



Memorandum

TO: Members of the Board of Trustees of the University of Arkansas
FROM: UA System Administration
RE: Memorandum on Construction Policy Changes
DATE: April 15, 2024

The following is a summary of the proposed changes to Board of Trustees Policies 730.1 *Procedure for Capital Projects*, 730.2 *Approval of Major Capital Projects*, 730.2 *Procedure for Guaranteed Energy Cost Savings Projects*, and 740.1 *Selection of Architects and Engineers for Major Capital Projects*. Drafts of the proposed policy amendments are enclosed.

The most substantive change to the construction policies is reflected in section IV. of Board Policy 730.2 regarding Board approval of major capital projects. The draft adds language ensuring the Buildings and Grounds Committee recommends approval and the full Board approves “the project as proposed” along with recommending and approving design professionals and construction manager and/or general contractor. This change is also referenced in section II.D. of Board Policy 730.1. These changes ensure that Board Policy aligns with the practice of the Board approving major capital projects when presented to the Board and allows for projects to be brought back to the Board for further review and approval if there is a substantive change in scope and/or cost, as has occurred at recent Board meetings.

In addition, the policies enclosed include clean-up changes allowing advertising for proposals in newspapers distributed electronically and other non-substantive clean-up language for consistency across policies.

PROCEDURE FOR CAPITAL PROJECTSI. Purpose

For purposes of Board of Trustees approval, a Capital Project is defined as: 1) construction, capital improvement, renovation or major repair to real property or structures owned by or leased to the Board where the work requires the services of an architect or engineer approved by the Board of Trustees in accordance with Board Policy 740.1¹ and the work is to be performed by or on behalf of the campus, division or unit; 2) work that requires major substantive changes to the exterior facade of a building; or 3) any new construction, capital improvement, renovation, or major repair to real property or structures not covered in subparagraph 1 that the ~~Chancellor, Vice President for Agriculture or~~ campus, division, or unit chief executive officer, in consultation with the President, determine should be brought to the Board of Trustees for approval.

For Capital Projects with an estimated cost, exclusive of land, ~~in excess of more than~~ \$5,000,000, a campus, division or unit (campus) may, with the President's approval, follow the process for Major Capital Projects described in Board Policy 730.2 in lieu of the process described in this policy.

Projects conducted under the authority of the Arkansas Guaranteed Cost Savings Act will be reviewed by the Board of Trustees through the process described in Board Policy 730.3.

II. Approval Process

To obtain approval of a Capital Project (other than a project subject to Policy 730.2) the campus shall complete the following steps. The President may, with the consent of the chair of the Board's buildings and grounds committee, authorize the campus to combine or modify any of these steps where appropriate to the project.

- A. Campus officials submit the completed Capital Project Proposal to the President for review and recommendations. The project proposal will be in form and substance prescribed by the President, will describe the project function and location, the estimated project cost, the proposed source of funds, a parking plan to support a new or expanded facility, and will contain such other information as may be required by the President.

¹ Projects designed, supervised or managed by architects or engineers selected pursuant to Board Policy 740.2 (Selection of Architects or Engineers for Small Projects and On-call Contracts) are not subject to this policy.

- B. If the Capital Project ~~P~~proposal is approved by the President, copies of the proposal and approval are submitted to the Board and to the Chancellor, Vice President for Agriculture or chief executive of the requesting campus.
- C. Following the President's approval of the project proposal, the campus follows the selection process for architects and engineers established in Board Policy 740.1.
- D. The Capital Pproject ~~p~~Proposal and the campus recommendations for project architects and engineers are submitted to the Board for selection of architects and engineers, following the process described in Board Policy 740.1, and for approval of the project as described in the Capital Project Proposal. Where borrowing is required to fund any part of the project, the Board will also consider approval of funding sources.
- E. A second Board meeting may be required for approval of any financing required for the project.
- F. The President is authorized to prescribe procedures consistent with Board Policy for review and approval of Capital Projects and Major Capital Projects.

III. Minimum Standards

Construction standards shall include the latest edition of the Arkansas Fire Prevention Code and, for healthcare facilities, the Arkansas Department of Health Rules and Regulations for Healthcare Facilities. The President is authorized to impose additional minimum construction standards.

November 20, 2020 (Revised)
April 26, 2001 (Revised)
October 2, 1992 (Revised)
March 30, 1979

APPROVAL OF MAJOR CAPITAL PROJECTS

I. Purpose

In lieu of other policies and procedures of the Board of Trustees with respect to Capital Projects, the procedures set forth herein may at the request of a campus, unit or division (campus), and with approval of the President, be used for Major Capital Projects. As used herein, a Major Capital Project is one in which the total anticipated project cost exceeds \$5,000,000, excluding the cost of land. This policy and the procedures herein are intended to comply with Act 1626 of 2001, as amended.¹

II. Project Proposal

A project proposal for a Major Capital Project, in form and substance prescribed by the President, will be submitted to the UA System Office. The proposal may request authority to begin the process to select design professionals (including an architect and/or engineer) and a general contractor and/or construction manager for the project. The President may either authorize commencement of the selection process or may direct the campus to conduct or commission a planning or feasibility study or provide additional information before submitting its proposal to the Board of Trustees.

III. Project Solicitations and Recommendations

Following approval to begin the selection process for design professionals and a general contractor and/or construction manager, the ~~Chancellor, Vice President for Agriculture or chief executive officer of the campus~~campus, division, or unit chief executive officer on which the project is to be constructed shall appoint a committee or committees to recommend selection of design professionals and of a general contractor and/or construction manager for the project. The committee shall consist of at least three members, one of whom shall be the UA System Chief Financial Officer or his or her designee.

A. Advertisement for Proposals

At a minimum, the appropriate campus official shall publish notice of intention to receive written proposals for three consecutive days in a newspaper of statewide distribution (which may be a newspaper distributed to subscribers only in electronic media) and in such electronic media as the committee deems appropriate, and shall allow a minimum of 10 working days for design professionals, general contractors and/or construction managers to submit

¹ Ark. Code Ann. § 19-4-1415.

proposals or qualifications. The campus shall also provide direct notice to design professionals, contractors and/or construction managers which the selection committee determines, through such means as it deems appropriate, have the demonstrated qualifications to assure the design and completion of the project in an expeditious manner while adhering to high standards of design and construction quality. The selection committee may also require additional means of notification including, but not limited to, posting on campus websites and placement of notice in trade publications directed to licensed design professionals and contractors.

B. Selection of Contractors

Following the date established in the notice for interested design professionals, contractors and/or construction managers to submit proposals and other information with respect to their qualifications and interest in the project, the committee shall review the submissions and shall select a minimum of three and a maximum of five qualified applicants for interviews. A campus may, but is not required to, conduct a second set of interviews. Following the interviews, the committee shall select not more than three qualified applicants for design services and not more than three qualified applicants for general contractor and/or construction management services for recommendation to the Board.

All project architects and engineers shall be properly licensed in accordance with the rules of the Arkansas State Board of Architects and the Arkansas State Board of Engineers. The construction manager or general contractor shall be properly licensed by the Arkansas Contractors Licensing Board. All subcontractors shall be properly licensed by the Arkansas Contractors Licensing Board.

C. Recommendations

In recommending selection of a general contractor, construction manager, architect or engineer, the committee shall consider its established criteria which shall include, but are not limited to, the following:

1. The experience of the professional or professionals in similar projects;
2. The record of the professional or professionals in timely completion of projects with high quality workmanship; and
3. Other similar matters to determine that the professional or professionals will complete the project within the time, budget and to the specifications set.

The committee will present its list of finalists and recommendations for selection of design professionals and general contractor and/or construction manager through the ~~Chancellor, Vice President for Agriculture or~~ chief executive officer to the President. After the review, the President shall submit the campus committee's recommendation and the Capital Project Proposal to the Buildings and Grounds Committee of the Board of Trustees.

IV. Board of Trustees Approval

The Buildings and Grounds Committee of the Board of Trustees shall review the campus committee's recommendations and the Capital Project Proposal, and, unless the Board of Trustees has delegated such decision to the Buildings and Grounds Committee, shall ~~submit to the Board its recommendation of~~ the design professional or professionals and construction manager and/or general contractor which it determines to be in the best interest of the University, and shall make a recommendation regarding approval of the proposed project. – The Board of Trustees, or the Buildings and Grounds Committee if authority has been delegated to it, shall make the final decision to approve the project as proposed and to authorize contracts to be negotiated and awarded to the design professionals and the contractor and/or construction manager selected. There shall be separate contracts for design and construction services.

A campus official designated by the campus, division, or unit Chancellor, Vice President for Agriculture or chief executive officer shall be authorized to negotiate the terms of the contract or contracts for professional services, which shall be signed by an officer authorized pursuant to Board Policy 300.1.

November 20, 2020 (Revised)
April 26, 2001

PROCEDURE FOR GUARANTEED ENERGY COST SAVINGS ACT PROJECTS

I. Purpose

This policy describes the process by which a campus, division or unit (campus) may procure an energy cost savings contract (ECSC) under the Arkansas Guaranteed Energy Cost Savings Act.¹

II. ECSC Procurement

An ECSC issued under authority of the Arkansas Guaranteed Energy Cost Savings Act must be procured through vendors pre-qualified by the Arkansas Division of Environmental Quality – Office of Energy (AEO). Before initiating a project under the Act a campus must obtain written approval from the President or Chief Financial Officer.

Each ECSC shall be initiated by a request for proposals to be distributed by AEO to each pre-qualified energy services company (ESCO). The ~~Chancellor, Vice President for Agriculture campus, division,~~ or unit chief executive officer shall appoint a committee of at least three officers or employees of the campus to review the proposals and recommend selection of an ESCO. The selection committee shall interview at least three applicants and shall evaluate each proposal based upon the best interest of the University. The committee shall provide its recommendations to the ~~Chancellor, Vice President for Agriculture campus, division,~~ or unit chief executive officer, who may award a contract for the performance of an investment grade audit to the ESCO determined to be in the best interest of the University.

III. Project Approval

If, after receipt of the investment grade audit, the campus elects to enter into an ECSC, the campus shall submit to the President a project proposal including a description of the project, the terms proposed by the ESCO, the estimated cost of the project, the source of funds required to pay for the project, the projected cost of funds required to pay for the project, the dollar amount of energy savings to be guaranteed by the ESCO, and any other information requested by the UA System Office.

Following the President's approval of the proposed project the campus, with assistance from the General Counsel's Office, will negotiate a draft ECSC and submit the project, including the proposed contract terms and a request for financing (if financing is required) to the Board, which shall authorize such action as it finds to be in the best interests of the University.

¹ Ark. Code Ann. § 19-11-1201, et seq.

PROCEDURE FOR SELECTION OF ARCHITECTS OR ENGINEERS FOR CAPITAL PROJECTS

I. Purpose

Except in the case of Major Capital Projects approved under Board Policy 730.2 and engagements that qualify as small projects under Board Policy 740.2, all architects and engineers shall be selected by the Board of Trustees following the procedure established in this policy.

II. Project Solicitations and Recommendations

A. Selection Committee

After approval to begin the selection process for design professionals, the ~~Chancellor, Vice President for Agriculture or the~~ campus, ~~unit or division, or~~ unit chief executive officer shall appoint a committee to recommend selection of architects and engineers. The committee shall consist of at least three members, one of whom shall be the campus chief financial officer or his or her designee.

B. Advertisement for Proposals

The selection committee shall place an advertisement in a newspaper of general circulation (which may be a newspaper distributed to subscribers only in electronic media) for three consecutive days stating the scope of the required services, the project location, selection criteria in order of importance, any necessary forms to submit, closing date for responses and the address of the office which is to receive submissions, and shall also utilize such electronic and other means and methods of communications as the committee deems appropriate to furnish notice to licensed architects and engineers. At a minimum the selection committee shall allow ten working days from the date of first publication for design professionals to respond to the advertisement.

C. Selection

Except as provided in Board Policy 730.2 with respect to Major Capital Projects, the selection committee shall interview a minimum of three and a maximum of five qualified applicants. A campus may, but is not required to, conduct a second set of interviews. Following the interviews, the selection committee shall compile a list of a maximum of three qualified applicants

recommended for the project and shall submit the list through ~~the Chancellor, Vice President for Agriculture or the campus, division, or unit~~ chief executive officer to the President. After review, the President shall submit to the Buildings and Grounds Committee of the Board of Trustees the committee's recommendation of the design professional or professionals which it determined to be in the best interests of the University.

III. Submission to the Board of Trustees

The Buildings and Grounds Committee of the Board of Trustees shall review the recommendation and, unless the Board of Trustees has delegated such decision to the Buildings and Grounds Committee, shall submit to the Board its recommendation of the design professional or professionals which it determines to be in the best interests of the University.

The Board of Trustees, or the Buildings and Grounds Committee if authority has been delegated to it, shall make the final decision and authorize contracts to be negotiated and awarded to the design professional or professionals.

IV. Contract Negotiation

A campus official designated by the campus, ~~division, or unit~~ ~~Chancellor, Vice President for Agriculture or~~ chief executive officer shall be authorized to negotiate the terms of the contract or contracts for professional services, which shall be signed by an officer authorized pursuant to Board Policy 300.1.

November 20, 2020 (Revised)
 October 2, 2001 (Revised)
 May 20, 1994 (Revised)
 October 2, 1992 (Revised)
 June 13, 1986 (Revised)
 January 16, 1986 (Revised)
 June 18, 1982 (Revised)
 November 9, 1979 (Revised)
 November 3, 1978