



LFN 2023-04

February 17, 2023

Local Finance Notice

Philip D. Murphy
Governor

Lt. Governor Sheila Y. Oliver
Commissioner

Jacquelyn A. Suárez
Director

Contact Information

Website

www.nj.gov/dca/divisions/dlgs

E-mail

dlgs@dca.nj.gov

Phone

609.292.6613

Mail and Delivery

101 South Broad St.
PO Box 803
Trenton, New Jersey
08625-0803

Distribution

Municipal CFOs
County CFOs
Administrators/Managers
Municipal Clerks
Clerks – County Boards of
Commissioners
Auditors

Appropriations Cap Relief for CY2023/SFY2024 Budgets; National Opioid Settlement Guidance

N.J.S.A. 40A:4-45.3d authorizes the Local Finance Board (Board) to grant additional exceptions to the municipal appropriations cap (also known as the “1977 cap”) upon finding that extraordinary circumstances exist resulting in an unanticipated increase in expenditures for a service essential to the health, safety, and welfare of New Jersey residents. Such exceptions, when granted by the Board, are applicable to all municipalities but only effective for the local budget year in which the exceptions are granted.

Pursuant to N.J.S.A. 40A:4-45.3d, at its February 8, 2023 meeting, the Board approved the following appropriation increases in excess of 3.5% for the following CY2023/SFY2024 budget appropriations:

- Garbage and Trash Removal and Disposal
- Recycling
- PERS and PFRS employer contributions
- Gasoline and Diesel Fuel
- Worker’s Compensation Insurance

The appropriation cap exception will be calculated using the amount of the increase over the prior year appropriation that exceeds 3.5%, which is the COLA rate. The Division has prepared an [addendum to the levy cap workbook](#) to calculate the allowable appropriation cap exception – which goes on sheet 20 of the budget. The appropriation cap exception can be used up to the amount calculated in the workbook. Please note that the Board-approved appropriations cap exceptions are permissive.

In light of the Board’s action, the Division’s [Municipal Budget Template](#) has been updated to allow selection of the following FCOA codes on Sheet 20:

- 1) 23-215: Workers Compensation Insurance
- 2) 26-305: Solid Waste Collection (to be used for both Garbage and Trash Removal; and Recycling)
- 3) 31-460: Gasoline and Diesel
- 4) 32-465: Landfill/Solid Waste Disposal Cost
- 5) 36-471: PERS
- 6) 36-475: PFRS

The above updated FCOA codes are not on versions 2023.0 or earlier of the Municipal Budget Template. Municipalities that have not completed a substantial amount of data entry for their budgets should use the [new version \(version 2023.1\)](#). Those municipalities that have completed a substantial amount of data entry for their budgets should email the template to Matthew.Gallelo@dca.nj.gov, who will revise Sheet 20 to permit selection of the additional FCOA codes. Municipalities must not attempt to input the new Board-approved appropriations cap exceptions on versions 2023.0 or earlier of the template, as this will result in data collection errors.

The Board has not granted these exceptions lightly and has expressed its reluctance to extend them beyond the CY2023 and SFY2024 budget years. Municipalities are strongly encouraged to explore all avenues of cost savings, including investigating shared services, and closely analyzing labor agreements and discretionary spending, to ensure a sustainable budget in future years.

National Opioid Settlement Proceeds - Guidance on Budgeting & Reporting

Nationwide settlements have been reached to resolve all opioid litigation brought by states and local political subdivisions against various pharmaceutical distributors and manufacturers. The proceeds of these settlements are in various stages of distribution to many New Jersey counties and municipalities. This section contains guidance on budgeting and use of the settlement proceeds, along with required reporting on how proceeds are being allocated. This guidance was crafted in coordination with the Department of Human Services (DHS) and the Division of Law and Public Safety in the Office of the Attorney General.

Proceeds from the National Opioid Resolutions with Johnson & Johnson, Mallinckrodt Pharmaceuticals, McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen Corporation can be spent on the programs listed in [Exhibit A of the agreement](#), which begins on page 35 of the PDF. It is anticipated that the same terms also will apply to additional settlements with other companies. The list of New Jersey counties and municipalities receiving settlement proceeds can be found on pages 177-182 of the PDF.

The State has not imposed restrictions on the types of eligible programs beyond the limits imposed at the national level. However, the agreement between the State, counties, and municipalities does include other requirements beyond those imposed in the nationwide agreement, including but not limited to:

- a requirement that settlement funds be used to supplement, not supplant, funds that otherwise would have been used for approved purposes;
- establishment of County Advisory Councils to provide expert input, advice, and recommendations on the disbursement of settlement funds;
- limits on administrative expenses; and
- reporting requirements.

Under N.J.S.A. 40A:4-87, municipalities and counties may seek approval from the Division for the insertion of revenue from the National Opioid Resolutions into the budget of the municipality or county. There is no statutory or regulatory authority for a municipality or county to independently establish a trust fund for the settlement proceeds.

Further, please be advised that Governor Murphy signed [Executive Order 305](#) on August 31, 2022 designating the Department of Human Services (DHS) as the lead State agency overseeing the disbursement and reporting of the settlement monies over the next 18 years. Based on the agreement between the State, counties, and municipalities, DHS will develop and announce an annual reporting process for participating county and local subdivisions. On an annual basis, counties will be required to provide information about how the settlement funds were allocated over the prior year by the county and the participating municipalities within the county. DHS will review those reports and publicly post them online. Counties and participating municipalities are responsible for collaborating to ensure all reporting requirements are met and that all required information is shared with DHS on a timely basis. The first annual reports are due to DHS no later than September 1, 2023, and those reports will cover the current State Fiscal Year. Division of Local Government Services approval to insert revenue from the opioid settlement into a municipal or county budget does not negate the DHS reporting requirements.

At this juncture, please consult your municipal or county counsel for additional guidance on issues such as the amount that can be spent on administrative expenses, program eligibility, and expenditure reporting. For instructions on how to receive the distributors' first settlement payment tranche, please consult the New Jersey Office of the Attorney General's guidance on this topic. Please email any questions to DMHAS@dhs.nj.gov.

Approved: Jacquelyn A. Suárez, Director

Document	Internet Address
CY2023/SFY2024 Approp. Cap Workbook	https://www.nj.gov/dca/divisions/dlgs/programs/mc_bud_docs/2023CYlevycapcalcwrkbk-muni.xls
Budget Template (v. 2023.1)	https://www.nj.gov/dca/divisions/dlgs/pdf/2023_Budget_Template_Municipal.xlsm
Nat'l Opioid Settlement Agreement	https://nationalopioidsettlement.com/wp-content/uploads/2022/04/NJ-State-Subdivision-Agreement.pdf
Executive Order 305	https://nj.gov/infobank/eo/056murphy/pdf/EO-305.pdf