

WATERFRONT DEVELOPMENT TAX CREDIT PROGRAM

Organization Guidelines | February 2018



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Section I – Introduction and Purpose

The Waterfront Development Tax Credit Program was established by Act 84 of 2016 (the “Act”) for the purpose of providing tax credits to business firms who provide contributions to waterfront development organizations who are undertaking waterfront development projects. The program was established to encourage private investment in waterfront property that creates public access to the water, increases property values, restores ecology and catalyzes further financial investment and job creation. The program is administered by the Department of Community and Economic Development.

Section II – General

A. Definitions

The following terms shall have the following meanings:

“Business Firms.” An entity authorized to do business in this commonwealth and subject to the following taxes: Personal Income Tax, Corporate Net Income Tax, Capital Stock/Foreign Franchise Tax, Bank and Trust Company Shares Tax, Title Insurance Companies Shares Tax, Insurance Premiums Tax, Mutual Thrift Institutions Tax, or the tax under Article XVI of the act of May 17, 1921 (P.L. 682, No. 284), known as The Insurance Company Law of 1921. The term includes a pass-through entity.

“Contribution.” A donation of cash or personal property made by a business firm to a waterfront development organization to fund a waterfront development project.

“Department.” The Department of Community and Economic Development of the commonwealth.

“Pass-through Entity.” Any of the following:

1. A partnership as defined under section 301 (n.0.) of the Pennsylvania Tax Reform Code of 1971 (Act of March 4, 1971, PL. 6, No. 2) (“PA Tax Code”).
2. A Pennsylvania S corporation as defined under section 301(n.1) of the PA Tax Code.
3. An unincorporated entity subject to section 307.21 of the PA Tax Code.

“Tax Credit.” The waterfront development tax credit authorized by Article XVIII-K of the Act.

“Waterfront.” A site that is directly adjacent to a body of water.

“Waterfront Development Organization.” An authority established under the act of December 6, 1972 (P.L. 1392, No. 298), known as the Third Class City Port Authority Act, or a nonprofit entity that meets all of the following:

1. Exempt from Federal taxation under section 501 (c) (3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. 501 (c) (3)),
2. Has been in existence for a minimum of five years,
3. Has a board of directors which meets at least once annually, and
4. Has completed a Waterfront Development Plan as defined below.

“Waterfront Development Plan.” A plan approved by the Department that meets all of the following:

1. Provides for the development or enhancement of Waterfront property that creates public access to the water, increases property values, restores ecology and catalyzes further financial investment and job creation to incentivize future economic development,
2. Adheres to current environmental practices,
3. Considers and integrates approaches that support natural and native habits, and
4. Considers and integrates architectural and landscape elements and standards.

“Waterfront Development Project.” A project to develop a Waterfront site or area or a project that creates or improves public access and connections to the Waterfront. The term may include:

1. Streets and public rights-of-way.
2. Waterfront parks, gardens and open space.
3. Enhancement of access to public utilities.
4. The promotion of erosion control, storm water management and other environmental projects that promote economic development.
5. Water transportation facilities for use by the public, including water transit landings and boat docking.
6. Amenities, including infrastructure and recreational projects.

B. Eligibility

Any organization (1) which has filed with the Department an initial application to qualify as a Waterfront Development Organization or has filed a renewal application with the Department to maintain eligibility as a Waterfront Development Organization and (2) whose initial application or renewal application has been approved by the Department is eligible.

C. How to Apply

A waterfront development organization shall submit an application for qualification as a Waterfront Development Organization and yearly shall submit an application for renewal as a Waterfront Development Organization to the Department by accessing www.esa.dced.state.pa.us.

The Department shall review and approve an application meeting the requirements of the Act on an on-going basis throughout the fiscal year.

D. Limitations

1. Contributions made to a Waterfront Development Organization must be used by the Waterfront Development Organization for a Waterfront Development Project that has been approved by the Department.
2. The total amount of all Tax Credits shall not exceed \$1,500,000 in any one fiscal year.
3. In any one fiscal year, the Department may not approve more Tax Credits for contributions made to a Waterfront Development Organization than the total aggregate cost of Waterfront Development Projects approved by the Department.
4. No more than 5% of the contributions received under this program may be used by the Waterfront Development Organization for administrative fees.
5. Tax Credits shall be made available by the Department on a first-come, first-served basis.

Section III – Application and Approval Process

Step 1 – Determination of Waterfront Development Organization

Application Requirements

If an organization desires to qualify as a Waterfront Development Organization under this program, the organization must submit an application to the Department with the following information:

1. The age of the organization.
2. The board of directors meeting schedule.
3. Waterfront development plans completed within the last five years.
4. A list of completed, ongoing and planned waterfront development projects.
5. Confirmation that the organization meets the definition of Waterfront Development Organization under the Act.
6. Any other documentation deemed necessary by the Department.

The application can be accessed at www.esa.dced.state.pa.us.

Step 2 – Approval Process

No later than 60 days after an organization has submitted an application to qualify as a Waterfront Development Organization, the Department shall notify the organization if the organization meets the requirements of Section 1704- K of the Act for the current fiscal year.

Step 3 – Submission of Waterfront Development Projects

After approval of an organization's application for qualification as a Waterfront Development Organization, the organization may submit, to the Department, waterfront development projects for approval by the Department.

Application Requirements

1. The location of the waterfront development project.
2. The type of waterfront development project.
3. A detailed description of the waterfront development project, including architectural and engineering drawings.
4. The status of the waterfront development projects.
5. The anticipated start date and completion date for the waterfront development project.
6. The life expectancy of the waterfront development project and a plan for maintenance following completion.
7. The estimated cost of the waterfront development project.
8. Analysis of the direct current and future economic benefits derived from the waterfront development project, including indirect and direct job creation projections.

9. The manner in which the waterfront development organization will do all of the following:
 - a. Verify eligibility of costs.
 - b. Monitor progress of the waterfront development project.
 - c. Assure that contributions received are used for the waterfront development project for which the contributions have been designated.
10. Any other information required by the Department.

Completed applications will be reviewed by the Department, in conjunction with the Department of Conservation and Natural Resources, and the Waterfront Development Organization will be notified within 60 days from date of receipt whether or not the waterfront development project described in the application meets the program requirements for the current fiscal year and these guidelines. If the waterfront development project application is disapproved, the notice of disapproval shall include the reasons for disapproval.

A Waterfront Development Organization may resubmit the waterfront development project application within 30 days after receipt of a notice of disapproval.

Step 4 – Renewal of Status

Renewal Requirements

A Waterfront Development Organization shall annually file a renewal application on a form provided by the Department to maintain eligibility as a Waterfront Development Organization. The renewal application shall include:

1. The total number of Waterfront Development Projects funded, by municipality, during the immediately preceding year,
2. The total amount expended for Waterfront Development Projects, by municipality, during the immediately preceding year,
3. The total amount expended on Waterfront Development Projects, attributable to tax credit contributions from Business Firms,
4. The number of Waterfront Development Projects completed, by municipality, during the immediately preceding year,
5. A copy of the Federal Form 990 or other Federal form of the waterfront development organization that indicates the tax status of the organization for Federal tax purposes, if any, and
6. A copy of compilation, review or audit of the financial statements of the Waterfront Development Organization conducted by a certified public accounting firm.

Step 5 – Completion of Project

Upon completion of a Waterfront Development Project approved by the Department, the Waterfront Development Organization shall submit written notice of project completion to the Department which notice will include the Project Completion Requirements.

Project Completion Requirements

1. Certification that the Waterfront Development Project is complete.
2. An upkeep and maintenance plan, if applicable, to the Waterfront Development Project.
3. Any other information required by the Department.

Waterfront Development Projects approved may be subject to inspection by the Department or its designated agent.

Section IV – Program Requirements

A. Contribution Receipts

The approved Waterfront Development Organization will be responsible for supplying a contribution receipt to the Business Firm which provided a contribution to the Waterfront Development Organization to fund a Waterfront Development Project approved by the Department. Receipts, on Waterfront Development Organization letterhead, shall include the following information: company name, the Waterfront Development Project funded, the amount of contribution and, if applicable, date of check, and date check received. Each Business Firm which makes a contribution should be receipted separately even if affiliated with another contributing Business Firm. The Waterfront Development Organization shall use the name by which it has approved by the Department for participation in the program on its receipts.

B. Conflict of Interest Provision

An officer, director, or employee of a Waterfront Development Organization who is a party to or has a private interest in a Waterfront Development Project shall disclose the nature and extent of the interest to the board of director of the Waterfront Development Organization and may not vote on action of the Waterfront Development Organization concerning the project, nor participate in the deliberations of the Waterfront Development Organization concerning the project.

C. Project Records

The Waterfront Development Organization must maintain full and accurate records with respect to a Waterfront Development Project and must ensure adequate control over related parties in the project. The Department requires access to such records, as well as the ability to inspect other relevant records, at reasonable times and places. Upon request of the Department, the Waterfront Development Organization must furnish all data, reports, contracts, documents, and other information relevant to the project.

Section V – Contacts

A. Program inquiries should be directed to:

Department of Community & Economic Development
Center for Business Financing
Waterfront Development Tax Credit Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, Pennsylvania 17120-0225

Phone: (717) 787-7120

Fax: (717) 772-3581

E-mail: ra-eitc@pa.gov

B. These guidelines can be accessed on-line at dced.pa.gov.

C. The Single Application for Assistance can be accessed on-line at www.esa.dced.state.pa.us.