EO 63 Posting Update
Aspire Program 3.0

May 30, 2025

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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.

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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 3.0 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.

Legislative History

Jan 2021	Jul 2021	Nov 2021	Dec 2021	Oct 2022	Jul 2023	Nov 2023	Jan 2025
Governor Murphy Signs NJ Economic Recovery Act	Governor Murphy Signs Revisions to ERA	EDA Board Approves Aspire Program Rules and files with OAL	Rules Published in the NJ Register and public comment period begins	Expiration of rules extended one year after significant public comment	Governor Murphy signs amended Aspire legislation	New rules brought in front of EDA board for approval	Governor Murphy signs amended Aspire legislation

Aspire 3.0

- **Signed into law January 23, 2025, made various changes to the Aspire Program**
- **NJEDA held a EO 63 Listening Session on May 8, 2025, and has received feedback. The following slides show updates to the draft rules and have taken feedback from the Listening Session into account.**
  - **Original Slides can be found here:** Aspire-Program-3.0-EO63-Slides_5.8.25.pdf
  - **YouTube Link:** Aspire Rules III EO63 Listening Session

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Five-Year Eligibility Period

KEY DETAILS

- Available to eligible projects in GRMs or for Special Mission Nonprofit Projects
- Review of Reasonable and Appropriate Return on Investment will be in Year 3
- Affordability controls will remain unchanged
- Net Benefit Tests have 125% coverage for commercial projects in GRMs
- Original EO 63: Net Benefit Tests would be conducted over a 5-year period
- **UPDATE:** For commercial projects: a developer can elect to have the Net Benefit Test analyzed over a 10-year period. That election will require a 5-year compliance period, which would start following the end of the eligibility period (i.e. 5-year tail).

Sale of Buildings Analysis

Original EO 63 Provision

- The Authority will review the returns generated by the sale of the building(s) or condo(s) and how it impacts the total project return compared to the reasonable and appropriate rate of return at board approval. Should the anticipated return exceed the approved rate of return, the developer shall remit one half of the excess to the State in cash at the time of sale. The amount paid shall be kept by the State regardless of the project return at the end of the eligibility period. This will be considered a major modification. Buildings can only be sold post-project completion/certification (or phased project completion/certification)

Updated EO 63 Provision

- The Authority will review the returns generated by the sale of the building(s) or portion of building(s) and how it impacts the total project return compared to the reasonable and appropriate rate of return ("RARR") determined at Board approval. Before the sale of one or more buildings that are part of a larger redevelopment project, the Authority will review the cumulative return, which consists of the actual returns to date and the projected return through the end of the eligibility period. **If the cumulative return exceeds the RARR, the Authority shall require the developer to pay to the State a percentage of the amount in excess of the RARR, capped by the net proceeds of the sale of the building or portion of buildings and calculated by dividing the Aspire Award by the total eligible project cost.** EDA reserves the right to conduct a satisfactory review of proposed buyer.

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Sale of Buildings Analysis (cont’d)

Additional Options for Multi-phase Transformative Projects

- **UPDATE:** There are two additional options for multi-phase Transformative Projects. EDA reserves the right to conduct a satisfactory review of proposed buyer under all options.
  - **<u>1: Reinvestment of Excess Returns</u> -** If a multi-phase Transformative project reinvests 100% of the anticipated excess returns not to exceed the net proceeds of the sale back into the project, as equity to address increased cost or to replace debt as defined in the approval and agreement, **then no payment will be required.**
  - **<u>2: Escrow of Excess Returns</u>** - At the end of the eligibility period, the analysis for profit sharing will be conducted, which is: if the actual rate of return on investment exceeds the reasonable and appropriate rate of return on investment (“RARR”) at the time of Board approval by more than 15%, **the Authority shall require the developer to pay into escrow 20% of the amount in excess of the reasonable and appropriate rate of return on investment as established by law.** The balance of proceeds would be released to the developer at the end of final eligibility period.

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Sale of Buildings Analysis - Compliance

Original EO 63 Provision

- All compliance terms shall be maintained throughout the original eligibility period identified in the agreement, and shall be the responsibility of the tax credit recipient (i.e. the original developer)
- The developer recipient must retain ownership of enough of the project to maintain the project's originally-approved eligible use, including but not limited to, a "Residential", "Transformative", "SMNP", "health care facility", "Mixed-use" project and/or any other future designations as determined by the Authority

Updated EO 63 Provision

- The following will remain:
  - All compliance terms shall be maintained throughout the original eligibility period identified in the agreement, and shall be the responsibility of the tax credit recipient (i.e. the original developer)
- **UPDATE:** The recipient would not need to retain enough ownership to maintain the project's original eligible use.

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