

TITLE 16. DEPARTMENT OF TRANSPORTATION
CHAPTER 20B. MUNICIPAL LOCAL AID

SUBCHAPTER 1. GENERAL PROVISIONS

16:20B-1.1 Definitions

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

"Commissioner" means the Commissioner of the New Jersey Department of Transportation.

"Department" means the New Jersey Department of Transportation.

"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.

16:20B-1.2 Purpose

(a) These rules govern disbursements from the Department's Municipal Local Aid Program to municipalities as the State's share of the cost for transportation improvements under municipal jurisdiction.

(b) Municipal local aid funds are administered by the Department's Division of Local Aid and Economic Development. Contact information for the Division are 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) 770-5070/(973) 770-5068
Fax: (973) 770-5172
Counties covered: Hunterdon, Morris, Passaic, Somerset, Sussex,
Warren
3. District Two Office
153 Halsey Street, 5th Floor
Newark, New Jersey 07102
Phone: (973) 877-1500

Fax: (973) 877-1556

Counties covered: Bergen, Essex, Hudson, Union

4. District Three Office
Route 79 and Daniels Way
Freehold, New Jersey 07728
Phone: (732) 308-4002
Fax: (732) 308-4003
Counties covered: Mercer, Middlesex, Monmouth, Ocean

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-1.3 Funding allocation and agreement procedure

(a) Municipalities seeking municipal local aid shall submit three sets of a fully executed New Jersey Department of Transportation Resolution, Application, and Agreement for State Aid to Counties and Municipalities form for each project to the Local Aid and Economic Development District Office serving its area. Forms are available at the District Offices or on the Department's website at <http://www.state.nj.us.transportation/business/localaid>.

(b) Procedures for municipal local aid formula allocations are as follows:

1. Subject to appropriation of funds, State aid for municipal transportation projects in each county will be allocated according to the formula set forth in legislation. 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.

2. The municipal local aid application form requires 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. The Local Aid and Economic Development District Offices shall review the form for completeness, make a field investigation and evaluate all projects for which applications have been received.

3. A screening committee composed of municipal engineers representing a cross section of New Jersey, and Department staff shall review all projects for which application packages have been received. The screening committee will make recommendations as to which projects should receive funding to the Commissioner for consideration and approval. 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 ap-

plicable 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.

(c) Separate from the municipal local aid formula allocation, the Commissioner shall allocate \$ 5,000,000 to municipalities qualifying for urban aid under P.L. 1978, c. 14 (N.J.S.A. 52:27D-178 et seq.), as amended, in the same proportion that they receive aid under P.L. 1978, c. 14, as amended. The proportion is determined by the Department of Community Affairs.

(d) Municipal local aid agreements using both formula allocations and urban aid allocations shall specify that a contract must be awarded by the municipality within 18 months from the date of execution of the agreement. At any time, but at a minimum of 30 days prior to the 18-month deadline, a municipality may voluntarily cancel a municipal local aid agreement and release the funds back to the Department.

1. In the event an award is not made within the 18-month timeframe specified in this section, the Division of Local Aid and Economic Development, at its discretion, may grant an extension of not greater than six months in duration. Award deadline extensions must be requested in writing by the municipality a minimum of 30 days prior to the 18-month deadline, and shall include a resolution and justification for the extension of time that demonstrates ability to award the contract within the six-month period. In the event that an award deadline extension is not granted, or a request for an extension is not received more than 30 days prior to the 18-month deadline, the municipal local aid agreement shall become null and void and the Department shall rescind the funds allocated for the project. The initial extension of time may be approved by the Director of the Division of Local Aid and Economic Development.

2. Failure to award a contract within the 18-month period specified in this subsection without submitting a request for an extension of time a minimum of 30 days prior to the 18-month expiration deadline or without voluntarily canceling the municipal local aid agreement a minimum of 30 days prior to the 18-month expiration deadline, will result in future municipal local aid grants being allocated on a reimbursement basis until such time as the municipality demonstrates the ability to award contracts within required timeframes.

3. If an award deadline extension 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 subsection, the municipal local aid agreement shall become null and void and the Department shall rescind the funds allocated for the project.

4. Failure to award a contract within the six-month award deadline extension period specified in this subsection without voluntarily canceling the municipal local aid agreement a minimum of 30 days prior to that deadline or without requesting a second six-month extension pursuant to (d)5 below, will result in future municipal local aid grants being allocated on a reimbursement basis until such time as the municipality demonstrates the ability to award contracts within required timeframes.

5. A municipality may request a second six-month extension under extraordinary circumstances. The request for a second extension shall be made a minimum of 30 days prior to the deadline of the initial six-month extension and must be requested in writing by the municipality and shall include a resolution and justification for the extension of time.

i. Extraordinary circumstances are narrowly defined as:

(1) Bidding problems. The project was advertised and bids received before the expiration of the initial six-month extension, but because the bids exceed 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;

(2) 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;

(3) Utility relocation work precludes advertisement, bid and award during the six-month extension period. 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; and

(4) 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 municipal local aid project.

ii. Meeting the extraordinary circumstances in (d)5i above does not guarantee approval of a second six-month extension of time. The Department will consider factors such as likelihood of achieving award within the next six months and past performance of the municipality. A second six-month 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 second extension of time deadline, a municipality may voluntarily cancel the municipal local aid agreement and release the funds back to the Department.

6. If a second award deadline extension is not granted, the municipal local aid agreement shall become null and void and the Department shall rescind the funds allocated for the project.

7. If a second award deadline extension 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 subsection, the municipal local aid agreement shall become null and void and the Department shall rescind the funds allocated for the project.

8. Failure to award a contract within the second six-month award deadline extension period specified in this subsection without voluntarily canceling the municipal local aid agreement a minimum of 30 days prior to that deadline, will result in future municipal local aid grants being allocated on a reimbursement basis until such time as the municipality demonstrates the ability to award contracts within required timeframes.

(e) Separate from municipal local aid formula and urban aid allocations, the cities of Jersey City and Newark shall receive an annual State local aid allotment not less than the combined total of their 1984 apportionment of Federal Aid Urban System funds plus State matching funds including their portion on non-attributable funds made available for Small Urban Areas. In any one year in which insufficient funds have been appropriated to meet the minimum allocations, or if no appro-

priation is provided, the Commissioner shall determine on a prorated basis the amount of the deficiency for each municipality.

1. Annually, prior to August 31, Jersey City and Newark will be advised for budgetary purposes of the amount of funds they can anticipate for the following calendar year. A Transportation Improvement Program with a State Local Aid element or, at the discretion of Jersey City and Newark, an Annual Transportation Program, shall be approved by the mayor and council and submitted to the Department prior to February 1 of the next succeeding calendar year, for final approval.

2. In developing their transportation programs, Jersey City and Newark shall be in conformance with any applicable requirements of the New Jersey State Implementation Plan.

3. The transportation programs submitted annually by Jersey City and Newark shall list each project by name and location and give a brief description of how each project conforms with each respective city's Municipal Transportation Plan.

4. Each program shall list the phase (engineering, right-of-way, construction) of each project to be undertaken. A cost estimate which indicates the amount of anticipated State participation and the amount of the respective city's participation shall be provided for each phase of eligible work. The total cost of work in the program, for which State participation is requested, shall not exceed Jersey City's and Newark's annual share of funds.

5. Jersey City and Newark shall be required to submit three sets of fully executed Municipal Local Aid Agreements containing each project in their transportation program on forms provided by the Department. Additions or deletions of projects shall be authorized by the mayor and council and approved by the Department.

6. Municipal local aid agreements shall specify that contracts must be awarded by Jersey City or Newark within 18 months from the date of execution of the agreement. At any time, but at a minimum of 30 days prior to the 18-month deadline, Jersey City or Newark may voluntarily cancel their municipal local aid agreement and release the funds back to the Department for future allocations to other projects within their municipalities.

7. In the event an award is not made within the 18-month timeframe specified in this subsection, the Department, at its discretion, may grant a one-time extension not greater than six months in duration. Award deadline extensions must be requested in writing by Jersey City or Newark, a minimum of 30 days prior to the 18-month deadline, and shall include a resolution and justification for the extension of time, that demonstrates ability to award the contract within the six-month extension period. In the event that an award deadline extension is not granted, or a request for an extension is not received more than 30 days prior to the 18-month deadline, the municipal local aid agreement shall become null and void and the Department shall make the funds available for future allocations to other projects within the respective municipality.

8. If an award deadline extension is granted, and the contract is not awarded within the extension period or if Jersey City or Newark has not voluntarily canceled the municipal local aid agreement as specified in this subsection, the agreement shall become null and void and the Department shall make the funds available for future allocations to other projects within the respective municipality.

9. Escalation in a project's cost that exceeds the approved amount in the Municipal Local Aid Agreement shall be reviewed by the Department to determine eligibility for State participation. Jer-

sey City or Newark shall request Department approval to modify its Annual Transportation Program to include State participation in the cost escalation and execute revised municipal local aid agreements. If not approved by the Department, all cost escalations will be totally borne by the municipality.

16:20B-1.4 Discretionary funds

(a) 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. Project approvals will be at the discretion of the Commissioner.

(b) Applications for discretionary funding should be made as described in N.J.A.C. 16:20B-1.3. Applications submitted for formula funding, but not receiving approval, can be resubmitted for discretionary funding at the applicant's request. The Division of Local Aid and Economic Development staff shall review requests as they are received and make recommendations to the Commissioner for approval. Emergencies shall be reviewed immediately, and recommendations made for timely action.

SUBCHAPTER 2. PLANS AND SPECIFICATIONS

16:20B-2.1 Municipal government responsibility

(a) The municipal government shall be responsible for 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.

(b) The municipal government shall provide maps, reports, construction plans, and specification and contract documents as may be required by the Department.

(c) 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.

16:20B-2.2 Standards

(a) The municipality will make every effort to have the proposed improvement conform to the current design criteria of the appropriate American Association of State Highway and Transportation Officials (AASHTO) publications listed in (a)1 through 3 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, 5th edition, incorporated herein by reference, and superseding editions;

2. Standard Specifications for Highway Bridges, 17th edition, incorporated herein by reference, and superseding editions; and

3. Guide for the Development of Bicycle Facilities, 3rd edition, incorporated herein by reference, and superseding editions.

(b) The Department shall be advised in writing of all deviations from the standards in (a) above. If there is deviation from those standards, the municipality shall have a New Jersey licensed professional engineer prepare a Design Exception report based on the requirements of the Design Exception Manual, and a certification providing an analysis and justification for any controlling standard 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, and shall indemnify the State as outlined in the municipal local aid agreement.

1. The Department's Design Exception Manual, 2004 edition, incorporated herein by reference, and superseding editions, is available in electronic format on the Department's website at <http://www.state.nj.us/transportation/eng/>.

(c) In addition to the standards in (a) above, all design shall also conform to the standards contained in the "Manual On Uniform Traffic Control Devices" (MUTCD), 3rd edition, revision 1, incorporated herein by reference, and superseding editions, published by the U.S. Department of Transportation, Federal Highway Administration.

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/index.asp>; and

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

(d) Construction and materials shall conform to the Department of Transportation Standard Specifications for Road and Bridge Construction, 2001 edition, incorporated herein by reference, and superseding editions, and the Department of Transportation Supplementary Specifications for State Aid Projects, 2005 Edition, incorporated herein by reference, and superseding editions. The Department 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 Department of Transportation Supplementary Specifications for State Aid Projects is available in electronic format on the Department's website at <http://www.state.nj.us/transportation/business/localaid/suppspecpay.shtm>.

(e) Design of traffic barriers and drainage systems shall conform to the Department's Roadway Design Manual, 2001 edition, incorporated herein by reference, and superseding editions. The Roadway Design Manual is available in electronic format on the Department's website at <http://www.state.nj.us/transportation/eng/documents/RDME/>.

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

SUBCHAPTER 3. CONTRACTS

16:20B-3.1 Award of contract

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

(b) Fifteen calendar days prior to the time of advertisement, the municipal government shall submit the following to the Department's Local Aid and Economic Development 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-2.2 and setting forth any required design exception justification.

(c) Within 30 calendar days following the award of the contract to the lowest responsible bidder, the municipal government shall submit the following to the Department's Local Aid and Economic Development 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 allotment, whichever is less as specified by the Local Aid and Economic Development 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 their allotment, whichever is less, unless they have been advised that funds are to be allocated on a reimbursement basis, pursuant to N.J.A.C. 16:20B-1.3(d)2, 4 and 8, in which case funds will continue to be disbursed on a reimbursement basis until such time as the municipality demonstrates the ability to comply with the applicable timeframes contained in this chapter.

(d) When all information relative to the bidding has been approved by the Department, the municipal government shall be advised of the concurrence of the award of contract in writing, 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.

(e) Contracts may also be performed by the force account method. All force account work must be approved by the Department prior to the start of construction by municipal work forces. The State's participation shall not exceed the approved allotment amount. Any construction undertaken prior to Department approval shall be subject to non-participation.

16:20B-3.2 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 in writing the municipality 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 upon written notification to the municipality 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 by Jersey City and Newark and any Urban Aid funding. Any balances remaining from those projects will be held by the State for reallocation to the recipient.

(j) 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.

SUBCHAPTER 4. STATE PARTICIPATION IN COST

16:20B-4.1 General requirements

(a) State participation shall not exceed the lesser of either 100 percent of the cost of the completed construction work including construction supervision, inspection, and material testing or the project allotment.

(b) The following costs are not eligible for State 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;
3. Engineering costs except for those deemed eligible pursuant to (c) below; and
4. Right-of-way acquisition, except for costs deemed eligible pursuant to (c) below.

(c) Municipalities qualified by the Department of Community Affairs for Urban Aid funding under P.L. 1978, c. 14, as amended, 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.

16:20B-4.2 Cost of engineering, inspection and construction supervision

(a) The State 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 N.J.A.C. 16:20B-4.1(c). Prior approval of the State's participation in the cost of engineering fees shall be obtained before any engineering services are performed.

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

(c) The State shall participate in the cost of inspection and construction supervision including the necessary material testing. The Department shall allow a maximum of 15 percent of the final construction cost of the project as the cost of inspection and construction supervision, less any State non-participatory items for construction inspection services including material testing. Bituminous concrete adjustments are not included in this calculation.

16:20B-4.3 Cost of right-of-way acquisition

(a) The State 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 N.J.A.C. 16:20B-4.1(c). Municipal governments seeking State participation in the cost of right-of-way acquisition shall make a request to the Department's Local Aid and Economic Development 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. Other costs incurred incidental to the right-of-way acquisition shall not be reimbursed. All property shall be purchased in accordance with the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) 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.

(c) 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.

(d) 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 State Department of Community Affairs pertaining to this statute, when owner or tenant occupants of any property being acquired for a project will be displaced.

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

SUBCHAPTER 5. AUDIT

16:20B-5.1 General provisions

(a) 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.

(b) 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.

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