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Adoption of New Regulations on Electronic Funds Transfer & Claimant Certification

This Notice discusses the Local Finance Board's [recent adoption](#) of substantial changes to [N.J.A.C. 5:30-9A](#) and [5:31-4](#), implementing [N.J.S.A. 40A:5-16.5](#) to permit all local units, county colleges, and school district boards of education/boards of trustees to utilize standard electronic funds transfer (EFT) technologies for payment of claims electronically. Use of EFT technologies such as, but not necessarily limited to, Automated Clearing House (ACH) transactions, wire transfers and e-checks are subject to certain fiscal, operational, and technological control requirements as a condition of use. The new regulations also create flexibility for local units (other than school district boards of education/boards of trustees) on when to require vendor/claimant certification prior to paying claims. The sections of this Notice that address the use of credit cards and procurement cards are not applicable to school district boards of education/boards of trustees. Use of credit cards and procurement cards by school district boards of education/boards of trustees is not authorized pursuant to law. This Notice supersedes and repeals Local Finance Notices AU 2003-1 and 2013-17.

General Provisions

In lieu of paper checks, the governing body of a local unit subject to the Local Fiscal Affairs Law ([N.J.S.A. 40A:5-1 et seq.](#)), local authority, or county college; and a board of education/board of trustees (notwithstanding [N.J.S.A. 18A:19-1 et seq.](#) to the contrary as specifically authorized by [N.J.S.A. 40A:5-16.5](#)), may adopt policies and procedures permitting specific officers and employees to pay claims electronically. Boards of education here encompass charter schools as well as renaissance school projects under the "Urban Hope Act" ([N.J.S.A. 18A:36C-1 et seq.](#)). Such policies and procedures shall be in writing and approved by governing body resolution or ordinance, as appropriate prior to the execution of any electronic transfer. The term "local authority" encompasses entities subject to the Local Authorities Fiscal Control Law ([N.J.S.A. 40A:5A-1 et seq.](#)), including fire districts and other special districts, but not school districts.

The chief financial officer or equivalent (such as the school business administrator for a board of education) shall ensure that the controls set forth in the regulations, as well as all other controls set forth in the adopted policies and procedures, are in place and adhered to. As used in this Notice, the term “chief financial officer” or “CFO” shall refer to the position designated by the governing body as responsible for proper administration of the entity’s finances. Specific provisions on the permitted use of procurement cards and charge cards, applicable to entities other than school district boards of education/boards of trustees, are discussed in separate sections.

An EFT method shall allow for the designation of separate initiation and authorization roles, with these roles password-restricted and/or subject to other security controls appropriate to the technology. The initiation and authorization role shall be segregated with the Chief Financial Officer or equivalent generally responsible for authorizing an electronic funds transfer. The governing body must designate another officer not under the CFO’s supervision (e.g. the entity’s chief administrative officer) to authorize transfers initiated by the CFO. Backup officers with separate initiation and authorization roles should be designated in the event the CFO or chief administrative officer is unavailable. The adopted EFT policy must specify permitted EFT methods and incorporate the safeguards set forth in the regulations.

For counties, an electronic funds transfer shall be initiated by either the chief executive officer (Optional County Charter Law) or the freeholder board clerk (non-Optional County Charter Law) unless the payment of claims ordinance or resolution states otherwise. In the case of municipalities, unless otherwise set forth in a payment of claims ordinance, any electronic funds transfer shall be initiated by the mayor or other chief executive officer, and authorized by the municipal clerk in addition to the CFO.; a backup officer may be designated in the event the Mayor, Municipal Clerk, or CFO are unavailable. N.J.S.A. 18A:19-4 requires all payments from board of education accounts to be authorized by the secretary and president of the board of education, respectively, and the chief school administrator, unless otherwise provided by resolution of the board of education; regardless, boards of education must specify in their EFT policy the positions designated to initiate and authorize an electronic funds transfer.

Given the need to formally adopt policies and procedures governing the use of electronic funds transfers, incorporating such policies into a payment of claims ordinance or resolution, as appropriate, is highly encouraged. Local authorities shall designate, at their annual reorganization meeting, the individuals who are authorized to initiate and authorize EFT disbursements.

EFT technologies must facilitate measures that would mitigate the risk of a single payment being processed more than one time. Automatic debits from bank accounts are not permitted; each individual disbursement to a vendor must be preceded by instructions transmitted to the bank.

Appropriate officials must be able to view transaction history, generate activity reports, and conduct supervisory reviews of all transactions. On no less than a weekly basis, activity reports on all EFT-based transactions shall be reviewed by the CFO or another individual under the supervision of the CFO. However, in the case of boards of education, the review must be undertaken by an individual appointed by the board on an annual basis that is not under the direct supervision of the CFO and is not empowered to initiate or authorize electronic funds transfers;

all such activity reports are to be maintained for audit by the school district board of education independent auditor. Any CFO-generated activity reports on EFT-based transactions must be reviewed by another individual designated by the governing body that is not under the CFO's supervision; the local government entity's auditor may be designated to monitor EFT-related activity reports in lieu of another official. Reconciliation of the actual EFT transactions to the accounting records shall be performed at least on a monthly basis and maintained for audit.

The objective of the regulation, as it applies to boards of education, is to provide adequate segregation of duties between the initiation, authorization, and review functions associated with electronic funds transfers for all districts regardless of the size of the district (or charter school) business office. Applicable to boards of education, a weekly review of EFT activity reports compiled by the business office must be undertaken by an individual that is not under the direction of the CFO and is not empowered to initiate or authorize electronic funds transfers; each district board of education that authorizes the use of electronic fund disbursements is provided with flexibility in identifying and appointing an individual/position whom is outside of the direct control of the CFO and is not otherwise empowered to initiate or authorize electronic funds transfers to review all electronic funds transfers. For example, a board of education could identify an employee such as (but not limited to) an assistant superintendent or a non-employee such as (but not limited to) the board president to perform a weekly review of electronic transfers. Please note that all weekly EFT activity reports and evidence of the weekly review are to be maintained for audit by the board of education's independent auditor. In addition to the weekly review of EFT activity reports, internal controls over EFT must include procedures that require the business office to perform a monthly reconciliation of the reviewed/approved weekly EFT activity reports to the EFT transactions appearing on bank statements and in the accounting records (e.g. general ledger, bank reconciliations, list of bills approved by the board, etc.). Evidence to support the performance of this monthly review performed by the business office must be maintained for audit.

Each bill list approved or ratified by the governing body shall indicate the type of technology utilized in each EFT transaction. An audit trail must be created and maintained such that transaction history, including documentation of demands for payment and payment initiation, authorization, and confirmation, can be independently tracked and detailed. The EFT technology must allow verification that a payment is not being diverted to an individual or entity other than the one authorized to receive payment. In the context of a wire transfer or ACH debit description, the bank posting the name of the vendor based upon the transaction routing number provides an adequate audit trail. Transaction data must be able to be backed up and stored offline, however any ACH file that is in plain text format must not be stored on a government entity's local computer past the time the file is transmitted to a bank.

Procurement card issuers, along with providers of ACH and wire-transfer services, must be financial institutions chartered by a State or federal agency, with the further requirement that financial institutions providing ACH and wire transfer services be covered under the Governmental Unit Deposit Protection Act (GUDPA), N.J.S.A. 17:9-41 et seq. The use of payment services such as PayPal and Venmo are not permitted under these rules.

Automated Clearing House (ACH) Transactions

ACH payments shall follow rules set forth by the National Automated Clearing House Association (NACHA) or equivalent successor banking industry standard. Electronic funds transfers through ACH must utilize Electronic Data Interchange (EDI) technology, which provides transaction related details including invoice numbers, pay dates, and other identifying information as appropriate for each transaction. An ACH Origination Agreement must be in place with the financial institution.

Users authorized to generate an ACH file shall neither have upload rights, nor access permitting editing of a vendor routing number or vendor account number. Each edit to vendor ACH information must be approved by a separate individual and be logged showing the user editing the data, date stamp, IP address, and the approval of the edit. Any user uploading an ACH file shall check the amounts and recipients against a register displaying ACH payments. If supported by the financial institution, the government entity shall avail itself of the ability recall ACH payments via NACHA file.

Procurement Cards

Existing regulations pertaining to procurement cards (P-Cards) are largely unchanged, however a QPA must now be designated as a “program manager” when P-Cards are used in any dollar amount. Also, the amendments clarify that the chief financial officer is ultimately responsible for ensuring proper internal controls for P-card usage. All purchases of goods and services using a P-Card must be done in compliance with the Local Public Contracts Law; use of a P-Card does not change or eliminate any provisions of that law. Boards of education are not authorized by law to utilize P-Cards.

What is a P-Card?

P-Cards are electronic procurement systems incorporating access restrictions determined by the contracting unit in accordance with an agreement with the issuer. Any P-Card program must include the ability to institute the following controls:

- Control limits and review current activity online and in real-time
- Establish, change, or delete limits on each card individually
- Restrict the use of individual cards to certain individuals and categories of items
- Establish a cumulative limit for a specific period
- Receive sorted or sortable detailed reports of activity by authorized card user, department or spending category
- Interface with accounting software such that

- vendor activity includes all transactions processed through the P-Card, as well as transactions where direct vendor payments are processed, and
- internal controls are maintained concerning the integrity of vendor payments, accumulated costs for goods and services (aggregation).

Certain vendors providing local government accounting software have modified their software to allow interfacing with P-Card software. Accounting software without this interface compromises local units' ability to ensure Local Public Contracts Law compliance.

When a P-Card is used in a transaction, a vendor receives payment from the card issuer. The issuer then sends the local unit a bill for all transactions made during the last billing period (usually monthly). Depending on the issuer's system and the local unit's requirements, the bill may be formatted by card user, vendor or other parameters, with user capability to customize and print transaction reports. The local unit would then utilize internal controls to verify purchases and utilize their routine bill payment procedure.

The local unit would contract with an issuer, which must be a financial institution chartered by a State or federal authority, for card services. Services include the cards, billing system, control mechanisms and administrative support. Fees may be incurred for these services; if the issuer is a bank, fees may be included in the compensating balance calculation for the local unit. P-Card systems are to be contracted for either through an agreement negotiated at the time of choosing a banking institution for the local government, a cooperative purchasing agreement with either the New Jersey Treasury Department's Division of Purchase and Property or another legally-operating purchasing co-op, or via the competitive contracting process following the requirements of N.J.S.A. 40A:11-4.1 et seq.

Only cards issued by a bank or major credit card provider with a generally pre-established limit can be used. Any rebate offered by the card provider shall be based upon the dollar volume of the transactions.

P-Cards cannot be used for the purchase of items or services of a personal nature for employees, volunteers or officials. Travel, dining and room and board expenses also cannot be paid for with a P-Card; the only exception to this involves travel, dining, room and board expenses for defendants, witnesses or experts required for matters before the courts. This exception can be exercised only by a QPA of a county or a County Sheriff's or Prosecutor's office if authorized by resolution or ordinance of the county's governing body.

Procurement Card Program Oversight and Training

The governing body of a local unit seeking to utilize P-Cards to acquire goods and services must adopt a resolution or ordinance, as appropriate, setting out policies and procedures that govern their use as well as ensuring sound fiscal and managerial controls. The governing body of a local unit can institute any monetary limit on procurement card purchases, or none at all, in its policies and procedures. As with policies and procedures governing electronic funds transfers generally,

local units should incorporate P-Card policies and procedures into a payment of claims ordinance or resolution.

To be permitted to utilize P-Cards, the governing body must appoint a program manager who is a Qualified Purchasing Agent (QPA) to be responsible for day-to-day oversight and management of supervisory review. Supervisory review in this instance means confirming the propriety and accuracy of P-Card usage. If the program manager is someone other than the chief financial officer, the CFO shall be responsible for supervising the program manager's oversight of the local unit's P-Card program. Reconciliation of activity shall be conducted by the CFO or another individual under the CFO's supervision (other than the program manager). If the CFO is the program manager, the governing body must designate another officer not under the CFO's supervision (e.g. the local unit's chief administrative officer) to oversee the CFO's activities vis-à-vis the P-Card program.

Before implementing a procurement card program, local units must first have all personnel connected with the local unit's program complete training on the P-Card system. First, the Chief Administrative Officer, CFO and program manager should receive training in all aspects of the system. Following their successful completion of training, the local unit's chief administrative officer, in consultation with the chief financial officer and the program manager (if someone other than the CFO) and subject to the local unit's policies, is to identify positions within the organizational structure that will benefit from use of a P-Card and, pursuant to the local government's policies and procedures, establish limits by amount, period (time) and categories of permissible use. In turn, the program manager will develop and administer a supervisory review process, identify and manage all risks associated with P-Card use; as well as engage in any other oversight or management duties required to ensure their proper utilization.

A program manager must organize training for each individual whose duties may at any time include the use of a procurement card, supervisory review or reconciliation of activity in the P-Card program, as well as the local unit's policies and procedures concerning P-Card usage. The program manager will notify in writing every employee identified as a person who would be offered a P-card to obtain their consent for the required training. If the employee declines, they shall not be eligible to utilize a P-Card. When the list is finalized, the program manager will initiate training for those employees who will be assigned a P-Card. Topics to be covered shall be as listed in Appendix A. At the end of the training, all persons trained shall sign a statement consistent with the wording in Appendix B.

P-Cards must be issued in the name of a specific individual upon completion of the requisite training, and cannot be issued to personnel who are neither covered by a fidelity bond nor a blanket honesty policy held by the local unit (or become ineligible for said coverage after being issued a P-Card). Violations of policies governing P-Card use shall result in appropriate remedial or disciplinary action.

The Program Manager shall also ensure that:

- all cards are imprinted with both the users' names and the name of the local unit;

- the merchant code is accurate;
- program participants are aware of the proper and approved vendors with whom the cards may be utilized, dependent upon contracts awarded by the governing body; and
- when bids are advertised, the bid documents include that the payments may be made by procurement card so the local unit receives in their bid prices any discount for timely payments.

Users shall expeditiously provide all receipts to the program manager, who will compare receipts to the computer-generated usage report provided by the card company. Returned material must be reported to the Program Manager quickly to ensure either the charge is cancelled or the local unit receives the proper credit.

Procurement cards can be a highly beneficial tool for local governments, looking to further utilize e-commerce and strengthen their purchasing controls. For example, certain contracts through national cooperative purchasing groups (see [Local Finance Notice 2012-10](#) for guidance on procurement through national co-ops) require vendor payment by P-Card. The amended rules will provide the mechanism to better utilize certain national co-op contracts. However, the benefits that come with P-Cards can only be realized with the proper training along with the establishment of effective fiscal and managerial controls.

Charge Cards

N.J.A.C. 5:30-9A.4 permits the use of charge cards issued by a specific vendor, which can only be utilized for goods and services provided by said vendor, may be utilized subject to certain restrictions. Outstanding balances must be paid in full each month; the use of revolving charge accounts is not permitted under the rules. A monthly purchase order (open purchase order) must be issued for each charge card authorizing a maximum amount that can be expended each month. The charge card must facilitate the designation of specific employees authorized to use the card, the tracking of purchases by individual user, establishment of per-purchase dollar limits, along with the ability to receive itemized statements and pay by invoice. Charge cards may not be utilized for travel, dining, or room and board expenses.

As with procurement cards, the government entity must promulgate policies and procedures concerning charge card usage; however, the appointment of a QPA as a program manager is not required in order to utilize charge cards. Individuals must receive specific authorization to utilize charge cards as well as sign an acknowledgement as to understanding the policies and procedures for usage and acknowledging financial responsibility for misuse. Policies and procedures shall cover items such as permissible transactions, transaction limits, supervisory responsibility, and consequences for misuse. Appropriate training should be given on the policies and procedures governing charge card usage, and violations of said policies must result in appropriate remedial or disciplinary action. Individuals utilizing charge cards shall be covered by a fidelity bond or a blanket honesty policy.

Boards of education are not permitted by law to utilize charge cards.

Cybersecurity Measures

N.J.A.C. 5:33-1.1 sets forth a cybersecurity framework that shall be incorporated into standard electronic fund transfer technologies. Elements addressed include:

- System hosting;
- Data encryption;
- Password policy and staff security;
- System risk assessment and security updates;
- Limitations on the maintenance of personal identifying information (e.g. prohibiting the use of Social Security numbers as identifiers);
- Information backup, information disposal, and disaster recovery plans; and
- Having a cybersecurity incident response plan and response team (CSIRT) with notification of any incident experienced by the system.

Financial institution providers of electronic funds transfer technologies shall provide on an annual basis evidence of satisfactory internal controls to the chief financial officer. Such evidence may be in the form of an industry-recognized measure such as, but not necessarily limited to, an unqualified Service Organization Control (SOC) 2 auditor's report or a relevant International Standards Organization ("ISO") certification.

Claimant Certification

N.J.A.C. 5:30-9A.6 and 5:31-4.1 allows greater flexibility for local units (including local authorities and county colleges) in implementing the claimant certification requirement set forth in N.J.S.A. 40A:5-16(a). Claimant or vendor certification is a certification from the party claiming payment that the bill or demand is correct. Please note that this section does not apply to claimant certification for boards of education, which continues to be governed by N.J.S.A. 18A:19-3 and rules promulgated by the New Jersey Department of Education.

Subsection (a) of N.J.A.C. 5:30-9A.6 as well as 5:31-4.1 clarify that the certification may be executed by a vendor or claimant by signature stamp, facsimile signature, or electronic signature in addition to a "wet" signature.

N.J.A.C. 5:30-9A.6(c) and 5:31-4.1 contain an even more significant change that gives local units discretion to not require claimant certification under certain circumstances. First, a local unit may elect to not require claimant certification for transactions where a local unit makes payment through standard EFT technologies. A local unit may also enact a standard policy through resolution or ordinance, as appropriate, to not require claimant certification where the vendor or claimant does not provide such certification as part of its normal course of business. In instituting

such a policy, the local unit shall have the discretion to require claimant certification as it deems necessary and appropriate. For example, a local unit could require claimant certification for certain categories or types of transactions, or for transactions above a certain dollar threshold; however any such policy must be applied in a non-arbitrary fashion and affirmatively communicated to vendors. Claimant certification cannot be waived for the advance or reimbursement of employee expenses, or for services provided exclusively and entirely by an individual (e.g. sole proprietors).

N.J.S.A. 40A:5-16(b) generally bars local unit funds from being paid out absent a “written or electronic certification of some officer or duly designated employee of the local unit having knowledge of the facts that the goods have been received by, or the services rendered to, the local unit.” However, N.J.A.C. 5:30-9A.6(c)(1) and 5:31-4.1 now expressly permit payment to vendors in advance of delivery of materials or services for the following purposes in addition to those specifically referenced in N.J.S.A. 40A:5-16.1 (advance of employee travel expenses); 40A:5-16.2 (advance payment to non-profit agency under certain circumstances); and 40A:5-16.3 (advancing estimated administrative or direct service costs of a statutorily authorized joint, interlocal, or cooperative activity [e.g. shared services agreement]):

- Payment obligations to the State or to federal governments;
- Membership in a non-profit organization;
- Educational courses, including, but not limited to, those where continuing education credits are awarded;
- Registration for a conference or convention sponsored by a nonprofit organization; and
- Website hosting, including registration and maintenance of a domain name.

Claimant certification is not required under the above-referenced circumstances except for the payment of advances for officers and employees.

Approved: Timothy J. Cunningham, Director

Document	Internet Address
Notice of Adoption	http://www.nj.gov/dca/divisions/dlgs/resources/rules_reg.html
<u>N.J.A.C.</u> 5:30-9A	http://www.nj.gov/dca/divisions/dlgs/resources/rules_docs/5_30/njac_5309A.pdf
<u>N.J.A.C.</u> 5:31-4	http://www.nj.gov/dca/divisions/dlgs/resources/rules_docs/5_31/njac_5314.pdf
<u>N.J.S.A.</u> 40A:5-16.5	http://www.njleg.state.nj.us/2016/Bills/PL16/29..PDF
Local Finance Notice 2012-10	http://www.nj.gov/dca/divisions/dlgs/lfns/12/2012-10.pdf

APPENDIX A**Topics to be covered in Procurement Card User Training by Program Manager**

1. Short explanation of N.J.A.C. 5:30-9A and the benefits of using P-Cards
2. The policies and procedures established by the local unit's governing body concerning P-Card usage
3. Expeditious submittal of receipts to the program manager.
4. Expeditious handling of returns to ensure the local unit receives credit or is not billed.
5. Explanation that users may only use cards at pre-approved vendors for pre-approved merchant codes which you will provide, and that use for travel/dining/room and board is prohibited except for the limited circumstances applicable to counties.
6. Prohibition on cash advances from P-Cards.
7. Immediate reporting of lost or stolen cards to the program manager, who will in turn cancel them immediately.
8. Relinquishing the procurement card upon termination of employment or other circumstance where the employee's P-Card privileges are terminated.
9. Users must not permit vendors to retain the card or otherwise institute a "running total" for the card.
10. Notifying the program manager of suspected fraudulent acts.
11. Explanation that improper use of a card will result in the employee being personally responsible for any such payment, and that improper use of the card could result in the termination of the employee's privilege to use a card and additional personnel actions up to and including termination.
12. All employees shall sign a statement incorporating the substance of Appendix B.

APPENDIX B

Acknowledgement of Procurement Card Training and Agreement to Abide by Policies and Procedures for Procurement Card Usage

I, _____, hereby certify that I have been trained in the permitted
(Name of cardholder)
use of procurement cards for the _____, and that topics as per attached
(Name of local contracting unit)
have been explained. (Attach Appendix A prior to cardholder signing).

I hereby agree to follow the provisions of the Procurement Card Program, its policies and procedures. I understand that violators of these rules may result in revocation of privilege of use and/or disciplinary action up to and including termination of employment. I also understand that inappropriate use may require that I reimburse all costs associated with such improper use.

Cardholder Signature

Cardholder- Print Name

Date

Assigned Card Number

Signature of Program Manager

Signature of Chief Financial Officer

Signature of Chief Administrative Officer

APPENDIX C**Procurement Card Program Checklist for Local Units**

- Governing body of local unit institutes policies and procedures for use of procurement cards.
- Chief Administrative Officer, Chief Finance Officer, and program manager must train in all aspects of the procurement card system.
- Chief Administrative Officer, in consultation with the CFO and program manager, decides which employees will be offered the use of P-Cards.
- Program Manager trains those employees accepting responsibility of P-Card usage.
- Chosen candidates accept conditions as described in training (in Appendix A) and agreeing to those terms as specified (signing Appendix B).
- Personnel utilizing P-Cards are notified of the proper and approved vendors with whom the cards may be utilized.
- Local unit ensures program manager has all tools necessary to oversee the program.
- Program manager initiates cards by registering the merchant code; ensures that cards have imprinted on them the name of the local unit and the individual user.
- Program manager, under supervision of CFO, monitors for proper use, return of receipts and credit for any returned purchases.