

Policy on Design, Construction, and Financing of Capital Improvement Projects

I. Authority. G.S. 143C-8-12 provides the Board of Governors with authority to approve certain expenditures for capital improvement projects that will be funded and operated entirely from non-General Fund or non-State Capital and Infrastructure Fund money, including expenditures to plan, construct, and change the scope of such projects.

Additionally, G.S. 116-31.11 delegates to the Board of Governors the authority for the administration of design and construction contracts with regard to the construction, or renovation of buildings, utilities, and other property developments requiring the estimated expenditure of public money of \$4,000,000 or less. This authority includes the negotiation of fees for all design contracts and the supervision and letting of construction and design contracts, the establishment of procedures in performance of those responsibilities, and specific reporting requirements to the State Building Commission. The Board is also authorized to delegate its authority to constituent institutions and affiliates of the University of North Carolina if a constituent institution or affiliate is qualified under guidelines developed in consultation with the director of the budget and the State Building Commission.

Pursuant to and consistent with its authority under the North Carolina General Statutes, including G.S. 116-11(13), the Board of Governors adopts the following policy regarding authority of the president and boards of trustees of the constituent institution to approve and administer certain capital improvement projects.

II. Approval and Administration of Certain Capital Improvement Projects

A. General Delegations of Authority to the President and Boards of Trustees for Approval of Certain Capital Improvement Projects Pursuant to G.S. 143C-8-12.

1. The Board of Governors delegates to the president and the boards of trustees the power to approve capital improvement projects that are funded entirely with non-General Fund or non-State Capital and Infrastructure Fund money with a total project budget of less than \$750,000.¹ The president's authority may be exercised on behalf of the UNC System Office, affiliates, or the constituent institutions in the president's discretion. Capital improvement projects that are funded entirely with non-General Fund or non-State Capital and Infrastructure Fund money with a total project budget of \$750,000 or more must be approved by the Board of Governors.

2. The Board of Governors delegates to the president and the boards of trustees authority to approve advance planning of capital improvement projects, where the advance planning effort is to be funded entirely with non-General Fund or non-State Capital and Infrastructure Fund money.²

3. The Board of Governors delegates to the president the authority to approve an increase of up to 10 percent of the cumulative value of an originally-awarded construction contract for a System Office, affiliate, or constituent institution capital improvement project previously authorized by the Board of Governors.

4. After the long-term financing of a capital improvement project has been approved in accordance with statutory requirements, the president may approve interim financing or bank loans as a means of short-term financing. The president shall report any such actions to the Committee on Budget and Finance at its next meeting.

B. General Delegation of Authority to the President and Boards of Trustees for the Administration of Design and Construction of Certain Capital Improvement Projects Using Public Money.

1. In accordance with The UNC Policy Manual, Appendix 1, Para. VI, the Board of Governors delegates to the boards of trustees, subject to policies of the Board of Governors and all legal requirements relative to the construction of state-owned buildings, the responsibility for the following matters concerning campus capital construction projects which have been approved by the Board of Governors and authorized by the State of North Carolina: (1) the selection of architects or engineers for buildings and improvements requiring such professional services; (2) the approval of building sites; (3) the approval of plans and specifications; and (4) the final acceptance of completed buildings and projects. Consistent with UNC Policy 200.1, the president has authority to execute design and construction contracts for capital improvement projects; this authority may be delegated.

2. The Board of Governors delegates to the president the authority for the administration of design and construction contracts for capital improvement projects, which have been approved by the Board of Governors and authorized by the State of North Carolina, requiring the estimated expenditure of public money of \$4,000,000 or less. The president's authority may be exercised on behalf of the UNC System Office, affiliates, or the constituent institutions in the president's discretion, subject to G.S. § 116-31.11.

3. The Board of Governors delegates to the board of trustees the authority for the administration of constituent institution design and construction contracts of capital improvement projects, which have been approved by the Board of Governors and authorized by the State of North Carolina, requiring the estimated expenditure of public money less than \$750,000.

C. Additional Delegations of Authority to the Boards of Trustees for Administration of Capital Improvement Projects.

1.. Upon request by the board of trustees of a constituent institution and with the recommendation of the president, the Board of Governors may delegate to the board of trustees of a constituent institution additional authority to administer capital

improvement projects funded with public money that are projected to cost less than \$2,000,000.³

2. The senior vice president for finance and administration, in consultation with the senior vice president and general counsel, shall establish the process by which a constituent institution may request and maintain delegated authority consistent with G.S. 116.31.11 and other relevant state law. The minimum criteria a constituent institution must meet to receive and maintain authorization from the Board of Governors shall include, but not be limited to, the following:

a. The constituent institution demonstrates it has the administrative, technical, and support resources necessary to properly administer capital projects in compliance with the General Statutes of North Carolina, State Construction Office requirements, and UNC System Office standards.

b. The chancellor has certified in writing that the constituent institution will maintain the administrative, technical, and support resources necessary to properly administer capital projects in compliance with the General Statutes of North Carolina, State Construction Office requirements, and UNC System Office standards.

c. The constituent institution has an architect or engineer licensed in the State of North Carolina in a minimum of two key management positions. At a minimum, the associate vice chancellor over design and construction of capital projects or equivalent shall be a registered architect or licensed engineer in the State of North Carolina with substantial experience in managing capital improvement projects. The requirements for professional licensure or registration may be waived if the key personnel have comparable certifications, education, training, and work experience.

d. The constituent institution has appropriate and sufficient technical and professional staff with demonstrated capability in the planning, financing, and oversight of capital improvement projects.

e. An assessment team, assembled and led by the senior vice president for finance, has reviewed the constituent institution's self-assessment, has performed an on-site capabilities appraisal that confirms the institution's self-assessment, and has recommended delegation to the president.

Constituent institutions will be reviewed for re-authorization under this section on a periodic basis, to be established by the senior vice president for finance and administration, but not less than every three years.

3. The president or the Board of Governors may revoke or suspend the additional delegated authority of a constituent institution for any reason in its sole discretion. Once authority has been revoked or suspended all future capital improvement projects for the institution involved shall be completed in accordance with the General Statutes of North Carolina and the general delegations of authority provided for in section II.B of this policy. In addition to the foregoing, the additional delegated authority for the administration of

capital improvement projects shall be immediately suspended if the position for the associate vice chancellor over design and construction (or equivalent position) becomes vacant. Newly established capital projects shall be administered under the general delegated authority while the position is vacant. The additional delegated authority will be reinstated when the position is filled consistent with II.C.2.c of this Policy.

III. Construction Delivery Method Reporting Requirement. In accordance with G.S. 143-133.1, constituent institutions that contract with a construction manager at risk, designer-builder, or private developer under a public-private partnership shall report to the System Office (in a manner prescribed by the president or the president's designee) the following information within 60 days of award for contracts utilizing such alternative delivery methods:

- A. A detailed explanation of the reason why the particular construction manager at risk, design-builder, or private developer was selected;
- B. The terms of the contract with the construction manager at risk, design-builder, or private developer;
- C. A list of all other firms considered but not selected as the construction manager at risk, design-builder, or private developer;
- D. A report on the form of bidding utilized by the construction manager at risk, design-builder, or private developer on the project; and
- E. A detailed explanation of why the particular delivery method was used in lieu of the delivery methods identified in G.S. 143-128(a1) subdivisions (1) through (3) and the anticipated benefits to the public entity from using the particular delivery method.

The information shall be collectively reported annually to the Board for all projects awarded during the fiscal year and submitted with the annual report of the Committee on Budget and Finance.

IV. Procedures and Reporting Requirements. The senior vice president for finance and administration shall have general authority to establish such procedures and reporting requirements for constituent institutions and affiliated entities as may be prudent to enable implementation of this policy and associated regulations.

V. Other Matters

- A. Effective Date. The requirements of this policy shall be effective on the date of adoption by the Board of Governors.
- B. Relation to Other Laws. This policy is designed to supplement and does not purport in any way to supplant or modify, those statutory enactments and rights which may govern capital improvement projects in the State of North Carolina.
- C. Regulations and Guidelines. This policy shall be implemented and applied in accordance with such regulations and guidelines as may be adopted by the president.

¹This delegation of authority shall be interpreted consistent with G.S. 143C-8-12. See also Appendix 1 to *The Code* and Section 200.6 of the UNC Policy Manual.

²Unless otherwise indicated by the Board of Governors, this delegation of authority to boards of trustees to approve advance planning efforts shall not be further delegated.

³See endnote 1, above.