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TITLE 16. TRANSPORTATION  
CHAPTER 20A. COUNTY LOCAL AID

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-47, 27:13-1 et seq., 27:13A-1 et seq., 27:14-1 et seq., 27:15-1 et seq., 27:15A-1 et seq., and 27:1B-1 et seq.

Expires on April 16, 2021

SUBCHAPTER 1. PURPOSE AND SCOPE

16:20A-1.1 Purpose

This chapter governs disbursements from the Department's County Local Aid Program to counties for the purpose of assisting counties in the implementation of public transportation projects and other transportation projects, as defined in N.J.S.A. 27:1B-1 et seq., including, but not limited to, improvement of any public road or bridge under the jurisdiction of a county.

16:20A-1.2 Scope

(a) Subject to appropriation, each county shall be eligible to receive an annual local aid allotment pursuant to the provisions of N.J.S.A. 27:1B-1 et seq.

(b) A discretionary fund shall be established, subject to appropriated funds, to address emergency and regional transportation needs throughout the 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 (ATP) to be considered for discretionary funds. Project approvals are at the discretion of the Commissioner.

16:20A-1.3 (Reserved)

16:20A-1.4 (Reserved)

SUBCHAPTER 2. DEFINITIONS

16:20A-2.1 Definitions

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

"ATP" means the Annual Transportation Program.

"Award" means the notice to a bidding contractor of the county's acceptance of the submitted bid.

"Commissioner" means the Commissioner of the New Jersey Department of Transportation or such persons as the Commissioner may designate, when legally permissible.

"Construction inspection" means examination of a construction project to ensure conformity with contract plans and specifications. Construction inspection charges shall begin at the pre-construction meeting and end with the securing of the as-built measurements. It shall only in-

clude those direct costs associated with the actual project inspection or construction supervision. Administrative and clerical costs, work items involving shop drawing reviews, preparation of payment vouchers, and soliciting bids for testing are not eligible for reimbursement.

"Department" means the New Jersey Department of Transportation.

"District office" means an office of the Department's Division of Local Aid and Economic Development that administers the local aid program for specified counties.

"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.

"SAGE" means the Department's online grant management system, System for Administering Grants Electronically.

16:20A-2.2 (Reserved)

16:20A-2.3 (Reserved)

16:20A-2.4 (Reserved)

### SUBCHAPTER 3. CONTACT INFORMATION

16:20A-3.1 Contact information

(a) 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  
PO Box 600  
Trenton NJ 08625-0600  
Phone: (609) 530-3640  
Fax: (609) 530-8044  
Counties covered: all counties
2. District 1, Mt. Arlington  
Roxbury Corporate Center  
200 Stierli Court  
Mount Arlington, NJ 07856  
Phone: (973) 601-6700  
Fax: (973) 601-6709  
Counties covered: Morris, Passaic, Sussex, and Warren
3. District 2, Newark  
153 Halsey Street, 5th Floor  
Newark, NJ 07102  
Phone: (973) 877-1500  
Fax: (973) 648-4547  
Counties covered: Bergen, Essex, Hudson, and Union
4. District 3, Bureau of Local Aid  
PO Box 600  
Trenton, NJ 08625-0600  
Phone: (732) 625-4290

Fax: (732) 625-4292

Counties covered: Hunterdon, Mercer, Middlesex, Monmouth, Ocean, and Somerset

5. District 4, Cherry Hill  
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

#### SUBCHAPTER 4. COUNTY AID

##### 16:20A-4.1 Eligible costs

(a) The Department will participate in the following:

1. 100 percent of the cost of eligible construction; and
2. The cost of construction inspection and material testing, up to a maximum of 15 percent of the final eligible construction cost of the project, less any non-participatory items.

(b) Department participation may include up to 100 percent of engineering 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 a final decision. The Commissioner's final decision will be based on need, on a case-by-case basis.

1. A county seeking Department participation in the cost of engineering shall additionally submit to the Department the scope of services to be performed by the engineer. Prior approval of the Department's participation in the cost of engineering fees shall be obtained before any engineering services are performed.

(c) Department participation may include up to 100 percent of 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 will recommend acceptance or rejection of the special case request to the Commissioner for a final decision. The Commissioner's final decision will be based on need, on a case-by-case basis.

1. A county seeking Department participation in the cost of right-of-way acquisition shall make a request to the appropriate 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.

2. Cost shall be limited to 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. All property shall be purchased in accordance with the provisions of the Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq.

3. Costs associated with right-of-way acquisition, such as appraisal and administrative costs, shall not be eligible for funding participation.

4. Right-of-way acquisition activities by counties shall be conducted in accordance with all requirements and conditions set forth within the Eminent Domain Act of 1971, N.J.S.A. 20:3-1 et seq.

5. 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.

6. Department participation amounts shall be returned by the county to the Department for properties acquired with Department participation that are later declared by the county as excess to the project and sold.

(d) The Department will not participate in the cost of utility installation or relocation.

#### 16:20A-4.2 Annual Transportation Program approval

(a) Annually, prior to August 31, each county shall be notified of the amount of local aid funds allotted to the county for the current State fiscal year. Any unencumbered funds from prior year allotments, not subject to rescission pursuant to N.J.A.C. 16:20A-6.4, shall be available in addition to the current annual allotment. Balances from prior year allotments must be encumbered before a county uses its current annual allotment.

(b) An ATP shall be submitted by each county for approval through the Department's online grant management system, SAGE found at: <http://www.state.nj.us/transportation/business/localaid/sage.shtm>. Submissions shall be made within five months of notification, unless otherwise directed by the Department.

1. The ATP shall list a pool of eligible projects by name and location, including municipality, with a brief description of each project, project limits, and an estimate of the construction cost. The total cost of the pool of projects may exceed the amount of the county's annual allotment of local aid funds.

2. All projects from prior approved ATP(s) that have not been awarded may be carried over to the current year ATP. All projects approved from prior ATP(s) that remain active shall be listed by the county and made part of its current ATP.

3. The ATP 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.

4. The ATP shall be approved by the appropriate county governing body before submission to the Department for final approval and shall include a certification that allotted funds shall only be spent on eligible costs for projects set forth in the county's approved ATP.

5. Upon Department approval, the county will be notified through SAGE and an ATP agreement will be provided for execution. The ATP agreement will be for 100 percent of the annual allotment. Disbursement of funds from the annual allotment will be made on a project-by-project basis pursuant to N.J.A.C. 16:20A-6.2.

i. All ATP agreements shall contain provisions for the indemnification of the State and its employees and officials.

6. Additions or deletions of projects in the ATP 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 prior to modifying the ATP.

#### 16:20A-4.3 County responsibilities

(a) The county shall be responsible for:

1. Engaging a professional engineer licensed in the State of New Jersey to prepare construction plans and specifications; and providing construction engineering, inspection, and material testing, as required;

2. Providing maps, reports, construction plans, specifications, and contract documents, as may be required by the Department;

3. Making reasonable progress in the attainment and maintenance of National Ambient Air Quality Standards consistent with the New Jersey State Implementation Plan;

4. Complying with the provisions of Executive Order No. 215 (1989) and obtaining all necessary State and Federal permits and approvals; and

5. Complying with the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131 through 12164.

#### 16:20A-4.4 (Reserved)

#### 16:20A-4.5 (Reserved)

### SUBCHAPTER 5. STANDARDS AND SPECIFICATIONS

#### 16:20A-5.1 Standards

(a) Proposed road and bridge improvements shall conform to the current design standards utilized by the Department, which are incorporated herein by reference, as amended and supplemented, including, but not limited to, 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](https://bookstore.transportation.org/direct_order_form.aspx):

1. A Policy on Geometric Design of Highways and Streets, 6th edition;
2. Standard Specifications for Highway Bridges, 17th edition; and
3. Guide for the Development of Bicycle Facilities, 4th edition.

(b) All road and bridge design shall also conform to the standards contained in the "Manual On Uniform Traffic Control Devices" (MUTCD), 2009 edition with Revisions 1 and 2, which is incorporated herein by reference, as amended and supplemented, 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](https://bookstore.transportation.org/direct_order_form.aspx);

ii. Institute of Traffic Engineers (ITE) at: <http://www.ite.org/bookstore/mutcd.asp>; and

iii. American Traffic Safety Services Association (ATSSA) at: <http://www.atssa.com/>.

(c) Design of traffic barriers and drainage systems shall conform to the Department's Roadway Design Manual, 2012 edition, which is incorporated herein by reference, as amended and supplemented. The Roadway Design Manual is available in electronic format on the Department's website at <http://www.state.nj.us/transportation/eng/documents/RDM/>.

(d) The Department shall be advised in writing of all deviations from the standards in this section for all road and bridge projects. 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 Department's 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 actions or inactions including, but not limited to, injury or damage to any person or property when there is deviation from standards. The county shall also fully defend, indemnify, protect, save, and hold harmless the State of New Jersey, the Department, its agent, employees, and assigns from and against any and all suits, losses, claims, damages, demands, or liabilities.

1. The Department's Design Exception Manual, 2012 edition, which is incorporated herein by reference, as amended and supplemented, is available in electronic format on the Department's website at: <http://www.state.nj.us/transportation/eng/documents/DEM/>.

#### 16:20A-5.2 Specifications

(a) Construction and materials shall conform to the Department's Standard Specifications for Road and Bridge Construction, 2007 edition, incorporated herein by reference, as amended and supplemented, and the Department's Supplementary Specifications for State Aid Projects, 2011 Edition, incorporated herein by reference, as amended and supplemented. The 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 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>.

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

### SUBCHAPTER 6. PROJECT AGREEMENTS AND CONTRACTS

#### 16:20A-6.1 Project agreements

(a) Each project advancing in an approved ATP must be established by the county in SAGE by provision of a submission that includes, but is not limited to, the following:

1. Type of improvement (that is, bikeway, bridge preservation, mobility, pedestrian safety, quality of life, roadway preservation, or roadway safety);

2. Project name;

3. Project location (municipality);

4. Project limits;

5. Project length; and

6. Project cost.

(b) The appropriate district office will review each project submission and establish a sub-agreement number in SAGE.

(c) The county will be notified if the submission is complete and if the project can advance to advertisement for construction or another phase of work as provided in N.J.A.C. 16:20A-4.1.

#### 16:20A-6.2 Award of contract

(a) Subject to the notification and approval under N.J.A.C. 16:20A-6.1, and in accordance with the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., the county shall advertise and award for construction contracts for a project being advanced by the county and listed in its ATP.

(b) Thirty calendar days prior to the date of advertisement, the county shall submit the following to the appropriate 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 and specifications set forth in N.J.A.C. 16:20A-5 and setting forth any required design exception justification or pre-approved alternative specification; 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 items in (b) above, the project may be subject to re-advertising. The county shall be responsible for all costs associated with the re-advertisement.

(d) The Department will review the submission items in (b) above, and if found acceptable, notify the county that it can advertise the project. If the submission is found unacceptable, the county may make the necessary corrections and modifications and resubmit the project for approval to advertise.

(e) Within 30 calendar days following the award of the contract to the lowest responsible bidder, the county shall submit the following to the appropriate 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 certification was not already provided prior to advertisement;
4. An invoice for 100 percent of the contract award amount, up to the county's available balance, whichever is less; and
5. For projects using discretionary funds pursuant to N.J.A.C. 16:20A-1.2(b), a county may invoice up to 75 percent of the award amount or 75 percent of the approved project amount, whichever is less. The Department will pay the remainder of the percentage of the final eligible costs of the project up to the approved project amount, upon receipt of the final payment voucher and supporting documentation of the project costs.

(f) When all information relative to the bidding has been approved by the Department, the county shall be advised of the Department's concurrence with the award of the contract, and will be provided an award concurrence date through SAGE.

1. Any construction undertaken prior to the award concurrence date shall be subject to non-participation by the Department.

2. 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.

(g) Counties may also perform work using their own workforce. In order to do so, the county must demonstrate to the Department that the force account method is more cost effective than contracting through competitive bidding and efficiently uses labor, equipment, materials, and supplies to assure the lowest overall cost.

1. When the force account method is being requested, the county must supply the following:

i. Sufficient cost information, so that a cost-effectiveness determination can be made by comparing the total cost for the county to perform the work versus the total cost using competitively bid prices. The project or contract completion time is to be equal for both county and contract work estimates in order to provide a fair price comparison;

ii. The determination that the county has the experience, resources, and demonstrated ability to complete the work with the same level of quality as that expected on a competitively bid contract;

iii. The ability to comply with the appropriate design, construction, and material quality standards; and

iv. Documentation of compliance that the level of quality is the same as that which is required for competitively bid contracts.

2. All force account work requests must be reviewed and approved by the Department prior to the start of construction.

3. If the force account method is approved, the county shall enter into a force account agreement with the Department. Any construction undertaken by force account prior to Department approval and execution of a force account agreement shall be subject to non-participation by the Department.

4. The Department's participation shall not exceed the approved project amount.

#### 16:20A-6.3 Contract completion and final payment

(a) When all work is substantially complete, the Department will conduct a final inspection. "Substantial completion" means that projects are complete, with the exception of landscaping items, removal of soil erosion and sediment control (SESC) measures, final cleanup, and repair of unacceptable work; provided the resident engineer has determined that the project is safe and convenient for use by the public and that failure to complete work and repairs excepted in this definition will not result in the deterioration of other completed work. If the work is deemed satisfactory, the Department will accept the project. Within six months of the Department's acceptance of the project, the county shall prepare and submit to the appropriate district office the following documents for project closeout:

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;

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.

(b) Exceptions to the six-month requirement for project closeout will be considered by the Department on a case-by-case basis upon written request from the county with adequate justification.

(c) For projects using discretionary funds, in addition to the items listed in (a) above, the county shall submit a request for final reimbursement by the Department, 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.

(d) The county shall maintain complete documentation of the project for a period of three years after project acceptance or final reimbursement by the Department, whichever is later. A review of the documentation maintained by the county and the results of the inspection specified in (a) above, shall be used by the Department to evaluate the acceptability of work and determine the extent of Department participation in project costs.

#### 16:20A-6.4 Annual report on expenditure of funds

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

(b) The reporting period for the annual report shall be the immediately preceding State fiscal year and two prior State fiscal years. For example, the December 31, 2013, report shall be for State fiscal years 2013, 2012, and 2011.

(c) The report shall be certified by the county's chief financial officer.

(d) The report shall include, but not be limited to, the following information:

1. A statement of the annual allotments for the reporting period;
2. A listing of projects with Department award concurrence and the active ATP(s) from which each is being deducted;
3. The award concurrence date, as it appears in SAGE, for the projects listed in (d)2 above;
4. Total funds allocated and awarded during the reporting period;
5. Total funds allocated but not awarded during the reporting period;
6. Project closeout date; and
7. Any reallocated funds from closeout balances described in (f) below, and their expiration date.

(e) The county must demonstrate satisfactory progress in expending local aid funds. Failure to award construction or other approved contracts for 100 percent of a county's annual allotment within three years of the date established by the Department in the annual notification, pursuant to N.J.A.C. 16:20A-4.2(a), shall result in the immediate rescission of any unencum-

bered funds. Rescinded funds will be reallocated to the following State fiscal year's county local aid program to be distributed pursuant to N.J.A.C. 16:20A-1.2.

(f) Any encumbered funds not expended upon project closeout shall be returned to the Department or retained by the county and reallocated to another project. Such reallocated funds must be encumbered within one year.

## SUBCHAPTER 7. AUDIT

### 16:20A-7.1 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](http://www.state.nj.us/infobank/circular/circindex.htm) and at the Federal government website at [www.whitehouse.gov/OMB](http://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.