity Bond Volume Cap received by the Vermont Municipal Bond Bank (the “VMBB”) from the State of Vermont as described herein. Governmental units may also request allocation of volume cap from the State to be allocated to the VMBB for their projects. For a private activity bond (“PAB”) to be tax-exempt, 95% or more of the net bond proceeds must be used for one of several qualified purposes described in Section 142 through 144, and 1394 of the Internal Revenue Code (“Code”). Such qualified purposes include the following:

- **Manufacturing Facilities**: defined under federal tax law as “the manufacturing or production of tangible property (including processing resulting in a change in the condition of such property).” At least 75% of the tax-exempt proceeds must be used for manufacturing activities; a limit of 25% of the proceeds may be used for office, research & development, and warehousing, provided that they are located on the same site as the manufacturing facility and are directly related to it.
- **Exempt Facilities**: Certain facilities designated by federal tax law as eligible for tax-exempt financing, including:
 - Solid waste disposal facilities
 - Sewage treatment facilities
 - Local furnishing of electricity or gas
 - Furnishing of water
 - Hazardous waste disposal facilities
 - Local district heating or cooling facilities
 - Airports, docks, wharves, and mass commuting facilities
 - High-speed intercity rail facilities
 - Environmental enhancements of hydro-electric facilities
- **Multi-Family Housing Facilities**: Facilities which provide multi-tenant residential housing and meeting the following criteria: either 20% or more of the units will be occupied by individuals whose income is 50% or less of the area median gross income, or 40% or more of the units will be occupied by individuals whose income is 60% or less of the area median gross income.

The amount of private activity bonds that the VMBB can issue in any calendar year is limited to the amount of private activity bond volume cap that has been allocated to the VMBB as described herein.

II. Purpose

Section 146 of the Code established a bond volume limitation, or cap, on the issuance of PABs. A certain amount of PAB volume cap is allocated to each state annually for each calendar year based on the greater of a per capita rate or certain minimum amount.

Section 146(e) of the Code requires each state to devise an allocation formula or a process for allocating the state's PAB volume cap capacity among its issuing authorities.

Pursuant to 32 V.S.A. Section 992, the emergency board established by chapter 3 of Title 32 (the "Emergency Board") is the duly authorized agency of the state having the power to apportion the state's PAB allocation to and among the constituted issuing authorities empowered to issue such bonds, including to the VMBB.

This Policy sets forth certain criteria and guidelines for the application and use of volume cap with respect to projects of governmental units that may seek to participate in a pool issuance of the VMBB that would constitute PABs.

III. Goals

The VMBB intends to apply available PAB volume cap to governmental units equitably in the following manner among anticipated pool participants requiring the application such allocations to foster the community development goals of participating governmental units and otherwise maximize the economic benefits of private activity bonding.

Thus, it is the policy of VMBB that:

- a) No more than 50% of the available PAB volume cap will be applied to a single governmental unit, unless the Board shall determine that any volume cap would otherwise go unused;
- b) Notwithstanding paragraph III(a), after June 1 of any year, if any volume cap remains unused, the VMBB will apply such unused volume cap without regard to amount or previous applications to a governmental unit.
- c) In any application of PAB volume cap, the Directors may establish such criteria as they deem necessary or appropriate to ensure the use of such volume cap, including but not limited to the use of such volume cap by a

specified date to occur within 120 days of the date on which the allocation is made.

- d) In addition to any other requirements for application to the VMBB, any governmental unit seeking financing that would require the application of the VMBB's PAB volume cap shall deliver a preliminary opinion of its counsel in form and substance satisfactory to the Directors and Bond Counsel to the effect that (i) the proposed use of proceeds would constitute a qualified purpose for qualified private activity bonds under the Code, (ii) no more than 25% of the net proceeds of the issue would be used for land acquisition, (iii) none of the net proceeds would be used to acquire existing property, unless the proposed purpose is the first such use of the property, and (iv) such additional opinions as Bond Counsel may deem necessary or advisable to establish the tax-exemption of the proposed bonds.
- e) In connection with any issuance of private activity bonds by the VMBB, a certificate substantially in the form attached hereto as Exhibit A shall be included in the closing documents.
- f) The Executive Director shall maintain a log of PAB volume cap used in each calendar year, including the date, amount, applicable governmental unit, description of the qualified purpose, and the related series of bonds. On or before December 15 of each year, the Executive Director will determine the amount of unused PAB volume cap for the current calendar year and coordinate with the Emergency Board with respect to returning and carrying forward such unused PAB volume cap.

Adopted: April 27, 2012

VERMONT MUNICIPAL BOND BANK

Certificate as to Volume Cap

RE: EIN# _____
Date of Issue: _____
Name of Issue: Vermont Municipal Bond Bank Bonds, ___ Series ___

The Vermont Municipal Bond Bank [received \$_____ (the “[year] Volume Cap Allocation”) of current year private activity bond volume cap pursuant to an allocation made by the Emergency Board on _____]. [The Vermont Bond Bank received a Carryforward Amount of unused [year] volume cap for private activity bonds by the timely filing by the Emergency Board of Form 8328 (Carryforward Election of Unused Private Activity Bond Volume Cap).][The Bank is now utilizing \$_____ of such Volume Cap Allocation for the above captioned bonds, pursuant to Section 146 of the Internal Revenue Code of 1986, as amended.

Executive Director

Dated: [date of delivery of the bonds]