

Aspire Program Listening Session

September, 2021



About the NJ Economic Recovery Act

Governor Phil Murphy signed the **New Jersey Economic Recovery Act of 2020 (ERA)** into law on January 7, 2021.

The ERA creates a package of **tax incentive, financing, and grant programs** that will build a stronger, fairer New Jersey economy.

The ERA is both a broad-based **recovery bill and reform bill** that will better position New Jersey to recover from economic crisis caused by the COVID-19 pandemic, while remaining true to the NJEDA's commitments to transparency and accountability.

Visit the NJEDA's website at www.njeda.com/economicrecoveryact to learn more about each of the programs within the ERA, or to provide general ERA feedback.

Opportunities for Engagement

The NJEDA is committed to transparency, equity, and faithful stewardship of taxpayer dollars, and welcomes constructive input from all New Jerseyans as we work through the process of implementing the programs under the ERA.

The NJEDA will be providing multiple opportunities for public input. Today's session is one way that the NJEDA is collecting informal program-specific feedback.

GENERAL ERA PROGRAM FEEDBACK

Provide general suggestions on one or more ERA programs prior to NJEDA releasing program-specific information.

You can use this website to provide thoughts on the ERA legislation and how NJEDA should implement the ERA programs.

INFORMAL PROGRAM-SPECIFIC FEEDBACK

Provide specific feedback on draft program regulations, before they are approved by NJEDA's Board.

NJEDA will post additional draft ERA program regulations on this website for public input as they are developed.

FORMAL REGULATORY FEEDBACK

Provide formal public feedback on the proposed regulations approved by our Board.

All ERA programs will have a formal APA 60-day public comment period once proposed rules are published.

Executive Order No. 63

Pursuant to Governor Murphy's Executive Order No. 63, the NJEDA is providing opportunities for groups and stakeholders to engage with the NJEDA in crafting rules around the Aspire Program.

We welcome constructive input on how to ensure new programs created through the ERA are structured and administered in a manner that drives opportunities for all residents and communities.

The NJEDA will begin the session with a presentation to summarize the draft rules – opportunity for public feedback will be available following the NJEDA's presentation. It is expected that 75-90 mins will be reserved strictly for public input.

Recording of Public Feedback Sessions

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feedback on the Aspire Program via
www.njeda.com/program-specific-feedback
through September 24th**

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Public Feedback Policy

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- ▶ **Each member of the public who wishes to speak during the public feedback period should use the “raise hand” function in Zoom.** The host will acknowledge each speaker in the order in which they raised their hand and will open the speaker’s microphone to make their statement.
- ▶ To ensure everyone that chooses to has an opportunity to speak, **each speaker will have a maximum of three (3) minutes to speak and should limit input to matters pertaining to the Economic Recovery Act of 2020, the Aspire Program, or the draft rules.**
- ▶ **Each member of the public will have one opportunity to provide remarks.** If time remains at the end of the session, we will reopen the opportunity for additional remarks.
- ▶ **Speakers should not expect to engage in a dialogue. NJEDA staff may respond to basic questions or clarify a speaker’s input.** However, NJEDA staff are not obligated to answer impromptu questions or address remarks from members of the public.
- ▶ **Speakers and members of the public should at all times maintain proper decorum and shall provide their remarks in a civil manner.**

Please Note

NJEDA staff will summarize the draft rules and provide context.

To access the actual draft rules, please visit www.njeda.com/program-specific-feedback.

For this presentation, please note the following:

Text highlighted in light green indicates areas where the NJEDA has used the rules to add clarity to the legislation.

Non-highlighted text is written into law which NJEDA does not have discretion to change.

What is the Aspire Program?



Established under the **Economic Recovery Act of 2020 (ERA)**



Successor to the Economic Recovery and Growth Program (ERG)



Provides tax credits to incentivize **strategic real estate projects** in New Jersey



Awards are based on a **project financial need** calculation



Focuses on **strengthening communities** and **creating local benefits**



Encourages growth in **communities with greatest levels of distress**



Supports **commercial and residential** growth



Includes fiscal protections



Program **expires on March 1st, 2027**

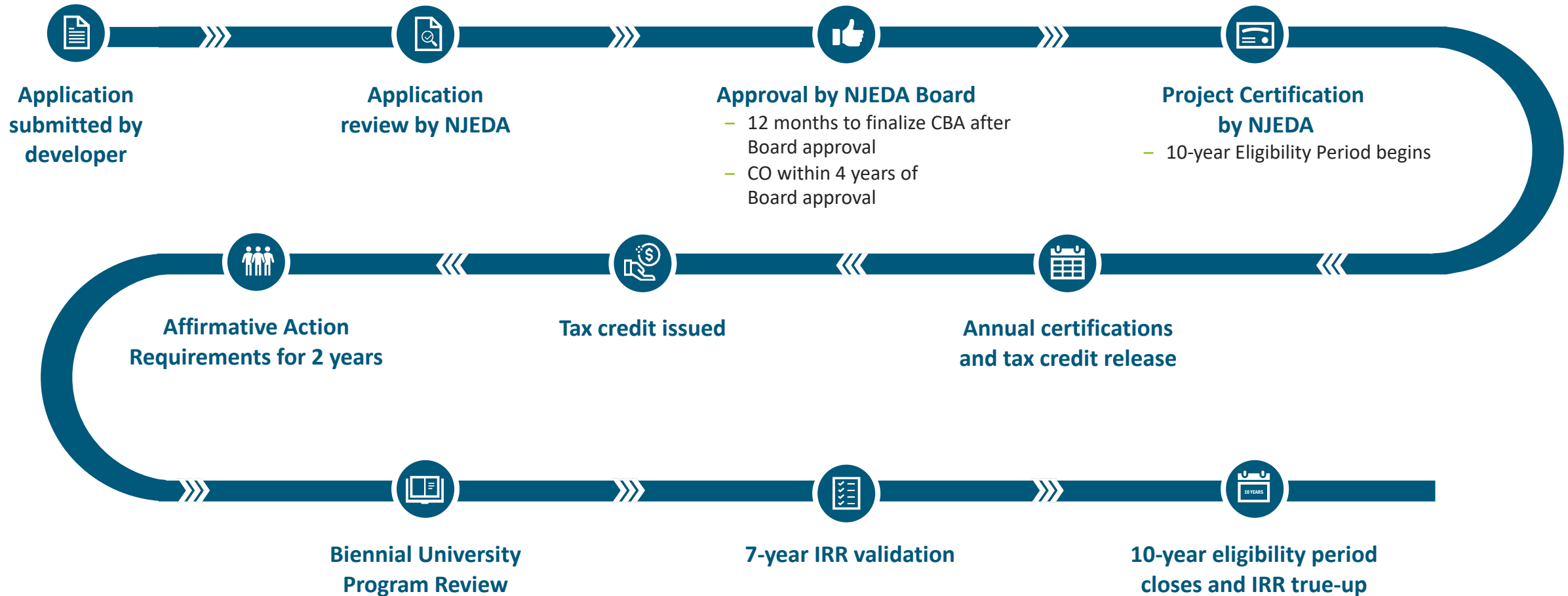
Key Features

- ▶ **Capped** with NJ Emerge at **\$1.1 billion over 6 years**
 - Option to roll over unused program cap to a seventh year
- ▶ Awards up to **45 percent of project costs**
 - Up to 50 percent of project costs in a Government Restricted Municipality (GRM)
 - Up to 60 percent of project costs for new construction projects using Low Income Housing Tax Credits (LIHTC)
- ▶ **Transformative projects** with at least \$100 million project costs may get tax credits up to \$350 million
- ▶ Maximum **10-year eligibility period**
- ▶ Project developers must **pay prevailing wage for all construction and for building services** for the duration of the eligibility period



Projects with costs of \$10 million or more must have a **Community Benefits Agreement**

Generic Aspire Program Project Timetable



At any time, developers may appeal NJEDA actions or decisions, and/or reassign rights related to the development project

Program Attributes

1 | AWARD SIZE

2 | ELIGIBILITY

- Geography
- Project size
- Scoring
- Financing gap
- Phasing
- Affordable housing
- Municipal support
- Prevailing Wage
- Affirmative Action
- Minimum Environmental Standards

3 | FISCAL AND RESIDENT PROTECTIONS

- Community Benefits Agreement
- Benefit test
- Tax credit transfers
- Transparency
- Rate of return

4 | TRANSFORMATIVE PROJECTS

- Award size
- General eligibility
- Residential project requirements
- Commercial project requirements

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Award Size

Baseline tax credits available

- ▶ Tax credits equal to **45 percent of project costs up to \$42 million**

Bonuses



Commercial projects in a GRM can receive tax credits **up to 50 percent of project costs** in project support



Newly constructed residential projects that are also utilizing four percent LIHTCs can receive tax credits **up to 60 percent of project costs**



Projects using LIHTC or any other project in a Qualified Incentive Tract (QIT), GRM, or municipality with an Municipal Revitalization Index (MRI) distress score of at least 50, can receive **tax credits up to \$60 million**

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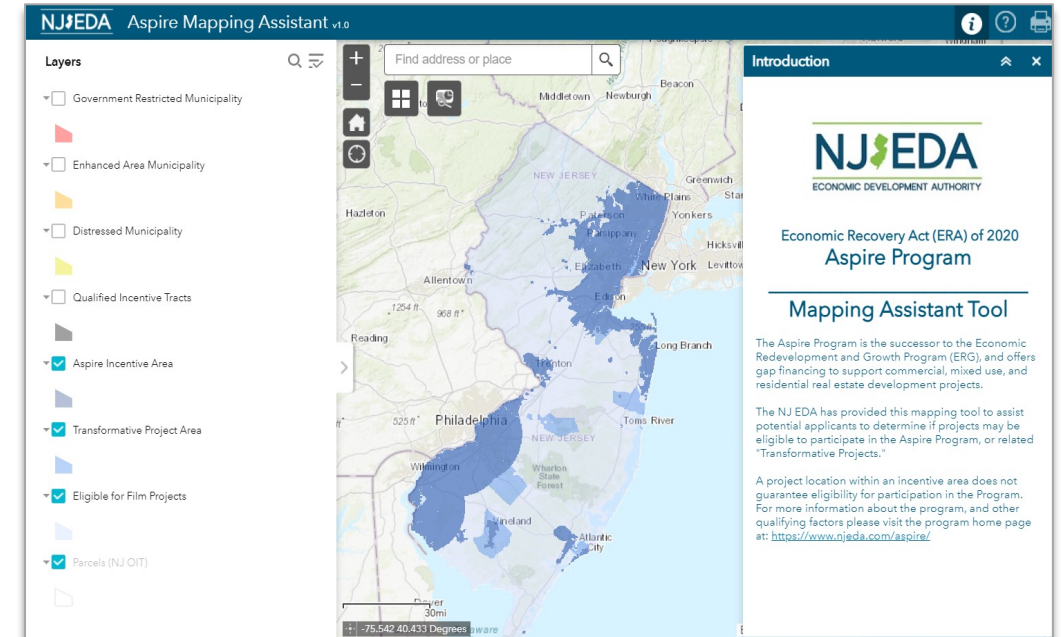
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Eligibility

GEOGRAPHY

Projects must be located in an Incentive Area:

- ▶ Planning Area 1
- ▶ Aviation District
- ▶ Port District
- ▶ Planning Area 2 (Suburban) or Designated Center, provided either within a half mile of a rail transit station or a high frequency bus stop



<https://njeda.maps.arcgis.com/apps/webappviewer/index.html?id=b32ea4347e6a4403a36859e6ee6e5c0a>



Transformative projects can also qualify if located in a GRM, Enhanced Area, or Distressed Municipality

Film projects may be located anywhere

Eligibility

PROJECT SIZE



Residential projects

must have costs totaling at least:

- **\$5 million** in a QIT or GRM
- **\$10 million** in any other community with a population of less than 200,000
- **\$17.5 million** in any other Incentive Area (i.e. Newark or Jersey City)



Commercial projects

must be at least **100,000** square feet

Eligibility

SCORING

- ▶ Scoring will be used to assess project consistency with program objectives, not to compare projects with one another
- ▶ Projects not demonstrating evidence of consistency with program policy objectives would not advance further
- ▶ Policy objectives reflected in project scoring would include:
 - Consistency of project design with Smart Growth and TOD principles
 - Project adherence to surrounding planning/zoning rules
 - Projects in overburdened communities that have specific uses outlined in New Jersey's Environmental Justice statute
 - Contribution of workforce housing and evidence of climate resilience

Eligibility

FINANCING GAP

Projects must **demonstrate a project financing gap**

- ▶ “Project financing gap” refers to the part of the total project cost, including reasonable and appropriate return on investment, that remains to be financed after all other sources of capital have been accounted for

NJEDA will determine “**reasonable and appropriate return on investment**” relying on third-party analysis of project type, scale, geography, etc.



OTHER SOURCES OF CAPITAL INCLUDE:

- Developer-contributed capital
- Deferred development fees
- Federal tax credits (for certain purposes)

Eligibility

PHASING

Projects can be undertaken in phases if each phase has

- ▶ Project costs of at least \$50 million
- ▶ A Temporary Certificate of Occupancy (TCO)

AFFORDABLE HOUSING

All projects including newly-constructed residential units must provide a minimum of 20 percent affordable housing

Eligibility

PREVAILING WAGE

Required for all project costs during construction, and for building services and maintenance throughout the eligibility period

Required for any costs incurred **prior** to application if those costs are included in project costs

Failure to comply will be grounds for withholding of tax credits and other possible penalties

Eligibility

MUNICIPAL SUPPORT

Letter of support from governing body of the municipality where the project will be located is required at time of application for commercial and residential projects

AFFIRMATIVE ACTION AND ENVIRONMENTAL STANDARDS

Projects must meet affirmative action requirements for all work included in the project cost and for two years after the tax credit certificate is issued

Projects must meet minimum environmental and sustainability standards outlined at https://www.njeda.com/green-building-guidance_v8-final/

- ▶ Applicants will need to acknowledge the need to meet these standards and provide a description of how they will be met

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Fiscal and Resident Protections

COMMUNITY BENEFITS AGREEMENT (CBA)



Required for projects
with total costs of
\$10 million or more

- ▶ Developer shall enter into a CBA **with the Chief Executive of the municipality** for each incentivized municipality location
 - Municipality may request the Chief Executive of the County containing the municipality to negotiate and enter into the CBA
- ▶ Agreement **may provide services to underserved communities or other investments that benefit the community as a whole**
 - **Up to 5 percent** of costs associated with these services/investments may be included in applicant project economics as a soft cost or stream of annual operating costs
- ▶ Municipality/County must plan **at least one community engagement session**
- ▶ Municipality/County appoints a **Community Action Committee** with at least three members to monitor CBA implementation

Fiscal and Resident Protections

NET BENEFIT TEST (1/2)

- ▶ Net benefit requirements for commercial projects are based on location:

Located in Government Restricted Municipalities	150%
Located Anywhere Else	185%

- ▶ **No net benefit** test is required for residential projects
- ▶ Food service and health care centers are **not subject to a net benefit test if the project is larger than 10,000 square feet**

Both tax credits and benefit to the State are evaluated on a present value basis using the same discount rate

Fiscal and Resident Protections

NET BENEFIT TEST (2/2)

Proposed policy for testing net benefit to the State for commercial projects:

- ▶ Utilize the **IMPLAN model**
- ▶ For **construction benefits**, use **direct, indirect, and induced** tax revenues at the State level
- ▶ For **ongoing benefits**, use **direct and indirect** tax revenues at the State level
 - Use regional average salaries for each real estate use and employee per square foot data
- ▶ Use **separate regional multipliers** for South Jersey and North Jersey
- ▶ **Local tax benefits** only included when they **benefit the State** and are **sufficiently evidenced by applicant**
- ▶ Use a **2 percent inflation rate** and an **8 percent discount rate**

Fiscal and Resident Protections

TAX CREDIT TRANSFERS

- ▶ Tax credits awarded through the Aspire Program can be sold for no less than 85 percent of their nominal value
- ▶ Exceptions for residential projects:
 - Residential projects financed in part by LIHTC can sell tax credits for **no less than 65 percent of their nominal value**
 - Residential projects that are not using LIHTC and have a plan approved by HMFA and NJEDA can sell credits for **no less than 75 percent of their nominal value**

Fiscal and Resident Protections

TRANSPARENCY (1/2)

For every tax credit transfer approved, NJEDA will publish to its website:

- ▶ The name of the transferrer
- ▶ The name of the transferee
- ▶ The value of the tax credit transfer certificate
- ▶ The State tax against which the transferee may apply the tax credit
- ▶ The consideration received by the transferrer

Fiscal and Resident Protections

TRANSPARENCY (2/2)

For transfers of interest in the incentive award agreement, NJEDA will publish to its website:

- ▶ The names of persons or entities involved
- ▶ The value of the interests being transferred
- ▶ The consideration received by the transferrer

See rules language at <https://www.njeda.com/program-specific-feedback> for more detail

Fiscal and Resident Protections

RATE OF RETURN

Statute and program procedures aim for reasonable developer returns

- ▶ **Reasonable and Appropriate Rate of Return (RARR)** set based on project-specific characteristics including location, industry class, extent of local economic disadvantage
- ▶ Return rates for all municipalities and industry classes in New Jersey have historically ranged **between 11 percent and 19 percent**
- ▶ **Project economics set at Board Approval** and checked at project certification for consistency with Board approval
- ▶ Actual **returns reviewed at year 7**
- ▶ If actual returns exceed Board-approved RARR by more than 15 percent, **State Treasury receives 20 percent of “excess returns”**

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Transformative Projects

AWARD SIZE

Tax credits of **40 percent of eligible project costs up to \$350 million**

GENERAL ELIGIBILITY

- ▶ Minimum **\$100 million project cost and construction or substantial renovation** of:
 - 500,000 square feet
 - 250,000 square feet if project is a film studio
- ▶ Located in an Incentive Area, Distressed Municipality, GRM, or Enhanced Area
 - No geographic limits for film studio projects

Transformative Projects

PROJECT REQUIREMENTS



Residential projects

- ▶ 1,000 units or
- ▶ 100,000 square feet of commercial space and
 - At least 250 units in a GRM
 - At least 350 units in an Enhanced Area
 - At least 600 units in any other eligible Incentive Area



Commercial projects

- ▶ At least 20 percent of any residential units are for low- and moderate-income households
- ▶ At least:
 - **500,000 square feet** of new or substantially renovated commercial, industrial, or residential space, or
 - **250,000 square feet** of film production space
- ▶ No more than **50 percent of space for retail**

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