The New Jersey Economic Recovery Act of 2020: An Overview of the Food Desert Relief Program (RFI Responses Due Monday, April 12)

Client Alert

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The New Jersey Economic Recovery Act of 2020 (ERA), a seven-year, $14 billion package of incentive programs intended to encourage New Jersey job growth, property development and redevelopment, community partnerships, and numerous other economic development initiatives, was signed into law by Governor Phil Murphy on January 7, 2021.

This Client Alert focuses on the Food Desert Relief Program, enacted as part of the ERA legislation to alleviate food insecurity and increase access to nutritious food in food desert communities across New Jersey. The program provides economic incentives to eligible businesses to construct, operate and retain grocery stores in communities that are underserved by grocery stores, supermarkets and other food retailers. It is intended to present unique opportunities for food retailers to expand their business into urban food desert communities that they may not otherwise serve due to economic challenges.

Background

It is estimated that in 2021, approximately 365,000 New Jersey children will experience food insecurity due to COVID-19 and other factors. Even prior to the pandemic, substantial numbers of New Jersey residents had limited access to a supermarket or grocery store; according to a 2018 analysis nearly 880,000 New Jerseyans have limited supermarket access. The legislature recognized that there are certain urban areas of the state in which residents are unable to obtain reasonable and adequate access to nutritious foods, particularly fresh fruit and vegetables. It was determined that the establishment of financial incentives to food retailers is a reasonable means to ensure that residents of such food desert communities are provided access to fresh, nutritious foods and are given the opportunity to make healthier food choices.

The New Jersey Economic Development Authority (EDA), in conjunction with the New Jersey Department of Agriculture and Department of Community Affairs (DCA) will develop the Food Desert Relief Program. The

program will provide up to $40 million per year for six years in tax credits, loans, grants, or technical assistance to address the food security crisis and develop new approaches to alleviate food deserts.

Food Desert Communities

While the legislation establishing the Food Desert Relief Program does not define the term "food desert," it defines a "food desert community" as a "physically contiguous area in the State in which residents have limited access to nutritious foods, such as fresh fruits and vegetables, through supermarkets and grocery stores which have been designated as food desert communities pursuant to Section 38" of the ERA. Section 38 directs the EDA, in conjunction with the Department of Agriculture and the DCA, to develop criteria to designate not more than fifty separate and distinct geographic areas that are most in need of a supermarket or grocery store. The criteria will incorporate the analysis of municipal or census tract poverty statistics, food desert information from the Economic Research Service of the U.S. Department of Agriculture, and healthier food retail tract information from the federal Centers for Disease Control and Prevention.

Incentives and Eligibility

The economic incentives to supermarkets and grocery stores establishing a retail presence in food desert communities include tax credits, grants, loans to purchase equipment to provide fresh food, mitigate initial operating costs, and secure technology to support online ordering and participation in the Supplemental Nutrition Assistance Program (SNAP) and the Special Supplemental Nutrition Program for Women, Infants, Children (WIC). A business must confirm its commitment to accepting benefits from SNAP and WIC in its application for incentives.

To be eligible for tax credits, supermarkets or grocery stores must comply with all program requirements, including paying construction workers prevailing wage and entering into a labor harmony agreement that ensures that participating labor organizations agree to not engage in economic interference against the business. The program requires the EDA, in consultation with the New Jersey Department of the Treasury's Division of Taxation, to adopt rules and regulations necessary to carry out the program's components.

RFI Responses Due April 12

On March 15, 2021, the EDA, in conjunction with the DCA and the Department of Agriculture, issued a Request for Information (RFI) seeking insight into food security challenges faced by communities across the state, including specific obstacles and disparities within food desert communities. **Responses to the online RFI are due on or before April 12, 2021.**

The RFI requests input from a wide array of entities that have experience addressing the state's hunger challenges. These include municipalities; school districts; hunger relief organizations (e.g., food banks); food retailers, producers, processors and suppliers; advocacy organizations; social services providers; supermarket developers and operators; community stakeholders; policy and academic researchers; technical assistance providers; agricultural organizations and farm markets; developers of innovative anti-hunger and nutrition programs; and foundations and philanthropic initiatives that address hunger and food insecurity.

The purpose of the RFI is to obtain information that will enable the EDA to better understand the unique challenges and obstacles that communities must overcome to address food security, food quality and nutritional value. The RFI seeks:

- information to "better understand the short and long-term food accessibility challenges faced by communities across the state";
- input regarding potential new and creative ways to increase the accessibility of healthy affordable foods; and
- recommendations to the EDA regarding the identification of food desert communities.

The EDA intends to use the information culled from the RFI responses to inform its development of the Food Desert Relief Program, including the creation of a specific definition of "food deserts."

We will keep you updated on the EDA's development and implementation of the Food Desert Relief Program and other developments related to programs enacted under the New Jersey Economic Recovery Act of 2020.

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