

CHAPTER 188
CONTRACT COMPLIANCE AND JOB COUNTING

261—188.1(15) Applicability. This chapter is applicable to the programs identified in 261—173.1(15).

261—188.2(15) Contract compliance. The authority shall provide oversight and contract administration to ensure that funded projects are meeting contract requirements. On-site monitoring will be conducted at the project completion date. On-site or remote monitoring will be conducted at the end of the maintenance period.

[ARC 0442C, IAB 11/14/12, effective 12/19/12; ARC 6188C, IAB 2/9/22, effective 3/16/22]

261—188.3(15) Job counting and tracking. Projects awarded on or after July 1, 2003, shall follow the job counting and tracking procedures described in this chapter. Only jobs that meet or exceed the qualifying wage thresholds will count toward the business's contract job obligations.

261—188.4(15) Business's employment base. "Business's employment base" means the number of jobs that the authority has established as the job base for a project based on payroll information provided by the business. The number of jobs the business has pledged to create and retain shall be in addition to the business's employment base.

188.4(1) The business's employment base will include the number of full-time employees employed at the project location. It may include the business's full-time employees as identified by the authority who are employed in this state but are not employed at the project location.

188.4(2) There are projects where the funded activity occurs at more than one physical location. If this is the case, the total number of full-time employees working at the identified locations constitutes the business's employment base.

188.4(3) If there are multiple awards made in different years to the same location, the business's employment base will be calculated by using the payroll document from the oldest award that is open. Over time, the job obligations from each new award will be added to this base.

EXAMPLES:

Company X receives award 1 on 5/1/06. The authority has verified that the business's employment base is 100 FTEs. Award 1 obligates company X to create 10 jobs and retain 30 jobs; there are 10 other jobs in the project (the 10 other jobs are created jobs that do not meet the qualifying wage). The qualifying wage for this award is \$16.50/hr and the benefit value is \$4.00/hr. The award is made from the IVF (2005) program.

Company X receives award 2 on 9/1/06. After the payroll is reviewed, the actual number of FTEs at the facility is 107, but 120 (original base + award 1 obligations) will be used as the business's employment base for this award. Award 2 obligates company X to create an additional 25 jobs.

Company X receives award 3 on 3/1/07. After the payroll is reviewed, the actual number of FTEs at the facility is 140, but 145 (original base + award 1 obligations + award 2 obligations) will be used as the business's employment base for this award.

188.4(4) The business's employment base is calculated as part of the application process and is determined before an award is made. The following data points will be verified regarding a business's employment base:

- a. The total number of FTEs at the funded facility or at locations identified by the authority as indicated in subrule 188.4(1) (the business's employment base).
- b. The average wage of all FTEs.
- c. The qualifying wage used in the award.
- d. The benefit value used in the award.
- e. The total number of FTEs at the funded facility that are currently at or above the qualifying wage.
- f. The average wage of the FTEs identified in paragraph "e."

g. The total number of FTEs at the funded facility or at locations identified by the authority as indicated in subrule 188.4(1) that are currently at or above the qualifying wage after the benefit value has been added.

h. The average wage of the FTEs identified in paragraph “*g.*”

188.4(5) Business’s employment base verification. Payroll documents must be collected to calculate and verify the business’s employment base used in each award. The payroll document must include an ID (name or employer ID number) and the hourly rate of pay for all FTEs. If the FTEs at the facility do not typically work 40 hours/week, documentation must be collected from the business outlining what the business considers a full-time workweek and how the business’s interpretation fits within the norms of its industry standards. This interpretation may or may not be accepted by the authority.

[ARC 0442C, IAB 11/14/12, effective 12/19/12; ARC 6188C, IAB 2/9/22, effective 3/16/22]

261—188.5(15) Job counting using base employment analysis. The authority will count jobs to be created or retained as part of a funded project using a base employment analysis. At the time of application, the business’s employment base will be established using payroll records pursuant to subrule 188.4(4). The authority will determine how many jobs at the project location already meet the qualifying wage thresholds (with and without the value of benefits added to the hourly wage). Changes in employment numbers as compared to the business’s employment base will be collected and analyzed by the authority as part of the annual reporting process.

188.5(1) A base employment analysis will be performed at the following stages of an award:

- a.* At the time of application, before the award is made.
- b.* Annually during the reporting cycle.
- c.* At the project completion date.
- d.* At the maintenance period completion date.

188.5(2) Payroll documents or lists run from payroll systems will be used to calculate and verify the base employment analysis. If a list run from a payroll system is used, the person who submits the documents must, under penalty of perjury, sign the list to verify that it is true and correct. The following items will be calculated and verified as part of the annual status report:

- a.* The total number of FTEs at the funded facility or at other Iowa locations as identified at the time of application as of the date of the report.
- b.* The average wage of all FTEs.
- c.* The qualifying wage used in the award.
- d.* The benefit value used in the award.
- e.* The total number of FTEs at the funded facility or at other Iowa locations as identified at the time of application that are currently at or above the qualifying wage.
- f.* The average wage of the FTEs identified in paragraph “*e.*”
- g.* The total number of FTEs at the funded facility that are currently at or above the qualifying wage after the benefit value has been added.
- h.* The average wage of the FTEs identified in paragraph “*g.*”

188.5(3) Following is an example of the format that the authority will use for job counting and tracking using the base employment method.

JOB OBLIGATIONS	Employment Base	Jobs to Be Created	Total Job Obligations
Project Completion Date: Project Maintenance Date:			
Total employment at project location	1	6	8
Average wage of total employment at project location	2		
Qualifying wage (per hr)	3		
Number of jobs at or above qualifying wage	4	7	9
Average wage of jobs at or above qualifying wage	5		

1. The number entered in this cell is the total number of FTEs working at the project location at the time of application. This number must be verified with payroll documents.
2. The number entered in this cell is the average wage of all the FTEs identified in Cell 1. This number must be verified with payroll documents.
3. The number entered in this cell is the applicable qualifying wage threshold used in the award. This data point must include the wage/hr and the percentage in parentheses. [ex: \$15.34/hr (130%)]
4. The number entered in this cell is the number of jobs identified in Cell 1 that meets or exceeds the wage reflected in Cell 3. This number is calculated using the payroll documents. The number of “retained” jobs and retained “other” jobs must be included in this entry. Please note that the number of retained jobs and the number entered here may not match since all jobs existing at the project site may not be considered retained.
5. The number entered in this cell is the average wage of all FTEs identified in Cell 4. This number is calculated using the payroll documents.
6. The number entered in this cell includes the number of “created” jobs, as well as the number of created “other” jobs.
7. The number entered in this cell is the number of “created” jobs in the project.
8. The number entered in this cell is the sum of Cell 1 and Cell 6.
9. The number entered in this cell is the sum of Cell 4 and Cell 7.

[ARC 0442C, IAB 11/14/12, effective 12/19/12; ARC 6188C, IAB 2/9/22, effective 3/16/22]

261—188.6(15) Wage determination for contract compliance purposes.

188.6(1) Applicability. This rule shall apply for purposes of administering contracts that require a determination as to the wage-based compensation provided to employees.

188.6(2) Definition. As used in the authority’s contracts, unless the context otherwise requires, “wage” shall mean monetary compensation, represented in terms of an hourly rate, paid by an employer to an employee for work or services provided, typically on a weekly or biweekly basis.

188.6(3) Determination of wages for contract administration purposes. When determining wages for contract administration purposes, the wage will include only the regular hourly rate that serves as the base level of compensation. The wage will not include nonregular forms of compensation such as bonuses, unusual overtime pay, commissions, stock options, pensions, retirement or death benefits, unemployment benefits, life or other insurance, or other fringe benefits.

[ARC 0442C, IAB 11/14/12, effective 12/19/12]

These rules are intended to implement Iowa Code chapters 15 and 15E and 2011 Iowa Code Supplement chapter 15G, subchapter I.

[Filed emergency 6/15/07—published 7/4/07, effective 6/15/07]

[Filed 8/22/07, Notice 7/4/07—published 9/26/07, effective 10/31/07]

[Filed ARC 0442C (Notice ARC 0293C, IAB 8/22/12), IAB 11/14/12, effective 12/19/12]

[Filed ARC 6188C (Notice ARC 6046C, IAB 11/17/21), IAB 2/9/22, effective 3/16/22]