

Excelsior Jobs Program

Funding Available: Up to \$70 million

DESCRIPTION: The Excelsior Jobs Program, established in Chapter 59 of the Laws of 2010, provides job creation and investment incentives to firms in such targeted industries as biotechnology, pharmaceutical, high-tech, clean-technology, green technology, financial services, agriculture and manufacturing. Firms in these industries that create and maintain new jobs or make significant financial investment are eligible to apply for up to four tax credits. The Program encourages businesses to expand in and relocate to New York while maintaining strict accountability standards to guarantee that businesses deliver on job and investment commitments. Program costs are capped at \$500 million annually to maintain fiscal affordability and ensure that New Yorkers realize a positive return on their investment.

Firms in the Excelsior Jobs Program may qualify for four, fully refundable tax credits. Businesses claim the credits over a multi-year period. To earn any of the following credits, firms must first meet and maintain the established job and investment thresholds.

The Excelsior Jobs Tax Credit: A credit of 6.85 percent of wages per new job to cover a portion of the associated payroll cost.

The Excelsior Investment Tax Credit: Valued at two percent of qualified investments.

The Excelsior Research and Development Tax Credit: A credit of 50 percent of the Federal Research and Development credit up to three percent of eligible research expenditures in NYS.

The Excelsior Real Property Tax Credit: Available to firms locating in certain distressed areas and to firms in targeted industries that meet higher employment and investment thresholds (Regionally Significant Project).

ELIGIBLE TYPES OF APPLICANTS: For-profit business entities including corporations, limited liability companies, partnerships, sole proprietorships.

ELIGIBLE ACTIVITIES / PROGRAM BENEFIT REQUIREMENTS:

Manufacturing: the process of working raw materials into products suitable for use or which gives new shapes, new quality or new combinations to matter which has already gone through some artificial process by the use of machinery, tools, appliances, or other similar equipment. "Manufacturing" does not include an operation that involves only the assembly of components, provided, however, the assembly of motor vehicles or other high value-added products shall be considered manufacturing.

Software Development: the creation of coded computer instructions and includes new media; the application of information technology to traditional communications outlets, particularly through interactive modes such as the Internet, including video games, web search portals, interactive web-based content, and interactive advertising.

Scientific Research And Development: conducting research and experimental development in the physical, engineering, and life sciences, including but not limited to agriculture, electronics, environmental, biology, botany, biotechnology, computers, chemistry, food, fisheries, forests, geology, health, mathematics, medicine, oceanography, pharmacy, physics, veterinary, and other allied subjects. For the purposes of this article, scientific research and development does not include medical or veterinary laboratory testing facilities.

Agriculture: agricultural production (establishments performing the complete farm or ranch operation, such as farm owner-operators, tenant farm operators, and sharecroppers) and agricultural support (establishments that perform one or more activities associated with farm operation, such as soil preparation, planting, harvesting, and management, on a contract or fee basis).

Back Office Operations: a business function that may include one or more of the following activities: customer service, information technology and data processing, human resources, accounting and related administrative functions.

Distribution Center: a large scale facility involving processing, repackaging and/or movement of finished or semi-finished goods to retail locations across a multi-state area.

Music Production: means the process of creating sound recordings of at least eight minutes, recorded in professional sound studios, intended for commercial release. Music Production does not include recording of live concerts, or recordings that are primarily spoken word or wildlife or nature sounds, or produced for instructional use or advertising or promotional purposes.

Entertainment Company: means a corporation, partnership, limited partnership, or other entity principally engaged in the production or post production of (I) motion pictures, which shall include feature-length films and television films, (II) instructional videos, (III) televised commercial advertisements, (IV) animated films or cartoons, (V) music videos, (VI) television programs, which shall include, but not be limited to, television series, television pilots, and single television episodes, or (VII) programs primarily intended for radio broadcast. Entertainment Company shall not include an entity (I) principally engaged in the live performance of events, including, but not limited to, theatrical productions, concerts, circuses, and sporting events, (II) principally engaged in the production of content intended primarily for industrial, corporate or institutional end-users, (III) principally engaged in the production of fundraising films or programs, or (IV) engaged in the production of content for which records are required under section 2257 of Title 18, United States Code, to be maintained with respect to any performer in such production.

PRE-APPLICATION REQUIREMENTS: N/A

SUCCESSFUL APPLICANT REQUIREMENTS: Because awards are offered as an incentive to undertake a project, the project should not begin, and expenses should not be incurred, before funding award notification. Expenses incurred prior to submission of a CFA should not be included in CFA project budgets.

Excelsior Jobs Program eligibility is based on the predominant activity of the proposed project. The Program is limited to projects making a substantial commitment to growth – either in employment or through investing significant capital in a New York facility.

The Job Growth Track comprises 75% of the Program and includes projects creating new jobs in New York.

Targeted Activity	Minimum Job Creation Threshold
Scientific R&D	5
Software Development	5
Agriculture	5
Manufacturing	10
Back Office	50
Distribution	75
Music Production	5
Entertainment Company	100

The Investment Track comprises 25% of the Program and includes projects with targeted activities that make significant new capital investments in a New York facility but cannot project the minimum job threshold. Applicants with manufacturing activities must retain at least 10 jobs; all other eligible activities must retain at least 25 jobs. Applicants admitted to the Program under the Investment Track must meet a benefit-cost threshold of at least \$10 of investment and new wages for every \$1 of tax credit.

INELIGIBLE ACTIVITIES: A not-for-profit business entity, a business entity whose primary function is the provision of services including personal services, business services, or the provision of utilities, a business entity engaged predominantly in the retail or entertainment industry, other than a business operating as an entertainment company as defined as defined above or a business entity engaged in music production, and a business entity engaged in the generation or distribution of electricity, the distribution of natural gas, or the production of steam associated with the generation of electricity are not eligible to participate in the program.

SELECTION CRITERIA: In addition to the criteria noted below, ESD shall have the discretion to consider additional factors in determining the relative merits of projects.

- The overall economic impact that the project identified in the application will have on a region, including, but not limited to, the number and impact of any direct or indirect jobs that will be created;
- The number of new jobs created and/or at-risk jobs that will be retained;
- The amount of capital investment and the level of increased economic activity from the proposed capital investment; and
- The likelihood that the project identified in the application would be located outside of New York State or would not occur in New York State but for the availability of state or local incentives.
- Special consideration shall be given to projects supporting Regional Economic Development Council Opportunity Agenda priorities and its Global NY strategies.

AWARD CRITERIA DETAILS: Notice of a funding award will be given in the form of an incentive proposal outlining the terms of the proposed assistance, establishing a schedule of job and investment requirements and tax credit benefits. The award is subject to compliance with applicable laws and regulations. Project funding may only be used for expenses incurred after the date that notice of the funding award from the Commissioner of the NYS Department of Economic Development. Applicants are strongly encouraged to review and countersign ESD's incentive proposal prior to starting the project.

Each participant must submit a performance report annually demonstrating that the applicable job and investment requirements are achieved. A participant may receive benefits under the program based on interim milestones up to the limits established in the formal agreement.

ADDITIONAL RESOURCES: Program Contact: 518/292-5240
<http://esd.ny.gov/BusinessPrograms/Excelsior.html>