

**CHAPTER 37**

**PROCEDURES FOR UNDERTAKING UNDER  
55 PERCENT DISTRICTS' SCHOOL  
FACILITIES PROJECTS**

**Authority**

P.L. 2000, c.72, §§ 5, 12 and 26(b).

**Source and Effective Date**

R.2005 d.220, effective June 10, 2005.  
See: 37 N.J.R. 235(a), 37 N.J.R. 2558(a).

**Chapter Expiration Date**

Chapter 37, Procedures for Undertaking Under 55 Percent Districts' School Facilities Projects, expires on June 10, 2010.

**Chapter Historical Note**

Chapter 37, Procedures for Undertaking Under 55 Percent Districts' School Facilities Projects, was adopted as special new rules by R.2004 d.66, effective January 14, 2004. See: 36 N.J.R. 1122(a).

Chapter 37, Procedures for Undertaking Under 55 Percent Districts' School Facilities Projects, was readopted as R.2005 d.220, effective June 10, 2005. See: Source and Effective Date.

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**19:37-1.1 Purpose and applicability of rules**

These rules are promulgated by the New Jersey Schools Construction Corporation (the "Corporation"), a subsidiary of the New Jersey Economic Development Authority (the "Authority") to implement procedures for the Corporation to undertake certain school facilities projects of under 55 percent district aid districts that elect to have the Corporation rather than the district undertake the project and for under 55 percent district aid districts that, having successfully appealed after failed referenda to have the Commissioner of Education authorize the issuance of local share of the costs of a school facilities project, are required to have the Corporation undertake the project included in the appeal. These rules do not cover the procedures for under 55 percent district aid districts that neither elect nor are required to have the Corporation undertake their school facilities projects.

**19:37-1.2 Definitions**

(a) The following words and terms, when used in this subchapter, 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, Sections 1 through 30 and 57 through 71.

"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-required district" means an Abbott district, a Level II school district, or a district with a district aid percentage of 55 percent or more.

"Commissioner" means the Commissioner of Education or designee.

“Construction cost estimate” means the estimated cost to construct the school facilities project and includes the cost of construction of the school facilities project.

“Consultant” means a consultant, including a design consultant, engaged 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 for a school facilities project.

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

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

“Corporation” means the New Jersey Schools Construction Corporation, a subsidiary of the Authority effective October 1, 2002 to carry out the Authority’s responsibilities under the Act, except the power to incur indebtedness.

“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.

“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 analysis, acquisition of a temporary facility, the preparation of the drawings required for submission of a school facilities project application, final educational adequacy review, and construction documents.

“District” or “school district” means a local or regional school district established pursuant to Chapter 8 or 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 State-operated school district established pursuant to P.L. 1987, c.399 (N.J.S.A. 18A:7A-34 et seq.).

“District aid percentage” shall have its meaning as set forth in the Act.

“Environmental Site Report” means the report that the Corporation submits to the New Jersey Department of Environmental Protection (NJDEP) for purposes of the early environmental screening of potential school sites for Abbott Districts, pursuant to a Memorandum of Agreement between the Corporation and the NJDEP, the report that all districts will be required to submit to the NJDEP pursuant to N.J.A.C. 6A:26-7.1, as amended, and that under 55 percent districts will be required to submit to the NJDEP pursuant to this chapter.

“Final completion of a school facilities project” means:

1. That point in time when all requirements of all contracts for the school facilities project have been performed;
2. All items on the punch list have been performed;
3. All manuals, warranties and as-builts have been delivered;
4. Any and all liens have been released;
5. When a certificate of occupancy, continued use or completion or equivalent legal authorization to occupy has been issued; and
6. The district has provided evidence satisfactory to the Corporation that the school facilities projects is included in the district’s insurance coverage in the amount of no less than the fair market value of the covered property.

“Final educational adequacy” means the review and approval of design work by the Department that is required, pursuant to N.J.A.C. 6A:26-5.4, for a school facilities project that required a review for educational adequacy, pursuant to N.J.A.C. 6A:26-5.1. The criteria for educational adequacy are the number, configuration, size, location, and use of educational spaces within a school facility.

“Final eligible costs” means for a school facilities project constructed by the Corporation or delegated to a district pursuant to section 13(a) of the Act, the final eligible costs of the school facilities project as determined by the Commissioner, in consultation with the Corporation, pursuant to section 5 of the Act, and N.J.A.C. 6A:26-3.5.