

CHAPTER 32

SCHOOL FACILITIES PROJECTS: P.L. 2000, C.72,
SECTION 15 GRANT PROCEDURES

Authority

P.L. 2000, c.72, §§ 15 and 26b.

Source and Effective Date

R.2001 d.263, effective June 29, 2001.
See: 33 N.J.R. 2702(a).

Executive Order No. 66(1978) Expiration Date

Chapter 32, School Facilities Projects: P.L. 2000, c.72, Section 15 Grant Procedures, expires on June 29, 2002.

Chapter Historical Note

Chapter 32, School Facilities Projects; P.L. 2000, c.72, Section 15 Grant Procedures, was adopted as new rules by R.2001 d.263, effective June 29, 2001. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 19:32-1.1 Applicability and scope
- 19:32-1.2 Construction of rules
- 19:32-1.3 Definitions
- 19:32-1.4 Administration and performance of grant agreements
- 19:32-1.5 Disclosure and publicity
- 19:32-1.6 Access and record retention
- 19:32-1.7 Fraud and other unlawful or corrupt practices
- 19:32-1.8 Debarment
- 19:32-1.9 Performance evaluation policy and procedure
- 19:32-1.10 Noncompliance
- 19:32-1.11 Notice of noncompliance
- 19:32-1.12 Withholding of funds
- 19:32-1.13 Termination of the grant agreement for cause
- 19:32-1.14 Termination by mutual agreement
- 19:32-1.15 Severability
- 19:32-1.16 Waiver

SUBCHAPTER 2. ELIGIBILITY

- 19:32-2.1 Applicability
- 19:32-2.2 Eligibility
- 19:32-2.3 Application procedures
- 19:32-2.4 Execution of the grant agreement
- 19:32-2.5 No assignment of grant agreement or grant by the district
- 19:32-2.6 Effect of grant awards

SUBCHAPTER 3. DISBURSEMENT OF THE GRANT

- 19:32-3.1 Amount of the grant
- 19:32-3.2 Cost overruns
- 19:32-3.3 Legal and/or equitable interest
- 19:32-3.4 Requests for disbursements
- 19:32-3.5 Schedule of disbursements
- 19:32-3.6 Conditions precedent to payment of a disbursement
- 19:32-3.7 Checklists
- 19:32-3.8 Closeout procedures

SUBCHAPTER 4. UNDERTAKING THE SCHOOL
FACILITIES PROJECT

- 19:32-4.1 General provisions
- 19:32-4.2 Contract award and compliance

SUBCHAPTER 1. GENERAL PROVISIONS

19:32-1.1 Applicability and scope

These rules are promulgated by the New Jersey Economic Development Authority (the "Authority") to implement Section 15 of the Educational Facilities Construction and Financing Act, P.L. 2000, c.72 (N.J.S.A. 18A:7G-15) (the "Act"). Section 15 of the Act establishes a grant program to fund the State share of the final eligible costs of school facilities projects undertaken by school districts whose district aid percentage as defined in the Act is less than 55 percent. These rules are adopted in order to provide the mechanism whereby school districts who are eligible to receive grants from the Authority can receive such grants and to ensure that these grant funds are used properly by the school districts. Any district applying for a grant or having received a grant pursuant to the Act shall at a minimum comply with the requirements of this chapter, as applicable.

19:32-1.2 Construction of rules

This chapter shall be liberally construed to permit the Authority to discharge its statutory functions under the Act.

19:32-1.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires. Any references to particular sections of the New Jersey Code Administrative (N.J.A.C.) shall be deemed to refer to any sections of the N.J.A.C. that amend or supersede sections of the N.J.A.C. indicated in this Agreement.

"Act" means the Educational Facilities Construction and Financing Act, P.L. 2000, c.72, N.J.S.A. 18A:7G-1 et seq.

"Agreement" means the grant agreement (and all attachments thereto) between the Authority and the district.

"Approved costs" means costs of the school facilities project which are eligible to be paid from the proceeds of the grant and have been paid or shall be paid by the district.

"Authority" means the New Jersey Economic Development Authority established pursuant to P.L. 1974, c.80 (N.J.S.A. 34:1B-1 et seq.)

"Authority bonds" means bonds issued by the Authority pursuant to N.J.S.A. 18A:7G-14, proceeds of which may fund all or part of the grant.

"Authorized officer" means:

1. With respect to the district, any person or persons authorized pursuant to a resolution of the governing body of the district to perform any act or execute any document relating to the grant and the grant agreement, including the school business administrator; and

2. With respect to the Authority, any person or persons authorized to perform any act or execute any document relating to the grant and the grant agreement.

“Bond counsel” means any lawyer or firm of lawyers nationally recognized in the field of municipal finance and satisfactory to the Authority.

“Capital reserve account” means the account of the district established pursuant to N.J.A.C. 6:23A-5.

“Change order” means a written order, directing or authorizing some change, in whatever degree to a design consultant contract or construction contract, including, but not limited to, an increase or decrease in the scope of work to be performed by the design consultant or the contractor, as the case may be, or an acceleration of time for the performance of such work, or a change in the sequence in which such work is being performed.

“Checklist” means a form to be completed by the district at various milestones in the design and construction of the school facilities project prior to receiving certain disbursements of the grant. The district will submit the completed checklist to the DCA for review which will forward the information to the Authority for approval. There shall be a design phase checklist; a construction phase checklist; and a final completion checklist. The district may file a checklist electronically if such option is made available to the district by the Authority. The checklists may be revised by the Authority.

“Closeout” means the process by which the Authority determines that all applicable administrative actions and all required work have been completed by the district.

“Code” means the “Internal Revenue Code of 1986, as amended,” as the same may from time to time be amended and supplemented, including any regulations promulgated thereunder, any successor code thereto, and administrative and judicial interpretations thereof.

“Commencement date” means the date on which a grant agreement has been fully executed by all the parties thereto and the district has delivered, to the satisfaction of the Authority, the documentation required by the grant agreement and N.J.A.C. 19:32-2.4.

“Commissioner” means the Commissioner of the New Jersey Department of Education.

“Completion date” means the date specified by the district for completion of the school facilities project which may be changed by the district upon notice to the Authority.

“Construction contract” means an agreement between the district and the contractor governing the construction of all or a portion of a school facilities project and any documents attached thereto and amendments thereof. There may be one or more construction contracts for a school facilities project.

“Construction phase” means that phase of a school facilities project in which construction of the school facilities project is undertaken by a contractor or contractors.

“Consultant” means a consultant, including a design consultant, engaged by the district for a school facilities project providing professional services associated with research, development, design and construction administration, alteration, or renovation of real property, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform. A consultant may provide services including studies, investigations, surveys, evaluations, consultations, planning, programming, conceptual designs, plans and specifications, cost estimates, construction management, inspections, shop drawing reviews, preparation of operating and maintenance manuals, and other related services. There may be one or more consultants engaged by the district for a school facilities project.

“Contract” means a contract between a contracted party and the district for a school facilities project. The term “contract” includes a design consultant contract, a construction contract and any other contracts, subcontracts and agreements between:

1. The district and its consultants;
2. The district and its contractors;
3. Contractors and their subconsultants and subcontractors; and
4. Consultants and their subconsultants and subcontractors.

“Contracted party” means a consultant, contractor, and their subconsultants and subcontractors and any other party providing material or services to the district in connection with a school facilities project.

“Contractor” means that person or firm engaged by the district to undertake the construction of a school facilities project. There may be either a single “general” contractor who has overall contractual responsibility for delivering all of the construction services needed to complete a school facilities project or there may be multiple contractors who have responsibility for delivering particular aspects of a school facilities project.

“DCA” means the New Jersey Department of Community Affairs.