

CHAPTER 135

AN ACT concerning transportation projects funded through the local aid program, amending P.L.1995, c.108, and supplementing Title 27 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 9 of P.L.1995, c.108 (C.27:1B-25.1) is amended to read as follows:

C.27:1B-25.1 Aid to counties, municipalities, basis, schedule.

9. a. Aid to counties and municipalities administered by the department may, at the discretion of the commissioner, be disbursed to any individual county or municipality on a grant basis or on a cost reimbursement basis.

(1) Awards to each county for the Local County Aid Program shall be made pursuant to the following schedule: (a) prior to July 31st of each year, each county shall be notified of the amount of local aid program funds allocated to the county for the current State fiscal year; (b) each county shall submit an application for funding by December 1st of each year; and (c) the department shall execute an agreement with each county concerning the project or projects for which the aid is allotted to that county within 90 days from the date that the department receives the application from the county pursuant to subparagraph (b) of this paragraph or by April 1st of the following year, whichever is later.

(2) Awards to each municipality for the Municipal Aid program shall be made pursuant to the following schedule: (a) the department shall distribute an aid application solicitation letter to each municipality by April 30th of each year; (b) each municipality shall submit an application for funding by July 1st of each year; (c) the department shall distribute an award letter to each municipality by November 30th of each year; (d) the department shall execute an agreement with each municipality concerning the project for which the aid is allotted to that municipality within 90 days from the date the department distributes the award letter to the municipality pursuant to subparagraph (c) of this paragraph or by March 1st of the following year, or whichever is later.

b. Distribution of the portion of the grant provided initially to a county or municipality may be contingent on its performance in spending prior grants. Failure to award construction or other approved contracts for 100 percent of a county's allotment within three years of notification by the department of that year's allotment shall result in the allotment being immediately rescinded or the funds returned to the department, as applicable, or in the event such funds are not immediately returned, deducted by the department from future allocations of aid to such county. Any such funds may be reallocated by the commissioner to other transportation projects as the commissioner shall so determine. Failure to award construction or other approved contracts for 100 percent of a municipality's allotment within two years of notification by the department of that year's allotment shall result in that year's allocation being immediately rescinded, except as provided in subsection c. of this section. Any such funds may be reallocated by the commissioner to other transportation projects as the commissioner shall determine.

c. An allotment provided to a municipality shall be rescinded, returned, or deducted from future allocations as a result of a municipality's failure to award construction or other approved contracts for 100 percent of a municipality's allotment within two years of notification by the department of that year's allotment as provided in paragraph (2) of subsection a. of this section, except that the department, at its discretion, may grant an extension of the two-year requirement of not greater than six months in duration for extraordinary circumstances, which shall be limited to the following:

(1) Bidding problems. The project was advertised and bids were received before the 24-month deadline, but because the bids exceeded the estimate, the project will be re-advertised for bid within three months or financing will be arranged to allow an award within the next six months;

(2) Permits have not been approved. Environmental permit applications were submitted and accepted by all permitting agencies within 12 months of municipal local aid agreement execution and permits have not been received. Municipalities shall provide details of issues precluding the issuance of the permits;

(3) Utility relocation work precludes advertisement, bid, and award during the 24-month deadline. The municipality has demonstrated communication and coordination with all utility service providers within 12 months of municipal local aid grant agreement execution; however, the utility service providers have indicated that relocation work is required to be performed prior to the construction of the project. The municipality shall provide details on the schedule of utility work precluding advancement of the municipal local aid project;

(4) Right-of-way is not available for the project. The municipality shall provide details on the schedule of right-of-way acquisition and any issues precluding advancement of the project; or

(5) Declaration of a state of emergency by the Governor of the State of New Jersey or the President of the United States that directly impacts the ability of the municipality to award the contract. The municipality shall provide details on the project's schedule and the details as to how the state of emergency precluded the advancement of the municipal local aid project.

d. Award deadline extensions shall be requested in writing by the municipality a minimum of 30 days prior to the 24-month deadline, and shall include a resolution and justification for the extension of time that demonstrates ability to award the contract within the requested six-month period.

e. Meeting the extraordinary circumstances described in paragraph (1) of subsection c. of this section does not guarantee approval of a six-month deadline extension. The department shall consider factors such as likelihood of achieving the award within the next six months and past performance of the municipality. A six-month deadline extension shall require approval of the Director of Local Aid and Economic Development with concurrence of the Commissioner. At any time, but at a minimum of 30 days prior to the extension of time deadline, a municipality may voluntarily cancel the municipal local aid agreement and release the funds back to the department.

C.27:1B-25.5 Limitations on grant recipients.

2. All appropriations or authorizations made by the Legislature and allocated by the commissioner, under the local aid program, pursuant to section 25 of P.L.1984, c.73 (C.27:1B-25), shall include the following limitations on grant recipients:

a. local government entity grant recipients shall be prohibited from using local aid program funds to support the work of any local government entity's employees on any construction projects funded, in whole or in part, out of funds from the local aid program;

b. the construction contracts for all projects funded, in whole or in part, out of funds from the local aid program shall be made and awarded in accordance with the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.);

c. for all projects funded, in whole or in part, out of funds from the local aid program, each bidder on a construction contract valued at more than \$5,000,000 shall be prequalified by the New Jersey Department of Transportation; and

d. a grant recipient under the local aid program shall be permitted to expend up to 10 percent of its aid allotment in the fiscal year beginning July 1, 2018 for design purposes, and up to five percent of its aid allotment in the fiscal year beginning July 1, 2019 and every fiscal year thereafter for such purposes.

3. This act shall take effect immediately

Approved June 26, 2019.