

**TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 65. OKLAHOMA QUALITY JOBS PROGRAM**

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 13. Oklahoma Remote Quality Jobs Incentive Act
[NEW]

150:65-13-1. Purpose [NEW]

150:65-13-2. Definitions [NEW]

150:65-13-3. Eligible entities [NEW]

150:65-13-4. Application [NEW]

150:65-13-5. Cost/benefit analysis; limitation of benefit
[NEW]

150:150-13-6. Incentive contract [NEW]

150:150-13-7. Transmittal of information [NEW]

AUTHORITY:

Oklahoma Department of Commerce; 68 O.S. §4508

ADOPTION:

July 1, 2021

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2022, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

This rule is necessary because a compelling public interest requires an emergency rule and imminent peril exists to the preservation of public welfare. Adoption of these rules is necessary to provide an application process and provide guidelines for establishments that recruit highly skilled workers working in quality jobs to the State. Failure to approve the emergency rules would leave the program inactive until permanent rules could be approved next legislative session. This would cause these jobs not to relocate to the state, which would damage efforts to improve the Oklahoma workforce and reduce state revenues in the form of income tax.

GIST/ANALYSIS:

This action establishes the application process for the Oklahoma Remote Quality Jobs Incentive Act. It also provides criteria for receipt of the incentive and provides clarity and transparency as to how a proxy establishment who recruits highly

skilled workers performing highly paid quality jobs to the state.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(F):

SUBCHAPTER 13. OKLAHOMA REMOTE QUALITY JOBS INCENTIVE ACT

150:65-13-1. Purpose

The purpose of these rules is to implement the Oklahoma Remote Quality Jobs Incentive Act established in 68 O.S. §4501 et. seq.

150:65-13-2. Definitions

For purposes of this subchapter, the following words and terms have the following meaning unless the context clearly indicates otherwise:

"Application date" means the date on which the proxy establishment's application is first received and stamped by a Remote Quality Jobs representative at the Oklahoma Department of Commerce.

"Approval date" means the date on which the Executive Director of the Department of Commerce issues the offer to a proxy establishment to receive benefits pursuant to the Oklahoma Remote Quality Jobs program. If the Director issues an offer to a proxy establishment, the Application Date as defined in these rules will be considered the Approval Date for purposes of the act.

"Commission" means the Oklahoma Tax Commission and any successor agencies thereto.

"Department" means the Oklahoma Department of Commerce and any successor agencies thereto.

"Director" means the Executive Director of the Oklahoma Department of Commerce.

"Effective date" means the date that the signed and accepted incentive contract is received by the Department. An approved project may have an Effective Date which is different than the Start Date.

"Qualifying basic health benefits plan" means a health benefits plan providing coverage for basic hospital care, physician care, mental health care, substance abuse treatment, prescription drugs and prenatal care where not more than fifty percent (50%) of the cost of the premium is paid by the remote worker. Services provided by an Employee Assistance Plan (EAP) are not sufficient to meet this definition.

"Remote Quality Jobs Program" or "Act" means the Oklahoma Remote Quality Jobs Incentive Act.

"Remote quality jobs representative" means the Department professional, trained in the Remote Quality Jobs Program, who is so designated by the Executive Director, and whose responsibilities include direct contact with applicants and clients, analysis of data, initiation of project proposals, preparation of project profiles and preparation of incentive offers.

"Remote worker" means as defined in 68 O.S. §4503. The twelve (12) month period referred to in the statutory definition refers to the twelve (12) month period immediately preceding the approval date of the incentive agreement.

"Start date" means the date on which a proxy establishment may begin accruing benefits for the creation of new direct jobs. This date is set by agreement and is not more than twenty-four (24) months from the Application Date.

150:65-13-3. Eligible entities

(a) A proxy establishment may receive quarterly payments for a ten-quarter period if they facilitate the attraction of remote workers to the State of Oklahoma.

(b) A proxy establishment may be deemed to "facilitate the attraction of remote workers to the State of Oklahoma" if they participate in all of the following activities:

(1) Engage in marketing designed to attract qualifying remote workers to relocate to a location within the State of Oklahoma;

(2) Facilitate visits and tours, either virtually or in person, for prospective qualifying remote workers to become familiar with the benefits of relocating to the State of Oklahoma; and

(3) Provide a monetary incentive to a qualifying remote worker or his/her assignee to relocate to a location within the State of Oklahoma payable in full or in part upon and/or within a year of their relocation to Oklahoma.

150:65-13-4. Application

(a) An eligible proxy establishment may obtain an application for acceptance into the Remote Quality Jobs program from the Department. Upon completion of all information submitted as part of the application, the Director will determine whether an applicant is qualified to receive incentive payments under the Program.

(b) To apply, a qualified proxy establishment may submit an application for participation in the Remote Quality Jobs program to the Department.

(c) As part of the Application, the proxy establishment is responsible for supplying all of the following information:

(1) The proposed Start Date of the contract.

(2) The number of new direct jobs to be included as part of the contract.

(3) The yearly average salary of the Remote Workers hired in the new direct jobs.

(4) Proof of a Qualifying Basic Health Benefits Plan for each Remote Worker to be covered by the contract.

(5) The name of each Remote Worker to be included in the contract.

(6) The name of the current employer of each Remote Worker to be covered by the contract.

(7) The amount of the direct monetary incentive to be paid out by the proxy establishment to each Remote Worker the proxy establishment intends to claim under the contract.

(8) Any other information or documentation deemed relevant by the Department to ensure the project meets statutory criteria.

(d) A proxy establishment may submit the information set forth above at any time between the Application Date until sixty (60) days prior to the Start Date of the contract.

(e) A proxy establishment that is receiving incentive payments pursuant to the Remote Quality Jobs Program cannot apply for additional incentive payments for any new projects unless and until either:

(1) the establishment's actual verified annual gross payroll for new direct jobs under the establishments existing contracts has met the statutory criteria as set out in Section 4504 of Title 68 of the Oklahoma Statutes for one (1) calendar quarter or

(2) The annual projected payroll for each of the proxy establishment's existing contracts under the act exceeds the mandatory annual gross payroll set forth in 68 O.S. §4504(B) and no less than nine (9) months have passed since the Application Date for the proxy establishment's most recent existing contract.

150:65-13-5. Cost/benefit analysis; limitation of benefit

In conducting the cost/benefit analysis to determine the net benefit rate, the Department will consider the following factors:

- (1) The estimated direct state benefits including, but not limited to, the anticipated level of new tax revenues to the state.
- (2) The estimated direct state costs including, but not limited to, the added cost to the state of providing services.
- (3) The payments to be made by the proxy establishment to Remote Workers covered by the contract within a year of relocation to Oklahoma.
- (3) Any other factor deemed relevant by the Department.

150:65-13-6. Incentive contract

(a) After an incentive contract is recommended by the Department, the contract will be prepared for the Director's review and signature. The signed document will then be forwarded to the proxy establishment. The tendered contract may be accepted by the proxy establishment within sixty (60) days of the date of signing by the Director, unless the Director extends this period at the establishment's request.

(b) The incentive contract will be on a form prescribed by the Department which includes all of the following information:

- (1) The net benefit rate which will be multiplied by verified gross quarterly payroll of the Remote Workers to determine the amount of quarterly payments;
- (2) The maximum amount of benefit payments available, which is the lesser amount of the cumulative payments to be made by the proxy establishment to Remote Workers or the estimated net direct state benefits under the contract;
- (3) The project's Approval Date;
- (4) The project's Start Date;
- (5) The projected number of new direct jobs;
- (6) The average annual wage of new direct jobs;
- (7) Any other information the Department deems necessary to carry out the provisions of the statute.

(c) The original incentive contract, signed by the chief executive officer or authorized representative, may be returned to the Department by any means acceptable to the Department.

150:65-13-7. Transmittal of information

(a) The Department will notify the Commission of each approved incentive offer.

(b) The Department will provide the Commission with all of the following documentation for each approved incentive offer:

- (1) A copy of the executed incentive contract.
- (2) The results of the cost-benefit analysis.
- (3) Any other information deemed by both the Department and the Commission to be reasonably necessary for administration of the program.

ATTESTATION

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of amendments to Chapter 65, Oklahoma Quality Jobs Program, which was adopted by The Oklahoma Department of Commerce on July 1, 2020 under emergency rulemaking provisions of the Administrative Procedures Act, 75 O.S., Sections 250 et. seq.

I, the undersigned, do hereby attest that such rules were adopted in substantial compliance with the Administrative Procedures Act.

A handwritten signature in black ink, appearing to read 'B. J. McGoldrick', written over a horizontal line.

B. Joshua McGoldrick, Attestation Officer
General Counsel and Chief of Staff
Oklahoma Department of Commerce
July 1, 2021