

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.

Source and Effective Date

R.2021 d.094, effective July 29, 2021.
See: 53 N.J.R. 771(a), 53 N.J.R. 1510(a).

Chapter Expiration Date

Chapter 20B, Municipal Local Aid, expires on July 29, 2028.

Chapter Historical Note

Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Aid, was adopted as emergency new rules by R.1984 d.423, effective September 6, 1984, expired November 5, 1984. See: 16 N.J.R. 2456(a). The provisions of R.1984 d.423 were adopted as new rules by R.1984 d.552, effective December 17, 1984. See: 16 N.J.R. 3470(a).

Subchapter 5, Audit, was adopted as R.1987 d.266, effective July 6, 1987. See: 19 N.J.R. 623(a), 19 N.J.R. 1229(b).

Pursuant to Executive Order No. 66(1978), Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Aid, expired on December 17, 1989.

Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Fund, was adopted as new rules by R.1990 d.130, effective February 20, 1990. See: 21 N.J.R. 3716(b), 22 N.J.R. 669(b).

Pursuant to Executive Order No. 66(1978), Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Fund, was readopted as R.1995 d.72, effective January 12, 1995. See: 26 N.J.R. 4486(a), 27 N.J.R. 504(c).

Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Fund, was repealed, and a new Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Aid, was adopted as R.1996 d.305, effective July 1, 1996. See: 28 N.J.R. 1354(a), 28 N.J.R. 3315(a).

Pursuant to Executive Order No. 66(1978), Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Aid, was readopted as R.2001 d.162, effective April 26, 2001. See: 33 N.J.R. 770(a), 33 N.J.R. 1599(a).

Chapter 20B, New Jersey Transportation Trust Fund Authority Act: Municipal Aid, was readopted as R.2006 d.396, effective October 19, 2006. As a part of R.2006 d.396, Chapter 20B was renamed Municipal Local Aid, effective November 20, 2006. See: 38 N.J.R. 2395(a), 38 N.J.R. 4877(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 20B, Municipal Local Aid, was scheduled to expire on October 19, 2013. See: 43 N.J.R. 1203(a).

Chapter 20B, Municipal Local Aid, was readopted as R.2014 d.087, effective April 16, 2014. As a part of R.2014 d.087, Subchapter 1, General Provisions, was renamed Purpose and Scope, and Subchapter 4, State Participation in Cost, was renamed Municipal Aid; Subchapter 2, Plans and Specifications, was repealed, and Subchapter 2, Definitions, was adopted as new rules; Subchapter 3, Contact Information, and Subchapter 5, Standards and Specifications, were adopted as new rules; former Subchapter 3, Contracts, was recodified as Subchapter 6 and renamed Project Agreements and Contracts; and former Subchapter 5, Audit, was recodified as Subchapter 7 and renamed Recordkeeping and Audit, effective May 19, 2014. See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Chapter 20B, Municipal Local Aid, was readopted as R.2021 d.094, effective July 29, 2021. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. PURPOSE AND SCOPE

16:20B-1.1 Purpose
16:20B-1.2 Scope
16:20B-1.2 through 16:20B-1.4 (Reserved)

SUBCHAPTER 2. DEFINITIONS

16:20B-2.1 Definitions
16:20B-2.2 (Reserved)

SUBCHAPTER 3. CONTACT INFORMATION

16:20B-3.1 Contact information
16:20B-3.2 (Reserved)

SUBCHAPTER 4. MUNICIPAL AID

16:20B-4.1 Eligible costs
16:20B-4.2 Engineering and right-of-way costs
16:20B-4.3 Funding allocation
16:20B-4.4 Project approval
16:20B-4.5 Municipal responsibilities

SUBCHAPTER 5. STANDARDS AND SPECIFICATIONS

16:20B-5.1 Standards
16:20B-5.2 Specifications

SUBCHAPTER 6. PROJECT AGREEMENTS AND CONTRACTS

16:20B-6.1 Project agreements
16:20B-6.2 Contract deadline
16:20B-6.3 Award of contract
16:20B-6.4 Contract completion and final payment

SUBCHAPTER 7. RECORDKEEPING AND AUDIT

16:20B-7.1 General provisions

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.

New Rule, R.2014 d.087, effective May 19, 2014.
See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Former N.J.A.C. 16:20B-1.1, Definitions, recodified to N.J.A.C. 16:20B-2.1.

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.

New Rule, R.2014 d.087, effective May 19, 2014.
See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Former N.J.A.C. 16:20B-1.2, Purpose, recodified to N.J.A.C. 16:20B-3.1.

16:20B-1.3 (Reserved)

Recodified from N.J.A.C. 16:20B-1.2 and amended by R.2006 d.396, effective November 20, 2006.

See: 38 N.J.R. 2395(a), 38 N.J.R. 4877(a).

Rewrote the section. Former N.J.A.C. 16:20B-1.3, Discretionary funds, recodified to N.J.A.C. 16:20B-1.4.

Repealed by R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Section was "Funding allocation and agreement procedure".

16:20B-1.4 (Reserved)

Recodified from N.J.A.C. 16:20B-1.3 and amended by R.2006 d.396, effective November 20, 2006.

See: 38 N.J.R. 2395(a), 38 N.J.R. 4877(a).

Rewrote the section.

Repealed by R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Section was "Discretionary funds".

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 preconstruction 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.

The following annotation applies to N.J.A.C. 16:20B-2.1 prior to its repeal by R.2014 d.087:

Amended by R.2006 d.396, effective November 20, 2006.

See: 38 N.J.R. 2395(a), 38 N.J.R. 4877(a).

In (b), substituted "Department" for "State"; and in (c), deleted "of Transportation" following "Department" and substituted "municipal local aid agreement" for "application".

The following annotations apply to N.J.A.C. 16:20B-2.1 subsequent to its recodification from N.J.A.C. 16:20B-1.1 by R.2014 d.087:

New Rule, R.2006 d.396, effective November 20, 2006.

See: 38 N.J.R. 2395(a), 38 N.J.R. 4877(a).

Former N.J.A.C. 16:20B-1.1, Appropriation of funds, recodified to N.J.A.C. 16:20B-1.2.

Recodified from N.J.A.C. 16:20B-1.1 and amended by R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Added definitions "Award", "Construction inspection", "District office", and "SAGE"; and in definition "Commissioner", inserted "or such persons as the Commissioner may designate, when legally permissible". Former N.J.A.C. 16:20B-1.2, Purpose, recodified to N.J.A.C. 16:20B-3.1.

16:20B-2.2 (Reserved)

Amended by R.2001 d.162, effective May 21, 2001.

See: 33 N.J.R. 770(a), 33 N.J.R. 1599(a).

Rewrote the section.

Amended by R.2006 d.396, effective November 20, 2006.

See: 38 N.J.R. 2395(a), 38 N.J.R. 4877(a).

Rewrote the section.

Repealed by R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Section was "Standards".

SUBCHAPTER 3. CONTACT INFORMATION

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) 963-2021
 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: (609) 963-2020
 Fax: (732) 625-4292
 Counties covered: Hunterdon, Mercer, Mid-
 dlesex, Monmouth, Ocean, Somerset

5. District Four Office
 One Executive Campus
 Route 70 West, 3rd Floor
 Cherry Hill, New Jersey 08002
 Phone: (856) 414-8414
 Fax: (856) 486-6771
 Counties covered: Atlantic, Burlington, Cam-
 den, Cape May, Cumberland, Gloucester, Sa-
 lem

Recodified from N.J.A.C. 16:20B-1.1 and amended by R.2006 d.396,
 effective November 20, 2006.

See: 38 N.J.R. 2395(a), 38 N.J.R. 4877(a).

Section was "Appropriation of funds". Rewrote the section. Former
 N.J.A.C. 16:20B-1.2. Funding allocation and agreement procedure, re-
 codified to N.J.A.C. 16:20B-1.3.

Recodified from N.J.A.C. 16:20B-1.2 and amended by R.2014 d.087,
 effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Section was "Purpose". Deleted former (a); recodified (b) as (a); and
 in the introductory paragraph of (a), substituted "is" for "are". Former
 N.J.A.C. 16:20B-3.1, Award of contract, recodified to N.J.A.C. 16:20B-
 6.3.

Amended by R.2021 d.094, effective September 7, 2021.

See: 53 N.J.R. 771(a), 53 N.J.R. 1510(a).

In (a)1, (a)4, and (a)5, updated the phone number.

16:20B-3.2 (Reserved)

Recodified to N.J.A.C. 16:20B-6.4 and amended by R.2014 d.087, effec-
 tive May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Section was "Contract completion and final payment".
 Recodified to N.J.A.C. 16:20B-6.4 by R.2014 d.087, effective May 19,
 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Section was "Contract completion and final payment".

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 construc-
 tion or the project allotment, whichever is less; and
2. The cost of construction inspection and material test-
 ing, 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.

Amended by R.2006 d.396, effective November 20, 2006.

See: 38 N.J.R. 2395(a), 38 N.J.R. 4877(a).

In (a), deleted the last sentence; added new (b); recodified former (b)
 as (c); and rewrote (c).

Amended by R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Section was "General requirements". Rewrote the section.

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

(a) A grant recipient under the local aid program shall be
 permitted to expend up to five percent of its aid allotment for
 design purposes in the fiscal year beginning July 1, 2019, and
 every fiscal year thereafter for those purposes. Additionally,
 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 munic-
 ipality demonstrating special need as approved by the De-
 partment, may, at the discretion of the Commissioner, be re-
 imbursed for engineering and right-of-way acquisition in ad-
 dition to construction costs, provided that the amount does
 not exceed the total amount allotted for the project. Justifica-
 tion 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 deci-

sion. 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.

Amended by R.2006 d.396, effective November 20, 2006.
See: 38 N.J.R. 2395(a), 38 N.J.R. 4877(a).

Rewrote (a); in (b), deleted "design" preceding "engineering"; and in (c), deleted "also" preceding "participate" and substituted "15" for "10" and "non-participatory" for "not sharing".

Amended by R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Section was "Cost of engineering, inspection and construction supervision". Rewrote the section.

Amended by R.2021 d.094, effective September 7, 2021.

See: 53 N.J.R. 771(a), 53 N.J.R. 1510(a).

In (a), inserted the first sentence and substituted "Additionally, municipalities" for "Municipalities".

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.

Amended by R.2001 d.162, effective May 21, 2001.

See: 33 N.J.R. 770(a), 33 N.J.R. 1599(a).

In (c), substituted "Government Services and Economic Development" for "Highway Design".

Amended by R.2006 d.396, effective November 20, 2006.

See: 38 N.J.R. 2395(a), 38 N.J.R. 4877(a).

Rewrote the section.

New Rule, R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Former N.J.A.C. 16:20B-4.3, Cost of right-of-way acquisition, recodified in part to N.J.A.C. 16:20B-4.2

16:20B-4.4 Project approval

(a) Subject to appropriations, the Department shall solicit applications from each municipality by April 30th of each year for municipal local aid.

(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> by July 1st of each year. 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) The Department shall distribute an award letter to each municipality by November 30th of each year.

New Rule, R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Amended by R.2021 d.094, effective September 7, 2021.

See: 53 N.J.R. 771(a), 53 N.J.R. 1510(a).

In (a), inserted "from each municipality by April 30th of each year" and deleted "and provide a deadline for submissions" from the end; in (b), inserted "by July 1st of each year"; deleted former (g); and added (g).

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.

New Rule, R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

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/>.

New Rule, R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Former N.J.A.C. 16:20B-5.1, General provisions, recodified to N.J.A.C. 16:20B-7.1.

16:20B-5.2 Specifications

(a) Construction and materials shall conform to the Department's Standard Specifications for 2019 Road and Bridge Construction, which is incorporated herein by reference, as amended and supplemented, and the Department's Supplementary Specifications for State Aid Projects, 2019 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 Department's website at <http://www.state.nj.us/transportation/business/localaid/supp/specpay.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.

New Rule, R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Amended by R.2021 d.094, effective September 7, 2021.

See: 53 N.J.R. 771(a), 53 N.J.R. 1510(a).

In (a), inserted the first occurrence of "2019", deleted "2007 edition," following "Construction," and substituted the second occurrence of "2019" for "2011".

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.

(c) The Department shall execute an agreement with each municipality concerning the project for which the aid is allot-

ted to that municipality within 90 days from the date the Department distributes the award letter to the municipality or by March 1st of the following year, whichever is later.

New Rule, R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Amended by R.2021 d.094, effective September 7, 2021.

See: 53 N.J.R. 771(a), 53 N.J.R. 1510(a).

Added (c).

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) An allotment provided to a municipality shall be rescinded, returned, or deducted from future allocations as a result of a municipality's failure to award construction or other approved contracts for 100 percent of the municipality's allotment within two years of notification by the Department of that year's allotment.

(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.

New Rule, R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Amended by R.2021 d.094, effective September 7, 2021.

See: 53 N.J.R. 771(a), 53 N.J.R. 1510(a).

Deleted former (b) and added (b).

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. Additionally, for all projects funded, in whole or in part, out of funds from the local aid program, each bidder on a construction contract valued at more than \$5,000,000 shall be prequalified by the New Jersey Department of Transportation.

(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 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) Local government entity grant recipients shall be prohibited from using local aid program funds to support the work of any local government entity's employees on any construction projects funded, in whole or in part, out of funds from the local aid program.

(h) The construction contracts for all projects funded, in whole or in part, out of funds from the local aid program shall

be made and awarded in accordance with the Local Public Contracts Law, P.L. 1971, c. 198 (N.J.S.A. 40A:11-1 et seq.).

Amended by R.2001 d.162, effective May 21, 2001.
See: 33 N.J.R. 770(a), 33 N.J.R. 1599(a).

Rewrote the section.

Amended by R.2006 d.396, effective November 20, 2006.

See: 38 N.J.R. 2395(a), 38 N.J.R. 4877(a).

Rewrote the section.

Recodified from N.J.A.C. 16:20B-3.1 and amended by R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Rewrote the section.

Amended by R.2021 d.094, effective September 7, 2021.

See: 53 N.J.R. 771(a), 53 N.J.R. 1510(a).

In (a), added the second sentence; in (e)2, deleted "and sealed" preceding "resolution"; deleted former (g); and added (g) and (h).

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. Distribution of the portion of the grant provided initially to a municipality may be contingent on its performance in spending prior grants. Failure to award construction or other approved contracts for 100 percent of a municipality's allotment within two years of notification by the Department of that year's allotment pursuant to N.J.A.C. 16:20B-6.2(b), shall result in the allotment being immediately rescinded or the funds returned to the Department, as applicable, or in the event that the funds are not immediately returned, deducted by the Department from future allocations of aid to that municipality. Any of these funds may be reallocated by the Commissioner to other transportation projects, as the Commissioner shall so determine.

Amended by R.2001 d.162, effective May 21, 2001.

See: 33 N.J.R. 770(a), 33 N.J.R. 1599(a).

In (c), substituted "Government Services and Economic Development" for "Highway Design"; and in (f), substituted "one year" for "six months".

Repeal and New Rule, R.2006 d.396, effective November 20, 2006.

See: 38 N.J.R. 2395(a), 38 N.J.R. 4877(a).

Section was "Contract completion and payment".

Recodified from N.J.A.C. 16:20B-3.2 and amended by R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

In (c), deleted "in writing" following "notify", and inserted ", in writing"; in (h), deleted "upon written notification to the municipality" following "closed"; rewrote (i); and deleted (j).

Amended by R.2021 d.094, effective September 7, 2021.

See: 53 N.J.R. 771(a), 53 N.J.R. 1510(a).

In (i), added the third, fourth, and fifth sentences.

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 reimburse-

ment 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 ac-

cepted 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.

Amended by R.2001 d.162, effective May 21, 2001.
See: 33 N.J.R. 770(a), 33 N.J.R. 1599(a).

Rewrote (a).
Amended by R.2006 d.396, effective November 20, 2006.
See: 38 N.J.R. 2395(a), 38 N.J.R. 4877(a).

In (a), substituted "04-04" for "98-03" and added the last sentence; deleted former (c); and recodified (d) as (c).
Recodified from N.J.A.C. 16:20B-5.1 and amended by R.2014 d.087, effective May 19, 2014.

See: 46 N.J.R. 185(a), 46 N.J.R. 868(a).

Added new (a); and recodified former (a) through (c) as (b) through (d).