

Tribal clients receive an allocation of \$28 million



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The challenge

Each year billions of dollars in capital needs are un-met in Indian Country. Vital projects for infrastructure, community facilities, housing, and economic development projects remain in the planning stage in part due to restrictions imposed on tribal access to the tax-exempt bond market.

Section 7871 of the Internal Revenue Code places an “essential functions” test on tax-exempt bond issues. This test requires that tribal tax-exempt bond proceeds be used only for “essential governmental functions.” This is a regulatory burden not imposed on state and municipal bond issuances.

The opportunity

The American Recovery and Reinvestment Act of 2009 (the Act), includes provisions that expand the authority of Indian tribal governments to access the capital markets through tax-exempt bond issues. The four provisions are:

1. Tribal Economic Development Bonds
2. Qualified Scholl Construction Bonds
3. Clean Renewable Energy Bonds
4. Qualified Energy Conservation Bonds

Tribal Economic Development Bonds

The Act allows tribal governments to issue tax-exempt, economic development bonds without satisfying the “essential governmental function” test. This provision of the Act contains a national bond limitation of \$2 billion. The Act defines a “tribal economic development bond” as any bond issued by an Indian tribal government where:

(1) the interest on the bond would be exempt from tax under Code Section 103 if issued by a state or local government, and (2) the bond is designated by the Indian tribal government as a “tribal economic development bond.”

In the Act, the term “tribal economic development bond” does not include any bond used to finance: (1) a gaming facility or gaming business property; or (2) any facility located outside the Indian reservation (as defined in Code Section 168(j)(6), which defines the term.

Client's success

Baker Tilly Virchow Krause, LLP was hired by two tribes - the Rosebud Sioux and the Ohkay Owingeh (previously known as the San Juan Pueblo) – to assist in the application for Tribal Economic Development Bonds. Both applications were awarded an allocation from the U.S. Treasury. The Rosebud Sioux, located in South Dakota, received a \$5.4 million award to help fund manufacturing, retail, commercial, and housing facilities. The New Mexico, Ohkay Owingeh was awarded \$22.9 million for refinancing, recreational, government, and commercial facilities.

Connect with us

To learn more about Baker Tilly Virchow Krause, LLP's expertise in assisting with the grant application process, connect with our Affordable Housing and Community Development specialists.

Baker Tilly Virchow Krause, LLP successfully assists tribal clients in receiving \$28 million in tribal economic development bonds from the U.S. Treasury Department.

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