

CHAPTER 34**PRECONSTRUCTION ACTIVITIES****Authority**

P.L. 2000, c. 72, §§5, 13(a) and 26(b), as amended, and P.L. 2007, c.137, specifically, §§20, 24 and 36.

Source and Effective Date

R.2009 d.14, effective December 8, 2008.
See: 40 N.J.R. 4735(a), 41 N.J.R. 295(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 34, Preconstruction Activities, expires on December 8, 2015. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 34, Pre-Development Activities, was adopted as new rules by R.2003 d.299, effective July 21, 2003. See: 35 N.J.R. 586(a), 35 N.J.R. 3394(a).

Chapter 34, Pre-Development Activities, was readopted as R.2009 d.14, effective December 8, 2008. As a part of 2008 d.14, Chapter 34, Pre-Development Activities, was renamed Preconstruction Activities; Subchapter 2, General Guidelines for Undertaking and Funding Pre-Development Activities, was renamed General Guidelines for Undertaking and Funding Preconstruction Activities; Subchapter 3, Abbott Districts Land Pre-Development, was renamed SDA School Districts Site Preconstruction Activities; and Subchapter 5, Other Districts Required To Use the Corporation: Undertaking and Funding Pre-Development Activities and Subchapter 6, Demonstration Projects, were repealed, effective January 5, 2009. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS**19:34-1.1 Purpose and applicability of rules**

(a) These rules are promulgated by the New Jersey Schools Development Authority (the Development Authority, Authority, or SDA), to provide guidance for school districts on the Authority's undertaking and funding of preconstruction activities. Section 5 of the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72, N.J.S.A. 18A:7G-1 et seq., as amended by P.L. 2007, c. 137, §20 (the "Act") identifies "preconstruction" activities as including, but not limited to, site identification, investigation and acquisition, feasibility studies, land-related design work, design work, site remediation, demolition and acquisition of temporary facilities. With Commissioner authorization, the SDA may undertake preconstruction activities required to prepare an application for commissioner approval of a school facilities project.

(b) In accordance with P.L. 2007, c. 137, section 1h, these rules provide for the involvement of SDA school districts, the public and stakeholders at critical points throughout the preconstruction phase of a school facilities project, including the identification and selection of proposed sites for school facilities projects. The rules also provide selection criteria to assist school districts in performing their responsibilities to identify prospective school sites.

(c) The rules in this chapter shall apply to SDA school districts, the school districts required to use the Authority to construct their school facilities projects.

(d) Upon the approval of an SDA school district's long range facilities plan, and based upon the educational priority ranking of the school facilities projects in an SDA school district, as determined by the Commissioner pursuant to section 5m(2) of the Act, and the establishment of a Statewide strategic plan to be used by the Authority in the sequencing of school facilities projects, pursuant to section 5m(3) of the Act, an SDA school district may, pursuant to N.J.A.C. 6A:26-3.9, apply to the Department for approval of preconstruction activities, provided such activities are consistent with its approved long-range facilities plan. The SDA school district submits an application for preconstruction activities to the Department, which notifies both the district and the Authority whether the activities are approved.

(e) An SDA school district for which the Authority undertakes preconstruction activities shall, at minimum, comply with the requirements of this chapter, as applicable.

Amended by R.2009 d.14, effective January 5, 2009.
See: 40 N.J.R. 4735(a), 41 N.J.R. 295(a).

Rewrote the section.

19:34-1.2 Definitions

(a) The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Abbott district” means a school district as defined in section 3 of P.L. 1996, c. 138 (N.J.S.A. 18A:7F-3). P.L. 2007, c. 260 deleted the term “Abbott district” from the Act, and replaced it with “SDA district.”

“Act” means the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.), as amended, and P.L. 2007, c. 137.

“Approved preconstruction activity” means a preconstruction activity submitted to the Department for approval and approved by the Department, pursuant to N.J.A.C. 6A:26-3.9.

“Architectural pre-design and programming” means the preliminary drawing of the school facility on a site or proposed site, showing how the facility, including the programmatic model for the facility, will fit on the site with all ancillary and accessory uses (parking, recreation, etc.), which may be submitted to the local planning board, pursuant to N.J.S.A. 40:55D-1 et seq.

“Authority” or “Development Authority” or “SDA” means the New Jersey Schools Development Authority, an entity which undertakes and funds school facilities projects under the Act and which is the entity formed pursuant to P.L. 2007, c. 137, as successor to the New Jersey Schools Construction Corporation.

“Boundary survey” means the research of deeds, easement, utility records, title reports, fieldwork, including precision survey measurements, and preparation of maps and plans which accurately measure the boundaries of a parcel of land proposed for a school facilities project, in accordance with the “Minimum Standard Detail Requirements for American Land Title Association/American Congress on Surveying and Mapping (ALTA/ACSM) Land Title Surveys,” 1999, as jointly adopted by the ALTA, 1828 L Street, N.W., Suite 705, Washington, D.C. 20036, the ACSM, 5410 Grosvenor Lane, Bethesda, MD 20814, and the National Society of Professional Surveyors, Inc. 5410 Grosvenor Lane, Bethesda, MD 20814, which requirements are incorporated herein by reference, as amended and supplemented.

“Capital maintenance project” means a school facilities project intended to extend the useful life of a school facility, including up-grades and replacements of building systems, such as structure, enclosure, mechanical, plumbing and electrical systems.

“Commissioner” means the Commissioner of Education.

“Consultant” means a consultant, including a design consultant and a site consultant, engaged by the Authority for an approved preconstruction activity providing professional services associated with research, development, design, engi-

neering 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 Authority for an approved preconstruction activity.

“Corporation” or “SCC” means the New Jersey Schools Construction Corporation, the predecessor to the Authority, abolished by P.L. 2007, c. 137, which was the entity formed by the New Jersey Economic Development Authority pursuant to N.J.S.A. 34:1B-159 to carry out the New Jersey Economic Development Authority’s responsibilities under the Act, except the power to incur indebtedness.

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

“Demolition services” means the removal of asbestos and hazardous building materials, such as lighting fixtures and thermostats containing mercury, air conditioning units containing chlorofluorocarbons (CFCs) and light ballasts containing PCBs, followed by the razing of existing structures and removal of building foundations not beneficial to the construction of the proposed school facilities project, disposal of demolition debris and the backfill of the demolition area with fill suitable for unrestricted residential use and the removal of underground storage tanks and associated remediation of soil impacted by a discharge from the tank.

“Department” means the New Jersey Department of Education.

“Design consultant” means an architect or engineer or other consultant that undertakes design work and/or construction administration services in connection with a school facilities project pursuant to a design consultant contract.

“Design work” or “preconstruction design work” means design work performed by a design consultant in preparation of a school facilities project, pursuant to N.J.S.A. 18A:7G-5, and may include design work in connection with land acquisition, site investigation, demolition services and preparation of the drawings required for submission of a school facilities project application or for temporary facilities educational adequacy approval.

“District” or “school district” means a local or regional school district established pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey Statutes, a county special services school district established pursuant to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a county vocational school district established pursuant to article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and a