



Ohio Air Quality Development Authority

Clean Air Improvement Program (CAIP) FAQ

1. What authority does the Ohio Air Quality Development Authority have and from where does it originate?

Pursuant to Ohio Revised Code Chapter 3706, the Authority has the ability to issue air quality revenue bonds, notes and refunded bonds for the purpose of paying any part of the cost of air quality projects. The issuance of air quality revenue bonds, in the role as a conduit issuer, is the predominant activity of the Authority. In addition, the Authority has statutory authority and is able to make loans and grants to governmental agencies for the acquisition and construction of air quality facilities. In addition, the Authority may make loans for air quality projects for industry, commerce, distribution or research, including public utility companies. The Authority also may acquire, construct and operate air quality facilities itself, and engage in research and development with respect to air quality facilities.

2. What is an “air quality facility” and how is it defined?

The definition of “air quality facility” is broad and includes “any property or system to be used in whole or in part for any of the purposes in divisions (G)(1) to (11)” of R.C. 3706.01. The purposes include projects that remove, reduce, prevent, contain, alter, store, disperse or convey the release of contaminants into the ambient air. The terms “air quality facility,” “air quality project” and “project” are synonymous in the statute.

The seven-member board of the Authority determines whether a proposed project or facility is an “air quality facility” as defined in the statute. The board is composed of five members appointed by the Governor (only three of whom can be from the same political party), as well as the director of the state Environmental Protection Agency and the director of the Department of Health.

3. To what extent do local entities have input in the Authority’s decision-making?

The Authority understands that local entities including school districts, municipalities, townships and counties often have plans or goals for certain pieces of property or developments. The Authority makes every effort to reach out to local officials and to weigh those considerations when determining potential funding of projects.

4. What is conduit financing?

Conduit financing is a means for private companies, nonprofit organizations and public entities to raise capital via bonds issued by a third-party (the “conduit issuer”) to finance projects.

Typically, when a conduit bond is issued, the entities that receive the funds from the issue are known as the conduit borrowers and are responsible for the interest and principal payments to the bondholders.

5. How does conduit financing through the Authority create a tax exemption?

Conduit financing through the Authority provides multiple benefits to air quality projects, including access to capital markets and validation of air-quality improvements.

By statute, property comprising an air quality project also is exempt from real property, personal property and sales-and-use taxes for the period in which the Authority-issued bonds are outstanding.

The statute provides a complete exemption for the qualifying property for the period when bonds are outstanding. The Authority does not have the ability to grant a partial exemption or a shorter term of exemption.

6. If a project is designated as an air quality facility, what is the tax exemption certificate and to what does it apply?

After closing, the Executive Director of the Authority provides a tax exemption certificate for the property comprising the project. The issuance of this certificate is statutorily required by ORC 3706.041(B). The tax exemption certificate is the document that attests to the exemptions from real property taxes, ad valorem taxes and sales and use taxes for the materials and property comprising the air quality project as designated by the Authority board.

7. What is the role of the county auditor and how does the county auditor handle the Authority tax exemption certificate?

The Authority provides a copy of the tax exemption certificate to the county auditor to document the exemption of the property comprising the project. However, the auditor still retains all of the authority granted to them by the Ohio Revised Code, including appraisal and valuation responsibilities. Notably, the determination that a project is an “air quality facility” and the issuance of a tax exemption certificate does not affect how a county auditor appraises the property to determine its incremental value above the pre-existing property value.

The certificate is not an endorsement of the Authority regarding any particular appraisal or valuation method.

8. To what extent can a tax exemption certificate be used to reduce sales tax and how does the process work?

This is determined on a case-specific basis and depends on the scope of the project as defined by the Authority board in the bond resolution. Generally, the exemption is intended to be used for parts and materials necessary to complete or install the project.

The certificate holder can provide the certificate to the project vendors in order to receive the sales tax exemption on purchases of qualified property for the project. The Authority recommends including clarifying language because these certificates are not in widespread use. For example, along with the certificate, the certificate holder could include a statement saying: "The items, materials or services comprise part of an "Air Quality Project" as certified by the Ohio Air Quality Development Authority on the attached Certificate of Air Quality Project, and are exempt from taxes pursuant to ORC Section 3706.041(B)."

The board retains the authority to limit the scope of the tax exemption to a certain date range, or certain components or parts.

9. Do the tax exemptions apply to replacement parts of an air quality project when purchased in the future?

Replacement components for air quality projects are not exempt unless specifically designated as part of the approved air quality facility by the Authority board. In the absence of a specific designation that replacement components are included in the board-approved project, only the initial components are eligible for the exemptions.

10. What steps does the Authority take to monitor projects by ensuring that they maintain their performance as an air quality facility and thus remain a benefit to the community?

The Authority has adopted a comprehensive set of guidelines called the Clean Air Improvement Program (CAIP). The CAIP guidelines include a section on measurement and verification, which requires validation of the declared air quality benefits by an assigned, independent engineering firm. Through industry standard protocols, the Authority can monitor and evaluate the air quality project's performance to ensure an ongoing benefit for the local community as well as investors.