

ECONOMIC ASSISTANCE COORDINATING COUNCIL
MASSACHUSETTS OFFICE OF BUSINESS DEVELOPMENT
EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT
COMMONWEALTH OF MASSACHUSETTS



Economic Development Incentive Program (EDIP)

Program Guidelines

Issued by:
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These guidelines are issued by the Economic Assistance Coordinating Council pursuant to the authority granted under M.G.L. 23A Section 3B. The guidelines are provided to the public and potential applicants for their information only, and are merely intended to provide illustrative guidance to the application process. The EACC reserves the right to amend, modify, or otherwise alter these guidelines as required, without notice. Applicants to the EDIP should refer to the application form, pertinent regulations and MOBD Regional Directors for further information. Nothing in these guidelines shall restrict the EACC's authority as granted by the EACC and EDIP legislation.

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1. **Program Description:**

The Economic Development Incentive Program (EDIP) is a tax incentive program designed to foster full-time job creation and stimulate business growth throughout the Commonwealth. Participating companies may receive state and local tax incentives in exchange for full-time job creation, manufacturing job retention, and private investment commitments.

As of July 1, 2014, the Economic Assistance Coordinating Council (EACC) may certify four categories of projects for companies that generate substantial sales outside of the Commonwealth and are seeking the EDIP Investment Tax Credit (ITC): full-time job creation and investment projects across the Commonwealth, projects with exceptional employment growth and substantial capital investment across the Commonwealth, projects with exceptional job growth, however the capital investment is negligible to the property assessment of the site and investment projects within gateway communities that sustain and grow manufacturing jobs.

The EACC will also consider applications seeking the Abandoned Building Renovation Deduction and municipally supported local real estate tax incentive applications for projects that are not seeking an EDIP-ITC.

2. **Definitions:**

Please refer to 402 CMR 2.03 for a more detailed list of definitions.

Certified Project – The EACC considers applications by a business intending to develop or expand a project for designation as a “certified” expansion project, enhanced expansion project, job creation project or manufacturing retention project. “Certified Project” designation allows the business to benefit from the various tax relief programs made available by the EDIP.

Economic Opportunity Area or EOA - an area of the Commonwealth, which is designated as such by the EACC. Effective July 1, 2014, the project site of a Certified Project or a local real estate tax incentive project is not required to be located within an EOA. However, it is a requirement that a project applying to the EACC for the Commonwealth’s 10% Abandoned Building Deduction is located in an EOA. To obtain EOA designation, the municipality must identify appropriate locations for economic development and request that EACC designate these targeted development areas. There are no limits to the number of EOAs that may be designated.

Economic Target Area or ETA - an area of the Commonwealth designated as such by the EACC. Effective July 1, 2014, an EDIP project is not required to be located in an ETA, however communities that have been previously designated as ETAs may still benefit from other economic programs that require ETAs. More than 200 municipalities (or parts thereof) across the Commonwealth are members of Economic Target Areas as shown on the [ETA map](#) and [ETA list by municipality](#). To obtain ETA designation, the municipality must make a request to the EACC to designate the municipality as an ETA. This designation is based on income, unemployment, and other economic characteristics of the area, and may also be appropriate where the area contains certain special features, as identified in M.G.L. c. 23A, § 3D and in 402 CMR 2.05. The number of ETAs that can exist at any one time in the Commonwealth is limited by state law, as set forth in M.G.L. c. 23A, § 3E and in special acts of the Legislature. Please contact the appropriate MOBD Regional Director (See Section 8. MOBD Regional Contacts) to discuss the process for applying to become an ETA community.

Full-time Employee - an employee, who/whose: i) at the inception of the full-time employment relationship with the Recipient, does not have a termination date that is either a date certain or determined with reference to the completion of some specified scope of work (see M.G.L. c. 23, sec. 3A); **and** ii) receives employee benefits at least equal to those provided to other full-time employees of the Recipient (see M.G.L. c. 23, sec. 3A); **and** (iii) employer is subject to the unemployment insurance laws *and* who is in employment that is also subject to the unemployment insurance laws (see M.G.L. c. 23A, sec. 3A; M.G.L. c. 63, sec. 31C; and M.G.L. c. 151A, sec. 1(h)); **and** (iv) employment with the Recipient (i.e. his/her “entire service”) is performed in the Commonwealth. Upon consultation with EOHED Legal, certain statutory exceptions to this rule may be applicable in unique situations (see M.G.L. c. 23A, sec. 3A; M.G.L. c. 63, sec. 31C; and M.G.L. c. 151A, sec. 3); **and** (v) who has been paid by the

Recipient during a taxable year an amount at least equal to the “unemployment insurance taxable wage base,” which is currently \$14,000. Note: The Legislature may amend the amount of the unemployment insurance taxable wage base in the future (see M.G.L. c. 63, sec. 31C; M.G.L. c. 63, sec. 38 and; M.G.L. c. 151A, sec. 14); **and** (vi) is compensated by the Recipient with wages, salaries, commissions, and any other form of remuneration paid to employees for personal services performed entirely within the Commonwealth (see section iv regarding statutory exceptions). The amount of such compensation must be includable in the “payroll factor” (a fraction that is the Recipient’s total compensation in a year [over] the total compensation everywhere in the Commonwealth) of the “income apportionment formula” that is used to calculate the Recipient’s taxable net income (see M.G.L. c. 63, secs. 31C and 38).

Gateway Municipality – a municipality with a population greater than 35,000 and less than 250,000, a median household income below the Commonwealth’s average and educational attainment rates that are below the Commonwealth’s average, as measured by the most recent American Community Survey (ACS) of the U.S. Bureau of the Census. Currently, there are [26 Gateway Cities](#) in Massachusetts.

Manufacturing Activity – the process of substantially transforming raw or finished materials by hand or machinery, and through human skill and knowledge, into a product possessing a new name, nature and adapted to a new use. In determining whether a process constitutes manufacturing, the EACC will examine the facts and circumstances of each case.

Substantial Sales Outside of the Commonwealth – on an annual basis, at least 25%, or an otherwise reasonable percentage as determined by the EACC, of a controlling business’s products or services generated at the facility are sold in the regular course of the controlling business’s trade or business to customers located outside of the Commonwealth; provided that, with respect to a facility that serves principally as a corporate headquarters or as a regional administrative office for the controlling business, the above threshold shall be deemed satisfied if at least 25%, or an otherwise reasonable percentage as determined by the EACC, of the controlling business’s products or services, wherever generated, are sold in the regular course of the controlling business’s trade or business to customers located outside of the Commonwealth.

Middle Tier Community – a municipality with a median household income below the Commonwealth’s average and educational attainment rates that are below the Commonwealth’s average, as measured by the most recent American Community Survey (ACS) of the U.S. Bureau of the Census. Currently, there are 75 [Middle Tier Communities](#).

3. **Eligible Projects:**

The EACC may certify four categories of projects for expanding companies that generate substantial sales outside of the Commonwealth, are retaining and / or are creating full-time permanent jobs and are seeking the EDIP Investment Tax Credit (ITC). In consultation with MOBD, the EACC will determine a project’s appropriate category.

- **Expansion Project (EP):** A full-time job creation and capital investment project that can be located in any of the Commonwealth’s 351 cities and towns.
- **Enhanced Expansion Project (EEP):** A project with exceptional employment growth of 100 new full-time jobs or more within 2 years from approval and a substantial capital investment that can be located in any of the Commonwealth’s 351 cities and towns.
- **Job Creation Project (JCP):** A project with exceptional employment growth of 100 new-full time jobs or more within 2 years from approval that does not require a business to make a substantial capital investment that would increase the assessed value of the project site.
- **Manufacturing Retention Project (MRP):** A project located in a gateway community that requires a business to make a substantial investment and to create at least 25 new full-time manufacturing jobs and/or retain at least 50 full-time manufacturing jobs.

Certified Expansion Project (EP):

In return for full-time job creation and private investment commitments, the EACC may certify Expansion Projects (EP) in any of the Commonwealth's 351 cities and towns and may award up to a 10% EDIP- Investment Tax Credit (ITC) to support the project. EPs are most similar to those EDIP Projects certified prior to January 1, 2010, as a local real estate tax incentive is required; however unlike projects approved prior to 2010, EPs must have substantial sales outside of the Commonwealth. Prior to being considered by the EACC, a project must receive municipal approval of local tax incentives (either Tax Increment Financing (TIF) or a Special Tax Assessment (STA)) and municipal approval for the project to submit an application to the EACC.

Enhanced Expansion Project (EEP):

The EACC may certify Enhanced Expansion Projects (EEP) that will create at least 100 new full-time, permanent jobs in the Commonwealth within two years of approval of an EDIP-ITC incentive and retain the jobs for at least 5 years. EEPs require a substantial capital investment and projects that will strengthen the Massachusetts economy and contribute to the Commonwealth's fiscal health may be considered for an EDIP-ITC incentive of up to 10% of the eligible capital investment. The project may also seek local tax incentives.

Job Creation Project (JCP):

The EACC may certify Job Creation Projects (JCP) that will create at least 100 new full-time, permanent jobs in the Commonwealth within two years of approval of an EDIP-ITC incentive and retain the jobs for at least 5 years. JCPs do not require a business to be making a substantial capital investment at the project site that would increase the assessed value of the property. A JCP is eligible for an EDIP-ITC equal up to \$1,000 per new job created and \$5,000 per new job created if the project is located in a gateway city. By statute, there is an EDIP-ITC cap of \$1,000,000 per project.

Manufacturing Retention Project (MRP):

The EACC may certify Manufacturing Retention Projects (MRP) that will create at least 25 new manufacturing jobs and / or maintain at least 50 full-time, permanent manufacturing jobs for at least 5 years in a gateway community. MRPs require a substantial capital investment and by statute the EACC may approve an EDIP-ITC of up to 40% of the eligible capital investment, however, an incentive at this level is rare and recommendations by the EACC are consistently more closely aligned with those of other project types. The project must receive municipal approval of the MRP prior to being considered by the EACC and may also seek local tax incentives from the city or town.

Other Projects:

The EACC may also approve applications that can provide the following incentives for projects not necessarily seeking an investment tax credit:

- **Abandoned Building Renovation Deduction:** A corporate excise deduction or a personal income tax deduction equal to 10% of the cost of renovating an abandoned building, defined as being at least 75% vacant for 24 months or more, within an EOA.
- **Local Tax Incentives:** The EACC may approve a municipally supported project seeking real property tax benefits and/or the tax exemption for personal property situated at a parcel receiving a tax increment financing exemption; or, as an alternative, a special real property tax assessment schedule.

4. Application Process and Deadlines

Potential certified project applicants must work with their MOBD Regional Director (see Section 8. MOBD Regional Contacts) from the earliest point possible to discuss project parameters and eligibility for consideration under the Economic Development Incentive Program. Important elements in the application process, for companies, include:

- i. Participate in an introductory meeting with the MOBD Regional Director. Work with the MOBD Regional Director to introduce the project to the municipality and ultimately seek local approvals, where necessary.
- ii. Send a “Letter of Intent” to the municipality, and copied to the MOBD Regional Director, in which the proposed project will be located indicating an interest in applying to the Economic Development Incentive Program and providing pertinent project details.
- iii. Complete and return the EDIP Preliminary Application by the published deadline. Please provide an electronic copy to the MOBD Regional Director for review and upon invitation of the Regional Director send an executed original hard copy to: EDIP Project Manager, Massachusetts Office of Business Development, 10 Park Plaza, Suite 3730, Boston, MA 02116.
- iv. Following review and upon invitation, complete and return the EDIP Supplemental Application. The Supplemental Application requires the submission of supportive data, analyses and a definitive project timeline. Please provide an electronic copy to the MOBD Regional Director and send an original hard copy: EDIP Project Manager, Massachusetts Office of Business Development, 10 Park Plaza, Suite 3730, Boston, MA 02116.
- v. If applicable, submit local approvals and agreements to the MOBD Regional Director. All application materials must be submitted prior to the published deadlines and incomplete applications will not be considered.
- vi. Attend a meeting of the Economic Assistance Coordinating Council to present project details and request project certification.
- vii. For projects receiving EDIP- ITC, execute EDIP Tax Incentive Agreement within 45 days of EACC Approval.

The EACC plans to meet on a quarterly basis. Please check with your MOBD Regional Director for the deadline to submit application materials. The EACC reserves the right to seek additional information from applicants and to defer project consideration.

5. Application Review:

The EACC will consider project certification and make EDIP-ITC awards based on the merits of individual projects and will take into consideration the jobs impact, project location, industry and resulting economic activity. Support of sustainable manufacturing projects and investment within middle tier or gateway communities are key program objectives. Please work with your MOBD Regional Director (See Section 8. MOBD Regional Contacts) to better understand the range of ITC award that might be available.

Please note that when other state incentives are available to the project (including, but not limited to the Manufacturing / Research & Development 3% Investment Tax Credit or the Life Sciences Investment Tax Credit), the EACC will take any resulting benefits into consideration during its review.

6. Award Process:

Unless the EACC determines that additional information is required, then the EACC will generally make decisions on project certification during their scheduled meetings. Projects will receive written notification of the EDIP-ITC award after the EACC meeting, usually within 48 hours. The award will include a timeline for taking the EDIP-ITC in specific tax years. If awardees are unable to take the EDIP-ITC according to the agreed timeline then the EACC will try to accommodate the changed project timeline, however reserves the right to rescind the EDIP-ITC award.

7. Monitoring Process:

At the end of each Calendar Year for projects approved after January 1, 2010 and Fiscal Year for projects approved prior to 2010, certified projects are required to submit a report to the EACC and to the municipality in which the project is located. The annual report must be filed electronically by visiting <http://mobd.force.com/>. The EACC reviews each project for compliance with job and investment goals, per MGL Ch.23A and 402 CMR 2.00 and requires confirmation of the EDIP-ITC utilization schedule. Please note that failure to submit the annual report to the EACC is grounds for project decertification.

8. Statutory and Regulatory References

Please refer to the following (non-inclusive) references:

EDIP Governing Statute:

[M.G.L. Chapter 23A: Section 3A-3F:](#)

[3A: Definitions applicable to Sections 3A to 3H](#)

[3B: The Economic Assistance Coordinating Council](#)

[3C: The Economic Assistance Coordinating Council; Powers duties](#)

[3D: Economic Target Areas](#)

[3E: Economic Opportunity Areas](#)

[3F: Certified projects; Proposals](#)

EDIP Regulations:

[402 Code of Massachusetts Regulations 2.00](#) : EDIP Regulations effective January 1, 2010

EDIP Reformation Statutes:

[Chapter 166 of the Acts of 2009:](#) Reforms to M.G.L. Chapter 23A effective January 1, 2010

[Chapter 240 of the Acts of 2010: Sections 15 - 23:](#) Reforms to M.G.L. Chapter 23A Sections 3A & 3F effective January 1, 2010

[Chapter 287 of the Acts of 2014:](#) Reforms to M.G.L. Chapter 23A Sections 3A – 3F; M.G.L. Chapter 63 Sections 38N & 31A; M.G.L. Chapter 40 Sections 59; and M.G.L. Chapter 59 Section 5 effective July 1, 2014

EDIP Investment Tax Credit Statutes:

[M.G.L. Chapter 63: Section 38N:](#) Taxation of Corporations: Economic Development Incentive Program; Tax Credit for Certified Projects

[M.G.L. Chapter 63: Section 31A:](#) Taxation of Corporations: Investment Credit for Certain Corporations; Limitations

Department of Revenue Releases on the EDIP Investment Tax Credit for Certified Projects Approved January 1, 2010 onward:

[Department of Revenue Technical Information Release 10-1](#): Economic Development Incentive Program Credit
[Department of Revenue Technical Information Release 10-15](#): Certain Local Property Tax, Personal Income Tax, Corporate Excise, and Tax Administration Changes in "An Act Relative to Economic Development Reorganization"

Department of Revenue Releases on the Economic Opportunity Area Credit for Certified Projects Approved Prior to January 1, 2010:

[830 Code of Massachusetts Regulations 63.38 N.1](#): Regulations and calculation of Economic Opportunity Area Credit

[Department of Revenue Division of Local Services: Informational Guideline Release No. 94-201](#) 

Property Tax Exemptions to Promote Economic Development

[Department Of Revenue Directive 09-4](#): Effect that the Expiration of a Project's Certification has on the Economic Opportunity Area Credit

Local Tax Increment Financing Statutes and Regulations:

[M.G.L. Chapter 40: Section 59](#): Powers and Duties of Cities and Towns: Tax Increment Financing Plan

[M.G.L. Chapter 59: Section 5, Paragraph 51](#): Assessment of Local Taxes: Property; Exemptions [760 Code of](#)

[Massachusetts Regulations 22.00](#): Establishes standards and procedures for designation of Tax Increment Financing (TIF) Zones and for the development of Tax Increment Financing Plans.

Abandoned Building Renovation Deduction Statute:

[M.G.L Chapter 63: Section 38O](#): Economic Opportunity Areas; Tax Deduction for Renovation of Abandoned Buildings