



**DIVISION OF BUSINESS AND COMMUNITY SERVICES**  
**SMALL BUSINESS INCUBATOR PROGRAM**  
**POLICY GUIDELINES**

**THE DEPARTMENT RESERVES THE RIGHT TO UPDATE THESE INSTRUCTIONS  
AS NECESSARY TO BE CONSISTENT WITH THE LAW.**

**ALL INSTRUCTIONS ARE FOR GUIDANCE ONLY**

**AND DO NOT STATE THE COMPLETE LAW.**

**PURPOSE**

The Missouri Department of Economic Development (DED) has the responsibility to approve or deny proposals for small business incubators. These guidelines shall serve to assist local sponsors and contributing taxpayers in the implementation of the small business incubator program (program). The program operates under the provisions of section 620.495, RSMo, as amended.

**I. INCUBATOR**

**WHAT IS AN INCUBATOR PROGRAM? RSMo 620.495.2(2)**

A program in which small units of space may be leased by a tenant and in which management maintains or provides access to business development services for use by tenants or a program without infrastructure in which participants avail themselves of business development services to assist in the growth of their start-up small businesses.

An incubator is a building, which can be divided into smaller units of space to be leased by small businesses. An incubator is also a program without infrastructure in which participants avail themselves of business development services to assist in the growth of their start-up businesses.

In addition to the space, incubators provide business development services for use by the tenants and participants. These services shall include, but are not limited to, financial consulting assistance, management and marketing assistance, business education, and physical services such as personal computers, copier, facsimile, conference rooms, wetlabs, etc. Because of the shared services and efficient use of the available space, costs are usually much less than for a small business operating independently.

The incubator is not intended to be a permanent home for the new firm. After a period determined by the incubator's policy, a tenant will move from the incubator, thereby making room available in the incubator for a new start-up firm. The local sponsor shall explain this feature of an incubator to all tenants before the execution of the initial lease.

## **WHO MAY APPLY?**

Only local sponsors are eligible to apply for the small business incubator program.

### **LOCAL SPONSOR DEFINED RSMo 620.495.2(3)**

Local Sponsor is an organization entering into a written agreement with DED to establish, operate, and administer a small business incubator program or to provide funds to another organization that operates such an incubator program. Local Sponsor includes:

1. Missouri municipalities, counties, special tax districts and regional planning commissions;
2. Missouri universities, community colleges, colleges and area vocational schools; or
3. Not-for-profit corporations.

### **LOCAL SPONSOR MUST DEMONSTRATE - RSMo 620.495.3(1-5)**

1. That a program exists that can be transformed into an incubator at a specified cost;
2. The ability to directly provide or arrange for the provision of business development services for tenants and participants of the incubator;
3. A potential for sustained use of the incubator facility by eligible tenants and participants, through a market study or other means; and
4. The ability to manage and operate the incubator program.

### **LOCAL SPONSOR RESPONSIBILITIES ARE TO - RSMo 620.495.6(1-8)**

1. Secure title on a facility for the program or a lease of a facility for the program at least for ten (10) years;
2. Manage the physical development of the incubator facility, such as personal computers, copiers, facsimile, conference rooms, labs, etc.;
3. Furnish and equip the program to provide business services to tenants and participants;
4. Market the program and secure eligible tenants and participants;
5. Provide financial consulting, marketing and management assistance services or arrange for the provision of these services for tenants and participants of the incubator, including assistance in accessing private financial markets;
6. Set rental and service fees;
7. Encourage the sharing of ideas between tenants and participants and otherwise aid tenants and participants in an innovative manner while they are within the incubator; and
8. Establish policies and criteria for the acceptance, graduation and termination of occupancy of tenants and participants to maximize the opportunity to succeed for the greatest number of tenants.

## **ELIGIBLE TENANTS AND PARTICIPANTS - RSMo 620.495.2(4-5)**

**Participants** are sole proprietorships, business partnerships or corporations operating a business for profit through which the owner avails himself or herself of business development services in an incubator program,

**Tenants** are sole proprietorships, business partnerships or corporations operating a business for profit and leasing or otherwise occupying space in an incubator

## **FUNDS AVAILABLE FOR FINANCING**

The provisions of section 620.495, RSMo, allow for the administration of a loan, loan guarantee, and grant program, as well as a contribution tax credit. The only function that is currently being utilized is the contribution tax credit.

## **HOW TAX CREDITS ARE AWARDED FOR CONTRIBUTIONS MADE - RSMo 620.495.11**

Certified incubators may receive contributions from taxpayers. The taxpayers in turn may receive tax credits in the amount of 50% of the contributions. An incubator must be approved by DED before receiving contributions from taxpayers. The overall maximum amount of tax credits that can be authorized in any one calendar year is \$500,000.

In order to ensure a fair distribution of the limited authorized tax credits, every certified incubator requesting tax credits must complete a "Budget of Revenues and Expenditures" for the coming calendar year and send to DED by January 31<sup>st</sup> of each year. The budget shall include the previous two years' budgets, as well as the projected budget for the upcoming year. Revenues must include the expected contributions for which tax credits will be awarded as well as other sources of revenue.

DED will review the budget and authorize tax credits for annual project the incubators. The reserved tax credits will be based upon the eligible use of contributions, need for tax credits, overall competition, and prioritization to support new incubators due to start-up costs.

The contributions for which tax credits are issued shall be used for capital expenditures and non-operating expenditures only within the incubator. No tax credits will be issued for operating expenditures of the incubator. No tax credits will be issued for contributions used to finance expenses of graduate companies.

## **ELIGIBLE PROJECT COSTS**

- Acquisition of land and existing buildings;
- Leasing of land and existing buildings; (10 years minimum)
- Rehabilitation of buildings or other facilities;
- Construction of new facilities;
- Purchase of equipment and furnishings;
- Business development services included but not limited to business management consulting and business education.
- Material Donations must be "in hand" when counted.

## INELIGIBLE PROJECT COSTS

- Salaries
- Operating Expenses
- Labor

## REPORTING REQUIREMENTS

- September 30** - Every certified incubator must complete a “Missouri Certified Incubators Annual Performance Report” for the Fiscal Year ending June 30th and send to DED by September 30th of each year.
- January 31** - Every certified incubator **requesting tax credits for the upcoming year** must complete a “Budget of Revenues and Expenditures for Calendar Year ending December 31<sup>st</sup>, and submitted to DED by January 31<sup>st</sup> of each year.
- Annually** - Every certified incubator must submit an annual financial report audited by an independent certified public accountant, defining the Incubator Revenues & Expenditures separately.

**June 30** - Every certified incubator must complete a “Tax Credit Accountability Act Reporting Form” for the Calendar Year ending December 31<sup>st</sup> and submitted to **The Missouri Department of Revenue by June 30<sup>th</sup> of each year**. The Tax Credit Accountability Act of 2004 (Senate Bill 1099, Sections 135.800 through 135.830, RSMo) makes several changes to the tax cred<sup>it</sup> programs, specifically:

- Processing tax credit applications;
- Additional Annual reporting requirements; and
- Penalty provisions.

Please contact The Missouri Department of Revenue for additional information or questions:

E-mail: [taxcredit@dor.mo.gov](mailto:taxcredit@dor.mo.gov)

Phone: (573)751-3055

## HOW TO APPLY FOR CERTIFICATION

A “Sponsor Application for a Certified Missouri Incubator Designation” and a “Project Narrative of Application for a Certified Missouri Incubator Designation” shall be completed to demonstrate that all the requirements are met, and sent to DED for review.

A business plan must also be completed and sent to DED and shall include the following topics:

- Groups of target markets and rationale for such selection.
- Explanation of the target market needs that relate to the service provided.
- SWOT analysis that identifies and categorizes strengths, weaknesses, opportunities, and threats
- Corresponding strategies developed based upon SWOT analysis.

- List and description of the services offered including those that are required by **RSMo 620.495.6(1-8)** of the Missouri Revised Statutes as follows:
  - (1) Secure Title on a facility for the program or a lease of a facility for the program;
  - (2) Manage the physical development of the incubator program, including the provision of common conference or meeting space;
  - (3) Furnish and equip the program to provide business services to the tenants and participants;
  - (4) Market the program and secure eligible tenants and participants;
  - (5) Provide financial consulting, marketing and management assistance services or arrange for the provision of these services for tenants and participants of the incubator, including assistance in accessing private financial markets;
  - (6) Set rental and service fees;
  - (7) Encourage the sharing of ideas between tenants and participants and otherwise aid the tenants and participants in an innovative manner while they are within the incubator;
  - (8) Establish policies and criteria for the acceptance of tenants and participants into the incubator and for the termination of occupancy of tenants so as to maximize the opportunity to succeed for the greatest number of tenants, consistent with those specified in this section.
- Explanation of the break-even table and chart as well as underlying assumptions.
- Explanation of the sales forecast table and chart. Submit the proposed rental and service fee structure, which will be charged to tenants of the incubator. Separate the sales from rental space, business support services (i.e., secretarial, janitorial, etc.) and technical support services.
- Explanation and forecast of the expense forecast table and chart. The projections should include:
  - General administration – salaries, benefits, insurance, travel, management, and professional fees; and
  - Building operation – taxes, utilities, maintenance, depreciation, equipment, interest and principal payments (if any), etc.
  - Do not adjust for changes in the price level.
- Contingency plan.

## NAICS

NAICS is 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 twenty (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.

### **QUALIFYING CRITERIA - RSMo 620.495.4(1-4)**

DED will review applications for the following criteria:

1. Ability of the local sponsor to carry out the provisions of section 620.495, RSMo;
2. Economic impact of the incubator on the community;
3. Conformance with area-wide and local economic development plans, if such exist; and
4. Location of the incubator, in order to encourage geographic distribution of incubators across the state.

## **II. NOTICES**

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.

<b>Changes in Processing of Tax Credits (Section 135.815, RSMo)</b>
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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.

### **CLOSED RECORDS (SECTIONS 610.255 and 620.014, RSMo, applicable to Incubator and Contributor)**

Before August 28, 2004 and pursuant to Section 620.014, 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.

## **III. CONTRIBUTOR**

### **WHO MAY APPLY?**

Any **taxpayer**, including non-for-profit corporations, except those that benefit directly from General Revenue such as public universities, may be a contributor. Applications can be submitted to DED year-round, but decisions will be made on a first-come basis based on the annual amount of tax credits allocated to an approved incubator.

### **ISSUANCE OF TAX CREDITS**

Taxpayers contributing to the incubator shall receive a tax credit against a tax otherwise due under the provisions of chapter 143, RSMo (income tax), excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or chapter 147, RSMo (corporation franchise tax); or chapter 148, RSMo (financial institution tax). The tax credit will be 50% of any amount contributed to the incubator during the taxpayer’s tax year. Tax credits will be issued for the year in which the contribution was made and must be submitted within 12 months of donation.

Any excess tax credits may be carried forward for up to five (5) years. A taxpayer may sell tax credits allowed under section 620.495, RSMo, under the following conditions:

- For no less than 75% of the par value of such credits; and
- In an amount not to exceed 100% of the tax credit amount.

The assignee may use the acquired credits to offset up to 100% of the tax liability under the same provisions as the assignor.

### **ELIGIBLE CONTRIBUTIONS:**

1. Cash; including donations made by check, valued at the face amount of the check.
2. Marketable securities (publicly traded stocks, bonds, and mutual funds) valued between the high and low market price on the date the stock transfers from the donor into the applicant’s brokerage account; must be sold by the approved agency within 12 months of transfer and must be sold before tax credits will be approved for the donor.

Tax credits for donated marketable securities will be awarded based upon evidence of the donor's ownership of stock, transfer of stock by the organization and sale of stock by the organization. Documentation includes the following:

- a. Documentation of the transfer of stocks from the donor/contributor to the organization indicating the donor/contributor's name, recipient organization, type of stock/name of security(ies), # of shares and date of transfer The transfer documentation may be in the form of a letter from the broker or a copy of the donor's brokerage account portfolio and must come from donor's stockbroker).
- b. AND Recipient organization must provide proof the donated stock was sold. Documentation of the sale of the stocks by the organization includes a copy of the brokerage statement indicating the sale by the organization of the same security to include type of stock, # of shares, gross value, net value, trade date and settlement date. The sale of the stock documentation must come from the organization's stockbroker. A copy of the trade confirmation and brokerage check(front and back) from the sale of the securities or proof of payment from the stock sale is required.
- b. The liquidation should take place within fifteen (15) days from the date of receipt. The contribution date is the date the securities are transferred to the approved incubator.
- c. Contributor application shall be completed after the liquidation has occurred. The application should be signed by the contributor and the incubator and must be mailed to DED along with documentation satisfactory to the department that the transaction has occurred.
3. Equipment, furniture, and construction materials used in the incubator valued at the lesser of either the fair market value or contributor's cost.
  - a. Note: The date the items are received by the incubator is the date of contribution. Tax credits for donated equipment, furniture, and construction materials will be awarded based upon an invoice or an appraisal (no more than six months old). Attach a copy of the invoice showing the cost to the donor or appraisal documenting current fair market value, whichever is less.

## **HOW TO APPLY FOR TAX CREDITS**

A contributor must complete a "Verification of Contribution to a Certified Missouri Incubator" and send to DED for review along with the proof of contribution. Acceptable proof of cash contribution includes a cancelled check, bank statement, or wire transfer. Once approved, DED will send a certificate of tax credit to the contributor.

To transfer the earned tax credits, the assignor shall enter into a written agreement with the assignee establishing the terms and conditions. The assignor must also complete Missouri Transfer Form MO-TF and send it to the Missouri Department of Revenue for the issuance of a new certificate to the assignee along with the proof of sale. Acceptable proof of sale includes a cancelled check, bank statement, or wire transfer.

**CONTACT INFORMATION**

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