



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
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TRENTON, NJ 08625-0803

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

LORI GRIFA
Commissioner

September 20, 2011

The Honorable Cory A. Booker, Mayor
Members, City Council
City Hall
920 Broad Street
Newark, New Jersey 07102

Dear Mayor Booker and Members of City Council:

Please be advised that the City of Newark may anticipate a revenue from the State in the amount of \$32 million for inclusion in a Calendar Year 2011 Budget. The aid will be made available as a short term loan conditioned on substantively the same terms and oversight as aid awarded through the State's Transitional Aid to Localities Program.

As you are aware, \$32 million will only partially offset the City of Newark's approximately \$57 million structural imbalance reflected in the introduced budget for the year that ends December 31, 2011. The City will need to refrain from adding additional spending to its introduced budget and will need to identify a combination of other revenues, reserves, or spending restraints in order to adopt a balanced budget. Furthermore, adoption of a budget will need to occur prior to the end of September to ensure compliance with deadlines associated with an accelerated tax sale – a key component of the introduced budget. The Division of Local Government Services (the Division) will expeditiously review any proposed budget amendments to facilitate timely adoption.

Please be advised that as a condition of receiving this assistance, the municipality will be required to enter into a Memorandum of Understanding (MOU) with the Division. The MOU will be in substantially the same form as the attached sample of a standard 2011 Calendar Year Transitional Aid MOU. Generally, the MOU will bar specified nonessential expenditures and require State approval prior to the City of Newark hiring personnel or retaining professional services. The MOU also contains certain reporting requirements, including the preparation of a plan to reduce reliance on aid in the future and a plan to address previous audit findings.

In order to ensure adequate State oversight and timely reviews of City requests, the Division will hire, at its cost, a State Fiscal Oversight Officer who will work full time at City Hall as the Division's agent. In addition to exercising oversight activities required under the MOU, the Fiscal Oversight Officer will encourage the City to take action to address a growing structural deficit in 2012 caused, in part, by new liabilities for compensatory time negotiated into current contracts and the loss of certain one-time revenues and saving opportunities in the 2011 Budget.

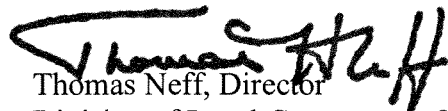


Please be aware that the rating agencies and the business and financial communities view formal State oversight in a positive manner. In the past, the State's provision of aid and related oversight has helped communities stabilize taxes, reduce costs, and improve operations. Additionally, professional staff familiar with public safety operations, revenue collections, and procurement matters will be made available by the Division to help the municipality as it plans and implements financial and operational improvements.

Upon execution of an MOU, the City will receive 75% (\$24 million) of the additional revenue. The balance (\$8 million) will be provided in December pending substantial compliance with the MOU.

If you should have any questions or concerns, please do not hesitate to contact Thomas Neff, Division Director at 609-292-6613.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Neff". The signature is stylized with a large, sweeping initial "T" and a prominent "N".

Thomas Neff, Director
Division of Local Government Services

MEMORANDUM OF UNDERSTANDING

By and Between:

**The Director of the Division of Local Government Services
and _____**

WHEREAS, the Director of the Division of Local Government Services (the "Director") has determined that _____ (the "Municipality") is in serious fiscal distress and the Director has determined that an award of \$_____ of Transitional Aid to Localities ("Transition Aid") is appropriate, all in accordance with the criteria set forth in P.L. 2010, c.35 (the "State Budget") and after reviewing an application submitted by the Municipality on _____, 2010 ; and

WHEREAS, the State Budget directs that Transition Aid shall be provided subject to such conditions, requirements, orders, and oversight as the Director deems necessary including the implementation of government, administrative, and operational efficiency and oversight measures necessary for the fiscal recovery of the Municipality; and

WHEREAS, this Memorandum of Understanding By and Between the Director of the Division of Local Government Services and _____ (the "Memorandum") sets forth the minimum conditions, requirements, orders, and oversight in consideration for Transition Aid;

THEREFOR, the Municipality shall, in addition to complying with all applicable laws, regulations, and Local Finance Notices, observe and comply with the requirements set forth below and shall implement any and all government, administrative and operational efficiency, and oversight measures necessary for the fiscal recovery of the Municipality as the Director may order from time to time.

Submission of a Transition Plan

There is no guaranty of Transition Aid being available in the future and the Municipality shall not anticipate or rely on the existence of continued funding. The Municipality shall submit a plan on or before June 30, 2011 detailing how it intends to eliminate its reliance on Transition Aid as soon as possible (the Transition Plan). In no case shall the Transition Plan provide for a phase out of the aid over a period of more than four years. The Transition Plan must set forth a reasonable reduction in reliance on such funding in the Fiscal Year 2012 Budget. The Transition Plan shall discuss initiatives to bring structural balance to the Municipality's finances and shall include, but not be limited to, all of the following:

- An acknowledgement that the Municipality needs to reduce its reliance on Transition Aid; and
- A plan to reduce staffing costs for Fiscal Year 2012 from Fiscal Year 2011 levels through layoffs, attrition, restructuring, or other personnel actions; and
- A plan to eliminate or reduce the costs of services or activities not deemed essential or that are of low priority; and
- A plan to maximize recurring revenues, including but not limited to updating fees, fines and penalties, maximizing enforcement of revenue delinquencies, selling surplus land and property, and encouraging sustainable and taxable development; and
- A plan to address findings resulting from in various audits, investigations, and reports with respect to the Municipality, including municipal audits, applicable State Comptroller reports and audits, federal program audits, and other audits as identified by the Director.

Restrictions on Personnel Matters

1. **Hiring for New Positions and Positions not Filled as of the Date of Memorandum:** A "Request for Employment Approval" (Attachment A) shall be submitted to the Director for consideration prior to the Municipality hiring any person to fill any new positions or to fill any positions not filled as of the date of this Memorandum. No advertising or posting for new employees or hiring of such employees shall occur without the Municipality first receiving a Request for Employment Waiver approved and signed by the Director.
2. **Hiring for Essential Positions Vacated after the Date of the Memorandum:** The Municipality may replace an employee who has left the employment of the Municipality after the effective date of this Memorandum provided that the Municipality shall have determined that the position to be filled is essential. The Municipality shall notify the Director at least 15 days prior to replacing such employee by submitting an "Essential Employee Replacement Form" (Attachment B). If the position is being filled with an employee whose salary and compensation will exceed the salary and compensation of the employee being replaced, the hire shall be treated as a new hire and a Request for Employment Approval must first be approved pursuant to "1" above. Additionally, if the position is being filled with an employee whose title, rank, step or other classification is other than the title, rank, step or other classification of the employee being replaced, regardless of salary and compensation, the hire shall be treated as a new hire and a Request for Employment Approval must first be approved pursuant to "1" above.
3. **Salary Restraints for Elected Officials and Noncontractual Employees:** The Municipality shall not increase salaries or compensation for elected officials and employees not otherwise entitled to increases pursuant to the terms of a contract in effect as of the date of this Memorandum.
4. **Promotions and Transfers:** The Municipality shall freeze promotions and transfers involving salary increases unless required by contractual obligations.

Restrictions on Certain Contracts

1. The hiring of consultants and professionals, either directly or through a sub-contract, regardless of cost, shall be subject to the prior written approval of the Director of a "Contract Request Form" (Attachment C). This restriction shall include, but not be limited to legal counsel, risk management advisors or services, public relations, government affairs, engineering and public works, accounting and financial services and advice, public safety and health, management services; and without exception, all professional services and extraordinary services contracts as defined in the Local Public Contracts Law without regard to value.
2. Unless otherwise approved in advance by the Director, all contracts that are exempt from public bidding shall be procured subject to a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq. unless otherwise procured pursuant to a process that provides greater transparency and competition than the minimum requirements under the "fair and open process."
3. Nothing herein shall require approval of the hiring of consultants and professionals whose services are needed to address an emergency, provided however, that such hiring to address an emergency shall be reported to the Director as soon as practicable.

Restrictions on the Award of Long Term Tax Exemptions

1. The Municipality shall receive prior written approval of the Director for any Redevelopment Plan or Redeveloper Agreement executed after the date of this Memorandum unless any Payment in Lieu of Taxes awarded under the agreement are allocated to county, school district, and other local government jurisdictions in the same proportion as ordinary taxes are allocated to such jurisdictions.

Restrictions of Miscellaneous Nature

1. The Municipality shall neither create new services nor expand existing services without the Municipality first submitting a "Creation/Extension of Services Form" (Attachment D) to the Director and receiving written approval therefore from the Director.
2. The Municipality shall not expend funds on out-of-State travel or overnight stays within New Jersey, without first submitting a "Travel Approval Form" (Attachment E) to the Director and receiving written approval therefore from the Director. The Municipality shall explain good cause for the expenditure, which may include, but is not limited to, a need to ensure licensure or certification of statutory employees or essential training for public safety employees.
3. The Municipality shall not expend funds for educational expenses other than expenses related to certification or licensing requirements and continuing education requirements.

4. Reimbursement for employee meals (other than as required pursuant to contractual provisions as of the date of this Memorandum) or entertainment is prohibited and Municipal funds cannot be used for receptions for Municipal employees.
5. Any application for a grant that requires current or long term matching funds or a commitment of any resources or staffing levels of the Municipality as a condition of award or to ensure sustainability shall be approved by the Director prior to submission to the reviewing/awarding agency. The Municipality shall submit a "Grants Approval Form" (Attachment F) prior to entering into any grant agreement.
6. No funds shall be expended for non-statutory charitable contributions, bereavement, or celebratory purposes, for individuals or organizations.

Requirement to Adopt Pay to Play Ordinance

Within three months of signing this memorandum, the Municipality shall adopt a pay to play ordinance pursuant to PL 2005, c.271 limiting the awarding of public contracts by the Municipality or its agencies to business entities that have made a contribution pursuant to C19:44A-1 *et seq* and limiting the contributions that the holders of a contract can make during the term of a contract. The ordinance shall not be repealed or amended for so long as this Memorandum is in effect. The ordinance shall be substantively identical to the provisions of the model ordinance concerning pay to play which can be found at

http://www.state.nj.us/dca/lgs/muniaid/pay_to_play_ordinance-contractor.doc.

Reporting Requirements – Labor Contracts

90 days prior to the start of collective negotiation agreement renewal negotiations between the Municipality and labor union representatives, it shall be the responsibility of the participating Municipality to provide the Director with a written notification of intent to begin negotiations with the subject collective bargaining unit(s). In addition, the Municipality shall provide the Director with the following:

- Documentation as to whether current collective bargaining agreements were reached by mutual agreement or arbitrator's award, and if decided by arbitration, a copy of the Interest Arbitration Decision and Award document.
- Salary guide showing pay increases over the last 3 contract years
- A description and status report of any matters with the bargaining unit currently in grievance arbitration or otherwise being handled as an unfair labor practice charge.

In the event collective negotiation agreement discussions are already in progress or are about to begin as of the date of this Memorandum, the Municipality shall submit the requested documentation within 14 days of date of this Memorandum and representatives of the Municipality shall brief the Director on the status of the negotiation and issues under discussion.

The Director will review all materials submitted and make recommendations to the Municipality with regard to the language and disposition of subsequent collective bargaining agreements as well as any related policies, programs or procedures.

Upon settlement of any collective negotiation agreement, the Municipality shall submit a copy to the Director.

The Municipality acknowledges that agreeing to any contract that would increase total annual expenditures for salary and compensation in excess of 2% in any year will be viewed negatively in the context of future applications, including, but not limited to, applications for Transition Aid, approval of nonconforming maturity schedules and approval of down payment waivers for capital projects.

Reporting Requirements - Miscellaneous

1. The Municipality shall submit to the Director detailed quarterly revenue and expenditure budget reports.
2. The Municipality shall, within three weeks of the date of this Memorandum, submit to the Director a list, as of the pay period ending immediately preceding this Memorandum, of all employees with their name, salary, title, Department or organizational unit, and date of employment with the Municipality. A similar list shall be submitted to the Director by August 1, 2011 of all such employees with their name, salary, title, Department or organizational unit, and date of employment as of the payroll ending immediately prior to June 30, 2011. Similar lists shall be provided upon request of the Director.
3. The Municipality shall submit to the Director all findings, decisions, penalties, orders and requirements resulting from complaints, investigations, and reports issued by State regulatory agencies including but not limited to the Department of Labor and the Public Employee Relations Commission.
4. The Municipality shall file a copy of its Offering Statement prepared in relation to its most recent short or long term financing.

Meeting Requirements

1. Municipality representatives shall meet with the Director or his staff quarterly to discuss budget and fiscal progress, or more often as requested by the Division.

Implementing Provisions and Flexibility

The Director may be represented by designees who shall be authorized to act on his behalf.

The Municipality may apply in writing to the Director for an exception for good cause to any prohibition or requirement contained in this Memorandum.

Duration

The provisions of the Memorandum shall remain in force and effect until June 30, 2012.

Governing Body Acknowledgement

The Municipality Governing Body shall review this Memorandum of Understanding and pass a resolution indicating awareness of its contents within 30 days of the effective date.

Signature of Mayor

Date_____

Signature of Chief Administrative Officer as Applicable

Date_____

Signature of Director

Date_____

Certification of Municipal Clerk

Date_____

STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF LOCAL GOVERNMENT SERVICES
REQUEST FOR EMPLOYMENT APPROVAL*

MUST BE SUBMITTED TO DIRECTOR, DIVISION OF LOCAL GOVERNMENT SERVICES,
PRIOR TO:

HIRING FOR ANY NEW POSITION;

HIRING TO FILL ANY POSITION NOT FILLED AS OF **DECEMBER 21, 2010**;

HIRING TO REPLACE AN EMPLOYEE WITH A HIGHER COMPENSATED EMPLOYEE

HIRING TO REPLACE AN EMPLOYEE WITH AN EMPLOYEE WITH A HIGHER STEP,
RANK OR OTHER CLASSIFICATION REGARDLESS OF COMPENSATION.

The municipality of _____ and the Director of the Division of Local Government Services entered into a Memorandum of Understanding regarding the conditions of receipt of Transitional Aid. The Municipality agreed to obtain a "**REQUEST FOR EMPLOYMENT APPROVAL**", approved and signed by the Director, prior to hiring for new positions, to fill positions not filled as of the date of the Memorandum, and to replace employees with higher compensated employees.

Name of Employee _____

NJDOP Title and Job Specification Number _____

Department _____ Salary _____

If applicable, Name and Salary of employee being replaced _____

() Temporary/Seasonal () If grant funded – use separate sheet to describe grant and duration of grant and copy of grant language specific to the allocation of funds for employees.

ATTACH WRITTEN JUSTIFICATION AND SPECIFY BUDGET IMPACT REGARDING THIS REQUEST ON THE BACK OF THIS SHEET OR AS AN ATTACHMENT

Mayor's Signature Date _____

Business Administrator/Manager Signature Date _____

The Chief Financial Officer affirms that there is adequate funding available for this personnel action.

Funding Source for this action _____

Chief Financial Officer Signature

Name, email and fax of contact person for this form: _____

For LGS use only:

() Approved () Denied Date _____

Director or Designee, Division of Local Government Services Number Assigned _____

* Submissions of this form should be sent to the Division via email at DLGS-TA@dca.state.nj.us or by fax at 609-292-9073.

STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF LOCAL GOVERNMENT SERVICES
ESSENTIAL EMPLOYEE REPLACEMENT FORM[†]

MUST BE SUBMITTED TO DIRECTOR, DIVISION OF LOCAL GOVERNMENT SERVICES,
AT LEAST 15 DAYS PRIOR TO THE REPLACEMENT OF ESSENTIAL EMPLOYEES.

The municipality of _____ and the Director of the Division of Local Government Services entered into a Memorandum of Understanding regarding the conditions of receipt of Transitional Aid. The Municipality agreed to notify the Director **at least 15 days prior to the replacement of any essential employees**. Permission of the Director is not needed to replace "essential employees," however the Director will monitor such replacements to ensure the classification of "essential" is appropriate. Essential employees would include rank and file police and fire personnel and other employees who provide a service essential for the protection of life, health and property. If compensation, title, rank or salary is higher than the replaced employee, please follow procedures for Attachment A.

Name of Employee _____

NJDOP Title and Job Specification Number _____

Department _____ Salary _____

Name and Salary of employee being replaced _____

() Temporary/Seasonal () If grant funded – use separate sheet to describe grant and duration of grant and copy of grant language specific to the allocation of funds for employees.

ATTACH WRITTEN JUSTIFICATION FOR CLASSIFICATION OF AN EMPLOYEE AS "ESSENTIAL" AND SPECIFY BUDGET IMPACT REGARDING THIS REQUEST ON THE BACK OF THIS SHEET OR AS AN ATTACHMENT.

Mayor's Signature

Date _____

Business Administrator/Manager Signature

Date _____

The Chief Financial Officer affirms that there is adequate funding available for this personnel action.

_____ Funding Source for this action _____
Chief Financial Officer Signature

Name, email and fax of contact person for this form: _____

For LGS use only:

Number Assigned _____ Date _____

[†] Submissions of this form should be sent to the Division via email at DLGS-TA@dca.state.nj.us or by fax at 609-292-9073.

STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF LOCAL GOVERNMENT SERVICES
CONTRACT REQUEST FORM[‡]

The municipality of _____ and the Director of the Division of Local Government Services entered into a Memorandum of Understanding regarding the conditions of receipt of Transitional Aid. The Municipality agreed to obtain the Director's written approval for the hiring of consultants and professionals, either directly or knowingly through a sub-contract, regardless of cost. In addition, contract renewals need the Director's written approval.

Professional Service or EUS Type _____

Name of Company _____

Purpose or Need for service: **ATTACH WRITTEN JUSTIFICATION AND SPECIFY BUDGET IMPACT REGARDING THIS REQUEST ON THE BACK OF THIS SHEET OR AS AN ATTACHMENT**

Contract Award Amount _____

Term of Contract _____

() Temporary/Seasonal AND Length of service, if known _____

() If grant funded – use separate sheet to describe grant and duration of grant and copy of grant language specific to the allocation of funds for employees.

Mayor's Signature Date _____

Business Administrator/Manager Signature Date _____

The Chief Financial Officer affirms that there is adequate funding available for this personnel action.

Funding Source for this action _____
Chief Financial Officer Signature

Name, email and fax of contact person for this form: _____

For LGS use only:
() Approved () Denied

Date _____

Director or Designee, Division of Local Government Services

Number Assigned _____

[‡] Submissions of this form should be sent to the Division via email at DLGS-TA@dca.state.nj.us or by fax at 609-292-9073.

STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION OF LOCAL GOVERNMENT SERVICES
CREATION/EXTENSION OF SERVICES FORM[§]

The municipality of _____ and the Director of the Division of Local Government Services entered into a Memorandum of Understanding regarding the conditions of receipt of Transitional Aid. The Municipality agreed to obtain the Director's written approval for the creation or extension of services.

PLEASE EXPLAIN THE JUSTIFICATION FOR THE CREATION OR EXTENSION OF SERVICES HERE AND USE ADDITIONAL SHEETS IF NECESSARY. PLEASE FULLY EXPLAIN COSTS OF THE CREATION OR EXTENSION OF SERVICES, AS WELL AS THE BENEFITS OF THE CREATION OR EXTENSION OF SERVICES

Mayor's Signature

Date_____

Business Administrator/Manager Signature

Date_____

Name, email and fax of contact person for this form: _____

For LGS use only:

Approved

Denied

Date_____

Director or Designee, Division of Local Government Services

Number Assigned _____

[§] Submissions of this form should be sent to the Division via email at DLGS-TA@dca.state.nj.us or by fax at 609-292-9073.

STATE OF NEW JERSEY
 DEPARTMENT OF COMMUNITY AFFAIRS
 DIVISION OF LOCAL GOVERNMENT SERVICES
TRAVEL REQUEST FORM**

The municipality of _____ and the Director of the Division of Local Government Services entered into a Memorandum of Understanding regarding the conditions of receipt of Transitional Aid. The Municipality agreed to obtain the Director's written approval for travel requests.

Employee Name _____

Sponsor & Event Name _____

HOTEL	NAME:	DATES:	# OF NIGHTS:	RATE: \$/night	TOTAL COST
INFO:	ADDRESS:	<input type="checkbox"/> CONF SITE?	HOTEL TAX:	PARKING: \$/day	\$
MEALS	PER DIEM RATE USED	# BREAKFAST:	# LUNCHESES	# DINNERS	TOTAL COST
INFO:	\$/DAY: \$				\$
MISC.	REGISTRATION: \$	MILEAGE \$	TOLLS:\$	AIRPORT SHUTTLE:r	AIRPORT PARKING: \$
INFO:	METRO TICKETS: \$	INCIDENTALS (tips @ \$2/day): \$	OTHER (explain): \$	TOTAL MISC COSTS	\$
TOTAL TRIP COSTS					

PLEASE EXPLAIN THE JUSTIFICATION FOR THE TRAVEL REQUEST. PLEASE EXPLAIN GOOD CAUSE FOR THE EXPENDITURE, WHICH MAY INCLUDE, BUT IS NOT LIMITED TO, A NEED TO ENSURE LICENSURE OR CERTIFICATION OF STATUTORY EMPLOYEES OR ESSENTIAL TRAINING FOR PUBLIC SAFETY EMPLOYEES.

 Mayor's Signature Date _____

 Business Administrator/Manager Signature Date _____
 Name, email and fax of contact person for this form _____

For LGS use only:
 Approved Denied
 _____ Date _____
 Director or Designee, Division of Local Government Services Number Assigned _____

** Submissions of this form should be sent to the Division via email at DLGS-TA@dca.state.nj.us or by fax at 609-292-9073.

STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS

DIVISION OF LOCAL GOVERNMENT SERVICES
GRANT APPROVAL FORM^{††}

The municipality of _____ and the Director of the Division of Local Government Services entered into a Memorandum of Understanding regarding the conditions of receipt of Transitional Aid. The Municipality agreed to obtain the Director's written approval prior to entering into a grant agreement.

PLEASE EXPLAIN THE JUSTIFICATION FOR THE GRANT HERE AND USE ADDITIONAL SHEETS IF NECESSARY. PLEASE FULLY EXPLAIN COSTS ASSOCIATED WITH THE AWARD OF THE GRANT AS WELL AS ANY MATCHING FUNDS OR EMPLOYMENT OBLIGATIONS AS A TERM OF THE GRANT. PLEASE EXPLAIN THE BENEFITS OF THE GRANT FOR THE MUNICIPALITY AND THE RESIDENTS.

Mayor's Signature Date _____

Business Administrator/Manager Signature Date _____

Name, email and fax of contact person for this form: _____

For LGS use only:

() Approved () Denied Date _____

Director or Designee, Division of Local Government Services

Number Assigned _____

^{††} Submissions of this form should be sent to the Division via email at DLGS-TA@dca.state.nj.us or by fax at 609-292-9073.

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