

CHAPTER 33**P.L. 2000, C.72, SECTION 6
DEMONSTRATION PROJECTS****Authority**

P.L. 2000, c. 72, specifically §6 and 26;
and P.L. 2007, c. 137, specifically §21.

Source and Effective Date

R.2008 d.343, effective November 17, 2008.
See: 40 N.J.R. 1814(b), 40 N.J.R. 6653(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 33, P.L. 2000, c.72, Section 6 Demonstration Projects, expires on November 17, 2015. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 33, P.L. 2000, c.72, Section 6 Demonstration Projects, was adopted as special new rules by R.2002 d.9, effective December 11, 2001 (to expire December 11, 2002). See: 34 N.J.R. 307(a).

Chapter 33, P.L. 2000, c.72, Section 6 Demonstration Projects, was readopted as R.2003 d.124, effective February 18, 2003. See: 34 N.J.R. 3495(a), 35 N.J.R. 1425(b). Chapter 33, P.L. 2000, c.72, Section 6 Demonstration Projects, expired on February 18, 2008.

Chapter 33, P.L. 2000, c.72, Section 6 Demonstration Projects, was adopted as new rules by R.2008 d.343, effective November 17, 2008. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS**19:33-1.1 Purpose and applicability of rules**

(a) These rules are promulgated by the New Jersey Schools Development Authority ("the Authority") to implement Section 6 of the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72, N.J.S.A. 18A:7G-6, as amended by P.L. 2007, c. 137, ("the Act"). Section 6 of the Act establishes the program and process whereby the Authority reviewed and recommended six school facilities projects with community design features that were selected by the Treasurer to be demonstration projects. The Authority has entered into grant agreements with redevelopment entities and SDA districts that govern the terms and conditions of the funding and undertaking of such projects.

(b) Any school district that had a school facilities project with community design features designated as a demonstration project shall at a minimum comply with the requirements of this chapter, as applicable.

Amended by R.2003 d.124, effective March 17, 2003.
See: 34 N.J.R. 3495(a), 35 N.J.R. 1425(b).

In (a), substituted "New Jersey Schools Construction Corporation" for "New Jersey Economic Development Authority" and "Corporation" for "Authority" throughout.

Amended by R.2008 d.343, effective November 17, 2008.

See: 40 N.J.R. 1814(b), 40 N.J.R. 6653(b).

Rewrote (a); and in (b), substituted "that had" for "applying for designation of" and inserted "designated".

19:33-1.2 Definitions

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

"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 by P.L. 2007, c. 137, or successor statutory authority.

"Authority," "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 an entity formed pursuant to P.L. 2007, c. 137, as successor to the New Jersey Schools Construction Corporation.

"Chief Executive Officer" means the Chief Executive Officer of the Authority.

"Commissioner" means the Commissioner of the New Jersey Department of Education or his or her designee.

"Community design feature" means any area, rooms, equipment, recreational area or playground included in a demonstration project which is to be used in common by students of the district and by residents of the community.

“Consultant” means a consultant, including a design consultant, engaged by the redevelopment entity for a demonstration 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.

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

“Corporation” 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.

“Demonstration project” means a school facilities project selected by the State Treasurer for construction by a redevelopment entity pursuant to section 6 of the Act (N.J.S.A. 18A:7G-6) and this chapter.

“Department” means the New Jersey Department of Education.

“Division of Criminal Justice, Bureau of Fiscal Oversight/SDA” or “Bureau of Fiscal Oversight/SDA” means the unit which is the successor to the Unit of Fiscal Integrity within the Office of the Attorney General created by N.J.S.A. 18A:7G-43.

“Educational adequacy” means, for purposes of a demonstration project, the suitability of a facility for the provision of instruction that will enable students to achieve the Core Curriculum Content Standards and encompass the standards established in the facilities efficiency standards combined with the requirements of N.J.A.C. 6A:26.

“Final eligible costs” means, for a demonstration project, the final eligible costs of the project as determined by the Commissioner and reviewed by the Authority which may include the cost of community design features determined by the Commissioner to be an integral part of the school facility and which do not exceed the facilities efficiency standards and any additional spaces approved by the Commissioner pursuant to N.J.S.A. 18A:7G-5, and which were reviewed by the Authority and approved by the State Treasurer pursuant to N.J.S.A. 18A:7G-6.

“Grant” means the funds to be provided to the school district by the Authority to pay for the State share of a demonstration project pursuant to this chapter.

“Grant agreement” means the grant agreement among the Authority, school district, and redevelopment entity setting forth the contractual terms and conditions under which the Authority funds the State share.

“Local share” means, in the case of a demonstration project, the total costs less the State share as determined pursuant to N.J.S.A. 18A:7G-5 and 18A:7G-6.

“Long-range facilities plan” or “LRFP” means the plan required to be submitted to the Commissioner by a school district pursuant to N.J.S.A. 18A:7G-4 and N.J.A.C. 6A:26-2.

“Preliminary eligible costs” means the initial eligible costs of a school facilities project as calculated pursuant to the formulas set forth in P.L. 2000, c. 72, §7, which shall be deemed to include the costs of construction and other allowable costs.

“Redevelopment entity” means a redevelopment entity authorized by a municipal governing body to implement plans and carry out redevelopment projects in the municipality pursuant to the “Local Redevelopment and Housing Law,” P.L. 1992, c.79 (N.J.S.A. 40A:12A-1 et seq.).

“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 school district under full State intervention pursuant to P.L. 1987, c. 399 (N.J.S.A. 18A:7A-34 et seq.).

“School facilities project” means as defined in P.L. 2000, c. 72 prior to August 6, 2007, the acquisition, demolition, construction, improvement, repair, alteration, modernization, renovation, reconstruction, or capital maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings, and equipment, and shall also include, but is not limited to, site acquisition, site development, the services of design professionals such as engineers and architects, construction management, legal services, financing costs and administrative costs and expenses incurred in connection with the project. To qualify as a school facilities project, the project must be new construction in order to meet the housing needs of unhoused students, or rehabilitation for the purpose of keeping a school facility functional for its original purpose or for a new purpose accomplished within the gross square footage of the original

building. Maintenance projects intended solely to achieve the design life of a school facility and routine maintenance do not constitute school facilities projects.

"State share" means in the case of a demonstration project, the State's proportionate share of the final eligible costs of the project as determined pursuant to N.J.S.A. 18A:7G-5, N.J.S.A. 18A:7G-6, and this chapter.

Amended by R.2003 d.124, effective March 17, 2003.

See: 34 N.J.R. 3495(a), 35 N.J.R. 1425(b).

Deleted "Authority" and "Executive Director"; added "Chief Executive Officer" and "Corporation".

Amended by R.2008 d.343, effective November 17, 2008.

See: 40 N.J.R. 1814(b), 40 N.J.R. 6653(b).

Deleted definitions "Abbott district", "Division" and "Facilities efficiency standards"; in definition "Act", inserted ", as amended by P.L. 2007, c. 137, or successor statutory authority"; added definitions "Authority" and "Division of Criminal Justice, Bureau of Fiscal Oversight/SDA"; in definitions "Chief Executive Officer", "Grant" and "Grant agreement", substituted "Authority" for "Corporation"; rewrote definitions "Corporation", "Final eligible cost" and "Local share"; in definition "Preliminary eligible costs", substituted "P.L. 2000, c.72, §7," for "N.J.S.A. 18A:7G-7"; in definition "School district", substituted "school district under full State intervention" for "State-operated school district established"; and in definition "School facilities project", inserted "as defined in P.L. 2000, c. 72 prior to August 6, 2007,".

19:33-1.3 Disclosure and publicity

(a) All applications and submissions received by the Authority shall constitute public records of the Authority, and the Authority shall make them available to persons who request their release to the extent required by State law.

(b) Press releases and other public dissemination of information by the school district or the redevelopment entity concerning the demonstration project shall acknowledge Authority financial assistance.

Amended by R.2003 d.124, effective March 17, 2003.

See: 34 N.J.R. 3495(a), 35 N.J.R. 1425(b).

Amended by R.2008 d.343, effective November 17, 2008.

See: 40 N.J.R. 1814(b), 40 N.J.R. 6653(b).

Substituted "Authority" for "Corporation" throughout.

19:33-1.4 Access and record retention

(a) The Authority, the Department, the New Jersey Department of Community Affairs, the Bureau of Fiscal Oversight/SDA within the Office of the Attorney General, the New Jersey Department of Labor and Workforce Development, and their duly authorized agents may, at their discretion and cost, investigate, audit, examine and inspect the activities, documents, records and accounts (pertaining to the demonstration project) of the district, the redevelopment entity, and all other parties involved in the demonstration project.

(b) The school district or the redevelopment entity shall keep those records and accounts and shall require all contracted parties to keep those records and account for the demonstration project as necessary in order to evidence compliance with the Act, the grant agreement, and all applicable regulations and requirements. Such records shall be retained

for 10 years following completion of the demonstration project and any additional period required for the resolution of litigation, claims or audit findings.

Amended by R.2003 d.124, effective March 17, 2003.

See: 34 N.J.R. 3495(a), 35 N.J.R. 1425(b).

Amended by R.2008 d.343, effective November 17, 2008.

See: 40 N.J.R. 1814(b), 40 N.J.R. 6653(b).

In (a), substituted "Authority" for "Corporation" and "Bureau of Fiscal Oversight/SDA" for "Unit of Fiscal Integrity", and inserted "and Workforce Development".

SUBCHAPTER 2. (RESERVED)

SUBCHAPTER 3. DEMONSTRATION PROJECT GRANTS

19:33-3.1 Funding in the form of a grant

(a) The Authority shall provide funding for the State's share of the final eligible costs of a school facilities project to be constructed as part of a demonstration project pursuant to a grant agreement between the Authority, the redevelopment entity and the school district which shall in addition to other terms and conditions, set forth the terms for the disbursement of the State share and provide for the monitoring of construction by the Authority.

(b) Upon designation of the project as a demonstration project and determination by the Division of final eligible costs for the demonstration project, the school district as conditions of grant eligibility shall:

1. Obtain approval of the local share, if any, of the school facilities project designated as the demonstration project in accordance with N.J.A.C. 6A:26-3.7; and

2. Evidence the availability of school bonds or other funds to the Authority for expenditure as local share.

(c) Upon evidencing to the Authority satisfaction of the conditions of eligibility stated in (b) above, the school district shall be eligible to receive a grant to fund the demonstration project.

Amended by R.2003 d.124, effective March 17, 2003.

See: 34 N.J.R. 3495(a), 35 N.J.R. 1425(b).

Substituted "Corporation" for "Authority" throughout.

Amended by R.2008 d.343, effective November 17, 2008.

See: 40 N.J.R. 1814(b), 40 N.J.R. 6653(b).

Substituted "Authority" for "Corporation" throughout.

19:33-3.2 No assignment of grant agreement or grant by the school district

Neither the school district nor the redevelopment entity shall assign the grant agreement or its right to receive disbursements of the grant, except that the redevelopment entity may assign the grant agreement to another redevel-