

VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

CHAPTER 36

An Act to amend and reenact § 59.1-284.29 of the Code of Virginia, relating to Advanced Shipbuilding Production Facility Grants; grant availability dates.

[H 2362]

Approved February 19, 2019

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-284.29 of the Code of Virginia is amended and reenacted as follows:

§ 59.1-284.29. Advanced Shipbuilding Production Facility Grant Program.

A. As used in this section:

"Advanced shipbuilding" means (i) the manufacture, construction, assembly, overhaul, repair, and testing of nuclear vessels and submarines for the United States Navy; (ii) the design or development of nuclear vessels and submarines for the United States Navy; or (iii) the manufacturing activities of a private company described under 2007 index number 336611 of the North American Industry Classification System.

"Capital investment" means an investment in real property, tangible personal property, or both, within the eligible city.

"Eligible city" means the City of Newport News or its industrial development authority.

"Foundry" means a facility and equipment used to cast metal components used in advanced shipbuilding.

"Grant" means the advanced shipbuilding production facility grant as described in this section.

"Memorandum of understanding" means a performance agreement entered into on or before August 31, 2016, among a qualified shipbuilder, the Commonwealth, and others as appropriate, such as the eligible city, setting forth the requirements for capital investment and the creation of new full-time jobs that will make the qualified shipbuilder eligible for a grant under this section.

"New full-time job" means employment of an indefinite duration in an eligible city, and engaged in the construction of a class of vessel or submarine not being built in that eligible city prior to January 1, 2016, for which the average annual wage is at least equal to the prevailing average annual wage in that eligible city and for which the standard fringe benefits are paid by the qualified shipbuilder, requiring a minimum of either (i) 35 hours of an employee's time per week for the entire normal year of such qualified shipbuilder's operations, which "normal year" must consist of at least 48 weeks, or (ii) 1,680 hours per year. Seasonal or temporary positions and positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as new full-time jobs under this section. Other positions, which may or may not be of indefinite duration, including supplemental employees of affiliates, subsidiaries, joint ventures, contractors, or subcontractors of the qualified shipbuilder, may be considered new full-time jobs if designated as such in the memorandum of understanding between such qualified shipbuilder, the Commonwealth, and others.

"New production facility" means a facility or equipment that, pursuant to a memorandum of understanding with the Secretary, is constructed or purchased after January 1, 2016, and operated by the qualified shipbuilder for use in the construction of or manufacture of components for a class of nuclear vessels or submarines not being built in that eligible city as of January 1, 2016. Such new production facility may be owned by the qualified shipbuilder or may be operated by the qualified shipbuilder through a lease agreement with the eligible city or a local industrial development authority.

"Qualified shipbuilder" means a shipbuilder located in an eligible city that (i) makes a new capital investment of at least \$750 million from January 1, 2015, through December 31, 2020, related to advanced shipbuilding in an eligible city; (ii) creates at least 1,000 new full-time jobs in an eligible city for advanced shipbuilding or activities ancillary to or supportive of advanced shipbuilding; and (iii) builds a new production facility.

"Secretary" means the Secretary of Commerce and Trade or his designee.

B. Any qualified shipbuilder located in an eligible city or the eligible city shall be eligible to receive a grant each fiscal year beginning with the Commonwealth's fiscal year starting on July 1, ~~2022~~ 2020, and ending with the Commonwealth's fiscal year starting on July 1, ~~2026~~ 2024, unless such time frame is extended in accordance with subsection C or D. The grants under this section (i) shall be paid, subject to appropriation by the General Assembly, from the fund entitled the Advanced Shipbuilding Production Facility Grant Fund established in subsection G; (ii) shall not exceed \$40 million in the aggregate; (iii) shall be paid to a qualified shipbuilder or eligible city during each fiscal year contingent upon the qualified shipbuilder's meeting the requirements for the aggregate of (a) number of new full-time jobs created and the substantial retention of the same and (b) amount of the capital investment made, as set forth in the memorandum of understanding; and (iv) shall be expended by the qualified shipbuilder or

the eligible city on the capital or lease cost of a new production facility or a new or existing foundry.

1. The amount of the grant to be paid in each fiscal year shall be conditional upon the qualified shipbuilder's meeting the requirements for (i) the aggregate number of new full-time jobs created and the substantial retention of the same throughout the calendar year that immediately precedes the beginning of such fiscal year and (ii) the aggregate amount of the capital investment made as of the last day of the calendar year that immediately precedes the beginning of such fiscal year. If the qualified shipbuilder has not fully met the grant requirements by December 31, 2020, the period of eligibility may be extended for up to three years, provided that the grants in any given fiscal year shall not exceed \$8 million, plus any amounts deferred in accordance with subsection C or D.

2. The aggregate amount of grants that may be awarded in a particular fiscal year shall not exceed the following:

- a. \$8 million for the Commonwealth's fiscal year beginning July 1, ~~2022~~ 2020;
- b. \$16 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, ~~2023~~ 2021;
- c. \$24 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, ~~2024~~ 2022;
- d. \$32 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, ~~2025~~ 2023; and
- e. \$40 million, less the total amount of grants previously awarded pursuant to this subsection, for the Commonwealth's fiscal year beginning July 1, ~~2026~~ 2024.

C. Any qualified shipbuilder or eligible city applying for a grant under this section shall provide evidence, satisfactory to the Secretary, of (i) the aggregate number of new full-time jobs created and the substantial retention of the same throughout the calendar year that immediately precedes the beginning of the fiscal year in which the grant is to be paid and (ii) the aggregate amount of the capital investment made as of the last day of the calendar year that immediately precedes the beginning of the fiscal year in which the grant is to be paid. The application and evidence shall be filed with the Secretary in person or by mail no later than April 1 each year following the calendar year in which the qualified shipbuilder meets such aggregate new full-time job requirements and aggregate capital investments. Failure to meet the filing deadline shall result in a deferral of a scheduled grant payment set forth in subsection B. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

D. The memorandum of understanding may provide that if a grant payment has been deferred for any reason, including the initial failure to meet the aggregate capital investment or the aggregate new full-time job requirements set forth in the memorandum of understanding or the occurrence of any substantial reduction in such new full-time job requirements after such requirements have been met but before the grant payment has been made, payment in a subsequent fiscal year for which such requirements have been met for the immediately preceding calendar year shall include both the deferred payment and the scheduled grant payment as provided in subsection B or that a proportional payment, based on the proportional share of the required additional full-time jobs, be made.

E. The memorandum of understanding may also provide that a shipbuilder or eligible city that has qualified for and received grants under § 59.1-284.23 may qualify for up to a separate and additional \$6 million in one or more grants payable after July 1, 2016, but before July 1, 2022, to be used in the construction, lease, expansion, or renovation of a foundry in the eligible city. The memorandum of understanding shall require that the total amount of grants received pursuant to this subsection shall not exceed 25 percent of the total cost of improvements needed to meet standards for making castings for the construction of a class of vessel or submarine not being built in that eligible city prior to January 1, 2016, and that those standards are subsequently met. The memorandum of understanding may also set forth requirements for certain employment levels at the foundry. For clarification, such grants are not included in and shall not be subject to the overall limitation of the aggregate grant amount set forth in subsection B.

F. As a condition of receipt of a grant, a qualified shipbuilder shall make available to the Secretary or his designee for inspection upon his request relevant and applicable documents to determine whether the qualified shipbuilder has met the requirements for the receipt of grants as set forth in this section and subject to the memorandum of understanding. The Comptroller shall not draw any warrants to issue checks for the grant program under this section without a specific appropriation for the same. All such documents appropriately identified by the qualified shipbuilder shall be considered confidential and proprietary.

G. There is hereby created in the state treasury a special nonreverting fund to be known as the Advanced Shipbuilding Production Facility Grant Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used for the purposes stated in this section.