



Colorado Economic Development Commission

Enterprise Zone Contribution Tax Credit Overview and Policies

This document outlines the requirements set by Colorado Revised Statutes 39-30-103.5, and the policies established by the Colorado Economic Development Commission (EDC), as authorized by C.R.S. 24-46-104, for the Enterprise Zone (EZ) Contribution Tax Credit. The EDC policies may be amended by the standing commission.

Intent

Enterprise Zone Contribution Projects encourage community participation and public private partnerships to revitalize Enterprise Zones. EZ Administrators may propose projects for EZ Project status for the purpose of implementing the economic development plan of that specific enterprise zone. EZ Administrators work with their communities to bring forward proposals that meet the economic development needs and have the support of the community. The project proposal form developed by OEDIT encourages the EZ Administrator to focus on how the proposed project implements the economic development plan outlined for the establishment of the Enterprise Zone and as updated in the Annual Report.

Income Tax Credit

Donors having made a certified contribution to an Enterprise Zone Contribution Project may claim 25% of a cash donation as an income tax credit, and half of that amount (12.5%) for an in-kind donation. The actual credit earned is figured based on all eligible contributions during the tax year, and capped at \$100,000 per tax-payer with the balance carried forward up to 5 years.

Project tax credit limitation

Projects are held to a \$750,000 tax credit limit per project (a Project is defined by the Project proposal form), per calendar year. Once \$750,000 in tax credits have been certified for an EZ Project, no more contribution tax credits can be awarded that year. It is primarily the responsibility of the Project Organization, with oversight by the local Zone Administrator and OEDIT to monitor contributions and stay within the credit certification limit.

Donations/Minimum Donation

The maximum or ceiling for a minimum contribution that any Enterprise Zone Project may set is \$250. This ceiling does not prohibit the certification of contributions below the \$250 ceiling should the EZ Administrator want to set a lower ceiling or have no minimum contribution requirement. This ceiling is intended to ensure that the credit is accessible to all Colorado tax payers wishing to support local economic development initiatives while making sure that the value of the contribution justifies the administrative costs including monitoring Project activity, processing certifications, and logging and reporting the tax credits certified. The ceiling for contribution minimums does not limit the amount that a donor may contribute, but requires that the EZ credit be available to donors regardless of the amount contributed.

An EZ Administrator may request approval from the EDC for a higher minimum for a specific Project. The request should include a compelling argument for setting a higher minimum. Such request may be made when the Project is first proposed or at the time of annual re-certification. A Project approved for a minimum contribution requirement above \$250 must request approval for that minimum annually at re-certification.

Fees charged to Organizations by the EZ Administrator

The local EZ Administrator is authorized by the statutes to charge reasonable fees to organizations for their oversight of the program. Each enterprise zone administrator that charges administrative fees shall



establish a reasonable policy regarding the imposition of such fees and shall submit the policy to the Colorado Economic Development Commission for review and approval. The EDC has authority to review, require modifications to, and approve any administrative fee policies. Fees will be disclosed on the credit certification form to the extent that it is accommodated by the Colorado Department of Revenue. As of January 2014, Contribution Project Fees are - Adams County EZ, none; Arapahoe County EZ, none; Denver EZ, 1% cash/stock; East Central EZ, none; Jefferson County, none; Larimer EZ, 3%; Mesa EZ, 1% cash/stock and \$1/form; North Metro, none; Northeast EZ, 5%; Northwest EZ, 1% + \$1/form; Pikes Peak EZ, 3.5% on cash and stock; Pueblo EZ, none; Region 10 EZ, 1% and \$1/form; San Luis Valley EZ, none; South Central, 1%; Southeast, \$5/form; Southwest EZ, 3% cash up to \$500; Upper Arkansas EZ, 5% cash up to \$1,000; Weld County EZ, 1.5%.

EZ Project Designation

The local EZ Administrator is responsible for implementing the EZ economic development plan. The Administrator decides which Projects are aligned with the economic development plan, gets the necessary support of their community and board, and brings those to the EDC for consideration. The EZ Administrator has authority to monitor and audit Project organizations and Project performance, and may take EZ Contribution Project status away from an organization that is not in compliance with the work and objectives outlined in the Project proposal or annual re-certification plan, or is otherwise not supporting the economic development plan for the EZ.

The EDC is charged with reviewing and approving projects proposed for EZ Contribution Project status by an EZ Administrator. The commission shall approve any program, project, or organization that it determines is eligible per the statutes or is essential to the mission of the EZ, upon a majority vote.

Project Location

Generally the project organization will be located within the enterprise zone and serve individuals and businesses within the enterprise zone. However, there are limited circumstances where an organization located outside of the enterprise zone may conduct programs within and benefit the enterprise zone.

When the Organization or a portion of their activity serves non-EZ areas, this must be noted on the Project Proposal form; EZ contribution credits will not be certified for non-EZ activity. Other funds must be available to cover non-zone related activities. For example, an eligible homeless organization's housing and employment support services must be located within a zone, or, if the housing is not within the zone boundaries, the organization's facility offering employment referrals, counseling, and training should be located in the zone. The project proposal form will indicate the percent of the organization's activity that impacts the EZ.

Additionally, Projects that operate in more than one EZ must be able to identify activity and contributions for each zone in which they operate – a separate Project will be established for each zone. This allows each zone administrator to evaluate the impact of the project within his/her EZ.

Project Structure

The organization running the project must be a nonprofit or government entity. Either the entire organization or a specific activity of the organization may be eligible for EZ Project status.

- Entire Organization
If the work of the organization as a whole is in line with the EZ's economic development objectives, then EZ Project status may be granted to the organization and donations may be used for general operations.



- **Specific Program or Project within an Organization**
Specific activity or work within an organization may support the economic development plans of the EZ. In this case only donations to the specific “approved purposes” as outlined in the EZ Project proposal will be certified for the tax credit. The recipient organization must maintain records and an accounting system to track funding sources and to associate the use of EZ contributions with the EZ Project.

Project Activity/Categories

EZ Contribution Projects must directly link to job creation and retention and/or business expansion in an Enterprise Zone. Furthermore, the Project must support the economic development goals established for the Enterprise Zone.

Direct employment of the sponsoring non-profit organization will not be used as the primary basis to qualify a Project, nor will construction employment tied to the Project.

The statutes outline certain project types as appropriate for EZ Project status; the EDC in conjunction with local administrators and OEDIT staff have outlined categories to make sure that Projects support economic development in the Enterprise Zones.

Categories:

Economic Development

- Business assistance. Examples include: business training and counseling, incubators, finance funds, and feasibility studies.
- Economic Development Organizations. Project status may be given to a public/private non-profit economic development organization.
- Job training programs .These projects focus on training a workforce for a critical industry in the EZ. Higher-education programs do not qualify within this category unless the institution has developed a targeted program in conjunction with an area business to address that business’ workforce needs.
- Infrastructure projects. Examples of infrastructure include water, sewer, transportation, telecommunications, and streetscapes.
 - Infrastructure must be publicly owned or turned over to a public entity upon completion of the project. It cannot be owned by a private business (e.x. Qwest, Comcast, etc.).
 - The proposal must demonstrate that no more than 50% of donations come from entities which have the potential for direct benefit from the project. For example, a real-estate developer may put in water systems and roads within and to their development, and donate this infrastructure to a city. It is a general requirement for many cities that the developer incur these costs; however, a city may incentivize a developer with the EZ Contribution Tax credit if at least 50% of the infrastructure cost is covered by donors unassociated with the development or who will not receive a direct benefit.
 - These proposals must have support of relevant public entities.

Community Development Projects

Projects under the broadly defined “Community Development” statutory project type must

- Contribute directly to job creation and retention and/or business expansion in the EZ. Neither jobs associated with the sponsoring non-profit organization, nor those for construction of a Project facility are considered job creation. The Project must impact the broader EZ community.
- These projects must also implement the adopted economic development plan for the EZ as described in the EZ Administrator’s annual report.



Specific sub-categories allowed under the Community Development category:

- Community Facilities – some facilities are essential to liveable and resilient communities; these keep people living in the area and those residents support service and retail businesses. Capital campaigns of a limited term to develop or refurbish community assets may be considered. Funding drives that support operations of key community facilities are also eligible to apply.
- Health Care Facilities. Facilities determined to be essential to the economic viability of an EZ community may be considered.
- Visitor Event/Attraction - These projects attract people to the enterprise zone and result in spending at other area businesses. These may be tourist attractions, museums and events.
- Higher Education – A project to support a capital campaign for building and/or equipment with a clear economic development link may be considered. Certain job training projects (see the Economic Development category) may be eligible. Academic, scholarship and endowment programs are not allowed.

Homeless Assistance

- Organizations that provide homeless services including job training, referrals, and housing in an Enterprise Zone are eligible. A homeless shelter must also provide non-housing assistance including job readiness or training, and job referrals or partnering with a local workforce center.

Specific categories NOT eligible for Contribution Project status:

- Child Care - Contributions to promote child care may be eligible for a separate statewide credit. See Department of Revenue FYI Income 35.
- K-12 and Higher-Ed programs and operations. Education is generally funded by the State via the Long Bill.
- Humane Societies and Animal Shelters – The tie to economic development is too indirect.

Project Monitoring & Annual Review/Recertification

Each autumn, OEDIT staff will prompt local EZ Administrators to review their active EZ Contribution Projects to evaluate their reporting and certification compliance and the Project's effectiveness in supporting the EZ economic development plan. A list of selected Projects will be submitted to OEDIT for review, and then will be presented to the EDC for consideration and recertification for EZ Contribution Project status in the coming calendar year.

A Project that has not certified EZ contribution tax credits in the last 2 years will lose EZ Contribution Project status.

It is the responsibility of the Organization, the EZ Administrator, and OEDIT (in that order) to make sure that a Project does not exceed certifying \$750,000 in credits in a calendar year.

Project Critical Review

Projects that reach \$1,000,000 in cumulative tax credits certified will undergo a critical review of what has been accomplished. OEDIT staff will inform the EDC of projects reaching this threshold after compiling bi-annual certifications and/or at re-certification. The EDC will either request a report or request that a representative of the project attend an EDC meeting to present on project accomplishments. During a critical review, a project can make a request to continue as a Contribution Project, and based on project performance and future plans, the EDC can approve or deny this request.



Direct Benefit to Contributor

The statute provides that no credit is to be “allowed for contributions that directly benefit the contributor.” When a donor receives a benefit, such as a dinner, the recipient organization must deduct the value and note the net contribution value on the EZ certification form and other documentation for the donation. For community infrastructure development projects, the commission has approved a compromise that may allow a donor to receive a direct benefit to their real estate development project. As long as the project has matching support from donors who do not directly benefit or are a non-profit and/or a government organization. This may allow zone administrators to fund critical economic development projects that would not otherwise occur. Statute states:

C.R.S. 39-30-103.5(4) In no event shall credits be allowed pursuant to this section for contributions that directly benefit the contributor or that are not directly related to job creation, job preservation, or other purposes specified in subsections (2), (3), and (3.5) of this section.

Infrastructure and Job Training projects have been found to create the potential for donors to receive a direct benefit from the donation being made. Projects proposed after January 1, 2008 which have the potential to result in a direct benefit to the donor, have additional reporting and monitoring requirements.

1. At the time of the project proposal the zone administrator should indicate on the application form the potential for direct benefit to accrue to potential donors.
2. All project donors must submit the Affidavit for Direct Benefit with all donors identified as having the potential for direct benefit.
3. Administrators will hold certification until the end of the calendar year for donors proclaiming their potential to receive a direct benefit. At year end the administrator may certify credits for donations up to a 1-to-1 match from donors not receiving a direct benefit (including amounts from certification forms and other non-profit and government sponsorship).