

# **THE PORT OF VIRGINIA ECONOMIC AND INFRASTRUCTURE DEVELOPMENT GRANT PROGRAM GUIDELINES**

## **PURPOSE:**

The Port of Virginia Economic and Infrastructure Development Grant Program provides a POV Grant to certain Qualified Companies, as described below, to incentivize companies to locate new maritime-related employment centers or expand existing centers in the Commonwealth of Virginia in order to encourage and facilitate the growth of The Port of Virginia in accordance with criteria established by legislation. The statutory provisions for the POV Grant can be found at Section [62.1-132.3:2](#) of the Code of Virginia.

## **GUIDING PRINCIPLES:**

POV Grants are made at the discretion of the Executive Director of the Virginia Port Authority (VPA) with the expectation that grants awarded will be used to assist a Qualified Company to locate a new operation or expand an existing operation within the Commonwealth of Virginia. Subject to the availability of funds and appropriations, the maximum amount of grant allowable per Qualified Company in any given fiscal year (July 1 – June 30) is \$500,000 and the maximum amount of POV Grants allowable among all Qualified Companies in any given fiscal year is \$5 million. For Fiscal Year 2015 and 2016, the maximum amount of POV Grants allowable among all Qualified Companies is \$2.0 million each year.

An otherwise Qualified Company that claims employees for the Major Business Facility Job Tax Credit (Code of Virginia Section [58.1-439](#)) or International Trade Facility Tax Credit (Code of Virginia Section [58.1-439.12:06](#)) may not receive a POV Grant for those previously-claimed jobs.

The Virginia Port Authority wishes to be a good steward of General Fund dollars. Therefore, a Qualified Company or otherwise Qualified Company must demonstrate it is not in default of or has not defaulted on a previous state-funded or local performance grant and must show evidence of financial stability.

## **ELIGIBILITY REQUIREMENTS**

### **Applicants Must Meet the Definition of Qualified Company:**

A Qualified Company is a business entity that meets **all four** criteria:

- (i) Locates or expands a facility within the Commonwealth of Virginia;

- (ii) Creates at least 25 new, permanent full-time positions for qualified full-time employees at a facility within Virginia from the date of commencement through the first full year of operation within the Commonwealth of Virginia or during the first full calendar year after an expansion occurs;
- (iii) Is involved in maritime commerce or export or imports manufactured goods **through The Port of Virginia**; and
- (iv) Is engaged in one or more of the following: the distribution, freight forwarding, freight handling, goods processing, manufacturing, warehousing, crossdocking, transloading, or wholesaling of goods exported and imported through the Port of Virginia; ship building and ship repair; dredging; marine construction; or offshore energy exploration or extraction.

A Qualified Company that has received a POV Economic and Infrastructure Development Grant may be eligible for a second grant if it:

- (i) Locates or expands an additional facility in a separate location, as determined by the Virginia Port Authority, within the Commonwealth
- (ii) Creates at least 300 new, permanent full-time positions at the additional facility over and above those agreed upon in the company's original MOU with the Virginia Port Authority; and
- (iii) Increases cargo volumes through The Port of Virginia by at least five percent, from the additional facility, not including any volume increase resulting from the original grant.

**Qualifying Jobs Must Meet the Definition of a Qualified Full-time Employee Holding a New, Permanent Full-Time Position:**

To meet the requirements of clause (ii) above, a Qualified Full-time Employee must hold a New, Permanent Full-Time Position. A Qualified Full-Time Employee is an employee filling a New, Permanent Full-Time Position in the Qualified Company's facility within the Commonwealth of Virginia. A Qualified Full-Time Employee does not include an employee:

- (i) For whom a tax credit was previously earned pursuant to the Major Business Facility Job Tax Credit (Virginia Code Section 58.1-439) or the International Trade Facility Tax Credit (Virginia Code Section 58.1-439.12:06) by the Qualified Company, a related party, or a trade or business under common control;
- (ii) Who was previously employed in the same job function at an existing location in Virginia by the Qualified Company, a related party, or a trade or business under common control; or

- (iii) Whose job function was previously performed at a different location in Virginia by an employee of the Qualified Company, a related party, or a trade or business under common control.

For these purposes, “related party” is as defined in Section 267(b) of the Internal Revenue Code of 1986, as amended, and a “trade or business under common control” is as defined in Section 52(b) of the Internal Revenue Code of 1986, as amended.

A New, Permanent Full-Time Position is a job of indefinite duration, created by a Qualified Company as a result of operations within the Commonwealth. It requires a minimum of 35 hours of a Qualified Full-Time Employee’s time per week for the entire normal year of the Qualified Company’s operations, which normal year should consist of at least 48 weeks, or a position of indefinite duration that requires a minimum of 35 hours of a Qualified Full-Time Employee’s time per week for the portion of the taxable year in which the Qualified Full-time Employee was initially hired for the Qualified Company’s facility in the Commonwealth of Virginia.

- Seasonal or temporary positions or jobs created when a position is shifted from an existing location in the Commonwealth to the Qualified Company’s location do not count as New, Permanent Full-Time Positions.
- Building and grounds maintenance at the Qualified Company’s location do not count as New, Permanent Full-Time Positions.

**Qualifying Companies Must Be Involved in Maritime Commerce or Import or Export Manufactured Goods through the Port of Virginia**

- For purposes of this grant program, The Port of Virginia is defined as the state-owned and/or operated port-related facilities including: APM Terminals, Newport News Marine Terminal, Norfolk International Terminals, Portsmouth Marine Terminals, the Virginia Inland Port and the Richmond Marine Terminal.

**DETERMINATION OF GRANT AMOUNT AND CONDITIONS:**

Subject to appropriation, any Qualified Company shall be eligible to apply for a POV Grant. The amount of the POV Grant will be calculated by reference to the number of New, Permanent Full-Time Positions held by Qualified Full-Time Employees hired during the Qualified Company’s commencement through the first year of operation within the Commonwealth of Virginia or during the year in which the expansion occurs in an amount determined as follows:

- \$1,000 per job for 25 – 49 New, Permanent Full-Time Positions for Qualified Full-Time Employees;
- \$1,500 per job for 50 – 74 New, Permanent Full-Time Positions for Qualified Full-Time Employees;
- \$2,000 per job for 75 – 99 New, Permanent Full-Time Positions for Qualified Full-Time Employees;
- \$3,000 per job for 100 or more New, Permanent Full-Time Positions for Qualified Full-Time Employees;

The maximum amount of POV Grant allowable per Qualified Company in any given fiscal year is \$500,000, subject to the availability of funds and appropriations.

The maximum amount of grants allowable among all Qualified Companies in any given fiscal year is \$5,000,000, subject to the availability of funds and appropriations. For fiscal year 2015 and 2016, the total amount of available funds is \$2,000,000 each year.

The fiscal year runs from July 1 – June 30.

#### **APPLICATION PROCESS:**

A Qualified Company must apply to the Executive Director of the VPA by March 31 in the year immediately following the first full year of operations in which the Qualified Company located or expanded a facility within the Commonwealth of Virginia. Applications should consist of three documents: (1) a letter sent by the chief appointed official of the city or county in which the Qualified Company has located or expanded, (2) a letter sent by the Qualified Company, and (3) Cargo verification through the Port of Virginia website or statement of impact.

(1) It is expected that the letter from the community will use the following format and include the following information:

- A summary statement presenting the importance of the facility to the community;
- Location of the project including industrial park (if applicable), square footage, or company address;
- A statement regarding other Virginia and local incentives this Qualified Company will receive for this project;
- If the Qualified Company has received Virginia and local incentives for other past projects, a statement that the Qualified Company met its performance obligations.

(2) It is expected that the letter from the Qualified Company will use the following format and include the following information:

- Description of the facility in the Commonwealth of Virginia, including:
  - Whether this was the expansion of an existing facility or a new investment, location of operation (address and locality), and square footage of the facility;
  - Date the facility became operational or the expansion was completed;
  - Type of operation (i.e., manufacturing, distribution, etc.);
  - Commodities and a general estimate of TEUs that cross Port of Virginia docks (import or export) yearly related to this facility;
  - Company name, brief company description and headquarters location, other relevant information (website, stock exchange ticker);
  - Other Virginia operations (if any exist);
  - Employment impact on current operations in Virginia.
- Jobs created from commencement through the first full year of operation or the first full year after an expansion;
- The capital investment made by the Qualified Company at its facility in the Commonwealth of Virginia from commencement through the first full year of operation or the first full year after an expansion;
- A list of the New, Permanent Full-Time Positions created from commencement through the first full year of operation or the first full year after the company expanded, including position titles;
- An affirmation that the establishment or expansion of the facility has not resulted in a closing, loss of jobs, consolidation, or change to any other operations in Virginia during the prior 12 months, nor will do so for the next 12 months;
- An affirmation that neither the Qualified Company, nor any related party or trade or business under common control has earned a Major Business Facility Job Tax Credit or International Trade Facility Tax Credit for the same New, Permanent Full-Time Positions included within the POV Grant application; and
- An affirmation that the Qualified Company was not a party to a reorganization, as defined in Section 368(b) of the Internal Revenue Code of 1986, as amended, if any corporation involved in such reorganization received a POV Grant for the same facility or operations.

Together with the letter from the company described above, the Qualified Company may be asked to provide three years of historical financial statements covering the three years prior to the application, and three years of pro forma financial statements, covering the three years following the application. If the Qualified Company has been in business less than three years, it may be asked to provide the historical financial statements that may be available.

VPA's Executive Director may request additional financial information from the Qualified Company, including financial information and satisfactory evidence of a Qualified Company's financial stability. It is likely that such information will be requested and reviewed prior to a decision on whether to award the grant funds. If a Qualified Company or otherwise Qualified Company fails to demonstrate evidence of financial stability, the Qualified Company must provide a Letter of Credit or Guarantee equal to the amount of the grant paid or to be paid to the Company.

(3) If applicable, the Qualified Company must upload data for the number of containers or short-tons of non-containerized cargo imported or exported through The Port of Virginia during the first year of operation or the year the company expanded and 36 months following. <http://www.portofvirginia.com/development/cargo-verification.aspx>. The minimum cargo amounts to be considered an importer/exporter are 10 TEUS or 75 non-containerized tons a year. The Qualified Company does not have to be the cargo owner, but must be involved in the process to move the cargo through The Port of Virginia and responsible for the hiring of the New Permanent Full-Time Positions for Qualified Full-Time Employees.

- If the company is involved in maritime commerce such as ship building and ship repair; dredging; marine construction; or offshore energy exploration and extraction (outlined in (iv) of the definition of a Qualified Employee), please provide a statement of the impact of the facility on the growth of the Port of Virginia in lieu of cargo verification.

### **Memorandum of Understanding with the Virginia Port Authority:**

Prior to receipt of the proceeds of a POV Grant, the Qualified Company must enter into a Memorandum of Understanding with the VPA whereby, in addition to other terms and conditions, the Qualified Company shall agree to keep the number of New, Permanent Full-Time Positions for Qualified Full-Time Employees (for which it requested POV Grant funds) continuously for 36 months following the receipt of the proceeds of the POV Grant. If it fails to do so, the Memorandum of Understanding will expressly provide various reimbursement schemes to the VPA.

Further, the Memorandum of Understanding will provide that if the VPA has insufficient funds available to pay the POV Grant in full to the Qualified Company, the unpaid or full portion of the POV Grant will be paid in the next fiscal year in which funds are available.

A Qualified Company that meets the requirements for a second POV Grant must enter into a second, separate memorandum of understanding with the Virginia Port Authority.