

Job Development Investment Grant Remote Workers

Commerce has adopted standardized treatment for remote workers under the Job Development Investment Grant (JDIG) Program. This includes defined terms for remote workers and a clarification on the number of days required to be in person before an employee is considered remote in the JDIG Community Economic Development Agreement (CEDA) for newly awarded grants. The relevant CEDA definitions are below:

“New Employee” means a Full-Time Employee hired for the Project, and employed at the Facility and reporting there at least four days a month, who represents a net increase in the number of the Company’s employees in North Carolina [over the Retained Employment] and who is not a worker with an H-1B visa or with H-1B status.

“New Remote Employee” means a Full-Time Employee hired for the Project, assigned to the Facility and working from a home-office within the State or a satellite location within the State, who represents a net increase in the number of the Company’s employees in North Carolina [over the Retained Employment] and who is not a worker with an H-1B visa or with H-1B status.

“Eligible Position” means a position created by the Company and filled by a New Employee, and up to (XX) New Remote Employees, during the Base Period (or Extended Base Period, if authorized by the EIC). “Eligible Position” shall not include any position or employee of the Company, or any of its Related Members, which existed in North Carolina prior to the Effective Date and which is shifted or transferred to a position related to the Project. A position shall not be treated as an “Eligible Position” unless the Company reported the employee filling that position to DOC’s Division of Employment Security and paid unemployment insurance tax on that employee.

“Full-Time Employee” means a person who is employed by the Company for consideration for at least thirty-five (35) hours per week, whose Wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, and who is employed in a permanent position, as defined by the Criteria.

“Full-Time Employee” does not include any person who works as an independent contractor or on a consulting basis for the Company, or seasonal or temporary employees.

Commerce considers the addition of “at least four days a month” in the definition of New Employee to be a clarification, rather than a new standard. As such, the same definition will be applied to **all CEDAs** with respect to how often an employee must be at the Facility before they are considered a New Remote Employee, and older CEDAs do not require amendment in order for the standard to apply.

Note that per G.S. 143B-437.51(6), all employees must be employed for consideration for at least 35 hours a week, for wages that are subject to withholding under Article 4A of Chapter 105 of the General Statutes. As such, employees who are not residents of the State *must perform full-time work in the State to be considered eligible*, as the only portion of the employee’s wages subject to North Carolina withholding are those associated with the services performed in this State. Grantees are encouraged to seek professional tax advice if they have questions about their specific circumstances.

The JDIG Criteria was amended in January 2022 to address the effect of remote workers on the portion of the grant to be paid to the Industrial Development Fund Utility Account G.S.143B-437.01(b)(1) ("Utility Account"). Projects located in a Tier 1 or 2 counties with more than 34% new project jobs being filled by remote workers will be treated as located in a Tier 3 county for purposes of the portion of the grant transferred to the Utility Account pursuant to G.S. 143B-437.56(d). The amount of the grant transferred to the Utility Account in a Tier 3 county is 25%.

Current grantees that are utilizing remote workers permanently, and for whom remote workers are not already included under their respective CEDA must request a CEDA amendment to add remote workers. A standardized Remote Worker Amended Application will be provided for this request. The Economic Investment Committee has approved inclusion of remote workers under the following conditions:

1. If the grant is located in a Tier 1 or Tier 2 county, adding more than 34% remote workers will result in the grant's treatment as being in a Tier 3 location for purposes of the amount of the grant transferred to the Utility Account, with 25% of the grant disbursement being transferred. The recalculated grant amount with the applicable 25% transfer to the Utility Account will apply for all future grant years and is not subject to change based on future decreases in the number of remote workers.
2. All projects requesting 75% or more remote workers must acknowledge that the Local Government(s) is aware of the request and must have the participating Local Government(s) sign the Local Government Certification, found in the Remote Worker Amended Application. In the event a local government objects to the request, approval shall not be granted at the requested percentage.