



**New Jersey Economic Development Authority
New Jersey Re-Assigning In-State Employees
Pilot Grant Program
NOTICE OF FUNDING AVAILABILITY
(REVISED NOFA – DATE POSTED October 16, 2024)**

As of the date of the posting this amended NOFA, the appropriation for the NJ RISE Program is \$20 million per State Fiscal Year until 2028. All other aspects of the NJ RISE program (including eligibility criteria, details and restrictions and process) remain the same.

The New Jersey Economic Development Authority (“NJEDA” or “Authority”) will begin accepting applications for the pilot “New Jersey Re-Assigning In-State Employees” (NJRISE) Grant Program at 10:00 a.m. EST May 15, 2024. Applications will be accepted on a rolling basis until funding is committed. The application can be accessed at <https://www.njeda.gov/njrise>.

Eligible businesses must submit a completed application online to the NJEDA **on or before July 1, 2028.**

Background and Purpose

On July 21, 2023, the New Jersey State Legislature passed, and Governor Phil Murphy approved P.L. 2023, c.125, which included a pilot grant program to be administered by the New Jersey Economic Development Authority (NJEDA). On March 7, 2024, the NJEDA Board approved the creation of the “New Jersey Re-Assigning In-State Employees Program” (NJ RISE), which has been recently decreased in its appropriation to \$20 million from \$35 million for per State Fiscal Year until 2028. Grant awards shall not exceed \$500,000 per business applicant.

The NJ RISE Program will provide grants to eligible businesses that are principally located in another state to re-assign *New Jersey-resident* employees, who are assigned to work in another state that uses the “convenience of the employer income taxation” (see below discussion), to instead work at New Jersey locations. It is anticipated that the effect of the re-assignment of New Jersey residents will help ensure that a resident’s income taxes stay in New Jersey and thereby lead to increased revenue from the New Jersey Gross Income Tax.

In Chapter 125, funds were appropriated from the General Fund to the NJEDA in the sum of \$35,000,000 subject to the approval of the Director of Budget and Accounting in the Department of the Treasury. Approvals for grants in excess of the currently appropriated amount will be subject

to future appropriations and availability of funds. As mentioned, the appropriation has been decreased from \$35 million to \$20 million per each State Fiscal Year of the Program until 2028.

Convenience of the Employer Sourcing Taxation

States tax compensation in different ways. In some states, like New Jersey (with the exceptions noted below), the state taxes an employee's compensation based on the location where the work was done, regardless of whether the location is at the convenience of the employee or the employer. For instance, an employee who is assigned by the employer to work at a location in New Jersey but chooses to work at home outside of the State three days a week, will be taxed by New Jersey only for the two days the employee works in the State. The exceptions in New Jersey are due to (1) the Reciprocal Agreement between New Jersey and Pennsylvania that subjects compensation by the residents of each state to the income tax of the state of residency and (2) other limited statutory exceptions.

Other states, such as Delaware, Nebraska, and New York, implement a "convenience of the employer income taxation". Under this system, the state taxes a nonresident employee's compensation based on ("sourced to") the employer's assigned location even if the employee is working from an out-of-state location (e.g., at home in their resident state) for the employee's own convenience rather than for the necessity or convenience of the employer. For example, a New Jersey resident employee who is assigned by their employer to work at a location in a "convenience of the employer" state ("State A"), but whose employer requires them to work in New Jersey three days a week, will be taxed by State A for the compensation earned for the two days the employee is at the State A location and not for the three days the employee is in New Jersey, because the work in New Jersey is at the necessity or convenience of the employer. If, however, a New Jersey resident employee, who is assigned by their employer to work at a location in State A, instead chooses to work at home in New Jersey three days a week, State A will tax all five days of compensation as if the employee were working at the assigned State A location every day, because the decision to work in New Jersey was at the convenience of the employee.

Program Details and Restrictions

The grant award will be equal to the amount of New Jersey Gross Income Tax withholdings of the Re-assigned Employee New Jersey-resident employees during one tax year of the business, not to exceed \$500,000 in the aggregate per business. **The sum of all grants approved will not exceed \$20 million in any State fiscal year.** Additionally, the Authority will **not** approve more applications than the amount of the appropriation it has received from the Legislature.

Note: The grant award may not be based upon a New Jersey-resident employee for which the business applicant already has an active NJEDA incentive.

Eligible business must submit a completed application to the NJEDA on or before July 1, 2028.

There are no restrictions on the business' use of the NJ RISE Grant funds.

Eligibility

The following are Program eligibility requirements that must be met by Applicants:

- The business has 25 or more U.S. Full-Time Employees.
- The business is principally located in another state.
- A business's application is identified by EIN. Affiliates with different EIN numbers may **not** be included in the same application but *can apply* for separate grant awards.
- The business must be in substantial good standing with the New Jersey Department of Labor and Workforce Development (LWD) and New Jersey Department of Environmental Protection (DEP).
- Re-assigned Employees are full-time employees and part-time employees, which includes employees leased through a New Jersey Department of Labor (NJDOLE) approved professional employment organization, that are re-assigned by their employers from a place of work in a State with "Convenience of The Employer Income Taxation" to work at a location in New Jersey. Independent contractors or individuals working on a consulting basis for the business are not considered eligible employees.
- A current tax clearance will need to be provided at time of application and maintained throughout the disbursement process to demonstrate that the applicant is properly registered to do business in New Jersey and in substantial good standing with the New Jersey Division of Taxation.
- All construction contracts that the applicant enters into to meet the requirements of the Program and are equal to or greater than \$2,000, will be subject to the NJEDA's affirmative action requirements (N.J.S.A. 34:1B-5.4) and prevailing wage requirements (N.J.S.A. 34:1B-5.1).

Definitions

- "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 award approval is re-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 applicant to demonstrate a bona fide assignment.

- “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 New Jersey Division of Taxation.

Grant Amounts

The NJ RISE Grant award will be equal to the amount of New Jersey Gross Income Tax withholdings of the Re-assigned Employees during one tax year of the business, not to exceed \$500,000 in the aggregate per business. The sum of all grants approved will not exceed \$35 million per State fiscal year. **Please see below for required CPA Certification in order to receive the Grant award.**

Application Submission and Review Process

- Review of completed applications will be done on a rolling basis, with delegated authority for the NJEDA CEO to approve individual applications. Each application will be reviewed independently and in the order they were received.
- A business applicant may make changes to a completed application until approval, but no modifications may be made after approval, except as described in the fee section below.
- A business may submit multiple applications, including within one tax year. Each application must be for New Jersey-resident employees not included in any other program award.
- In the application, the business will select the tax year for reimbursement of withholdings, which shall be either the tax year of the application or the following tax year.
- Approval will be made for a grant award amount based on the withholdings estimated by the business applicant of the proposed Re-assigned Employees, **not to exceed \$500,000 in the aggregate per business.**
- Withholdings of the Re-assigned Employees will be required to add up to at least one half of the approved award amount.
- The business may replace previously proposed Re-assigned Employees if it submits the same information that was submitted at the time of application for the original Re-assigned Employees. Such replacement will not be considered a modification or an administrative change and shall be subject to the grant award.

Each application completed online must contain the following information and documents:

1. Current New Jersey Tax Clearance Certificate
2. Formation Documents

3. Certification of Non-Involvement in Activities in Russia or Belarus (see below)
4. Religious Activities questionnaire (if applicable)
5. CEO Certification verifying that all information provided is accurate
6. Employee Log Sheet 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
7. Evidence of the following:
 - Applicant is a Business Principally Located in Another State.
 - Applicant has 25 Full-Time Employees., e.g. Form 941.
8. W-3 form for the relevant fiscal year

Additional documents that will be required to be submitted during the approval process are:

- Payroll report(s) from the business
- Documents demonstrating viability of each Re-assigned Employee's work location in New Jersey
- 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.

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 award.

Grant Agreement

Once an applicant is approved for funding, the NJEDA will enter into a Grant Agreement with the applicant detailing the amount of grant funding and all financial Program requirements.

The applicant will be responsible for submitting all required supporting documents and 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 estimated withholdings, as the NJEDA deems necessary. The Grant Agreement will also include 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. The Applicant is subject to all applicable New Jersey prevailing wage and affirmative action requirements, as stated above.

Other provisions in the Grant Agreement will include:

- Payment under the Grant Agreement is subject to state appropriation and shall be made solely to the Grantee and not to any professional employment organization that may be co-employer of Re-assigned Employees;
- The requirement that, absent extenuating circumstances and the written approval of the NJEDA, CPA Certifications are due 120 days after the completion of the tax year the Grantee selected for reimbursement. Certification of a Qualified Independent Certified

Public Accountant will be made pursuant to an “Agreed Upon Procedures (AUP)” letter acceptable to the Authority, related to employment stating the number of re-assigned employees and the corresponding amount of withholdings for those employees. NJEDA will review the CPA Certification to determine acceptance and payment of 75% of the estimated withholdings;

A provision regarding the Division of Taxation certification of the amount of withholdings or the Re-assigned Employees Pursuant to the Grant Agreement, Grantees must provide the NJEDA with thirty (30) days prior written notice of any sale, assignment or other transfer of ownership of the business prior to the disbursement of the entire grant. It is in the NJEDA’s sole discretion whether or not to allow the new owner(s) to take over the grant agreement and receive the grant funds.

Legal reviews and other compliance checks will be performed on the new entities and their owners/affiliates prior to approval. If the Grantee fails to submit the required notice as stated above and does not receive prior written consent from the NJEDA, it may cure this default in accordance with the Grant Agreement. As part of the cure process, the NJEDA will perform the above discussed checks on the new owner. While the new owner is under review, the original Grantee is liable under the Grant Agreement. If the new owner is deemed eligible, the NJEDA may accept the new owner as the substitute Grantee, at the discretion of the NJEDA. If the new owner is not deemed eligible, the original Grantee will remain liable under the Grant Agreement and will be subject to any remedies made available to the NJEDA under same.

Disbursement of Funding

After the completion of the tax year selected by the business for the grant, the business must submit a CPA Certification within 120 days after the completion of the tax year and pursuant to the AUP as stated above. Upon NJEDA staff’s satisfactory review and acceptance of the CPA Certification, the business will be paid 75% of the estimated Withholdings as substantiated by the CPA Certification. Staff will submit information to the Division of Taxation, as required under Chapter 125, to certify the actual amount of Withholdings of the Re-assigned Employees. NJEDA will pay the 25% of the remaining estimated withholdings that will only be released after certification by the Division of Taxation, not to exceed the amount of the approved Grant Award. The retainage is anticipated to allow for staff to make adjustments to the payment amount without requesting repayments. As mentioned above, the Grant Agreement will require recapture in the unlikely event of overpayments.

Fees

The Application Fee for this Program is: \$5,000.

An additional administrative fee of \$1,000 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, but are not limited to, mergers, acquisitions, spin-offs, separations, and divestitures.

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

Comprehensive information about the NJ RISE Program is available at <https://www.njeda.gov/njrise/>

Additional Information

The NJEDA is subject to State and Federal statutes including, but not limited to, the following, which may impact affiliates: N.J.S.A. 52:32-60.1, et seq., which prevents the New Jersey government entities from certain dealings with businesses engaged in prohibited activities in Belarus or Russia; Compliance with the list of “Specially Designated Nationals and Blocked Persons” promulgated by the Office of Foreign Assets Control (OFAC), <https://sanctionssearch.ofac.treas.gov>; N.J.S.A. 24:6I-49 which provides that the following are not eligible for most State or local economic incentives (a) a person or entity issued a license to operate as a cannabis cultivator, manufacturer, wholesaler, distributor, retailer, or delivery service, or that employs a certified personal use cannabis handler to perform work for or on behalf of a cannabis establishment, distributor, or delivery service; and (b) a property owner, developer, or operator of a project to be used, in whole or in part, by or to benefit a cannabis cultivator, manufacturer, wholesaler, distributor, retailer, or delivery service, or to employ a certified personal use cannabis handler to perform work for or on behalf of a cannabis establishment, distributor, or delivery service; and N.J.S.A. 52:13D-12, et seq., which prohibits a member of the Legislature or a State officer or employee or their partners or a corporation in which they owns or controls more than 1% of the stock to undertake or execute any contract, agreement, sale, or purchase of \$25.00 or more, made, entered into, awarded or granted by any State agency, with certain limited exceptions.