

ii. The degree to which the purchase would encourage the survivability of the municipally approved program in productive agriculture; and

iii. The degree of imminence of change of the land from productive agriculture to nonagricultural use;

2. The final purchase price of the development easement for each application.

- i. The purchase price of the development easement shall be adjusted according to the acceptance or rejection of any residual dwelling site opportunities permitted pursuant to N.J.A.C. 2:76-6.17 and other adjustments required by the Committee;
3. The justification for the board's decision; and
4. A copy of the municipal governing body's resolution approving the purchase of the development easement.

(b) Regardless of the board's ranking determined by (a) above, the board may disapprove an application if it determines that an applicant has initiated proceedings in anticipation of applying to sell a development easement or during the application process which have the effect of increasing the applicant's appraised development easement value.

Amended by R.1988 d.493, effective October 17, 1988.

See: 20 N.J.R. 1503(a), 20 N.J.R. 2565(a).

Added (a)1 and renumbered old (a)1.-2. as 2.-3; substituted "value" for "offer" in (a)2.

Amended by R.1990 d.529, effective November 5, 1990.

See: 22 N.J.R. 1244(a), 22 N.J.R. 3359(a).

Sixty day time frame established.

Repeal and New Rule, R.1993 d.392, effective August 2, 1993.

See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).

Section was "Board application to the committee."

Amended by R.1995 d.613, effective December 4, 1995.

See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

2:76-6.11 Final Committee review

(a) The Committee shall approve a maximum limit of funds available and the maximum number of applications permitted per county for an easement purchase grant round to provide grants to counties and municipalities for the purchase of development easements on farmland.

(b) Upon receipt of applications which have received final approval by the board, the Committee shall determine the landowner's formula index by application of the formula contained in N.J.S.A. 4:1C-31b(1) as follows:

$$\frac{\text{nonagricultural development value} - \text{agricultural development value}}{\text{landowner's asking price}} = \text{formula index}$$

(c) The Committee's funding priority shall be given to those applications which have higher numerical values obtained by application of the following formula:

$$(\text{quality score}) + (\text{formula index} \times 200) = \text{final score}$$

1. Regardless of the final score, the Committee may disapprove an application if it determines that the applicant has initiated proceedings in anticipation of applying to sell a development easement or during the application process which have the effect of increasing the applicant's appraised development easement value.

2. The Committee may give funding priority to offers with higher numerical values in any one county based on the applicant's final score.

(d) The Committee shall not authorize a grant for an amount greater than 80 percent of the Committee's certified fair market value of the development easement or the board and/or county's purchase price of the development easement, whichever is lower. In situations where the Committee is cost sharing on an easement which has been acquired, or is being acquired, by a municipality, the Committee shall not authorize grant for an amount greater than 80 percent of the Committee's certified fair market value of the development easement or 80 percent of the sum of the municipality's purchase price of the development easement plus the interest or discount on bonds the municipality incurred in association with the acquisition of the development easement from the date the municipality acquires the easement to the date of the appropriation of State funds, whichever is lower.

1. The percent Committee cost share shall be based upon the higher cost share percentage determined pursuant to the following two methods:

Discount method:

Landowner's formula index	Percent committee cost share
Less than 0.10	60
0.10 up to less than 0.20	65
0.20 up to less than 0.30	70
0.30 up to less than 0.40	75
0.40 or greater	80

(or)

Sliding scale method:

Landowner's asking price	Percent committee cost share
From \$0.00 to \$1,000 =	80% above \$ 0.00
From > \$1,000 to \$3,000 =	\$ 800 + 70% above \$ 1,000
From > \$3,000 to \$5,000 =	\$2,200 + 60% above \$ 3,000
From > \$5,000 to \$10,000 =	\$3,400 + 50% above \$ 5,000
From > \$10,000 to \$15,000 =	\$5,900 + 25% above \$10,000
From > \$15,000 to \$20,000 =	\$7,150 + 10% above \$15,000
From > \$20,000 =	\$7,650

i. If the landowner's asking price is greater than the certified fair market value, the Committee's cost share grant shall be based upon the Committee's certified fair market value.

ii. Notwithstanding (d)1 above, the board may choose, for each application, which of the two methods the Committee shall use to determine the percent cost share.

2. Notwithstanding (d)1 above, the Committee shall provide a grant for the purchase of a development easement purchase on the top ranked application in a county at an 80 percent cost share in those counties which have not received an 80 percent committee cost share for development easement purchase.

3. Subject to available funds, the Committee shall provide a cost share grant for up to 50 percent of the cost for eligible ancillary costs for the purchase of development easements.

i. Eligible ancillary costs shall be limited to wetlands determinations, appraisals, review appraisals, title search, title insurance and surveys on those farms from which a development easement has been purchased by the board pursuant to N.J.S.A. 4:1C-11 et seq. and this subchapter; and

ii. Ineligible costs include other local governmental expenses and administrative costs related to the acquisition of the development easement, such as staff and attorney work, clerical supplies and office space.

(e) Subject to the available funds, the Committee shall approve a grant, on a per acre basis, for the purchase of a development easement as determined in (d)1 and 2 above, based on the final surveyed acreage.

(f) In order to receive a grant for the purchase of a development easement, the County Board of Chosen Freeholders shall enter into a grant agreement pursuant to N.J.A.C. 2:76-6.18 through 6.18B.

(g) The Committee shall notify the respective boards of applications receiving final approval.

Amended by R.1988 d.435, effective September 6, 1988.
See: 20 N.J.R. 1319(a), 20 N.J.R. 2254(b).

(c): Added "no more than 80" to replace "50".
Amended by R.1988 d.493, effective October 17, 1988.
See: 20 N.J.R. 1503(a), 20 N.J.R. 2565(a).

(a) and (b) substantially amended.
Amended by R.1990 d.529, effective November 5, 1990.
See: 22 N.J.R. 1244(a), 22 N.J.R. 3359(a).

Expanded and clarified formula and basis by which funding priority is established; includes a sliding scale.

Amended by R.1993 d.392, effective August 2, 1993.
See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).
Amended by R.1994 d.43, effective January 18, 1994.
See: 25 N.J.R. 3890(a), 25 N.J.R. 4697(a), 26 N.J.R. 350(a).

Amended by R.1994 d.393, effective August 1, 1994.
See: 26 N.J.R. 1419(a), 26 N.J.R. 3159(b).
Amended by R.1995 d.613, effective December 4, 1995.
See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

Amended by R.1999 d.198, effective June 21, 1999.
See: 31 N.J.R. 816(a), 31 N.J.R. 1603(a).

In (a), inserted a reference to the maximum number of applications permitted per county.

Amended by R.2001 d.47, effective February 5, 2001.
See: 32 N.J.R. 3513(a), 33 N.J.R. 550(a).

In (d), rewrote the introductory paragraph.

2:76-6.12 Landowner decision

(a) Within 30 days of the board's receipt of the Committee's final approval, the board shall present to the landowner a written offer to purchase the development easement. A binding offer shall be contingent upon compliance with the provisions stated in N.J.A.C. 2:76-6.13.

(b) The landowner shall accept or reject the offer in writing within 30 days of receipt thereof. Any offer not accepted within that time shall be deemed rejected.

Amended by R.1990 d.529, effective November 5, 1990.
See: 22 N.J.R. 1244(a), 22 N.J.R. 3359(a).

Established 30 day time frames.

Amended by R.1995 d.613, effective December 4, 1995.
See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

2:76-6.13 Terms, contingencies and conditions of purchase

(a) Upon the landowner's acceptance of an offer to sell a development easement, the landowner shall provide evidence that current lien, easement and right-of-way holders will, as required by the Committee and board, subordinate their rights to the rights and privileges granted by the sale of the development easement to the board and shall supply recordable evidence of their subordination at the time of transfer of the easement.

(b) The board shall authorize an insured title search and a survey be conducted on the subject land.

(c) Upon the purchase of the development easement by the board, a statement containing the conditions of conveyance and restrictions on the use an development of the land shall be attached to and recorded with the deed of the land in the same manner as the deed was originally recorded (see N.J.A.C. 2:76-6.15).

1. Subject to Committee approval, the board may establish more stringent deed restrictions for the purpose of recognizing local conditions.

(d) Deed restrictions shall be recorded as follows:

1. The statement containing the conditions of conveyance and restrictions shall be recorded with the county clerk.

2. The board shall provide for notification of the development easement purchase to the following:

- i. County governing body;
- ii. County planning board;
- iii. Municipal governing body;
- iv. Municipal tax assessor;
- v. Municipal planning board; and
- vi. Soil conservation district.

(e) The board shall be responsible for monitoring all lands from which a development easement has been purchased since June 1, 1985, pursuant to N.J.S.A. 4:1C-11 et seq. and this subchapter, to ensure compliance with the provisions of the Deed of Easement. The monitoring shall consist of the following:

1. An onsite inspection shall be performed at least once a year;

2. All inspections and monitoring shall be completed within the period commencing July 1 and ending June 30;

3. A written summary shall be provided to the Committee by July 15, verifying that the inspections were conducted during the scheduled period with a certification concerning whether the farm was in compliance with the provisions of the Deed of Easement;

4. The Board shall inform the SADC if any of the terms and conditions of the Deed of Easement were violated within 30 days of identifying such violation; and

5. Appropriate action shall be taken within the board's and/or County's authority to ensure that the terms and conditions of the Deed of Easement are enforced.

Amended by R.1993 d.392, effective August 2, 1993.

See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).

Amended by R.1995 d.613, effective December 4, 1995.

See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

2:76-6.14 Payment procedures; schedule of payment

(a) The board and the landowner may agree upon and establish a schedule of payment which provides that the landowner may receive consideration for the easement in a lump sum, or in installments over a period of up to 40 years from the date of settlement, provided that:

1. If a schedule of installments is agreed upon, the State Comptroller shall retain in the fund, or the governing body shall retain, an amount of money sufficient to pay the landowner pursuant to the schedule.

2. The landowner shall receive, annually, interest on any unpaid balance remaining after the date of settlement. The interest shall accrue at a rate established in the installment contract.

(b) Proof of title insurance, a certified survey and a copy of the recorded deed shall be forwarded to the Committee when requesting a grant for reimbursement of the board's purchase of a development easement.

Amended by R.1988 d.435, effective September 6, 1988.

See: 20 N.J.R. 1319(a), 20 N.J.R. 2254(b).

(b): Substituted "no more than 80" for "50".

Amended by R.1993 d.392, effective August 2, 1993.

See: 25 N.J.R. 1804(d), 25 N.J.R. 3453(e).

Amended by R.1995 d.613, effective December 4, 1995.

See: 27 N.J.R. 13(a), 27 N.J.R. 4875(a).

2:76-6.14A Request for pre-closing division of land

(a) In the event that a landowner applies to the board and Committee to divide farmland which has received final approval by both the board pursuant to N.J.A.C. 2:76-6.10 and Committee pursuant to N.J.A.C. 2:76-6.11, but prior to the conveyance of the development easement to the board, the Committee may grant approval to divide the land if all of the following criteria are met:

1. The division of the land results in agriculturally viable parcels;

2. The division of the land is for an agricultural purpose;

3. Common deed ownership of the land existed at the time of application;

4. There exists a contract of sale between the board and/or county and the landowner to convey the development easement to the board and/or county which does not contain a condition requiring or permitting the division prior to the conveyance;

5. The county and/or board has granted approval of the division;

6. There is an existing, valid contract of sale to convey the divided parcel(s) to a third party(ies); and

7. The county and/or board enters into a Grant Agreement with the SADC pursuant to N.J.A.C. 2:76-6.18.

New Rule, R.1999 d.198, effective June 21, 1999.

See: 31 N.J.R. 816(a), 31 N.J.R. 1603(a).