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TITLE 16. TRANSPORTATION

CHAPTER 20B. MUNICIPAL LOCAL AID

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:13-1 et seq., 27:13A-1 et seq., 27:14-1 et seq., 27:15-1 et seq., 27:15A-1 et seq., and 27:1B-1 et seq.

Expires on April 16, 2021

SUBCHAPTER 1. PURPOSE AND SCOPE

16:20B-1.1 Purpose

This chapter governs disbursements from the Department's Municipal Local Aid Program to municipalities for the purpose of assisting municipalities in the implementation of public transportation projects and other transportation projects, as defined in N.J.S.A. 27:1B-1 et seq., including, but not limited to, improvement of any public road or bridge under the jurisdiction of a municipality.

16:20B-1.2 Scope

(a) Subject to appropriation, all municipalities in the State shall be eligible to apply for a local aid grant for municipal transportation projects pursuant to this chapter.

(b) A discretionary fund shall be established, subject to appropriation, to address emergency and critical transportation projects. Any municipality may make application to the Department at any time for these funds. All municipal local aid formula rules, regulations, and procedures in this chapter shall apply to discretionary funds, except that due to the nature of the projects, applications will not be evaluated by a screening committee. Requests will be reviewed as they are received; emergencies shall be reviewed immediately, and recommendations made for timely action. Project approvals will be at the discretion of the Commissioner.

16:20B-1.3 (Reserved)

16:20B-1.4 (Reserved)

SUBCHAPTER 2. DEFINITIONS

16:20B-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Award" means the notice to a bidding contractor of the municipality's acceptance of the submitted bid.

"Commissioner" means the Commissioner of the New Jersey Department of Transportation or such persons as the Commissioner may designate, when legally permissible.

"Construction inspection" means examination of a construction project to ensure conformity with contract plans and specifications. Construction inspection charges shall begin at the pre-construction meeting and end with the securing of the as-built measurements. It shall only include those direct costs associated with actual project inspection or construction supervision. Administrative and clerical costs, work items involving shop drawing reviews, preparation of payment vouchers, and soliciting bids for testing are not eligible for reimbursement.

"Department" means the New Jersey Department of Transportation.

"District office" means an office of the Department's Division of Local Aid and Economic Development that administers the local aid program for specified counties and the municipalities within them.

"Publicly-owned utility" means a utility wholly owned, operated, managed and controlled by the State, or by any political subdivision thereof, including a county or municipality. The term does not include municipal or county utility authorities.

"SAGE" means the Department's online grant management system, System for Administering Grants Electronically.

16:20B-2.2 (Reserved)

SUBCHAPTER 3. CONTRACTS

16:20B-3.1 Contact information

(a) Municipal local aid funds are administered by the Department's Division of Local Aid and Economic Development. Contact information for the Division is as follows:

1. Main Office
1035 Parkway Avenue
Trenton, New Jersey 08625
Phone: (609) 530-3640
Fax: (609) 530-8044
Counties covered: All counties
2. District One Office
Roxbury Corporate Center
200 Stierli Court
Mount Arlington, New Jersey 07856
Phone: (973) 601-6700
Fax: (973) 671-6709
Counties covered: Morris, Passaic, Sussex, Warren
3. District Two Office
153 Halsey Street, 5th Floor
Newark, New Jersey 07102
Phone: (973) 877-1500
Fax: (973) 877- 4547
Counties covered: Bergen, Essex, Hudson, Union
4. District Three Office
PO Box 600
Trenton, New Jersey 08625-0600

Phone: (732) 625-4290
Fax: (732) 625-4292
Counties covered: Hunterdon, Mercer, Middlesex, Monmouth,
Ocean, Somerset

5. District Four Office
One Executive Campus
Route 70 West, 3rd Floor
Cherry Hill, New Jersey 08002
Phone: (856) 486-6618
Fax: (856) 486-6771
Counties covered: Atlantic, Burlington, Camden, Cape May,
Cumberland, Gloucester, Salem

16:20B-3.2 (Reserved)

SUBCHAPTER 4. MUNICIPAL AID

16:20B-4.1 Eligible costs

(a) The Department will participate in the following:

1. One hundred percent of the cost of eligible construction or the project allotment, whichever is less; and
2. The cost of construction inspection and material testing, up to a maximum of 15 percent of the final eligible construction cost of the project less any non-participatory items. Bituminous concrete adjustments are not included in this calculation.

(b) The following costs are not eligible for Department participation:

1. Relocation costs of utility property and equipment owned by a private utility or a municipal or county utility authority;
2. Betterment of any utility property or equipment, whether publicly-owned, privately-owned, or owned by a municipal or county utility authority; and
3. Engineering or right-of-way acquisition costs except for those deemed eligible pursuant to N.J.A.C. 16:20B-4.2.

16:20B-4.2 Engineering and right-of-way costs

(a) Municipalities qualified by the Department of Community Affairs for Urban Aid funding pursuant to N.J.S.A. 52:27D-178 et seq., or for Depressed Rural Centers Aid or any municipality demonstrating special need as approved by the Department, may, at the discretion of the Commissioner, be reimbursed for engineering and right-of-way acquisition in addition to construction costs, provided that the amount does not exceed the total amount allotted for the project. Justification submitted by the municipality may include its inability to advance a project due to lack of funds, lack of staff, lack of expertise, or other extenuating circumstances. Department staff shall recommend acceptance or rejection of the special need request to the Commissioner for his or her final decision. The Commissioner's final decision shall be based on need, on a case-by-case basis.

(b) The Department may participate in the cost of engineering to be accomplished by a consultant engaged by the municipality or by the municipality's full-time engineering staff for

municipalities eligible pursuant to (a) above. Prior approval of the Department's participation in the cost of engineering fees shall be obtained before any engineering services are performed.

(c) A qualified municipal government desiring Department participation in the cost of engineering shall submit the scope of services to be performed by the engineer to the Department.

(d) The Department may participate on a reimbursement basis in the cost of lands and/or easement rights acquired for right-of-way for municipalities qualified pursuant to (a) above. Municipal governments seeking Department participation in the cost of right-of-way acquisition shall make a request to the appropriate district office and provide justification and right-of-way maps depicting the lands and/or easement rights necessary to be acquired before beginning any right-of-way acquisition activity for a project. Costs associated with the right-of-way acquisition, such as appraisal and administrative costs, shall not be eligible for reimbursement. All property shall be purchased in accordance with the provisions of the Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq.

(e) Cost shall be the actual purchase price amount paid for each parcel of land or easement rights acquired for the project as a result of a negotiated purchase agreement or, where negotiations have failed, the just compensation amount awarded by the courts for a particular parcel as a result of a subsequent condemnation action.

(f) Right-of-way acquisition activities by municipalities shall be conducted in accordance with all requirements and conditions set forth within the State of New Jersey Uniform Eminent Domain Law of 1971, N.J.S.A. 20:3-1 et seq.

(g) The municipality shall provide a relocation plan and accomplish relocation assistance in accordance with the Relocation Assistance Act, N.J.S.A. 20:4-1 et seq., and with all published procedures, conditions, and requirements of the Department of Community Affairs pertaining to this statute, when owner or tenant occupants of any property being acquired for a project will be displaced.

(h) Department participation amounts shall be returned by the municipality to the Department for properties acquired with Department participation that are later declared by the municipality as excess to the project and sold.

16:20B-4.3 Funding allocation

(a) Subject to appropriation of funds, State aid for municipal transportation projects in each county will be allocated according to the formula set forth in N.J.S.A. 27:1B-1 et seq. For the purposes of this formula, population figures shall be obtained from the New Jersey Department of Labor and Workforce Development and municipal road mileage shall be determined by the Department.

(b) Separate from the municipal local aid formula allocation, the Commissioner shall allocate to municipalities qualifying for urban aid pursuant to N.J.S.A. 52:27D-178 et seq., an amount, subject to appropriation, as set forth in N.J.S.A. 27:1B-1 et seq. This allocation shall be in the same proportion that the municipalities receive aid pursuant to N.J.S.A. 52:27D-178 et seq., as determined by the Department of Community Affairs, and will be applied to an approved project.

16:20B-4.4 Project approval

(a) Subject to appropriations, the Department shall solicit applications for municipal local aid and provide a deadline for submissions.

(b) Municipalities seeking municipal local aid will be required to submit an application through the Department's online grant management system, SAGE (System for Administering Grants Electronically) at <http://www.state.nj.us/transportation/business/localaid/sage.shtm>. SAGE users can submit grant applications, communicate with grant program staff, request changes, and manage grants.

(c) The municipal local aid application requires a supporting resolution from the local governing body and an engineering description of the proposed transportation improvement. For example, in the case of a proposed road or bridge improvement, the application must indicate the existing and proposed right-of-way width, paved and graded widths, shoulder widths, type and depth of proposed pavement, and an estimate of the cost of the proposed work.

(d) Department staff will review applications for completeness, conduct field investigations, evaluate the projects and make recommendations to the screening committee on project priorities.

(e) A screening committee, composed of municipal engineers representing a cross section of New Jersey, and Department staff, shall review the recommendations. The screening committee will recommend to the Commissioner which projects should receive funding and the associated funding amount. In developing the recommendations, consideration shall be given, as applicable, to existing road conditions, volume of traffic, safety, service to the public, future need, readiness to construct, local taxing capacity, consistency with applicable planning documents (including, but not limited to, the State Development and Redevelopment Plan, the State long-range transportation plan, the long-range plan of the appropriate metropolitan planning organization, and the county and municipal master plans), and performance and timeliness in designing, awarding, and constructing previous projects funded by municipal local aid.

(f) Final project selection and funding amounts will be determined by the Commissioner. The Commissioner's decision will be final.

(g) Municipalities will be notified of projects selected for municipal local aid.

16:20B-4.5 Municipal responsibilities

(a) A municipality shall be responsible for:

1. Engaging a professional engineer licensed in the State of New Jersey to prepare construction plans and specifications and to provide construction engineering, inspection, and material testing as required;

2. Providing maps, reports, construction plans, specifications, and contract documents, as may be required by the Department;

3. Complying with the provisions of Executive Order No. 215 (1989) and obtaining all necessary State and Federal permits and approvals; and

4. Complying with the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131 through 12164.

(b) The municipal government shall certify to the Department that all allotted funds will only be spent on eligible costs for the approved project(s) as described in the municipal local aid agreement.

SUBCHAPTER 5. STANDARDS AND SPECIFICATIONS

16:20B-5.1 Standards

(a) Proposed road and bridge improvements shall conform to the current design standards utilized by the Department, incorporated herein by reference, as amended and supplemented, including, but not limited to, the appropriate American Association of State Highway and Transportation Officials (AASHTO) publications listed below. These publications are available in book form or as a compact disk from AASHTO at: https://bookstore.transportation.org/direct_order_form.aspx:

1. A Policy on Geometric Design of Highways and Streets, 6th edition;
2. Standard Specifications for Highway Bridges, 17th edition; and
3. Guide for the Development of Bicycle Facilities, 4th edition.

(b) All road and bridge design shall also conform to the standards contained in the "Manual On Uniform Traffic Control Devices" (MUTCD), 2009 edition with Revisions 1 and 2, which are incorporated herein by reference, as amended and supplemented, published by the U.S. Department of Transportation, Federal Highway Administration (FHWA).

1. The MUTCD is available in electronic format from the FHWA website at <http://mutcd.fhwa.dot.gov/>.

2. The MUTCD is available in book form or as a compact disk from the following organizations:

i. American Association of State Highway and Transportation Officials (AASHTO) at: https://bookstore.transportation.org/direct_order_form.aspx;

ii. Institute of Traffic Engineers (ITE) at: <http://www.ite.org/bookstore/mutcd.asp>; and

iii. American Traffic Safety Services Association (ATSSA) at: <http://www.atssa.com/>.

(c) Design of traffic barriers and drainage systems shall conform to the Department's Roadway Design Manual, 2012 edition, which is incorporated herein by reference, as amended and supplemented. The Roadway Design Manual is available in electronic format on the Department's website at <http://www.state.nj.us/transportation/eng/documents/RDM/>.

(d) The Department shall be advised in writing of all deviations from the above standards for all road and bridge projects. If there is deviation from these standards, the municipality shall have a New Jersey licensed professional engineer prepare a Design Exception Report based on the requirements of the Department's Design Exception Manual, and a certification providing an analysis and justification for any controlling substandard design elements. The municipality shall accept any and all responsibility for any injury or damage to any person or property when there is deviation from the standards.

1. The Department's Design Exception Manual, 2012 edition, incorporated herein by reference, as amended and supplemented, is available in electronic format on the Department's website at <http://www.state.nj.us/transportation/eng/documents/DEM/>.

16:20B-5.2 Specifications

(a) Construction and materials shall conform to the Department's Standard Specifications for Road and Bridge Construction, 2007 edition, which is incorporated herein by reference, as amended and supplemented, and the Department's Supplementary Specifications for State Aid Projects, 2011 Edition, which is incorporated herein by reference, as amended and supplemented. The Standard Specifications for Road and Bridge Construction is available in electronic format on the Department's website at <http://www.state.nj.us/transportation/eng>. The Supplementary Specifications for State Aid Projects is available in electronic format on the De-

partment's website at
<http://www.state.nj.us/transportation/business/localaid/suppspecpay.shtm>.

(b) Specifications for transportation projects, other than roads and bridges, shall be pre-approved by the Department before the municipality begins design of the project.

SUBCHAPTER 6. PROJECT AGREEMENTS AND CONTRACTS

16:20B-6.1 Project agreements

(a) Municipalities shall enter into an agreement with the Department through SAGE for each project approved for municipal local aid.

(b) All agreements shall include, but not be limited to, provisions for indemnification of the State and its employees and officers.

16:20B-6.2 Contract deadline

(a) Municipal local aid agreements using both formula allocations and urban aid allocations shall specify that a contract must be awarded by the municipality within 24 months from the date of grant notification. At any time, but at a minimum of 30 days prior to the 24-month deadline, a municipality may voluntarily cancel a municipal local aid agreement and release the funds back to the Department.

(b) Failure to award a contract within the 24-month deadline specified in this section without voluntarily canceling the municipal local aid agreement will result in the agreement being canceled and the funds, except those funds programmed for Urban Aid, being rescinded.

(c) In the event an award is not made within the 24-month deadline, the Department, at its discretion, may grant an extension of not greater than six months in duration for extraordinary circumstances.

1. Extraordinary circumstances are narrowly defined as:

i. Bidding problems. The project was advertised and bids received before the 24-month deadline, but because the bids exceeded the estimate, the project will be re-advertised for bid within three months or financing will be arranged to allow award within the next six months;

ii. Permits not approved. Environmental permit applications were submitted and accepted by all permitting agencies within 12 months of municipal local aid agreement execution and permits have not been received. Municipalities must provide details of issues precluding the issuance of the permits;

iii. Utility relocation work precludes advertisement, bid, and award during the 24-month deadline. The municipality has demonstrated communication and coordination with all utility companies within 12 months of municipal local aid grant agreement execution; however, utility companies are indicating that relocation work must be performed prior to the construction of the project. The municipality must provide details on the schedule of utility work precluding advancement of the municipal local aid project;

iv. Right-of-way is not available for the project. The municipality shall provide details on the schedule of right-of-way acquisition and any issues precluding advancement of the project; or

v. Declaration of a state of emergency by the Governor of New Jersey or the President of the United States that directly impacts the ability of the municipality to award the contract.

The municipality must provide details on the project's schedule and the details as to how the state of emergency precluded the advancement of the municipal local aid project.

(d) Award deadline extensions must be requested in writing by the municipality a minimum of 30 days prior to the 24-month deadline, and shall include a resolution and justification for the extension of time that demonstrates ability to award the contract within the requested six-month period.

1. Meeting the extraordinary circumstances described in (c)1 above does not guarantee approval of a six-month deadline extension. The Department will consider factors such as likelihood of achieving the award within the next six months and past performance of the municipality. A six-month deadline extension will require approval of the Director of Local Aid and Economic Development with concurrence of the Commissioner. At any time, but at a minimum of 30 days prior to the extension of time deadline, a municipality may voluntarily cancel the municipal local aid agreement and release the funds back to the Department.

(e) If an extension of time is not granted, the municipal local aid agreement shall become null and void and the funds, except those funds programmed for Urban Aid, shall be rescinded.

(f) If an extension of time is granted, and the contract is not awarded within the extension period or the municipality has not voluntarily canceled the municipal local aid agreement as specified in this section, the municipal local aid agreement shall become null and void and the funds, except those funds programmed for Urban Aid, shall be rescinded.

16:20B-6.3 Award of contract

(a) Upon approval by the Department, the municipal government shall advertise and award the contract for each project in accordance with the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) Thirty calendar days prior to the time of advertisement, the municipal government shall submit the following to the appropriate district office:

1. One copy of the contract plans and specifications;
2. One copy of the engineer's estimate of costs; and
3. A certification from the municipal engineer or consulting project engineer certifying conformance to the design standards set forth in N.J.A.C. 16:20B-5.1 and setting forth any required design exception justification.

(c) If a project is advertised for bid prior to submitting the items in (b) above, the project may be subject to re-advertising.

(d) The Department will review the submission items in (b) above, and if found acceptable, notify the municipality that the project can be advertised. If the submission is found unacceptable, the municipality may make the necessary corrections and re-submit the project for approval to advertise.

(e) Within 30 calendar days following the award of the contract to the lowest responsible bidder, the municipal government shall submit the following to the appropriate district office:

1. One copy of the summary of construction bids showing all bid quantities, unit prices and extensions;
2. A fully executed and sealed resolution awarding the contract to the lowest responsible bidder, subject to the approval of the Department;

3. An invoice for a percentage of the award amount, or a percentage of the project allotment, whichever is less as specified by the appropriate district office. The initial payment amount shall be determined as follows:

i. Municipalities may invoice up to 75 percent of the award amount, or 75 percent of the project allotment, whichever is less.

(f) When all information relative to the bidding has been approved by the Department, the municipal government will be provided an award concurrence date through SAGE, and the Department will process initial payment for projects using municipal local aid or discretionary local aid funds.

1. No third party shall be entitled to challenge a decision of the Department to approve or disapprove the award of any contract under this chapter.

2. Any construction undertaken prior to Department concurrence in the award of the project, shall be subject to non-participation.

(g) Municipalities may also perform work using their own workforces. In order to do so, the municipality must demonstrate to the Department that the force account method is more cost effective than contracting through competitive bidding and efficiently uses labor, equipment, materials, and supplies to assure the lowest overall cost.

1. When the force account method is requested, the municipality must supply the following:

i. Sufficient cost information, so that a cost-effectiveness determination can be made by comparing the total cost for the agency to perform the work versus the total cost using competitively bid prices. The project or contract completion time is to be equal for both municipality and contract work estimates in order to provide a fair price comparison;

ii. The determination that the municipality has the experience, resources, and demonstrated ability to complete the work with the same level of quality as that expected on a competitively bid contract;

iii. The ability to comply with the appropriate design, construction, and material quality standards; and

iv. Documentation of compliance that the level of quality is the same as that which is required for competitively bid contracts.

2. All force account work requests must be reviewed and approved by the Department prior to the start of construction.

3. If the force account method is approved, the municipality shall enter into a force account agreement with the Department. Any construction undertaken by the force account method prior to Department approval and execution of a force account agreement shall be subject to non-participation.

4. The Department's participation shall not exceed the approved project amount.

16:20B-6.4 Contract completion and final payment

(a) Municipal governments may request progress payments on a monthly basis when the total amount of reimbursement requested is not less than \$ 50,000. Otherwise, final payment will be paid on a reimbursement basis after the Department notifies the municipality to submit a final payment voucher.

(b) When the municipality deems work associated with the municipal local aid grant to be complete, the municipality will notify the Department in writing that the work is ready for inspection.

(c) The Department, if it chooses, may inspect the work for compliance with the terms of the municipal local aid agreement. The Department will notify the municipality, in writing, that it will either inspect the project or waive project inspection.

(d) If the Department chooses to inspect the project, upon completion of the inspection the Department will notify the municipality in writing that work associated with the municipal local aid grant is acceptable or that corrective action must be taken. Concurrently, the Department will request a final payment voucher and accompanying documentation as set forth in (f) below, within six months of the notification. Corrective action shall be completed prior to final payment voucher submission or be subject to non-participation by the State.

(e) If the Department chooses not to inspect the project it will request a final payment voucher and accompanying documentation as set forth in (f) below within six months of notification.

(f) The municipality shall submit the following items to process the final payment voucher:

1. A certification by the municipal engineer that the work funded by the municipal local aid grant has been completed in a satisfactory manner and in conformance with the municipal local aid agreement;

2. A certification by the municipal chief financial officer that all expenditures associated with the municipal local aid agreement are supported by valid documentation and conform to the municipal local aid agreement; and

3. Material certifications and test results to ensure conformance with the construction specifications as may be required.

(g) The Department reserves the right to perform audit inspections after final payment to confirm the statement of acceptability made by the municipal engineer. The municipality shall be required to reimburse the Department for work not completed as certified.

(h) In the event that a request for final reimbursement is not received within six months after notification by the Department, the municipal local aid agreement will be closed and any remaining funds allocated to the project shall be rescinded.

(i) Any funds remaining after final payment or rescission shall be reallocated by the Department at the Commissioner's discretion, except for those funds programmed for Urban Aid funding. These funds will be held by the Department for reallocation to the recipient.

SUBCHAPTER 7. RECORDKEEPING AND AUDIT

16:20B-7.1 General provisions

(a) Municipalities shall maintain complete documentation of projects for a period of three years after final reimbursement or notification by the Department of municipal local aid agreement closure.

(b) The municipality shall comply with the State of New Jersey Single Audit Policy defined by the Department of Treasury, Office of Management and Budget (OMB Circular 04-04 or as superseded) and the Single Audit Act of 1984 as amended (Federal OMB Circular A133). These circulars are available in electronic format on the New Jersey Department of Treasury, Office of Management and Budget website at www.state.nj.us/infobank/circular/circindex.htm and at the Federal government website at www.whitehouse.gov/OMB.

(c) A Single Audit of the municipality shall be performed annually by an independent auditor or public accountant who meets the independence standards specified in generally accepted government auditing standards in conformity with the State Audit Policy.

(d) Audit costs incurred by the municipality to comply with the subchapter shall not be reimbursable.