



LFN 2015-21

October 1, 2015

Local Finance Notice

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Distribution

All Local Officials

Storm Preparation and Response Emergency Financing & Procurement Matters

Governor Christie has issued Executive Order 186 declaring a State of Emergency in preparation for Hurricane Joaquin. As of the issuance of this Notice, the State of Emergency extends State-wide. This Local Finance Notice is being issued to inform impacted local units of relevant post-storm financing and procurement matters.

Pursuant to N.J.S.A. 40A:4-46 et seq., municipal and county officials have the authority to appropriate and expend funds in response to weather related emergencies. As necessary, local officials must clearly respond to local needs, and unplanned expenditures can be appropriated through the emergency appropriation process. Likewise, purchases of goods and services in response to an emergency can be made without regard to public bidding pursuant to N.J.S.A. 40A:11-6 and N.J.A.C. 5:34-6.1 (Annexed hereto as Appendix A).

In anticipation of the storm, the State Department of Treasury's Division of Purchase and Property has updated its list of those New Jersey State contracts potentially useful to recovery efforts that have been extended to cooperative purchasing participants (local government entities, school districts etc.) A list of these contracts is set forth in Appendix B of this Notice. Please note that this list may be subject to change.

Emergency expenses are those related to storm response, recovery, and restoration of services that were not anticipated in the current year's budget. Local officials are responsible for determining the need for emergency action. Care should be taken, however, to ensure that the procedures outlined in this Local Finance Notice are only used to deal with exigent circumstances as to not jeopardize potential reimbursements from federal or other sources.

Emergency Appropriation for Response and Immediate Recovery Efforts

Municipalities that have not adopted their budgets may utilize the provisions of N.J.S.A. 40A:4-20 to set forth appropriations directly associated with storm response efforts. The normal rules regarding emergencies must be followed.

For adopted budgets, an emergency resolution pursuant to N.J.S.A. 40A:4-46 et seq. requires approval by a two-thirds (2/3) vote of the full membership of the governing body and a certification of the Chief Financial Officer that the resolution covers expenses incurred during the emergency response. A copy of each resolution making such emergency appropriations must be filed with the Director of the Division of Local Government Services.

Emergency resolutions that exceed the three (3%) percent expenditure limit require approval of the Director pursuant to N.J.S.A. 40A:4-49. Please note that the Flexible Chart of Account codes should correspond with the applicable appropriation.

Counties and Calendar Year Municipalities

The budget exception does not provide any advantage where a budget has been adopted. If it is necessary to adopt an emergency resolution pursuant to N.J.S.A. 40A: 4-46 to pay for the costs associated with the hurricane that exceed the cost of providing services under non-emergency conditions, the deferred charge to be raised in the following year's budget will be excluded from the cap pursuant to the same exceptions; for the N.J.S.A. 40A: 4-45.3bb (municipal), 4-45.4(q) for counties, and 4-45.45 for both.

For counties and calendar year municipalities (all of which have adopted their CY2015 budgets) seeking to spread the cost of the emergency over a period of years, applications for the issuance of notes will need to be submitted to the Local Finance Board. The Board has historically accommodated such requests so long as the average cost to an assessed home is approximately \$50 annually.

State Fiscal Year Municipal Budgets (Not Introduced)

Include detailed appropriations on sheet 20 under "Operations Excluded from 'CAPS'" under the heading:

"October Storm Preparation and Response <insert citation>*"

**Use 40A: 4-45.3(bb) for municipalities or 4-45.4(q) for counties*

The Chief Financial Officer must certify that the appropriations excluded from the cap were made pursuant to N.J.S.A. 40A: 4-45.3(bb) or 4-45.4(q) and 40A:4-45.45(b).

State Fiscal Year Municipal Budgets (Introduced but not Adopted)

The SFY 2016 budget must be amended before the scheduled date of adoption, to include detailed appropriations on sheet 20 under "Operations Excluded from 'CAPS'" under the heading:

"October Storm Preparation and Response <insert citation*>"

Budget amendments must be submitted to the Division prior to the adoption of your budget.

Other Financing Alternatives

In addition, State law provides two other funding mechanisms that may assist in financing certain infrastructure repair costs resulting from flooding.

The first option is for municipalities and counties and can only be used **after** the budget is adopted. N.J.S.A. 40A:4-54 permits the adoption of resolutions to use the five-year "special emergency" funding provisions of N.J.S.A. 40A: 4-55 to address the "repair, reconstruction of streets, roads or bridges, or other public property" damaged by flooding after budgets are adopted.

Secondly, N.J.S.A. 40A: 4-55.1 et seq. permits municipalities to adopt "special emergency ordinances" to allow a three year funding cycle for the "extraordinary expenses for the repair or reconstruction of streets, roads, or bridges damaged by snow, ice, frost, or flooding." This can be passed at any time. That section of law provides the details for using the provisions, and requires Local Finance Board approval.

When used for purposes associated with storm response and recovery efforts, these appropriations would be treated as cap exceptions.

Applicants planning to use the three-year provision should introduce an ordinance before filing an application with the Local Finance Board requesting approval. The application's Executive Summary must describe the purposes for which the appropriation will be spent. There are no specific Local Finance Board rules addressing this provision. The ordinance can be adopted after the Board approves the introduced ordinance.

Additional Considerations

Overtime Pay for Elected Officials and Management - The Division appreciates that Mayors, elected officials, and their senior advisers and managers are working hard without any additional pay or compensation during this event. While not a necessary reminder for the vast majority of such officials, the Division must reiterate that under no circumstances should elected officials or senior management seek reimbursement for overtime. All resources will be needed to pay for the legitimate costs associated with this event, including required overtime for rank and file first responders and essential activities.

Snow Removal/Storm Recovery Reserve Funds - N.J.S.A. 40A:4-62.1, as amended in 2014, changed what was a "snow removal reserve" to a "storm recovery reserve". Municipalities and counties

can now utilize funds in their snow removal reserves for any purpose relating to storm recovery after current budget appropriations utilized for that purpose have been expended. Any municipality or county that wishes to utilize such funds for storm recovery must pass a resolution establishing a storm recovery reserve and submit same to the Division. Any reimbursement of these expenditures shall be deposited back into the reserve. Unexpended balances annually for storm recovery expenses may be lapsed into the reserve. Please note that municipalities and counties need not have had a snow removal reserve in order to establish a storm recovery reserve.

If you have any questions concerning these practices, contact the Bureau of Financial Regulation and Assistance at 609-292-4806 or by e-mail at dlgs@dca.nj.gov.

Municipal Clerks and Freeholder Board Clerks are asked to distribute this Notice to their elected officials.

Approved: Timothy J. Cunningham, Director

Appendix A

Emergency Procurement References

N.J.S.A. 40A:11-6. Emergency contracts

Any contract may be negotiated or awarded for a contracting unit without public advertising for bids and bidding therefor, notwithstanding that the contract price will exceed the bid threshold, when an emergency affecting the public health, safety or welfare requires the immediate delivery of goods or the performance of services; provided that the awarding of such contracts is made in the following manner:

- a. The official in charge of the agency wherein the emergency occurred, or such other officer or employee as may be authorized to act in place of that official, shall notify the purchasing agent, a supervisor of the purchasing agent, or a designated representative of the governing body, as may be appropriate to the form of government, of the need for the performance of a contract, the nature of the emergency, the time of its occurrence and the need for invoking this section. If that person is satisfied that an emergency exists, that person shall be authorized to award a contract or contracts for such purposes as may be necessary to respond to the emergent needs. Such notification shall be reduced to writing and filed with the purchasing agent as soon as practicable.
- b. Upon the furnishing of such goods or services, in accordance with the terms of the contract, the contractor furnishing such goods or services shall be entitled to be paid therefor and the contracting unit shall be obligated for said payment. The governing body of the contracting unit shall take such action as shall be required to provide for the payment of the contract price.
- c. The Director of the Division of Local Government Services in the Department of Community Affairs shall prescribe rules and procedures to implement the requirements of this section.
- d. The governing body of the contracting unit may prescribe additional rules and procedures to implement the requirements of this section.

L.1971, c. 198, s. 6; amended 1975, c. 353, s. 5; 1977, c. 53, s. 3; 1979, c. 350, s. 3; 1985, c. 60, s. 3; 1985, c. 469, s. 8; 1999, c. 440, s. 10.

N.J.A.C. 5:34-6.1 Emergency Purchases/General requirements

(a) The use of emergency purchasing pursuant to N.J.S.A. 40A:11-6 or 18A:18A-7 shall be subject to the following requirements:

1. An actual or imminent emergency must exist requiring the immediate delivery of the goods or the performance of the service;
2. As soon as reasonably possible, but within three days of declaring the emergency, the chief school administrator of a board of education shall notify the superintendent of education for the county of the nature of the emergency and the estimated needs for goods and services necessary to respond to it;

The emergency purchasing procedure may not be used unless the need for the goods or services could not have been reasonably foreseen or the need for such goods or services has arisen notwithstanding a good faith effort on the part of the contracting unit to plan for the purchase of any goods or services required by the contracting unit;

3. The contract shall be of such limited duration as to meet only the immediate needs of the emergency; and
4. Under no circumstances shall the emergency purchasing procedure be used to enter into a multi-year contract.

(b) The governing body of each contracting unit shall adopt rules or regulations as appropriate to the contracting unit to ensure that there is a procedure for determining and confirming the existence of an emergency and that the provisions for emergency purchasing pursuant to N.J.S.A. 40A:11-6 or 18A:18A-7 may be implemented. Such rules or regulations shall include such provisions that ensure that if initially designated individuals are not available, there is a designated chain of command to ensure that there are always appropriate individuals available to make such decisions.

Appendix B

**Updated List of State Contracts with Relevance to Storm Response and Recovery
(as of 10/1/15)**

TERM CONTRACT	CONTRACT NAME	VENDOR	CONTRACT #	COMMODITY
G1010	PM & ENVIRONMENTAL FIELD CONTRACTORS FOR	DEWBERRY & DAVIS	84671	BASE PRICE PER APPLICATION FOR EXEMPT
G1010	PM & ENVIRONMENTAL FIELD CONTRACTORS FOR	URS GROUP INC	84676	BASE PRICE PER APPLICATION FOR EXEMPT
G1010	PM & ENVIRONMENTAL FIELD CONTRACTORS FOR	LOUIS BERGER GROUP INC	84677	BASE PRICE PER APPLICATION FOR EXEMPT
G1010	PM & ENVIRONMENTAL FIELD CONTRACTORS FOR	TETRA TECH INC	84678	BASE PRICE PER APPLICATION FOR EXEMPT
G1010	PM & ENVIRONMENTAL FIELD CONTRACTORS FOR	GANNETT FLEMING INC	84679	BASE PRICE PER APPLICATION FOR EXEMPT
G1010	PM & ENVIRONMENTAL FIELD CONTRACTORS FOR	CDM SMITH INC	84680	BASE PRICE PER APPLICATION FOR EXEMPT
G2002	MEALS READY TO EAT (MRE)	INNOTECH PRODUCTS LTD	80042	HEATERMEALS ASSORTED 12 PACK - 2 EACH OF
G2010	HOUSING PROGRAM IMPLEMENTATION STRATEGY	ICF INC	84076	HOURLY RATE FOR
G8019	STATE OF NJ EMERGENCY COMMODITIES STOCK	AQUA BLOX LLC	79643	EMERGENCY DRINKING WATER 2&5YR SHELF LIFE
G8025	ADA COMPLIANT SHOWER TRAILER	COMFORTS OF HOME SERVICE INC	80328	FOUR (4) STATION ADA SHOWER TRAILER
G8033	STATEWIDE EQUIPMENT AND SPACE RENTAL	HERTZ EQUIPMENT RENTAL CORP	83005	FOR THE RENTAL AND PURCHASE OF VARIOUS
G8033	STATEWIDE EQUIPMENT AND SPACE RENTAL	SUNBELT RENTALS	83006	FOR THE RENTAL AND PURCHASE OF VARIOUS
G8033	STATEWIDE EQUIPMENT AND SPACE RENTAL	UNITED RENTALS	83007	FOR THE RENTAL AND PURCHASE OF VARIOUS
G8034	CONSULTING SERVICES - DISASTER RECOVERY	WITT GROUP HOLDINGS LLC	83100	CONSULTING SERVICES - DISASTER RECOVERY
G8037	DEPART. OF COMMUNITY AFFAIRS -	CDM SMITH INC	83486	DCA - HOUSING STRATEGY ADVISOR
G8041	MARKETING & OUTREACH SVCS.	FBMWW OPCO LLC	83788	NJEDA OUTREACH & MARKETING CAMPAIGN
G8044	SUPERSTORM SANDY SMALL BUSINESS GRANT	PUBLIC FINANCIAL MANAGEMENT	83965	DISASTER RELIEF FOR SUPERSTORM SANDY
G8046	RREM-RECONSTRUCTION, REHABILITATION,	CB&I GOVERNMENT SOLUTIONS INC	84066	MANAGEMENT OF RREM CONTRACTOR COSTS

G8046	RREM-RECONSTRUCTION, REHABILITATION,	GILBANE BUILDING COMPANY	84067	MANAGEMENT OF RREM - CONTRACTORS COSTS
G8048	SANDY INTEGRATED RECOVERY OPERATIONS	CGI FEDERAL INC	84078	SENIOR PROJECT DIRECTOR HOURLY RATE
G8059	INTEGRITY OVERSIGHT MONITOR, SUPERSTORM	CLIFTONLARSONALLEN LLP	88364	PROGRAM AND PROCESS MANAGEMENT AUDITING
G9004	PROGRAM & PROCESS MGMT. AUDITING,	GRANT THORNTON LLP	84029	PROGRAM AND PROCESS MANAGEMENT AUDITING
G9004	PROGRAM & PROCESS MGMT. AUDITING,	COHNREZNICK LLP	84030	PROGRAM AND PROCESS MANAGEMENT AUDITING
G9004	PROGRAM & PROCESS MGMT. AUDITING,	CLIFTONLARSONALLEN LLP	84031	PROGRAM AND PROCESS MANAGEMENT AUDITING
G9004	PROGRAM & PROCESS MGMT. AUDITING,	INNOVATIVE EMERGENCY MGMT INC	84032	PROGRAM AND PROCESS MANAGEMENT AUDITING
G9004	PROGRAM & PROCESS MGMT. AUDITING,	FTI CONSULTING INC	84033	FINANCIAL AUDITING AND GRANT MANAGEMENT
G9004	PROGRAM & PROCESS MGMT. AUDITING,	BROWN & COMPANY CPAS PLLC	84034	PROGRAM AND PROCESS MANAGEMENT AUDITING
G9004	PROGRAM & PROCESS MGMT. AUDITING,	OFORI & ASSOCIATES	84035	PROGRAM AND PROCESS MANAGEMENT AUDITING
G9004	PROGRAM & PROCESS MGMT. AUDITING,	DELOITTE FINANCIAL ADVISORY	84036	PROGRAM AND PROCESS MANAGEMENT AUDITING
G9004	PROGRAM & PROCESS MGMT. AUDITING,	ADDX CORPORATION	84039	INTEGRITY MONITORING/ANTI-FRAUD
G9004	PROGRAM & PROCESS MGMT. AUDITING,	CUSTOMER VALUE PARTNER, INC	84040	PROGRAM AND PROCESS MANAGEMENT AUDITING
G9004	PROGRAM & PROCESS MGMT. AUDITING,	T & T CONSULTING SERVICES INC	84041	FINANCIAL AUDITING AND GRANT MANAGEMENT
G9004	PROGRAM & PROCESS MGMT. AUDITING,	ERNST & YOUNG LLP	84044	PROGRAM AND PROCESS MANAGEMENT AUDITING
M0002	FASTENAL-FACILITIES MRO, LIGHTING	FASTENAL COMPANY	79873	FACILITIES (MRO), LIGHTING PRODUCTS,
M0002	MSC - FACILITIES MRO, LIGHTING	MSC INDUSTRIAL SUPPLY CO INC	79874	FACILITIES (MRO), LIGHTING PRODUCTS,
M0002	GRAINGER-FACILITIES MRO, LIGHTING	W W GRAINGER INC	79875	FACILITIES (MRO), LIGHTING PRODUCTS,
M8001	WALK-IN BUILDING SUPPLIES & PRODUCTS	LOWES HOME CENTERS LLC	82951	WALK-IN BLDG SUPPLIES & PRODUCTS - STATE
T0077	FUEL OIL #2 - HEATING	SPRAGUE ENERGY CORP	81389	FUEL OIL #2 (HEATING)
T0077	FUEL OIL #2 - HEATING	RIGGINS INC	81390	FUEL OIL #2 (HEATING)
T0077	FUEL OIL #2 - HEATING	PEDRONI FUEL	81391	FUEL OIL #2 (HEATING)
T0077	FUEL OIL #2 - HEATING	TAYLOR OIL CO INC	81392	FUEL OIL #2 (HEATING)
T0077	FUEL OIL #2 - HEATING	MAJOR PETROLEUM INDUSTRIES	81393	FUEL OIL #2 (HEATING)
T0077	FUEL OIL #2 - HEATING	J SWANTON FUEL OIL CO INC	81394	FUEL OIL #2 (HEATING)
T0077	FUEL OIL #2 - HEATING	NATIONAL TERMINAL	81396	FUEL OIL #2 (HEATING)

		INC		
T0077	FUEL OIL #2 - HEATING	FINCH FUEL OIL CO INC	81397	FUEL OIL #2 (HEATING)
T0077	FUEL OIL #2 - HEATING	RACHLES MICHELE OIL CO INC	81398	FUEL OIL #2 (HEATING)
T0077	FUEL OIL #2 - HEATING	ALLIED OIL LLC	81399	FUEL OIL #2 (HEATING)
T0083	GASOLINE, AUTOMOTIVE	PEDRONI FUEL	80910	JOURNAL OF COMMERCE
T0465	TREE TRIMMING, PRUNING	RICH TREE SERVICE INC	80902	ALL INCLUSIVE HOURLY RATE FOR STUMP
T0465	TREE TRIMMING, PRUNING	TUFF GREENS LLC	80903	ALL INCLUSIVE HOURLY RATE FOR STUMP
T0465	TREE TRIMMING, PRUNING	PETERS TODD INC	80904	ALL INCLUSIVE HOURLY RATE FOR STUMP
T0465	TREE TRIMMING, PRUNING	ASPLUNDH TREE EXPERT CO	80905	ALL INCLUSIVE HOURLY RATE FOR STUMP
T0465	TREE TRIMMING, PRUNING	NELSON TREE SERVICE INC	80906	ALL INCLUSIVE HOURLY RATE FOR STUMP
T0465	TREE TRIMMING, PRUNING	BECKERS TREE SERVICE	80907	ALL INCLUSIVE HOURLY RATE FOR STUMP
T2686	TECHNICAL ASSISTANCE / FEMA SERVICES /	OBRIENS RESPONSE MANAGEMENT	78189	TOTAL (ALL-INCLUSIVE) FIRM FIXED PRICE
T2686	TECHNICAL ASSISTANCE / FEMA SERVICES /	LOUIS BERGER GROUP INC	80768	GENERAL CATASTROPHIC PLANNING SERVICES
T2732	MAINT/REPAIR & REPLACEMENT SVCS-PORTABLE	EMERGENCY EQUIPMENT SALES	78057	FIRM FIXED PRICE FOR MINOR PREVENTIVE
T2772	NJDMAVA MICROBIOLOGICAL ABATEMENT	LEW CORPORATION	78861	NJDMAVA MOLD ABATEMENT TERM CONTRACT
T2939	AUDITING AND OTHER RELATED SERVICES FOR	THACHER ASSOCIATES LLC	84753	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	PRICE WATERHOUSE COOPERS LLP	84754	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	KPMG LLP	84755	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	REED & ASSOCIATES	84756	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	SOBEL & CO LLC	84757	POOL 2 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	WISS & COMPANY LLP	84758	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	OCONNOR DAVIES LLP	84759	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER	MCENERNEY BRADY &	84760	POOL 2 - YEAR 1

	RELATED SERVICES FOR	CO LLC		
T2939	AUDITING AND OTHER RELATED SERVICES FOR	LERCH VINCI & HIGGINS LLP	84761	POOL 2 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	SCHNEIDER & COMPANY CERTIFIED	84762	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	QWIC INC	84763	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	SOLIX INC	84764	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	SMART DEVINE ADVISORS PC	84765	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	PARENTEBEARD LLC	84766	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	NAVIGANT CONSULTING INC	84838	POOL 3 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	MCGLADREY LLP	84839	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	FRANKLIN & TURNER	84840	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	GMG MANAGEMENT CONSULTING INC	84841	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	GUIDE POST SOLUTIONS LLC	84842	POOL 3 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	ROTHSTEIN KASS PA	84866	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	AED INC	84867	POOL 1 - YEAR 1
T2939	AUDITING AND OTHER RELATED SERVICES FOR	CBIZ OPERATIONS INC	85034	POOL 2 - YEAR 1