



COLORADO

Office of Economic Development
& International Trade

Business Funding & Incentives

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. Contribution Projects aim to focus community engagement on an issue or opportunity to elicit a shift, create something, and accomplish a stated goal within a defined time period. Projects need to focus on improving economic conditions and have measurable outcomes. The goal is to garner public participation and contributions for projects that improve the economy for the benefit of the broader community. Enterprise Zone Administrators are focused on managing this program with a strong ethic and focus on job creation/retention and business expansion. Zone Administrators have ownership for projects, establishing project parameters and helping the projects succeed in terms of economic development outcomes. Administrators are focused on implementing the economic development plan for the EZ. Projects must address the economic development plan and be referenced in the project application. Appropriate economic development plans include the OEDIT supported Blueprint, the federal EDA CEDS, and the annual EZ ED plan. 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 encourages the EZ Administrator to focus on how the proposed project implements the economic development plan, supports job creation, retention, and business expansion and calls for measurable outcomes.

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.

Direct Benefit to Contributor Deducted from Donation

The statutes provide that no credit is to be “allowed for contributions that directly benefit the contributor.” When a donor receives a benefit, the value of the donation shall be reduced by the benefit received or attributable to the donor to arrive at a contribution that may be certified for the tax credit. For example, a donor who attends a fund raising dinner donates \$1,000 to attend the event; the contribution eligible for the tax credit will be \$925 if the dinner itself is valued at \$75.

Capital infrastructure projects (as defined below) typically have beneficiaries. The number of beneficiaries and the distribution of the benefit will be considered and documented in the project proposal. Benefits may be evenly distributed, or may accrue to one entity more than to others. The proportional benefit of a project donor will be applied to and reduce the value of the contribution. In some cases the proportional benefit may be negligible.

Donations to all projects are evaluated by the EZ Administrator before certifying the contribution. When a direct benefit is attributable to the donor, the original donation value, the value of the direct benefit (including calculations and assumptions), and the final contribution value will be documented. The credit is certified for the final contribution value.

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 to 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 or Project Organization 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 November 2016, Contribution Project Fees are - Adams County EZ, 1.5% on infrastructure projects; Arapahoe County EZ, none; Central Colorado EZ, 5% on cash up to \$1000; Denver EZ, 1% cash/stock; East Central EZ, none; Jefferson County, none; Larimer EZ, 3%; Mesa EZ, 1% cash/stock and \$1/form (max. of \$500 per donation); North Metro, none; Northeast EZ, 5%; Northwest EZ, 1% + \$1/form; Pikes Peak EZ, 3.5% on cash and stock; Pueblo EZ, 1.5% cash up to \$1,000/project/year; Region 10 EZ, 1% and \$1/form; San Luis Valley EZ, 1.5% up to \$2,000/project/year; South Central, 1%; Southeast, \$5/form; Southwest EZ, 3% cash up to \$500; Weld County EZ, 1.5%.

EZ Project Designation

The local EZ Administrator is responsible for implementing their 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 local zone administrator will bring forward to OEDIT staff and peer EZ administrators any proposed new project. This review committee will consider the application, offer feedback to tighten the economic development focus and to improve project goals and metrics when warranted. Proposals that

receive the approval of the review committee will be presented to the Economic Development Commission (EDC).

The EDC is charged with reviewing and approving projects proposed for EZ Contribution Project status by an EZ Administrator. OEDIT may present project proposals on behalf of the review committee and EZ Administrator to the EDC throughout the year. 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 as a percent of the organization's total activity; 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 Term

Projects can be approved for a maximum 5 year term. This encourages the Administrator and Project representative to set near-term objectives, and to recognize that Projects are not intended to be on-going, but instead to rally community participation for a specific achievable near-term objective. Given common non-profit fundraising calendars and the statutory guidelines for project eligibility, projects will have a month and date end of 12/31. A project can be recommended for less than a 5 year term, but the year end-date at a maximum is the year approved + 5. For example, a project approved by the EDC on 3/15/2017 can have a maximum end date of 12/31/2022.

This term limit applies to both Capital and Operations projects and to all categories and sub-categories.

A zone administrator may present a new application for an existing project prior to its end-date if there is good reason to continue the project activity without a break.

Note to bring existing projects into compliance with the 5 year term limit, Projects with "on-going" status (or no end-date) will have phased end-dates allowing the organizations time to plan for impacts on fund-raising and to acknowledge the calendar year planning for contribution solicitations. Projects approved prior to the year 2000 (104 projects) will receive an end-date of 12/31/2018. Projects approved from 2000 through 2005 (84 projects) will receive an end-date of 12/31/2019. Projects approved from 2006 and 2010 (92 projects) will receive an end-date of 12/31/2020. Projects approved from 2011 through 2014 (114 projects) will receive an end-date of 12/31/2021. Projects approved in 2015 and 2016 (102 projects) will receive an end-date of 12/31/2022.

Project Monitoring & Annual Review/Recertification

Each autumn, OEDIT staff will prompt local EZ Administrators to review their active EZ Contribution Projects to evaluate the performance, reporting, and certification compliance. Each Administrator must review each project by meeting, phone call, or some survey mechanism. The EZ Administrator will

review with the Organization the activities conducted, how these activities are addressing the economic development goals for the EZ, and performance metrics related to job creation/retention and business expansion in the EZ. The Organization contact information will be updated as needed, and EZ program reporting and compliance will be reviewed. Zone administrators are encouraged to review and renew MOUs or agreements that they have with the Project Organization.

A zone administrator may choose to conclude a Project if it is not meeting expectations or is otherwise out of compliance with program guidelines. The administrator will share results of the Project review with OEDIT. Per statutes, OEDIT will present the annual review to the EDC as a list of Projects including how the project supports the EZ economic development goal, the Project objectives, and estimated contributions for the coming year. The EDC shall approve Projects it determines are eligible and essential to the mission of the EZ by majority vote of the members of the commission present. Project Activity Level - the level of expected and necessary activity is always at the discretion of the EZ Administrator. The Administrator is interested in contributions being solicited so that Project activity is taking place and making a positive impact in the EZ. The activity level will be evaluated at least annually during the re-certification of projects for the coming calendar year. For projects active for at least 12 months, it is expected that there be at least 5 taxpayers contributing or \$5,000 received during the past year.

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 EZ Administrator and the Organization decide on what percent of the organization's work is related to the EZ Project. This percent can be used to justify what portion of an organization's revenue or donations are to receive the EZ Contribution 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 Types & Categories

First, the Organization running the Project must be a non-profit or a governmental entity in good standing with the Secretary of State.

Second, a Project must support the documented economic development goals for the Enterprise Zone. A Project might not comply with the types and categories outlined below, if it is in line with specific and documented economic development objectives for the zone.

Third, a Project must link to job creation and retention and/or business expansion in the broader Enterprise Zone, not only at the Project Organization.

Fourth, the project will generally comply with the following types and categories. Statutes outline certain project types as appropriate for EZ Project status; the EDC in conjunction with local administrators and OEDIT staff have further defined eligible types and categories.

Type: Capital Campaign. Projects encourage public/private partnerships and are focused on raising funds for a specific capital project that will serve the broader community, and where construction or implementation will begin within 5 years.

- **Category: Community Facility.** A new or improved facility that enhances the local economy. The Project may address a variety of unmet community needs that keep people living in the area and where those residents support local service and retail businesses. Facilities may include social/human service facilities like health care, child care, elder care, and recreation facilities, and community event/meeting space. We anticipate that proposals within Enhanced Rural Enterprise Zones may receive consideration where a similar project in a less distressed community would not.
- **Category: Workforce Housing.** Housing and infrastructure for the housing.
- **Category: Tourist Attraction.** A new or improved facility that draws outsiders in and brings revenue into the community at large. Projects may address a variety of economic opportunities – Facilities may include museums, fairgrounds, and other facilities that bring tourism to an EZ.
- **Category: Infrastructure.** Infrastructure includes networks or systems such as water, sewer, transportation, telecommunications and streetscapes that serve the larger public.
 - Infrastructure must be publicly owned or turned over to a public, co-op, or non-profit entity upon completion of the project. It cannot be owned by a private business (ex Qwest, Comcast, etc.).
 - Projects must have the support of relevant public entities.
 - Projects benefit the larger public.
 - A donor that directly benefits from the project will have the value of his donation reduced by the donor's proportion of the benefit. The number of beneficiaries and the distribution of the benefit play into quantifying any direct benefit that will reduce a donor's contribution. See section above on direct benefit.
 - Infrastructure projects that predominantly benefit a limited private interest are not eligible.

Type: Operations. These projects attract additional resources to activities promoting new economic activity in the zone and to reach a near-term goal.

- **Category: Business Assistance.** Organizations that serve businesses with training, counseling, financing, feasibility studies, and other resources. Entrepreneurship programs. Incubators.
- **Category: Economic Development Organizations.** Organizations and offices dedicated to economic development of a region.
- **Category: Job training programs.** These projects focus on training EZ residents or a workforce for a critical industry in the EZ. These projects are vocational in nature and may be 2-year training programs for skilled positions.

A Project may fund a higher education program developed in conjunction with a business in the EZ to train the local workforce. Such a proposal will include a letter of support from the local workforce organization highlighting the community need and benefit and referencing the economic development goal addressed. A project cannot be created solely to train employees of a single business – the EZ job training tax credit supports businesses in training their employees.

Project status will not be given to a higher education institution as a whole.

- **Category: 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. These projects track and document the impact of outside visitors to the EZ.

- Category: Healthcare. Projects may support healthcare operations when healthcare access is an issue in the community such that it is hindering economic development. Objective indicators of inadequate service can be used to support an application for Contribution Project designation, like the Health Professional Shortage Area designation (HPSA). HPSA designation is given by the Colorado Department of Public Health & Environment (CDPHE); HPSA areas document populations with high rates of: poverty, seniors (over age 65), infant mortality rates, population to provider ratios. Facilities obtain HPSA designation by providing care to the residents of a HPSA and meeting insufficient capacity criteria.
- Category: Homeless Housing and Employment Services. These projects improve economic conditions in the Enterprise Zone by providing housing and service that result in positive employment outcomes for the homeless as authorized by C.R.S. 39-30-103.5 (3).
 - 1) A Project must include the provision of housing. This housing is temporary, emergency, or transitional. Such housing supports individuals and families in transitioning to independent housing and employment. Day shelters are a form of emergency/temporary/transitional housing.
 - a) Project location guidelines are given elsewhere in this policy document, but are clarified here as project location relates to housing the homeless as an economic development activity. These contribution projects will provide housing:
 - i. within the EZ boundary
 - OR
 - ii. in geographic proximity to the EZ, drawing in homeless people that congregate in the EZ.
 - 2) The Project must include the provision of or referral to services, including at least one of these:
 - a) child care,
 - b) job placement.
 - c) counseling services for the purpose of promoting employment, which may include services that stabilize the person, such as substance abuse or mental health treatment or services, and soft-skill development.

The objective of these Projects is to move clients to successful housing and employment outcomes. Specific targets must be set in the project application and tracked and evaluated in each annual report.

- 3) The following metrics must be tracked:
 - a) the # of individuals or families provided housing
 - b) # or rate of individuals or families moving on to independent housing
 - c) direct client assistance utilization of services identified in 2, above
 - d) successful income outcomes or job placements.

Note: Providers may partner on a Project to provide the required housing and services.

Specific categories NOT eligible for Contribution Project status. Social services (not identified in the sub-categories above) that generally strengthen a community and promote opportunity, though important, are generally not eligible for Enterprise Zone project status. The Enterprise Zone program is focus on achieving near-term economic development improvements. Ineligible social services include education,

food subsidies and food banks, child care and youth activities, elder care, homeless prevention, and most human services. Animal shelters and humane societies are ineligible. There may be rare situations where the activities identified in this paragraph do support the local economic plan, and therefore may be considered for EZ Contribution Project status.

Finally, the proposal must have the support of the Zone Administrator and the community (a board or public official).