

New Jersey Economic Recovery Act of 2020

(P.L. 2020, c. 156)

Community-Anchored Development Act At-a-Glance

(§§ 45-53)

Purpose (Section 44)	To facilitate, in partnership with the State's key not-for-profit and governmental anchor institutions, large-scale development projects with desirable employment and geographical characteristics that are to impact a broader community. Utilizing proceeds from the sale of awarded tax credits, Anchor Institutions ("AI") will be investors in and overseers of projects that EDA seeks to incentivize in order for a project to establish occupancy costs at a competitive level. The program will afford the opportunity for an AI and EDA to become partners in a project with EDA potentially receiving a negotiated current or deferred economic return on the tax credit investment made by the AI. The program also encourages AIs to invest in Opportunity Zones. The expansive nature of the program allows for the addition of other beneficial uses to a qualifying project; including housing, public amenities, parking, mixed uses, and facilities of an AI itself.
Incentive Amount (Section 51)	A base award of \$5 million in tax credits, which may be increased in the discretion of EDA up to \$75 million for any one community-anchored development; but all State resources (excluding rent payments) shall not exceed 40% of project costs.
Location	Project must be located in (i) a designated Opportunity Zone or area that qualified for such designation (OZ), (ii) in State Planning Area 1 (Metropolitan) or (iii) in a municipality with a Municipal Revitalization Index distress score of at least 50. If a project is <u>not</u> in an OZ, the project must be primarily designed to expand targeted industries. Project must result in a capital investment of at least \$10 million.
Anchor Institution (AI) (Section 45)	An AI is (1) a governmental entity or nonprofit having a primary mission and policy goals that aligns with EDA under this program, and that is (a) a comprehensive health care system, a public or private research university, a public college, a major cultural, scientific, research or philanthropic institution, or (b) an

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	experienced nonprofit or governmental economic or community development entity, and (2) that is certified as an AI by EDA.
Partner AI	An AI that partners with one or more AIs to make an equity investment in or provide a loan or financial support for project
Partner Business	A business entity that enters into an AI or Partner AI, to rent and occupy commercial space within the project.
Targeted Industry	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.
Eligibility Period	Period during which a AI or Partner AI can claim, sell or use a tax credit beginning in the tax period that EDA accepts the certification of completion and continue for 10 years.
Commitment Period	Period of time no less than 10 years and no greater than 2x the eligibility period, which may be extended by EDA for two 5-year periods in order to benefit the project. (Up to 30 years total.)
Prevailing Wage	Yes, workers and subcontractors employed to perform construction work and building services work must be paid no less than the prevailing wage rate for the worker's craft or trade. Details below under #10.
Application Must Demonstrate (Section 47) (Application Deadline is 3/1/27, Section 48)	<ol style="list-style-type: none">1. CapX and Location: Project will result in a capital investment in an OZ, or in Planning Area 1, or in a municipality with a Municipal Revitalization Index distress score of at least 50;2. Financing: Structure and terms of the financial, corporate and real estate instruments for the successful completion and operation of the community-anchored project;3. Construction has not begun: AI and any Partner Business shall not have commenced any construction on the project site prior to submitting the application unless EDA determines that the project would not be completed otherwise or the requested tax credits cover phases for which construction has not yet commenced;

- 4. Need for Tax Credits Each Year:** Value of tax credits that is necessary to finance the project for each year of the eligibility period;
- 5. Aggregate Need for Tax Credits:** Total aggregate value of the tax credits needed for the project for the entire eligibility period;
- 6. Award will be converted to an Investment:** Award of tax credits will be converted into an investment by EDA into the community-anchored project and the anticipated current and deferred returns to EDA, as applicable;
- 7. Green Building:** The community-anchored project shall comply with standards of the green building manual prepared by the Department of Community Affairs;
- 8. Affirmative Action:** The community-anchored project shall comply with EDA's affirmative action requirements;
- 9. Project Benefits:** Description of the significant economic, social, planning, employment, environmental, fiscal, and other benefits that would accrue to the State, county or municipality from the community-anchored project;
- 10. Prevailing Wage:** During eligibility period, each worker employed to perform construction and building services work at the community-anchored project shall be paid no less than the prevailing wage rate for the respective craft or trade. If the project constitutes a lease of more than 55% of a single facility, these requirements shall apply to construction work and building services at the entire facility. If the project constituted a lease of more than 35%, these requirements shall apply to the construction work of the entire facility.
- 11. Work First NJ:** During eligibility period, anchor institution shall partner with one or more local community organizations that provide support and services to Work First New Jersey program recipients;
- 12. Targeted Industries:** The extent to which the project will result in the expansion of targeted industries in the State;
- 13. Timing and Completion:** The timing of the award and investment shall allow for the successful completion and operation of the project; and

14. Credible Project: The community-anchored project is viable, the AI is a credible partner to complete the project, and producing agreed-upon potential returns to the EDA.

15. Letter of Support: A letter of support from the governing body in which the project is located. (Section 48(b)).

Project Evaluation and Net Benefits

(Section 48(c))

EDA shall develop protocols to evaluate the projected and actual returns on investment. EDA to conduct a State fiscal impact analysis to ensure that overall value of tax credits is projected to result in net benefits to the State. The AI shall pay the cost of the analysis.

State Good Standing Reports and Municipal Support

(Section 49e)

EDA shall not consider an application until the DOLWM, DEP, and Treasury have submitted a report that the AI and any Partner AI or Business Partner is in good standing.

AI and each Partner AI shall submit a letter of support from the governing body of the municipality in which the project is located.

AI and Business Partner is in good standing with the respective department or has entered into a corrective action plan.

Publication of AIs

EDA shall publish on its website the names and contacts of AIs that have submitted an application for a project.

Competitive Application Process (Section 49)

EDA shall award tax credits through a competitive application process with up to two rounds each year.

Scoring System

(Section 49)

EDA shall award tax credits through a competitive application process with up to two rounds each year.

EDA shall develop a scoring system through regulations. Prior to an award round, EDA shall determine the minimum score for an award round. There may be different criteria for projects in OZs and targeted industries. The scoring system shall include, but not be limited to, the following criteria:

1. Amount of tax credit requested compared to the overall investments required for completion, and the amount of the potential return on EDA’s investment;
2. Financial benefit of the project to the community;
3. Apprenticeships or workforce programs;
4. Ability to absorb and adapt to changing environmental conditions;

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5. Advancement of State, regional and local development and planning;
 6. Relationship of the project to comprehensive local development strategies;
 7. Promotion of job creation and economic development;
 8. Extent of economic and social distress in community;
 9. Extent of to which project provides for the development of workforce housing or special needs housing;
 10. Extent of to which project constitutes an expansion of the AI into other areas of the State;
 11. Extent to which project provides for infrastructure, parking, retail, green space or public amenities creating a mixed use project;
 12. The inclusion of a business accelerator or incubator facility;
 13. Length of commitment for the project;
 14. Quality and number of new full-time jobs at the project;
 15. Quality and number of retained full-time jobs at the project; (retained jobs given score of 1/3 of new jobs); and
 16. Diversity of AI Board of Directors.

Forfeiture of Award

If there are material misrepresentations made in the application, the AI shall forfeit the award or repay EDA the value of the tax credits.

If an award gets rescinded in the same year that it is awarded, the EDA may assign the tax credit to another applicant obtaining the minimum score.

Tax Credit Agreement

(Section 50)

1. **Conversion of tax credits** into EDA investment;
2. **Terms of return on investments to EDA current or deferred:** (a) for projects financed solely by government and nonprofit funds, the agreed upon formula shall include (but not limited to) the potential recapture of the value of the tax credits awarded; (b) for project partially financed with private funds, the agreed upon formula shall include (but not limited to) the potential recapture of the value of the tax credits awarded **plus additional return on investment**; (c) EDA's reimbursement rights are subordinate to investments may by AI and Partner Businesses; (Section 46(c))
3. **AI can distribute returns to EDA any time** during the commitment period, but must occur prior to the project being sold;
4. **Specify amounts of returns to AI** for capital reserves, programming, etc.

5. **Identify the value of any monetary or financial benefit** offered or provided by the anchor institution to any partner business to complete and operate the community-anchored project;
6. **Identify any benefits created by the AI for a partner business** through equity investment in or debt-financing of a community-anchored project and specify the formula by which such benefits are passed through to a partner business;
7. **Specify that EDA or the State may purchase tax credits offered for sale by an AI for 90%** of the stated value before considering any further discounting to present value which shall be permitted;
8. **At a minimum, require an AI to provide oversight of project** through ongoing reporting by a partner business to the AI, and subsequent ongoing reporting by the AI to EDA
9. **Specify other measures through which EDA shall ensure oversight** of outstanding tax credit investments, and, in the event that the AI fails to meet its obligations, establish the right of EDA to assume direct oversight of any or all projects for which the AI has entered into investment agreements and require the AI to pursue remedies against the partner business;
10. **At a minimum, require that the AI, and any partner businesses, adopt specific nondiscrimination policies** for the operation of a community-anchored project.

Sale of Tax Credits

(Section 52-53)

Purchase price at least 85% of face value before considering any further discounting to present value which shall be permitted. Subsequent sales permitted. The transferor, transferee, amount and type of tax satisfied by tax credit certificate shall be published on EDA website.

Subsequent sales are permitted.

Tax Liabilities

(Section 53)

Tax credits can be used to satisfy Corporate Business Tax (CBT), Insurance Premium Tax (IPT), insurance retaliatory taxes.

Project and Program Caps

Each project is subject to a cap of \$75 million, but all State resources cannot be more than 40% of project costs (excluding rents paid by State entity).

The AI Annual Program cap is \$200 million, with \$130M for northern counties, and \$70M for southern counties. Each year, EDA can reallocate uncommitted tax credits but within the same region. After 3 years, 50% of uncommitted tax credits can be

reallocated to other regions. After 6 years, 100% can be reallocated.

Overall, cap on all tax incentive programs is \$11.5 billion, with \$2.5 billion dedicated for a transformative Aspire or Emerge project.

**Annual Report and
Certificate of Compliance**
(Section 52)

Each year, AI must submit report that it is not aware of any condition that would cause the AI or partner institution to be out of compliance with the Incentive Agreement.
