

VIRGINIA COLLABORATIVE ECONOMIC DEVELOPMENT ACT GUIDELINES

I. Intent:

The Virginia Collaborative Economic Development Act (Act) will provide grants to support certified regional economic development efforts that reflect collaboration by at least two localities (Participating Localities). Participating Localities that engage in joint economic development initiatives and share the costs associated with implementing the Collaborative Economic Development Plan (Plan) and the local revenues associated with the projects may qualify for Virginia Collaborative Economic Development Grants (Grants).

II. Administration:

The Act requirements will be implemented, verified and tracked through a partnership of three state entities: the Department of Housing and Community Development (DHCD), the Virginia Economic Development Partnership Authority (Partnership) and the Virginia Department of Taxation (TAX) in conjunction with the Virginia Growth and Opportunity Board (Board). DHCD is responsible for the coordination of Board involvement in policy decisions and will provide assistance through the staff to the Commission on Local Government (CLG) with best practices for revenue sharing agreements. The Partnership, DHCD, and TAX will support Participating Localities in developing and approving Plans, the Partnership will serve as point for certification of a company as a Certified Company under the Plan and applications for Grants. The Partnership and TAX will coordinate on developing and certifying Plan compliance. The Board makes the final decision on Grant awards, terms, and conditions.

III. Definitions:

"Basic Employment" means employment in an industry sector or function that directly or indirectly derives more than 50 percent of its revenue from out-of-state sources (money brought into the local economy either through economic development attraction, retention or expansion activities, or new revenue derived from sales to out-of-state markets by existing or new companies in a region).

"Capital Investment" means an investment by or on behalf of an eligible company in real property or tangible personal property, or both, or any other directly related expense that is capitalized by the company within the Participating Localities. Expenditures for the maintenance or repair of existing machinery and tools and real property shall not constitute a Capital Investment; however, expenditures for the replacement of property shall not be ineligible for designation as a Capital Investment if such replacement results in a measurable increase in productivity. Capital expenditures funded with the proceeds of a grant from the Commonwealth or other contributions by local or regional governmental entities shall not count toward a company's required Capital Investment. Capital Investments must be placed in service on or after the date that the Plan has been approved by the Partnership and Board and must be completed by the fifth anniversary of such approval date.

- (i) *Operating Leases/Expenses:* The Partnership may, in its discretion, determine that the value of machinery and equipment, and/or business personal property leased under an operating lease will qualify as Capital Investment. The Partnership may, in its discretion, determine that the value of the construction or improvement of real property leased under an operating lease will qualify as Capital Investment if (a) the operating lease is for at least ten years, (b) the real property would not be constructed or improved "but for"

the company's interest in leasing some or all of the facility, and (c) if, for an improvement project, the improvements will significantly increase the taxable value of the property. Only that portion of the construction or improvement costs related to the portion of the facility to be leased to the company may qualify. Capital Investment generally will not include operating expenses, except with operating leases to the limited extent noted herein

- (ii) *Capital Leases*: Capital investment will include the value of real or personal property leased under a capital lease.

"Certified Company" means a Virginia employer that has been certified by the Partnership to have: (i) created or caused to be created at least 200 net New Jobs in the Commonwealth that are located in the applicable Participating Localities with average salaries at least equal to the average wage in the Participating Localities and (ii) made a Capital Investment of at least \$25 million in the Participating Localities. If, however, the Board makes a written finding of significant fiscal distress in or extraordinary economic opportunity for the participating localities, the Board may modify the job creation and capital investment requirements for a Certified Company to not fewer than 25 net New Jobs and not less than \$1 million of Capital Investment.

"CED Fund" means the Virginia Collaborative Economic Development Performance Fund.

"Collaborative Economic Development Plan" or "Plan" means an agreement among Participating Localities that identifies commitments made by each locality to implement a collaborative approach to economic development, whether the collaboration relates to general economic development and diversification efforts by the Participating Localities or relates to specific economic development needs, including infrastructure and workforce training, of a company. Such Plan shall address the commitments made by the Participating Localities, which shall include the sharing of costs and local tax revenues by the Participating Localities and timing thereof, and how, if awarded; moneys from the Fund will be distributed among and used by the Participating Localities. CLG staff will assist in identifying the type of revenue sharing agreements that are possible with and without the CLG review process. If the Plan relates to general economic development and diversification efforts, the Plan shall be updated at the time of application for a Grant from the CED Fund to indicate which company or companies, as a result of the efforts, are eligible to be a Certified Company or Companies. Parties to the Plan may include political subdivisions and bodies corporate and politic, in addition to the Participating Localities. The Plan shall be subject to review by the Partnership for the criteria set forth in these Guidelines and recommendations by the Partnership for approval by the Board.

"New Job or New Jobs" means basic employment of an indefinite duration at the eligible Company with a facility located in the Participating Localities, created as the direct result of the Capital Investment, for which the standard fringe benefits are provided by the company for the employee, requiring a minimum of either (i) 35 hours of an employee's time a week for the entire normal year of the company's operations, which "normal year" shall consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth to such facility, retail positions, and positions with construction, contractors, suppliers, and similar multiplier or spin-off jobs shall not qualify as New Jobs. New Jobs must be created on or after the date that the applicable Plan was approved and must be made by the fifth anniversary of such approval date. Alternatively, up to 100 full-time employees whose positions existed at a company prior to its certification as a Certified Company may be used to determine the number of New Jobs created if the wages of the existing employees increase by more than 10 percent within one year of the company's

certification because of the Capital Investment to be placed in service by the company in the period from the commencement of the Capital Investment to the completion of the Capital Investment.

“Maintain” means to continue to employ at least 90% of the New Jobs committed by the certified company and the entirety of the Capital Investment committed by the certified company through the grant payment period.

"Participating Localities" means at least two or more counties and/or cities, a county and/or city and one or more political subdivisions or public body corporate and politic of that county and/or city along with such similar entity in another county and/or city, or two or more political subdivisions or public bodies corporate and politic from at least two different counties and/or cities. A town, with the county that surrounds it, may petition the Board for the ability to apply for a grant, if the parties can demonstrate that their collaboration is substantive and aligned with the goals of GO Virginia.

IV. Collaborative Economic Development Plan Criteria:

A Plan to be set forth in a Memorandum of Understanding (MOU) or other document between Participating Localities that identifies:

- (i) The commitments made by each locality to implement the collaborative approach;
- (ii) Whether the collaboration relates to (a) general economic development and diversification efforts by the Participating Localities, or (b) specific economic development needs, including infrastructure and workforce training, of a particular company;
- (iii) All significant public and private parties involved in implementation and administration of the Plan and development of the contract between the Participating Localities and such parties which outlines the responsibilities of each party and how the CED Plan will help the parties achieve their priorities and is complementary of the prioritized needs and opportunities of the Growth and Diversification Plan for the applicable region approved pursuant to the Virginia Growth and Opportunity Act;
- (iv) Financial and programmatic and financial commitments made by the Participating Localities and a description of how the costs and local tax revenues will be shared;
- (v) Details on how moneys from the CED Fund will be distributed among and used by the Participating Localities;
 - (i) CED Funds must be used for economic development activities aligned with the Plan:
 - (ii) Public and private utility extension or capacity development on and off site; public and private installation, extension, or capacity development of high-speed or broadband Internet access, whether on or off site; road, rail, public transportation, or other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage, paving, and any other activity required to prepare a site for construction; construction of publicly or privately owned buildings or build-out of publicly or privately owned buildings; training; grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes directly relating to any of the foregoing; workforce training initiatives,

or career and technical education at the secondary education level that assist targeted industries identified in the Economic Growth and Diversification Plan of the associated region; environmental costs such as nutrient trading credit trading and to reduce permit costs; workforce housing; small business assistance including accelerators and incubators, efforts to assist with development of local supply chain and supporting services; cluster scale up activities; commercialized Research and Development activities; or other uses approved by the Board that will enhance broad based economic cooperation among Participating Localities. In no case may funds be used, directly or indirectly, to pay or guarantee the payment for any rental, lease, license, or other contractual right to the use of any property.

(iii) Funds may not be used to provide a grant back to the company.

V. Plan Approval:

For those Plans that relate to general economic development needs, the Plan may be submitted for approval prior to the identification of a potential Certified Company or a specific economic development project.

A Plan will be submitted to the Partnership for evaluation. In addition to the inclusion of the criteria set forth above, the following factors will be considered by the Partnership when evaluating the Plan:

- (i) Alignment with strategic sectors and state/local strategies;
- (ii) Community impact;
- (iii) Diversification of the job base and the tax base;
- (iv) Solving a competitive need;
- (v) Establishing a competitive advantage;
- (vi) Leveraging other state or local resources;
- (vii) Financial viability of a company, if applicable; and
- (viii) Alignment with the applicable region's Growth and Diversification Plan.

Contents of a Plan shall be subject to preliminary approval by the Partnership, and then approval by the Board.

If a Plan relates to general economic development and diversification efforts, the CED Plan is to be updated at the time of application for a CED Grant to indicate which company or companies are eligible to be certified.

A Plan must be approved prior to the award of any CED Grant.

VI. Certification of Companies:

Once a company has been identified as eligible for certification, Participating Localities will submit an application, as applicable, to the Partnership for certification as a Certified Company with the following information:

- (i) The identity of the company for which certification is being sought;
- (ii) The audited financial statements of the company for the past three years, and the interim financial statements for the most current year, and if not available, similar

statements that are available (such as tax returns), plus proforma statements for the next three years;

- (iii) The amount and timing of the Capital Investment;
- (iv) The number of New Jobs created and to be maintained (beyond the statutory minimum) through the grant payment period because of the capital investment and a timeline for their creation;
- (v) The average annual wages paid for the New Jobs;
- (vi) An explanation of the fringe benefits provided by the company;
- (vii) The number of existing jobs to be maintained during the grant period by the company, if applicable;
- (viii) The amount of other incentives requested of, or offered by, the Commonwealth and the participating localities to the company;
- (ix) General corporate information about the company, including the date of establishment, tenure and nature of presence in Virginia, and amount of previous capital investment and existing employment in the participating localities;
- (x) Any applicable update to the CED Plan; and
- (xi) Localities will provide data on the impact of the project, if any, to the Local Composite Index.

If the Board makes a written finding of significant fiscal distress or extraordinary economic opportunity for the Participating Localities, the Board may modify the statutory New Job and Capital Investment requirements for a Certified Company to not fewer than 25 New Jobs and not less than \$1 million of Capital Investment.

A determination of fiscal distress or extraordinary economic opportunity will be made on a case by case basis. The applicants will be required to submit documentation as to why the Participating Localities are fiscally distressed or why they believe the project is an extraordinary economic opportunity.

Upon verification that the company has met the requirements for certification as a Certified Company, the Partnership will provide such certification to the Participating Localities and the Board.

VII. Collaborative Economic Development Performance Grants:

A Grant shall be paid to the Participating Localities in the fiscal year following certification by the Partnership of a Certified Company for the amounts and term approved by Board.

Participating Localities will submit an application by December 31st of the calendar year to the Partnership for a Grant demonstrating that the jointly developed projects led, in some manner, to the company's creation of the minimum of 200 New Jobs and the minimum capital investment of \$25 million in the Participating Localities.

The Partnership, DHCD, and such other stakeholders as determined by the Board will review the application and its alignment with the Plan.

The Board will vote whether to award a Grant. Factors to be considered by the Board include:

- (i) Local match;
- (ii) Wage scale;

- (iii) Transformative nature of project;
- (iv) Financial viability of the company; and
- (v) Other state and local incentives.

The Board may approve a Grant in the annual amount of no more than 45% of the total amount of personal income tax withheld for payment to TAX from employees holding New Jobs at the Certified Company which located in the Participating Localities because of the Plan. The Board may approve a Grant for up to a six-year period.

The aggregate amount of Grants awarded to the Participating Localities for an application will not exceed 50% of the total investment or contributions by the Participating Localities as identified in the application. If the Board determines that there is significant fiscal distress or an extraordinary economic opportunity for the participating localities, then the Board may award an aggregate amount of Grants for an application that is up to 100% of the total investment or contributions of the participating localities. The local contribution may take the form of cash, revenue sharing, dedication of locally-owned or controlled assets to the proposed regional project, reallocation of existing funds, in kind contributions, or other local resources and have a term as determined by the Board.

In the aggregate for all Grants paid under this program, there will be no more than \$20 million in Grants paid in any fiscal year. The Board may prorate the Grants payable in any fiscal year if the amount of the Grants applied for and awarded exceeds \$20 million.

Throughout a Grant payment period, the Certified Company must maintain the New Jobs and Capital Investment that were the basis of the Grant amount, and the Participating Localities must continue to implement any relevant provisions of the Plan.

By March 31 of each year, the Partnership and TAX shall determine whether a Certified Company has Maintained the New Job and Capital Investment requirements and shall compute, based on the amount of personal income tax withheld from employees holding New Jobs, the moneys available to be disbursed as Grants to or for the benefit of the Participating Localities.

Prior to each annual Grant payment, the Certified Company will report to the Partnership and the Board whether there has been a substantial reduction in the new jobs or the capital investment during the prior calendar year. Substantial reduction means either (i) the capital investment remaining at the end of the reporting calendar year is less than the capital investment remaining at the end of the previous calendar year, because investment was either removed from the certified company's facility or idled (ii) or have been sold or otherwise disposed of, without an offsetting additional capital investment, or (iii) the number of new jobs remaining at the end of the reporting calendar year is 10% less than the number of new jobs remaining at the end of the previous calendar year.

If there has been a substantial reduction in Capital Investment remaining or New Jobs maintained, no further grant payments will be made.

Prior to each annual Grant payment, the Participating Localities will report to the Partnership and the Board on the status of the collaborative efforts described in the Plan, and will describe the contributions made by each locality and the revenues shared between the Participating Localities in the prior calendar

year. If one or more of the Participating Localities has not performed its obligations, as described in the Plan, no further grant payments will be made until all obligations are met.

Grant payments will be paid to the Participating Localities in the manner agreed upon in the Plan.

Grant payments will not be made if one or more of the localities has not performed its obligations under the Plan. However, in the case of a Plan among three or more localities, the other two localities may step in to perform the obligations required in the Plan.

The Comptroller will not draw any warrants to issue checks for Grants or disburse funds under this program without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the appropriation act and following receipt of a certification from the Partnership and TAX of the amount of personal income taxes paid by the eligible company on account of the new jobs.

VIII. Audit:

The CED Fund will be audited annually by the Auditor of Public Accounts or his legally authorized representatives. Copies of the annual audit will be distributed by the Board to the Governor and to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. DHCD shall annually report to the Board on grant payments made that year and future anticipated obligations.