

COUNTY OF BERNALILLO

INDUSTRIAL REVENUE BONDS (IRBs)

Description of Procedures

The County of Bernalillo has developed the following guide to assist the applicant with the IRB process and Bernalillo County regulations. The intent is to act as a guide. However, if the applicant has questions or needs more detail about the process they should contact the Bernalillo County Office of Economic Development.

Included in the appendix of this document are copies of State of New Mexico and Bernalillo County regulations. Please refer to these should you have questions about the legal basis of the revenue bond process. The staff of the Bernalillo County Office of Economic Development is available to meet with the applicant at any point in the process.

1. INDUSTRIAL REVENUE BOND APPLICATION

The applicant shall submit to the Bernalillo County Manager/Economic Development Coordinator a completed original of the *County of Bernalillo Industrial Revenue Bond Application* and a 1-page summary/description of the project. The fees need not be paid at this time.

2. APPLICATION DISCUSSION

The applicant is required to meet with the Economic Development Coordinator. The purpose of this meeting is to discuss the project and determine if the proposal is a likely candidate for the Bernalillo County Industrial Revenue Bond process. If the project meets Bernalillo County criteria, the Economic Development Coordinator will establish a schedule for an Inducement Resolution and Bond Ordinance approval.

3. ECONOMIC DEVELOPMENT REVIEW COMMITTEE MEETING

The applicant is required to meet with the Economic Development Review Committee. The committee is composed of representatives of Bernalillo County Manager, Finance, Public Works, Zoning, Fire and Environmental Health. The committee will review the specific project and advise the applicant of potential issues, concerns or problems with the project and/or application. The purpose of the committee meeting is to assist the applicant, answer any questions, to familiarize County Representatives with the project and to potentially avoid unnecessary problems or delays in the IRB process. Additionally, the committee may suggest potential plan revisions, additional County permits, or meetings with neighborhood groups, possible competitors, or other County agencies. This meeting may be waived by the County Manager if certain applications may not apply.

4. SUBMITTAL OF PROJECT SUMMARY SHEET.

The applicant must submit a project summary sheet to include the following information:

Project Summary:

1. Name of Company requesting bonds
2. History of Company and where the company's headquarters are located.
3. Description of product that company manufactures and/or sells.
4. Sales (projected local and worldwide). If service industry, projected number of guests/clients.
5. Distribution of product (through retail, direct or third party)

Project Description:

1. Description of project.
2. What IRB is going to be used for (construction, equipment purchase, and land acquisition.
3. Projected monetary amount of IRB toward (1) construction; (2) equipment; (3) land.
4. Physical address and location of project.
5. Amount of IRB requested
6. What product(s) will company produce at project location.
7. Potential environmental concerns.
8. Amount(s) of product to be manufactured (e.g., 7000 desks per month at Bernalillo County location). If a service industry, number of guests/visitors per month.

Aggregate Principal Amount of Bonds:

1. Amount (s)
2. Series (e.g. \$10 million in two series: (i) \$5 million Taxable Variable Rate Industrial Revenue Bonds, Series 2005A; \$5 Million Taxable Fixed Rate Unsecured Industrial Revenue Bonds, Series 2005B)
3. Will the bond(s) be underwritten and/or purchased. (e.g. underwritten by Bank of America Securities, LLC and (ii) to be purchased by ACME LLC, and affiliate of the Company).
4. What is the company's equity in the project?

Term of Bonds:

1. Requested term.

Employment Information:

Permanent Employment.

1. Current employment levels at facility before expansion.
2. Number of new full time employees as a result of IRB.
3. Projected full-time employment after project is completed.
4. Breakdown of employment (e.g. # of managerial, administrative, support, etc.)

Employee Benefits

1. e.g., health, stock options, disability insurance, life insurance; educational assistance, etc.

Construction Related.

1. Number of temporary construction jobs during the term of the Project.
2. Number or percentage of local subcontractors on the project.
3. The monetary amounts estimated in construction costs.
4. Estimated amount injected into the economy (excluding secondary spending estimates during construction period) during construction.

Impact on Bernalillo County.

1. How will this project impact Bernalillo County's economy?
2. If positions are available, through what channels will the company solicit employment opportunities and application?

Revenue Collections:

1. Bernalillo County currently does not abate the taxes for the University of New Mexico Hospital or the Albuquerque Public Schools.

Additional Information Supplied by Company deemed to Benefit the Citizens of the County.

5. SUBMITTAL

Once the applicant has made the formal IRB application, completed the Application Discussion and met with the Economic Development Review Committee, the applicant and/or agent must submit to the Bernalillo County Manager/Economic Development Coordinator:

- a) **A Project Plan (7 copies),**
- b) **Project Summary Sheet.**
- c) **An Inducement Resolution or Notice of Intent,**
- d) **A Response to the Fiscal Impact Analysis Questionnaire, and,**
- e) **All Fees and deposits.**

The County Manager/Economic Development Coordinator shall review all bond projects to determine if the project plan submittals are complete, and may require in writing other information deemed relevant. **The County Manager/Economic Development Coordinator Can Reject an Incomplete Proposal.** The applicant may submit to the Bernalillo County Manager/Economic Development Coordinator additional materials to include in the IRB packet up to 20 business days before the Board of Commissioners (BCC) hearing at which the project plan will be introduced. If the County of Bernalillo requests further information, the applicant supply this information to the Economic Development Coordinator 10 business days before the BCC Inducement hearing. Please refer to the Flow Chart (EXHIBIT B) and the Agenda Item Deadline Schedule (EXHIBIT C).

Within 15 days of receiving the project plan, the County Manager/Economic Development Coordinator will contract with an independent consultant to prepare an economic and fiscal analysis of the proposed project. The answers to the Fiscal Impact Analysis Questionnaire are a major

determinate in assessing the validity of the project. The independent analysis evaluates the benefits of the proposed project according to the Project Criteria. At the same time, the Bernalillo County Attorney will provide a legal review. Upon receipt of the analysis and legal review, the County Manager submits the project plan to the Bernalillo County Commission for discussion, but not hearing, at the next regularly scheduled meeting. The County Manager also submits a recommendation to approve, conditionally approve, or reject the proposed plan and a Notice of Intent to adopt a Revenue Bond Ordinance.

6. AUTOMATIC DEFERRAL

At this point in the process, Bernalillo County Code requires an automatic deferral to a subsequent meeting of the Bernalillo County Commission; two weeks is the minimum. This deferral period constitutes the public input period. Any person wishing to comment on the plan and/or the recommendation, may do so by submitting written comments to the Bernalillo County Commission with a copy to the County Manager. The comments may be either supporting or opposing the project. This must occur at least 8 days before the meeting which the board is scheduled to take final action on the proposed plan.

7. TERMS AND NEGOTIATIONS

At this point the Bernalillo County Bond Attorney and the representatives for the applicant will negotiate the terms of the Industrial Revenue Bond including clawbacks and proposed incentives. The Bernalillo County Bond Counsel shall provide to the Economic Development Coordinator the Fiscal Impact Report, Lease Agreements, Clawback Provisions and Reporting Requirements and all pertinent information related to the Bond, twelve (12) business days prior to the BCC Ordinance Approval meeting. This information will be included in the Economic Development IRB Project Summary Report provided by the Economic Development Coordinator to the Bernalillo County Commission. All IRB's shall have Clawback Provisions and Company Reporting Requirements. These two items shall be available and accessible by the general public.

8. CHANGES TO PLAN

Once submitted, minor changes in the Project Plan can be made by letter which specifically states the changes and by reference incorporates them into the plan. (If the bond amount is increased, please submit a check for any additional fees with the letter noting the change.) Major changes may require submission of an amended plan no later than 13 business days prior the BCC hearing on the adoption of ordinance. . The staff may recommend deferral, or even resubmittal, if the amended plan is substantially different from the one described in the legal ad and required notices.

9. REPORTS:

10 (ten) business days priors to the BCC hearing on the adoption of IRB ordinance. At this time the Economic Development Coordinator shall submit to the Board of County Commissioners, the County Manager, the Deputy County Manager for Community Services a 3-4 page Economic Development Project Summary Report on the proposed IRB. The report shall include:

- A Project Summary
- Project Description
- Aggregate Principal Amount of Bonds
- Construction Estimates
- Operational Estimates
- Term Of Bonds
- Employment Information
- Employee Benefits
- Economic Impact on Bernalillo County
- Revenue Collection Amounts
- Clawback Provisions
- Infrastructure/Transportation Impacts

10. NOTIFICATIONS

The Economic Development Coordinator shall notify and work with:

- Community Organizations
- Business Organizations
- Impacted Neighborhood Associations

Additionally, the Economic Development Coordinator shall notify these organizations of the scheduled hearing at least twelve (12) business days prior to the BCC IRB Ordinance Approval meeting. The Economic Development Coordinator shall arrange meetings with such groups if requested. All information obtained that is of public information shall be released to such groups. With the approval of the County Manager and Deputy County Manager for Community Services, any recommendations shall be presented to the Bernalillo County Bond Counsel for integration into relevant documents.

11. BOARD OF COMMISSIONERS (BCC) HEARING

After the required deferral period is completed, the first Bernalillo County Commission hearing involves the Inducement Resolution (the County's statement of intent to issue the bonds). The applicant will present the argument to the Bernalillo County Commission for adoption of the resolution. The applicant and/or a representative of the developer are required to attend the hearing. Depending on the nature of the project, the applicant may wish to have the project architect, fiscal officer, lawyer, or leasing agent at the meeting. A large scale version of the conceptual site plan is helpful to the Bernalillo County Commission. The County Manager, Economic Development Coordinator, County Attorney and County Bond Attorney's attend all Commission bond hearings, and advise the Commission on legal and technical questions. At the meeting, staff briefly summarizes the project and provides analysis. The applicant presents the project and answers Commissioners questions. Others in attendance may speak for or against the project. The County Manager will make a final recommendation to the Board.

12. CERTIFICATION OF ZONING

After the passage of the Inducement Resolution, prior to passage of the Bond Ordinance, the applicant must receive a Certification of Zoning from the Department of Building, Planning and Zoning. If the property is zoned for the proposed use, this should be quickly obtained. The certification can be presented at the Inducement Resolution hearing, whereupon the Bond Ordinance hearing can be held the same day. (If this is the process the applicant desires, it needs to be clearly stated in the Project Plan). If zoning actions are required, this period could be lengthy. The zoning representative on the Economic Development Review Committee will answer any questions and address the zoning of the proposed site during the review meeting. Other members of the committee may also be called upon to answer a Commissioners questions.

13. BOND ORDINANCE

Following passage of the Inducement Resolution, the Bernalillo County Commission will pass a Bond Ordinance. At this point, it should be possible for the County of Bernalillo to actually issue and sell the bonds.

14. FEES AND DEPOSIT

The applicant shall pay the County of Bernalillo:

- A fee of one-tenth of one percent of the face amount of the bonds. The fee shall not be less than \$2,500.00; and,
- A deposit of \$5,000.00 to be applied against the independent analysis costs. If the cost of the analysis exceeds the deposit, the applicant shall pay the additional costs.

15. MEETINGS, SCHEDULES AND FORMS

All forms are available at the Bernalillo County Office of Economic Development located in the Bernalillo County Managers Office, 10th Floor of the Albuquerque/Bernalillo County Government Building. The building is located downtown on the corner of 4th and Marquette. If you need to schedule a meeting or need specific information you can call 768-4185 and speak to Ann Gonzales. Scheduling of the inducement action occurs at the meeting with the Economic Development Coordinator.

COUNTY OF BERNALILLO
INDUSTRIAL REVENUE BONDS
PROJECT PLAN

By determination of the County Manager under Sec. 2-298 of the Bernalillo County Code, the written responses to the following inquiries will constitute the Project Plan required by Bernalillo County Code Section 2-293:

1. GENERAL DESCRIPTION AND LOCATION

Give a description of the project, including general location, proposed development, use, and total bond amount requested; i.e., a “thumbnail sketch” of the project you propose. Include a statement of the benefit to be gained by the Bernalillo County community from this development. The benefits of this project plan will be judged according to the Bond Project Criteria on Page 5; staff may prepare these responses for you, but the applicant is strongly encouraged to address them in writing as part of the Project Plan submittal.

2. NUMBER AND TYPE OF JOBS CREATED

Identify the number and type (i.e. professional, clerical, assembly line, etc.) of permanent jobs which will be created in the project. Do not include existing jobs being relocated to the new site.

3. PERCENTAGE OF JOBS TO BE FILLED BY RESIDENTS OF BERNALILLO COUNTY

Identify what percentage of the permanent new jobs are expected to be filled by current Bernalillo County residents, as opposed to people relocated from elsewhere.

4. INFORMATION CONCERNING PRODUCTS AND PROCESS

Identify the products and/or processes involved with this project. Specifically address the question of whether the proposed development will generate air, noise, or waste pollution or traffic congestion.

5. RELOCATION OF INDIVIDUALS OR BUSINESSES

It is not desired that any individuals, families or businesses will be displaced by the activities outlined in this plan. If any relocation is required, detail the assistance the developer will give in relocation.

6. EXISTING CONDITIONS

A. Present Use and Conditions:

Describe the present use and development of the site, including any improvements, vacant land, etc.

B. Current and Proposed Zoning:

Give the current zoning of the property. If any change in zoning is required for the proposed use, give the proposed new zone. The zoning changes required must be requested before the project plan reaches the BCC, and obtained before a bond ordinance can be adopted.

C. Present Assessed Value

Give the present assessed value according to the Bernalillo County Assessor's office. You may also list a current appraised value if you feel it will make the post-development value clearer.

D. Legal Description

Give both the precise and complete legal description and address or identification of location.

7. ESTIMATED VALUE AFTER COMPLETION

Give the estimated appraisal value of the project site after completion of the project.

8. MAXIMUM AMOUNT OF BONDS TO BE ISSUED

State the maximum amount of bonds to be issued.

9. CONSTRUCTION SCHEDULE

Give the date of anticipated beginning and completion of construction of the building; the anticipated period for equipment installation and the probable date of commencement of operations.

10. FEASIBILITY OF THE PROPOSED PROJECT

Provide documentation of the feasibility of the proposed project including information establishing the ability of the project to generate revenues to render the project self liquidating.

11. COMPETITION

Identify the influence your project will have on competition in the type of commerce or industry already existing within the County and its environs. Since the BCC does not normally wish to make bond financing available for projects with conventionally-financed local competition, this statement is very important.

12. EFFECT ON EXISTING INDUSTRY AND COMMERCE DURING AND AFTER CONSTRUCTION

Describe the predicted effects on the County, including benefits (construction jobs generated, increased employment, increased sales, new industrial base, possible spin-off business, etc.)

13. PRIVATE INVESTMENT

Describe the amount and form of private investment in the project in addition to bond financing.

14. VALUE OF PROPOSED IMPROVEMENTS

State the total dollar value of the proposed improvements included as part of the project.

15. MANAGEMENT

Describe the plans for project management. Who will manage the project? If the project will be managed by someone other than the developer, does the applicant have a long range investment?

16. RESUMES

Provide resumes showing the experience of the development entity or principals, and the experience of the architect, contractor, and leasing agent, if relevant.

17. (redundant with item 15)

18. CONCEPTUAL SITE PLANS

Attach a conceptual site plan and building elevations. Describe the construction to be undertaken in the project, including gross and net square footage, construction type, and location of construction on the project site. Indicate whether existing buildings on the site will be rehabilitated or incorporated in the construction. Detail any demolition which will be required by the project, and indicate whether demolition involves any identified historic properties. Note any public infrastructures which may be required.

19. MAP OF PROJECT AREA

Attach to the plan a map locating the project. You may use the base maps from the County Zone Atlas if you wish.

20. OTHER MATTERS

This section is reserved for other matters as the County Manager may deem relevant to the project or for additional information requested by the County. Additionally, Bernalillo County is interested in corporations that are valuable corporate citizens; those with an interest in people and community. Describe various methods the company plans to reinvest in the community.

20a. INDUSTRIAL REVENUE BONDS:

1. Property taxes will be waived on property or equipment built or acquired with proceeds of industrial revenue bonds for the bond amortization period.
2. A revenue collection (RC) will be assessed on behalf of Albuquerque Public Schools (APS) and University of New Mexico Hospital (UNMH) annually. PILT will be based on the par value of bonds issued and will not be assessed differently for equipment and construction. For purposes of computing ILT, the rate will be the current year mill levy for APS and UNMH. PILT costs projected at issuance are estimates only.
3. Applicants will be assessed ten (10) years of property taxes if they cease operation or default before one-half (1/2) of the bond amortization period. The penalty will apply to those taxing entities on whose behalf taxes were waived.

COUNTY OF BERNALILLO
INDUSTRIAL REVENUE BONDS
INFORMATION REQUIRED FOR FISCAL IMPACT ANALYSIS

Answers to these questions should be submitted separate from the project plan; please also answer only one question on each page.

1. State the type or nature of project operations.
2. State the total number of new employees to be created as a result of the proposed Industrial Revenue Bond project, a total gross payroll and an estimated annual pay increase in future years.
3. State the number of new employees by title or job classification and respective salary.
4. Describe optional employee benefits, either by amount or percentage of gross pay. If employees contribute to such benefits, indicate their contributions in amount or percentage
5. Estimate the total annual expenditure of goods and services locally procured, identification of such goods and services (only those over \$10,000 per year). Include an estimated annual increase in total expenditure. Include annual expenditures subject to New Mexico Gross Receipts tax.
6. Estimate the total annual expenditure of goods procured out-of-state and subject to the New Mexico compensating tax, and an estimated annual increase in total expenditure.
7. State the costs of land, site improvement, and building, respectively.
8. State the total costs of equipment, fixtures, and furnishings to be purchased with the proceeds of the bond, and an amount of such purchases in New Mexico and out-of-state, respectively.
9. State an estimated incremental New Mexico corporate income tax as a result of the proposed Industrial Revenue Bond project, and an estimated annual increase.
10. If the proposal involves the manufacturing of goods, estimate the amount of capital expenditures to be qualified for the New Mexico investment tax credit.

COUNTY OF BERNALILLO
INDUSTRIAL REVENUE BONDS
PROJECT CRITERIA

The overriding criterion for all industrial revenue bond projects is the benefit to the County of Bernalillo provided by the project. The criteria below are intended to assist the Bernalillo County Commission in determining benefit to the county.

Each criterion listed below is ranked for relative importance as a Level A, B, or C criterion. The definitions of these levels are:

Level A: Projects must perform well under these criteria. Projects which do not meet these criteria should be rejected.

Level B: Projects should perform well under these criteria . Projects which perform weakly under this criteria must show exceptional benefits to the County elsewhere.

Level C: Projects should perform well under these criteria but weakness in one area can be outweighed by strengths in other areas.

I. LAND USE, PLAN, AND DESIGN ELEMENTS

1. **PLANNING AND ZONING:** Is present zoning appropriate, or would any needed change fit County's zoning policies? Does the project fit Area, Sector, Metropolitan Redevelopment, and/or Comprehensive Plan policies?

CRITERION, LEVEL A: Projects must conform with all adopted County plans and policies.

2. LAND USE: Will the proposed use make a positive contribution to the Bernalillo County economy and the immediate neighborhood? Will it generate high levels of air, noise, or waste pollution, or traffic congestion?

CRITERION, LEVEL A: Projects must improve the economy without disrupting local areas or creating unacceptable conditions.

3. INFILL: Does the project location allow use of existing infrastructure, or will project demand substantial infrastructure extension or replacement?

CRITERION, LEVEL B: Projects should not require substantial County costs for infrastructure unless developers and the County can agree on cost sharing.

4. DESIGN AND CONSERVATION: Are the scale and general design of project appropriate to the area? Will the project renovate or expand existing facilities? If in a historic building, will project follow preservation guidelines?

CRITERION, LEVEL B: Project design should be appropriate to the area. Viable existing buildings should be conserved, and historic buildings should be appropriately rehabilitated.

5. DEMOLITION: Does the project involve demolition of viable buildings? Does it involve the demolition of identified historic properties?

CRITERION, LEVEL B: Demolition of viable buildings should be avoided; demolition of historic properties must not occur unless the project can show no alternatives, and exceptional long-range benefits to the community.

6. RELOCATION: Does the project require the relocation of individuals or businesses?

CRITERION, LEVEL C: Relocation should be avoided. If relocation is necessary, the developer should assist in finding new housing or business locations.

II. ECONOMIC BENEFITS

7. COMPETITION: Would the project be in competition with existing business or development?

CRITERION, LEVEL B: The County does not provide bonds which would give one project an inequitable advantage over competitors using conventional financing. In certain areas - hospital/health care projects and semi-conductor manufacturing - bonds have been generally available. In the case of hospital or health care facilities, a need for the facility must be demonstrated.

8. JOBS: Will the project create a substantial number of new jobs? Are the job categories and phasing clearly given? Will jobs created benefit low and moderate income residents of the County? Will contractors and other construction industry firms and individuals from the local area be retained?

CRITERION, LEVEL B: The developer should demonstrate a genuine effort to hire from the local job pool. Contact with Bernalillo County, T-VI, the University of New Mexico, and the New Mexico Department of Labor recognized work force development programs (as relevant to the job offerings) will be regarded as an initial demonstration.

In the case of jobs available for low and moderate income residents, the developer's name will be made available to County recognized work force development programs. This is completed before the County Commission hearing in order to give these programs the opportunity to discuss the possibilities of establishing a relationship in which the programs would provide job candidates or on-the-job training.

III. PROJECT FEASIBILITY

9. **FEASIBILITY/FINANCING**: Has the developer presented convincing evidence that the project will generate sufficient cash flow to pay debt service? Alternatively, does the developer have a firm financing commitment?

CRITERION, LEVEL A: Projects must show the ability to retire bonds, or evidence that financing has been guaranteed.

10. **COST**: Does the bond amount requested reasonably represent the money required to complete the project?

CRITERION, LEVEL B: Bond amounts should be no more than that required to complete the project. If the project includes an equity investment or conventional financing in addition to bonds, those amounts should not be included in the bond request. The project will not be induced for an authorized maximum bond amount larger than the expected bond issue.

11. **DEVELOPER'S RECORD**: Does the developer have a good record of completing projects of this or a similar type? If an industry, does the industry have strong financial backing and experience relevant to this project?

CRITERION, LEVEL B: The developer should have a good record with projects of this type, or present convincing evidence that the project will be completed. Substantiation of the developer's background from financial institutions and local firms is especially useful in establishing the record.

12. **EQUITY**: Will the developer make an equity investment in the project?

CRITERION, LEVEL C: An equity investment is generally desirable; the BCC that a loan commitment for 100% bond financing may be made based on a developer's total holdings. In such cases, the BCC will accept a letter of interest to finance the total project.

13. **MANAGEMENT**: Does the developer commit to manage, as well as build, the project?

CRITERION, LEVEL C: Long-range commitment to a project is desirable.

IV. REDEVELOPMENT

14. **REDEVELOPMENT**: Is the project designed and sited to make a substantial contribution to eliminating blight and/or promoting desired redevelopment?

CRITERION, LEVEL A: Projects must show a substantial contribution to area redevelopment.

V. MULTI-FAMILY

15. **FOR MULTI-FAMILY HOUSING PROJECTS ONLY REDEVELOPMENT:** Does the project further the County's redevelopment policies? Is it an infill project?

CRITERION, LEVEL A: Multi-family housing projects must be sited in areas where they will make a substantial contribution to redevelopment.

16. **FOR MULTI-FAMILY HOUSING PROJECTS ONLY - NON-DISCRIMINATION:** Has the developer agreed that all tenants will be offered comparable services without discrimination as to tenant income?

CRITERION, LEVEL A: Housing projects must not discriminate in tenant services.

17. **FOR MULTI-FAMILY HOUSING PROJECTS ONLY - HOUSING NEEDS:** Are low or moderate income family housing needs already being met in the immediate area of the project?

CRITERION, LEVEL A: Housing projects must not adversely affect existing multi-family housing in the area.

18. **FOR MULTI-FAMILY HOUSING PROJECTS ONLY - ELDERLY:** If this is an elderly housing project, are elderly housing needs already being met in the immediate area of the project?

CRITERION, LEVEL A: Elderly housing must not adversely affect existing elderly housing in the area.