

# DLGS Regulatory Update

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# 2024 Municipal & County Budgets: Proposed Calendar and Other Key Items

- Annual Financial Statement (AFS) – Extension to March 8.
- Budget Introduction/Adoption extensions: March 29/April 30.
- Budget Review begins upon submission of Budget, AFS, Annual Audit, and the Corrective Action Plan.
- State Aid certifications issued upon Governor’s budget address.
- County budgets must be submitted electronically to Division’s FAST system.
- DLGS Exam Group 3 – on Municipal Information Sheet (those municipalities no longer carry a COVID deferred charge balance must contact us).

# Budget Cap Matters

## Local Finance Notice 2023-19

- Appropriation Cap COLA is 2.5%.
- Ordinance for 3.5% and for Cap Banking.
- Introduce Ordinance prior to budget introduction and adopt prior to budget adoption.
- Ordinance must be published, and a public hearing held at least 10 days from the date of publication.
- Health Insurance increase: 7.4%
  - Exclusion for 1977 Appropriation Cap 3.4%, Levy Cap 5.4%
  - Levy Cap Workbook calculates exclusion for both caps
  - Do not include waiver amounts in calculation – appropriate separately
  - One-year 2023 exclusions will be added to cap base using 2023 adopted budget amount.

# Budget Cap Matters

Cap calculations – levy cap workbooks

- Posted in FAST under introduced budget in portal

Referendum Process

- April 23, May 14 (not verified).
- February 26, March 19 for posting notice.
- Any emergency costs excluded last year must be deducted for 2024.
- As new contracts negotiated, please note: no cap exclusions for reduction of employee contributions

# Other Budget/Audit Items

- 2024 third year for COVID deferred charge
- For 2023 and 2024, the maximum annual appropriation to volunteer fire companies is \$161,526, increase of 3.5%. \$50,000 allowed for each additional company. 50% of the amount must be used for fire equipment, materials, and supplies. (Local Finance Notice 2022-19)
- State Aid – Prior year level for introduction (not Municipal Relief Fund Aid)
- Municipal Relief Fund Aid, if not anticipated in 2023, should be reserved on trial balance and anticipated in 2024 budget. Amount was doubled from prior year.
- Open Space increase – reserve difference and anticipate in 2024.
- Transitional Aid for Municipalities
  - File intent to apply with DLGS; State oversight begins with receipt of application
  - Can't assume receipt of aid – must have a plan
- NJSA 52:27D-437.16 - portion of inspection fees to be in trust (\$20 per inspected unit).
- NJSA 52:27H-88.a(2) UEZ proceeds received from State Treasury enterprise zone assistance funds must be placed in a trust fund.

# Other Budget/Audit Items

- Budget hard copies no longer required. All documentation to be attached in FAST.
- Forms will be made available in December. When submitting in FAST – forms will be automatically named when uploaded.
- DocuSign procedures for budget.
- Before submitting budget, insert vote on Sheet 2 w/ date of public hearing.
- For adopted budget, complete 41 and 42 in entirety.
- PRESS SUBMIT BUTTON FOR BUDGET TO BE RECOGNIZED. New update coming.
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# Other Budget/Audit Items

- Audits – 69 Audits outstanding in FAST by RMA
- CFO submission outstanding of Audits received is 126
- CFO still needs to acknowledge and submit Audit in FAST even if no comments.
- Attach all pertinent documents.
- RMA must submit first by uploading documents.
- This function must be completed before budget certification is completed.

# American Rescue Plan Act

- DLGS must receive copy of all ARP Project & Expenditure reports and all other reports filed w/ U.S. Treasury (Executive Order 267).
  - DLGS will verify submission during budget review.
  - See Local Finance Notice 2022-08.
- U.S. Treasury 2023 Interim Final Rule (Local Finance Notice 2023-16)

For costs incurred beginning 12/29/22:

- Surface Transportation Projects; Title I (CDBG-eligible) Projects, and relief from natural disasters are newly eligible uses for ARP LFRF funds.
  - Funds obligated to provide relief from natural disasters must be expended by 12/21/26.
  - Surface Trans. Projects and Title 1 expend by 9/30/26.
- All monies must still be obligated by 12/31/24.
- Public comment on the rule was due by 11/20/23.

# American Rescue Plan Act

## U.S. Treasury's new Obligation Interim Final Rule

- Currently in effect
- the term continues to mean an order placed for property and services and entry into contracts, subawards, and similar transactions that require payment; however
- “obligation” now also means that a recipient is also considered to have incurred an obligation by December 31, 2024, with respect to a requirement under federal law or regulation or a provision of the LFRF award terms and conditions to which the recipient becomes subject as a result of receiving or expending LFRF funds.

# American Rescue Plan Act

## Obligation Interim Final Rule (cont.)

- Subrecipients are not subject to the 12/31/2024 obligation deadline
- After the obligation deadline, LFRF recipients are permitted to replace a contract or subaward that was entered into prior to December 31, 2024 under the following circumstances:
  1. The recipient terminates the contract or subaward because of the contractor or subrecipient's default, the contractor or subrecipient goes out of business, or the recipient determines that the contractor or subrecipient will not be able to perform under the contract or carry out the subaward.
  2. The recipient and contractor or subrecipient mutually agree to terminate the contract or subaward for convenience.
  3. The recipient terminates the contract or subaward for convenience if the contract or subaward was not properly awarded (for example, if the contractor was not eligible to receive the contract), there is clear evidence that the contract or subaward was improper, the recipient documents the determination that it was not properly awarded, and the original contract or subaward was entered into by the recipient in good faith.

# American Rescue Plan Act

## Obligation Interim Final Rule (cont.)

LFRF funds may be used to cover costs related to:

1. Reporting and compliance requirements, including subrecipient monitoring
2. Single Audit costs
3. Record retention and internal control requirements
4. Property standards
5. Environmental compliance requirements
6. Civil rights and nondiscrimination requirements

Rule specifies reporting requirements for administrative/compliance expenses

# NJAC 5:30 - Readoption w/ Amendments and New Rules

- Local Finance Board approved Notice of Readoption w/ Amendments and New Rules its July 12, 2023 meeting.
- Published in NJ Register on August 7th as 55 N.J.R. 1690(a).
- Local Finance Notice 2023-21 issued on November 28<sup>th</sup> summarizes key changes.
- Other Local Finance Notices to be issued on various aspects of the readoption.

# NJAC 5:30 - Readoption w/ Amendments and New Rules

- Subchapters 1, 5, 9, 9A, 11, 15, 16, and 17 include regulations relevant to all local units
  - Subchapter 9A is also relevant to boards of education and charter schools.
- Subchapters 2, 3, 4, 6, 8, 12, and 18 pertain to municipalities and counties, with Subchapter 6 also now applicable to joint meetings (now known as regional service agencies).
- Subchapters 7, 10, and 13 apply to municipalities. Subchapter 14 (LOSAP) applies to municipalities and fire districts.
- The Board readopted Subchapters 11, 12, 14, and 18 without change.

# Subchapter 2

New rule N.J.A.C. 5:30-2.7 addresses useful life determinations by the Director where none are otherwise specified for a capital improvement under the Local Bond Law.

- Implements N.J.S.A. 40A:2-22.1.
- For any capital improvement or property with a useful life of five years or more that is not included at N.J.S.A. 40A:2-22, a municipality or county may request that the DLGS Director determine a period of usefulness for the same, provided that no law, including the Local Bond Law, expressly prohibits the authorization of obligations for the item.
- Any request to the Director shall:
  - Identify the subject capital improvement or property;
  - Request a useful life determination of not less than five years, but not more than 15 years;
  - Provide a certification from an engineer, architect, or other appropriate professional that the physical useful life of the capital improvement or property meets, at a minimum, the period of usefulness being requested;
  - State whether financing the capital improvement or property would require LFB approval; and
  - Supply such other information as may be required by the Director.

# Subchapter 2

## N.J.A.C. 5:30-2.7 (cont.)

- Once the Director issues a period of usefulness determination regarding property or a capital improvement, the Director may make said determination applicable to all municipalities and counties upon publication of a notice in the New Jersey Register.
- If the Director's useful life determination has been published in the New Jersey Register, a municipality or county may only submit a request for a determination for the same capital improvement or property if the request is readily and clearly distinguishable from the published determination.

# Subchapter 3

- Codifying of various existing procedures for budget introduction and adoption by municipalities and counties, including submission of budgets through FAST.
- N.J.A.C. 5:30-3.2 is amended to prohibit a municipality from adopting its annual budget unless the municipality has submitted to the Division a user-friendly budget section corresponding with its previous year's adopted budget.
  - This provision shall not be interpreted to allow a municipality to avoid submitting the user-friendly budget section of the adopted budget along with the full adopted budget when being submitted to the Division.
- N.J.A.C. 5:30-3.3 is amended to:
  - Clarify that, in the case of dedications by rider not requiring prior Director approval, the Division must still get a copy of the adopted resolution.
  - Allow a municipality with an Urban Enterprise Zone (UEZ) to establish, without Director approval, a dedication by rider for a UEZ trust fund. Implements [N.J.S.A. 52:27H-88.a\(2\)](#) which requires UEZ municipalities to hold, in a trust, UEZ funds received from the State Treasurer.
  - Cross-reference N.J.A.C. 5:30-9.9, which requires surcharges and convenience fees charged for electronic receipt transactions (e.g., ACH, credit card) to be deposited into a dedicated trust fund titled "Electronic Receipt Fees."

# Subchapter 3

N.J.A.C. 5:30-3.8 is amended to:

- No longer require submission to DLGS of the user-friendly budget section of the introduced budget.
  - Municipalities would still need to complete a user-friendly budget section corresponding with the introduced budget for benefit of the public.
- For accumulated absence liability, to require a municipality to list, as of the final day of the prior budget year:
  - the gross number of days of accumulated absences and the dollar value of same as of the final day of the prior budget year broken down by:
    - bargaining unit in the case of unionized employees and;
    - individual position in the case of non-unionized employees (not the individual's name), with non-union employees holding more than one position reported based on the accumulated absence liability for all positions held.
  - The number of individuals, regardless of whether part of a collective bargaining unit, that are subject to restrictions on accumulated absence compensation and/or accumulation pursuant to law.

# Subchapter 3

- New rule N.J.A.C. 5:30-3.12 requires a municipality that, pursuant to N.J.S.A. 40:62-3 or 40:62-3.1, seeks to sell or lease its water, sewer, or other municipally-owned public utility services to another entity to provide the Division with a copy of the resolution and/or ordinance authorizing the sale or long-term lease and, if applicable, the resolution authorizing the issuance of a bid or request for proposals, within five days of final adoption.
- New rule N.J.A.C. 5:30-3.13 requires a municipality or county to provide the Division with a certified copy of the ordinance or resolution authorizing a referendum on the municipal appropriations cap or on any tax levy question (e.g., municipal or county levy cap, open space) within five days of adoption.
  - A copy of the ballot question and any notice published regarding the referendum shall also be provided, along with the certified results of the referendum, within five days of the receipt thereof.

# Subchapter 4

Implements certain provisions of the Water Quality Accountability Act (WQAA), specifically Sections 7 and 8 of [P.L. 2021, c. 184](#), to require any municipality having its own water system to prepare and adopt a capital budget and capital program annually, which must identify the water infrastructure improvements listed in the annual WQAA capital improvement report submitted to the Department of Environmental Protection (DEP).

- Division approval to adopt the municipal budget may be withheld for the failure of a capital budget to identify such improvements. Wording must match that in WQAA report.
- Does not require the capital budget/program to extend beyond the current three-year/six-year minimums.

# Subchapter 5

- Deletes language in N.J.A.C. 5:30-5.2 that permitted municipalities and counties to sequentially number all purchases charged to non-salary line items through pre-printed multiple copy purchase orders rather than through a computerized encumbrance system.
- Local authorities and fire districts that do not maintain an encumbrance accounting system to maintain a record of all open contracts, including open purchase orders and, for purchases not requiring formal action of the board of commissioners, for the approving individual to consult the list of open contracts in determining whether there are sufficient uncommitted appropriations to provide for the payment.
- **N.J.A.C. 5:30-5.7 amended to require all local units, including authorities and fire districts, to maintain a general ledger for all funds instead of just the current fund.**
  - Also codifies guidance in [Local Finance Notice CFO 2003-14](#) concerning the maintenance of general ledger accounting systems, except that all local units, including authorities and fire districts, are now required to post totals for all funds to the general ledger on at least a monthly basis.
    - Formerly, funds with minimal complexity or few transactions could be done at end of FY.

# Subchapter 6

- Amends N.J.A.C. 5:30-6.1 to:
  - Apply to joint meetings (now known as regional service agencies) the accounting and auditing requirements applicable to municipalities and counties.
  - State that municipal, county, and joint meeting audits may list the most recent available GASB 68 and 75 information, rather than wait for the most current version as GAAP entities must do.
  - Update references to NJ's OMB Circular and federal OMB regulation codifying former Circular A-133.
- New N.J.A.C. 5:30-6.4, 6.6, and 6.7 codifies much of the current audit procedure including audit submission and publication, the audit synopsis, and corrective action plan.

# Subchapter 6

Adapted from N.J.A.C. 5:31-7.6(g) for authority audit synopses, N.J.A.C. 5:30-6.4 requires the synopsis of audit to include:

- A comparative balance sheet;
- A comparative statement of revenue, expenses/expenditures, and changes in retained earnings/fund balance;
- A summary of all comments, findings, and recommendations. If the audit contains one or more findings repeated from the prior year's annual audit, the summary shall specifically identify those findings as repeat findings;
- If the annual audit contains one or more findings, a statement that a corrective action plan outlining actions to be taken to correct the finding or findings will be placed on file for public inspection with the clerk (or joint meeting secretary).
  - Clerks and joint meeting secretaries are responsible for publishing the synopsis of audit within 30 days of local unit receiving the annual audit.

# Subchapter 6

- New rule N.J.A.C. 5:30-6.6 codifies guidance in Local Finance Notice CFO 97-16 concerning corrective action plans, including governing body's responsibility to adopt a summary schedule of audit findings
  - For a single audit - separate corrective action plan and summary schedule of prior audit findings.
- New rule 5:30-6.7 codifies the requirements for submission of the annual audit and associated documents.
- Group affidavit/resolution and the corrective action plan must be submitted to DLGS within 5 days of resolution adoption/filing w. clerk.

# Subchapter 6

- New rule N.J.A.C. 5:30-6.8 establishes a procedure that auditors must follow when there is detection of an illegal act, shortage, or irregularity.
  - Adapted from N.J.A.C. 5:31-7.7 for authority/special district audits.
- Special confidential report (Appendix) filed w/ DLGS and local unit

Section One: Preliminary report to be filed w/ DLGS within 48 hours after the discovery regardless of whether facts have been definitively established.

Governing body shall make immediate report to the bonding company and county prosecutor upon presentation of the preliminary report of the auditor.

Section Two: Filed immediately after the auditor has completed the work, or after the auditor has completed the preliminary work to a point where the auditor can make a fair determination as to the amount involved.

The auditor shall file supplements or preliminary reports from time to time pending the filing of Section Two in completed form.

Section Three: Filed upon final disposition of the case.

# Subchapter 7

Amends N.J.A.C. 5:30-7.4 to classify the following municipalities as ineligible for local budget examination:

- Transitional Aid municipalities;
- Municipalities failing to submit to the Division the user-friendly budget corresponding with their previous year's adopted budget;
- If, during the current or prior fiscal year, an individual who does not hold a municipal finance officer certificate is or was serving as a temporary CFO pursuant to N.J.S.A. 40A:9-140.13;
- If, during the current or prior fiscal year, a private entity is or was temporarily fulfilling the duties of a chief municipal finance officer pursuant to N.J.S.A. 40A:9-140.10;
- Municipalities where, in the prior fiscal year, voters approved the sale of a water or sewer system pursuant to N.J.S.A. 40:62-5; and
- If, in the prior fiscal year, the municipality has completed the approval process pursuant to the Water Infrastructure Protection Act (N.J.S.A. 58:30-1 et seq.) for the sale of a water or sewer system.

# Subchapter 8

- Updates regulations concerning surety bond coverage provisions to:
  - Conform with the provisions of P.L. 2013, c. 2 that permit blanket bond coverage for chief financial officers, tax collectors, and municipal court judges and administrators.
  - Establish as mandatory the heretofore recommended CMFO surety bond schedule – NJAC 5:30-8.2.
    - Exposure index, from which the bond amount is calculated, is at least 10% of the total revenues of the local unit
    - Effective January 1, 2024
  - Amend the exposure index for chief financial officers and tax collectors to include additional categories of revenue handled by those officials.
  - For tax collectors, clarifying that the term “tax duplicate” refers to all tax levies.
- New rule N.J.A.C. 5:30-8.6 establishes a regulatory framework for the hiring of off-duty law enforcement (e.g., road construction, security), including requiring the adoption of a formal policy by the municipality or county and defining permissible administrative fees.
- New rule N.J.A.C. 5:30-8.11 establishes required content and procedures for annual stormwater utility reporting, implementing N.J.S.A. 40A:26B-11.

# Subchapter 8 – N.J.A.C. 5:30-8.2

<u>Exposure Index</u>	<u>Bond Amount</u>	<u>Exposure Index</u>	<u>Bond Amount</u>
<u>0 - 25,000</u>	<u>15,000 – 25,000</u>	<u>4,175,000 – 5,000,000</u>	<u>350,000 – 400,000</u>
<u>25,000 – 125,000</u>	<u>25,000 - 50,000</u>	<u>5,000,000 – 6,075,000</u>	<u>400,000 – 450,000</u>
<u>125,000 – 250,000</u>	<u>50,000 – 75,000</u>	<u>6,075,000 – 7,150,000</u>	<u>450,000 – 500,000</u>
<u>250,000 – 500,000</u>	<u>75,000 – 100,000</u>	<u>7,150,000 – 9,275,000</u>	<u>500,000 – 600,000</u>
<u>500,000 – 750,000</u>	<u>100,000 – 125,000</u>	<u>9,275,000 – 11,425,000</u>	<u>600,000 – 700,000</u>
<u>750,000 – 1,000,000</u>	<u>125,000 – 150,000</u>	<u>11,425,000 – 15,000,000</u>	<u>700,000 – 800,000</u>
<u>1,000,000 – 1,375,000</u>	<u>150,000 – 175,000</u>	<u>15,000,000 – 20,000,000</u>	<u>800,000 – 900,000</u>
<u>1,375,000 – 1,750,000</u>	<u>175,000 – 200,000</u>	<u>20,000,000 – 25,000,000</u>	<u>900,000 – 1,000,000</u>
<u>1,750,000 – 2,125,000</u>	<u>200,000 – 225,000</u>	<u>25,000,000 – 50,000,000</u>	<u>1,000,000 – 1,250,000</u>
<u>2,125,000 – 2,500,000</u>	<u>225,000 – 250,000</u>	<u>50,000,000 – 87,500,000</u>	<u>1,250,000 – 1,500,000</u>
<u>2,500,000 – 3,325,000</u>	<u>250,000 – 300,000</u>	<u>87,500,000 – 125,000,000</u>	<u>1,500,000 – 1,750,000</u>
<u>3,325,000 – 4,175,000</u>	<u>300,000 – 350,000</u>		

# Subchapters 9 & 9A

## Subchapter 9

Effects various updates to reflect Section 9 of P.L. 2020, c. 34, which amended the Government Electronic Payment Acceptance Act (N.J.S.A. 40A:5-43 to 47) to permit local units to accept:

- Internet-based transfer of funds through an Internet-based payment system (defined as an “online funds transfer”); and
- Funds transfers through a service accepting payments made in-person, by any method, which then performs an electronic funds transfer to the payee (defined as an “in-person funds transfer”). In-person funds transfers are offered by a variety of retail establishments (including check-cashing establishments).
- Funds must be deposited directly into a local government’s GUDPA-protected account.

## Subchapter 9A

Amendments to N.J.A.C. 5:30-9A.6 clarify this provision’s relationship to N.J.S.A. 40A:5-16.b, which establishes the general requirement that an officer or duly designated employee of the local unit certify that goods or services have been received prior to the local unit making payment.

Would further clarify that the certification requirement at N.J.S.A. 40A:5-16.b applies absent another statute or a Board regulation expressly authorizing advance payment.

# Subchapter 15 (Accumulated Absences)

- Updates reflect various statutes pertaining to accumulated absence liability and codification of [LFN-2008-10](#) guidance.
- Applies Subchapter 15 to joint meetings/regional service agencies.
- Amends N.J.A.C. 5:30-15.3 to require a more detailed breakdown of accumulated absence liability on the introduced/adopted budget by:
  - Sick days, vacation days, personal days, compensatory time, other absence time
  - Bargaining unit (unionized employees)
  - Individual position for non-unionized employees, non-union employees holding more than one position reported based on the combined accumulated absence liability for all positions held.
  - Number of individuals subject to limitations of P.L. 2097, c. 92 and P.L. 2010, c. 3.
  - For each collective bargaining unit or individual position, legal basis for the benefit.
- Amends N.J.A.C. 5:30-15.4 to require documentation of an employee's hire date and the amount of accrued absence time before compensation can be paid out to an employee.

# Subchapter 15 (Accumulated Absences)

- New rule N.J.A.C. 5:30-15.10 requires, as part of the annual audit, the auditor to undertake sample testing of the local unit's compensated absence liability, if any, using the following procedures:
  - Inspecting the budget's accumulated absence data and employee personnel records to:
    - confirm whether those records support # of hours or days of accumulated absence recorded for the employee being tested;
    - identify whether the employee is subject to the provisions of P.L. 2007, c. 92 or P.L. 2010, c. 3 pertaining to accumulated or compensated absence.
  - Confirm that the dollar value of compensated absence recorded for the employee being tested is authorized by a labor contract, individual employment agreement, or an ordinance or resolution as appropriate to the local unit.
  - If the employee is subject to the provisions of P.L. 2007, c. 92 or P.L. 2010, c. 3 pertaining to accumulated or compensated absence, confirm that the recorded dollar value does not exceed that authorized pursuant to law.