



## Changes to Waste / Recycling Contract Requirements for Municipalities Under Enhanced State Oversight

### WHO IS AFFECTED BY THIS ADVISORY?

NJDEP authorized collectors, transporters, or brokers that bid on municipal solid waste and recycling contracts to provide solid waste and recycling collection, transportation and disposal services for a municipality in New Jersey.

Municipalities under enhanced State oversight subject to Transitional Aid to Localities Program or any successor discretionary aid programs for municipalities in fiscal distress (N.J.S.A. 52:27D-118.42a), State Supervision Act (N.J.S.A. 52:27BB-54 et seq.), Municipal Rehabilitation and Economic Recovery Act (N.J.S.A. 52:27BBB-1 et seq.), Municipal Stabilization and Recovery Act (N.J.S.A. 52:27BBBB-1 et seq.), or a financial review board instituted pursuant to N.J.S.A. 52:27D-118.30a.

### WHY IS DEP ISSUING THIS ADVISORY?

Of late, fiscally distressed municipalities throughout the State have faced significant price increases and supply constraints when undertaking various procurements. The problem is particularly acute for local governments that contract with private haulers for solid waste and recycling collection. In certain cases, no private haulers have responded to advertised bids, or a lack of competition has resulted in a single bid at an exorbitant price, and municipalities have resorted to emergency short-term extensions of existing hauling contracts as a provisional solution. As private garbage haulers are often required to make significant investments in equipment and personnel to undertake refuse collection in a municipality, private haulers are demonstrating reluctance to enter into a contract with a one-year maximum duration. Current labor shortages and long lead times for equipment, such as sanitation trucks, limit the ability of local governments to directly undertake solid waste and recycling collection within a short timeframe.

New Jersey's Division of Local Government Services (DLGS), under the Department of Community Affairs, has adopted on an emergency basis and concurrently proposed an amendment to N.J.A.C. 5:34-6.1, permitting municipalities that are under enhanced State oversight to now award multi-year emergency contracts for solid waste collection and/or recycling collection, under certain circumstances, subject to DLGS Director approval. Prior to this emergency adoption and concurrent proposal, N.J.A.C. 5:34-6.1(a)5 prohibited use of the emergency purchasing procedure

# Compliance Advisory

to enter into a multi-year contract under any circumstances. This rule action is intended to provide municipalities subject to enhanced State oversight greater flexibility in developing garbage collection and recycling collection services contracts critical to the health, safety, and welfare of its residents on an emergent basis.

## WHERE CAN I GET MORE INFORMATION?

Visit the following Web site to view a copy of the Division of Local Government Services Adopted Emergency Amendment and Concurrent Proposed Amendment at N.J.A.C. 5:34-6.1:

[https://www.nj.gov/dca/dlgs/Resources/rules\\_docs/PRN%202023-090%20\(55%20N.J.R.%201849\(a\)\).pdf](https://www.nj.gov/dca/dlgs/Resources/rules_docs/PRN%202023-090%20(55%20N.J.R.%201849(a)).pdf)

## WHO SHOULD I CONTACT WITH QUESTIONS?

Please submit written comments by September 20, 2023, via email to [Jason.Martucci@dca.nj.gov](mailto:Jason.Martucci@dca.nj.gov) or by regular mail to:

Jason R. Martucci, Esq.  
Department of Community Affairs  
PO Box 803  
Trenton, New Jersey 08625

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Please note this advisory is intended to be a summary explanation of a Department initiative. It does not include all potentially applicable requirements.