

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:

§4907. Eligibility

A. Eligible applicants for the benefits of this program shall be Louisiana small businesses that receive a Federal Notice of Award on or after June 15, 2022.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2401.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:

§4909. Application Procedure

A. LED will provide a standard application form which applicants will be required to use to apply for assistance under this program. The application form will contain, but not be limited to, the following:

1. business name;
2. contact person and their title;
3. business physical address;
4. business phone number and email address;
5. brief description of the nature of the business;
6. number of employees;
7. secretary of state registration;
8. information evidencing SBIR or STTR award, including name of issuing federal agency;
9. any additional information requested by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2401.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:

§4911. Selection Criteria

A. LED will consider various factors when determining which applications will be funded. Among the factors which may be taken into consideration are the following:

1. disbursing of funding statewide;
2. availability of funding; and
3. best interests of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2401.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:

§4913. LED Action—Grant Approval or Denial Provisions

A. In the event LED determines that an applicant is eligible, funding is available and a grant would be appropriate, a grant letter will be issued, specifying the amount, the terms and conditions of the grant.

B. Grant funds will be disbursed to the approved applicants as follows:

1. Phase I SBIR or STTR applicants shall receive 25 percent of the federal grant received, not to exceed \$50,000 per applicant;
2. Phase II SBIR or STTR applicants shall receive 20 percent of the federal grant received, not to exceed \$100,000 per applicant;
3. Each grant awarded shall be divided into two equal amounts and disbursed over a period of two consecutive years as follows:

a. Year 1 funding may be awarded based upon the amount stated in the federal notice of award;

b. Year 2 funding shall be awarded contingent upon the actual federal grant funding received, as supported by reporting documentation of recipient and any other compliance information requested by LED. In the event of

any deviation from the anticipated total federal grant funding, LED reserves the right to increase or decrease the Year 2 award to ensure compliance with the maximum award provisions.

C. In the event LED determines that an applicant is not selected for an award, a denial letter will be issued by the secretary, specifying the basis for denial.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and 51:2401.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 49:

Public Comments

Interested persons should submit written comments on the proposed Rules to Stephanie Le Grange through the close of business on Monday, March 27, 2023 at Department of Economic Development, 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to Stephanie.LeGrange@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 11:00 a.m. on Tuesday, March 28, 2023 in the Griffon Conference Room at the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Brenda Guess
Assistant Secretary

2302#086

POTPOURRI

**Department of Economic Development
Office of Business Development**

Quality Jobs Program (LAC 13:I.Chapter 11)

Editor's Note: This Rule may be viewed in this edition of the *Louisiana Register*.

The Department of Economic Development, Office of Business Development, amended the rules for the Quality Jobs Program, pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The Rules were submitted to and approved by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, in a joint committee meeting on January 31, 2023, pursuant to the provisions of La. R.S. 51:2459.

Anne G. Villa
Undersecretary

2302#034

POTPOURRI

**Office of the Governor
Division of Administration
Office of Broadband Development and Connectivity**

Public Hearing for Substantive Change—Granting Unserved Municipalities Broadband Opportunities (GUMBO) (LAC 4:XXI.Chapters 1-7)

The Office of the Governor, Division of Administration, Office of Broadband Development and Connectivity proposes to amend LAC 4:XXI.Chapters 1-7 as authorized

§2507. Procedure during a Virtual Meeting

A. Upon commencement of the meeting, all members of the public shall be muted. Once the meeting is called to order, the chairman shall state that this is a virtual meeting of the State Bond Commission, and shall provide the manner in which the public may submit or make comments during the meeting, including the code for members of the public to unmute themselves.

B. Prior to the introduction of the first agenda item, the recording secretary shall take roll to establish a quorum. Members of the State Bond Commission may either be present at the anchor location or participate via electronic means.

1. In order to participate in a virtual meeting via electronic means, a member of the State Bond Commission must participate via audio and video. As such, any member of the State Bond Commission participating via electronic means must be visually present throughout the meeting.

2. In the event a State Bond Commission member's audio or video capabilities are compromised, he/she may no longer be counted for purposes of a quorum, and thus, may not vote on any agenda item for which the audio or video was compromised.

3. A member of the State Bond Commission who is physically present at the anchor location and visible through the anchor location's camera shall satisfy the requirements of LAC 71:III.2507.B.1 for purposes of a quorum and participation.

C. Prior to action on an agenda item, the chairman shall read into the record the following:

1. any public comment received prior to the meeting (if any);

2. any public comment received during the meeting via public comment card, "chat" function, etc. (if any);

3. notwithstanding LAC 71:III.2507.C.1. and 2., profanity and inappropriate language is prohibited and shall not be read into the record.

D. Prior to action on an agenda item, the chairman shall also ask if anyone from the public is present, either via electronic means or at the anchor location, and wishes to speak on those agenda item(s). If anyone from the public wishes to speak, the chairman shall allow him/her reasonable time to do so.

E. In accordance with R.S. 42:29(A)(5), all votes taken at a virtual meeting shall be by roll call vote.

F. To the extent possible, the State Bond Commission shall follow any and all procedures that it follows for its non-virtual meetings, including those procedures in LAC 71:III.103.

G. After the conclusion of a virtual meeting, a recording of the meeting shall be made available to the public via the State Bond Commission's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:29.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, State Bond Commission, LR 49:338 (February 2023).

Lela Folse
Director

2302#040

RULE

**Department of Economic Development
Office of Business Development**

Quality Jobs Program (LAC 13:I.Chapter 11)

Editor's Note: This Rule was initially promulgated in the January 2023 edition of the *Louisiana Register* on pages 25-31. It is being repromulgated to show the inclusion of amendments done pursuant to R.S. 49:966(H)(2) which can be viewed in the April 2022 edition of the *Louisiana Register* on pages 1251-1256.

The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104, has amended the Rules for the Quality Jobs Program (R.S. 51:2451, et seq.). Such Rules are contingent upon approval of the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, pursuant to the provisions of R.S. 51:2459. This Rule is hereby adopted on the day of promulgation.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 11. Quality Jobs Program

§1101. General

A. - B.1. ...

2. The employer may be entitled to sales and use tax rebates or the project facility expense rebate authorized in R.S. 51: 2456 (B) (1), in addition to the requirements of this Chapter.

C. Effective date of Act 387 of the 2007 Regular Session

1. The provisions of Act 387 shall apply to all advance notification filed prior to July 1, 2017, except as provided below.

2. - 4. ...

D. Effective date of Act 386 of the 2017 Regular Session

1. The provisions of Act 386 shall apply to advance notifications filed on or after July 1, 2017, except as provided below.

a. a COVID-19-impacted retail business, hotel or restaurant, that has no more than 50 employees nationwide including affiliates on the date of the filing of the advance notification and which is assigned a NAICS Code of 44, 45, 721, or 722, and which files or enters into an advance notification on or after July 1, 2020, and on or before December 31, 2021, shall be eligible for benefits. However, no such COVID-19-impacted business employer shall be eligible to earn benefits pursuant to the provisions of this Chapter after June 30, 2023.

2. The provisions of Act 387 shall apply to advance notifications for companies meeting the provisions of section 4 of Act 386, as approved by the department.

E. Effective date of the 2023 Quality Jobs Program rule changes.

1. The provisions of the 2023 Quality Jobs Program rule changes shall apply to advance notifications filed after the date of promulgation, detailed in the *Louisiana Register*

published on January 20, 2023, or unless otherwise stipulated by the Louisiana Legislature, in §1101.C and D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2305 (November 2003), amended by the Office of Business Development, LR 37:2587 (September 2011), amended by the Department of Economic Development, Office of Business Development, LR 49:25 (January 2023), repromulgated LR 49:338 (February 2023).

§1103. Definitions

Act 386—Act 386 of the 2017 Regular Session of the Louisiana Legislature

Approved Rehire Employees—a former employee who was previously on the payroll of the Company, parent entity, subsidiary, or affiliate in Louisiana, but has been off such payroll for a period of at least 12 months, may be considered a New Direct Job if rehired into a position that is not part of the Baseline Jobs. When determining New Direct Job qualifications, the department shall consider all relevant factors including but not limited to; ES4's, W2's and Company re-hiring practices, and the intent of the program to permanently locate new or expand existing operations in Louisiana.

Basic Health Benefits Plan or the Health Insurance Coverage—that which is required to be offered shall include individual coverage for basic hospital care, coverage for physician care, and coverage for health care which shall be the same as that provided to executive, administrative, or professional employees. Coverage must become effective no later than the first day of the month 90 days after hire date. For companies subject to provisions of Act 386, the coverage shall be in compliance with federally mandated health care requirements but if no such federally mandated requirements exist, the coverage for the employer portion of employee only coverage shall have a value of at least one dollar and 25 cents per hour.

Benefit Rate—one of the following percentages:

1. contracts subject to the provisions of Act 386:
 - a. the benefit rate shall be 4 percent for new direct jobs which pay at least \$18 per hour in wages;
 - b. the benefit rate shall be 6 percent for new direct jobs which pay at least \$21.66 per hour in wages.
2. contracts subject to the provisions of Act 387:
 - a. the benefit rate shall be 5 percent for new direct jobs which pay at least \$14.50 per hour in wages and health care benefits;
 - b. the benefit rate shall be 6 percent for new direct jobs which pay at least \$19.10 per hour in wages and health care benefits;
 - c. health care benefits paid shall be the value of the health care benefits plan elected by an employee, as determined by the department.
3. contracts not subject to the provisions of Act 386 or Act 387:
 - a. the benefit rate shall be 5 percent for new direct jobs which pay at least 1 3/4 times the federal minimum hourly wage rate;

b. the benefit rate shall be 6 percent for new direct jobs which pay at least 2 1/4 times the federal minimum hourly wage rate and meet one of the following criteria:

- i. the new direct jobs are located in a distressed region, or at least 50 percent of the new direct jobs shall be filled by persons who reside in a distressed region;
- ii. the new direct jobs are with an employer categorized in a traditional or seed cluster targeted by the department.

Corporate Headquarters of a Multi-State Business—a multi-state business whose primary function is identified by NAICS 55114.

COVID-19-Impacted Retail Business—a for-profit corporation, a limited liability company, a partnership, or a sole proprietorship that had a physical and active operation in Louisiana on March 13, 2020, and ceased operations due to either one of the governor's public health emergency proclamations or a mayor's proclamation or executive order related to the public health emergency, or a decrease in customer activity or the inability to retain sufficient staff due to the COVID-19 public health emergency, as approved by the Department.

Distressed Region—for companies subject to the provisions of Act 387, as designated by the department:

1. a parish with a per capita income in the lowest 25 percent of the parishes; or
2. a census tract and block group that is below the state median per capita income, based on the most recent federal decennial census.

Domicile—the place of a person's principal establishment or habitual residence. A change of domicile may be shown by positive and satisfactory proof of establishment of domicile as a matter of fact with the intention of remaining in the new place and of abandoning the former domicile. Such proof may include a sworn declaration of intent recorded in the parish to which a person intends to move, voter registration, or similar evidence of such intent. Workers in the United States who are working on an H-1B Visa are not deemed to be domiciled in Louisiana.

Employment Baseline—the median statewide number of employees of an employer, including affiliates, working the average hours per week required in §1105, excluding employees engaged in lines of business that the department determines are unrelated to the activities for which quality job program benefits are sought, during the payroll periods including the twelfth day of the month, in the last six months completed prior to the contract effective date (the median is calculated by discarding the months with the highest and lowest number of employees, and averaging the number in the remaining four months). The employment baseline must be maintained in any year for which the employer requests payroll rebates. The employment baseline may be reduced by the number of employees retained and continued in employment for at least one year by an unrelated third party business acquiring a site or line of business.

LED—the Louisiana Department of Economic Development

Multi-State Business—a business entity operating in more than one state, with a physical presence in more than one state, as approved by the department.

New Direct Job—employment at a Louisiana site:

1. of an employee:
 - a. whose domicile is in the state of Louisiana;
 - b. working the average hours per week required by §1105; and
 - c. who prior to the contract effective date was not on the payroll in Louisiana of:
 - i. the employer;
 - ii. the employer's parent entity, subsidiary, or affiliate; or
 - iii. any business whose physical plant and employees were or are substantially the same as those of the employer, unless either:
 - (a). there has been an arm's length transfer of ownership between unrelated companies (not affiliates), and either the location has been out of operations for at least three months; or
 - (b). the secretary determines that the jobs would have likely been lost to the state absent the transfer (under such circumstances jobs at the re-opened plant are deemed not to have previously existed for purposes of Subparagraph 2.b. below); or
 - (c). the employee is an Approved Rehire Employee.

2. in a job (a position of employment) that:
 - a. is with an employer that has qualified for the incentive rebate;
 - b. did not exist in this state prior to the advance notification being filed by the employer with the department pursuant to the provisions of R.S. 51:2455; and
 - c. is not part of the employment baseline;
 - d. is based at the project site, as determined by the department considering the employee's physical work site, the site to which the employee reports or which administers the employment, the site from which the employee receives work, and the nature of the business;
3. the following jobs are not new direct jobs:
 - a. jobs created as a result of the employer securing a contract to supply goods and services in the state of Louisiana, if another business was under an obligation to supply the same goods and services from a facility located in Louisiana and such obligation was terminated within three months prior to creation of the job by the employer;
 - b. jobs transferred, or jobs associated with work or sales transferred, from other Louisiana sites as a result of the employer (including affiliates) acquiring a business operation, or substantially all of its assets, and continuing the business operation.

Physical Presence—the department shall consider all relevant evidence in evaluating multi-state presence, including, but not limited to; the location of offices, facilities, tangible property and employees. Ancillary services provided through use of technology, without more, shall be insufficient to establish a physical presence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry,

Financial Incentives Division, LR 22:961 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2306 (November 2003), amended by the Office of Business Development, LR 37:2588 (September 2011), amended by the Department of Economic Development, Office of Business Development, LR 49:25 (January 2023), repromulgated LR 49:339 (February 2023).

§1105. Qualified Employers

A. For companies subject to the provisions of Act 387, to qualify for a Quality Jobs Program contract, an employer must meet the following requirements.

1. - 5.d....

B. For companies subject to the provisions of Act 386, to qualify for a Quality Jobs Program contract, an employer must meet the following requirements.

1. Eligible Businesses. The nature of the employer's business must fall within one of the following categories;

a. the employer is in one of the following industries:

- i. biotechnology, biomedical, and medical industries serving rural hospitals;
- ii. micromanufacturing;
- iii. software, Internet or telecommunications technologies;
- iv. clean energy technology;
- v. food technologies; or
- vi. advanced materials;

b. the employer is a manufacturer whose primary function is identified by NAICS Codes 113310, 211, 213111, 541360, 311-339, 511-512, or 54171;

c. the employer is an oil and gas field services business identified by the NAICS Code 213112, that has Louisiana as the national or regional headquarters of a multi-state business whose service territory includes at least Louisiana and the Gulf of Mexico;

d. the employer is a business that has, or within one year will have, at least 50 percent of its total annual sales to:

- i. out-of-state customers or buyers;
- ii. in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use; or
- iii. the federal government;
- iv. an independent Louisiana certified public accountant shall annually verify that the contract site meets the out-of-state sales requirement, in accordance with guidelines provided by the department;

e. the employer is a business that is located in a parish which is within the lowest 25 percent of parishes based on per capita income. An employer that qualifies for a contract under this Item at the time of the initial quality jobs contract executed pursuant to this Chapter shall remain qualified for a contract through and during the renewal period regardless of any change in the per capita income of the parish,

f. the employer is the corporate headquarters of a multi-state business;

g. the employer is a business that spends fifty percent or more of its time performing services for its out-of-state parent company. These services include, but are not limited to, legal, marketing, finance, information technology, order management, distribution center operations or overall operations support.

h. the employer is in the business of maintenance, repair, and overhaul operations for commercial transport aircraft.

2. Ineligible Businesses. The following employers or persons shall not be eligible for benefits provided under this Chapter:

a. retail employers identified by NAICS Code Sections 44 and 45, except that;

i. COVID-19-impacted retail employers identified by the NAICS Codes of 44 and 45 that have no more than 50 employees nationwide including affiliates on the date of the filing of the advance notification shall be eligible to participate in this rebate program if such employers file or enter into an advance notification on or after July 1, 2020, and on or before December 31, 2021. However, no such COVID-19-impacted retail business employer shall be eligible to earn benefits pursuant to the provisions of this Chapter after June 30, 2023;

b. business associations and professional organizations identified by NAICS Code 8139;

c. state and local government enterprises;

d. real estate agents, operators, and lessors;

e. automotive rental and leasing;

f. local solid waste disposal, local sewage systems, and local water systems businesses;

g. nonprofit organizations, unless the department determines that the new direct jobs created by the organization would have a significant impact on Louisiana;

h. employers engaged in the gaming industry identified by NAICS Code sections 713210 and 721120; and

i. professional services firms assigned a NAICS code beginning with 54, unless the business can demonstrate that more than fifty percent of its services are provided to out-of-state customers or for the corporate headquarters of a multi-state business or if the employer can demonstrate that the company has or will have one year sales of at least 50 percent of its total sales out-of-state customers or buyers, to in-state customers or buyers or buyers if the products or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government;

j. construction companies, unless the company is the corporate headquarters of a multi-state business or can demonstrate that the company has, or will have within one year, sales of at least fifty percent of its total sales to either out-of-state customers or the federal government;

k. all businesses assigned a NAICS code beginning with 5613;

l. medical professionals assigned a NAICS code beginning with 62, except for those engaged in biomedical industries, biotechnology industries or those who provide services to rural hospitals or those who provide services or will within one year provide services to a patient base made up of at least fifty percent out-of-state patients;

m. Out-of-state sales or out-of-state patient requirements can be demonstrated by submission of documents including, but not limited to, a report issued by an independent Louisiana certified public accountant, in accordance with guidelines provided by the department.

3. Minimum New Direct Jobs and Annual Gross Payroll

a. New Direct Jobs. The employer must create a minimum of:

i. five new direct jobs for companies who employ 50 or fewer baseline employees, or

ii. 15 new direct jobs for companies who employ more than 50 baseline employees.

b. Annual Gross Payroll. The employer must have an annual gross payroll of:

i. equal to or greater than \$225,000, for companies who employ 50 or fewer employees prior to the beginning of the contract; or

ii. jobs equal to or greater than \$675,000, for companies who employ more than 50 employees prior to the beginning of the contract.

c. The employer shall have the required annual payroll for new direct jobs and the minimum number of new direct jobs for the employer's fiscal year for which the employer is applying for its third annual rebate, or the contract is cancelled and any rebates received must be repaid.

4. Full-Time Employee Work Hours

a. The employer must employ full-time employees working 30 or more hours per week in new direct jobs.

5. Health Benefits. The employer must offer, or will offer within 90 days of the contract effective date, a basic health benefits plan or health insurance coverage to the individuals it employs in new direct jobs, in compliance with federally mandated healthcare requirements or, if no federally mandated healthcare requirements exist, is determined to have a value of at least \$1.25 per hour. The employer must offer health insurance coverage for the dependents of full-time employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2307 (November 2003), amended by the Office of Business Development, LR 37:2590 (September 2011), LR 42:865 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR 49:26 (January 2023), repromulgated LR 49:340 (February 2023).

§1107. Application Fees, Timely Filing

A. ...

B. An application for the Quality Jobs Program must be filed with the Office of Business Development, Business Incentives Services, through the department's online Fastlane portal no later than 24 months after the department has received the advance notification and fee, except that upon request, a business shall receive a thirty-day extension of time in which to file its application, provided that the request for extension is received by the Department no later than the filing deadline. Failure to file an application within the prescribed timeframe will result in the expiration of the advance notification.

1. The application shall include a detailed project description clearly stating the nature and scope of the proposed project. For example, whether the project is the construction of a new facility, renovation of an existing facility, or an increase in workforce. Where possible, identify specific project goals, milestones and costs that may be verified by both the department and LDR for subsequent contract compliance review.

2. Applications submitted by COVID-19 impacted retail businesses shall include support documentation evidencing a physical and active operation in Louisiana on March 13, 2020, and that it ceased operations due to either one of the governor's public health emergency proclamations or a mayor's proclamation or executive order related to the public health emergency, or a decrease in customer activity or the inability to retain sufficient staff due to the COVID-19 public health emergency.

C. - C.3. ...

D. An application to renew a contract shall be submitted with an application fee and filed within six months prior to the initial contract expiring. The board may approve a request for renewal of an expired contract filed less than five years after expiration of the initial contract, and may impose a penalty for the late filing of the renewal request, including a reduction of the five year renewal period.

1. The application for renewal shall include a detailed project description stating the nature and scope of the project.

E. ...

F. Applications may be deferred to a later board meeting date at the request of the applicant, but shall not exceed presentation at a board meeting occurring more than 12 months after the filing of the application, except as otherwise approved by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2308 (November 2003), amended by the Office of Business Development, LR 37:2591 (September 2011), LR 41:1085 (June 2015), LR 42:865 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR 49:27 (January 2023), repromulgated LR 49:341 (February 2023).

§1109. Application Review and Determination

A. - A.1. ...

2. The application packet must be completed through the department's online Fastlane portal by the due date. If the application is incomplete, the department may request additional information prior to further action. The application fee must accompany the application packet pursuant to §1107.C.

3. ...

4. LED reserves the right to request missing information, which shall be provided to LED within 60 days. Applications with missing or inadequate information after this time frame shall be considered late filings.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2308 (November 2003), amended by the Office of Business Development, LR 37:2591 (September 2011), amended by the Department of Economic Development, Office of Business Development, LR 49:27 (January 2023), repromulgated LR 49:342 (February 2023).

§1111. Consultation with the LWC and the LDR

A. ...

B. The department must receive a letter-of-no-objection or a letter-of-approval from the LWC and the LDR, prior to submitting the application to the board for action. If LWC or LDR issues an objection to an application other than an objection because an applicant is in active negotiations with, under audit by or in litigation with the department issuing the objection, the applicant has six months to clear the objection or the application shall be cancelled. The six-month period shall begin on the date LED sends written notification to the company of the objection received from LWC or LDR. Applicants may demonstrate active negotiation to LED by providing written documentation periodically, but at least every six months, of ongoing, bilateral communications between the applicant or its representative and LWC or LDR as applicable, even if such communication begins after the objection was issued, or other written verification as approved by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003), amended by the Office of Business Development, LR 37:2592 (September 2011), LR 42:866 (June 2016), LR 49:29 (January 2023), repromulgated LR 49:342 (February 2023).

§1117. The Contract

A. The board, after no objection from the executive director of the LWC and secretary of the LDR, and with the approval of the governor, may enter into a contract with an employer for a period up to five years. The business must execute its portion of the contract and return it to Business Incentive Services within 90 days. If the contract is not returned within 90 days, the board's approval shall be deemed rescinded.

1. ...

2. Upon written approval of the department, an employer may have one additional contract in effect for a project site for a subsequent expansion project that is distinct from the project associated with the original contract, and that increases the number of new direct jobs at the site by at least 25 percent. If new direct jobs are not increased by at least 25 percent by the end of the third fiscal year of the additional contract, the contract shall be terminated and all benefits for the site shall be determined under the original contract.

3. - 5. ...

6. A contract shall be limited to one employer receiving payroll rebates, however the employer's named related entity or affiliate may generate a sale and use tax rebate or project facility expense rebate for their expenditures directly relating to the project site, but payable to the contract holder, if the following conditions are met:

a. the employer meets all program requirements;

b. the entity is disclosed by the employer in its application; or

c. the entity is listed in the contract attachment Schedule One, which may be amended with the approval of the department and the board.

7. A fee of \$250 shall be filed with a request for any contract amendment, including but not limited to, a change of ownership, change in name, or change in location.

B. - E.1. ...

2. After the employer's fiscal year for which the employer applied for his third annual rebate, if at any other time during the 10-year contract period the employer applies for a rebate following the end of the employer's fiscal year, and the verified gross payroll for the fiscal year does not demonstrate the required minimum new direct jobs and the required gross payroll, the rebates shall be suspended and shall not be resumed until such time as the payroll and job requirements are met. No rebate (payroll rebate, sales and use tax rebate or project facility expense rebate) shall accrue or be paid to the employer during a period of suspension.

F. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003), amended by the Office of Business Development, LR 37:2592 (September 2011), LR 42:866 (June 2016), LR 49:29 (January 2023), repromulgated LR 49:342 (February 2023).

§1118. Project Completion

A. All companies, whether seeking a payroll rebate, sales and use tax rebate or project facility expense rebate, shall file a minimum of one project completion report and one affidavit of final cost as follows.

1. An applicant may file a preliminary project completion report no earlier than with its third fiscal year filing, but no later than with the filing of a final project completion report.

2. An applicant shall file a final project completion report within six months after the project ending date or the governor's signature on the contract, whichever is later.

3. No more than two project completion reports (one preliminary and one final report) may be filed per five year contract period.

4. Project completion reports shall be submitted through the department's online Fastlane portal.

5. A fee of \$250 shall accompany all project completion report filings, or any project completion report amendment filings.

B. The project completion report shall confirm the beginning of the project, the project ending date, and the incentive benefits elected. Local sales and use tax rebate is not available if the project facility expense rebate is elected.

C. The affidavit of final cost shall list all eligible purchases and qualified expenditures for the project, with a description of the buildings, equipment, or other assets, and the cost of each item.

D. After completion of the project and the governor's signature of the contract, the department shall sign the project completion report and forward copies to the business, the Department of Revenue, and any political subdivision rebating local sales and use tax.

E. The basis for rebate claims (sales and use tax rebate or project facility expense rebate) shall not exceed the costs listed on the affidavit of final cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 49:29 (January 2023), repromulgated LR 49:343 (February 2023).

§1119. Payroll Incentive Rebates

A. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2310 (November 2003), amended by the Office of Business Development, LR 37:2593 (September 2011), repromulgated LR 49:30 (January 2023), repromulgated LR 49:343 (February 2023).

§1120. Sales and Use Tax Rebate or Project Facility Expense Rebate

A. Project Facility Expense Rebate

1. The project facility expense rebate is earned in the year in which the project is placed in service, and is based upon all qualified capitalized expenditures related to the project as of the date it is placed in service.

a. Qualified expenditures include intangible costs such as architectural and/or engineering fees prior to the contract effective date.

b. The project facility expense rebate may not be elected if more than 50 percent of the qualified expenditures relating to the project are incurred before the filing of the advance notification.

2. The project facility expense rebate claim must be filed with the Department of Revenue, Taxpayer Compliance—SSEW Division, with the required documentation.

3. The project facility expense rebate may be taken on qualified expenditures that are related to the project and are placed in service during the project period. The project facility expense rebate applies to the assets that are related to the qualified expenditures, provided that the business reasonably intends for such assets to remain at the project site for their expected useful life. The assets may be recorded on the financial statements of a company that is an affiliate of the business.

4. The claim for the project facility expense rebate must be filed with the Department of Revenue no later than six months after the Department of Economic Development signs a project completion report and it is received by the Department of Revenue, the political subdivision, and the business. The project completion report shall not be signed until the project is complete and the contract has been approved by the board and the governor. Upon request, the business shall receive a 30-day extension of time in which to file its claim, provided such request for extension is received by the Department of Revenue prior to the expiration of such filing period. The Department of Revenue is also authorized to grant the business an additional extension of time, not to

exceed 60 days, in which to file its claim provided that the business shows reasonable cause for granting such extension.

B. Sales and Use Tax Rebates

1. The Quality Jobs Program contract will not authorize the business to make tax exempt purchases from vendors. The Department of Revenue will advise the business on the proper procedures to obtain the state sales and use tax rebate. The request for rebate of sales and use taxes must be made by filing a claim with the Department of Revenue, Taxpayer Compliance—SSEW Division, and must include the following:

a. list of eligible purchases, including a brief description of each item, the vendor's name, date of the delivery, sales price and the amount of state sales and use tax paid. The listed items must have been purchased by the business, or by a builder, a contractor, or other party that contracted with the owner to provide materials, equipment, machinery, or software that is used by the business at the project site or by the contract holders named affiliates listed in the Quality Jobs Program contract. Invoices as required under R.S. 51:2457 shall also be required;

b. certification that the listed materials are reasonably expected to qualify for a rebate under the Quality Jobs Program; and

c. certification that state sales and use taxes have been paid on the listed items.

2. The request may be filed on the official Department of Revenue "claim for rebate" form or on other LDR approved forms prepared by the business. After the Department of Revenue has validated the information on the claim for rebate, a rebate check will be issued for the amount of substantiated state sales and use taxes paid.

3. The request for rebate must be filed with the Louisiana Department of Revenue, and the political subdivision rebating local sales and use tax, no later than six months after the Department of Economic Development signs a project completion report and sends it to the Department of Revenue, the political subdivision, and the business, or no later than 30 days after the end of the calendar year and must be accompanied by the signed project completion report. Upon request, the business shall receive a 30-day extension of time in which to file its claim, provided such request for extension is received by the Department of Revenue prior to the expiration of such filing period. The Department of Revenue is also authorized to grant the business an additional extension of time, not to exceed 60 days, in which to file its claim, provided that the business shows reasonable cause for granting such extension.

4. The business should contact the political subdivision issuing the endorsement resolution to determine the procedure for local sales and use tax rebate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, LR 49:29 (January 2023), repromulgated LR 49:343 (February 2023).

§1121. Rebate Payments

A. In addition to the payroll rebates, an employer shall be entitled to sales and use tax rebates or the project facility expense rebate—as authorized in R.S. 51:2456, if the employer meets the hiring requirements of R.S. 51:2455 Program and meets the other limitations, procedures, and requirements of R.S. 51:2456 and 2457 and the rules promulgated there under, Louisiana Administrative Code, Title 13, Part I, Chapter 11.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2310 (November 2003), amended by the Office of Business Development, LR 37:2593 (September 2011), LR 49:30 (January 2023), repromulgated LR 49:344 (February 2023).

§1123. Rebate Claim Filing

A. Payroll Rebate

1. An annual certification and a fee of \$250 shall be filed annually, commencing within six months after completion of the applicant's fiscal year or execution of the contract, whichever is later. The department may grant an extension of up to an additional sixty days provided the extension is requested prior to the filing deadline. Failure to file an annual certification within the prescribed timeframe may result in the annual rebate being denied or restricted. An annual certification is required in each year the contract is active, irrespective of whether annual rebates are being claimed.

2. - 4. ...

5. If the actual verified annual gross payroll for the employer's third fiscal year does not show a minimum of 15 or five new direct jobs and does not equal or exceed a total annual payroll for new direct jobs of either \$675,000 or \$225,000, whichever is applicable, the employer will be determined to be ineligible under this Chapter. The LDR will be notified and the tax liability for the current tax period in which the failure to meet the requirements occurs shall be increased by the amount of rebates previously allowed.

6. ...

B. Sales and Use Tax Rebate or Project Facility Expense Rebate

1. An annual employee certification report with a \$250 annual employee certification report fee must be filed on all active contracts for the employer to qualify for the sales and use tax rebate or project facility expense rebate under this Chapter.

2. Sales and Use Tax Rebate or Project Facility Expense Rebate—Advance Notification. An employer who receives a Quality Jobs Program contract and who meets the requirements for sales and use tax rebates as authorized in R.S. 51:2456 and §1121 of these rules, will satisfy the advance notification requirement for sales and use tax rebates or project facility expense rebate for the Quality Jobs Act contract by submission of the Quality Jobs Program advance notification referred to in §1107 of these rules. The

sales and use tax rebate or project facility expense rebate period shall begin on the contract effective date, unless otherwise provided in the contract, and shall be no longer than 5 years, and shall not extend beyond the term of the Quality Jobs Program contract. In order to receive rebates of local sales and use taxes, the employer must satisfy the provisions of §1121.B of these rules.

3. No more than two project facility expense rebate claims may be filed during each five year contract period.

4. Sales and use tax rebates claims may be filed on a monthly, quarterly or annual basis during each five year contract period, at the discretion of the company receiving the benefit, as long as all requirements for issuance have been met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2311 (November 2003), amended by the Office of Business Development, LR 37:2594 (September 2011), LR 42:866 (June 2016), amended by the Department of Economic Development, Office of Business Development, LR 49:31 (January 2023), repromulgated LR 49:344 (February 2023).

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