

Missouri Quality Jobs Program Guidelines

Authorization: 620.1875-620.1890, RSMo

Eligibility

Eligible Areas: Anywhere in the state of Missouri.

Eligible Businesses: For-profit and non-profit businesses except for gambling, retail trade, food and drinking places, public utilities (including water and sewer), educational services, religious organizations, public administration, companies that are delinquent in non-protested taxes or other payments (state, federal or local), or any company that has filed for or has publicly announced its intention to file for bankruptcy. Effective August 28, 2008, ethanol distillation or production and biodiesel production facilities will not be eligible to participate in this program. The headquarters or administrative offices of excluded businesses may qualify if the facility serves a multistate territory. The average wage of the new jobs at the project facility must equal or exceed the county average wage (as published by DED), and the company must offer health insurance and pay at least 50% of the premium for all full-time employees of all facilities located in the state.

Multiple Companies: If more than one company is located at the project facility, all may qualify as one project as long as certain conditions are met. These conditions include that the companies located at the project facility must be wholly owned subsidiaries of the same parent company. The parent company must be listed as the applicant on the Notice of Intent, with the subsidiaries also listed in the appropriate section of the application. A copy of the organization chart illustrating the company ownership structure must be attached to the Notice of Intent.

Multiple Facilities: More than one facility may be considered the same project facility for program purposes. The facilities must be located within one mile of each other and engaged in the same type of business activity to be considered the same project facility. A statutory change that will become effective August 28, 2008, will allow facilities located within the same county to be considered as the same project facility if engaged in the same type of business activity.

To qualify, the company must create a minimum number of new jobs at the project facility prior to the “deadline” date, based on the type of project:

1) Small/Expanding business project:

- Rural areas: 20 or more new jobs within two years of the date of the DED approval.
- Non-rural areas: 40 or more new jobs within two years of the date of the DED approval.

*Non-rural areas include the counties of Boone, Buchanan, Clay, Greene, Jackson, St. Charles, and St. Louis City and County.

2) Technology business projects (classified by NAICS codes and statute):

- 10 or more new jobs within two years of the date of the DED approval.

3) High Impact business projects:

- 100 or more new jobs within two years of the date of the hiring of the first new job, and the first new job must be within one year of the date of the DED approval.

Program Benefits

For “Small/Expanding” business projects, the benefits of the program are the retention of the state withholding tax of the new jobs. For “Technology” and “High Impact” business projects, the benefits of the program are (a) the retention of the state withholding tax of the new jobs; and (b) state tax credits, which are refundable, transferable and/or sellable. The program benefits are based on a percentage of the payroll of the new jobs. The program benefits are not provided until the minimum new job threshold is met and the company meets the average wage and health insurance requirements. The program benefits are calculated as follows:

1) Small/Expanding business project:

Retain 100% of the withholding tax of the new jobs each year for:

- Three years - if the average wage of new jobs is 100-119% of county average wage); or
- Five years - if the average wage of new jobs is 120%+ of county average wage).

2) Technology business project:

- 5% of the payroll of the new jobs each year for five years plus “**Average Wage Bonus**”.
- Maximum annual tax credits per company are \$500,000. No limit on the withholding tax.

3) High Impact business project:

- 3% of the payroll of the new jobs each year for five years plus “**Average Wage Bonus**” plus “**Local Incentives Bonus**”
- Maximum annual tax credits per company are \$750,000 (or \$1 million, if approved by the Quality Jobs Task Force). No limit on the withholding tax.

“**Average Wage Bonus**” (average wage of new jobs as a percentage of the county average wage):

Greater than 120% and up to 140%: 1/2 % bonus of payroll of the new jobs.

Greater than 140%: 1% bonus of payroll of the new jobs.

“**Local Incentives Bonus**” (amount of local incentives provided to the project as a percentage of the amount of new local tax revenues derived from the project, over 10 years):

10-24%: 1% bonus of payroll of the new jobs.

25-49%: 2% bonus of payroll of the new jobs.

50% or more: 3% bonus of payroll of the new jobs.

There is no limit on the number of periods a qualified company may participate in the program, as long as the minimum thresholds are achieved, the qualified company provides the department with the required reporting and is in proper compliance for this program or other state programs. A qualified company may also elect to file a Notice of Intent to start a new project period concurrent with an existing project period if the minimum thresholds are achieved. The qualified company must provide the department with the required reporting and be in proper compliance for this program and other state programs; however, the qualified company may not receive any further benefit under the original Notice of Intent for jobs created after the date of the new Notice of Intent, and any jobs created before the new Notice of Intent may not be included as “new jobs” on the new Notice of Intent.

Special Program Requirements

A business may not simultaneously earn benefits of this program and any of the other state programs listed below at the same project facility:

- Enterprise Zone program
- Enhanced Enterprise Zone program
- Business Facility program
- Rebuilding Communities program
- Brownfield Jobs and Investment program

Special conditions apply when Quality Jobs is used at the same time as other programs that affect state withholding taxes (New Jobs Training, State TIF, MODESA).

Applying – Sequence of Events

All applications for this program can be found on the Quality Jobs page of the department’s web site at www.missouridevelopment.org.

Notice of Intent. The qualified company must submit a Notice of Intent, which must be approved by the department. **The Notice of Intent must be submitted prior to the hiring of the new jobs.** The project facility base employment number will be established based on the higher of the number of employees at the project facility on the day that the department receives the Notice of Intent or average employment at the project facility for the twelve months prior to application (if the project facility has been operating for less than twelve months, the average number of employees for the number of months the project facility has been in operation). Notices of Intent will be accepted at any time of the year and will be approved or rejected within 30 days of receipt based on compliance with all program criteria. Approvals will confirm eligibility, the type of business project, the project facility base employment; establish the two-year deadline date for meeting the minimum new job threshold; and reserve the estimated tax credits for the project. Tax credits are limited to new job and average wage projections as presented by the company in the Notice of Intent and are subject to funding availability. Withholding tax benefits are unlimited and can be retained on all new jobs.

Certification & E-Verify. By signing the Notice of Intent, the company is certifying that the organization does not employ illegal aliens (undocumented workers) and that the information contained in the application is true, correct and complete.

- In addition to certifying that your organization does not employ illegal aliens, **all applicants must:** 1) enroll in E-Verify, 2) check the box on the Certification confirming enrollment and participation in E-Verify, and 3) provide supporting documentation.
- The **E-Verify Program**, conducted jointly by the U.S. Citizenship and Immigration Services (USCIS) Verification Division and the Social Security Administration (SSA), is designed to provide employment status information to determine the eligibility of applicants for employment.
- E-Verify requires that participating commercial employers use the automated Verification Information System (VIS) to check the SSA and the USCIS databases to verify the employment authorization of ALL newly hired employees.

An employer's participation in E-Verify is currently free. To access the E-Verify website, go to: https://www.vis-dhs.com/employer_information.htm.

Application to Retain Withholding Taxes. After meeting the minimum new job threshold, the qualified company must submit Application to Retain Withholding Taxes. The department will review the application. If all program criteria are met, the DED will notify the Department of Revenue (DOR) that retention of state withholding taxes on new jobs may begin. DOR will issue a confirmation to the qualified company authorizing the retention. Once the confirmation has been received, the company may begin retaining the state withholding tax of the new jobs for the three- or five-year project period, provided all program criteria continue to be met.

The company is required to remit payment of state withholding tax on jobs considered as project facility base employment, for jobs that are not located at the project facility (the facility address noted on the approval letter) or jobs that do not meet all program criteria.

If the company retains withholding tax on jobs that are not eligible for program benefits, the company will be required to amend the Employer's Return of Income Taxes Withheld (Form MO-941) and MO-QJP forms and will be responsible for payment of the withholdings and any accrued interest and penalty.

In the event the qualified company does not meet the minimum program requirements, the qualified company may submit a new Notice of Intent if there is expected to be a new expansion that will meet the program requirements. If a high impact project does not meet the minimum new job requirement, the project may become a small/expanding business project, as long as all of the program requirements for this project type are met.

Annual Report/Application for Tax Benefits. After the qualified company has begun receiving program benefits, the qualified company shall provide an annual report of the number of new jobs and the new payroll at the project facility, and other information that may be required by the department each year within 30 days of the end of the company's tax year.

For technology and high impact projects, the qualified company must complete sections on this application to determine the amount of any difference between the withholding taxes retained and the amount of benefit allowed. The department shall issue a refundable, transferable and/or sellable tax credit for any difference. High impact projects must provide adequate documentation of local incentives with the application in order to receive the local incentives bonus.

Tax Credits

Claiming: To claim earned tax credits, enter the amount of the tax credit being claimed on the Missouri Form MO-TC and on the appropriate line of the state tax return.

If more than one company/facility is considered as one project for purposes of this program, one tax credit will be issued to the parent company.

Refund: The Department of Revenue will issue a refund to the taxpayer for the amount of tax credits that exceeds the amount of the taxpayer's income tax liability.

Transferring: To transfer any part of this tax credit, you must complete Missouri Form MO-TF. Upon receipt of the MO-TF, the transferor will be notified of the remaining portion of tax credits not transferred, if any, and the transferee will be notified of the amount of tax credits transferred.

Eligible Use of Tax Credits: This tax credit can be applied to Chapter 143 (state income tax, excluding withholding tax) and Chapter 148 (financial institutions tax). Tax credits can only be applied to tax liability for the year in which they were earned. Any unused balance is refundable.

Tax credits must be claimed within one year of the close of the taxable year that they were issued. The credits may also be transferred, sold or assigned.

Issuance Fee: Effective August 28, 2005, and pursuant to Section 620.1900, RSMo, this tax credit program is subject to a fee of 2.5% of the amount of tax credits issued. Applicants will be invoiced for the fee after the tax credit application has been approved. Tax credits will be issued upon receipt of the fee. This fee applies to tax credits only, not retention of withholding taxes.

Funding Limits

There is no annual cap on the retained state withholding taxes. Tax credits issued for the entire program shall not exceed \$40 million per calendar year, which is provided on a first-come basis. Effective August 28, 2008, the tax credit cap will be increased to \$60 million per calendar year.

Definitions

"Approval", a document submitted by the department to the qualified company that state the benefits that may be provided by this program.

“Average wage”, the new payroll divided by the number of new jobs.

“Commencement of operations”, the starting date for the qualified company’s first new employee, which must be no later than twelve months from the date of the department’s approval of the Notice of Intent.

“County average wage”, the average wages in each county as determined by the department for the most recently completed full calendar year. However, if the computed county average wage is above the statewide average wage, the statewide average wage shall be deemed the county average wage for such county for the purpose of determining eligibility. The department shall publish the county average wage for each county at least annually. Notwithstanding the provisions of this subdivision to the contrary, for any qualified company that in conjunction with their project is relocating employees from a Missouri county with a higher county average wage, the company shall obtain the endorsement of the governing body of the community from which jobs are being relocated or the county average wage for their project shall be the county average wage for the county from which the employees are being relocated.

County average wages (effective until 7/1/2009):

Average county wages based on Census of Employment and Wages, MERIC. Updates to be made annually. Use 2,080 hours per year when converting from hourly to annual wages.

County	Annual Avg. Wage
<i>Franklin</i>	<i>\$31,124</i>
<i>Jefferson</i>	<i>\$29,197</i>
<i>Lincoln</i>	<i>\$29,994</i>
<i>St. Charles</i>	<i>\$37,237</i>
<i>St. Louis City</i>	<i>\$49,834</i>
<i>St. Louis Co.</i>	<i>\$47,789</i>
<i>Warren</i>	<i>\$28,119</i>
<i>Washington</i>	<i>\$21,807</i>

- Statewide average of \$38,885 applicable to any county over the statewide average when determining program eligibility.

If a project is moving from one Missouri county to another county with a lower county average wage, the company must obtain endorsement from the governing body of the community where the jobs are located, or the higher county average wage will be used for calculations.

“Department” the Missouri department of economic development.

“Director”, the director of the department of economic development.

“Employee”, a person employed by a qualified company.

“Full-time employee”, an employee of the qualified company that is scheduled to work an average of at least thirty-five hours per week for a twelve month period, and one for which the qualified company offers health insurance and pays at least fifty percent of such insurance premiums.

“High impact project”, a qualified company that, within two years from commencement of operations, creates one hundred or more new jobs.

“Local incentives”, the present value of the dollar amount of direct benefit received by a qualified company for a project facility from one or more local political subdivisions, but shall not include loans or other funds provided to the qualified company that must be repaid by the qualified company to the political subdivision.

“NAICS (North American Industry Classification System)”: The Federal Office of Management and Budget (OMB) adopted the NAICS as the industry classification system used by the statistical agencies of the United States. NAICS replaces the 1987 Standard Industrial Classification (SIC). The NAICS is used for classifying business establishments to assist with gathering data related to measuring productivity, unit labor costs, and the capital intensity of production, employment and other information. Missouri businesses are assigned a NAICS when the company files a “Report to Determine Liability Status” with the Missouri Department of Labor and Industrial Relations, Division of Employment Security to determine Unemployment Tax Liability. Normally, a general business employer becomes liable for the tax and responsible for providing unemployment insurance for its workers when it:

- Pays \$1,500 in wages (cash and in-kind) in a calendar quarter, or
- Has an employee in some portion of a day in each of 20 different weeks, or
- Becomes liable under the Federal Unemployment Tax Act (FUTA) and employs a worker in Missouri, or
- Acquires and continues without interruption substantially all the business of a liable employer.

“New direct local revenue”, the present value of the dollar amount of direct net new tax revenues of the local political subdivisions likely to be produced by the project over a ten-year period as calculated by the department, excluding local earnings tax, and net new utility revenues, provided the local incentives include a discount or other direct incentives from utilities owned or operated by the political subdivision.

“New investment”, the purchase or leasing of new tangible assets to be placed in operation at the project facility, which will be directly related to the new jobs.

“New job”, the number of full-time employees located at the project facility that exceeds the project facility base employment less any decrease in the number of full-time employees at related facilities below the related facility base employment. No job that was created prior to the date of the notice of intent shall be deemed a new job.

An employee that spends less than fifty percent of the employee's work time at the facility is still considered to be located at the facility if the employee receives his or her directions and control from that facility, is on the facility's payroll, one hundred percent of the employee's income from such employment is Missouri income, and the employee is paid at or above the state average wage.

"New payroll", the amount of taxable wages of full-time employees, excluding owners, located at the project facility that exceeds the project facility base payroll. If full-time employment at related facilities is below the related facility base employment, any decrease in payroll for full-time employees at the related facilities below that related facility base payroll shall also be subtracted to determine new payroll.

"Notice of Intent", a form developed by the department, completed by the qualified company and submitted to the department which states the qualified company's intent to hire new jobs and request benefits under this program.

"Percent of local incentives", the amount of local incentives divided by the amount of new direct local revenue;

"Program", the Missouri quality jobs program provided in sections 620.1875 to 620.1890, RSMo.

"Project facility", the building used by a qualified company at which the new jobs and new investment will be located. A project facility may include separate buildings that are located within one mile of each other such that their purpose and operations are interrelated.

Effective August 28, 2008 ---- "Project facility", the building used by a qualified company at which the new jobs and new investment will be located. A project facility may include separate buildings that are located within one mile of each other *or within the same county* such that their purpose and operations are interrelated.

"Project facility base employment", the greater of the number of full-time employees located at the project facility on the date of the Notice of Intent or for the twelve-month period prior to the date of the department's receipt of the Notice of Intent, the average number of full-time employees located at the project facility. In the event the project facility has not been in operation for a full twelve-month period, the average number of full-time employees for the number of months the project facility has been in operation prior to the date of the department's approval of the Notice of Intent.

"Project facility base payroll", the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at the project facility in the twelve months prior to the Notice of Intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of base payroll shall increase each year based on an appropriate measure, as determined by the department.

“Project period”, the time period that the benefits are provided to a qualified company.

“Qualified company”, a firm, partnership, joint venture, association, private or public corporation whether organized for profit or not, or headquarters of such entity registered to do business in Missouri that is the owner or operator of a project facility, offers health insurance to all full-time employees of all facilities located in the state, and pays at least fifty percent of such insurance premiums. For the purposes the sections 620.1875 to 620.1890, the term “qualified company” shall not include:

- a) Gambling establishments (NAICS industry group 7132);
- b) Retail trade establishments (NAICS sectors 44 and 45);
- c) Food and drinking places (NAICS sub sector 722);
- d) Public utilities (NAICS 221 including water and sewer services);
- e) Any company that is delinquent in the payment of any nonprotested taxes or any other amounts due the state or federal government or any other political subdivision of this state or;
- f) Any company that has filed for or has publicly announced its intention to file for bankruptcy protection.
- g) Educational services (NAICS sector 61);
- h) Religious organizations (NAICS industry group 8131); or
- i) Public Administration (NAICS sector 92).

Effective August 28, 2008, the following exclusions will be added:

- j) Ethanol distillation or production; or
- k) Biodiesel production.

Notwithstanding any provision of this section to the contrary, the headquarters or administrative offices of an otherwise excluded business may qualify for benefits if the offices serve a multistate territory. In the event a national, state, or regional headquarters operation is not the predominant activity of a project facility, the new jobs and investment of such headquarters operation is considered eligible for benefits under this section if the other requirements are satisfied.

Effective August 28, 2008 --- “Qualified renewable energy sources” shall not be construed to include ethanol distillation or production or biodiesel production; however, it shall include:

- a) Open-looped biomass;
- b) Close-looped biomass;
- c) Solar;
- d) Wind;
- e) Geothermal; and
- f) Hydropower.

“Related company” means;

- a) A corporation, partnership, trust, or association controlled by the qualified company;
- b) An individual, corporation, partnership, trust, or association in control of the qualified company; or

- c) Corporations, partnerships, trusts or associations controlled by an individual, corporation, partnership, trust or association in control of the qualified company. As used in this subdivision, control of a corporation shall mean ownership, directly or indirectly, of stock possessing at least fifty percent of the total combined voting power of all classes of stock entitled to vote, control of a partnership or association shall mean ownership of a least fifty percent of the capital or profits interest in such partnership or association, control of a trust shall mean ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such trust, and ownership shall be determined as provided in section 318 of the Internal Revenue Code of 1986, as amended.

“Related facility”, a facility operated by the qualified company or a related company located in this state that is directly related to the operations of the project facility.

“Related facility base employment”, the greater of the number of full-time employees located at all related facilities on the date the Department receives the Notice of Intent or for the twelve-month period prior to the date of the department’s receipt of the Notice of Intent, the average number of full-time employees located at all related facilities of the qualified company or a related company located in this state.

“Related facility base payroll”, the total amount of taxable wages paid by the qualified company to full-time employees of the qualified company located at a related facility in the twelve months prior to the filing of the Notice of Intent, not including the payroll of the owners of the qualified company unless the qualified company is participating in an employee stock ownership plan. For purposes of calculating the benefits under this program, the amount of related facility base payroll shall increase each year based on an appropriate measure, as determined by the department.

“Rural area”, a county in Missouri with a population less than seventy-five thousand or that does not contain an individual city with a population greater than fifty thousand according to the most recent federal decennial census.

“Small and expanding business project”, a qualified company that, within two years of the date of the department’s approval of the Notice of Intent creates a minimum of twenty new jobs if the project facility is located in a rural area or a minimum of forty new jobs if the project facility is not located in a rural area and creates fewer than one hundred new jobs regardless of the location of the project facility.

“Technology business project”, a qualified company that, within two years of the date of the department’s approval of the Notice of Intent creates a minimum of ten new jobs involved in the operations of a technology company as classified by NAICS codes; or which researches, develops, or manufactures power system technology for: aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices; and appears on the department’s listing of technology NAICS.

This listing includes the following four-digit NAICS:

NAICS 4	NAICS Industry
2111	Oil and Gas Extraction
3251	Basic Chemical Manufacturing
3254	Pharmaceutical and Medicine Manufacturing
3332	Industrial Machinery Manufacturing
3333	Commercial and Service Industry Machinery Manufacturing
3341	Computer and Peripheral Equipment Manufacturing
3342	Communications Equipment Manufacturing
3343	Audio and Video Equipment Manufacturing
3344	Semiconductor and Other Electronic Component Manufacturing
3345	Navigational, Measuring, Electromedical, and Control Instruments Manufacturing
3359	Other Electrical Equipment and Component Manufacturing if researching, developing or manufacturing power system technology for the following: <ul style="list-style-type: none"> • Aerospace; • Space; • Defense; • Hybrid vehicles; or • Implantable or wearable medical devices
3364	Aerospace Product and Parts Manufacturing
4234	Professional and Commercial Equipment and Supplies Merchant Wholesalers
5112	Software Publishers
5161	Internet Publishing and Broadcasting
5171	Wired Technology Carriers
5179	Other Telecommunications
5181	Internet Service Providers and Web Search Portals
5182	Data Processing, Hosting, and Related Services
5413	Architectural, Engineering, and Related Services
5415	Computer Systems Design and Related Services
5416	Management, Scientific, and Technical Consulting Services
5417	Scientific Research and Development Services

Effective August 28, 2008 --- “Technology business project”, a qualified company that, within two years of the date of the department’s approval of the Notice of Intent creates a minimum of ten new jobs involved in the operations of a company:

- a) Which is a technology company, as classified by NAICS codes;

- b) Which owns or leases a facility which produces electricity derived from qualified renewable energy sources, or produces fuel for the generation of electricity from qualified renewable energy sources, but does not include any company that has received the alcohol mixture credit, alcohol credit or small ethanol producer credit pursuant to 26 U.S.C. Section 40 of the tax code in the previous tax year; or
- c) Which researches, develops, or manufactures power system technology for: aerospace; space; defense; hybrid vehicles; or implantable or wearable medical devices.

An updated list of approved Technology NAICS will follow on August 28, 2008.

“Withholding tax”, the state tax imposed by sections 143.191 to 143.265, RSMo. For purposes of this program, the withholding tax shall be computed using a schedule as determined by the department based on average wages.

Estimated state withholding taxes, based on adjusted gross income (“AGI”):

AGI of \$19-25,000: 1.4%
AGI of \$25-30,000: 2.3%
AGI of \$30-35,000: 2.5%
AGI of \$35-40,000: 2.7%
AGI of \$40-50,000: 2.9%
AGI of \$50-70,000: 3.1%
AGI of \$70-85,000: 3.3%
AGI of \$85-100,000: 3.4%
AGI of \$100,000+: 3.7%

Closed Records (Sections 610.255 and 620.014, RSMo)

Prior to August 28, 2004 and pursuant to Section 620.014, RSMo, DED had the authority to close certain records except for the name of the tax credit recipient and the amount of the tax credit. SB 1099 removes this broad exception but DED retains the authority to close records or documents that “relate to financial investments in a business, or sales projections or other business plan information which may endanger the competitiveness of a business” or as also allowed by law.