

New Jersey Re-assigning In-State Employees (NJ RISE) Program



On July 21, 2023, Governor Phil Murphy along with the NJ State legislature approved PL 2023, C.125, a pilot grant program, to be administered by the New Jersey Economic Development Authority, to issue awards to businesses principally located outside New Jersey who re-assign New Jersey residents that are currently assigned to work in a "State with Convenience of the Employer Income Taxation" to work in New Jersey locations.

NJ RISE's goal is to increase New Jersey's Gross Income Tax Withholdings by encouraging eligible businesses to re-assign their out of state New Jersey resident employees to New Jersey by issuing an incentive based upon on the employee's withholdings.



- “Business Principally Located In Another State” means a business that has a primary place of business outside of New Jersey, as determined by the Authority, in its sole discretion, which may consider factors such as revenue size, job count, customer base, square footage, and the location of the actual seat of management or control of the corporation.
- “Employee” means a person who is employed by a business in the United States for consideration. An “Employee” shall also include a person who is employed pursuant to an employer leasing agreement in accordance with N.J.S.A. 34:8-67 et seq. between a business and a professional employment organization. “Employee” shall not include any person who works as an independent contractor or on a consulting basis for the business.
- “Full-Time Employee” means an Employee who is employed for consideration for at least 35 hours a week.
- “Grant Award Cap” means the maximum amount of the award at approval and stated in the grant agreement.
- “Re-assigned Employee” means a Resident Employee that before application is assigned to a location in a State With Convenience Of The Employer Income Taxation and after approval is assigned to a location in New Jersey. “Re-assigned Employee” shall not include any Resident Employee Assigned to a location in a State With Convenience Of The Employer Income Taxation within three months prior to the date of the completed application absent the Authority’s acceptance of satisfactory documentation submitted by the business to demonstrate a bona fide assignment.



Definitions (continued)

- “Resident Employee” means a Full-Time Employee or part-time employee who is a New Jersey resident taxpayer.
- “State With Convenience Of The Employer Income Taxation” means a state that imposes an income or compensation tax that requires employee compensation to be sourced to an employer’s location if the nonresident employee renders the personal services from an out-of-state location for the convenience of the nonresident employee and not due to the necessity of the employer, excluding any state with a reciprocal agreement with New Jersey concerning the taxation of income.
- “Withholdings” has the same meaning as that used in N.J.S.A. 54A:7-1 to -7 and N.J.A.C. 18:35-7.1 to -7.11 and, for purposes of this program, will be determined by the Division of Taxation.



Business Eligibility

- The business has 25 or more Full-Time Employees.
- The business must submit a completed application to the EDA on or before July 1, 2028.
- The business is a Business Principally Located In Another State.
- Must be in substantial good standing with the New Jersey Department of Labor and Workforce Development (LWD) and the New Jersey Department of Environmental Protections (DEP).
- Re-assigned Employees may include Full-Time and part-time Employees but not independent contractors or individuals working on a consulting basis for the business.
- A current tax clearance will need to be provided at application and maintained through disbursement to demonstrate the applicant is properly registered to do business in New Jersey and in substantial good standing with the New Jersey Division of Taxation.

Employee Eligibility – Employee must be New Jersey resident currently assigned to a location outside of New Jersey.



Submission Requirements

- Evidence that the applicant is a Business Principally Located In Another State.
- Evidence that the applicant has 25 Full-Time Employees., e.g. Form 941.
- Job log of Resident Employees that are currently assigned to a location in a State with Convenience Of The Employer Income Taxation that the applicant proposes to be Re-assigned Employees, with estimated future New Jersey Withholdings.
- Evidence to demonstrate that the proposed Re-assigned Employees are Resident Employees that are currently assigned to a location in a State With Convenience Of The Employer Income Taxation and will be Re-assigned Employees, which shall include but not be limited to:
 - a) Payroll report(s) from the business
 - b) Documents demonstrating viability of each Re-assigned Employee's work location in New Jersey
 - c) Proof of the business's Withholdings from the prior quarter to confirm that each proposed Re-assigned Employee is assigned to a location outside of New Jersey in a State With Convenience Of the Employer Income Taxation, e.g. document equivalent to New Jersey's WR-30. If hired during that quarter, documentation to demonstrate bona fide assignment.
 - d) W-3 for the relevant fiscal year.



Submission Requirements (continued)

- Selection by the business of the business's tax year for reimbursement of Withholdings, which shall be either the tax year of application or the following tax year. The selected tax year will apply to all Re-assigned Employees associated with the grant.
- A NJEDA CEO Certification form signed by the chief executive officer, or equivalent officer for North American operations, stating that the business applying for the program is not in default with any other program administered by the State of New Jersey, and that the officer has reviewed the application information submitted and that the representations contained therein are true and accurate, under the penalty of perjury.
- Indication whether any new work location(s) in New Jersey for Re-assigned Employees will require construction or renovation for the purpose of affirmative action and prevailing wage requirements, if applicable.
- Any other necessary and relevant information as determined by the Authority for a specific application.
- Review of completed applications will be done on a rolling basis without any preference, with delegated authority as described in the board memo.
- A business may submit multiple applications, including within one tax year. Each application must be for Resident Employees not included in any other active incentive.
- Approval will be made for a Grant Award Cap based on estimated Withholdings of proposed Re-assigned Employees.



Restrictions

- The value of all grants to the business under the program shall not exceed \$500,000.
- No grant may be based upon a Resident Employee for which a business has an active EDA incentive.
- A business's application is identified by EIN. Affiliates with different EIN numbers will not be included in the same application and can apply for separate grant awards.
- The Authority will not award more than the sum of \$35 million in any State fiscal year, and the Authority will not approve more than the amount of appropriation it has received from the Legislature.





| Application Fees

Application Fee: \$5,000

Administrative Fee: \$1,000

Administrative fee will be charged for routine updates to customer files such as company name changes and redesignations as a result of an internal reorganization and for extensions. Modifications that will not be accepted include mergers, acquisitions, spin-offs, separations, and divestitures.

*All fees are non-refundable, unless funds are not available to support the application request.



| Grant Agreement

Upon approval, the authority shall send a grant agreement which will include, at a minimum:

- The grant amount is equal to the New Jersey Gross Income Tax Withholdings of Re-assigned Employees subject to the Grant Award Cap
- The minimum number of Re-assigned Employees. The minimum number of Re-assigned Employees will be the number of Re-assigned Employees whose Withholdings add up to at least one half of the Grant Award Cap
- A provision that no modifications will be allowed, except for certain administrative changes (as described in the memorandum). The business may replace previously proposed Re-assigned Employees if it submits the information required in the Application section for the original Re-Assigned Employees; such replacement shall not be considered a modification and shall be subject to the Grant Award Cap
- A provision that payment under the grant agreement is subject to appropriation and that payment shall be made solely to the grantee and not to any professional employment organization that may be a co-employer of Re-assigned Employees
- The requirement that absent extenuating circumstances and the written approval of the Authority, CPA Certifications are due 120 days after the completion of the tax year that the business has selected for reimbursement. The CPA Certification shall include a certification regarding the Re-assigned Employees by an independent CPA based on staff created "agreed upon procedures" and other documentation and certifications from the business as is consistent with other Authority job-based incentive programs



| Grant Agreement (continued)

- A provision that, upon staff's satisfactory review and acceptance of the CPA Certification the business will be paid 75% of the estimated Withholdings
- A provision that, upon the Division of Taxation's certification of the actual amount of Withholdings of the Re-assigned Employees, the business will be paid the remainder of the certified amount of Withholdings, not to exceed the Grant Award Cap
- Recapture provisions in the event of overpayment and an event of default and full repayment for any material misrepresentation
- The grant agreement will not require a compliance period
- Affirmative action and prevailing wage requirements, if applicable
- A provision permitting an audit of the payroll records of the business and any other evidence and documentation supporting the reports required to demonstrate the Re-assigned Employees and the estimated Withholdings from time-to-time, as the Authority deems necessary



Disbursements

- EDA will disburse 75% of the grant award based on the CPA certification with a 25% retainage that will only be released after certification by the Division of Taxation of the actual amount of Withholdings of the Re-assigned Employees. The grant agreement will require recapture in the unlikely event of overpayment.

