



**Department of Economic Development**

# ***MISSOURI WORKS PROGRAM***

***Authorization: 620.2000 – 620.2020 RSMo.***

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## **Guidelines**

Missouri Department of Economic Development  
Business and Community Services Division  
Business & Community Finance  
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## PROGRAM ELIGIBILITY & BENEFIT LEVEL

The Missouri Works Program provides significant benefits for new and existing companies that are creating and retaining jobs in Missouri. Benefits may be the retention of State withholding tax and/or State tax credits, if the benefit percentage is greater than the amount of withholdings that otherwise would have been remitted to the State for the new job creation.

Program	Minimum New Jobs	Minimum New Private Capital Investment	Minimum Average Wage	Health Insurance Offered and Paid at Least 50%	Benefits
Zone Works (Note 1)	2	\$100,000	80% of County Avg. Wage	Yes	Retention of WH, 5 or 6 years (Note 3)
Rural Works (Note 2)	2	\$100,000	90% of County Avg. Wage	Yes	Retention of WH, 5 or 6 years (Note 3)
Statewide Works	10	N/A	90% of County Avg. Wage	Yes	Retention of WH, 5 or 6 years (Notes 3 & 4)
Mega Works 120	100	N/A	120% of County Avg. Wage	Yes	6% of new payroll, 5 or 6 years (Notes 3 & 4)
Mega Works 140	100	N/A	140% of County Avg. Wage	Yes	7% of new payroll, 5 or 6 years (Notes 3 & 4)
Retention Works (Discretionary)	50 Retained	50% or more of amount of incentives	90% of County Avg. Wage	Yes	Retention of WH for a period of up to 10 years (must meet certain criteria and have been proposed)

**Note 1:** Project facility must be located in an Enhanced Enterprise Zone.

**Note 2:** Project facility must be located in a "rural" county, which would NOT include Boone, Buchanan, Clay, Greene, Jackson, St. Charles, and St. Louis City and County.

**Note 3:** Benefit period is 5 years, or 6 years for existing Missouri companies (those that have been operational in Missouri for at least 10 years).

**Note 4:** Companies may be proposed discretionary incentives of up to a maximum of 9% of new payroll if certain criteria are met.

Program Caps	FY2014 (July 1, 2013-June 30, 2014)	FY2015 (July 1, 2014-June 30, 2015)	FY2016 Forward (July 1, 2015-June 30, 2016)
<b>Total Program</b>	\$106 million in tax credits	\$111 million in tax credits	\$116 million in tax credits
<b>Retention Works</b>	\$6 million in retained withholdings	\$6 million in retained withholdings	\$6 million in retained withholdings

The amount of retained State withholding tax is not subject to a cap for new jobs projects. However, the maximum amount of tax credits that may be authorized under this program for any fiscal year shall be limited as above, less the amount of any tax credits previously obligated for that fiscal year under any of the tax credit programs referenced in subsection 13 of section 620.2020 RSMo.

## BUSINESS ELIGIBILITY

For-profit and non-profit businesses are eligible for the Missouri Works Program, and the headquarters, administrative offices, or research and development facilities of an otherwise excluded business **may** qualify for benefits if the offices or facilities serve a multistate territory.

- Ineligible Businesses:
  - a. Gambling establishments (NAICS industry group 7132)
  - b. Store front consumer-based retail trade establishments (NAICS sectors 44 and 45), except with respect to any company headquartered in this state with a majority of its full-time employees engaged in operations not within the NAICS codes specified in this subdivision;
  - c. Food & drinking places (NAICS subsector 722)
  - d. Public utilities (NAICS 221 including water and sewer services)
  - e. Educational services (NAICS sector 61)
  - f. Religious organizations (NAICS industry group 8131)
  - g. Public administration (NAICS sector 92)
  - h. Ethanol distillation or production
  - i. Biodiesel production
  - j. Healthcare and social services (NAICS sector 62)
  
- Other Eligibility Criteria:
  - a. Any qualified company that has performed significant, project-specific site work at the project facility, purchased machinery or equipment related to the project, or has publicly announced its intention to make new capital investment at the project facility prior to the receipt of a proposal for benefits or approval of its Notice of Intent, whichever comes first, is not eligible.
  - b. Any company that is delinquent in the payment of any non-protested taxes or any other amounts due the state or federal government or any other political subdivision of this state is not a qualified company;
  - c. Any company requesting benefits for retained jobs that has filed for or has publicly announced its intention to file for bankruptcy protection is not a qualified company.

However, a company that has filed for or has publicly announced its intention to file for bankruptcy, may be a qualified company provided that such company:

    - i. Certifies to the department that it plans to reorganize and not to liquidate; and
    - ii. After its bankruptcy petition has been filed, it produces proof, in a form and at times satisfactory to the department, that it is not delinquent in filing any tax returns or making any payment due to the state of Missouri, including but not limited to all tax payments due after the filing of the bankruptcy petition and under the terms of the plan of reorganization.
  - d. Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy under Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the department and shall forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained.

**Multiple Facilities:** More than one building may be considered the same project facility for program purposes. Facilities must be located within sixty (60) miles of each other such that their purpose and operations are interrelated and used by the qualified company.

**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 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.

**Mergers and Acquisitions:** If a qualified company (“NewCo”) has a merger with or an acquisition of an existing Missouri business (“OldCo”) resulting in a complete ownership change either before or after DED receives a Notice of Intent (in either case, a “Transaction Event”), DED will determine if the applicant is eligible for benefits under the Missouri Works Program for new job creation pursuant to Section 620.2010, RSMo (the “New Jobs Program”), or the Missouri Works program for job retention pursuant to Section 620.2015, RSMo (the “Retention Program”).

When evaluating an applicant for Missouri Works program eligibility, DED looks through a proposed project’s legal form to determine its actual economic substance. By itself, a legal change of an existing company’s ownership is not sufficient to qualify NewCo’s retention of OldCo’s employees for benefits under the New Jobs Program. In many cases, a Transaction Event results in no jobs that did not already exist prior to the Transaction Event – thus, a Notice of Intent submitted before or after such Transaction Event would not be eligible for the New Jobs Program. In most instances, a Notice of Intent submitted for Missouri Works program benefits before or after a Transaction Event would not be eligible for benefits under the New Jobs Program, but may be eligible for benefits under the Retention Program.

In limited instances, DED recognizes that a proposed project considered before a Transaction Event will ultimately result in net new job creation within the State (i.e. new jobs that did not exist prior to the Transaction Event). In such cases, DED may issue to NewCo a proposal for Missouri Works benefits, and employees who previously worked for OldCo and are newly employed by NewCo may be properly considered as new jobs under the New Jobs Program. When determining whether a proposed project considered before a Transaction Event would result in net new job creation within the State, DED considers several factors, including but not limited to:

- The magnitude of new job creation (i.e. number of new jobs and average annual wage) in addition to jobs that existed prior to the Transaction Event;
- Significant new capital investment in the State;
- The length of the project facility’s vacancy prior to the Transaction Event; and
- The length of employees’ break in employment between OldCo and NewCo.

**Note:** Please note that these are guidelines only. The qualified company should contact the Department to determine its eligibility prior to a Transaction Event.

## **JOB CREATION DISCRETIONARY BENEFIT CRITERIA (620.2010 RSMO)**

Discretionary Incentives MUST be offered in a Proposal by the Department of Economic Development to be considered for approval. To contact a Project Manager regarding your project, please see the following link:

<http://www.missouridevelopment.org/Business%20Solutions/Who%20to%20Call/Project%20Managers.html>

The amount of discretionary benefits shall not exceed the projected net fiscal benefit to the state, as determined by the department, and shall not exceed the least amount necessary to obtain qualified company’s commitment to initiate the project.

In determining the amount of discretionary incentives, the department shall consider the following factors:

- a. The significance of the qualified company’s need for program benefits;
- b. The amount of projected net fiscal benefit to the state of the project and the period in which the state would realize such net fiscal benefit;
- c. The overall size and quality of the proposed project, including the number of new jobs, new capital investment, proposed wages, growth potential of the qualified company, the potential multiplier effect of the project, and similar factors;
- d. The financial stability and creditworthiness of the qualified company;
- e. The level of economic distress in the area;
- f. An evaluation of the competitiveness of alternative locations for the project facility, as applicable; and
- g. The percent of local incentives committed.

Should the Department approve a Notice of Intent for discretionary benefits under subsections 2 and 5 of Section 620.2010 RSMO, the department and the qualified company shall enter into a written agreement covering the applicable project period. The Agreement shall specify, at a minimum:

1. The committed number of new jobs, new payroll, and new capital investment for each year during the project period;
2. The date or time period during which the tax credits shall be issued which may be immediately or over a period not to exceed two years from the date of approval of the Notice of Intent;
3. Claw-back provisions as may be required by the department; and
4. Any other provisions the department may require.

## **JOB RETENTION DISCRETIONARY BENEFIT CRITERIA (620.2015 RSMO)**

In order to be eligible to receive Missouri Works job retention benefits, the qualified company shall meet each of the following conditions:

1. The qualified company shall agree to retain, for a period of ten years from the date of approval of the Notice of Intent, at least fifty retained jobs; and
2. The qualified company shall agree to make a new capital investment at the project facility within three years of the approval in an amount equal to one-half the total benefits, available under this section which is offered to the qualified company.

In addition to the above criteria, the department shall consider the following factors:

- a. The significance of the qualified company's need for program benefits;
- b. The amount of projected net fiscal benefit to the state of the project and the period in which the state would realize such net fiscal benefit;
- c. The overall size and quality of the proposed project, including the number of new jobs, new capital investment, proposed wages, growth potential of the qualified company, the potential multiplier effect of the project, and similar factors;
- d. The financial stability and creditworthiness of the qualified company;
- e. The level of economic distress in the area;
- f. An evaluation of the competitiveness of alternative locations for the project facility, as applicable; and
- g. The percent of local incentives committed.

Should the Department approve a Notice of Intent for Missouri Works job retention benefits the department and the qualified company shall enter into a written agreement covering the applicable project period detailing performance requirements and repayment penalties in the event of non-performance. The agreement shall specify, at a minimum:

1. The committed number of retained jobs, payroll, and new capital investment for each year during the project period;
2. Claw-back provisions, as may be required by the department; and
3. Any other provisions the department may require.

## **PROCESS—APPLYING FOR BENEFITS**

### **1. Notice of Intent (NOI)**

- a. The NOI application may be found at [www.ded.mo.gov](http://www.ded.mo.gov) on the Missouri Works page.
- b. NOIs may be submitted any time of the year.
- c. NOIs must be filed prior to hiring new jobs.
- d. After the NOI is received, DED will send the Current Employment Information worksheet requesting information to establish the project facility base employment and payroll. The company's timely response is required.
- e. DED has 30 days to respond with either an approval or denial to the Notice of Intent.

- f. Approval of benefits is subject to availability of funding.
- g. Companies have two (2) years from approval of the NOI to meet the minimum threshold of the program category for which the company has applied.

**2. Multiple Worksite Report (MWR Form BLS 3020)**

- a. If there are multiple facilities within the state – the company is required to complete the Multiple Worksite Report (MWR) – BLS 3020 **for the duration of the program benefits**. This process can now be completed online quarterly. Please notify the contact below to enroll in the online quarterly submissions. The BLS-3020 form may be requested from the email address below.

**Contact:**

Ms. Marya Amos  
Missouri Department of Economic Development  
MERIC QCEW Supervisor,  
PO Box 3150  
Jefferson City, MO 65102  
Phone: 573-751-8914

**Email:** [marya.amos@ded.mo.gov](mailto:marya.amos@ded.mo.gov)

- 3. **Certification and 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.
  - a. In addition to certifying that your organization does not employ illegal aliens, **all applicants must:** 1) enroll in E-Verify, 2) confirm enrollment and participation in E-Verify on the Certification, and 3) provide supporting documentation.
  - b. 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.
  - c. 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.
  - d. Employer participation in E-Verify is free. Access the E-Verify website at: <https://e-verify.uscis.gov/enroll/>

**4. Verification of Eligibility Thresholds**

- a. The Verification of Eligibility Thresholds may be submitted at the time that the company meets the minimum new job threshold and other program requirements.
- b. DED will review the documentation provided to verify that all requirements have been met and notify the Department of Revenue (DOR) that the retention of State withholding taxes on the applicable jobs may begin.
- c. DOR will send confirmation to the qualified company authorizing the beginning of the project period. Once received, the qualified company may begin retaining withholding tax for the applicable project period, provided all program criteria continue to be met.
- d. The company must continue to remit payment of state withholding tax on jobs considered as project facility base employment, part-time employees, jobs not located at the project facility or jobs that do not meet all program criteria.
- e. If the company is located in a State TIF area, the eligible retained withholdings will be reduced by 50%.
- f. If the company is participating in Missouri Works and New Jobs Training, the entire benefit will be in the form of a tax credit.

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-MWP 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: 1) resubmit the Application to Retain Withholding Tax at a later date, but still within the appropriate timeframe for job creation after Approval; or 2) submit a new Notice of Intent, if the company anticipates job growth that will meet the program requirements.

#### **5. Annual Report/Application for Tax Credits**

- a. Once the 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, as well as any other information that may be required by the department each year no later than 90 days prior to the end of the qualified company's tax year immediately following the tax year for which the benefits provided under the program are attributed. Failure to timely file the Annual Report due under Section 620.2020.3 will result in the forfeiture of tax credits attributable to the year for which the reporting was required and a recapture of withholding taxes retained by the qualified company during such year.
- b. The department shall issue a refundable, transferable and/or sellable tax credit for any difference between the amount of benefit allowed and the amount of state withholding tax retained. Any tax credit will be calculated based on payroll information submitted by the company.
- c. Each year, the company must maintain the minimum average number and applicable average wage of new jobs. If the company is in a program category that requires investment, the company must meet that investment amount within the parameters in which it was approved.

## **CALCULATION OF BENEFITS**

As of October 1, 2015, the term "wages" has been determined by the Department, to be defined as **W-2 Box 16 Taxable Wages**. Any projects that were proposed or approved before October 1, 2015, will be allowed to use "Gross Wages", which includes the "wages" listed in the "Eligible and Ineligible Wage Chart", as was previously communicated to the company by DED. Companies that have proposals or approvals prior to October 1, 2015 may choose to use W-2 Box 16 Taxable Wages if that is easier for them to provide.

### **1. Base Payroll**

- a. Company must submit employment information spreadsheet as outlined in the Missouri Works Base Worksheet with both the Annualized Gross Pay and W-2 Box 16 Wages.
- b. At the time the NOI is submitted, the Company must choose either the Annualized Gross Pay or W-2 Box 16 Wage method for calculating base payroll.
- c. Company must submit both the Annualized Gross Pay and W-2 Box 16 Wages with every application.

### **2. New Payroll**

- a. New Payroll must exceed the base payroll.
- b. Company must submit employment information spreadsheet that includes the Annualized Gross Pay and W-2 Box 16 Wages for the Company's appropriate tax year.
- c. Company must submit both the Annualized Gross Pay and W-2 Box 16 Wages with every application.

### **3. Benefit Calculation**

- a. Benefits are calculated on new payroll based on the withholdings retained that otherwise would be remitted to the State or as the approved percentage of new payroll.
- b. New Payroll must exceed base payroll.
  - i. With each application, if base payroll decreases, benefits will be decreased by that amount.
- c. Related Facility Employment
  - i. With each application, if the Company has a related facility base employment and it decreases, that decrease will be subtracted from eligible new jobs.

## ANNUAL REPORTING REQUIREMENTS AND PENALTY PROVISIONS

### Tax Credit Accountability Act Requirements (Sections 135.800-135.830, RSMo)

#### NOTICE

The Tax Credit Accountability Act of 2004 (Senate Bill 1099, Sections 135.800 through 135.830, RSMo) makes several changes to the tax credit programs, specifically:

- Processing tax credit applications;
- Annual reporting requirements 135.805, RSMo; and,
- Penalty provisions 135.810, RSMo.

#### Changes in Processing of Tax Credits (Section 135.815, RSMo)

Prior to the Missouri Department of Economic Development (DED) authorization of a tax credit, the DED will contact the Departments of Revenue and Insurance and verify that the applicant does not owe any delinquent income, sales, use, or insurance taxes, or interest or penalties on such taxes. If a delinquency exists, the amount of tax credits issued will be reduced by the amount of the delinquency. After satisfying all delinquencies, the remaining tax credits shall be issued.

#### Annual Reporting Requirements and Penalty Provisions

All tax credit recipients must be familiar with the annual reporting requirements and penalties for non-compliance established under the Tax Credit Accountability Act of 2004. The responsibility for compliance falls with the tax credit recipient.

Recipients of tax credits are required to submit the Tax Credit Accountability Act Reporting Form to the **Department of Revenue**. You may contact (573) 526-8733 (Personal Tax) or (573) 751-4541 (Corporate Tax) with any questions.

**NOTE: Failure to report for more than six months, but less than a year, shall result in a penalty of 2% of the value of the credits for each month of that delinquency; failure to report for more than a year shall result in a 10% penalty for each month of delinquency up to 100% of the value of the credits; and any fraud in the application process will result in a penalty equal to 100% of the credits issued.**

## Tax Credits

**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.**

**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.

**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, 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. The Missouri Transfer Form must be completed by both parties to transfer the tax credit.

**Issuance Fee:** 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.

## PROGRAM RESTRICTIONS

1. A qualified company shall not receive any further program benefits under the original approval of a (previous) Notice of Intent for any new jobs created after the date of the new Notice of Intent, and any jobs created before the new Notice of Intent shall not be included as new jobs for purposes of the benefit calculation for the new approval.
2. The department may withhold the approval of any benefits under this program until it is satisfied that proper documentation has been provided, and shall reduce the benefits to reflect any reduction in full-time employees or payroll at the facility and any related facility.
3. Any taxpayer who is awarded benefits under this program who knowingly hires individuals who are not allowed to work legally in the United States shall immediately forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained.
4. A qualified company cannot earn benefits for the same capital investment or the same jobs for the following State programs:
  - a. Development Tax Credits
  - b. Enhanced Enterprise Zone
  - c. Manufacturing Jobs
  - d. Quality Jobs
  - e. Rebuilding Communities Program

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

## Definitions

**Average Wage:** the new payroll divided by the number of new jobs, or the payroll of the retained jobs divided by the number of retained jobs.

**Commencement of Operations:** the starting date for the qualified company's first new employee, which shall be no later than twelve months from the date of approval.

**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.

**Department:** the Missouri Department of Economic Development.

**Director:** the Director of the Department of Economic Development.

**Employee:** a person employed by a qualified company, excluding: (a) Owners of the qualified company unless the qualified company is participating in an employee stock ownership plan; or (b) Owners of a non-controlling interest in stock of a qualified company that is publicly traded.

The term “owner” will mean:

- In the case of an LLC, any person with a membership interest
- In the case of a general partnership or joint venture, any of the partners
- In the case of a Limited Partnership, only those partners with management powers. In most cases this will require an examination of the partnership agreement.
- In the case of an S-Corporation, any person who owns any outstanding shares of stock.
- In the case of a C-Corporation, any person who:
  - Is a member of the board of directors, or
  - Any person who owns more than 10% of the outstanding shares of stock

For other business organizations DED will determine which persons qualify as owners based on management and control.

**Existing Missouri Business:** a qualified company that, for the ten-year period preceding submission of a Notice of Intent to the department, had a physical location in Missouri and full-time employees who routinely perform job duties within Missouri.

**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. An employee that spends less than fifty percent of the employee's work time at the facility shall be considered to be located at a 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 applicable percentage of the county average wage.

**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 this term shall not include loans or other funds provided to the qualified company that shall be repaid by the qualified company to the political subdivision.

**NAICS or NAICS industry classification:** the classification provided by the most recent edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget.

**New Capital Investment:** shall include costs incurred by the qualified company at the project facility after acceptance by the qualified company of the proposal for benefits from the department or the approval Notice of Intent, whichever occurs first, for real or personal property, and may include the value of finance or capital leases for real or personal property for the term of such lease at the project facility executed after acceptance by the qualified company of the proposal for benefits from the department or the approval of the Notice of Intent.

**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 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.

**New Payroll:** the amount of wages paid for all new jobs, located at the project facility during the qualified company's tax year that exceeds the project facility base payroll.

**Notice of Intent:** a form developed by the Department and available online, completed by the qualified company, and submitted to the Department stating the qualified company's intent to 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 Works Program established in sections 620.2000 to 620.2020 RSMo.

**Project Facility:** the building or buildings used by a qualified company at which new or retained jobs and any new capital investment are or will be located. A project facility may include separate buildings located within sixty miles of each other such that their purpose and operations are interrelated; provided that where the buildings making up the project facility are not located within the same county, the average wage of the new payroll shall exceed the applicable percentage of the highest county average wage among the counties in which the buildings are located. Upon approval by the department, a subsequent project facility may be designated if the qualified company demonstrates a need to relocate to the subsequent project facility at any time during the project period.

**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 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 Notice of Intent.

**Project Facility Base Payroll:** the annualized payroll for the project facility base employment or the total amount of 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. 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 within which benefits are awarded to a qualified company or within which the qualified company is obligated to perform under an agreement with the department, whichever is greater.

**Projected Net Fiscal Benefit:** the total fiscal benefit to the state less any state benefits offered to the qualified company, as determined by the department.

**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, certifies that it offers health insurance to all full-time employees of all facilities located in this State, and certifies that it pays at least fifty percent of such insurance premiums. For the purposes of sections 620.2000 to 620.2020, the term "qualified company" shall not include:

- a. Gambling establishments (NAICS industry group 7132)
- b. Store front consumer-based retail trade establishments (NAICS sectors 44 and 45), except with respect to any company headquartered in this state with a majority of its full-time employees engaged in operations not within the NAICS codes specified in this subdivision;
- c. Food & drinking places (NAICS subsector 722)
- d. Public utilities (NAICS 221 including water and sewer services)
- e. Any company that is delinquent in the payment of any non-protested taxes or any other amounts due the state or federal government or any other political subdivision of this state;
- f. Any company requesting benefits for retained jobs that has filed for or has publicly announced its intention to file for bankruptcy protection. However, a company that has filed for or has publicly announced its intention to file for bankruptcy, may be a qualified company provided that such company:
  - iii. Certifies to the department that it plans to reorganize and not to liquidate; and

- iv. After its bankruptcy petition has been filed, it produces proof, in a form and at times satisfactory to the department, that it is not delinquent in filing any tax returns or making any payment due to the state of Missouri, including but not limited to all tax payments due after the filing of the bankruptcy petition and under the terms of the plan of reorganization.

Any taxpayer who is awarded benefits under this subsection and who files for bankruptcy under Chapter 7 of the United States Bankruptcy Code, Title 11 U.S.C., shall immediately notify the department and shall forfeit such benefits and shall repay the state an amount equal to any state tax credits already redeemed and any withholding taxes already retained.

- g. Educational services (NAICS sector 61)
- h. Religious organizations (NACIS industry group 8131)
- i. Public administration (NAICS sector 92)
- j. Ethanol distillation or production
- k. Biodiesel production
- l. Healthcare and social services (NAICS sector 62)

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

**Related Company:** shall mean:

- 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 paragraph, “control of a qualified company” shall mean:
  - 1. 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 in the case of a qualified company that is a corporation;
  - 2. Ownership of at least fifty percent of the capital or profits interest in such qualified company if it is a partnership or association;
  - 3. Ownership, directly or indirectly, of at least fifty percent of the beneficial interest in the principal or income of such qualified company if it is a 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 or in which operations substantially similar to the operations of the project facility are performed.

**Related Facility Base Employment:** the greater of the number of full-time employees located at all related facilities on the date of the Notice of Intent or, for the twelve-month period prior to the date 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.

**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.

**Tax Credits:** tax credits issued by the department to offset the state taxes imposed by chapters 143 and 148, or which may be sold or refunded as provided for in this program.

**Wages:** W-2 Box 16 Wages

- Please note: As of October 1, 2015, the term “wages” has been determined by the Department, to be defined as **W-2 Box 16 Taxable Wages**. Any projects that were proposed or approved before October 1, 2015, will be allowed to use “Gross Wages”, which includes the “wages” listed in the “Eligible and Ineligible Wage Chart”, as was previously communicated to the company by DED. Companies that have proposals or approvals prior to October 1, 2015 may choose to use W-2 Box 16 Taxable Wages if that is easier for them to provide.

**Withholding Tax:** the state tax imposed by sections 143.191 to 143.265. For purposes of this program, the withholding tax shall be computed using a schedule as determined by the department based on average wages. This schedule is used to estimate the withholding amounts.

Adjusted Gross Income Range	Withholding %
AGI of \$15-20,000	1.27%
AGI of \$20-25,000	1.82%
AGI of \$25-30,000	2.29%
AGI of \$30-35,000	2.63%
AGI of \$35-40,000	2.85%
AGI of \$40-45,000	3.00%
AGI of \$45-50,000	3.11%
AGI of \$50-55,000	3.21%
AGI of \$55-60,000	3.31%
AGI of \$60-65,000	3.40%
AGI of \$65-70,000	3.49%
AGI of \$70-75,000	3.57%
AGI of \$75-100,000	3.78%
AGI of \$100-200,000	4.29%
AGI of \$200-500,000	4.82%