

allocable to eligible employees that are residents of another state whose income is not subject to New Jersey gross income tax pursuant to N.J.S.A. 54A:1-1 et seq., shall not exceed the amount allocable to such employees at the time of the Authority's approval of the grant;

11. Whether the business is located in Planning Area 1 or 2 of the State's Development and Redevelopment Plan;

12. Whether the business is located in a former Urban Coordinating Council or other distressed municipality as defined by the Department of Community Affairs;

13. Whether the business is located in a brownfield site, defined as the first occupants of the site after issuance of a new no-further action letter;

14. Whether the business is located in a center designated by the State Planning Commission, or in a municipality with an endorsed plan;

15. Whether 10 percent of the employees of the business receive a "qualified transportation fringe" in a minimum amount of \$30.00 pursuant to Title 26 of the United States Internal Revenue Code Section 132(f)(1)(a) for transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment or Section 132(f)(1)(b) for any transit pass, as such commuter highway vehicle and transit pass are defined in Section 132(f) of the Internal Revenue Code;

16. Whether the business is located in an area designated by the locality as an "area in need of redevelopment";

17. Whether the project is linked with housing production or renovation (market or affordable) utilizing at least 25 percent of the total buildable area of the site;

18. Whether the business is located within five miles of and is working cooperatively with a public or non-profit university on research and development;

19. Whether the business is within a designated industry and is located within a New Jersey Economic Development Authority Innovation Zone; and

20. Such factors as presented by a specific applicant.

(d) The term of a grant may be for a period up to 10 years as approved by the Authority. Grant payments shall be issued by the Authority, subject to either annual appropriation from the General Fund to the Authority or issuance of a bond, the proceeds of which are intended for grant payments, beginning the next calendar year following achievement of the employment conditions and other conditions set forth in the Agreement and annually thereafter only if the State Treasurer has certified that the amount of withholdings received in the previous year by the Division from the business equals or exceeds the amount of the grant.

(e) Payment of a grant shall be subject to a certified copy of the business's prior year's payroll categorized by em-

ployees not subject to the grant and new employees subject to the grant. The certification shall identify the number of employees and partners in each category, the salary of each employee, the estimated tax paid by each partner in the foundation year, the date of hire, and withholding taxes paid for each employee.

1. Upon receipt from the Division Director of a certification of the available withholdings of the new employees and a determination by the Authority that all requirements of the agreement have been met, the Authority shall calculate the annual grant by multiplying the withholdings attributable to eligible positions for new employees by the grant percentage.

2. In the event the business creates in excess of the new employee commitment, the business may be eligible to receive an adjustment in its grant to include the lesser of the dollar amount equal to the amount of withholdings paid for the additional eligible positions above the new employment commitment multiplied by the grant award percentage; or a dollar amount which shall be a 20 percent cap above the dollar amount of the withholdings attributed to the new employment commitment adjusted annually by the Consumer Price Index, with the exception of the following which, in the discretion of the Authority, may receive the full dollar amount of withholdings paid for the additional eligible positions multiplied by the grant award percentage:

i. A business with a total of 100 employees or less at the time of application for the grant;

ii. A business making significant leasehold improvements or renovations to accommodate additional growth at the project; or

iii. A manufacturing business making a significant capital investment such as investment in a new product line or model or providing sufficient evidence that it plans a significant increase in production from existing equipment, such as higher utilization rates.

3. The business shall be awarded a grant percentage at the time of approval based on the criteria set forth in this section. On an annual basis, when determining the amount of the grant to be awarded to the business for each calendar year, the Authority shall review the annual reports submitted by the business pursuant to N.J.A.C. 19:34-10.6. If the business has not met the new employment commitment, but has achieved the minimum eligibility threshold or the business has exceeded the new employment commitment, the amount of the grant shall be based on the actual amount of eligible positions created and Authority shall adjust the awarded grant percentage for the applicable calendar year pursuant to the criteria set forth in this section and subject to N.J.A.C. 19:31-10.4(e)2.

(f) A business that is receiving any other grant by operation of State law is limited to a Business Employment Incentive Grant which annual value when combined with the

other grants cannot exceed 80 percent of the business's withholdings or 50 percent of the estimated tax of partners of an eligible partnership, except upon the written approval of the State Treasurer. Amounts received as grants from the Office of Customized Training pursuant to N.J.S.A. 34:15D-1 et seq. shall be excluded from the calculation.

(g) A business that qualifies under N.J.S.A. 34:1B-129b for a grant of up to 80 percent of its withholdings or up to 50 percent of its estimated tax that is receiving any other grant by operation of State law is limited to a Business Employment Incentive Grant which annual value when combined with the other grants cannot exceed 80 percent of the business's withholdings or 50 percent of the estimated tax of partners of an eligible partnership; except upon the written approval of the State Treasurer. Amounts received as grants from the Office of Customized Training pursuant to N.J.S.A. 34:15D-1 et seq. shall be excluded from the calculation.

(h) A grant received under the Act by a partnership, Subchapter S-corporation, or other such business entity shall be apportioned among the persons to whom the income or profit of the partnership, Subchapter S-corporation, or other entity is distributed, in the same proportions as those in which the income or profit is distributed.

Amended by R.1997 d.270, effective July 7, 1997.  
See: 29 N.J.R. 1485(b), 29 N.J.R. 2844(b).

Substantially amended (c); in (d), deleted "existing" following "categorized by", and substituted "salary of each employee" for "base salary of each employee and separately any overtime paid during the grant"; in (d)1 and (d)2, substituted "new employees" for "eligible positions"; and in (d)2 substituted "are filled by new employees" for "qualify as full-time" and deleted "in either event" following "the business may".

Amended by R.2000 d.297, effective July 17, 2000.  
See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

In (a), added "or not less than 10 percent and not more than 50 percent of the estimated tax of a partner in an eligible position" at the end; in (d)2, deleted a former first sentence; and in (e), inserted "or 50 percent of the estimated tax" following "withholdings".

Amended by R.2004 d.94, effective March 1, 2004.  
See: 35 N.J.R. 5047(a), 35 N.J.R. 5369(a), 36 N.J.R. 1198(b).

Rewrote (a); added new (b); recodified (b) through (f) as (c) through (g); deleted former (g); and amended new (c), (d), (e) and (f).

Amended by R.2005 d.97, effective March 21, 2005.  
See: 36 N.J.R. 5663(a), 37 N.J.R. 904(b).

In (e), rewrote 2, added 3.

Amended by R.2008 d.18, effective January 7, 2008.  
See: 38 N.J.R. 5341(a), 40 N.J.R. 195(b).

Rewrote (a) and (c)15; in (c)18, deleted "and" from the end; added new (c)19; recodified former (c)19 as (c)20; in (e)2, substituted "which shall be a 20 percent cap" for "equal to up to 20 percent"; in (f), inserted "annual"; added new (g); and recodified former (g) as (h).

### 19:31-10.5 Business expansion or relocation

(a) For businesses that are locating in the State from outside New Jersey, only new employees in eligible positions created in the base years and thereafter may be considered for grant purposes.

1. Upon Authority Board approval, the business's payroll/number of employees shall be registered, including the number of existing employees in New Jersey. Upon

occupancy of the project, the business shall have until the end of the base years to achieve the number of employees as represented at application. Only those new employees in eligible positions shall be considered when determining a grant.

2. The business may receive a grant for the new employees in eligible positions represented at application and any additional new employees in eligible positions that are created during the base years and thereafter.

3. Grant payments shall be issued by the Authority subject to annual appropriation from the General Fund to the Authority or upon issuance of a bond, the proceeds of which are intended for grant payments beginning the next calendar year following achievement of the employment conditions and other conditions set forth in the Agreement and annually thereafter only if the State Treasurer has certified that the amount of withholdings received in the previous year by the Division from the business equals or exceeds in the amount of the grant.

(b) For businesses expanding in New Jersey through relocation from an existing site to a new location or expansion at its existing location, only those new employees in eligible positions to be created in the base years and thereafter may be considered when determining a grant. Grant payments shall be issued during the next calendar year upon occupancy of the project and achievement of the employment conditions set forth in the Agreement.

(c) If a business is expanding through a merger or consolidation with one or more companies, only the eligible positions created or transferred from outside New Jersey after board approval and the official date of the merger or consolidation shall be considered when determining a grant.

Amended by R.1997 d.270, effective July 7, 1997.  
See: 29 N.J.R. 1485(b), 29 N.J.R. 2844(b).

In (a), substituted "new employees in eligible positions created in the base years and thereafter may be considered" for "the new employees subject to withholding shall be considered as eligible positions"; in (a)1, substituted "Authority Board approval" for "application to the Authority" and inserted "new" in the third sentence; in (a)2, inserted "new employees in"; substantially amended (a)3; in (b), inserted "new employees"; and in (c), deleted "eligible" following "only the new".

Amended by R.2000 d.297, effective July 17, 2000.  
See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

In (a), inserted "including the number of existing employees in New Jersey" at the end of the first sentence in 1, and inserted "or estimated taxes of partners" following "withholdings" and inserted "partnership or cooperative association" following "business" in 3; and rewrote (c).  
Amended by R.2004 d.94, effective March 1, 2004.

See: 35 N.J.R. 5047(a), 35 N.J.R. 5369(a), 36 N.J.R. 1198(b).

In (a)3, inserted "or upon issuance of a bond, the proceeds of which are intended for grant payments" preceding "beginning the next calendar year".

### 19:31-10.6 Grant conditions

(a) The business shall maintain the project, the required minimum number of eligible positions in New Jersey and at least 80 percent of the Base Employment Number for the commitment duration. Businesses which are tenants applying