



Montana Office of Tourism and Business Development

BIG SKY ECONOMIC DEVELOPMENT TRUST FUND

JOB CREATION AND PLANNING PROJECT APPLICATION GUIDELINES

For 2018-2019 Biennium

Governor Steve Bullock

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A. INTRODUCTION

1. Statement of Purpose

The Big Sky Economic Development Trust Fund (BSTF) program is a state-funded program created by the 2005 Legislature. The program's legislative purpose (Section 90-1-202, MCA) is to assist in economic development for Montana that will:

- Create good-paying jobs for Montana residents,
- Promote long-term, stable economic growth in Montana,
- Encourage local economic development organizations,
- Create partnerships between the state, local governments, tribal governments, and local economic development organizations that are interested in pursuing these same economic development goals,
- Retain or expand existing businesses,
- Provide a better life for future generations through greater economic growth and prosperity in Montana,
- Encourage workforce development, including workforce training and job creation, in High-Poverty Counties by providing targeted assistance, and
- Manufacturing ammunition components is a qualified economic development purpose.

2. Program Funding (Section 90-1-205, MCA)

Interest earnings generated from the Big Sky Economic Development Fund are available for financial assistance to local and tribal government entities and economic development organizations through application to the Department of Commerce (Department). Applicants can request either a grant or loan from the program.

Job Creation Projects 75% of BSTF earnings shall be awarded to local governments and tribal governments in the form of grants or loans to assist businesses in creating net new eligible jobs.

Planning Grant Projects 25% of BSTF earnings shall be awarded to Certified Regional Development Corporations (CRDC's), tribal governments and other eligible economic development organizations that are located in a county that is not part of a CRDC, in the form of grants or loans for economic development planning.

Note: This application guideline serves as one, all-inclusive reference for both categories of funding.

The Montana Department of Commerce does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals, who need aids or services for effective communications or other disability-related accommodations in the programs and services offered, are invited to make their needs and preferences known. Please provide as much advance notice as possible for requests.

3. Program Contact

Big Sky Trust Fund Program
301 South Park Avenue
Helena, MT 59601
Phone: 406-841-2732
Website: <http://www.bstf.mt.gov>

B. PROGRAM GLOSSARY OF TERMS

Assisted Business – The business that is the end recipient of BSTF financial assistance received through a cooperative endeavor with a local or tribal government. The business must commit to creating the corresponding level of net new eligible jobs (see definition below).

BSTF Required Wage Rate – The wage that will be used to determine whether new jobs meet program eligibility requirements to qualify for BSTF Job Creation program assistance. A new job must pay an average weekly wage that meets or exceeds the lesser of 170% of Montana's current minimum wage or the current average weekly wage of the county in which the employees are to be principally employed. The value of employee benefits can be included in this wage. The current average annual, weekly and hourly wage thresholds may be obtained through the BSTF program web site at www.bstf.mt.gov or may be requested from the Department. These figures are based upon the average weekly wage data produced by the Montana Department of Labor and Industry for the most current year available. For purposes of the BSTF Program updates to the county average wage will become effective January 1st of each year.

Basic Sector Company – A business with a focus on out-of-state markets and clients.

Certified Regional Development Corporation (CRDC) – A private, nonprofit economic development corporation that has been designated by the Department through a competitive process to manage and administer funds and programs for the Department on a regional basis. A current list of CRDCs, including the region each cover may be obtained at the BSTF program web site www.bstf.mt.gov or may be requested from the Department.

Eligible Assisted Business – A Basic Sector Business; or any other for-profit or non-profit business that is engaged in business activities that will provide a significant positive economic impact to the community, region and/or state beyond the job creation; and/or provide a service or function that is essential to the community, region and/or state of Montana.

Businesses must create net new eligible jobs that pay an average weekly wage that meets or exceeds the lesser of 170% of the Montana's current minimum wage or the current average weekly wage of the county in which the employees are to be principally employed including the value of employee benefits. Businesses are not required to pay benefits and may meet the compensation threshold with wages only.

Applicants need to address local competition when considering assistance.

Employee Benefits – means health, welfare and pension contributions that meet the requirements of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.

Local Governments – means incorporated cities and towns, counties, consolidated governments, public districts, and local public entities with the authority to spend or receive public funds.

High-Poverty County – A county in the state of Montana in which 14% or more of people of all ages are in poverty as determined by the U. S. Census Bureau estimates for the most current year available. A current map of counties that meet the High-Poverty County definition and are eligible to receive BSTF funding at the higher level may be obtained at the BSTF program web site www.bstf.mt.gov or may be requested from the Department. For purposes of the BSTF Program updates to the high poverty data will become effective January 1st of each year.

In-kind Contribution – A contribution of donated time and effort, real and personal property, and goods and services. This type of contribution will not meet the match requirements for Job Creation or Planning Projects.

New Eligible Job – A **net new** job created by the assisted business which employs an individual:

- Is a job that is new to the company and has not been filled prior to the BSTF notice of award effective date, and
- Is a permanent, full time job, meaning a predominantly year-round position requiring an average of 35 hours of work each week, and
- Is a new job pays the BSTF required wage rates.

Job counts are specific to project sites. Employees who are currently working for a business at a **site outside of Montana, and who are then** transferred to Montana may have their jobs considered BSTF eligible jobs, as those jobs are new jobs to Montana. Check with the program for eligibility.

The term does **not** include replacement (turnover) jobs, part-time jobs, seasonal jobs, temporary jobs, or contractors.

Project Site – The location in Montana within the jurisdiction of the eligible applicant at which the BSTF funds will be expended and the new eligible jobs will be created.

Resolutions – A formal resolution authorizing local or tribal governments to submit applications. A resolution is required before funds can be committed by the Department.

Start Date - the effective date of the contract is the date that the application is approved by the Department. In exceptional cases, the Department may consider an earlier start date.

Temporary Employee – A temporary employee is an individual employed by a Temporary Staffing Agency that agrees to work on short term work assignments for other companies. Temporary employees are not eligible for BSTF funds.

Tribal Government – One of the seven federally recognized tribal governments of Montana and the Little Shell Tribe of Chippewa Indians.

Wages – Wage – the employee’s hourly rate, which is calculated as follows: employee’s gross pay for the pay period, plus benefits for the pay period, divided by the total number of hours worked during the pay period.

C. ELIGIBLE APPLICANTS

1. Job Creation Projects: Eligible applicants include local and Tribal governments (includes any state or federally recognized Indian tribe within the state of Montana).

Special purpose agencies, such as Certified Regional Development Corporations and other economic development organizations, are **not** eligible to apply directly to the Department for Job Creation Project funding; however, they could be involved in implementing and administering a project through a partner organization, if the eligible applicant agrees to such an arrangement.

2. Planning Grant Projects: Eligible applicants include: Certified Regional Development Corporations (CRDCs) for projects within their regions, local governments and Tribal governments for projects within their regions, (Local or Tribal governments must provide a resolution supporting the project or an official letter from the Tribal Chair or President authorizing the application to the program), and Local Development Organizations (LDOs) located in counties not part of a CRDC region. LDOs must meet program requirements for eligibility.

NOTE: The Department will not award funding to any individual, organization, or governmental unit that is currently in default of the conditions of any loan or grant contract previously executed by the Department.

D. ELIGIBLE USES OF FUNDS

Funding for other uses which do not meet the stated criteria below may be eligible at the discretion of the Department.

The eligible expenses, to be reimbursed by the program, must be incurred after the start date of the contract.

If software is being proposed as match or reimbursement, the Assisted Business will need to determine the base cost (i.e. the cost of the recurring charge at least six months prior to the contract’s effective date) and the Program may consider the incremental cost above the base cost as either match or reimbursement.

Please contact BSTF staff to discuss.

- 1. Job Creation Projects:** As per the MCA ([Section 90-1-204](#)), the types and uses of funds by local governments and tribal governments include but are not limited to:
 - a. **A reduction in the interest rate of a commercial loan** for the expansion of a basic sector company;
 - b. **A grant or low interest loan for relocation expenses** for a basic sector company;
 - c. **Rental assistance or lease buy-downs for a relocation or expansion project** for a basic sector company;

- d. **A grant or Purchase of Land, Building or Equipment** for the direct use of the assisted business,
- e. **Wages of Net New Employees** are eligible expenses if jobs pay the higher of 170% of state current minimum wage, or the current average weekly wage of the county in which the employees are to be principally employed including the value of employee benefits.
- f. **Construction Materials** in support of building improvements for an expansion, and
- g. **Employee Training:** Direct costs associated with education or skills-based training for employees in new jobs at the assisted business. All necessary and incidental costs of providing new job training and education directed to the new eligible jobs are eligible for reimbursement. This includes all direct training costs, such as:
 - i. Program promotion,
 - ii. Instructor wages, per diem, and travel,
 - iii. Curriculum development and training materials,
 - iv. Lease of training equipment and training space,
 - v. Miscellaneous direct training costs (such as employee training-related travel),
 - vi. Administrative costs,
 - vii. Assessment and testing,
 - viii. In-house or on-the-job training, and
 - ix. Subcontracted services with approved training providers.

Eligible training costs that are not direct costs attributable to specific new jobs (such as instructor costs, curriculum development and administrative costs) must be pro-rated and allocated to each eligible employee in a new job receiving training for which reimbursement is requested. Since training is tracked on an individual job, then training activities cannot be combined with other activities.

- f. **Administrative Costs:** Local and tribal governments, with Department approval may utilize a portion of the BSTF award for eligible administrative expenses. The total project administrative expenses reimbursed with BSTF funds **shall not exceed eight (8) percent, or a maximum of \$30,000** of the total BSTF funds awarded per project.

For Example: in a non-high-poverty county, the maximum award would be up to \$5,000 per net new job. Of the \$5,000, up to \$400 (8%) can be requested for administration and \$4,600 can be requested for reimbursable expenses by the Assisted Business.

2. Planning Grant Projects: Eligible uses of planning grant funds include funding for the reimbursement of the following expenses:

- a. **Support for business improvement districts and central business district re-development,**
- b. **Industrial development,**
- c. **Feasibility studies,**
- d. **Creation and maintenance of baseline community profiles,**
- e. **Matching funds for federal funds,**
- f. **Preproduction costs for film or media,** and
- f. **Administrative expenses,** including personnel and operating expenses are allowable expenses for which the BSTF fund may be used, but **should not exceed 8% (to a maximum of \$2,000) or \$750, whichever is greater,** of the total award unless otherwise specified by the Department.

Example: a funding request for \$20,000 may request 8% for administrative expenses, or \$1,600 which equals a total funding request of \$21,600. However, if an award is made, administrative expenses will not exceed 8% of BSTF eligible expenses incurred during the project.

NOTE: Applications which support a critical activity to move forward an Economic Development project resulting in a job creation project and that directly assist a basic sector company are the highest priority of the Department.

Any document prepared with public funds is subject to public's right to know (Article II, Section 9 of the Montana Constitution). Assisted entities need to sign the application form acknowledging that all planning documents produced with BSTF funding are considered public documents.

We encourage applicants and/or assisted entities to contact their end funders to verify what information is necessary to ensure that a BSTF Planning Document satisfies their requirements. For example, a Preliminary Architectural Report (PAR) and/or Preliminary Engineering Report (PER) for the Montana Community Development Block Grant Program needs to adhere to the program's PAR/PER outlines. Contact the potential funders to make sure you know their program requirements.

E. INELIGIBLE USES OF FUNDS

1. Job Creation Projects: Ineligible uses of funds includes *costs associated with the transfer or relocation of jobs from one part of the state to another part of the state.*

2. Planning Grant Projects: Ineligible uses of funds includes the following:

- a. **Comprehensive Economic Development Strategies (CEDS)** that are required by the US Department of Commerce Economic Development Administration. The Montana Department of Commerce provides funds for this activity through its Certified Regional Development Program,
- b. **Ongoing operating expenses,**
- c. **Generally, costs incurred prior to the BSTF funding award date, or**
- d. **A project that would result in the transfer or relocation of jobs from one part of the state to another part of the state.**

NOTE: Please contact BSTF program staff for any questions regarding the eligibility of a proposed business activity prior to submittal of an application to the Department.

F. ELIGIBLE MATCH

1. Job Creation Projects:

Generally, investment made in the business at the project location no earlier than six-months prior to the BSTF funding approval could be considered eligible match. Match should include new, unexpended cash funds available at the time of application that will be invested at the Montana project

site by the local or tribal government and/or the assisted business within the contract period (up to 2 years).

Match should be equal to or greater than:

- \$1 for \$1 (100% match) of BSTF funds received for businesses **not** in a High-Poverty County, or
- \$1 for \$2 (50% match) of BSTF funds received for businesses in a High-Poverty County.

The following **will not** be considered as match:

- Investment made earlier than six-months before BSTF funding approval, without the written consent of the Department to incur project costs, will **not** be eligible to satisfy the match requirement,
- Existing assets purchased earlier than six-months before BSTF funding approval (Note: existing assets that are physically relocated to Montana may be considered as match),
- In-kind services,
- Refinancing of existing debt,
- Projected operating cash flow,
- Existing equity,
- Existing bank line of credit amounts.

NOTE: If Department approved wages are the only investment by the business, wages beyond the reimbursement and match requirement (i.e. \$10,000 for non-poverty County and \$11,250 for high poverty County) will not be considered as match for other net new jobs.

2. Planning Grant Projects: New, unexpended cash funds available at the time of application that will be invested in the final deliverable by the CRDC, tribal government, the assisted business and/or other involved organization(s) within the contract period.

G. MAXIMUM FUNDING AWARDS

1. For Job Creation Projects: Applicants not in a high poverty county are eligible to apply for up to \$5,000 for each eligible net new job created, and are required to provide a \$1 for \$1 (100%) match. Applicants in a high poverty county are eligible to apply for up to \$7,500 for each eligible net new job created and are required to provide a \$1 for \$2 (50%) match.

The Department reserves the right to determine funding awards based upon types of jobs proposed, pay levels, and other pertinent factors.

2. For Planning Grant Projects: It is encouraged that applicants provide match to BSTF dollars requested. Match should be new, unexpended cash funds available at the time of application that will be invested in the final deliverable by the CRDC, Tribal government, the assisted business and/or other involved organizations within the contract period. In general, the Department will award up to \$1 for every \$1 in documented matching funds up to a total of \$25,000 in BSTF funding.

H. APPLICATION PROCEDURES

NOTE: It is important that applicants not incur costs or obligate funds which are intended to be reimbursed by BSTF prior to the date of award.

1. For Job Creation Projects, the Finance Assistance Bureau in the Montana Department of Commerce is the primary point of contact for initiating a grant application and working through the process leading to a grant award.

The BSTF application should follow the guideline's format and provide responses to the categories of information requested below. A grant request must be proportional to the number of jobs provided, the expected wage of all jobs provided, and the underlying economic indicators of the region where the jobs will be created.

NOTE: The Montana Department of Commerce and the Montana Department of Revenue may share financial and tax information relating to this application.

In addition to the Application Form (**Appendix A**), the applicant must provide the following information:

a. Business Plan

Each application must include a business plan containing information that is sufficient for the Department to obtain an adequate understanding of the business to be assisted, including the products or services offered, estimated market potential, management experience of principals, current financial position, and details of the proposed venture. In lieu of a business plan, the Department may consider a complete copy of the current loan application to entities such as the Montana Board of Investments, the federal Business and Industry Guarantee program, or the Small Business Administration.

b. Financial Statements

The financial information submitted must demonstrate that the business to be assisted is or will be an ongoing viable company that can achieve and maintain the amount of employment projected.

For an existing business, provide financial statements for the most recent twenty-four months of operation that includes the following:

- Balance Sheets
- Profit and Loss Statements
- Cash Flow Statements

Business start-ups and businesses operating for less than three years must provide all available financial statements.

If the last complete fiscal year of the business ended 90 days or more before the application is submitted, interim financial statements must be submitted in addition to the year-end financial statements.

There should not be gaps between the historical statements and the projected statements. The projections should use the same fiscal year periods as the historical financial statements. Applications that contain appropriate, updated, accurate financial information can be processed much more quickly than incomplete applications that require requests for additional information.

c. Projections

Please provide the following initial projections for a twenty-four (24) month period:

- Balance Sheets
- Profit and Loss Statements
- Cash Flow Statements

If awarded funding, businesses will be required to provide updated financial statements (actuals) at the end of the first year of the contract period.

In lieu of historical and/or projections, the business can provide a letter from a licensed Certified Public Accountant (CPA) certifying the financial position of the business and that the business has the financial capacity to create the additional jobs.

d. Hiring Plan

At a minimum, the hiring plan should include the following information:

- Employment Levels – this must include a current listing of Montana employment levels of the assisted business, the projected increase in number of jobs and the company’s annual payroll, both current and projected – at the site and for any other operations within the State of Montana. Include an estimate of pre-expansion and post-expansion annual payroll.
- Job Breakdown – **Using the Hiring Plan Spreadsheet (Appendix C)**, provide a breakdown of jobs to be created, including the number and type of jobs, specifying for each job. Applicants should consider job numbers that are realistically achievable within the first and second years of their proposed timeline. Applicants can familiarize themselves with the required information by reviewing the fields in APPENDIX C. Specifying for each job:
 - Full-time (average 35 hours per week annually) or part-time,
 - Projected wage per hour,
 - Job titles, and
 - Description and monetary value of employee benefits (**Appendix B**)
(REQUIRED ONLY IF THE BENEFITS ARE TO BE INCLUDED IN THE

- CALCULATION TO MEET THE BSTF REQUIRED WAGE RATE), and
- Highlight or identify separately, which jobs will meet the BSTF net new eligible job criteria. (*Definition page 7*)

Timetable – include a timetable for creating the total number of jobs, as well as BSTF eligible jobs. BSTF eligible jobs are those that have an hourly wage that will be greater than or equal to the average county wage, excluding benefits.

Please provide monthly hiring projections on the form. If no new jobs are anticipated in a monthly period, enter “0”.

Please complete a separate form for each year of the contract and indicate at the top which year the projections are for.

Businesses may be required to report job creation on-a-monthly-basis, in addition to monthly progress reports.

NOTE: If businesses anticipate creating multiple jobs with the same job title and duties that may have different pay levels, please list those jobs separately.

- **Business Commitment** – include a written commitment from the assisted business that they will comply with the Hiring Plan.

e. Confidentiality Agreement (for job creation projects only), Appendix E. This is an optional document for the business to sign.

Once information is submitted to the Department, the information is subject to the public’s right to know pursuant to Article II, Section 9 of the Montana Constitution. Written information is subject to the right of citizens to inspect and copy pursuant to §2-6-102, MCA, unless there is an individual privacy interest that clearly exceeds the merits of public disclosure.

Prior to any potentially confidential information being submitted, the company may enter into a Confidentiality Agreement and Affidavit with the Department so there is clear understanding of the rights and obligations of the company relative to protection of sensitive information. Applicants choosing to execute a **Confidentiality Agreement and Affidavit** should provide a signed and notarized original using Department form **Appendix E**.

f. Training Plan – (ONLY IF THE PROPOSED USE OF FUNDS IS FOR WORKFORCE TRAINING)

At a minimum, the training plan should include the following information:

- Description of the training curriculum, including information on who will be providing the training,
- A budget for the proposed training. The budget needs to support the amount of BSTF training funds requested, and a
- Schedule for completion of worker training.

g. **Local Government or Tribal Government Resolution** – (See definition of Resolution under Section B. Program Glossary Of Terms)

h. **Funding Will Be Determined By Factors Such As:**

- a. **The availability of funding.**
- b. **The number of quality jobs being proposed** (for job creation projects).
Examples: Does the proposed wage meet or exceed the County Average Wage; Does the proposed wages include or exclude benefits.
- c. **The location of the project.** Examples: Is the project located in a high poverty county; Has the applicant been a previous BSTF awardee.
- d. **The quality of the proposal.** and that Examples: Are all the required questions sufficiently answered; If benefits are being proposed, does the hourly equivalent seem reasonable.
- e. **Program requirements are met.** Examples: If benefits are being proposed was the Benefit Certification provided; Did the Assisted Business provide a letter of commitment for both the match and jobs; Were 24 months of financial information, both historical and projections, provided; Do the provided financial statements tie together.

2. For Planning Grant Projects:

- a. Completion of **Appendix F.**, Application form for Planning Grants; and
- b. Completion of **Appendix G**, Application Checklist for Planning Grants.
- c. If the applicant is either a Local or Tribal Government, a resolution is needed. (see definition of Resolution under Section B. Program Glossary of Terms).

NOTE: Applications which support a critical activity to move forward an Economic Development project resulting in a job creation project and that directly assist a basic sector company are the highest priority of the Department.

Additionally, the following criteria will also be used:

- The application's response to an economic development distress or opportunity and potential for the proposed activity to provide for economic development success,
- The potential impact of the proposed activity on the economy of a community, region and/or the state,
- Local participation and commitment demonstrated with matching funds, and letters of support (letters of support should be addressed to the Director of the Montana Department of Commerce),
- The community and regional economic need, and
- Project readiness to proceed immediately upon notification of award.

NOTE: The Department reserves the right to request additional information or accept reasonable variations from the information requirements listed on a case-by-case basis if

necessary to make a funding decision, especially if the project contains unique items that may require different information than requested above.

NOTE: The Department may make awards in amounts above or below the recommended limits, if it is determined by the Department that the activities that the CRDC, tribal government or other eligible EDO is proposing could result in substantial impact on the economy of a community, region and/or the state.

3. Application Submittal and Deadlines: Applications are accepted on an open cycle basis based on availability of funding. Deadlines for consideration for the next funding round are posted on the Program's website: <http://marketmt.com/BSTF>. Applications must be submitted (postmarked if using mail) by the deadline date. Applicants can submit the application, with all attachments:

1. It is the Department's preference that applications be submitted through WebGrants via <http://fundingmt.org>.
2. If applicants are unable to submit through <http://fundingmt.org>, please contact the program staff and discuss submitting through the [State of Montana File Transfer Service](#).

Potential applicants are encouraged to contact the Department to discuss their proposed project with BSTF program staff.

I. DEPARTMENT FOLLOW-UP

1. Award Letter – Upon the Montana Department of Commerce Director's approval of funding a tentative award letter will be transmitted to the applicant notifying them of a tentative BSTF funding award, or notice of application not being approved for funding. If awarded funding, this will be followed by correspondence from BSTF program staff identifying any terms and conditions of that commitment.

2. Contracts – The appropriate contracts for an award include, but are not limited to: a contract between the Department and the local or tribal government, as well as an assistance agreement between the local or tribal government and the assisted business. These contracts will include the performance criteria necessary for BSTF funds to be expended and released. BSTF award recipient must execute and return the BSTF contract within thirty (30) days of receipt of the final contract. All projects need to be ready to proceed within ninety (90) days from receipt of the final contract.

NOTE: Most job creation contracts will be executed for one year with an option to renew for an additional year depending upon the business' performance, job creation goals and availability of funding.

3. Disbursement of Funds – Disbursement of funds will be primarily facilitated through <http://fundingmt.org>. The Department requires approved documentation verifying eligible costs incurred by the BSTF award recipient. The Department reserves the right to request further documentation when, in the exercise of its judgment, such documentation is needed to confirm performance.

Once all start up activities are completed and the project has reached Release of Funds status, the following items must be submitted in order to request funds:

a. For Job Creation Projects:

- Request for Payment Form signed and dated by the authorized Representative;
- Project Progress Report detailing progress towards achieving the hiring objectives and project goals that were described in the application as well as describing any difficulties encountered in working towards these goals.

Businesses should provide information on actual employment levels in comparison to what was proposed in the Hiring and Training Plan. If employment levels are not in sync with the Hiring and Training Plan, businesses need to explain why they are not at the employment level anticipated and to describe steps the business will take to reach employment goals;

- Approved documentation verifying eligible costs were incurred;
- Documentation of matching funds expended to date;
- A Status of Job Report for Job Creation Projects spreadsheet; and
- A Job Creation Report Certification. This attests that the new jobs meet or exceed the BSTF program eligibility requirements.

b. For Planning Grant Projects:

- A Request for Payment Form signed and dated by the authorized Representative;
- A Project Progress Report from the BSTF award recipient detailing the progress made on the project over the past quarter and the anticipated progress over the upcoming quarter;
- Drafts or updates received from the Contractor completing the activity. Please identify the Contractor submitting the report;
- Documentation of eligible costs incurred on the project (ex. invoices, receipts) which includes the Contractor invoice or receipt of payment made from the BSTF award recipient for services rendered; and
- Documentation of paid match expenses.

NOTE: Many Planning Projects are approved on a 50% reimbursement basis. In other words, half of the costs of an eligible invoice received by the Department will be paid.

J. RECAPTURE OF FUNDS, WITHDRAWALS, TERMINATION OF CONTRACT

1. For Job Creation Projects: Generally, funds are disbursed as jobs are created, relieving most of the risk to the local government or tribal government. However, if the local government or tribal government request the funds before the jobs are created, and the Department agrees to that request, the local or tribal government and the assisted business receiving BSTF financial assistance are liable for the full amount of the award that is advanced by the Department, if the assisted business:

- a. Fails to create or maintain the number of net new eligible jobs as specified in the executed contract and assistance agreement,
- b. Fails to inject the required amount of match into the project as specified in the executed contract and assistance agreement.

Additionally, the Department may recapture funds if

- a. At the end of the contract period the Department has overpaid based on the number of net new jobs at the end of the contract period.
- b. The business ceases operations at the Project Site within the contract period

The penalty may be payable in one lump sum or in installments, with or without interest, as the Department deems appropriate.

Award withdrawal - The Department reserves the right to withdraw a commitment of any BSTF funds for projects that have:

- a. Not provided all requested contract information, including the job creation baseline and certification report within 30 days of the date on the Notice of Award, and/or;
- b. Not returned the BSTF contract to the Department within 30 days of receipt of the final contract, and/or
- c. Are not ready to proceed within ninety (90) days of receipt of the final contract.

2. For Planning Grants:

Award withdrawal - The Department reserves the right to withdraw a commitment of any BSTF funds for projects that have not executed and returned the BSTF contract within 30 days of receipt of the final contract and/or are not ready to proceed within 90 days after the date of tentative award.

K. Other Considerations

1. Ownership and Publication of Materials (For Planning Grants)

All information and materials generated by the proposed activity become the sole property of the State of Montana and the Contractor. The recipient will retain the right to utilize, reprint and distribute all said information and materials.

All materials developed wholly or in part by the funding provided under the Contract shall state that "The funding for the (insert name of project) was funded (in part, if applicable) by an award from the Montana Department of Commerce Big Sky Economic Development Trust Fund Program".

2. Confidentiality Agreements (For Job Creation Projects Only)

Keep in mind that once information is submitted to the Department, the information is subject to the public's right to know pursuant to Article II, Section 9 of the Montana Constitution. The Department does have Confidentiality Agreements and Affidavit forms that applicant may complete and submit to the Department.

3. Withholding Funds

The Department will withhold ten percent (10%) of the total amount awarded to the Contractor until the Department verifies that all tasks outlined in the SCOPE OF WORK, the CONDITIONS ON METHOD OF REIMBURSEMENT, and the REPORTING REQUIREMENTS sections of the signed contract have been completed by the Contractor and approved by the Department.

4. Record Keeping

The applicant must maintain full and accurate records with respect to the project and must ensure adequate control over the records of related parties in the project. The Department requires access to such records, as well as the ability to inspect all project work, invoices, materials, and other relevant records at reasonable times and places. The award contract requires the applicant to furnish, upon the Department's request all data, reports, contracts, documents, and other information relevant to the project.

5. Ongoing Reporting

The award contract specifies a periodic reporting requirement for the project. Additionally, to assist the Department with program performance reporting, the BSTF award recipient may be required to provide annual project updates for 3 years after the close of the contract.

6. Additional Documentation

The Department may request additional documentation, when in the exercise of its judgment such documentation is needed to confirm performance. Required forms are available through <http://marketmt.com/BSTF>

L. Other Resources

Here is a list of additional funding resources:

1. MT Community Development Block Grant Program <http://comdev.mt.gov/programs/cdbg>
2. USDA Rural Development Program <https://www.rd.usda.gov/mt>
3. US Economic Development Administration <https://www.eda.gov/>
4. Montana Finance Authority <http://mtfacilityfinance.com/>
5. Montana Coal Board <http://comdev.mt.gov/Boards/Coal>
6. Montana Tourism Grant Program <http://marketmt.com/Grants>
7. Montana Main Street Program <http://comdev.mt.gov/Programs/MainStreet>

APPENDICES

APPENDIX A: APPLICATION FORM – ECONOMIC DEVELOPMENT PROJECTS

MONTANA DEPARTMENT OF COMMERCE BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF) JOB CREATION PROJECT

Please reference the Application Guidelines for a complete explanation of required application information.

| I. APPLICANT INFORMATION – LOCAL/TRIBAL GOVERNMENT | |
|--|--|
| Name of Local/Tribal Government Entity | |
| Tax Identification Number | |
| Chief Elected Official (Full Name & Title) | |
| Contact Person (Full Name & Title) | |
| Address (Street, City and 9-Digit Zip Code) | |
| Phone Number | |
| Email Address | |
| Fax Number | |

| II. ASSISTED BUSINESS INFORMATION | |
|---|--|
| Legal Name of Business to Receive Assistance | |
| Physical Address of Project Location | |
| Contact Person (Full Name & Title) | |
| Address (Street, City and 9-Digit Zip Code) | |
| Phone Number | |
| Email Address | |
| County project is located in | |
| Business North American Industrial Classification System (NAICS) | |
| Tax Identification Number | |
| Business Project Status (Startup, Expansion, Relocation, etc.) | |
| Please describe in detail how the proposed Assisted Business will meet the eligibility criteria | |

| III. PROJECT SUMMARY INFORMATION | |
|--|--|
| Total Project Cost (Must match the Sources and Uses form) | |
| Type of Assistance Requesting (Grant or Loan) | |
| Amount of BSTF Funds Requested | |
| Total Matching Funds | |
| Proposed Use of BSTF Funds: | |
| Total Number of New Jobs to be created | |
| Total Number of New BSTF <u>Eligible</u> Jobs to be created. | |
| Hourly wage range for BSTF Eligible Jobs to be created. | |

IV. PARTNER ORGANIZATION (IF APPLICABLE)

Economic development organizations may be involved in implementing and administering a project if the eligible applicant agrees to such an arrangement. If a partner organization will be involved in the project, please provide the information in this section.

| | |
|--|--|
| Contact Person (Full Name & Title) | |
| Organization | |
| Address (Street, City and 9-Digit Zip Code) | |
| Phone Number | |
| Email Address | |
| What are the partner organizations responsibilities relative to completing the proposed project? | |

V. PROJECT INFORMATION

Please describe, in detail, the proposed project:

| |
|--|
| |
|--|

Please describe the Assisted Business:

| |
|--|
| |
|--|

Please explain what the BSTF financial assistance would be used (ex: equipment purchase, lease rate reduction, etc.):

| |
|--|
| |
|--|

Please identify the entities involved in completing the proposed project, including management of the project/staff plan.

| |
|--|
| |
|--|

Please provide any relevant historical information on this project or the region it would support:

| |
|--|
| |
|--|

| | |
|--|--|
| Business's Current Full-Time Employment Level in Montana | |
|--|--|

| | |
|---|--|
| Business's Current Full-Time Employment Level at the Project Site | |
|---|--|

Employee Benefits: See Appendix B (if ERISA eligible benefits are included in the calculation to meet the wage requirement)

VI. PROJECT ECONOMIC IMPACT STATEMENT

Please provide a summary of the impacts (both positive and negative) the project would have on the state, regional and community economy as well as any services or functions that the business provides to the community, region or state. Also identify if the business associated with the project is competing with any local or regional existing businesses.

| |
|--|
| |
|--|

| VII. PROJECT SOURCES & USES OF FUNDS | | | | | |
|---|-----------------|------------------|-----------|-----------|--------------------------|
| | SOURCE: BSTF | SOURCE: Match | SOURCE: | SOURCE: | TOTAL PROJECT COST |
| Administration (up to 8%, max \$30,000) | | | | | |
| ACTIVITY BUDGET | | | | | |
| Machinery/Equipment Purchase | | | | | |
| Land Purchase | | | | | |
| Lease rate Reduction | | | | | |
| Employee Training | | | | | |
| Wages | | | | | |
| Construction Materials | | | | | |
| Other: | | | | | |
| | | | | | |
| TOTAL PROJECT | \$ | \$ | \$ | \$ | \$ |

| BUDGET NARRATIVE |
|---|
| <i>Provide a total project cost breakdown</i> |
| |
| <i>Provide a narrative including the source, use, and status (For example, on-hand, awarded, committed, applied for, etc.) for all funds to be utilized in satisfying the program matching funds requirement.</i> |
| |
| <i>Provide a description with documentation that details how all project costs are verified, specifying how and by whom they are determined (i.e. who prepared the cost estimates, equipment lists, etc.) and describe that the cost estimates are reasonable and complete.</i> |
| |

***Provide written commitments for proposed match. The commitment may be from the applicant or assisted business.**

***The Department will withhold ten percent (10%) of the total authorized award amount for administration, until all tasks outlined in the contract have been completed and approved by the Department.**

APPENDIX D: APPLICATION CHECKLIST FOR PAPER APPLICATIONS

Please include the following information with your application.

| Application Requirement: | Page Number/Tab |
|---|-----------------|
| 1. Application (<u>Appendix A</u>) | _____ |
| Have you included? | |
| I. Applicant Information | |
| II. Assisted Business Information | |
| III. Project Summary | |
| a. The nature of the proposed activity, | |
| b. The nature of the assisted business, and | |
| c. Description of activity/activities for which BSTF funds will be used. | |
| IV. Partner Information (if applicable) | |
| V. Project Information “a” through “f” | |
| VI. Project Economic Impact Statement (both negative and positive) | |
| VII. Project Sources and Uses of Funds form with a narrative including the source, use and status of all funds to be utilized, professional services quotes, match commitment letters, business match commitment letter, etc. | |
| VIII. Signed Certification | |
| 2. BSTF Benefits Certification (<u>Appendix B- if applicable</u>) | _____ |
| 3. Business Plan | _____ |
| 4. Financial Statements | _____ |
| 5. Projections | _____ |
| 6. Hiring Plan | _____ |
| Have you included? | |
| I. <u>Appendix C</u> | _____ |
| II. Business Commitment Letter on hiring and match | _____ |
| 7. Training Plan (if applicable) | _____ |
| 8. Supporting Documentation: | |
| <i>(Attach all additional Supporting Documentation) This could include letters of support from organizations, businesses or communities as well as any other documents you feel is beneficial.</i> | |
| (Description) | _____ |
| (Description) | _____ |
| (Description) | _____ |
| 9. Certification Signed by all parties | _____ |
| 10. Local or Tribal Government Resolution | _____ |

APPENDIX E: CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

MONTANA DEPARTMENT OF COMMERCE CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT (“Agreement”) is made as of the (day) day of (month), (year), by and between (Name of Company) (“Company”) and its affiliates and the Montana Department of Commerce (“MDOC”) and its affiliates.

WHEREAS, MDOC has requested and/or may request verbal and written information from Company and its affiliates regarding Company and certain of its affiliates and Project, including without limitation the proposed (Project Description) to be located in (City, Town, or County), Montana, incident to discussions concerning one or more possible contracts for the benefit of Company. MDOC will accept a copy of the documents identified in the attached affidavit submitted by Company.

NOW, THEREFORE, in consideration of the premises and the disclosure of such information, each Party hereby, intending to be legally bound, agrees to the following provisions:

1. Company understands and agrees that, pursuant to the Montana Supreme Court’s decision in *Great Falls Tribune v. Public Service Commission*, 319 Mont. 38, 82 P.3d 876 (2003), all documents filed with MDOC by Company are presumptively available for access by the public under the “right to know” provision of Article 2, Section 9 of the Montana Constitution. Under the decision, however, the presumption that all documents filed by Company with MDOC are public may be overcome by the proper showing, consistent with the court’s decision.
2. If Company submits documents or information to MDOC that it considers confidential and wishes the documents or information to be withheld from public disclosure, it will identify and label which part of the documents or information it considers confidential at the time the documents or information are submitted. Company will identify the confidential items through an affidavit that clearly states the facts upon which it believes the documents or information should be withheld from public disclosure. The stated facts must be specific enough so that reviewing authorities can clearly understand the nature and basis of Company’s claims to the right of confidentiality. A statement that all documents or information submitted by Company are confidential, or other conclusory statements, will be ineffective to prevent public disclosure. Company understands and agrees that this Agreement and the affidavit it submits are subject to public disclosure.
3. If individual documents or information are not identified and labeled as confidential or the affidavit is factually insufficient to support confidentiality, MDOC will deem the documents or information submitted as subject to public disclosure.
4. MDOC will take reasonable steps to protect documents or information designated as confidential and for which Company submitted an affidavit clearly stating the factual basis for the claim of confidentiality. Upon receiving a written request from a third-party to review any confidential documents or information, MDOC will notify Company of the request in writing. The written notice provided by MDOC will include a copy of the third-party request. The written notice and third-party request will be sent by mail to the following addressess:

To (Name of Company): (Company Address)
Attention: (Name of Company Contact)
Email: (Email Address)

with a copy to: (Address)
(If required) Attention: (Name of Contact)
Email: (Email Address)

5. It is the responsibility of Company upon receipt of the written notice from MDOC to take such action as is necessary to protect the documents or information from disclosure, including obtaining a court order protecting the documents or information from disclosure if necessary. If MDOC does not receive an order from a court of competent jurisdiction ordering MDOC to maintain confidentiality of the requested information or MDOC is not notified of other arrangements made between Company and the requesting party within 10 business days from the date of the written notice by MDOC to Company of the third-party request, the information will be disclosed to the requesting party, notwithstanding the affidavit. MDOC will not assert the right of confidentiality for Company in any court, whether sitting at law or in equity.

6. Company agrees that in the event MDOC discloses documents or information in accordance with the provisions of this Agreement, Company will not assert any claim, liability, demand, or cause of action against MDOC for a violation of any confidentiality interest in any documents or information that it has submitted to MDOC.

7. Company agrees it will defend, indemnify, and save harmless MDOC against and from any and all claims, liabilities, demands, causes of action, judgments, damages, and losses, including costs and attorneys' fees associated with any action for release of documents or information submitted to MDOC by Company, whether such action is brought in the name of Company or a third-party.

8. MDOC is a state agency and is subject to audit and monitoring reviews by federal and state officials. MDOC is required by federal and state regulations and laws to provide access to state and federal audit and monitoring officials in order to document compliance with applicable state and federal regulations and laws. In the event and to the extent access to information provided to MDOC by Company and otherwise subject to this Agreement is requested by federal or state auditors, Company agrees that MDOC may disclose such information to such auditors, provided that (a) such information is used only by such auditors for the purposes set forth in the previous sentence, and for no other purposes whatsoever; and (b) such information in the possession of or otherwise disclosed to such auditors shall remain subject to the provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized representatives as of the date first above written.

(Name of Company)

By: _____
Name: (Name)
Title: (Title)

Montana Department of Commerce

By: _____
Name: _____
Title: Director

APPROVED BY:

Attorney for the Department

AFFIDAVIT (EXAMPLE Company needs to edit as necessary)

State of Montana)

: ss.

County of _____)

COMES NOW, (Company Official), being first duly sworn upon his oath, deposes and states as follows:

That he/she is the (Title) of (Company) and offers the following in support of (Company's) claim of confidentiality for information submitted in support of its response to a Request for Information from the Montana Department of Commerce:

1. I am the (Title) of (Company) and offer the following in support of (Company's) claim of confidentiality for information submitted to the Montana Department of Commerce.

2. (Company) claims that the document titled _____ is confidential and should be withheld from public disclosure as it contains information developed by (Company) concerning its business forecasts and assessments. This information is consistently maintained by (Company) as confidential business information and if disclosed could prejudice (Company's) competitive position and could result in financial losses to (Company).

3. (Company) claims that the documents titled (Financial Statements), including (List Here), are confidential and should be withheld from public disclosure as they contain information developed by (Company) concerning its financial condition, including product revenues and cost of production information and other confidential pricing information. This information is consistently maintained by (Company) as confidential business information and if disclosed could prejudice (Company's) competitive position and could result in financial losses to (Company).

(Company Official)

This instrument was acknowledged before me on the ___ day of (Month), 20_ by (Company Official).

Printed Name: _____

(Seal)

**APPENDIX F: APPLICATION FORM – PLANNING PROJECTS
MONTANA DEPARTMENT OF COMMERCE
BIG SKY ECONOMIC DEVELOPMENT TRUST FUND (BSTF)
PLANNING PROJECTS**

Please reference the Application Guidelines for a complete explanation of required application information.

| I. APPLICANT INFORMATION - CRDC/EDO/TRIBAL GOVERNMENT | |
|--|--|
| Name of Eligible Applicant | |
| Authorized Contract Signatory (Full Name & Title) | |
| Email Address of Contract Signatory | |
| Daily Contact Person (Name & Title) | |
| Address (Street, City and 9-Digit Zip Code) | |
| Phone Number | |
| Email Address | |
| Fax Number | |

| II. PROJECT SUMMARY INFORMATION | |
|---|--|
| Name of Project | |
| Proposed Use of BSTF Funds: Eligible Activities Listed in Section II. C of the Application Guidelines | |
| Physical Address of the Project | |
| County | |
| Total Project Cost It is recommended that cost estimates be included with the application to document the cost of the proposed project. | |
| Amount of BSTF Funds Requested The amount of BSTF Funds should not typically exceed \$26,250. \$25,000 for project assistance and up to \$1,250 (5%) for eligible administrative activities. | |
| Type of Assistance Requested (Grant or Loan) | |
| Total Cash Match As stated in Section V. Application Review of the Guidelines --matching funds are expected and will be considered when reviewing the merit of the application. | |
| Name & Physical Address of Assisted Business (If Applicable) | |
| Contact Person for the Assisted Business | |
| Phone number of Contact Person for the Assisted Business | |
| Email address of Contact Person for the Assisted Business | |
| NAICS code of Assisted Business (If Applicable) | |
| Total Number of New Jobs to be Created (If Applicable) | |

If New jobs are to be created, please provide information regarding the types of jobs to be created (i.e. Full-time, Part-Time, Direct or Indirect, potential number of BSTF eligible jobs, etc.).

III. PARTNER ORGANIZATION(S) (IF APPLICABLE)

Local economic development organizations may be involved in implementing and administering a project if the eligible applicant agrees to such an arrangement. If a partner EDO will be involved in the project, please provide the information in this section.

| | |
|--|--|
| Organization | |
| Contact Person (Full Name & Title) | |
| Address (Street, City and 9-Digit Zip Code) | |
| Phone Number | |
| Email Address | |
| What are the partner organizations responsibilities relative to completing the proposed project? | |

IV. PROJECT

Please describe, in detail, the proposed project:

Please describe the Assisted Business:

Please describe what activities the BSTF funds will be used for:

Identify the entities involved in completing the proposed project, including management of the project/staff plan:

Provide an Implementation Plan or Timeline for the proposed activities from start-up through closeout:

Specify if outside profession services will be procured:

Please provide any relevant historic information on this project or the region it could support:

| V. PROJECT OBJECTIVES |
|--|
| <i>Please describe, in detail, the objectives of the project. (What are the objectives?)</i> |
| |

| VI. PROJECT DELIVERABLES |
|--|
| <i>Please describe, in detail, the deliverables of the project. Include a bulleted list detailing what will be delivered to the Department demonstrating objectives were met at the end of the project. (What are the deliverables?)</i> |
| |
| <i>What is the intended use of the documents to be created with BSTF assistance? (Examples – the PAR Document will be used towards an application to the MT CDBG Program. The conceptual design drawing will be the basis for an building permit from the City of the construction of the new facility.) WE HIGHLY ENCOURAGE YOU TO CHECK WITH THE END FUNDERS FOR THEIR SPECIFIC REQUIREMENTS.</i> |
| |

| VII. PROJECT ECONOMIC IMPACT STATEMENT |
|--|
| <i>Please provide a summary of the impacts (both positive and negative) the project would have on the state, regional and community economy.</i> |
| |

| VII. PROJECT SOURCES & USES OF FUNDS | | | | | |
|---|-----------------|------------------|---------|---------|---------------------------|
| | SOURCE: BSTF | SOURCE: Match | SOURCE: | SOURCE: | TOTAL PROJECT COST: |
| Administration (up to 8%, 750 min, \$2,000 max) | | | | | |
| Professional Services | | | | | |
| Other: | | | | | |
| | | | | | |
| TOTAL PLANNING PROJECT | \$ | \$ | \$ | \$ | \$ |

List cash and in-kind contributions separately.

| BUDGET NARRATIVE |
|--|
| <i>Provide a total project cost breakdown</i> |
| |
| <i>Provide a narrative including the source, use, and status (ie. On hand, awarded, committed, applied for, etc.) for all funds to be utilized in satisfying the program matching funds requirement.</i> |
| |

Provide a description with documentation that details how all project costs are verified, specifying how and by whom they are determined (i.e. who prepared the cost estimates, equipment lists, etc.) and describe that the cost estimates are reasonable and complete.

Please describe what other funding sources you considered and why those funding sources were not pursued?

Provide a total project cost breakdown. List separately any cash and in-kind contributions to the project. Provide a narrative describing each cost line item listed above. This should include a description of each activity that will need to be undertaken in order to complete the project, the source of funding, the status of the funds, and the responsible entity. Include cost estimates and/or quotes for any professional services or vendors to be utilized and letters of commitment for entities providing matching funds.

Note: The Department will withhold ten percent (10%) of the total amount awarded until the Department verifies that all tasks outlined in the contract have been completed and approved by the Department.

VIII. CERTIFICATION BY CRDC, ELIGIBLE EDO, LOCAL or TRIBAL GOVERNMENTS

As the responsible authorized agent of _____, I hereby submit this Big Sky Economic Development Trust Fund Application, and will comply with all requirements set out in the BSTF program guidelines in the implementation of this project.

The information presented in this application is, to the best of my knowledge, true, complete and accurately represents the proposed project. I understand that additional information and documentation may be required. In addition, I understand that the applicant and the assisted business receiving BSTF financial assistance are liable for the full amount of the award that is advanced by the Department if the assisted business: misrepresents itself or its claims, fails to inject the required amount of match into the project as specified in the executed contract. I understand that additional information and documentation may be required.

_____ will accept responsibility for management of the project and compliance with Big Sky Economic Development Trust Fund regulations, and is the authorized contact for the release of additional information and/or documentation regarding this application.

Name (typed): _____
 Title (typed): _____
 Authorized Representative
 Signature: X _____
 Date: _____

CERTIFICATION BY ASSISTED BUSINESS

We acknowledge and understand that the CRDC/EDO/LOCAL or TRIBAL GOVERNMENT is submitting a funding application to the Montana Department of Commerce – Big Sky Economic Development Trust Fund Program (BSTF) on our behalf to assist with the proposed planning efforts.

We acknowledge and understand that any document prepared with public funds is subject to public’s right to know (Article II, Section 9 of Montana Constitution).

ASSISTED BUSINESS

Name (Typed) _____
 Title (Typed) _____
 Authorized Representative
 Signature X _____
 Date _____

APPENDIX G: APPLICATION CHECKLIST FOR PLANNING GRANTS FOR PAPER APPLICATION

Please include the following information with your application.

Page/Tab Number _____

1. Application (Appendix G)

Have you included?

- I. Applicant Information
- II. Project Summary
- III. Partner Information (if applicable)
- IV. Project Information, including
 - a. *The nature of the proposed activity,*
 - b. *The nature of the assisted business (if applicable),*
 - c. *For which activities the BSTF funds will be used,*
 - d. *Identify the entities involved in completing the proposed project, including management of the project/staffing plan, and*
 - e. *An implementation plan/timeline for project activities start-up through closeout.*
- V. Project Objectives and details regarding the final deliverables
- VI. Project Economic Impact Statement (both negative and positive)
- VII. Project Sources and Uses of Funds form
 - a. *Narrative describing each cost item including a cost estimate or price quote.*
 - b. *Letters of commitment for matching funds.*

2. Signed Certification by Applicant and Assisted Business _____

3. Supporting Documentation: *Attach all supporting documentation. This could include letters of support from organizations, businesses or communities as well as any other documents you feel is beneficial.*

- a. (Description) _____

LOCAL OR TRIBAL GOVERNMENT APPLICATIONS:

Local or Tribal Government Resolution, if applicable _____