

“Authorized procurement card user” means the individual employee of the contracting unit authorized by the chief administrative officer to make transactions using a procurement 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:

1. The conditions under N.J.S.A. 40A:5-16(c)(1), covering circumstances when payment to vendors is required in advance of the delivery of certain goods or services that cannot be obtained from any other source at comparable prices, are as follows:

- i. An individual transaction shall not exceed 15 percent of the contracting unit's bid threshold;
- ii. Advance payment is required by the vendor;
- iii. Comparable pricing is not otherwise obtainable for such goods or services to be available at the time and place required; and
- iv. The contracting agent has approved such item for purchase from a particular vendor.

2. The conditions under N.J.S.A. 40A:5-16(c)(2), relating to circumstances when ordering, billing and payment transactions for goods or services are made through a computerized electronic transaction, are as follows:

- i. Transactions occurring under these circumstances shall not exceed 15 percent of the contracting unit's bid threshold;
- ii. When an order is placed from a computer to a computer, such as on the Internet or similar computer network;
- iii. The vendor requires immediate payment; and
- iv. The contracting unit's purchasing agent has approved such item for purchase from a particular vendor.

3. The conditions under N.J.S.A. 40A:5-16(c)3, which permits local units to pay out moneys without requiring certification are as follows:

- i. An individual transaction shall not exceed 15 percent of the contracting unit's bid threshold; and
- ii. Certification is not readily obtainable by the contracting unit; but such exceptions shall not include reimbursement of employee expenses or payment for personal services.

4. The following circumstances are deemed appropriate for P-card or electronic funds transfer use:

- i. Transactions shall be limited to the transaction thresholds specified in (a)1, 2 and 3 above;
- ii. Items purchased must be tangible supplies, parts or materials necessary for ongoing operation and function of the contracting unit (for example, office supplies, sanitary supplies, auto supplies), or non-tangible items including e-z pass and utility payments, publications, memberships in organizations, conferences and training fees;
- iii. Such items are purchased in transactions where vendor certification would not normally be readily available at the time of purchase;

iv. The cost of such purchases is comparable to costs available from other vendors where other vendors can provide the required goods and services in a timely manner; and

v. The contracting unit's purchasing agent has approved such item for purchase from a particular vendor.

(b) This section does not change bid thresholds or other limits in the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.).

(c) A procurement card number may be used in lieu of a credit card number required by a vendor.

5:30-9A.4 Conditions for use of procurement cards or electronic funds transfers; organization and access

(a) Contracting units shall meet the following requirements prior to implementing procurement card and electronic funds transfer programs:

1. The contracting unit shall adopt the appropriate administrative ordinance or resolution authorizing the specific purposes for use of procurement cards or electronic funds transfer consistent with the provisions of N.J.S.A. 40A:5-16(c) and limited by these rules. Examples of specific purposes may include, and are not limited to, acquisition of office supplies with individual value of less than \$50.00, membership dues, publication or subscriptions, auto parts and supplies with individual values of less than \$150.00, parts and repairs necessary for the comfortable occupancy of municipal buildings not to exceed \$500.00.

2. The chief financial officer, in consultation with the governing body or its designee, where applicable, shall promulgate policies and procedures governing the use of procurement cards and cause a copy of said policies and procedures to be distributed to each individual whose duties may at any time include the use of a procurement card, supervisory review, or reconciliation of activity.

3. The chief administrative officer, with the advice and consent of the chief financial officer, will identify positions within the organizational structure that will benefit from the use of a procurement card and establish limits by amount, period (time), and category of usage permissible. The CFO shall identify an individual to conduct a supervisory review of procurement card activity of these assigned individuals. In the case of officers of the contracting unit, a peer may conduct the supervisory review.

(b) An authorized procurement card user is prohibited from using a P-card to conduct personal business or for any circumstances that are not authorized in N.J.S.A. 40A:5-16(c) or N.J.A.C. 5:30-9A.3.

5:30-9A.5 Procurement card limit and control requirements

(a) A procurement card differs substantially from a credit card issued by a financial institution because of the controls that may be exercised by the contracting unit. Before selection of an issuer (and in addition to consideration of fees and rebates, software and computer requirements, and accessibility to the vendor), the following limits and controls shall be available to and exercisable directly by the CFO or other management-level officers of the contracting unit:

1. The ability to control limits on-line and in real-time;
2. The ability to establish, change or delete limits on each card individually;
3. The ability to categorically restrict the use of individual cards;
4. The ability to establish a cumulative limit for a specific period;
5. The ability to review current activity on-line; and
6. The ability to receive sorted or sortable detailed reports of activity, by authorized card user, department or spending category.

5:30-9A.6 Electronic funds transfer authorization

Electronic funds transfers shall be authorized by the CFO.

5:30-9A.7 Policies and practices governing use of procurement cards; audit

(a) The contracting unit shall ensure that the use of procurement cards is governed by sound fiscal and management controls. All policies and procedures shall be enforced to ensure that the contracting unit shall establish procedures regarding the use of procurement cards as follows:

1. All authorized procurement card users, individuals responsible for supervisory review, individuals responsible for activity reconciliations, the purchasing agent, and the CFO are required to complete training on the policies and procedures governing the use of procurement cards;
2. Procurement cards shall be issued in the name of a specific individual. Said individual, upon completion of the requisite training, shall complete and sign a contract of understanding that includes financial responsibility for misuse of the procurement card. A card shall not be issued unless it can be shown that such issuance is necessary for the conduct of ongoing operations in the normal course of providing government services. Under no circumstance shall procurement cards be used to purchase personal property or services, including travel and dining expenses. Existing law, N.J.S.A. 40A:5-16.1, provides mechanisms for employees to receive travel and expense funds in advance. A procurement card is not to be issued to an individual who is neither covered by a fidelity bond nor by a blanket honesty policy held by the contracting unit and shall be cancelled if a person to whom a procurement card is issued becomes ineligible for coverage under the fidelity bond or blanket honesty policy; and

3. Violations of policies governing the use of procurement cards or intermediary transfer agents shall result in appropriate remedial or disciplinary action without regard to the position held by the card user.

(b) The CFO is responsible for the identification, analysis and management of all risks associated with the use of procurement cards.

(c) The contracting unit shall publish and distribute within the organization all policies and procedures that govern all procurement card users, their supervisors, the purchasing agent, the accounts payable and accounting personnel responsible for reconciliation of procurement card statements and the disbursement of funds in satisfaction thereof. Said policies and procedures shall, at a minimum, describe the following:

1. Who may use a procurement card;
2. The documentation required to be submitted by authorized procurement card users to support transactions, including electronic funds transfers;
3. The training required before an individual is permitted to use a procurement card;
4. The types of transactions permitted (personal use is not permissible);
5. The initial limits and procedure for establishing or revising limits in the future;
6. Encumbrance of limits assigned or amounts to be transferred electronically;
7. The penalties and disciplinary action to be assessed for improper use of a procurement card;
8. Who is to conduct supervisory reviews;
9. Procedures for contesting items appearing on the procurement card statement;
10. Procedures for collecting restitution resulting from misuse;
11. Reconciliation of activity; and
12. Requirements for distribution of funds to the issuer.

(d) The CFO, with the assistance of the purchasing agent, shall assure that the following information is gathered and reviewed prior to any disbursement of funds to the issuer:

1. Evidence of each transaction, including a receipt or other acceptable documentation provided by the vendor of goods or services, and certified by the authorized procurement card user as having been received as described;
2. Evidence of supervisory review, certified by the reviewer that the purchase was appropriate and necessary;

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

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: