



Chapter 2

Implementation

Let's look at some basics;

Recycling is the law in New Jersey.

The "New Jersey Statewide Mandatory Source Separation and Recycling Act", PL.1987, c. 102 (NJSA 13:1E-99.11 et seq.) is the formal name for the Law.

What Is Recycling?

Recycling is a three-step process.

- Collecting used materials is the important first step.
- The second step involves using recovered materials as feedstock in the manufacture of new products.
- The final step is purchasing and using the recycled products.

In general terms what is a Recycling Coordinator?

A person who plans, organizes, and oversees the recycling program in a municipality, school, or in a commercial, institutional, or industrial facility.

What are the basic activities of a Recycling Coordinator?

If you worked for a town or business your basic activities could be divided into 4 basic activities:

- Legislative
 - Make or suggest rules or procedures for your employer
- Project planning
 - Plan the activities
- Program development and implementation
 - Get the program up and running
- Administrative
 - Manage the recycling activities

Most Recycling Coordinators have a variety of duties and responsibilities.

You should ...

- Become familiar with applicable local ordinances and state and federal laws to design and administer a successful program
- Keep up to date on changes to county and local ordinances, regulations, and laws so that the recycling program is compliant

You also...

need to know where to go to get the information

- The Internet, Libraries
- Conferences, Trade groups
- Counterparts in neighboring counties, municipalities, or like businesses
- Regional roundtables
- Journals or newsletters
- Local, state (ANJR), and national recycling organizations

The ‘Law’ requires that one or more persons be designated as the municipal recycling coordinator for each municipality.

For a complete list of the Municipal Responsibilities under the “New Jersey Statewide Mandatory Source Separation and Recycling Act” found in Chapter 1.

So what then is a Municipal Recycling Coordinator (MRC)?

Municipal Recycling Coordinators plan, develop, implement, and coordinate the recycling program of a local jurisdiction. They are usually closely involved with day-to-day collection issues in addition to education efforts and enforcement

Smaller communities often delegate recycling responsibilities to municipal managers, council members, planners, health officers, public works or solid waste directors.

Many municipalities, moderately-sized and large cities in particular, employ a full-time Recycling Coordinator

Examples of job duties

- Plans, coordinates, and develops the recycling program for the efficient collection and marketing of recyclable material
- Develops and implements plans for:
 - promoting the recycling program
 - enforcing the recycling program
- Writes recycling proposals and prepares drafts of recycling contracts
- Coordinates recycling program activities with the collection of other solid waste materials, whether by private contractor or by the municipality
- Oversees the work performed onsite by contractors or public employees
- Inspects general quality of work and/or compliance with contractual agreement and/or adherence to specifications
- Develops and maintains productive relations with government, professional and civic groups, and industry personnel
- Prepares cost estimates on the cost and revenue from the program
- Establishes and maintains records and files
- Prepares applications for grants and submits Annual Recycling Tonnage Report
- Speaks before various groups to apprise them of the purpose and goals of the recycling program and to elicit their support
- Serves as an advocate for increasing awareness and advancing recycling through education, reasonable legislative action and increased funding at all levels
- Drafts recycling regulations, ordinances or resolutions

Although the actual duties and responsibilities of a MRC varies greatly, the New Jersey Department of Personnel (NJDOP) has developed at least three Job Descriptions for the position.

07622 Municipal Recycling Coordinator

07823 Municipal Recycling Coordinator/Public Works Inspector

03043 Recycling Program Aide

These job descriptions can be found on the NJDOP website <http://www.state.nj.us/personnel/jobs/index.htm>

The “Law” also requires that the municipality adopt a mandatory source separation and recycling ordinance (13:1E-99.16b. and 99.17). This ordinance must include, at a minimum: the designation of materials mandated for source separation and recycling from all residential, commercial and institutional generators; responsibilities of generators for the collection and recycling of those materials; method of enforcement for the mandate, including delegation of enforcement powers and penalties for non-compliance. The ordinance may also include a requirement that all registered solid waste haulers bid on recycling services, if this provision is included in a County Recycling Plan.

For a complete list of the Municipal Responsibilities under the “New Jersey Statewide Mandatory Source Separation and Recycling Act” found in Chapter 1

As the MRC you may be called upon to draft Ordinances and Resolutions.

What is an Ordinance? - any act or regulation of a county or municipality required to be reduced to writing and *read at more than one meeting and published*

What is a Resolution? - any act or regulation of a county or municipality required to be reduced to writing, *but which may be finally passed at the meeting which it is introduced.*

An Ordinance is formal legislation that when enacted, if not in conflict with any higher form of law, has the full force and effect of law within the boundaries of the municipality or county to which it applies.

The difference between an ordinance and a resolution is that the latter requires less legal formality and has a lower legal status.

Ordinances and Resolutions contain:

“Recitals” are detailed statements giving facts and figures or a detailed account or description of something

Whereas: the Public Works Department...

and a

“Directive” is the specific actions to be taken and directions to be followed in implementing a policy which was detailed in the recitals

Now Therefore Be It...

Recitals & Directives should be written clearly and contain all information on why the Ordinance or Resolution is being presented.

You should be able to read a well-written Ordinance or Resolution a hundred years from now and know exactly what it was for and why it was presented.

Ordinances

- Ordinance should contain a section that deals with conflicts with the new language in the Ordinance and other existing Ordinances
“All other Ordinances and parts of ordinances in conflict or inconsistent with this ordinance are hereby repealed, but only to the extent of such conflict or inconsistency”
- Contain section that stipulates when the Ordinance becomes effective
“That Ordinance shall take effect after final passage and upon expiration of twenty (20) days following publication unless otherwise provided by resolution of the Township Council.”
- A section that establishes penalties and fines for violation of the Ordinance.

Procedure for Drafting an Ordinance

This procedure varies from Town to Town, but generally:

- Business Administrator or Department Head prepares the draft
- The draft is approved by the BA and Township Clerk for form and content
- The Township Attorney approves legality and then it is presented to Township Council for action

Procedure for Passing Ordinances

- Requires a “First Reading” at a regular meeting
- Ordinances must be published in the “Official Newspaper”
- A Public Hearing at a regular meeting
- A Final Vote usually at the same meeting as the Public Hearing
- Becomes effective usually 20 days after the Final Passage

Example of Ordinances

- Revenue Measures
 - establishing salaries
 - sale of Bonds or incurring of indebtedness
- Administrative Legislation
 - Personnel Policies
 - Departmental duties
- General Legislation
 - Amend existing Code
 - Stormwater, Recycling/Solid Waste Regulations

Example of Resolutions

- Authorization/Approval
 - submitting grants
 - advertise for bids
 - accept bids
 - authorize contracts

- approve minutes
- Commemorative/Recognition

Procedure for Preparing and Submitting a Resolution

This procedure varies from Town to Town, but generally:

- Department Head prepares the draft
- The draft is approved by the BA factual content
- The Township Attorney approves for form and legality and then it is presented to Township Council for action
- Unlike an Ordinance, Resolutions normally require two meetings to be passed. Committee/Work Session/Caucus Meeting and voted on at the Regular Meeting.

As the MRC you may be called upon to write specifications, proposals or prepares drafts of contracts for the purchase or sale of recyclables or other Goods or Services.

The Local Public Contracts Law (LPCL), N.J.S.A. 40A:11-1 et seq., establishes for local governments a common set of laws and rules for purchasing and awarding contracts for Good or Services.

LPCL information can be found at:

<http://www.nj.gov/dca/lgs/lpcl/index.shtml#ContractsLaw>

The terms and definitions found in the following section are to acquaint the reader with certain terms and concepts used in public procurement and should not be considered legal advice. The reader should always refer to the requirements of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and their local government's purchasing policies and procedures.

Some common terms used in Procurement.

What are "Goods and services" or "goods or services"? any work, labor, commodity, equipment, materials or supply of a tangible or intangible nature, provided or performed through a contract awarded by a contracting agent.

What is a "Purchase"? a transaction, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein.

What is a "Price Quote" (Quotation)? the response to a formal or informal request made by a contracting agent by a vendor for provision or performance of goods or services, when the aggregate cost is less than the bid threshold. Currently (2006) the Quotation threshold amount is \$3,150 and \$4,350 for local units that have appointed a Qualified Purchasing Agent.

What is the "Bid threshold?" the dollar amount above which a contracting unit shall advertise for and receive sealed bids. Currently (2006) the amount is \$21,000 and \$29,000 for local units that have appointed a Qualified Purchasing Agent.

What is a "Bid"? an offer to buy goods or services at a stated price. It is the promises made by a service provider that wants to perform work for another party.

Why a Bidding Process?

- To guard against favoritism, improvidence extravagance and corruption.
- Secure for the taxpayer the benefits of unfettered competition.
- Place all bidders on equal footing.

What is “Lowest responsible bidder or vendor”? the bidder or vendor: (a) whose response to a request for bids offers the lowest price and is responsive; and (b) who is responsible.

"Responsive" means conforming in all material respects to the terms and conditions, specifications, legal requirements, and other provisions of the request.

"Responsible" means able to complete the contract in accordance with its requirements, including but not limited to requirements pertaining to experience, moral integrity, operating capacity, financial capacity, credit, and workforce, equipment, and facilities availability.

What is a “Contract”? a legally binding Agreement between a vendor who agrees to provide or perform goods or services and a contracting unit which agrees to compensate a vendor.

What are Specifications? Clear and complete description of the product or service the vendor has to produce/provide to meet the acceptable requirements of the contracting unit.

Why Use Specifications?

- Achieve the objects of economy and efficiency
- Insure maximum value for public funds spent
- Allow qualified vendors to compete on equal basis
- Minimize disputes
- Determine compliance to desired Goods or Services.

Specifications should contain a Scope of Work

- The Scope of Work must be written in clear, not confusing, equitable (fair) language.
- The Scope of Work should contain definitions to eliminate confusion when describing the goods or services requested.

When preparing a Scope of Work consider the following 5 Ws & 1H:

- Who -
 - Is requesting the Item?
 - Is the user?
- What -
 - Has been requested?
 - Quantity is needed? Is its intended use? Are conditions of use?
 - Job(or service) must it do?
 - Size, color, etc. must it be?
- When -
 - Is it needed?
- Where -
 - Is it going to be used?
- How -

- Must it be powered?
- Must it do specific tasks?
- Must the service be performed?
- Why -
 - Is the item or service needed?

Remember - You can only purchase Goods and Services with an approved Purchase Order.

Business Registration of Public Contractors Required (BRC)

All business organizations that do business with a local contracting agency are required to be registered with the State and provide proof of that registration to the contracting agency before the contracting agency may enter into a contract with the business. P.L. 2004, c.57.

There has been some confusion regarding the Marketing of Recyclable Material. The following are four examples of Marketing and LPCL.

- If you are bidding for recycling collection **and** marketing, the bid must conform to the requirements of the **Local Public Contracts Law**.
- If you contract only to **sell** recyclables, you may **negotiate** directly with a buyer, and don't need to go out to bid.
- If you choose to publicly solicit bids for buyers of recyclables, you must follow the requirements of the **Local Public Contracts Law**.
- If you are bidding for recycling collection **and** garbage collection combined, you must follow the requirements of the **Local Public Contracts Law and the Uniform Bid Specifications for Solid Waste**.

For additional clarification on the Marketing of Recyclable Materials refer to the document provided by Division of Local Government Services found in the Chapter 1.

Pay-to-Play (P2P)

On January 1, 2006, P.L. 2004, c.19, known as the "New Jersey Local Unit Pay-To-Play" law (N.J.S.A 19:44A-20.4 et seq.) took effect. The Law affects all "municipalities and counties, and their agencies and instrumentalities" (i.e., all contracting units subject to the Local Public Contracts Law) enter into contracts for goods and services with a value over \$17,500.

The Law affects how all municipalities and counties award contacts in excess of \$17,500 for goods and services.

The Law reflects the following principles for contracts having an anticipated value in excess of \$17,500:

- A municipal or county government agency cannot award a contract without using a fair and open process if the contractor...

- ...is a contributor to a candidate committee or a political party committee where a member of the party is serving in an elective public office of that municipality or county, and, either...
- ...made “reportable” contributions (those in excess of \$300) during the year prior to the award, and/or...
- ...makes contributions during the life of the contract.

The Law does not alter the provisions of contracting laws regulating agency procurement for goods and services that are subject to public bidding.

Exemptions from public bidding may be procured through either a fair and open process or a non-fair and open process pursuant to this Law.

“Fair and open process” means that the provisions of the Local Public Contracts Law that apply to public bidding and the competitive contracting process fully meet when awarding a Contract.

When public bidding or the competitive contract process is used in accordance with law, the fair and open standard is met. An alternative fair and open process can only be used when goods and services are exempt from public bidding.

In practical terms, the minimum requirements of a fair and open process are:

- Publicly advertised (either conventionally in newspapers OR posted on the entity’s website) with “sufficient time to give notice,” and
- Awarded under “a process that provides for public solicitation of proposals OR qualifications,” and
- Established on the basis of an award and disclosure process documented in writing prior to any solicitation, and
- Publicly opened and announced when awarded

For additional information on the “Pay-to-Play Law” refer to the Division of Local Government Services website at <http://www.state.nj.us/dca/lgs/p2p/index.shtml>

Disclosure of Contributions to New Jersey Election Law Enforcement Commission (ELEC)

N.J.S.A. 19:44A-20.27 establishes a new disclosure requirement for business entities. It requires that, when a business entity has received in any calendar year \$50,000 or more in public contracts with public entities, it must file an annual report with the Election Law Enforcement Commission (ELEC). The report shall disclose any contribution of money or any other thing of value, including an in-kind contribution, or pledge to make a contribution of any kind:

- To a candidate for or the holder of any public office having ultimate responsibility for the awarding of public contracts, or,
- To a political party committee, legislative leadership committee, political committee or continuing political committee.

The report will include all reportable contributions made by the business entity during the 12 months prior to the reporting deadline. ELEC will be promulgating a form and procedures for filing commencing in January 2007. ELEC can also impose fines for failure to comply with this requirement.

“Truth in Contracting”

You should also be aware of the following statutes that represent “Truth in Contracting” laws:

- N.J.S.A. 2C:21-34, et seq. governs false claims and representations by bidders. It is a serious crime for the bidder to knowingly submit a false claim and/or knowingly make material misrepresentation.
- N.J.S.A. 2C:27-10 provides that a person commits a crime if said person offers a benefit to a public servant for an official act performed or to be performed by a public servant, which is a violation of official duty.
- N.J.S.A. 2C:27-11 provides that a bidder commits a crime if said person, directly or indirectly, confers or agrees to confer any benefit not allowed by law to a public servant.

“Ethics”

“If the public does not believe that somewhere in their hometown someone is ripping them off or planning to rip them off, then they are not very smart.”- Asbury Park Press, February 27, 2005, page C3

“Unfortunately, this attitude is probably widely held, with the result that those working honestly in local government take on the stench of corruption.”

Both of these quotes are from [Ethics - Essential in Government](#) that appeared in the May 2005, *New Jersey Municipalities*, written by Duane Davidson League Associate Counsel

As a Public Employee it is essential that your behavior is such that you conduct yourself in a manner that will hold the respect and confidence of the people you work with and the public you serve.

You must, therefore, avoid conduct which is in violation of their trust or which creates a justifiable impression that their trust is being violated.

You must not accept, directly or indirectly, whether by yourself or through your spouse or a member of your family or through any partner or business or professional associate, any gift, favor, service, or any other thing of value, which you know or have reason to believe or from which it might be reasonably inferred, is made or offered to you with the intent to influence you in the performance of your duties.

You should never use or attempt to use your official position to secure unwarranted privileges or advantages for yourself or others.

Under the provisions of the Local Government Ethics Law, counties and municipalities may establish ethics boards and set rules and regulations for their employees.

What should you do if you are unsure about whether an ethics violation exists or may exist in a particular situation?

- Check your Personnel Handbook or Rules and Regulations
- Check with your supervisor
- Check with your municipal attorney

To quote Deborah M. Kole, Staff Attorney for the New Jersey League of Municipalities “*When deciding what to do in a given instance, remember that it is always a good idea to err on the side of caution when it comes to ethical questions. After all, as a local government official, your most valuable asset is your reputation.*”

For additional information on the “Local Government Ethics Law.” see N.J.S.A. 40A: 9-22.1 or the Division of Local Government Services website at <http://www.state.nj.us/dca/lgethics.htm>

The Public Budget Process

A public budget has four basic dimensions.

- First - it is a political instrument that allocates scarce public resources among the social and economic needs of jurisdiction.
- Second - it is a managerial and/or administrative instrument.
 - It specifies the ways and means of providing public programs and services.
 - It establishes the costs and/or criteria by which activities are evaluated for their efficiency and effectiveness.
 - It is the budgeting process that ensures all of the programs and activities of a jurisdiction will be reviewed or evaluated at least once during each budget cycle.
- Third - it is an economic instrument that can direct a community's economic growth and development.
- Fourth - it is an accounting instrument that holds government officials responsible for the expenditure of the funds with which they have been entrusted. Budgets also hold governments accountable in the aggregate.

The very concept of a budget implies that there is a ceiling or a spending Limitation, which literally (but theoretically) requires governments to live within their means.

Simply put a budget is a financial plan involving the estimation of expenditures and the proposed method of financing these expenditures through various revenue sources. It inherently outlines the levels of services to be performed and estimates the cost of providing these services by category.

The budget is also the document that details the amount of progress to be made toward achieving goals.

A municipal budget constitutes two functions of authority.

- First, it establishes the appropriations necessary to meet the estimated expenditures.
- Second, it provides the authority to tax to provide revenue needed to bring the budget into balance.

Thus, until a budget is adopted, there is no authority to spend or tax. Since it must be adopted annually, the budget is the most important action of a municipality.

The basis for municipal budgeting in New Jersey is referenced in the Local Budget Law (N.J.S.A. 40A:4 et. seq) and the Budget Manual for New Jersey Municipalities published by the Division of Local Government Services (DLGS).

YOUR BUDGET

There are two terms you may hear applied to budgets, Capital and Operating.

The Capital budget is defined by NJSA 40A:4-43 as plans for the expenditure of public funds for capital purposes, showing as income the revenues, special assessments, free surplus, and down payment appropriations to be applied to the cost of a capital project or projects, expenses of issuance of obligations, engineering supervision, contracts and any other related expenditures

NJAC 5:31-1.2 adds additional definitions:

"Capital budget" means the first year of a capital program.

"Capital program" means a projected, multi-year plan and schedule for capital projects, which shall set forth among other things all prospective financing sources including, but not limited to, proceeds of bond sales, grants and budget appropriations.

"Capital project" means any of the following activities or undertakings which an Authority is empowered to bond for, with an estimated useful life of five years or more and a prospective individual or (when added to the cost of other such items as are listed below) cumulative cost in any year of \$500 or more, regardless of the financing sources:

1. Acquisition and/or development of land;
2. Acquisition of equipment, furnishings or other personal property;
3. Acquisition, construction, improvement and/or renovation of buildings, roads, utilities, structures improvements or public works;
4. Any other matter for which an authority is empowered to issue bonds.

In most cases Capital monies are earmarked for the purchase of equipment and improvements to and construction of road, sewers, drains and buildings.

Capital Budgets do not directly appropriate funds. The appropriation of funds is made a through the adoption of a Bond Ordinance.

The Operating Budget deals with the day to day activities and expenses of local governments which are paid for out of revenues from taxes, fees and other sources or revenue.

Each year you may be asked to prepare a budget - remember *a Budget is your plan* - it contains goals and objectives - once you develop your plan on how your recycling program is to function during the next Fiscal Year (FY) you establish a cost for each of your goals or objectives.

Once your budget is approved you can spend the funds to implement the plan you presented.

The Fiscal Year (FY) is a 12 month period that, in most local governments, runs from January 1 through December 31. In certain others it runs from July 1 through June 30.

At the beginning of the Fiscal Year you receive a Temporary Budget that is 26.25% of your previous year's adopted budget. In preparing your Temporary Budget you should take into account seasonal obligations that need to be addressed at the start of your community's Fiscal Year.

Remember your temporary budget is based on the **last fiscal year**. So if you have a new program it will not be funded until this year's FY is adopted.

Your Budget is generally presented in two Statutory Line (Control) Items: Salary & Wages and Other Expense.

Salary and Wages contains sub-accounts such as:
Base Salary, Overtime, Part Time Help

Other Expense (O&E) sub-accounts may be:
Office Supplies, Radio Maintenance, Mechanics Tools, Equipment Repair, Misc. Miscellaneous Other Expense.

ENCUMBRANCES (spending your Budget funds)

The Local Public Contracts Law N.J.S.A 40A:11 et seq. establishes rules for the Purchase of Goods and Services by Public Agencies.

EXPENDITURES

You can only spend current FY funds for "goods or services" purchased during the current FY.

ANNUAL MUNICIPAL RECYCLING TONNAGE REPORT

The Law requires that each Municipality submit an annual municipal recycling tonnage report to the NJDEP (13:1E-99.16e.).

The NJDEP provides an annual guidance document and on-line reporting forms for this requirement. This report must detail all recycling that occurred in the municipality, from all sectors (residential, commercial and institutional) subject to the ordinance. The NJDEP provides several reminders regarding this report and the governing body resolution which must accompany this report. Those municipalities which do not report are barred from receiving a recycling grant, may jeopardize receiving other NJDEP grants, and will be referred to NJDEP Enforcement for appropriate action

Compiling the information for this report may be one of the most tedious, frustrating and important tasks you as MRC will be called upon to perform.

More Coming Soon!

EXEMPTIONS FROM SOURCE SEPARATION REQUIREMENTS

13:1E-99.16d allows certain generators to be exempt from source separation requirements in certain circumstances. A municipality may exempt commercial and institutional entities from source separation regulations in those instances where the designated materials are otherwise recycled by the commercial or institutional generators. **Only** the municipality has this authority, not the provider of the recycling or solid waste service to grant an exemption. The exemption requires that adequate proof that the recycling is provided, and the generator is responsible for reporting, on at least an annual basis, to the municipality on the total tons of designated materials recycled.

Chapter 4 contains examples of Rules and Ordinances for exemptions

More Coming Soon!

RECYCLING AT MULTIFAMILY HOUSING

13:1E-99.13a. requires the adoption of model ordinance on recycling in multifamily housing. This ordinance would contain standards governing the inclusion, in all new multifamily housing developments which require subdivision or site plan approval, of collection or storage facilities which allow for the source separation of all recyclable materials required by the district recycling plan adopted pursuant to section 3 of P.L.1987, c.102 (C.13:1E-99.13). A "multifamily housing" shall mean housing in which three or more units of dwelling space are occupied, or are intended to be occupied, by three or more persons who live independently of one another.

Chapter 4 contains examples of a storage facility for recyclable material.

More Coming Soon!

COMMERCIAL ESTABLISHMENTS

Mom & Pop

Big Box Stores

Working with...

Still in the data collection and research phase

SCHOOLS

Still in the data collection and research phase