

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
BOARD MEETING
WEDNESDAY, DECEMBER 2, 2015 AT 9:00 A.M.
32 E. FRONT STREET, TRENTON, NJ
BOARD ROOM**

- 1. NOTICE OF PUBLIC MEETING**
- 2. ROLL CALL**
- 3. APPROVAL OF MEETING MINUTES**
 - a. Board Open Session Meeting Minutes of November 4, 2015
- 4. AUTHORITY MATTERS**
 - a. CEO Report
 - b. Chairman's Report
- 5. REPORT AND RECOMMENDATIONS OF THE AUDIT COMMITTEE (CHAIRMAN'S REPORT)**
 - a. 2016 SDA Budget
- 6. REPORT AND RECOMMENDATIONS OF THE SCHOOL REVIEW COMMITTEE (CHAIRMAN'S REPORT)**
 - a. Design Build Award and Approval of Final Project Charter – Passaic School District – Leonard Place ES – NT-0050-B01
 - b. Approval of Awards – Furniture, Fixtures and Equipment – GP-0223-F01
 - c. De-Obligation of Unused Contract Balances – Credit Amendments
 - d. Proposed Readoption With Amendments: Preconstruction Activities N.J.A.C 19:34
 - e. Proposed Readoption With Amendments: Section 13(a) Delegation Agreement Rules, N.J.A.C. 19:34A
- 7. REPORT AND RECOMMENDATIONS OF THE REAL ESTATE COMMITTEE (CHAIRMAN'S REPORT) – TO BE PROVIDED IN EXECUTIVE SESSION**
- 8. MONTHLY REPORTS**
 - a. *For Informational Purposes*
 - i. Active Projects Report
 - ii. Project Close Out Status Report
 - iii. Project Status Reports
 - iv. Contracts Executed Report/Amendments & Change Orders Executed Report
 - v. Contract Terminations Report (*no activity*)
 - vi. Settlement Activities Report (*no activity*)
 - vii. Contractor and Workforce Compliance Report
 - viii. Regular Operating District Grant Activity Report
 - ix. Notification of Amendments to Goods and Services Contracts Not Exceeding \$250,000 (*no activity*)
 - x. Communications Report
 - xi. Monthly Financial Report
 - xii. Design Contract De-Obligations Report (*no activity*)

9. PUBLIC COMMENTS

10. EXECUTIVE SESSION

- a. Recommendation of Global Settlement
- b. Recommendation for Declaration of Surplus Property, Determination of Property Value and Authorization for the Public Sale and Conveyance
- c. Litigation/Contract Matter(s) – OPMA Exemption N.J.S.A. 10:4-12b (7)
CCD Report (no activity)

11. ADJOURNMENT

APPROVAL OF MEETING MINUTES

NOVEMBER 4, 2015 OPEN SESSION

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
BOARD OF DIRECTORS MEETING
WEDNESDAY, NOVEMBER 4, 2015**

A meeting of the Board of Directors of the New Jersey Schools Development Authority (“SDA” or “the Authority”) was held on Wednesday, November 4, 2015 at 9:00 A.M. at the offices of the Authority at 32 East Front Street, Trenton, New Jersey.

Participating were:

Edward Walsh, Chairman
Matthew Murray (Treasury)
Bernie Piaia (NJDOE)
Michael Capelli
Kevin Egan
Loren Lemelle
Joseph McNamara
Robert Nixon
Mario Vargas

being a quorum of the Board. Mr. Capelli, Mr. Egan, Ms. Lemelle, Mr. McNamara, Mr. Murray, Mr. Piaia and Mr. Vargas participated in the meeting by teleconference.

At the Chairman’s request, Charles McKenna, chief executive officer; Jason Ballard, chief of staff; Andrew Yosha, executive vice president; Jane F. Kelly, vice president and assistant secretary; Donald Guarriello, vice president and chief financial officer; Raymond Arcario, vice president; Albert Barnes, chief counsel; Ritchard Sherman; managing director; and Karon Simmonds, director of the SDA participated in the meeting. Michael Collins of the Governor’s Authorities Unit also participated in the meeting.

The meeting was called to order by the Chairman of the Board, Mr. Walsh, who requested that Ms. Kelly read the requisite notice of the meeting. Ms. Kelly announced that the

meeting notice had been sent to the *Trenton Times* and *Star-Ledger* at least 48 hours prior to the meeting, and had been duly posted on the Secretary of State's bulletin board at the State House in Trenton, New Jersey.

Approval of Meeting Minutes

Mr. Walsh presented for consideration and approval the Minutes of the Board's October 7, 2015 Open and Executive Session meetings. A copy of both meeting minutes and a resolution had been provided to the Members for review in advance of the meeting. Upon motion duly made by Mr. Nixon and seconded by Ms. Lemelle, the Open and Executive Session minutes of the October 7, 2015 meeting were approved by the Board upon its unanimous vote in favor of the resolutions attached hereto as *Resolutions 3a/3b*.

Authority Matters

CEO Report

The Chairman requested that Mr. McKenna provide the report of the Chief Executive Officer. Mr. McKenna updated the Members regarding the Trenton Central High School (TCHS) project. He reported that all sections of the facility have now been abated, that demolition activities in the B and C wings are complete and that permit applications have been submitted to Department of Community Affairs (DCA) for the A and D wings. Mr. McKenna advised the Board that bridging documents for the new facility have been completed and Department of Education (DOE) schematic approval has been received. He said that SDA advertised on September 29 for design-build services for the new facility, adding that ten potential bidders attended the pre-bid conference on October 8. He noted that bids are due in December and will be opened in January. He said that this contract award will be presented for Board consideration and approval at the February 2016 Board meeting.

Turning to other SDA projects, Mr. McKenna advised the Members that the addition to the Bridgeton Buckshutem Road Elementary School (ES) will be completed and turned over to the district in December. He said that student occupancy is scheduled for January 5, 2016 and then the renovation of the rest of the building will proceed. He also reported that work is progressing well on the Bridgeton Quarter Mile Lane ES project and that there are no major changes to report.

In continuing, Mr. McKenna said that the Authority issued a Notice to Proceed (NTP) to the Design Ideas Group (DIG) for pre-design services for the Camden HS project. He said that site feasibility investigation work is on-going there as well.

Mr. McKenna said that all major trades continue to work well towards completion of the Elizabeth Academic HS project. He added that he, along with Program Operations Vice President Ray Arcario, recently visited the site and work is progressing. He advised the Board that the design-builder submitted a permit application to the DCA for footings, foundations and underground utilities for the Elizabeth New ES project. He noted that the design-builder has construction trailers on-site in preparation for the start of construction once DCA releases the permit.

Mr. McKenna advised the Board that the Garfield James Madison ES No. 10 project is advancing as a design-bid build project with a budget of approximately \$16 million. He added that a Notice of Award (NOA) was issued on October 26 to the general contractor (Brockwell & Carrington). He said that the first activity to proceed will be performance of the constructability review. He reported that a NTP was issued to the McCloud Group to begin construction management (CM) services with the commencement of the constructability review.

Mr. McKenna advised the Members that construction work is progressing well on the Gloucester ES/MS project. He discussed the beam signing event that was held there the previous Monday (November 2).

Mr. McKenna reported that SDA's Design Studio is proceeding with the schematic design phase for the Harrison New ES project. He noted that SDA anticipates advertising an early site package in the current month for the project.

Mr. McKenna then advised the Board that SDA's Design Studio is proceeding with the schematic design phase for the Irvington Madison Avenue ES. He reported that the early site package for the project was advertised on September 30 and the bid opening is scheduled for November 17. He added that the Authority anticipates presenting a recommendation for award at the December Board meeting.

Reporting on the Keansburg Caruso ES project, Mr. McKenna said that concrete slab, exterior masonry back-up wall and veneer, roof installation, HVAC, plumbing, and electrical work is all on-going. He said that work is progressing on both the Jersey City PS 20 and Jersey City ES No. 3 projects and that there are no changes to report.

With respect to the Millville HS (addition/renovation) project, Mr. McKenna advised the Board that the preliminary schematic design submission is under review. He reported that a NTP was issued to Hall Construction for design-build services on the New Brunswick Paul Robeson ES project for which an initial project meeting was held on October 21.

In continuing, Mr. McKenna advised the Board that work continues on both the Newark Elliott Street ES and Oliver Street ES projects with no major changes to report. He said that the Board approved the award for design-build services to Ernest Bock & Sons at the October Board meeting for the Newark South Street ES project and a NOA was issued on October 26. He advised the Board that the Authority had issued a final agency decision with regard to the bid

protest discussed last month, adding that the protesting firm confirmed, in writing, that the SDA decision was acceptable and that no further appeal would be pursued.

Turning to projects in the Orange School District, Mr. McKenna reported that pre-design services are on-going for the Orange HS project. He said that conceptual options were presented to the district mid-October and that SDA staff is working closely with the district to develop the preferred option for moving forward. With respect to the Orange Cleveland ES project, Mr. McKenna advised the Board that pre-design services are on-going and the initial project report was approved by SDA on October 1. He said that land acquisition of three adjacent parcels is proceeding according to schedule.

Reporting on projects in the Passaic School District, Mr. McKenna said that the design-builder and SDA are completing the punch list and preparing a request to DCA for issuance of the Certificate of Occupancy for the Passaic Henry Street ES project. He said that, for the Passaic Leonard Place ES project, the SDA advertised for design-build services on August 13 with technical and price proposals due November 5. Mr. McKenna added that the bid opening date is November 19 and management anticipates presenting a recommendation for award at the December Board meeting.

Regarding projects in Paterson, Mr. McKenna said that there are no changes to report on the Marshall Street ES project. He said that the team is closely monitoring the Paterson PS 16 project for compliance with the schedule. He added that special attention is being given to achieving a weather tight building for the winter. He said that the exterior brick work had been going slower than expected but this is being monitored and the building remains on schedule.

In continuing, Mr. McKenna reported that pre-design services, including options development, are on-going for the Pemberton Denbo Crichton ES project. He also reported that, on the Phillipsburg HS project, exterior masonry is 90% complete and the building is nearly

enclosed in anticipation of the start of temporary heat to facilitate interior construction throughout the winter. He added that gas and water connection work is underway there with permanent electricity to follow.

Mr. McKenna said that SDA advertised for design-build services on September 24 for the Vineland New MS project. He noted that technical and price proposals are due December 8. He said that there are no changes to report regarding the Perth Amboy Seaman Avenue ES project.

Turning to the Authority's ongoing procurement activity, Mr. McKenna said that, later in the meeting, management will be presenting and asking for Board approval of the recommended legal services award. He said other activity currently underway includes procurements for design-build services for the Passaic Leonard Place ES project; design-build services for the Vineland MS No. 2 project; design-build services for the Trenton Central HS project; demolition services for the Irvington Madison Avenue ES project; construction management services for the West New York Harry L. Bain ES No. 6 project; and the furniture, fixtures and equipment term contract.

Reporting on events, outreach and other activities, Mr. McKenna said that SDA held a beam signing ceremony for the new Gloucester City ES/MS project on Monday (November 2). He noted that this was a happy event and the people of Gloucester were pleased with the progress being made. He also reported that staff is working to schedule a ground breaking ceremony for the new elementary school in Elizabeth within the next couple of weeks. Finally, Mr. McKenna said that an additional report is included in the monthly reports section of the Members' meeting materials. He explained that this report lists those matters previously considered in Executive Session that are now completed.

The Chairman then asked management to provide the Board with a presentation regarding progress on the TCHS project at the end of the Board meeting.

Audit Committee

At the request of the Chairman, Mr. Nixon then provided the report of the Audit Committee. Mr. Nixon advised the Board that the Audit Committee met on October 19, 2015. He said that management had provided the Committee with the September 2015 New Funding Allocation and Capital Plan Update. He reported that management reported no changes in any of the SDA District reserve balances. He noted that the reserve balance for the Regular Operating Districts ("RODs") increased by \$300,000 during the reporting period.

In continuing, Mr. Nixon said that, for informational purposes, management presented its reforecast of the Authority's 2015 budget. He said that, significantly, management plans to expend approximately \$400,000 in the current year for critical Information Systems (IS) projects. He explained that the Authority must purchase a Storage Area Network System (SAN) which also involves network backbone environments to replace systems which have become unreliable. He noted that these upgrades are a necessity as the Authority moves away from paper and more into the electronic storage of records. Mr. Nixon advised the Board that these systems were scheduled to be replaced in 2016 but that a decision was made to proceed in the current year as funds are available in the 2015 budget.

Mr. Nixon said that management also presented the proposed 2016 Budget for initial discussion by the Committee. He said that management discussed budgetary items and year-over-year comparisons in the proposed budget. He advised the Board that the budget draft will be discussed by the Committee again at its November meeting prior to its advancement to the full Board in December. He reported that the Committee had been requested to share any preliminary questions or concerns with executive management or with him but that, to date, no concerns have been raised by any Committee member.

Next, Mr. Nixon reported that management is recommending renewal of various insurance policies in order to continue the Authority's Business and Real Estate Property and Casualty Insurance Program. He explained that the renewal policies will be purchased pursuant to the second year of a three year term for broker services with The Safeguard Group. He said that, as proposed, the renewal policies will have a one year term at a cost not-to-exceed \$771,000, which is inclusive of an approximate 2.5% allowance for potential exposure increases (e.g. increases due to the acquisition of real and/or personal property, automobiles, payroll increases, etc.) during the policy term. Mr. Nixon said that management is also seeking quotes to obtain extended cyber security coverage in the event that the Authority decides to purchase such coverage. He noted that the estimated cost for this coverage would be an additional \$16,000. Ms. Simmonds said that staff is continuing to investigate options available for extended cyber security coverage. Mr. McKenna offered additional detail regarding the protection afforded by cyber security coverage.

Following discussion, Mr. Nixon said that the Committee recommends that the Board approve the purchase of the various business and real estate insurance policies for a one year term and cyber security coverage if deemed advisable by management. By motion duly made by Mr. Walsh and seconded by Mr. Capelli, the Board approved management's purchase of the various policies as proposed upon its unanimous vote in favor of **Resolution 5a**.

Next, Mr. Nixon discussed management's recommended contract award for legal services. He said that the Committee was presented with management's recommendation for a contract award to a new group of law firms with legal expertise in 8 specialty areas. Specifically, he said, the 8 specialty areas are insurance coverage and suretyship; bankruptcy & insolvency proceedings; environmental law; employment law; government contracting, bid protests & procurement; professional errors and omissions and cost recovery; construction

litigation; and real estate law. Mr. Nixon said that, following a competitive procurement process, management is recommending contract awards to 16 firms. He explained that the attorney services will be performed for a blended hourly rate of \$200 with paralegal services at an hourly rate of \$90 for a two-year term. He advised the Board that no one firm can be compensated in excess of \$1,500,000 over the term of the engagement, regardless of whether it is engaged in providing services in more than one of the specialty areas. Mr. McKenna noted the impressive list of top New Jersey law firms included in the legal services award adding that the agreed upon hourly fee rates are very reasonable. Mr. Barnes noted that the rates have not changed from those of previous awards.

Following discussion, upon motion duly made by Mr. Nixon, seconded by Mr. Egan, and with Mr. Walsh abstaining, the Board approved the proposed contract award for legal services as proposed by management upon its vote in favor of **Resolution 5b**.

In continuing, Mr. Nixon advised the Board that the SDA's Internal Auditing Unit (IAU) had presented the Committee with a revised audit program for schools with a \$10 million state share which had remained in "open" status (i.e. with unpaid monies) as of July 8, 2008. He explained that the decision to revise the audit approach for these old projects followed a determination that, since SDA processes and procedures have dramatically changed since the time of these projects, it made sense for the focus of these audits to be on E&O potential. He said that, this way, the audits produce recommendations that are instructive for moving forward, rather than on staff compliance with obsolete, no longer utilized processes and procedures. Mr. Nixon said that the IAU also presented the results of 10 statutorily required audits. He advised the Board that response actions were forwarded to the Authority's Special Projects Cost Recovery Unit (CRU) as deemed appropriate.

Mr. Nixon said that the Committee was also provided with the September 2015 Monthly Financial Report. He said that management reported that year-to-date Authority operating expenses (actual vs. budget), at \$13.2 million, are down \$3 million as compared to the operating budget for the corresponding period. He said that the variance is largely attributable to lower salary and benefit costs of \$2.4 million.

He said that year-to-date school facilities project expenditures (actual vs. forecast), at \$307.4 million, are down \$4.5 million as compared to the capital spending forecast for the corresponding period. He reported that operating expenses (actual vs. prior year actual) have increased by \$105.3 million as compared to the corresponding prior year. He explained that this variance is due to increased spending of \$51.8 million in construction related activity, \$19.1 million in grant activity, \$7.1 million in project insurance — including the \$5 million down payment for the 3 year OCIP renewal — along with property acquisition costs of \$27.8 million including the \$30 million payment for the Paterson Catholic HS.

In conclusion, Mr. Nixon advised the Board that, since program inception, 73% of the funds authorized for SDA Districts have been disbursed. Additionally, he reported that, since program inception, 96% of all SDA disbursements relate to school facilities projects and 4% relate to operating expenses. He reported that the estimated value of active school facilities projects is approximately \$2.2B.

Public Comments

The Chairman then opened the Public Comments portion of the meeting. He asked Mr. Frank Faras of Trenton to address the Board.

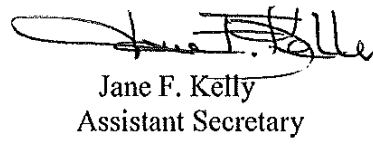
Mr. Faras said that he had recently submitted OPRA requests to both the DOE and the superintendent of schools in the Trenton School District seeking a letter authorizing the closure of TCHS. He said that such a letter is required prior to closure of a school and no letter was ever

generated with regard to TCHS. He said that he was advised by DOE that they never “closed” TCHS. Mr. Faras questioned how the SDA is able to “get away with” knocking down a school that has not been “closed”. Mr. McKenna responded that the Authority would take Mr. Faras’ comments under advisement.

It was agreed that Mr. Sherman would provide the requested impromptu TCHS presentation following formal adjournment of the meeting with the same open to all (Members, staff and public) who wished to remain. Mr. McKenna said that the material to be presented would be forwarded to those Members who were participating in the meeting telephonically.

Mr. Walsh then asked for a motion to adjourn the meeting. Upon motion by the Chairman and with unanimous consent, the meeting was adjourned.

Certification: The foregoing represents a true and complete summary of the actions taken by the Board of the New Jersey Schools Development Authority at its November 4, 2015 meeting.



Jane F. Kelly
Assistant Secretary

RESOLUTION—3a.**Approval of Minutes**

WHEREAS, the By-Laws provide that the minutes of actions taken at meetings of the New Jersey Schools Development Authority be approved by the Authority's Board of Directors; and

WHEREAS, pursuant to Section 3(k) of P.L. 2007, Chapter 137, the minutes of the November 4, 2015 Board meeting of the New Jersey Schools Development Authority, for the Open Session were forwarded to the Governor on November 5, 2015.

NOW, THEREFORE, BE IT RESOLVED, that the minutes of the New Jersey Schools Development Authority's November 4, 2015 Open Session meeting are hereby approved.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Dated: December 2, 2015

AUTHORITY MATTERS

CEO REPORT (*ORAL*)

CHAIRMAN'S REPORT (*ORAL*)

REPORT AND RECOMMENDATIONS OF THE AUDIT COMMITTEE
(CHAIRMAN'S REPORT)

2016 SDA BUDGET



STATE OF NEW JERSEY

SCHOOLS DEVELOPMENT AUTHORITY32 E. FRONT STREET
P.O. BOX 991
TRENTON, NJ 08625-0991
609-858-5325

5

MEMORANDUM

TO: The Members of the Authority

FROM: Charles McKenna, Chief Executive Officer
Donald Guarriello, Chief Financial Officer

RE: Proposed 2016 Operating Budget

DATE: December 2, 2015

Justification for Budget Request

Pursuant to Article V, Section 5.1.B of the Authority's By-Laws, the Chief Executive Officer is required to prepare and submit a proposed annual budget for the Authority for adoption by the Members. Accordingly, in support of the Authority's current and projected project activities and other key initiatives, we are submitting to the Board of Directors for their consideration a calendar year 2016 Operating Budget of \$21.2M, an increase of \$288K as compared to the current year budget. The 2016 Operating Budget includes a proposed headcount of 257 full-time equivalents (FTE) which is unchanged from the current year budget.

Budget Approach

To appropriately assign accountability, all operating expenses are budgeted on a departmental basis. In developing the operating budget, coordinators were identified by each department and/or division, and materials were distributed for data input of expenses and headcount requirements along with instructions on how to enter the data.

Departmental budget information supplied to the budget team was eventually uploaded to a master spreadsheet and rolled up to arrive at divisional and Authority totals. Once approved, the budget will be calendarized for 2016 monthly reporting.

Included in the budget is SDA's estimate for 2016 SDA Project Management Expenses (\$15.7M), which have been deducted from Salaries, Benefits, and Direct Hire Temporary expenses to reflect the net 2016 Total Salaries & Benefits Costs Charged to Operating Expense.

The Members of the Authority
December 2, 2015
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Significant Budgetary Items

- The proposed 2016 Operating Budget reflects a headcount of 257 FTEs, excluding 1 permanent part-time employee.
- Employee and direct hire temporary salaries, including the \$11.2M (54%) of salaries expense allocated to School Facilities Projects, are projected to increase a net of \$384K to \$20.6M. The 2016 Operating Budget includes an employee merit based/promotional compensation adjustment. This is offset by a reduction of 2 direct hire temporary employees for 2016 versus the current year budget. Direct hire temps are used on an as-needed basis throughout the year, primarily by the Design Studio. The majority of these costs will be allocated to School Facilities Projects.
- Employee benefit costs, including the \$4.5M (42%) of benefit costs allocated to School Facilities Projects, are expected to increase by \$378K to \$10.6M. This is primarily due to higher Other Post Employment Benefit (OPEB) costs of approximately \$197K, in addition to higher Pension and Life Insurance costs of \$161K. Employee benefit costs are estimated to comprise approximately 40% of gross payroll in 2016, if you exclude the budgeted \$2.5 million non-cash accrual for OPEB.
- The allocation of employee salaries, benefits and direct hire temporary costs to School Facilities Projects is estimated at \$15.7M or \$613K higher than the current year budget. The estimated 2016 allocation utilizes actual data from 2015.
- Information Systems expenses are \$203K higher than the current year budget due to increased system maintenance costs, system hardware and software costs, and increased technical training needs.
- Capitalized Operating Expenditures are \$130K lower than current year budget due to the inclusion of the eDocument Management System, Storage Area Network and Network Backup & Recovery projects in this year's expenses as opposed to next year.
- General Office & Facilities costs are expected to increase \$34K due to increased insurance costs and added costs for shredding of sensitive documents.
- The 2016 Operating Budget also includes increases in Other contract and professional outside services (\$23K) for upgrading General Systems and IT Security Controls, as well as training and professional development for SDA staff (\$12K).
- A separate line item is included for contingency in the amount of \$50K, or approximately 0.3% of the entire budget (excluding non-cash OPEB costs). Use of the contingency is at the CEO's discretion.

The Members of the Authority
December 2, 2015
Page 3

Accompanying Materials

The accompanying 2016 Operating Budget materials include the following: (1) Budget Summary, (2) Employee Headcount Report by department; (3) 5-Year Budget Comparison Report, and (4) Budget Detail Report.

Recommendation

The Members of the Authority are recommended to approve the proposed 2016 Operating Budget as presented in the accompanying materials.

**2016 Budget vs. 2015 Budget
Highlights**

Employee Salaries & Benefits - \$872,346 increase

- Employee Merit-based/promotional compensation adjustments
- OPEB – Increase \$197K based on actuarial calculation for 2015
- Pension & Life Insurance - \$161K
- Workers Compensation - \$23K

Direct Hire Temporary Employee Cost – \$110,040 reduction

- 4 Direct Hire Temps as compared to 6 Direct Hire Temps last year

Other Contract & Professional Outside Services - \$23,000 increase

- Consulting MIS/Project Services

Training & Professional Development - \$12,299 increase

- Employee Development - \$4K
- HR Training – Company Wide - \$10K
- Licenses – (\$2K)

Information Systems – \$ 202,745 increase

- System Maintenance – (\$30K)
- System Supplies – \$10K
- System Hardware and Software - \$132K
- Technology Projects – \$10K
- Technical Training - \$4K
- Total External Services – \$74K

General Office & Facilities - \$34,000 increase

- Insurance - \$18K
- Shredding costs for sensitive document destruction - \$12K

Capital Expenditures - \$130,000 reduction

- The 2015 budget includes \$200K for a Document Management (DM) System. The DM System hardware and software will be purchased before year end. The 2016 budget includes \$75K to complete the installation of the DM System.



New Jersey Schools Development Authority
 Proposed 2016 Operating Budget Summary
 Presentation to the Board of Directors

Authority Operating Expenses:				Increase/(Decrease)	
	Proposed 2016 Budget	2015 Budget	2015 Rereforecast	2016 Budget vs 2015 Budget	2016 Budget vs 2015 Rereforecast
Employee Salaries	\$ 20,260,791	\$ 19,766,360	\$ 18,100,000	\$ 494,431	\$ 2,160,791
Employee Benefits	10,643,713 a	10,265,798	9,573,549	377,915	1,070,164
Direct Hire Temporary Employee Costs	376,775	486,815	367,281	(110,040)	9,494
Total Employee Salaries & Benefits Costs	31,281,279	30,518,973	28,040,830	762,306	3,240,449
Less: Employee Salaries Costs Charged to Projects	(11,158,927) b	(10,686,361)	(9,976,674)	(472,566)	(1,182,253)
Less: Employee Benefits Costs Charged to Projects	(4,535,164) b	(4,394,580)	(3,890,670)	(140,584)	(644,494)
Operating Employee Salaries & Benefits Costs	15,587,188	15,438,032	14,173,486	149,156	1,413,702
Temporary Employees	130,000	130,000	100,000	-	30,000
Interagency Agreements	160,000	160,000	85,000	-	75,000
Other Contract & Professional Outside Services	222,500	199,500	200,000	23,000	22,500
Employee Travel	33,700	37,990	30,000	(4,290)	3,700
Training & Professional Development	126,194	113,895	74,726	12,299	51,468
Parking	109,440	108,000	108,000	1,440	1,440
Automobile	100,000	99,000	99,000	1,000	1,000
Communications & Outreach	500	500	500	-	-
Management Information Systems	1,475,445	1,272,700	1,217,700	202,745	257,745
General Office & Facilities	2,963,500	2,929,500	2,906,500	34,000	57,000
Other General Expenses	22,500	24,000	24,000	(1,500)	(1,500)
Reserve for Unforeseen Events & New Initiatives	50,000	50,000	50,000	-	-
Total Non-Capitalized Operating Expenses	20,980,967	20,563,117	19,068,912	417,850	1,912,055
Capitalized Operating Expenses (Internal)	255,000	385,000	530,000	(130,000)	(275,000)
Total Authority Operating Expenses	\$ 21,235,967	\$ 20,948,117	\$ 19,598,912	\$ 287,850	\$ 1,637,055
Total Authority Operating Expenses Before Allocation of Salaries & Benefits Costs to Projects	\$ 36,930,058	\$ 36,029,058	\$ 33,466,256	\$ 901,000	\$ 3,463,802
Total Full-Time Employees (FTEs)	257 c	257 c	257 c	-	-

- a Includes non-cash accrual of approximately \$2.5 million for other post retirement benefits (OPEB).
- b A summary breakout of employee salaries & benefits costs charged to projects is provided on Page 3.
- c Total FTEs excludes one (1) permanent part time employee; however, the employee's salary is included above.



New Jersey Schools Development Authority
 Proposed 2016 Operating Budget Employee Headcount
 Budget Presentation to the Board of Directors

SDA Division/Unit	Employee Headcount			Proposed Headcount vs.	
	Proposed 2016 Budget	2015 Budget	Actual	2016 Budget	Actual
Office of Chief Executive Officer (CEO)	3	3	3	-	-
Program Assessment & Development	9	8	9	1	-
Special Projects	9	10	8	(1)	1
Program Operations–Mgmt (PO)	6	6	5	-	1
PO, Capital Plan/Grants	26	26	23	-	3
PO, Design Team	16	14	15	2	1
PO, Project Teams	65	66	55	(1)	10
PO, Safety	9	9	8	-	1
Corp Governance & Operations–Mgmt (GOV)	3	3	3	-	-
GOV, Human Resources	8	8	8	-	-
GOV, Chief Counsel	14	14	14	-	-
GOV, Information Systems	15	15	14	-	1
GOV, Facilities	6	6	6	-	-
GOV, Communications	11	11	9	-	2
Financial Operations, CFO–Mgmt (FO)	5	5	5	-	-
FO, Controller	12	12	12	-	-
FO, Contract Management	13	13	12	-	1
FO, RES	6	6	5	-	1
FO, Procurement	10	10	9	-	1
FO, Risk Management/Vendor Svcs	11	12	11	(1)	-
Total Full-Time Employees (FTEs)	257 ^a	257 ^a	234 ^a	-	23

a Excludes one (1) permanent part time employee.



New Jersey Schools Development Authority
 Proposed 2016 Operating Budget Summary Comparison
 2016 - 2012

Authority Operating Expenses:	Proposed 2016 Budget	2015 Budget	2014 Budget	2013 Budget	2012 Budget
Employee Salaries	\$ 20,260,791	\$ 19,766,360	\$ 19,522,993	\$ 19,375,713	\$ 19,631,320
Employee Benefits	10,643,713 a	10,265,798	10,853,785	10,462,853	12,658,486
Direct Hire Temporary Employee Costs	376,775	486,815	583,463	780,463	50,000
Total Employee Salaries & Benefits Costs	31,281,279	30,518,973	30,960,241	30,619,029	32,339,806
Less: Employee Salaries Costs Charged to Projects	(11,158,927)	(10,686,361)	(10,929,201)	(11,855,791) b	-
Less: Employee Benefits Costs Charged to Projects	(4,535,164)	(4,394,580)	(4,419,927)	(4,776,957) b	-
Operating Employee Salaries & Benefits Costs	15,587,188	15,438,032	15,611,113	13,986,281	32,339,806
Temporary Employees	130,000	130,000	130,000	100,000	100,000
Interagency Agreements	160,000	160,000	185,000	231,500	326,500
Other Contract & Professional Outside Services	222,500	199,500	330,500	440,520 c	410,400
Employee Travel	33,700	37,990	29,250	26,700	16,625
Training & Professional Development	126,194	113,895	72,970	65,492	79,730
Parking	109,440	108,000	52,500	52,500	51,000
Automobile	100,000	99,000	83,000	78,000	73,000
Communications & Outreach	500	500	500	500	1,000
Management Information Systems	1,475,445	1,272,700	1,157,100	1,555,900	2,299,000
General Office & Facilities	2,963,500	2,929,500	2,767,520	3,361,492	3,795,916
Other General Expenses	22,500	24,000	29,000	27,100	14,100
Reserve for Unforeseen Events & New Initiatives	50,000	50,000	50,000	75,000	75,000
Total Non-Capitalized Operating Expenses	20,980,967	20,563,117	20,498,453	20,000,985	39,582,077
Capitalized Operating Expenses (Internal)	255,000	385,000	54,000	54,000	54,000
Total Authority Operating Expenses	\$ 21,235,967	\$ 20,948,117	\$ 20,552,453	\$ 20,054,985	\$ 39,636,077
Total Authority Operating Expenses Before Allocation of Salaries & Benefits Costs to Projects	\$ 36,930,058	\$ 36,029,058	\$ 35,901,581	\$ 36,687,733	\$ 39,636,077
Total Full-Time Employees (FTEs)	257	257	256	256	260

a Includes non-cash accrual of approximately \$2.3 million for other post retirement benefits (OPEB).
 b 2013 was the 1st year such allocation was made.
 c Effective 1/1/2011, costs for outside legal & claims consulting services are accounted for in School Facilities Project Costs.



**New Jersey Schools Development Authority
Proposed 2016 Operating Budget Detail
Presentation to the Board of Directors**

	Proposed 2016 Budget	2015 Budget
Current Year Approved Headcount	<u>257</u>	
Active as of 9/1/2015	234	
Open/Re-Titled	23	
Requested	<u>0</u>	
2016 Proposed Headcount	<u>257</u>	
AUTHORITY OPERATING EXPENSES:		
PERSONNEL & USAGE		
Employee Salaries & Benefits		
Employee Salaries	\$20,260,791	\$19,766,360
Employee Benefits	10,643,713	10,265,798
Direct Hire Temporary Employee Costs	<u>376,775</u>	<u>486,815</u>
Total Salaries & Benefits Costs	31,281,279	30,518,973
Less: Employee Salaries Costs Charged to Projects	(11,158,927)	(10,686,361)
Less: Employee Benefits Costs Charged to Projects	<u>(4,535,164)</u>	<u>(4,394,580)</u>
Total Operating Employee Salaries & Benefits Costs	<u>15,587,188</u>	<u>15,438,032</u>
Temporary Staffing Services	<u>130,000</u>	<u>130,000</u>
Automobile	<u>100,000</u>	<u>99,000</u>
Employee Travel		
Mileage Reimbursement	11,375	9,125
Other Travel (e.g., Tolls & Non-SDA Parking)	<u>22,325</u>	<u>28,865</u>
Total Employee Expense Reimbursement	<u>33,700</u>	<u>37,990</u>
Training & Professional Development		
Publications & Subscriptions	21,725	21,610
Employee Development	70,294	66,200
HR Training - Company Wide	25,000	15,000
Memberships & Licenses	<u>9,175</u>	<u>11,085</u>
Total Training & Professional Development	<u>126,194</u>	<u>113,895</u>



**New Jersey Schools Development Authority
Proposed 2016 Operating Budget Detail
Presentation to the Board of Directors**

	Proposed 2016 Budget	2015 Budget
Parking	<u>109,440</u>	<u>108,000</u>
TOTAL PERSONNEL & USAGE	<u>16,086,522</u>	<u>15,926,917</u>
COMMUNICATIONS & OUTREACH	<u>500</u>	<u>500</u>
OTHER CONTRACT & PROFESSIONAL OUTSIDE SERVICES		
Audit Fee		
External Audit Fee	<u>104,000</u>	<u>105,500</u>
Total Audit Fee	<u>104,000</u>	<u>105,500</u>
Interagency Agreements		
Deputy Attorney General - Legal Services	<u>160,000</u>	<u>160,000</u>
Total Interagency Agreements	<u>160,000</u>	<u>160,000</u>
Other Professional Services		
Consulting - Actuary Services	<u>6,500</u>	<u>6,000</u>
Consulting - MIS	<u>102,000</u>	<u>78,000</u>
Total Other Professional Services	<u>108,500</u>	<u>84,000</u>
Bank Service Charges	<u>10,000</u>	<u>10,000</u>
TOTAL OTHER CONTRACT & PROFESSIONAL OUTSIDE SERVICES	<u>382,500</u>	<u>359,500</u>
MANAGEMENT INFORMATION SYSTEMS		
System Maintenance	<u>640,000</u>	<u>670,000</u>
DocuSafe	<u>26,600</u>	<u>25,000</u>
System Supplies	<u>41,825</u>	<u>31,000</u>



**New Jersey Schools Development Authority
Proposed 2016 Operating Budget Detail
Presentation to the Board of Directors**

	Proposed 2016 Budget	2015 Budget
System Software		
General	70,000	54,000
Total System Software	<u>70,000</u>	<u>54,000</u>
System Hardware		
General	20,000	20,000
Server	40,000	40,000
Printers	15,000	15,000
Workstation Purchases/Upgrades	147,200	31,000
Total System Hardware	<u>222,200</u>	<u>106,000</u>
Technology Projects		
CFO Projects	0	25,000
Human Resources Projects	0	15,000
Corporate Infrastructure Projects	50,000	0
Disaster Recovery	85,000	85,000
Total Technology Projects	<u>135,000</u>	<u>125,000</u>
External Services		
ADP	45,000	45,000
On-Line Subscription Services	78,220	64,000
On-Line Subscription Services-Board Books	14,000	13,000
Internet Provider	174,600	115,000
Total External Services	<u>311,820</u>	<u>237,000</u>
Technical Training	<u>28,000</u>	<u>24,700</u>
TOTAL MANAGEMENT INFORMATION SYSTEMS	<u>1,475,445</u>	<u>1,272,700</u>
GENERAL OFFICE & FACILITIES		
Telephone		
State of NJ	16,200	15,000



**New Jersey Schools Development Authority
Proposed 2016 Operating Budget Detail
Presentation to the Board of Directors**

	Proposed 2016 Budget	2015 Budget
Private-VoIP	19,500	14,000
Cellular	135,000	120,000
Conference Calls	18,000	0
Total Telephone	<u>188,700</u>	<u>149,000</u>
Utilities		
Trenton Front St Office	285,000	290,000
Newark Office	30,000	31,000
Total Utilities	<u>315,000</u>	<u>321,000</u>
Postage & Delivery		
Meter Usage	6,000	8,000
Lockbox Rental	0	1,400
State of NJ	400	400
UPS	7,000	7,000
Federal Express	200	200
Total Postage & Delivery	<u>13,600</u>	<u>17,000</u>
Rent & Real Estate Taxes		
Trenton Front St Office	1,236,200	1,166,000
Newark Office	203,000	222,000
Total Rent	<u>1,439,200</u>	<u>1,388,000</u>
Insurance - Liability & Property		
Business Admin Package	30,000	33,000
Auto Insurance	38,000	36,000
Umbrella Liability	41,000	41,000
Public Officials Liability	225,000	224,000
Public Officials Liability-Excess	63,000	82,000
Umbrella Liability-Excess	16,000	16,000
Total Insurance - Liability & Property	<u>413,000</u>	<u>432,000</u>



**New Jersey Schools Development Authority
Proposed 2016 Operating Budget Detail
Presentation to the Board of Directors**

	Proposed 2016 Budget	2015 Budget
Equipment Lease/Maintenance	<u>50,000</u>	<u>45,000</u>
Furniture/Equipment/Fixtures		
Furniture Purchases	5,000	5,000
Equipment Purchases	5,000	5,000
Fixtures & Tools	<u>2,000</u>	<u>2,000</u>
Total Furniture/Equipment/Fixtures	<u>12,000</u>	<u>12,000</u>
Stationary & Supplies		
Stationary & Supplies	25,000	30,000
Printer & Copier Paper	20,000	25,000
Toner	45,000	50,000
Business Cards	2,500	2,500
Computer Checks	0	1,000
Secure Shredding Service	12,000	0
Storage	<u>65,000</u>	<u>65,000</u>
Total Stationary & Supplies	<u>169,500</u>	<u>173,500</u>
Building Security	<u>2,500</u>	<u>2,000</u>
Janitorial		
Custodial Services	10,000	10,000
Carpet Maintenance	<u>10,000</u>	<u>10,000</u>
Total Janitorial	<u>20,000</u>	<u>20,000</u>
Mechanical Maintenance		
Repairs & Maintenance	25,000	20,000
Common Area Maintenance Fees	<u>315,000</u>	<u>350,000</u>
Total Mechanical Maintenance	<u>340,000</u>	<u>370,000</u>
TOTAL GENERAL OFFICE & FACILITIES	<u>2,963,500</u>	<u>2,929,500</u>



**New Jersey Schools Development Authority
Proposed 2016 Operating Budget Detail
Presentation to the Board of Directors**

	Proposed 2016 Budget	2015 Budget
OTHER GENERAL EXPENSES		
Refreshments & Supplies	6,000	8,000
Employee Services	3,500	3,000
Recruitment Expense	13,000	13,000
TOTAL OTHER GENERAL EXPENSES	<u>22,500</u>	<u>24,000</u>
SUB-TOTAL	<u>\$20,930,967</u>	<u>\$20,513,117</u>
RESERVE FOR UNFORESEEN EVENTS	<u>50,000</u>	<u>50,000</u>
CAPITAL EXPENDITURES		
Automobile Purchases	55,000	60,000
CFR eDoc System	75,000	200,000
eDiscovery System	125,000	125,000
TOTAL CAPITAL EXPENDITURES	<u>255,000</u>	<u>385,000</u>
AUTHORITY OPERATING EXPENSES <u>EXCLUSIVE</u> OF EMPLOYEE COSTS CHARGED TO SCHOOL FACILITIES PROJECTS	<u>\$21,235,967</u>	<u>\$20,948,117</u>
AUTHORITY OPERATING EXPENSES <u>INCLUSIVE</u> OF EMPLOYEE COSTS CHARGED TO SCHOOL FACILITIES PROJECTS	<u>\$36,930,058</u>	<u>\$36,029,058</u>

Resolution— 5a.**Approval of the Fiscal Year 2016 SDA Annual Operating Budget****Resolution**

WHEREAS, the New Jersey Schools Development Authority (“SDA” or “the Authority”) was established by law pursuant to P.L.2007, C.137 (NJSA 52:18A-235 et. seq.) as an entity “in but not of” the New Jersey State Department of the Treasury; and

WHEREAS, pursuant to law, the Authority is authorized to “adopt bylaws for the regulation of its affairs and the conduct of its business” which bylaws were adopted by the Authority on August 15, 2007; and

WHEREAS, pursuant to Article IX of the Authority’s bylaws, there is established an Audit Committee, the duties and responsibilities of which are set forth in the Audit Committee Charter; and

WHEREAS, pursuant to Article VII, Section 7.1 of the Authority’s bylaws, “the fiscal year of the Authority shall commence on the first day of January of each calendar year and conclude on the last day of December of the same calendar year; and

WHEREAS, pursuant to Article V. Section 5.1B of the Authority’s bylaws, the Authority’s “Chief Executive Officer shall prepare and submit a proposed annual budget for the Authority for each ensuing year for adoption by the members of the Authority”; and

WHEREAS, pursuant to Article V. Section 5.1B of the bylaws of the Authority, the Chief Executive Officer has submitted to the Audit Committee for consideration a proposed operating budget for the Authority’s Fiscal Year 2016; and

WHEREAS, at its meetings on October 19, 2015 and November 16, 2015, the Audit Committee reviewed and discussed the FY 2016 budget proposal; and

WHEREAS, pursuant to Article VII A.1 of the Audit Committee Charter and following deliberations, the Audit Committee recommends for approval by the Members of the Authority the budget proposal recommended by SDA management for FY 2016 and it is so presented in the attachment hereto.

NOW THEREFORE BE IT RESOLVED, that the Board hereby approves the attached FY 2016 Annual Operating Budget for staffing, general and administrative expenses and capital expenditures in support of SDA operations totaling \$21.2 million and authorizes the Chief Executive Officer to expend funds on behalf of the Authority pursuant to this budget as required.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Attached: Proposed FY 2016 Annual Operating Budget Memorandum and Attachment, dated
December 2, 2015

Dated: December 2, 2015

REPORT AND RECOMMENDATIONS OF THE SCHOOL REVIEW COMMITTEE (CHAIRMAN'S REPORT)

**DESIGN BUILD AWARD AND APPROVAL OF FINAL PROJECT CHARTER - PASSAIC SCHOOL DISTRICT
- LEONARD PLACE ES - NT-0050-B01**



MEMORANDUM

TO: Members of the Authority

FROM: Sean Murphy
 Director, Procurement

Thomas Schrum
 Program Director, Program Operations

RE: District: Passaic School District
 School: Leonard Place Elementary School
 Description: Design-Build
 Package No.: NT-0050-B01
 CCE: \$32,191,000
 Advertised CCE Range: \$30,000,000 - \$35,000,000
 Award: \$32,750,000
 CM: TBD

DATE: December 2, 2015

SUBJECT: Design-Build Award and Approval of Final Project Charter

INTRODUCTION

We are writing to recommend approval by the Members of the Authority of the award of a contract in the amount of \$32,750,000 to Dobco, Inc.¹ for Design-Build services for the new Leonard Place Elementary School (Leonard Place ES) in the Passaic School District.

The Design-Build Team will complete the design of the facility utilizing NJSDA-developed schematic design documents and will also provide construction and construction administration services, including securing of all required permits and approvals, for construction of a new school facility for grades Kindergarten through 5. The form of contract for this engagement is a Design-Build contract with the general contractor as the lead and with relevant trades and design disciplines serving in sub-contractor and sub-consultant roles.

We are also recommending approval by the Members of the attached Final Project Charter representing the project budget inclusive of dollar values for the award of the Design-Build package.

Pursuant to the NJSDA Operating Authority adopted by the Board on December 1, 2010, as amended March 7, 2012, Board approval is required for the award of construction contracts greater than \$500,000 and for the approval of the Final Project Charter.

¹ Dobco, Inc. listed the following subcontractors for the required trades in its Price Proposal: Environmental Climate Control (HVACR), Zabransky Mechanical Corp. (Plumbing), Enterprise Electric, Inc. (Electrical), and B&B Iron Works, Inc. (Structural Steel & Ornamental Iron). Dobco, Inc. also listed a design consultant team lead by Di Cara / Rubino Architects (Architecture), and including Greenman-Pedersen, Inc. (HVAC Engineering, Electrical Engineering, and Plumbing Engineering), Pennoni Associates, Inc. (Civil Engineering and Environmental Engineering), and Harrison-Hamnett, P.C. (Structural Engineering).

Members of the Authority
 Design-Build Award and Approval of Final Project Charter
 Package No. NT-0050-B01
 Passaic - Leonard Place ES – Design-Build
 December 2, 2015
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BACKGROUND

The Leonard Place ES project will consist of the construction of an approximately 105,000 SF 4-story building to educate approximately 700 students in grades Kindergarten through 5.

At the September 3, 2014 NJSDA Board Meeting, two actions were taken regarding the Leonard Place ES consistent with the Operating Authority: (1) The Leonard Place ES project was approved to advance under the Authority’s Capital Program, in order to assist the District to more fully address its overcrowding needs for grades Kindergarten through 5, and (2) the Preliminary Project Charter recommending a Design-Build project advancement approach was approved by the Board. The project’s history includes acquisition and demolition of properties in 2008 and 2011 respectively. The Design-Builder will be responsible for the final design and construction of the project.

A Construction Management firm will be engaged to manage the construction of the Leonard Place ES. These services will be procured during the third quarter of 2016.

PROCUREMENT PROCESS

This package was advertised as a design-build solicitation on August 13, 2015 on the NJSDA website, NJ State website, and in selected newspapers for interested firms to participate in the bidding process. For this procurement, “Price” is weighted as more important than all “Other Factors,” with price equaling 60% of the overall weight, and all non-price factors having a combined weight of 40%.

A mandatory pre-bid conference was held on August 27, 2015.

In accordance with regulations, the NJSDA employed a two-step process for this procurement. The first step required interested bidders to submit a Project Rating Proposal, which was used by the NJSDA to determine each bidder’s Project Rating Limit, or maximum amount that a bidder may bid, for the project. Project Rating Proposals were received by September 10, 2015. Bidders were evaluated based on the largest of four projects completed in the past seven years, safety records as well as reference checks. Based on evaluation of the information submitted, seven (7) bidders received a Project Rating Limit.

The Project Rating Limits resulting from the Project Rating Evaluations are listed in Table 1 below:

TABLE 1

Firm	Project Rating Limit
Brockwell & Carrington Contractors, Inc.	\$ 43,695,683
Delric Construction Company, Inc.	\$ 127,315,895
Dobco, Inc.	\$ 100,860,000
Ernest Bock & Sons, Inc.	\$ 130,481,150
Joseph A Natoli Construction Corporation	\$ 119,127,960
Prismatic Development Corporation	\$ 241,792,500
Terminal Construction Corporation	\$ 212,681,000

Members of the Authority
 Design-Build Award and Approval of Final Project Charter
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The second step of the process required the bidders to simultaneously submit a Technical Proposal and a sealed Price Proposal. In advance of submission of Technical and Price Proposals, bidders were permitted to submit questions seeking clarification of the procurement documents, until October 6, 2015. Addenda responses to Bidder Questions were issued to the bidders on September 29, October 5, October 9, October 14, and October 21, 2015.

Technical and Price Proposals were received on November 5, 2015 from seven (7) bidders. As described in the RFP, the Technical Proposal submission consists of two separate portions for evaluation by two distinct committees as follows:

1. The “Experience Criteria” portion of the Technical Proposal submission was evaluated by an Evaluation Committee comprised of three (3) NJSDA staff members. The Evaluation Committee was responsible for collectively evaluating the “Experience Criteria” on a non-numeric basis and determining, on a consensus basis, whether a bidder had demonstrated sufficient experience in the following “Experience Criteria” categories:
 - Design-Builder’s Experience on Similarly Sophisticated Projects
 - Design-Builder’s Design Consultant’s Experience on Similarly Sophisticated Projects
 - Design-Builder’s Demonstrated Prior Affirmative Action Experience

2. The “Project Approach Criteria” portion of the Technical Proposal submission was evaluated by a Selection Committee, comprised of five (5) NJSDA staff members and one (1) alternate, and one (1) Passaic School District representative. The Selection Committee was responsible for independently evaluating and scoring each bidder in each of the following “Project Approach Criteria” categories:
 - Approach to Project
 - Identification and Qualification of Required Key Team Members
 - Approach to Schedule
 - Approach to LEED Requirements

“Evaluation Committee” Review

The Evaluation Committee determined that each of the bidders demonstrated sufficient experience in the “Experience Criteria” categories to be considered for award.

“Selection Committee” Review

The Selection Committee members conducted interviews with each of the seven (7) Design-Build teams at NJSDA offices in Trenton on November 17 and November 18, 2015 affording committee members an opportunity to obtain any additional information from each bidder team as needed to complete their evaluations of the “Project Approach Criteria” portion of the Technical Proposal.

Each Selection Committee member evaluated the “Project Approach Criteria” portion of each Technical Proposal, assigning a raw score for each category on a scale of 0 to 10 as follows:

- 9 - 10 points - outstanding response - offers significant advantages.
- 7 - 8 points - superior response - exceeds requirements with no deficiencies.
- 5 - 6 points - sufficient response - meets the requirements with no significant deficiencies.

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- 3 - 4 points - minimal response - meets the requirements but contains some significant deficiencies.
- 1 - 2 points - marginal response - comprehends requirements, but contains many significant deficiencies.
- 0 points - unsatisfactory response - requirements not addressed and lack of detail precludes adequate evaluation.

Weighting factors were then applied to each of the Selection Committee member’s raw scores for each “Project Approach Criteria” category to arrive at a total weighted category score as follows in Table 2 below:

TABLE 2

Project Approach Criteria Evaluation Category	Weighting Factor (Applied to Raw Score)	Maximum Weighted Points
Approach to Project	3.5	35
Identification and Qualification of Required Key Team Members	3.0	30
Approach to Schedule	1.5	15
Approach to LEED Requirements	2.0	20
Total Possible Points		100

For each Technical Proposal, the individual “Project Approach Criteria” category scores awarded by a particular Selection Committee member were added together to calculate a total non-price score for that Technical Proposal. The maximum total non-price score is 100. All of the total non-price scores awarded to a Technical Proposal by the Selection Committee members were added together and averaged to arrive at a final non-price score for each Technical Proposal.

The results of the Selection Committee’s review of the “Project Approach Criteria” portion of each Technical Proposal are listed in Table 3 below:

TABLE 3

Contractor	Raw Non-Price Score	Non-Price Rank
Terminal Construction Corporation	73.833	1
Ernest Bock & Sons, Inc.	71.917	2
Joseph A Natoli Construction Corporation	71.583	3
Prismatic Development Corporation	70.667	4
Dobco, Inc.	65.417	5
Delric Construction Company, Inc.	60.167	6
Brockwell & Carrington Contractors, Inc.	59.833	7

Sealed Price Proposals

Once all the Technical Proposals were scored pursuant to the “Project Approach Criteria”, the Authority opened the sealed Price Proposals and reviewed them for responsiveness. The Price Proposals were publicly opened on November 19, 2015 and the bids were read aloud as required by law.

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The lowest responsive Price Proposal was awarded the maximum number of points for the price component, which is 100. All other Price Proposals were awarded points based on the percentage that each proposal exceeded the lowest bid.

The results of the NJSDA’s review of the Price Proposals are listed in Table 4 below:

TABLE 4

Contractor	Bid Amount	Raw Price Score	Price Rank
Qualified and Responsive Bidders			
Dobco, Inc.	\$32,750,000.00	100.000	1
Delric Construction Company, Inc.	\$33,854,000.00	96.629	2
Brockwell & Carrington Contractors, Inc.	\$34,200,000.00	95.573	3
Ernest Bock & Sons, Inc.	\$34,485,000.00	94.702	4
Joseph A Natoli Construction Corporation	\$34,867,000.00	93.536	5
Prismatic Development Corporation	\$35,665,000.00	91.099	6
Non-Responsive Bidder - Bid Rejected			
Terminal Construction Corporation	\$34,250,000.00	N/A	N/A

Before being combined with the non-price scores, the price scores for all bidders were adjusted by a weighting factor of 60%, and the scores for the non-price “Other Factors” criteria were adjusted by a 40% weighting factor.

Combined Scores and Final Rankings

The combined scores and final rankings are listed in Table 5 below:

TABLE 5

Contractor	Raw Non-Price Score	Raw Price Score	Weighted Non-Price Score (40%)	Weighted Price Score (60%)	Combined Score	Final Rank
Dobco, Inc.	65.417	100.000	26.167	60.000	86.167	1
Ernest Bock & Sons, Inc.	71.917	94.702	28.767	56.821	85.588	2
Joseph A Natoli Construction Corp.	71.583	93.536	28.633	56.122	84.755	3
Prismatic Development Corp.	70.667	91.099	28.267	54.659	82.926	4
Delric Construction Company, Inc.	60.167	96.629	24.067	57.977	82.044	5
Brockwell & Carrington	59.833	95.573	23.933	57.344	81.277	6

The highest ranked bidder was Dobco, Inc.

Highest Ranked Bidder’s Price Proposal

The bid submitted by Dobco was above the CCE. In order to understand the differential between the CCE and the bid price and to ensure the contractor’s price proposal was inclusive of all scope elements, a conference was conducted on November 20, 2015 with Procurement, Program Operations, Contract Management Division and Dobco to review the bid. The discussion verified that Dobco had included all work per the scope of the project

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and identified variances between the NJSDA's CCE and Dobco's price proposal in several areas, with the majority of the overall variance representing increased costs related to foundation system, interior construction and general requirements offset by reduced costs related to conveying, plumbing, electrical and site work. At the time of review, Dobco confirmed that its price proposal is inclusive of all scope elements contained in the Contract Documents.

The Program Operations Director and the Contract Management Division recommend award of the project to Dobco, Inc.

FINAL PROJECT CHARTER

The attached Final Project Budget represents the project budget inclusive of actual dollar values for the award of the Design-Build contract, current estimates for all project scope elements inclusive of estimated costs for future scope elements such as FF&E, technology and appropriate contingencies. Additionally, the budget is inclusive of costs incurred related to land acquisition, site investigation, relocation, demolition and property maintenance, as well as NJSDA Staff costs for both Design and Project Management. The project budget of \$55.9 million in the Final Project Charter represents a net decrease of approximately \$0.3 million from the Board approved Preliminary Project Charter, while also representing increased construction costs based upon the award value for the design-builder which exceed the value that was estimated within the Preliminary Project Charter. The values estimated within the Preliminary Project Charter were based upon the application of planning assumptions to proposed project scope at the time the charter was advanced for approval in September 2014. The design-build award also includes \$970,000 in allowances that had not yet been identified at the time of Preliminary Project Charter approval. Additionally, the Furniture, Fixtures, Technology & Equipment budgets have been increased to reflect more recent project experience. These increases within the overall budget are fully offset through the utilization of design contingency included within the Preliminary Project Charter to account for potential cost increases prior to the award of the design-build contract.

RECOMMENDATION

The Members of the Authority are requested to approve the award of a contract to the highest ranked bidder, Dobco, Inc., for Contract No. NT-0050-B01 in the amount of \$32,750,000. Prior to execution of the contract, the contract and related documentation will be reviewed and approved by the NJSDA Division of Chief Counsel.

The Members of the Authority are also requested to approve the attached Final Project Charter representing all expended and projected funds necessary for completion of the project.

/s/ Sean Murphy

Sean Murphy, Director, Procurement

/s/ Thomas Schrum

Thomas Schrum, Program Director, Program Operations

Reviewed and Recommended by: Andrew Yosha, EVP, Program Operations and Strategic Planning
 Reviewed and Recommended by: Raymond Arcario, Vice President, Construction Operations
 Reviewed and Recommended by: Gregory Voronov, Managing Director, Program Operations
 Reviewed and Recommended by: Joseph Lucarelli, Deputy Program Director, Program Operations
 Reviewed and Recommended by: Felipe Marrero, Senior Program Officer, Program Operations
 Prepared and Recommended by: Jeannette Thannikary, Program Officer, Program Operations

New Jersey Schools Development Authority Project Charter - Summary

Charter Date

12/02/15

Supersedes

Charter Dated

09/03/14

Region: Northern
District: Passaic
Project Name: New ES @ Leonard Place
School Type: Elementary School
DOE # / Project #: 3970-N11-07-ODAY
Project Type (New/Add/Reno): New
Project Location: Leonard Place Passaic, NJ
Number of Students: 628

Land Acquisition Required? Yes No
Temporary Space Required? Yes No

Funding Source

2012 Capital Plan

Project Budget: \$ 55,884,039

Funding Allocated

\$56,179,000

Anticipated Substantial Completion Date: 07/19/18

Anticipated School Occupancy Date: 09/01/18

Project Team Leader: Thomas Schrum

District Local Share

\$0.00

Project Initiation Date: September-14

SDA Board - Project Charter Approval Date: 12/02/15

Charter Version and Date		Project Summary
<input type="checkbox"/> Planning		Construction of a New Elementary School on the SDA acquired Leonard Place site to educate 628 students in grades K to 5.
<input type="checkbox"/> Preliminary	09/03/14	
<input checked="" type="checkbox"/> Final	12/02/15	
		Purpose for Advancement of Current/Revised Project Charter
Revision # and Date		Approval of the Final Charter inclusive of the final budget and schedule for the project based upon the award of the Design-Build Contract.
<input type="checkbox"/> One		
<input type="checkbox"/> Two		District Project Goals
<input type="checkbox"/> Three		
<input type="checkbox"/> Four		
<input type="checkbox"/> Five		
<input type="checkbox"/> Six		

Recommendation

Program Director - Program Operations _____ Date _____
 Thomas Schrum

Managing Director - Capital Planning _____ Date _____
 Gregory Voronov

VP - Construction Operations _____ Date _____
 Raymond Arcario

EVP - Program Operations and Strategic Planning _____ Date _____
 Andrew Yosha

Approval

Chief Executive Officer _____ Date _____
 Charles McKenna

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New Jersey Schools Development Authority Project Charter - Milestones & Delivery Method

Charter Date
12/02/15

District / Project Name:	Passaic / New ES @ Leonard Place
DOE # / Project #:	3970-N11-07-0DAY

Project Milestones	Date
School Occupancy Date	Sep-18

DELIVERY METHOD	Design/Build
------------------------	---------------------

<u>Real Estate Services</u>	Start	Est.	Act.	Finish	Est.	Act.
Feasibility		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Site Investigations	10/02/14	<input type="checkbox"/>	<input checked="" type="checkbox"/>	04/10/15	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Site Acquisition	Complete	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Relocation	Complete	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Demolition	Complete	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Early Site Package		<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Deed Restriction Required?	Date					
District Notified?		<input type="checkbox"/>	<input type="checkbox"/>			
Classification Exception Area?		<input type="checkbox"/>	<input type="checkbox"/>			
District Notified?		<input type="checkbox"/>	<input type="checkbox"/>			
Special Considerations						

<u>Design:</u>	Date	Est.	Act.	Finish	Est.	Act.
Design Start (NTP)	09/19/14	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
Design Restart (if applicable)	N/A	<input type="checkbox"/>	<input type="checkbox"/>			
Program Concept Phase	Start	Est.	Act.	Finish	Est.	Act.
Schematic Design	09/19/14	<input type="checkbox"/>	<input checked="" type="checkbox"/>	08/04/15	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Bridging Documents	12/03/14	<input type="checkbox"/>	<input checked="" type="checkbox"/>	09/18/15	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Design-Build Bid/Award	07/14/15	<input type="checkbox"/>	<input checked="" type="checkbox"/>	08/26/15	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Design-Build NTP	08/13/15	<input type="checkbox"/>	<input checked="" type="checkbox"/>	01/15/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Final Design	01/18/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>	01/18/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	01/18/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>	10/26/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Special Considerations						

<u>Construction:</u>	Date	Est.	Act.
Construction Start (NTP)	10/27/16	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Substantial Completion (TCO)	07/19/18	<input checked="" type="checkbox"/>	<input type="checkbox"/>
School Occupancy Date	Sep-18	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Title Transfer	11/15/18	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Final Completion (C of O)	10/15/18	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Post Occupancy Walk Through	06/13/19	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Project Close-Out	07/12/19	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Special Considerations

The above schedule information is based upon the SDA's schedule for project completion consistent with the contract requirements for the design-build engagement. Adjustments to the Charter schedule may be made after review and approval of the design-builder awardee's proposed project schedule.

New Jersey Schools Development Authority Project Charter - Project Budget		Charter Date
		12/02/15
District / Project Name:	Passaic / New ES @ Leonard Place	
DOE # / Project #:	3970-N11-07-0DAY	
2012 Capital Plan Funding Allocation		\$ 56,179,000
Special Considerations:		
The project budget is based upon the award amount for the Design-Build engagement, current estimates for all project scope elements and estimated costs for future scope elements. Additionally, the budget includes prior expenditures related to site investigation, acquisition and demolition activities for the Leonard Place site.		
Project Budget:		
Gross Building Area (GSF):		Grossing Factor:
New	105,000	1.61
Addition	0	
Renovation	0	
Total Gross Building Area (GSF):	105,000	
Estimated Building Cost / GSF		
New Construction Cost/GSF	\$266.72	
Renovation Cost/GSF		
Design-Builder Costs		
Design	\$1,500,000	
Building Costs	\$29,476,000	
Site Costs	\$1,774,000	
Demolition	\$0	
E-Rate (If separately bid)	\$0	
Cost Escalation months at 5 % per year	\$0	
Design Contingency	\$0	
Construction Contingency	\$1,640,000	
Total Construction Costs	\$34,390,000	
Pre-Development Costs:		
Consultant Services	\$1,181,000	
Completed Demolition/Remediation	\$2,005,251	
Land Acquisition	\$8,312,000	
Relocation	\$1,886,788	
Property Maintenance/Carry Costs	\$527,000	
Total Pre-Development Costs	\$13,912,039	
Other Costs: %		
In-House Design	\$560,000	
Project Management (SDA Staff)	\$1,200,000	
PMF/CM	\$1,340,000	
FF&E	\$1,680,000	
Technology	\$1,800,000	
Commissioning	\$0	
Temporary Space	\$0	
Other Costs	\$1,002,000	
Total Other Costs	\$7,582,000	
Other Funding Sources		
Rebates & Refunds	\$0	
District Local Share Funds	\$0	
Total Other Funding Sources	\$0	
Total Project Budget	\$55,884,039	
Funding from Prior Allocation	\$13,127,328	
Funding from 2012 Capital Plan	\$42,756,711	

**New Jersey Schools Development Authority
Project Charter - Budget Variance**

Charter Date
12/02/15

District / Project Name: Passaic / New ES @ Leonard Place
DOE # / Project #: 3970-N11-07-ODAY

Project Budget:

	Preliminary Charter 9/3/14	Current Budget	VARIANCE Fav/(Unfav)
Grossing Factor:	1.55	1.61	(0.06)
Gross Building Area (GSF):			
New	100,000	105,000	(5,000)
Addition	0	0	0
Renovation	0	0	0
Total Gross Area (GSF):	100,000	105,000	(5,000)
Design-Builder Costs			
Design	\$1,600,000	\$1,500,000	\$100,000
Building Costs	\$25,800,000	\$29,476,000	(\$3,676,000)
Site Costs	\$2,800,000	\$1,774,000	\$1,026,000
Demolition	\$0	\$0	\$0
E-Rate (If separately bid)	\$0	\$0	\$0
Cost Escalation	\$0	\$0	\$0
Design Contingency	\$4,200,000	\$0	\$4,060,000
Construction Contingency	\$1,500,000	\$1,640,000	
Total Construction Costs	\$35,900,000	\$34,390,000	\$1,510,000
Pre-Development Costs:			
Consultant Services	\$1,181,000	\$1,181,000	\$0
Completed Demolition/Remediation	\$2,010,000	\$2,005,251	\$4,749
Land Acquisition	\$8,312,000	\$8,312,000	\$0
Relocation	\$1,887,000	\$1,886,788	\$212
Property Maintenance/Carry Costs	\$527,000	\$527,000	\$0
Total Pre-Development Costs	\$13,917,000	\$13,912,039	\$4,961
Other Costs:			
In-House Design	\$560,000	\$560,000	\$0
Project Management (SDA Staff)	\$1,200,000	\$1,200,000	\$0
PMF/CM	\$1,200,000	\$1,340,000	(\$140,000)
FF&E	\$1,500,000	\$1,680,000	(\$180,000)
Technology	\$1,200,000	\$1,800,000	(\$600,000)
Commissioning	\$0	\$0	\$0
Temporary Space	\$0	\$0	\$0
Other Costs	\$702,000	\$1,002,000	(\$300,000)
Total Other Costs	\$6,362,000	\$7,582,000	(\$1,220,000)
Other Funding Sources			
Rebates & Refunds	\$0	\$0	\$0
District Local Share Funds	\$0	\$0	\$0
Total Other Funding Sources	\$0	\$0	\$0
Total Project Budget	\$56,179,000	\$55,884,039	\$294,961
Funding from Prior Allocation	\$13,127,328	\$13,127,328	\$0
Funding from 2012 Capital Plan	\$43,051,672	\$42,756,711	\$294,961

Budget Variance Analysis:

The project budget represents a net decrease of approximately \$0.3 million from the Board approved Preliminary Project Charter, while also representing increased construction costs based upon the award value for the design-builder which exceed the value that was estimated within the Preliminary Project Charter. The values estimated within the Preliminary Project Charter were based upon the application of planning assumptions to proposed project scope at the time the charter was advanced for approval in September 2014. The design-build award also includes \$970,000 in allowances that had not yet been identified at the time of Preliminary Project Charter approval. Additionally, the Furniture, Fixtures, Technology & Equipment budgets have been increased to reflect more recent project experience. These increases within the overall budget are fully offset through the utilization of design contingency included within the Preliminary Project Charter to account for potential cost increases prior to the award of the design-build contract.

Schedule Variance Analysis:

Resolution—6a.

Design-Build Award and Approval of Final Project Charter

District:	Passaic School District
School:	Leonard Place Elementary School
Description:	Design-Build
Package No.:	NT-0050-B01
CCE:	\$32,191,000
Advertised CCE Range:	\$30,000,000 - \$35,000,000
Award:	\$32,750,000
CM:	TBD

Resolution

WHEREAS, the Operating Authority of the New Jersey Schools Development Authority (SDA or the Authority) requires that the Members of the Authority approve the award of construction contracts greater than \$500,000 and Final Project Charters; and

WHEREAS, the Leonard Place Elementary School project (the Project), will consist of an approximately 105,000 square foot 4-story building to educate approximately 700 students in grades Kindergarten through 5 in the Passaic School District (District); and

WHEREAS, in September 2014, the Members of the Authority approved the Project for advancement and a preliminary project charter recommending a design-build approach; and

WHEREAS, a package for design-build services was advertised on August 13, 2015, with “price” equaling 60% of the overall weight, and all non-price factors having a combined weight of 40%; and

WHEREAS, the background of the Project, the procurement process followed and the specifics of the proposed Final Project Charter are set forth in detail in the memorandum presented to the Board on this date and incorporated herein; and

WHEREAS, upon completion of the competitive procurement process, the Program Operations Director and the Contract Management Division recommended award of a contract for design-build services in the amount of \$32,750,000 to Dobco, Inc., for the Project; and

WHEREAS, at the time of review, Dobco, Inc. confirmed that its price proposal is inclusive of all scope elements contained in the contract documents; and

WHEREAS, subsequent to completion of the procurement process and a determination of the recommended awardee, SDA received notice regarding the filing of bid protests by two separate bidders in the process; and

WHEREAS, these bid protests are pending review and a final determination by the SDA Chief Financial Officer in consultation with the SDA Division of Chief Counsel; and

WHEREAS, prior to execution of a contract, the contract and related documentation will be reviewed and approved by the SDA Division of Chief Counsel; and

WHEREAS, SDA executive management recommends that the Members of the Authority approve the Final Charter for the Project as presented to the Board on this date and representing the project budget inclusive of actual dollar values for the award of the design-build contract and other costs as set forth in the memorandum presented to the Board on this date and incorporated herein.

NOW, THEREFORE, BE IT RESOLVED, that, absent a determination by SDA's Chief Financial Officer, in consultation with Division of Chief Counsel, that a bid protest filed by a separate bidder in the process must be sustained, the Members of the Authority hereby authorize and approve the award of a contract (Contract No. NT-0050-B01) in the amount of \$32,750,000 to the highest ranked bidder, Dobco, Inc. for design-build services for the Passaic Leonard Place Elementary School project.

BE IT FURTHER RESOLVED, that, should a bid protest filed by a separate bidder in the process be sustained, SDA management shall present its revised award recommendation to the full Board for approval.

BE IT FURTHER RESOLVED, that, prior to execution of a contract, the contract and related documentation shall be reviewed and approved by the SDA Division of Chief Counsel.

BE IT FURTHER RESOLVED, that the Members of the Authority approve the attached Final Project Charter representing all expended and projected funds necessary for completion of the project.

BE IT FURTHER RESOLVED, this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Attached: Memorandum, Design-Build Award and Approval of Final Project Charter, Leonard Place Elementary School, (Contract No. NT-0050-B01), Passaic School District, dated December 2, 2015

Dated: December 2, 2015

APPROVAL OF AWARDS - FURNITURE, FIXTURES AND EQUIPMENT - GP-0223-F01



MEMORANDUM

TO: Members of the Authority

FROM: Sean Murphy
Director, Procurement

DATE: December 2, 2015

SUBJECT: Approval of Awards
Package No. GP-0223-F01
Furniture, Fixtures and Equipment

The NJSDA previously procured term contracts for the manufacture, delivery and installation of furniture, fixtures and equipment (“FF&E”) in 2004, 2007 and 2012. Since the current contracts will expire in February 2016, the Members of the Authority are requested to approve the award of contracts to a new pool of thirty-one (31) furniture manufacturing firms. The FF&E from the various firms will form the content of a "catalog" of available items for selection by school district officials to furnish and equip schools constructed or renovated by the NJSDA. NJSDA staff will guide the school district officials in making FF&E purchases within available budgets. These contracts are for a three-year term with an option to extend for one additional year at the sole discretion of the NJSDA. The total not-to-exceed amount for this procurement, including all awardees, is \$12,000,000.

PROCUREMENT PROCESS

In accordance with NJSDA regulations, the NJSDA employed a two-step process for this procurement. The first step was the issuance of a Request for Qualifications (“RFQ”) and review of all responses in order to shortlist qualified firms. The second step was the issuance of a Request for Proposals (“RFP”) to the shortlisted firms and review of all submissions with the highest technically ranked firms being recommended for award.

Request for Qualifications

The RFQ was advertised beginning on May 22, 2015 on the NJSDA website, the New Jersey State website, and in selected newspapers and trade publications. The FF&E was categorized into twenty-one (21) distinct categories (“Lots”) based on the type of FF&E (see Attachment A for a description of each Lot). The RFQ sought proposals from those firms that could manufacture all the required products that comprise a given Lot. Firms could submit proposals for one or multiple Lots. Failure to be responsive and qualified for an individual Lot did not preclude a firm from being considered responsive and qualified for other Lots. The RFQ required firms to provide qualification information in five categories: (1) ability to provide required products; (2) ability to meet required specifications; (3) ability to meet or exceed warranty requirements; (4) demonstration of a minimum five-year business history; and (5)

Members of the Authority
 Approval of Awards
 Package No. GP-0223-F01
 Furniture, Fixtures and Equipment
 December 2, 2015
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ability to meet or exceed delivery requirements.

On June 10, 2015, sixty-one (61) firms submitted their qualifications. No proposals were submitted for Lots 11 and 18. The NJSDA will procure items included in these two categories by way of governmental contract on an as-needed basis. The NJSDA determined that sixty (60) firms were responsive and qualified to receive the RFP. The results of the review of the RFQ submissions are set forth in Table 1 below:

TABLE 1

Firm	Lot(s) Proposed	Comments
Academia Furniture LLC dba Academia Furniture Industries	1, 14	Responsive & Qualified: 1, 14
Adelphia Steel Equipment Company, Inc.	5, 14	Responsive & Qualified: 5, 14
Allseating Corporation	6	Responsive & Qualified: 6
American Harlequin Corp.	19, 20	Responsive & Qualified: 19, 20
American Seating Company	1, 4, 5, 6, 9, 14, 21	Responsive & Qualified: 1, 5, 6, 9, 14, 21 Nonresponsive & Rejected: 4
Bay View Industries, Inc. dba SurfaceWorks	2, 7, 14, 15, 21	Responsive & Qualified: 14, 21 Nonresponsive & Rejected: 2, 7, 15
Benchmark Components LLC, dba WB Manufacturing	17, 21	Responsive & Qualified: 17, 21
BioFit Engineered Products	9	Responsive & Qualified: 9
Brodart Company	7	Responsive & Qualified: 7
Cherryman Industries, Inc.	1, 3, 5, 6, 7, 9, 14, 16, 17	Responsive & Qualified: 1, 3, 6, 7, 9, 14 Nonresponsive & Rejected: 5, 16, 17
Columbia Manufacturing, Inc.	1	Responsive & Qualified: 1
Community Products LLC dba Community Playthings	2	Responsive & Qualified: 2
Concord Products Company, Inc.	1, 2, 3, 4, 5, 12, 13, 14, 15, 16, 17	Responsive & Qualified: 3, 4, 5, 13, 14, 16, 17 Nonresponsive & Rejected: 1, 2, 12, 15
D3, Inc. dba 9to5 Seating	6	Responsive & Qualified: 6
Datamation Systems, Inc.	10	Responsive & Qualified: 10
Datum Filing Systems, Inc. dba Datum Storage Solutions	10, 14	Responsive & Qualified: 10, 14
Dauphin North America	6	Responsive & Qualified: 6
Demco, Inc.	7, 14	Responsive & Qualified: 7, 14
Design Line, Inc.	14, 17	Responsive & Qualified: 14 Nonresponsive & Rejected: 17
Ditto Sales, Inc. dba Versteel	1, 2, 6, 7, 8, 9, 14, 15, 21	Responsive & Qualified: 1, 14, 21 Nonresponsive & Rejected: 2, 6, 7, 8, 9, 15
Everest Expedition LLC dba The Worden Company	7	Responsive & Qualified: 7
Exemplis LLC	6	Responsive & Qualified: 6
Fleetwood Group	10, 12, 13, 14, 17, 21	Responsive & Qualified: 10, 12, 3, 14, 17, 21
Global Industries, Inc.	3, 4, 5, 6, 14, 16, 17	Responsive & Qualified: 3, 4, 5, 6, 14, 16, 17
Groupe Lacasse LLC	4, 6, 14, 17	Responsive & Qualified: 4, 6, 14, 17

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 Furniture, Fixtures and Equipment
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Firm	Lot(s) Proposed	Comments
Haworth	3, 4, 5, 6	Responsive & Qualified: 3, 4, 5, 6
Indiana Furniture Industries, Inc.	3, 6, 7	Responsive & Qualified: 3 Nonresponsive & Rejected: 6, 7
Institutional Casework Inc.	7, 10, 13, 14, 16, 17, 21	Nonresponsive & Rejected: 7, 10, 13, 14, 16, 17, 21
Interior Systems, Inc.	9	Responsive & Qualified: 9
Jonti-Craft Inc.	2	Responsive & Qualified: 2
JSJ Furniture Corporation dba Izzy+	6, 14	Responsive & Qualified: 6, 14
Knoll	3, 4, 5, 6, 14	Responsive & Qualified: 3, 4, 5, 6, 14
Krueger International, Inc.	1, 4, 5, 6, 7, 9, 14, 15	Responsive & Qualified: 1, 5, 6, 7, 9, 14, 15 Nonresponsive & Rejected: 4
Lakeshore Learning Materials	2	Responsive & Qualified: 2
Liat LLC	2, 7, 14, 21	Responsive & Qualified: 2, 7, 14, 21
LSI Corporation of America	17	Responsive & Qualified: 17
Meghan Blake Industries, Inc. dba Hickory Leather Company	3, 6, 7, 13, 14, 21	Responsive & Qualified: 3, 6, 7, 13, 14, 21
National Public Seating	6, 8, 9, 13, 15	Responsive & Qualified: 6, 8, 9, 13, 15
Nevins LLC	14	Responsive & Qualified: 14
OFS Brands	1, 3, 6, 8, 14	Responsive & Qualified: 1, 3, 6, 8, 14
Palmer Hamilton LLC	9	Responsive & Qualified: 9
Palmieri Furniture	7	Responsive & Qualified: 7
PS Furniture	15	Responsive & Qualified: 15
Scholar Craft Products Inc.	1, 2	Responsive & Qualified: 1, 2
School Outfitters	9, 13	Responsive & Qualified: 9, 13
School Specialty	1, 2, 9, 13, 14	Responsive & Qualified: 1, 2, 9, 13, 14
Seating Concepts, Inc.	9	Responsive & Qualified: 9
Seating, Inc.	6	Responsive & Qualified: 6
Sico America, Inc.	9	Responsive & Qualified: 9
Silver Street, Inc.	7, 10, 13, 14, 16, 17	Responsive & Qualified: 7, 10, 13, 14, 16, 17
Spectrum Industries, Inc.	10, 14	Responsive & Qualified: 10, 14
Steelcase, Inc.	3, 4, 5, 6, 14	Responsive & Qualified: 3, 4, 5, 6, 14
Stevens Industries, Inc.	13, 16, 17, 21	Responsive & Qualified: 13, 17, 21 Nonresponsive & Rejected: 16
Teknion, LLC	3, 4, 5, 6, 14, 16, 17	Responsive & Qualified: 3, 4, 5, 6, 14, 16, 17
Toledo-Grafco Furniture Inc.	14, 17	Responsive & Qualified: 14, 17
Trendway Corporation	4, 5, 6, 7	Responsive & Qualified: 5 Nonresponsive & Rejected: 4, 6, 7
Virco, Inc.	1, 9, 13, 14, 15	Responsive & Qualified: 1, 9, 13, 15 Nonresponsive & Rejected: 14
WDM Inc. dba Wood Designs	2	Responsive & Qualified: 2
Wenger Corporation	8	Responsive & Qualified: 8
Whitney Brothers, Co., dba Whitney Brothers	2	Responsive & Qualified: 2
Workstream, Inc. dba Hamilton Sorter	17	Responsive & Qualified: 17

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Furniture, Fixtures and Equipment
December 2, 2015
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Request for Proposals

A Selection Committee consisting of four (4) NJSDA staff members was established to evaluate responsive RFP submissions.

On August 3, 2015, the NJSDA issued RFPs to the sixty (60) responsive firms inviting proposals and samples on the various Lots for which the firms had qualified. On September 30, 2015, thirty-seven (37) firms submitted technical and fee proposals. No proposals were submitted for Lot 16. The NJSDA will procure items included in this category by way of governmental contract on an as-needed basis. In addition to technical and fee proposals, firms were required to submit a furniture sample on October 19, 2015. NJSDA arranged for a facility to accommodate all of the furniture samples to allow for inspection by the Selection Committee. A review of furniture samples took place October 19-23, 2015.

Selection Committee members independently evaluated and scored each submission based on the following criteria:

- Range of All Product Lines Offered for Lot
- Key Team Member Experience
- Approach to Providing the Scope of Services
- Delivery Control Tools
- Warranty
- Quality of Sample Item

Each Selection Committee member evaluated each Technical Proposal and Furniture Sample, assigning a raw score for each criterion on a scale of 0 to 10 as follows:

- Outstanding (9–10): depth and quality of response offers significant advantages.
- Superior (7-8): exceeds RFP requirements with no deficiencies.
- Sufficient (5-6): meets RFP requirements with no significant deficiencies.
- Minimal (3-4): meets RFP requirements but contains some significant deficiencies.
- Marginal (1-2): comprehends intent of RFP but contains many significant deficiencies.
- Unsatisfactory (0): requirements not addressed and lack of detail precludes adequate evaluation.

Weighting factors were applied to each of the Selection Committee member's raw scores for each criterion to arrive at a total weighted score as follows:

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 Furniture, Fixtures and Equipment
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Evaluation Criteria	Weighting Factors (Applied to Raw Score)	Maximum Weighted Points
Range of All Product Lines Offered for Lot	0.5	5
Key Team Member Experience	1.5	15
Approach to Providing the Scope of Services	2.5	25
Delivery Control Tools	1.0	10
Warranty	1.5	15
Quality of Sample Item	3.0	30
Total Possible Points:		100

For each firm’s submission, the individual criteria scores awarded by a particular Selection Committee member for each Lot were added together to calculate a Technical Score for that Lot. Each firm could receive a maximum of 100 points per evaluator, or 400 points total per Lot. The Final Technical Scores and Final Technical Rankings are listed in Table 2 below:

TABLE 2

Lot	Firm	Final Score	Final Rank	Comments
1	Academia Furniture LLC dba Academia Furniture Industries	258	1	
	Columbia Manufacturing, Inc.	242	2	
	Krueger International, Inc.	241	3	
	School Specialty	229	5	
	Scholar Craft Products, Inc.	213	4	
	Virco, Inc.	N/A	N/A	Firm failed to submit required RFP submittals.
2	Community Products LLC dba Community Playthings	264	1	
	Lakeshore Learning Materials	244.5	2	
	Jonti-Craft, Inc.	241	3	
	WDM, Inc. dba Wood Designs	239.5	4	
	School Specialty	229	5	
	Scholar Craft Products, Inc.	N/A	N/A	Firm Failed to submit sample with required specifications.

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 Furniture, Fixtures and Equipment
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Lot	Firm	Final Score	Final Rank	Comments
3	Indiana Furniture Industries, Inc.	248	1	
	Haworth	N/A	N/A	Firm failed to submit sample for furniture inspection.
	Knoll	N/A	N/A	Firm failed to submit sample with required specifications.
	Meghan Blake Industries, Inc. dba Hickory Leather Company	N/A	N/A	Firm failed to submit sample for furniture selection.
4	Knoll	236	1	
	Haworth	N/A	N/A	Firm failed to submit sample for furniture inspection.
5	Adelphia Steel Equipment Company, Inc.	254.5	1	
	Krueger International, Inc.	251.5	2	
	Haworth	N/A	N/A	Firm failed to submit sample for furniture inspection.
	Knoll	N/A	N/A	Firm failed to submit sample with required specifications.
	Trendway Corporation	N/A	N/A	Firm failed to submit sample with required specifications.
6	Krueger International, Inc.	254.5	1	
	Dauphin North America	244	2	
	Allseating Corporation	231	3	
	Exemplis LLC	228	4	
	Haworth	N/A	N/A	Firm failed to submit sample for furniture inspection.
	JSJ Furniture Corporation dba Izzy+	N/A	N/A	Firm failed to submit sample with required specifications.
	Knoll	N/A	N/A	Firm failed to submit sample with required specifications.
	Meghan Blake Industries, Inc. dba Hickory Leather Company	N/A	N/A	Firm failed to submit sample with required specifications.
	National Public Seating	N/A	N/A	Firm failed to submit sample with required specifications.

Members of the Authority
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 Furniture, Fixtures and Equipment
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Lot	Firm	Final Score	Final Rank	Comments
7	Brodart Company	254	1	
	Everest Expedition LLC, dba the Worden Company	242	2	
	Krueger International	242	2	
	Demco Co., Inc.	233.5	4	
	Liat LLC	232.5	5	
	Meghan Blake Industries, Inc. dba Hickory Leather Company	N/A	N/A	Firm did not provide documentation confirming it can manufacture ALL required items in the lot.
8	Wenger Corporation	244.5	1	
	National Public Seating	N/A	N/A	Firm failed to submit sample with required specifications.
9	Interior Systems, Inc.	258.5	1	
	Sico America, Inc.	249.5	2	
	Krueger International, Inc.	247.5	3	
	National Public Seating	246	4	
	Palmer Hamilton LLC	235.5	5	
	School Specialty	228.5	6	
	Seating Concepts, Inc.	N/A	N/A	Firm failed to submit sample for furniture inspection.
10	Virco, Inc.	N/A	N/A	Firm failed to submit required RFP submittals.
	Datum Filing Systems, Inc. dba Datum Storage Solutions	217	1	
12	Fleetwood Group	N/A	N/A	Firm failed to submit sample with required specifications.
	Fleetwood Group	N/A	N/A	Firm failed to submit sample with required specifications.
13	National Public Seating	250	1	
	School Specialty	216.5	2	
	Fleetwood Group	198	3	
	Meghan Blake Industries, Inc. dba Hickory Leather Company	N/A	N/A	Firm withdrew proposal.
	Virco, Inc.	N/A	N/A	Firm failed to submit required RFP submittals.

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Lot	Firm	Final Score	Final Rank	Comments
14	Adelphia Steel Equipment Company, Inc.	254.5	1	
	Academia Furniture LLC dba Academia Furniture Industries	247.5	2	
	Krueger International, Inc.	244.5	3	
	Toledo-Grafco Furniture, Inc.	244	4	
	Bay View Industries, Inc. dba SurfaceWorks	237.5	5	
	Fleetwood Group	214	6	
	JSJ Furniture Corporation dba Izzy+	N/A	N/A	Firm failed to submit sample with required specifications.
	Knoll	N/A	N/A	Firm failed to submit sample with required specifications.
	Meghan Blake Industries, Inc. dba Hickory Leather Company	N/A	N/A	Firm withdrew proposal.
	School Specialty	N/A	N/A	Firm failed to submit sample with required specifications.
15	Krueger International, Inc.	226.5	1	
	National Public Seating	226	2	
	Virco, Inc.	N/A	N/A	Firm failed to submit required RFP submittals.
17	Workstream, Inc. dba Hamilton Sorter	247.5	1	
	Toledo-Grafco Furniture, Inc.	243.5	2	
	Fleetwood Group	214	3	
	LSI Corporation of America	175.5	4	
19	American Harlequin Corp.	166	1	
20	American Harlequin Corp.	N/A	N/A	Firm failed to submit sample with required specifications.
21	Liat LLC	241.5	1	
	Bay View Industries, Inc. dba SurfaceWorks	240.5	2	
	Fleetwood Group, Inc.	214	3	
	Meghan Blake Industries, Inc. dba Hickory Leather Company	N/A	N/A	Firm withdrew proposal.

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Fee Proposals

The fee proposals, which had been kept separate and sealed, were opened on November 2, 2015. The RFP required firms to submit a price list for each Lot and a discount to be applied to that Lot. The RFP notified firms that the discount which applied to the Lot would also be applied to all items in the firm's catalog/price list for that Lot, and that the price list and discount submitted with the Fee Proposal would be applicable throughout the term of the contract. The discounted pricing includes product, sixty days of free storage, delivery, installation, and trash removal.

On November 4, 2015, NJSDA staff initiated negotiations with the responsive firms. Per the terms of the RFP, the NJSDA would engage in negotiations with the firms ranked highest in the evaluation criteria for each Lot in order to establish fair and reasonable pricing. Upon reaching fair and reasonable pricing, NJSDA staff would recommend award of supply contracts to seven (7) firms for each Lot whose proposals are most advantageous to the NJSDA, price and other factors considered. The RFP further stated that in the event there are less than seven (7) responsive firms identified for a particular Lot, the number of firms for that particular Lot would be determined by the NJSDA by considering fair and reasonable pricing among other factors.

Based on NJSDA staff review of the Final Technical Scores and Final Technical Rankings as listed in Table 2 above, with consideration given to the percentage discounts negotiated by NJSDA staff, the firms listed in Table 3 below are proposed for awards of contracts in the Lots indicated.

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TABLE 3

Lot	Firm	Proposed Discount	Negotiated Discount
1	Academia Furniture LLC dba Academia Furniture Industries	68%	68.5%
	Columbia Manufacturing, Inc.	40%	42%
	Krueger International, Inc.	37%	38%
	Scholar Craft Products, Inc.	40%	44%
	School Specialty	63%	65%
2	Community Products LLC dba Community Playthings	25%	25%
	Jonti-Craft, Inc.	12%	14%
	Lakeshore Learning Materials	10%	10%
	School Specialty	63%	65%
	WDM, Inc. dba Wood Designs	List Price + 25%	List Price + 0%
3	Indiana Furniture Industries, Inc.	41%	42%
4	Knoll	60%	60%
5	Adelphia Steel Equipment Company, Inc.	38%	40%
	Krueger International, Inc.	47%	48%
6	Allseating Corporation	38%	43%
	Dauphin North America	50%	51%
	Exemplis LLC	40%	40%
	Krueger International, Inc.	40%	41.5%
7	Brodart Company	37%	37%
	Demco Co., Inc.	44%	45%
	Everest Expedition LLC, dba the Worden Company	15%	17%
	Krueger International, Inc.	40%	41%
	Liat LLC	40%	43%
8	Wenger Corporation	50.6%	52%
9	Interior Systems, Inc.	58%	59%
	Krueger International, Inc.	40%	41%
	National Public Seating	18%	20%
	Palmer Hamilton LLC	27%	30%
	School Specialty	63%	65%
	Sico America, Inc.	38%	39%
10	Datum Filing Systems, Inc. dba Datum Storage Solutions	38%	40%

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Lot	Firm	Proposed Discount	Negotiated Discount
13	Fleetwood Group	16%	21%
	National Public Seating	18%	20%
	School Specialty	63%	65%
14	Academia Furniture LLC dba Academia Furniture Industries	68%	68.5%
	Adelphia Steel Equipment Company, Inc.	38%	40%
	Bay View Industries, Inc. dba SurfaceWorks	36%	37%
	Fleetwood Group	16%	21%
	Krueger International, Inc.	46%	47%
	Toledo-Grafco Furniture, Inc.	34%	36%
15	Krueger International, Inc.	42%	43%
	National Public Seating	18%	20%
17	Fleetwood Group	16%	21%
	Toledo-Grafco Furniture, Inc.	35%	37%
	LSI Corporation	28%	34%
	Workstream, Inc. dba Hamilton Sorter	5%	6.5%
19	American Harlequin Corp.	List Price + 0%	List Price + 0%
21	Bay View Industries, Inc. dba SurfaceWorks	36%	37%
	Fleetwood Group	16%	21%
	Liat LLC	40%	43%

RECOMMENDATION

The Members of the Authority are requested to approve the NJSDA contracting with the firms listed in Table 3 at the negotiated discounts indicated. Each firm would enter into a contract for a three-year term, with the NJSDA having the option to extend each contract for one additional year.

Prior to execution of each contract, the contract and related documentation will be reviewed and approved by the NJSDA Division of Chief Counsel.

/s/ Sean Murphy
 Sean Murphy, Director, Procurement

Members of the Authority
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ATTACHMENT A

DESCRIPTION OF LOTS

- Lot 1 - Classroom Furniture
- Lot 2 - Early Childhood Furniture
- Lot 3 - Office Furniture - Wood Veneer
- Lot 4 - Office Furniture - Systems
- Lot 5 - Office Furniture - Metal
- Lot 6 - Seating - Upholstered
- Lot 7 - Library/Lounge Furniture
- Lot 8 - Music Furniture & Equipment
- Lot 9 - Cafeteria Furniture
- Lot 10 - Technology Storage Cabinets/Carts
- Lot 11 - Art Room Pottery Equipment
- Lot 12 - Medical Furniture & Equipment
- Lot 13 - Science Tables
- Lot 14 - Computer Tables
- Lot 15 - Folding Tables & Chairs
- Lot 16 - Movable Casework - Wood Veneer
- Lot 17 - Movable Casework - Plastic Laminate
- Lot 18 – Vocational/Shop Furniture – Power Shop Equipment
- Lot 19 – Glassless Portable Mirrors
- Lot 20 – Portable Dance Barres
- Lot 21 – Art Room Tables

Resolution—6b.

Approval of Awards
Package No. GP-0223-F01
Furniture, Fixtures and Equipment

Resolution

WHEREAS, the Operating Authority of the New Jersey Schools Development Authority (“SDA” or “Authority”) requires that the Members of the Authority authorize and approve the award of contracts for goods and services by the SDA; and

WHEREAS, the SDA previously procured term contracts for the manufacture, delivery and installation of furniture, fixtures and equipment (“FF&E”), with the current contracts expiring in February 2016; and

WHEREAS, in May 2015, SDA advertised a procurement for FF&E term contracts and sixty-one (61) firms submitted their qualifications for consideration; and

WHEREAS, the FF&E from the various firms will form the content of a "catalog" of available items for selection by school district officials, with the guidance of SDA staff to ensure adherence to budgetary parameters, to furnish and equip schools constructed or renovated by the SDA; and

WHEREAS, in accordance with SDA regulations, the SDA employed a two-step process for this procurement as set forth in detail in the memorandum presented to the Board on this date; and

WHEREAS, following completion of the procurement process, SDA executive management recommends that the Board approve the award of contracts to those firms as set forth in Table 3 of the memorandum presented to the Board on this date for the manufacture, delivery and installation of FF&E for schools constructed or renovated by the SDA; and

WHEREAS, these contracts shall be for a three (3) year term with an SDA option to extend for one (1) additional year and with the total not-to-exceed amount for this procurement, including all awardees, established at \$12,000,000; and

WHEREAS, these contract awards have been deemed advantageous to the work of the Authority and the terms thereof reasonable and appropriate; and

WHEREAS, prior to execution of each contract, the contract and related documentation will be reviewed and approved by the SDA Division of Chief Counsel.

NOW, THEREFORE, BE IT RESOLVED, that, consistent with the memorandum presented to the Board this date, the Members of the Authority hereby authorize and approve the SDA contracting with the firms listed in Table 3 of the memorandum presented to the Board on this date, with each firm entering into a contract for a three-year term, and SDA retaining an option to extend each contract for one additional year.

BE IT FURTHER RESOLVED, that, the total not-to-exceed amount for this procurement, including all awardees, is established at \$12,000,000.

BE IT FURTHER RESOLVED, that, prior to execution of each contract, the contract and related documentation will be reviewed and approved by the SDA Division of Chief Counsel.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Attached: Memorandum, Approval of Awards, Furniture, Fixtures and Equipment Contract
Extension (GP-0223-F01), dated December 2, 2015

Dated: December 2, 2015

DE-OBLIGATION OF UNUSED CONTRACT BALANCES - CREDIT AMENDMENTS



STATE OF NEW JERSEY

SCHOOLS DEVELOPMENT AUTHORITY32 E. FRONT STREET
P.O. BOX 991
TRENTON, NJ 08625-0991
609-858-5325

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MEMORANDUM

TO: Members of the Authority

FROM: Sameer Shah, Deputy Director Contract Management Department
John Barbato, Director Contract Accounting & Disbursements

RE: De-Obligation of Unused Contract Balances – Credit Amendments

DATE: December 2, 2015

INTRODUCTION

The purpose of this memorandum is to seek approval by the Members of the Authority to execute credit amendments to finalize contract close out (or partial contract close out in the case of two Project Management Firm contracts) of eight (8) contracts with remaining contract values totaling \$11.7 million. Pursuant to the NJSDA Operating Authority adopted by the Board on December 1, 2010, as amended March 7, 2012, a credit amendment which singularly exceeds \$100,000 or 10% of the contract value requires approval by the Members of the Authority. Each of these proposed credit amendments exceeds \$100,000. The contracts recommended for close out are presented in Attachment A.

BACKGROUND

In August 2013 the Board approved the execution of fourteen (14) credit amendments in the amount of \$15.8 million to administratively close out previously suspended Design Consultant contracts; the Board also granted delegated authority to the Chief Executive Officer to execute credit amendments to administratively close out an additional ninety-two (92) previously suspended Design Consultant contracts in the amount of \$90.4 million. As of October 2015, 90 of the 106 Design Consultant contracts identified for close out have been closed, resulting in the de-obligation of \$91.7 million in contract values. The remaining sixteen (16) contracts identified for close out have either been placed on legal hold due to unresolved claims or are awaiting a decision from the NJSDA Capital Planning Team on whether the current design may be used on a school facilities project. In an ongoing effort to administratively close out contracts with remaining balances for unused services, the NJSDA has identified eight (8) additional contracts for close out with remaining contract values totaling \$11.7 million. Three (3) of the contracts recommended for close out are Design Consultant contracts with an aggregate remaining balance of \$1.6 million; two (2) are

*The School Review Committee
De-Obligation of Contract Balances and Close Out
December 2, 2015*

Construction Management contracts with an aggregate remaining balance of \$2.1 million; and three (3) are Project Management Firm contracts with an aggregate remaining balance of \$8.0 million. The justifications for these close outs are as follows:

- Design Consultant Contracts – These are previously suspended contracts whose designs will not be relevant for advancement in current or potential future Capital Plans.
- Construction Management Contracts – These contracts have already been terminated for convenience and prior notification has already been provided to the Board.
- Project Management Firm Contracts – These contracts have remaining balances associated with unused services on previously suspended projects or completed projects.

REASON FOR CHANGE

To de-obligate contract balances that are no longer needed on a school facilities contract and to administratively close out the contracts. Execution of credit amendments will de-obligate the remaining funds in these contracts and reduce the contract balances to zero.

All documents supporting the proposed contract amendments listed in Attachment A have been reviewed by the Contract Management Division in coordination with Program Operations staff where applicable. All reviewing staff members have determined that the credit amendments are justified and appropriate.

RECOMMENDATION

The Members of the Authority are requested to approve the execution of credit amendments in the amount of \$11.7 million to close out various contracts presented in Attachment A.

Pursuant to the NJSDA Operating Authority adopted by the Board on December 1, 2010, as amended March 7, 2012, a credit amendment which singularly exceeds \$100,000 or 10% of the contract value requires approval by the Members of the Authority. Each of these proposed credit amendments exceeds \$100,000.

Reviewed and Recommended by: Donald Guarriello, Vice President and CFO

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY - REPORT AND RECOMMENDATIONS OF THE SCHOOL REVIEW COMMITTEE (CHAIRMAN'S REPORT)

ATTACHMENT A									
DESIGN CONSULTANT CONTRACTS - SUSPENDED PROJECT WORK									
<u>District</u>	<u>School Name</u>	<u>Project #</u>	<u>Contract ID</u>	<u>Vendor</u>	<u>Award Date</u>	<u>Contract Value</u>	<u>Amount Paid</u>	<u>De-Obligation</u>	
Gloucester City	New Middle School **	1770-N01-03-0188-00	ST-0014-A01	Gruzen Samton	12/29/2003	\$2,198,252.88	\$1,026,065.38	\$1,172,187.50	
Long Branch	Long Branch HS	2770-X03-01-0635-01	EP-0042-A01	RSC Architects	9/14/2009	\$320,000.00	\$193,709.00	\$126,291.00	
Millville	Millville Senior HS **	3230-050-02-0980-00	ST-0020-A01	Gilbert Architects	4/17/2003	\$1,143,938.00	\$875,483.00	\$268,455.00	
							Sub-Total	\$1,566,933.50	
CONSTRUCTION MANAGEMENT (CM) CONTRACTS - TERMINATION FOR CONVIENCE									
<u>District</u>	<u>School Name</u>	<u>Project #</u>	<u>Contract ID</u>	<u>Vendor</u>	<u>Award Date</u>	<u>Contract Value</u>	<u>Amount Paid</u>	<u>De-Obligation</u>	
Jersey City	ECC #14	2390-X14-01-0594-00	JE-0039-M01	Hill International	9/23/2009	\$1,217,629.00	\$113,457.77	\$1,104,171.23	
Vineland City	Vineland MS **	5390-N02-02-0245-00	ST-0017-M01	Hill International	11/18/2009	\$1,052,500.00	\$0.00	\$1,052,400.00	
							Sub-Total	\$2,156,571.23	
PROJECT MANAGEMENT FIRM (PMF) CONTRACTS - SUSPENDED PROJECT WORK OR UNUSED BALANCES ON COMPLETED PROJECTS									
<u>District</u>	<u>School Name</u>	<u>Project #</u>	<u>Contract ID</u>	<u>Vendor</u>	<u>Award Date</u>	<u>Contract Value</u>	<u>Amount Paid</u>	<u>De-Obligation</u>	
Asbury Park	Asbury Middle School	0100-070-01-0633	PM-0021-P01	Gilbane Building	12/5/2002	\$1,709,741.69	\$186,144.88	\$1,523,596.81	
Asbury Park	Thurgood Marshall Elementary School	0100-100-01-0631	PM-0021-P01	Gilbane Building	12/5/2002	\$210,016.00	\$209,016.00	\$1,000.00	
Barneget Township	Cecil S. Collins E.S.	0185-015-03-0591	PM-0021-P01	Gilbane Building	12/5/2002	\$38,402.00	\$24,440.56	\$13,961.44	
Barneget Township	Lillian M. Dunfee E.S.	0185-010-03-0589	PM-0021-P01	Gilbane Building	12/5/2002	\$434,257.00	\$276,586.49	\$157,670.51	
Barneget Township	Horbelt ES	0185-070-03-0592	PM-0021-P01	Gilbane Building	12/5/2002	\$489,915.00	\$312,036.43	\$177,878.57	
Barneget Township	Collins/Dunfee/Horbelt	Various	PM-0021-P01	Gilbane Building	12/5/2002	\$165,920.00	\$61,000.00	\$104,920.00	
Barneget Township	Joseph T. Donahue E.S.	0185-N02-03-0656	PM-0021-P01	Gilbane Building	12/5/2002	\$1,254,750.00	\$1,133,671.21	\$121,078.79	
Barneget Township	Russell O. Brackman M.S.	0185-050-03-0593	PM-0021-P01	Gilbane Building	12/5/2002	\$1,118,588.00	\$1,072,375.15	\$46,212.85	
Barneget Township	New Barneget High School	0185-N01-02-0025	PM-0021-P01	Gilbane Building	12/5/2002	\$955,350.00	\$942,293.35	\$13,056.65	
Barneget Township	Various - Commissioning	Various	PM-0021-P01	Gilbane Building	12/5/2002	\$58,098.00	\$43,574.88	\$14,523.12	
Neptune Township	Midtown Community Elementary School	3510-N01-02-0177	PM-0021-P01	Gilbane Building	12/5/2002	\$4,412,747.61	\$4,312,788.18	\$99,959.43	
Pleasantville	Decatur Ave Alternative High School	4180-X01-02-0344	PM-0021-P01	Gilbane Building	12/5/2002	\$1,110,250.00	\$365,973.00	\$744,277.00	
All Other Projects & Fixed Costs	Various	Various	PM-0021-P01	Gilbane Building	12/5/2002	\$15,519,205.47	\$15,519,205.47	\$0.00	
								\$3,018,135.17	
New Brunswick	A. Chester Redshaw E.S.	3530-060-03-1032	PM-0016-P01	Epic Management	11/26/2002	\$1,116,875.40	\$996,697.27	*	
New Brunswick	Paul Robeson Community E.S. **	3530-123-03-1034	PM-0016-P01	Epic Management	11/26/2002	\$2,037,500.00	\$803,250.00	\$1,234,250.00	
Perth Amboy	Seaman Avenue School **	4090-N01-98-0325	PM-0016-P01	Epic Management	11/26/2002	\$1,914,759.83	\$830,813.04	\$1,083,946.79	
Plainfield	Frederic W. Cook E.S. **	4160-120-03-0374	PM-0016-P01	Epic Management	11/26/2002	\$2,302,983.91	\$1,123,855.84	\$1,179,128.07	
All Other Projects & Fixed Costs	Various	Various	PM-0016-P01	Epic Management	11/26/2002	\$24,594,403.86	\$24,594,403.86	\$0.00	
								\$3,497,324.86	
Egg Harbor City	New Middle School	1300-X01-04-0ADY	PM-0022-P01	Greyhawk NA	11/27/2002	\$1,575,963.00	\$1,567,748.18	*	
Egg Harbor Township	Egg Harbor Township H.S.	1310-005-04-0AEB	PM-0022-P01	Greyhawk NA	11/27/2002	\$475,000.00	\$460,468.80	*	
Keansburg Borough	Lorraine Place ES	2400-S01-02-0567	PM-0022-P01	Greyhawk NA	11/27/2002	\$1,924,000.00	\$476,334.30	\$1,447,665.70	
Long Branch	George L. Catrambone E.S.	2770-080-03-1043	PM-0022-P01	Greyhawk NA	11/27/2002	\$2,387,047.00	\$2,359,725.16	*	
Long Branch	Gregory ES	2770-110-02-0115	PM-0022-P01	Greyhawk NA	11/27/2002	\$1,743,949.00	\$1,738,891.55	*	
All Other Projects & Fixed Costs	Various	Various	PM-0022-P01	Greyhawk NA	11/27/2002	\$12,652,874.00	\$12,652,874.00	\$0.00	
								\$1,447,665.70	
							Sub-Total	\$7,963,125.73	
							Total De-Obligations	\$11,686,630.46	

* Active contract. Any unused contract balance will be de-obligated at project closeout.

** Current project. This work has already been advanced, or will be advanced, under a different NJSDA contract.

Resolution—6c.

De-Obligation of Unused Contract Balances – Credit Amendments

Resolution

WHEREAS, the Operating Authority of the New Jersey Schools Development Authority (SDA) requires that a credit amendment which singularly exceeds \$100,000 or 10% of the contract value requires approval by the Members of the Authority; and

WHEREAS, in August 2013 the Members of the Authority approved the execution of fourteen credit amendments in the amount of \$15.8 million to administratively close out previously suspended design consultant contracts; and

WHEREAS, in August 2013, the Members of the Authority granted delegated authority to the SDA Chief Executive Officer to execute credit amendments to administratively close out an additional ninety-two previously suspended design consultant contracts in the amount of \$90.4 million; and

WHEREAS, as of October 2015, ninety (90) of the total one hundred and six (106) design consultant contracts identified for close out have been closed, resulting in the de-obligation of \$91.7 million in contract values; and

WHEREAS, the remaining sixteen contracts identified for close out are pending internal review; and

WHEREAS, executive management and associated staff recommend that the Members of the Authority approve the execution of credit amendments to finalize contract close out or, as appropriate, partial contract close out of eight (8) contracts with remaining contract values totaling \$11.7 million; and

WHEREAS, the amount of each of these proposed credit amendments, as listed in Attachment A of the meeting materials, exceeds \$100,000; and

WHEREAS, the background relevant to the requested Board action and the reason for same are set forth in the memorandum presented to the Board on this date and incorporated herein; and

WHEREAS, execution of these credit amendments will de-obligate the remaining funds in these contracts and reduce the contract balances to zero; and

WHEREAS, all documents supporting the proposed contract amendments listed in Attachment A have been reviewed by the contract management division in coordination with program operations staff, where applicable, and all reviewing staff members have determined that the credit amendments are justified and appropriate.

NOW, THEREFORE, BE IT RESOLVED, that the Members of the Authority hereby authorize and approve the execution of eight credit amendments in the amount of \$11.7 million to close out various contracts presented in materials presented to the Board on this date and incorporated herein.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Attached: Memorandum, De-Obligation of Unused Contract Balances – Credit Amendments, dated December 2, 2015

Dated: December 2, 2015

PROPOSED READOPTION WITH AMENDMENTS: PRECONSTRUCTION ACTIVITIES N.J.A.C. 19:34



STATE OF NEW JERSEY

SCHOOLS DEVELOPMENT AUTHORITY

32 EAST FRONT STREET
P.O. BOX 991
TRENTON, NJ 08625-0991
609-858-5395**MEMORANDUM**

TO: Members of the Authority

FROM: Jane Kelly, Vice President
Division of Corporate Governance and Operations

DATE: December 2, 2015

RE: Proposed Readoption With Amendments:
Preconstruction Activities, N.J.A.C. 19:34

Management of the New Jersey Schools Development Authority (“Authority” or “SDA”) is seeking the approval of the Board for the readoption with amendments of the Authority’s Rules captioned “Preconstruction Activities”, N.J.A.C. 19:34.

Prior Regulatory History

Chapter 34 was previously readopted by the Authority effective December 8, 2008, and is scheduled to expire on December 8, 2015, but the underlying rules will be extended upon filing of the notice of proposal with the Office of Administrative Law, an action that can be taken informally upon the Board’s approval, and advanced officially after expiration of the veto period on the Board’s action.

Background

The Rules proposed for readoption with amendments provide guidance for school districts on the Authority’s undertaking and funding of preconstruction activities, including but not limited to, site identification, investigation and acquisition, feasibility studies, land-related design work, site remediation and the like. The Rules implement statutory provisions at N.J.S.A. 18A:7G-5 (regarding the funding and management of preconstruction activities in advance of a school facilities project).

Significant Amendments

The proposed amendments and repeals to the current Rules are primarily technical in nature, making changes throughout the rules to reflect the abolition of the New Jersey Schools Construction Corporation (“Corporation” or “NJSCC”) and the creation of the New Jersey Schools Development Authority (“Authority”) pursuant to P.L. 2007, c. 137, section 13 (N.J.S.A. 52:18A-247), which transferred all functions, powers and duties of the former NJSCC to the Authority, and decreed that statutory and regulatory references to the NJSCC shall mean and refer to the Authority.

Further amendments are intended to conform the regulations to other legislative changes effected by P.L. 2007, c. 137 and P.L. 2007, c. 260, and to provide efficiency and clarification to the practices of the NJSDA with respect to management and funding of preconstruction activities authorized by N.J.S.A. 18A:7G-5.

All proposed additions or deletions to the existing rules are indicated in the attached draft Notice of Proposal in boldface, underlined text, or italic strikethrough text. This memorandum will describe the substantive proposed amendments to the rules.

- *Eliminating obsolete references to the Schools Construction Corporation and “Abbott Districts”*
Amendments throughout the rules are proposed to replace obsolete references to the SDA predecessor entity the Schools Construction Corporation, and to eliminate references to “Abbott districts” which term was replaced with the term “SDA district” pursuant to legislation effective in 2008, P.L. 2007 c. 260.
- *Updating the referenced standards in the definition of “Boundary survey”*
The definition of “Boundary survey” has been proposed for amendment to update the referenced standard “Minimum standard detail requirements for American Land Title Association/American Congress on Surveying and Mapping (ALTA/ACSM) Land Title Surveys” to reflect reference to the “most recent version” of such standard.
- *Deleting references to the abolished Section 13(a) delegation limit*
Proposed amendments include deleting the definition of “Estimated school facilities project costs,” meaning the estimate prepared by the Corporation of the cost of a school facilities project for purpose of calculating the delegation threshold for delegated projects, as well as deleting the definition of “Section 13(a) delegation limit” and modifying the definition of “Section 13(a) delegation agreement” to eliminate references to the delegation limit. The delegation limit was abolished by P.L. 2007, c. 137.
- *Deleting references to “other districts required to use the Corporation”*
Prior to 2007, certain districts other than SDA school districts were required to utilize the Corporation to undertake school facilities projects, such as districts with a district aid percentage at or greater than 55 percent, and districts subject to Level II monitoring by the Commissioner of the Department of Education. Those requirements were abolished by P.L. 2007, c. 137. Amendments are proposed to eliminate references to such other districts formerly required to utilize the Corporation for school facilities projects.
- *Clarifying SDA school district’s obligation to provide inventories of publicly-owned and privately-owned property to be considered for acquisition*
An amendment is proposed to clarify the district’s obligation to provide inventories of district-owned and municipal-owned properties, and an inventory of privately-owned property, for consideration of sites for property acquisition in support of a school facilities project. That proposed amendment would specify that in the event property is sought to augment or expand an already-selected or existing project site, the district’s inventory obligation would be confined to properties that are adjacent, adjoining or in functional proximity to the existing or already-selected site.
- *Amending the prioritization of types of properties for consideration*
An amendment is proposed to change the category of “industrial or commercial land” to specify consideration of “light industrial or commercial land” in order to avoid remediation costs that may be required for acquisition of properties environmentally affected by heavy industry, and to confine the property selection criterion to properties with a history of light industrial or commercial uses.

- *Changing the title and clarifying the composition of the “project team” assembled for review of of properties considered for acquisition*
 Amendments are proposed to retitle the “project team” assembled to review properties proposed for acquisition as a “working group” and to specify which participants are required members (SDA and DOE staff, District representative) and optional members (representative of community advisory group and consultants engaged by SDA) of such a working group.
- *Clarifying documentation obligations for planning board courtesy review in the case of design-build projects*
 An amendment is proposed to clarify that the Authority’s planning board submission for review and recommendation in connection with a property acquisition in support of a design-build project pursuant to N.J.A.C. 19:36-1.1 et seq. is limited to a conceptual design, in recognition that property acquisition for such a project will likely occur prior to award of a design-build contract, at a very early point in development of the project concept, and more refined architectural pre-design documents will not yet be available for submission to the planning board.
- *Clarifying SDA’s role in optional remediation of district-owned property*
 Amendments are proposed to Sections 3.1 and 3.8 to clarify that in the case of district-owned property, the Authority is not obligated to perform site remediation of the property to prepare the land for construction of a school facilities project. Unless SDA determines that it is necessary to undertake remediation of the parcel, site remediation of district-owned land remains the responsibility of the district.

Requested Board Action

The Members of the Authority are requested to approve the proposed readoption of the Authority’s Preconstruction Activities Rules, as well as the issuance of the attached Notice of Readoption, and the filing of the Notice with the Office of Administrative Law.

 /s/ Jane F. Kelly
 Jane F. Kelly, Vice President
 Corporate Governance & Operations

Prepared by Cecelia Haney, Senior Counsel
 JFK/ceh

OTHER AGENCIES

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

Preconstruction Activities

Proposed Readoption with Amendments: N.J.A.C. 19:34 1.1 through 4.1.

Repeals: N.J.A.C. 19:34 1.7; 19:34 1.8; 19:34 2.2; 19:34 2.3, Subchapter 5; Subchapter 6

Authorized By: New Jersey Schools Development Authority, Charles B. McKenna, Chief Executive Officer.

Authority: P.L. 2007, c.137, § 4k (N.J.S.A. 52:18A-238k; 52:18A-240) (rulemaking authority); P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.); P.L. 2007, c.137, (N.J.S.A. 52:18A-235 et seq.) (enabling statutes).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2015-

Submit written comments via mail, e-mail or facsimile by (60 days from publication) 2016

to:

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The agency proposal follows:

Summary

The New Jersey Schools Development Authority (SDA) proposes to readopt with amendments N.J.A.C. 19:34, Preconstruction Activities (the “Rules”).

Chapter 34, which implements Section 5 of the Educational Facilities Construction and Financing Act (EFCFA), P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.), as amended, and P.L. 2007, c. 137 (N.J.S.A. 52:18A-235 et seq.), governs the SDA’s funding and undertaking of preconstruction activities including land acquisition, was previously readopted by the SDA with amendments and repeals on December 8, 2008, and is scheduled to expire on December 8, 2015.

The Chapter 34 rules proposed for readoption with amendments and repeals outline the standards and procedures for the Authority's undertaking and funding of preconstruction activities on behalf of SDA school districts. Pursuant to *N.J.S.A. 18A:7G-5*, preconstruction activities are those activities required to prepare an application for commissioner approval of a school facilities project and include, site identification, investigation and acquisition, feasibility studies, land-related design work, design work, site remediation, demolition and acquisition of temporary facilities. This chapter details the roles and responsibilities of SDA school districts and the Development Authority and standards and procedures with respect to site identification, feasibility analysis, investigation and acquisition. Also provided for are standards governing the relocation of residential and commercial parties displaced by SDA site acquisitions, as well as the procedures for the Authority's procurement of temporary facilities to support a school facilities project.

The SDA has reviewed Chapter 34 and has determined that, with the addition of the proposed amendments described herein, this chapter remains adequate, reasonable, and necessary for the purposes for which it was originally promulgated: to provide standards and procedures for the Authority's undertaking and funding of preconstruction activities on behalf of SDA school districts.

As the SDA has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

A summary of the proposed substantive amendments follows.

Chapter 34. Preconstruction Activities

19:34-1.1 Purpose and applicability of rules

This section is proposed for readoption with an amendment to delete the superfluous term “Development Authority” used with reference to SDA. This section states that the purpose of the rules is to provide guidance on the undertaking of preconstruction activities by the Authority for and on behalf of SDA school districts, and, further, sets forth a non-exclusive list of the types of preconstruction activities that are expressly provided for in N.J.S.A. 18A:7G-5. Another stated purpose of the rules is to provide opportunities for input from SDA school district officials, members of the public and stakeholders during the preconstruction phase of school facilities projects, in accordance with N.J.S.A. 52:18A-235h.

This section specifies that the rules shall apply only to SDA school districts, which are those districts required to use the Authority to construct their school facilities projects. This section further specifies that Department of Education’s determination of the educational priority ranking of the projects in that school district and the Authority’s determination of the sequencing

of the subject facilities project, pursuant to a Statewide strategic plan are both preconditions for the Authority's undertaking of preconstruction activities on behalf of an SDA school district.

19:34-1.2 Definitions

This section sets forth the meaning of the words and terms used throughout this chapter. Amendments to the section include changes to previously defined terms and the deletion of terms and definitions rendered obsolete by statutory changes reflected in the proposed amendments, as set forth below.

The following term is proposed for modification:

“Authority,” which refers to the Schools Development Authority, is proposed for modification to refer to the SDA’s origination statute as codified. The definition is further amended to include a brief description of the mission of the SDA as an entity “statutorily charged with undertaking and funding schools facilities projects, pursuant to the Act.”

“Boundary survey” is proposed for modification to update the references therein to the “most recent version of” the Minimum Standard Detail Requirements for American Land Title Association/American Congress on Surveying and Mapping (ALTA/ACSM) Land Title Surveys,” and to delete superfluous address information for the ALTA and ACSM entities referenced therein.

“New Jersey Department of Environmental Protection” is proposed for modification to delete unnecessary reference to that Executive agency’s functions and mission.

“Preliminary project report” is proposed for modification to correct a citation to the DOE regulations governing the preliminary project report.

“SDA school district,” meaning a school district that received education opportunity aid or preschool expansion aid in the 2007-2008 school year, as defined at P.L. 2007, c. 260, §39, is proposed for modification to include “SDA district” as an alternate term.

“Section 13(a) delegation agreement” meaning the grant agreement between the Authority and an SDA school district by which the Authority funds the State share in connection with a proposed capital maintenance project delegated by the Authority to be undertaken by an SDA school district, pursuant to section 13(a) of the Act and *N.J.A.C. 19:34A*, is proposed for modification to delete a reference to the formulation of a Section 13(a) delegation agreement prior to August 6, 2007, which was permissible between the Authority and a non-SDA district under certain circumstances no longer recognized pursuant to P.L. 2007, c 137.

The following term is proposed for deletion:

“Abbott district” is proposed for deletion as obsolete, as that term has been replaced by “SDA school district” in accordance with P.L. 2007, c. 260.

“Corporation,” which referred to the SDA’s predecessor entity, the Schools Construction Corporation, is proposed for deletion as obsolete.

“Estimated school facilities project costs,” which refers to an estimate of the cost of a school facilities project done for purposes of determining the former delegation threshold pursuant to section 13(a) of the Act, is proposed for deletion because the delegation threshold was eliminated by statutory amendment pursuant to P.L. 2007, c. 137.

“Other district required to use the Corporation” which refers to a district other than an SDA school district required to use the Authority’s predecessor, the Schools Construction Corporation, for the construction of school facilities projects, as follows: a district whose district aid percentage is equal to or greater than 55 percent or a district directed by the Commissioner to

enter level II monitoring pursuant to the provisions of section 14 of P.L. 1975, c. 212 (*N.J.S.A. 18A:7A-14*). The term is proposed for deletion because due to the action of P.L. 2007, c. 137, as of August 6, 2007, such districts are no longer required to use the Authority to undertake their preconstruction projects.

“Section 13(a) delegation limit,” meaning the former eligible cost limit, established by section 13(a) of P.L. 2000, c. 72, for a school facilities project to be eligible for delegation by the Corporation to the district, which applied to section 13(a) grant agreements executed prior to August 6, 2007, is proposed for deletion as the delegation cost limit was abolished by P.L. 2007, c. 137.

19:34-1.3 Disclosure and publicity

This section is proposed for readoption without amendment. This section provides that the records and accounts pertaining to preconstruction activities which are government records as defined in the Open Public Records Act, P.L. 2001, c. 404, shall be made available to persons who request their release as provided by State law. This section also provides that public dissemination of information by the district concerning preconstruction activities shall acknowledge the Authority's financial support.

19:34-1.4 Access and record retention

This section is proposed for readoption without amendment. This section provides that the governmental entities with oversight responsibilities concerning the programming and operations of the SDA, specifically the Office of the State Comptroller and the State Auditor, shall have broad access to records pertaining to preconstruction activities retained by the Authority and

SDA school districts. This section further provides that the 10-year retention period runs from the date of substantial completion, instead of completion of the project, thereby aligning the retention period with the Authority's record retention schedule approved by the State Records Committee.

19:34-1.5 Waiver

This section is proposed for readoption without amendment. This section provides that the provisions set forth in *N.J.A.C. 19:34A-1.8* shall apply to an SDA school district requesting a waiver or release from the express provisions of any rules in this chapter.

19:34-1.6 Appeals

This section is proposed for readoption without amendment. This section provides that the provisions set forth in *N.J.A.C. 19:34A-1.9* shall apply to the appeals by SDA school districts of Authority determinations made pursuant to this chapter.

19:34-1.7 (Reserved)

This section heading, which was listed as “Reserved” after the relevant rule text of the section was repealed in the 2008 readoption of the rules, is proposed for deletion or repeal as superfluous.

19:34-1.8 (Reserved)

This section heading, which was listed as “Reserved” after the relevant rule text of the section was repealed in the 2008 readoption of the rules, is proposed for deletion or repeal as superfluous.

Subchapter 2. General Guidelines for Undertaking and Funding Preconstruction Activities

19:34-2.1 General guidelines

This section is proposed for readoption without amendment. This section outlines the initial steps that must be taken before the Development Authority will undertake and fund preconstruction activities on behalf of an SDA school district. This section provides that the Authority will undertake preconstruction activities only for SDA school districts. Subsection (b) sets forth that a precondition for the Authority's undertaking and funding of preconstruction activities is the Department's educational priority ranking of the underlying school facilities project and the Authority's sequencing of the facilities project derived from the Statewide strategic plan developed by the Authority, as set forth above in the summary of N.J.A.C. 19:34-1.1 above. Subsection (c) expressly provides for the Authority's undertaking of preconstruction activities, but provides for an exception with respect to the delegation of capital maintenance projects and associated preconstruction activities, pursuant to Chapter 34A.

19:34-2.2 (Reserved)

This section heading, which was listed as "Reserved" after the relevant rule text of the section was repealed in the 2008 readoption of the rules, is proposed for deletion or repeal as superfluous.

19:34-2.3 (Reserved)

This section heading, which was listed as "Reserved" after the relevant rule text of the section was repealed in the 2008 readoption of the rules, is proposed for deletion or repeal as superfluous.

Subchapter 3. SDA School Districts Site Preconstruction Activities

19:34-3.1 General criteria and procedures

This section is proposed for readoption with an amendment to clarify the optional nature of the Authority's funding and performance of remediation activities on a district-owned site. This section addresses the preconstruction activities to be undertaken for SDA school districts both in situations when a site needs to be acquired for a facilities project and when the project will be undertaken on land already acquired by the school district. An amendment is proposed to conform the language of this section to that of Section 3.8, to recognize the optional nature of the Authority's funding and undertaking of remediation of district-owned land. Unless SDA determines that it is necessary to undertake remediation of the parcel, remediation of district-owned land remains the responsibility of the district.

19:34-3.2 Site identification

This section is proposed for readoption with amendments. This section provides that, if a school facilities project includes site acquisition, SDA school districts shall be responsible for identifying from one to three sites for the facilities project. It further provides the criteria for the district to use in identifying such sites and outlines the information and documentation to be provided by the district to the Authority upon the Department's transmittal to the Authority of its approval of site acquisition preconstruction activities. Subsection (a) provides that as a precondition for the Authority's undertaking of preconstruction activities, the SDA school district, together with the municipality in which the district is situated, shall jointly submit to the commissioner and the Authority a complete inventory of all district- and municipal-owned land, and any privately-owned land under consideration by the school district, with a written analysis of the suitability of such sites for facilities projects based on criteria outlined in subsection (b).

Subsection (a) is proposed for amendment to add language clarifying that “if the contemplated school facility project necessitates a property acquisition to augment an already-selected project site, the inventories of district-owned and municipal-owned land, and the inventory of privately-owned land, shall be confined to parcels adjoining, adjacent or in functional proximity to the already selected project site to be expanded or augmented.”

The subsection (b) criteria fall within the following broad categories: cost and schedule impacts, significant site location, size and improvement considerations, known significant infrastructure considerations and known environmental considerations. Subsection (b) is proposed for amendment to delete a reference to the “Development Authority” in favor of a reference to the “Authority.”

Subsection (c) provides for the involvement of the community in the site selection process through the school district's implementation of a community advisory committee comprised of various interested parties to receive reports and information concerning proposed school sites and provide input on the suitability of such sites for school facilities projects. This section also provides that the application of the school district to the Department for approval of preconstruction activities shall be accompanied by an endorsement of the sites selected by an authorized member of the community advisory committee, as applicable, if such committee has held a public meeting to solicit public input on the prospective school sites, and a statement signed by school district officials that a special meeting of its school board has been held to inform community residents of the sites that have been prioritized by the district.

Subsection (d) provides that the Authority reviews such submissions and determines, in consultation with the Commissioner, whether any of the publicly-owned land identified, or privately-owned land identified by the school district, would be suitable or clearly unsuitable for inclusion in an application to the Department for approval of preconstruction services. As part of

its preliminary planning, this section provides that the Authority may utilize commercial databases to analyze environmental and historical land use information in order to eliminate consideration of any of the sites that have insurmountable environmental or other issues.

Subsection (e) requires the district, after receiving the Authority's written determination of the suitability of the publicly-owned and privately-owned land identified pursuant to subsection (d), to identify one to three sites in its application to the DOE for site acquisition preconstruction approval. A proposed amendment to this section would alter the hierarchy of priority for acceptable types of property to convert "privately developed industrial or commercial land" to "privately developed light industrial or commercial land," thereby serving to clarify that heavy industrial uses are disfavored, for reasons of avoidance of remediation costs for potential environmental impacts to property typically caused by such heavy industry.

Subsection (g) previously provided that upon approval of the Department of preconstruction activities, the Authority shall convene a "project team" to undertake, among other tasks, the review of information concerning prospective school sites and determinations regarding the suitability of such sites for school facilities projects. Proposed modifications to this section would rename the "project team" as a "working group," and clarify that the "working group" shall be comprised of required participants from the Authority and DOE, as well as an SDA school district representative, in addition to other optional participants at the Authority's discretion, including consultants as necessary and an authorized member of the community advisory committee, if applicable.

Subsection (h) concludes by providing that if none of the sites initially approved by the Department is determined by the Authority to be suitable, the district shall undertake the task of identifying additional site(s).

19:34-3.3 Feasibility studies and land-related design work

This section is proposed for readoption with an amendment to change the reference from “project team” to “working group” in accordance with changes to section 19:34-3.2(g), described above. This section details the process by which the Authority shall undertake increasingly complex feasibility studies with respect to a proposed school site depending on the specific characteristics of that site, until the site is acquired or is deemed by the Authority to be unsuitable for a school facilities project. This section also provides for the early involvement of the community in the site selection process through a public meeting of the board of education of the school district to review comments of the NJDEP concerning an environmental screening report for a prospective school site.

19:34-3.4 Site investigation

This section is proposed for readoption without amendment. The section outlines the scope of investigatory tasks that will be undertaken by the Authority during the site investigation of a prospective school site, in accordance with the rules of the NJDEP in its Technical Requirements for Site Remediation, N.J.A.C. 7:26E, as amended. This section provides for the communication of the findings from a site investigation to a school district's chief school administrator, and provides for the termination of a site investigation when the Authority determines that a site is not suitable or available for school use.

19:34-3.5 Site acquisition approvals

This section is proposed for readoption with amendment. This section defines the criteria for the Authority's decision-making with respect to site acquisitions. This section provides for local planning board submission relating to the site, and an amendment is proposed to specify that, for

design-build projects under N.J.A.C. 19:36-1 et seq., the Authority's submission to a local planning board for review and recommendation under N.J.S.A. 40:55D-31 will consist of a conceptual design. This proposed modification is in acknowledgment that property acquisition for a design-build project will generally occur well in advance of the design-build contract award and thus developed construction documents, detailed site plans and other predesign documents for the eventual project will not be available at the time site acquisition is contemplated. This section also addresses submissions to the Department for purposes of site acquisition approval under N.J.A.C. 6A:26-7.1, and further addresses other site acquisition tasks that the Authority shall undertake (for example, Executive Order No. 215 submissions to the New Jersey Department of Environmental Protection).

19:34-3.6 Ownership of land

This section is proposed for readoption without amendment. This section addresses the Authority's taking or conveying of title, the conveyance of ownership to the SDA school district with a reverter and conditions under which ownership would revert back to the Authority. This section also provides that school districts shall have certain associated responsibilities when the NJDEP approves site engineering controls and/or requires the recording of a deed notice.

19:34-3.7 Relocation Assistance

This section is proposed for readoption without amendment. This section provides that the Authority shall undertake relocation assistance in connection with the acquisition of a site by purchase or eminent domain in accordance with applicable law.

19:34-3.8 Remediation and site development

This section is proposed for readoption with an amendment. Subsection (a) provides that upon acquisition of a site by the Authority, the Authority shall perform any necessary remediation and/or site development work to prepare the site for construction. Subsection (b) provides that for land already owned by an SDA school district on which the district is proposing to locate a school facilities project, the Authority “may undertake” necessary remediation to prepare the land for construction, and an amendment is proposed to clarify that while the Authority “may” undertake such remediation of SDA school district-owned land, the Authority is “not obligated” to do so.

Subchapter 4. Abbott Districts: Other Predevelopment Activities**19:34-4.1 (Reserved)**

This section, identified as “Reserved,” is proposed for readoption without amendment to preserve numbering of the rules.

19:34-4.2 Temporary facilities

This section is proposed for readoption without amendment. This section provides for the procurement and funding of temporary facilities to be used in educating students on a temporary basis while awaiting the completion of a school facilities project that will permanently house such students.

Subchapter 5. Reserved

This subchapter heading, which was listed as “Reserved” after the relevant rule text of the section was repealed in the 2008 re-adoption of the rules, is proposed for deletion or repeal as superfluous.

Subchapter 6. Reserved

This subchapter heading, which was listed as “Reserved” after the relevant rule text of the section was repealed in the 2008 re-adoption of the rules, is proposed for deletion or repeal as superfluous.

Social Impact

The rules proposed for re-adoption with amendments and repeals will apply to SDA school districts that seek to have the Authority fund and administer preconstruction activities under N.J.S.A. 18A:7G-5. The SDA believes that the rules proposed for re-adoption with amendments and repeals will have a positive social impact and that no negative impact will result. The re-adoption of these rules can be expected to positively impact the students, teachers and parents served by SDA school districts because they provide guidance on the districts' and the Authority's roles and responsibilities for undertaking and funding those activities which precede the submission of a school facilities project application to the Department. The opportunities created by these rules for community input in the identification and selection of prospective school sites by the school districts integrates greater transparency, accountability and environmental equity into the development of school facilities projects. These rules are also intended to incorporate the most up-to-date scientific knowledge and expertise in the site

development process, coordinating complete and effective due diligence of prospective school sites with the efficient use of the Authority's limited resources.

Economic Impact

The rules proposed for readoption with amendments and repeals address the preconstruction activities undertaken by the Authority on behalf of SDA school districts. The preconstruction activities undertaken by the Authority are to be funded with the State share of the eligible costs of a school facilities project. The State share for preconstruction activities is funded with State contract bonds issued by the NJEDA pursuant to section 25 of the Act, the payment of which is conditioned on appropriations being made by the Legislature. The rules proposed for readoption with amendments and repeals will have a positive economic impact on the long-term economic growth of the State of New Jersey because significant activity in the planning, construction, architecture and engineering professions will directly result from these rules, providing obvious Statewide economic benefits in the short term. The emphasis on use of publicly-owned land and the more efficient use of State resources in identifying and investigating the feasibility of prospective school sites will maximize the available funding for the Authority's schools construction program.

Federal Standards Statement

The proposed Rules implement State statutes, namely P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.) and P.L. 2007, c.137, (N.J.S.A. 52:18A-235 et seq.), and specifically N.J.S.A. 18A:7G-5. There are no Federal standards or requirements governing the subject matter of these Rules in as much as the rules proposed for readoption with amendments and repeals apply only to SDA school districts that seek to have the Authority fund and perform preconstruction activities in

anticipation of construction of a school facilities project pursuant to N.J.S.A. 18A:7G-5 . There are no Federal standards or requirements applicable to these Rules. A Federal standards analysis, therefore, is not required.

Jobs Impact

The rules proposed for readoption with amendments and repeals will support the creation of a number of new jobs in New Jersey as a result of facilitating the performance of preconstruction activities pursuant to N.J.S.A. 18A:7G-5 in support of school facilities projects in SDA school districts. Jobs will primarily be created in the construction, professional consulting and design sectors.

Agriculture Industry Impact

The Rules will have no direct impact on the agriculture industry. However, implementation of the rules will be coordinated with the Farmland Preservation Program for the acquisition of sites for new schools.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments and repeals primarily impact New Jersey SDA school districts, but through implication, impose compliance requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., that may be engaged by districts to assist or support site selection activities for site acquisition, or that may be ultimately engaged by the Authority to perform preconstruction activities for a school facilities project. The types of small businesses that may be affected by the rules include consultants (for example, design consultants such as architects and engineers), contractors and

their subconsultants and subcontractors providing materials or services to the Authority in connection with preconstruction activities, or to a school district in connection with site selection activities in support of a school facilities project. Because of the scale of preconstruction activities to be undertaken by the Authority it is anticipated that the number of small businesses to which the rules will apply will be substantial. These rules, specifically N.J.A.C. 19:34-1.4, impose records access and retention of records obligations that may affect contractors and consultants that are small businesses.

The majority of the aforementioned requirements are imposed by other laws and rules, in that the rules impose virtually no change to the way school districts procure goods and services. One exception is the record access and retention provisions (access to additional governmental entities, retention period of 10 years to correlate with the statute of limitations for architectural services claims). The costs entailed in the records provisions are not anticipated to be substantially more than the costs otherwise incurred for record retention. It is unlikely that a small business would have to employ professional services to comply with this requirement. The rules are designed to minimize any adverse economic impact on small businesses by making few changes in the ways school districts procure goods and services.

Housing Affordability Impact

The rules proposed for reoption with amendments and repeals will impact the availability and affordability of residential housing in the State of New Jersey, either directly or indirectly, when the Authority must acquire residential real estate for school construction in any of the 31 SDA school districts. The precise number and type of such residential units that will be so affected is dependent on the future school sites that have yet to be identified by school districts and acquired under the school construction program. The New Jersey Department of Community

Affairs has jurisdiction over issues of displacement and relocation in the State. These rules incorporate numerous provisions to lessen the impact of school construction on affordable housing through (1) prioritization of school district and municipally-owned land for prospective school sites, *N.J.A.C. 19:34-3.2(a)*; (2) an analysis of community impacts, and specifically relocation and displacement impacts on a community, in the early stages of identification of prospective school sites, *N.J.A.C. 19:34-3.2(b)2*; (3) Site identification criteria which require school districts to prioritize the use of all other types of property prior to consideration of privately owned residential land, *N.J.A.C. 19:34-3.2(e)2*; (4) a requirement that school districts hold a public meeting to inform their public of the sites that the school district has selected to submit to the Department of Education for preconstruction approval, *N.J.A.C. 19:34-3.2(e)3ii*; (5) the Authority's initial assessment of a prospective school site's feasibility based, in part, on the need for residential relocations, *N.J.A.C. 19:34-3.3(d)2*; and (6) the Authority's final decision whether to acquire a site based on criteria concerning relocation and displacement impacts to a community, *N.J.A.C. 19:34-3.3 3.5(a)*. Conversely, the development of schools within the SDA school districts will have a positive impact on housing values, because of the availability of new neighborhood public school facilities within close proximity to residential housing.

Smart Growth Development Impact

With respect to a description of the types and an estimate of the number of housing units which the rules proposed for readoption with amendments and repeals will apply, and a description of the estimated increase or decrease in the availability of affordable housing which will be affected by the proposed rules, as well as the likelihood that the readoption of the rules will effect a change in the average price or availability of housing in the state of New Jersey, please see the Housing Affordability Impact statement above. It is unlikely that the rules

proposed for readoption with amendments and repeals will cause a change in new housing production or new construction in Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan, because the communities in which the SDA is building schools are generally already significantly built out. The development of a new school, however, will make that school site unavailable for housing developers.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:34.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

TITLE 19. OTHER AGENCIES
NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
CHAPTER 34. PRECONSTRUCTION RULES

§ 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.

§ 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, **established pursuant to Section 3 of** [~~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 (**N.J.S.A. 52:18A-235 et seq.**), [as] **the** successor **entity** to the New Jersey Schools Construction Corporation. **The Authority is statutorily charged with undertaking and funding school facilities projects, pursuant to the Act.**

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

“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 screening report” means the report required to be submitted to the NJDEP for assessing the likelihood of obtaining the various environmental, historical and cultural, land use approvals and permits relevant to a proposed school site.

“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.

“E.O. 215” means the 1989 Executive Order requiring State agencies to assess the environmental impacts of new construction projects that exceed certain cost thresholds and that are either initiated by the State or funded by the State.

~~“Estimated school facilities project costs” means an estimate prepared by the Corporation of the cost of a school facilities project done prior to submission of a school facilities project application for purposes of determining the delegation threshold pursuant to section 13(a) of the Act, prior to August 6, 2007, when P.L. 2007, c. 137 eliminated the threshold.]~~

“Feasibility study” means a study undertaken with respect to a school facilities project proposed in a district's approved LRFPP to determine if it is achievable in view of possible factors identified that may influence the project's design or construction, including, but not limited to, applicable Federal, State and local laws, physical site conditions, market conditions, costs and benefits. A feasibility study may include, but is not limited to, boundary and topographical surveys, geotechnical and preliminary architectural design studies, evaluation of land use requirements to meet educational adequacy needs, evaluation of community relocation and displacement requirements of the project, adequacy of utilities such as water supply, sewerage, power and gas, evaluation and quantification of environmental quality issues, development of appropriate specifications for environmental exposure pathway controls and site remediation, evaluation of traffic impacts related to the school, compatibility of neighboring land uses,

impacts to the local community and the evaluation and definition of preservation needs for historical buildings and culturally significant resources. It shall also entail the obtaining of data, documentation, statements, reports, permits and other material needed to satisfy any required approvals for the acquisition or use of land. A feasibility study may also consist of a pre-construction evaluation to determine whether, because of health and safety, efficiency, or cost, it would be more feasible to replace rather than renovate a school facility.

“Final eligible costs” means for a school facilities project to be constructed by the Authority, the final eligible costs of the school facilities project as determined by the Commissioner, in consultation with the Authority, pursuant to section 5 of the Act.

“Geotechnical investigation” means the investigation of subsurface soil and geologic conditions, such as groundwater conditions and depth to bedrock, to determine the impact of such conditions on construction costs, and adequacy of foundation support for the proposed building, and the suitability of the site for the proposed building.

“Land-related design work” means the preliminary design work required for the acquisition of vacant or improved land, the acquisition of land with existing school or other facilities, or the use of district-owned land for the construction of a school facilities project, such as architectural pre-design and programming, or existing building evaluations.

“Local share” means the total costs of the school facilities project less the State share as determined pursuant to section 5 of the Act.

“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*, and an “approved LRFP” is an LRFP approved by the Commissioner pursuant to *N.J.S.A. 18A:7G-4* and *N.J.A.C. 6A:26-2*.

[“New Jersey Department of Environmental Protection” or]“NJDEP” means the New Jersey Department of Environmental Protection [department established within the Executive Branch of State government charged with the following responsibilities, among others, for the public good:

1. To formulate comprehensive policies for the conservation of the natural resources of the State;
2. To promote environmental protection;
3. To apply its regulatory authority in a manner that is consistent with the intent and findings of all applicable statutes; and
4. To prevent adverse impacts to natural, cultural, historical and scenic resources of the State].

“NJEDA” means the New Jersey Economic Development Authority established pursuant to P.L. 1974, c. 80 (*N.J.S.A. 34:1B-1* et seq.).

[“Other district required to use the Corporation” means a district other than an SDA school district required to use the Corporation for the construction of school facilities projects, as follows: a district whose district aid percentage is equal to or greater than 55 percent or a district directed by the Commissioner to enter level II monitoring pursuant to the provisions of section 14 of P.L. 1975, c. 212 (*N.J.S.A. 18A:7A-14*). As of August 6, 2007, such districts are no longer required to use the Authority to undertake their school facilities projects.]

“Preconstruction activities” means the activities that must be undertaken prior to submitting a school facilities project application to the Department for approval and calculation of preliminary eligible costs. Such activities may include site identification, investigation, and acquisition,

demolition services, feasibility studies, design work, land-related design work and acquisition of temporary facilities, as set forth in this chapter and in N.J.S.A. 18A:7G-5d(2) and *N.J.A.C. 6A:26-3.9*.

“Preliminary project report” means the report that the Department prepares for the Authority after approving a school facilities project application containing the preliminary eligible costs and other project information, pursuant to *N.J.A.C. 6A:26-~~3.5(e)~~**3.5 b***.

“PSCL” means the Public School Contracts Law, *N.J.S.A. 18A:18A-1* et seq., together with all applicable rules and guidance issued by DCA and the Department in connection with *N.J.S.A. 18A:18A-1* et seq.

“Remediation” means all necessary actions to clean up or respond to any known, suspected, or threatened discharge of contaminants at the site that may be required to protect public health, safety, and the environment. Remediation may include the removal, treatment, containment, transportation, securing, or other engineering measures at the site designed to ensure that any contamination at the site is remediated in compliance with the applicable remediation health risks or environmental standards.

“School facilities project” means the planning, acquisition, demolition, construction, improvement, 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 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.

“School facilities project application” means an application submitted by a district for approval of a school facilities project pursuant to *N.J.A.C. 6A:26-3.2*.

“SDA school district” **or “SDA district”** means a school district that received education opportunity aid or preschool expansion aid in the 2007-2008 school year, as defined at P.L. 2007, c. 260, §39.

“Section 13(a) delegation agreement” means the grant agreement between the Authority and an SDA school district by which the Authority funds the State share in connection with a proposed capital maintenance project delegated by the Authority to be undertaken by an SDA school district, pursuant to section 13(a) of the Act and *N.J.A.C. 19:34A*. [~~Prior to August 6, 2007, “section 13(a) delegation agreement” means the grant agreement between the Corporation (or its successor) and an Abbott district, or other district required to use the Corporation, by which the Corporation funds the State share of school facilities project delegated to be undertaken by the school district with estimated costs under the section 13(a) delegation limit.~~]

[~~“Section 13(a) delegation limit” means the eligible cost limit, established by section 13(a) of P.L. 2000, c. 72, for a school facilities project to be eligible for delegation by the Corporation to the district, which applied to section 13(a) grant agreements executed prior to August 6, 2007, and which delegation cost limit was abolished by P.L. 2007, c. 137.~~]

“Site consultant” means a consultant engaged to undertake site feasibility and/or site investigatory work, plans and specifications for demolition and/or oversight of remediation, but shall exclude design work, in connection with a land acquisition for a school facilities project.

“State Comptroller” means the Office of State Comptroller, created pursuant to P.L. 2007, c. 52, in, but not of, the State Department of the Treasury, which is responsible for financial auditing; performance and management reviews; and reviewing the contract procurement process

of the Executive Branch of State government, independent State authorities, public institutions of higher education, units of local government and boards of education.

“State share” means the State's proportionate share of the final eligible costs of a school facilities project. For the SDA school districts, this equals 100 percent of the final eligible costs of a school facilities project.

“Topographic survey” means the detailed mapping or description of the relief features or a surface configuration of a parcel of land, pursuant to the “Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys” (see definition of “boundary survey” above).

“Traffic study” means a study of the existing traffic conditions in the immediate vicinity of the proposed school site and determination of the surrounding area(s) of impact from the proposed school facilities project. The background analysis may include, but is not limited to, traffic counts, intersection movement studies and other site specific traffic engineering tasks. The determination of the impact may include, but is not limited to, trip generation analysis, air quality analysis at intersections, and the study of parking requirements. The traffic study shall be performed by or under the supervision of a licensed engineer with expertise in traffic analysis.

“Utility investigation” means the research and field investigations performed by the consultant to determine whether or not the existing utility infrastructure is adequate to support the proposed school facilities project. The determination of whether or not public water, sanitary sewer, electric or other utilities are reasonably available in sufficient capacity to service the proposed school facilities project is critical to evaluating whether the site is viable for that purpose.

“Wetland investigation” means the evaluation of wetland area to determine the net developable area of a specific proposed school site. A wetland area is a land form, containing soil, groundwater and vegetation, which provides a critical habitat for sustaining wildlife species, and is therefore, a constraint on land use. The wetland area must be identified, delineated and mapped prior to the design of a school facilities project and associated site improvements. This investigation is typically performed by consultants trained in wetlands biology and certified by the New Jersey Department of Environmental Protection and the U.S. Army Corps of Engineers.

(b) Words and terms implementing the Act but not defined in this section shall have the meanings defined in *N.J.A.C. 6A:26-1.2*.

§ 19:34-1.3 Disclosure and publicity

(a) Applications and submissions received by the Authority under this chapter which are government records as defined in the Open Public Records Act, P.L. 2001, c. 404, shall be made available to persons who request their release as provided by State law.

(b) Press releases and other public dissemination of information by the SDA school district concerning the preconstruction activities shall acknowledge Department approval and Authority financing and undertaking of the preconstruction activities.

§ 19:34-1.4 Access and record retention

(a) The Authority shall make available records and accounts pertaining to preconstruction activities undertaken by the Authority to the State Comptroller and the State Auditor in their investigations, examinations and inspections of the activities related to the financing and

undertaking of preconstruction activities. The Authority shall also cooperate, upon request, in sharing information with other entities.

(b) The school district shall keep those records and accounts for the preconstruction activities as necessary in order to evidence compliance with the Act and all applicable regulations and requirements. Such records shall be retained for 10 years following substantial completion of the school facilities project and any additional period required for the resolution of litigation, claims or audit findings.

(c) The Authority shall keep those records and accounts and shall require all parties with whom it has contracted to keep those records and accounts for the preconstruction activities as necessary in order to evidence compliance with the Act and all applicable regulations and requirements. Such records shall be retained for 10 years following substantial completion of the school facilities project and any additional period required for the resolution of litigation, claims or audit findings.

§ 19:34-1.5 Waiver

The provisions set forth in *N.J.A.C. 19:34A-1.8* shall apply to any district requesting a waiver or release from the express provisions of any of the rules in this chapter.

§ 19:34-1.6 Appeals

The provisions set forth in *N.J.A.C. 19:34A-1.9* shall apply to the appeals by SDA school districts of Authority determinations made pursuant to this chapter.

§ 19:34-1.7 (Reserved)

§ 19:34-1.8 (Reserved)

§ 19:34-2.1 General guidelines

(a) An SDA school district may require preconstruction activities to be undertaken in connection with a school facilities project prior to submission of a school facilities project application to the Department. In such case, the SDA school district may submit an application for Department approval of the undertaking and funding of the requested preconstruction activity(ies), pursuant to *N.J.A.C. 6A:26-3.9*. The preconstruction application shall be accompanied by a district board resolution authorizing the application. In the event that the application for preconstruction activities entails site acquisition, the SDA school district is encouraged to include an endorsement of the community advisory committee formed under *N.J.A.C. 19:34-3.2(c)*.

(b) The undertaking and funding of preconstruction activities shall depend on the educational priority ranking of the proposed school facilities project and the sequencing of the project in accordance with the Statewide strategic plan, pursuant to section 5 of the Act.

(c) In the case of an SDA school district, the Authority shall undertake the approved preconstruction activity or activities, unless the Authority determines that the proposed school facilities project is a capital maintenance project, which may be delegated to the SDA school district pursuant to *N.J.S.A. 18A:7G-13(a)*. In such a case, the Authority may delegate the entire capital maintenance project and any related preconstruction activities to the district and such undertaking shall be done pursuant to *N.J.A.C. 19:34A*.

§ 19:34-2.2 (Reserved)

§ 19:34-2.3 (Reserved)

§ 19:34-3.1 General criteria and procedures

If an SDA school district wishes to acquire a site in connection with a school facilities project in its approved long-range facilities plan, the Authority shall fund and undertake the following approved preconstruction activities: site identification, investigation, and acquisition, feasibility studies, land related design work, design work, site remediation, demolition, and acquisition of temporary facilities. If an SDA school district has already acquired land on which it proposes to construct a school facilities project, the Authority shall fund and undertake the aforementioned approved preconstruction activities with the exception of the activities associated with site acquisition **and, at the Authority's option, activities associated with remediation of district-owned land.**

§ 19:34-3.2 Site identification

(a) If the preconstruction activities to be undertaken by the SDA include site acquisition, prior to the submission by an SDA school district of an application to the Department for approval of preconstruction activities, the board of education of the district and the governing body of the municipality in which the district is situated shall jointly submit to the Commissioner and the Authority a complete inventory of all district-and municipal-owned land located in the municipality. The school district shall separately identify and provide to the Authority an inventory of any privately-owned sites that it is considering as potential school sites. The

inventory shall include a map of the district showing the location of each of the identified parcels of land. **If the contemplated school facility project necessitates a property acquisition to augment an already-selected project site, the inventories of district-owned and municipal-owned land, and the inventory of privately-owned land shall be confined to parcels adjoining, adjacent or in functional proximity to the already-selected project site to be expanded or augmented.**

(b) The board of education and the governing body of the municipality shall together provide a written analysis to the [Development] Authority concerning each district- or municipal-owned site, or privately-owned site, identified pursuant to (a) above explaining whether it is suitable for a school facilities project identified in the district's long range facilities plan. The written analysis of the publicly- and privately-owned sites identified shall include the information in (b)1 through 4 below, if applicable, as follows:

1. Cost and schedule impacts: adjustments to overall project schedule, complexity of land acquisition or fair market value considerations. This shall include cost estimates based on the assessed valuation multiplied by the current municipal equalization ratio;
2. Significant site location, size and improvement considerations: constructability, community impacts related to construction and time to implement, compatibility of neighboring land uses, overall revitalization and economic development and open space plans, proximity of public transportation and relocation and displacement impacts;
3. Known significant infrastructure considerations: sufficiency of water supply (drinking and fire) and sewerage capacity, traffic impacts, including road widening and partial takings and utility relocation; and

4. Known significant environmental considerations: technical impracticability of remediation, environmental quality impacts (soil and groundwater), historic and cultural resources, compatibility with neighboring land uses, wetlands, stream encroachment, endangered species and Green Acres encumbrances.

(c) In order to promote community participation during the various phases in the development of school facilities projects, the Authority encourages SDA school districts to host a community advisory committee, which may be composed of, but not limited to, a broad range of interested parties, such as parents and teachers, business and community leaders, school administrators and board members, land use planners and engineers and government officials. The SDA school district is encouraged to provide the members of the community advisory committee with the written analysis provided for under (b) above, and subsequent to the Department's approval of site acquisition preconstruction activities, the information provided to the SDA pursuant to (f) below.

(d) The Authority shall review the analysis provided by the district and/or municipality regarding district- and municipal-owned sites, and any privately-owned sites identified by the school district, and determine, in consultation with the Commissioner, whether any of the sites so analyzed should be excluded from further consideration, or if one or more of these sites should be submitted by the district to the Commissioner for his or her consideration of preconstruction activities to determine its suitability as a site for a proposed school facilities project. In making such determinations, the Authority, in accordance with its planning authority under the Act, may obtain information from a wide range of sources including, but not limited to, commercial database reports of environmental and historical land use information concerning potential school sites.

(e) After the SDA school district's receipt of the Authority's written determination concerning the suitability of publicly-owned and privately-owned land identified pursuant to (d) above, the district shall be responsible for identifying from one to three sites in its application to the Department for site acquisition preconstruction approval.

1. The basis for the site search area is a district's five-year Long Range Facilities Plan approved by the Department, which projects the educational needs by attendance area and future school populations. Using this plan, the site search should be conducted in the appropriate attendance area.

2. Districts shall identify prospective school sites within the attendance area of a school facilities project from the following types of properties, in order of priority, as follows:

- i. District owned land;
- ii. Municipal owned land;
- iii. Other government owned land, such as that owned by a parking authority, housing authority, redevelopment agency or county;
- iv. Undeveloped land;
- v. Privately developed light industrial or commercial land; and
- vi. Privately owned residential land.

3. The SDA school district shall submit an application for approval of preconstruction activities to the Department, and a copy to the Authority, which shall be accompanied by:

- i. An endorsement of the sites by an authorized representative of the community advisory committee, if such committee has been created by the SDA school district pursuant to (c) above,

provided such committee has held a public hearing to receive input from members of the public regarding the prospective school sites identified by the district, pursuant to (e)2 above; and

ii. A statement signed by the district board of education president and chief school administrator indicating that a special board of education meeting has been held by the school district concerning the sites that have been selected for submission to the Department for preconstruction approval.

(f) Upon receiving a copy of the SDA school district's application to the Department for approval of preconstruction activities, the Authority may obtain information from a wide range of sources, including commercial database reports of environmental and historical land use information, concerning potential school sites and communicate its findings to the SDA school district and the Department. After the Authority receives a copy of the Department approval of site acquisition preconstruction activities for a school facilities project, indicating from one to three sites identified by the SDA school district for a school facilities project, the SDA school district shall provide to the Authority, and if applicable, to the SDA school district's community advisory committee created pursuant to (c) above, the items in (f)1 through 11 below.

1. A district board of education resolution authorizing the preconstruction activities;
2. Lot and block numbers and addresses of all parcels under consideration for the proposed site;
3. A description and photographs of the proposed site, including any existing improvements on the site;
4. A map of the district showing location of the land and the location of existing schools in the district;

5. A map showing the attendance area to be served by the school and the number of students who reside therein;

6. Data regarding the impact of the acquisition upon racial balance within the district's public schools;

7. The district and Department-approved school programmatic model;

8. An assessment of water and sewer infrastructure availability and addressing service and treatment capacity for the proposed school facilities project;

9. The current municipal zoning and/or redevelopment plans concerning the properties under consideration, tax map, master plan and applicable redevelopment plan(s);

10. To the extent available, any prior engineering, architectural and/or environmental reports (for example, geotechnical evaluations, building evaluations and/or environmental preliminary assessment); and

11. To the extent available, in the case of acquisition of land with an existing facility, any as-built documents for an existing facility proposed to be rehabilitated.

(g) After the Authority receives a copy of the Department approval of site acquisition preconstruction activities for a school facilities project, the Authority shall convene a [~~project team~~] **working group** to undertake, among other tasks, preliminary evaluation of the suitability of a proposed site(s) based on the information provided by the SDA school district, pursuant to (b) and (f) above, any additional information, including commercial database searches undertaken with respect to the approved sites, and an initial site review undertaken pursuant to *N.J.A.C. 19:34-3.3(c)*. The [~~project team~~] **working group** shall consist of [~~project management, program management and real estate~~] **appropriate** staff of the SDA **and DOE and an SDA**

school district official, and may include an SDA environmental consultant, [~~an SDA school district official,~~] an authorized member of the SDA school district's community advisory committee, if applicable, and other experts and/or specialists, as determined by the Authority.

(h) In the event that none of the sites identified by the SDA school district and approved by the Department for preconstruction activities is determined by the Authority to be available or suitable for acquisition as a school site, the Authority may require the SDA school district to undertake the task of identifying an additional site or sites. Such undertaking may involve matching the programmatic model for the school in the district's long-range facilities plan with alternative sites.

§ 19:34-3.3 Feasibility studies and land-related design work

(a) After a site has been identified, and is approved by the Department for site-related preconstruction activities, the Authority shall undertake any feasibility studies or land-related design work necessary to determine whether to acquire the site or construct on the site.

(b) The feasibility studies relevant to site acquisition or to the use of district-owned land for the construction of a school facilities project may consist of a cost comparison of rehabilitation of an existing school facility, conversion of a facility, and the construction of a new school facility on a new site or some other basis for analysis. For example, the feasibility study may include a traffic study, which analyzes the existing traffic conditions in the immediate vicinity of the proposed school site, determines the surrounding area of impact from the proposed school facilities project, and is performed by a consultant who is a licensed engineer with expertise in traffic analysis. Land-related design work may consist of any of the architectural and engineering

work required for the acquisition or use of vacant or improved land or land with existing school or other facilities, such as architectural pre-design and programming.

(c) The Authority shall undertake an initial site review for each proposed school site approved by the Department for preconstruction services in order to determine whether to proceed with site feasibility services and to determine the scope of the feasibility services to be undertaken. The initial site review shall consist of recent aerial photographs of the proposed site and the surrounding area, a review of the site's historic property uses, surrounding area land uses, wetlands, flood plain information, land title information, as well as a commercially available database search of local, State and Federal environmental records to determine the potential suitability of the proposed site for a school facilities project.

(d) Based on the information provided by the SDA school district, pursuant to *N.J.A.C. 19:34-3.2(b)* and (f), the initial site review undertaken pursuant to (c) above, and any other relevant information, the Authority, in consultation with the members of the ~~[project team]~~ **working group**, shall determine whether to continue site feasibility services with respect to a proposed site and, if so, the scope of such feasibility services.

1. If the Authority determines that a proposed site is unavailable or unsuitable for acquisition or use as a school site, it shall terminate the feasibility study for that site, summarize in writing the reason(s) for the rejection of the site and proceed to undertake approved preconstruction activities on another site(s) identified by the school district.

2. If based on the initial site review, environmental and other development constraints are minimal; for example, the proposed site is predominantly residential without the need for substantial relocation, has no extraordinary infrastructure improvements, the site has a known historic use, remediation is limited, and the environmental regulatory involvement would have a

minimal impact on project schedule and budget and would not impede the development of the property for a school, the Authority may undertake a streamlined process to acquire the site, which shall, at a minimum, consist of the completion of a preliminary assessment supported by such tasks as boundary surveys, title searches, relocation analysis, site feasibility concept plans, preliminary geotechnical investigations and utility evaluations, as well as additional tasks dependent on the site-specific circumstances of the school facilities project.

3. If, based on the initial site assessment, the Authority determines that significant infrastructure and environmental uncertainty remains and further environmental characterization is necessary to quantify development and remediation liability exposure, additional feasibility studies shall be undertaken in a process of increasingly more stringent investigations. Such feasibility studies shall ascertain a site's environmental quality and remediation requirements, extraordinary site development and infrastructure improvement needs, former property ownership, adequacy of water and sewerage, geotechnical conditions or potential title complications, or some other basis for analysis.

(e) For purposes of involving the community in the site selection process, an SDA school district is obligated, pursuant to its Educational Facilities Construction and Financing Act 13(c) Implementation Agreement executed by the school district and the Authority, to hold a public meeting of its board of education no later than 30 days from the date of its receipt from the Authority of the NJDEP's written comments to the environmental screening report (ESR) regarding a proposed school site. The ESR is a tool for assessing the likelihood of obtaining the various environmental, historical and cultural and land use approvals and permits relevant to the proposed site. The ESR alerts stakeholders that potential insurmountable technical and administrative obstacles may exist on a proposed school facilities project.

1. The district shall serve public notice of such meeting, including notice to the members of its community advisory committee, if created pursuant to *N.J.A.C. 19:34-3.2(c)*, at least 20 days prior to the scheduled date of the public meeting.

2. The SDA shall assist the SDA school district and the community advisory committee on an as-needed basis in communicating the results of the ESR of a proposed school site.

(f) The scope of feasibility studies undertaken with respect to a proposed site will be dictated by the proposed location and the site-specific circumstances of the property under consideration. Recognizing that each proposed site is unique, the Authority shall utilize a process for increasingly detailed feasibility evaluations that provide for the rapid elimination of a proposed site where it is inappropriate for a school, and, conversely, expedited acquisition where a proposed site is suitable for a school facilities project.

(g) The Authority shall define the scope of the feasibility study, approve of the scope, and determine how and when the scope has been satisfied. If, in the course of a feasibility study, the Authority determines that the site is unavailable or unsuitable for acquisition or use as a school site, it may terminate the feasibility study for that site and proceed to have the Authority undertake approved preconstruction activities on another site identified by the school district. Alternatively, the Authority may proceed with feasibility studies on several sites concurrently and terminate the feasibility study for the site that the Authority determines is unavailable or unsuitable for acquisition or use as a school site.

§ 19:34-3.4 Site investigation

(a) Site investigations entail the planning and implementation of environmental site sampling, detailed utility investigations and other activities that rely on site-specific field data to quantify

remediation liability exposure and define the extent of impacts, the development of site-specific remediation action objectives and the development of remedial action alternatives and their corresponding remediation costs estimates.

(b) The Authority shall undertake the site investigation needed for purposes of site acquisition or use of a district-owned site for the construction of a school facilities project, in accordance with the rules of the NJDEP governing the undertaking of environmental investigations in their Technical Requirements for Site Remediation, *N.J.A.C. 7:26E*, as amended.

(c) The Authority shall communicate its findings of data and information (gathered from a site investigation) with the district's chief school administrator prior to submitting an application for any required approval of the acquisition of land to the Department. Further, the Authority shall undertake any other due diligence required for the site acquisition or the use of district-owned land for a school facilities project. The Authority shall also undertake the submission of the application for land acquisition approval to the SDA school district. If more than one site has been evaluated, the Authority, after consultation with the SDA school district, shall notify the Department of what it considers to be the most suitable site.

(d) At any point during or after site investigation, if the Authority determines that a proposed site is not suitable or available for school use, due to environmental or other reasons, it may either terminate or require the district to terminate any further site investigation for that site.

§ 19:34-3.5 Site acquisition approvals

(a) Following a feasibility study, land-related design work, site investigation, and consultation, as applicable, the Authority shall determine whether or not to acquire the site. The criteria for the Authority's decision shall include the following considerations:

1. Cost and schedule impacts: adjustments to overall project schedule, complexity of land acquisition or fair market value considerations;

2. Significant site location and improvement considerations: constructability, community impacts related to construction and time to implement, compatibility of neighboring land uses, overall revitalization and economic development and open space plans, proximity of public transportation and relocation and displacement impacts;

3. Significant infrastructure considerations: sufficiency of water supply (drinking and fire) and sewerage capacity, traffic impacts, including road widening and partial takings and utility relocation; and

4. Significant environmental considerations: technical impracticability of remediation, environmental quality impacts (soil and groundwater), historic and cultural resources, compatibility with neighboring land uses, wetlands, stream encroachment, endangered species and Green Acres encumbrances.

(b) If the Authority determines to acquire the site, the Authority shall submit the architectural pre-design and programming, **or, in the case of a contemplated design-build school facilities project pursuant to N.J.A.C. 19:36-1.1 et seq., a conceptual design,** to the local planning board, pursuant to *N.J.S.A. 40:55D-31*, and obtain the approvals, reports and statements required by the Department prior to the submission of an application for approval of the acquisition of the site to the Department.

(c) The Authority shall undertake title review and appraisal of the site.

(d) The Authority shall undertake any submissions required to the New Jersey Department of Environmental Protection, pursuant to E.O. 215 (1989).

§ 19:34-3.6 Ownership of site

(a) Upon the obtaining of all necessary approvals required for the acquisition of a site, the Authority shall take all steps necessary, including condemnation, required to take title to the site.

(b) The Authority may, at its option, take title in its own name, or the site shall be conveyed directly to the SDA school district.

(c) If the Authority conveys title to the SDA school district prior to close out of the school facilities project on the site, the district shall agree to permit the Authority access to the site by way of ground lease or other form of right of entry as appropriate to undertake preconstruction activities and school facilities project(s) on the site.

(d) Any site funded by the Authority pursuant to this chapter shall contain a reverter that if the site is not used for a school facility as defined under the Act, ownership of and title to the land together with the school facility on the site funded under the Act, will revert to and the title thereof shall vest in the Authority. The district shall execute any documents including, but not limited to, a deed of conveyance necessary to accomplish such reversion. If applicable, the district shall also comply with the requirements for Department approval of the disposal of land and/or the closing of a school facility, pursuant to *N.J.A.C. 6A:26-7.4* and *7.5*.

(e) After such time as the SDA school district becomes the owner of the site, it shall execute any documents required of owners by NJDEP rules. In the event that the NJDEP approved remediation includes an engineering control and/or the recording of a deed notice, then the

Authority shall prepare the deed notice, which shall be signed by the district as the ultimate owner of the site. The district shall comply with the conditions of the deed notice which may be imposed by the NJDEP, including, but not limited to, periodic inspection of engineering controls placed on the site and submission of reports to the NJDEP.

§ 19:34-3.7 Relocation assistance

When the Authority acquires a site in connection with a school facilities project, by purchase or by eminent domain, and thereby becomes a displacing agency within the meaning of *N.J.A.C. 5:40*, the Authority shall provide and fund relocation assistance to displaced persons in accordance with applicable law and regulation.

§ 19:34-3.8 Remediation and site development

(a) Upon acquisition by the Authority of the land, the Authority shall perform any necessary remediation and/or site development work to prepare the land for construction.

(b) For land already owned by the SDA school district on which the district is proposing to locate a school facilities project, the Authority may, **but is not obligated to**, perform any necessary remediation and/or site development to prepare the land for construction, pursuant to the district's provision of access to the land by way of ground lease or other form of right of entry.

§ 19:34-4.1 (Reserved)

§ 19:34-4.2 Temporary facilities

(a) After receipt of an approval by the Department of an SDA school district request for temporary facilities and as part of the process of undertaking a school facilities project, the Authority shall procure, install and fund, the procurement and installation of temporary facilities to be used for educating students on a temporary basis while awaiting completion of a school facilities project that will permanently house students.

(b) If the temporary facilities are located on land owned by the SDA school district, the district shall agree to permit the Authority a right of entry upon the land to undertake preconstruction activities and, if applicable, the school facilities project. If the temporary facilities are located on land not owned by the district, the Authority shall require a right of entry upon the land to undertake preconstruction activities and, if applicable, the school facilities project.

(c) The Authority shall obtain all required approvals prior to district occupancy of temporary facilities, such as Department approval pursuant to *N.J.A.C. 6A:26-3.14* and 6A:26-8, which may in turn be conditioned upon local planning board review and Uniform Construction Code compliance.

[~~Title 19, Chapter 34, Subchapter 5 (Reserved).~~]

[~~Title 19, Chapter 34, Subchapter 6 (Reserved).~~]

Resolution—6d.

Proposed Re-adoption with Amendments
Preconstruction Activities Rules, N.J.A.C. 19:34

6

Resolution

WHEREAS, P.L. 2007, 137 (N.J.S.A. 52:18A-238(k)) requires that the Members of the New Jersey Schools Development Authority (SDA) adopt, amend and repeal rules and regulations to carry out the provisions of P.L. 2000, c. 72 (C. 18A:7G-1 et seq.) and P.L. 2007, c. 137 (C. 52:18A-235 et seq.); and

WHEREAS, Chapter 34 was last readopted effective December 8, 2008 and serves to govern the Authority's undertaking and funding of pre-construction activities; and

WHEREAS, Chapter 34 is scheduled to expire on December 8, 2015; and

WHEREAS, the proposed amendments and appeals to the current regulations are primarily technical in nature and intended to incorporate applicable statutory and regulatory updates and provide efficiency and clarification to the practices of the SDA with respect to management and funding of preconstruction activities authorized by N.J.S.A. 18A:7G-5; and

WHEREAS, the memorandum and/or rule proposal presented to the Board set forth all proposed changes to the existing rules; and

WHEREAS, SDA management recommends that the Members approve the re-adoption of the Authority's proposed Preconstruction Activities Rules as presented, along with the issuance of the Notice of Re-adoption and the filing of the Notice with the Office of Administrative Law.

NOW, THEREFORE, BE IT RESOLVED, that, consistent with the memorandum presented to the Board on this date, the Members of the Authority hereby authorize and approve the proposed re-adoption of the Authority's Preconstruction Activities Rules, along with the issuance of the attached Notice of Re-adoption, and the filing of the Notice with the Office of Administrative Law.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Attached: Memorandum, Proposed Re-adoption with Amendments, Preconstruction Activities,
N.J.A.C. 19:34 dated, December 2, 2015

Dated: December 2, 2015

**PROPOSED READOPTION WITH AMENDMENTS: SECTION 13(A) DELEGATION AGREEMENT RULES,
N.J.A.C. 19:34A**



STATE OF NEW JERSEY

SCHOOLS DEVELOPMENT AUTHORITY

32 EAST FRONT STREET
P.O. BOX 991
TRENTON, NJ 08625-0991
609-858-5395**MEMORANDUM**

TO: Members of the Authority

FROM: Jane Kelly, Vice President
Division of Corporate Governance and Operations

DATE: December 2, 2015

RE: Proposed Readoption With Amendments:
Section 13(a) Delegation Agreement Rules, N.J.A.C. 19:34A

Management of the New Jersey Schools Development Authority (“Authority” or “SDA”) is seeking the approval of the Board for the readoption with amendments of the Authority’s Rules captioned “Section 13(a) Delegation Agreement Rules,” N.J.A.C. 19:34A.

Prior Regulatory History

Chapter 34A was last readopted effective December 8, 2008, and serves to govern the delegation of capital maintenance school facilities projects to SDA school districts pursuant to a delegation and grant agreement under Section 13(a) of the Educational Facilities Construction and Financing Act (“EFCFA”), P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.).

Chapter 34A is scheduled to expire on December 8, 2015, but the underlying rules will be extended upon filing with the Office of Administrative Law of the notice of proposal for readoption, an action that can be taken informally upon the Board’s approval, and advanced officially after expiration of the veto period on the Board’s action.

Background

The Rules proposed for readoption with amendments implement statutory provisions at N.J.S.A. 18A:7G-13(a), regarding authority for the SDA’s delegation of capital maintenance projects to SDA school districts. The rules describe a process by which the Authority may, in its discretion, delegate school facilities projects to SDA school districts for management and performance of capital maintenance projects funded by the Authority through a grant agreement. The rules provide SDA’s criteria for making the delegation decision, and guidelines to ensure that the grant funds are used properly for the delegated projects by the grantee districts.

Significant Amendments

The proposed amendments and repeals to the current Rules are primarily technical in nature, intended to conform the rules to statutory changes effected by P.L. 2007, c. 137, and to conform the rules to the practices of the NJSDA with respect to the administration of the delegation program and the disbursement of grant funds.

All proposed additions or deletions to the existing rules are indicated in the attached draft Notice of Proposal in boldface, underlined text, or italic strikethrough text. This memorandum will describe the most substantive proposed amendments to the rules.

- *Conforming definition of Authority to other recently adopted SDA regulations*
An amendment is proposed to update the definition to include references to SDA's authorizing statutes as codified, and to express SDA's statutory mandate to fund and construct school facilities projects.
- *Eliminating obsolete provisions applicable to delegation agreements entered before August 6, 2007*
An amendment to Section 1.1 ("Purpose and applicability of rules") is proposed to eliminate obsolete provisions regarding pre-2007 delegation agreements to districts other than SDA districts, as P.L.2007, c. 137 limited the applicability of the capital maintenance delegation regulations to SDA school districts only.
- *Eliminating references to the now-abolished Section 13(a) delegation limit*
Prior to 2007, the capital maintenance delegation authority of Section 13(a) was limited to projects with costs not exceeding \$500,000. That cost limit was abolished by P.L. 2007, c. 137. Accordingly, amendments are proposed to delete references throughout the rules to the abolished delegation limit, including proposed repeal of the definition of "Section 13(a) delegation limit"; proposed repeal of section 1.6 ("Automatic termination") which previously triggered automatic termination of the delegation agreement for projects exceeding or estimated to exceed the delegation limit (also proposed for repeal for reference to termination for unfulfilled local share obligation); and modification of Section 2.2 to delete reference to the delegation limit.
- *Eliminating references to district local share obligations*
Prior to 2007, the capital maintenance delegation regulations were applicable to SDA school districts and certain non-SDA school districts, and thus calculation and fulfillment of local share obligations were significant preconditions to delegation of capital maintenance projects to non-SDA districts. Since P.L. 2007, c. 137 limited the applicability of delegation agreements only to SDA school districts, which are entitled to 100% state share funding for eligible school facilities projects, the existing rules' references to calculation and fulfillment of local share obligations are now obsolete. Amendments are proposed throughout the rules to delete references to district local share obligations, including repeal of Section 1.6 ("Automatic termination") for reference to automatic termination of the delegation agreement for unfulfilled local share obligation, and proposed amendments to Sections 2.5, 2.6 and 3.4 to eliminate references to local share calculations and obligations.
- *Clarifying SDA school district submission obligations*
An amendment is proposed to Section 2.6(e) to clarify that the grantee SDA school district is the entity responsible for submitting change orders affecting the number, configuration, size and/or use of educational spaces to DOE for approval, and for submitting change orders in excess of 5% of the grant to the Authority for approval.
- *Eliminating provisions relating to creation of a performance evaluation program*
An amendment is proposed to repeal section 4.5 regarding the creation of a performance evaluation process for contractors engaged by districts, as such performance evaluations are not required by statute, and such performance evaluations have not historically been required by NJSDA.

Requested Board Action

The Members of the Authority are requested to approve the proposed readoption of the Authority's Section 13(a) Delegation Agreement Rules, as well as the issuance of the attached Notice of Readoption, and the filing of the Notice with the Office of Administrative Law.

/s/ Jane F. Kelly
Jane F. Kelly, Vice President
Corporate Governance & Operations

Prepared by Cecelia Haney, Senior Counsel
JFK/ceh

OTHER AGENCIES

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY

Section 13(a) Delegation Agreement

Proposed Readoption with Amendments: N.J.A.C. 19:34A 1.1 through 4.7.

Repeals: N.J.A.C. 19:34A-1.6; 19:34A-4.5.

Authorized By: New Jersey Schools Development Authority, Charles B. McKenna, Chief Executive Officer.

Authority: P.L. 2007, c.137, § 4k (N.J.S.A. 52:18A-238k; 52:18A-240) (rulemaking authority); P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.); P.L. 2007, c.137, (N.J.S.A. 52:18A-235 et seq.) (enabling statutes).

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2015-

Submit written comments via mail, e-mail or facsimile by (60 days from publication) 2016

to:

Cecelia Haney, Administrative Practice Officer

New Jersey Schools Development Authority

PO Box 991

Trenton, NJ 08625-0991

Phone: 609-858-2968

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The agency proposal follows:

Summary

The New Jersey Schools Development Authority (SDA) proposes to readopt with amendments and repeals N.J.A.C. 19:34A, Section 13(a) Delegation Agreement (the “Rules”).

Chapter 34A, which implements Section 13(a) of the Educational Facilities Construction and Financing Act (EFCFA), P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.), as amended, and P.L. 2007, c. 137 (N.J.S.A. 52:18A-235 et seq.), governs the SDA’s discretionary delegation of capital maintenance projects to school districts pursuant to a Section 13(a) delegation agreement. Chapter 34A was previously readopted by the SDA with amendments and repeals on December 8, 2008, and is scheduled to expire on December 8, 2015.

Chapter 34A provides the conditions, eligibility criteria, and process for capital maintenance projects to be delegated to an SDA school district by the Authority, pursuant to N.J.S.A. 18A:7G-13a. This chapter sets forth the requirements for grant disbursements to fund such delegated capital maintenance projects, and addresses grant oversight. The process spans the initiation of delegation to the final completion and closeout of a capital maintenance project and is intended to balance the goal of expediting the funding and construction of capital maintenance projects with prudent oversight of the State share expended.

The SDA has reviewed Chapter 34A and has determined that, with the addition of the proposed amendments and repeals described herein, this chapter remains adequate, reasonable, and necessary for the purposes for which it was originally promulgated: to provide a mechanism by which the SDA can, in its discretion, delegate to SDA school districts the ability to perform capital maintenance projects funded by an SDA grant pursuant to a Section 13(a) delegation agreement.

As the SDA has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

A summary of the proposed substantive amendments follows.

Subchapter 1. General Provisions

19:34A-1.1 Purpose and applicability of rules

This section, regarding the purpose and applicability of this chapter, has been proposed for readoption with amendments. This section sets forth that the rules are promulgated to implement N.J.S.A. 18A:17G-13a, which provides that the Authority may, in its discretion, authorize an SDA school district to undertake a capital maintenance project funded through a grant agreement with the district for the payment of the State share. Proposed amendments include deletion of references to the former statutory limit on the costs for delegated capital maintenance projects, which limit was abolished by P.L. 2007, c. 137, and amendments to delete references to “districts other than SDA school districts required to use the predecessor to the Authority” to perform school facilities projects, as P.L. 2007, c. 137 also restricted the applicability of the delegation of capital maintenance projects to SDA school districts.

19:34A-1.2 Definitions

This section sets forth the meaning of the words and terms used throughout this chapter. Amendments to the section include changes to previously defined terms and the deletion of terms and definitions rendered obsolete by statutory changes reflected in the proposed amendments, as set forth below.

The following term is proposed for modification:

“Authority,” which refers to the Schools Development Authority, is proposed for modification to refer to the SDA’s origination statute as codified. The definition is further amended to include a brief description of the mission of the SDA as an entity “statutorily charged with undertaking and funding schools facilities projects, pursuant to the Act.”

“Section 13(a) delegation agreement” is proposed for modification to delete references to the former Section 13(a) delegation limit on the costs for delegated capital maintenance projects, which limit was eliminated by statutory amendments pursuant to P.L. 2007, c. 137.

“Termination” is proposed for modification to delete a reference to termination due to a district’s failure to secure the local share within a year of determination of final eligible costs, as this consideration is not applicable to SDA school districts which have no local share obligation.

The following terms are proposed for deletion:

“Local share” is proposed for deletion, as obsolete with reference to these rules, because the effect of legislative changes in P.L. 2007 c. 137 was to limitation the applicability of the delegation agreement rules to SDA school districts. Because the state share for school facilities projects in SDA school districts is 100% of the final eligible costs of such projects, SDA school districts do not have a local share obligation for school facilities projects under the Act, and the definition of local share and concerns for fulfillment of local share obligations for delegated capital maintenance projects are obsolete.

“Section 13(a) delegation limit” is proposed for deletion as obsolete, due to the elimination of the delegation limit by statutory amendments pursuant to P.L. 2007, c. 137.

19:34A-1.3 Administration and performance of grant agreements

This section is proposed for readoption without amendment. This section provides that the SDA school district, not the Development Authority, is responsible for the administration and success of the capital maintenance project.

19:34A-1.4 Noncompliance

This section is proposed for readoption without amendment. This section describes the events constituting an event of default, providing a cure process for some of these events, and further provides for broadly framed other non-compliance in addition to the events of default.

19:34A-1.5 Remedies for events of default and noncompliance

This section is proposed for readoption without amendment. This section provides that in addition to any other remedies as may be provided by law or by the section 13(a) delegation agreement, in the event of noncompliance, the SDA, after notice to the district, may take any of the actions or combinations of actions contained in this section: withholding of grant disbursements, suspension of the section 13(a) delegation agreement, termination, and any other remedies available under State law warranted. The section further provides that at the option of the SDA, the SDA may take an assignment of any of the contracts in order to complete the capital maintenance project, and the SDA school district shall on demand pay to the Authority reasonable fees and expenses incurred by the Authority in the collection of the repayment of the grant.

19:34A-1.6 Automatic termination

This section is proposed for repeal. This section provides for automatic termination of a Section 13(a) delegation agreement in the event the costs of a delegated capital maintenance project exceeded or were estimated to exceed the former section 13(a) delegation limit abolished by P.L. 2007, c. 137, or in the event a district could not timely secure approval of its local share contribution. Statutory changes in P.L. 2007, c. 137 limited capital maintenance delegation agreements and grants to SDA school districts, eliminating application to other non-SDA school districts that were previously required to utilize the Authority's predecessor entity the Schools Construction Corporation. Because the state share for school facilities projects in SDA school districts is 100% of the final eligible costs of such projects, SDA school districts do not have a local share obligation for school facilities projects under the Act, and this section's previous provisions terminating delegation agreements for costs in excess of the delegation limit and failure to timely fulfill local share obligations by delegated districts are obsolete.

19:34A-1.7 Termination by mutual agreement

This section is proposed for readoption without amendment. This section provides that the Authority and the school district may terminate the section 13(a) delegation agreement when both parties agree that the continuation of the capital maintenance project would not produce beneficial results commensurate with the further expenditure of funds.

19:34A-1.8 Waiver

This section is proposed for readoption without amendment. This section provides that any school district desiring a waiver or release from the express provisions of any of the rules in this chapter may submit a written request to the Authority, which may grant the waiver only when

the Authority determines that such waiver would not contravene the provisions of the Act and would instead promote the statutory purposes of the Act.

19:34A-1.9 Appeals

This section is proposed for readoption without amendment. This section provides for an appeals process that anticipates a request to SDA for a discretionary informal hearing on the papers, and subsequent appeal procedures in the instance of a contested case, involving a subsequent hearing before the Office of Administrative Law.

Subchapter 2. Delegation to the District of the Design and Construction or Acquisition and Installation of the Capital Maintenance Project

19:34A-2.1 Applicability

This section is proposed for readoption without amendment. This section provides that this subchapter establishes the Authority's procedures and requirements governing the eligibility determination of a section 13(a) delegation agreement as well as the circumstances ending the delegation.

19:34A-2.2 Eligible criteria for delegation

This section is proposed for readoption with amendments to delete reference to the now-abolished statutory limit on delegated capital maintenance projects. This section sets forth the eligibility criteria for delegation in three different circumstances: at the design phase after preconstruction approval, at the design phase after project approval, and prior to the construction phase for capital maintenance projects without a design phase.

19:34A-2.3 Execution and other conditions for delegation

This section is proposed for readoption without amendment. This section provides the terms and conditions for Authority execution of the section 13(a) delegation agreement, such as receipt by the Authority of a certified copy of a resolution and proof of the district board's delegation to the school business administrator or other authorized officer for supervision of the capital maintenance project, as well as the provision of a sign for indicating financing for the facilities project was made available to the district through the Authority.

19:34A-2.4 Initial delegation and engagement of the design consultant

This section is proposed for readoption without amendment. This section addresses the initial delegation in three different circumstances: at the design phase after preconstruction approval, at the design phase after project approval, and prior to the construction phase for capital maintenance projects without a design phase. It also addresses the requirements for district engagement of a design consultant for capital maintenance projects in the first and second of the aforementioned delegation phases.

19:34A-2.5 Design of the capital maintenance project

This section is proposed for readoption with amendments to eliminate references to the “local share” which is obsolete in light of the limitation of the rules to SDA school districts, which are entitled to 100% state share funding of school facilities projects. An amendment is proposed to delete the reference to “as part of the local share” in subsection 2.5(b)2.iii, regarding the district’s option to redesign to eliminate excess project costs, or to pay “as part of the local share” additional project costs caused by factors within the control of the district. Further amendments are proposed to delete subsections 2.5(c) through 2.5(g) regarding capital

maintenance projects with a local share obligation, in light of the fact that the application of this Chapter has been limited to capital maintenance delegations for SDA school districts only, and such school facilities projects do not have a local share obligation.

This section addresses the stages in the delegation from the time the Department issues a preliminary project report, to the submission of detailed plans and specifications and final eligible costs recommendations to the Department, to the district's approval of local share of the final eligible costs (if applicable), to the authorization-to-proceed to the construction phase.

19:34A-2.6 Construction or acquisition and installation of the capital maintenance project

This section is proposed for readoption with amendments. This section sets forth the Authority requirements for the district to proceed with the construction of the capital maintenance project, including the submission for review and approval by the Authority of a construction phase checklist, a contractor certification, acceptable documentation of insurance coverage, and an adjustment of the CWE. Proposed amendments include deletion of the subsection 2.6(e)4i reference to a local share obligation, in light of the fact that statutory amendments pursuant to P.L. 2007, c. 137 limited the application of this Chapter to capital maintenance delegations for SDA school districts, which are entitled to 100% State share funding for eligible costs of school facilities projects under the Act, including delegated capital maintenance projects, and thus do not have a local share obligation for such projects. Additional amendments clarify that the SDA school district is responsible for submitting change orders affecting educational spaces to DOE for approval, and for submitting change orders exceeding 5% of the grant to the Authority for approval.

Subchapter 3. Grant Amount and Disbursement of the Grant

19:34A-3.1 Grant amount

This section is proposed for readoption without amendment. This section addresses the 100% funding of design work prior to a determination of final eligible costs, the application of such amounts towards the State share, the requirements of approved and reasonable costs, adjustments to the grant amount and the funding of change orders.

19:34A-3.2 Disbursement schedule

This section is proposed for readoption without amendment. This section addresses the schedule and the conditions upon which the Authority is obligated to disburse.

19:34A-3.3 Disbursement Documentation and procedures

This section is proposed for readoption without amendment. This section addresses the documentation required for disbursement (invoice, voucher, insurance coverage, certification and/or checklists), the requirements for disbursement upon final completion, and the conditions upon which the Authority is obligated to disburse funds.

19:34A-3.4 Closeout procedures

This section, which addresses the process of achieving close out of a delegated capital maintenance project, is proposed for readoption with an amendment to delete references to unexpended bond funds raised in support of a local share, due to the inapplicability of local share obligations for SDA school districts, which are now the only type of school districts subject to delegation of capital maintenance projects. As previously noted, upon limitation of the delegation agreement regulations to SDA school districts, which are entitled to 100% state share

funding of school facilities projects, the references in the regulations to local share obligations have become obsolete. This section provides that closeout shall occur when all applicable administrative actions and all required work have been completed by the district.

Subchapter 4. Contract Award and Compliance

19:34A-4.1 General provisions

This section is proposed for readoption without amendment. This section requires a school district to design and construct a capital maintenance project pursuant to the plans and specifications and as approved by the Department. This section also addresses changes in the capital maintenance project impacting educational adequacy and the approval needed for change orders and consultant amendments.

19:34A-4.2 Contract award and compliance

This section is proposed for readoption without amendment. This section addresses the district's broad range of responsibilities in awarding contracts for the capital maintenance project, supervising design and construction, monitoring performance to ensure efficient and effective completion, exhausting remedies in the event of default, and taking action involving the contracted party deemed by the district to be reasonably necessary. This section requires the district to obtain and maintain licenses and certifications required by governmental authorities, to award contracts in accordance with the Public School Contracts Law, and to have construction contracts include provisions regarding compliance with the New Jersey Prevailing Wage Act, the New Jersey Law Against Discrimination and the Law establishing the Office of the State Comptroller. This section incorporates the School Ethics Law by reference, and also contains other conflict of interest provisions requiring reporting by the district. This section further

addresses the maintenance plan of a capital maintenance project, proof of insurance, district responsibilities regarding the tax-exempt status of bonds issued by the NJEDA, a variety of required district certifications, bid guarantees, performance bonds, and general language providing that the Authority may impose such other conditions as may be necessary and appropriate to implement the laws of the State and effectuate the purposes and intent of the Act.

This section conforms with the Authority's contractor and consultant prequalification rules, Procedures for Prequalification of Contractors and Professional Services Consultants for the New Jersey Schools Construction Corporation, found at *N.J.A.C. 19:38A*. This section further requires that the district comply with the requirements of *N.J.S.A. 52:15C-10* concerning the notices to the State Comptroller and the timing of the procurement process relative to the award of contracts.

19:34A-4.3 Fraud and other unlawful and corrupt practices

This section is proposed for readoption without amendment. This section addresses the district's responsibilities in administering moneys pursuant to this chapter, the section 13(a) delegation agreement and any contracts entered into in connection with the capital maintenance project free from bribery, graft and corrupt practices. This section also provides that the district must take appropriate remedial actions with respect to any allegations or evidence of such illegality or corrupt practices.

19:34A-4.4 Debarment

This section is proposed for readoption without amendment. This section provides that the district and its consultants or contractors shall not enter into a contract for work on a capital maintenance project with any person or firm that has been debarred, suspended or disqualified

from State, NJEDA, Authority or Federal government contracting. This section also sets forth requirements for statements in contracts and bid specifications relating to debarment, suspension or disqualification from contracting. Addressed as well is the district's affirmative obligation to notify the Authority in writing whenever it has knowledge that any contracted party, subconsultants or subcontractor is on the debarment or suspension list maintained by the Authority, the Department of the Treasury, NJEDA, or the Federal government.

19:34A-4.5 Performance evaluation policy and procedure

This section is proposed for repeal, as the Authority is not required by N.J.S.A. 18A:7G-36 (the statute mandating performance evaluations of contractors on school facilities projects undertaken by the Authority) to perform performance evaluations for projects undertaken by districts pursuant to an Authority grant.

19:34A-4.6 Disclosure and publicity

This section is proposed for readoption without amendment. This section provides that submissions received by the Authority shall constitute government records and that public dissemination of information by the district concerning the capital maintenance project shall acknowledge the Authority's financial support.

19:34A-4.7 Access and record retention

This section is proposed for readoption without amendment. This section provides that the governmental entities with oversight responsibilities concerning the schools construction program shall have broad access to records pertaining to capital maintenance activities retained by the districts. This section also provides that the district must also include in all contracts a

provision requiring contracted parties to permit the Authority and other governmental units to investigate, audit, examine and inspect these records. This section additionally addresses record retention requirements for records relating capital maintenance projects that are funded through a 13(a) delegation agreement.

Social Impact

The rules proposed for readoption with amendments and repeals will apply to SDA school districts that seek to manage and administer the performance of capital maintenance projects funded by an SDA grant and delegation of authority pursuant to a Section 13(a) delegation agreement.

The SDA believes that the rules proposed for readoption with amendments and repeals will have a positive social impact and that no negative impact will result. The readoption of these rules can be expected to positively impact the students, teachers and parents served by SDA school districts because they provide guidance on the roles and responsibilities of the Authority and SDA school districts with respect to State funding and delegation of capital maintenance projects pursuant to a section 13(a) delegation agreement. The rules provide flexibility sought by both SDA school districts and the Authority for delegating capital maintenance projects pursuant to section 13(a) delegation agreements. This will enable SDA school districts to better meet health and safety facilities standards, and by successfully undertaking capital maintenance projects, allow SDA school districts to build the capacity that will enable them to undertake other, more complex school facilities projects.

Economic Impact

The rules proposed for readoption with amendments and repeals address the Authority's discretionary delegation to SDA school districts of capital maintenance projects, pursuant to section 13(a) of the Act. The State share for section 13(a) delegated projects is funded with State contract bonds issued by the NJEDA pursuant to section 25 of the Act, the payment of which is conditioned on appropriations being made by the Legislature. The rules proposed for readoption with amendments will have a positive economic impact on the long-term economic growth of the State of New Jersey because significant activity in the planning, construction, architecture and engineering professions will directly result from these rules, providing obvious Statewide economic benefits in the short term.

Federal Standards Statement

The proposed Rules implement State statutes, namely P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.) and P.L. 2007, c.137, (N.J.S.A. 52:18A-235 et seq.), and specifically N.J.S.A. 18A:7G-13(a). There are no Federal standards or requirements governing the subject matter of these Rules in as much as the rules proposed for readoption with amendments apply only to SDA school districts that are authorized by SDA to manage and perform capital maintenance projects to be performed at school facilities within the State of New Jersey. A Federal standards analysis, therefore, is not required.

Jobs Impact

The rules proposed for readoption with amendments and repeals will support the creation of a number of new jobs in New Jersey as a result of facilitating the delegation of capital maintenance

projects to SDA school districts pursuant to N.J.S.A. 18A:7G-13a. Jobs will primarily be created in the construction and design sectors.

Agriculture Industry Impact

The Rules will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments and repeals primarily impact New Jersey SDA school districts, but through implication, impose compliance requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., that may be engaged by districts to support or perform delegated capital maintenance projects. The types of small businesses that may be affected by the rules include consultants (for example, design consultants such as architects and engineers), contractors and their subconsultants and subcontractors providing materials or services to the school district in connection with a school facilities project. Because of the scale of capital maintenance projects delegated to SDA school districts by the Authority, it is anticipated that the number of small businesses to which the rules will apply will be substantial. These rules, specifically N.J.A.C. 19:34-1.4, impose records access and retention of records obligations that may affect contractors and consultants that are small businesses; the requirement that consultant and contractors be prequalified by the Authority as a condition of Authority funding of a section 13(a) grant, and the contract award and compliance requirements set forth in *N.J.A.C. 19:34A-4.2*.

The majority of the aforementioned requirements are imposed by other laws and rules, in that the rules impose virtually no change to the way school districts procure goods and services. One exception is the record access and retention provisions (access to additional governmental

entities, retention period of 10 years to correlate with the statute of limitations for architectural services claims). The costs entailed in the records provisions are not anticipated to be substantially more than the costs otherwise incurred for record retention. It is unlikely that a small business would have to employ professional services to comply with this requirement. The rules are designed to minimize any adverse economic impact on small businesses by making few changes in the ways school districts procure goods and services.

Housing Affordability Impact

The Rules proposed for readoption with amendments and repeals address the discretionary delegation of authority to SDA school districts for capital maintenance projects and administration of a grant program for funding the state share of such capital maintenance projects, and therefore will not have an impact on affordable housing or evoke a change in the average costs of housing in the State of New Jersey.

Smart Growth Development Impact

The proposed amendments, repeals and readoptions will have an insignificant impact on Smart Growth Development because it is extremely unlikely that the adoption of the rules would evoke a change in the average price or availability of housing in the State of New Jersey Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:34A.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

TITLE 19. OTHER AGENCIES
NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
CHAPTER 34A. SECTION 34A DELEGATION AGREEMENT

§ 19:34A-1.1 Purpose and applicability of rules

(a) These rules are promulgated by the New Jersey Schools Development Authority (the “Authority”), to implement section 13(a) of the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72 (*N.J.S.A. 18A:7G-13(a)*), as amended, and P.L. 2007, c. 137 (the “Act”). The Act provides for, among other things, the Authority to undertake all of the school facilities projects in the SDA school districts and to undertake and fund certain preconstruction activities, pursuant to *N.J.A.C. 6A:26-3.9* and 19:34. Section 13(a) of the Act provides that in the case of a capital maintenance project, the Authority may, in its discretion, authorize a district to undertake the project and shall enter into a grant agreement with the district for the payment of the State share. ~~[Prior to August 6, 2007, such grants were made pursuant to a 13(a) grant agreement executed between the Corporation and an Abbott district, or other district required to use the Corporation, by which the Corporation funds the State share including the costs of pre-development activities in connection with a proposed school facilities project with estimated costs under the section 13(a) delegation limit delegated by the Corporation to be undertaken by the district pursuant to section 13(a) of the Act and this section.]~~

(b) The rules in this chapter implementing section 13(a) of the Act shall apply to SDA school districts ~~[and districts other than SDA school districts required to use the predecessor to the Authority, pursuant to P.L. 2000, c. 72].~~

§ 19:34A-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:

“Agreement” or “grant agreement” means the section 13(a) delegation agreement (and all attachments thereto) between the Authority and the SDA school district.

“Amendment” means a written modification to a contract executed between the SDA school district and a consultant.

“Approved costs” means costs of the capital maintenance project which are eligible to be paid from the proceeds of the grant and either have been paid or shall be paid by the SDA school district.

“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 an entity formed pursuant to section 3 of P.L. 2007, c. 137, N.J.S.A. 52:18A-235 et seq., as successor to the New Jersey Schools Construction Corporation. **The SDA is statutorily charged with undertaking and funding schools facilities projects pursuant to the Act.**

“Authorization-to-proceed” means a notice to the district from the Authority directing the district to commence performance of its responsibilities pursuant to the agreement. There may be separate authorizations-to-proceed as the capital maintenance project progresses and according to the procurement, contract award, or other action authorized.

“Authorized officer” means with respect to the district, any person or persons authorized pursuant to a resolution of the governing body of the district to perform any act or execute any

document relating to the grant and the agreement including the school business administrator; and with respect to the Authority, any person or persons authorized to perform any act or execute any document relating to the grant and the agreement.

“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.

“Change order” or “CO” means a written order, directing or authorizing a change in the work, to a construction contract, which is executed by an authorized school district official and the contractor, and includes all adjustments, if any, to the compensation and time warranted by the change in the work. For purposes of this definition, a “change in work” is a change in the capital maintenance project, the work or the contract documents, including, but not limited to, an increase or decrease in the work to be performed by the contractor or an acceleration of time for the performance of such work, or a change in the sequence in which such work is being performed.

“Checklist” means a form to be provided by the Authority and to be completed by the district at a milestone or milestones in the delegation of the capital maintenance project to be submitted to the Authority for review and approval prior to receiving an authorization-to-proceed and/or certain disbursements of the grant.

“Commencement date” means the date on which the agreement has been fully executed by all the parties thereto and the district has delivered, to the satisfaction of the Authority, the documentation required by the agreement.

“Completion date” means the date specified by the district for completion of the capital maintenance project which may be changed by the district upon notice to the Authority.

“Construction contract” means the agreement between the SDA school district and the contractor governing the construction, including the procurement of goods and services, of all or a portion of the capital maintenance project, and any documents attached thereto and amendments thereof. There may be one or more construction contracts for the capital maintenance project.

“Construction phase” means that phase of the capital maintenance project in which the capital maintenance project is undertaken by a contractor or contractors or in which the acquisition and installation of the capital maintenance project occurs.

“Consultant” means a consultant, including a design consultant, engaged by the SDA school district for the capital maintenance 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 by the SDA school district for the capital maintenance project.

“Contract” means any agreement between a contracted party and the SDA school district for the capital maintenance project. The term “contract” includes the design consultant contract, the construction contract and any other agreements between the district and its consultants, the district and its contractors, contractors and their subconsultants and subcontractors, and consultants and their subconsultants and subcontractors.

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

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

“Current working estimate” or “CWE” means the estimated cost to complete the capital maintenance project and includes the cost of design and construction or the acquisition and installation of the capital maintenance project. The Authority shall establish an initial CWE upon delegation by the Authority of the capital maintenance project to the district. The CWE shall be updated, as needed, throughout the preconstruction phase, the design phase, and the construction phase.

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

“Department” means the New Jersey Department of Education.

“Department rules” means rules issued by the Commissioner and/or the State Board of Education that govern the financing, construction and maintenance of the school facilities project, as may be in effect as of the date of the agreement and thereafter.

“Design consultant” means the architect or engineer or other consultant selected by the district to provide design services and/or construction administration services in connection with the capital maintenance project pursuant to the design consultant contract.

“Design phase” means that phase of the capital maintenance project in which the design of the capital maintenance project is undertaken by the design consultant. The design phase may commence upon issuance by the Department of an approval of preconstruction activities or, as applicable, upon issuance by the Department of the preliminary project report and ends upon commencement of the construction phase.

“Design work” means design work performed by a design consultant to design the capital maintenance project so that it may be bid out for construction. If the delegation by the Authority to the district of the capital maintenance project commences upon issuance by the Department of a preconstruction approval, design work shall include approved preconstruction design work.

“Disbursement” means a release of a portion of the grant to the district to pay for approved costs.

“Event of default” means any event specified in *N.J.A.C. 19:34A-1.4*.

“Excess costs” means the additional costs of the school facilities project, if any, which shall be borne by the district.

“Facilities efficiency standards” means the standards developed by the Commissioner pursuant to *N.J.S.A. 18A:7G-4(h)* and published in the New Jersey Register.

“Final completion” means that point in time when all requirements of all contracts for a capital maintenance project have been fully performed, all items on the punch list have been

fully performed, all manuals, warranties and as-builts are delivered, all liens have been released and a final certificate of occupancy, continued use or completion has been issued.

“Final eligible costs” means the final approved costs as determined pursuant to *N.J.S.A. 18A:7G-5(h)(2)* and *N.J.A.C. 6A:26-3.5*, and for purposes of the agreement, shall be set forth in the final project report.

“Final grant amount” means the final amount of the grant as determined by *N.J.A.C. 19:34A-3.1(b)*.

“Final project report” means the report prepared by the Department which contains all of the information included in the preliminary project report and, in addition, includes: the final eligible costs, the excess costs, if any, the State share and the local share.

“Grant” means the funds to be provided to the district by the Authority to pay for the approved costs subject to the terms and conditions of the section 13(a) delegation agreement. The estimated grant amount shall be adjusted during the course of the capital maintenance project until such time as the Authority determines the final grant amount.

~~["Local share" means the amount of funding to be provided by the district.]~~

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

“NJEDA” means the New Jersey Economic Development Authority established pursuant to P.L. 1974, c. 80 (*N.J.S.A. 34:1B-1 et seq.*).

“Preconstruction approval” means the approval by the Department issued pursuant to *N.J.A.C. 6A:26-3.9* pursuant to which the Department has approved, among other things, undertaking the approved preconstruction design work.

“Preliminary eligible costs” means the initial approved costs of the capital maintenance project determined pursuant to the formulas set forth in *N.J.S.A. 18A:7G-7* which shall be deemed to include the costs of construction and other allowable costs and for the purposes of the agreement, shall be set forth in the preliminary project report.

“Preliminary project report” means the report that the Department prepares for the Authority after approving a capital maintenance project application containing the preliminary eligible costs and other project information, pursuant to *N.J.A.C. 6A:26-3.5(c)*.

“PSCL” means the Public School Contracts Law, *N.J.S.A. 18A:18A-1* et seq., together with all applicable rules and guidance issued by DCA and the Department in connection therewith.

“School facility” means and includes any structure, building or facility used wholly or in part for educational purposes by a district and facilities that physically support such structures, buildings and facilities such as district wastewater treatment facilities, power generating facilities, steam generating facilities and other central service facilities, but shall exclude other facilities.

“School facilities project” means the planning, acquisition, construction, improvement, 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 include, but is not limited to, 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. The capital maintenance project which the district is undertaking is described in the preconstruction approval if the delegation occurs at this point in the design phase or in the preliminary project report if the delegation occurs later in the design phase.

“School facilities project application” means the form provided by the Commissioner of the Department to be submitted to the Department for approval of a school facilities project, pursuant to *N.J.A.C. 6A:26-3.2*.

“SDA school district” is a school district that received education opportunity aid or preschool expansion aid in the 2007-2008 school year, as defined at P.L. 2007, c. 260, §39.

“Section 13(a) delegation agreement” means the grant agreement between the Authority and an SDA school district by which the Authority funds the State share, including the costs of preconstruction activities in connection with a proposed capital maintenance project delegated by the Authority to be undertaken by an SDA school district, pursuant to section 13(a) of the Act and this chapter. [~~For grant agreements executed prior to August 6, 2007, “section 13(a) delegation agreement” means the grant agreement between the Corporation and an Abbott district, or other district required to use the Corporation, by which the Corporation funds the State share including the costs of pre-development activities in connection with a proposed school facilities project with estimated costs under the section 13(a) delegation limit delegated by the Corporation to be undertaken by the district pursuant to section 13(a) of the Act and this chapter.~~]

[~~“Section 13(a) delegation limit” means the eligible costs limit, as set forth in section 13(a) of P.L. 2000, c. 72, for a school facilities project to be eligible for delegation by the Corporation to the district. The \$ 500,000 final eligible cost limit applies to section 13(a) grant agreements executed prior to August 6, 2007, when P.L. 2007, c. 137 abolished the cost limit.~~]

“State Comptroller” means the Office of State Comptroller, created pursuant to P.L. 2007, c. 52, in, but not of, the State Department of the Treasury, which is responsible for financial auditing; performance and management reviews; and reviewing the contract procurement process of the Executive branch of State government, independent State Authorities, public institutions of higher education, units of local government and boards of education.

“State share” means the State's proportionate share of the final eligible costs. For the SDA school districts, this equals 100 percent of the final eligible costs of a capital maintenance project.

“Termination” means the cancellation of the section 13(a) delegation agreement by the Authority as a result of an event of default or other noncompliance; ~~in the event the district fails to obtain the local share (if applicable) within one year of the Department determination of final eligible costs;~~ or by mutual consent of the parties.

“Total costs” means the actual total amount spent on the capital maintenance project. The estimated amount of the total costs upon the commencement date shall be set forth in the agreement and shall be adjusted to reflect the actual total amount spent on the capital maintenance project upon final completion.

(b) Words and terms implementing the Act but not defined in this chapter shall have the meanings defined in *N.J.A.C. 6A:26-1.2* and in 19:34-1.2.

§ 19:34A-1.3 Administration and performance of grant agreements

The district is responsible for the administration and success of the capital maintenance project, and the provision of the grant by the Authority shall not in any way be deemed to imply that the Authority shall have any responsibility for the administration or success of the capital

maintenance project. Although districts are encouraged to seek the advice and opinion of the Authority on problems that may arise regarding the capital maintenance project, the giving of such advice by the Authority shall not shift the responsibility for final decisions from the district to the Authority, nor render the Authority responsible for such advice. Moneys awarded pursuant to this chapter shall be used in conformance with the Act, this chapter and the provisions of the grant agreement to achieve the grant objectives and to insure that the purposes set forth in the Act are fully executed.

§ 19:34A-1.4 Noncompliance

(a) Any of the following events shall constitute an event of default under the agreement and noncompliance with this chapter:

1. Failure by the district to observe and perform any duty, covenant, condition or agreement on its part to be observed or performed under the grant agreement, which failure shall continue for a period of 30 days after receipt of written notice specifying such failure and requesting that it be remedied is given to the district by the Authority, unless the Authority shall agree in writing to any extension of such time prior to its expiration, provided, however, that if the failure stated in such notice is correctable but cannot be corrected within the applicable period, the Authority may not unreasonably withhold its consent to an extension of such time up to 120 days from delivery of the written notice referred to above or if corrective action is instituted by the district within the applicable period and diligently pursued until the event of default is corrected;

2. Any representation made by or on behalf of the district contained in the agreement, or in any instruction furnished in compliance with or with reference to the section 13(a) delegation agreement or the grant, is false or misleading in any material respect;

3. A determination is made by the Authority that:
 - i. The grant was obtained by fraud; or
 - ii. Gross abuse or corrupt practices have occurred in the administration of the capital maintenance project by the district;
4. Subject to unavoidable delays (for example, delays due to weather, strikes, acts of God or other causes similarly beyond the control of the district), the construction or the acquisition and installation of the capital maintenance project has not commenced within 18 months after the commencement date;
5. Subject to unavoidable delays, the construction or the acquisition and installation of the capital maintenance project has not reached final completion on or before the completion date;
6. The district has utilized grant moneys for costs that are not approved costs;
7. Work on the capital maintenance project has ceased without good cause as agreed to by the Authority. The term “good cause” shall include, but not be limited to, circumstances beyond the control of the district or any of the contracted parties such as fire, flood, riot or strike;
8. The district has contracted with a contractor, subcontractor, consultant or subconsultant who has not been pre-qualified by the Authority, if such prequalification would be required for the performance of similar work on an Authority managed school facilities project;
9. The district has disbursed grant monies to a firm which is debarred, suspended or disqualified from State or Authority contracting or to a firm which has not been pre-qualified; or
10. The district fails to permit the Authority, DCA, or the State Comptroller immediate entry or inspection.

(b) In addition to (a) above, other non-compliance may include any failure on the part of the district to comply with any provision of the Act, this chapter, or any law, regulation, or rule applicable to the agreement.

§ 19:34A-1.5 Remedies for events of default and noncompliance

(a) In addition to any other remedies as may be provided by law or by the section 13(a) delegation agreement, in the event of noncompliance with any provisions of the Act, any condition of the section 13(a) delegation agreement, an event of default, or any requirement of this chapter, the Authority, after taking the action in (a)1 below, may take any of the actions or combinations thereof set forth in (a)2 through 4 below:

1. Issue a notice of noncompliance in writing to the district stating that if corrective action is not taken within the requisite time period specified or if the action is inadequate as determined by the Authority, the Authority may take any of the actions or combinations contained in *N.J.A.C. 19:34A-1.5(a)2* through 5;

2. Withhold, upon written notice to the district, grant disbursements or any portion thereof;

3. Suspend, upon written notice to the district, the section 13(a) delegation agreement and withhold further payments thereunder and prohibit the district from incurring additional obligations of grant funds pending corrective action by the district;

4. Terminate, upon written notice to the district, the section 13(a) delegation agreement or rescind the grant moneys.

i. The Authority shall promptly notify the district, in writing, of its determination to terminate the grant agreement and the reasons for the termination, together with the date on which the termination shall take effect.

ii. Upon termination of the grant agreement, the Authority may demand that an amount equal to the grant received by the district be immediately returned to the Authority and the district shall waive payment by the Authority of the undistributed balance, and upon notice to the district, the amount of the grant disbursed by the Authority shall be immediately due and payable by the district together with any costs to the Authority resulting from an event of default by the district; and/or

5. In addition to any withholding, suspension or termination action, the Authority retains the right to pursue any and all other remedies as may be available under State law as warranted.

(b) At the option of the Authority, in its sole discretion, the Authority may, without prejudice to any other rights or remedies, take an assignment of any of the contracts in order to complete the capital maintenance project, and the district shall take whatever actions are necessary in order to ensure the proper assignment to the Authority of such contracts.

(c) The district shall on demand pay to the Authority the reasonable fees and expenses of attorneys and other reasonable expenses (including without limitation the reasonably allocated costs of in-house counsel and legal staff) incurred by the Authority in the collection of the repayment of the grant or in the enforcement of performance or observation of any other duties, covenants, obligations or agreements, of the district upon an event of default or non-compliance with this chapter.

§ 19:34A-1.6 **Reserved.** [~~Automatic termination~~]

~~—[(a) A section 13(a) delegation agreement, which was executed prior to August 6, 2007, shall automatically terminate if:~~

~~1. The CWE at any time up to and including the determination of final eligible costs exceeds the section 13(a) delegation limit;~~

~~2. The preliminary eligible costs of the school facilities project, as determined by the Department, exceed the section 13(a) delegation limit;~~

~~3. The final eligible costs of the school facilities project, as determined by the Department, exceed section 13(a) delegation limit; or~~

~~4. The district fails to obtain approval of the local share, if applicable, within one year of the determination of final eligible costs of the school facilities project.]~~

§ 19:34A-1.7 Termination by mutual agreement

The Authority and the district may terminate the section 13(a) delegation agreement when both parties agree that the continuation of the capital maintenance project would not produce beneficial results commensurate with the further expenditure of funds. The Authority and the district shall agree upon the conditions for termination including the date on which the termination shall take effect. The closeout provisions specified in *N.J.A.C. 19:34A-3.4* shall apply.

§ 19:34A-1.8 Waiver

Any district desiring a waiver or release from the express provisions of any of the rules in this chapter may submit a written request to the Authority. Waivers may be granted by the Authority,

only when the Authority determines that such a waiver would not contravene the provisions of the Act and upon a finding that, in granting the waiver, the Authority will be promoting the statutory purposes expressed in the Act.

§ 19:34A-1.9 Appeals

(a) Appeals arising from decisions of the Authority may be requested in writing, and an opportunity given for any informal hearing on the papers, in person or via telephone with Authority staff. Such written request for an informal hearing must be made within 30 days of the receipt of the Authority's decision.

(b) In the event of an adverse decision after an informal hearing under (a) above, or if a district determines not to seek an informal hearing, and providing further, that the dispute or controversy is a contested case, as defined in *N.J.S.A. 52:14B-2(b)*, a district may request, within 90 days of the written decision resulting from the informal hearing or the determination of the Authority if an informal hearing is not sought, a formal hearing.

(c) Upon filing of the initial pleading in a contested case, the Authority shall transmit the matter for hearing before the Office of Administrative Law. Such hearings shall be governed by the provisions of the Administrative Procedure Act, *N.J.S.A. 52:14B-1 et seq.* and *52:14F-1 et seq.*, and the Uniform Administrative Procedures Rules, *N.J.A.C. 1:1*.

(d) Every determination of a dispute or controversy arising from this chapter by the Authority, constituting final agency action by the Board, shall be embodied in a written decision which shall set forth findings of fact and conclusions of law pursuant to the applicable rules of the Office of Administrative Law.

§ 19:34A-2.1 Applicability

This subchapter establishes the Authority's procedures and requirements governing the conditions and eligibility criteria for delegation under *N.J.S.A. 18A:7G-13(a)* as well as the circumstances ending the delegation.

§ 19:34A-2.2 Eligibility criteria for delegation

(a) The following criteria shall apply regarding eligibility for delegation when determined upon issuance by the Department of a preconstruction approval of the preconstruction design work:

1. The district has obtained approval of the district's long-range facilities plan pursuant to *N.J.A.C. 6A:26-2.3*;
2. There are no preconstruction activities related to land acquisition or special circumstances such as site development or remediation;
3. The Department has approved the undertaking of preconstruction design work pursuant to *N.J.A.C. 6A:26-3.9*; **and**
4. ~~[The initial CWE is not greater than the section 13(a) delegation limit, if the 13(a) delegation agreement was executed prior to August 6, 2007; and~~
- 5.] The delegation, as determined by the Authority, is in the best interests of the capital maintenance project.

(b) If eligibility is determined upon issuance by the Department of a preliminary project report (that is, later in the design phase of the capital maintenance project or prior to the construction phase for capital maintenance projects without a design phase), the criteria shall be the following:

1. The district has obtained approval of the district's long-range facilities plan pursuant to *N.J.A.C. 6A:26-2.3*;
2. The Department has approved the capital maintenance project and issued a preliminary project report to the Authority pursuant to *N.J.S.A. 18A:7G-5* and *N.J.A.C. 6A:26-3.3*; **and**
3. ~~[The Department has determined that the preliminary eligible costs of the school facilities project do not exceed the section 13(a) delegation limit, if the 13(a) delegation agreement was executed prior to August 6, 2007; and~~
- 4.] The delegation, as determined by the Authority, is in the best interests of the capital maintenance project.

§ 19:34A-2.3 Execution and other conditions for delegation

- (a) After the Authority has determined that a capital maintenance project has satisfied the eligibility criteria for a section 13(a) delegation agreement, it shall transmit the section 13(a) delegation agreement to the district for execution. The Authority may transmit along with the agreement, a scope of work that shall serve as the basis for any further design work undertaken by the district's consultant.
- (b) The district shall execute the section 13(a) delegation agreement within such period of time and pursuant to such terms and conditions as the Authority may determine in its sole discretion, and return the section 13(a) agreement together with all applicable attachments to the Authority for execution by the Authority. Such terms and conditions shall include:
 1. Delivery by the district to the Authority of a certified copy of a resolution of the district board authorizing the execution and delivery of the agreement and proof of the district board's

delegation of authority to the school business administrator or other authorized officer for supervision of the capital maintenance project; and

2. Delivery by the district to the Authority of a certificate executed by the school business administrator or other authorized officer as to the following:

- i. All adoptions and approvals required to be given by the district or by any other governmental entity with respect to the agreement have been obtained;
- ii. The district has full legal right, power and authority to enter into the agreement to consummate the transactions contemplated thereby; and
- iii. The agreement has been duly authorized, executed and delivered by the district, and constitutes a valid and binding agreement of the district enforceable in accordance with its terms.

(c) Upon determining that all conditions precedent to the execution of the section 13(a) delegation agreement have been satisfied, the Authority shall execute the agreement.

(d) Upon execution of the agreement, the Authority shall transmit to the district the section 13(a) delegation agreement as well as a sign to the extent permitted by zoning laws indicating that financing was made available to the district through the Authority.

§ 19:34A-2.4 Initiation of delegation and engagement of the design consultant

(a) If delegation occurs upon issuance by the Department of a preconstruction approval:

1. Upon execution of the agreement by the district and the Authority pursuant to *N.J.A.C. 19:34A-2.3*, the district shall proceed to engage a design consultant and shall submit to the Authority an executed consultant certification in the form attached to the agreement and acceptable documentation of insurance coverage.

2. Disbursement for any services performed by the design consultant prior to the execution of the agreement by the district and the Authority pursuant to *N.J.A.C. 19:34A-2.3* shall be at the risk of the district.

3. The design consultant shall prepare the design documents required for submission by the district to the Department of a school facilities project application, pursuant to *N.J.A.C. 6A:26-3.3*.

4. Upon approval by the Department of the school facilities project application and issuance of the preliminary project report, the district may proceed further in the design phase.

(b) If delegation occurs upon Department issuance of a preliminary project report, and, therefore, later in the design phase:

1. Upon execution of the agreement by the district and the Authority pursuant to *N.J.A.C. 19:34A-2.3*, the district shall proceed to engage a design consultant or may continue to engage a design consultant and shall submit to the Authority an executed consultant certification in the form attached to the agreement and acceptable documentation of insurance coverage.

2. Disbursement for any services performed by the design consultant prior to the execution of the agreement between the district and the Authority pursuant to *N.J.A.C. 19:34A-2.3* shall be at the risk of the district.

(c) If delegation occurs for capital maintenance projects that do not have a design phase:

1. The delegation shall occur after the issuance by the Department of the preliminary project report and prior to the construction phase.

2. Upon execution of the agreement by the district and the Authority pursuant to *N.J.A.C. 19:34A-2.3*, the district shall have final eligible costs of the capital maintenance project

determined by the Department, pursuant to *N.J.A.C. 6A:26-3.5*, and comply with the provisions governing approval of local share, if applicable, in this chapter, before the Authority issues an authorization-to-proceed with the construction phase, pursuant to *N.J.A.C. 19:34A-2.6*.

(d) Any design consultant engaged by the district for the capital maintenance project shall be engaged pursuant to the PSCL and must be prequalified by the Authority.

§ 19:34A-2.5 Design of the capital maintenance project

(a) The design consultant shall design the capital maintenance project in accordance with the preliminary project report.

(b) When the detailed plans and specifications are completed, the district shall submit them to the Authority with an updated CWE, to review for consistency with the initial scope of work provided pursuant to *N.J.A.C. 19:34A-2.3(a)*, if applicable, and for the Authority to make a final eligible cost recommendation for the capital maintenance project to the Department, pursuant to *N.J.A.C. 6A:26-3.5*. At the same time, or before or after the determination by the Department of final eligible costs, pursuant to *N.J.A.C. 6A:26-3.5*, the district shall submit the detailed plans and specifications to the Department for approval of final educational adequacy, if applicable, pursuant to *N.J.A.C. 6A:26-5.4*.

1. If the updated CWE provided by the design consultant is less than or equal to the preliminary eligible costs, the final eligible costs shall equal the updated CWE.

2. If the updated CWE is greater than the preliminary eligible costs:

i. The Authority shall, in consultation with the district and the Department, determine whether changes can be made in the scope of the capital maintenance project to reduce costs but

not impact the facilities efficiency standards and, if such changes can be made, the CWE shall be adjusted accordingly and the final eligible costs shall equal such adjusted CWE.

ii. If the Authority determines that it is not possible to make changes in the capital maintenance project either because the additional costs are the result of factors outside the control of the district or the additional costs are required to meet the facilities efficiency standards, the Authority shall recommend to the Department to accept the updated CWE as the final eligible costs.

iii. If the Authority determines that the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards, the district shall either make the appropriate changes to reduce costs or agree to pay such additional costs [~~as part of the local share~~].

(c) [~~For capital maintenance projects without a local share, after~~] **After** the Authority receives a final project report evidencing final eligible costs, the Authority shall issue an authorization-to-proceed with the construction phase, whereupon the district shall proceed with the procurement of contractors for the construction or the acquisition and installation of the capital maintenance project.

~~[(d) For capital maintenance projects with a local share, prior to the Authority issuing an authorization to proceed with the construction phase, the district shall provide the following evidence that the local share has been approved in accordance with the provisions for the approval of capital projects pursuant to N.J.S.A. 18A:22-1 et seq., 18A:24-1, 18A:7A-46.1 et seq., as applicable to the district pursuant to N.J.S.A. 18A:7G-11 and N.J.A.C. 6A:26-3.7:~~

~~1. If the local share is funded all or in part through the issuance of school bonds, a certified copy of the referendum that the district submitted to the voters for approval of the local share evidencing proof of voter approval of the local share; or~~

~~2. If the local share is funded through sources other than school bonds, such as the capital reserve account or lease purchase agreement of not in excess of five years duration, the district shall obtain approval of local share in accordance with *N.J.A.C. 6A:26-3.7* and any statutory and regulatory authorities specifically governing that source of local share, such as *N.J.S.A. 18A:20-4.2(f)*, *18A:7G-31*, and *N.J.A.C. 6A:26-8.1* and 10.~~

~~(e) Upon receipt by the Authority of evidence of approval of local share as required in (d) above, the Authority shall issue an authorization to proceed with the construction phase, whereupon the district shall proceed with the procurement of contractors for the construction of the acquisition and installation of the capital maintenance project.~~

~~(f) If the district fails to submit evidence that the local share has been approved, the Authority shall not issue an authorization to proceed. The agreement shall terminate automatically if a district fails to obtain approval of the local share within one year of the determination by the Department of final eligible costs of the capital maintenance project.~~

~~(g) In the event a district fails to obtain approval of the local share and the agreement terminates automatically, and, further, in the event that the district fails to evidence diligent and good faith efforts to obtain the local share, the district shall be obligated to refund to the Authority any moneys disbursed to the district under the agreement.]~~

§ 19:34A-2.6 Construction or acquisition and installation of the capital maintenance project

(a) Upon receipt of an authorization-to-proceed with the construction phase, the district shall proceed to bid for contractors, if applicable, or for goods and services, in accordance with the PSCL. All contractors engaged by the district shall be pre-qualified by the Authority.

(b) The district shall forward to the Authority for review and approval:

1. The construction phase checklist attached to the agreement;
2. A contractor certification in the form attached to the agreement;
3. Acceptable documentation of insurance coverage; and
4. A CWE which has been adjusted to take into account the award of the construction contract(s).

(c) Upon approval by the Authority of the documents required in (b) above, the district shall proceed with the construction phase and the contractor may proceed to undertake the work.

(d) Disbursement for any services performed by the contractor prior to such approval shall be at the risk of the district.

(e) If, during the design and construction of the capital maintenance project, a district determines that an amendment or a change in the work of the design consultant, any other consultant and/or the contractor(s) is required, as applicable, the following shall apply:

1. Any change order, or amendment regardless of the amount, which affects the number, configuration, size, location or use of the educational spaces, shall be submitted **by the district** to the Department for approval;
2. Any change order or amendment which exceeds five percent of the grant amount, in the singular or aggregate, shall be submitted **by the district** to the Authority for approval;

3. If required to be approved and if approval is obtained pursuant to (e)1 or 2 above, upon receipt of an authorization-to-proceed, the district may authorize the design consultant, other consultant and/or the contractor(s) to proceed with the work specified in the request for change order or amendment, as applicable; and

4. After receipt by the Authority of the final project report, the district shall be responsible for:

~~i. The local share, if applicable; and~~

ii. ~~The~~ **the** costs associated with changes to the scope of the capital maintenance project, unless the district provides evidence satisfactory to the Authority that the change order is necessitated by either an emergency consistent with *N.J.S.A. 18A:18A-7* or unforeseeable physical conditions.

(f) The capital maintenance project shall be constructed in conformity with the New Jersey Uniform Construction Code, *N.J.A.C. 5:23*, and the educational facility planning standards, *N.J.A.C. 6A:26-6.2*.

§ 19:34A-3.1 Grant amount

(a) Since the delegation to the district of the capital maintenance project shall commence prior to the determination of final eligible costs, the Authority shall provide funding to the district in an amount equal to 100 percent of the costs for approved preconstruction design work and design work required to be performed to prepare the detailed plans and specifications. Any amounts paid by the Authority shall upon determination of final eligible costs be applied to the State share.

(b) The grant shall be used only to pay for approved costs. Approved costs shall be reasonable, as determined by the Authority, pursuant to policies and procedures to be established and updated from time to time.

(c) The grant amount shall equal the State share of the final eligible costs of a capital maintenance project, as adjusted. The CWE and grant amount shall be adjusted by the Authority at the following time points: when the Authority receives the preliminary project report (if the delegation occurred at the preconstruction phase), after the Authority receives the final project report, upon award of the construction contract(s), and upon any change orders.

(d) Upon final completion, the CWE shall be adjusted to reflect the final approved costs of the capital maintenance project and the final grant amount shall equal the State share plus the costs of any change orders for which the district is not responsible.

§ 19:34A-3.2 Disbursement schedule

(a) Disbursement of grant funds shall be made at intervals as work progresses and expenses are incurred by the district and approved by the Authority for payments.

(b) Total disbursements shall not exceed the grant amount.

§ 19:34A-3.3 Disbursement documentation and procedures

(a) No disbursement of grant funds for expenses incurred by the district shall be made until the Authority receives all the documentation required for that disbursement.

(b) Disbursement documentation under (a) above shall include:

1. An invoice with a complete description of the costs incurred;

2. A payment voucher signed by an authorized officer of the district;
3. Submission of acceptable documentation of required insurance coverages; and
4. Completion to the satisfaction of the Authority of certifications or checklists as applicable.

(c) Upon receipt and approval by the Authority of a request for disbursement, the Authority shall disburse the amount set forth in such request for disbursement less the retainage specified in *N.J.S.A. 18A:18A-40.3*.

(d) Upon final completion, the district shall prepare and submit to the Authority, for review and approval, a request for disbursement together with the final completion checklist in the form attached to the agreement. Upon approval, the Authority shall disburse an amount equal to such request for disbursement together with any retainage previously withheld by the Authority pursuant to (b) above, and, thereupon, the Authority shall be released from any further responsibility to make any disbursements.

(e) The Authority shall not be under any obligation to make disbursements of the grant unless:

1. The agreement has been duly executed and delivered by the parties thereto;
2. No event of default or noncompliance, nor any event which with the passage of time or service of notice would constitute an event of default or noncompliance, shall have occurred and shall be continuing at the time of the request for disbursement; and
3. All of the conditions precedent contained within the agreement to the request for disbursement have been discharged completely and to the full satisfaction of the Authority.

§ 19:34A-3.4 Closeout procedures

(a) Closeout shall occur when all applicable administrative actions and all required work have been completed by the district. This process shall include the steps enumerated below:

1. In the event there are any grant proceeds which have not been expended on approved costs, such unexpended grant proceeds shall be released to the Authority and the amount of the grant shall be reduced by the amount of the unexpended proceeds.

2. ~~Any proceeds of school bonds issued by the district for the purposes of funding the local share of the capital maintenance project which remain unspent upon completion of the capital maintenance project shall be used by the district to reduce the outstanding principal amount of the school bonds either through redeeming bonds at the earliest call date or applying such proceeds to payment of principal as principal becomes due. In no event shall such proceeds be utilized to pay the interest expense on the school bonds issued for any capital maintenance project~~**(Reserved)**.

3. The district shall refund to the Authority any grant funds spent on any costs which were disallowed by the Authority as not being approved costs. Such refund shall be made within 30 days of the request by the Authority.

4. If a final audit has not been performed on behalf of the district prior to closeout of the capital maintenance project, the Authority retains the right to recover any appropriate amount after full consideration of any recommendation on disallowed costs resulting from the final audit.

5. The Authority may require additional information from the district or its consultants and contractors and/or retain any grant amount not disbursed until closeout is completed.

§ 19:34A-4.1 General provisions

(a) The district shall design and construct the capital maintenance project pursuant to the plans and specifications and as approved by the Department pursuant to *N.J.S.A. 18A:7G-5*. Any changes in the capital maintenance project which may impact educational adequacy (the number, size, configuration, location or use of educational spaces) shall be reviewed and approved by the Department as required under *N.J.A.C. 6A:26-4.9* and this chapter prior to such changes being made.

(b) The district shall, with all due diligence, proceed to construct or acquire and install the capital maintenance project in accordance with the plans and specifications, as applicable. If during the construction or acquisition and installation of the capital maintenance project, the district determines that a change in a construction contract is required, it shall comply with any and all requirements for approval of a request for a change order pursuant to *N.J.A.C. 6A:26-4.9*, any other applicable Department regulations, and this chapter.

(c) The district shall promptly notify the Authority in writing of events or proposed changes in the scope of the capital maintenance project, and schedule for completion and/or any other significant changed conditions concerning the capital maintenance project.

§ 19:34A-4.2 Contract award and compliance

(a) The district shall continually monitor the performance of the capital maintenance project and preconstruction activities, if applicable, to assume that time schedules are being met and that the completion of the capital maintenance project will occur in a timely, efficient and effective manner.

(b) In the event of default of any contracted party under any contract, or in the event of a breach of warranty with respect to any contract, the district shall reasonably exhaust the remedies against the defaulted contracted party and against each such surety for the performance of such contracts.

(c) The district shall obtain and maintain all licenses, certifications, authorizations, or any documents required by all governmental authorities whenever necessary. The district shall promptly notify the Authority and the State Comptroller in writing of any disciplinary action against itself, or, if it has knowledge of, against any contracted party or any change in the status of any license, permit, or other authorization required for the capital maintenance project.

(d) The district shall award all contracts for the capital maintenance project in accordance with *N.J.S.A. 52:15C-10* and the PSCL and the rules issued pursuant thereto. The district shall award a contract for design work on the capital maintenance project only to a design consultant that has been pre-qualified by the Authority and has the pre-qualification classification required for the engagement.

(e) All consultants and contractors with whom the district contracts, and their subconsultants and subcontractors, must be prequalified by the Authority if such prequalification would be required for the performance of similar work on a Authority managed school facilities project.

(f) All construction contracts shall contain provisions that the contractor and the subcontractor, as applicable, shall comply with the New Jersey Prevailing Wage Act, *N.J.S.A. 34:11-56.25 et seq.* The district shall not hire any contractor or subcontractor to perform any work for the district who is listed or is on record in the Office of the Commissioner, Department of Labor, as having failed to pay prevailing wages in accordance with the provisions of the New Jersey Prevailing Wage Act.

(g) All contracts shall provide that the contracted party shall comply with the anti-discrimination provisions of *N.J.S.A. 10:2-1* et seq., the New Jersey Law Against Discrimination, *N.J.S.A. 10:5-1* et seq., *N.J.A.C. 17:27* and *N.J.A.C. 6:4-1.6*. The district and its contracted parties shall in addition agree by contract and guarantee to afford equal opportunity in the performance of the contracts in accordance with an affirmative action program approved by the State Treasurer.

(h) No official or employee of the district who is authorized in his or her official capacity to negotiate, make, accept or approve or to participate in such decision regarding a contract in connection with the preconstruction activity shall have any financial or other personal interest in any such contract. The School Ethics Law, *N.J.S.A. 18A:12-21* et seq., and *N.J.A.C. 6A:28* shall by reference be incorporated as part of the applicable agreement.

(i) The district shall submit proof to the Authority and it and any contracted party shall comply with all insurance requirements of the section 13(a) delegation agreement and, when appropriate, shall certify that the insurance is in full force and effect and that the premiums have been paid.

(j) The district shall not take any action or omit to take any action that would result in the loss of the exclusion of the interest on any NJEDA bonds from Federal gross income for Federal income tax purposes under *Section 103 of the Internal Revenue Code of 1986*, as amended.

(k) The district shall require all contracted parties to enter into certifications at the times and in the manner specified by the Authority in the applicable agreement. Such certifications may include a certification by a consultant or a contractor upon award of contract; certifications by the school business administrator upon either award of a contract or final completion of the

preconstruction activity or both; and tax certifications by the district as may be required by the Authority or the NJEDA to ensure the tax-exempt status of NJEDA bonds.

(l) The district shall require the provision of performance bonds or other security pursuant to *N.J.S.A. 18A:18A-25*.

(m) The following concern contracts:

1. The district shall include the following statements in each contract awarded by the district in connection with the preconstruction activity and capital maintenance project: "This contract or subcontract is or may be funded in part with funds from the New Jersey Schools Development Authority. Neither the State, the New Jersey Schools Development Authority, the New Jersey Economic Development Authority, nor any of their departments, agencies, board members or employees is or will be a party to this contract or subcontract or any lower tier contract or subcontract. This contract or subcontract is subject to the requirements contained in *N.J.A.C. 19:34A* and the contractor (subcontractor) (consultant) (subconsultant) agrees to comply with those requirements."

2. The district shall include a provision in each contract awarded by the district in connection with the capital maintenance project which states that the contract is assignable to the Authority.

(n) The district shall comply with the requirements of *N.J.S.A. 52:15C-10* concerning the notices to the State Comptroller and the timing of the procurement process relative to the award of contracts.

(o) The Authority and/or the NJEDA may impose such other conditions as may be necessary and appropriate to implement the laws of the State and effectuate the purpose and intent of the Act.

§ 19:34A-4.3 Fraud and other unlawful or corrupt practices

(a) The district shall administer moneys pursuant to this chapter, the section 13(a) delegation agreement and any contracts entered into in connection with an approved preconstruction activity and a capital maintenance project free from bribery, graft and corrupt practices. The district has the primary responsibility for the prevention, detection and cooperation in the prosecution of any such conduct. The Authority shall have the right to pursue administrative or other legally available remedies in the event it suspects the occurrence of such conduct.

(b) The district shall diligently pursue judicial and administrative remedies and take any other appropriate remedial action with respect to any allegations or evidence of such illegality or corrupt practices. The district shall immediately notify the Authority in writing when any such allegation or evidence comes to its attention and shall periodically advise the Authority and the State Comptroller in writing of the status and ultimate disposition of any related matter.

§ 19:34A-4.4 Debarment

(a) The district and its consultants or contractors shall not enter into a contract for work or an approved preconstruction activity or [preconstruction] **capital maintenance** project with any person or firm that has been debarred, suspended or disqualified from State, NJEDA, Authority or Federal government contracting.

(b) The district shall insert in all contracts with all contracted parties, and all contractors and consultants shall insert into all of their contracts with all subconsultants and subcontractors, a clause stating that the contracted party, its subconsultants or subcontractors may be debarred, suspended or disqualified from contracting and/or working on the approved preconstruction

activity or capital maintenance project if the contracted party commits any of the acts listed in N.J.A.C. 17:19-3 or any applicable regulation issued by the Authority or the NJEDA.

(c) The district's bid specification for any work on an approved preconstruction activity or a capital maintenance project shall require all bidders to submit a sworn statement by the bidder, or an officer or partner of the bidder, indicating whether or not the bidder is, at the time of the bid, included on the State Treasurer's, the NJEDA's, the Authority's, or the Federal government's list of debarred, suspended or disqualified bidders as a result of action taken by any State or Federal agency, as the case may be. Bid specifications for the approved preconstruction activity or capital maintenance project shall state that the district shall immediately notify the State, the Authority and the NJEDA in writing whenever it appears that a bidder is on the Treasurer's, the Authority's, the NJEDA's or the Federal government's list. The State, the Authority, and the NJEDA reserve the right in such circumstances to immediately suspend such bidder from contracting and/or engaging in work on the approved preconstruction activities or capital maintenance project and to take such other action as it deems appropriate pursuant to N.J.A.C. 17:19-3 or any applicable regulation issued by the Authority.

§ 19:34A-4.5 **Reserved.** ~~[Performance evaluation policy and procedure~~

~~—The Authority may establish and maintain a consultant and contractor performance evaluation policy and procedure. The performance of any consultants and contractors engaged by the district for the preconstruction activities and capital maintenance project shall be evaluated by the district at the times and in the manner specified by the Authority. This evaluation shall consider, among other things, the consultant's and contractor's ability to deliver and complete the capital maintenance project within the specified time frame established by the district, within the~~

~~final eligible costs and local share, if any, as determined by the Department, and consistent with the requirements of the contracts.]~~

§ 19:34A-4.6 Disclosure and publicity

(a) Submissions received by the Authority under this chapter which are government records as defined in the Open Public Records Act, P.L. 2001, c. 404, shall be made available to persons who request their release as provided by State law.

(b) Press releases and other public dissemination of information by the school district concerning the capital maintenance project shall acknowledge Department approval and Authority financial assistance when such assistance is provided.

§ 19:34A-4.7 Access and record retention

(a) The Authority shall make available records and accounts pertaining to the capital maintenance project undertaken by the Authority to the State Comptroller, and the State Auditor in their investigations, examinations and inspections of the activities related to the financing and undertaking of preconstruction activities. The Authority shall also cooperate, upon request, in sharing information with other entities.

(b) The school district shall keep these records and accounts for the capital maintenance activities as necessary in order to evidence compliance with the Act and all applicable regulations and requirements. Such records shall be retained for 10 years following substantial completion of the school facilities project and any additional period required for the resolution of litigation, claims or audit findings.

(c) The Authority shall keep those records and accounts and shall require all contracted parties to keep those records and accounts for the capital maintenance project as necessary in order to evidence compliance with the Act and all applicable regulations and requirements. Such records shall be retained for 10 years following completion of the capital maintenance project and any additional period required for the resolution of litigation, claims or audit findings.

Resolution—6e.

Proposed Re-adoption with Amendments
Section 13(a) Delegation Agreement Rules, N.J.A.C. 19:34A

Resolution

WHEREAS, P.L. 2007, 137 (N.J.S.A. 52:18A-238(k)) requires that the Members of the New Jersey Schools Development Authority (SDA) adopt, amend and repeal rules and regulations to carry out the provisions of P.L. 2000, c. 72 (C. 18A:7G-1 et seq.) and P.L. 2007, c. 137 (C. 52:18A-235 et seq.); and

WHEREAS, Chapter 34A was last readopted effective December 8, 2008 and serves to govern the delegation of capital maintenance school facilities projects to SDA school districts pursuant to a delegation and grant agreement under Section 13(a) of the Educational Facilities Construction and Financing Act (“EFCFA”), P.L. 2000, c. 72 (N.J.S.A. 18A:7G-1 et seq.); and

WHEREAS, Chapter 34A is scheduled to expire on December 8, 2015; and

WHEREAS, the proposed amendments and repeals to the current rules are primarily technical in nature and intended to conform the rules to interim statutory changes and SDA practices with respect to the administration of the delegation program and the disbursement of grant funds; and

WHEREAS, the memorandum and/or rule proposal presented to the Board set forth all proposed amendments and repeals to the existing rules and the memorandum describes substantive, minor and other proposed amendments to the rules and/or the chapter title; and

WHEREAS, SDA management recommends that the Members approve the re-adoption of the Delegation Agreement Rules with amendments as proposed and presented.

NOW, THEREFORE, BE IT RESOLVED, that, consistent with the memorandum presented to the Board on this date, the Members of the Authority hereby authorize and approve the proposed re-adoption of the Authority’s Section 13(a) Delegation Agreement Rules with amendments and repeals, as well as the issuance of the attached Notice of Re-adoption and the filing of the Notice with the Office of Administrative Law.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10 day period, the Governor shall approve same, in which case such action shall become effective upon such approval.

Attached: Memorandum, Proposed Re-adoption with Amendments: Section 13(a) Delegation Agreement Rules, N.J.A.C. 19:34A, dated, December 2, 2015

Dated: December 2, 2015

**REPORT AND RECOMMENDATIONS OF THE REAL ESTATE COMMITTEE (CHAIRMAN'S REPORT) - TO
BE PROVIDED IN EXECUTIVE SESSION**

MONTHLY REPORTS
(For Informational Purposes)

ACTIVE PROJECTS STATUS REPORT



MEMORANDUM

TO: Members of the Authority

FROM: Gregory Voronov
Managing Director

DATE: December 2, 2015

SUBJECT: Active Project Status Report
(For Informational Purposes Only)

The 1st section of the report includes an Activities Summary of projects identified for advancement in the Authority's Capital Plans.

The 2nd part of the report displays project completion milestones for all other active major capital projects and emergent projects for which a contract for construction has been awarded.

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY - MONTHLY REPORTS (FOR INFORMATIONAL PURPOSES)



2011 & 2012 Portfolio Projects Activities Summary

as of 11/16/15

2011 Portfolio Projects - sorted by District		1					
District	Project	Grade Alignment	Capacity	Total Estimated Cost (millions)	Design Status	Advancement Status	Projected Construction Advertisement Date*
Bridgeton	Buckshutem ES	K-8	581	\$23.3	Kit of Parts/ Design-Build	Award for D-B approved at Oct. 2013 Board (Bock).	5/31/13
Bridgeton	Quarter Mile Lane ES	PK-8	731	\$39.0	Kit of Parts/ Design-Build	Award for D-B approved at Oct. 2013 Board (Bock).	5/31/13
Elizabeth	Academic HS	9-12	1,091	\$64.1	Existing Design	Phase 2 Award approved Nov. 2012 Board (Patock Construction)	12/8/11 7/11/12
Jersey City	ES 3	PK-5	778	\$54.0	Kit of Parts/ Design-Build	Award for D-B approved May 2013 Board (Dobco, Inc.)	6/25/12 2/25/13
Jersey City	PS 20	K-5	628	\$48.2	Existing Design	Phase 2 Construction approved Aug. 2013 Board (Dobco, Inc.)	4/17/12 3/6/13
Long Branch	Catrambone ES	PK-5	794	\$40.0	Existing Design	Construction Contract Approved Apr. 2012 Board (Terminal Construction).	12/20/11
New Brunswick	Redshaw ES	PK-5	906	\$51.2	Kit of Parts/ Design-Build	Award for D-B approved at Sep. 2012 Board (Hall Construction).	5/29/12
Newark	Oliver St. ES	PK-8	848	\$73.6	Kit of Parts/ Design-Build	Award for D-B approved Mar. 2013 Board. (Epic Management)	6/27/12 11/29/12
Paterson	Marshall St. ES	K-8	650	\$55.2	Existing Design	Construction Contract approved at May 2013 Board (Bock).	6/13/12 2/12/13
Paterson	PS 16	PK-8	705	\$62.4	Kit of Parts/ Design-Build	Award for D-B approved at Dec. 2013 Board (Hall Construction).	3/27/12 8/28/13
West New York	Harry L. Bain PS 6	PK-6	736	TBD	Design-Bid-Build	Preliminary Charter approved May 2015 Board.	2/27/12 Dec-15

*PLEASE NOTE - Dates in the Past are ACTUAL. Includes Advertisement dates for Early Site Preparation Construction & School Construction where applicable.
 NOTE # 1 - Estimated Costs, Grade Alignment and Capacity are based upon approved Project Charters where applicable. For projects without an approved charter, Estimated Costs, Grade Alignment and Capacity are based upon Planning Assumptions utilized in the 2010 reassessment. Recommendations of DOE/SDA/District Working Groups may impact this information in the future.

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2011 & 2012 Portfolio Projects Activities Summary

as of 11/16/15

2012 Portfolio Projects - sorted by District		1			Design Status	Advancement Status	Projected Construction Advertisement Date*
District	Project	Grade Alignment	Capacity	Total Estimated Cost (millions)			
Gloucester City	Elementary/Middle School	4-8	687	\$63.9	Kit of Parts/ Design-Build	Award for D-B approved Jul. 2014 Board (Terminal Construction).	3/4/14
Keansburg	Caruso ES	K-4	736	\$50.9	Kit of Parts/ Design-Build	Award for D-B approved Nov. 2013 Board (Hall Construction).	10/20/11 6/27/13
Keansburg	Port Monmouth Road School	PK	318	\$17.5	Design-Bid-Build	Planning Charter approved Oct. 2012 Board.	TBD
New Brunswick	Robeson ES	PK-5	823	\$47.1	Kit of Parts/ Design-Build	Award for D-B approved Sep. 2015 Board (Hall Construction).	4/22/15
Newark	Elliot Street ES	PK-8	848	\$46.7	Kit of Parts/ Design-Build	Award for D-B approved Apr. 2013 Board (Hall Construction).	12/27/12
Newark	South Street ES	PK-8	640	\$68.7	Kit of Parts/ Design-Build	Award for D-B approved Oct. 2015 Board (Bock).	6/28/13 6/29/15
Passaic	Dayton Ave. Campus	PK-8	2,741	\$209.5	Kit of Parts/ Design-Build	Project now sequenced with the advancement of the Leonard Place Project.	TBD
Phillipsburg	High School	9-12	1,846	\$127.5	Existing Design	Construction Contract Approved Apr. 2013 Board (Epic Management).	9/27/12
West New York	Memorial HS	9-12	1,859	\$16.0	Alternative Delivery (acquisition) & Renovation	Acquisition of Existing St. Joseph's HS complete. Renovation work will be completed via District Grant.	n/a

*PLEASE NOTE - Dates in the Past are ACTUAL. Includes Advertisement dates for Early Site Preparation Construction & School Construction where applicable.
 NOTE # 1 - Estimated Costs, Grade Alignment and Capacity are based upon approved Project Charters where applicable. For projects without an approved charter, Estimated Costs, Grade Alignment and Capacity are based upon Planning Assumptions utilized in the 2010 reassessment. Recommendations of DOE/SDA/District Working Groups may impact this information in the future.

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY - MONTHLY REPORTS (FOR INFORMATIONAL PURPOSES)



2011 & 2012 Portfolio Projects Activities Summary

as of 11/16/15

2012 Portfolio Projects (Educational Priority that require further conversations with District & 2013 Amended Projects) - sorted by District

District	Project	1			Design Status	Advancement Status	Projected Construction Advertisement Date*
		Grade Alignment	Capacity	Total Estimated Cost (millions)			
East Orange	George Washington Carver ES	PK-5	463	\$42.0	Kit of Parts/ Design-Build	Preliminary Charter approved May 2015 Board.	1 QTR 16 2 QTR 17
Elizabeth	New ES @ Halloran PS #22 ES Site	ES	860	\$55.3	Kit of Parts/ Design-Build	Award for D-B approved at Nov. 2014 Board (Torcon).	6/9/14
Garfield	James Madison ES	ES	275	\$28.0	Existing Design	Award for GC approved Oct. 2015 Board (Brockwell & Carrington).	2/19/14 6/30/15
Harrison	MS Grade Level	PK-1	392	\$33.5	Kit of Parts/ Design-Build	Preliminary Charter Approved Jan. 2015 Board. ESP Advertised 11/10/15.	11/10/15 3 QTR 16
Irvington	Madison Avenue ES	PK-5	463	\$35.4	Kit of Parts/ Design-Build	Preliminary Charter approved Dec. 2014 Board. ESP Advertised 9/30/15.	9/30/15 2 QTR 16
Millville	Senior HS Addition/Renovation	HS	2,026	\$110.0	Design-Build	Revised Preliminary Charter approved Jan. 2015 Board.	1 QTR 16
Passaic	New ES @ Leonard Place	K-5	628	\$56.2	Kit of Parts/ Design-Build	Preliminary Charter approved Sep. 2014 Board.	8/13/15
Paterson	New MS @ Union Ave.	6-8	996	\$112.9	Design-Build	Preliminary Charter approved Apr. 2015 Board.	TBD
Pemberton	Denbo ES	ES	TBD	TBD	TBD	ROA for Pre-Design Services approved May 2015 Board.	TBD
Perth Amboy	All Grade levels	All	TBD	TBD	TBD	SDA and District continue to work to identify an appropriate site to address needs at the high school and middle school grade levels.	TBD
	Seaman Avenue ES	K-5	700	\$56.8	Kit of Parts/ Design-Build	Preliminary Charter approved Aug. 2014 Board.	Nov-15
Plainfield	Woodland/Cook ES	ES	TBD	TBD	TBD	Scoping Conversations with Working Group (DOE/SDA/District).	TBD
Union City	ES Grade Level	ES	TBD	TBD	TBD	Scoping Conversations with Working Group (DOE/SDA/District).	TBD
Vineland	New MS	6-8	620	\$49.4	Kit of Parts/ Design-Build	DB Advertisement 9/24/15. Proposals due 12/15/15.	9/24/15

***PLEASE NOTE -** Projected Construction Advertisement Date reflects the first construction activity for the Project. Dates in the Past are ACTUAL.
NOTE # 1 - Estimated Costs, Grade Alignment and Capacity are based upon approved Project Charters where applicable. For projects without an approved charter, Estimated Costs, Grade Alignment and Capacity are based upon Planning Assumptions utilized in the 2010 reassessment. Recommendations of DOE/SDA/District Working Groups may impact this information in the future.

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2011 & 2012 Portfolio Projects Activities Summary

as of 11/16/15

2012 Portfolio Projects (Facilities Deficiencies) - sorted by District

District	Project	1			Design Status	Advancement Status	Projected Construction Advertisement Date*
		Grade Alignment	Capacity	Total Estimated Cost (millions)			
Camden	High School	9-12	1,244	TBD	TBD	ROA for Pre-Design Services approved Aug. 2015 Board.	TBD
Hoboken	Connors ES	PK-4	351	TBD	TBD	Scoping Conversations with Working Group (DOE/SDA/District).	TBD
Orange	Cleveland St. ES	PK-8	300	\$23.3	TBD	ROA for Pre-Design Services approved Aug. 2015 Board.	TBD
Orange	High School	9-12	1,048	TBD	TBD	ROA for Pre-Design Services approved Apr. 2015 Board.	TBD
Trenton	Central HS	9-12	1,850	\$138.8	Design-Build	DB Advertisement 9/29/15.	12/19/14 9/29/15

*PLEASE NOTE - Projected Construction Advertisement Date reflects the first construction activity for the Project. Dates in the Past are ACTUAL.
 NOTE # 1 - Estimated Costs, Grade Alignment and Capacity are based upon approved Project Charters where applicable. For projects without an approved charter, Estimated Costs, Grade Alignment and Capacity are based upon Planning Assumptions utilized in the 2010 reassessment. Recommendations of DOE/SDA/District Working Groups may impact this information in the future.



**Active Project Status Report
Status as of 11/1/2015**

Major Capital Projects - With Contract for Building Construction Awarded

#	District	Project Name	Project Scope	Project Status	Substantial Completion	Status Substantial Completion	School Opening	Status of School Opening	Total Estimated Project Cost
1	Bridgeton	Buckshutem Road ES	Addition/Renovation	Construction	2Q 2017	On-target	Sep-17	On-target	\$ 23,253,232
2	Bridgeton	Quarter Mile Lane ES	Addition/Renovation	Construction	2Q 2017	On-target	Sep-17	On-target	\$ 39,043,619
3	Elizabeth	New Academic HS	New Construction	Construction	2Q 2016	On-target	Sep-16	On-target	\$ 64,061,687
4	Elizabeth	New ES	New Construction	Design-Build Design Phase	2Q 2017	On-target	Sep-17	On-target	\$ 55,312,580
5	Gloucester City	New ES/MS	New Construction	Construction	1Q 2017	On-target	Sep-17	On-target	\$ 63,829,937
6	Jersey City	New ES #3	New Construction	Construction	1Q 2017	On-target	Sep-17	On-target	\$ 54,004,014
7	Jersey City	New PS #20	New Construction	Construction	1Q 2016	On-target	Sep-16	On-target	\$ 48,202,265
8	Keansburg	New Caruso ES	New Construction	Construction	3Q 2016	On-target	Sep-16	On-target	\$ 47,271,503
9	New Brunswick	Paul Robeson Community ES	Addition/Renovation	Design-Build Design Phase	2Q 2018	On-target	Sep-18	On-target	\$ 47,012,849
10	Newark	Elliott Street ES	New Construction	Construction	4Q 2015	On-target	Jan-16	On-target	\$ 46,678,296
11	Newark	Oliver Street ES	New Construction	Construction	4Q 2015	On-target	Sep-16	On-target	\$ 73,548,257
12	Paterson	New Marshall Street ES	New Construction	Construction	1Q 2016	On-target	Sep-16	On-target	\$ 55,150,306
13	Paterson	New PS #16	New Construction	Construction	3Q 2016	On-target	Sep-16	On-target	\$ 62,347,275
14	Phillipsburg	New HS	New Construction	Construction	2Q 2016	On-target	Sep-16	On-target	\$ 127,508,125



**Active Project Status Report
Status as of 11/1/2015**

Emergent Projects - With Contract for Construction Awarded

#	District	Project Name	Project Scope	Project Phase	Substantial Completion	Status Substantial Completion	Final Completion	Status of Final Completion	Total Estimated Project Cost
1	Bridgeton	Broad Street ES	Exterior Masonry	Construction	Nov-15	On-Target	Dec-15	On-Target	\$ 2,631,413
2	Irvington	University MS	Building Envelope	GC TO w/ Design	Nov-14	Achieved	Dec-15	On-Target	\$ 3,641,797
3	Irvington	Irvington HS	HVAC & Roofing	Construction	2Q 2016	On-Target	3Q 2016	On-Target	\$ 6,526,284
4	Orange	Preperatory Academy	Roof	Construction	Oct-14	Achieved	Oct-15	Achieved	\$ 1,554,349
5	Passaic City	Passaic HS #12	Building Envelope	GC TO w/ Design	Sep-14	Achieved	Oct-15	Achieved	\$ 782,154
6	Trenton	Hedgepeth-Williams School	Roof Repairs	GC TO w/ Design	Dec-15	On-Target	Jan-16	On-Target	\$ 270,706
7	Vineland	High School South	HVAC	Construction	4Q 2016	On-Target	4Q 2016	On-Target	\$ 11,402,573

PROJECT CLOSEOUT STATUS REPORT



STATE OF NEW JERSEY
SCHOOLS DEVELOPMENT AUTHORITY

32 EAST FRONT STREET
P.O. BOX 991
TRENTON, NJ 08625-0991
609-858-5395

To: Members of the Authority
From: /s/ Jason E. Ballard, Chief of Staff
Date: December 2, 2015
Subject: Project Close-Out Status Report

The attached report, provided by the Special Projects Division, shows a listing of all SDA managed Capital and Emergent projects which have achieved school occupancy but have not yet been contractually and administratively closed. The listing further details projects which have achieved building and/or land transfer to the district but also have outstanding open contracts. Finally, to emphasize the accomplishments of project close-out, we have included a running total of all school facilities projects, health and safety contracts, and suspended design contracts which have already been closed.

For the current reporting period we do not have any activity to report, however, we continue to advance projects and contracts through the close out process.

Prepared by: Ayisha Cooper
Reviewed by: Bridget Capasso

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
SPECIAL PROJECTS DIVISION
PROJECT STATUS REPORT - As of November 1, 2015**

Year of Occupancy	School	Disposition	Land & School Transferred Date	Outstanding Issues Remaining for Complete Close Out
Burlington City				
2007	New HS	Land and/or School Transferred	12/29/11	Open contract(s)
Camden				
2007	Octavius V. Catto Community School - Demonstration Project	Land and/or School Transferred	01/09/12	Open contract(s)
2009	HB Wilson ES	Land and/or School Transferred	04/14/10	Open contract(s)
2009	Dudley ES	Land and/or School Transferred	02/06/12	Open contract(s)
2011	Morgan Village	Land and/or School Transferred	02/25/13	Open contract(s)
Cumberland				
2009	Cumberland Regional HS	Land and/or School Transferred	06/25/10	Open contract(s)
East Orange				
2008	Mildred Barry Garvin	Land and/or School Transferred	03/29/13	Open contract(s)
2009	Cicely Tyson School of Performing and Fine Arts - Demonstration Project	Land and/or School Transferred	12/01/09	Open contract(s)
2010	Benjamin Banneker (New ES #5)	Land and/or School Transferred	07/23/12	Open contract(s)
Egg Harbor City				
2010	New MS	Land and/or School Transferred	01/01/12	Open contract(s)
Egg Harbor Township				
2011	Egg Harbor Township High School			
Elizabeth				
Legacy	#30 Ronald Reagan Academy	Land and/or School Transferred	07/09/12	Open contract(s)
2013	Victor Mravlag ES # 21			
Garfield				
2007	Garfield MS	Land and/or School Transferred	06/25/09	Open contract(s)
Gloucester City				
Legacy	Cold Springs ES	Land and/or School Transferred	06/05/09	Open contract(s)
Harrison				
2007	New Harrison HS	Land and/or School Transferred	10/23/12	Open contract(s)
Jersey City				
Legacy	New ES #3 (Frank R. Conwell ES #3)			
Legacy	Jersey City MS # 4 (Frank R. Conwell MS # 4)			
2007	Heights MS # 7			

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
SPECIAL PROJECTS DIVISION
PROJECT STATUS REPORT - As of November 1, 2015**

Year of Occupancy	School	Disposition	Land & School Transferred Date	Outstanding Issues Remaining for Complete Close Out
Long Branch				
2007	Gregory ES	Land and/or School Transferred	05/25/12	Open contract(s)
2008	Long Branch High School & Athletic Fields	Land and/or School Transferred	12/07/12	Open contract(s)
2014	George L. Catrambone ES			
New Brunswick				
2007	McKinley K Center #3	Land and/or School Transferred	07/09/12	Open contract(s)
2010	New Brunswick High School - Demonstration Project	Land and/or School Transferred	08/19/11	Open contract(s)
2014	A. Chester Redshaw Elementary School			
Newark				
Legacy	Science Park	Land and/or School Transferred	05/03/13	Open contract(s)
2007	1st Avenue ES	Land and/or School Transferred	09/28/11	Open contract(s)
2008	Central HS	Land and/or School Transferred	03/28/12	Open contract(s)
2010	Speedway ES			
Orange				
2009	Park Ave ES	Land and/or School Transferred	07/19/12	Open contract(s)
2010	Lincoln Ave ES	Land and/or School Transferred	09/07/12	Open contract(s)
Passaic				
2015	New Henry Street ES			
Paterson				
Legacy	Roberto Clemente ES	Land and/or School Transferred	04/12/13	Unable to close due to upcoming repairs.
2008	International HS			
2008	#24 ES			
Pemberton				
2011	ECC	Land and/or School Transferred	02/01/13	Open contract(s)
Perth Amboy				
Legacy	ECC I - Ignacio Cruz	Land and/or School Transferred	06/17/10	Open contract(s)
Trenton				
2008	Daylight/Twilight Alternative School - Demonstration Project	Land and/or School Transferred	12/01/08	Open contract(s)
2010	MLK-Jefferson	Land and/or School Transferred	12/01/11	Open contract(s)

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
SPECIAL PROJECTS DIVISION
PROJECT STATUS REPORT - As of November 1, 2015**

Year of Occupancy	School	Disposition	Land & School Transferred Date	Outstanding Issues Remaining for Complete Close Out
Union City				
2009	Union City High School and Athletic Complex - Demonstration Project	Land and/or School Transferred	10/27/11	Open contract(s)
2012	Columbus Elementary School	Land and/or School Transferred	02/24/15	Open contract(s)
Vineland				
2007	Gloria M. Sabeter Elementary School - Demonstration Project	Land and/or School Transferred	05/06/11	Open contract(s)
West New York				
2009	ES #2	Land and/or School Transferred	05/14/13	
2012	West New York #3	Land and/or School Transferred	01/29/14	Open contract(s)
Capital and Demonstration Projects Totals				
Total Capital and Closed Capital and Capital and			133	
			89	
			44	
	Capital and Demonstration Projects Not Closed, Land and/or School Transferred		34	
Emergent Projects				
Camden				
	East Camden Middle School			
Irvington				
	Irvington High School - Roof, HVAC, Bathroom			
	Union Avenue MS			
	University MS			
Newark				
	Speedway			
	American History High School (Warren Street ES)			
Orange				
	Orange Middle School (Orange Preparatory Academy)			
Passaic				
	Passaic City High School			

**NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY
SPECIAL PROJECTS DIVISION
PROJECT STATUS REPORT - As of November 1, 2015**

Year of Occupancy	School	Disposition	Land & School Transferred Date	Outstanding Issues Remaining for Complete Close Out
Emergent Project Totals				
Total Emergent Projects		68		
Emergent Projects Closed		60		
Emergent Projects Not Closed		8		
	Emergent Projects Not Closed but Transferred	0		
Health and Safety Contract Totals				
Total Contracts		399		
# of Open Contracts		8		
# of Contracts Closed		391		
Open Design Contracts				
Total Contracts		106		
# of Open Contracts		10		
# of Contracts Closed		96		

PROJECT STATUS REPORT



MEMORANDUM

TO: Members of the Authority

FROM: Gregory Voronov
Managing Director – Program Operations

DATE: December 2, 2015

SUBJECT: Executive Summary – Monthly Project Status Reports

MONTHLY PROJECT STATUS REPORT

Projects that have Expended 75% or More of Board Approved Contingency:

No activity during the reporting period

Projects Greater than 90 Days Behind Schedule:

No activity during the reporting period

Revisions to Project Charters:

No activity during the reporting period



Projects that have Expended 75% or More of Board Approved Contingency

Reporting Period: Jan. 1, 2008 to October 31, 2015

District	Project	Board Approved Project Charter Contingency	Contingency Expended/Committed	Contingency Remaining ¹	% of Contingency Expended/Committed	Project Completion %	Cause(s)	Current Status
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In Construction

NO DATA TO REPORT								
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Substantially Complete & Building Occupied

Please refer to the Project Close-Out Activity Report for status of close-out activities

Burlington City	Burlington City H.S.	\$17,830,990	\$17,814,403	\$16,587	99.9%	99%	1. Unforeseen soil remediation 2. Unforeseen asbestos abatement.	Project complete and building occupied. Working towards project close-out.
Camden	Dudley E.S.	\$3,215,000	\$2,615,168	\$599,832	81.3%	99%	1. Installation of IT/AV systems	Project complete and building occupied. Working towards project close-out.
East Orange	Mildred B. Garvin E.S.	\$1,429,632	\$1,305,993	\$123,639	91.4%	99%	1. Unforeseen soil remediation 2. Modifications to security system	Project complete and building occupied. Working towards project close-out.
Newark	Speedway Avenue E.S.	\$1,826,000	\$1,754,119	\$71,881	96.1%	99%	1. Removal of unforeseen impacted materials	Project complete and building occupied. Working towards project close-out.
Orange	Lincoln Ave E.S.	\$5,615,000	\$4,906,339	\$708,661	87.4%	99%	1. Unforeseen asbestos abatement 2. Structural repairs to interior walls 3. Extended general conditions	Project complete and building occupied. Working towards project close-out.
Orange	Park Avenue E.S.	\$3,360,000	\$3,275,103	\$84,897	97.5%	99%	1. Unforeseen asbestos abatement	Project complete and building occupied. Working towards project close-out.
Paterson	E.S. #24	\$4,616,120	\$4,313,389	\$302,731	93.4%	99%	1. Unforeseen soil remediation and clean fill.	Project complete and building occupied. Working towards project close-out.
West New York	West New York P.S. #2	\$2,708,883	\$2,708,883	\$0	100.0%	99%	1. Unforeseen site foundation issues	Project complete and building occupied. Working towards project close-out.

¹ Does not include expended contingency or contingency funds allocated for change orders, amendments



Projects Greater than 90 Days Behind Schedule or with Occupancy Date in Jeopardy
 Reporting Period: October 2015

#	Event Date	District	Project	Board Approved Project Charter SubComp Date	Current Contract SubComp Date	Forecasted Contract SubComp Date	# of Days Behind Schedule	Cause(s)	Current Status
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No Activity During the Reporting Period



Revisions to Project Charters

Reporting Period: October 2015

#	District	Project	Financial & Schedule Impacts	Additional Funds Approved	Additional Funds as % of Total Project Budget	Operating Authority Approval Requirement	Description of Revision
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No Activity During the Reporting Period

CONTRACTS EXECUTED REPORT



MEMORANDUM

TO: Members of the Authority

FROM: Gregory Voronov
Managing Director, Program Operations

DATE: December 2, 2015

SUBJECT: Contracts Executed Report and Amendments & Change Orders Report
(For Informational Purposes Only)

Contracts Executed Report

No data to report for the period October 1 through October 31, 2015.

Noteworthy Items during the reporting period:

- Execution of two contracts for Design Services for emergent projects:
 - Camden Cramer ES to Heritage Architecture, LLC for \$67,940
 - Newark Chancellor Avenue ES to Rivardo Schnitzer Capazzi for \$38,445
- Execution of one contract for Design-Build Construction Services:
 - New Brunswick Paul Robeson Community ES to Hall Construction Co., Inc. for \$31,993,000.

Amendments & Change Orders Report

This report contains the activity of Amendments and Change Orders executed during the period October 1 through October 31, 2015.

Noteworthy Items during the reporting period:

- Execution of 20 Construction Services Change Orders totaling a credit of \$29k, of the 20 executed change orders none required board approval.

Report of change orders less than \$10,000 yet requiring Board Approval

In accordance with the Operating Authority adopted by the Members on December 1, 2010 as amended on March 7, 2012, the Members are to be provided a report of any change order which received delegated approval by the CEO due to the fact that they are valued at less than \$10,000 yet require Board approval due the total change orders exceeding 10% of the contract value.

- No Activity to Report



Contracts Executed Report

Reporting Period: 10/1/2015 through: 10/31/2015

District	School Name(s)	Project Type	Contract Type	Contract Number	Vendor	MWSBE Cert(s)	Contract Award Amount	Contract Execution Date
Part 1. Professional Services								
Design Consultant								
Camden City	Cramer E.S.	Emergent	Design	EP-0080-A01	Heritage Architecture, LLC		\$67,940	10/07/2015
Newark	Chancellor Avenue E.S.	Emergent	Design	EP-0098-A01	Rivardo Schnitzer Capazzi dba RSC Architects	S	\$38,445	10/20/2015
Design Consultant								
Part 1. Professional Services							\$106,385	



Contracts Executed Report

Reporting Period: 10/1/2015 through: 10/31/2015

District	School Name(s)	Project Type	Contract Type	Contract Number	Vendor	MWSBE Cert(s)	Contract Award Amount	Contract Execution Date
Part 2. Construction Services								
Contractor								
New Brunswick	Paul Robeson Community E.S.	RenoAdd	DB	ET-0073-B01	Hall Construction Co., Inc.	S	\$31,993,000	10/14/2015
Contractor								
Part 2. Construction Services							\$31,993,000	



Contracts Executed Report

Reporting Period: 10/1/2015 through: 10/31/2015

District	School Name(s)	Project Type	Contract Type	Contract Number	Vendor	MWSBE Cert(s)	Contract Award Amount	Contract Execution Date
Part 4. Other Contracts & Services								
Others								
Bridgeton	Buckshutem Road E.S. - G. Foster ECC	RenoAdd	FFE	ST-0044-F02	Haworth Inc		\$15,887	10/14/2015
Jersey City	Number 20 E.S.	New	FFE	JE-0010-F01	Wenger Corporation		\$18,659	10/14/2015
Jersey City	Number 20 E.S.	New	FFE	JE-0010-F02	Nickerson New Jersey	W	\$42,595	10/14/2015
Jersey City	Number 20 E.S.	New	FFE	JE-0010-F03	Indiana Furniture Industries, Inc.		\$43,642	10/19/2015
Jersey City	Number 20 E.S.	New	FFE	JE-0010-Q01	Brodart Co		\$120,786	10/14/2015
Jersey City	Number 20 E.S.	New	FFE	JE-0010-Q02	Interior Systems, Inc.		\$33,720	10/14/2015
Jersey City	Number 20 E.S.	New	FFE	JE-0010-Q03	Krueger International, Inc.		\$307,099	10/15/2015
Jersey City	Number 20 E.S.	New	FFE	JE-0010-Q04	Community Products LLC dba Community Playthings		\$61,385	10/20/2015
Jersey City	Number 20 E.S.	New	FFE	JE-0010-Q05	Krueger International, Inc.		\$36,479	10/23/2015
Jersey City	Number 20 E.S.	New	FFE	JE-0010-Q06	Krueger International, Inc.		\$177,327	10/23/2015
Jersey City	Number 20 E.S.	New	FFE	JE-0010-Q07	Grafco		\$103,595	10/29/2015
Newark	Elliott Street E.S.	New	FFE	NE-0067-K02	Johnston G.P. Inc t/a Johnston Communications		\$50,450	10/02/2015
Newark	Elliott Street E.S.	New	FFE	NE-0067-Q17	Krueger International, Inc.		\$15,373	10/23/2015
Others								
Part 4. Other Contracts & Services							\$1,026,996	
							Total Contract Award	Total Contracts Awarded
Grand Totals - Professional and Construction Services Combined							\$33,126,381	16

** Contracts less than \$10,000 are not displayed



Contracts Executed Report

Reporting Period: 10/1/2015 through: 10/31/2015

Project Types Legend

HS	Health & Safety
New	New Constuction
Add	Addition
RenoAdd	Addition & Renovation
Reno	Renovation

Contract Types Legend

Aquisition	Property Acquisition Related Costs
Appraisal	Appraisal, Appraisal Review, NRE
Construction	Construction
Design	Design or Site Investigation
DB	Design-Build
E-Rate	E-Rate
FFE	Furniture, Fixtures, and Equipment
General	General Program Cost
Legal	Legal
Material	Material Supply
ProjectMgmt	Project Management Firm
PreDevelopment	Predevelopment or Demolition
Relocation	Relocation Services
SiteInvstgtn	Site Investigation
Testing	Testing
Title	Title Services
Utilities	Utilities Services

MWSBE CERTIFICATIONS

M = Minority Business Enterprise
W = Women Business Enterprise
S = Small Business Enterprise



Amendments & Change Orders Report

Reporting Period: 10/1/2015 through: 10/31/2015

District	School Name(s)	Contract Number	Contract Execution Date	CO #	Vendor Name	CO Execution Date	Contract Award Amount	Prior CO's (cumulative)	Prior Board Approval Date (if necessary)	Current CO Amount	Board Approval Required	Board Approval Date	Revised Contract Amount	Cumulative CO %
Professional Services														
Project Management Firms (PMF)														
Multi-District, Project, or Statewide	Proj. Mgmt Pkgs 09-14	PM-0009-P01	06/10/2002	4	PB Americas, Inc.	10/21/2015	\$2,870,519	\$359,662		(\$10,948)			\$3,219,233	12.14%
Multi-District, Project, or Statewide	Proj. Mgmt Pkgs 09-14	PM-0012-P01	05/08/2002	9	Gilbane Building Company	10/21/2015	\$13,500,000	\$4,715,956		(\$1,000)			\$18,214,956	34.92%
Project Management Firms (PMF)														
Professional Services														
										(11,948)				

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY - MONTHLY REPORTS (FOR INFORMATIONAL PURPOSES)



Amendments & Change Orders Report

Reporting Period: 10/1/2015 through: 10/31/2015

District	School Name(s)	Contract Number	Contract Execution Date	CO #	Vendor Name	CO Execution Date	Contract Award Amount	Prior CO's (cumulative)	Prior Board Approval Date (if necessary)	Current CO Amount	Board Approval Required	Board Approval Date	Revised Contract Amount	Cumulative CO %
Construction Services														
Contractor														
Bridgeton	Broad Street E.S.	EP-0078-C01	06/15/2015	2	Catcord Construction Co., Inc.	10/26/2015	\$1,888,300	\$5,000		\$10,135			\$1,903,435	.80%
Bridgeton	Broad Street E.S.	EP-0078-C01	06/15/2015	3	Catcord Construction Co., Inc.	10/26/2015	\$1,888,300	\$15,135		(\$18,541)			\$1,884,894	-1.18%
Elizabeth	New Academic HS	EL-0006-C01	12/20/2012	39	Patock Construction Co.	10/01/2015	\$42,977,700	\$1,806,567		\$2,853			\$44,787,120	4.21%
Elizabeth	New Academic HS	EL-0006-C01	12/20/2012	41	Patock Construction Co.	10/19/2015	\$42,977,700	\$1,809,420		\$70,195			\$44,857,315	4.37%
Newark	South Street E.S.	NE-0003-N01	01/02/2014	2	USA Environmental Management, Inc.	10/29/2015	\$8,262,700	(\$825,146)		(\$352,648)			\$7,084,906	-14.25%
Paterson	Marshall Street Elementary School	PA-0006-C04	06/18/2013	40	Ernest Bock & Sons, Inc.	10/01/2015	\$29,345,000	\$1,087,176		\$12,691			\$30,444,867	3.74%
Paterson	Marshall Street Elementary School	PA-0006-C04	06/18/2013	34	Ernest Bock & Sons, Inc.	10/02/2015	\$29,345,000	\$1,033,794		\$17,428			\$30,396,222	3.58%
Paterson	Marshall Street Elementary School	PA-0006-C04	06/18/2013	39	Ernest Bock & Sons, Inc.	10/13/2015	\$29,345,000	\$1,099,867		\$1,382			\$30,446,249	3.75%
Paterson	Marshall Street Elementary School	PA-0006-C04	06/18/2013	41	Ernest Bock & Sons, Inc.	10/13/2015	\$29,345,000	\$1,101,249		\$15,956			\$30,462,205	3.80%
Paterson	Marshall Street Elementary School	PA-0006-C04	06/18/2013	42	Ernest Bock & Sons, Inc.	10/13/2015	\$29,345,000	\$1,117,205		\$2,703			\$30,464,908	3.81%
Paterson	Marshall Street Elementary School	PA-0006-C04	06/18/2013	33	Ernest Bock & Sons, Inc.	10/20/2015	\$29,345,000	\$1,119,908		\$55,189			\$30,520,097	4.00%
Paterson	Marshall Street Elementary School	PA-0006-C04	06/18/2013	38	Ernest Bock & Sons, Inc.	10/20/2015	\$29,345,000	\$1,175,097		\$16,452			\$30,536,549	4.06%
Paterson	Marshall Street Elementary School	PA-0006-C04	06/18/2013	43	Ernest Bock & Sons, Inc.	10/20/2015	\$29,345,000	\$1,191,549		\$8,727			\$30,545,276	4.09%
Paterson	Marshall Street Elementary School	PA-0006-C04	06/18/2013	44	Ernest Bock & Sons, Inc.	10/20/2015	\$29,345,000	\$1,200,276		\$24,672			\$30,569,948	4.17%
Phillipsburg	New HS (-x01)	NT-0003-C02	06/06/2013	33	Epic Management, Inc.	10/20/2015	\$80,490,000	\$1,212,585		\$5,174			\$81,707,759	1.51%
Phillipsburg	New HS (-x01)	NT-0003-C02	06/06/2013	34	Epic Management, Inc.	10/20/2015	\$80,490,000	\$1,217,759		\$33,533			\$81,741,292	1.55%
Phillipsburg	New HS (-x01)	NT-0003-C02	06/06/2013	35	Epic Management, Inc.	10/20/2015	\$80,490,000	\$1,251,292		\$3,078			\$81,744,370	1.55%
Paterson	New PS#16	PA-0024-B01	01/17/2014	1	Hall Construction Co., Inc.	10/13/2015	\$34,944,000	\$0		\$10,902			\$34,954,902	.03%
Paterson	New PS#16	PA-0024-B01	01/17/2014	2	Hall Construction Co., Inc.	10/13/2015	\$34,944,000	\$10,902		\$5,246			\$34,960,148	.04%
Trenton	Trenton Central H.S.	WT-0022-N01	04/09/2015	2	USA Environmental Management, Inc.	10/26/2015	\$8,496,870	\$2,809		\$45,812			\$8,545,491	.57%
Contractor														
										(\$29,061)				
Construction Services														

Grand Totals

Total Change Order Summary
(\$41,009)

Total Change Orders
22



Amendments & Change Orders Report

Reporting Period: 10/1/2015 through: 10/31/2015

District	School Name(s)	Contract Number	Contract Execution Date	CO #	Vendor Name	CO Execution Date	Contract Award Amount	Prior CO's (cumulative)	Prior Board Approval Date (if necessary)	Current CO Amount	Board Approval Required	Board Approval Date	Revised Contract Amount	Cumulative CO %
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Column Description Legend

CO Execution Date	Date the Change Order was entered into the SIMS system
Revised Contract Amount	Current value of the contract (excluding additional assignments) including current change order

CONTRACT TERMINATIONS REPORT (*no activity*)

SETTLEMENT CLAIMS (*no activity*)

CONTRACTOR AND WORKFORCE COMPLIANCE REPORT



MEMORANDUM

TO: Members of the Authority

FROM: Karon Simmonds /s/ Karon Simmonds
Director Risk Management and Vendor Services
Office of the Chief Financial Officer

DATE: December 2, 2015

SUBJECT: Contractor and Workforce Compliance Monthly Update for September, 2015

Vendor Services staff continues to participate at mandatory pre-bid and pre-construction meetings to instruct and inform bidders regarding SDA's SBE goals, policies and procedures, including:

- Small Business Enterprise subcontracting goal of 25% of all contracts
- County workforce goals for minorities and females
- Detailed process procedures to monitor and track the progress made toward these goals throughout the life cycle of each project

At these meetings, vendors are strongly encouraged to identify and hire minority-owned and women-owned firms, as well as locally-based enterprises, for diverse business participation on all school building projects. Additional outreach strategies are discussed and utilized.

SMALL BUSINESS ENTERPRISE (SBE) COMPLIANCE MONITORING

The SDA regularly exceeds the State-mandated 25% SBE goal. The total SDA contract dollars awarded through September 30, 2015 was \$70,142,059. The figures below demonstrate compliance with this requirement.

SBE Breakdown

The total contract dollars awarded to all SBE contractors was \$32,182,490 (including minorities, women and veteran owned businesses). This represents 46% of all SDA contracts.

Type of Business Enterprise	Contract Amount	% of Total SDA Contracts
Small Business Enterprises	\$ 25,599,068	36.50%
Small/ Minority Business Enterprises	\$ 1,237,351	1.76%
Small/Women Business Enterprises	\$ 4,347,071	6.20%
Small/Veteran Owned Business Enterprises	\$ 999,000	1.42%
Small/Minority/Women Business Enterprises	\$ -0-	0.00%
TOTAL SBE CONTRACTS	\$ 32,182,490	45.88%

Members of the Authority
 Contractor and Workforce Compliance Monthly Update
 December 2, 2015
 Page 2 of 4

Ethnic Breakdown

For the month of September, 2015, two SBE contracts were awarded with minority participation.

Ethnicity	Contract Amount	Percentage
American Indian	\$ -0-	0.00%
Asian	\$ -0-	0.00%
Black	\$ 648,746	2.02%
Hispanic	\$ -0-	0.00%
Total	\$ 648,746	2.02%

WORKFORCE COMPLIANCE MONITORING

For the month of September, 2015 there was a contractor workforce of 1,181 on SDA projects. This represents a total of 88,309 contractor workforce hours as follows:

Contractor Workforce Breakdown (All Trades/Districts/Counties)			
Ethnicity	Total Workforce	Total Workforce Hours	Workforce Hours Percentage
Black	120	10,306	11.67%
Hispanic	148	10,611	12.02%
American Indian	4	270	0.30%
Asian	5	364	0.41%
Total Minority Participation	277	21,551	24.40%
Total Non-Minority Participation	904	66,758	75.60%

Members of the Authority
 Contractor and Workforce Compliance Monthly Update
 December 2, 2015
 Page 3 of 4

There was a contractor workforce of 703,768 total workforce hours and 7,493 total female workforce hours on SDA projects for the period of January 1, 2015 through September 30, 2015. The following table highlights the *Local County contractor workforce* participation for that period:

Local County Workforce Participation	Workforce Hours	Percentage
*Total Workforce Hours	703,768	100.00%
*Total Local County Workforce Hours	116,417	16.54%
Total Local County Non-Minority Workforce Hours	67,530	9.60%
Total Local County Female Workforce Hours	1,372	0.20%
Total Local County Minority Workforce Hours	48,887	6.94%
**Local County Workforce Hours by Ethnicity:		
Black	25,612	3.64%
Hispanic	23,243	3.30%
American Indian	32	0.005%
Asian	-0-	0.00%

*Total workforce and total local county workforce represent all laborers including females.

**Minority breakdown represents Black, Hispanic, American Indian, and Asian laborers. Minority female laborers are captured as female laborers only and are not included in the minority breakdown.

Members of the Authority
 Contractor and Workforce Compliance Monthly Update
 December 2, 2015
 Page 4 of 4

The following table represents contractor and female workforce for all SDA active Capital Projects and all active and completed Emergent Projects for the period of January 1, 2015 through September 30, 2015.

SDA Managed Project	Total Workforce Hours	Minority Workforce Hours & Percentage		Local County Workforce Hours & Percentage	
		Hours	Percentage	Hours	Percentage
Bridgeton, Buckshutem ES & Qtr. Mile	49,340	15,282	30.97%	7,082	14.35%
Elizabeth, New Academic HS	39,013	11,920	30.55%	29,482	75.57%
Gloucester City, New ES & MS	26,280	7,096	27.00%	2,890	11.00%
Jersey City, PS #20	49,609	17,884	36.05%	6,565	13.23%
Jersey City, ES #3	11,140	3,492	31.35%	163	1.46%
Keansburg, Caruso ES	50,788	11,514	22.67%	8,038	15.83%
Newark, Elliott Street ES	88,763	30,034	33.84%	12,583	14.18%
Newark, Oliver Street ES	78,366	23,329	29.77%	4,412	5.63%
Passaic, New Henry Street	58,733	6,978	11.88%	4,182	7.12%
Paterson, PS #16	58,717	18,708	31.86%	3,916	6.67%
Paterson, Marshall Street ES	46,124	16,870	36.58%	7,573	16.42%
Phillipsburg HS	137,151	17,636	12.86%	12,229	8.92%
Trenton, Central HS	5,416	5,112	94.39%	-0-	0.00%
Emergent Projects	3,199	2,969	83.43%	-0-	0.00%

Prepared by: Christopher Sorhaindo
 Adele Bonar, CPA

REGULAR OPERATING DISTRICTS (RODs) ACTIVITY REPORT



MEMORANDUM

TO: Members of the Authority

FROM: Gregory Voronov
Managing Director, Program Operations

DATE: December 2, 2015

SUBJECT: Regular Operating District Grant Activity Report
(For Informational Purposes Only)

This report summarizes the Regular Operating District Grant activity from inception to date and for the month of October 2015. Also included is a detailed list of grants executed and grants offered during the reporting period.

Monthly Update:

- No new grants were offered during the reporting period.
- 7 grants impacting 1 district were executed during the reporting period representing \$4.9M in total project costs and state share of \$2.0M.
- 29 grants impacting 23 districts were closed out during the reporting period representing \$27.3M in total project costs and state share of \$9.0M.
- Since inception, over \$2.55B has been disbursed to 523 regular operating districts through the grant program.
- Since inception over \$3.3B in funding has been approved by the Department of Education and offered to regular operating districts through the grant program.


STATE OF NEW JERSEY
SCHOOLS DEVELOPMENT AUTHORITY
 Monthly Regular Operating District Grant Report - Summary
 October 2015

ROD Grant Summary Since Program Inception				
	Offered ¹	Executed	Closed-Out	Active
Districts Impacted	208	523	498	322
Number of Grant Projects	810	5,238	3,768	1,470
Total Project Cost Estimate	\$ 944,848,958	\$ 8,846,491,211	\$ 7,378,635,714	\$ 1,467,855,498
Grant Amount	\$ 355,308,817	\$ 2,968,471,209	\$ 2,373,720,016	\$ 594,751,192
Amount Disbursed	N/A	\$ 2,553,879,292	\$ 2,373,720,016	\$ 180,159,275

Total Funding Offered to School Districts via Grant Program	\$ 3,323,780,025
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Total ROD Grant Funding remaining for new Grant Projects	\$ 19,991,829
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1. Includes grants that have been offered to District's but have not yet been executed.

ROD Grant Summary - October 2015		
	Executed	Closed-Out
Districts Impacted	1	23
Number of Grant Projects	7	29
Total Project Cost Estimate	\$ 4,924,250	\$ 27,324,255
Grant Amount	\$ 1,969,700	\$ 9,028,710
Amount Disbursed	NA	\$ 9,028,710

* Report is inclusive of all Regular Operating Districts grants (including vocational school districts)

** Total Project Cost Estimate and Grant Amount may be adjusted as the projects advance. Grant Amount is capped at the value approved in the DOE Final Eligible Cost Approval.

NEW JERSEY SCHOOLS DEVELOPMENT AUTHORITY - MONTHLY REPORTS (FOR INFORMATIONAL PURPOSES)



Monthly Regular Operating District Grant Report - Monthly Executed Grant Detail

October 2015

County	District	School Name	Total Project Cost Estimate	Grant Amount	Project Description
Essex	Livingston Township	Heritage M.S.	\$ 1,593,250	\$ 637,300	HVAC
Essex	Livingston Township	Mt. Pleasant M.S.	\$ 991,000	\$ 396,400	HVAC
Essex	Livingston Township	Livingston Senior H.S.	\$ 610,000	\$ 244,000	Partial roof replacement
Essex	Livingston Township	Harrison E.S.	\$ 603,000	\$ 241,200	HVAC
Essex	Livingston Township	Hillside E.S.	\$ 481,000	\$ 192,400	HVAC
Essex	Livingston Township	Burnet Hill E.S.	\$ 323,000	\$ 129,200	HVAC
Essex	Livingston Township	Collins E.S.	\$ 323,000	\$ 129,200	HVAC
Grand Total		Grants Executed - 7	\$ 4,924,250	\$ 1,969,700	

NOTIFICATION OF AMENDMENTS TO GOODS AND SERVICES CONTRACTS NOT EXCEEDING \$250,000
(no activity)

COMMUNICATIONS MONTHLY REPORT



MEMORANDUM

TO: Members of the Authority

FROM: /s/ Kristen MacLean, Director of Communications

DATE: December 2, 2015

SUBJECT: Monthly Communications Report

SDA Joins Gloucester City Officials for Beam Signing Event



On November 2, SDA CEO Charles McKenna joined local officials and Gloucester City School District students and officials at a beam signing ceremony to highlight the progress of construction of the new Gloucester City Middle School. The ceremony celebrated the ongoing construction of the school by signing two steel beams that will be hoisted into place as a permanent part of the new facility.

The new 122,000 square-foot Gloucester City Middle School is designed to educate approximately 685 students from the fourth through eighth grades. The school will include 27 general education classrooms, eight special education classrooms, three science classrooms, small group instruction rooms, a cafetorium, a gymnasium, music and art rooms, a computer lab and a media center. It will also include outdoor recreational spaces such as a track, fields and a basketball court.

Communications Report
December 2, 2015
Page 2 of 2

SDA Presents at Alliance For Action Annual Construction Forecast Seminar

On November 13, Ray Arcario, SDA Vice President of Construction Operations, presented at the Alliance For Action's Annual Construction Forecast Seminar. Mr. Arcario gave an overview of the SDA program and forecasted construction opportunities that will be available with the SDA over the next year.

Prepared by: Edye Maier
Reviewed by: Jane F. Kelly

MONTHLY FINANCIAL REPORT

MEMORANDUM

TO: Members of the Authority

FROM: Sherman E. Cole, CPA /s/ Sherman E. Cole
Controller

DATE: December 2, 2015

SUBJECT: Monthly Financial Report – October 2015

The Office of the Chief Financial Officer is providing the attached monthly financial report to the Members of the Authority for their information. Included on pages 1 and 2 of this report is a “Financial Summary” of the Authority’s activities for the year. On pages 3 and 4 of the report is a summary of the Authority’s operating expenditures. Page 5 contains a breakdown of the Authority’s headcount information by department/division. The basic financial statements follow on pages 6 and 7.

Year-to-Date Authority Operating Expenses (Actual vs. Budget)

For October 2015 year to date, Authority operating expenses, **\$14.6 million**, are **down \$3.3 million** as compared to the operating budget for the *corresponding period*. The deviation of actual expenses versus budget is due to:

- Lower salary & benefit costs **\$2.6 million**. The Authority is currently 25 FTEs under budget. This variance is offset by the year to date allocation – of payroll expense to project cost – that is lower than projected, **(\$632K)**;
- Year to date spending reductions for DAG Legal Services, **\$97K**, MIS system maintenance and hardware, **\$449K** and General Office & Facility Expenditures, **\$341K** and
- Timing Differences; The purchase of the eDCM Archive system, **\$316K**, has been rescheduled for the fall of 2015.

Year-to-Date Authority Operating Expenses (Actual vs. Prior Year Actual)

For October 2015 year to date, Authority operating expenses, **\$14.6 million**, are **\$359K** lower as compared to the *corresponding prior year*.

Year-to-Date School Facilities Project Expenditures (Actual vs. Forecast)

For October 2015 year to date, project expenditures, **\$345.7 million**, are **higher by \$3.7 million** as compared to the capital spending forecast for the *corresponding period*. The variance is due to higher than projected grant spending **\$24.9M**; offset by lower than anticipated expenditures in construction work **\$20.2M**, and project insurance **\$1.0M**.

Year-to-Date School Facilities Project Expenditures (Actual vs. Prior Year Actual)

For October 2015 year to date, project expenditures, **\$345.7 million**, has **increased by \$108.6M** as compared to the *corresponding prior year*. The year-over-year variance is attributable to increased spending in; construction activity **\$49.6M**, grant activity **\$25.8M**,

Members of the Authority
December 2, 2015
Page 2

project insurance **\$7.1M** (including the \$5M down payment for the 3 year OCIP renewal agreement, effective March 1, 2015), and property acquisitions **\$27.6M** (which includes the \$30M payment for the Paterson Catholic school).

Other

Since program inception, 73% of the funds authorized for the SDA Districts have been disbursed. Additionally, since program inception 96% of all SDA disbursements relate to school facilities projects and 4% relate to Operating expense.

The *estimated value* of active school facilities projects is approximately \$2.2B.

Attachment

**New Jersey Schools Development Authority
Monthly Financial Report
October 2015
(Unaudited)**

New Jersey Schools Development Authority

Overview of Financial Position

October 31, 2015

To: The Audit Committee

From: Sherman E. Cole, Controller

The information contained in this monthly financial report is for the period as of, and for the year-to-date ending, October 31, 2015.

► Overall **Cash and Cash Equivalents** have increased by \$143.6 million to \$704.5 million, as follows:

■ Receipt of bond and note proceeds (Issued by EDA)	\$ 500,000,000
■ Investment earnings	372,203
■ Miscellaneous revenue	686,454
■ Project costs	(345,738,703)
■ SDA operating expenses	(11,867,412)
■ SDA capital expenditures	(14,654)
■ Deposits (primarily district local shares)	201,527
Net Change in Cash	\$ 143,639,415

► **Prepaid Expenses** total \$283,577 as follows:

- Prepaid insurance of \$81,820.
- Prepaid rents of \$100,169 for the Authority's leased office space in Trenton and Newark.
- Prepaid MIS maintenance service contracts of \$65,630.
- Prepaid security deposits of \$10,938 for the Authority's leased swing space.
- Other prepaids of \$25,020.

► **Capital Assets** total \$323,041 (net of accumulated depreciation of \$6,530,309), consisting of leasehold improvements (SDA offices), and capitalized software, equipment, furniture and fixtures in support of SDA operations. Depreciation on capital assets is generally calculated using the straight-line method over the life of each asset. For the year to date, **Capital Expenditures** are \$14,654 and **Depreciation Expense** is \$77,657.

► **Accrued Liabilities** total \$64.6 million, as follows:

- Accrued project costs of \$30.8 million consisting of unpaid invoices (\$13.3 million); and retainage (\$17.5 million).
- Pollution remediation obligations (PRO) under GASB 49 net to \$10.2 million (PRO liability \$12.1 million, offset by expected cost recoveries of \$1.9 million).
- Estimated liability for loss contingencies totaling \$4.0 million (contractor claims \$4.0 million).
- Payroll related liabilities of \$1.8 million.
- Post-employment benefits obligation of \$17.7 million.
- Other accrued liabilities of \$0.1 million.

► **Deposits** total \$4.5 million, as follows:

- \$4.4 million is held for local share agreements (pass-through item).

► The Authority's **Net Position** at month end is \$636.1 million.

New Jersey Schools Development Authority School Facilities Project Expenditures & Funding Allocation October 31, 2015

► **School Facilities Construction Bond / Note Proceeds & Project Expenditures**

- During the current year to date, the SDA has received \$500 million bond and note proceeds. The total amount of proceeds received since program inception is \$10.105 billion.
- Project expenditures for the month and year-to-date periods total \$38.3 million and \$345.7 million, respectively, as follows:

<u>Category</u>	<u>Current Month</u>	<u>Current Year-To-Date</u>	<u>Since Program Inception</u>
Construction	\$ 18,805,515	\$ 180,465,767	\$ 4,199,804,446
Design Services	398,669	3,060,498	405,765,703
PMF/CM Services	569,935	3,883,992	438,146,648
SDA Project Management	1,097,363	11,838,781	40,113,383
Property Acquisition, Relocation & Enviro	230,457	33,951,757	571,812,504
School Furniture, Fixtures & Equipment	854,433	3,367,220	108,984,354
Project Insurance	45,753	7,462,019	104,532,481
NJ State Inter-Agency Transfers	3,160	294,490	46,308,341
SDA District Grant & Funding Agreements	3,128,935	15,801,321	823,170,977
Regular Operating District Grant Agreements	12,913,032	80,351,591	2,562,408,907
Real-Time Project Audits	1	184,675	184,675
Property Management, Maintenance & Utils	71,208	1,425,683	14,839,708
Outside Legal & Claims Resolution Services	49,621	1,056,343	6,608,315
Other Project Costs	121,270	2,594,566	57,581,395
Project Credits	-	-	(54,902,944)
Total Project Expenditures	38,289,352	345,738,703	9,325,358,893
Less: Local Share Contributions	-	-	(178,290,095)
Project Expenditures (State Share)	\$ 38,289,352	\$ 345,738,703	\$ 9,147,068,798
2015 Capital Spending Forecast	<u>\$30,082,632</u>	<u>\$342,044,967</u>	

Allocations Since Program Inception

► **Program Funding & Expenditures**

	<u>Bonding Caps</u> ¹	<u>Total Funding</u> ²	<u>Paid to Date</u> ³
■ SDA Districts	\$ 8,900,000,000	\$ 9,008,257,152	\$ 6,591,302,824
■ Regular Operating Districts	3,450,000,000	3,492,970,381	2,858,839,169
■ Vocational Schools	150,000,000	151,716,954	107,929,789
Total - State Share	\$ 12,500,000,000	\$ 12,652,944,487	\$ 9,558,071,782

► **Percentage of Total Funding Paid to Date**

■ SDA Districts	73.2%
■ Regular Operating Districts	81.8%
■ Vocational Schools	71.1%
Total - State Share	75.5%

1 Of the \$12.5 billion authorized for the school construction program, \$10,105,129,000 principal amount of bond and note proceeds have been received to date.

2 Includes bonding cap amounts and other income and miscellaneous revenue earned to date (i.e., interest income on invested funds and State appropriations).

3 These amounts include the allocation of SDA operating expenses and capital expenditures totaling \$411,002,984.

New Jersey Schools Development Authority Operating Expenses vs Budget October 31, 2015

<u>Category</u>	<u>Actual Year-To-Date</u>	<u>Budget Year-To-Date</u>	<u>Increase/ (Decrease)</u>
Employee Salaries	\$ 14,742,833	\$ 16,471,990	\$ (1,729,157)
Employee Benefits	8,193,598	8,905,267	(711,669)
Direct Hire Temporary Employee Costs	277,453	405,680	(128,227)
Total Employee Salaries & Benefits Costs	23,213,884	25,782,937	(2,569,053)
<u>Less: Employee Salaries & Benefits Costs</u> Charged to Projects	<u>11,838,781</u>	<u>12,567,450</u>	<u>(728,669)</u>
Operating Employee Salaries & Benefits Costs	11,375,103	13,215,487	(1,840,384)
Temporary Employees	-	108,330	(108,330)
Interagency Agreements	35,938	133,330	(97,392)
Contracted Professional Services	94,061	136,630	(42,569)
Employee Expense Reimbursements	17,283	31,680	(14,397)
Training & Professional Development	30,174	94,970	(64,796)
Parking	91,139	90,000	1,139
Automobiles	65,568	82,500	(16,932)
Communications & Outreach	-	420	(420)
Management Information Systems	695,564	1,144,390	(448,826)
General Office & Facilities	2,100,064	2,441,267	(341,203)
Other Expenses	70,600	20,000	50,600
Reserve for Unforeseen Events & New Initiatives	-	41,670	(41,670)
Total Non-Capital Operating Expenses	14,575,494	17,540,674	(2,965,180)
Capitalized Operating Expenses	14,654	330,830	(316,176)
Total Authority Operating Expenses	<u>\$ 14,590,148</u>	<u>\$ 17,871,504</u>	<u>\$ (3,281,356)</u>
Total Authority Operating Expenses Prior to Allocation of Salaries & Benefits Costs to Projects	<u>\$ 26,428,929</u>	<u>\$ 30,438,954</u>	<u>\$ (4,010,025)</u>

2015 Annual Operating Budget

\$ 20,948,1172015 Annual Operating Budget Prior to
Allocation of Salaries & Benefits Costs to Projects**\$ 36,029,058**

New Jersey Schools Development Authority

Operating Expenses vs Prior Year

October 31, 2015

<u>Category</u>	<u>Actual</u> <u>Year-To-Date</u>	<u>2014</u> <u>Year-To-Date</u>	<u>Increase/</u> <u>(Decrease)</u>
Employee Salaries	\$ 14,742,833	\$ 15,317,774	\$ (574,941)
Employee Benefits	8,193,598	8,028,544	165,054
Direct Hire Temporary Employee Costs	277,453	316,527	(39,074)
Total Employee Salaries & Benefits Costs	23,213,884	23,662,845	(448,961)
<u>Less: Employee Salaries & Benefits Costs</u> Charged to Projects	11,838,781	12,014,411	(175,630)
Operating Employee Salaries & Benefits Costs	11,375,103	11,648,434	(273,331)
Temporary Employees	-	46,989	(46,989)
Interagency Agreements	35,938	83,188	(47,250)
Contracted Professional Services	94,061	129,002	(34,941)
Employee Expense Reimbursements	17,283	16,222	1,061
Training & Professional Development	30,174	36,334	(6,160)
Parking	91,139	43,440	47,699
Automobiles	65,568	57,567	8,001
Communications & Outreach	-	360	(360)
Management Information Systems	695,564	673,075	22,489
General Office & Facilities	2,100,064	2,105,675	(5,611)
Other Expenses	70,600	13,232	57,368
Reserve for Unforeseen Events & New Initiatives	-	-	-
Total Non-Capital Operating Expenses	14,575,494	14,853,518	(278,024)
Capitalized Operating Expenses	14,654	95,331	(80,677)
Total Authority Operating Expenses	\$ 14,590,148	\$ 14,948,849	\$ (358,701)
Total Authority Operating Expenses Prior to Allocation of Salaries & Benefits Costs to Projects	\$ 26,428,929	\$ 26,963,260	\$ (534,331)

New Jersey Schools Development Authority

Employee Headcount

October 31, 2015

<u>SDA Department</u>	<u>Current Month End</u>	<u>Budget</u>	<u>Increase/ (Decrease)</u>
Office of Chief Executive Officer (CEO)	3	3	0
COS, Program Assessment & Development	9	8	1
COS, Special Projects	9	10	-1
Program Operations, Executive	5	6	-1
Program Operations, Capital Planning & Grants Admin.	23	26	-3
Program Operations, Safety	8	9	-1
Program Operations - Design Studio	15	14	1
Program Operations, Project Teams	54	66	-12
Corp Governance & Operations, Executive	3	3	0
Corporate Governance & Operations, Human Resources	8	8	0
Corporate Governance & Operations, Chief Counsel	14	14	0
Corporate Governance & Operations, Information Systems	14	15	-1
Corporate Governance & Operations, Facilities	5	6	-1
Corporate Governance & Operations, Communications	8	11	-3
Financial Operations, Executive	5	5	0
Financial Operations, Controller	12	12	0
Financial Operations, Contract Management	12	13	-1
Financial Operations, Real Estate Services	5	6	-1
Financial Operations, Procurement & Contract Services	9	10	-1
Financial Operations, Risk Management & Vendor Services	<u>11</u>	<u>12</u>	<u>-1</u>
Total Full-Time Employees	<u>232</u>	<u>257</u>	<u>-25</u>

New Jersey Schools Development Authority

Statement of Net Position

October 31, 2015

	<u>Current Month End</u>	<u>2014 Year End</u>	<u>Increase/ (Decrease)</u>
ASSETS			
Cash and Cash Equivalents	\$ 704,498,000	\$ 560,858,585	\$ 143,639,415
Receivables	211,525	318,630	(107,105)
Prepaid Expenses	283,577	809,737	(526,160)
Capital Assets (Net of Accumulated Depr.)	323,041	386,044	(63,003)
Total Assets	\$ 705,316,143	\$ 562,372,996	\$ 142,943,147
LIABILITIES			
Accrued Project Costs	\$ 45,004,827	\$ 73,327,553	\$ (28,322,726)
Accrued Other Post-Employment Benefits	17,842,078	16,015,367	1,826,711
Other Accrued Liabilities	1,908,660	1,614,240	294,420
Deposits	4,496,295	4,294,768	201,527
Total Liabilities	69,251,860	95,251,928	(26,000,068)
NET POSITION			
Invested in Capital Assets	323,041	386,044	(63,003)
Restricted Schools Construction:			
Build America Bond Program	-	-	-
Special Revenue Fund	635,741,242	466,735,024	169,006,218
Total Net Position	636,064,283	467,121,068	168,943,215
Total Liabilities and Net Position	\$ 705,316,143	\$ 562,372,996	\$ 142,943,147

New Jersey Schools Development Authority Statement of Activities October 31, 2015

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	<u>Current Year-To Date</u>	<u>2014 Year-To Date</u>	<u>Increase/ (Decrease)</u>
REVENUES			
Program Revenues:			
Bond and Note Proceeds (Issued by EDA)	\$ 500,000,000	\$ 585,000,000	\$ (85,000,000)
Bidding Fees-Plans & Specs	-	-	-
General Revenues:			
Investment Earnings	372,203	107,721	264,482
Rental Income	686,247	104,922	581,325
Other Revenue-OPRA	207	142	65
Total Revenues	<u>501,058,657</u>	<u>585,212,785</u>	<u>(84,154,128)</u>
EXPENSES			
Administrative & General Expenses	14,575,494	14,853,518	(278,024)
Capital Depreciation	77,657	85,461	(7,804)
School Facilities Project Costs	317,462,291	206,635,238	110,827,053
Total Expenses	<u>332,115,442</u>	<u>221,574,217</u>	<u>110,541,225</u>
CHANGE IN NET POSITION	168,943,215	363,638,568	(194,695,353)
Net Position Beginning of Period	<u>467,121,068</u>	<u>181,248,758</u>	<u>285,872,310</u>
NET POSITION END OF PERIOD	<u>\$ 636,064,283</u>	<u>\$ 544,887,326</u>	<u>\$ 91,176,957</u>

DESIGN CONTRACT DE-OBLIGATIONS REPORT *(no activity)*

PUBLIC COMMENT STATEMENT

We will now begin the Public Comment Portion of the Meeting consistent with the New Jersey Open Public Meetings Act.

We would ask that any member of the public who wishes to address the Board limit their comments to 3 minutes. If there are multiple individuals from the same organization or district who wish to address the Board on the same matter, we would ask that you come up together to offer your remarks.

Please keep in mind that public comment is to afford citizens the opportunity to comment on matters pertinent to the Authority's business. Should you seek answers to questions on any topic, please contact the Authority at 609-943-4585 at your convenience.