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Masser, Michelle

From: egg@dca.state.nj.us
Sent: Wednesday, June 22, 2016 9:28 AM
To: Masser, Michelle
Subject: Pre-proposed Amendments regarding Certification of Available Funds

Dear Municipal Clerk:

The Local Finance Board is seeking public input on draft changes to rules pertaining to Certification of Available Funds. The Notice of Preproposal concerning draft amendments to N.J.A.C. 5:30-5.3 through 5.5 can be found on the Division?s "Rules and Regulations" webpage under the heading "Proposed Rules"; the link is http://www.nj.gov/dca/divisions/dlgs/resources/rules_reg.html.

Please submit written comments on the notice of pre-proposal by July 20, 2016 via e-mail to dlgs@dca.nj.gov or by regular mail to: Patricia Parkin McNamara, Executive Secretary - Local Finance Board - Department of Community Affairs - PO Box 803 - Trenton, New Jersey 08625-0803.

For comments submitted via e-mail, please place in the subject heading "N.J.A.C. 5:30 Certification of Available Funds Pre-Proposal".

THIS NOTICE HAS BEEN SENT TO THE FOLLOWING OFFICIALS: Municipal Clerk, Chief Financial Officer / County Freeholder Board Clerk, Chief Financial Officer / Authority Officials / Fire District Officials / Procurement Officials

RULE PROPOSALS

INTERESTED PERSONS

Interested persons may submit comments, information or arguments concerning any of the rule proposals in this issue until the date indicated in the proposal. Submissions and any inquiries about submissions should be addressed to the agency officer specified for a particular proposal.

The required minimum period for comment concerning a proposal is 30 days. A proposing agency may extend the 30-day comment period to accommodate public hearings or to elicit greater public response to a proposed new rule or amendment. Most notices of proposal include a 60-day comment period, in order to qualify the notice for an exception to the rulemaking calendar requirements of N.J.S.A. 52:14B-3. An extended comment deadline will be noted in the heading of a proposal or appear in subsequent notice in the Register.

At the close of the period for comments, the proposing agency may thereafter adopt a proposal, without change, or with changes not in violation of the rulemaking procedures at N.J.A.C. 1:30-6.3. The adoption becomes effective upon publication in the Register of a notice of adoption, unless otherwise indicated in the adoption notice. Promulgation in the New Jersey Register establishes a new or amended rule as an official part of the New Jersey Administrative Code.

COMMUNITY AFFAIRS

(a)

DIVISION OF LOCAL GOVERNMENT SERVICES
LOCAL FINANCE BOARD
Notice of Pre-Proposal
Certification of Available Funds
Pre-Proposed Amendments: N.J.A.C. 5:30-5.3 through 5:30-5.5

Authorized By: Local Finance Board, Timothy J. Cunningham, Chair.
Authority: N.J.S.A. 52:27BB-10.
Pre-Proposal Number: PPR 2016-001.

Please submit written comments on the notice of pre-proposal by July 20, 2016, in writing or via e-mail to:

Patricia Parkin McNamara, Executive Secretary
Local Finance Board
Department of Community Affairs
PO Box 803
Trenton, New Jersey 08625-0803
dlgs@dca.nj.gov

For comments submitted via e-mail, please place in the subject heading "N.J.A.C. 5:30 Certification of Available Funds Pre-Proposal".

Take notice that the Local Finance Board seeks public input on draft changes to rules pertaining to the Certification of Available Funds. These draft revisions and the background for same are discussed in further detail below.

When the governing body of a local unit governed by the Local Budget Law or Local Authorities Fiscal Control Law (N.J.S.A. 4A:4-1 et seq. and 40A:5A-1 et seq., respectively) awards any contract, the chief financial officer or another certifying financial officer must certify to the availability of funds in writing to the governing body pursuant to N.J.A.C. 5:30-5.4 and, for certain special situations, N.J.A.C. 5:30-5.5. N.J.A.C. 5:30-5.4(a)1 and 2 require that the certification of available funds and the governing body resolution awarding the contract set forth the budget line item appropriation or appropriations to which the contract will be charged.

The Local Finance Board, at a public meeting on December 10, 2014, approved the proposal of amendments to N.J.A.C. 5:30-5.4(a)1 and 2 that would 1) require a certification of available funds to set forth the maximum dollar amount of the contract pending approval by the governing body; 2) bar a certifying financial officer from issuing a certification of funds unless the maximum dollar value of the contract pending approval by the governing body is provided; and 3) requiring the resolution awarding the contract to set forth the maximum dollar amount of the contract. The proposed amendment, published in the January 20, 2015 New Jersey Register at 47 N.J.R. 247(a), was based on the recommendations of Board staff in response to a petition for rulemaking submitted by Mr. John Paff, Chairman of the New Jersey Libertarian Party's Open Government Advocacy Project, published in the September 15, 2014 New Jersey Register as 46 N.J.R. 1977(b).

Three commenters submitted comments to the Board concerning the proposed amendments: William G. Dressel, Jr., Executive Director of the New Jersey League of Municipalities; James B. Arsenault, Esq., Acting County Counsel, County of Cape May; and Joseph S. Clark, Purchasing Manager, City of Ocean City. Mr. Dressel commented that the League of Municipalities was supportive of the proposed amendment as a helpful and common sense change. Mr. Arsenault expressed concern that the rule would conflict with the administration of open-ended contracts, as well as contracts that straddle more than one budget year. Open-ended contracts are those contracts for which price bids were solicited on a unit basis because exact quantities were not known at the time bids were sought. Mr. Clark commented that implementing the proposed amendment would be problematic for contracts driven by unit pricing, multi-year contracts for services (particularly those with cost inflators linked to a formula), and change orders.

Upon review of the above-referenced comments, the Board determined that technical guidance on the part of the Division of Local Government Services would be insufficient to resolve any conflict between the amendments initially proposed and the certification of available funds for contracts falling under certain special situations set forth in N.J.A.C. 5:30-5.5. N.J.A.C. 5:30-5.5 addresses methods of certifying available funds in the following situations: when a local unit is operating under a temporary budget pursuant to N.J.S.A. 40A:4-19; open end contracts, contracts up to 12 months not coinciding with the local unit's fiscal year; and multi-year contracts. In certain instances the local unit is not able to certify, or has the option of not certifying, the availability of funds for the maximum dollar value of a contract that falls within the special situations set forth in N.J.A.C. 5:30-5.5. The Board intends to avoid any potential for confusion relating to encumbrance of funds in these special situations.

The Board, at its May 11, 2016, meeting, voted to prepropose amendments to N.J.A.C. 5:30-5.4 and 5.5 in lieu of its original proposed amendments. The preproposed amendments to N.J.A.C. 5:30-5.4 and 5.5 take into account the above-referenced scenarios while continuing to ensure the integrity of the process of certifying available funds. Preproposed amendments to N.J.A.C. 5:30-5.4(a) 1 and 2 would 1) require a certification of available funds to set forth the maximum dollar amount of the contract pending approval by the governing body; 2) bar a certifying financial officer from issuing a certification of funds unless the maximum dollar value of the contract pending approval by the governing body is provided; and 3) require the resolution or ordinance awarding the contract to set forth the maximum dollar amount of the contract. However, the preproposed amendment would caveat that the requirement for a certification of available funds set forth the maximum dollar amount

of the contract pending approval by the governing body is subject to exceptions set forth in N.J.A.C. 5:30-5.5, proposed amendments to which are set forth below. The maximum dollar value of the contract would still need to be supplied by the governing body to the certifying officer, as well as appear on the contract award resolution.

A municipality or county operating under a temporary budget adopted pursuant to N.J.S.A. 40A:4-19 has the option, pursuant to N.J.A.C. 5:30-5.5(a)2, to only certify funds up to the extent of the liability to be incurred during the temporary budget period, with the remaining balance to be certified upon final budget adoption. The Board proposes to amend N.J.A.C. 5:30-5.5(a)2 to state that the maximum dollar value of the contract required to be shown on the certification of available funds pursuant to N.J.A.C. 5:30-5.4 can be likewise prorated. Upon final budget adoption, the remaining balance of the maximum dollar value shall appear on the subsequent certification of available funds filed at that time.

Pursuant to N.J.A.C. 5:30-5.5(b)2, an open end contract can either be charged against the budget for the full maximum amount at the time the contract is entered into, or charged as goods or services are ordered or otherwise called for (with the certification of available funds attached to the file copy of the purchase order). When the local unit selects the latter method, the requirement that the maximum dollar value of the contract be displayed on a certification of available funds would not apply.

Commenters Arsenault and Clark expressed that it would be problematic and impractical to assign a maximum dollar value of an open end contract. While the Board agrees that the amendments initially proposed should be revised, so as not to compromise the ability of local units to certify available funds for open end contracts as goods and services are called for, the Board finds that questions with respect to establishing the maximum dollar value of an open-ended contract on a contract award resolution could be resolved through technical guidance issued by the Director of the Division of Local Government Services.

If a contract is awarded for a period of up to 12 months that does not coincide with the local unit's fiscal year, and the contract is not for a professional service, a single undertaking, or one basic object, N.J.A.C. 5:30-5.5(c)2 permits a local unit to certify available funds in separate intervals for each year of the contract. For example, a municipality awarding a 12-month contract in July of Year 1 could certify the liability to be incurred in Year 1, the temporary budget period of Year 2 and the remainder of Year 2 upon final budget adoption. When funds are certified under the procedure set forth in N.J.A.C. 5:30-5.5(c)2, the proposed amendment states that the maximum dollar value of the contract required to be shown on the certification of available funds pursuant to N.J.A.C. 5:30-5.4 can be likewise prorated.

For contracts entered into pursuant to N.J.S.A. 40A:11-15 for periods exceeding 12 months (multi-year contracts), other than contracts for construction and related services pursuant to 40A:11-15(9), N.J.A.C. 5:30-5.5(d)1ii states that funds may be charged and certified "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 [N.J.A.C. 5:30-5.5] as might apply with respect to temporary budgets, open-end contracts, or contracts not commencing at the beginning of the fiscal year." When funds are certified under the procedure set forth in N.J.A.C. 5:30-5.5(d)1ii, the proposed amendment to same would state that the maximum dollar value of the contract required to be shown on the certification of available funds pursuant to N.J.A.C. 5:30-5.4 can be prorated as appropriate. The maximum dollar value of the contract would still need to be supplied by the governing body to the certifying officer, as well as appear on the contract award resolution; however, in situations where a multi-year contract is subject to a periodic cost-inflator (for example, Consumer Price Index percentage on anniversary of contract), the cost-inflator shall be noted along with the maximum dollar value.

In addition to the above-referenced amendments, the Board is also preproposing amendments to N.J.A.C. 5:30-5.3(c), 5.4(b), and 5.5(b)2 that would reflect the current process for ensuring availability of funds when 1) a contract is awarded by a purchasing agent, rather than the governing body; or 2) goods or services are ordered pursuant to an open end contract. For open end contracts, N.J.A.C. 5:30-5.5(b)2 currently requires a purchasing agent to obtain from the chief financial officer or certifying finance officer a written certification of available funds before each purchase and attach same to the file copy of each corresponding purchase order. However the certifying finance officer, through the encumbrance accounting system utilized by local units, already enters into the system an encumbrance equal to the funds required to effectuate the purchase, thus preventing overexpenditure of funds. The preproposed amendments to the above-referenced subsections would eliminate the paper-driven process required by N.J.A.C. 5:30-5.5(a)2. N.J.A.C. 5:30-5.3(c) and 5.4(b) would also be amended to more clearly reference the current process for ensuring available funds through a local unit's encumbrance accounting system.

Further, the Board has also determined that amendments to various phrases and wording, including, but not limited to, the consolidation of current N.J.A.C. 5:30-5.4(a)4 and 5 into current N.J.A.C. 5:30-5.4(a)6 (preproposed for recodification as N.J.A.C. 5:30-5.4(a)4), are necessary in order to enhance regulatory clarity.

Full text of the pre-proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 5. CERTIFICATIONS OF AVAILABILITY OF FUNDS, AND ACCOUNTING SYSTEM REQUIREMENTS FOR LOCAL UNITS

5:30-5.3 General requirements

(a)-(b) (No change.)

(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 **be able to** ascertain from **an appropriate entry made into the local unit's encumbrance system by** 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.

5:30-5.4 Procedure

(a) The following procedure shall be utilized for the certification of funds when a contract is to be [awarded] **approved** 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 **and/or the bond ordinance appropriation** to which the contract will be properly charged[,] **and, unless otherwise permitted under a special situation set forth in N.J.A.C. 5:30-5.5, the maximum dollar value of the contract pending approval by the governing body;** 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. **No chief financial officer or certifying finance officer shall issue a certification of available funds unless the governing body provides the chief financial officer or certifying finance officer with the maximum dollar value of the contract pending approval by the governing body. Where the contracting pending approval by the governing body is for more than twelve months and is subject to a periodic cost-inflator (e.g. Consumer Price Index percentage on anniversary of contract), the cost-inflator shall be provided to the chief financial officer or certifying finance officer along with the maximum dollar value.**

2. No resolution **or ordinance** 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 **the governing body has been provided with the written certification of available funds required by (a)1 above, the local unit's attorney has confirmed that the required certification of available funds has been provided to the governing body, and the resolution or ordinance** [it shall] recites that [such a certificate showing availability of] **the required certification of available** funds has been provided **to the governing**

body. The resolution **or ordinance authorizing entering into the contract** shall **also** specify the exact line item appropriation(s) **and**/or **bond** ordinance **appropriation** which shall be charged **and the maximum dollar value of the contract**.

3. The certification of availability of funds shall be attached to the original copy of the resolution or ordinance **authorizing entering into the contract** 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] **4.** 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 **set forth in N.J.A.C. 5:30-5.3(c) and 5.4(b) shall take the place of and be used instead of the written certification of available funds described in (a)1 above**.

(b) When a contract is awarded and a resolution **or ordinance** 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] **cause** an appropriate entry **to be made** 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.

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] **the local unit** may enter into a contract for a period extending beyond the time period funded in the temporary budget[, subject to the following] **upon compliance with the following**:

1. [The] **If the full cost of that year is to be charged against the temporary budget, the written certification of available funds required by N.J.A.C. 5:30-5.4(a) shall certify the availability of the** full cost of the contract for that fiscal year [shall be certified against] **in** the temporary budget, which must contain sufficient appropriations therefor; or

2. If the full cost of that year [is] **would** not **be** charged against the temporary budget, **the written certification of available funds required by N.J.A.C. 5:30-5.4(a) shall certify the availability of** at least [the] **a** 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] **the temporary budget period** subject to the appropriation of sufficient funds. **The maximum dollar value of the contract pending approval by the governing body that is required to be shown on the certification of available funds pursuant to the procedure set forth in N.J.A.C. 5:30-5.4(a) shall be similarly prorated.** Immediately after the final budget [adoption] **is adopted**, a [certificate] **written certification** of available funds shall be prepared for the remaining balance and filed with the original ordinance or resolution **authorizing entering into the contract**.

(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] **the local unit may enter into the contract upon compliance with the following**:

[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]

1. If the full amount of the contract is to be charged against the budget at the time the contract is entered into, the written certification of available funds required by N.J.A.C. 5:30-5.4(a) shall certify the availability of the full amount of the contract; or

2. [No] **If the full amount of the contract would not be charged against the budget at the time the contract is entered into, no** amount shall be [chargeable or certified] **encumbered** 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.] **pursuant to the open end contract. When this option is utilized, the budgetary accounting encumbrance process set forth in N.J.A.C. 5:30-5.3(c) and 5.4(b) shall take the place of and be used instead of the written certification of available funds described in N.J.A.C. 5:30-5.4(a).**

(c) Contracts up to 12 months not coinciding with fiscal year: When a contract [is awarded for a period] **has a term** of up to 12 months **that does** not [coinciding] **coincide** 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.] **the local unit may enter into the contract upon compliance with the following:**

1. If the contract is for a professional service or is [essentially] **for** a single undertaking or project with one basic [work project required] **object** (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] **the full amount of the contract shall be charged against the budget at the time the contract is entered into and the written certification of available funds required by N.J.A.C. 5:30-5.4(a) shall certify the availability of the full amount of the contract**. This method may also, at [local] **the** option **of the local unit**, be followed for contracts described in (c)2 below.

2. If the contract is not [of the character described in (c)1 above, and] **for a professional service or for a single undertaking or project with one basic object it** 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] **contract shall be charged against the budgets in the two consecutive fiscal years as follows: at the time the** contract **is** being [awarded] **entered into** ([with respect to] **for** the amount [from] **to be incurred during** the first fiscal year)[;] **and at the time of** the adoption of the temporary budget and the adoption of the final budget (for the [remainder] **remaining amount** of the contract for the second fiscal year). **The written certification of available funds required by N.J.A.C. 5:30-5.4(a) shall certify the availability of the prorated amount reflecting the liability to be incurred during the first fiscal year and a second written certification of available funds shall certify the availability of the remaining amount to be incurred during the second fiscal year. When funds are certified under this procedure, the maximum dollar value of the contract pending approval by the governing body that is required to be shown on the certification of available funds pursuant to N.J.A.C. 5:30-5.4(a) shall be similarly prorated.**

(d) Multi-year contract requirements [are as follows]: **When a contract has a term of more than 12 months, the local unit may enter into the contract upon compliance with the following:**

1. [Contracts entered into] **If the contract is** 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] **If the contract is 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] **the full amount of the contract shall be charged against the budget at the time the contract is entered into and the written certification of available funds required by N.J.A.C. 5:30-5.4(a) shall certify the availability of the full amount of the contract**;

ii. For **all** 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] **with a term of more than 12 months, an amount reflecting all liability to be incurred during the fiscal year shall be charged to the budget for each fiscal year covered by the term of the contract** 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. **The written certification of available funds required by N.J.A.C. 5:30-5.4(a) for each fiscal year shall certify the availability of all funds to be charged to the budget for that fiscal year. When funds are certified under this procedure, the maximum dollar value of the contract pending authorization by the governing body that is required to be shown on the first certification of available funds pursuant to N.J.A.C. 5:30-5.4(a) shall be similarly prorated as appropriate.**

2. [All] **If the contract is for a** multi-year lease[s and] **or a** contract[s except contracts] **that is not** specifically exempted pursuant to N.J.S.A. 40A:11-15, **it** shall contain a clause making [them] **the contract** 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 **permitting the local unit to unilaterally cancel the contract for the coming year.**

(e)-(f) (No change.)

(a)

DIVISION OF HOUSING AND COMMUNITY RESOURCES

Office of Recreation

Proposed Amendments: N.J.A.C. 5:51-1.2, 1.3, 1.4, and 1.5

Proposed Repeals: N.J.A.C. 5:51-1.1 and 1.6

Authorized By: Charles Richman, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 52:27D-170; and P.L. 1978, c. 379.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2016-098.

Submit written comments by August 19, 2016, to:

Gabrielle N. Gallagher
Department of Community Affairs
PO Box 800
Trenton, New Jersey 08625-0800
Fax No. (609) 984-6696
E-mail: Gabrielle.Gallagher@dca.nj.gov

The agency proposal follows:

Summary

The Office of Recreation oversees the administration of the Recreational Opportunities for Individuals with Disabilities (ROID) grants and certification/recertification of recreation professionals. N.J.A.C. 5:51 provides standards for municipalities and counties seeking grant funds in support of integrated recreational services. These rules provide guidance to grantees on using these funds to create new programs that are accessible to individuals with disabilities, or to transform existing recreation programs so as to be accessible to all residents.

These rules provide definitions of the types of services allowable under the grant, in addition to identifying eligibility standards for applicants. These rules also provide an outline of the application and grant awarding process within the Department's electronic grants system, SAGE.

The amendments reflect the following changes:

1. N.J.A.C. 5:51-1.1 is proposed for repeal as it has been deemed to be unnecessary and is repetitive of other information already contained in the chapter.

2. At recodified N.J.A.C. 5:51-1.1, the definition for "persons with disabilities" is updated to reflect more current terminology replacing the antiquated "mental retardation" with the more contemporary term "intellectual disability" and the definition of "Certificate of Appropriated Funds" is revised to "Certificate of Availability of Funds" and the definition is amended to add a cross-reference to N.J.A.C. 5:30-5.4.

3. Recodified N.J.A.C. 5:51-1.3(a) is proposed for deletion and subsection (c) is replaced with new subsection (b), as well as the deletion of existing N.J.A.C. 5:51-1.5(a), (b), and (c) because all applications must now be submitted exclusively through the Department's electronic grant system, SAGE.

4. The new requirement at recodified N.J.A.C. 5:51-1.3(f), of submitting third-party agreements as attachments to the application, simply reflects the change from paper submissions to electronic submissions. Likewise the deletion of the necessity to submit a signed paper contract at existing N.J.A.C. 5:51-1.4(h) also reflects this change.

5. N.J.A.C. 5:51-1.6 is proposed for repeal as it has been deemed to be unnecessary.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

These proposed amendments and repeals will have a positive social impact. The proposed amendments and repeals allow municipalities and counties to more easily provide recreational opportunities for individuals with disabilities.

Economic Impact

These proposed amendments and repeals will have no economic impact.

Federal Standards Statement

No Federal standards analysis is required because the amendments and repeals are not proposed under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or a State statute that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The Department does not anticipate either the creation or loss of any jobs as a result of the proposed amendments and repeals.

Agriculture Industry Impact

The proposed amendments and repeals concern recreational opportunities for individuals with disabilities and as such would not have any agriculture industry impact.

Regulatory Flexibility Analysis

The proposed amendments and repeals do not place any reporting or recordkeeping burden upon "small businesses" as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16, et seq. There are no professional services required as a result of the proposed amendments and repeals. The proposed amendments and repeals concern recreational opportunities for individuals with disabilities, which are funded by governmental entities.

Housing Affordability Impact Analysis

The proposed amendments and repeals continue grants to allow municipalities and counties to provide recreational activities for disabled residents and, therefore, would have an insignificant impact on the affordability of housing and there is an extreme unlikelihood the amendments and repeals would evoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

The proposed amendments and repeals would have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules continue grants to allow municipalities and counties to provide recreational activities for disabled residents.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):