

# **New Jersey Guidebook for Municipalities and School Districts: Purchasing and Financing Electric Vehicles**

**Prepared by Gabel Associates**



## Report Prepared By:



**Gabel Associates, Inc.**  
417 Denison Street  
Highland Park, NJ 08904  
732-296-0770  
[www.gabelassociates.com](http://www.gabelassociates.com)

**Authors:** Eve Gabel-Frank, Pam Frank, Steven Gabel

Acknowledgement and appreciation for support from the Energy Foundation and for the input, guidance, and active collaboration from many parties, especially subject matter experts, including Marc Pfeiffer, Stephen Pearlman, and Ryan Scerbo.

# 1 INTRODUCTION

In New Jersey, nearly half of the greenhouse gas emissions come from the transportation sector. Only a rapid transformation to an electrified transportation system will allow New Jersey to make the necessary and huge strides to meet the challenge of climate change by reducing greenhouse gas emissions.

Every municipality, school, and county in the State can do its part by electrifying its fleet.

The purpose of this guidebook is to provide a highly accessible, easy-to-use guide for municipalities, schools, and other New Jersey entities (“local units”) to procure electric vehicles (“EVs”). **This guidebook provides a user-friendly “one-stop” guide to buying, financing, and charging electric vehicles**, so that local units have the information necessary to efficiently select the right EV for their specific needs, understand the costs of an EV versus an internal combustion engine vehicle, and assess the best financing option for these vehicles.

Many local units in New Jersey have shown interest in obtaining EVs for their fleets. Some are interested for environmental reasons while some want to realize the potential savings in maintenance and fueling throughout the life of the vehicle. EVs offer both environmental and economic benefits.

While many towns have shown interest in EVs, they may not have the information to go about obtaining one. This guidebook will provide easy-to-follow instructions for financing and purchasing an EV through procurement and financing that is already available.

The guidebook provides:

- Access to all known entities that have EVs available and are in compliance with public contract law, so local units can avoid procurement hassles and directly purchase an EV;
- Access to all known financing sources for EVs that are in compliance with public contract law, so local units can find the best financing partner in procuring an EV without procurement hassles;
- Guidance on how to procure EV charging equipment;
- A customized “cost calculator” so local units can quickly and accurately ascertain the costs of purchasing and operating an EV, compare the all-in cost to a similar internal combustion vehicle, and see the greenhouse gas emission reductions that will occur through driving an EV;
- An open website, **NJEV.org**, that allows for quick, easy execution of EV purchases and financing. The website will be updated to provide available vehicle procurement sources and financing information. The website will also provide information on the benefits of owning an EV, charging infrastructure, and contact information for further questions.

# TABLE OF CONTENTS

<b>1</b>	<b>INTRODUCTION</b>	<b>1</b>
<b>2</b>	<b>OVERVIEW</b>	<b>4</b>
2.1	Benefits of Fleet EVs to local units	4
2.1.1	Reduce Maintenance Costs	4
2.1.2	Reduce Fuel Costs	4
2.1.3	Reduce Greenhouse Gas Emissions/Fight Climate Change	4
2.1.4	Improve Local Air Quality	4
2.1.5	Earn Sustainable Jersey Points	5
2.1.6	Satisfy state policy	5
2.2	Vehicle Options	7
2.2.1	Plug-In Hybrid Electric Vehicles (PHEVs):	7
2.2.2	Battery Electric Vehicles (BEVs):	7
2.2.3	Medium and Heavy Duty EVs	7
<b>3</b>	<b>CHOOSING AND BUYING AN EV</b>	<b>9</b>
3.1	Compliance with Local Public Contract Law	9
3.1.1	Bid Threshold Requirements	9
3.1.2	Cooperative Purchasing Contracts	10
3.2	Vehicle Sources	12
<b>4</b>	<b>FINANCING AN EV</b>	<b>14</b>
4.1	Paying for Your EVs: Overview of Procurement Issues for Leasing, Debt, and Outright Purchase	14
4.2	Financing Sources	17
<b>5</b>	<b>INCENTIVES</b>	<b>20</b>
5.1	It Pays To Plug In Program, NJ Department of Environmental Protection	20

5.2	Federal EV Tax Credit.....	20
5.3	New Jersey EV Sales Tax Exemption .....	20
5.4	Utility and State of New Jersey Rebates .....	20
<b>6</b>	<b>CHARGING EQUIPMENT .....</b>	<b>21</b>
6.1	Equipment Options .....	21
6.1.1	Level 1 Charger.....	22
6.1.2	Level 2 Charger.....	22
6.1.3	DC Fast Charger (sometimes referred to as “Level 3”).....	22
6.1.4	Smart Chargers.....	22
<b>7</b>	<b>PUTTING THE PUZZLE TOGETHER: PROCURING YOUR EV WITH HELP FROM NJEV.ORG.....</b>	<b>24</b>
7.1	Home Page.....	24
7.2	Benefits of Fleet EVs .....	24
7.3	Procuring an EV .....	24
7.4	Financing an EV .....	24
7.5	EV Cost Calculator.....	24
7.6	Charging Equipment.....	25
7.7	Available Incentives.....	25
7.8	Contact Information for questions or additional information.....	25

## ATTACHMENT

1. Local Finance Notice 2012-10

## 2 OVERVIEW

### 2.1 Benefits of Fleet EVs to local units

**EVs reduce operating costs and air pollution.** EVs are ideal vehicles for municipal fleets because of the routine uses and routes that these vehicles use, referred to as “use cases”. Local fleet vehicles, such as police cars, school buses, and permitting and parking enforcement vehicles travel a limited and predictable number of miles throughout the day and stay in a confined area. Investment in the correct EV to fit the needs of a municipality will ensure that there are never any issues with range anxiety. Drivers will be able to save time and money during the day by plugging in the EV at the end of the use time, every evening.

#### 2.1.1 Reduce Maintenance Costs

EVs have fewer moving parts making maintenance simpler and less frequent. According to a driving cost analysis completed by AAA<sup>1</sup>, the maintenance on an EV will be \$500 lower per year than a comparable internal combustion engine vehicle.

#### 2.1.2 Reduce Fuel Costs

There are significant savings on fuel costs for EVs. On average, it is three times more expensive to fuel an internal combustion engine vehicle than it is to fuel an EV. As an example, a driver traveling 20,000 miles per year will spend about \$1,900 to fuel a gas-powered vehicle, and about \$700 to fuel an EV.

#### 2.1.3 Reduce Greenhouse Gas Emissions/Fight Climate Change

Many local officials and their constituents have growing concerns about the negative environmental impacts of internal combustion engine vehicles and are committed to playing a part in reduction efforts. One of the best ways to reduce pollution and its negative health impacts, is converting vehicle fleets that travel around a municipality from gasoline to electric powered. Every electrically “fueled” mile in New Jersey emits 69% to 79% less CO<sub>2</sub> than an average gasoline fueled mile. This is highly significant, especially considering that almost half of greenhouse gas emissions in New Jersey come from the transportation sector.

#### 2.1.4 Improve Local Air Quality

Communities in New Jersey, especially those in urban, heavy traffic areas, experience some of the highest levels of health issues caused by ground level pollution. By investing in EVs and getting polluting internal combustion engine vehicles off the road, we will see improved air quality, which will lead to improved local health impacts.

---

<sup>1</sup> <https://www.aaa.com/AAA/common/AAR/files/AAA-Your-Driving-Costs.pdf>

### 2.1.5 Earn Sustainable Jersey Points

Sustainable Jersey offers points to local units who invest in EVs. There are two Sustainable “actions” associated with EVs.

1. Make your town EV Friendly-15 points
2. Invest in Public Charging Infrastructure-15 points

### 2.1.6 Satisfy state policy

The State of New Jersey is committed to fighting climate change and reducing greenhouse gas emissions. Over the past few years, there has been an increase in policies and strategies to reduce pollution from the transportation sector:

#### *Energy Master Plan (EMP):*

The New Jersey Board of Public Utilities released a Draft EMP in June of 2019, which sets the approach for New Jersey to reach the goals of 100% clean energy and 80% emissions reductions by 2050. The draft prioritizes the electrification of the transportation sector as the first out of seven priorities. To achieve this goal, the draft EMP has set out the following goals for achieving electrification of the transportation sector:

1. Putting 330,000 light-duty vehicles on the road by 2025
2. Invest in EV charging infrastructure throughout the state
3. Encourage EV adoption through incentive programs for charging station installation and purchase of EVs
4. Increase buyer awareness and acceptance of EVs
5. Convert state light-duty fleet vehicles to electric
6. Continue to improve New Jersey Transit’s environmental performance
7. Invest in clean transportation for low-and-moderate income and environmental justice communities
8. Work with industry to develop incentives for medium and heavy-duty fleet technology
9. Explore policies that accelerate adoption of alternative fuels in the transportation sector

#### *California ZEV/LEV Standards:*

New Jersey has joined California in their effort to put more EVs on the road. The California Zero Emission Vehicle (ZEV) production requirements and Low Emission Vehicle (LEV) standards provide additional incentives for car manufacturers to sell EVs. Under these standards, manufacturers are required to meet greenhouse gas emissions standards, as well as the ZEV production and sales requirement in manufacturers can earn and bank vehicle equivalent credits.

#### *Partnership to Plug-In:*

Governor Murphy established the New Jersey Partnership to Plug-In, a first-of-its-kind, statewide partnership to build out the necessary infrastructure to support electric vehicle ownership to improve air quality and reduce greenhouse gas emissions. The partnership, which is co-led by the New Jersey Board of Public Utilities, New Jersey Department of Environmental Protection, and the New Jersey Economic Development Authority, is meant to create a strategic and streamlined

framework to support New Jersey’s electric vehicle ecosystem, with the goal of registering 330,000 Zero Emission Vehicles (ZEVs) by 2025.

*Omnibus EV Bill:*

New Jersey is set to enact omnibus EV Legislation which shows the state’s growing priority on electrifying the transportation sector. This legislation will task the state with:

- Increasing registered EVs with benchmarks of 330,000 by 2025 and 2 million by 2035;
- Requiring investment in charging station infrastructure;
- Establishing the “Essential Public Charging Network” supported by a cross agency working group to create the minimum number of charging stations throughout the state, along major corridors and in community locations to ensure coverage;
- Implementing a “Light Duty Plug-in Electric Vehicle Rebate Program” that would incentivize purchases of EVs with rebates up to \$5,000;
- Setting requirements for a gradual electrification of NJ Transit and state-owned non-emergency light duty vehicles.

Following the passage of this legislation, local units will see increased opportunities to invest in EVs.



## 2.2 Vehicle Options

As stated in the “Benefits” section of this report, EVs are ideal vehicles for municipal fleets because of the routine uses and routes that these vehicles use. Investment in the right EV will reduce maintenance and fuel costs, as well as eliminate harmful greenhouse gases and ground level pollution from the environment.

There is more than one type of EV available for sale. Municipalities should review the benefits of each type of EV before purchasing one for their fleet:

### 2.2.1 Plug-In Hybrid Electric Vehicles (PHEVs):

Powered on both battery power and gasoline. A PHEV has a small to medium sized battery and most can only travel between 10 and 50 miles on just battery power. PHEVs “plug-in” to charge their battery unlike hybrid electric vehicles. These vehicles function in the same way as an internal combustion engine vehicle because most of the power comes from gasoline and the vehicle can function without an electric charge. PHEVs are distinct from internal combustion engine vehicles because of the fuel savings and environmental benefits.

#### *Best use*

PHEVs are ideal for police and other emergency vehicles that don’t always sit in a parking lot overnight. PHEVs have the benefit of being powered by gas in addition to electricity, so if an emergency vehicle is unexpectedly needed for use, it can fuel up at a gas station like an internal combustion engine vehicle; or draw upon the gasoline as a range extender once the battery has been depleted.

### 2.2.2 Battery Electric Vehicles (BEVs):

Powered entirely by battery. BEVs have a large battery that has a range of between 100 to 300 miles per charge depending on the model. BEVs are ideal for municipal and school fleets because of the limited activity patterns of most fleet vehicles, whether light, medium, or heavy duty. Most fleet vehicles are active for a limited time during the day and follow a regular schedule, which is the ideal use case for BEVs.

#### *Best use*

BEVs are ideal for most municipal fleet vehicles because most municipal fleet vehicles are used on a predictable schedule every day and sit in a parking lot overnight. Overnight is the ideal time to fully charge a BEV. If a BEV can charge overnight, the municipality will be able to invest in lower powered, less costly charging equipment, and still get the same use out of the BEV.

### 2.2.3 Medium and Heavy Duty EVs

The EV market for medium and heavy-duty vehicles is developing quickly. There are several manufacturers that currently have medium and heavy-duty EVs for available for purchase. More information on medium and heavy-duty vehicle options is available on [NJEV.org](http://NJEV.org):

- Electric buses

- BYD, Proterra, Volvo, Hyundai, Mercedes
- Electric school buses
  - Blue Bird, Proterra, Lion
- Electric trucks
  - BYD, Lion, Volvo, Hyundai, Mercedes
- Other electric medium and heavy-duty vehicles (construction and municipal)
  - BYD

**NJEV.org** will offer up-to-date background information and pricing for vehicles that are available in compliance with local public contract law.

## 3 CHOOSING AND BUYING AN EV

This guide will help local units find the best arrangement in procuring an EV for their fleets. We have undertaken a comprehensive search and review of options available to local units. These are options that have already been chosen through the local public contract law, (LPCL) so local units can use these options to procure an EV without having to conduct its own procurement.

Section 3.1 provides an overview of procurement issues and the choices available under procurement law. Section 3.2 provides information on the specific sources for EV purchases.

This guide lets you choose the arrangement that is best for your local unit. Available vehicles change periodically, and available PEVs will be available on **NJEV.org**. This information will be updated continuously to reflect availability.

### 3.1 Compliance with Local Public Contract Law

Public School Districts are subject to the Public School Contracts Law (PSCL, N.J.S.A. 18A:18A). All other local agencies (municipalities, counties, and local authorities) are subject to the Local Public Contracts Law (LPCL, N.J.S.A. 40A:11). Rules concerning public procurement are generally found in the New Jersey Administrative Code at N.J.A.C. 5:34.

For the purposes of this guide, the LPCL and PSCL (jointly termed “public contract law”) provide the guidance and direction needed by local units to purchase EVs. These and other state laws (discussed below) also provide the framework for budgeting, leasing, or issuing debt to pay for the acquisition of EVs.

#### 3.1.1 Bid Threshold Requirements

Public contract law establishes procedures that local units must follow to ensure that public procurement practices are consistent, transparent, and free from favoritism so that contracts are awarded fairly to vendors who offer the lowest priced and most responsible proposal. The LPCL and PSCL laws have variations but have generally consistent purchasing procedures.

As an example, if the estimated cost of a product or service is over \$40,000 (an amount that will increase in July of 2020) a formal, competitive public bidding process is required. If it is between \$17,500 and \$40,000, a less formal, but still competitive proposal process is required.

For purchases totaling less than \$17,500, an informal quotation process is used. This may be relevant for the purchase of charging infrastructure (see section 6 for hardware and infrastructure pricing) or for the purchase of an EV as more affordable and used models come on the market.

The procurement process is also subject to a concept known as “aggregation”. This means the local unit must consider the total amount they anticipate spending during a budget year on similar items. For example, if one EV is estimated to cost \$30,000 (below the \$40,000 formal bidding threshold), and the local unit has budgeted for and plans to buy two of them during the year, the combined \$60,000 estimated cost exceeds the \$40,000 bid threshold. This requires the purchase to be made using the formal bidding process (or the alternative methods discussed below), even though each item is under the bid threshold. It is not compliant with local public contract law to split the purchase to avoid public bidding.

In addition to the local unit going out to bid or obtaining proposals on its own, state law allows a local unit to use a contract previously issued by another government agency who previously went through the competitive bidding process for the same item. This is known as “cooperative purchasing”.

**Cooperative purchasing can often be a more efficient approach for a local unit.**

### 3.1.2 Cooperative Purchasing Contracts

Cooperative purchasing is a widely used practice. As a general guide to the process, a local unit looking to use a cooperative contract should work with its purchasing agent to ensure statutory compliance with procurement laws and rules. In most public schools the school business administrator serves as the purchasing agent. All counties employ a purchasing agent, and most municipalities have one, though in smaller local units the purchasing agent may have other duties along with purchasing.

Instead of undertaking procurement activities on its own, a local unit can realize efficiencies by accessing these “pre-approved” forms of contracting that can be faster and can reduce costs and hassle. The following describes these different forms of cooperative purchasing:

#### *N.J. State Cooperative Purchasing Program*

Both the PSCL and LPCL allow local units to “piggyback” off contracts entered into by the state’s procurement agency, the Division of Purchase and Property (DPP). This is a state-sanctioned cooperative pricing service, and all local units can use contracts the DPP approves for cooperative use.

The DPP maintains a website of its contracts that identify the ones local units can use, called “NJ Start”. Purchases by local units through these contracts must be consistent with the state’s award. This means only specific items on the state contract can be purchased and only at the prices stated on the contract. The local unit works directly with the vendor to make the purchase and the local unit is responsible for ensuring the purchase is compliant with the state contract.

DPP had awarded several contracts for electric vehicles. A list of them and links to their contract details can be found on **NJEV.org**.

A local unit should work with its purchasing agent to review these contracts and determine which ones, if any, meet the needs of its organization. When comparing state contracts with other pre-bid contracts (see below), care should be taken to ensure prices are comparable. This analysis should include any delivery charges, options, or added fees (many large co-ops may build in a fee as part of the cost of the commodity). State contracts generally include the cost of delivery to all local units in the state.

#### *Member-Based Local Unit Cooperative Pricing Systems (CPS)*

Similar to the state’s program, a local cooperative pricing system involves a lead agency that advertises for bids and awards a contract to the lowest responsible bidder. Those prices are used by the lead agency itself and are made available to member local units. Local units running a system are required to register their programs with the Division of Local Government Services as a lead agency to ensure compliance with state regulations.

Unlike a state contract, to use one of these contracts a local unit must register with the DLGS as a member of the cooperative by a resolution passed by the local unit's governing body. This is best done by obtaining the necessary form of resolution from the lead agency. Once registered, like a state contract, a member local unit agency issues a purchase order to the contractor as needed, as long as the product is included in the contract awarded by the lead agency.

#### *County Cooperative Contract Program (CCCP)*

Under these programs, a county government advertises for bids to meet its own needs and awards a contract to the successful bidder. With the approval of the county board of freeholders and the successful vendor, local units within the county may purchase under the contract at the county's price. While the Division of Local Government Services approval is required for a county to create a system, local units within the county do not have to specifically join a system; they are automatically members.

#### *Educational Service Commissions (ESC)*

Several of these agencies have created cooperative pricing systems that include a wide range of goods and services. These are available not only to schools but to other local units as well. They provide their services statewide.

#### *National Contracts*

N.J.S.A. 52:34-6.2(b) allows all New Jersey local and state contracting units to use contracts that were competitively bid and awarded by state and local government agencies outside of New Jersey as long as they meet various New Jersey contracting laws. Local units can make purchases through these vendors without public bidding (as they can do with cooperative pricing systems and state contracts). These contracts are bid or managed by several organizations around the country that were formed to market contracts to local units.

The Division of Local Government Services has issued guidance to contracting units in the application of the law. Local Finance Notice 2012-10 (copy attached) provides extensive advice and guidance on the process that must be followed for contracting units to procure through national cooperatives.

National co-op contracts use the procurement laws of the contracting agency's home state. Compliance of national contracts with state procurement law is not reviewed by any state agency. Thus, contracting through national contracts should be examined by the local unit's purchasing agent to ensure that it adheres to New Jersey's standards.

## 3.2 Vehicle Sources

This section details how to access the procurement sources described above. The following procurement sources are currently available to local units to procure an EV in compliance with local public contract law:

### NJ START

**Background:** NJ Start is a state contract website run by the New Jersey Division of Purchase and Property. NJ Start does the bidding process so that local units can simply go on the website and search for equipment.

**Website:** [www.NJStart.gov](http://www.NJStart.gov)

**Instructions:**

1. Click “Contracts/Blankets”
2. “NIGP Class” Select value **71 – Automobiles, School Buses, SUVs.** Click “Find it”
3. “NIGP Class Item” Select preferred type of vehicle
4. Scroll down for all contracts available under each class
5. **NJEV.org** will have a list of currently available EVs, so local units will be able to search directly for those vehicles

### Mayor’s Climate Initiative/Honeywell

**Background:** The Climate Mayors Electric Vehicle Purchasing Collaborative was formed by a collection of over 30 cities that came together to create a procurement resource for public fleets to buy EVs.

**Website:** [www.DriveEVFleets.org](http://www.DriveEVFleets.org)

**Instructions:**

1. On the homepage, click “Available Electric Vehicles” and input specific preferences
2. Once preferred vehicle is selected, go back to the homepage and click “Procurement Process.” Follow the instructions on that page

## HGAC Buy

**Background:** The HGACBuy program is a nationwide program

**Website:** [www.HGACBuy.org](http://www.HGACBuy.org)

**Instructions:**

1. Become an end user by following the instructions [here](#)
2. Once registered, browse available EVs [here](#)
3. Prepare and submit a purchase order
4. Work with HGACBuy to complete the order

## Educational Services Commission of New Jersey

**Background:** The ESC of New Jersey is a statewide program. It provides cooperative purchasing options for equipment to all members.

**Website:** [www.ESCNJ.us](http://www.ESCNJ.us)

**Instructions:**

1. Local units must be a member to participate in co-op purchasing.
2. Click on available vehicles to see pricing information.
3. Once you have selected a vehicle, contact the ESC at  
Email: [coop@escnj.us](mailto:coop@escnj.us)  
Phone: 732-777-9848 Ext: 3120  
Fax: 732-777-9855

**NJEV.org** will provide currently available EVs from each procurement source.

## 4 FINANCING AN EV

A Local unit can use financing to procure capital equipment and spread its costs over a longer period. There are multiple lease financing options currently available to local units. In addition to making the decision to buy vehicles through the appropriate process, the local unit also needs to decide what financing process it will use. These sections review these financing choices. Most local units tend to either lease or outright purchase their vehicles:

### 4.1 Paying for Your EVs: Overview of Procurement Issues for Leasing, Debt, and Outright Purchase

Once a contract to purchase an EV is properly awarded through the procurement process, the local unit needs to pay for it. State law provides local units several ways to pay for vehicles:

#### *Outright purchase:*

This requires an appropriation in the local unit's annual budget to pay for the vehicle. In this case, the full price of the vehicle is allocated in that year's budget, with the vehicle purchased (subject to the bidding laws discussed above) and paid for in full in a single year.

#### *Use of General Obligation Debt (bonds):*

While issuing long-term debt is often thought of as an option, it is **not** an option for EV passenger vehicles for local units. State law regulating local unit debt does not permit long term debt for passenger vehicles. For medium and heavy-duty vehicles such as buses and trucks, use of debt is allowed because these vehicles have a longer estimated life span.

Non-passenger vehicles, which include SUVs and trucks, can be financed by issuing bonds, with their estimated useful life (a component of a bond ordinance and repayment schedules) limited to 5 years. Items with different useful lives can be combined by the local unit when it sells bonds.

One rarely used alternative for public schools is to hold a public referendum asking voters to authorize debt for a purchase. While the purchase of passenger vehicles cannot be funded by debt, SUVs and trucks can be debt-financed with a five-year useful life, as can school buses with a useful life of ten years.

If a local unit wants to consider bonds to finance EVs, the local unit's bond counsel should be consulted early in the procurement process.

#### *Lease Financing*

When it comes to paying for passenger and other vehicles, New Jersey local units may use leasing to spread out the cost and its impact on budgets and the property tax rate over the vehicle's permitted purchase useful life.

Public contracting laws at N.J.S.A. 40A:11-15(7) and 18A:18A-42(f) permit the leasing or servicing of automobiles for up to five years.



A lease is a legal document permitting a third-party financing entity (lessor) to either buy or provide funds to the local unit (lessee) so that it may purchase the equipment it needs. Generally, the lessee local unit will pay the lessor equal amounts over a fixed period, plus interest based on a fixed or variable rate. Depending on the form of lease, either the lessee or the lessor can retain ownership of the equipment. When the lessor retains ownership, the lessee can purchase the equipment at the end of lease for an agreed upon amount.

The local unit must follow public contract law to decide on the vehicles it plans to lease. Similar to the purchase of vehicles, the interest cost of a lease is subject to public bidding threshold laws. If, over the life of the lease, the estimated total cost of interest will exceed the bid threshold, the lease itself has to be publicly bid; this is a separate bidding process from that of bidding the price of the equipment the local unit plans to lease.

Alternatively, if the total interest cost is estimated to be less than the bid threshold, the cost of the lease can be included with the purchase; it can also be competitively procured through a separate quotation.

In addition, federal IRS laws provide government agencies an incentive to lease equipment as the lessor may apply a lower interest rate than a comparable private sector lease. When a lease is qualified under government law, the lessor receives a federal tax exemption, which will reduce the interest cost of the lease when compared to non-tax exempt (commercial) financing.

Because of the many ways a lease/purchase agreement of vehicles can be structured, several different approaches have been developed and are available to local units. Consultation with the local unit's legal counsel should be part of any discussion concerning leasing.

There are three approaches to leasing an EV:

### *1. Commercial Lease*

In the case of manufacturer/vendor financed commercial leases, financing is usually procured at commercial rates through the manufacturer or through a leasing company affiliated with the manufacturer or seller. In some cases, those costs may be subsidized by the manufacturer or dealer as a promotion to incentivize the purchase of certain products. In some cases, they may have added costs or interest rate modifications. Leases often produce added revenue for a dealer or official finance company.

When total lease cost is under the bid threshold, including the lease with the purchase is a convenient process. But, since they are not generally eligible for tax-exempt leasing, the interest rate is generally higher than the tax-exempt rate.

### *2. Third-Party Lease*

*Third party lease financing* generally has lower rates than commercial leases because they can qualify for tax-exempt leasing. The financing agreement is separate from the procurement process, in which leasing is done through an independent leasing company. Cooperative purchasing programs often provide these kinds of leases.

### *3. Leasing Agreement Through County Improvement Authority.*

Many New Jersey counties that have a county improvement authority run tax-exempt equipment leasing programs for their local units. Timing and other related procedures vary with each authority. Agencies in counties with an improvement authority should contact their authority directly for information about its leasing program. Local units in counties without a county improvement authority program can work with counties that have one. In those cases, the boards of freeholders for both counties must approve the application.

Users will be able to review and access all known available financing sources on **NJEV.org**. The site will be kept up to date as new financing options become available.

## 4.2 Financing Sources

The following financing sources are currently available for New Jersey local units. This list will be updated on [NJEV.org](http://NJEV.org):

### Educational Services Commission of New Jersey

**Website:** [www.ESCNJ.us](http://www.ESCNJ.us)

**Availability:** ESCNJ's Lease Purchase program is available to all local units in New Jersey. Local units can become ESCNJ Co-op Members by visiting the website.

**Timing:** Ongoing availability

**Contact Information:**

Patrick M. Moran, Financial Advisor  
Phone: 732-777-9848 Ext: 3120  
Email: [pmoran@escnj.us](mailto:pmoran@escnj.us)

### Hunterdon County Educational Services Commission

**Website:** [www.HCESC.com](http://www.HCESC.com)

**Availability:** Hunterdon County ESC's financing program is available to all local units in New Jersey. Local units can become members by visiting the website.

**Timing:** Ongoing availability

**Contact Information:**

Dennis R. Balodis, Financial Services Manager  
Phone: 908 572 7715  
Email: [DBalodis@HunterdonESC.org](mailto:DBalodis@HunterdonESC.org)

## Middlesex County Improvement Authority

**Website:** [www.middlesexcountynj.gov](http://www.middlesexcountynj.gov)

**Availability:** The MCIA offers financing to all local units in New Jersey

**Timing:** Program offered annually

**Contact Information:**

Administrative Office  
101 Interchange Plaza, Cranbury, NJ 08512  
Phone: (609) 655-5141  
Fax: (609) 655-4748  
Email: [mciaadmin@mciauth.com](mailto:mciaadmin@mciauth.com)

## Somerset County Improvement Authority

**Website:** [www.co.somerset.nj.us](http://www.co.somerset.nj.us)

**Availability:** Financing is currently offered only to local units in Somerset County.

**Timing:** Ongoing Availability

**Contact Information:**

20 Grove Street, P.O. Box 3000, Somerville, NJ 08876  
Phone: 908-231-7040  
Fax: 908-231-1740  
Email: [AdministratorsOffice@co.somerset.nj.us](mailto:AdministratorsOffice@co.somerset.nj.us)

## Monmouth County Improvement Authority

**Website:** [www.visitmonmouth.com](http://www.visitmonmouth.com)

**Availability:** Financing is offered only to local units in Monmouth County.

**Timing:** Capital equipment lease financing is offered every other year to fund equipment purchases. (The last round was funded on October 31<sup>st</sup>, 2019 through a bond issuance.)

**Contact Information:**

Hall of Records, Main Street, Freehold, NJ 07728

Phone: 732-308-2975

Fax: 732-409-4821

Email: [mmasnick@co.monmouth.nj.us](mailto:mmasnick@co.monmouth.nj.us)

## National Cooperative Leasing

**Website:** [www.nationalcooperativeleasing.com](http://www.nationalcooperativeleasing.com)

**Availability:** Financing available nationally

**Timing:** Ongoing Availability

**Contact Information:**

Phone: 320-763-7600

Email: [info@lscfinancial.com](mailto:info@lscfinancial.com)

## Passaic County Improvement Authority (Banc Program)

**Website:** [www.passaiccountynj.org](http://www.passaiccountynj.org)

**Availability:** Financing is offered only to local units in Passaic County. Although, if a local unit is not located in a county with an IA, it may be able to use this program.

**Timing:** Ongoing Availability

**Contact Information:**

Nicole S. Fox, Executive Director

930 Riverview Drive, Suite 250, Totowa, NJ 07512

Phone: (973) 881-4550

Fax: (973) 278-5635

Email: [nicolef@passaiccountynj.org](mailto:nicolef@passaiccountynj.org)

## 5 INCENTIVES

In accordance with New Jersey's goal of achieving 330,000 EVs on the road by 2025, the federal government and the state of New Jersey offer incentive programs to limit the burden of buying and charging EVs. These programs can reduce the first cost of purchasing an EV. The currently available incentive programs are described below, with information on how to access them. This information will be updated on **NJEV.org** as new programs are released:

### 5.1 It Pays To Plug In Program, NJ Department of Environmental Protection

This program provides grants to offset the cost of a Level 1 or Level 2 public charging station projects, local units can apply to the NJ DEP to get reimbursed for between 60% and 100% of the costs of the project. These chargers do not have to be strictly open to the public, they can be used only for fleet vehicle charging. **NJEV.org** provides resources and links for users to apply for funding.

### 5.2 Federal EV Tax Credit

The United States government offers a federal tax credit of between \$2,500 to \$7,500 for the purchase of a new, qualifying BEV or PHEV. This tax credit is available for all vehicle manufacturers until they sell 200,000 vehicles, at which point the tax credit will be phased out. Currently, GM and Tesla are the only two manufacturers that have sold 200,000 EVs and are preparing to phase out of the tax credit opportunity. **NJEV.org** provides an up to date list of the manufacturers who are eligible for the tax credit.

While local units are not able to take advantage of the tax credit due to their tax-exempt status, a private leasing entity may be able to take the tax credit, as it is purchasing the vehicle. Some of the savings from the tax credit financial benefit to the purchasing agent can be realized by the local unit.

### 5.3 New Jersey EV Sales Tax Exemption

The State of New Jersey provides a state sales tax exemption on the sale of any BEV that is purchased, leased, or rented. The exemption can be captured at the time of sale if an exemption waiver is supplied. A link to the exemption waiver and an up to date list of the vehicles that are eligible for the exemption is available on **NJEV.org**.

### 5.4 Utility and State of New Jersey Rebates

In June 2019, the State of New Jersey allocated \$300 Million from the state budget to design and offer a rebate program for the state. The rebate is expected to reduce the purchase price of an EV by up to \$5,000.

The rebate program is currently in its design stages and is expected to be available by mid-2020. Up-to-date information on the program is provided on **NJEV.org**.

Once the rebate program is released, this guidebook will instruct local units on if/how they can capture the rebate program in their purchase of an EV.

## 6 CHARGING EQUIPMENT

### 6.1 Equipment Options

Selecting the correct electric vehicle supply equipment (“EVSE”) for your EV is an easy task with the correct information. EVSE is the dock that supplies the energy to an EV. There are various types of charging stations. Level 2 Chargers are typically appropriate for publicly accessible systems. The DC Fast Charge is considerably more expensive, allowing for rapid charging, and are typically appropriately placed near New Jersey’s major roadways.

Most municipal fleet vehicles are used for a limited time throughout the day and follow a predictable schedule and route. Most municipal fleet vehicles are not used at night. For these vehicles, a Level 2 charger will be sufficient. The vehicle will be plugged in at night and will have full range every morning when in use. For vehicles that are used for long, overnight shifts, such as police vehicles, a DC Fast charger may be an ideal investment.

The EVSE market is evolving quickly and these numbers are constantly changing. For budgeting purposes, the best way to determine a cost estimate for a specific site is to contact the utility, EVSE manufacturers and/or EVSE installers for a site assessment. Contact information for EVSE manufacturers and installers are listed on [NJEV.org](http://NJEV.org).

Note that non-electrical site improvements such as signage, striping or accessibility modifications would be in addition to the prices listed below. In cases where a local unit finds a sponsoring partner, or where a third party finances the equipment, there may be minimal costs to the municipality for implementation of this action.

Note that the power level of the charging station is an important component to consider when selecting charging equipment and has a significant impact on the EVSE cost. The power level—the kW power of the charger—indicates how quickly a car can charge. The speed at which a vehicle can charge depends on two main elements:

1. **Capability of the charger:** Charging equipment is available in varying charging power levels. Deciding what charging power best suits a location depends on the use of the charging station. For a “gas-station” experience, a higher-powered charger (most likely a DC Fast Charger with 150 kW or higher will be necessary). If the location is at a workplace or destination where people will be parking their car for a longer period, a lower power is required (most likely a Level 2 charger.)
2. **Capability of the vehicle:** Some EVs have a limited power capacity. As an example, a Chevrolet Bolt has a limited power capacity of 50 kW, so a Bolt charges at the same speed on a 50kW charger as on a 350kW charger. EVs that have higher power capacity are entering the market, so it is important to consider this quickly changing market landscape when planning for long-term infrastructure investments.

**Costs for Installation and Infrastructure:** To accurately estimate infrastructure costs, an experienced electrician or electrical engineer should be contacted, a design established, and the costs estimated, costs can vary, especially in cases where the EVSE company sells a more complex network services package to the local unit. However, for budgeting purposes, the following can be used as a starting point:

### 6.1.1 Level 1 Charger

120 volt - a standard outlet just like the one you would use for a toaster. Assuming a fully depleted battery (unusual in most cases) and depending on the size of the battery, it will typically take 3 to 16 hours to fully charge a Plug-in Hybrid Electric Vehicle (PHEV) and 20+ hours to fully charge a Battery Electric Vehicle (BEV) with a Level 1 Charge.

**Cost Range: \$300-\$1,500.**

#### Parking Garage Installation

Simple installation at existing wiring: **\$200-\$400 per charge station**

Moderately complex installation: **\$4,000-\$8,000 per charge station**

### 6.1.2 Level 2 Charger

240 volt - an outlet like those used for household electric dryers. Assuming a fully depleted battery (unusual in most cases), and depending on the size of the battery, it will typically take 1.5 hours to 6 hours to fully charge a PHEV and 4 to 7 hours to charge a BEV with a Level 2 Charge.

**Cost Range: \$500-\$2,600**

#### Parking Garage Installation

Simple installation at existing wiring: **\$300-\$500 per charging station**

Moderately complex installation: **\$5,000-\$10,000 per charging station**

#### Surface Parking Lot Installation

**\$10,000-\$15,000 per charge station.**

### 6.1.3 DC Fast Charger (sometimes referred to as “Level 3”)

This level of charge is only available for some electric vehicle models and the recharge speed depends on the power level of the charger. Standard DC Fast Charge equipment is typically available at 50, 100, 150, and 350 kW levels. The higher the kW level, the faster the recharge speed. For example, a 150 kW charger will recharge a car to about 80% in about 30 minutes.

**Cost Range for a 150 kW charger: \$50,000-\$100,000.**

#### Surface Parking Lot Installation:

**\$100,000-\$200,000 per charge station.**

### 6.1.4 Smart Chargers

Smart Chargers are offered in Levels 1, 2, and DCFC/Level 3 commercial duty qualities and are generally more expensive than basic chargers. Smart Chargers offer differing levels of communication with the user, site host, utility grid, and the Internet, depending on model and manufacturer. EVSE companies also offer the option of collecting fees for the charging



session and a high level of reporting capabilities. Smart Chargers generally connect with the Internet using cellular connections, Wi-Fi, or phone lines.

**Cost Range: \$4,500 - \$17,000**

## 7 PUTTING THE PUZZLE TOGETHER: PROCURING YOUR EV WITH HELP FROM NJEV.ORG

As a part of this report, **NJEV.org** provides a user-friendly guide to procure and finance electric vehicles. **The guidebook and website are designed to make a local unit’s purchase and financing of an EV quick and easy.**

The website consists of the following pages:

### 7.1 Home Page

The homepage provides high-level information about how to navigate **NJEV.org** and will provide links to all resources provided.

### 7.2 Benefits of Fleet EVs

The benefits page reviews the specific benefits to buying an EV in a municipal fleet rather than an internal combustion engine vehicle. This website lists and explains these benefits, including reduced maintenance costs, reduced fuel costs, pollution reduction, and satisfaction of state policy. The website provides a link to [ChargeEVC.org](http://ChargeEVC.org) for more in-depth information on the benefits of EVs such as the “What’s Happening” page with updated news on EVs and the “Cost and Benefits” study which takes a deeper look at the societal and economic benefits of EV expansion.

### 7.3 Procuring an EV

The procurement page provides all background information and resources available under local public contract law. Procurement websites are often confusing, and EV options difficult to find. This page will provide step-by-step instructions for local units on how to find and purchase all available EV options. It will be updated to provide current procurement sources and available vehicles.

### 7.4 Financing an EV

The financing page provides all background information and resources available to local units. This page provides access to financing sources and will enable local units to quickly and easily finance an EV. It will be updated to provide current financing options for local units.

### 7.5 EV Cost Calculator

**NJEV.org** provides a cost calculator which will provide a monthly cost comparison of the electric vehicle the local unit is considering vs. an internal combustion engine vehicle; and an estimate of carbon and other pollutant reductions. Users can input the price of the vehicle that they would like to buy, and the finance rate of the financing body that they prefer for a customized estimate.

## 7.6 Charging Equipment

Acquiring the right charging infrastructure is necessary for optimal use of an EV. This page explains the benefits of Level 1, Level 2, and DC Fast Chargers so that local units can pick the charging station that works best for their fleet needs.

## 7.7 Available Incentives

There are several incentives currently available for EVs. This page will give background on available incentives and explains how local units can take advantage of those incentives. It will be updated with new incentives that are available so that local units don't miss out on incentives that are available to them.

## 7.8 Contact Information for questions or additional information

For questions or additional information, visit **NJEV.org** or contact the hotline at:

732-296-0770

info@njev.org

# ATTACHMENT

## 1. Local Finance Notice 2012-10

**LFN 2012-10**

**May 14, 2012**

# Local Finance Notice

Chris Christie  
 Governor

Kim Guadagno  
 Lt. Governor

Richard E. Constable, III  
 Acting Commissioner

Thomas H. Neff  
 Director

## Contact Information

### Director's Office

V. 609.292.6613  
 F. 609.292.9073

### Local Government Research

V. 609.292.6110  
 F. 609.292.9073

### 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  
 F. 609.633.6243

### Authority Regulation

V. 609.984.0132  
 F. 609.984.7388

### Mail and Delivery

101 South Broad St.  
 PO Box 803  
 Trenton, New Jersey  
 08625-0803

Web: [www.nj.gov/dca/lgs](http://www.nj.gov/dca/lgs)

E-mail: [dlgs@dca.state.nj.us](mailto:dlgs@dca.state.nj.us)

### Distribution

Municipal and Freeholder  
 Clerks  
 Municipal and County Chief  
 Financial Officers  
 Authority and Fire District  
 Boards of Commissioners

## Using National Cooperative Contracts: Application of P.L. 2011, c.139

### Introduction

The recently passed P.L. 2011, c.139 (the "Law" or "Chapter 139") allows local contracting units to utilize national cooperative contracts as a method of procurement. The Division of Local Government Services has consulted with the Division of Law, the Division of Purchase and Property (DPP), and the Office of the State Comptroller in reviewing the Law and its relationship to existing procurement statutes and regulations. This Local Finance Notice provides guidance to contracting units seeking to implement the new national cooperative contracting option.

While the guidance in this Notice has specific application to contracting units subject to the Local Public Contracts Law ("LPCL") and boards of education under the Public School Contracts Law ("PSCL"), it has general application to all local government contracting units. Agencies should review this guidance in context of the new Law and their own procurement laws and regulations to ensure consistency in application.

Contracting units should carefully review this guidance, state laws affecting the agency's contracting authority, and relevant case law affecting the use of national cooperatives. Utilizing national cooperative contracting, in certain circumstances, may make the procurement process more efficient and provide cost savings. Contracting units are advised; however, to not only review this guidance, but also be mindful of New Jersey laws affecting the agency's contracting authority and relevant case law affecting the use of national cooperatives.

This notice covers the following subjects:

- A. General Statutory Authority
- B. Contracting Unit Policy Considerations
- C. Types of National Cooperatives
- D. Legal Interpretations Concerning National Cooperative Contracts
- E. Legal Requirements to Use a National Cooperative Contract
- F. Limitations, Fiscal, and Reporting Requirements
- G. Appendix
  - A. Model "Notice of Intent to Award Contract under a National Cooperative Purchasing Agreement"
  - B. Purchasing Agent's Guide to Using National Cooperative Contracts

### **A. General Statutory Authority**

Chapter 139 added the following language to subsection (b) of N.J.S.A. 52:34-6.2:

(3) Notwithstanding any other law to the contrary, any contracting unit authorized to purchase goods, or to contract for services, may make purchases and contract for services through the use of a nationally-recognized and accepted cooperative purchasing agreement that has been developed utilizing a competitive bidding process by another contracting unit within the State of New Jersey, or within any other state, when available. Prior to making purchases or contracting for services, the contracting unit shall determine that the use of the cooperative purchasing agreement shall result in cost savings after all factors, including charges for service, material, and delivery, have been considered.

For purposes of this paragraph, "contracting unit" means any county, municipality, special district, school district, fire district or any board, commission, committee, authority or agency, which is not a State board, commission, committee, authority or agency, and which has administrative jurisdiction over any district, 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.

The second section makes clear that the Law applies to a wide range of local contracting units. The first section provides the operative language that these agencies must apply to their circumstances.

In context of the LPCL and PSCL, the provisions of this notice apply when the aggregate value of the goods or services (see N.J.A.C. 5:34-8.2) exceeds the contracting unit's bid threshold. When the aggregated value of goods and services is below the contracting unit's bid threshold, a national cooperative contract can be used subject to a contracting unit's political contribution disclosure (pay-to-play) requirements when soliciting quotations. Depending on the circumstances, an award under a national cooperative contract may occur without governing body approval.

### **B. Contracting Unit Policy Considerations**

- 1) Local officials continue to have responsibility to choose vendors in an open and transparent manner to ensure public confidence in the integrity of government spending.
- 2) Contracting officials should consider that procurement decisions often try to balance a low price (economy) and an efficient and appropriate procurement process. If a national cooperative contract is chosen, the calculation of cost savings must be documented.
- 3) When using online ordering systems, local officials must put in place appropriate internal controls to ensure quote and bid aggregation thresholds are maintained, encumbrances are established, purchases are documented, and that an audit trail exists.

- 4) Using a national cooperative contract before an existing contract has expired could constitute a breach of contract, depending on contract terms.

### C. Types of National Cooperatives

There are generally two different types of organizations (“national cooperatives”) that award “nationally-recognized and accepted cooperative purchasing agreements” (“national cooperative contracts”).

The first is an organization (profit or not-for-profit) that coordinates and aggregates contracts from different state and local governments and promotes their use. Such organizations often include a “marketing fee” built into the bid price, which is used to support their marketing efforts and/or provide revenue to the public agency issuing the contract. These types of national cooperatives often have websites enabling contracting units to contact vendors who have contracts, obtain contract terms and conditions, and instructions on joining the organization.

The second type of national cooperative is a state, regional, or single government agency that awards contracts for its own use and is authorized under its own laws to extend those contracts to other government agencies. This is similar to the N.J. Division of Purchase and Property’s Cooperative Purchasing Program for New Jersey contracting units. These agencies may also charge a marketing or service fee and have a website, though membership is not usually required.

### D. Legal Interpretations Concerning National Cooperative Contracts

Consider the following elements in making decisions to use a national cooperative contract.

- 1) **General interpretation:** The use of the term “notwithstanding any other law to the contrary” in this statute means that public bidding is not required when using a national cooperative contract. However, national cooperative contracts are still subject to procurement laws and rules that apply to all other contracts awarded by a New Jersey contracting unit.

For example, like all other contracts of a local unit or board of education, governing body approval is required when the value of the contract exceeds the agency’s bid threshold. Internal control practices, along with other requirements such as affirmative action compliance, submission of a business registration certificate, statement of corporate ownership, and other routine submission and compliance requirements are not eliminated under the Law and national contractors are obliged to meet these requirements.

Please note that contracting units under the LPCL and PSCL **do not** have authority to negotiate terms and conditions of national cooperative contracts.

- 2) **National cooperative contract standards:** The following three requirements make a contract part of a national cooperative:
  - a. The national cooperative contract must have been awarded through a “competitive bidding process” that complies with the laws covering the issuing entity. In this context, a

“competitive bidding process” requires open competition, or competition among those qualified or pre-qualified, submission of bids, and awarded pursuant to a “lowest responsible”, “most advantageous to the public entity, price and other factors considered”, or other similar standard employed by a public entity. This excludes contract awards based on unadvertised, “invitation only,” negotiated, local preference, or sole source procurement practices.

- b. The contract being awarded pursuant to the national cooperative model must have been awarded by a contracting unit as defined in c. 139, and cannot have been awarded by a non-profit or private organization, even if a member of the cooperative. Stated differently, Chapter 139 only permits contracting units to access national cooperative contracts that were solicited by another “contracting unit” as defined by the statute.
- c. The original bid must have been advertised as a national cooperative contract (or a regional contract that includes New Jersey in its region) – not as a strictly local contract that is made “national” or “regional” after the receipt of bids. This is required so that vendors that bid on these contracts know the scope of government agencies outside of the issuing agency that could potentially use the contract. Such information can affect pricing and the range of bidders.

#### **E. Legal Requirements to Use a National Cooperative Contract**

Depending on the source of the contract (a national organization or a state government), the following New Jersey legal requirements must be met by contracting units planning to use a national contract.

- 1) **Documentation requirements:** The contracting unit must verify that vendors on a national cooperative contract comply with applicable New Jersey procurement documentation requirements. For example, vendors will need to comply with the following New Jersey laws by submitting the required forms to the New Jersey contracting unit as if the contract was originally awarded by that contracting unit:
  - i. New Jersey Business Registration Certificate for the contractor and any sub-contractors (i.e., copy of certificate)
  - ii. Statement of Corporate Ownership (an original form prepared for the contracting agency awarding the contract)
  - iii. Public Contract EEO Compliance (Employee Information Report form or proof of participation in a federally approved affirmative action program)
  - iv. A non-collusion affidavit (only if required by a local unit)

Purchasing agents should review national cooperative procurements to ensure compliance with any other laws that may apply. Electronic copies are acceptable for forms not requiring an original signature.



**“Cost-savings” determination:** The Law requires that a contracting unit can use national cooperatives only when the contracting unit determines “that the use of the cooperative purchasing agreement shall result in cost savings after all factors, including charges for service, material, and delivery, have been considered.” Considering a Division of Purchase and Property procurement, which applies a similar standard for cooperative contract participation (most cost-effective), a court has agreed that the contracting unit need not do an advertised procurement, in order to compare the prices obtained with the cooperative prices. Nonetheless, the statute still requires “cost savings” be demonstrated in some fashion. Suggested methods of demonstrating cost-savings include.

- i. Comparing current State contract pricing, available to other government entities, to that of the proposed national cooperative.
- ii. Comparing pricing for comparable goods or services under the contracting unit’s current contracts or contracts available to it (i.e., New Jersey government based cooperative purchasing programs) to that of the proposed national cooperative..
- iii. Comparing recently procured comparable contracts entered by other public entities to that of the proposed national cooperative.

Other factors that should be considered as part of the analysis of whether there is a cost-savings.

- iv. The ability to avoid the cost and time of a separate procurement
- v. Lower minimum purchase requirements at a lower price that allows for the public entity to purchase the needed quantities and avoid storage costs.
- vi. Additional costs which have been factored in before contract award, such as:
  - a. Administrative cost factors required to participate in the cooperative agreement
  - b. Shipping costs, if any
  - c. Vendor rebates

The contracting unit is ultimately responsible for developing its own procedures for implementing and documenting the due diligence necessary to reach a cost savings determination that survives legal scrutiny. The documentation, which would be reviewed as part of an audit, and which is subject to disclosure under the Open Public Records Act, should be kept on file as part of the award package. Whatever factors the contracting unit uses in determining the cost effectiveness of a national contract, the court cases referred to below in Subsection 4 strongly suggest that documentation of the cost saving determination is a necessary and vital prerequisite to a contracting unit’s award of a national cooperative contract under Chapter 139.

Before using a national cooperative contract, the contracting unit should first check with the [Division of Purchase and Property](#) to determine if the contract was awarded as a State contract and is open to use by local governments by cooperative partners. In such a situation, the contracting unit is not making an award under Chapter 139.

1) **Political contribution disclosure:** National cooperative contracts are also subject to New Jersey's Pay-to-Play laws. New Jersey contracting units have different rules to apply as follows:

- a) Agencies subject to the Local Public Contracts Law (municipalities, counties, local authorities, etc.) are subject to N.J.S.A. 19:44A-20.4 and 20.5 (pay-to-play laws). These laws require all contracts (over \$17,500) to be entered into through a fair and open process, or otherwise be subject to contribution disclosure rules. In this case, the contracting unit awarding the contract must comply with these laws. The contracting unit using the contract must verify that the "competitive bidding process" used by the issuing agency (see D-2 above) met the fair and open definition of N.J.S.A. 19:44A-20.7 (below, formatted for clarity):

"Fair and open process" means, at a minimum, that the contract shall be:

- i. Publicly advertised in newspapers or on the Internet website maintained by the public entity in sufficient time to give notice in advance of the contract;
- ii. Awarded under a process that provides for public solicitation of proposals or qualifications;
- iii. Awarded and disclosed under criteria established in writing by the public entity prior to the solicitation of proposals or qualifications; and
- iv. Publicly opened and announced when awarded.

The decision of a public entity as to what constitutes a fair and open process shall be final.

In most cases this standard would be met by obtaining information from the issuing agency or national cooperative administrator about the bidding process that was used. If the bidding process did not meet the above definition of a "fair and open" process, the vendor would have to submit a Business Entity Disclosure Certificate (BED-C) and Political Contribution Disclosure (PCD) form to the contracting unit as required by pay-to-pay laws. Otherwise, a contract cannot be executed.

Similarly, a contracting unit that desires to use a national contract for "window contracts," those contracts that are between \$17,500 and the contracting unit's bid threshold, can treat a national contract like any other window contract procurement. A national contract can be used if it is found to be "most advantageous, price and other factor considered" and that the contract was awarded in a fair and open process by the issuing agency as described above.

- b) Boards of education under the Public School Contracts Law are not subject to the provisions of N.J.S.A. 19:44A-20.5; they must, however, follow the requirements of N.J.A.C. 6A:23A-6.3. Among other matters, this rule requires boards of education to comply with N.J.S.A. 19:44A-20.26. Also required in N.J.A.C. 6A:23A-6.3 is submission of political contribution lists by all contractors awarded contracts,

including those that are publicly bid. This will likely require the contractor to submit supplemental documents to the contracting unit. Without the documentation the contract cannot be executed. These requirements also apply to charter schools.

- 2) **Legal advertising requirements:** While not referenced in Chapter 139, recent case law involving the use of national contracts by the Division of Purchase and Property (“DPP”) strongly suggests that a contracting unit must provide public notice to current contract holders and prospective bidders of their decision to utilize a national cooperative purchasing agreement that would otherwise require public bidding<sup>1</sup>.

Given the similarities in the statute reviewed by the courts and Chapter 139, a contracting unit is advised to employ notice practices similar to those in the formal bidding process before passing a resolution to award a national cooperative contract above the contracting unit’s bid threshold.

A contracting unit that employs notice practices different than provided herein should check with its attorney to ensure that notice practices utilized will survive judicial scrutiny. There is no need for such notices when a contracting unit joins or uses another authorized New Jersey cooperative contract.

The advised notice practices include the contracting unit providing notice of its intent to utilize a national cooperative contract with a sufficient time period for a vendor to offer alternative approaches. This notice should be treated like any other procurement legal notice and must be printed in an official newspaper (similar to advertisements to receive bids) with at least 10 days’ notice before the next action is taken. The Division suggests a public notice template that contains the following elements (a sample is included as Appendix “A” of this Notice):

“Notice of Intent to Award a Contract under a National Cooperative Purchasing Agreement”:

- i. Name of the entity that awarded the contract
- ii. Title of contract (description of the contract, i.e., office supplies)
- iii. A web link to where the contract can be viewed online
- iv. Length of contract (must be consistent with length of public contracts law regulating the contracting unit)
- v. A statement naming the vendor to whom the contracting unit intends to award the contract
- vi. A statement of the authority under which the contract is being awarded; generally this will be N.J.S.A. 52:34-6.2(b)(3)
- vii. A notice of when the comment period ends

---

<sup>1</sup> In the Matter of Protest of Award of N.J. State Contract A71188 for Light Duty Automotive Parts, 422 N.J. Super. 275 (App. Div. 2011); In the Matter of Challenge of the State’s Award of Contract to Staples Business Advantage, decided Aug. 25, 2011 (Appellate Division, unpublished; Docket # A-0476-09T2).

Once the notice is published, the contracting unit should also post the notice on its local website. At this stage, the contracting unit should have prepared the appropriate documentation to support the award (as described in section E of this Notice).

3) **Miscellaneous requirements:**

- a. National cooperative membership: Often the contracting unit may be required to join or become a member of the entity. If a contracting unit is using a national cooperative contract, it must follow the national organization's instructions for joining or becoming a member prior to using a contract awarded by the organization. Under all circumstances, a copy of that documentation should be kept on file for audit trail purposes.

Depending on the degree of authority given to a contracting unit's purchasing agent, the governing body of said unit may need to approve membership in the national cooperative. Authorization to join a national cooperative can be included in the same resolution as that awarding a national cooperative contract.

- b. Time limits: The contracting unit should be aware that its agreements with vendors under a national cooperative contract will expire when the original issuing agency's contract expires. Unless the national organization or sponsoring contracting unit extends the contract, the contracting unit will have to rebid or otherwise make alternative arrangements for procuring the goods or services.
- c. Both the contractor and the contracting unit must meet the requirements of any other laws that may cover a given contract, including, for example, "Buy American" requirements and length-of- contract limitations.
- d. Pricing must be for a known period, and contracts with prepayments or down-payments are not permitted (unless otherwise permitted by New Jersey law).
- e. The contracting unit is responsible for determining what documents are needed for a given procurement.

#### **F. Limitations, Fiscal, and Reporting Requirements**

- 1) **Not applicable to public works/construction contracts:** The use of national cooperative contracts only applies to contracts for goods and services; it does not apply to "public works" or construction contracts.

This prohibition may affect a contracting unit that plans to construct or install turf and synthetic turf fields, masonry, fencing, roofing, or indoor carpet flooring projects. There are several national cooperative contracts offering time and material contracts for work that may fall under New Jersey public works or construction laws. Before using such a time and material national contract, the contracting unit should review the project to be sure the work is not covered under New Jersey's public works contracting laws.

- 2) **Limits on GSA/FSS and other New Jersey agency contracts:** The Law does not apply to contracts issued by federal agencies, particularly General Services Administration/Federal Supply Schedule (GSA/FSS) contracts. These contracts continue to be subject to the Division of Purchase and Property authorizing them as State contracts, and cannot be used unless authorized by DPP. Note that vendors who are on GSA schedules may also have been awarded contracts through a national cooperative procurement in which case, Chapter 139 allows the contracting unit to participate in the national cooperative contract.

Contracting units remain able to utilize only those State contracts that are authorized for local use by the Division of Purchase and Property pursuant to N.J.S.A. 52:16.1, and may use only those local cooperative contracts that are authorized by the Division of Local Government Services pursuant to N.J.A.C. 5:34-7.

- 3) **Vendor Payments:** Some national cooperative contracts require online payment as vendors may not accept purchase orders or vouchers. Currently, local government units that fall under the provisions of the Local Fiscal Affairs Law (N.J.S.A. 40A:5-16 and rules at N.J.A.C. 5:30-9A) can take advantage of using "Procurement Cards" (P-cards) as means of meeting statutory requirements that vendors certify in writing that their goods or services were delivered. Current rules limit the use of P-cards in online transactions to 15% of the contracting unit's bid threshold. The Local Finance Board is proposing amendments that will eliminate this limit. Please note that boards of education do not currently have authority to use P-cards.

Until the P-Card transaction limit threshold is eliminated, the contracting unit must take into account its applicable laws and rules when choosing a national cooperative to ensure that vendor payments are made consistent with law.

- 4) **Reporting to the Office of the State Comptroller (OSC):** N.J.S.A. 52:15C-10 requires contracts exceeding \$2,000,000 but below \$10,000,000 to be reported to the OSC within twenty (20) days after award, and that proposed contracts exceeding \$10,000,000 must be approved by the OSC prior to awarding the contract. Contracts awarded under a national cooperative agreement are subject to these requirements. In addition, the OSC may audit or review contracts of any amount or type and may audit or review the records of the vendor as well.

Consequently, the OSC has adopted a regulation, N.J.A.C. 17:44-2.2, that requires contracting units to insert the following language into all contracts: "The vendor shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request." This language should be included in any national cooperative contract or purchase order issued to a national cooperative.

**Appendix A**

**Model "Notice of Intent to Award Contract under a National Cooperative Purchasing Agreement"**

**Notice of Intent to Award Contract under a National Cooperative Purchasing Agreement - <name of contract>**

The <name of contracting unit> intends to participate in the <name of agency issuing contract> contract for <name/purpose and number (if applicable) of contract name> to purchase <goods or services being purchased>.

Information regarding the contract may be found at the <name of the location where information is available> during regular business hours, as well as on the <name of agency issuing contract> website at: <website link>.

The <name of contracting unit> anticipates joining the <name of agency issuing contract> contract on <date of award>. The <name of agency issuing contract> contract term is <provide start and end date>.

Contract Period: <contracting beginning and ending period>

It is the intent of the <title of contracting agent> to make a contract award to <name of vendor> pursuant to the proposal submitted in response to the <name of agency issuing contract> <type of award, i.e., Request for Proposals, Request for Bid(s) as appropriate>.

The <name of contracting unit> is permitted to join national cooperative purchasing agreements under the authority of N.J.S.A. 52:34-6.2(b)(3).

Comment period ends <date comment period ends>.

## Appendix B

### Purchasing Agent's Guide to Using National Cooperative Contracts

**Once a decision is reached to utilize a national cooperative contract where the amount is over the contracting unit's bid threshold, the purchasing agent should take the following steps: (Refer to Local Finance Notice 2012-10 for guidance and forms).**

1. Conduct due diligence on a national contract to determine if the contract will result in cost savings after all factors, including charges for service, material and delivery, have been considered. Ensure there is documentation backing up this determination.

Considerations to use a national contract can include:

- Economy versus efficiency
  - Comparison of the national contract pricing to the current State contract price, to other national cooperative contracts, to comparable goods in other cooperatives, and any existing contracting unit contract
  - Savings of time in avoiding the time and cost of a separate procurement
  - Any record of satisfactory vendor performance
  - Administrative cost factors required to participate in the national cooperative agreement
  - Other factors such as rebates offered and unique needs to a particular situation
2. Review any national contract under consideration to determine if it meets New Jersey standards:
    - That the contract was based on a publicly advertised request for bids (or proposals) that stated that the contract would be made available to other government agencies that would have included New Jersey contracting units.
    - It was awarded under a competitive bidding process that met NJ "fair and open" criteria
    - Obtain the statutorily required forms or determine related compliance matters as necessary, including but not limited to:
      - ✓ New Jersey Business Registration Certificate
      - ✓ Statement of Corporate Ownership disclosure statement (Chapter 33)
      - ✓ Proof of New Jersey Public Contract EEO compliance
      - ✓ Compliance with Political Contribution Disclosure Laws (Pay-to-Play)
      - ✓ Non-collusion Affidavit (if required)
      - ✓ New Jersey's "Buy American" Law
      - ✓ Americans with Disabilities requirements

- ✓ If the contract to be issued by the contracting unit is over \$10 million, report the proposed award to the Office of the State Comptroller thirty days prior to the anticipated award date
3. Publish a “Notice of Intent to Award Contract under a National Cooperative Purchasing Agreement” in the official newspaper, on your official website, and on “Bulletin NJ” when available.
    - Allow a minimum of ten days between the advertisement and award for affected providers to protest the award.
    - Consider comments received prior to the award and act accordingly.
  4. Prepare a contract and related documents (i.e., Certificate of Availability of Funds, etc.) for governing body action. Include the State Comptroller’s language requiring the vendor to maintain records for five years in the contract document.
  5. Execute contract pursuant to routine practices. If the contract is above two million dollars but below ten million dollars, report the contract to the Office of the Comptroller within twenty business days of award.
  6. Keep documentation of award on file for audit purposes, as with any other contract award.