



OAKLAND COUNTY  
ECONOMIC DEVELOPMENT  
CORPORATION

# QUALIFIED 501(c)(3) BOND FACT SHEET

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*FOR NONPROFIT ORGANIZATIONS*

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L. BROOKS PATTERSON  
OAKLAND COUNTY EXECUTIVE



## THE OAKLAND COUNTY ECONOMIC DEVELOPMENT CORPORATION ("EDC")

The EDC was established in 1980 under Act No. 338 of the Michigan Public Acts of 1974, as amended, the Economic Development Corporations Act, in order to stimulate business capital investment, contribute to the area's employment, increase local tax base, and provide needed public services.

In order to achieve these goals and strengthen the County's economy, the EDC was given the authority to acquire property, develop land, construct buildings and finance equipment and machinery for either commercial (including nonprofit) or manufacturing enterprises. The most important tool available to the EDC to perform these activities is its ability to issue tax-exempt revenue bonds.

### WHAT ARE TAX-EXEMPT "QUALIFIED 501(c)(3) BONDS"?

Qualified 501(c)(3) bonds are bonds issued by the EDC to finance the acquisition, construction, installation, improvement, expansion or rehabilitation of real and/or personal property owned or to be owned by a nonprofit organization which has been granted an exemption from paying federal income tax by the Internal Revenue Service because the organization's purposes or activities are described in Section 501(c)(3) of the Internal Revenue code of 1986, as amended (including religious, charitable, scientific, testing for public safety, literary or educational purposes). Qualified 501(c)(3) bonds have been issued by the EDC to finance such diverse nonprofit facilities as nursing homes, hospital and mental health facilities, substance abuse centers and private K-12 schools. The bonds are limited obligations of the EDC payable solely from revenues or other funds provided by the nonprofit organization. The interest paid on the bonds is tax-exempt because the EDC is a governmental entity (the interest on whose obligations is not taxable under specific provisions of the Internal Revenue Code).

### ECONOMIC BENEFIT OF QUALIFIED 501(c)(3) BONDS

The principal benefit of qualified 501(c)(3) bonds is their low rate of interest. Because the interest on the bonds is not taxable, the interest rate will always be lower than the rate on obligations of a comparable credit, which is not tax-exempt. Qualified 501(c)(3) bonds can also be structured in a variety of ways to fit the mentality and economic situation of any borrower. For example, such bonds can be issued as "lower floaters," the interest rate on which is reset every seven days and which can be prepaid at any time without premium. Alternatively, 501(c)(3) bonds can be issued as fixed rate bonds with maturities as long as the useful life of the assets is being financed. Lower floaters invariably bear the lowest rate of interest.

### WHAT CAN BE FINANCED WITH QUALIFIED 501(c)(3) BONDS?

A. Any **capital assets** owned or to be acquired by a Section 501(c)(3) organization which will be used in furtherance of the exempt purposes of the organization, including **land, buildings, site work and equipment**, plus certain **soft costs and fees** related to the financing, can be financed with the proceeds of qualified 501(c)(3) bonds. **New construction and new equipment, renovations of or improvements to existing facilities, and acquisitions of existing buildings and used equipment** can all be financed.

**B. Existing 501(c)(3) bonds** can be refinanced or "**refunded**" to lower the interest cost or extend maturities (within specified limitations) of existing 501(c)(3) bonds. The refunding also can be combined with a 501(c)(3) bond financing of new construction or equipment under a single bond issue.

**C. Existing conventional debt** incurred to acquire or construct capital assets can also be refinanced with tax-exempt bonds, depending upon the particular circumstances.

D. Up to 2% of the principal amount of the bonds can be used to pay **issuance costs**, i.e., attorney, underwriter, trustee, EDC and bank fees. In addition, fees payable to a bank for a letter of credit to secure the bonds are also financeable above and beyond the 2% limit.

## SELLING QUALIFIED 501(c)(3) BONDS

Today, most 501(c)(3) bonds are sold publicly or privately placed with institutional investors by investment banking firm or placement agent, which is selected by the borrower. Occasionally, financial institutions such as banks or insurance companies will purchase the bonds directly. In the typical case involving a public sale or private placement, the borrower retains an investment banking firm or placement agent to arrange for the sale of the bonds. Because the bonds are usually sold to more than one investor, a trustee must be selected by the borrower to act on behalf of the proposed bond purchasers.

## "CREDIT ENHANCEMENT" (LETTERS OF CREDIT)

To enhance the marketability of 501(c)(3) bonds, and thereby lower the interest rate, investment bankers often recommend that the borrower "enhance" the bonds by obtaining a letter of credit from a major financial institution to secure the payment of debt service. The borrower's ability to obtain such a letter of credit, and the terms upon which the letter is issued, will depend entirely upon the credit of the borrower. Investment banking firms selected to underwrite or place the bonds will often be able to assist in obtaining and negotiating a letter of credit.

## FINANCING STRUCTURE

In every case, the borrower will execute a loan agreement with the EDC, pursuant to which the EDC agrees to loan the proceeds of its bonds to the borrower and the borrower agrees to repay the loan in accordance with the payment terms of the bonds. The EDC executes a trust indenture with the trustee for the bondholders, which provides the terms pursuant to which the bonds are to be issued and repaid. Other documents, such as a mortgage or guaranty, may be executed to secure either the bonds themselves or the issuer of a letter of credit or other enhancement.

Upon the sale and delivery of the Bonds, i.e., the closing of the transaction, the bond proceeds are deposited with the trustee for loan to the borrower. The borrower generally requisitions bond proceeds from the trustee as needed to pay project costs. The borrower retains full ownership of the financed facilities, subject only to such liens as already exist or may be imposed as security in connection with the issuance of the bonds.

Although the bonds are issued by the EDC, only the borrower is responsible for their eventual repayment. The full faith and credit of the local municipality or the County of Oakland is not involved in any way.

### OAKLAND COUNTY EDC FEE SCHEDULE

The following schedule of fees payable by the applicant to the Economic Development Corporation of Oakland County has been adopted.

<u>Amount</u>	<u>Payable</u>
\$500.00	Upon Application
\$500.00	Upon Issuance of a Resolution Inducement
\$500.00	Upon Approval of the Project Plan
1/8% of the face amount of the bond issue	At Bond Closing
All variable processing costs including General counsel review and printing/ Publication charges incurred	At Bond Closing

### BOND COUNSEL FEE SCHEDULE

The fees of Clark Hill, PLC as Bond Counsel depend upon the size and complexity of the financing. For bond issues in excess of \$1.5 million, which are secured by a letter of credit, the minimum fee is \$15,000 plus actual out-of-pocket expenses (such as photocopying, overnight mail and facsimiles). Factors which may affect the fee are the type of credit enhancement, whether the issue will be rated by a national rating agency, whether the interest rate is fixed or floating (single or multi-mode) and whether the business benefiting from the financing is manufacturing, solid waste disposal or non-profit.

### INQUIRIES AND INFORMATION

All inquiries relating to The Economic Development Corporation of the County of Oakland or any additional information on economic development and business assistance can be directed to Mary Langhauser at (248) 858-0879. The registered address of the EDC for all correspondence is:

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