

SUBCHAPTER 18. GROW NEW JERSEY ASSISTANCE PROGRAM

19:31-18.11 Reporting requirements and annual reports

(a) After notification pursuant to N.J.A.C. 19:31-18.7(g), the business shall [furnish] submit an annual report which includes a certification of a qualified independent certified public accountant, which may be made pursuant to an agreed upon procedures letter acceptable to the Authority [an annual report certified by the chief financial officer of the business in a format as may be determined by the Authority], which shall contain the following information in numbers 1 and 2 as well as a certification from the business indicating whether or not the business is aware of any condition, event, or act, which would cause the business not to be in compliance with the approval, the Act, the incentive agreement, or this subchapter:

1. The number of full-time employees and new or retained full-time positions employed at the qualified business facility, the list of affiliates that contributed to the full-time employees at the qualified business facility, the number of full-time employees in its Statewide workforce as defined in N.J.A.C. 19:31- 18.15(a), the number of full-time employees in New Jersey in the last tax period prior to the credit amount approval of any affiliate that contributed to the full-time employees and was not listed in the application, total lease payments, and information on any change or anticipated change in the identity of the entities comprising the business elected to claim all or a portion of the credit. This [certified report] annual certification is due 120 days after the end of the business's tax privilege period; and failure to submit the [certified report] annual certification within 120 days, absent extenuating circumstances and the written approval of the Authority, will result in forfeiture of the tax credit for that privilege period. To the extent a business has received an award for both new and retained full-time jobs, the business shall meet the employment requirements as set forth in N.J.A.C. 19:31-18.4(d); and

2. For an organization operating a qualified incubator facility that applied on behalf of businesses or positions, the number of full-time employees or positions in the space restricted for use by technology company startup companies and the number of full-time employees or positions outside of the space restricted for use by technology company startup companies. The annual [report] certification shall demonstrate that at least 50 percent of the qualified business incubator remains restricted for such use and that any company in the restricted space continues to qualify as a technology startup company.[

3. A certification indicating whether or not the business is aware of any condition, event, or act, which would cause the business not to be in compliance with the approval, the Act, the incentive agreement, or this subchapter.]

(b) The tax credit certificate may provide for additional reporting requirements.

(c) In conducting its annual review, the Authority may require a business to submit any information determined by the Authority to be necessary and relevant to its review.

(d) Annually, upon satisfactory review of all information submitted, the Authority will issue a letter of compliance. No tax credit certificate will be valid without the letter of compliance issued for the relevant tax privilege period. The letter of compliance will indicate whether the business or the tax credit holder may take all or a portion of the credits allocable to the tax privilege period.

(e) For a project located within a Garden State Growth Zone, if, in any tax period, the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement, then the business shall be entitled to an additional tax credit award representing an increased base credit amount for that tax period and each subsequent tax period, for each additional full-time employee added above the number of full-time employees specified in the incentive agreement, until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount will be adjusted accordingly pursuant to this subsection; provided that the adjustment may not affect other obligations under the incentive agreement to maintain a minimum number of employees. To obtain this additional tax credit award, the business shall submit, in its annual certification [report], a request to the Authority with supporting evidence documenting the additional full-time employees added above the number of full-time employees specified in the incentive agreement. Following EDA staff acceptance of the annual certification [report], it shall notify the Director of the Division of Taxation and the business shall receive an increased tax credit certificate.

(f) For a project located within a Garden State Growth Zone which qualifies under the Municipal Rehabilitation and Economic Recovery Act, P.L. 2002, c. 43 (N.J.S.A. 52:27BBB-1 et seq.), or which contains a Tourism District as established pursuant to section 5 of P.L. 2011, c. 18 (N.J.S.A. 5:12-219) and regulated by the Casino Reinvestment Development Authority, and which qualifies for a tax credit pursuant to subparagraph (ii) of subparagraphs (a) through (e) of paragraph (6) of subsection d. of section 5 of P.L. 2011, c. 149 (N.J.S.A. 34:1B-246), if, in any tax period the number of full-time employees employed by the business at the qualified business facility located within a qualified incentive area increases above the number of full-time employees specified in the incentive agreement such that the business shall then meet the minimum number of employees required in subparagraphs (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L. 2011, c. 149 (N.J.S.A. 34:1B-246), then the Authority shall recalculate the total tax credit amount per full-time employee by using the certified capital investment of the project allowable under the applicable subparagraph and the number of full-time employees certified on the date of the recalculation and applying those numbers to subparagraphs (b), (c), (d), or (e) of paragraph (6) of subsection d. of section 5 of P.L. 2011, c. 149 (N.J.S.A. 34:1B-246), until the first tax period for which documentation demonstrating a reduction of the number of full-time employees employed by the business at the qualified business facility, at which time the tax credit amount shall be adjusted accordingly pursuant to this section. To obtain this additional tax credit award, the business shall submit, in its annual certification [report], a request to the Authority with supporting evidence documenting the additional full-time employees added above the number of full-time employees specified in the incentive agreement. Following EDA staff acceptance of the annual report, it shall notify the Director of the Division of Taxation and the business shall receive an increased tax credit certificate.

(g) The Authority shall qualify certified public accountants and provide to the business the list of qualified certified public accountants; provided, the business's chief financial officer may certify for purposes of the employment certification upon the Authority's prior approval if the business demonstrates an extenuating circumstance prohibiting the business from retaining a qualified independent certified public accountant, including, but not limited to, the unavailability of any of the qualified independent certified public accountants to timely complete the certification or none of the qualified certified public accountants are independent to the business.