

"Professional employment organization" means an employee leasing company registered with the Department of Labor and Workforce Development pursuant to N.J.S.A. 34:8-67 et seq.

"Project" means the relocation and/or expansion of a business in New Jersey that is creating new employment opportunities; the wages of which are subject to the provisions of the New Jersey Gross Income Tax Act (N.J.S.A. 54A:1-1 et seq.). Project may constitute multiple locations of a business within New Jersey, but each location must meet the requirements of N.J.A.C. 19:31-10.3.

"Residual withholdings" means for any period of time, the excess of the estimated cumulative withholdings for all executed agreements eligible for payments under the Act over the cumulative anticipated grant amounts.

"Schedule NJK-1" means Schedule NJK-1 as the form existed for taxable year 1997.

"Targeted industry" means a business engaged in the field of advanced computing, advanced materials, biotechnology, electronic device technology, environmental technology or medical device technology.

"Withholdings" means the amount withheld by a business from the wages of new employees or estimated taxes paid by, or on behalf of, partners that are new employees, or any combination thereof, pursuant to the "New Jersey Gross Income Tax Act," N.J.S.A. 54A:1-1 et seq., and, if the new employee is an employee whose position has moved to New Jersey but whose income is not subject to the New Jersey gross income tax pursuant to N.J.S.A. 54A:1-1 et seq., the amount of withholding that would occur if the employee were to move to New Jersey. Withholdings shall not include amounts withheld by a business from stock options, money or other payments given to a new employee pursuant to the termination of employment of the new employee. Withholdings shall include amounts withheld by a business from stock options, money or other payments given to a new employee pursuant to a bonus for commencing employment or for services rendered by the new employee.

Amended by R.1997 d.270, effective July 7, 1997.

See: 29 N.J.R. 1485(b), 29 N.J.R. 2844(b).

Amended "Eligible position".

Amended by R.2000 d.297, effective July 17, 2000.

See: 32 N.J.R. 1705(a), 32 N.J.R. 2602(c).

Rewrote the section.

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 the section.

Amended by R.2005 d.97, effective March 21, 2005.

See: 36 N.J.R. 5663(a), 37 N.J.R. 904(b).

Rewrote "Business", "New employee", and "Withholdings"; added "Base employment number", "Commitment duration", "New employment commitment", and "Professional employment organization".

Amended by R.2005 d.274, effective August 15, 2005.

See: 37 N.J.R. 1714(a), 37 N.J.R. 3058(a).

Rewrote "New employee" definition.

### 19:31-10.3 Eligibility

(a) A business may apply to the Authority for a grant if the Authority finds that:

1. The project proposed by the business shall result in a net increase in new employment at the project during the term of the agreement, and the business shall:

i. Create at least 25 eligible positions in the base years; or

ii. Create at least 10 eligible positions in the base years if the business is a targeted industry;

2. In the case of a business which is a landlord, the landlord may apply to the Authority in one consolidated application for a Business Employment Incentive Grant for any project which creates at least 25 eligible positions in the base years, and in which the tenants of members of the cooperative association have agreed to assign to the landlord any claim of right that they may have individually to a grant and have agreed to cooperate with the landlord in providing to the Authority all information required for the initial application, the Agreement and annually thereafter any other information which may be required by the Authority.

i. In the event the tenants individually meet the eligibility standards set forth herein, the tenant may elect to submit its own application for a grant rather than through its landlord;

3. The project is economically sound and will benefit the people of New Jersey by increasing opportunities for employment and by strengthening the State's economy;

i. The Authority will evaluate the financial statements and projections of the business and the proposed sources and uses of funds to ensure that the proposed project is economically viable; and

4. The Authority determines that the receipt of the business employment incentive grant will be a material factor in the business's decision to go forward with the project.

(b) Projects which consist solely of point-of-final-purchase retail facilities shall not be eligible for a grant.

1. For projects consisting of both point-of-final-purchase retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant, and only withholdings from new employees which are employed in the portion of the project which represents non-retail facilities shall be used to determine the grant.

2. If warehouse facilities are part of a point-of-final purchase retail facility and the warehouse facilities supply only the retail facility, the warehouse facility shall not be eligible for a grant.

(c) A business which is receiving a Business Relocation Assistance Grant pursuant to P.L. 1996, c.25 shall not be eligible for a Business Employment Incentive Grant, except upon written approval by the State Treasurer.

(d) A business shall not be eligible to be approved for a grant on or after July 1, 2003 unless the business provides employee health benefits under a group health plan as defined under section 14 of P.L. 1997, c.146 (N.J.S.A. 17B:27-54), a health benefits plan as defined under section 1 of P.L. 1992, c.162 (N.J.S.A. 17B:27A-17), or a policy or contract of health insurance covering more than one person issued pursuant to Article 2 of Title 17B of the New Jersey Statutes.

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) and added (d).

#### 19:31-10.4 Amount/term of grant

(a) The amount of the business employment incentive grant in each case shall be not less than 10 percent and not more than 50 percent of the withholdings of the eligible positions for new employees or not less than 10 percent and not more than 30 percent of the estimated tax of a partner of an eligible partnership whether paid directly by the partner or by the eligible partnership on behalf of such partner's account, or any combination thereof. In no case shall the aggregate amount of the employment incentive grant awarded pursuant to a business employment incentive agreement entered into on or after July 1, 2003 exceed an average of \$50,000 for all new employees over the term of the grant.

(b) A business may be eligible to be awarded a grant of up to 80 percent of the withholdings of the business or up to 50 percent of the estimated tax of the partners of an eligible partnership if the grant promotes smart growth and the goals, strategies and policies of the State Development and Redevelopment Plan established pursuant to section 5 of P.L. 1985, c.398 (N.J.S.A. 52:18A-200) as determined by and based upon criteria promulgated by the Authority following consultation with the Department of Community Affairs, Office of Smart Growth and set forth in (c) below.

(c) The following criteria shall be considered when determining the grant amount and term that a business will be eligible to receive:

1. The number of eligible positions created for new employees and the expected duration of those positions;
2. The total number of existing employees of the business;
3. The type of contribution the business can make to the long-term growth of the State's economy;
4. The amount of other financial assistance the business will receive from public sources versus private investment;
5. The total dollar investment the business is contributing to the project;

6. The type of industry that the business is involved in;
7. The location of the project;
8. The type of jobs to be created and the associated wages, with priority given to those companies that create full-time positions that average at least 1.5 times the minimum hourly wage;
9. Whether the business is a designated industry;
10. The impact of the business on State tax revenues. For the period of the grant during which the Authority remits payments to the grantee, the amount of the grant 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 the business is located within one-half mile of a rail station or bus hub; or whether the business has created or subscribed to an ongoing transportation program for mass transit as defined by New Jersey Transit;
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; and
19. 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.