

START-UP NY APPLICATIONS

REFERENCE SHEET

BUSINESS APPLICATION

Link to Business Application:

<https://appcenter1.esd.ny.gov/IStartupNY/Businessapp.aspx>

- **Section 1- Contact Information**
 - Select the college/university you are applying to
 - Complete all contact information
- **Section 2 – Business Information**
 - Complete all Business Information
 - Includes links to the Census Bureau for NAICS Code
 - To request protection from FOIL for any information a business deems confidential, the business must provide letter identifying with specificity any content the business deems to be confidential, proprietary, or a trade secret as defined by Article 6 of the Public Officers Law. The letter is uploaded in application
 - The TFA location should be specific and include the total square footage of the space business is locating to
- **Section 3 – Employment**
 - Includes table to establish business base employment
 - Net new job table should be completed **cumulatively** – total net new job question is separate from table – NOTE : the business will not be able to submit without completing this. The total net new job amount and total jobs listed in table cumulatively should total same.
- **Section 4 – Investment**
 - This should be completed using capital investment only. Capital investments do not include operating expenses such as office supplies, utilities, rent, and other recurring expenses.
- **Section 5 – Business Competitors**
 - This section is for the business to identify competitors within the same community but outside of the TFA.
- **Section 6 – Related Persons**
 - Related persons are defined pursuant to Section 465 (b)(3) (c) of the Internal Revenue Code
- **Section 7 – Agreement**
 - The agreement can be accessed within the business application OR on ESD's website. The agreement includes the required attestations and the Statement of Consequences

agreement. This should be discussed with the sponsor prior to choosing. Agreements must be SIGNED AND NOTARIZED and uploaded on the form.

◦ **NOTES:**

- The application form contains mandatory fields. If these fields are incomplete the application cannot be submitted.
- The business should print a copy of the completed application before pressing the submit button. They will not, otherwise, be able to save.
- Press **Submit Application** – this will route the application as a PDF to the school they chose in section 1.
- Once the application has been submitted, the business applicant cannot access.

SPONSOR APPLICATION

Link to sponsor application:

<https://appcenter1.esd.ny.gov/IStartupNY/StartUpNYSponsorApplication.pdf>

RECEIPT OF BUSINESS APPLICATION TO SPONSOR INBOX:

Once the business application has been submitted, sponsor can access the PDF of the business application to the appropriate inbox.

- ▶ To access the attachments (agreement (that includes statement of consequences agreement and the FOIL protection, if applicable), click on the small paperclip to the left of the PDF document. There you can access any documents uploaded by the business.
- ▶ Save the PDF and the associated attached documents.
 - *NOTE: the business application will be received by the sponsor so that the sponsor may edit on behalf of the business before submitting to ESD.*
- ▶ The sponsor should obtain written acknowledgment from the business for any change made to the application

SPONSOR APPLICATION

- Because the sponsor application is in PDF format (unlike the Business Application), the application MUST be accessed through the FREE Adobe Reader.
 - If you are not using internet explorer OR your browser is not configured to use the free Adobe Reader when a PDF is opened, then the form will NOT work because it will open in the default browser PDF viewer (for example, if you are using Google Chrome)

You MUST SAVE the PDF form to your computer and open it in the free Adobe Reader to complete the application. <http://get.adobe.com/reader/>

- **Competitor review - DOL**
 - If DOL responds that the Industry Specialist recommends a more appropriate NAICS, you must inform the business of this occurrence. If the company concurs, then you must run the posting in the publication using the revised NAICS and make sure DOL conducted review on appropriate NAICS.
 - If DOL identifies one or more companies matching, ESD will be notified. ESD will conduct a competitor analysis review of all information to support a final determination by the Commissioner of Economic Development. You, as the sponsor, would check the box indicating your request for a determination on the application.

- **Public Posting**
 - The public posting should really be done after the correct NAICS is determined by DOL/the company.
 - A weekly news publication is acceptable, as long as it is available online daily
 - If there is no newspaper published within the county, an alternative posting must be made in another daily with local coverage of the county within which the business is proposing to locate.
 - Publication must be completed within 60-days of forwarding an application to ESD (regulation change)
 - Proof of posting (affidavit of such posting) with copy of the posting must be submitted with the sponsor application

ESD Compliance Review

As part of review process, ESD must conduct a compliance check. Each business applicant must be in compliance with all environmental, worker protection, and federal and state laws -- the NYS Unemployment Insurance, Labor Standards, Workers' Compensation and Disability Insurance laws and regulations.

Unemployment Insurance:

To expedite the process, you, as the sponsor, should inquire with the business whether they have a UI account and if not, provide guidance on this process.

- Unregistered applicants are required to file Form NYS100 if they:
 - Have current employees,
 - Will have employees within 90 days
 - Listed as a C Corp or Association

INSTRUCTIONS FOR APPLYING FOR UNEMPLOYMENT REGISTRATION NUMBER

- For Businesses utilizing a Payroll Service/Professional Employer Organization (PEO) to report for Unemployment Insurance purposes, please provide the name of the entity and their FEIN number.
 - A signed notarized form must be obtained from ESD for completion by the PEO giving authorization to release employment records.

- For businesses needing information on how to register, they can use the following link to get information on registration requirements, and access the registration form <http://labor.ny.gov/ui/employerinfo/registering-for-unemployment-insurance.shtm>.
- After downloading the form, they can fax it to (518) 485-2623. Businesses may call (518) 485-2624 (ask for Roseanne or Gail to follow-up on the status of their faxed or online registration, or confirm if they do not meet the conditions of liability for unemployment insurance purposes).

Workers' Compensation

- Workers Comp verifies
 - ▶ The business has a record
 - ▶ The business has Workers Comp Insurance and Disability Insurance

The Workers Comp record is supplied to WCB by DOL when the company receives their UI account number. The Workers Comp insurance and Disability Insurance are tied to this record. WCB reports to ESD whether the applicant has an account and whether they have insurance. A company can be in compliance if they have a record but not insurances.

Workers Comp insurance needs to be filed within **30 days** after the first day of work and Disability Insurance needs to be filed within **60 days** after the first day of work.

Department of State

- ESD checks the DOS Business Entity website to verify that the company has filed to do business in NYS. New companies, or companies moving into the State, may not have filed with the Dept. of State at the time they submit their application.
- If a company is an existing NYS company and does not show up on the DOS website, ESD will follow-up with the Sponsor. Instances where the DOS website states that a company has been dissolved by proclamation is an indication of outstanding issue with Tax & Finance.

NYS Department of Taxation & Finance

Tax and Finance verifies if they have a record of the company paying taxes or if the company is delinquent.

Amending a business Application

Obtain the form from ESD for amending the business application for any applicant wishing to amend their application.

START-UP NY
Procedure for Competition Analysis
August 2015

Purpose:

An application by a business entity to participate in the START-UP NY program may only be approved if the business does not “compete with other businesses in the same community” and outside the START-UP NY Tax-Free NY Area (“TFA”) to which the business is applying.

The Program regulations establish a process to identify potential competitors and ensure that a START-UP NY business applicant will not compete with any other business in the community and outside the TFA. This process requires:

- An attestation by the applicant business that it would not compete with existing businesses in the community to which it is applying to locate;
- A review by the Department of Labor of 6-digit NAICS codes of businesses in the community; and
- A public notice to be issued by the Sponsoring college or university (“Sponsor”) to afford businesses in the community the opportunity to identify themselves as potential competitors to the business applicant.

Finally, in the event that any of the above steps identifies a potential competitor, ESD will review all relevant information available and a final determination will be made by the Commissioner of the Department Economic Development.

This memo provides detail and guidance on these processes.

Business Application Attestation:

Business applicants must complete all sections of the Business Application, including Section 5 “Business Competitors.” The applicant must answer “Yes,” “No,” or “Unsure,” as to whether the business competes with other businesses in the same community. By checking “No”, the business attests that the applicant business will not compete with other businesses in the same community, but outside the TFA. Applicants that check “Yes,” must provide the names and addresses of the businesses with whom the applicant business will be competing. A business can check “Unsure” for any other reason including where it has insufficient information to select “Yes” or “No”, is unfamiliar with the community and with the businesses in the area or if the business is unsure of whether it competes with other businesses in the same community.

Procedure for NAICS Code Analysis:

a. Initiation

For the NAICS code analysis, the Sponsor will provide information to the New York State Department of Labor, Division of Research and Statistics (DOL). The information provided should include:

- Full business name (including any DBAs) and federal employer identification number (EIN)
- Current full business mailing address
- Proposed full business mailing address for the TFA location to which the business is applying to locate
- 6-Digit NAICS code for the business based upon the primary activity of the business and a detailed description of the proposed business product(s) or service(s) at the proposed TFA location (2012 NAICS codes can be found at <http://www.census.gov/eos/www/naics/>)
- Full contact information for the campus contact

Information is to be sent by email to StartUpNY@labor.ny.gov.

Be as specific as possible regarding what activity will occur in the TFA. If the proposed predominant activity at the TFA is significantly different from the primary activity of the business, ESD will ask DOL to review NAICS based on that predominant activity.

b. Analysis

DOL will search its official employment data for any existing companies classified with the same 6-digit NAICS in the proposed business community, defined as the Census Tract containing the proposed business mailing address and all contiguous Census Tracts, AND, if significantly different, the 6-digit NAICS selected based upon the proposed predominant activity in the TFA location.

c. Notification

If there are no existing company matches, (and this would include the primary NAICS of the business and the NAICS that most closely aligns with the proposed predominant activity in the TFA, if necessary), DOL will email the Sponsor and ESD the 6-digit NAICS code(s) searched and a statement indicating no companies matched that 6-digit code(s).

If there are one or more existing company matches, DOL will email the Sponsor the 6-digit NAICS code(s) searched and a statement indicating that at least one company matched that 6-digit code(s). DOL will also email to ESD the 6-digit NAICS code(s) searched and the identity and contact information for any matching company or companies. ESD will then review all information to support a final determination by the Commissioner of Economic Development. Only ESD is allowed access to confidential data provided by DOL per a Confidentiality Agreement between the two agencies.

Procedure for Public Posting:

a. Initiation

In advance of forwarding any business application to ESD, but no more than sixty (60) days prior to forwarding a business application, the Sponsor will complete publication of notice in a daily print or online newspaper in the county where the applicable Tax-Free NY Area is located for no less than five consecutive days in order to afford businesses in the community the opportunity to identify themselves as competitors (“public posting”). The public posting should include:

- A detailed description of the proposed product(s) or service(s) the business applicant will provide from the TFA.
- Proposed full business mailing address for the TFA location to which the business is applying to locate.
- Full contact information for the campus contact.

The Sponsor is not obligated to identify the business applicant in the public posting. However, the Sponsor should be mindful that this process is designed to provide businesses with an opportunity to identify themselves as potential competitors and that information provided in the public posting should be presented with this goal in mind. ESD reserves the right to review the public posting to determine whether this public notice was sufficient, and to require the Sponsor to republish a more detailed notice.

b. Identification of Competitors

If no potential competitors are identified through the public posting, the Sponsor shall check the appropriate box on the START-UP NY Sponsor Application indicating that no competitors were identified through this process. The attestation should be included as part of the business' application.

In the case that potential competitors are identified through the public posting, the Sponsor should notify ESD as soon as possible with specific information regarding the potential competitor(s).

Procedure for Review:

a. Initiation

In the event that any of these efforts identifies potential competitors, the Sponsor must request a letter from the Commissioner determining that the business does not compete with other businesses in the same community. The request should contain information about the business applicant; the identity and contact information for every potential competitor identified; a comparison of the products and/or services proposed to be provided by the business applicant; information about the products and/or services provided by the potential competitor or competitors (if known); the community at issue; a copy of the public notice; and any other information the business applicant deems relevant to this analysis.

b. Analysis

Upon receipt of this request, ESD will review all information provided by the business and Sponsor, and any other relevant information available to ESD to support a final determination by the Commissioner of the Department of Economic Development. The review shall include, but not be limited to, a comparison of the products and/or services proposed to be provided by the business applicant from the TFA and the products and/or services provided by the potential competitor or competitors in the same community.

The Commissioner will make the final determination about whether the business applicant will compete with other existing businesses in the community.

c. Notification

Upon completion of the review, the Commissioner will provide a letter for inclusion with the business application to the business and the Sponsor of his/her determination as to whether the business competes with other businesses in the same community.

The public posting requirement must be completed no earlier than 60-days prior to forwarding the application to ESD.

Sample

AFFIDAVIT OF PUBLICATION

State of New York
City of Binghamton
County of Broome, .ss.:

being duly sworn, deposes and says that she is the Principal Clerk of the Binghamton Press Company Inc., publisher of the following newspaper printed in Johnson City published in the City of Binghamton New York and of general circulation in the Counties of Broome, Chenango, Delaware, Tioga State of New York and Susquehanna County State of Pennsylvania PRESS & SUN BULLETIN.

A notice of which the annexed is a printed copy, was published on the following dates:
June 23, 24, 25, 26, 27, 2014

Sworn to before me this 27th day of June, 2014

Notary Public

Notary Public, State of New York
No. 01GR6118472
Qualified in Broome County
Commission Expires Nov. 8, 2016

Notice

A business is submitting an application for the START-UP NY program to relocate from out of state to Binghamton University, State University of New York START-UP NY Tax Free NY Area at 85 Murray Hill Road, Vestal, NY 13850. The business is a Bluetooth and WiFi wireless speaker technology company, creating customizable audio and video products for consumer electronics. The company intends to focus Research & Development operations in Binghamton, and as such will employ local engineering talent in multiple disciplines including electrical, computer, and mechanical engineering. NAICS Codes 334310 541712 Contact Per Stromhaug, Binghamton University, 807.777.6870, startupny@binghamton.edu, 3/23, 5/24, 5/25, 6/26, 1/27/2014

