

5:32-2
CHIEF FINANCE OFFICER

5:32-2.1 Duties of a chief financial officer

(a) The chief financial officer, including anyone classified as temporary pursuant to N.J.S.A. 40A:9-140.13.f or interim pursuant to N.J.S.A. 40A:9-140.11, shall carry out the duties set forth in this section along with such other duties as are required by law:

1. Serve as custodian of all public funds;
2. Assist in preparing the annual budget;
3. Ensure the proper and accurate preparation, posting, maintenance, and reconciliation, as applicable, of all books, ledgers, schedules, statements, reports, and other records pertaining to municipal or county finances. All financial schedules and, as applicable, other records shall be prepared in such a manner as to facilitate audit review;
4. Maintain and monitor separate accounts for all budgeted appropriations and anticipated revenue;
5. Prepare year-end reports of all revenues and expenditures and provide the governing body with periodic status reports for all budget revenues and appropriations as they correspond to the annual adopted budget;
6. Prepare, analyze, and/or review monthly reports of the treasurer, tax collector (in the case of a municipality), financial reports of other departments, and on all investments;
7. Lead in helping the governing body develop fiscal policy, including preparing projections and calculations to support long-term plans concerning revenue, appropriations, surplus, the tax levy and caps thereon and, for chief municipal finance officers, the municipal budget appropriations cap;
8. Develop and implement a system of internal controls to safeguard assets and monitor compliance, including:
 - i. Documentation of internal accounting control processes, procedures and authorizations, with regular review and evaluation of the same;
 - ii. Training all relevant personnel, including, but not limited to, department heads and/or others in positions of approval;
 - iii. Administration and oversight of claim payment procedures; and
 - iv. Supervising petty cash accounts and change funds; and

9. Ensure compliance with all statutes, rules, regulations, and directives pertaining to financial administration and such other duties assigned by law to the Chief Financial Officer, including:

- i. Provisions of the Local Government Supervision Act (52:27BB-1 et seq.), Local Bond Law (40A:2-1 et seq.), Local Budget Law (40A:4-1 et seq.), Local Fiscal Affairs Law (40A:5-1 et seq.) and such other statutes as may pertain to financial administration including, as applicable, the Local Public Contracts Law (40A:11-1 et seq.);
- ii. Rules and regulations promulgated by the Local Finance Board, Director of the Division of Local Government Services or any other State or Federal agency pertaining to financial administration;
- iii. Directives of the Division of Local Government Services in the Department of Community Affairs;
- iv. Single Audit Act Requirements promulgated by federal or State law that pertain to financial compliance;
- v. Continuing financial disclosure obligations as may be set forth in federal law, State law and any agreements executed as part of past issuances of debt; and
- vi. Regulations of the Internal Revenue Service relating to the issuance of tax exempt debt, as well as requirements related to employee payroll and vendor payments.

5:32-2.2 Certification of Municipal Finance Officers

(a) No person shall be appointed or reappointed as a chief financial officer by a municipality unless they have been issued a municipal finance officer certificate by the Director of the Division of Local Government Services.

(b) Unless a person obtains municipal finance officer certification pursuant to the provisions of N.J.S.A. 40A:9-140.4 or 40A:9-140.11, candidates for municipal finance officer certification shall first successfully complete an examination administered by the Division. The examination shall be held on a semi-annual basis.

(c) Candidates for the municipal finance officer certification exam shall meet the age, citizenship, character and education/experience requirements set forth in sections (a) and (b) of N.J.S.A. 40A:9-140.2. In addition, candidates for examination shall furnish proof of successfully completing the following courses, provided by Rutgers, the State University

of New Jersey or the Division of Local Government Services:

1. Municipal Finance Administration
2. Municipal Current Fund Accounting I
3. Municipal Current Fund Accounting II
4. Municipal Capital and Trust Fund Accounting
5. Municipal Utility Fund Accounting
6. Municipal Budget Preparation and Control
7. Principles of Financial Management
8. Preparation of Annual Financial Statements

(d) Upon approval of the Director, any of the training courses set forth in section (c) may be combined, or may be incorporated into a new or existing undergraduate or graduate-level course.

(e) Applicants for municipal finance officer examination and certification shall submit to the Division an application form approved by the Director. The application submission shall include proof(s) of meeting the requirements set forth in N.J.S.A. 40A:9-140.2. At the discretion of the Director, additional information and documentation may be required upon receipt of an application. Each completed application for examination shall be filed with the Division at least 30 calendar days prior to the date of examination, and shall be accompanied by a fee in the amount of \$50, payable to the State Treasurer.

(f) The Director shall determine the content of the examination, which shall be of such character as to fairly test and determine the ability to perform the duties of chief financial officer. Examinations shall be written, unless the Director determines that the exam shall contain both written and oral components.

(g) Upon a finding by the Director that a candidate has successfully completed the examination or has met the provisions of N.J.S.A. 40A:9-140.4, a municipal finance officer certificate shall be issued to the applicant, upon a payment of a fee of \$50 payable to the State Treasurer. No examination or fee shall be required for municipal finance officer certificates issued pursuant to N.J.S.A. 40A:9-140.11.

5:32-2.3 Certification of County Financial Officers

- (a) No person shall be appointed or reappointed as a chief financial officer by a county unless they have been issued a county finance officer certificate by the Director of the Division of Local Government Services.
- (b) Candidates for county financial officer certification shall either
1. Hold a municipal finance officer certification issued by the Director and furnish proof of successfully completing training provided by Rutgers, the State University of New Jersey or the Division of Local Government Services in county fiscal operations and, if the candidate applied for a municipal finance officer certificate prior to January 1, 1992, in the preparation of annual financial statements; or
 2. Be licensed as a registered municipal accountant in the State of New Jersey and furnish proof of successfully completing training provided by Rutgers, the State University of New Jersey or the Division of Local Government Services in principles of financial management and county fiscal operations.
- (c) Upon approval of the Director, for content and format, the course in county fiscal operations may be incorporated into a new or existing undergraduate or graduate-level course.

5:32-2.4 Renewal of Municipal and County Chief Finance Officer Certificates

- (a) Renewal of a municipal finance officer certificate (except for a municipal finance officer certificate issued pursuant to either N.J.S.A. 40A:9-140.4 or N.J.S.A. 40A:9-140.11) or county finance officer certificate shall be required every two years, subject to the applicant's fulfillment of continuing education requirements, the submission of an application for renewal, and payment of a \$ 50.00 fee payable to the State Treasurer. Renewal of municipal and county finance officer certificates shall be requested on a renewal form approved by and submitted to the Director.
1. Applicants shall obtain a minimum of 30 continuing education contact hours in the subject areas of accounting, office management and ancillary subjects, ethics, financial and debt management, and budgeting. Said credits shall be approved by the Director as relevant to the subject matter area and the duties of a chief financial officer pursuant to N.J.S.A. 40A:9-28.1, 40A:9-140.1(d) and this chapter, with the following minimum contact hours for each subject area:

- i. Four contact hours in the subject area of accounting;
 - ii. Four contact hours in the subject area of office management and ancillary subjects;
 - iii. Four contact hours in the subject area of ethics;
 - iv. Four contact hours in the subject area of financial and debt management;
 - v. Four contact hours in the subject area of budgeting; and
 - vi. For county finance officers, two contact hours in county fiscal operations.
2. If an applicant has earned at least 30 continuing education contact hours within the renewal period, but has not achieved the minimum number of contact hours in a given subject area, the Director has discretion to waive the required minimum upon written application and good cause shown, provided that the applicant has earned at least one contact hour in the subject area.
3. At the option of the applicant, contact hours in the subject area of information technology approved by the Director for relevance to the subject matter area and the duties of a chief financial officer may be applied toward the 30 continuing education contact hours, required under (a)1 above, in addition to the required minimum contact hours.
4. An individual who holds a municipal finance officer certificate and allows such certificate to lapse by failing to renew shall be required to apply to take the qualifying examination required pursuant to N.J.S.A. 40A:9-140.2, and pay the requisite fee for such application and certificate in order to obtain a new municipal finance officer certification, except that, when an individual applies within six months of the expiration of the certificate, the application may be made in the same manner as a renewal.
5. An individual who holds a county finance officer certificate and allows such certificate to lapse by failing to renew shall be required to submit an application and pay the requisite fee for a new county finance officer certificate pursuant to the provisions of N.J.S.A. 40A:9-28.3(f), so long as the individual's municipal finance officer certificate has not also lapsed. When an individual applies within six months of the expiration of the county finance officer certificate, the application may be made in the same manner as a renewal.

6. Within twelve months of the expiration of the certificate, an application may be made in the same manner as renewal only if the Director determines that either of the following circumstances prevents a certificate holder from earning the required continuing education units within six months of the expiration of the certificate:

- i. A flood, hurricane, superstorm, tornado or other natural disaster, and a state of emergency has been declared as a result thereof by the Governor, or
- ii. A medical event or condition

5:32-2.5 Vacancy in the office of chief municipal finance officer

(a) When a vacancy occurs in the office of chief financial officer following the appointment of a certified municipal finance officer to that office, the municipality's governing body or chief executive officer, as appropriate to the form of government, may appoint, for a period not to exceed one year commencing from the date of the vacancy, a person who does not possess a municipal finance officer certificate to serve as a temporary chief financial officer. With approval of the Director pursuant to (a)2 and 3 below, the municipality may appoint or reappoint a temporary chief financial officer for up to two additional one-year terms following the end of the first temporary appointment. No municipality shall employ a temporary chief financial officer for more than three consecutive years.

1. Prior to the end of the first-year appointment of a temporary chief financial officer, the governing body, or chief executive officer, as appropriate, shall request, in writing, permission from the Director to appoint or reappoint a temporary chief financial officer for a second consecutive one-year term. A questionnaire approved by the Director shall be completed and included with the written request. A request for Director approval of a third one-year term shall follow the same procedure. The completed questionnaire and any documents submitted in support of said questionnaire shall be exempt from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

2. Before granting approval to appoint or reappoint a temporary chief financial officer for a second or third consecutive one-year term, the Director shall be satisfied that the individual is of good moral character and can satisfactorily fulfill the duties of a chief financial officer. Any request to the Director shall provide the following information:

- i. The candidate's efforts to obtain a municipal finance officer certificate;
 - ii. Whether, as a condition of hiring, the municipality performed a criminal background check, credit check, and judgment search, along with the results thereof. For requests to reappoint the same individual to another one-year term, any updates to such information shall be disclosed;
 - iii. An explanation of any repeat comments on the most recent Annual Audit that are attributable to the office of chief financial officer; and
 - iv. An explanation of any complaints against the office of chief financial officer from a member of the public, or other persons, that are of a serious nature, such as those involving potential, ongoing, or prior litigation.
2. The Director may request from the municipality's governing body or chief executive officer, as appropriate, such other information as may be necessary to determine the individual's good moral character and ability to fulfill the duties of a chief financial officer.

(b) When a vacancy occurs in the office of chief financial officer following the appointment of a certified municipal finance officer to that office, the municipality's governing body or chief executive officer, as appropriate to the form of government, may, in lieu of appointing a temporary municipal finance officer, appoint a private entity to perform the duties of a chief financial officer.

1. No private entity may fulfill the duties of a chief financial officer for more than two consecutive one-year terms. The professional services exception to public bidding set forth in N.J.S.A. 40A:11-5(1)(a)(i) shall apply to contracts with private entities to fulfill the duties of chief financial officer. Notwithstanding any law to the contrary, no contract to fulfill the duties of a chief financial officer shall have a duration of greater than one year.
2. Any work performed by the private entity on behalf of the municipality shall be supervised by at least one employee who is currently licensed by the Division of Local Government Services as a municipal finance officer. Any documents requiring the signature of the chief financial officer of the municipality shall be executed by an employee of the private entity holding a municipal finance officer certificate.

3. A municipality shall not appoint or reappoint a private entity to fulfill the duties of a chief financial officer without first making a written request to the Director for approval. Any contract with a private entity shall be conditioned upon Director approval. Before granting approval, the municipality must demonstrate a good faith effort to hire as chief financial officer an individual holding a municipal finance officer certificate issued pursuant to the provisions of N.J.S.A. 40A:9-140.1 et seq. The Director shall also be satisfied that the private entity can fulfill the duties of a chief financial officer. Any request to the Director shall provide, at minimum, information concerning:
 - i. The municipality's efforts to hire a certified municipal finance officer, including but limited to advertising and interviewing for the position. The municipality shall provide the salary range for the position, a list of all candidates submitting resumes and an explanation of the hiring and interview process;
 - ii. The private entity selected by the municipality, including the name and business address of all owners of any percentage interest;
 - iii. The name and license number of each certified municipal finance officer on the private entity's staff, all licenses and certifications held by same, their experience in municipal finance, and details concerning disciplinary proceedings and actions to which they may have been subject, whether by the Division of Local Government Services or any other administrative or licensing body;
 - iv. Whether any staff members who will be fulfilling the duties of chief financial officer have criminal records, or have any pending criminal or civil matters;
 - v. The results of any credit check or judgment search performed with respect to any staff members who will be fulfilling the duties of chief financial officer;
 - vi. Names of all other municipalities, if any, in the State with which the private entity has contracted to temporarily perform the duties of a chief municipal finance officer;

vii. Disclosure of any known or potential conflicts of interest under the Local Government Ethics Law (N.J.S.A. 40A:9-22.1 et seq.) on the part of the private entity; and

viii. For municipalities seeking approval to reappoint a private entity to a second consecutive one-year term, an explanation shall also be provided of any:

(1) Repeat comments on the most recent Annual Audit, attributable to the office of chief financial officer, and

(2) Complaints against the office of chief financial officer from a member of the public or other persons that are of a serious nature, such as those involving potential, ongoing, or prior litigation.

4. The Director may request from the municipality's governing body or chief executive officer, as appropriate, such other information as may be necessary to determine the private entity's ability to fulfill the duties of a chief financial officer.

5. The written request to approve a private entity to temporarily fulfill the duties of a chief municipal finance officer, and any documents submitted in support of said request, shall be exempt from disclosure under the Open Public Records Act (N.J.S.A. 47:1A-1 et seq.).

6. All contracts between a municipality and a private entity shall contain the following:

i. Adequate provisions to indemnify the municipality against any losses incurred as a result of the actions or inactions of the private entity;

ii. A requirement that the private entity be responsible for the errors and omissions of its employees or agents, including penalties, fines, interest, and damages;

iii. A requirement that the private entity maintain adequate general liability, automobile, and workers compensation insurance if applicable, as well as maintain adequate insurance to cover such losses as may arise as a result of errors, omissions, failure to perform or dishonesty in an amount at least equal to the recommended calculation for chief financial officer surety bond coverage pursuant to N.J.A.C. 5:30-8.2;

iv. A requirement that the private entity have a written complaint procedure in existence. At a minimum, the complaint procedure shall require that a complaint log be maintained, which shall be available to the municipality for inspection;

v. A provision that all disputes between the parties and disputes concerning the contract or its operation shall be in writing and forwarded to the other party via registered mail. All contracts shall have appropriate provisions for:

(1) Dispute resolution between the parties;

(2) The service of process to the private entity in New Jersey;

(3) Application of New Jersey law; and

(4) Termination of the contract, including, but not limited to, termination for failure to perform on the part of the private entity, and a provision allowing termination of the private entity's appointment if a certified municipal finance officer commences employment with the municipality before the expiration of the private entity's one-year term.

vi. If a dispute over contract compliance, performance or termination cannot be resolved by the municipality and the private entity pursuant to the procedures set forth in the contract, either party to the contract may file with the Superior Court which has appropriate jurisdiction.

vii. Copies of notices, memoranda, complaints or other correspondence received by the private entity regarding municipal accounts shall be forwarded to the municipality within 48 hours of receipt.

7. The private entity shall have a New Jersey office.

8. All contracts entered into between municipalities and private entities to fulfill the duties of chief financial officer shall be in writing and executed by all parties.

9. A private entity performing the duties of a temporary chief municipal finance officer shall make best efforts to adhere to the following cybersecurity best practice framework:

i. Any system utilized by the private entity shall:

- (1) Be hosted on dedicated servers or in a FedRAMP Moderate Impact Level Authorized Cloud;
- (2) Encrypt stored and transmitted financial information and personal identification information;
- (3) Maintain only critical personal identification information;
- (4) Employ a resilient password policy;
- (5) Undergo regular and stress testing;
- (6) Ensure regular security updates on all software & devices are being carried out;
- (7) Have back-up plans, information disposal & disaster recovery procedures created and tested;
- (8) Undergo regular security risk assessments for detecting compromises, along with regular monitoring for vulnerabilities, with necessary patches and updates being implemented;
- (9) Have a Cybersecurity Incident Response Plan developed; and
- (10) The private entity shall:
 - (A) Check provider credentials & contracts when using cloud services;
 - (B) Educate staff in good security measures & perform employee background checks; and
 - (C) Create a Computer Security Incident Response Team, generally called a CSIRT.

10. The municipality shall be responsible for establishing appropriate security and access control protocols with respect to the private entity's access to and use of the municipality's systems.

(c) All private entity officers and employees temporarily fulfilling the duties of chief municipal finance officer on behalf of a municipality shall be subject to the Local Government Ethics Law (N.J.S.A. 40A:9-22.1 et seq.). Prior to the municipality seeking Director approval to contract with the private entity, the private entity shall disclose to the municipality any known or potential conflicts of interest arising under the Local Government Ethics Law. The private entity's disclosure obligation shall continue through the term of the contract. Any individual holding a chief municipal finance officer certificate that is supervising the temporary fulfillment of chief financial officer duties for a municipality shall be considered a "chief financial officer" pursuant to N.J.A.C. 5:35-2.1, and thus would be required to complete and submit an annual financial disclosure statement pursuant to N.J.S.A. 40A:9-22.3.

(d) Another officer of the municipality, such as the municipality's chief administrative officer, shall be designated by the governing body to authorize and monitor any transfer of funds to the private entity.

(e) If a private entity is fulfilling the duties of a chief financial officer, even if an individual holding a chief municipal finance officer certificate is appointed by a municipality as a chief finance officer at nominal salary while affiliated with the private entity, the private entity shall be considered to be temporarily fulfilling the duties of a chief municipal finance officer, with that individual and the private entity being subject to the provisions of this section.

5:32-2.6 Vacancy in the office of chief financial officer, counties

(a) When a vacancy occurs in the office of chief financial officer following the appointment of a certified county finance officer to that office, the board of county commissioners or chief executive officer, as appropriate to the form of government, may appoint, for a period not to exceed one year commencing from the date of the vacancy, a person who does not possess a county finance officer certificate to serve as a temporary chief financial officer. A county may, with the approval of the Director, pursuant to (a)2 and 3 below, appoint or reappoint a temporary chief financial officer for an additional one-year term following the end of the first temporary appointment. No county shall employ a temporary chief financial officer for more than two consecutive one-year terms.

1. Prior to the end of the first-year appointment of a temporary chief financial officer, the county's governing body, or chief executive officer, as appropriate, shall request, in writing, permission from the Director to appoint or reappoint a temporary chief financial officer for an additional one-year term. A questionnaire approved by the Director shall be completed and included with the written request. The completed questionnaire and any documents submitted in support of said questionnaire shall be exempt from disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.
2. Before granting approval to appoint or reappoint a temporary chief financial officer, the Director shall be satisfied that the individual is of good moral character and can satisfactorily fulfill the duties of a chief financial officer. Any request to the Director shall provide the following information:
 - i. The candidate's efforts to obtain a county finance officer certificate;
 - ii. Whether, as a condition of hiring, the county performed a criminal background check, credit check, and judgment search, along with the results thereof;
 - iii. An explanation of any repeat comments on the most recent Annual Audit, attributable to the office of chief financial officer; and
 - iv. An explanation of any complaints against the office of chief financial officer from a member of the public, or other persons, that are of a serious nature, such as those that involve potential, ongoing, or prior litigation.
3. The Director may request from the county's governing body or chief executive officer, as appropriate, such other information as may be necessary to determine the individual's good moral character and ability to fulfill the duties of a chief financial officer.