EMERGE PROGRAM

FREQUENTLY ASKED QUESTIONS

Updated 5/17/2022

These questions and answers are meant to provide guidance regarding number of questions often asked. This information does not constitute legal or accounting advice. Please see the Legislature enacted the New Jersey Economic Recovery Act of 2020, P.L. 2020, c. 156 as amended by P.L. 2021, c. 160, establishing the "Emerge Program Act," Sections 68 through 81 of P.L. 2020, c. 156 (the "Act") to encourage economic development, job creation and the retention of significant numbers of jobs in imminent danger of leaving the State of New Jersey; and the Act and regulations implementing the Act, N.J.A.C. 19:31-22.1 et seq. ("Regulations"), set forth the criteria under which the Company is eligible for the grant of tax credits for further guidance.

If you have any questions or need clarification on any of these questions or answers, please email your request to emerge@njeda.com.

SUMMARY:

The Emerge Program created under the New Jersey Economic Recovery Act (ERA) of 2020, P.L. 2020, c. 156 as amended by P.L. 2021, c.160, encourages economic development in Governor Murphy's priority sectors and in targeted communities across the New Jersey. The program provides per-job tax credits to projects that invest private capital into the state and create new good-paying jobs or retain a significant number of good-paying jobs (see Jobs Section for minimum requirements).

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SECTION 1 - GENERAL & DEFINITIONS

Q: What is the Emerge Program?

A: The Emerge Program is a job-based tax credit program which was established under the New Jersey Economic Recovery Act of 2020, P.L. 2020, c.156 to encourage economic development, targeting the Governor's priority sectors through job creation and the retention of significant number of jobs in New Jersey versus an out of state alternative location. It provides tax credits per job, per year, for up to 7 years to incentivize companies to invest in projects that create new high-quality jobs in targeted areas within New Jersey.

Q: When could I apply online for the Emerge Program?

A: You could apply today at www.njeda.com/emerge. The Emerge program has been accepting applications since June 2021. Any business interested in applying to the Emerge program must first submit a pre-application on their project. This pre-application will allow the NJEDA to conduct an early analysis of your project and determine whether it fits the scope of the Emerge program. If there is a good fit, the Emerge program team will set up a pre-application meeting with the applicant before granting access via an online link to the full application.

Q: When does the Emerge Program expire?

A. Applications must be submitted prior to March 1, 2027

Q: What is the best way to reach out to a NJEDA Emerge team member to learn more?

A: The Authority has created multiple ways of reaching out to the Emerge team: You could fill out the **Expression of Interest** form here. Or you could email us directly at emerge@njeda.com and we will have a team member reach out to you. Our staff aims to respond to all inquiries within 5 business days or less.

Q: Is the Emerge Tax Credit program an "As-of-Right" program?

A: No, this program is not an "as-of-right" program. The Emerge Program requires a company to provide proof and demonstrate that the tax credit is a "material factor" in the decision of the project to locate in New Jersey. The Authority will use a Material Factor risk rating model as to ascertain the degree of due diligence on the applicant's claims regarding the material factor of the Emerge incentive. The goal of the model, which is explained in detail in Appendix D, is to determine whether there are reasons that this company would do this project in New Jersey without an incentive. The authority will conduct an **economic analysis across alternative site(s)** to confirm the award is a material factor using a **Cost Comparison Analysis,** where the applicant provides 3rd party documented proof or industry standards for costs.

Q: What are the requirements to be eligible for the Emerge Program?

A: To be eligible for Emerge support, a project must:

- Create a minimum of net new full-time jobs and/or minimum number of retained full-time jobs. For projects that are only new full-time jobs, a company must create at least 35 new full-time jobs. For projects that are in a targeted industry (please see full list of targeted industries here, the minimum is 25 new full-time jobs. For companies that are considered Small businesses (businesses that are in a targeted industry and has a total workforce less than 100 full-time equivalent employees and must achieve a 25 percent growth of their workforce with new full-time jobs within the eligibility period). (see Small Business section for additional information)
- Be located in a qualified incentive area (please use our mapping tool found here to determine incentive location).
- Meet the minimum capital investment requirements:
    - For the rehabilitation, improvement, fit-out, or retrofit of an existing industrial, warehousing, logistics, or research and development portion of the premises for continued similar use by the business, a minimum investment of **$20 per square foot of gross leasable area**;
    - For the new construction of an industrial, warehousing, logistics, or research and development portion of the premises for use by the business, a minimum investment of **$60 per square foot of gross leasable area**;
    - For the rehabilitation, improvement, fit-out, or retrofit of existing portion of the premises that does not qualify pursuant to subparagraph 1 or 2 of this paragraph, a minimum investment of **$40 per square foot of gross leasable area**;
    - For the new construction of a portion of the premises that does not qualify pursuant to subparagraph 1 or 2 of this paragraph, a minimum investment of **$120 per square foot of gross leasable area**;
    - A company could provide funds to make up the capital investment requirement into the Recovery Infrastructure Fund, which would benefit local communities. The Recovery Infrastructure Fund was created to provide capital investment alternative to a company, that would benefit local communities when a company needs to meet the minimum capital investment requirements of the Emerge program. In the event the business invests less than the capital investment amount required, the business could donate the uninvested balance to the

infrastructure fund. NJEDA will not allow the funds donated to the Recovery Infrastructure Fund to count towards the net benefit test or the cost benefit analysis.

- Yield a net positive economic benefit to the State of at least 400 percent of the requested tax credit. Projects in certain target areas and mega projects are subject to a lower net positive economic benefit threshold. See Appendix B: Net Benefit Analysis for further details on the methodology and calculations.
    - For projects that are located in:
        - **Government Restricted Municipalities** (Atlantic City, Paterson, Trenton) and Mega Project, the net positive benefit to the State must be at least **200%**
        - In **Distressed Municipalities or Enhanced Areas**, the net positive benefit to the State must be at least **300%**
        - In **Employment/Investment Corridors, Qualified Opportunity Zones and all "Other Eligible**" locations the net positive benefit to the State must be at least **400%**
- Ensure that at least 80 percent of incented employees' work time is spent in New Jersey and not less than 80 percent of the withholdings of new or retained full-time jobs are subject to the New Jersey Gross Income Tax Act N.J S A. 54A:1-1 et seq.
- Ensure the Qualified Business Facility can accommodate more than 50 percent of the business's new and retained full-time employees.
- Commit to stay in the State for 1.5 times the eligibility period (rounded up). Note the eligibility period can range from 1 to 7 years as determined by the applicant at the time of application. Eligibility period is the number of years a company chooses to receive an award for. The eligibility period starts once an EDA Board approved project certifies in the first tax period in which the Authority accepts certification of the eligible business that it has met the capital investment, employment, and other eligibility requirements of the program for the respective project, or the respective project phase, pursuant to N.J.A.C. 19:31-22.9(d), and extending thereafter for a term of not more than seven years. Commitment period is the number of years a company must commit to staying in the State which is 1.5 times the eligibility period or greater if the company chose to extend up to 20 years.
- Demonstrate that the award of the tax credit is a "material factor" in the decision to create or retain at least the minimum number of full-time jobs. Applicants must demonstrate that they are considering a single and specific viable out-of-state location as compared to a specific NJ site. The NJEDA will review detailed financial information about the project to verify the award of tax credits is a "material factor" in the business's decision to create or retain jobs in New Jersey. The authority will also use the Material Factor risk rating model as to ascertain the degree of due diligence on the applicant's claims regarding the material factor of the Emerge incentive (additional details can be found here.
- Ensure the project median salary is a minimum of 70% of the county median wages
- Offer Health benefits

DEFINITIONS

The definitions below may not include the entire definition for the terms as are provided in the Emerge program rules. Please refer to N.J.A.C. 19:31-22.2 for complete definitions of the terms below.

Q: What is "Aviation district"?

A: "Aviation district" means all areas within the boundaries of the Atlantic City International Airport, established pursuant to section 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation Administration William J. Hughes Technical Center and the area within a one-mile radius of the outermost boundary of the Atlantic City International Airport and the Federal Aviation Administration William J. Hughes Technical Center.

Q: What does "Board" refer to?

A: "Board" means the Board of the New Jersey Economic Development Authority, established by section 4 of P.L.1974, c.80 21 (C.34:1B-4).

Q: What does "building services" mean?

A: "Building services" means any cleaning or routine building maintenance work, including but not limited to sweeping, vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse or trash, window cleaning, securing, patrolling, or other work in connection with the care or securing of an existing building, including services typically provided by a door-attendant or concierge. "Building services" shall not include any skilled maintenance work, professional services, or other public work for which a contractor is required to pay the "prevailing wage" as defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

Q: What does Capital Investment mean for the Emerge program?

A: "Capital investment" means expenses that a business or an affiliate of the business incurs, or is incurred on behalf of the business or affiliate by its landlord, following its submission of an application to the authority pursuant to section 72 of P.L.2020, 7 c.156 (C.34:1B-340), but prior to the project completion date, as shall be defined in the project agreement, for: a. site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; b. obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods subject to bonus depreciation under sections 168 and 179 of the federal

Internal Revenue Code (26 15 U.S.C. ss.168 and 179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property; or any combination of the foregoing.

Q: What is a Commitment period?

A: Commitment period is a period of 1.5 times the eligibility period specified in the project agreement rounded up, that a business must maintain the project at a location in New Jersey with at least the minimum number of full-time jobs, salaries, and withholdings required by the rules at N.J.A.C. 19:31-22.14(a)(b) and (c). For example, if you selected seven years for your eligibility period, your commitment period will be seven multiplied by 1.5, which equals 10.5 years, rounded up to 11 years. Applicants can elect to extend their commitment period beyond the minimum to increase their calculated net positive economic benefit to the State (for example, to meet minimum program requirements or to potentially increase award size). Commitment periods can be extended up to a maximum of 20 years if an applicant provides evidence, such as a lease, to the NJEDA that it intends to keep the project in the State for a longer period of time). A business electing a period of extended commitment and failing to maintain the project through the expiration of that extended commitment period shall be obligated to repay a proportion of the incremental benefits received on account of having extended the commitment period.

Q: What does Industrial premises or industrial space mean?

A: "Industrial premises" or "industrial space" means premises or space in which at least 51 percent of the square footage will be or has been used for the assembling, processing, manufacturing, or any combination thereof, of finished or partially finished products from materials or fabricated parts, including, but not limited to, factories or as a warehouse if the business uses the warehouse as part of the chain of distribution for products assembled, processed, manufactured, or any combination thereof, by the business at the qualified business facility; for the breaking or demolishing of finished or partially finished products; or for the production of oil or gas or the generation or transformation of electricity.

Q: What does Industrial use mean?

A: "Industrial use" means assembling, processing, manufacturing, or any combination thereof, of finished or partially finished products from materials or fabricated parts; the breaking or demolishing of finished or partially finished products; or the production of oil or gas or the generation or transformation of electricity. "Industrial use" includes farming purposes as that term is defined under 26 U.S.C. s.6420(c)(3)(A), undertaken in an industrial space.

Q: What is the purpose of an Infrastructure Fund which is also referred to as Recovery Infrastructure Fund?

A: The Recovery Infrastructure Fund was created to provide capital investment alternative to a company, that would benefit local communities when a company needs to meet the minimum capital investment requirements of the Emerge program. In the event the business invests less than the capital investment amount required, the business could donate the uninvested balance to the infrastructure fund. NJEDA will not allow the funds donated to the Recovery Infrastructure Fund to count towards the net benefit test or the cost benefit analysis.

Q: What is considered a Mega Project?

A: A Mega Project must meet **all** the following requirements in addition to the Emerge program eligibility requirements:

- 500 or more new full-time jobs
- Has at least $50,000,000 of eligible capital investment
- A project in a targeted industry and
- Must be an industry leader by catalyzing a new sub-industry or industry cluster within the State or making an industry leading investment in a new technology or high-growth sub-industry level

Q: What is a Qualified business facility?

A: A building, structure, and/or complex of buildings, used in connection with the operation of a business identified for the Emerge tax credit program, that is not engaged in final point of sale retail business at that location (except for qualifying “tourism destination projects” located in certain portions of Atlantic City).

Q: What is a qualified incentive area?

A: As a part of eligibility for the Emerge program, a project must be located in a qualified eligible incentive location, which are defined as a Government-restricted municipality, enhanced area, distressed municipality, employment/investment corridor, qualified opportunity zone, and other eligible areas. The Authority has developed a custom mapping tool to provide more clarity to potential applicants as to which of the aforementioned eligible incentive locations the proposed project falls within. These designated zones can be found here.

Q: What is an Affiliate?

A: An entity that directly or indirectly controls, is under common control with, or is controlled by, the business. Control exists in all cases in which the entity is a member of a controlled group of corporations, as defined pursuant to section 1563 of the Internal Revenue Code of 1986 (26 U.S.C. § 1563), or the entity is an organization in a group of organizations under common control, as defined pursuant to subsection (c) of section 414 of the Internal Revenue Code of 1986 (26 U.S.C. § 414). NJEDA will consider the applicant /affiliate relationship in the Emerge program application relative to contributing financing, capital investment and/or jobs.

Q: What does retained full-time job mean?

A: "Retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee.

Q: What does "at-risk retained full-time" job mean?

A: "At risk, retained full-time job" means an eligible position that currently exists in New Jersey and is filled by a full-time employee but which, because of a potential relocation by the business is at risk of being lost to another state or country.

Q: What are the Targeted Industries?

A: "Targeted industry" means any industry identified from time to time by the authority which shall initially include advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-retail food and beverage businesses including food innovation, and other innovative industries that disrupt current technologies or business models. A full list and definitions can be found on www.njeda.com/emerge.

Section 2 - Eligibility

Q: Do I have to pay my employees minimum wage to be eligible for the program and bonuses?

A: To be considered for bonuses under the program, a company must pay their employees at least $15/hr. or 120 percent of the existing minimum wage fixed under N.J.S.A. 34:11-56a4. This includes but is not limited to bonuses. In addition, the company must pay at least 70% of the County median salary for their employees based on the county location of the Qualified Business Facility.

Q: Are retained full-time jobs awarded the same as new full-time jobs?

A: No, retained full-time job are to be awarded tax credits of 50 percent of the value of tax credits for new full-time job. Only projects that meet the minimum requirement of retained at-risk jobs are eligible to have retained jobs incentivized. See job requirements on www.njeda.com/emerge to determine the number of minimum retained jobs based on location and project.

Q: Are there any minimum county median salary requirements for the Emerge Program?

A: Yes, if the proposed project is expected to create or retain jobs with median salaries that are below the existing median salary within a county (or within a municipality for projects located in government-restricted municipalities), the total per-job, per year awards will be reduced by the percentage equal to the differential between the two median wage values. The Authority will not make any tax credit awards for jobs that have a proposed project median wage below 70 percent of the existing county (or government-restricted municipality) median wage. The existing county median wage information can be found on the Emerge Mapping Tool at www.njeda.com/emerge.

Q: Do all my employees have to work in the qualified business facility to be eligible for the incentive?

A: All incentive employees do not need work out of the qualified business facility, but the Company has to ensure the Qualified Business Facility can accommodate more than 50 percent of its new and retained full-time employees, ensure that at least 80 percent of incented employees' work time is spent in New Jersey and that not less than 80 percent of the withholdings of new or retained full-time jobs are subject to the New Jersey Gross Income Tax Act N.J.S.A. 54A:1-1 et seq. Incentive employees that are not at the Qualified Business Facility the majority of their work time would be awarded at the lowest base award of $500 and would not be eligible for any specific location based bonuses such as, but not limited to, LEED bonus, excess of capital investment bonus for industrial or R&D and other site or location base bonuses.

Q: Do professional employer organization (PEO) employees count as eligible full-time employees as defined by Emerge?

A: Yes, they do. A, "Full-time employee" means a person who is employed by a professional employer organization pursuant to an employee leasing agreement between the business and the professional employer organization, pursuant to P.L.2001,c.260 (C.34:8-67 et seq.) for at least 35 hours a week, or who renders any other standard of service generally accepted by custom or practice as full-time employment, and whose wages are subject to withholding as provided in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq." And they are offered health benefits. All professional employer organization (PEO) should be approved by the State Labor department. See NJ Labor Department's website for a list of approved professional employer organization (PEO).

Q: Do I need an alternative state location to qualify for the Emerge program?

A: Yes, the Emerge program requires that tax credits must be a material factor in the business's decision to locate the project in the State. NJEDA must conduct an economic analysis across alternative sites to confirm the award is a material factor (Cost Comparison Analysis). All proposed costs must be validated with third party documentation.

Q: How do I know if my business qualifies as a targeted industry?

A: Targeted industries and examples as defined by Emerge can be found on Appendix C – Emerge Board Memo - "Targeted Industries". There are three ways to be classified in a targeted industry:

1) Applicant's project is part of a targeted industry as defined by the rules.

2) Applicant's core business is defined to be in a targeted industry.

3) Applicant's parent company's business is defined to be in a targeted industry.

Q: What is Prevailing Wage, and does it apply to my project?

A: Each worker employed to perform construction work or building services work at the qualified business facility shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of the Department of Labor and Workforce

Development pursuant to P.L. 1963, c. 150 (N.J.S.A 34:11-56.25 et seq.) and P.L. 2005, c. 379 (N.J.S.A. 34:11-56.58 et seq.).

The payment of prevailing wage in this paragraph shall not apply if:

(1). The work performed under the contract is performed at a qualified business facility owned by a landlord that is not a business receiving authority assistance;

(2). The landlord is a party to the construction contract, building services contract, or both; and

(3). The qualified business facility constitutes a lease of less than 35 percent of the entire facility at the time of contract and under any agreement to subsequently lease the qualified business facility.

In accordance with section 1 of P.L. 1979, c. 303 (N.J.S.A. 34:1B-5.1), the payment of prevailing wage is not required for construction commencing more than two years after the Authority has issued the first certificate of compliance pursuant to paragraph (2) of subsection a. of section 77 of P.L. 2020, c. 156 and N.J.A.C. 19:31-22.10(d).

The payment of prevailing wages for building services work shall apply for the duration of the commitment period.

Q: What are eligible capital investment relative to the Emerge Program?

A: Expenses that a business or an affiliate of the business incurs or is incurred on behalf of the business or affiliate by its landlord, which may be demonstrated through an executed letter of intent or lease, following its submission of an application to the NJEDA but prior to the project completion date as defined in the agreement for such things including but not limited to : a. site preparation and construction, repair, renovation, improvement, equipping, or furnishing on real property or of a building, structure, facility, or improvement to real property; b. obtaining and installing furnishings and machinery, apparatus, or equipment, including but not limited to material goods subject to bonus depreciation under sections 168 and 179 of the federal Internal Revenue Code (26 U.S.C. sections 168 and 179), for the operation of a business on real property or in a building, structure, facility, or improvement to real property; or any combination of the foregoing.

Q: What is a small business?

A: Emerge defines a small business as a business that is engaged primarily in a “targeted industry” and has less than 100 total full time equivalent (FTE) employees at application.

Q: How would I calculate my minimum capital investment, if my building includes both industrial and office space?

A: If your qualified business facility includes industrial, R&D and office space, we will ask for a floor plan with the estimated square foot for each space to determine the aggregated minimum Capital Investment. If there are multiple buildings in different municipalities, then each building would have to meet the minimum investment for each portion. Our Emerge calculator tool, found here, could assist with providing an estimate of minimum capital investment.

Q: Can I count the purchase price of a building as eligible capital investment?

A: No, the building acquisition is not allowed as an eligible capital investment.

Q: Is there an alternative if a company cannot meet the capital investment requirement?

A: Yes, a company could provide funds to make up the capital investment requirement into the Recovery Infrastructure Fund, which would benefit local communities.

Q: What are the minimum number of new jobs to be eligible for the program?

A: For a small business that is defined as a business under 100 FTE and in a targeted industry, the business must grow its workforce by 25% by the end of the eligibility period according to the growth plan provided at the time of application and board approval.

- For a business engaged primarily in a targeted industry which does not qualify as a small business, they must create 25 new full-time jobs by the time of certification.
- For any other business, a business must create a minimum of 35 new full-time jobs by the time of certification.
- For a business eligible for new full-time jobs, the business shall also be eligible for retained full-time jobs in addition to the new full-time jobs if the business will retain 150 retained full-time jobs when locating in a government-restricted municipality, 250 retained full-time jobs when locating in a qualified incentive tract or enhanced area municipality, or 500 retained full-time jobs when locating anywhere else in the State. These eligible incented areas could be found using our Emerge mapping tool found here.

Q: Do Independent contractors and consultants count as full-time employees?

A: "Full-time employee" shall not include any person who works as an independent contractor or on a consulting basis for the business or a contract worker whose income is subject to withholding, as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., except that any person working as an independent contractor or contract worker whose income is subject to withholding, as provided in the New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., for the business shall be deemed a full-time employee if the business demonstrates to the Authority that:

The person working as an independent contractor or contract worker for the business works at least 35 hours per week or renders any other standard service generally accepted by custom or practice as full-time employment;

The person is provided, at the date of initial engagement, as evidenced by documentation acceptable to the Authority, employee health benefits under a health benefits plan authorized pursuant to State or Federal law;

The business provides documentation to the Authority to permit the Authority to verify the compensation paid to, the withholdings of, and the time worked by, the person working as an independent contractor or contract worker; and

The business shall provide to the Authority an annual report that identifies the number of persons working as independent contractors or contract workers for the business and their contractual or partnering relationship with the business.

Q: If I am an existing NJ Business considering leaving the state, can I count my existing employees as retained?

A: For projects located in a Government-restricted municipality, enhanced area or a qualified incentive tract the business must have at least 500 retained jobs for those jobs to be eligible for the incentive, For projects in all other areas, the business must have at least 1000 retained jobs, for those jobs to be considered eligible.

These eligible incented areas could be found using our Emerge mapping tool found here.

Q: Which municipalities are the Government-restricted municipality?

A: Government-restricted municipalities are Atlantic City, Paterson, and Trenton. To see if your project is in an eligible incentive location, visit the Emerge mapping tool at njeda.com/emerge

Q: What are eligible soft costs as it relates to minimum capital investment requirements?

A: All costs associated with financing, design, engineering, legal, or real estate commissions, provided they do not exceed 20 percent of total capital investment, including but not limited to, architect fees, permit fees, loan origination and closing costs, construction management, installation costs, freight and shipping delivery, and permanent signage.

Q: What are ineligible soft costs as it relates to minimum capital investment requirements? What about direct staff/employee costs?

A: Examples of ineligible soft costs are early lease termination costs, air fare, mileage, tolls, gas, meals, packing material, marketing, temporary signage, consultant fees, Authority fees, loan interest payments, escrows, or other similar costs. Salary and payroll expenses would not be counted as soft costs.

Q: Does a retention project need to take place in an Incentive Area to be eligible for the NJ Emerge?

A: Projects based on job retention must show that the minimum number of retained jobs is 500 in certain more highly distressed areas of the State and 1,000 in all other eligible incentive areas.

Q: A portion of my project consists of a point-of-sale retail facility. Is that portion eligible for Emerge tax credits?

A: No. A project that consists solely of final point-of-sale or point-of-service retail facilities shall **not** be eligible for a grant of tax credits. If a project consists of both final point-of-sale retail facilities and non-retail facilities, only the portion of the project consisting of non-retail facilities shall be eligible for a grant of tax credits. If a warehouse facility is part of a final point-of-sale retail facility and supplies only that facility, the warehouse facility shall not be eligible for a grant of tax credits.

Q: Can my award amount reflect multiple eligible bonuses?

A: Yes, multiple bonuses can be applied to your total award, but only up to the max award per job, per year for the respective location / project type.

Q: Is a business who has previously entered into an NJ Incentive agreement eligible to apply for NJ Emerge?

A: The Authority shall not enter into an incentive agreement with a business that has previously received incentives administered by the Authority unless the capital investment incurred and new or retained full-time jobs pledged by the business in the new incentive agreement are separate and apart from any capital investment or jobs underlying the previous award of incentives. That business must also be in god standing with their current incentive award.

Q: I am having trouble obtaining a tax clearance through the PBS (Premier Business Services) portal. Who should I contact for assistance?

A: Any entity that encounters issues acquiring Tax Clearance Certificates should contact the Division of Taxation by emailing BusinessAssistanceTC.Taxation@treas.nj.gov or by calling the Business Assistance Clearance Unit at 609.292.9292..

Q: Could a business lose their Emerge Tax Credit if they do not meet their minimum job requirement?

A: If, in any tax period, the number of full-time employees employed by the eligible business subject to the project agreement, or the salaries thereof, drops below 80 percent of the number of new and retained full-time jobs, and the salaries thereof, specified in the project agreement or the project phase agreement, then the eligible business shall forfeit its tax credit amount for that tax period and each subsequent tax period, until the first tax period for which documentation demonstrating the restoration of the number of full-time employees employed by the eligible business subject to the project agreement to 80 percent of the number of jobs specified in the project agreement or project phase agreement or the restoration of 80 percent of the salaries specified in the project agreement is reviewed and approved by the authority.

SECTION 3 – COMMUNITY BENEFITS AGREEMENT

Q: What is a Community Benefits Agreement?

A: The agreement between, the eligible business, the municipality or county and the authority pursuant to N.J.A.C. 19:31-22.9(c) for projects with total project costs of $10M or more. The agreement may include requirements for training, employment, youth development, and free services to underserved communities in and around the community in which the qualified business facility is located.

Q: Could the municipality request the Chief Executive of the applicable County to lead the community benefits agreement work?

A: The Chief Executive of the municipality could request the Chief Executive of the County, in which the qualified business facility is located in, to enter into the community benefits agreement with the Authority and the business instead of the municipality entering into the agreement.

Q: Is there a minimum or maximum investment in relation to the community benefits agreement and does the NJEDA have to approve?

A: There is no set minimum or maximum. The Municipality / County will set up at least one community engagement session and will negotiate the agreement directly with the business. The NJEDA will not be a part of the negotiations, but the Authority will review the agreement for compliance with the applicable rules prior to executing the agreement. The agreement shall list all the contributions by the business including the monetary equivalent for any non-monetary contributions.

Q: I understand the Municipality/County need to set up to present the Community Benefits Agreement - How many community engagement sessions are required and what is my role as an applicant business to make sure this happens?

A: The governing body of the municipality or county must hold at least one public hearing subject to the Open Public Meetings Act, to get feedback from the local residents, community groups and other stakeholders on the needs of the community that the agreement should address. The chief executive's department or office, shall provide a record, including hearing minutes, satisfactory to the Authority, which shall be an exhibit to the community benefits agreement.

Q: Who can appoint members to the Community Advisory Committee?

A: The chief executive of the municipality or, if the county is executing the agreement, the chief executive of the county shall appoint the members of the community advisory committee.

Q: How many members of the Community Advisory Committee are required to monitor the Community Benefit Agreement's implementation?

A: The Community Advisory Committee is required to have at least three members to monitor the agreement's implementation. Minimum of one representative for projects that are new construction or substantial rehabilitation should be from the following:

- One from the local business community
- One from the community group
- One local resident

For projects that are not new construction or substantial rehabilitation, the community advisory committee shall be determined by the chief executive of the municipality, or if the county is executing the agreement, the chief executive of the county.

Q: How often does the Community Advisory Committee need to report on the Company's progress of the agreement to NJEDA?

A: The Community Advisory Committee will report out on the progress to NJEDA once a year on the implementation of the agreement, the monitoring successes and ensure compliance.

Q: What are the steps if a company is not in compliance with the agreement?

A: NJEDA will either serve as a mediator or identify a mediator to find a resolution. The company, the community advisory committee along with the municipality or county will enter into a non-binding mediation to seek resolutions or mutually agreeable amendments to the community benefits agreement within 60 days of the notice from the Authority of the person who will serve as a mediator. If they can't get to a resolution, then the next steps will be assigning a hearing officer who will review the written record and possibly hold an in-person hearing. The hearing officer shall issue a written report to the Authority's Chief Executive Officer containing his or her finding(s) and recommendation(s). The company, municipality, or county, and the community advisory committee shall receive a copy of the written report of the hearing officer and shall have the opportunity to file written comments and exceptions to the hearing officer's report. Based on that review, the Chief Executive Officer shall make a determination of compliance or non-compliance. The process described here and in the rules at N.J.A.C. 19:31-22.9(c) is not a contested case subject to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Q: Could a business lose their Emerge Tax Credit if they are out of compliance with the Community Benefits Agreement?

A: If a business does not comply, then the amount of tax credits for the business during the relevant tax period could be reduced or forfeited for each year they are out of compliance with the Community Benefits Agreement.

Q: If a business has a redevelopment agreement with the municipality, could they submit that instead of the Community Benefits Agreement?

A: The Business could submit a copy of their eligible business redevelopment agreement or the Authority's approval letter that is certified by the chief executive of the municipality instead of entering into a Community Benefits Agreement.

Q: When does a business need to submit a Community Benefits Agreement?

A: The eligible business and the municipality or county shall have 6 months, with two three-month extensions, after board approval of the business's application, to enter into a community benefits agreement.

Q: What is the process to request an extension on the Community Benefits Agreement?

A: The Business must submit the extension request on company letterhead (not from the consultant) and cite the reasons for the delay.

Section 4 – Calculation of Award:

Q: How could I calculate or run scenarios for an Emerge Tax Credit Award?

A: The Authority has created an Emerge Calculator (https://www.njeda.com/emerge/award-size-calculator/) as a tool to help entities in calculating a possible Emerge Tax Credit award. The calculator provides estimates of potential Emerge tax credit awards based on inputs entered in by the user. Users can adjust their inputs to understand how different project characteristics impact potential award sizes.

This calculator is not a guarantee of a tax credit award. It does not confirm that a project meets the program eligibility and bonus criteria requirements. It also does not take into account assessments of the cost gap between the New Jersey Project and an alternative site and the NJEDA's inducement policy.

Estimates from this calculator are not formal offers or approvals of an Emerge tax credit. All awards must be approved the NJEDA Board, and all applications for tax credits are subject to verification of assumptions on job creation, retention, capital investment, and the applicant's ability to meet applicable bonus criteria.

Section 5 – FEES:

Q: Are there any fees associated with applying for the Emerge Tax Credit?

A: The pre-application which is the first step in the application process does not have any fees. The pre-applications assist the Emerge team to assess the project for eligibility and to help understand the proposed project. Once the Emerge team finishes the review of the pre-application and conducts the pre-application meeting, a full application link will be sent to the applicant. The non-refundable application fee will be due at the time of full application submission based on the project job numbers. The full set of non-refundable fees are listed below:

Project Fee Inputs	Small projects (1-99 Jobs)	Medium projects (100-249 Jobs)	Large projects (250+ Jobs)	Mega projects
Applications Fees	$5,000	$10,000	$15,000	$25,000
Approval Fee	$10,000	$75,000	$165,000	$250,000
Tax Credit Certificate Issuance Fee	$10,000	$100,000	$200,000	$300,000
Annual Servicing Fee	$5,000	$25,000	$60,000	$90,000
Tax Credit Transfer Certificate (initial request)	$5,000	$10,000	$15,000	$20,000
Tax Credit Transfer Certificate (additional request)	$2,500	$5,000	$7,500	$10,000
First Six-month Extension	$5,000	$10,000	$15,000	$20,000
Subsequent Extension	$7,500	$15,000	$25,000	$30,000

Administrative Change, Additions, or Modification to the Tax Credit

Modification	Small projects (1-99 Jobs)	Medium projects (100-249 Jobs)	Large projects (250+ Jobs)	Mega projects
Minor	$2,500	$5,000	$7,500	$10,000
Major (Board Approval)	$7,500	$15,000	$25,000	$35,000

Existing Incentive Agreement Termination*

Modification	Small projects (1-99 Jobs)	Medium projects (100-249 Jobs)	Large projects (250+ Jobs)	Mega projects
Minor	$2,500	$5,000	$7,500	$10,000
Major (Board Approval)	$7,500	$15,000	$25,000	$35,000

Section 6 – NON-DISCLOSURE AGREEMENT (NDA)

Q: I would like to keep my company information confidential, does NJEDA sign a Non-disclosure agreement?

A: The NJEDA could sign an NDA when a company is seeking information on our programs and wants to keep their company name and information confidential. The Authority will only sign the approved NJEDA standard NDA without any modifications or changes. All disclosures are reviewed by NJEDA's legal department to ensure that the NDA is not altered and meets the approved standards set forth by the NJ Attorneys General's Office. Our NDA can be downloaded here. NJEDA is an authority of the State of New Jersey which is subject to the N.J. Open Public Records Act (N.J.S.A. 47:1A-A et. Seq.) A copy of the act is made available at http://www.state.nj.us/grc/act.html. The approved NDA form could be found online at www.njeda.com/emerge under the "FORMS" tab.