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TITLE 16. DEPARTMENT OF TRANSPORTATION
CHAPTER 20A. COUNTY LOCAL AID

Expires on October 19, 2011

SUBCHAPTER 1. GENERAL PROVISIONS

16:20A-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Commissioner" means the Commissioner of the New Jersey Department of Transportation.

"Department" means the New Jersey Department of Transportation.

"Encumbered" means funds that are financially obligated by being spent, under contract to be spent, or to be spent under a force account agreement in place with the Department.

16:20A-1.2 Purpose; Division offices

(a) These rules govern disbursements from the Department's County Local Aid Program to counties for the purpose of assisting counties in the implementation of transportation projects including, but not limited to, improvement of any public road or bridge under the jurisdiction of a county.

(b) County 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) 530-3640
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) 770-5070/(973)770-5068
Fax: (973) 770-5172
Counties covered: Hunterdon, Morris, Passaic, Somerset, Sussex, and Warren

3. District Two Office
153 Halsey Street, 5th Floor
Newark, New Jersey 07102
Phone: (973) 877-1500
Fax: (973) 877-1556
Counties covered: Bergen, Essex, Hudson, and Union
4. District Three Office
Route 79 and Daniels Way
Freehold, New Jersey 07728
Phone: (732) 308-4002
Fax: (732) 308-4003
Counties covered: Mercer, Middlesex, Monmouth, and Ocean
5. District Four Office
One Executive Campus
Route 70 West, 3rd Floor
Cherry Hill, New Jersey 08002
Phone: (856) 486-6618
Fax: (856) 486-6771
Counties covered: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem

16:20A-1.3 Distribution of funds

(a) Subject to appropriation, each county shall receive an annual county local aid allotment not less than the combined total of their 1984 apportionment of Federal Aid Urban System funds plus State matching funds including their portion of non-attributable funds made available for Small Urban Areas.

(b) Prior to the distribution of its annual county local aid allotment, each county shall certify to the Department that the allotted funds shall only be spent on eligible costs of projects set forth in the county's approved Annual Transportation Program.

16:20A-1.4 Minimum allotment

Subject to appropriation, the State allotment to each county shall be a minimum of \$300,000 for transportation projects annually. The Commissioner shall, when necessary and pursuant to authority given in statute, allocate from available funds sufficient funds to meet the minimum allocations.

SUBCHAPTER 2. COUNTY AID

16:20A-2.1 Eligible costs

State participation in project costs shall be limited to 100 percent of the cost of construction including construction supervision, inspection and material testing. The cost of engineering and right-of-way acquisition shall be borne totally by the county. State participation may be increased to include up to 100 percent of engineering and right-of-way acquisition costs in special cases when requested by the county and concurred with by the Department. Justification for special cases may include the county's 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 case request to the Commissioner for his or her final decision. The Commissioner's final decision shall be based on need, on a case-by-case basis.

16:20A-2.2 Project approval

(a) Annually, prior to August 31, each county shall be advised of the amount of county local aid funds allotted for the current State fiscal year.

(b) An Annual Transportation Program shall be submitted by each county to the Department's Local Aid and Economic Development District Office for Department approval prior to February 1 of the next succeeding calendar year.

1. The Annual Transportation Programs shall list a pool of eligible projects by name and location with a brief description of each project and an estimate of the construction cost. The total cost of the pool of projects may exceed the amount of county local aid funds available.

2. The Annual Transportation Program shall contain a statement describing how the projects in the program are consistent with all applicable State and regional planning documents, including, but not limited to, the State Development and Redevelopment Plan, the State long-range transportation plan, the regional long-range transportation plan of the appropriate metropolitan planning organization, and the county master plan.

3. The Annual Transportation Program shall be approved by the appropriate governing body before submission to the Department for final approval.

4. Each county shall make reasonable progress in the attainment and maintenance of National Ambient Air Quality Standards consistent with the New Jersey State Implementation Plan.

5. Each county is required to execute three copies, with original signatures of a county local aid agreement including resolutions and applications for the pool of projects in its Annual Transportation Program on forms provided by the Department. Additions or deletions of projects in the pool shall be requested in writing by the appropriate governing body or the County Engineer, as authorized by the governing body, and must be approved by the Department.

6. All approved projects from prior Annual Transportation Programs that remain active shall be listed by the county and made part of its Annual Transportation Program. Any unencumbered funds from prior year allotments shall be available in addition to the current annual allotment.

16:20A-2.3 Discretionary funds

A Discretionary Fund shall be established, subject to appropriated funds, to address emergency and regional transportation needs throughout the entire State. Any county may make application to the Department at any time for discretionary funds. Projects need not be included in each County Annual Transportation Program to be considered for discretionary funds. Project approvals are at the discretion of the Commissioner.

16:20A-2.4 Standards

(a) Proposed road and bridge improvements shall conform to the current design criteria of 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, 5th edition, incorporated herein by reference, and superseding editions;
2. Standard Specifications for Highway Bridges, 17th edition, incorporated herein by reference, current edition and superseding editions; and
3. Guide for the Development of Bicycle Facilities, 3rd edition, incorporated herein by reference, and superseding editions.

(b) The Department shall be advised in writing of all deviations from the standards in (a) above. If there is deviation from those standards, the county shall have a New Jersey licensed professional engineer prepare a Design Exception report based on the requirements of the Design Exception Manual, and a certification providing an analysis and justification for any controlling substandard design elements. The county shall accept any and all responsibility for any injury or damage to any person or property when there is deviation from the standards, and shall indemnify the State as outlined in the county local aid agreement.

1. The Department's Design Exception Manual, 2004 edition, incorporated herein by reference, and superseding editions, is available in electronic format on the Department's website at <http://www.state.nj.us/transportation/eng/>.

(c) In addition to the standards in (a) above, all road and bridge design shall also conform to the standards contained in the "Manual On Uniform Traffic Control Devices" (MUTCD), incorporated herein by reference, 3rd edition, revision 1, and superseding editions, 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/index.asp>; and
 - iii. American Traffic Safety Services Association (ATSSA) at: <http://www.atssa.com/>.

(d) Construction and materials shall conform to the Department of Transportation Standard Specifications for Road and Bridge Construction, 2001 edition, incorporated herein by reference, and superseding editions, and the Department of Transportation Supplementary Specifications for State Aid Projects, 2005 Edition, incorporated herein by reference, and superseding editions. The Department 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 Department of Transportation 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/suppspecpay.shtm>.

(e) Design of traffic barriers and drainage systems shall conform to the Department's Roadway Design Manual, 2001 edition, incorporated herein by reference, and superseding

editions. The Roadway Design Manual is available in electronic format on the Department's website at <http://www.state.nj.us/transportation/eng/documents/RDME/>.

(f) Standards for transportation projects other than roads and bridges shall be pre-approved by the Department before the county begins design of the project.

SUBCHAPTER 3. PLANS AND SPECIFICATIONS

16:20A-3.1 Local government responsibility

(a) The county government shall be responsible for 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.

(b) The county government shall provide maps, reports, construction plans, specifications and contract documents as may be required by the Department.

(c) The county 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 county local aid agreement.

SUBCHAPTER 4. CONTRACTS

16:20A-4.1 Award of contract

(a) The county government shall advertise and award the contracts for projects listed in its Annual Transportation Program, subject to approval of the Department, in accordance with the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) Fifteen calendar days prior to the date of advertisement, the county government shall submit the following to the Department's Local Aid and Economic Development District Office:

1. One copy of the contract plans and specifications;
2. One copy of the engineer's estimate of costs;
3. A certification from the county engineer or consulting project engineer certifying conformance to design standards set forth in N.J.A.C. 16:20A-2.4 and setting forth any required design exception justification; and
4. A certification by the appropriate county official that all right-of-way is available for the project or that it will be available at the time of contract award.

(c) If a project is advertised for bid prior to submitting the above items in (b) above, the project may be subject to re-advertising.

(d) Within 30 calendar days following the award of the contract to the lowest responsible bidder, the county government shall submit the following to the Department's Local Aid and Economic Development District Office:

1. One copy of the summary of construction bids showing all bid quantities, unit prices and extensions;
2. A fully executed and sealed resolution awarding the contract to the lowest responsible bidder, subject to the approval of the Department;

3. A certification from the appropriate county official that all right-of-way is available for the project if such a certification was not already provided prior to advertisement; and

4. For projects using discretionary funds, an invoice for a percentage of the award amount or a percentage of the allotment, whichever is less.

(e) When all information relative to the bidding has been approved by the Department, the county government shall be advised of the approval of the award of contract. Any construction undertaken prior to the approval of the award of the contract by the Department shall be subject to non-participation.

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.

(f) Contracts may also be performed by the force account method. All force account work must be requested and approved prior to the start of construction by county work forces using forms supplied by the Department. The State's participation shall not exceed the approved allotment amount. Any construction undertaken prior to receiving approval from the Department shall be subject to non-participation.

16:20A-4.2 Contract completion and payment

(a) The State shall pay the annual county allotment after approval of each County Annual Transportation Program, execution of the county local aid agreement covering all projects, and satisfactory demonstration of expenditure of funds as set forth in N.J.A.C. 16:20A-4.3.

(b) After Department approval of contract awards for projects using discretionary funds, the State shall pay a percentage of the low bid, or a percentage of the allotment, whichever is less.

(c) When all work has been completed satisfactorily, and a final inspection conducted by the Department, the county government shall prepare and submit to the Department's Local Aid and Economic Development District Office the following documents for project close out:

1. A statement of the work performed, certified by the county engineer or consulting project engineer, for acceptance and approval of the completed work, a copy of a freeholder resolution of project acceptance and/or authorization of final payment, a copy of a freeholder resolution authorizing the final change order, or a certification of final payment by an appropriate county official; and

2. A certification by the county chief financial officer that all expenditures are supported by valid documentation and conform with the county local aid agreement; and

3. Material certifications and test results to ensure conformance with the construction specifications as may be required.

(d) For projects using discretionary funds, in addition to the items listed in (c) above, the county shall submit a request for final reimbursement by the State, on vouchers supplied by the Department within six months after acceptance of the project by the Department. In the event that a request for final reimbursement is not received within six months after acceptance of the project by the Department, action shall be taken to cancel any remaining funds allocated to the project. Any balances remaining after final payment for discretionary fund projects shall be reallocated by the Department at the Commissioner's discretion.

(e) The county shall maintain complete documentation of the project for a period of three years after project acceptance or final reimbursement by the State, whichever is later. A review of the documentation maintained by the county and the results of the inspection

specified in (c) above, shall be used by the Department to evaluate the acceptability of work and determine the extent of State participation in project costs.

16:20A-4.3 Progress report on expenditure of funds

(a) The county shall be responsible for reporting to the Department on the expenditure of county local aid funds by December 31 of each year. The county's progress in expending its allotment of county local aid shall be measured on an annual basis using the information contained in this report.

(b) The annual report shall include the status of expenditures for the immediately preceding State fiscal year, as well as for all prior State fiscal years for which all funds have not been expended. The report shall contain a statement of funds expended, funds under contract, and funds not yet expended or under contract. For funds expended or under contract, the report shall outline the projects and phases of work completed with those funds. For funds not expended or not under contract, the report shall include an explanation as to why those funds have not been expended and include a plan for expending those funds.

(c) The county must demonstrate satisfactory progress in expending county local aid funds in order to receive its annual local aid as an up-front allotment.

(d) Satisfactory progress shall mean expenditure or awarding of contracts to encumber the following:

1. At least 25 percent of the county local aid funds allotted from the immediately preceding State fiscal year;
2. At least 50 percent of the county local aid funds allotted in the State fiscal year prior to the immediately preceding State fiscal year; and
3. One hundred percent of all county local aid funds allotted from all other previous State fiscal years.

(e) Unsatisfactory progress shall mean:

1. Failure to demonstrate satisfactory progress as indicated in (d) above; or
2. Failure to provide a report by December 31 of each year.

(f) Failure to demonstrate satisfactory progress shall result in county local aid funds being provided on a project-by-project basis when the next county local aid allotment is distributed by the Department. Contract completion and payment shall be administered in a manner similar to the administration of discretionary funds. Progress shall be reevaluated at the end of the next calendar year and if satisfactory progress is demonstrated, county local aid funds shall once again be provided in an up-front allotment. If satisfactory progress is not demonstrated, county local aid funds shall continue to be administered on a project-by-project basis.

16:20A-4.4 Cost of engineering, inspection, and construction supervision

(a) The State may participate in the cost of engineering to be accomplished by a consultant engaged by the county or by the county's full-time engineering staff in special cases approved pursuant to N.J.A.C. 16:20A-2.1. Along with justification, a county government seeking State participation in the cost of engineering shall submit to the Department the scope of services to be performed by the engineer. Prior approval of the State's participation in the cost of engineering fees shall be obtained before any engineering services are performed.

(b) The State shall participate in the cost of inspection and construction supervision including the necessary material testing. The Department shall allow a maximum of 15 percent of the final construction cost of the project, less any State non-participatory items for construction inspection services including material testing. Bituminous concrete adjustments are not included.

16:20A-4.5 Cost of right-of-way acquisition

(a) The State may participate in the cost, as described in (b) below, of lands and/or easement rights acquired for right-of-way in special cases approved pursuant to N.J.A.C. 16:20A-2.1. County governments seeking State participation in the cost of right-of-way acquisition shall make a request to the Department's Local Aid and Economic Development District Office and provide justification and right-of-way maps depicting the necessary lands and/or easement rights to be acquired before beginning any right-of-way acquisition activity for a project. Costs incidental to right-of-way acquisition such as appraisal and administrative costs shall not be eligible for funding participation. All property shall be purchased in accordance with the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) Cost shall be the actual purchase price 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.

(c) Right-of-way acquisition activities by counties 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.

(d) The county 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 State Department of Community Affairs pertaining to this statute, when owner or tenant occupants of any property being acquired for a project will be displaced.

(e) State participation amounts shall be returned by the county to the State for properties acquired with State participation that are later declared by the county as excess to the project and sold.

SUBCHAPTER 5. AUDIT

16:20A-5.1 General provisions

(a) The county 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 A-133). 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.

(b) A Single Audit of the county shall be performed annually by an independent auditor or public accountant who meets the independence standards specified in generally accepted government auditing standards in conformity with the State Audit Policy.

(c) Audit costs incurred by the county to comply with the subchapter shall not be reimbursable.