

**JACKSON COUNTY
BUSINESS SUBSIDY POLICY AND CRITERIA
ADOPTED MAY 24, 2004
AMENDED NOVEMBER 13, 2007
AMENDED FEBRUARY 8, 2011**

1. PURPOSE

- 1.1. The purpose of this policy is to establish the County's position related to the use of revolving loan fund, tax increment financing, tax abatement, JOBZ Incentives, and any other business subsidy programs for private development. The County will use this policy as a guide in processing and reviewing applications requesting any type of business subsidy.
- 1.2. The County may amend or waive any part of this policy as allowed under Minnesota Law.

2. STATUTORY LIMITATIONS

- 2.1. This policy is adopted in compliance with the Business Subsidy statute M.S. §§ 116J.993 - 116J.995 and the Job Opportunity Building Zone (JOBZ) statute M.S. §§ 469.310-469.320. A copy of the policy shall be submitted to the Department of Employment and Economic Development along with the first annual Business Subsidy report. All business subsidy requests must comply with applicable Minnesota Law.

3. DEFINITIONS

- 3.1. "Agricultural Processing Facility Zone (APF)" means one or more facilities or operations that transform, package, sort or grade livestock or livestock products, agricultural commodities, or plants or plant products into goods that are used for intermediate or final consumption including goods for nonfood use, and surrounding property.
- 3.2. "Authorized Business Subsidy Signatory" means the Chairman of the County Board and the County Coordinator, who are authorized by this Policy to execute business subsidy agreements on behalf of the County of Jackson.
- 3.3. "JOBZ Business Subsidy" means tax exemptions or tax credits available to a qualified business located in a job zone under the JOBZ statute. JOBZ Business Subsidies shall include:
 - 3.3.1. Exemption from individual income taxes as provided under M.S. § 469.316;
 - 3.3.2. Exemption from corporate franchise taxes as provided under M.S. § 469.317;
 - 3.3.3. Exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in M.S. § 297A.68, Subd. 37;
 - 3.3.4. Exemption from the state sales tax on motor vehicles and any local sales tax on motor vehicles as provided under M.S. § 297B.03;
 - 3.3.5. Exemption from the property tax as provided in M.S. § 272.02, Subd. 64;
 - 3.3.6. Exemption from the wind energy production tax under M.S. § 272.029, Subd. 7; and
 - 3.3.7. The jobs credit allowed under M.S. § 469.318.
- 3.4. "Business Subsidy" means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business, and as defined by the Business Subsidy statute M.S. §§ 116J.993 - 116J.995. Business subsidies shall include, but not be limited to:
 1. Loan

2. Grant
3. Tax abatement
4. TIF or other tax reduction or deferral
5. Guarantee of payment
6. Contribution of property or infrastructure
7. Preferential use of government facilities
8. Land contribution
9. Other specified subsidy

The following forms of financial assistance are not a business subsidy:

1. a business subsidy of less than \$150,000;
2. assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of businesses, size, location or similar general criteria;
3. public improvements to buildings or lands owned by the County that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;
4. redevelopment property polluted by contaminants and being redeveloped as defined in M.S. § 116J.552, Subd. 3.
5. assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance to designated historic preservation sites or districts, provided that the assistance is equal to or less than 50% of the total cost of the development;
6. assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services;
7. assistance for housing;
8. assistance for pollution control or abatement, including assistance for a tax increment financing hazardous substances subdistrict as defined under section 469.174, subdivision 23;
9. assistance for energy conservation;
10. tax reductions resulting from conformity with federal tax law;
11. workers compensation and unemployment compensation;
12. benefits derived from regulation;
13. indirect benefits derived from assistance to educational institutions;
14. funds from bonds allocated under M.S., Chapter 47A, bonds issued to refund outstanding bonds, and bonds issued for the benefit of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1999;
15. assistance for collaboration between a Minnesota higher education institution and a business;
16. assistance for a tax increment financing soils condition district as defined under M.S. §§ 469.174, Subd.19;

17. redevelopment when the recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's estimated market value;
 18. general changes in tax increment financing law and other general tax law changes of a principally technical nature;
 19. federal assistance until the assistance has been repaid to and reinvested by the local government agency;
 20. funds from dock and wharf bonds issued by a seaway port authority;
 21. business loans and loan guarantees of \$150,000 or less;
 22. federal loan funds provided through the United States Department of Commerce, Economic Development Administration; and
 23. property tax abatements granted under section 469.1813 to property that is subject to valuation under Minnesota Rules, chapter 8100.
- 3.5. "Business Subsidy Recipient Report" means the annual reports submitted each year by each business receiving a business subsidy in the community. The report is submitted to the Local Government Unit in order to comply with M.S. § 116J.994, Subd. 7. (b).
 - 3.6. "Business Subsidy Grantor Report" means the annual reports submitted each year by the Local Government Unit in order to comply with M.S. § 116J.994, Subd. 8. (a).
 - 3.7. "Criteria" means the equitably applied, uniform standards by which the Economic Development Agency and/or the County bases its decision to award any business subsidy to a private business or development project establishing a business and creating jobs in the County of Jackson.
 - 3.8. "DEED" means Minnesota Department of Employment and Economic Development.
 - 3.9. "Economic Development Agent" means the county department, local or regional economic development agency or other authorized entity that is empowered to solicit, negotiate and form business subsidy agreements on behalf of the County of Jackson. The Economic Development Agent for the County of Jackson shall be the County Coordinator, hereinafter "Agent".
 - 3.10. "Health Benefits" shall mean basic health insurance and/or cash benefits equal to 25% of wages paid.
 - 3.11. "Living Wage Job" shall mean a job which pays wages and health benefits that total at least 110% of the current federal poverty level for a family of four.
 - 3.12. "Local Governmental Unit" hereinafter LGU, means the statutory or home rule charter city, county, town, iron range resources and rehabilitation agency, or regional development commission.
 - 3.13. "Operation Start Date" shall mean the date by which the business begins its operations in the zone as evidenced by constructing a facility or relocating to an existing building in a facility and beginning revenue generating operations and/or hiring employees.
 - 3.14. "Qualified Business" means a person or other entity that carries on a trade or business at a place of business located within a Job Opportunity Building Zone as referenced in M.S. § 469.310, Subd. 11; and complies with the reporting requirements specified by M.S. § 469.313, Subd. 2. (5); and shall comply with the criteria in Section II.C. of this agreement; and shall also mean "Recipient" as defined by Business Subsidy law. A qualified business shall not include a retail business, a low-wage service business, an agricultural production business, or a business that pays less than the living wage defined in this agreement.

- 3.15. "Recipient" means any business entity that receives a business subsidy as defined by M.S. § 116J.993 and that has signed a Business Subsidy Agreement with a LGU.
- 3.16. "Relocating Business" means a business relocating from another Minnesota non-JOB Zone location.
- 3.17. "Relocation Agreement" means a binding written agreement between a relocating qualified business and the commissioner of DEED pledging that the qualified business shall either: (a) increase full-time or full-time equivalent employment in the first full year of operation within the job opportunity building zone by at least 20 percent, **or** (b) make a capital investment on the property equivalent to 10% of the gross revenues of operation that was relocated in the immediately preceding taxable year; and provides for repayment of all tax benefits if the requirements of (a) or (b) are not met.
- 3.18. "Subzone" means the parcel or parcels of land designated by the Commissioner of Employment and Economic Development within a Job Opportunity Building Zone within the boundaries of Jackson County to receive certain tax credits and exemptions specified under M.S. § 469.310-469.320.
- 3.19. "Zone" means a Job Opportunity Building Zone (JOBZ) or an Agricultural Processing Facility Zone (APF) designated by the commissioner of Employment and Economic Development under M.S. § 469.314.

4. BUSINESS SUBSIDY PUBLIC PURPOSE

- 4.1. The County will consider using business subsidy tools to assist private development only in those circumstances in which the proposed project meets at least one of the following public purposes:
 - 4.1.1. To redevelop or renew blighted areas, or to develop under-utilized areas of the County.
 - 4.1.2. To provide or help acquire or construct public facilities.
 - 4.1.3. In combination with any other use provided for in this section, to increase the County's tax base to ensure the County's long-term ability to provide adequate services for its residents while lessening the reliance on residential property tax.
 - 4.1.4. To retain local jobs where job loss is specific and demonstrable, increase the local job base and create high quality job growth, and provide diversity in the job base.
 - 4.1.5. To enhance economic growth and diversity.
 - 4.1.6. To provide access to services for residents.
 - 4.1.7. To offset increased redevelopment costs, over and above those cost that a developer would incur in normal development, and to encourage redevelopment and revitalization within the County.
 - 4.1.8. To stabilize the community.
 - 4.1.9. To accelerate the development process and to achieve development on sites that would not be developed without assistance.
 - 4.1.10. To finance or provide public infrastructure.

5. BUSINESS SUBSIDY PROJECT APPROVAL CRITERIA

- 5.1. All new projects must meet all of the following mandatory minimum approval criteria. However, meeting these criteria will not guarantee automatic approval of a subsidy.

- 5.1.1. The subsidy must be provided within applicable state legislative restrictions, State Auditor interpretations, debt limit guidelines, and other appropriate financial and legal requirements and policies.
- 5.1.2. The project must meet at least one of the Public Purposes outlined in Section 4.
- 5.1.3. The project must be in accordance with the appropriate zoning regulations.
- 5.1.4. The applicant must demonstrate that the project would not be created on the same scale and/or quality without County business subsidy assistance. The applicant should maximize the amount of private investment in the project.
- 5.1.5. The applicant must provide any requested market and financial feasibility studies, appraisals, soil boring, information provided to private lenders for the project, or any other information or data that the County or their financial consultants may require to independently review the project.
- 5.1.6. An applicant requesting County business subsidy assistance must demonstrate past successful general development capability, or specific capability in the type and size of proposed development, in the sole judgment of the County.
- 5.1.7. If applicable, the applicant must retain ownership of the project at least long enough to complete it, to stabilize its occupancy, and to establish the project's management.
- 5.1.8. The applicant must demonstrate evidence of required equity and other project financing sources. The applicant should reduce its level of needed business subsidy funding to the lowest possible level and least amount of time by maximizing the use of private debt and equity financing first, and then using other funding sources or income producing vehicles that can be structured into the project's financing, before using additional business subsidy funding.
- 5.1.9. The project must be located in the County or planning to locate in the County before completion.
- 5.1.10. The applicant must use all business subsidy funding from the County for land and/or building improvements which increase the property's tax value, foster future economic development within the County, and maintain existing and/or create additional jobs in the County.
- 5.1.11. The applicant must demonstrate a clear and ongoing commitment to the community by providing living wage jobs, as defined in this policy, to their employees and to County residents, and where applicable, by giving priority to those residents.
- 5.1.12. Where the objective is the retention of existing jobs, the recipient of the subsidy shall be required to provide reasonably demonstrable evidence that the loss of those jobs is imminent.
- 5.1.13. The applicant must demonstrate the ability to repay the business subsidy if the goals set forth in the business subsidy agreement are not met.
- 5.1.14. The applicant agrees to comply with annual Business Subsidy Reporting Requirements as required by Business Subsidy Statute and/or JOBZ statute.

6. BUSINESS SUBSIDY EVALUATION GUIDELINES

- 6.1. The County will evaluate all projects using the following guidelines for comparison with other proposed business subsidy projects reviewed by the County, and for comparison with other subsidy standards (where appropriate). Changes in local markets, construction costs, and interest rates may cause changes in the amounts of business assistance subsidies that a given project may require at any given time.

- 6.2. While some criteria, by their very nature, must remain subjective, the County has established standard evaluation guidelines for review purposes. The fact that a given proposal meets one or more of the evaluation guidelines does not mean that the project is entitled to funding under this policy, but rather that the County is in a position to proceed with evaluations of (and comparisons between) various business subsidy proposals, using uniform standards whenever possible.
- 6.3. The County will use the following evaluation guidelines:
 - 6.3.1. Proposals should optimize a site's private development potential.
 - 6.3.2. Proposals should create the highest feasible number of living wage jobs on the site given the project's nature and other goals.
 - 6.3.3. Proposals must meet all applicable business subsidy criteria established by the County.
 - 6.3.4. Proposals should create the highest possible ratio of property taxes paid before and after redevelopment after taking into consideration all of the project's goals.
 - 6.3.5. The County will not normally provide business subsidy to a project that involves speculative industrial, commercial and office projects.
 - 6.3.6. The County will not normally provide business subsidy to a project that involves an excessive land and/or property price.
 - 6.3.7. The County will not normally provide business subsidy for projects that would generate significant environmental or social problems in the opinion of the local, state, or federal governments.
- 6.4. Although the primary purpose of this policy is the creation of living wage jobs, we cannot achieve our economic development goals without a trained and ready workforce and adequate childcare. The County will encourage businesses to obtain trained and work-ready employees through the DEED Workforce Development Centers; MNSCU and other services; and to facilitate access to childcare.

7. BUSINESS SUBSIDY AWARD

- 7.1. A public hearing shall be held before granting or denying any business subsidy as defined in Section 3.4. A notice of the public hearing shall be published in a newspaper of general circulation within the County at least ten (10) days, but no more than thirty (30) days prior to the hearing.
- 7.2. If the County decides to grant any business subsidy to the applicant, the applicant and the County must enter into a Business Subsidy Agreement containing at least the following elements:
 - 7.2.1. A description of the business subsidy, including the amount and type of assistance, and the type of district if tax increment financing is provided.
 - 7.2.2. A statement of the business subsidy's use and public purpose.
 - 7.2.3. Measurable, specific and tangible goals for the business subsidy.
 - 7.2.4. A description of the recipient's financial obligations if the goals are not met.
 - 7.2.5. A statement of why the subsidy is needed.
 - 7.2.6. The recipient's commitment to continue operations in the County for at least five (5) years from the day the Business Subsidy Agreement goes into effect.
 - 7.2.7. The legal name and address for legal service of the recipient, and parent corporation, if any.

- 7.2.8. A detailed list of all financial assistance by all grantors for the project.
- 7.2.9. Goals for the number of jobs created or retained, and wage goals for the jobs created or retained if any, and wage goals for any jobs to be enhanced through increased wages.

8. ADDITIONAL JOBZ BUSINESS SUBSIDY REQUIREMENTS

- 8.1. Any time the County of Jackson grants a business subsidy to a Qualified Business or Recipient that business is subject to the wage levels, job creation and other criteria set forth in this policy and specified in the Business Subsidy Agreement made with the LGU. In the event of a conflict between the requirements of the Business Subsidy statute and the JOBZ statute, the JOBZ statute shall supersede.
- 8.2. The qualified business shall be identified in the Business Subsidy Agreement as a:
 - 8.2.1. Trade or business located in and operating in a JOBZ or APF Zone at the time of Zone designation;
 - 8.2.2. New trade or business start-up located within the subzone;
 - 8.2.3. Business expanding in the subzone which is a business that maintains its current operations in its current location and is expanding its operations *and* its payroll within the County of Jackson subzone;
 - 8.2.4. A business relocating from another state;
 - 8.2.5. A business relocating from another Minnesota non-Zone location specifying the City and/or County.
- 8.3. The County of Jackson may deviate from wage and job criteria defined in this policy, by documenting the reason in writing for the deviation and attaching a copy of this reason to the next annual Business Subsidy Grantor Report submitted to DEED.
- 8.4. The County shall require all businesses receiving a business subsidy to comply with the following:
 - 8.4.1. The business shall attend a properly noticed public hearing to as provided by M.S. § 116J.994, when the value of the subsidy does or is expected to exceed \$100,000 from local sources. The purpose of the hearing shall be to identify and define the criteria that the qualified business or recipient shall meet in order to be eligible to receive a business subsidy or become a qualified business for purposes of the JOBZ statute. The hearing shall specify the subsidy provided, the public purpose(s) that shall be achieved by offering the subsidy, and shall specify the measurable, specific, and tangible goals committed to by the qualified business. As provided by M.S. § 116J.994, Subd. 5., a public notice shall be published in print and, if possible, on the internet, at least 10 days prior to the hearing, identifying the location, date time and place of the hearing; and providing information about the business subsidy proposed, including a summary of the terms of the subsidy.
 - 8.4.2. If the business is qualified to receive JOBZ tax benefits, that business shall agree to continue operations in the jurisdiction where the subsidy is used (the subzone) for the duration of the job zone term.
 - 8.4.3. If the qualified business or recipient is a relocating business under the definition in this agreement, the business shall be required to enter into a binding written "Relocation Agreement" between the qualified business and the commissioner of DEED pledging that the qualified relocating business shall:
 - 8.4.3.1. Commit to signing a Relocation Agreement with DEED; **and**
 - 8.4.3.2. Reduce employment at the non-Zone location starting one year before and ending one year after beginning operations in the Zone where its

employees in the Zone are engaged in the same line of business as the employees at the location where it reduced employment; **and**

8.4.3.3. Increase full time employment by 20% (measured relative to the operations that were relocated) within the first full taxable year of operation within the Zone and maintain the required level of employment during each year of zone designation; **or**

8.4.3.4. Make a capital investment in the Zone equivalent to at least 10% of gross revenues for the taxable year immediately preceding relocation to the Zone.

8.4.4. The business shall identify an operation start date when business operations for the proposed qualified business are planned to begin in the zone.

9. EFFECTIVE DATE

9.1. This policy shall be effective upon adoption by the County Board.

Adopted this 8th Day of February 2011

JACKSON COUNTY BOARD OF COMMISSIONERS



David Henkels, Chair

ATTEST:



Janice Fransen, County Coordinator

Adopted November 13, 2007

Revised February 8, 2011