

## CHAPTER 34

## PRE-DEVELOPMENT ACTIVITIES

## Authority

P.L. 2000, c.72, §§ 5, 13(a) and 26(b).

## Source and Effective Date

R.2003 d.299, effective July 21, 2003.  
See: 35 N.J.R. 586(a), 35 N.J.R. 3394(a).

## Chapter Expiration Date

Chapter 34, Pre-Development Activities, expires on July 21, 2008.

## CHAPTER TABLE OF CONTENTS

## SUBCHAPTER 1. GENERAL PROVISIONS

- 19:34-1.1 Purpose and applicability of rules
- 19:34-1.2 Definitions
- 19:34-1.3 Disclosure and publicity
- 19:34-1.4 Access and record retention
- 19:34-1.5 Contract award and compliance
- 19:34-1.6 Noncompliance, remedies for events of default and noncompliance, and termination by mutual agreement
- 19:34-1.7 Waiver
- 19:34-1.8 Appeals

## SUBCHAPTER 2. GENERAL GUIDELINES FOR UNDERTAKING AND FUNDING PRE-DEVELOPMENT ACTIVITIES

- 19:34-2.1 General guidelines
- 19:34-2.2 Delegation of pre-development activities to Abbott districts
- 19:34-2.3 Delegation of pre-development activities to other districts required to use the Corporation

## SUBCHAPTER 3. ABBOTT DISTRICTS LAND PRE-DEVELOPMENT

- 19:34-3.1 General criteria and procedures
- 19:34-3.2 Site identification
- 19:34-3.3 Feasibility studies and land-related design work
- 19:34-3.4 Site analysis
- 19:34-3.5 Land acquisition approvals
- 19:34-3.6 Ownership of land
- 19:34-3.7 Relocation assistance
- 19:34-3.8 Remediation and site development

## SUBCHAPTER 4. ABBOTT DISTRICTS: OTHER PRE-DEVELOPMENT ACTIVITIES

- 19:34-4.1 Other feasibility studies and pre-development design work
- 19:34-4.2 Temporary facilities

## SUBCHAPTER 5. OTHER DISTRICTS REQUIRED TO USE THE CORPORATION: UNDERTAKING AND FUNDING PRE-DEVELOPMENT ACTIVITIES

- 19:34-5.1 General provisions
- 19:34-5.2 Design work

## SUBCHAPTER 6. DEMONSTRATION PROJECTS

- 19:34-6.1 Request for preliminary approval of the demonstration project and redevelopment entity
- 19:34-6.2 Preliminary approval determination

## SUBCHAPTER 1. GENERAL PROVISIONS

## 19:34-1.1 Purpose and applicability of rules

(a) 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 provide guidance for school districts on the undertaking and funding of pre-development activities. Section 3 of the Educational Facilities Construction and Financing Act, P.L. 2000, c.72, N.J.S.A. 18A:7G-1 et seq., (the "Act") defines a "school facilities project." That definition includes several activities which these rules specifically identify as "pre-development activities."

(b) The rules in this chapter shall apply to school districts required to use the Corporation to construct their school facilities projects, as follows: Abbott districts, 55 percent or over districts and level II districts. In the event that such districts seek to have a school facilities project designated as a demonstration project to be constructed by a redevelopment entity pursuant to section 6 of the Act, the following rules apply to the pre-development activities for the prospective demonstration project.

(c) Pursuant to N.J.A.C. 6A:26-3.9, a district required to use the Corporation to construct its school facilities projects and which has an approved long-range facilities plan may undertake pre-development activities provided such activities are consistent with its approved long-range facilities plan and are undertaken under the auspices of the Corporation. The district submits an application for pre-development activities to the Department, which notifies both the district and the Corporation whether the activities are approved. The Corporation is authorized to undertake a variety of pre-development activities for Abbott districts. It is authorized to undertake one type of pre-development activity for all other districts required to use the Corporation for school facilities project construction. These rules, therefore, principally address pre-development activities of the Abbott districts.

(d) Any of the districts listed in (b) above for whom the Corporation undertakes "pre-development" activities either directly or by delegation shall, at minimum, comply with the requirements of this chapter, as applicable.

## 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).

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

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

“Asbestos abatement and demolition services” means the removal of asbestos as well as any other hazardous waste and following that, the razing of existing structures not beneficial to the construction of the proposed school facilities project.

“Asbestos/lead/environmental contaminant investigation” means the investigation to determine the location and concentrations of asbestos containing materials, lead based paint, and environmental contaminant containing materials within existing structures on potential school sites in order to identify the associated removal, abatement, and demolition costs to properly address these materials. The results of this investigation(s) are used to prepare demolition engineering plans and bid documents.

“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.).

“Boundary survey” means the research of deeds, easements, 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, in accordance with the “Minimum Standard Detail Requirements for American Land Title Association/American Congress on Surveying & 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.

“Consultant” means a consultant, including a design consultant and a site consultant, engaged by the Corporation or the district for an approved pre-development activity providing professional services associated with research, development, design, engineering 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 Corporation or the district for an approved pre-development activity.

“Corporation” means the New Jersey Schools Construction Corporation, a subsidiary of the Authority created on August 13, 2002 to carry out the 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 and/or redeveloper pursuant to section 6 of the Act and N.J.A.C. 19:33, and which may receive preliminary approval by the Corporation and the State Treasurer pursuant to this chapter.

“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 “pre-development 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, 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 State-operated school district established pursuant to P.L. 1987, c.399 (N.J.S.A. 18A:7A-34 et seq.).

“Division” means the Division of Finance in the Department of Education.

“Environmental preliminary assessment” means the information gathering required by N.J.A.C. 7:26E-3, entailing historical record search and review and non-invasive analysis of a site to identify all potentially contaminated areas of concern at the site and to determine an appropriate environmental site investigation scope of work to characterize the soil and groundwater conditions.

“Environmental site investigation” means an invasive analysis of the site, involving soil and/or groundwater sampling as well as laboratory analysis, to determine if any contaminants are present at the site above the applicable unrestricted use remediation criteria or if any remediation or any further remediation is required, and shall comply with the requirements for site investigation set forth in N.J.A.C. 7:26E-3.