

# Neighborhood Assistance Program Enterprise Zone Program Tax Credit

Program Guidelines | May 2009

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## Section I – Introduction

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Under Article XIX-A of the Tax Reform Code of 1971, known as the Neighborhood Assistance Act (Act 48-1994) (72 P.S. §8901-A, *et. seq.*), as amended, authorized the Pennsylvania Department of Community and Economic Development (the “Department”) is authorized to administer the Neighborhood Assistance Program (NAP). There are four components to this program: the NAP Tax Credit, the Neighborhood Partnership Program (NPP), the Enterprise Zone (EZP) Tax Credit, and the Special Program Priorities (SPP).

The purpose of these guidelines is to define the eligibility requirements and procedures necessary for a Private Company(s) in a Distressed Area(s) designated as an Enterprise Zone, to utilize or obtain tax credits for an investment in rehabilitating, expanding or improving buildings or land that promotes Community Economic Development. Tax credits are authorized in the amount of 25 percent of funds invested, up to a maximum of \$500,000. The EZP Tax Credit is designed to complement and supplement the Department’s Enterprise Zone Program.

## Section II – Definitions

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The following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

**Business Firm:** A business entity authorized to conduct business in this Commonwealth and subject to taxes imposed under Articles III (Personal Income Tax), IV (Corporate Net Income Tax), VI (Capital Stock – Franchise Tax), VII (Bank and Trust Company Shares Tax), VIII (Title Insurance Company Shares Tax), IX (Insurance Premiums Tax) or XV (Mutual Thrift Institutions Tax) of the Tax Reform Code of 1971. The term “Business Firm” includes Pass-Through Entities, defined below.

**Community Economic Development:** Activities that revitalize or stabilize Distressed Areas through one or more of the following: (1) The construction or rehabilitation of commercial or industrial buildings that will result in employment opportunities; (2) the removal or elimination of physical blight or (3) for the NPP, multi-year initiatives that will have a significant impact in a Distressed Area or toward Neighborhood Conservation.

**Department:** The Department of Community and Economic Development

**Distressed Area:** Any impoverished area in this Commonwealth that is certified as distressed by the Department and the certification is approved by the Governor. The certificate shall be made on the basis of federal census studies and current indices of social and economic conditions. The area must demonstrate, in comparison to county and statewide averages, a high incidence of one or more of the demographic factors set forth below: persistent unemployment, or underemployment, dependence upon public assistance, overcrowded, unsanitary or inadequate housing, crime and delinquency, school dropouts or other evidence of low educational attainment, vacant and dilapidated properties, blight or other generally accepted indicators of widespread social problems. The following are deemed Distressed Areas: Enterprise Zones, Keystone Opportunity Zones, Keystone Opportunity Expansion Zones, Keystone Opportunity Improvement Zones, Federal Enterprise Communities, Empowerment Zones, Act 47 Municipalities, Cities of the First Class, Cities of the Second Class, Cities of the Second Class A or Cities of the Third Class and former commercial and industrial sites that have been vacant for at least one year prior to application.

**Enterprise Zone:** A specific location with identifiable boundaries within a Distressed Area that is designated by the Secretary as an Enterprise Zone. See “Enterprise Zone” guidelines on [www.newPA.com](http://www.newPA.com) for further details.

**Enterprise Zone Tax Credit Program:** A program administered by the Department under the Neighborhood Assistance Act, which provides tax credits to Private Companies that make qualified investments to promote Community Economic Development by rehabilitating, expanding or improving buildings or land in an Enterprise Zone.

**Neighborhood Conservation:** Projects or services that address the decline of a neighborhood or the needs of a vulnerable population and have a primary or secondary benefit to the stabilization of a Distressed Area.

**Neighborhood Organization:** A nonprofit organization approved by the Department which performs community services, offers neighborhood assistance, provides job training, education or crime prevention or promotes Community Economic Development in a Distressed Area, which holds a ruling from the Internal Revenue Service that the organization is exempt from the income taxation under the provisions of the Internal Revenue Code.

**Notification Letter:** A letter from the Department to a Private Company that states the approval of a project and requests proof of contribution to receive the awarded tax credits.

**Private Company:** Any agricultural, industrial, manufacturing or research and development enterprise, as defined in the Pennsylvania Industrial Development Authority Act or any commercial enterprise, as defined in the Pennsylvania Economic Development Financing Law.

**Qualified Investment:** A qualified investment constitutes funds used by the Private Company to rehabilitate, expand, or improve buildings or land located within an Enterprise Zone. A lender that issues loan funds used to rehabilitate, expand, or improve buildings or land located within an Enterprise Zone is not a "Private Company" for EZP purposes.

**Secretary:** The Secretary of the Department of Community and Economic Development.

## **Section III – Program Administration**

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### **A. Submission of Application**

To apply for funding, the applicant must submit the electronic on-line DCED Single Application for Assistance located at <http://www.newpa.com/programFinder.aspx>. The required EZP Application Content (Section IV) may be attached electronically to the application on the Addenda tab, or submitted via US Mail with the Signature page. Please reference the Web ID number on any documents sent with the signature page. If you need additional assistance, contact the Customer Service Center at: 1-800-379-7448 or 717-787-3405.

Under the EZP, projects are approved for one fiscal year. All project applications must be approved by the Secretary prior to commencement in order to be eligible for credits.

The Department will have two rounds of applications each fiscal year. The deadline for the first round is July 1st and the deadline for the second round is October 1st. Please check [www.newPA.com](http://www.newPA.com) for a status on the availability of tax credits.

## **B. Review of Proposals**

Applications will be reviewed and ranked based upon the following factors:

1. Current application is complete and concise
2. The qualified investment(s) shows the number of jobs created or retained
3. *Preference will be given to a qualified investment(s) that shows substantial job creation for the community or commitment for job creation*
4. The qualified investment shows collaboration with DCED regional offices and programs
5. Clearly address the information outlined in Section IV of this document.
6. Total number of applications received statewide, geographic distribution of approved projects and the total amount of credits available.
7. Where applicable, conformity to the Keystone Principles & Criteria for Growth, Investment and Resource Conservation.

## **C. Approval Process**

1. The Secretary will approve or disapprove applications
2. The Private Company will receive a confirmation letter stating the following:
  - a. Approval of the Project
  - b. Conditions of the Program
  - c. Proof of Contribution, as applicable
  - d. Application for Tax Credits
  - e. Reporting Requirements

## **D. Eligibility**

Projects submitted to the Department under the Enterprise Zone Tax Credit Program must meet the following criteria:

1. A Private Company must make a qualified investment(s) to rehabilitate, expand or improve a building(s) or land located within portions of distressed areas which have been designated as an Enterprise Zone.
2. The Qualified Investment must be approved by the Department in order to be eligible for tax credits.
3. Applications must include a commitment to avoid displacement of current residents.
4. Eligible costs include construction-related costs and “soft” costs such as engineering, architecture, acquisition and invoiced expenditures.
5. The application must include a letter for support from the local Enterprise Zone Coordinator.
6. A Private Company with an investment(s) located in an Enterprise Zone that has exited the Enterprise Zone Program can make application for the Enterprise Zone Tax Credit during the fiscal year the exit date becomes effective as well as during the following fiscal year.

## E. Tax Credits

1. If approved, a Qualified Investment(s) will receive tax credits of 25% of eligible project costs, up to a maximum of \$500,000 in tax credits.
2. Tax credits can be used to offset the following Pennsylvania taxes imposed under Articles III, IV, VI, VII, VIII, IX, XV of the Tax Reform Code of 1971: Corporate Net Income; Bank and Trust Company Shares; Mutual Thrift Institutions; Insurance Premiums; Title Insurance Company Shares; or Capital Stock – Franchise.
3. Under the EZP, a Private Company may not receive more than \$500,000 in tax credits during any fiscal year of the Commonwealth. In addition, a Private Company that makes a Qualified Investment in an Enterprise Zone and, in addition, contributes to projects approved under NAP may not receive more than \$500,000 in tax credits for both programs during any fiscal year of the Commonwealth.
4. A Private Company may receive up to \$1,250,000 in tax credits for investments toward four (4) or more approved projects.
5. Tax credits not used by a Private Company in the year the Qualified Investment is made may be carried forward with the Department of Revenue for an additional four years.
6. In the case of a **Pass-Through Entity**, the Department of Revenue will grant a credit against the corporate net income or personal income tax, whichever is applicable, of the Pass-Through Entity's shareholder(s), member(s) or partner(s).

## F. Computation

1. Upon completion of the investment or at the end of the fiscal year in which a tax credit is being sought, the Department must receive documentation verifying that the planned investment has been made by the Private Company. A financial audit of the project, performed by an independent registered or certified public account, and a final report of the activities related to implementation of the project, must be submitted to the Department within 120 days after the project ending date.
2. If the audit indicates that eligible costs associated with the project are less than the amount approved in the original application, the Department may withdraw approval of the tax credits for which eligible costs were not incurred.
3. The final computation of tax credits is based on eligible project costs incurred within each approved budget category as shown in the audit.
4. Invoices are not accepted in lieu of an audit and final report.

## Section IV – EZP Application Content

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The following information is required for an EZP application. The ability to clearly describe a project by following the format below will increase competitiveness.

- A. **Place and Problem** – Describe the neighborhood in which this project will take place. Provide physical boundaries (street locations are ideal.) Include the specific location of the site and site characteristics such as the acreage or square footage. Describe the characteristics of blight or disinvestment that make this site appropriate for the proposed investment. Also include whether or not the proposed development of the site is consistent with any applicable comprehensive plan.
- B. **Project Narrative** – This section should serve as a concise description of the EZP project that is being proposed. Include a detailed project schedule of activities that includes the key milestones and dates for the investment.

Note whether or not the project is a Community Action Team (CAT) project or part of a larger CAT project. Describe the project's approach outlining the specific infrastructure and site development activities proposed for the site; the estimated start and end dates of construction; the existence or absence of already prepared sites within the county; whether the site has been identified as a priority investment in a local or regional economic development plan or strategy; and the potential employment opportunities to be realized as a result of the project. Also, specifically address the following questions:

- Is this new construction or a renovation/re-use of existing structures?
- A facility/property that will be used by the investor/applicant's own business?
- When the project is complete, will the property be re-sold in whole or part? If so, please detail any pre-sales and commitments secured at the time of application and provide documentation of same.
- When the project is complete, will the property be for rent/lease in whole or part? If so, please detail all leases, pre-leases, and/or commitments secured at the time of application and provide documentation of same.
- How many square feet of what kind of space is being built/renovated?
- Do you plan to sell the tax credit award in order to attract equity/cash needed to raise sufficient capital to complete the project?
- If the project will provide leasable space and commitments have been secured, who is the proposed tenant? How much space will the known tenants lease?
- If the project will provide space for re-sale or for lease/rent, AND commitments are not secured or cannot be documented, then the applicant must address the following items:
  - Is the project speculative or will it construct or renovate "Spec" buildings?
  - Detail your plan to attract buyers and/or tenants (as appropriate) to the space—Are commitments near? Is negotiation occurring? Has a target market for the space been identified? If so, what is it and why? Can a demand for the space being created been shown? Can it be assured that the completed project will not result in vacant or underutilized space?

- C. **Proposed Outcomes** – Describe the project’s quantifiable, measurable and achievable results. What will the impact of the project be on the place and the problem identified in the application? What will change? How will the impact and change be measured? Describe outcomes that are measurable, obtainable and clear, including the anticipated number of permanent jobs maintained and/or created.
- D. **Applicant Profile** – Include the most recent financial statements of the applicant, parent company(ies) (if for-profit applicant), and any proposed guarantors. Financial statements should include balance sheets, income statements, and notes to financials. Share a profile of the company that describes its commitment to the community.
- E. **Attachments** – Submit the following required attachments:
- Financial statements (detailed in Section D above)
  - A letter from the appropriate planning agency certifying that the proposed project is in compliance with the comprehensive land use plans and zoning and subdivision codes
  - Cost Estimates – A statement as to the estimated cost of the project. The estimate must be prepared by an engineer or other qualified professional and should be accompanied where appropriate by copies of the signed bids/quotations, contractor estimates, or sales agreements that verify project cost estimates
  - A letter of support from the Enterprise Zone Coordinator
  - Funding commitment letters from all other project funding sources if applicable (including equity commitments). Letters should include the term, rate, and collateral conditions, and must be signed and dated.
  - For a tax credit request exceeding \$250,000, include a projected cash flow analysis that includes all expenses and revenues covering the period of time from project commencement to lease-up/build-out and/or sale of the property.
  - EZP Budget form (included in these guidelines).

# Project Budget Justification

## Enterprise Zone Tax Credit Program

The project Budget Justification will detail by line item the basis for budget costs in the Enterprise Zone Tax Credit Program Project Budget. Indicate the cost per item in the space provided to the right of each item.

### Acquisition

Land .....\$ \_\_\_\_\_  
Buildings .....\$ \_\_\_\_\_

### New Construction

General Construction .....\$ \_\_\_\_\_  
Plumbing .....\$ \_\_\_\_\_  
Electrical .....\$ \_\_\_\_\_  
HVAC .....\$ \_\_\_\_\_  
Sprinkler System .....\$ \_\_\_\_\_  
Other (List) .....\$ \_\_\_\_\_

### Renovation

General Construction .....\$ \_\_\_\_\_  
Plumbing .....\$ \_\_\_\_\_  
Electrical .....\$ \_\_\_\_\_  
HVAC .....\$ \_\_\_\_\_  
Sprinkler System .....\$ \_\_\_\_\_  
Other (List) .....\$ \_\_\_\_\_

### Infrastructure/Site Preparation

Access Road (priv. alley/garage) \$ \_\_\_\_\_  
Parking .....\$ \_\_\_\_\_  
Water/Sewer .....\$ \_\_\_\_\_  
Utilities .....\$ \_\_\_\_\_  
Lighting .....\$ \_\_\_\_\_  
Demolition .....\$ \_\_\_\_\_  
Excavation/Grading .....\$ \_\_\_\_\_  
Environmental Cleanup ..\$ \_\_\_\_\_  
Landscaping .....\$ \_\_\_\_\_  
Other (List) .....\$ \_\_\_\_\_

### Related Costs

Professional Services ....\$ \_\_\_\_\_  
Design Costs .....\$ \_\_\_\_\_  
Development Plans .....\$ \_\_\_\_\_  
Engineering .....\$ \_\_\_\_\_  
Inspections .....\$ \_\_\_\_\_  
Fees .....\$ \_\_\_\_\_  
Insurance .....\$ \_\_\_\_\_  
Surveys .....\$ \_\_\_\_\_  
Test Borings .....\$ \_\_\_\_\_  
Legal Costs .....\$ \_\_\_\_\_  
Transfer Taxes .....\$ \_\_\_\_\_  
Other (List)\* .....\$ \_\_\_\_\_

**Total Project Cost** .....\$ \_\_\_\_\_

*\*Do not include contingencies*

# Project Budget Justification *(cont'd)*

## Enterprise Zone Tax Credit Program

The project Budget Justification will detail by line item the basis for budget costs in the Enterprise Zone Tax Credit Program Project Budget. Indicate the cost per item in the space provided to the right of each item.

### Sources

#### Private - Private Investment (list all sources separately)

*Private loans and mortgages:*

_____	.....	\$ _____
_____	.....	\$ _____
_____	.....	\$ _____
_____	.....	\$ _____

*Equity Contributions (include source of investment)*

_____	.....	\$ _____
_____	.....	\$ _____
_____	.....	\$ _____
_____	.....	\$ _____

**Total Private Sources** ..... \$ \_\_\_\_\_

#### Public

*DCED Sources of funding (by program):*

_____	.....	\$ _____
_____	.....	\$ _____
_____	.....	\$ _____
_____	.....	\$ _____

*Other Government Sources (Federal, State and Local):*

Federal	.....	\$ _____
State	.....	\$ _____
Local	.....	\$ _____

**Total Public Sources** ..... \$ \_\_\_\_\_

**TOTAL ALL SOURCES** ..... \$ \_\_\_\_\_

## Section V – Limitations

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- A. Tax credits will not be granted if the investment displaces residents, unless changes in neighborhood residential patterns demonstrably promote Neighborhood Conservation and positive measures are taken to assist in or minimize the cost of relocation of residents affected under a plan developed with and approved by a designated Neighborhood Organization.
- B. Tax credits may not be granted to Private Companies for equity contributions to low-income housing projects or other ventures under the EZP if the equity contribution also generates other state tax credits, such as Low-Income Housing Tax Credits (PHFA) or Historic Tax Credits for the Private Company.
- C. Tax credits granted under the EZP to a Private Company that is a partner in a limited partnership agreement formed for the purpose of developing affordable housing or other joint ventures, is limited to their direct investment in the project.
- D. The difference in the interest of a loan with lower than normal interest rates from a limited partner in a partnership formed for the purpose of developing affordable housing or other joint ventures, will not be considered an eligible tax credit investment for the EZP.
- E. Tax credits may not be granted to a Private Company requesting additional tax credits for physical improvements to buildings or land which have previously been awarded EZP tax credits for improvements to the same building or land. A building addition is not considered the same building.

## **Section VI – Contact Information**

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Questions as to the applicability of these provisions in specific instances should be directed to the DCED regional office nearest you:

Southeast Regional Office  
State Office Building  
1400 Spring Garden Street  
Philadelphia, PA 19130  
215-560-2256

Northeast Regional Office  
Oppenheim Building, 3rd floor  
409 Lackawanna Avenue  
Scranton, PA 18503  
570-963-4571

Central Regional Office  
Commonwealth Keystone Building  
400 North Street, 4th Floor  
Harrisburg, PA 17120-0225  
717-720-7300

Southwest Regional Office  
1405 State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222  
412-565-5002

Northwest Regional Office  
100 State Street, Suite 205  
Erie, PA 16503  
814-871-4241