Missouri Economic Development Council

Missouri Works 2.0
Business Development Incentives

Presenters:
Luke Holtschneider
Sallie Hemenway
Test Your Knowledge

It’s a Quiz!!!!!
Audience Participation

1. What are the 2 types of benefits ($) found in the MO Works program?
2. What are the 3 types of business development activities that MO Works is designed to incent?
3. How do those benefits work for the company?
4. Name the tiers or categories found in the MO Works program.
5. List the basic thresholds that are found in the categories.
Audience Participation

6. Do all of the categories in MO Works offer an entitlement amount?

7. Do all of the categories in MO Works offer an opportunity for additional discretionary amounts on top of the entitlement?

8. Do the discretionary amounts come in either 6%, 7%, 8% or 9% values depending upon the category?

9. What does being a “facility based” incentive mean?

10. Why is it important that we view all of a company’s “related facilities” in the State?
11. Name 3 items that differentiate MO Works from MO Quality Jobs?
12. Can non-profits participate in MO Works?
13. Name 3 things that make a company ineligible for the program?
14. What is an NOI and what does it do?
15. What are the 2 entry-ways into MO Works?
Proposal from DED/Partnership *versus* Application Direct from Company

- MO Works may be incorporated into a DED or Missouri Partnership *incentive proposal*, or;
- MO Works may be accessed by a company submitting a “Notice Of Intent (NOI)”;
- DED has 5 days to respond to the proposal request and 30 days to respond to a direct NOI.
Enrollment Process

“When to request a proposal and when to suggest a company submit a direct NOI”

• Directly apply:
  – Non-competitive projects
  – Traditional expansions
  – Entitlement benefits will win the deal

• State of MO proposal:
  – Competitive projects
  – Attraction projects
  – Retention projects
  – Need for discretionary incentives
  – Company need for incentive offer
Proposal Process

- Company Needs Analysis
- Project Information Request form submitted to DED project manager
- Local and State Due Diligence performed
- State of Missouri proposal sent to company
- Company signs and submits completed proposal to DED
- Completion of NOI and required attachments
- Program approval
- Announcement!?!?
Direct Application

Company submission of Notice of Intent

DED Due Diligence

Program approval

Announcement!?!?
Major Differences in MO Works

• Limits benefit for company who was going to do the project anyway;
  – An entitlement isn’t an incentive.

• Performance based with consequences;
  – “Defines a project”, offers an annual benefit for good performance, establishes protection for poor performance.

• Eliminates diminishing returns;
  – Does not continue to provide benefits if the company creates more jobs than “defined in the project”.
Major Differences in MO Works

• Allows more participation;
  – Offers more categories and lower new job thresholds.

• Requires more strategy;
  – What is the least amount necessary to win the deal?

• Addresses criticisms
  – Holds company to their part of the bargain.
Understanding and Interpreting the Program

- The benefits in each category
- Tracking the cap and the importance of “defining a project”
- The but/for test
- The criteria used for adding Discretionary Benefits to a project
- Understanding the definition and impact of a “related facility”
- Owners and Employees – who counts?
- MO Works agreements

Focusing on New Jobs in today’s training.

Information is for technical assistance only. The program guidelines and documents are still being developed. Final decisions are made at DED.
# New Job Creation Project Benefits

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Zone Works <em>(Note 1)</em></td>
<td>2</td>
<td>$100,000</td>
<td>80% of County Avg. Wage</td>
<td>Yes</td>
<td>Retention of WH, 5 or 6 years <em>(Note 3)</em></td>
</tr>
<tr>
<td>Rural Works <em>(Note 2)</em></td>
<td>2</td>
<td>$100,000</td>
<td>90% of County Avg. Wage</td>
<td>Yes</td>
<td>Retention of WH, 5 or 6 years <em>(Note 3)</em></td>
</tr>
<tr>
<td>Statewide Works</td>
<td>10</td>
<td>N/A</td>
<td>90% of County Avg. Wage</td>
<td>Yes</td>
<td>Retention of WH, 5 or 6 years <em>(Notes 3 &amp; 4)</em></td>
</tr>
<tr>
<td>Mega Works 120</td>
<td>100</td>
<td>N/A</td>
<td>120% of County Avg. Wage</td>
<td>Yes</td>
<td>6% of new payroll, 5 or 6 years <em>(Notes 3 &amp; 4)</em></td>
</tr>
<tr>
<td>Mega Works 140</td>
<td>100</td>
<td>N/A</td>
<td>140% of County Avg. Wage</td>
<td>Yes</td>
<td>7% of new payroll, 5 or 6 years <em>(Notes 3 &amp; 4)</em></td>
</tr>
</tbody>
</table>

*Note 1:* Project facility must be located in an Enhanced Enterprise Zone.

*Note 2:* Project facility must be located in a “rural” county, which would NOT include Boone, Buchanan, Clay, Greene, Jackson, St. Charles, and St. Louis City and County.

*Note 3:* Benefit period is 5 years, or 6 years for existing Missouri companies (those that have been operational in Missouri for at least 10 years).

*Note 4:* Companies may be proposed discretionary incentives of up to a maximum of 9% of new payroll if certain criteria are met.
Summary of All Categories

- All categories require health insurance offered and at least 50% paid
- Withholding tax benefits only:
  - Zone Works, Rural Works and Retention Works
- Entitlements only, no discretionary offered:
  - Zone Works, Rural Works
- Entitlements with discretionary offered:
  - Statewide works, Mega Works 120, Mega Works 140
- Discretionary portion of Statewide Works may be tax credits ranging from Company’s AGI percentage of payroll, up to 9% of payroll - IT DOES NOT AUTOMATICALLY START AT 6% - (see AGI table)
Summary of All Categories, continued

- Discretionary portion of Mega Works 120 is between 6-9% of payroll
- Discretionary portion of Mega Works 140 is between 7-9% of payroll
- All benefits must reflect a positive economic impact and be the least amount necessary to “win the deal”
Zone Works

- Projects locating inside Enhanced Enterprise Zones; existing or newly formed.
- Must create 2 new jobs
- Must pay at least 80% of County Average Wage
- Must pledge $100,000 new investment
- New zones are formed locally with documentation sent to DED
  - Ordinances
  - Boundaries
  - Proof of eligibility (poverty, etc)
  - DED Technical Assistance available
- Benefit has no opportunity for “discretionary benefits”
- Benefit is withholding taxes only, no tax credits
## Zone Works

### Benefit Calculation Assumptions

<table>
<thead>
<tr>
<th></th>
<th></th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Average Wage</td>
<td>$ 43,122</td>
<td>Withholding tax rate 2.63%</td>
</tr>
<tr>
<td>County Average Wage (Ray)</td>
<td>$ 31,206</td>
<td>Annual Wage Growth 3%</td>
</tr>
<tr>
<td>Avg New Job Wages as a % of County Avg Wage</td>
<td>96%</td>
<td></td>
</tr>
</tbody>
</table>

### Yearly Analysis

<table>
<thead>
<tr>
<th></th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New Jobs</strong></td>
<td>4</td>
<td>7</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td>31</td>
</tr>
<tr>
<td><strong>Average Wage</strong></td>
<td>$30,000</td>
<td>$30,900</td>
<td>$31,827</td>
<td>$32,782</td>
<td>$33,765</td>
<td>203,890</td>
</tr>
<tr>
<td><strong>New Payroll</strong></td>
<td>$120,000</td>
<td>$216,300</td>
<td>$254,616</td>
<td>$262,254</td>
<td>$270,122</td>
<td>1,219,334</td>
</tr>
<tr>
<td><strong>Prelim. Program Benefit</strong></td>
<td>$3,156</td>
<td>$5,689</td>
<td>$6,696</td>
<td>$6,897</td>
<td>$7,104</td>
<td>29,543</td>
</tr>
<tr>
<td><strong>Estimated Retained WH</strong></td>
<td>$3,156</td>
<td>$5,689</td>
<td>$6,696</td>
<td>$6,897</td>
<td>$7,104</td>
<td>29,543</td>
</tr>
</tbody>
</table>
Rural Works

- Projects located in designated Counties (all except Boone, Buchanan, Clay, Greene, Jackson, St. Charles, and St. Louis City and County)
- Must create 2 jobs
- Must pay at least 90% of County Average Wage
- Must pledge $100,000 new investment
- Benefit includes no opportunity for “discretionary benefits”
- Benefit is withholding taxes only, no tax credits
## Benefit Calculation:

<table>
<thead>
<tr>
<th>State Average Wage</th>
<th>$40,856</th>
</tr>
</thead>
<tbody>
<tr>
<td>County Average Wage (Cape Girardeau)</td>
<td>$35,214</td>
</tr>
<tr>
<td>Avg New Job Wages as a % of County Avg Wage</td>
<td>142%</td>
</tr>
</tbody>
</table>

## Assumptions

- Withholding tax rate: 3.21%
- Annual Wage Growth: 3%

## Yearly Calculations

<table>
<thead>
<tr>
<th>Year</th>
<th>New Jobs</th>
<th>Average Wage</th>
<th>New Payroll</th>
<th>Prelim. Program Benefit</th>
<th>Estimated Retained WH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year 1</td>
<td>5</td>
<td>$50,000</td>
<td>$250,000</td>
<td>$8,025</td>
<td>$8,025</td>
</tr>
<tr>
<td>Year 2</td>
<td>8</td>
<td>$51,500</td>
<td>$412,000</td>
<td>$13,225</td>
<td>$13,225</td>
</tr>
<tr>
<td>Year 3</td>
<td>8</td>
<td>$53,045</td>
<td>$424,360</td>
<td>$13,622</td>
<td>$13,622</td>
</tr>
<tr>
<td>Year 4</td>
<td>8</td>
<td>$54,636</td>
<td>$437,091</td>
<td>$14,031</td>
<td>$14,031</td>
</tr>
<tr>
<td>Year 5</td>
<td>8</td>
<td>$56,275</td>
<td>$450,204</td>
<td>$14,452</td>
<td>$14,452</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$2,236,605</td>
<td>$63,354</td>
<td>$63,354</td>
</tr>
</tbody>
</table>
Statewide Works

- Must create at least 10 new jobs
- Must pay at least 90% of County Average Wage
- No new private investment requirement
- Benefit includes opportunity for “discretionary benefits”
- Benefit is withholding taxes only plus opportunity for tax credits
- Discretionary amount may range from percentage of payroll equal to company AGI, up to 9% of payroll (Starting point is not 6% 😃).
## Statewide Works

### Benefit Calculation: Assumptions

| Statewide Average Wage | $43,122 |
| County Average Wage (Jackson) | $47,318 |
| Avg New Job Wages as a % of County Avg Wage | 93% |
| Withholding tax rate | 3.00% |
| Benefit Year 1 (as listed on chart) is: | 2014 |
| Discretionary benefit percentage | 6% |
| Average Annual Starting Wage: | $40,000 |
| Annual Wage Growth | 3% |

### Total entitlement and discretionary program benefits | 6% |

<table>
<thead>
<tr>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Jobs</td>
<td>10</td>
<td>100</td>
<td>100</td>
<td>10</td>
<td>100</td>
</tr>
<tr>
<td>Average Wage</td>
<td>$40,000</td>
<td>$41,200</td>
<td>$42,436</td>
<td>$43,709</td>
<td>$45,020</td>
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<tr>
<td>New Payroll</td>
<td>$400,000</td>
<td>$4,120,000</td>
<td>$4,243,600</td>
<td>$4,370,91</td>
<td>$4,502,035</td>
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<tr>
<td>Prelim. Program Benefit</td>
<td>$24,000</td>
<td>$247,200</td>
<td>$254,616</td>
<td>$26,225</td>
<td>$270,122</td>
</tr>
<tr>
<td>Estimated Retained WH</td>
<td>$12,000</td>
<td>$123,600</td>
<td>$127,308</td>
<td>$13,113</td>
<td>$135,061</td>
</tr>
<tr>
<td>Estimated Tax Credits</td>
<td>$12,000</td>
<td>$123,600</td>
<td>$127,308</td>
<td>$13,113</td>
<td>$135,061</td>
</tr>
<tr>
<td>Total Program Benefit</td>
<td>$24,000</td>
<td>$247,200</td>
<td>$254,616</td>
<td>$26,225</td>
<td>$270,122</td>
</tr>
</tbody>
</table>
Mega Works 120

• Must create at least 100 new jobs
• Must pay at least 120% of County Average Wage
• No required new investment
• Benefit may range from 6-9% of payroll
### Benefit Calculation:

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statewide Average Wage</td>
<td>$43,122</td>
</tr>
<tr>
<td>County Average Wage (Jackson)</td>
<td>$43,122</td>
</tr>
<tr>
<td>Avg New Job Wages as a % of County Avg Wage</td>
<td>139%</td>
</tr>
<tr>
<td>Mega Works Base Benefit</td>
<td>6%</td>
</tr>
<tr>
<td>Additional benefit</td>
<td>3%</td>
</tr>
<tr>
<td>Total percentage of program benefits</td>
<td>9%</td>
</tr>
</tbody>
</table>

### Assumptions

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Withholding tax rate</td>
<td>3.40%</td>
</tr>
<tr>
<td>Benefit Year 1 (as listed on chart)</td>
<td>2014</td>
</tr>
<tr>
<td>Average Annual Starting Wage</td>
<td>$60,000</td>
</tr>
<tr>
<td>Annual Wage Growth</td>
<td>3%</td>
</tr>
</tbody>
</table>

### Yearly Benefits

<table>
<thead>
<tr>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Jobs</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Average Wage</td>
<td>$60,000</td>
<td>$61,800</td>
<td>$63,654</td>
<td>$65,564</td>
<td>$67,531</td>
</tr>
<tr>
<td>New Payroll</td>
<td>$6,000,000</td>
<td>$6,180,000</td>
<td>$6,365,400</td>
<td>$6,556,362</td>
<td>$6,753,053</td>
</tr>
<tr>
<td>Prelim. Program Benefit</td>
<td>$540,000</td>
<td>$556,200</td>
<td>$572,886</td>
<td>$590,073</td>
<td>$607,775</td>
</tr>
</tbody>
</table>

| Estimated Retained WH | $204,000 | $210,120 | $216,424 | $222,916 | $229,604 | $1,083,064 |
| Estimated Tax Credits   | $336,000 | $346,080 | $356,462 | $367,156 | $378,171 | $1,783,870 |
| Total Program Benefit   | $540,000 | $556,200 | $572,886 | $590,073 | $607,775 | $2,866,933 |
Mega Works 140

- Must create at least 100 new jobs
- Must pay at least 140% of County Average Wage
- No required new investment
- Benefit may range from 7-9% of payroll
**Mega 140 Works (with NJT)**

<table>
<thead>
<tr>
<th>Benefit Calculation:</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statewide Average Wage</td>
<td>$43,122 Withholding tax rate 3.40%</td>
</tr>
<tr>
<td>County Average Wage (Jackson)</td>
<td>$43,122 Benefit Year 1 (as listed on chart) is: 2014</td>
</tr>
<tr>
<td>Avg New Job Wages as a % of County Avg Wage</td>
<td>144%</td>
</tr>
<tr>
<td>Mega Works Base Benefit</td>
<td>7% Average Annual Starting Wage: $62,000</td>
</tr>
<tr>
<td>Additional benefit</td>
<td>2% Annual Wage Growth 3%</td>
</tr>
<tr>
<td>Total percentage of program benefits</td>
<td>9%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Year 6</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Jobs</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Average Wage</td>
<td>$62,000</td>
<td>$63,860</td>
<td>$65,776</td>
<td>$67,749</td>
<td>$69,782</td>
<td>$71,875</td>
</tr>
<tr>
<td>New Payroll</td>
<td>$6,200,000</td>
<td>$6,386,000</td>
<td>$6,577,580</td>
<td>$6,774,907</td>
<td>$6,978,155</td>
<td>$7,187,499</td>
</tr>
<tr>
<td>Prelim. Program Benefit</td>
<td>$558,000</td>
<td>$574,740</td>
<td>$591,982</td>
<td>$609,742</td>
<td>$628,034</td>
<td>$646,875</td>
</tr>
<tr>
<td>Estimated Retained WH</td>
<td>$</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Estimated Tax Credits</td>
<td>$558,000</td>
<td>$574,740</td>
<td>$591,982</td>
<td>$609,742</td>
<td>$628,034</td>
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<td>$574,740</td>
<td>$591,982</td>
<td>$609,742</td>
<td>$628,034</td>
<td>$646,875</td>
</tr>
</tbody>
</table>


Program Cap and “Defined Projects”

Caps:
• Withholdings:
  • withholdings for job creation projects = no cap;
  • withholdings for job retention projects = $6 mil cap;
• Tax Credits Cap (used for job creation only):

<table>
<thead>
<tr>
<th>Tax Credit Cap</th>
<th>FY 2014</th>
<th>FY2015</th>
<th>FY2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Program</td>
<td>$106 mil</td>
<td>$111 mil</td>
<td>$116 mil</td>
</tr>
</tbody>
</table>
How does DED track the cap?

- Benefits are reserved for a “defined project” and counted against the annual program cap for the relevant term.
- Cap space and benefits for a company is set aside at proposal and reserved at the execution of the agreement.
- A maximum total benefit and maximum annual benefit is established for each defined project. No additional benefits will be made available.
- The company defines the project and executes the agreement.
- An agreement may contain multiple NOI’s at the choice of the company.
- If a company fails to meet the threshold criteria or is dropped from the program, the cap space is “freed up”.

MO Works But/For Test

- Applies to “automatic” and “discretionary” components;
- Applies to job creation and job retention components;
- But/For Tests Include:
  - Company may not have......
    - performed significant, project-specific site work at the project facility,
    - purchased machinery or equipment related to the project,
    - publicly announced its intention to make new capital investment at the project facility prior to the receipt of a proposal for benefits or approval of its Notice of Intent, whichever comes first.
# Important Eligibility Dates

<table>
<thead>
<tr>
<th>Company Receives Proposal</th>
<th>Announcement May Occur</th>
<th>Investment May Occur</th>
<th>Jobs May be Hired</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>After Date Proposal Sent from DED</td>
<td>Date Proposal Sent from DED (Investment will only count as new investment after the proposal has been accepted by the company.)</td>
<td>After NOI received by DED</td>
</tr>
<tr>
<td>Company Applies Directly (NOI)</td>
<td>After NOI Approval</td>
<td>After NOI Approval</td>
<td>After NOI received by DED</td>
</tr>
</tbody>
</table>
Does This Action Violate the But/For Clause?

1. “performed significant, project-specific site work at the project facility”

<table>
<thead>
<tr>
<th>Action</th>
<th>Consequence</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquisition of Land or Building</td>
<td>No impact on But/For</td>
<td></td>
</tr>
<tr>
<td>Due Diligence on Land or Building (soil tests, inspections, permitting)</td>
<td>No Impact on But/For</td>
<td></td>
</tr>
<tr>
<td>Site work, dirt moving, clearance, demolition, footings, foundation</td>
<td>Impacts But/For -ineligible</td>
<td></td>
</tr>
<tr>
<td>Lease of Land or Building</td>
<td>No Impact on But/For</td>
<td></td>
</tr>
<tr>
<td>Tenant Improvements on Land or Building for Company by Company or Landlord</td>
<td>Impacts But/For -ineligible</td>
<td>Regardless of signing lease date, if tenant improvements are started it violates but/for.</td>
</tr>
</tbody>
</table>
Does This Action Violate the But/For Clause?

2. “purchased machinery or equipment related to the project”

<table>
<thead>
<tr>
<th>Type of “Project”</th>
<th>Does This Violate the But/For Clause?</th>
<th>Does This Impact Discretionary $’s?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Down Payment on Equipment</td>
<td>Purchase of Equipment</td>
</tr>
<tr>
<td>Competitive Attraction—No Decision on Location</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Attraction—Decision on Location</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Existing Expansion at Location with no other Facilities (effectively a Decision on Location)</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Existing Expansion—No Decision on Location</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Retention—At Existing MO Facility vs. Relocating to another State—No Decision on Location</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>
Does This Action Violate the But/For Clause?

3. “publicly announced its intention to make new capital investment at the project facility prior to the receipt of a proposal for benefits or approval of its Notice of Intent, whichever comes first.”

<table>
<thead>
<tr>
<th>Announcement by:</th>
<th>Consequence</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company Announces prior to receipt of proposal or approval of NOI</td>
<td>Impacts But/For - ineligible</td>
<td></td>
</tr>
<tr>
<td>City Announces prior to receipt of proposal or approval of NOI</td>
<td>Impacts But/For - ineligible</td>
<td></td>
</tr>
<tr>
<td>Project is listed on required public hearing for local benefit, no other communication from Company or City</td>
<td>No impact on But/For</td>
<td>No comments in press.</td>
</tr>
</tbody>
</table>
Criteria for Adding Discretionary Benefits

- The significance of the qualified company’s need;
- The projected net fiscal benefit to the state;
- The overall size and quality of the proposed project;
- The financial stability and creditworthiness of the qualified company;
- The level of economic distress in the area;
- The competitiveness of alternative locations for the project facility;
- The percent of local incentives committed.
Criteria for Adding Discretionary Benefits

• Those items that would increase the likelihood for discretionary benefits:
  – The significance of the qualified company’s need;
  – The projected net fiscal benefit to the state;
  – The overall size and quality of the proposed project;
  – The level of economic distress in the area;
  – The competitiveness of alternative locations for the project facility;

• Those items that would decrease the likelihood for discretionary benefits
  – The financial stability and creditworthiness of the qualified company;
  – The percent of local incentives committed.
Examples of Criteria for Adding Discretionary Benefits

• The significance of the qualified company’s need;
  – Capital costs
  – Specialized workforce/training
  – Infrastructure support
  – Utility demand
  – Environmental permitting

• The projected net fiscal benefit to the state;
  – Defined as cost:benefit analysis from REMI model

• The overall size and quality of the proposed project;
  – # of jobs, wages, investment
  – Fortune 500
  – HQ
Examples of Criteria for Adding Discretionary Benefits

• The level of economic distress in the area;
  – Enterprise zone, empowerment zone, poverty rate, blighted area, TIF redevelopment area; unemployment

• The competitiveness of alternative locations for the project facility;
  – 1st hand knowledge of competition
  – Source of knowledge of competition
  – Relationship of company in competitor’s states
  – Knowledge of competitors offer
  – Familiarity with other state’s tools
  – Proximity to resources
  – Stalking horse.....
Examples of Criteria for Adding Discretionary Benefits

• The financial stability and creditworthiness of the qualified company;
  – Creditworthiness
  – Viability
  – Stress
  – Industry trends
  – Recent company history (incentives aren’t bailouts)

• The percent of local incentives committed
  – Simple yes or no
  – Benchmark for consideration, not a bonus system
Related Facilities – Different than MQJ

- QJ - "a facility operated by the qualified company or a related company located in this state that is directly related to the operations of the project facility".

- MO Works adds another component: "...directly related to the operations of the project facility or in which operations substantially similar to the operations of the project facility are performed."

- How do you determine if a facility is related or not?
Related Facilities – “...directly related.....”

- Does the facility make the same product or perform the same function?
- Does the facility make a product or perform a function that is integral to the other facility product or function?
- Are the products used together in the market?
- Does either facility sell their product to other buyers than just providing the product to their own company?
- How are the facilities represented in the company organizational chart?
Related Facilities - “…..substantially similar…..”

- Can you transfer employees from one facility to the other with no additional training?
- Are the resources/machinery/equipment used in the facility and the processes undertaken with those resources/machinery/equipment similar?
The definition of “employee” excludes owners:

The term “owner”:

- Applies to both privately held and publicly traded businesses:
- LLC - any person with a membership interest
- General Partnership or Joint Venture, - any of the partners
- Limited Partnership - only those partners with management powers. (In most cases this will require an examination of the partnership agreement.)
- Corporation, any person who:
  - Is a member of the board of directors, or
  - Any person who owns more than 10% of the outstanding shares of stock
- For other business organizations DED will determine which persons qualify as owners based on management and control.
Benefit Agreements

- MO Works provides for actual agreements to be executed between the Company and DED;
- Agreements are applicable to “entitlement”, “discretionary benefits” and “retention benefits”;
- The Agreement “defines the project”;
- The Agreement shall specify, at a minimum:
  - The committed number of new jobs, new payroll, and new capital investment;
  - The term of the benefits;
  - The term of required reporting;
  - The date or time period during which the tax credits shall be issued.
Benefit Agreements - continued

– Claw-back provisions as may be required by the department including:
  • A material misrepresentation in the application;
  • A bankruptcy;
  • A relocation outside of the state;
  • Dropping below the minimum job threshold;
  • Dropping below the committed jobs (or a percentage thereof) and payroll during benefit term;
  • Failing to comply with the reporting requirements;
  • Failing to provide required capital investment.
Clawbacks

- Clawbacks may:
  - Include only a portion of a benefit;
  - Include the whole benefit;
  - Eliminate the discretionary component of a benefit;
  - Apply annually versus the full term.

- Clawbacks are designed to:
  - Encourage realistic estimates.

- Clawbacks are not designed to:
  - Eliminate competitiveness;
  - Penalize natural business shifts.