

Memorandum



DATE February 3, 2017

TO Members of the Economic Development Committee:
Rickey D. Callahan (Chair), Casey Thomas, II (Vice Chair), Adam Medrano,
Lee M. Kleinman, Carolyn King Arnold, B. Adam McGough

SUBJECT **Overview of Texas Enterprise Zone Program**

On Monday, February 6, 2017, the Economic Development Committee will be briefed on the Overview of Texas Enterprise Zone Program.

Briefing material is attached.

Should you have any questions, please contact me at (214) 670-3390. Thank you.



Mark McDaniel
Acting First Assistant City Manager

C: The Honorable Mayor and Members of the City Council
T.C. Broadnax, City Manager
Larry Casto, City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Eric D. Campbell, Assistant City Manager

Jill A. Jordan, P.E., Assistant City Manager
Joey Zapata, Assistant City Manager
Theresa O'Donnell, Chief of Resilience
M. Elizabeth Reich, Chief Financial Officer
Sana Syed, Public Information Officer
Elsa Cantu, Assistant to the City Manager – Mayor & Council
Directors and Assistant Directors

Overview of Texas Enterprise Zone Program

Economic Development Committee
February 6, 2017

Purpose

- Provide background information on the State of Texas Enterprise Zone (EZ) Program
- Review City of Dallas participation in the EZ Program
- Obtain Economic Development Committee's favorable recommendation for:
 - Council authorization on February 8, 2017 to call a public hearing,
 - Council to hold a public hearing on February 22, 2017,
 - Council approval on February 22, 2017 of an ordinance to continue participation in the Texas EZ Program and authorize EZ nomination of Neiman Marcus project, and
 - Council approval on February 22, 2017 of a resolution to authorize EZ nominations of Medical City project and EnLink project.

State of Texas EZ Program

Background

- The EZ Program offers state tax benefits for new and expanding businesses in economically distressed areas (“enterprise zones”).
- A Texas enterprise zone is any block group with a poverty rate of 20% or more, as determined by the 2010 Census.
 - **Appendix A** provides a map of enterprise zones within the City of Dallas
- The EZ Program is administered through the Office of the Governor, Economic Development Bank.

State of Texas EZ Program

Background

- Municipalities with a population of 250,000 or more (based on 2010 Census) are eligible for up to 9 EZ project designations per biennium.
- State legislation provides a maximum of 105 EZ project designations statewide per biennium.
 - We are currently in the 2016/2017 State biennium.
- Applications are accepted quarterly with the deadlines on the first working day of March, June, September, and December.

State of Texas EZ Program

Background

- Approved projects in Enterprise Zones must commit to the following:
 - Make capital investment
 - Create or retain permanent jobs, a portion of which must be filled by individuals who are economically disadvantaged, residents of the enterprise zone, or veterans
 - Maintain an agreed upon number of jobs for at least three years



Texas Enterprise Project Application

Office of the Governor
Economic Development and Tourism
Texas Economic Development Bank

State of Texas EZ Program

Program Requirements

- A local community must nominate a company as an Enterprise Project.
- Communities must have local incentives to offer the project.
 - The City's Public/Private Partnership program in the case of Dallas.
- Enterprise Project designation is up to a five-year period, in addition to a 90-day window prior to the quarterly deadline application/designation date.
 - Employment commitments must be met and capital investment commitments must be incurred within the 90-day window through the designation expiration date.
- Projects may be physically located in or outside of an Enterprise Zone.
 - If located within a zone, the company commits that at least 25 percent of their new employees will meet economically disadvantaged, enterprise zone residence requirements, or veterans.
 - If located outside of a zone, the company commits that at least 35 percent of their new employees will meet economically disadvantaged, enterprise zone residency requirements, or veterans.
- Projects must meet or exceed county weekly wage averages to be eligible.
 - \$1,225.00 weekly wage average for Dallas County in 2015 Source: US Dept. of Labor

State of Texas EZ Program

Program Requirements

- Local communities must approve by ordinance its participation in the EZ Program.
 - After initial approval by ordinance, if the community adopts new guidelines and criteria for its incentive program, a new ordinance and public hearing must be held to affirm a community's continued participation in the EZ Program.
- At the February 8, 2017 City Council meeting, an authorization request will be made to hold a public hearing on February 22, 2017.
 - The public hearing on February 22, 2017 will provide the opportunity to receive citizen comments on the City's continued participation in the EZ Program as required by Chapter 2303 of the Texas Government Code.
- Upon completing the public hearing, the City Council will then be asked to approve an ordinance to ordain the City of Dallas participation in the EZ Program.
 - City Council's authorization on December 14, 2016 of new guidelines and criteria for the City of Dallas Public/Private Partnership Program necessitates the new ordinance and public hearing.

State of Texas EZ Program

Benefits

- Helps promote job creation/retention and significant private investment that will assist economically distressed areas within a community.
- Approved projects are eligible to apply for state sales and use tax refunds or credits on qualified expenditures.

State of Texas EZ Program

Benefits

The level and amount of refund is related to the capital investment and jobs created/retained at the qualified business site.

Level of Capital Investment	Maximum # of Jobs Allocated	Maximum Potential Refund	Maximum Refund Per Job Allocated
Half Designation			
1) \$40,000 – \$399,999	10	\$25,000	\$2,500
2) \$400,000 – \$999,999	25	\$62,000	\$2,500
3) \$1,000,000 – \$4,999,999	125	\$312,500	\$2,500
4) \$5,000,000 – more	250	\$625,000	\$2,500
Enterprise Project			
\$5,000,000 - more	500	\$1,250,000	\$2,500
Double Jumbo Project*			
\$150,000,000 – 249,999,999	500	\$2,500,000	\$5,000
Triple Jumbo Project+			
\$250,000,000 or more	500	\$3,750,000	\$7,500

+Must employ 500 or more to be eligible.

*+Double and Triple Jumbo eligible for only new job projects.

State of Texas EZ Program

Program Participation – State of Texas

According to Texas Economic Development Bank:

FY 14/15 Biennium (September 1, 2013 – August 31, 2015)

- 95 Enterprise Project applications were approved totaling 105 designations.
- 21 Enterprise Project applications were denied seeking 22 designations.

FY 16/17 Biennium (September 1, 2015 – August 31, 2017)

- 53 Enterprise Project applications have been approved totaling 52.5 designations to date.
- 2 Enterprise Project applications have been denied seeking 2 designations to date.

Over the past three years, the Dallas City Council has authorized 8 nominations to the EZ Program

State of Texas EZ Program

Program Participation – City of Dallas

2014

WhiteWave Foods (WWF Operating Company) – Council District 3

- February 2014: EZ nomination authorized by City Council (Res. No. 14-0392)
- March 2014: EZ designation approved by State of Texas (FY 14-15 Biennium)

Ryan, LLC – Council District 11

- February 2014: EZ nomination authorized by City Council (Res. No. 14-0390)
- March 2014: EZ designation approved by State of Texas (FY 14-15 Biennium)

Tenet Hospitals Limited – Council District 9

- February 2014: EZ nomination authorized by City Council (Res. No. 14-0391)
- March 2014: EZ designation approved by State of Texas (FY 14-15 Biennium)

2015

Mary Kay Inc. – Council District 6

- May 2014: EZ nomination authorized by City Council (Res. No. 14-0874)
- June 2014: EZ designation approved by State of Texas (FY 14-15 Biennium)

United Parcel Service, Inc. – Council District 6

- February 2015: EZ nomination authorized by City Council (Ord. No. 29658)
- March 2015: EZ designation approved by State of Texas (FY 14-15 Biennium)

State of Texas EZ Program

Program Participation – City of Dallas

2016

Comerica Bank – Council Districts 2 and 14

- March 2016: EZ nomination authorized by City Council (Res. No. 16-0429)
- June 2016: EZ designation approved by State of Texas (FY 16-17 Biennium)

Greyhound Lines, Inc. – Districts 3, 6, and 14

- June 2016: EZ nomination approved by City Council (Res. No. 16-1055)
- September 2016: EZ designation approved by State of Texas (FY 16-17 Biennium)

United States Cold Storage – Council District 6

- December 2016: EZ nomination authorized by City Council (Res. No. 16-1918)
- Approval of EZ designation by the State of Texas is pending (FY 16-17 Biennium)

State of Texas EZ Program

Upcoming Nominations – City of Dallas

- **Neiman Marcus Group LLC (Neiman Marcus)**
 - Neiman Marcus will be seeking Council support to receive State of Texas designation as a EZ Program project on February 22, 2017.
 - The nomination will be included in the proposed ordinance to ordain the City of Dallas continued participation in the EZ Program.
 - Between October 2016 and December 2021, Neiman Marcus anticipates spending over \$5 million in capital investments to renovate and update four Dallas-based facilities identified in their application: Pinnacle Park, Downtown Headquarters, Renaissance Tower, and Pacific Avenue locations.
 - Neiman Marcus currently employs over 1,100 full time jobs at the four Dallas facilities noted in their application and plans to apply for the retention designation of the EZ Program, identifying 500 jobs to be retained for this State of Texas benefit.
 - Due to the EZ application identifying a 500 jobs allocation to the program, a maximum refund of \$2,500 per job will be under consideration by the State.
 - Neiman Marcus anticipates receiving a maximum potential refund from the State of \$1,250,000 should it receive a EZ designation.

State of Texas EZ Program

Upcoming Nominations – City of Dallas

- **Columbia Hospital at Medical City Dallas Subsidiary, L.P. (Medical City)**
 - Medical City will be seeking Council support to receive State of Texas designation as a EZ Program project on February 22, 2017.
 - Between October 2016 and March 2022, Medical City anticipates spending over \$120 million in capital investments to upgrade and expand its existing medical facility located at 7777 Forest Lane.
 - Approximately \$91 million will be spent at the Medical City campus, adding 5 floors to Building D and renovating 4 floors in Building A. Approximately 120,000 sq. ft. will be added to the facility. Approximately \$29 million will be spent on related new facility equipment, including IT and medical equipment.
 - Medical City currently employs over 1,500 full time jobs and over 1,200 part time jobs at its Forest Lane campus. In addition to \$120 million in capital investment, it has committed to the hiring of 100 full time jobs and the retention of its existing 1,500 full time jobs, identifying over 500 jobs to be retained in Dallas.
 - Due to the EZ application identifying a 500 jobs allocation to the program, a maximum refund of \$2,500 per job will be under consideration by the State.
 - Medical City anticipates receiving a maximum potential refund from the State of \$1,250,000 should it receive a EZ designation.

State of Texas EZ Program

Upcoming Nominations – City of Dallas

- **EnLink Midstream Operating, LP (EnLink)**
 - EnLink will be seeking Council support to receive State of Texas designation as a EZ Program project on February 22, 2017.
 - EnLink has outgrown its current offices and is planning a relocation of its corporate headquarters from 2501 Cedar Springs to One Arts Plaza (1722 Routh Street).
 - Between March 2017 and March 2022, EnLink anticipates spending over \$17.2 million in capital investments on office renovation, IT and related office equipment costs.
 - EnLink currently employs 285 full time jobs. In addition to \$17.2 million in capital investment, it has committed to creating at least 10 full time jobs and the retention of its existing 285 full time jobs.
 - For their retention and creation of at least 295 jobs within the City of Dallas, EnLink anticipates receiving \$737,500 from the State (295 jobs x \$2,500 maximum refund per job).

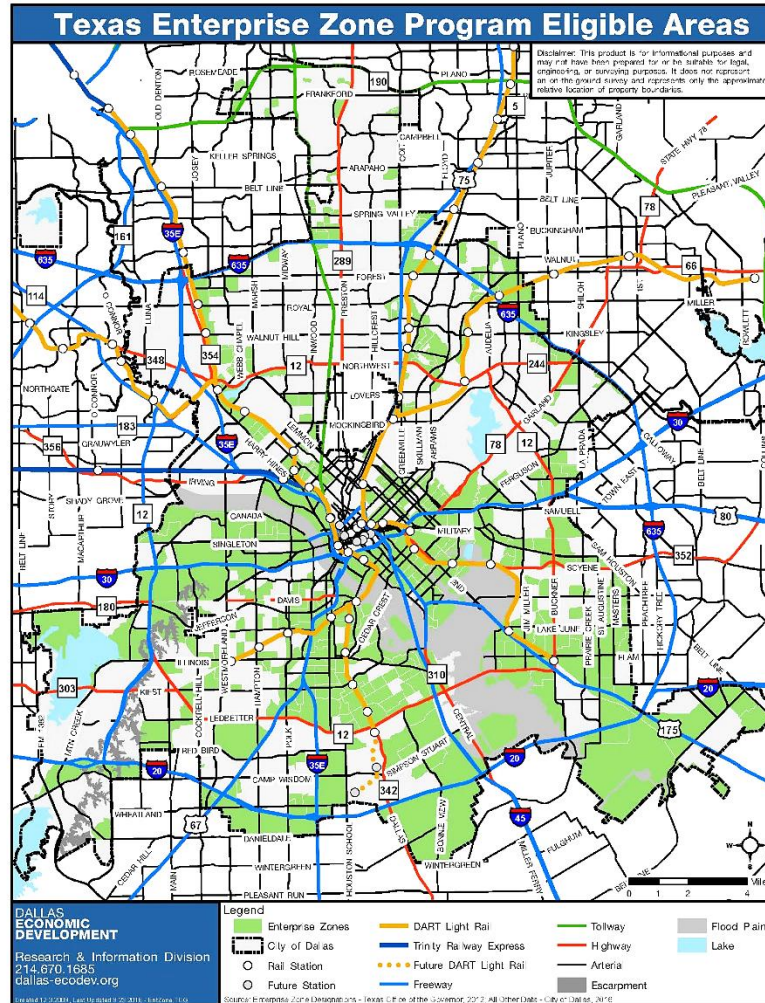
Recommendations

- Economic Development Committee's favorable recommendation for Council authorization for a public hearing on February 8, 2017 to continue participation in the Texas EZ Program.
- Economic Development Committee's favorable recommendation for Council to hold a public hearing on February 22, 2017 to continue participation in the Texas EZ Program.
- Economic Development Committee's favorable recommendation for Council approval on February 22, 2017 by City ordinance to continue participation in the Texas EZ Program and authorize the nomination of Neiman Marcus to receive State of Texas designation as a EZ project.
- Economic Development Committee's favorable recommendation for Council approval on February 22, 2017 by City resolution to authorize the nomination of Medical City and EnLink to receive State of Texas designation as an EZ project.

APPENDICES

State of Texas EZ Program

Appendix A: Map of Enterprise Zones in Dallas



State of Texas EZ Program

Appendix B: *Frequently Asked Questions*

(Source: <http://texaswideopenforbusiness.com>)

What is an enterprise zone?

Any block group within the State of Texas that has a poverty rate of 20% or more, as determined by the U.S. Census Bureau during each decennial census is a state enterprise zone. The block group will remain an enterprise zone until it no longer qualifies, as a result of a subsequent decennial census.

Any distressed county in Texas is an enterprise zone. A county is considered to be a distressed county if it has a poverty rate above 15.4 percent based on the most recent decennial census; in which at least 25.4 percent of the adult population does not hold a high school diploma or high school equivalency certificate based on the most recent decennial census; and that has an unemployment rate that has remained above 4.9 percent during the preceding five years, based on Texas Workforce Commission data.

Any federally designated empowerment zone, enterprise community or renewal community is also a State enterprise zone, for the duration of the federal designation.

It is the purpose of the Texas Enterprise Zone Act to establish a process that clearly identifies distressed areas and provides incentives by both local and state government to induce private investment in those areas by the provision of tax incentives and economic development program benefits. Under this program, economic development is encouraged by allowing enterprise projects to be designated outside of an enterprise zone, with a higher threshold of hiring economically disadvantaged or enterprise zone residents. The purpose of these sections is to provide standards of eligibility and procedures for designation of applications for qualified businesses as enterprise projects.

Who may participate in the program?

Any municipality or county in the State of Texas may participate in the program, whether they have an enterprise zone within their jurisdiction or not.

How do I determine in what block group I am located?

You can access the U.S. Census Bureau web site to determine what block group a particular address is in. The web address is http://factfinder.census.gov/servlet/ReferenceMapFramesetServlet?_lang=en.

State of Texas EZ Program

Appendix B: *Frequently Asked Questions*

(Source: <http://texaswideopenforbusiness.com>)

How do I determine if my block group qualifies as an enterprise zone?

The Governor's Office, through the Economic Development Bank (Bank), has published on its website the areas that qualify as an enterprise zone as either a qualifying block group or a distressed county. The website can be accessed at http://www.governor.state.tx.us/divisions/ecodev/ed_bank/enterprise_zone. If your block group is not listed, it does not qualify as an enterprise zone.

How does a municipality or county participate in the program?

The municipality or county must nominate a qualified business as an enterprise project by an ordinance or order as applicable. The ordinance or order must establish the local incentives being offered to the business seeking enterprise project designation. Local incentives may be established for all zone areas separately or individually, as well as areas of the jurisdiction outside of a zone area. The ordinance or order must state by position, who will act as liaison for the local program with the state, and nominate the qualified business for enterprise project status. Subsequent project nominations may be done by resolution, if the local incentives offered are the same as outline in the original ordinance or order.

Can a community offer local incentives without an enterprise zone?

Yes. A community can offer certain incentives as allowed by state law. Enterprise zones, however, are simply a means of packaging a number of state and local incentives together to help revitalize a distressed area.

What local incentives are available in an enterprise zone?

Local incentives that may be offered to an expanding or locating business vary. Examples of local incentives that may be offered include tax abatement, a refund of local sales and use taxes, waiver of permitting fees, tax increment financing, transfer of publicly owned buildings at below market cost, and low interest loans.

State of Texas EZ Program

Appendix B: *Frequently Asked Questions*

(Source: <http://texaswideopenforbusiness.com>)

What is a qualified business?

A qualified business is a person, including a corporation or other entity, that has been certified by the Bank, for purposes of state benefits under the Act, or a governing body for purposes of local benefits, to have met the following criteria:

- (A) the person is engaged in, or has provided substantial commitment to initiate the active conduct of a trade or business at a qualified business site; and
- (B) at least 25% of the business' new employees are either economically disadvantaged or enterprise zone residents (ED/EZR) if the qualified business site is located in an enterprise zone, or at least 35% of the business' new employees are ED/EZR if the qualified business site is located outside of an enterprise zone; and
- (C) a franchise or subsidiary of a new or existing business may be certified by the governing jurisdiction as a qualified business if the franchise or subsidiary is located entirely at the qualified business site and maintains separate books and records of the business activity conducted at the qualified business site.

What is the definition of economically disadvantaged?

An individual who at the time of hire:

- (A) was unemployed for at least three months before obtaining employment with a qualified business;
- (B) receives public assistance benefits, including welfare payments or food stamps, based on need and intended to alleviate poverty;
- (C) is a low-income individual, as defined by Section 101, Workforce Investment Act of 1998 (29 U.S.C. Section 2801(25));
- (D) is an individual with a disability, as defined by 29 U.S.C. Section 705(20)(A);
- (E) is an inmate, as defined by Section 498.001;
- (F) is entering the workplace after being confined in a facility operated by the institutional division of the Texas Department of Criminal Justice or under contract with the Texas Department of Criminal Justice;
- (G) has been released by the Texas Youth Commission and is on parole, if state law provides for such a person to be on parole;
- (H) meets the current low income or moderate income limits developed under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f et seq.); or
- (I) was under the permanent managing conservatorship of the Department of Family and Protective Services on the day preceding the individual's 18th birthday.

State of Texas EZ Program

Appendix B: *Frequently Asked Questions*

(Source: <http://texaswideopenforbusiness.com>)

What is an enterprise project?

An enterprise project is a business that is nominated by a municipality or county and approved by the bank for state benefits. State incentives include state sales and use tax benefits based on capital investment and jobs created and/or retained during the designation period. The State may designate up to 105 enterprise projects each biennium.

What items purchased are allowable for sales and use tax refund under the Program?

An enterprise project is eligible for a refund of the taxes imposed by the Texas Tax Code on all taxable items purchased for use at the qualified business site related to the project or activity during the designation period.

How many enterprise projects can we have?

Municipalities or counties with a population of 250,000 or more, based on the most recent decennial census, are eligible for up to nine enterprise project designations during a state biennium based upon availability.

Municipalities or counties with a population of less than 250,000 based on the most recent decennial census are eligible for up to six enterprise project designations during a state biennium based upon availability.

How long is an enterprise project designation?

The enterprise project designation is for an expansion or relocation from out-of-state, an expansion, renovation, or new construction, or other property to be undertaken by a qualified business. The designation period is a predetermined period approved by the Bank, with beginning and ending dates for each proposed project or activity. The designation period for an enterprise project may not be for a period of less than one year, nor more than five years from the date on which the designation is made.

State of Texas EZ Program

Appendix B: *Frequently Asked Questions*

(Source: <http://texaswideopenforbusiness.com>)

What state incentives are available to enterprise projects?

Designated enterprise projects are eligible to apply for state sales and use tax refund on qualified expenditures. The level and amount of refund is related to the capital investment and jobs created at the site.

Level of Capital Investment	Maximum number of jobs allocated	Maximum potential refund	Maximum refund per allocated
\$40,000 to \$399,999	10	\$25,000	\$2,500
\$400,000 to \$999,999	25	\$62,500	\$2,500
\$1,000,000 to \$4,999,999	125	\$312,500	\$2,500
\$5,000,000 to \$149,999,999	500	\$1,250,000	\$2,500
Double Jumbo Project \$150,000,000 to \$249,999,999	500	\$2,500,000	\$5,000
Triple Jumbo Project \$250,000,000 or more	500*	\$3,750,000	\$7,500

Each project is limited to a maximum refund of \$250,000 per year for five years for a regular enterprise project designation, \$500,000 per year for five years for a double jumbo enterprise project and \$750,000 per year for five years for a triple jumbo enterprise project. NOTE: a qualified business making a capital investment eligible to apply for a double jumbo enterprise project or a triple jumbo enterprise project must be nominated by the governing jurisdiction for the elevated designation in the nominating ordinance, order or resolution, as applicable, or the designation will automatically be for a regular enterprise project designation. A double jumbo enterprise project will count as two enterprise project designations against the 105 projects designations allowed statewide and against the four or six allowed for the governing jurisdiction. A triple jumbo enterprise project will count as three project designations for the state as well as the governing jurisdiction.

*A triple jumbo enterprise project must create and/or retain a minimum of 500 jobs.

State of Texas EZ Program

Appendix B: *Frequently Asked Questions*

(Source: <http://texaswideopenforbusiness.com>)

What constitutes capital investment?

Money paid to purchase capital assets or fixed assets including but not limited to land, buildings, labor used to construct or renovate a capital asset, furniture, manufacturing machinery, computers and software, or other machinery and equipment. Property that is leased under a capitalized lease is considered a qualified capital investment but property that is leased under an operating lease is not considered a qualified capital investment.

NOTE: if using a contractor to construct the facility, a "separated contract" (a contract in which the agreed contract price is divided into separately states prices for materials and labor) must be executed. If a "lump sum" contract is executed, a claim for refund of taxes invoiced to, and paid by a third party, will not qualify for a refund under this Program. Please call the Comptroller of Public Accounts' Office at 1-800-531-5441 ext. 51083 if you have any questions regarding this issue.

What is a qualified employee?

A qualified employee is an employee that works at least 50% of his or her time for the qualified business at the qualified business site.

What is a new permanent job?

A new permanent job is a new employment position created over and above the business' current baseline that provides a qualified employee of a qualified business with employment of at least 1,820 hours of work annually and exists at the qualified business site for at least three years after the date on which a state benefit is received. Seasonal, temporary or part-time jobs are not considered to be new permanent jobs, and therefore are not eligible for state benefit through the program.

What is a retained job?

A retained job is a position that existed with a qualified business on the 91st day prior to the application deadline, that has provided employment to a qualified employee of at least 1,820 hours annually and is retained throughout the designation period, or for at least three years after the date on which a state benefit is received, whichever is longer.

State of Texas EZ Program

Appendix B: *Frequently Asked Questions*

(Source: <http://texaswideopenforbusiness.com>)

What is a job retention project?

Job retention projects are available under limited circumstances. To qualify for a job retention project, a business must present documentation to the applicant jurisdiction supporting any one of the following circumstances:

- (A) that permanent employees will be permanently laid off;
- (B) the business will permanently close down;
- (C) the business will relocate out of state;
- (D) the business is able to employ individuals in accordance with Section 2303.402; or
- (E) the business facility has been legitimately destroyed or substantially impaired due to fire, flood, tornado, hurricane, or any other natural disaster and that at least 60 percent of the capital investment is being spent to repair damages resulting from the disaster.

All of the retained jobs must be certified by the Comptroller of Public Accounts before any benefits for jobs can be obtained.

What is an existing job?

An existing job is a full-time position that has existed with a qualified business, which does not qualify for benefit. The current number of existing jobs is used to determine the baseline level of employment at the time of project designation. New jobs which are created 90 days prior to the application deadline through the end of the project designation period qualify for benefit if the baseline jobs are maintained.

Do leased, contract or construction employees qualify for benefit?

No. All employees occupying the new or retained jobs for benefit must be under the direct, full-time and permanent employment of the enterprise project that has received the designation.

How long does it take to obtain an enterprise project designation?

Projects are designated typically eight to ten weeks after the project application deadline, depending on the number of applications received in that quarterly round.