

CHAPTER 30

LOCAL FINANCE BOARD

Authority

N.J.S.A. 40A:4-83, 40A:5-38, 40A:12-6, 52:27BB-10, 52:27BB-30, 52:27BB-32, 52:27D-18.

Source and Effective Date

R.1998 d.307, effective May 22, 1998.
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 30, Local Finance Board, expires on November 18, 2003. See: 35 N.J.R. 2427(a).

Chapter Historical Note

Chapter 30, Local Finance Board, was enacted as R.1970 d.40, effective April 13, 1970. See: 1 N.J.R. 17(d), 2 N.J.R. 39(a).

Subchapter 14, Local Public Contracts, was adopted as R.1977 d.128, effective May 20, 1977. See: 8 N.J.R. 371(c), 9 N.J.R. 212(a).

Subchapter 16, Tenants Property Tax Rebate Program, was adopted as R.1977 d.241, effective July 8, 1977. See: 9 N.J.R. 257(c), 9 N.J.R. 357(b).

Former Subchapter 10 and N.J.A.C. 5:30-11.1 through 5:30-11.7 were repealed by R.1979 d.16, effective January 17, 1979. See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

Pursuant to Executive Order No. 66(1978), Chapter 30, Local Finance Board, was readopted as R.1983 d.277, effective June 21, 1983. See: 15 N.J.R. 463(b), 15 N.J.R. 1180(a).

Subchapter 10, Municipal Port Authorities, was adopted as R.1984 d.381, effective September 4, 1984. See: 15 N.J.R. 1204(a), 16 N.J.R. 2357(a).

Pursuant to Executive Order No. 66(1978), Chapter 30, Local Finance Board, was readopted as R.1988 d.350, effective June 29, 1988. See: 20 N.J.R. 1027(a), 20 N.J.R. 1879(a).

Former Subchapter 9, Financial Administration, Subchapter 11, School Bonds, Subchapter 13, Forms, Subchapter 15, Appropriation Caps, and Subchapter 16, Tenants Property Tax Rebate Program, were repealed by R.1990 d.383, effective August 6, 1990. See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Subchapter 14, Local Public Contracts, was repealed and Subchapter 17, Cooperative Pricing and Joint Purchasing Systems, was recodified to N.J.A.C. 5:34-7 by R.1990 d.595, effective December 3, 1990. See: 22 N.J.R. 724(a), 22 N.J.R. 3629(a).

Pursuant to Executive Order No. 66(1978), Chapter 30, Local Finance Board, was readopted as R.1993 d.297, effective May 27, 1993. See: 25 N.J.R. 1630(a), 25 N.J.R. 2688(a).

Subchapter 7, Municipal Budget Local Examination and Approval, was adopted as R.1997 d.146, effective March 17, 1997. See: 28 N.J.R. 5125(a), 29 N.J.R. 870(a).

Subchapter 9, Government Electronic Receipt Acceptance, was enacted as R.1997 d.147, effective March 17, 1997. See: 29 N.J.R. 4(a), 29 N.J.R. 872(a).

Pursuant to Executive Order No. 66(1978), Chapter 30, Local Finance Board, was readopted as R.1998 d.307, effective May 22, 1998. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

5:30-1.1 Rules and regulations

(a) All applications to the Board shall require a hearing before the Board, which shall include an appearance by the applicant at the time the application is heard. The chair or the Board may waive such appearance if it is found in the interest of the Board or the applicant to do so.

(b) The Local Finance Board shall meet on the second Wednesday of each month of the calendar year at its office, 101 South Broad Street, Trenton, New Jersey at the date and time specified in each notice of public meeting issued by the Board. Further, the business that would otherwise be handled at the regular meetings required pursuant to N.J.S.A. 52:27BB-13 shall be considered at the next following meeting scheduled pursuant to this subsection.

(c) The Board shall also meet at the call of the chair by notice in writing or via facsimile at such time and place as shall be specified in said notice. The Board, in its discretion, may agree to meet upon the receipt of a telephone request from the chair or any member thereof to transact any business which may properly come before it. The members of the Board may be considered in attendance at a meeting by using telecommunications equipment as permitted by the Open Public Meetings Act.

(d) The board shall meet as a municipal finance commission in those municipalities in which it functions and all other actions shall be taken as the Local Finance Board.

(e) Additional information on the Board and its practices can be obtained by contacting the Executive Secretary, Local Finance Board, 101 Broad Street, PO Box 803, Trenton, New Jersey 08625-0803, (609) 292-4537.

(f) References in this chapter to the Director or Division shall refer to the Director of the Division of Local Government Services, or to the Division of Local Government Services, as appropriate.

Amended by R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).
Time and place of meetings changed in (b).
Amended by R.1998 d.307, effective June 15, 1998.
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).
Rewrote the section.

Case Notes

Regulations valid as implementing legislative policy; definition of qualitative clarified by regulations. *Twp. of Burlington v. Middle Department Inspection Agency, Inc.*, 175 N.J.Super. 624, 421 A.2d 616 (Law Div.1980).

Advertising requirement valid and constitutional. *Apartment House Council of New Jersey v. Laezza*, 158 N.J.Super. 204, 385 A.2d 936 (App.Div.1978).

Tenants Property Tax Rebate Act constitutional; regulatory scheme adopted. *Cold Indian Springs Corp. v. Twp. of Ocean*, 154 N.J.Super. 75, 380 A.2d 1178 (Law Div.1977), affirmed 161 N.J.Super. 586, 392 A.2d 175 (App.Div.1978), affirmed 81 N.J. 502, 410 A.2d 652 (1980).

5:30-1.2 Duties

The Local Finance Board studies the entire field of local government in New Jersey, and promulgates reasonable rules and regulations for the interpretation and administration of State laws included within the jurisdiction of the division.

5:30-1.3 Hearings

(a) The Local Finance Board holds hearings when required by law, and also when it determines that interested persons should be given an opportunity to be heard.

(b) Hearings to appeal a determination or action of the Director pursuant to N.J.S.A. 52:27BB-15 shall be held upon receipt of a written request filed with the chair or executive secretary and which include an explanation of the

determination or action of the Director which is being appealed, the nature of and reason for the appeal, and supporting documentation as may be requested by the Board.

Amended by R.1998 d.307, effective June 15, 1998.
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).
Rewrote (b).

5:30-1.4 Vote

(a) In the case of a vote on any appeal from a determination of the Director, the Director shall disqualify himself or herself from a vote, but shall preside at the hearing on the appeal. A vote of a majority of the whole board, namely, five votes, shall be required in determining whether any appeal from any action of the Director shall be sustained or reserved.

(b) In the case of a vote on any other matter heard before the board, a majority of the vote of the whole board, including that of the director, shall be required.

Amended by R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).
Majority of the Board changed from three to five.

5:30-1.5 Advice to director

The Local Finance Board shall advise the director concerning the administration of the division, the exercise of his powers, and the problems of local government.

5:30-1.6 Determinations

The board may, if it so elects, direct that hearings under the foregoing shall be held by a member thereof, but all determinations shall be made by a majority of the full board.

5:30-1.7 Forms; general provisions

All forms required to be filed with the Local Finance Board or Division of Local Government Services, such as statements, applications and reports shall be filed on forms (or approved facsimiles) approved by the Board or the Director of the Division of Local Government Services, certified as to their accuracy by an appropriate official and in accordance with the instructions relating to each. Forms are available upon request to the Local Finance Board or the Division of Local Government Services.

Amended by R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Text on implementation of the Housing and Community Development Act of 1974 repealed; text on forms added.

5:30-1.8 Use of Local Finance Notices

(a) When necessary for the day-to-day administration of the responsibilities of the Board and the Division, the Director may issue such communications and directives as necessary to local units subject to the oversight of the Board and Division. Such communications and directives shall be known as Local Finance Notices (Notices).

(b) Local Finance Notices shall be sent by mail or made available by electronic means to those officers or individuals affected by the Notice, as determined necessary by the Director, at no charge. Individual copies may be obtained for no charge from the Division, and all Notices shall be posted on the Division's web site. Annual mail subscriptions for all Notices shall be available for an annual fee of \$50.00. Receiving e-mail notification of publication of a Notice by e-mail shall be available to any person at no charge.

(c) Local Finance Notices shall be numbered in a scheme as determined necessary from time-to-time by the Director. A public notice in the New Jersey Register announcing its release and a summary of its contents shall follow the issuance of each notice.

New Rule, R.2003 d.31, effective January 21, 2003.
See: 34 N.J.R. 2632(a), 35 N.J.R. 396(a).

5:30-1.9 Use of electronic communications networks

(a) Where practicable, the Division and Board shall provide notices, information, and copies of forms to the public through a World Wide Web site maintained by the Division. While subject to change, the web site is found at <http://www.state.nj.us/dca/lgs.htm>. As an alternate, users may access the Division's information at the State's home page at www.state.nj.us and then use appropriate links to find the Department of Community Affairs or Division of Local Government Services.

(b) When available, the Division and Board may use electronic communications networks to communicate with those individuals and officials for whom access to such networks is available. Such communications shall be considered as official and take the place of communications by mail, when deemed appropriate by the Director.

New Rule, R.2003 d.31, effective January 21, 2003.
See: 34 N.J.R. 2632(a), 35 N.J.R. 396(a).

5:30-1.10 (Reserved)

R.1975 d.322, eff. January 1, 1976.
See: 7 N.J.R. 540(a).
Repealed by R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).
Text on contracts; expenditures repealed.

5:30-1.11 Realized revenue

(a) When required to do so by the Local Finance Board, governmental units shall file a form entitled "Realized Revenue Report." The form of the Realized Revenue Report shall be approved by the Board.

(b) All statements shall be certified as being accurate and complete by the Chief Financial Officer of the local unit.

Amended by R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Provisions of (a) through (f) deleted; new text added at (a), (g) recodified as (b); Attachments A and B deleted.

5:30-1.12 (Reserved)

R.1977 d.346, eff. October 6, 1977.

See: 9 N.J.R. 456(d).

Repealed by R.1990 d.383, effective August 6, 1990.

See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Text on supplemental detail in support of current budget appropriation repealed.

5:30-1.13 (Reserved)

R.1977 d.347, eff. October 6, 1977.

See: 9 N.J.R. 457(a).

Repealed by R.1990 d.383, effective August 6, 1990.

See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Text on Federal antirecession assistance program repealed.

5:30-1.14 (Reserved)

R.1977 d.479, eff. December 21, 1977.

See: 10 N.J.R. 55(a).

Repealed by R.1990 d.383, effective August 6, 1990.

See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Text on public participation in the revenue sharing program repealed.

5:30-1.15 (Reserved)

R.1978 d.241, eff. July 21, 1978.

See: 10 N.J.R. 223(a), 10 N.J.R. 319(b).

Repealed by R.1990 d.383, effective August 6, 1990.

See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Text on urban aid reporting system repealed.

SUBCHAPTER 2. LOCAL BOND LAW**5:30-2.1 Exceptions to debt limitation of N.J.S.A. 40A:2-7**

When a local government seeks a waiver from the debt limitations of N.J.S.A. 40A:2-6 for a bond ordinance authorizing obligations solely for the purposes delineated in N.J.S.A. 40A:2-7, the application must be submitted to the Local Finance Board within the established filing schedule on a form approved by the Board. Approval of bond and note financing in excess of the debt limit under N.J.S.A. 40A:2-7(c), (d) and (e) require the applicant to justify and demonstrate the existence of extraordinary conditions.

Repeal and New Rule, R.1998 d.307, effective June 15, 1998.

See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Section was "Exceptions to debt limitation".

5:30-2.2 Automatic waiver of appearance

An appearance by the applicant before the Board for applications for the waiver of down payment shall not be required for the following State loan programs: Green Acres, Department of Environmental Protection and Department of Transportation—Transportation Trust Fund Authority Act. A full application with supporting documentation shall be required and a vote of the Board shall be taken. An appearance shall only be required when requested by the Board.

Amended by R.1990 d.383, effective August 6, 1990.

See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Waiver provision added to (b); (c) deleted.

Repeal and New Rule, R.1998 d.307, effective June 15, 1998.

See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Section was "Interpretation of N.J.S.A. 40A:2-7 and N.J.S.A. 40A:2-11(c)".

5:30-2.3 Payments for capital improvement

(a) When N.J.S.A. 40A:2-11 requires local governments to appropriate a down payment which is not less than five percent of the amount of obligations authorized for each bond ordinance, the down payment must have been made available prior to final adoption of the bond ordinance from any combination of the following sources:

1. Reserve funds in the capital improvement fund accumulated from annual budget appropriations;
2. Current budget appropriation; and/or
3. Emergency appropriation.

(b) Moneys accumulated in the capital improvement fund from annual budget appropriations may be utilized to fully fund the acquisition of capital items without the issuance of bonds.

(c) Capital improvement fund moneys may be expended for preliminary costs of capital projects, such as engineering and architect fees, by a resolution of the governing body.

(d) All moneys expended from the capital improvement fund other than those permitted for preliminary costs shall be made by an appropriation through an adopted ordinance.

(e) All expenditures from a capital surplus account, from a capital reserve set aside for a specific capital purpose, or from a capital improvement fund other than those expenditures permitted for preliminary expenses, shall be made by means of an ordinance appropriation duly adopted by the municipality or county, which ordinance shall become effective upon advertising following final adoption in the manner required by statute.

Repeal and New Rule, R.1998 d.307, effective June 15, 1998.

See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Section was "Down payment for capital improvement".

5:30-2.4 Form of Notice of Pending Bond Ordinance and Summary publication

(a) Pursuant to N.J.S.A. 40A:2-17(b), a local unit may choose to publish a bond ordinance in summary form and shall use the following form of summary of bond ordinance and notice of adoption:

NOTICE OF PENDING BOND ORDINANCE AND SUMMARY

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the _____ of _____, in the County of _____, State of New Jersey, on _____, 200__. It will be further considered for final pas-

sage, after public hearing thereon, at a meeting of the governing body to be held at the _____, in the _____ on _____, 200__ at _____ o'clock ____M. During the week prior to and up to and including the date of such meeting copies of the full ordinance will be available at no cost and during regular business hours, at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title:
Purpose(s):
Appropriation:
Bonds/Notes Authorized:
Grants (if any) Appropriated:
Section 20 Costs:
Useful Life: _____, Clerk
This Notice is published pursuant to N.J.S.A. 40A:2-17.

BOND ORDINANCE STATEMENTS AND SUMMARY

The bond ordinance, the summary terms of which are included herein, has been finally adopted by the _____ of _____, in the County of _____, State of New Jersey on _____, 200__ and the 20 day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement. Copies of the full ordinance are available at no cost and during regular business hours, at the Clerk's office for members of the general public who request the same. The summary of the terms of such bond ordinance follows:

Title:
Purpose(s):
Appropriation:
Bonds/Notes Authorized:
Grants (if any) Appropriated:
Section 20 Costs:
Useful Life: _____, Clerk

New Rule, R.2003 d.32, effective January 21, 2003.
See: 34 N.J.R. 2372(a), 35 N.J.R. 396(b).

5:30-2.5 (Reserved)

As amended, R.1979 d.16, eff. January 17, 1979.
See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

5:30-2.6 (Reserved)

As amended, R.1979 d.16, eff. January 17, 1979.
See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

5:30-2.7 (Reserved)

As amended, R.1979 d.16, eff. January 17, 1979.
See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

5:30-2.8 Self-liquidating improvements and extensions

(a) Obligations to finance an improvement or extension of a municipal public utility shall be deemed to be for a self-liquidating purpose in the fiscal year in which the obligations to finance the same have been authorized or issued and calculated pursuant to N.J.S.A. 40A:2-8.

1. In instances that a local unit desires to establish a utility, and desires the Local Finance Board to determine that any debt would be self-liquidating and, therefore, the debt excluded from the net debt of the local unit, the local unit shall provide appropriate supporting documentation to indicate the utility shall be self-liquidating.

2. Such documentation shall include, as appropriate to the circumstances, the following:

- i. The amount of cash on hand based on prepaid service revenue;
- ii. Presentation of evidence of participation or connection supported by enforceable documents guaranteeing every pledge or agreement;
- iii. An engineering or other study of annual income from casual, or ancillary use of the facility with adequate reasons for supporting such estimate;
- iv. Statement of amount estimated to be derived from any concessions, other recreational activities, or other activities, with suitable explanation;
- v. Projected budget for the first full year of operations, setting forth the amounts required for salaries and wages, insurance, detail of other operating expenses, and amounts required for annual debt service;

Repeal and New Rule, R.1998 d.307, effective June 15, 1998.

See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Section was "Road repairs".

Recodified from N.J.A.C. 5:30-5.1 by R.2000 d.485, effective December 4, 2000.

See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

5:30-3.7 through 5:30-3.8 (Reserved)

Amended by R.1979 d.16, eff. January 17, 1979.

See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

SUBCHAPTER 4. CAPITAL BUDGETS AND CAPITAL IMPROVEMENT PROGRAMS

Authority

Amendments to this subchapter were adopted pursuant to authority of N.J.S.A. 52:27BB-1 et seq. and were filed and became effective on September 14, 1978, as R.1978 d.322. See: 10 N.J.R. 416(d).

5:30-4.1 Authority and application

(a) This subchapter is adopted by the Local Finance Board pursuant to its powers authorized at N.J.S.A. 52:27BB-10, 52:27BB-32, and 40A:4-43 to 45.

(b) This subchapter shall apply to all local units, and it shall be the duty of the governing body of each local unit to comply.

5:30-4.2 Definitions

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

"Annual budget" means the Official Budget required to be adopted by the Local Budget Law, and which for purposes of this subchapter includes a separate section known as the Capital Budget and Capital Improvement Program.

"Capital budget" means the first year of a capital program.

"Capital program" means a moving, multi-year plan and schedule for capital projects, including prospective financing sources and, when pertinent, first year operating costs and savings.

"Capital project" means any of the following, with an expected useful life of five years or more and a prospective individual or (when added to the cost of other such items as are listed below) cumulative cost in any year of \$25,000 or more, regardless of the financing sources:

1. Acquisition and/or development of land;
2. Acquisition of major equipment, furniture, or other personal property;

3. Acquisition, construction, improvement and/or renovation of buildings, roads, utilities, structures, improvements or public works;

4. Any other matter described in N.J.S.A. 40A:2-22;

"Director" means the Director of the Division of Local Government Services or his designated representative.

"Financing sources" means any of the following, in any combination, from which moneys are provided to finance capital projects:

1. Appropriations in the annual budget(s) of the current, utility or enterprise, capital or other fund;
2. Bonds or notes;
3. Appropriations from the Capital Improvement Fund or any other funds or reserves;
4. State or Federal aid;
5. Private contributions, bequests, etc.

"Local unit" means any county or municipality.

5:30-4.3 When required

(a) Every local unit shall prepare and adopt a capital budget, in conjunction with its annual operating budget, for any year in which it proposes to undertake a capital project. Inclusion of the following in the annual budget for the year shall, as a minimum, demonstrate the necessity of adopting a capital budget: appropriations for capital improvement fund, specific capital line items or down payments.

(b) No local unit shall adopt a bond ordinance unless:

1. It has already adopted a capital budget as part of the annual budget; or
2. If prior to final adoption of the annual budget, by adoption of a temporary capital budget which subsequently shall be included in the annual budget; or
3. If a need is determined after adoption of the annual budget, by adoption of a capital budget or an amendment to the capital budget.

(c) Every local unit which adopts a capital budget shall also adopt a capital program, as provided below, or add a year to an existing capital program to replace the budget year. The capital program shall be submitted to the director with the capital budget.

5:30-4.4 Method of adoption

(a) Any capital budget or capital improvement program that is to be adopted shall:

1. Be assembled and prepared by the officer(s) responsible for preparing the annual budget, provided that the provisions of N.J.S.A. 40:55D-29, permitting the gov-

erning body to authorize the planning board to prepare a suggested capital improvement program, are considered.

2. Be adopted by the affirmative vote of a majority of the full authorized membership of the governing body.

3. Be referred to the planning board, if it affects the adopted master plan, at least 45 days prior to adoption. (See N.J.S.A. 40:55D-31 for full provisions.) Observance of this requirement would suggest notification to the planning board by January 10 for counties and February 3 for municipalities.

4. Be treated as part of the Official Budget and shall be published as part of it.

5. When an initial adoption or amendment is needed outside of the normal budget adoption procedure, the following should be observed:

- i. Planning board review: As described above, this is optional at governing body discretion per N.J.S.A. 40:55D-29, except that it is mandatory per N.J.S.A. 40:55D-31 if the project affects the master plan (consult local attorney for guidance);
- ii. Use of the Standard forms described below;
- iii. Adoption by resolution;
- iv. Same majority vote;
- v. Publication in local newspaper;
- vi. Filing with the Director for review and certification.

(b) The following is an amendment to the Capital Budget and Capital Improvement Program:

- 1. Form CB1 (Capital Budget and Capital Program Amendment) is to be utilized for a change in priority of a specific project and use funds for a new unrelated project.
- 2. Form CB2 (Capital Budget and Capital Program Amendment) is to be utilized for new projects not previously considered.
- 3. Advertisement of either form CB1 or CB2 is not required if a copy of the ordinance authorizing the project is submitted with amendment forms and contains the following statement:

“The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of an inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services as on file with the (municipal clerk) (Clerk of the Board of Chosen Freeholders) and is available for public inspection.”

4. Forms CB1 and CB2, as appropriate, shall be prepared and submitted in duplicate to the Director, Division of Local Government Services.

As amended, R.1981 d.3, eff. January 6, 1981.
See: 12 N.J.R. 568(b), 13 N.J.R. 73(b).
(b) added.

5:30-4.5 Forms and content

(a) The director shall provide forms as part of the annual budget document. These forms are mandatory, except that the director, at his discretion, may authorize the use of other forms that provide substantially the same information. Prior written approval shall be sought.

(b) The capital budget shall include by title all projects scheduled for startup in the current budget year or for continuation/completion from prior years, the amounts appropriated and the anticipated financing by source and amount.

(c) Capital program forms rules are as follows.

1. The capital program shall include by title all projects anticipated for the budget year and two or more additional years, as provided below, with the estimated costs and the anticipated financing by sources and amounts:

Population	Minimum Program Period
Under 10,000	3 years
Over 10,000	6 years

2. A municipality with population under 10,000 may discontinue annual capital program submissions whenever it shall, in compliance with the terms of this regulation, have had no capital budgets for three consecutive years provided, that the capital program shall be reinstated when a capital budget is adopted.

5:30-4.6 Review and certification

(a) The director shall, as part of his review of each local unit's annual budget, determine whether a capital budget and program are required, and if so, whether it has been included in the proper form. This review shall not extend to any determination as to the sufficiency or wisdom of its content.

(b) If the required capital budget and programs are not included in accordance with the requirements of this regulation, approval of the entire budget may be withheld, pending local corrective action.

5:30-4.7 Capital expenditures proscribed

Pursuant to N.J.S.A. 40A:4-44, no local unit shall make appropriations or authorize expenditures or obligations for capital projects in the absence of an adopted capital budget or other than in accordance therewith, except for the preliminary expenses of plans, specifications, and estimates.

5:30-4.8 Director's action

The director is authorized to advise local units of the requirements and purposes of this regulation, to issue such forms and provide such guidance as may be necessary, and to take such other steps as may, in his judgment, be necessary to effectuate the purposes of this regulation in light of the need for orderly overall fiscal administration.

5:30-4.9 (Reserved)

Editor's Note: The text of this section was a transitional provision bridging the capital budget requirements of N.J.A.C. 5:34-9, rescinded with the adoption of this subchapter, with the requirements of this subchapter. See: 10 N.J.R. 416(d). The transitional provision expired on January 1, 1979 without further action by the Local Finance Board.

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**SUBCHAPTER 5. ENCUMBRANCE
ACCOUNTING AND CERTIFICATIONS OF
AVAILABILITY OF FUNDS**

Authority

N.J.S.A. 18A:18A-49.2 and 40A:11-37.1.

Source and Effective Date

R.2000 d.485, effective November 6, 2000.
See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

Subchapter Historical Note

Subchapter 5, Encumbrance Accounting and Certifications of Availability of Funds, was recodified from N.J.A.C. 5:34-5 by R.2000 d.485, effective December 4, 2000. See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

5:30-5.1 General authority

(a) This subchapter shall apply to all government agencies subject to the authority of the Local Finance Board pursuant to the Local Budget Law (N.J.S.A. 40A:4-1 et seq.) or the Local Authorities Fiscal Control Act (N.J.S.A. 40A:5A-1 et seq.). For the purpose of this subchapter, such government agencies shall be referred to as local units.

(b) Every governing body and chief executive officer shall take reasonable steps as necessary so that all officials and employees responsible for the administration of public contracts are aware of and are able to comply with the requirements of the law and these rules.

New Rule, R.2000 d.485, effective December 4, 2000.
See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

Former N.J.A.C. 5:30-5.1, Emergency appropriations, recodified to N.J.A.C. 5:30-3.6.

5:30-5.2 Encumbrance systems

(a) All local units except those subject to the Local Authorities Fiscal Control Act (N.J.S.A. 40A:5A-1 et seq.) shall maintain an encumbrance accounting system for its current fund as follows:

1. The system shall be designed at a minimum to record charges to amounts appropriated for "Other Expenses" in the same or greater level of detail as "Other Expenses" are maintained in the adopted budget. This shall be done in such a way to record charges against amounts appropriated at the time the charges are authorized so that the funds allocated for such purposes are reserved and cannot be used for other charges within that line item. Examples of such authorization actions include the issuance of a purchase order or the execution of a contract.

2. If the local unit budget uses a greater detail level through the use of object accounts, transactions shall be encumbered at the object level detail.

3. Local units shall maintain internal controls that ensure that all purchases charged to "Other Expense" or other non-salary line items shall be sequentially numbered either through pre-printed multiple copy purchase orders or a computerized system that produces appropriate purchasing internal control.

(b) Systems similar to those described in (a) above, appropriately adapted to meet local needs, shall be used for capital, trust, and utility funds.

(c) The Director of the Division of Local Government Services shall make available such technical documents as may be advisable to local units to provide further guidance on encumbrance systems.

(d) The provisions of this section codify and continue the provisions of Technical Accounting Directive No. 1, issued in April of 1985 and effective January 1, 1986.

New Rule, R.2000 d.485, effective December 4, 2000.
See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

5:30-5.3 General requirements

(a) The chief financial officer of a local unit, appointed pursuant to N.J.S.A. 40A:9-140.1 et seq. or N.J.S.A. 40A:9-28.1 et seq., shall be responsible for determining the availability of sufficient funds for all contracts and amendments thereto. The delegation of this duty by the chief financial officer does not relieve him or her of this responsibility.

(b) The governing bodies of all other local units shall designate by resolution or ordinance, as appropriate, an individual to serve as the certifying finance officer. The certifying finance officer shall be responsible for determining the availability of sufficient funds for all contracts and amendments thereto. The delegation of this duty by the certifying finance officer does not relieve him or her of this responsibility.

(c) If a purchase or the execution of a contract does not require, either by State law or any State or local regulation, specific authorization by formal action of the governing

body, then the individual approving the contract or release of the purchase order shall ascertain from the chief financial officer or certifying finance officer, as appropriate, that there are available sufficient uncommitted appropriations to provide for the payment. The administrative official or employee shall be so authorized pursuant to N.J.S.A. 40A:11-3.

Amended by R.2000 d.485, effective December 4, 2000.
See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

In (a), rewrote the first sentence; in (b), substituted a reference to local units for a reference to contracting units in the first sentence, and inserted "for all contracts and amendments thereto" at the end of the second sentence; and in (c), substituted "the individual approving the contract or release of the purchase order" for "the authorized administrative official or employee issuing the contract or making the purchase" in the first sentence.

5:30-5.4 Procedure

(a) The following procedure shall be utilized for the certification of funds when a contract is to be awarded by the governing body of the local unit:

1. The chief financial officer or certifying finance officer, as appropriate, charged with the responsibility of maintaining the financial records of the contracting unit shall certify in writing to the governing body the availability or lack thereof of adequate funds for each contract which is pending approval by the governing body. Said certification shall designate specifically the line item appropriation(s) of the official budget to which the contract will be properly charged, ensuring that the same funds shall not be certified as available for more than one pending contract. Said officer shall be solely responsible for the accuracy of the certification.

2. No resolution authorizing the entering into of any contract pursuant to N.J.S.A. 40A:11-1 et seq. or any other law for the expenditure of public funds to a vendor shall be enacted unless it shall recite that such a certificate showing availability of funds has been provided. The resolution shall specify the exact line item appropriation(s) or ordinance which shall be charged.

3. The certification of availability of funds shall be attached to the original copy of the resolution or ordinance and kept in the files of the municipal clerk, clerk of the board of chosen freeholders or secretary to the governing body.

4. Before a governing body approves a resolution or ordinance authorizing the entering into of a contract, the local unit's attorney shall be satisfied that a certificate of availability of funds has been provided.

5. A local unit's governing body shall not enter into or execute a contract unless it has been presented with a written certification from its chief financial officer or certifying finance officer, as appropriate, stating the availability of sufficient funds for the contract(s) pending approval by the governing body.

6. When a contract is issued as a purchase order or amendment thereto, the certification of availability of funds shall be executed through the budgetary accounting encumbrance process.

(b) When a contract is awarded and a resolution of the governing body is not required, the availability of funds shall be certified by the chief financial officer or certifying finance officer shall make an appropriate entry into the local unit's encumbrance system pursuant to N.J.A.C. 5:30-5.1 and 5.2 prior to the issuance of a contract.

Amended by R.2000 d.485, effective December 4, 2000.
See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

Rewrote the section.

5:30-5.5 Methods of accounting for and certifying available funds for special situations

(a) Temporary budget: When a local unit is operating under a temporary budget, as provided for in N.J.S.A. 40A:4-19, it may enter into a contract for a period extending beyond the time period funded in the temporary budget, subject to the following:

1. The full cost of the contract for that fiscal year shall be certified against the temporary budget, which must contain sufficient appropriations therefor; or

2. If the full cost of that year is not charged against the temporary budget, at least the prorated amount reflecting all liability to be incurred during the temporary budget period must be charged and certified, and the contract must contain a clause making its continuation past such date subject to the appropriation of sufficient funds. Immediately after the final budget adoption, a certificate of available funds shall be prepared for the remaining balance and filed with the original ordinance or resolution.

(b) Open end contracts: When a contract provides for certain goods or services to be provided upon request, up to an established maximum, and the local unit is not obligated to order, accept or pay for said goods or services except when it orders them, then the certification of available funds shall be as follows:

1. The full maximum amount covered by the contract shall be charged against the budget at the time the contract is awarded, and the full amount shall be certified; or

2. No amount shall be chargeable or certified until such time as goods or services are ordered or otherwise called for. Prior to incurring the liability by placing the order, the certification of available funds shall be made by the chief financial officer or certifying finance officer, as appropriate, and attached to the file copy of the purchase order or other such document. It shall be the responsibility of the official responsible for issuing the purchase order to notify and seek the certification of availability of funds from the chief financial officer or certifying finance officer, as appropriate.

(c) Contracts up to 12 months not coinciding with fiscal year: When a contract is awarded for a period of up to 12 months not coinciding with the established fiscal year of the local unit, the following methods shall be followed for purposes of accounting and providing the certification of available funds.

1. If the contract is for a professional service or is essentially a single undertaking or project with one basic work project required (such as, but not limited to, contracts for revaluation, codification, management studies and feasibility surveys), rather than being divisible into separate steps or actions which in themselves are independently acceptable as complete work products, then the full cost of the contract shall be chargeable to and certified against the budget or appropriation of the year in which the contract is awarded. This method may also, at local option, be followed for contracts described in (c)2 below.

2. If the contract is not of the character described in (c)1 above, and provides for goods or services to be provided at separate intervals over the contract period, then the amounts for which liability is to be incurred shall be charged and certified to the two respective years' appropriations at the times, as appropriate, of the contract being awarded (with respect to the amount from the first fiscal year); the adoption of the temporary budget and the adoption of the final budget (for the remainder of the contract for the second fiscal year).

(d) Multi-year contract requirements are as follows:

1. Contracts entered into pursuant to N.J.S.A. 40A:11-15 for periods in excess of 12 months shall be charged and certified as follows:

i. For construction and related services authorized by N.J.S.A. 40A:11-15(9), to the budget or appropriation in full at the time of contract award;

ii. For other contracts, to the respective budgets in accordance with the time(s) at which the respective work or services are performed or liability for payment otherwise incurred, and subject to such requirements of this section as might apply with respect to temporary budgets, open-end contracts or contracts not commencing at the beginning of the fiscal year.

2. All multi-year leases and contracts except contracts specifically exempted pursuant to N.J.S.A. 40A:11-15 shall contain a clause making them subject to the availability and appropriation annually of sufficient funds as may be required to meet the extended obligation or contain an annual cancellation clause.

(e) Advance award of contracts: No contract shall be awarded in one fiscal year if the date on which it properly takes effect falls in the next fiscal year unless the contract includes a provision making it subject to the availability and appropriation of sufficient funds in the year in which it takes effect.

(f) Payment from proceeds shall be as follows:

1. Under the circumstances when a contractual liability may be lawfully incurred and a payment may lawfully be made without an appropriation, such as for professional services for liquidation or foreclosure of tax title liens as provided by N.J.S.A. 40:50-6, the certification of available funds should recite that fact and cite the statute.

2. Contracts for services to be paid from savings generated by or from State or Federal aid funds not yet received and appropriated are not permitted unless an appropriation is made prior to the time the expenditure of funds is authorized.

Amended by R.2000 d.485, effective December 4, 2000.

See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

In (a)2, deleted "through March 31, or later if permitted by statute" following "incurred"; in (c)2, deleted "(for the period at least through March 31)" following "budget"; in (e), deleted "local unit's attorney rules that this action does not constitute the binding of a future governing body in an unlawful manner and unless" following "unless the"; and rewrote (f).

SUBCHAPTER 6. ANNUAL AUDIT

5:30-6.1 Uniform accounting system for local units

(a) The Requirements of Audit that have been promulgated for municipalities, and counties, which are deemed to include the county surrogate's office and the county probate department, are considered as minimum requirements and should be elaborated upon whenever, in the judgment of the registered municipal accountant, it is required.

(b) Copies of Requirements of Audit may be obtained from:

Local Finance Board
Division of Local Government Services
Department of Community Affairs
PO Box 803
Trenton, New Jersey 08625-0803

(c) In addition to the Requirements of Audit, the registered municipal accountant of each local unit shall also utilize the requirements of the following authoritative resources, incorporated herein by reference, in conducting the annual audit as appropriate and applicable:

1. Generally Accepted Auditing Standards as promulgated by the American Institute of Certified Public Accountants;
2. Government Accounting Standards Board with regard to disclosure of notes to the financial statements;
3. U.S. Office of Management and Budget Circular A-133;

4. New Jersey Office of Management and Budget Circular 98-07; and

5. Generally Accepted Government Auditing Standards promulgated by the U.S. General Accounting Office.

As amended, R.1979 d.294, eff. September 1, 1979.

See: 11 N.J.R. 431(c).

Administrative Correction to (b).

See: 23 N.J.R. 57(b).

Amended by R.1998 d.307, effective June 15, 1998.

See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Rewrote (a); and added (c).

5:30-6.2 through 5:30-6.4 (Reserved)

As amended, R.1979 d.16, eff. January 17, 1979.

See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

5:30-6.5 Certification of governing body

(a) The annual audit of accounting records and transactions required of every local unit pursuant to N.J.S.A. 40A:5-4 shall be filed by the local unit's registered municipal accountant with the clerk of the board of chosen freeholders or municipal clerk pursuant to N.J.S.A. 40A:5-6, and a copy shall be delivered to each member of the governing body.

(b) The governing body of each local unit shall, by resolution, certify to the Local Finance Board that all members of the governing body have personally reviewed, as a minimum, the sections of the annual audit entitled: General Comments, Recommendations, Auditor's Opinions, and Single Audit Findings.

1. Such certification shall also be evidenced by the execution of a group affidavit form, promulgated by the Board, that shall be originally signed by each member of the governing body.

2. Such resolution of certification and group affidavit shall be adopted and executed by the governing body not later than 45 days after the receipt of the annual audit.

(c) Failure to comply with these requirements may subject the members of the local governing body to the penalty provisions of N.J.S.A. 52:27B-52.

Amended by R.1998 d.307, effective June 15, 1998.

See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Rewrote the section.

5:30-6.6 (Reserved)

Repealed by R.1998 d.307, effective June 15, 1998.

See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Section was "Enforcement of State statutes".

5:30-6.7 (Reserved)

Repealed by R.1998 d.307, effective June 15, 1998.

See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Section was "Capital projects financed by capital improvement fund, capital surplus or other capital reserves".

5:30-6.8 through 5:30-6.11 (Reserved)

As amended, R.1979 d.16, eff. January 17, 1979.

See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

SUBCHAPTER 7. MUNICIPAL BUDGET LOCAL EXAMINATION AND APPROVAL

Authority

N.J.S.A. 40A:4-78(b).

Source and Effective Date

R.1997 d.146, effective March 17, 1997.

See: 28 N.J.R. 5125(a), 29 N.J.R. 870(a).

Subchapter Historical Note

Subchapter 7, Bonds, consisting of reserved §§ 5:30-7.1 through 5:30-7.13, was repealed by R.1997 d.146, effective March 17, 1997. See: Source and Effective Date.

5:30-7.1 Authority

(a) Pursuant to N.J.S.A. 40A:4-78, the Local Finance Board is empowered to adopt criteria relating to municipal exemption from the Director's examination of the annual budget.

(b) This subchapter is to ensure that municipalities participating in the program are financially sound and the temporary elimination of the Director's review of the budget will not expose the municipality to evidence financial risk.

5:30-7.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Annual budget" or "budget" means the annual budget of the municipality as described in the Local Budget Law.

"Comptroller function" means conduct of government accounting and transactions.

"Director" means the Director of the Division of Local Government Services.

"Division" means the Division of Local Government Services.

"Local Budget Law" means the provisions of N.J.S.A. 40A:4-1 et seq.

"Local examination" or "locally examine" means:

1. The procedure set forth in N.J.S.A. 40A:4-78(b) and this subchapter that permits municipal officials to examine and approve the annual budget pursuant to N.J.S.A. 40:4-76 through 4-79 in lieu of the Director; and

2. The annual budget has been adopted in accordance with all other provisions of law, including, but not limited to, the "Local Budget Law," (N.J.S.A. 40A:4-1 et seq.) and the regulations of the Local Finance Board.

"Local examination certification" or "local examination certificate" means the form provided by the Director and executed by the governing body and chief financial officer certifying that the adopted budget has been locally examined.

"Reporting year pool" means the group of municipalities considered by the Director for local examination in a given year.

5:30-7.3 Local examination process

(a) Each year the chief financial officer of each municipality shall certify its local examination status to the Division as part of its annual financial statement.

(b) Subject to the criteria in this subchapter, each municipality may locally examine their budget in any two of every three consecutive years.

(c) In every municipality participating in the local examination process, the governing body and chief financial officer shall ensure that the annual budget has been locally examined.

(d) In order to conduct a local examination, the municipality must be advised by the Director that it meets the eligibility criteria in N.J.A.C. 5:30-7.4, and then qualify for local examination by certifying that it meets the criteria in N.J.A.C. 5:30-7.5.

(e) A municipality conducting a local examination shall file copies of the annual financial statement, annual debt statement, introduced and adopted budget, amendments, certifications, and other documents required to be filed with the Director, as required by law and rule, as if the budget were to be examined by the Director.

(f) By resolution of the governing body, any municipality that qualifies for local examination may choose to have its budget examined by the Director and not participate in the local examination process that year.

5:30-7.4 Eligibility for local examination

(a) Upon adoption of this rule, the Director shall randomly assign each municipality to one of three reporting year pools. Each pool shall be assigned the years in which the budget shall be considered for local examination.

1. For calendar fiscal year 1997 budgets, the Director shall notify municipalities of their status as soon as practicable.

2. In subsequent years, within 30 days after the start of each fiscal year, the Director shall determine and notify all municipalities if they are eligible or ineligible for local examination for the fiscal year.

(b) Municipalities that meet one or more of the following criteria shall not be eligible for local examination in a given year and shall have their budgets examined by the Director:

1. Have outstanding fiscal year adjustment bonds;

2. Qualify for municipal (urban) aid pursuant to N.J.S.A. 52:27D-178 et seq.;

3. Received Supplemental Municipal Property Tax Relief Discretionary (N.J.S.A. 52:27D-118.35) funds in the previous fiscal year;

4. Were subject to a Division field audit that produced negative findings in the previous fiscal year;

5. Are currently or during the previous year were under any form of Local Finance Board supervision pursuant to N.J.S.A. 52:27BB-1 et seq.;

6. Sold its tax levy if permitted by statute in the previous year;

7. The Director's subsequent review of the previous year's locally examined adopted budget shows that the budget failed to meet the requirements of local examination. Such a finding shall disqualify a municipality from local examination for the following three years; or

8. If, in the opinion of the Director, the fiscal integrity or solvency of the municipality will be jeopardized by local examination.

(c) At the initiative of the Director, the criteria in (b) above may be waived if the Director determines the fiscal integrity or solvency of the municipality shall not be jeopardized by local examination. Requests for waivers by a municipality shall not be considered by the Director.

5:30-7.5 Qualifying for budget local examination

(a) If determined to be eligible for local examination, the chief financial officer shall determine if the municipality meets all of the following criteria:

1. The outstanding indebtedness of the previous fiscal year is not in excess of 3.5 percent;

2. All emergencies approved for the previous fiscal year did not exceed three percent of total appropriations;

3. The tax collection rate exceeded 90 percent;

4. Total deferred charges did not equal or exceed four percent of the total tax levy;

5. There were no "agreed upon procedural deficiencies" not performed by the registered municipal accountant and noted on Sheet 1a of the Annual Financial Statement; and

6. There was no operating deficit for the previous fiscal year.

(b) The chief financial officer shall record the determination on a form, prepared by the Director as part of the annual financial statement, and provide a copy of the form to the governing body. Prior to introduction of the budget, if the governing body chooses not to locally examine the budget, it shall pass a resolution to that effect and immediately forward it to the Director.

(c) If all of the criteria in (a) above are met, and the governing body does not elect to have the Director examine the budget, the municipality shall locally examine its budget.

(d) If the municipality fails to meet any of the criteria in (a) above, the Director shall examine the budget for that year.

5:30-7.6 Completion of local examination

(a) Prior to adoption of the budget, the governing body and the chief financial officer shall examine the budget for the following:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:

i. Payment of interest and debt redemption charges;

ii. Deferred charges and statutory expenditures;

- iii. Cash deficit of preceding year;
- iv. Reserve for uncollected taxes;
- v. Other reserves and non-disbursement items; and
- vi. Any inclusions of amounts required for school purposes;

2. That the provisions relating to limitation on increases of appropriations at N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met;

3. That the budget is in such form, arrangement and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5;

4. That, pursuant to the Local Budget Law:

- i. All estimates of revenue are reasonable, accurate and correctly stated;
- ii. Items of appropriation are properly set forth; and
- iii. By itemization, form, arrangement, and content, the budget will permit the exercise of the comptroller function within the municipality;

5. That the budget and associated amendments have been introduced, publicly advertised, and adopted in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification; and

6. That all other applicable statutory requirements have been fulfilled.

(b) If the chief financial officer and governing body find that the budget meets the requirements of (a) above, they shall execute the local examination certificate. The chief financial officer shall execute the local examination certificate by signature. The governing body shall execute the certification by passage of a resolution by a not less than a majority of the full membership of the governing body. No locally examined budget shall be adopted unless the local examination certificate has been approved by the chief financial officer and governing body.

(c) A local examination certificate signatory who has reason to believe that any part(s) of the budget may not meet all the requirements of local examination may execute a local examination certificate and take exception to any part(s) of the budget. Such exceptions shall be specific and itemized on the form. The form shall be forwarded to the Director immediately upon execution, and the budget shall not be adopted until the Director makes a determination on the exceptions and directs the governing body to act as the Director determines to be appropriate.

(d) Failure of the governing body or the chief financial officer to execute the local examination certification shall result in the Director examining the budget in full. No budget adoption shall be valid unless all procedures of this subchapter have been followed in their entirety.

(e) Upon adoption of the budget, the municipal clerk shall include the local examination certification with the adopted budget sent to the Director pursuant to N.J.S.A. 40A:4-10.

(f) The local examination certificate shall be subject to acceptance by the Director. Acceptance shall be signified by the Director certifying the amount to be raised by taxation to the county board of taxation.

5:30-7.7 Revocation of qualification

(a) The Director may revoke qualification for local examination and assume responsibility for examination if:

- 1. After notice by the Director, the governing body fails to introduce or adopt the budget on a timely basis;
- 2. The municipality applies for a budget cap waiver pursuant to N.J.S.A. 40A:4-45.3(ee); or
- 3. If the introduced budget or subsequent amendments include the sale of a property tax levy if permitted by statute in the previous year.

SUBCHAPTER 8. FINANCIAL ADMINISTRATION

5:30-8.1 Electronic data processing systems for financial, revenue, and property tax accounting

(a) Local units utilizing electronic data processing systems or services for financial, payroll, revenue, or property tax accounting, and equipment used for cash receipting purposes, are subject to the following provisions:

1. Local units procuring or upgrading systems or services after June 1, 1998 shall ensure that they meet the following requirements:

i. Transaction recording and reporting elements shall provide audit trails and reports that meet generally accepted government accounting standards, and meet requirements of audit, Technical Accounting Directives and all relevant provisions of the Local Fiscal Affairs Law (N.J.S.A. 40A:5-1 et seq.).

ii. For property tax accounting systems, the vendor or system owner, and the local unit's certified tax collector, shall certify that they have tested and found that any automated calculation of interest or penalty meets the appropriate requirements of N.J.S.A. 54:4-1 et seq. and any local ordinance or resolution related thereto.

iii. For revenue accounting systems, the vendor or system owner, and the local unit chief financial officer, shall certify that they have tested and found that any automated calculation of billing, amount due, interest, or penalty meets the requirements of any statute or local unit ordinance or resolution for those revenues maintained by the system.

2. Each local unit shall adopt and maintain appropriate internal control practices related to password or other security controls to ensure integrity of transactions, creating and maintaining back-up files, and documentation of system operations.

3. All systems and services shall be capable of handling transactions, making calculations, storing dates, and properly operating as of, or with information dated on or after, January 1, 2000, on the following timetable: local units operating on a calendar fiscal year, as of December 31, 1998, and local units operating on any other fiscal year, by June 30, 1998. Local units shall obtain vendor certifications, perform tests, or take other appropriate action to ensure these deadlines are met.

4. The requirements of this section shall be subject to review by the local unit auditor as part of the annual review of internal controls. Failure of a local unit to comply with (a)3 above shall be noted in the general comments and recommendations section of the annual audit.

Repealed by R.1979 d.16, effective January 17, 1979.
See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

Text on uniform systems of accounting repealed.
Recodified by R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Text on mechanical and data processing accounting recodified from 8.6.

Repeal and New Rule, R.1998 d.307, effective June 15, 1998.
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Section was "Mechanical and data processing accounting".

5:30-8.2 (Reserved)

R.1977 d.81, eff. March 10, 1977.
See: 9 N.J.R. 165(a).

Repealed by R.1979 d.16, effective January 17, 1979.
See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

Text on rules and regulations repealed.
Recodified by R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Text on unbudgeted school aid refunds recodified from 8.9.
Repealed by R.1992 d.426, effective October 19, 1992.
See: 24 N.J.R. 2766(a), 24 N.J.R. 3723(c).

Text on unbudgeted school aid refunds per P.L. 1977 c.15 repealed.

5:30-8.3 Minimum surety bond coverage for tax collectors

(a) Each tax collector and collector of utility rents shall be bonded with a surety bond calculated as follows:

1. The minimum requirement for the surety bond of each tax collector shall be such percentage of the preceding year's tax duplicate as is required by the schedule set forth in this subsection.

2. The minimum requirement for the surety bond of each collector of utility rents shall be such percentage of the preceding year's utility charges as is required by the schedule set forth in this subsection.

3. Tax Levy or Utility Charges Minimum Bond Required

Up to \$100,000	25% of the Levy
\$100,000 to \$250,000	\$25,000 + 8% of all over \$100,000
\$250,000 to \$500,000	\$37,000 + 6% of all over \$250,000
\$500,000 to \$750,000	\$52,000 + 4% of all over \$500,000
\$750,000 to \$1,000,000	\$62,000 + 2% of all over \$750,000
\$1,000,000 to \$2,000,000	\$67,000 + 1% of all over \$1,000,000
\$2,000,000 to \$5,000,000	\$77,000 + ½% of all over \$2,000,000
\$5,000,000 and upwards	\$92,000 + ¼% of all over \$5,000,000

4. Local units are encouraged to utilize the following recommended amounts in lieu of the minimum amounts in order to provide a higher level of security of public funds:

Up to \$200,000	25% of the Levy
\$200,000 to \$350,000	\$50,000 + 8% of all over \$200,000
\$350,000 to \$500,000	\$62,000 + 6% of all over \$350,000
\$500,000 to \$1,000,000	\$71,000 + 4% of all over \$500,000
\$1,000,000 to \$2,500,000	\$91,000 + 2% of all over \$1,000,000
\$2,500,000 to \$5,000,000	\$121,000 + 1% of all over \$2,500,000
\$5,000,000 and upwards	\$146,000 + ½% of all over \$5,000,000

(b) The following additional provisions shall apply to such surety bonds:

1. In fixing such minimum bond, the nearest even \$1,000 shall be used.

2. When the collector of taxes and the collector of utility charges is the same person, the minimum surety bond coverage shall be computed separately. The required amounts shall be combined in a single surety bond.

3. The minimum coverage arrived at by use of the foregoing schedule shall be an overall minimum amount where there is more than one person in the office. The several persons handling funds should be bonded in accordance with their responsibility.

4. In any case where a municipality desires to substitute for the foregoing method any other method which it deems satisfactory and which complies with the provisions of the existing statutes, such substituted procedure, shall, if approved by the Local Finance Board, be deemed to comply with this chapter.

Repealed by R.1979 d.16, effective January 17, 1979.
See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

Text on books and forms repealed.
New Rule R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).
Amended by R.1998 d.307, effective June 15, 1998.
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Rewrote the section.

5:30-8.4 Minimum surety bond requirements for municipal courts

(a) Every municipal court judge and municipal court administrator shall be bonded with a surety bond in a minimum amount in accordance with the following schedule:

Total Annual Receipts	Minimum Bond Required
\$1 to \$5,000	\$2,000
\$5,000 to \$10,000	\$2,000 + 30% of all over \$5,000
\$10,000 to \$20,000	\$3,500 + 25% of all over \$10,000
\$20,000 to \$50,000	\$6,000 + 15% of all over \$20,000
\$50,000 to \$100,000	\$10,500 + 12% of all over \$50,000
\$100,000 to \$200,000	\$16,500 + 8% of all over \$100,000
\$200,000 to \$500,000	\$24,500 + 5% of all over \$200,000
\$500,000 to \$1,000,000	\$39,500 + 2% of all over \$500,000
\$1,000,000 and up	\$49,500 + 1% of all over \$1,000,000

(b) Local units are encouraged to utilize the following recommended amounts in lieu of the minimum amount in order to provide a higher level of security of public funds.

\$1 to \$10,000	\$2,500
\$10,000 to \$25,000	\$2,500 + 30% of all over \$10,000
\$25,000 to \$50,000	\$5,500 + 25% of all over \$25,000
\$50,000 to \$100,000	\$11,750 + 15% of all over \$50,000
\$100,000 to \$200,000	\$19,250 + 12% of all over \$100,000
\$200,000 to \$500,000	\$31,250 + 8% of all over \$200,000
\$500,000 to \$1,000,000	\$47,250 + 5% of all over \$500,000
\$1,000,000 and up	\$72,250 + 2% of all over \$1,000,000

(c) The municipal judge and the municipal court administrator shall be bonded in such amount as may be deemed appropriate and adequate under the circumstances, the amount, including all assistants, to be not less than the minimum referred to in (a) above, and in every case where the minimum requirement applies, based on the volume of annual transactions, the municipal judge and the municipal court administrator shall be bonded in the amount of not less than \$1,000 each.

(d) In those cases where the minimum requirement, based on the volume of business of the Court, calls for an amount in excess of \$2,000, it may be appropriate to bond the municipal court judge and municipal court administrator, as the case may be, in an amount which shall be above the \$1,000 minimum required by statute to the nearest \$500.00 above said minimum.

(e) The municipal governing body may allocate the amount of the coverage as between the municipal judge, municipal court administrator, and other employees, in accordance with the financial responsibility of each officer with due regard to the \$1,000 minimum for each individual.

(f) There shall be a recomputation as to the minimum bond requirement annually and if the bond presently in force is less than the minimum required by the above schedule, the bond shall be increased.

(g) In all cases, however, a new bond shall be obtained at least every three years, coinciding with the term of office of the municipal court judge.

Repealed by R.1979 d.16, effective January 17, 1979.
See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

Text on installation of systems repealed.
New Rule R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).
Amended by R.1998 d.307, effective June 15, 1998.
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).
Rewrote the section.

5:30-8.5 Guidelines concerning receipt and custody of public funds

(a) No officer of a local unit shall accept in receipt of the payment of any tax, license, fee or other charge, a check in excess of the amount actually due.

(b) Under no circumstances shall said officer engage in the practice of cashing checks with public funds.

Repealed by R.1979 d.16, effective January 17, 1979.
See: 10 N.J.R. 529(a), 11 N.J.R. 59(a).

Text on instruction and consultation repealed.
New Rule R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).
Amended by R.1998 d.307, effective June 15, 1998.
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).
Deleted former (c).

5:30-8.6 (Reserved)

Recodified by R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b).

Text on mechanical and data processing accounting recodified to 8.1.
New Rule R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).
Repealed by R.1998 d.307, effective June 15, 1998.
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Section was "Signatures on checks drawn upon the treasury of the local unit".

5:30-8.7 Notice of occurrences

It is the duty and responsibility of the chief financial officer to advise the Division of Local Government Services and the Department of Education, as appropriate, in any case where there might be a prospective default in the payment of principal or interest of any of the local unit's debt obligations.

Repealed by R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Text on tax bill receipting machine repealed.
New Rule R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).
Amended by R.1998 d.307, effective June 15, 1998.
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).
Rewrote the section.

5:30-8.8 (Reserved)

Repealed by R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Text on tax collector's course repealed.
New Rule R.1990 d.383, effective August 6, 1990.
See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).
Repealed by R.1998 d.307, effective June 15, 1998.
See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Section was "Implementation of the Housing and Community Development Act of 1974".

5:30-8.9 (Reserved)

Recodified by R.1990 d.383, effective August 6, 1990.

See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Text on unbudgeted school aid refunds recodified to 8.2.

New Rule R.1990 d.383, effective August 6, 1990.

See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b).

Repealed by R.1998 d.307, effective June 15, 1998.

See: 30 N.J.R. 1123(a), 30 N.J.R. 2204(b).

Section was "Implementation of the Housing and Community Development Act of 1974; urban counties".

5:30-8.10 Acceptance of third party financial organization payments

When authorized through bona fide "bank-by-phone" systems, local units are permitted to accept check based payments made by banks or other financial organizations on behalf of individual persons when authorized by such persons and when such transactions provide payor information.

New Rule, R.1997 d.147, effective March 17, 1997.

See: 29 N.J.R. 4(a), 29 N.J.R. 872(a).

SUBCHAPTER 9. GOVERNMENT ELECTRONIC RECEIPT ACCEPTANCE

Authority

N.J.S.A. 40A:5-43 et seq.

Source and Effective Date

R.1997 d.147, effective March 17, 1997.
See: 29 N.J.R. 4(a), 29 N.J.R. 872(a).

Subchapter Historical Note

Subchapter 9, consisting of §§ 5:30-9.1 through 5:30-9.10 was repealed by R.1990 d.383, effective August 6, 1990. See: 22 N.J.R. 706(b), 22 N.J.R. 2276(b). Subchapter 9, Government Electronic Receipt Acceptance, was adopted by R.1997 d.147, effective March 17, 1997. See: Source and Effective Date.

5:30-9.1 Purpose and authority

(a) This subchapter includes rules and guidance for local government units to utilize credit cards, debit cards, and electronic fund transfer mechanism as means of collecting local unit obligations.

(b) The rules are authorized pursuant to section 5 of P.L. 1995, c.325 (N.J.S.A. 40A:5-43 et seq.), the Government Electronic Payment Acceptance Act.

(c) While the title of the legislation refers to "electronic payment," these rules utilize the phrase "electronic receipt," as the use of "payment" could be confused with the ability of a local government unit to pay its own obligations electronically, a procedure not authorized by law.

5:30-9.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Bulk receipt" means a single deposit by a single party that represents multiple transactions.

"Card issuer" means any organization or association that issues or licenses others to issue any credit card or debit card.

"Credit card" means any instrument or device linked to an established line of credit, whether known as a credit card, charge card, credit plate, or by any other name, issued with or without fee by an issuer for the use of the cardholder in satisfying outstanding financial obligations, obtaining money, goods, services, or anything else of value on credit.

"Debit card" means any instrument or device, whether known as a debit card, automated teller machine card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services, or anything else of value through the electronic authorization of a financial institution to debit the cardholder's account.

"Director" means the director of the Division of Local Government Services.

"Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

"Electronic receipt" means any receipt transaction made through the use of a credit card, debit card, or electronic funds transfer.

"Local unit" means any unit of government subject to the provisions of chapters 5 or 5A of Title 40A of the New Jersey Statutes, and the constituent parts of those units, including, but not limited to, independent local authorities, public libraries, municipal courts and joint municipal courts.

"Local unit obligations" means any local unit tax, charge, fee, penalty, fine, assessments, service or utility charge, payment transactions by the public for goods or services, except for credit card payment of delinquent local unit obligations or for the redemption of local unit liens.

"Payor identification" means information, such as an account number, property block and lot number, or other identifying characteristic, used to sufficiently identify the purpose of the receipt and person or organization using electronic receipt to pay a local unit obligation.

"Processor" means any organization with whom the local unit contracts to process or make electronic receipt transactions.

5:30-9.3 General grant of authority

(a) Local units may enter into agreements with processors to utilize electronic receipts as an alternative to acceptance of cash and checks as receipt for local unit obligations.

(b) Authorization of the local unit obligations that shall be accepted as electronic receipts shall be made by resolution of the governing body of the local unit. The resolution shall specify both the types of local unit obligations approved for electronic receipt, and the types of electronic receipt that shall be permitted.

(c) The use of specialized techniques of processing electronic receipt such as, but not restricted to, computer assisted, telephone based transactions, computer network based, and other related transactions are permitted.

(d) Forms of surcharges, fees or other mechanisms that are assessed to the originator of an electronic receipt transaction for the purpose of recouping any or all costs the local unit incurs in processing electronic receipt transactions may

be utilized unless prohibited by the processor or by contract with a card issuer.

(e) Transactions related to municipal court obligations shall be authorized in accordance with Rules of the Court promulgated by the State Supreme Court.

5:30-9.4 Contracting for services

(a) Contracts for acquisition of electronic receipt equipment and services shall be subject to provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) A local unit may have contracts with more than one processor, but shall have only one contract to process transactions of any single card issuer for similar types of transactions. For example, a local unit may have a contract with one bank to process Master Cards and Visa cards for over-the-counter transactions, and separate contracts with other processors for processing Discover and American Express over the counter card transactions; but it may not have more than one contract to process Master Cards, unless it is a specialized service not available from the processor, for example, a voice response or interactive computer based system. A single contract with an independent service organization to process transactions of any number of issuers shall be permitted.

(c) Contracts shall require that processors shall transmit or otherwise deposit in the local unit's bank account the proceeds of electronic receipt transactions at any interval not to exceed 72 hours after the transmission or processing of the transactions by the local unit, weekends and holidays excepted.

(d) All contracts shall provide that chargebacks or electronic debits of returned or otherwise failed transactions shall require either paper based or electronic confirmation of the debit transaction and identification of individual debits.

Cross Reference

Exemption from provisions of this section, see N.J.A.C. 5:30-9.6.

5:30-9.5 Accounting and control

(a) Electronic receipt transactions shall be transmitted or otherwise sent to the processor on a daily basis at the close of the business day, or if done automatically by computer program, prior to the close of the business day of the processor.

(b) Electronic receipt transactions shall be considered a form of cash receipt and shall be subject to all local unit accounting, internal control, and auditing requirements relating to cash receipts, including, but not limited to, daily reconciliation, cash counts, reporting to the governing body, and account testing.

(c) The local unit shall retain printed documentation of all electronic receipt transactions for a period of time as required by the relevant State records retention law with regard to cash receipts or the local unit's contract with the processor, whichever is longer.

(d) All refunds of electronic receipt transactions shall be performed in accordance with all other statutory requirements related to the refunds of monies to the local unit.

(e) The local unit shall secure authorization of the processor of all credit or debit card transactions prior to execution.

5:30-9.6 Preauthorized transactions

(a) Local units may enter into processing contracts to permit individual persons desiring to make electronic receipt transactions for any combination of a specified or unlimited period of time, or number of fixed or variable payments. This permits the local unit to initiate a transaction that electronically debits the person's bank account and deposit it in the local unit's bank account.

(b) The local unit may contract with a processor to manage and conduct such transactions.

(c) Agreements providing for preauthorized transactions shall be in writing with the person responsible for completing the transaction. Such agreement shall include the person assuming responsibility for appropriate penalties if the electronic receipt transaction is denied by the processor. Cancellation of such transactions shall be in writing and submitted to the local unit 30 days in advance of the cancellation.

(d) Notwithstanding the provisions of N.J.A.C. 5:30-9.4(c), the local unit may enter into contracts that provide for scheduling of transactions in such a way that take into account the requirements of transaction clearing systems.

5:30-9.7 Bulk payments

(a) The bulk electronic receipt of property taxes by property tax processing organizations and servicing organizations, as defined in N.J.S.A. 17:16F-15, is specifically permitted and encouraged.

(b) When deposits are made, the processor shall provide appropriate payor documentation detailing the individual transactions that make up the transfer. Such documentation may be data files designed for input to the local unit's computer system or printouts.

(c) The tax collector shall prove all deposits prior to posting the transactions to individual accounts.

5:30-9.8 Individual electronic receipts

(a) Local units may permit electronic receipts generated by individuals, generically known as "bank-by-phone," where an individual authorizes a bank or other processor organization to process a payment transaction to the local unit on the individual's behalf.

(b) The record of the transaction provided by the local unit's depository bank must provide payor identification and date of transaction.

5:30-9.9 Surcharges or convenience fees

(a) When permitted to be charged by the processor, local units may charge a percentage of the transaction or a flat fee to offset the costs of electronic receipt transactions. Such fees shall not exceed the cost of handling and processing the transaction to the local unit.

(b) Such fees shall be authorized by ordinance or resolution, as appropriate to the local unit and form of government and in accordance with procedures established by the local unit for setting other local unit fees.

(c) Any surcharge or convenience fee shall be itemized separately on the invoice, charge slip, or receipt, and shall be disclosed to the payor at the time the transaction occurs.

(d) Local units subject to the provisions of the Local Budget Law, N.J.S.A. 40A:4-1 et seq., assessing such surcharges or convenience fees shall establish a dedicated trust fund account entitled "Electronic Receipt Fees" pursuant to N.J.S.A. 40A:4-39, through which such fees shall be deposited and expended. Local units subject to the provisions of the Local Authority Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq., shall utilize the procedures of that law for handling these transactions.

5:30-9.10 Payment of electronic receipt fees

(a) Service charges or fees charged to the local unit for electronic receipt transactions shall be paid in one of the following ways:

1. Charged against a suitable appropriation in the local unit's annual budget. The appropriation may be a sub-account of an Other Expense line item.
2. Transactions that include fees that are offset by surcharges or convenience fees collected pursuant to N.J.A.C. 5:30-9.9 which shall be paid through a trust funds transaction pursuant to N.J.A.C. 5:30-9.9(d).
3. When included in a contract, as a cost charged against the local unit's banking service compensating balance account.

(b) Local units are authorized to permit a processor to routinely debit the bank account to which deposits are made, or other agreed upon account, in payment of fees and service charges for electronic receipt transactions. When

such transfers are made, the processor shall provide a written statement itemizing the charges. The local unit's chief financial officer or designee shall complete and attach it to a voucher, and certify that the payment was correct and was paid. Statements shall be provided anytime prior to, or within 48 hours after the execution of the debit.

5:30-9.11 Interpretations of the rules

At the request of a local unit, the Director shall provide interpretations of this subchapter to address unanticipated circumstances or new technologies.

**SUBCHAPTER 9A. DISBURSEMENTS WITHOUT
VENDOR CERTIFICATION**
Authority

N.J.S.A. 40A:5-16(c).

Source and Effective Date

R.2003 d.158, effective April 21, 2003.
See: 34 N.J.R. 2374(a), 35 N.J.R. 1664(a).

5:30-9A.1 Purpose

These rules set forth standards for contracting units to follow when using procurement cards and electronic funds transfers for the acquisition of goods and services. These rules expressly permit the use of procurement cards and electronic funds transfers in any of the circumstances enumerated at N.J.S.A. 40A:5-16(c) and, therefore, permit payments to procurement card issuers, notwithstanding the provisions of N.J.S.A. 40A:5-16(a). These rules are intended to ensure that local units understand the risks associated with the use of procurement cards and electronic funds transfers in the acquisition of goods and services and implement sound fiscal and control practices governing such use. These rules do not permit the use of financial institution credit cards or debit cards by contracting units, nor do they alter or modify the requirements of N.J.S.A. 40A:5-16(b), or N.J.S.A. 40A:5-17 regarding approval or payment of funds to the procurement card issuer.

5:30-9A.2 Definitions

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

"Advance payment" means those transactions for which an obligation to pay a procurement card issuer arises out of the acquisition of goods and services permitted by N.J.S.A. 40A:5-16(c).

"Authorized procurement card user" means the individual employee of the contracting unit authorized by the chief administrative officer to make transactions using a procure-

ment card and whose name physically appears on the procurement card.

“Chief administrative officer” means the appointed employee who oversees the day-to-day administrative affairs of the contracting unit including, but not limited to, the following titles: business administrator, administrator, township or city manager. In the absence of a chief administrative officer, the chief financial officer shall assume the administrative procedures set forth in these rules.

“Chief financial officer” or “CFO” means the individual statutorily responsible for supervising the accounts and finances of a contracting unit, and shall include any certifying and approval officer appointed pursuant to N.J.S.A. 40A:5-17(a), or such individual in similar capacity legally appointed by the governing body of a contracting unit.

“Contract” means the written agreement entered into by a contracting unit and an authorized procurement card user for the purposes authorized in these rules.

“Contracting unit” means any county, municipality, board, commission, committee, authority or agency, and which has administrative jurisdiction over any district other than a school district, project, or facility, included or operating in whole or in part, within the territorial boundaries of any county or municipality which exercises functions which are appropriate for the exercise by one or more units of local government, and which has statutory power to make purchases and enter into contracts awarded by a contracting agent for the provision or performance of goods or services.

“Disbursement” means any payment of moneys, including any transfer of funds, by any means, to the procurement card issuer, and for the purposes of these rules, shall not include the obligation to pay arising out of transactions consummated by the use of a procurement card.

“Electronic funds transfer” means any method of transferring moneys permitted by this rule that does not involve the physical presentation of a paper check, including, but not limited to: wire transfers, e-checks, automated clearing house (ACH) transfers, and transactions initiated by phone or fax.

“Governing body” means the board, commission, council or other body having control of the finances of the contracting unit. In those contracting units where a chief executive officer is authorized by law to participate in such control through powers of recommendation, approval or veto, the term includes such chief executive officer to the extent of such participation.

“Issuer” means the financial institution that has issued a procurement card, provides services, billings and statements in support of a procurement card or receives payments in satisfaction of obligations created from the use of a procurement card. For purposes of these rules, issuer includes intermediary transfer agents who participate in the process of implementing electronic funds transfers on behalf of the contracting unit.

“Local unit” means a municipality, county, or authority subject to the “Local Authorities Fiscal Control Law,” P.L. 1983, c.313 (N.J.S.A. 40A:5A-1 et seq.).

“Payment documentation” means such documentation, including evidence of approvals and certifications, as is required by N.J.S.A. 40A:5-16(b), N.J.S.A. 40A:5-17 and these rules prior to the legal paying out of moneys.

“Permitted use” means such use of procurement cards or electronic funds transfers as are specifically permitted by action of the governing body and the chief financial officer, but in no case beyond the scope of use permitted by N.J.S.A. 40A:5-16(c) or these rules.

“Procurement card,” “P-card” or “purchasing card” means an account or the physical card that represents an account governed by characteristics specific to a procurement card. These characteristics include limits of time, amount, access, and purchase category controlled by the contracting unit in accordance with an agreement with an issuer. While such cards may have the appearance of a credit card, such as Visa™, MasterCard®, American Express or Discover, such general-purpose cards are not procurement cards and are not permitted under these rules.

“Procurement card statement” is the detailed billing or portion thereof that lists transactions initiated via procurement card, which statement is sufficient for review and reconciliation and constitutes a part of the payment documentation.

“Reconciliation of activity” means the process used to determine that all transactions on the procurement card statement are accurate, authorized and allocable to encumbered appropriations.

“Supervisory review” means the process performed by an individual in a supervisory capacity to confirm the propriety and accuracy of procurement card use initiated by subordinates.

“Transaction” means any activity that may result in demand to the contracting unit by a procurement card issuer for payment, or representing any other change or adjustment to the procurement card account.

5:30-9A.3 Authorization to use procurement cards and electronic funds transfers for the acquisition of goods and services

(a) The governing body of a contracting unit may adopt policies that permit its specifically named employees to use procurement cards or electronic funds transfers for the acquisition of goods and services under the circumstances set forth in N.J.S.A. 40A:5-16(c). Such policies shall be in writing and shall be approved by resolution of the governing body. Such policies shall not exceed the limits and requirements expressed in the following conditions:

3. A reconciliation of activity performed upon the transaction evidence, supervisory review and procurement card issuer statement; and

4. A distribution report indicating the complete allocation of funds to be paid against previously appropriated and encumbered items.

(e) In addition to the annual assessment of internal controls conducted by the registered municipal accountant, the CFO is responsible for monitoring and assessing the quality of internal control performance on a continuing basis to assure that all controls are actively pursued each cycle without exception.

5:30-9A.8 Eligible procurement card issuers; eligible providers of wire transfer services

Procurement card issuers and providers of wire transfer services are to be financial institutions chartered by Federal or State authority.

SUBCHAPTER 10. MUNICIPAL PORT AUTHORITIES

5:30-10.1 Annual budgets of municipal port authorities

(a) Every municipal port authority shall submit its annual budget to the Local Finance Board at least 45 days prior to the date upon which such budget is scheduled for final adoption for approval by the Local Finance Board.

(b) In reviewing and approving each such budget, the Local Finance Board shall consider whether:

1. All estimates of revenue contained in such budget are reasonable, accurate and fairly stated;
2. The items of appropriation contained in such budget are properly set forth;
3. The budget, in itemization, form, arrangement and content will permit the exercise of the comptroller function within the authority; and
4. The operating income anticipated in such budget will, together with all other anticipated revenues:
 - i. Produce sufficient revenues to satisfy all obligations to the bondholders of the authority;
 - ii. Meet operating expenses, capital outlays and debt service requirements; and
 - iii. Provide for necessary reserves, all as may be required by law, regulations or terms of contracts and agreements.

(c) The Local Finance Board may require that a municipal port authority provide it with whatever information and documentation it may deem necessary in connection with its review.

(d) If the Local Finance Board finds that the foregoing conditions have been satisfied, it shall approve the budget; otherwise, it may determine either to disapprove it or to require amendments thereto. In consideration whether or not to approve the budget, the Local Finance Board shall not substitute its discretion with respect to an amount of an appropriation when the amount is not made mandatory by law or regulation.

(e) In the event the Local Finance Board shall disapprove the proposed budget, the Board shall notify the authority and shall give the authority and any other interested parties an opportunity to be heard.

5:30-10.2 Approval of municipal port authorities obligations; municipal guarantees of authority bonds; financing agreements; and leases, sales or dispositions of real property

(a) No authority shall adopt any final resolution authorizing:

1. The issuance of bonds, notes, mortgages or other obligations;
2. The entry into any agreement providing for a municipal guarantee of authority bonds;
3. The entry into any financing agreement; or
4. The entry into any agreement for the leasing, sale or disposition of real property unless and until it shall have obtained the approval of the Local Finance Board to do so.

(b) Prior to the adoption of any such proposed resolution, the authority shall submit the proposed resolution to the Local Finance Board for review and approval.

(c) The Local Finance Board may, by resolution adopted within a reasonable time, approve or disapprove any such resolution proposed by the authority, or may require changes in the proposed resolution.

(d) The Local Finance Board shall, in the course of its review, give consideration to:

1. The nature, purpose and scope of the proposed project financing or of the lease, sale or disposition of real property;
2. The engineering and feasibility studies or appraisals prepared in connection therewith;

3. The terms and provisions of the proposed agreements for the lease, sale or disposition of real property, financing agreements, security agreements and, in the instance of a negotiated offering, the proposed or maximum conditions of sale;

4. The proposed or maximum schedule of debt service payments required and the impact thereof on the budget and financial condition of the authority and of the local unit or units which created the authority;

5. The estimate of the annual cost of operating and maintaining the project as set forth in the engineering report and feasibility studies; and the initial rate, rent, fee or change schedule or structure proposed by the authority, or other proposed method of raising the amounts required to finance the operations of the authority, pay debt service on its obligations and maintain reserves required by law, regulation or term of contracts and agreements. The Local Finance Board may examine the estimates, computations or calculations made in connection with this submission, may require the submission of any papers, documents, appraisals, witnesses, information, audits or investigations and may take any action which it may determine advisable in connection with this project.

(e) If after such review and consideration, the Local Finance Board determines that the project cost has been accurately determined, that the method for funding the project and the proposed financing arrangements are reasonable and feasible, that the proposed arrangements would not impose an undue financial burden on the authority, the local unit or the residents of the local unit which created the authority and would not materially impair the credit of the authority of the local unit or substantially reduce their ability to pay punctually the principal and interest on their outstanding indebtedness and supply essential public services and improvements; and in the case of a lease, sale or disposition of real property, that the terms of the lease, sale or disposition are fair and reasonable in light of current market conditions, it shall approve the resolution proposed by the port authority.

(f) The Local Finance Board may waive the provisions of (d) and (e) above when the proposed financing agreement, guarantee agreement or debt authorization does not exceed \$50,000 or when the proposed agreement for the leasing, sale or disposition of real property does not exceed an annual rental or total sale proceeds of \$15,000.

(g) At any time within 12 months after approval of the Local Finance Board, the authority may adopt the resolution so approved and, after adoption, shall immediately transmit a copy to the Local Finance Board. Failure of any authority to act within 12 months after approval by the Local Finance Board will void the resolution adopted by the Local Finance Board.

SUBCHAPTER 11. CHANGE ORDERS AND OPEN-END CONTRACTS

Authority

N.J.S.A. 18A:18A-49.2 and 40A:11-37.1.

Source and Effective Date

R.2000 d.485, effective November 6, 2000.
See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

Subchapter Historical Note

Subchapter 11, Change Orders and Open-End Contracts, was recodified from N.J.A.C. 5:34-4 by R.2000 d.485, effective December 4, 2000. See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

5:30-11.1 Application, compliance and penalties

(a) Unless specifically stated to the contrary, the rules in this subchapter apply to all local government agencies that are encompassed by the definition of contracting unit in N.J.S.A. 40A:11-2(1) by whatever name called, and referred to in this subchapter as contracting units.

(b) Every governing body and chief executive officer shall take all steps necessary so that all officials and employees shall be aware of and comply with the requirements of these rules.

New Rule, R.2000 d.485, effective December 4, 2000.
See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

5:30-11.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Change order” means a properly prepared document authorized by the governing body which directs and authorizes a vendor providing goods or performing services to a contracting unit pursuant to a contract awarded by governing body resolution to change the quantity or character of goods provided or services performed from that originally specified or estimated and to correspondingly change the payment due therefore.

“Chief executive officer” means the elected or appointed individual with the highest level of administrative authority of the contracting unit. In the case of a municipality, this may refer to the mayor as appropriate to the form of government; in the case of a county, the director of a board of chosen freeholders, county executive, or county manager as appropriate to the form of government; in the case of an authority, the chair of the authority; and, in the case of a fire district, the president or other presiding officer of the board of fire commissioners.

“Open-end contracts” means those contracts for which price bids were solicited on a unit basis because exact quantities needed were not known at the time bids were sought. Such contracts, when advertised and awarded, must

include a minimum and a maximum number of units that can be ordered for each item under the contract. Zero is an acceptable minimum. Orders placed under such open-end contracts shall not be considered as change orders for purposes of this section, but shall be subject to the requirements specified in N.J.A.C. 5:30-11.10. Examples include, but are not limited to, blacktopping and office supplies such as stationery.

Amended by R.2000 d.485, effective December 4, 2000.
See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).
Rewrote the section.

5:30-11.3 General requirements for all change orders

(a) No changes in quantities, work performed, services rendered, materials, supplies or equipment delivered or provided shall be authorized, permitted or accepted except by the procedures established herein. All change orders unless otherwise stated in this subchapter shall be subject to the following:

1. Each change order shall be in writing and shall be numbered consecutively (beginning with number one) and attached to the original purchase order or contract for each project.

2. Change orders which result in payment reduction below the originally contracted price may be made by locally established procedure, provided that any change orders increasing cost on the same contract shall include reference to such reductions.

3. Quantities of items or work shall not be changed in such a manner as to nullify the effect of the competitive determination of lowest responsible bidder which was made at the time of contract award, if at said time the changes could have been reasonably foreseen.

4. Responsibility required by these rules to be exercised specifically by the governing body, including authorization of change orders, shall not be delegated except for minor field (site) modifications pursuant to N.J.A.C. 5:30-11.4.

5. Change orders may be executed by the representative appointed by the governing body but the responsibility for the authorization of change orders shall not be delegated by the governing body except for minor field (site) modifications pursuant to N.J.A.C. 5:30-11.4.

6. Change orders shall be used to change the number of units or items originally advertised and contracted for, provided that:

i. Unit prices or a price methodology were sought in the original specifications and included in the contract;

ii. The original specification and the contract included a provision that the unit prices could be so used; and

iii. If (a)6i and ii above were not contained in the original specification, a change order shall not be issued.

7. Change orders shall not be used to substantially change the quality or character of the items or work to be provided, inasmuch as such would have been a determining factor in the original bidding.

8. Change orders shall not serve the purpose of escalation clauses and, therefore, shall not be utilized to effectuate upward price adjustments.

9. Total number of change orders executed for a particular contract shall not cause the originally awarded contract price to be exceeded by more than 20 percent unless otherwise authorized by these rules.

10. If proposed change orders do exceed the 20 percent limitation of (a)9 above, no work shall be performed or purchases made until the procedures of N.J.A.C. 5:30-11.9 have been completed. If the governing body determines issuance of the change order is not justifiable, a new contract shall be executed in accordance with the Local Public Contracts Law.

11. Before authorizing any change orders resulting in additional expenditures, the availability of funds shall be certified in writing by the chief financial officer or certifying finance officer, as appropriate.

12. The 20 percent limitation of (a)9 above shall not apply to emergency situations as defined within N.J.S.A. 40A:11-6.

13. Change order authorizations shall not be withheld until the completion of the entire project.

Administrative Correction.

See: N.J.R. January 7, 1991.

Amended by R.2000 d.485, effective December 4, 2000.

See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

In (a), changed N.J.A.C. references throughout, substituted "bidder" for "price" following "reasonable" in 3, deleted a former 12, and recodified former 13 and 14 as 12 and 13.

5:30-11.4 Procedures for minor field (site) modifications

The governing body shall be required to authorize all change orders, except that minor field (site) modifications (for example, additional fill stone needed, modifications of footings, additional rock blasting) may be authorized, provided that they do not affect the overall scope of work of the contract, by the designated representative of the governing body. These change orders shall result only in minor price increases to the originally awarded contract price.

5:30-11.5 General procedures for change orders

(a) The governing body approval process for change orders shall be as follows:

1. The chief executive officer of the contracting unit or his or her designee shall file with the governing body a request for the change order, stating the facts involved and indicating that the proposed change order may be allowed under these rules. If the request and justification are prepared by other than an official of the contracting unit, they must be countersigned by the chief executive officer or his or her designee.

2. The governing body shall take such steps as it may find appropriate to assure that a change is necessary and that the work will be completed.

3. The governing body shall then pass a resolution authorizing a written amendment to a contract covering the change(s) to be made. The exact form of this amendatory contract shall be at the discretion of the contracting unit attorney.

4. The resolution described in (a)3 above shall be passed before execution of the change order. No work shall be performed or purchases made on the involved phase of the contract until the resolution is passed.

Amended by R.2000 d.485, effective December 4, 2000.

See: 32 N.J.R. 3237(a), 32 N.J.R. 4300(a).

In (a), substituted a reference to contracting units for a reference to governmental units in 1, and rewrote 3.

5:30-11.6 Change orders for professional services and extraordinary unspecifiable services

(a) This section shall apply only to change orders for professional and extraordinary, unspecifiable services contracts.

(b) In case of conflict with the general requirements of N.J.A.C. 5:30-11.3, the specific language of this section shall prevail but, otherwise, the requirements of N.J.A.C. 5:30-11.3 shall be satisfied.

(c) Changes should be within the scope of activities of the original contract, and not for the purpose of undertaking new or different work or projects. Changes in payments for activities within the scope of activities of the contract shall be in accordance with a schedule of specific charges or rates contained in the contract and shall be effectuated by a written change order authorized by the governing body. If such a schedule is not included in the contract, the contract should be amended to provide for same.

(d) The 20 percent limitation of N.J.A.C. 5:30-11.3(a)9 shall not apply to professional and consultant contracts.

(e) If the change is not within the scope of activities of the original contract and the contract was awarded without competitive bidding being required by law or rule, as is the case for professional services and certain authorized extraordinary unspecifiable services in accordance with N.J.S.A. 40A:11-5(1)(a)(i), any change beyond the original scope of activities shall be made by amendatory contract approved by the governing body.

1. If budget appropriations and other moneys are customarily turned over in full to the treasurer of the board of trustees as provided in N.J.S.A. 40:54-13, the municipal treasurer should promptly draw his check on the "Reserve" account and turn the funds over to the library board.

2. If budget appropriations are customarily retained in the custody of the municipal treasurer and disbursed by him after approval by the board of trustees of the free public library, the municipal treasurer should credit the money received from the Federal grant to the aforementioned "Reserve" account and expend such moneys in the same manner as other funds are expended by the library board.

5:30-12.4 State library aid

(a) Effective January 1, 1966, the present method of budgeting and accounting for this money will be completely revised as follows:

1. The "Dedication by Rider—N.J.S.A. 40A:4-39" in the 1966 and subsequent years' municipal budget forms will include "State or Federal Aid for maintenance of libraries".

2. The item of anticipated revenue for "State Library Aid—N.J.S.A. 18:24A" together with the required, applicable appropriation will be eliminated from the 1966 and subsequent years' budget documents.

3. All municipal treasurers are instructed to credit all moneys received after January 1, 1966, for "State Library Aid—N.J.S.A. 18:24A" to a special reserve in the current fund entitled (depending upon which title is applicable in his municipality): "Reserve for maintenance of free public library with State aid" or "Reserve for aid to privately owned library or reading room with State aid".

(b) If budget appropriations are customarily turned over in full to the board of trustees of the free public library or the privately owned library, the municipal treasurer should promptly draw his check on the "Reserve" account and turn over the funds to such library.

(c) If budget appropriations are customarily retained in the custody of the municipal treasurer and disbursed by him after approval by the board of trustees of the free public library or for the aid of a privately owned library, the municipal treasurer should retain the funds in the proper "reserve" account and should expend such moneys in the same manner as other funds are expended by or for the library.

(d) All appropriations for "expense of participation in free county library" are always expended directly by the municipality for the purpose of aiding and improving the service rendered within the municipality by the free county library. State library aid for this purpose, therefore, should always be credited by the municipal treasurer to "reserve for

expense of participation in free county library with State aid" and expenditures should be made in the same manner as other expenditures are made for this purpose in those municipalities where this is applicable.

(e) Unexpended balances of 1965 appropriations "with State aid" for any of the purposes cited in subsection (a)3 of this Section should be transferred at December 31, 1965, to the proper "reserve" in an amount up to, but not exceeding, the actual amount of State aid received in 1965.

SUBCHAPTER 13. CAMDEN FINANCIAL REVIEW BOARD

Authority

P.L. 1998, c.45.

Source and Effective Date

R.1998 d.530, effective October 12, 1998.
See: 30 N.J.R. 3330(a), 30 N.J.R. 3938(b).

Historical Note

Subchapter 13, Camden Financial Review Board, was adopted as Emergency New Rules, R.1998 d.453, effective August 13, 1998, to expire October 12, 1998. See: 30 N.J.R. 3330(a). The provisions of R.1998 d.453 were readopted as R.1998 d.530, effective October 12, 1998. See: 30 N.J.R. 3330(a), 30 N.J.R. 3938(b).

5:30-13.1 Definitions

The following words, as used in this subchapter, shall have the following meanings:

"Board" means the financial review board for the City of Camden.

"City" means the City of Camden.

5:30-13.2 Powers and responsibilities

(a) The board shall have the power and responsibility to:

1. Approve, implement and enforce a financial plan of the City of Camden, including monitoring compliance;
2. Approve the annual budget of the City of Camden;
3. Approve the issuance of debt by the City of Camden;
4. Approve labor and other contracts entered into by the City of Camden;
5. Obtain information regarding the financial condition and needs of the City, including such financial statements and projections, budgetary data, and information and management reports and materials as the board may deem necessary or desirable;

6. Inspect, copy and audit such books and records of the City as the board shall determine necessary or desirable;

7. Require the appearance of any City official or employee before the board to answer questions concerning the finances of City;

8. Adopt policies and procedures for the conduct of the board's activities; and

9. Provide the Local Finance Board, the Governor and the Legislature with an evaluation of the City's financial condition, and recommendations for legislative actions that, in the opinion of the board, are necessary to assure economic redevelopment that will lead to the fiscal recovery of the City.

5:30-13.3 Financial review board

(a) The board shall consist of seven members appointed by the Governor.

(b) The board shall meet as soon as possible after the appointment of a majority of the members for the purpose of organizing and undertaking its responsibilities.

(c) The Governor shall appoint the chair of the financial review board.

(d) The chair shall preside at all meetings of the board.

(e) A majority of the voting members of the entire board shall constitute a quorum for the conduct of business. Attendance shall be taken.

(f) The board shall act by majority vote of the membership of the board. Roll call votes shall be recorded.

(g) All meetings of the board shall be subject to the "Open Public Meetings Act," P.L. 1975, c.231 (N.J.S.A. 10:4-6 et seq.).

(h) The heads of departments of the executive branch of the State government, if appointed to the board, may be represented by an official designee. The names of these designees shall be filed with the board.

(i) Vacancies in the membership of a board shall be filled for the unexpired terms only in the same manner as the original appointments were made.

(j) The Director of the Division of Local Government Services may assign members of the Division staff to assist the board, as the board may require.

(k) The City shall provide the board with office space and support facilities as the board may determine to be necessary to conduct its activities.

5:30-13.4 Report

(a) By January 1, 1999, the financial review board shall report its recommendations for economic development legislation to the Local Finance Board, the Governor and the Legislature.

(b) Before June 30, 1999, the board shall prepare and file a report of its activities with, and shall provide its assessment of the fiscal condition and progress of the City to, the Local Finance Board, the Governor and the Legislature.

5:30-13.5 Financial plan preparation

(a) Within 45 days after the appointment of the majority of the members to the board, the mayor of the City, in consultation with the City's governing body, shall develop a proposed financial plan covering the three-year period beginning with the City's current fiscal year.

(b) The financial plan shall be composed of the following sections: a budgetary plan, an operations plan, an economic development plan and a capital improvement plan.

1. The budgetary plan shall be general in nature and shall include revenue and spending targets that must be met by the City through its annual budget. Spending targets may be set by budgetary line item. If, in the opinion of the board, the City does not have an adequate cash management plan or cash flow analysis, the board may require that the plan include such matters. The board shall ensure that the provisions of the plan comply with all applicable provisions of State law.

2. The operations plan shall identify and describe opportunities to reduce the costs of providing municipal services through general reductions of municipal expenditures; sales of surplus municipal assets; changes in staffing patterns; development of new sources of revenues; implementation of shared services with other government agencies; contracting of services to other providers; modifications in municipal service levels; improved or lower cost operating methods and practices; and any other measures which would serve to reduce the costs of providing municipal services as may be developed by the City or the board.

3. The capital improvement plan shall follow and reflect the capital improvement plan adopted pursuant to the "Local Budget Law," N.J.S.A. 40A:4-1 et seq., and any applicable rules adopted by the Local Finance Board.

4. The economic development plan shall identify and describe appropriate actions for the economic development of the City planned by all government agencies, non-profit and private sector organizations engaged in the economic development of the City.

(c) Within 30 days of developing the financial plan, the governing body shall conduct a public hearing on the proposed financial plan and may then adopt it in full or with amendments.

(d) Not later than 120 days after the date that the financial review board has its first meeting, the governing body of the City shall submit the proposed financial plan to the board for the board's review and approval.

(e) Not more than 60 days after submission of the proposed financial plan or recommendations for modification of an approved financial plan to the board, the board shall determine whether the proposed plan or the proposed plan modification is complete and complies with all necessary statutes and regulations.

1. If the board determines that the proposed plan, or the proposed plan modification, is complete and complies with all necessary statutes and regulations, the board shall, by resolution, approve the financial plan or the financial plan modification.

2. If the board determines that the proposed plan or proposed plan modification is incomplete; that the budget plan therein fails to contain projections of revenues and expenditures that are based on reasonable and appropriate assumptions and methods of estimation; that the proposed plan or proposed plan modification fails to demonstrate that the operations of the City will be conducted within the cash resources available to the City according to reasonable and appropriate assumptions and methods of estimation; or that the proposed plan or proposed plan modification fails to comply with the provisions of these rules, the board shall, by resolution, disapprove the plan.

(f) In the event that the governing body of the City either fails to submit a financial plan as required or fails to submit a financial plan that receives the approval of the board, the board shall, by resolution, formulate and adopt a financial plan to be effective until the governing body of the City submits a financial plan that is approved by the board.

(g) Once adopted by the board, the provisions of the financial plan shall be binding on the City.

(h) The City shall submit a copy of the adopted financial plan to the Local Finance Board.

5:30-13.6 Financial plan modification

(a) Following approval of a financial plan, the board shall examine the financial plan on a regular basis, in consultation with the mayor and governing body of the City.

(b) The City shall establish a system for reporting on its progress in complying with the various components of the plan. These reports shall be prepared in a form and with such contents as shall be prescribed by the board.

(c) Reports regarding the City's compliance with the budget plan component shall be made monthly.

(d) Reports regarding the City's compliance with the other components of the financial plan shall be made quarterly.

(e) In the event that the reports provided to the board indicate that expenditures made by the City are not consistent with the approved financial plan, the board shall be authorized to issue orders and directives as it believes necessary to ensure compliance with the plan.

(f) If, in the board's judgment, it appears at any time that the amount of revenues which the City is reasonably likely to realize in cash during any fiscal year will be less than the amount of anticipated revenues in the City's annual budget, or that the expenditures for the City during any fiscal year will exceed the amount of revenues that the City is reasonably likely to realize in cash during that fiscal year, the board may direct the City to submit a financial plan modification to the board describing how the City shall adjust revenue estimates and reduce expenditures to conform the expenditures of the City to such revised revenue estimates.

(g) The board shall approve a financial plan modification so long as the modification complies with the requirements of these rules.

(h) Following approval by the board, the City shall implement that financial plan modification.

(i) If the City fails to submit a plan modification within the time period specified by the board, the board, upon adoption of a resolution, may formulate and approve a financial plan modification as may be necessary to achieve

the purposes of the board and thereafter direct its implementation by the City.

5:30-13.7 Annual city budget approval

(a) The governing body shall provide a copy of its introduced budget and all related documents to the financial review board.

(b) Following receipt of the introduced budget and the introduction of any amendments by the governing body, the board shall review the budget and approve the budget either as submitted or with such modifications as to anticipated revenues or budget appropriations as the board may deem appropriate.

(c) The governing body of the City shall incorporate any modifications required by the board into the budget and shall then proceed to adopt the budget in accordance with the "Local Budget Law," N.J.S.A. 40A:4-1 et seq.

(d) Notwithstanding the provisions of the "Local Budget Law," N.J.S.A. 40A:4-1 et seq., actions of the board that result in budget changes shall, if necessary, extend otherwise binding statutory time periods to an appropriate date set by the board.

(e) If the mayor or the governing body, or both, fail to comply with their statutory responsibilities regarding the preparation and adoption of a budget for the City by the times set forth herein or in the "Local Budget Law," N.J.S.A. 40A:4-1 et seq., the board may request that the Local Finance Board authorize the financial review board to exercise those responsibilities on behalf of the City.

1. The Local Finance Board must provide the mayor or the governing body, or both, an opportunity to be heard on this matter.

2. Following this hearing and a determination by the Local Finance Board that the mayor or the governing body, or both, failed to comply with their statutory responsibilities, the board shall be authorized to exercise these responsibilities on behalf of the City.

5:30-13.8 Issuance of debt

(a) The City shall not authorize the issuance of bonds or notes without the prior approval of the board.

(b) Any bond ordinance proposed to be adopted, together with such other information as the board may require, shall be submitted to the board for review and approval prior to introduction of the ordinance.

(c) If the board is satisfied that the purpose or purposes to be funded by the proposed ordinance are consistent with the approved financial plan for the City, it shall approve the proposed ordinance.

(d) Upon receipt of such approval, the governing body of the City may proceed with the introduction and adoption of the ordinance. The financial review board must approve any amendments to the ordinance before these amendments are adopted by the governing body of the City.

(e) The procedures set forth in this section shall be in addition to, and not in lieu of, any procedures which the City would be required to follow in seeking the issue of debt in accordance with the provisions of the "Municipal Qualified Bond Act," P.L. 1976, c.38 (N.J.S.A. 40A:3-1 et seq.).

5:30-13.9 Emergency appropriations, budget amendments, transfer of appropriation

(a) The governing body of the City shall adopt no emergency appropriation or other budget amendment for any purpose until the board has reviewed and approved the emergency appropriation or other budget amendment.

(b) In reviewing any proposed emergency appropriation or other budget amendment, the board shall consider such factors as may be appropriate, including, but not limited to, the need for the appropriation and the existence of alternative sources to meet the need for the appropriation. Any request for approval of a proposed emergency appropriation or other budget amendment shall be accompanied by a document prepared by the City explaining the need for the action.

(c) The governing body of the City shall neither authorize nor approve a transfer of appropriation or change in text or title of an appropriation until the transfer of appropriation or change in text or title of an appropriation has first been reviewed and approved by the board. Any request for approval of a proposed transfer of appropriation or change in text or title of an appropriation shall be accompanied by a document prepared by the City explaining the need for the transfer.

5:30-13.10 Contracts

(a) The governing body shall provide to the chair of the board a summary of all pending resolutions for contracts for goods and services at least five business days before these resolutions are considered by the governing body. Each summary shall include the contract's purpose, vendor, projected costs, justification of the award, and a certification by the City's chief financial officer that the performance of the contract will be in accordance with the financial plan.

(b) The chair of the board shall have the authority to order the governing body not to consider any pending resolution regarding contracts.

(c) The board shall promptly review the terms of the contracts held by the chair in order to determine whether the contract complies with the financial plan.

1. The board shall approve the contract if it determines that the execution and the performance of the contract will be consistent with the financial plan.

2. In approving a contract, the board may establish appropriate terms and conditions to achieve the purposes of the financial plan, provided that the terms and conditions are not otherwise inconsistent with other requirements of law, including, but not limited to the "Local Public Contracts Law," P.L. 1971, c.198 (N.J.S.A. 40A:11-1 et seq.).

(d) Upon receipt of notice of approval of a contract, the City may proceed to enter into the contract subject to the terms and conditions as may have been established by the board.

5:30-13.11 Orders and directives

(a) The board shall be authorized to issue orders and directives to any officer or employee of the City that it deems necessary to accomplish the board's purposes; including, but not limited to, timely and satisfactory implementation of the provisions of the approved financial plan of the City.

(b) Any order or directive shall be binding upon the officer or employee to whom it is issued.

(c) No officer or employee of the City shall:

1. Take any action in violation of any valid order or directive of the board;

2. Fail or refuse to take any action required by any such order or directive; or

3. Prepare, present or certify any information or report, including any projections or estimates, for the board or any of its agents that are willfully false or misleading.

(d) In addition to any penalty or liability under any other law, any officer or employee of the City who shall violate the provisions of this section shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office by order of the mayor or the board.

(e) In the case of a violation of the provisions of this section by an officer or employee of the City, the mayor shall immediately report to the board all pertinent facts together with a statement of the action taken thereon.

(f) Orders and directives issued by the board may be enforced by a proceeding in lieu of prerogative writ, by an action for injunctive relief in appropriate cases, or by a mandamus action to compel performance by the governing body or by any officer or employee of the City.

SUBCHAPTER 14. EMERGENCY SERVICE VOLUNTEER LENGTH OF SERVICE AWARD PROGRAM

Authority

N.J.S.A. 40A:14-183 et seq., particularly 40A:14-194.

Source and Effective Date

R.2001 d.36, effective January 16, 2001.
See: 32 N.J.R. 3683(a), 33 N.J.R. 254(a), 33 N.J.R. 552(a).

5:30-14.1 Definitions

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

"Accounting date" means the annual date at the close of the fiscal year when the sponsoring agency provides an accounting of its length of service award agreement and appraises all participants of the value of their accounts.

"Active volunteer member" means a person who has been so designated by the governing board of a duly created emergency service organization and who is faithfully and actually performing volunteer service in that organization.

"Beneficiary" means the person, persons or legal entity designated by a participant to receive any undistributed compensation which becomes payable in the event of a participant's death.

"Complete application package" means the documentation to be submitted to the Director by a contractor for approval of a prototypical length of service award plan agreement which may include other supporting documentation as required.

"Contractor" means any person or entity, other than the sponsoring agency, authorized to do business in New Jersey, that provides investments or services or both regarding the sponsoring agency's length of service award plan agreement.

"Director" means the Director of the Division of Local Government Services within the Department of Community Affairs.

"Division" means the Division of Local Government Services within the Department of Community Affairs.

"Emergency service organization" means a fire or first aid organization, whether organized as a volunteer fire company, volunteer fire department, fire district or duly incorporated emergency service squad.

"Emergency service squad" means a duly incorporated volunteer first aid, emergency or volunteer ambulance or rescue squad association.

“Independent auditor” means a registered municipal accountant for a municipality or county pursuant to N.J.S.A. 40A:5-4, or a certified public accountant for a fire district pursuant to N.J.S.A. 40A:5A-15.

“Joinder agreement” means the document signed by a participant to authorize participation in a length of service award program.

“Length of service award program” or “LOSAP” means a system established to provide tax-deferred income benefits to active volunteer members of an emergency service organization.

“Local plan administrator” means the person or group of local public officials or employees, including the local governing body, appointed by the sponsoring agency to act as the agreement representative with respect to the contractor and to perform the agreement duties, if any, that are not to be performed by the contractor under the terms of a length of service award plan agreement.

“Participant” means an active volunteer member who is eligible for benefits under a length of service award program.

“Prototypical length of service award plan,” “LOSAP plan” or “plan” means a length of service award plan prepared by a contractor and approved by the Director.

“Sponsoring agency” means the governing body of a municipality or fire district.

“Vesting” means the length of time a bona fide volunteer must serve in order to secure the right to receive the benefits of participation in a length of service award program.

“Year of active emergency service” means a 12-month period during which an active volunteer member participates in the fire or first aid service and satisfies the minimum requirements of participation established by the sponsoring agency on a consistent and uniform basis.

5:30-14.2 Creating LOSAPs: Determining the sponsoring agency for volunteer fire organizations

(a) LOSAPs shall be created by voluntary action of a sponsoring agency, which shall be a municipality or fire district. If the sponsoring agency is a municipality, the LOSAP shall be created by ordinance. If the sponsoring agency is a fire district, the LOSAP shall be created by resolution.

(b) In determining the sponsoring agency and creation process for volunteer fire organizations, the following shall apply:

1. A LOSAP shall be created by municipal ordinance for volunteer fire organization(s) in a municipality that is not served by a fire district.

2. A LOSAP shall be created by resolution of a Fire District Board of Fire Commissioners in a municipality that is served by one or more fire districts.

3. Where there is more than one fire district in a municipality, each district may have its own LOSAP for its fire companies.

4. The municipality or fire district may have only one LOSAP for each emergency service, regardless of how many fire companies or first aid organizations operate within their jurisdiction.

5. If a volunteer fire organization serves more than one municipality, the sponsoring agency shall be the municipality where the fire company is located, unless otherwise agreed to, as per the terms of an interlocal services agreement.

5:30-14.3 Creating LOSAPs: Determining the sponsoring agency for emergency service squads

(a) If there is no fire district, and one or more emergency service squads serve a single municipality, the LOSAP shall be created by the municipality. The provisions at N.J.A.C. 5:30-14.15 shall apply if the squad(s) serve(s) multiple municipalities.

(b) If an emergency service squad serves an entire municipality that is served by multiple fire districts, the municipality shall serve as sponsoring agency.

(c) A fire district shall serve as sponsoring agency for an emergency service squad whose jurisdiction is limited to, or is within the boundaries of a fire district, provided that the squad is organizationally affiliated with, or receives permitted financial support from, the district.

(d) If an independent emergency service squad serves an entire municipality which is served by a single fire district, the sponsoring agency shall be the jurisdiction that provides the greater amount of financial support or has an organizational or operational support relationship.

(e) In a municipality that has multiple fire districts, if there are several emergency service squads that are independent of fire district organizations, or whose coverage areas overlap district boundaries, the municipality shall serve as sponsor.

(f) If an emergency service squad serves more than one municipality, the sponsoring agency shall be the municipality where the squad is located, unless otherwise agreed to, as per the terms of an interlocal service agreement.

(g) If an emergency service squad serves more than one sponsoring agency, N.J.A.C. 5:30-14.15 shall apply.

(c) For the purpose of this section, compensation shall include any payments received by the employee that are subject to statutory pension contributions. Compensation shall not include any stipends or other allowances received by an employee, pursuant to N.J.A.C. 5:30-14.7(b).

New Rule, R.2003 d.319, effective August 4, 2003.
See: 34 N.J.R. 2633(a), 35 N.J.R. 3608(b).

**SUBCHAPTER 15. ACCUMULATED ABSENCE
MANAGEMENT AND FINANCING**

Authority
N.J.S.A. 52:27BB-10.

Source and Effective Date

R.2001 d.370, effective October 15, 2001.
See: 33 N.J.R. 1509(a), 33 N.J.R. 3676(a).

5:30-15.1 Purpose and authority

(a) The purpose of this subchapter is to authorize and establish procedures for local government units to follow in accounting for accumulated absences and for the payment of employees on the basis of such absences, and in establishing reserves for compensated absences.

(b) This subchapter is promulgated pursuant to the authority of the Local Finance Board under N.J.S.A. 52:27BB-10, which empowers the Board to promulgate reasonable rules for the interpretation and administration of State laws included within the jurisdiction of the Division of Local Government Services, and N.J.S.A. 52:27BB-28, which empowers the Board to promulgate rules for the proper use of uniform accounting systems and for proper accounting methods.

5:30-15.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Accumulated absence” means any sick days, vacation days, personal days, compensatory time, or other absence time authorized as part of an employer agreement, which is not used by the employee during the allowed period, and which is permitted to accumulate over time to the benefit of the employee.

“Chief financial officer” means, except in the case of a municipality or county, the director of revenue and finance, comptroller, treasurer, collector or other financial officer of a local unit. In the case of a municipality, the chief financial officer means the person appointed pursuant to section 5 of P.L. 1998, c.110 (N.J.S.A. 40A:9-140.10); in the case of a county, the chief financial officer means the person appointed pursuant to section 4 of P.L. 1993, c.87 (N.J.S.A. 40A:9-28.4).

“Compensated absence” means the value of accumulated absence which is paid to the employee upon separation from the employer, pursuant to an employer agreement or local policy.

“Employee” means a member of a State administered pension program who is eligible for compensated absence benefits, pursuant to an employer agreement.

“Employer agreement” or “agreement” means a duly negotiated and approved labor agreement between the local unit and a collective bargaining organization; or a local unit employer practice or an agreement provided by ordinance or resolution as appropriate to the local unit, which allows the employee to accumulate sick days, vacation days, personal days, compensatory time, or other absence time, and which obligates the local unit to compensate the employee for the value of that time upon separation from employment.

“Local unit” means any county, municipality, or a local public authority or fire district that is subject to the Local Authorities Fiscal Control Law, N.J.S.A. 40A:5A-1 et seq.

“Separation from employment” means retirement, or termination of employment, pursuant to local policy.

5:30-15.3 Calculation of compensated absence liability

(a) Each municipality and county shall include a breakdown of accumulated absences and a preliminary schedule of the value of compensated absence, to be submitted as part of the local unit’s annual budget. The report shall indicate the amount of accumulated absence and the value of compensated absence by the legal basis for the benefit, such as labor contract, local ordinance, or an agreement with an individual employee, and shall summarize any off-setting reserves or budgeted appropriations.

(b) The annual audit required of every local unit shall report, each year, on the value of compensated absence owed to employees and the amount accumulated for payment. This information shall be reflected in financial reports and the annual audit, as follows:

1. For municipalities and counties, in the Notes to the Financial Statements;
2. For authorities, as a balance sheet liability pursuant to Government Accounting Standards Board (GASB) Statement Number 34 (1999), Basic Financial Statements—and Management’s Discussion and Analysis—for State and Local Governments, incorporated herein by reference, as amended and supplemented; and
3. For fire districts, on the Statement of Net Assets pursuant to GASB Statement 34.

(c) All compensated absence calculations shall be made pursuant to GASB Statement Number 16 (1992), Accounting for Compensated Absences (C. 60), incorporated herein by reference, as amended and supplemented.

(d) Budget appropriations for compensated absences shall be shown on a single budget line in each local unit budget.

5:30-15.4 Authorization for compensated absence payments

(a) All local unit payments for compensated absence shall be authorized locally by any one or combination of the following practices:

1. Any duly negotiated and approved labor agreement between the employer and a collective bargaining organization, executed pursuant to the New Jersey Employer–Employee Relations Act (N.J.S.A. 34:13A-1 et seq.);
2. A provision in a local ordinance or enabling resolution; and/or
3. An employment agreement with an individual employee, where the use of the benefit therein is authorized by local ordinance or enabling resolution.

(b) Payment for compensated absence shall be made upon certification by the chief financial officer of the local unit that sufficient documentation of the amount of the accumulated absence has been provided, and that funds are

available to pay for the amount of compensated absence due. Sufficient documentation shall include:

1. A copy of, or reference to, the agreement authorizing compensation;
2. Documentation of the amount of accumulated absence time; and
3. The total value of the compensation due based on the agreement and accumulated absence time.

(c) In the absence of sufficient documentation, payment for compensated absence may be awarded by resolution of the governing body, subject to the following:

1. The employee shall provide the governing body with a certification that includes an annual itemization of each type of accumulated absence, records maintained by the employee or employer to substantiate the absence, and an explanation as to the reasons that sufficient documentation, as described in (b) above, is not available. Said certification shall be attached to the resolution and shall serve as evidence of the accumulated absence, based on the employee's records. Where appropriate, local government units should supplement the employees' records, when they have the ability to do so.

2. If the employee is unable to produce all of the documentation required in (c)1 above, the governing body may, by resolution, approve payment for compensated absence based upon the employee's ability to provide partial documentation, and upon finding that there is good and reasonable cause to warrant payment in the absence of full documentation. Such good and reasonable cause may be in connection with the loss of relevant information due to technological changes in recordkeeping; the loss of data caused by fire, natural disaster and the like; the loss of dated information; or other reasonable explanation by the employee as to why sufficient documentation is not available.

3. Upon receipt of the certification and acceptance of the employee's records, or explanation for not providing sufficient documentation, the governing body may then approve payment by resolution, provided that the chief financial officer has certified that sufficient funds are available for payment.

4. Any resolution that is approved by the local unit in the absence of sufficient documentation shall so state that the compensation is being approved upon finding that there is good and reasonable cause to approve, based on the certified explanation provided by the employee.

Amended by R.2003 d.33, effective January 21, 2003.
See: 34 N.J.R. 2635(a), 35 N.J.R. 397(a).

In c(1), added the third sentence.

5:30-15.5 Accounting for compensated absence funds

(a) A county or municipality may appropriate and reserve funds for the purpose of compensating employees for accumulated absence time in accordance with the following:

1. No funds may be appropriated or reserved unless the local unit has complied with N.J.A.C. 5:30-15.4(a).

2. The amount to be appropriated is specifically reserved to the governing body. Nothing in this section shall require any specific amount to be appropriated in any given year. In addition:

- i. Total appropriations for compensated absences shall not exceed the value of the total accumulated absence, as determined by the chief financial officer of the local unit.

- ii. Once appropriated, funds so reserved for compensated absence shall not be used for any other purpose unless so approved by the Local Finance Board.

- iii. Current fund appropriations for municipalities and county governments shall be deposited into a dedicated trust fund, pursuant to N.J.S.A. 40A:4-39.

- iv. Funds may be disbursed in accordance with the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq., as necessary, to meet the obligations of the employer agreement.

SUBCHAPTER 16. AGENCY COMMUNICATIONS WITH LOCAL UNITS

Authority

N.J.S.A. 52:27BB-10.

Source and Effective Date

R.2002 d.126, effective April 15, 2002.
See: 34 N.J.R. 46(a), 34 N.J.R. 1543(a).

5:30-16.1 Definitions

As used in this subchapter, the following terms have these designated meanings:

"Division" means the Division of Local Government Services in the Department of Community Affairs.

"GovConnect" means the electronic network established by the State that permits the conduct of official business by and between agencies of government and covered local officials.

"Covered local official" means those positions required to participate in the GovConnect initiative (see N.J.A.C. 5:30-16.2(c)).

5:30-16.2 GovConnect

(a) GovConnect is an electronic government initiative that uses the Internet and advanced communication technologies for the conduct of official business between agencies and local government officials. Use of GovConnect will improve the efficiency, effectiveness and productivity of government business. GovConnect is expected to reduce the cost to local units of dealing with State agencies.

(b) Pursuant to (c) below, the covered local officials must register in their official capacity with the GovConnect website (<http://mynewjersey.state.nj.us/>) by the date shown herein. Additionally, these individuals must have Internet access for the conduct of local unit business. Registration means being enrolled as an authorized user of the GovConnect system. Covered local officials will receive information from the Division of Local Government Services on how to register on the system.

(c) Covered local officials and the date by which they must be registered in GovConnect are as follows:

1. Chief financial officer of a municipality: April 30, 2002.
2. Chief financial officer of a county: April 30, 2002.
3. Municipal Clerk: April 30, 2002.
4. Clerk to the County Board of Chosen Freeholders: April 30, 2002.
5. Tax collectors of a municipality: November 30, 2002.

Amended by R.2003 d.34, effective January 21, 2003.
See: 34 N.J.R. 2915(a), 35 N.J.R. 397(b).
In (c), added 5.

5:30-16.3 Grants

Local units whose covered local officials do not have access to an Internet capable computer, service with an Internet service provider, or are in need of appropriate computer and Internet training, may be eligible for grants of up to \$1,500 from the Division. The grants will be provided to eligible municipalities and counties for the purchase of computer hardware and software necessary to access the GovConnect website. Appropriate training costs and Internet access subscription costs may also be defrayed through the grant. Information on grants can be obtained on the Division's website at www.state.nj.us/dca/lgs/egg, by contacting the Division at (609) 943-4724 or by writing to the Director of the Division of Local Government Services, PO Box 803, Trenton, NJ 08625-0803.

SUBCHAPTER 17. ELECTRONIC
DISBURSEMENT CONTROLS FOR
PAYROLL PURPOSES

Authority
N.J.S.A. 52:27D-20.1.

Source and Effective Date

R.2003 d.205, effective May 19, 2003.
See: 34 N.J.R. 2377(a), 35 N.J.R. 2223(a).

5:30-17.1 Purpose

This subchapter sets forth standards for local governments to follow when contracting with an organization to make disbursements on the local unit's behalf, as permitted by N.J.S.A. 52:27D-20.1. The subchapter is intended to ensure that local units understand the risks associated with electronic disbursements and implement sound fiscal and control practices governing such disbursements. This subchapter is limited in application to third-party preparations and calculations for and the disbursement of salaries and wages, all withholdings, and additional related liabilities.

5:30-17.2 Definitions

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

"Chief financial officer" or "CFO" means the individual statutorily responsible for supervising the accounts and finances of a local unit and shall include any certifying and approval officer appointed pursuant to N.J.S.A. 40A:5-17(a), any individual appointed in accordance with N.J.S.A. 18A:19-4.1, or such individual in similar capacity legally appointed by the governing body of a local unit.

"Contract" means any written agreement entered into by a local unit and a disbursing organization for the purposes authorized in these rules.

"Dedicated cash account" means a demand deposit bank account owned by the local unit and funded solely for use by a disbursing organization in performing its duties and responsibilities in accordance with the contract.

"Disbursement" means any payment of moneys, including any transfer of funds, by any means, to the dedicated cash account established for use by a disbursing organization.

"Governing body" means the board, commission, council or other body having control of the finances of the local unit. In those local units in which a chief executive officer is authorized by law to participate in such control through powers of recommendation, approval or veto, the term includes such chief executive officer to the extent of such participation.

"Local unit" means a municipality, county, school district, authority subject to the "Local Authorities Fiscal Control Law," P.L. 1983, c.313 (N.J.S.A. 40A:5A-1 et seq.), or a school district as defined in N.J.S.A. 18A:18A-2(d).

"Payment documentation" includes transmittals, remittance forms, tax returns, releases, filings, reports, and tapes supporting the disbursement of funds.

"Payroll" means the object and result of all preparations and calculations for, and the disbursement of salaries and wages, all withholdings therefrom, and additional liabilities related thereto.

"Third-party disbursement service organization or disbursing organization" means an organization engaged either directly or indirectly to perform any of the services indicated in these rules.

"Third-party disbursement service" means such service or services of the type described in these rules. Such service or services may include the processing and disbursing of payroll and payroll agency obligations.

"Transaction" means any activity that, in accordance with sound fiscal practices, affects the general books of entry, ledgers, records, or logs of a local unit.

5:30-17.3 Authorization to use a third-party disbursement service organization for payroll

(a) The governing body of a local unit may enact policies for contracting with a disbursing organization to process payroll disbursements on its behalf. Such policies shall be formally authorized by ordinance or resolution of the governing body, as appropriate to the form of government and shall specify the tasks that may be performed by a disbursing organization. Such policies may involve the use of a disbursing organization:

1. To prepare the necessary payment documentation and execute disbursements from the local unit's bank account on behalf of the local unit;
2. To prepare payment documentation, take possession of local unit funds, and make such disbursements itself on behalf of a local unit; or
3. Any combination of (a)1 and 2 above.

(b) This subchapter applies to disbursing organizations and local units who contract with one another for the determination and disbursement of payroll and related funds.

1. The following service providers are not required to comply with this subchapter:

- i. Payroll service providers that perform payroll calculations and do not control the disbursement of payroll funds; and
- ii. Tax pay and file service providers that are certified users of the Electronic Federal Tax Payment System (EFTPS) batch filer program and the State of New Jersey EFTPS batch filer program, that do not release, transfer or otherwise execute disbursements of the local unit.

2. The following service providers are required to comply with this subchapter:

i. Payroll service providers who use their own customized programming process to execute disbursements for the local unit; and

ii. Payroll service providers who use a third party processor to execute disbursement for the local unit.

5:30-17.4 Local unit requirements

(a) Local units shall meet the following terms and conditions prior to executing contracts with disbursing organizations:

1. Prior to the execution of a contract with a disbursing organization, the governing body shall approve the use of disbursing organizations for the payment of claims pursuant to N.J.A.C. 5:30-17.3(a). Such approval shall describe those tasks to be performed by a disbursing organization to meet the governing body's objectives, including specific authorization to use electronic means for the disbursing of funds. Permissible tasks can include and are not limited to data collection, agency report preparation, calculation of withholding, direct deposit of payroll disbursements, or local unit transfer of funds to disbursing organization's account for subsequent payment.

i. The governing body shall, by resolution, approve any renewal or extension of a contract under this subchapter.

2. Pursuant to N.J.S.A. 40A:5-17(a)(1) or 18A:19-4.1, the governing body shall designate an approval officer to be responsible for authorizing and supervising the activities of the disbursing organization. For authorities operating under N.J.A.C. 5:31-4.1, the governing body shall designate an approval officer to authorize and oversee the activities of disbursing organizations.

i. The governing body shall supplement the duties of the approval officer established in accordance with N.J.S.A. 40A:5-17(a)(2) and 18A:19-4.1 to include the reconciliation and analysis of all general ledger accounts affected by the activities of the disbursing organization.

ii. If the terms of the contract between the disbursing organization and the local unit provide that the disbursing organization will hold funds of the local unit pending transmittal of those funds to a payee, the governing body must specifically authorize the disbursing organization to hold the funds pending transmittal.

iii. The governing body shall require the disbursing organization to provide the governing body with notification in the event:

- (1) The disbursing organization detects irregularities that may indicate potential fraud, noncompliance with appropriate laws, dishonesty, or gross incompetence on the part of the approval officer; or

(2) The disbursing organization experiences circumstances that could jeopardize its ability to continue operations or otherwise interrupt the services provided to the local unit.

iv. A transfer of local unit funds between local unit accounts, to a dedicated cash account or to an account owned or controlled by a disbursing organization shall be deemed a disbursement subject to the Local Fiscal Affairs Law, N.J.S.A. 40A:5-1 et seq., and is to be treated as in compliance with N.J.S.A. 18A:19-9 for school payrolls.

3. After the governing body has initially approved the use of disbursing organizations pursuant to N.J.A.C. 5:30-17.3 and (a) above, the CFO shall qualify disbursing organizations pursuant to the requirements of N.J.A.C. 5:30-17.5.

i. Prior to the execution of any contract for the provision of third-party disbursement services, the contract shall be reviewed and approved by the CFO of the local unit as to terms, including satisfaction of the requirements of N.J.A.C. 5:30-17.5 and 17.6

ii. Prior to the extension or renewal of a contract, the CFO shall complete a review of the services rendered under the contract. Such review shall be conducted in compliance with N.J.A.C. 5:30-17.5.

5:30-17.5 Eligibility requirements for disbursing organizations

(a) Disbursing organizations shall meet the following conditions and/or requirements:

1. The disbursing organization shall provide evidence of satisfactory internal control, evidence of which shall be required by the CFO. Such evidence may be:

i. The disbursing organization's Report on Policies and Procedures Placed in Operation and Tests of Operating Effectiveness, performed pursuant to AICPA (American Institute of Certified Public Accountants) Statement on Auditing Standards No. 70;

ii. A completed SysTrust™ examination with an unqualified report on Availability, Security, Integrity and Maintainability completed in accordance with AICPA/CICA (Canadian Institute of Chartered Accountants) SysTrust™ Principles and Criteria for Systems Reliability; or

iii. Evidence of compliance with a mutually agreed upon external standard for determination of the sufficiency of a system of internal controls that support the work to be performed in accordance with the policies established by the local unit.

2. All disbursing organizations shall have offices within a distance acceptable to the CFO of the local unit such that the physical delivery and receipt of documents and

records can occur in a manner that assures the delivery of paychecks on regularly scheduled paydays.

5:30-17.6 Contract terms and conditions

(a) All contracts between a local unit and disbursing organization shall:

1. Contain adequate provisions to indemnify the local unit against any losses incurred as a result of the actions or inactions of the disbursing organization;

2. Require the disbursing organization to be responsible for the errors and omissions of its employees or agents, particularly where those errors and omissions prevent timely disbursements on behalf of the local unit from being made, including penalties, fines, interest, and damages; and

3. In those cases where the disbursing organization takes possession of local unit funds, require adequate insurance to cover such losses as may arise as a result of errors, omissions, failure to perform or dishonesty in amounts at least equal to the highest level of exposure to the local unit for 30 days. Such exposure as regards cash shall be based on at least the amount of money accessible by the disbursing organization during said 30-day period and shall not include moneys that the disbursing organization cannot divert to its own benefit.

(b) All disbursing organizations shall have a written complaint procedure in existence. At a minimum, the complaint procedure shall require that a complaint log be maintained, which shall be available to the local unit for inspection.

(c) Upon reasonable notice, the disbursing organization shall allow an independent auditor compensated by the local unit to examine its internal controls applying SAS 70 standards, SysTrust™ standards or other standards and procedures mutually agreed upon to ensure accurate, complete and timely work product. Upon completion, the independent auditor's report shall be provided to the CFO and governing body and shall be for internal use only.

(d) All disputes between the parties and disputes concerning the contract or its operation shall be in writing and forwarded to the other party via registered mail. All contracts shall have appropriate provisions for:

1. Dispute resolution between the parties;

2. The service of process to the disbursing organization in New Jersey; and

3. Application of New Jersey law.

(e) Within five working days of each disbursement on behalf of a local unit, the disbursing organization shall provide to the CFO, reports and documentation supporting the disbursements. The contract shall also specify the information required by the local unit to enable it to reconcile its books and records.

(f) All corrections and adjustments must be completed and provided to the local unit promptly. All adjustments and reports of adjustments resulting in disbursements must be reported consistent with the provisions of (e) above.

(g) Copies of notices, memoranda, complaints or other correspondence received by the disbursing organization regarding local unit accounts shall be forwarded to the local unit within 48 hours of receipt.

(h) Contracts for third-party disbursement services are not data processing service contracts under N.J.S.A. 40A:11-15(5) and 18A:18A-42(d).

(i) All contracts for third-party disbursement services shall have appropriate provisions for termination of the contract, including, but not limited to, termination for failure to perform on the part of the disbursing organization.

(j) All contracts entered into between local units and disbursing organizations for the provision of third-party disbursement services shall be in writing and executed by all parties, including intermediaries, such as banks providing payroll services as part of a compensating balance agreement.

(k) The contract for third-party disbursement services must require that no disbursement is made unless the demand for payment meets the requirements of N.J.S.A. 40A:5-16, N.J.S.A. 18A:19-2 and this subchapter.