

**LOCAL FINANCE NOTICE**CHRISTINE TODD WHITMAN  
GOVERNORJANE M. KENNY  
COMMISSIONERULRICH H. STEINBERG, JR.  
DIRECTOR**"HURRICANE FLOYD" RELATED APPROPRIATIONS**

Governor Christine Todd Whitman's declaration of a State of Emergency (Executive Order 101) for the recent "Hurricane Floyd" covered the entire state. This ensures that in addition to the coast and riverside municipalities and counties that received extensive flooding damage from the hurricane, all other municipalities and counties that experienced damage to public facilities and incurred expenses in responding to those damages and in aiding the affected public can take advantage of various laws and policies. This Local Finance Notice outlines the following items and supersedes any earlier information issued on the subject, and covers the following matters:

- A. Emergency response appropriations
  - B. Repair and restoration of damaged facilities
  - C. Impact of federal or state financial assistance
  - D. Recordkeeping for disaster damage claims
  - E. Emergency purchasing documentation
- Appendix - Sample Emergency Resolutions & CFO Certification

Many municipalities and counties incurred obligations or expenses beyond their budget in responding to the storm. In these cases, governing bodies must take appropriate action regarding emergency funding procedures, as overexpenditures or expenditures without an appropriation are not permitted. It is important to note that there are two categories of emergency expenses: emergency response and repair and restoration. The different statutory authorizations for funding them are explained below. Samples of all forms are included with this Notice.

Budget line items for emergency related costs should include the phrase "Hurricane Floyd Related Costs," along with the purpose of an appropriation or source of revenue.

If your organization has taken and filed action before receiving this Notice, staff from the Division will contact you if there are any substantial differences between the action taken and these requirements. This Notice should be retained, as its provisions will affect similar circumstances in the future.

**A. Emergency Responses**

Emergency response expenditures can be funded through available budget balances, or through emergency appropriations.

These responses include those expenses incurred relating to the actual flooding, wind and water damage during and immediately after the storm. The type of expenses include overtime, rental of emergency equipment, and related expenses to handle the immediate response to the storm and its initial cleanup. Expenses for repair and restoration are handled separately as described below.

A "normal" emergency appropriation is adopted pursuant to N.J.S.A. 40A:4-46. This emergency resolution authorizes immediate expenditure of funds and requires the appropriation to be raised in the following year's budget. **All such resolutions must be filed by December 31, 1999.** Certification of Legal Counsel is not required.

Normal rules regarding emergencies are followed. A resolution approved by 2/3 of the membership of the governing body and a certification of the Chief Financial Officer that the resolution covers expenses incurred during the emergency response to the storm must be filed. Emergency resolutions that exceed the 3% limit require approval of the Director, but must be appropriated outside the cap next year as noted below.

For municipalities under the budget cap, storm related emergency resolutions must be funded in the next year's budget as a cap exception pursuant to N.J.S.A. 40A:4-45.3(bb) and counties under N.J.S.A. 40A:4-45.4q which provide a cap exemption for the following:

"Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or the Governor."

## **B. Repair and Restoration of Damaged Facilities**

Three alternatives are available to municipalities and counties to finance repair and restoration costs to "Streets, roads or bridges, or other public property when damaged by flood or hurricane". They are a "normal emergency" under N.J.S.A. 40A:4-46, a "special emergency" under N.J.S.A. 40A:4-54, and routine budgeting.

- 1) Under N.J.S.A. 40A:4-46, all repair and restoration costs may be part of the emergency appropriation, but must be funded in full as part of the following year's budget outside the cap.
- 2) N.J.S.A. 40A:4-54 allows adoption of a special emergency resolution to cover the costs of extraordinary expenses for the repair and reconstruction of these facilities damaged by flood or hurricane, and permits the costs to be funded over a maximum of 5 years. A 2/3 majority vote of the governing body and certification of the Chief Financial Officer is required.

The special emergency process also requires that after declaring the emergency as above, the governing body must determine the method for funding the expenses, either by special emergency notes or through surplus. The vote must be by a 2/3 majority of the governing body. In both cases, the emergency must be paid for through annual appropriations of at least 1/5 the amount in each succeeding fiscal year.

The resolution declaring the emergency can be used for both purposes. The sample Special Emergency resolution included with this Notice combines both functions. Additional details on this procedure are found in N.J.S.A. 40A:4-55.

The law also requires that expenses were unforeseen at the time the budget was adopted. While this may not affect municipalities operating on a calendar fiscal year, it may affect those operating under the state fiscal year that had not adopted their budgets at the time the storm hit. Appropriations for emergency work in these cases may be budgeted

under the provisions of N.J.S.A. 40A:4-20 and be raised outside the budget cap pursuant to N.J.S.A. 40A:4-45.3(c)(1), if under the 3% limitation. If over the 3% limitation the temporary emergency must still be budgeted outside the cap under the provisions of N.J.S.A. 40A:4-45.3(bb), and may not be spread out over several years, or funded through a capital ordinance. This ordinance can be funded through annual, cap exempt appropriations.

- 3) Finally, repair and restoration appropriations stemming from storm damaged facilities may be budgeted in CY 2000 or SFY 2000 as a cap exception under N.J.S.A. 40A:4-45.3(bb). The line item should appear on budget sheet 20 under "Operations excluded from 'CAPS'". If appropriations are bondable in nature may also be budgeted under the Capital Improvement section of the budget. A certification of the Chief Financial Officer documenting the proposed appropriations will be required as part of the budget review.

### **C. Impact of Federal or State financial assistance**

The federal government has declared several counties as disaster areas for the purposes of Federal Emergency Management Administration assistance. They are Bergen, Essex, Mercer, Middlesex, Morris, Passaic, Somerset and Union. Those counties and their municipalities will receive information through their Emergency Management Coordinators on the procedures to follow to obtain FEMA assistance.

Several options are available for handling FEMA revenue if it is received or certified **prior** to adoption of the CY 2000 or SFY 2000 budget:

- If no emergency resolution was passed, it can be anticipated as a special item of revenue in the CY 2000/SFY 2000 budget, and offset with an appropriation.
- If a "normal" emergency resolution (40A:4-46) was adopted, revenue may be recognized as a Miscellaneous Revenue.
- If a special emergency has been authorized (40A:4-54), it can be applied directly to the emergency authorization, up to the amount of the charge. This reduces the total amount of the emergency that must be raised over the permitted five year period and the amount to be raised each year.
- If FEMA funds are received **after** the budget is adopted, they can be inserted through a Chapter 159 resolution and offset with related appropriations or taken as Miscellaneous Revenue - Not Anticipated. If a special emergency (40A:4-54) has been passed, the revenue can be applied as noted above in the following year's budget.

### **D. Recordkeeping for FEMA Claims**

It is of the utmost importance that municipal officials keep accurate and thorough records if storm damage reimbursement is to be obtained from FEMA. Copies of time sheets, work orders, receipts, purchase orders, and other documents should be kept in a convenient place, with appropriate notations of the relation of the work to the storm. Photos or videos of "before" and "after" the storm that accompany requests will help in supporting FEMA claims. Narrative summaries may also serve to support claims. You should also anticipate FEMA requesting backup of hours worked to include hourly rates, and work done for each employee involved being claimed.

### E. Emergency Purchasing Documentation

The Local Public Contracts Law allows for purchases of goods and services in excess of the bid limit or quotation threshold in cases of emergencies.

Purchases **made during the storm and immediately after** would meet the criteria in N.J.S.A. 40A:11-6 - Emergency Purchases.

Documentation for purchases made under this section should ultimately include written backup for the purchases. This must include, at a minimum, a voucher, and depending on the circumstances, a purchase order or requisition; all approved by the designated local official for emergency action. The governing body must take action to pay for any obligations incurred in accordance with the law.

The law and related rules also permit the governing body to prescribe rules for the handling of emergency purchases. If you find your procedures deficient, take advantage of the recent experience to review your practices to be sure they meet the requirements of the law, so they will be ready in the future.

Questions concerning the financial procedures may be directed to the Bureau of Financial Regulation at (609) 292-4806; contracting law questions to the Bureau of Local Management Services at (609) 292-7842.

Please also note that on the attached resolutions the Division is using the date convention CCYY to represent the Century and Year, i.e. 2000 or 1999. Also, the traditional date format of MM/DD/YY is being shown as MM/DD/CCYY to show the full four digit year.

---

Ulrich H. Steinberg, Director  
Division of Local Government Services

Distribution: Municipal and County Chief Financial Officers to reproduce this Notice locally and provide copies to  
Chief Executive, Governing Body, Municipal Clerk or Clerk to the Board of Chosen Freeholders, and  
Chief Administrative Officer  
Registered Municipal Accountants