

CHAPTER 20A**NEW JERSEY TRANSPORTATION TRUST FUND
AUTHORITY ACT: COUNTY AID****Authority**

N.J.S.A. 27:1A-5, 27:1A-6, 27:7-13, 27:7-47, 27:7-13.1 et seq. and the New Jersey Transportation Trust Fund Authority Act.

Source and Effective Date

R.1996 d.306, effective July 1, 1996.
See: 28 N.J.R. 1350(a), 28 N.J.R. 3312(a).

Executive Order No. 66(1978) Expiration Date

Chapter 20A, New Jersey Transportation Trust Fund Authority Act: County Aid, expires on July 1, 2001.

Chapter Historical Note

Chapter 20A, New Jersey Transportation Trust Fund Authority Act Federal Aid Urban System Substitution Program: County and Municipal Aid, was adopted as emergency new rules by R.1984 d.423, effective September 6, 1984 (expired November 5, 1984). See: 16 N.J.R. 2456(a). The provisions of R.1984 d.423 were adopted as new rules by R.1984 d.552, effective December 17, 1984. See: 16 N.J.R. 3470(a). Subchapter 5, Audit, was adopted as R.1987 d.265, effective July 6, 1987. See: 19 N.J.R. 622(a), 19 N.J.R. 1229(a). Pursuant to Executive Order No. 66(1978), Chapter 20A expired on December 17, 1989, and subsequently was adopted as new rules by R.1990 d.128, effective February 20, 1990. See: 21 N.J.R. 3716(a), 22 N.J.R. 669(a).

Pursuant to Executive Order No. 66(1978), Chapter 20A was re-adopted as R.1995 d.71, effective January 12, 1995. See: 26 N.J.R. 4485(a), 27 N.J.R. 504(b).

Chapter 20A, New Jersey Transportation Trust Fund Authority Act Federal Aid Urban System Substitution Program: County and Municipal Aid, was repealed, and a new Chapter 20A, New Jersey Transportation Trust Fund Authority Act: County Aid, was adopted as R.1996 d.306, effective July 1, 1996. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS**16:20A-1.1 Appropriation of funds**

New Jersey Transportation Trust Fund Authority Act funds are appropriated by the Legislature for the improvement of any public road or bridge under the jurisdiction of a county, regardless of location within that county. County aid funds may also be used for county public transportation projects and other transportation projects which a county may be authorized by law to undertake.

16:20A-1.2 Distribution of funds

(a) Each county shall receive an annual State aid allotment not less than the combined total of their 1984 apportionment of Federal Aid Urban System funds plus State match including their portion of non-attributable funds made available for Small Urban Areas. In any year in which insufficient funds have been appropriated to meet the minimum county allocations, or if no appropriation is provided, the Commissioner of Transportation shall determine on a prorated basis the amount of the deficiency for each county having a minimum allocation and allocate from funds available sufficient funds to meet the minimum allocations.

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

16:20A-1.3 Minimum allotment

The State allotment to each county shall be a minimum of \$300,000 for transportation projects annually.

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 design engineering and right-of-way acquisition shall be borne totally by the county. State participation may be increased to include 100 percent for design and right-of-way acquisition costs in special hardship cases justified by the county and concurred in by the Department of Transportation. Special hardship cases may be justified by the county

usually involving their inability to proceed either due to lack of funds or expertise. Department staff will recommend acceptance or rejection of the justification to the Commissioner for his or her final decision which will be determined by need on a case-by-case basis.

16:20A-2.2 Project approval

(a) Annually, prior to September 30, each county shall be advised for budgetary purposes of the amount of county aid funds they can anticipate in the following calendar year. The Transportation Improvement Program with a State aid element or, at the discretion of the county, a Capital Transportation Program shall be submitted for approval by the Department prior to February 1 of the next succeeding calendar year.

1. Capital Transportation Programs shall be completed on forms provided by the State. Each project shall be listed by name and location with a brief description of how each project conforms with the county's overall Transportation Plan.

2. Each program shall cover a four-year period and list the phase (engineering, right-of-way, construction) of each project to be undertaken in a specific year. A cost estimate shall be provided for each phase of eligible work. This cost estimate shall indicate the amount of anticipated State participation and the amount of county participation. The cost of work in the first year of the program for which State participation is requested shall not exceed the county's annual share of County Aid funds.

3. Each county's four-year program shall be approved by the board of chosen freeholders and submitted to the Department of Transportation 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 will be required to execute one State/county agreement covering the projects in the first year of the Capital Transportation Program on forms provided by the State. The amount for any specific project can vary from the programmed amount as long as the total for all projects for the fiscal year does not exceed the total available for the year. Additions of projects or deletions of projects will require amended programs approved by the county board of chosen freeholders and the Department of Transportation.

16:20A-2.3 Discretionary funds

Annually, subject to funds appropriated by the Legislature, a Discretionary Fund shall be established to address emergency and regional needs through the entire State. Any county may make application to the Department of Transportation at any time. Projects need not be included in the Capital Transportation Program. Project approvals are at the discretion of the Commissioner of Transportation.

16:20A-2.4 Standards

(a) The 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. Any exceptions to these design criteria must be justified by the county engineer or consulting engineer to be in the public interest and written justification submitted to the Department for file. The following publications can be reviewed and/or copied in accordance with N.J.S.A. 47:1A-2.

1. TRB Special Report 214, Designing Safer Roads, Practices for Resurfacing, Restoration and Rehabilitation;
2. A Policy on Geometric Design of Highways and Streets;
3. Standard Specifications for Highway Bridges; and
4. Guide for the Development of New Bicycle Facilities.

(b) Construction and materials shall conform with the current New Jersey State Department of Transportation Standard Specifications for Road and Bridge Construction as amended for State Aid.

(c) Standards for transportation projects other than roads and bridges shall be pre-approved by the Department of Transportation.

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 and 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 State.

(c) The county government shall certify to the Department of Transportation that all allotted funds will only be spent on eligible costs for the approved project(s) as described in the application.

SUBCHAPTER 4. CONTRACTS

16:20A-4.1 Award of contract

(a) The county government will advertise and award the contract, subject to approval of the Department, in accordance with the provisions of Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) Fifteen calendar days prior to the time of advertisement, the county government shall submit the following to the Local Highway Design District Office;

1. One copy of the contract plans and specifications;
2. One copy of the Engineer's Estimate of costs; and
3. A certification from the county engineer or consulting engineer for the project concerning conformance to AASHTO design criteria and any required design exception justification.

(c) Within 30 calendar days following the receipt of construction bids, the county government shall submit the following to the Local Highway Design District Office:

1. Two copies of the summary of construction bids;
2. A resolution awarding the contract to the lowest responsible bidder, subject to the approval of the Department; and
3. In the case of Discretionary Funds, an invoice for a percentage of the award amount or a percentage of the allotment, whichever is less. The percentage to be applied shall be based on estimates of the amount of funding that typically remained on projects with balances, and shall be specified in the letter to the governing body announcing approval of the allotments.

(d) When all information relative to the bidding has been approved by the State, the county government shall be advised of the approval of the award of contract.

(e) Contracts may also be performed by the Force Account method. Any Force Account work must be requested and approved using forms supplied by the Department of Transportation. All Force Account work must be approved prior to the start of construction by county work forces.

16:20A-4.2 Contract completion and payment

(a) The State shall pay the annual county allotment after approval of the County's Capital Transportation Program and the agreement covering all projects in the first year of the Capital Transportation Program by the Department of Transportation. In the case of Discretionary Funds, the State will pay a percentage of the low bid, or a percentage of the allotment, whichever is less, based on estimates of the amount of funding that typically remained on projects with balances, after approval of the award of contract by the Department of Transportation. For Discretionary Funds, progress payments for Discretionary Fund projects may be made on a monthly basis when requested by the county government when the total amount of reimbursement requested is not less than \$50,000.

(b) When all work has been completed satisfactorily, and a final inspection conducted by the Department of Transportation, the county government shall prepare and submit to the Local Highway Design District Office the following:

1. A statement of the work performed, certified by the county engineer or consulting engineer, for acceptance and approval of the completed work;

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

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

4. In the case of Discretionary Projects, a request for final reimbursement by the State, on vouchers supplied by the Department within six months after acceptance of the project by the State. In the event that a request for final reimbursement is not received within six months after acceptance of the project by the State, action may be taken to cancel any remaining funds allocated to the project.

(c) The county shall maintain complete documentation of the project for a period of three years after project acceptance or final reimbursement by the State. An evaluation of the acceptability of the work by the Department and a determination of the extent of State participation in the cost thereof, will be based on an inspection as specified in (b) above, of the completed project and a review of the documentation maintained by the county.

(d) The county shall be responsible for providing an accounting of all funds forwarded to them at the time of execution of the agreement. Any balances remaining after completion of all projects are to be reprogrammed and specifically identified either by a Capital Transportation Program amendment or in the next year's county Capital Transportation Program. In the case of discretionary projects, any balances remaining after final payment are to be reallocated by the Department at the Commissioner's discretion.

16:20A-4.3 Cost of engineering, inspection and construction supervision

(a) In hardship cases as determined at N.J.A.C. 16:20A-2.1, approved by the Department, the State may participate in the cost of design engineering accomplished by either a consultant engaged by the county or by a county's full time engineering staff. Prior approval of the State's participation in the cost of engineering fees shall be obtained before any engineering services are performed.

(b) A county government desiring State participation in the cost of design engineering shall submit the scope of services to be performed by the engineer to the Department.

(c) The State shall participate in the cost on inspection and construction supervision including the necessary material testing. The Department shall allow a maximum of 10 percent of the final construction cost of the project, less any State not sharing items for construction inspection services including material testing. Bituminous concrete adjustments are not included.

16:20A-4.4 Cost of right-of-way acquisition

(a) In hardship cases approved by the Department as identified in N.J.A.C. 16:20A-2.1, the State may participate in the cost, as described in (b) below, of lands and/or easement rights acquired for right-of-way. Other costs incurred such as appraisal and administrative costs incidental to right-of-way acquisition shall not be eligible for funding participation. All property shall be purchased in accordance with the provisions of Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) Cost is the actual purchase price amount 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) County governments requesting State participation in the cost of right-of-way acquisition, shall, before any right-of-way acquisition activity for the project, make a request to the Local Highway Design District Office and provide right-of-way maps depicting the lands and/or easements rights necessary to be acquired.

(d) 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.

(e) Where owner or tenant occupants of any property being acquired for the project will be displaced, the county shall provide a relocation plan and accomplish relocation assistance in accordance with the State Department of Community Affairs 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.

(f) Where properties have been acquired with State participation and are later declared by the county as excess to the project and are in turn sold, the participation amount shall be returned to the State.

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 and the Single Audit Act of 1984 (Federal OMB Circular A-128).

(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) The Department of Transportation agreements governed by N.J.A.C. 16:20A shall be subjected to audit compliance tests in accordance with requirements delineated in the Department of Treasury, Office of Management and Budget publication entitled "New Jersey Grants Management Information System Manual."

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