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DIVISION OF LOCAL GOVERNMENT SERVICES**Qualified Purchasing Agents****Proposed Amendments: N.J.A.C. 5:34-5.1 and 5.2****Proposed Repeal: N.J.A.C. 5:34-5.3**

Authorized By: Thomas H. Neff, Director, Division of Local Government Services.

Authority: N.J.S.A. 40A:11-9.i.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2014-085.

Submit written comments by August 1, 2014, to:

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The agency proposal follows:

Summary

Pursuant to the enabling authority provided by N.J.S.A. 40A:11-9.i, the Director of the Division of Local Government Services (Director) proposes amending the course requirements, continuing education requirements, and renewal requirements for qualified purchasing agents (QPAs).

N.J.S.A. 40A:11-9.c requires the completion of a course on green product purchasing, as implemented by the Director pursuant to regulation. Once the course is established, individuals already possessing a QPA certification must take and successfully complete the course within four years from its establishment. Individuals who have not yet obtained a QPA certification must complete a course in green product purchasing as a condition precedent to receiving certification. N.J.A.C. 5:34-5.1(b)5 and 5.3 currently implement this statutory provision by 1. requiring those individuals applying for a QPA certificate after June 30, 2014, to successfully complete a course on green purchasing as a prerequisite to certification and 2. requiring those who achieved QPA certification either before, on, or after April 11, 2012, to complete such a course as a condition of maintaining certification.

For individuals seeking QPA certification, the Director finds that the subject matter can be satisfactorily integrated into one or more of the existing courses set forth in N.J.A.C. 5:34-5.1(b)1 through 4. As for those who have already achieved certification, green procurement can be incorporated into the continuing education requirements set forth in N.J.A.C. 5:34-5.2. The above-referenced framework will more efficiently cover green procurement while minimizing the burden on QPA candidates and certified QPAs in terms of the time and monetary commitment needed to obtain or maintain certification.

The Director of the Division of Local Government Services proposes amending N.J.A.C. 5:34-5.1 to state that, for individuals applying for QPA certification after June 30, 2015, one or more of the courses they take as a prerequisite to obtaining certification, pursuant to N.J.S.A. 40A:11-9.b(5), shall incorporate the subject area of green purchasing. Individuals applying for QPA certification after June 30, 2015, who have either: 1. successfully completed all courses prerequisite to the QPA exam before implementation of the proposed amendment to the green purchasing requirement, which is the effective date of these amendments; 2. successfully completed one or more courses and whose remaining coursework will not cover green procurement; or 3. are exempt from taking prerequisite courses pursuant to N.J.S.A. 40A:11-9.b(7) or 40A:11-9.f, must certify to having earned two contact hours of coursework approved by the Director on the subject area of green procurement, before being eligible to take the certification exam. Likewise, individuals applying for QPA certification after June 30, 2015, who pursuant to N.J.S.A. 40A:11-9(e)(2) are exempt from taking the qualifying examination, must likewise earn two contact hours of coursework on the subject area of green procurement before being eligible to receive a qualified purchasing agent certificate.

The Director also proposes amending N.J.A.C. 5:34-5.2(a)1 to specify as a continuing education requirement a minimum of 2.0 contact hours on the subject of green procurement. The proposed amendment further specifies that the subject areas of procurement procedures, office administrative/general duties, and ethics will be given minimum contact hours as follows: 2.0 hours for procurement procedures, 2.0 hours for office administrative/general duties, and 3.0 hours for ethics. Contact hours in the area of information technology are proposed to be optional. The Director would have the discretion to waive any of the above-referenced minimum requirements, except for green procurement, for certificates expiring no later than June 30, 2019, upon application and good cause shown. Barring waivers of the minimum green procurement contact hours for certificate renewal cycles expiring no later than June 30, 2019, ensures that all qualified purchasing agents take coursework covering green procurement within the four-year period specified by N.J.S.A. 40A:11-9.c. The balance of the minimum 20 continuing education hours may be in any of the above-referenced subject areas, including green procurement.

In concert with the above-referenced amendments, the Director proposes the repeal of N.J.A.C. 5:34-5.3, "Green Purchasing" course.

The Director further proposes instituting a fee of \$35.00 for renewal of QPA certificates, authorization for which is provided by N.J.S.A. 40A:11-9.d(1). Presently no fee is charged for the renewal of a QPA certification.

Recodified N.J.A.C. 5:34-5.2(a)6 allows QPA certificate holders whose certifications have expired to apply for renewal no later than six months after the certificate's expiration. The Director proposes an amendment that would expressly grant the Director discretion to extend this grace period beyond six months in cases where the Director determines a substantial hardship exists that prevents earning of the required credits by the expiration of the grace period: 1. a state of emergency declared by the President of the United States or the Governor that affects an individual certificate holder or a group of certificate holders; or 2. where a medical reason on the part of a certificate holder exists.

This notice of proposal provides for a comment period of 60 days and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed amendments and repeal, which incorporate green purchasing into existing qualified purchasing agent certification courses, integrates environmentally sustainable procurement principles into other areas of purchasing. By doing so, the local unit is better able to protect the health, safety, and welfare of New Jersey citizens, and school districts are better positioned to serve their student populations and the overall community. Commodities or services having a lesser or reduced negative effect on the environment and human health produce social benefits that should be seen in conjunction with, rather than be perceived as separate from, other aspects of public procurement. Further, the proposed amendments create a minimum two contact hour continuing education requirement in green procurement. The continuing education component will result in reinforcing existing concepts and the teaching of new developments in the field, benefits a one-time course cannot deliver.

The proposed amendments permitting the Director to use discretion in extending the grace period for QPA licensure renewal promotes fairness by allowing licensed individuals facing circumstances outside of their control to maintain licensure without needing to retake the exam.

Economic Impact

The proposed amendments and repeal pertaining to green procurement coursework will have a beneficial fiscal impact for local governments looking to increase their bidding thresholds because it reduces the amount of time necessary to qualify for the qualified purchasing agent examination. The "Principles of Public Purchasing" series of courses, as well as those pertaining to Municipal Finance Administration, are held on multiple days and take weeks to complete. Each course has registration fees averaging several hundred dollars due to the intensity of time and preparation on the part of the instructors and the institution offering the course.

Amending the rule to integrate green purchasing into existing coursework will reduce the burden on those individuals paying for courses themselves. The time burden on all QPA candidates and certificate-holders is also reduced; and for the many that are existing local unit and school district employees, avoiding a separate course series would also increase productivity by reducing the need to take time off of work to attend any weekday courses. All of this reduces the price of entry into QPA certification in both time and money, thereby working to increase or at the very least not diminish the pool of qualified purchasing agents available to local governments and school districts throughout New Jersey. Increasing the proliferation of QPAs benefits these public entities given the increased training and understanding that a QPA has of the often complicated and intricate universe of laws governing local government procurement. Those local units and school districts who reimburse their employees for the cost of courses relating to obtaining and maintaining licenses will also benefit by the reduced cost of QPA coursework.

The proposed institution of a \$35.00 fee for renewal of QPA certifications will have a net economic benefit to New Jersey taxpayers. Although the fee increases the out-of-pocket cost for maintaining the license for either the certificate-holder or a local government entity willing to reimburse for the costs of maintaining licensure, the fee helps defray the cost of the Division of Local Government Services for examination, licensure, and oversight of qualified purchasing agents. Furthermore, the renewal fee is set at a reasonable amount and is in proportion with the \$150.00 application fee set by N.J.S.A. 40A:9-11.b(6) for QPA candidates.

Federal Standards Statement

No Federal standards analysis is required because the proposed amendments and repeal are not being proposed to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The Director does not anticipate the creation or loss of any jobs as a result of the proposed amendments and repeal, as they pertain to the certification and recertification of qualified purchasing agents.

Agriculture Industry Impact

Other than to the extent that any green purchasing materials and presentations address the environmental benefits of purchasing locally grown produce, the Director does not anticipate that the proposed amendments and repeal will have an impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed amendments and repeal would affect all local units, including school districts, employing qualified purchasing agents. The proposed amendments would not impose any reporting, recordkeeping, or compliance requirement on "small businesses," as defined by the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., in addition to those already imposed by existing laws governing public contracting and political contributions.

Housing Affordability Impact Analysis

The proposed amendments and repeal will have no anticipated impact on housing affordability, and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing as they pertain to the certification and recertification of qualified purchasing agents.

Smart Growth Development Impact Analysis

The proposed amendments and repeal will have no anticipated impact on housing production in Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan, as they pertain to the certification and recertification of qualified purchasing agents.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 5. QUALIFIED PURCHASING AGENTS

5:34-5.1 Qualified purchasing agent

(a) (No change.)

(b) To meet the criteria of required training courses set forth in N.J.S.A. 40A:11-9.b(5), an applicant shall successfully complete the following courses, provided by the Center for Government Services at Rutgers, the State University, [by] the Division of Local Government Services, or, with the approval of the [director] **Director**, an alternative State University or county college:

1.-2. (No change.)

3. Principles of Public Purchasing III; **and**

4. Municipal Finance Administration, or either of the following courses: Municipal Finance Administration for Municipal Clerks[,] or Municipal Finance Administration for Purchasing Agents[; and].

[5. For individuals applying for a qualified purchasing agent certificate after June 30, 2014, Environmentally Preferable Procurement.]

(c) At least one of the courses established pursuant to (b) above shall incorporate the subject area of green purchasing.

(d) The following individuals who apply for qualified purchasing agent certification after June 30, 2015, must certify to having earned 2.0 contact hours of coursework on the subject area of green purchasing before being eligible to take the certification exam, said coursework shall be approved by the Director as relevant to the subject matter area and the duties of a QPA pursuant to N.J.S.A. 40A:11-9 and this chapter:

1. **Successfully completed all training courses required pursuant to N.J.S.A. 40A:11-9.b(5) prior to (the effective date of this amendment);**

2. **Successfully completed one or more of the training courses required pursuant to N.J.S.A. 40A:11-9.b(5) prior to June 30, 2015, and whose remaining coursework will not cover green purchasing;**

3. **Are otherwise exempt from taking the prerequisite training courses pursuant to N.J.S.A. 40A:11-9.b(7) or 40A:11-9.f.**

(e) Those individuals applying for a qualified purchasing agent certificate after June 30, 2015, who are exempt from the certification exam pursuant to N.J.S.A. 40A:11-9.e(2), must certify to having earned 2.0 contact hours of coursework on the subject area of green purchasing before being eligible to receive a qualified purchasing agent certificate. Said coursework shall be approved by the Director as relevant to the subject matter area and the duties of a QPA pursuant to N.J.S.A. 40A:11-9 and this chapter.

[(c)] (f) Applicants for a qualified purchasing agent examination and certification shall submit an application form available under the Professional Certification section on the Division website (www.nj.gov/dca/divisions/dlgs) to the Director. The application submission shall include proof(s) of meeting the requirements in N.J.S.A. 40A:11-9 and as described as part of the application form. Applications may be submitted at any time. At the discretion of the Director, additional documentation may be required upon receipt of an application. Upon meeting the requirements of law the applicant shall be issued a certificate as a qualified purchasing agent.

5:34-5.2 Continuing education requirements

(a) Renewal of a qualified purchasing agent certificate shall be required every three years, subject to the applicant's fulfillment of continuing education requirements, [and] the submission of an application for renewal, **and payment of a \$35.00 fee payable to the order of the Treasurer, State of New Jersey.**

1. Applicants shall obtain 20 continuing education contact hours in subject areas of procurement procedures, office administrative/general duties, ethics, and [information technology] **green purchasing, said credits shall be approved by the Director as relevant to the subject matter area and the duties of a QPA pursuant to N.J.S.A. 40A:11-9 and this chapter, with the following minimum contact hours for each subject area:**

i. **2.0 contact hours in the subject area of procurement procedures;**

ii. **2.0 contact hours in the subject area of office administrative/general duties;**

iii. **3.0 contact hours in the subject area of ethics; and**

iv. **2.0 contact hours in the subject area of green purchasing.**

2. 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 QPA pursuant to N.J.S.A. 40A:11-9 and this chapter may be applied toward the 20 continuing education contact hours, required under (a)1 above, in addition to the required minimum contact hours for procurement procedures, office administrative/general duties, ethics, and green purchasing.

3. If an applicant has earned at least 20 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 application and good cause shown. This waiver discretion shall not apply to the minimum number of green purchasing contact hours for certificate renewal cycles expiring no later than June 30, 2019.

Recodify existing 2.-3. as 4.-5. (No change in text.)

[4.] 6. An individual who holds a qualified purchasing agent 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.A.C. 5:34-5.1(c), and pay the requisite fee for such application in order to obtain a new qualified purchasing agent 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. The Director shall extend the six-month grace period where a substantial hardship exists. A substantial hardship, which prevents the required credits from being earned prior to the expiration of the six-month grace period, exists if:

- i. A state of emergency is declared by the President of the United States and/or the Governor that affects an individual certificate holder or a group of certificate holders; or
- ii. A medical event or condition affects an individual certificate holder.

5:34-5.3 ["Green Purchasing" course] (Reserved)

(a) Commencing June 30, 2014, all applicants who are otherwise qualified to apply for the examination for a qualified purchasing agent pursuant to N.J.S.A. 40A:11-9.b must complete the course Environmentally Preferable Procurement, as provided by the Division of Local Government Services, or, with the approval of the Director, the Center for Government Services at Rutgers, the State University; an alternate State University, or a county college.

(b) Within four years from the date the course Environmentally Preferable Procurement is established, individuals who have been issued a qualified purchasing agent certificate either before, on, or after April 11, 2012 are required to complete the course, in order to continue to be qualified. The course will be completed in addition to the continuing education requirements pursuant to N.J.A.C. 5:34-5.2.

(c) Individuals who apply for the qualified purchasing agent examination after June 30, 2014, pursuant to N.J.A.C. 5:34-5.1, are not required to complete the Environmentally Preferable Procurement course a second time.]

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DIVISION OF HOUSING AND COMMUNITY RESOURCES

New Jersey Individual Development Account Program Rules

Proposed Readoption: N.J.A.C. 5:46

Authorized By: Richard E. Constable, III, Commissioner,

Department of Community Affairs.

Authority: N.J.S.A. 44:10-90.

Calendar: Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2014-080.

Submit written comments by August 1, 2014, to:

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Department of Community Affairs

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The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1.b, N.J.A.C. 5:46, the rules concerning New Jersey individual development accounts, are scheduled to expire on May 30, 2014. As the Department of Community Affairs (Department) has filed this notice of rules proposed for readoption with the Office of Administrative Law prior to the expiration date, the expiration date is extended 180 days to November 26, 2014, pursuant to N.J.S.A. 52:14B-5.1.c(2) The Department has reviewed this chapter and finds that it continues to be necessary and appropriate for the purpose for which it was adopted, which is the fair and efficient implementation of the New Jersey Individual Development Account Act, P.L. 2001, c. 93, and is, therefore, proposing that it be readopted without change.

This chapter implements P.L. 2001, c. 93, the New Jersey Individual Development Account Act, which funded the program using Federal Temporary Assistance to Needy Families (TANF) funds. Under this program, non-profit organizations qualified under section 501(c)(3) of the Internal Revenue Code have received funding to provide eligible individuals with the opportunity to make monthly deposits into individual development accounts, which may be matched with State funds on a dollar-for-dollar basis up to \$1,500 per year for three years. The money can be used for qualified acquisition costs of a primary residence, post-secondary educational expenses, and qualified business capitalization expenses. Parallel to the savings process, participants attend a basic financial education course of training and an asset-specific training program that prepares them for their savings goal.

Chapter 46, New Jersey Individual Development Account Program Rules, was adopted as new rules by R.2002 d.13, effective January 7, 2002, and was readopted as R.2007 d.200 effective May 30, 2007.

Subchapter 1 sets forth general requirements applicable to New Jersey Individual Development Accounts. The subject of each section in Subchapter 1 is as follows:

- N.J.A.C. 5:46-1.1, Title, scope; purpose;
- N.J.A.C. 5:46-1.2, Definitions;
- N.J.A.C. 5:46-1.3, Participation criteria for organizations;
- N.J.A.C. 5:46-1.4, Trust accounts for individuals;
- N.J.A.C. 5:46-1.5, Supervised savings accounts;
- N.J.A.C. 5:46-1.6, Time limitations; and
- N.J.A.C. 5:46-1.7, Financial education.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

This chapter is intended to facilitate fair and efficient implementation of the New Jersey Individual Development Account Act, P.L. 2001, c. 93, so that all eligible individuals will have an opportunity to establish individual development accounts with State assistance, to the extent funding will permit. Individual Development Account (IDA) Programs are matched savings accounts that help low-income people pay for higher education, purchase homes, or start small businesses. The IDA program meets these objectives by providing financial education, case management, homeownership counseling, and other asset-goal specific training to IDA participants.

Economic Impact

The program has a positive economic impact in that it gives low-income households an incentive to accumulate assets to be invested directly into further education, homeownership, or small business enterprises and includes extensive basic and asset-specific financial education. Participants receive matching funds for their savings of up to \$1,500 per year for three years.

Participating organizations, of which there are currently eight, have responsibility for providing counseling and financial education to participating individuals, as well as maintaining liaison with financial institutions and keeping necessary records. The extent to which they incur