

# The New Jersey Economic Recovery Act of 2020: NJ EDA Approves Rules to Implement Historic Property Reinvestment Program, Announces Program Application Availability and Deadline Dates

Client Alert

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## What You Need to Know

- The Historic Property Reinvestment Program will provide incentive funding for the rehabilitation and preservation of eligible historic properties throughout New Jersey.
- Awards under the program will be calculated based on a percentage of the eligible costs of rehabilitation, with the percentage dependent on both the type of project and location.
- Details regarding the availability of program applications and related deadlines **have just been announced** and potential applicants should be aware that the application process is anticipated to be highly competitive.

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The New Jersey Economic Development Authority (EDA) recently approved rules to implement the Historic Property Reinvestment Program (HPRP) created under the New Jersey Economic Recovery Act of 2020. The program is intended to incentivize the rehabilitation and preservation of historic structures and structures in designated historic districts throughout the state through the issuance of tax credits for the successful rehabilitation of historic properties.

This Alert focuses on the HPRP's eligibility requirements, funding availability, scoring criteria, post-approval process, and newly announced application details and deadlines.

## Eligibility Requirements

The HPRP is available for the rehabilitation of "Qualified Property" or "Transformative Property," defined as follows:

- A "Qualified Property" is an income producing property in the State of New Jersey that is (i) individually listed, or located in a district listed on the National Register of Historic Places, the New Jersey Register of Historic Places, or designated by the Pinelands Commission; or (ii) individually identified or registered, or located in a district composed of properties or structures and such district is identified or registered, for protection as significant historic resources in accordance with criteria established by a municipality in which the property, structure or district is located if the criteria for identification or registration has been approved by the officer as suitable for substantially achieving the purpose of preserving and rehabilitating buildings of historic significance within the jurisdiction of the municipality.
- A "Transformative Property" is (i) an income producing property, not including a residential property, whose rehabilitation the EDA determines will generate substantial increases in State revenues through the creation of increased business activity within the surrounding area; (ii) individually listed on the New Jersey Register of Historic Places, and which received a determination of eligibility from the Keeper of the National Register of Historic Places prior to the enactment of the NJERA; and (iii) located within one-half mile radius of the center point of a transit village, as designated by the NJDOT, and located within a city of the first class, or located within a government-restricted municipality.

To qualify for incentives under the HPRP, an applicant must demonstrate at the time of application that: (i) the project is not economically feasible without the tax credit; (ii) a project financing gap exists, and the tax credit award being considered is equal to or less than the financing gap; (iii) construction has not been commenced, with certain exceptions, at the project site; and (iv) the project meets minimum equity contributions and cost requirements.

### **Funding Availability**

HPRP awards are calculated based on a percentage of the eligible costs of rehabilitation, with the percentage dependent on both the type of project and location. Most eligible projects can receive tax credits worth up to 40% of the project's eligible costs with a maximum cap of \$4 million dollars for Qualified Properties or tax credits worth up to 45% of the project's eligible costs with a maximum project cap of \$8 million dollars if the project is located within a qualified incentive tract or in government restricted municipalities. A Transformative Property can receive tax credits worth up to 45% of eligible project costs with a maximum project cap of \$50 million dollars.

Funding available under the HPRP is capped at \$50 million per year for six years. Based upon this cap, as well as data from similar federal and state programs, the EDA anticipates the program will be oversubscribed, with more applications scoring above the minimum than can be satisfied with the amount of tax credits available. Simply put, the application process will likely be highly competitive.

### **Project Scoring Criteria**

Applications will be scored based on the following five criteria:

1. Historic significance of the resource
2. Imminent threat to the historic resource
3. Project concept and team
4. Site control
5. Positive impact on the surrounding neighborhood

A project must receive a minimum score of 50 points to be considered for an award under the program. However, meeting this minimum score will likely not be sufficient given the concern that the program will be oversubscribed. As a result, projects will be competitively ranked, with tax credits awarded to those projects earning the highest total score.

***Historic Significance:***

The EDA will consider specific aspects related to the level of historical significance and designations held by the subject property, with scoring based on the following weighted items:

Property’s Significance	0-15
Historic Fabric/Integrity	0-13
Level of Significance	1-3
Type of Designation	1-4
National Historic Landmark	0 or 6
<b>Criterion 1 Maximum Total Points</b>	<b>41</b>

***Imminent Threat to Historic Resource:***

The subject property will be evaluated on potential threats to historic resources, with additional points awarded to those properties facing an imminent threat and that may be lost due to deteriorated physical condition or encroachment from new development. Specifically, projects will be scored based on the following weighted items:

Building Envelope	0- 3
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Structural Condition	0-5
Vacancy	0-5
Encroachment	0-3
<b>Criterion 2 Maximum Total Points</b>	<b>16</b>

***Project Concept and Team:***

This criterion evaluates how well the project has been conceptualized/thought-out based upon the following weighted items:

Project Reviews & Approvals	0-5
Project Schedule	0-3
Experience & Qualifications	0-5
Proposed Project Approach	0-15
<b>Criterion 3 Maximum Total Points</b>	<b>31</b>

***Site Control:***

The applicant's site control (ownership, possession, or rights to be acquired) at the time of application will be given consideration as follows:

Status of Site Control	1-3
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**Criterion 4 Maximum Total Points** 3

***Positive Impact on Surrounding Neighborhood:***

The project's positive impact on the surrounding neighborhood based on the level of local community support will be evaluated. This evaluation will also consider whether the proposed project will address community needs, including attracting business owners and/or employers. Specifically, projects will be scored based on the following weighted items:

Community Needs 0-3

Community Support 0-3

Impact to Area Business/Jobs 0-3

**Criterion 5 Maximum Total Points** 9

**Post-Approval Process**

After a project has been approved for HPRP funding, the successful applicant must execute an approval letter and a rehabilitation agreement to receive the tax credit. Upon completion of the project, the business entity must submit evidence of the completion of the project and satisfaction of the program eligibility requirements, including affirmative action, prevailing wage, and substantial compliance with the Secretary of the Interior's Standards for Rehabilitation. A certification from an architect or design consultant must also be provided, confirming that the project was completed in accordance with the construction documents in the rehabilitation agreement.

**Next Steps /Applications**

The EDA has just announced details on the availability of HPRP program applications and related deadlines, which are as follows:

- Applications for funding the rehabilitation of Transformative Properties will be available beginning on March 24, 2022, with a submission deadline of June 7, 2022

- Applications for funding the rehabilitation of Qualified Properties will be available beginning on June 15, 2022, with an application deadline of August 15, 2022.

With limited funding available in what is expected to be a highly competitive process, prospective applicants for incentive funding under the HPRP should review the criteria outlined above and begin compiling the necessary documentation to facilitate the prompt filing of an application.

## Related Attorneys

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