The Florida Senate

Interim Project Report 2004-115 *December 2003*

Committee on Commerce, Economic Opportunities, and Consumer Services James E. “Jim” King, Jr., President

REVIEW OF QUALIFIED TARGET INDUSTRY AND QUALIFIED DEFENSE CONTRACTOR TAX REFUND PROGRAMS

SUMMARY

The qualified target industry (QTI) and qualified defense contractor (QDC) tax refund programs are tools used by the state to encourage businesses to locate or expand in this state and provide high-wage jobs for Floridians. Businesses participating in the programs may receive tax refunds based on the number of qualifying jobs and the average wage of their employees. The QTI and QDC programs are scheduled to expire or close to new activity on June 30, 2004.

Many other states compete with Florida through similar programs to encourage businesses to create high-wage jobs for their citizens. According to local economic development organizations, the QTI program is the most important incentive Florida has to encourage businesses to locate in Florida. Although many businesses participating in the QTI and QDC programs would have located in this state anyway, the programs do encourage the creation or retention of some jobs. Additionally, the cost of funding the tax refunds under the programs is substantially less than it appears from the amount of appropriations to the programs. As such, this report recommends that these programs be continued as a relatively low-cost method to compete with other states for jobs.

BACKGROUND

Many states compete vigorously for businesses that will create jobs for their residents. Among the tools that Florida uses in this competition are the qualified target industry (QTI) and the qualified defense contractor (QDC) tax refund programs. The statute creating the QTI program expires on June 30, 2004.[1] After June 30, 2004, no additional businesses may be certified to receive incentives under the QDC program.[2] The purpose of this report is to recommend to the Legislature whether these programs should be reauthorized, modified, or allowed to expire.

QTI Program

A qualified target industry (QTI) business may receive a tax refund equal to the tax refund per job times the number of jobs created, pursuant to a tax refund agreement with the Office of Tourism, Trade, and Economic Development (OTTED).[3] The tax refund per job is between $3,000 and $8,000, depending upon the average salary of the jobs created and whether the jobs are located within a rural county or enterprise zone (EZ).[4] See Table 1. Taxes that may be refunded under the program include corporate income taxes; insurance premium taxes; taxes on sales, use, and other transactions; intangible personal property taxes; emergency excise taxes; excise taxes on documents; and certain ad valorem taxes.

Table 1 Tax Refund Available Per Job

Tax Refund Per Job	Location of New Jobs	Percent of Average Wage
$3,000	Statewide	115%
$4,000	Statewide	150%
$5,000	Statewide	200%
$6,000	Rural County or EZ	115%
$7,000	Rural County or EZ	150%
$8,000	Rural County or EZ	200%

The total tax refund must be paid to a business over a 4-year or longer period.[5] The maximum refund that a business may receive in any year is $1.5 million or, if the business is located in an enterprise zone, $2.5 million.[6] The total refund that a business may receive may not exceed $5 million or, if the business is located

[1] Section 288.106(7), F.S.

[2] Section 288.1045(7), F.S.

[3] Section 288.106(2), F.S.

[4] Section 288.106(2)(b), F.S.

[5] *See* s. 288.106(2)(b), F.S.

[6] *Id.*

in an enterprise zone, $7.5 million.[7] The total amount of tax refunds that OTTED may schedule for payment under the QTI and QDC programs may not exceed $35 million in any fiscal year.[8]

To be eligible for tax refunds under the QTI program, a target industry business must apply to OTTED for certification as a qualified target industry business before it decides to locate a new business in this state or to expand an existing business in this state.[9] Then the business must enter into a performance-based contract with OTTED to create a specific number of high-wage jobs.

A target industry business is a corporate headquarters or a business within a list of target industries developed by OTTED in consultation with Enterprise Florida, Inc., (EFI).[10] OTTED must submit this list to the Legislature with its final agency legislative budget request.[11] Industries selected for the list must meet the following criteria: expected to have future growth in employment and output, provide stable employment not subject to layoffs, provide high wages, be independent of Florida markets and resources, diversify the state's economic base, and benefit the state and regional economies.[12] The industries contained on the target industries list include certain manufacturing facilities; finance and insurance services; wholesale trade; information services; professional, scientific, and technical services; management services; and administrative support.[13] Additionally, defense industry businesses may be target industry businesses.

In its application for certification, a target industry business must describe its proposed new business or expansion of an existing business.[14] The description of proposed operations must provide for the creation of jobs that have an average salary of at least 115 percent of the average private sector wage in the area where the business is to be located or the statewide average private sector wage.[15] OTTED, however, may waive the average wage requirement of the QTI program in limited circumstances.[16] A new or expanding business must propose the creation of at least 10 jobs.[17] An expanding business must also propose to increase its real and personal property resulting in a 10-percent net increase in employment in this state.[18]

The application must also be accompanied by a resolution from the county or municipality in which the business will be located.[19] The resolution must recommend that the business be certified as a qualified target industry business and commit the county or municipality to provide local financial support.[20] The local financial support must equal at least 20 percent of the tax refund available under the program for the business to be eligible for a full refund.[21] This financial support is typically called the 20-percent local match. The business may have to agree to the local government's terms and conditions for eligibility for the local match.

If the business proposes to locate in a brownfield area or in a rural county or certain counties contiguous to a rural county, local financial support is optional.[22] If a local government chooses to exercise the option to be exempt from the local financial support requirements of the program, then the business is not eligible for more than 80 percent of the tax refunds that would otherwise be available to it under the program.[23]

Upon receipt of a completed application, OTTED must review the application based on, but not limited to, the following criteria:

> 1. Expected contributions to the state strategic economic development plan adopted by Enterprise Florida, Inc., ...
> 2. The economic benefit of the jobs created by the project in this state . . . .
> 3. The amount of capital investment to be made by the applicant in this state.
> 4. The local commitment and support for the project.
> 5. The effect of the project on the local community . . . .

[7] *Id.*
[8] Section 288.095(3)(a), F.S.
[9] Section 288.106(3)(a), F.S. It appears that the purpose of this limitation is to prevent the payment of tax refunds to businesses that had planned to locate a new business or expand an existing business in Florida anyway.
[10] Section 288.106(1)(o), F.S.
[11] *Id.*
[12] *Id.*
[13] For the complete list of target industries, see OTTED's *Legislative Budget Request 2004-2005*, at 93.
[14] Section 288.106(3), F.S.
[15] *See* s. 288.106(3)(a)4. and (3)(b)1., F.S. OTTED requires that the average salary of jobs created be 115 percent of the lower of the average private sector wage in the area or the statewide private sector wage.
[16] Section 288.106(3)(b)1., F.S. According to OTTED, it has waived the minimum average wage requirements of the QTI program fewer than five times.
[17] Section 288.106(3)(b)2., F.S.
[18] Section 288.106(1)(g) and (3)(b)2., F.S.
[19] Section 288.106(3)(a)9., F.S.
[20] *Id.*
[21] Section 288.106(3)(f), F.S.
[22] Section 288.106(1)(k), F.S.
[23] *Id.*

> 6. The effect of any tax refunds [under the QTI program] on the viability of the [proposed operations] and the probability that the [proposed operations] will be undertaken in this state . . . .
> 7. The expected long-term commitment to this state . . . .
> 8. A review of the business's past activities in this state or other states . . . .[24]

Although OTTED must consider the above criteria, the criteria do not establish minimum standards that must be met for certification, nor do the criteria require OTTED to certify any business as a QTI business. If the application is approved, the OTTED director, by letter, will certify the business as a QTI business and state the value of the tax refund available to the business.[25]

After a business is certified as a QTI business, it may enter into a tax refund agreement with OTTED.[26] The agreement typically will incorporate the application for certification as a QTI business, and the proposed number of jobs and salary projections will become contract requirements. The contract also will clearly state that the agreement to pay tax refunds is contingent upon appropriations from the Legislature.[27]

A business that was certified as a QTI business after May 30, 2002, must file its claim for a tax refund by January 31 each year.[28] A business that was certified as a QTI business before May 30, 2002, may file a claim for a tax refund any time prior to June 15.[29] If a business does not timely submit a claim for refunds, it will be terminated from the QTI program.[30]

Sharpton, Brunson and Company (SBC), an outside contractor hired by OTTED, processes the claims for tax refunds under the QTI program.[31] To process refund claims, SBC verifies job creation and average wages through unemployment compensation insurance information, company data, and on-site audits. SBC verifies the amount of taxes paid by a QTI business by examining receipts, tax bills, and copies of checks submitted in payment of tax bills.

If a QTI business satisfies the job-creation and wage requirements in its contract with OTTED, pays sufficient taxes, and OTTED receives the necessary local financial support, the business will receive the full tax refund specified in its agreement. If a QTI business fails to fully comply with its job-creation and salary requirements, it may receive a prorated tax refund less a 5-percent penalty. To be eligible for a prorated refund, the business must achieve at least 80 percent of its projected employment and the average wage paid by the business must be at least 90 percent of the wage specified in its contract. The average wage paid must also be at least 115 percent of the average area wage, or 150 or 200 percent of the average area wage if the business contracted for the additional refund for salaries at those thresholds. The business will also receive a prorated refund if the local financial support received by OTTED is less than 20 percent of the refund authorized under the tax refund agreement.

QDC Program

The qualified defense contractor (QDC) tax refund program was created in 1993 after the Cold War ended. The impetus for the program appears to have been Executive Order No. 93-118, signed by Governor Chiles on April 13, 1993.[32] The order found:

- The federal government is in the midst of major post-Cold War cuts in the nation's defense industry.
- By 1997, the federal defense budget is projected to decline by more than 42 percent, in real terms, from 1985 levels.
- The federal cuts include a 30-percent reduction in military personnel, base closures, and elimination of numerous defense contracts for goods and services, with employment losses in Florida of up to 55,000 by 1997.[33]

Apparently, the QDC program was designed to help protect Florida defense businesses from cuts in federal defense spending.

[24] Section 288.106(3)(c), F.S.
[25] Section 288.106(3)(e)1. and (f), F.S.
[26] Section 288.106(3)(e)2., F.S.
[27] Section 288.106(4)(d), F.S.
[28] Section 288.106(5)(a), F.S.
[29] Auditor General, *Tax Refund Program for Qualified Target Industry Businesses Administered by the Executive Office of the Governor: Operational Audit*, Report No. 01-080, January 2001, at 3.
[30] Section 288.106(4)(b), F.S.
[31] Sharpton, Brunson and Company fulfills certain administrative-support functions for the following programs: Economic Development Transportation Fund, Qualified Target Industry Tax Refund Program, Community Contribution Tax Credit Program, Urban Jobs Tax Credit, and the Rural Jobs Tax Credit. The term of SBC's contract with OTTED is from April 1, 2002, through June 30, 2004, at a rate of $500,000 per year.
[32] *See* Florida Senate Committee on International Trade, Economic Development, and Tourism, *Staff Analysis and Economic Impact Statement of CS/SB 32-C*, at 2-3 (Nov. 3, 1993).
[33] Executive Order No. 93-118, signed by Governor Lawton Chiles on April 13, 1993 (creating the Florida Defense Conversion and Transition Commission).

The QDC program provides tax refunds for job creation similar to the tax refund program for qualified target industries.[34] The programs, however, differ significantly as follows:

- Tax refunds under the QDC program are paid for each job retained in addition to each new job created.[35]
- Participation in the QDC program is limited to certain defense contractors.[36]
- OTTED has the discretion to score applications for certification as a QDC business, and a tax refund of up to $5,000 per job is based on that score.[37]

Confidentiality

Much of the information held by OTTED, EFI, and local economic development agencies regarding QTI and QDC businesses is confidential and exempt from the disclosure requirements of public records laws.[38] The confidential information includes business identification numbers, trade secrets, sources of receipts, wage information, and tax payments.[39] However, the names of QTI and QDC businesses, the number of jobs that each business expects to create, the number of jobs created by each business, and the amount of tax refunds awarded and claimed by each business may be disclosed.[40] Much of this information for the QTI and QDC programs is reported in aggregate in annual incentives reports by Enterprise Florida, Inc.[41]

METHODOLOGY

For this interim project, committee staff: reviewed relevant program statutes; interviewed staff of the Office of Tourism, Trade, and Economic Development as well as other economic development professionals; surveyed site-selection consultants, economic development professionals, and businesses participating in the QTI and QDC programs; reviewed program files; and reviewed economic development studies and literature.

FINDINGS

QTI and QDC Program Statistics

According to the Enterprise Florida, Inc., (EFI) *2003 Incentives Report*, since the inception of the program in 1994 there have been 367 contracts with businesses under the QTI program.[42] Of these contracts, 322 are active contracts requiring QTI businesses to create 69,997 jobs with an average wage of $36,010 per job.[43] These businesses also proposed to make a total capital investment in this state of over $6.1 billion in their applications for certification as QTI businesses, which is an average investment of $23.94 for each dollar of tax refunds.[44] The average incentive per job for active QTI businesses is $3,641, according to EFI staff.[45]

Under the QDC program, there are two completed and two active contracts.[46] The active QDC businesses are contractually obligated to retain 350 jobs with an average salary of $53,472.[47]

Enterprise Florida, Inc., also conducts an economic impact analysis for the business operations proposed in each application for certification as a QTI or QDC business. To conduct the analysis, EFI uses an economic model based on the Regional Input-Output Modeling System (RIMS II) from the U.S. Department of Commerce.[48] The economic model is used to calculate the payback ratio to the state. The payback ratio is the amount of tax revenue returned to the state over a 10-year period for each dollar of tax refunds under the QTI and QDC programs. According to the model, the payback ratio to the state is $12.59 for the QTI program and $17.04 for the QDC program.[49]

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[34] According to OTTED staff, s. 288.1045, F.S., the statute creating the QDC program, was used as a model for s. 288.106, F.S., the statute creating the QTI program.
[35] OTTED authorizes the payment of tax refunds to QDC businesses for jobs retained. Section 288.1045, F.S., however, is ambiguous as to whether tax refunds are authorized for both retained and new jobs or only new jobs.
[36] Section 288.1045(3)(e)5., F.S.
[37] Section 288.1045(2)(b) and (3)(f), F.S.
[38] *See* ss. 288.1067 and 288.075, F.S.
[39] *Id.*
[40] *See* s. 288.1067(2)(a), F.S.
[41] *See, e.g.,* Enterprise Florida, Inc., *2003 Incentives Report: A Progress Report On Incentives Funded From The Economic Development Incentives Account,* November 2003.
[42] *2003 Incentives Report*, *supra* note 41, at 11.
[43] *Id.*
[44] *Id.*
[45] This figure does not include the value of other incentives in addition to the QTI incentives.
[46] *2003 Incentives Report, supra* note 41, at 14.
[47] *Id.*
[48] This economic model was designed by Rodney Peterson, a Ph.D. economist with the former Florida Department of Commerce, Bureau of Economic Analysis, circa 1995. This model may need to be revised to reflect changes in the state's tax code since the model's creation.
[49] *2003 Incentives Report, supra* note 41, at 11 and 14. The amount of other state incentives also is included in the calculation of the payback ratio for the QTI program.

Effectiveness of QTI and QDC Programs

Studies of the effectiveness of economic development programs generally conclude that it is impossible to accurately determine whether, "but for" the incentive, businesses would not have located in a particular area.[50] Nevertheless, committee staff asked businesses and local economic development organizations how the QTI and QDC programs influenced businesses site selection and job creation. Regardless of the actual effectiveness of the programs in creating jobs, the state may still receive benefits when jobs for which tax refunds are received would have been created without incentives. At least one study has concluded that tax incentives may make a business more profitable, compete with other businesses more effectively, and ultimately hire more workers and cause its suppliers to hire more workers.[51]

QTI Program

Committee staff used surveys to assess the effectiveness of the QTI program and to assess competition from other states for jobs. Out of the 183 surveys that were sent to active QTI businesses, 39 were returned to the committee marked "return to sender," and 38 businesses responded to the surveys.[52]

Twenty QTI businesses reported that they probably or definitely would have located or expanded operations in Florida without the QTI incentives. Fifteen QTI businesses reported that they probably or definitely would not have located or expanded operations in Florida without the incentives. Nearly all of the responding businesses, 36, reported that they considered locating or expanding operations outside of Florida. Incentives were offered by other states to 20 of these 38 businesses.

The most common reasons that incentives from other states were rejected were that the other locations lacked an adequate workforce, had personal income taxes, and offered smaller incentives. Other slightly less common reasons for rejecting incentives offered elsewhere included high labor costs, higher corporate income taxes, and poor climates.

A survey was also sent to 66 local economic development organizations (EDOs). Committee staff received 31 responses to this survey. The responses from the EDOs differed significantly from the responses from QTI businesses regarding the effectiveness of the program in attracting businesses to this state. According to 24 of the 30 EDOs that responded to the issue, all or most of the QTI businesses in their communities would have located or expanded operations outside of Florida without the QTI incentives. The responses from EDOs also differed slightly from the responses from QTI businesses as to why QTI businesses rejected locations in other states. According to the survey results, the most common reasons QTI businesses rejected locations in other states, in order of frequency, are that other locations had a low quality of life, high labor costs, personal income tax, and were too distant from customers.

According to 21 EDOs, the most common reasons that a business that would have qualified for QTI incentives rejected a Florida location was for larger incentives elsewhere. Eleven EDOs reported that their communities lacked adequate infrastructure, such as sewer, water, electricity, and telecommunications. Six EDOs reported that their communities lacked adequate transportation facilities, such as seaports, airports, highways, and rail systems.

QDC Program

According to the two active QDC businesses, they were authorized to receive tax refunds under the QDC program to retain 350 jobs. The businesses stated that these jobs probably would have been lost if the businesses lost a bid on a new defense contract.

The authorization to receive a tax refund allowed the QDC businesses to submit lower bids for the defense contract. Because the bidding is secret and because the lowest cost bidder does not always win the contract, the businesses were unable to determine whether the eligibility for tax refunds enabled them to win the contracts.

Because of continued military operations in Iraq and Afghanistan, and the war on terrorism, the defense industry is in a different situation than it was after the Cold War. At the end of Cold War, federal defense spending was cut dramatically beginning in 1990. The QDC program became a law in November 1993. Today, federal defense spending is increasing and is projected to continue to increase for at least several years. See Figure 1, below.

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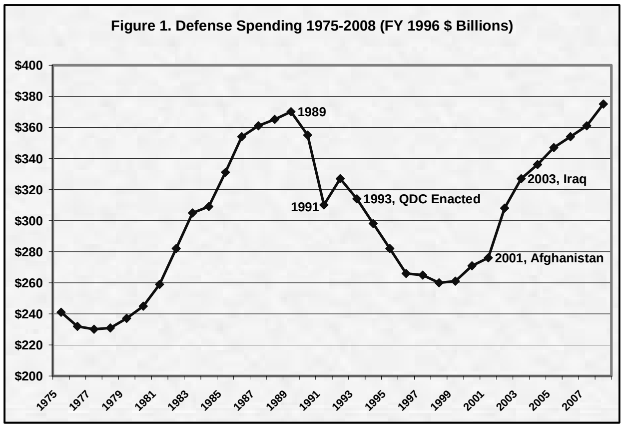
[50] *See, e.g.*, The Urban Center, Maxine Goodman Levin College of Urban Affairs, Cleveland State University, *An Assessment of the Costs, Benefits, and Overall Impacts of the State of Ohio's Economic Development Programs*, May 28, 1999, at 63 (finding that the issue of whether the public sector will get paid back is more important).

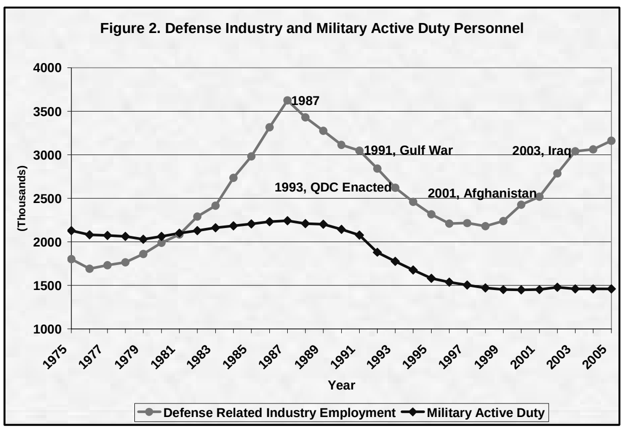
[51] Michael I. Luger, Office of Economic Development, Kenan Institute of Private Enterprise, University of North Carolina at Chapel Hill, *2003 Assessment of the William S. Lee Tax Act*, July 31, 2003, at 19.

[52] The surveys were sent to the addresses on file with OTTED.



Source: Office of the Under Secretary of Defense, *National Defense Budget Estimates for FY 2004,* March 2003, at 207.

Moreover, defense industry employment is increasing and is expected to increase over the next several years. See Figure 2, below.



Source: Office of the Under Secretary of Defense, *National Defense Budget Estimates for FY 2004,* March 2003, at 215.

Figure 2 also suggests that by the time the QDC program was enacted, most of the reduction in defense industry employment had already taken place.

Similar Programs in Other States

According to the Council of State Governments, 43 states authorized tax incentives for the creation of jobs.[53] Southeastern states, including Georgia and North Carolina, are among Florida's competitors for jobs, according to local economic development organizations.

Georgia

Under the Georgia Jobs Tax Credit Program, tax credits available for job creation range from $750 to $3,500 per job for a period of 5 years beginning one year after a job has been created.[54] The size of the tax credit depends upon the tier ranking of the county in which the job is located. All Georgia counties are ranked in tiers 1 through 4. In tier 1 and 2 counties, the most distressed counties, the tax credits may be taken against a business's state income tax and the personal income taxes that the business is required to withhold and remit to the state. In tier 3 and 4 counties, the tax credits may only offset 50 percent of a business's state income tax liability.

In the 40 most distressed Georgia counties, the credits are available to any business. Otherwise, the credits are limited to businesses engaged in manufacturing, warehousing and distribution, processing (data, information, and software), telecommunications, tourism, and research and development industries.

Eligible businesses must also create a certain minimum number of jobs that vary based on the tier level of the county in which the jobs are located. The minimum numbers of jobs that must be created are as follows: 5 in tier 1 counties, 10 in tier 2 counties, 15 in tier 3 counties, and 25 in tier 4 counties. The wages for the new jobs must be above the average wage in the county with the lowest average wage in Georgia. Health insurance must also be made available to the employees filling the new jobs. The businesses have no obligation to pay for the health insurance unless they pay for the health insurance of their existing employees.

North Carolina

Like Georgia, the amount of the tax credit in North Carolina for creating jobs is based on the tier ranking of the county in which the job is located.[55] The amount of the per-job tax credit varies from $500 in tier 5 counties to $12,500 in tier 1 counties. The total tax credit is payable in equal installments over a 4-year period beginning with the year after a job is created. These tax credits may be taken against franchise taxes, income taxes, and gross premium taxes. Businesses that are eligible to apply for these credits include central office or aircraft facilities, air courier services, data processing, manufacturing, warehousing,

[53] Keon S. Chi and Daniel J. Hofmann, The Council of State Governments, *State Business Incentives: Trends and Options for the Future*, 2nd Ed., 2000, at 3.

[54] Ga. Code Ann. s. 48-7-40; *See also Job Tax Credits, available at* http://www.georgia.org/economic/incentives/ 02_job_tax_credits.htm, last visited Nov. 10, 2003.

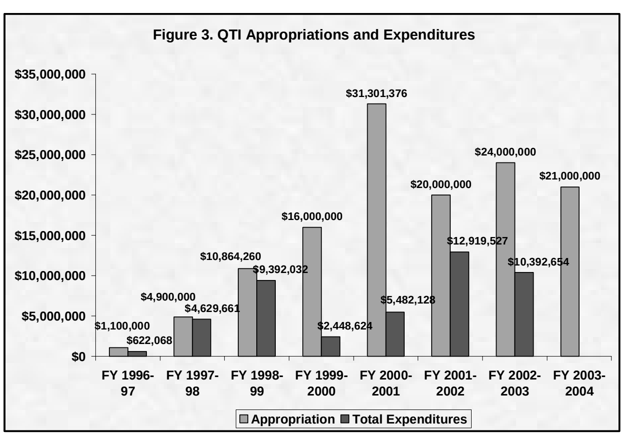
[55] N.C. Gen. Stat. ss. 105-129.3 through 105-129.8.

wholesale trade, computer services, certain electronic mail order houses, and certain customer service centers.

For tier 1 and 2 counties, the most economically distressed counties, the new jobs must pay an average wage equal to the county's average wage. To receive a tax credit in tier 3-5 counties, the new jobs and the existing jobs must pay an average salary of 110 percent of the average county wage. The business must also pay at least half the cost of health insurance for the positions for which tax credits are claimed. The businesses claiming the tax credit must also have a clean environmental record and good safety record.

QTI Appropriations and Expenditures

Since the inception of the QTI program, the tax refunds paid to QTI businesses have been less than the appropriations, resulting in significant reversions of appropriations. See Figure 3, below. The Auditor General initially addressed this issue in January 2001.[56] The disparity between appropriations and actual expenditures existed because OTTED did not know when preparing its legislative budget requests how many businesses with which it contracted to pay tax refunds for job creation would actually submit claims for refunds. OTTED then requested, and the Legislature appropriated, enough funds to the QTI program to pay all possible tax refund claims. As a result, OTTED did not have to prorate tax refund claims as required by s. 288.095(3)(b), F.S. Many QTI businesses, however, did not submit claims for tax refunds because they did not meet the requirements of the QTI program, did not follow through with their business plans, or withdrew from participation in the program.



Source: Figure 3 is based on data supplied by the Senate Appropriations Subcommittee on Transportation and Economic Development.

One of the Auditor General recommendations was to change the program requirements for newly executed tax agreements to require businesses to submit tax refund requests by January of each fiscal year. In the agency's response to the Auditor General report, OTTED stated that they had already begun to require all new QTI projects to submit their tax refund claims by January 31. OTTED also emphasized that the change could only be applied to new QTI agreements, and, therefore, that it would take several years to realize the full benefit of the change.

In response to these findings and recommendations, the Legislature adopted ch. 2002-392, L.O.F., which modified the timeline for approval of QTI program refunds in order to improve the budgetary process for this appropriation. Tax refund claims were to be submitted by January 31 of each fiscal year for the jobs created by December 31. Refunds associated with those claims were to be paid out of the appropriation for the following fiscal year, thus providing an accurate estimate of the refund amount needed each fiscal year in time to be addressed during the appropriations process.

Although new contracts executed since this law change reflect the fixed claim date, the majority of pending claims are still based on contracts executed prior to the change. Therefore, the appropriation requests for FY 2002-03 and FY 2003-04 were still based primarily on projected refund claims. As a result, only $6.8 million of the total $24 million appropriation for FY 2002-03 was expended by June 30. Since there were pending contract payments on the balance of the appropriation, the Executive Office of the Governor approved the agency's request to certify forward $17.2 million, in accordance with s. 216.301, F.S. These funds will revert if not expended by December 31.

According to OTTED data reflecting contract dates, payment periods, and refund estimates, the transition to appropriation amounts based on actual claims payments is still many years away. The budget projection for FY 2004-05 totals $25.3 million based on a total of 241 estimated payments. Almost 70 percent of those estimated payments result from contracts entered prior to the fixed claim date, meaning that such claims can be submitted at any time during the fiscal year, assuming job goals are actually attained. Therefore, there is significant uncertainty regarding the actual cash needs for FY 2004-05. Further, it will be several years before the approved claims data will represent even the majority of the estimated payment

[56] Auditor General, *Tax Refund Program for Qualified Target Industry Businesses Administered by the Executive Office of the Governor: Operational Audit*, Report No. 01-080, January 2001.

amount, given that the last payments under the old contracts are still nine years away.

Issues for Legislative Consideration

Throughout the research into the QTI and QDC programs, committee staff searched for ways to improve the program. Some ideas that the Legislature may wish to consider as policy options are listed below.

The Legislature may wish to clarify how OTTED calculates the average wage paid by a QTI business that exceeds its job-creation requirements. Should the average wage be the average wage of all new jobs created or the average wage of the number of the highest-paid new jobs needed to satisfy the job-creation requirements?

Businesses that fear termination from the programs and loss of tax refunds often underestimate the number of jobs they will create. They also complain that they have no incentive to exceed their job-creation obligations. It has been suggested that employees may then be hired at the business's non-Florida locations. The Legislature could choose to structure the program to provide incentives to businesses to exceed their job-creation requirements.

There has also been some concern as to what should count toward an employee's wages. Currently, contributions to an employee's 401(k), stock options, or contributions to health insurance premiums are not counted toward an employee's wages for determining the average wage of jobs created under the program. The Legislature may wish to consider whether these types of employee benefits should be encouraged under the QTI and QDC programs.

Many authors of studies of state economic development programs have stated that a lack of data prevents them from doing a thorough analysis of the programs. OTTED and EFI appear to collect more data about the QTI and QDC programs than most states collect on their programs. It may, however, be useful for the Legislature to know the total cost of each job created. As such, the Legislature may wish to direct OTTED or EFI to track the value of all state and local incentives provided to each QTI or QDC business.

Lastly, OTTED has considerable discretion to certify or not to certify a business as a QTI or QDC business. As such, the Legislature may wish to increase its ability to have oversight of the programs by requiring EFI to disclose the name and tax refund received by businesses in its annual incentives reports. Modification of the public records exemption in s. 288.075, F.S., may be necessary to allow EFI to publish this data for all QTI and QDC businesses.

RECOMMENDATIONS

Committee staff recommends that the Legislature extend the qualified target industry (QTI) and the qualified defense contractor (QDC) tax refund programs as a relatively low-cost method to compete with other states for businesses that will create high-wage jobs. The statutory authority for the programs should repeal in five years to encourage a future program review. Contracts existing at the sunset of the statutory authority should continue to completion. Additionally, the statute creating the QDC program should be revised to clearly indicate the program may be used to retain jobs.

Based on the analysis of historical appropriations and expenditures, it is clear that OTTED's estimates of tax refund claims under the QTI program have been consistently greater than the tax refunds paid, resulting in unnecessarily high appropriation levels. The legislative appropriations committees should work with OTTED to develop a more reasonable estimate of claims for tax refunds, considering factors such as monthly claim-submission patterns and percent of anticipated claims that are ultimately approved and meet performance targets. To prevent excess appropriations to the QTI program, committee staff also recommends that the Legislature consider a change to s. 288.095, F.S., to require tax refunds under the QTI program to be paid in the order received, rather than prorated. In the unlikely event that insufficient funds are appropriated to pay all tax refund claims, OTTED could fund the unpaid claims from an appropriation for the following fiscal year.

Committee staff recommends that the Legislature also consider directing OTTED to renegotiate the old contracts to require QTI businesses to submit tax refund claims to OTTED by January 31 as a condition of continuing to receive funds. By changing the deadline for tax refund claims, the Legislature would be able to appropriate the exact amount necessary to pay the claims in the following year's budget.