C

Gouveia, Susan

From: Lashway, Lisa
Sent: Wednesday, July 01, 2015 4:17 PM
To: Canning, Sean
Cc: Gouveia, Susan
Subject: FW: Storm Response - Financing and Procurement Matters
Attachments: LFN 2015-11.070115.FINAL.pdf

CORRESPONDENCE

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Budd Lake, NJ 07828

-----Original Message-----
From: egg@dca.state.nj.us [mailto:egg@dca.state.nj.us]
Sent: Wednesday, July 01, 2015 3:28 PM
To: Lashway, Lisa
Subject: Storm Response - Financing and Procurement Matters

Dear Municipal Clerk:

On Tuesday, June 23rd, storms moved through New Jersey bringing significant rainfall and damage to portions of the State. The attached Local Finance Notice 2015-11 is being issued to inform impacted local units of relevant post-storm financing and procurement matters.

PLEASE NOTE: Municipal and Freeholder Board Clerks are asked to distribute this notice to their elected officials.

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

new jersey department of community affairs dca
people.places.progress
division of local government services dlgs

LFN 2015-11

July 1, 2015

Local Finance Notice

Chris Christie, *Governor* | Kim Guadagno, *Lt. Governor* | Charles A. Richman, *Commissioner* | Timothy J. Cunningham, *Director*

Contact Information

Director's Office
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Local Government Research
V. 609.292.6110
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Financial Regulation and Assistance
V. 609.292.4806
F. 609.984.7388

Local Finance Board
V. 609.292.0479
F. 609.633.6243

Local Management Services
V. 609.292.7842
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Distribution
Chief Financial Officers
Municipal Clerks
Freeholder Board Clerks

Storm Response – Financing and Procurement Matters

On Tuesday, June 23rd, storms moved through New Jersey bringing high winds, significant rainfall and damage to portions of the State. This Local Finance Notice is being issued to inform impacted local units of relevant post-storm financing and procurement matters.

Pursuant to N.J.S.A. 40A:4-46 et seq., municipal and county officials have the authority to appropriate and expend funds in response to weather related emergencies. As necessary, local officials must clearly respond to local needs and unplanned funds can be appropriated through the emergency appropriation process. Likewise, purchases of goods and services in response to an emergency can be made without regard to public bidding pursuant to N.J.S.A. 40A:11-6 and N.J.A.C. 5:34-6.1 (Annexed hereto as Appendix A).

Emergency expenses are those related to storm response, recovery, and restoration of services that were not anticipated in the current year's budget.

Emergency Appropriation for Response and Immediate Recovery Efforts

Municipalities and counties that have not adopted their budgets may utilize the provisions of N.J.S.A. 40A: 4-20 to set forth appropriations directly associated with storm response efforts. The normal rules regarding emergencies must be followed.

For adopted budgets, an emergency resolution pursuant to N.J.S.A. 40A:4-46 et seq. requires approval by a two-thirds (2/3) vote of the full membership of the governing body and a certification of the Chief Financial Officer that the resolution covers expenses incurred during the emergency response. A copy of each resolution making such emergency appropriations must be filed with the Director of the Division of Local Government Services.

Emergency resolutions that exceed the three (3%) percent expenditure limit require approval of the Director pursuant to N.J.S.A. 40A:4-49. Please note that the Flexible Chart of Account codes should correspond with the applicable appropriation.

CY 2015 Municipalities and Counties with Adopted Budgets

For those municipalities desiring to spread the cost of the emergency over a period of years, applications will need to be submitted to the Local Finance Board. The Board has routinely accommodated such requests with maturities of notes so long as that the cost to an average assessed home is approximately $50 annually.

Other Considerations

Snow Removal/Storm Recovery Reserve Funds - N.J.S.A. 40A:4-62.1, as amended in 2014, changed what was a "snow removal reserve" to a "storm recovery reserve". Municipalities and counties can now utilize funds in their snow removal reserves for any purpose relating to storm recovery after current budget appropriations utilized for that purpose have been expended. Any municipality or county that wishes to utilize such funds for storm recovery must pass a resolution establishing a storm recovery reserve and submit same to the Division. Any reimbursement of these expenditures shall be deposited back into the reserve. Unexpended balances annually for storm recovery expenses may be lapsed into the reserve. Please note that municipalities and counties need not have had a snow removal reserve in order to establish a storm recovery reserve.

Overtime Pay for Elected Officials and Management - While not a necessary reminder for the vast majority of officials, the Division must – based on past experience - reiterate that under no circumstances should elected officials or senior management seek reimbursement for overtime.

If you have any questions concerning these practices, contact the Bureau of Financial Regulation and Assistance at 609-292-4806 or by e-mail at dlgs@dca.nj.gov.

Municipal and Freeholder Clerks are asked to distribute this notice to their elected officials.

Approved: Timothy J. Cunningham, Director

Appendix A

Emergency Procurement References

N.J.S.A. 40A:11-6. Emergency contracts

Any contract may be negotiated or awarded for a contracting unit without public advertising for bids and bidding therefor, notwithstanding that the contract price will exceed the bid threshold, when an emergency affecting the public health, safety or welfare requires the immediate delivery of goods or the performance of services; provided that the awarding of such contracts is made in the following manner:

a. The official in charge of the agency wherein the emergency occurred, or such other officer or employee as may be authorized to act in place of that official, shall notify the purchasing agent, a supervisor of the purchasing agent, or a designated representative of the governing body, as may be appropriate to the form of government, of the need for the performance of a contract, the nature of the emergency, the time of its occurrence and the need for invoking this section. If that person is satisfied that an emergency exists, that person shall be authorized to award a contract or contracts for such purposes as may be necessary to respond to the emergent needs. Such notification shall be reduced to writing and filed with the purchasing agent as soon as practicable.
b. Upon the furnishing of such goods or services, in accordance with the terms of the contract, the contractor furnishing such goods or services shall be entitled to be paid therefor and the contracting unit shall be obligated for said payment. The governing body of the contracting unit shall take such action as shall be required to provide for the payment of the contract price.
c. The Director of the Division of Local Government Services in the Department of Community Affairs shall prescribe rules and procedures to implement the requirements of this section.
d. The governing body of the contracting unit may prescribe additional rules and procedures to implement the requirements of this section.

L.1971, c. 198, s. 6; amended 1975, c. 353, s. 5; 1977, c. 53, s. 3; 1979, c. 350, s. 3; 1985, c. 60, s. 3; 1985, c. 469, s. 8; 1999, c. 440, s. 10.

N.J.A.C. 5:34-6.1 Emergency Purchases/General requirements

(a) The use of emergency purchasing pursuant to N.J.S.A. 40A:11-6 or 18A:18A-7 shall be subject to the following requirements:

1. An actual or imminent emergency must exist requiring the immediate delivery of the goods or the performance of the service;
2. As soon as reasonably possible, but within three days of declaring the emergency, the chief school administrator of a board of education shall notify the superintendent of education for the county of the nature of the emergency and the estimated needs for goods and services necessary to respond to it;

3. The emergency purchasing procedure may not be used unless the need for the goods or services could not have been reasonably foreseen or the need for such goods or services has arisen notwithstanding a good faith effort on the part of the contracting unit to plan for the purchase of any goods or services required by the contracting unit;
4. The contract shall be of such limited duration as to meet only the immediate needs of the emergency; and
5. Under no circumstances shall the emergency purchasing procedure be used to enter into a multi-year contract.

(b) The governing body of each contracting unit shall adopt rules or regulations as appropriate to the contracting unit to ensure that there is a procedure for determining and confirming the existence of an emergency and that the provisions for emergency purchasing pursuant to N.J.S.A. 40A:11-6 or 18A:18A-7 may be implemented. Such rules or regulations shall include such provisions that ensure that if initially designated individuals are not available, there is a designated chain of command to ensure that there are always appropriate individuals available to make such decisions.