GOOD JOBS FOR MICHIGAN PROGRAM PROGRAM GUIDELINES

LEGISLATIVE OVERVIEW

The Michigan Strategic Fund (MSF) board may authorize state withholding tax capture revenues under the Good Jobs for Michigan program (the "program") for businesses that provide certified new jobs in Michigan. The MSF may execute up to 15 written agreements per year, any unused written agreements will carryforward to future years. The MSF board may not commit more than $200 million in total withholding tax capture revenues under the program.

Eligible businesses may apply for assistance under the program if all of the following are met:

- The eligible business proposes to create and maintain one or more of the following in Michigan within five years after entering into the written agreement:
  - A minimum of 3,000 certified new jobs with an average annual wage that is equal to or greater than the prosperity region average wage;
  - A minimum of 500 certified new jobs with an average annual wage that is equal to or greater than the prosperity region average wage; or
  - A minimum of 250 certified new jobs with an average annual wage that is equal to 125 percent or more of the prosperity region average wage.
- The eligible business agrees to maintain the number of full-time jobs equal to or greater than the number of full-time jobs it maintained in the state prior to expansion or location, or any full-time jobs it acquired through a merger or acquisition that were located in the state prior to the expansion or location throughout the duration of the written agreement;
- The eligible business will maintain the number of certified new jobs throughout the duration of the written of the agreement. If the authorized business fails to maintain the requisite number of certified new jobs, the authorized business will forfeit the state withholding tax capture revenues for that year.
- The local governing body of the municipality in which the facility is located approves the expansion or new location by resolution;
- The plans for the expansion are economically sound;
- The expansion or location of the eligible business will increase employment opportunities and strengthen Michigan's economy;
- Assistance under this program is an incentive to expand or locate the eligible business in Michigan and address the competitive disadvantages with sites outside this state; and
- The expansion or location of the eligible business will result in a positive fiscal impact to the state.

The MSF board may authorize state withholding tax capture revenues of up to 50 percent for up to five years for eligible businesses that, within five years after entering into the written agreement, propose to create and maintain a minimum of 500 certified new jobs with an average annual wage that is equal to or greater than the prosperity region average wage.

The MSF may authorize state withholding tax capture revenues of up to 100 percent for up to 10 years for eligible businesses that, within five years after entering into the written agreement, propose to create and maintain at least one of the following:

- A minimum of 3,000 certified new jobs with an average annual wage that is equal to or greater than the prosperity region average wage;
- A minimum of 250 certified new jobs with an average annual wage that is equal to 125 percent or more of the prosperity region average wage.

Considerations for authorizing assistance under the program shall include the following, if applicable:

- The number of certified new jobs to be created;
- The level in which the average annual wage exceeds the prosperity region average wage;
- Whether there is a disadvantage of expanding or locating in Michigan versus another state;
- The potential impact of the expansion or location on the economy of the state;
- Whether the eligible business has made a written commitment to fund some portion of costs for applicable training of the individuals that will perform the full-time jobs that leads to a professional or technical certification for these individuals;
- The eligible business make a good-faith effort to employ, if qualified, Michigan residents at the facility;
- The estimated cost of the withholding tax capture revenues under the program, local support, and other state assistance; or
- Whether the expansion or location will occur without assistance under the program.

The MSF shall enter into a written agreement with the eligible business with terms and conditions in accordance with the program legislation and program guidelines and otherwise satisfactory to the MSF board. The written agreement shall include at a minimum all conditions imposed upon the authorized business; a certification from the authorized business the certified new jobs would not be created without assistance under the program, the estimated annual withholding tax capture to be generated; the duration and amount of assistance under the program; revocation and repayment requirements if the authorized business does not comply with the written agreement; method for verifying and measuring certified new jobs; and an audit provision that allows for the verification of the timely completion or satisfaction of the agreement requirements and investment.

The MSF shall issue a withholdings certificate each calendar year to the authorized business with the amount of withholding tax capture revenues to be paid for that calendar year. The MSF shall receive five percent of the withholding tax capture revenue payments authorized in any given year for administrative expenses. If the authorized business fails to satisfy and maintain the minimum number of certified new jobs, the authorized business will forfeit its withholding tax capture revenue payment for that calendar year.

DEFINITIONS

a) "**Authorized Business"** is an eligible business that has entered into a written agreement under this program with the MSF.

b) **"Certified New Job"** is a full-time job created by an authorized business at the facility in excess of the number of full-time jobs maintained in the state prior to the expansion or location and the number of full-time jobs that the authorized business acquired through a merger or acquisition that were located in this state prior to the expansion or location. Full-time jobs created by a primary supplier may qualify as certified new jobs for authorized businesses that create a minimum of 3,000 certified new jobs with an average annual wage that is equal to or greater than the prosperity region average wage.

c) "**Eligible Business"** means a business other than a retail establishment, professional sports stadium, casino, or that portion of an eligible business used exclusively for retail sales that proposes to create and maintain the minimum number of certified new jobs set forth above.

d) "**Facility"** is the site or sites within the state which the authorized business creates certified new jobs.

e) **"Full-Time New Job"** is a full-time job, as determined by the MSF, performed by an individual whose income and social security taxes are withheld by one or more of the follow:
1. An authorized business;
2. An employee leasing company; or
3. A professional employer organization on behalf of the authorized business.

f) **"Primary Supplier"** is an entity that creates not fewer than 25 new jobs and provides both of the following to an authorized business:
1. A minimum of $5 million in tangible personal property annually, as determined by the MSF; and
2. A minimum of 10 percent of the tangible personal property used by the authorized business annually, as determined by the MSF.

g) **"Prosperity Region Average Wage"** is the average annual wage for the prosperity region where the facility is located. The prosperity region is each of the 10 prosperity regions identified by the Department of Technology, Management, and Budget.

h) **"Withholding Tax Capture Revenues"** are the amount of certified new job state income tax withheld as a result of the program.

GOOD JOBS FOR MICHIGAN PROGRAM OPERATING PRINCIPLES AND PARAMETERS

The MSF board will consider assistance under the program for projects that will result in major qualifying investments and/or job creation in Michigan. A qualified investment means an investment to a project in Michigan, and the investment, and its terms and conditions, must be acceptable to the MSF.

The MSF board intends to consider projects that may include the following, to the extent reasonably applicable to the type of development proposed and may include any other considerations satisfactory to the MSF board:
- Out-of-state competition
- Net-positive return to this state
- Level of investment
- Business diversification
- Shovel-ready projects
- Reuse of existing facilities
- Near-term job creation
- Level of wages for new jobs
- Employer provided benefits
- Whether the project is located in a distressed or targeted community
- Strong links to Michigan suppliers

The MSF board intends to consider projects that are site specific within one prosperity region. Job creation must commence after MSF approval and be completed within five years of the written agreement. The withholding tax capture revenue payments shall remain in force and effect for a period to be determined by the MSF commencing upon completion of the project, provided the minimum certified new job requirement has been met, and ending not more than 10 years after the commencement date.

In order to qualify for a certified new job under the program, the new job must pay Michigan income tax and cannot be claimed under a Michigan Economic Growth Authority tax credit.

For purposes of calculating the withholding tax capture revenues to be paid for that calendar year, the MEDC intends to use Michigan income taxes withheld as reported in Box 17 of the certified new job's W-2 form. The maximum amount of total wages that may be used when determining the average annual wage for any one certified new job is $250,000.

Primary supplier certified new jobs are not required for authorized businesses that are qualifying under the 3,000 certified new job minimum requirement. In the event the authorized business has a primary supplier that meets the requirements set forth above, the authorized business must obtain approval by the MSF in order for primary supplier jobs to qualify as certified new jobs. Authorized businesses that are eligible to include primary supplier certified new jobs, must meet the program minimum job creation prior to primary supplier certified new jobs consideration.

FEES

In order to support its reasonable costs and expenses in administering the program, the MSF has established the following fee schedule:

- Application fee: $10,000
- Amendment/transfer/assignment fee: $5,000
- Administrative fee: 5 percent of the withholding tax capture revenue payments authorized by the MSF

Application and amendment/transfer/assignment fees are due upon submission of a final application or amendment/transfer/assignment request to the MEDC. The Department of Treasury will deduct the administrative fee from the withholding tax capture revenue payments to the authorized business each year.

ADDITIONAL TERMS AND CONDITIONS

The MEDC will provide administrative services to the MSF for the program. All applicants to the program will be subject to criminal and civil background checks and standard due diligence prior to award and execution of a written agreement.

The written agreement between the authorized business and the MSF will include the following terms and conditions:

- **Assignment/transfer:** A provision that the assignment or transfer of the written agreement, or any rights or obligations thereunder, requires the prior written consent of the MSF. The MSF may at any time assign its rights in the written agreement.
- **Access to records:** A provision requiring the authorized business to permit the MEDC, MSF, the Auditor General, and the Department of Technology, Management and Budget (DTMB) to visit the authorized business, and any other location where books and records of the authorized business are normally kept, to inspect the books and records, including financial records and all other information and data relevant to the terms of the written agreement.
- **Non-discrimination:** a provision requiring the authorized business to agree not to discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability unrelated to the individual's ability to perform the duties of the particular job or position. The authorized business must further agree that every subcontract entered into for performance of the written agreement will contain a provision requiring nondiscrimination in employment, as specified in this agreement, binding upon each subcontractor. This covenant is required under the Elliot Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101, et seq., and the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101, et seq. A breach of this covenant will be regarded as material breach of the agreement.
- **Unfair labor practices:** A provision requiring the authorized business to agree that it will not enter into a contract with a subcontractor, manufacturer, or supplier whose name appears on the current United State Labor Relations Board register of employers failing to correct an unfair labor practice. This covenant is required under 1980 PA 278, MCL 423.321, et seq. The MSF may void the written agreement if, subsequent to an award under this program, the name of the authorized business as an employer, or the name of a subcontractor, manufacturer, or supplier of the authorized business appears on the register.

The MSF reserves the right to revise these terms and conditions or add additional terms and conditions it deems necessary and appropriate for administration of the program.

COMPLIANCE AND MONITORING PROVISIONS

All awards made to authorized businesses under the program will be performance based. The MEDC will conduct audit and verification of an authorized business's performance under the written agreement prior to issuing a withholdings certificate. Authorized businesses should maintain accurate and detailed documentation necessary to support its compliance under the written agreement.

The MSF may require additional periodic reporting that may be necessary or appropriate to comply with its reporting obligations under the MSF Act or to facilitate the efficient and effective administration of the program. authorized businesses may be required to provide additional reporting to the Department of Treasury.

FREEDOM OF INFORMATION ACT

All applicants should be aware that information submitted to the MSF or MEDC may be subject to disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231, et seq., as amended. Written agreements, including any attachments thereto, between the MSF and an authorized business are subject to complete public disclosure.