

BOARD OF REGENTS, STATE OF IOWA

TELEPHONIC BOARD MEETING

JULY 2, 2008

1:00 p.m.

**Host site: Board of Regents Office, 11260 Aurora Avenue,
Urbandale, Iowa**

AGENDA

1. Call to Order – President Miles
2. Attendance and Establishment of Quorum
3. Board Convenes in Open Session
4. Agenda Item 1 – Flood Recovery Authorizations
5. Agenda Item 2 – Special Legislative Session Agenda
6. Other Business, if any
7. Adjournment

Contact: Thomas Evans

FLOOD RECOVERY AUTHORIZATIONS

Action Requested: Consider approving the capital project process temporary changes requested by the University of Iowa.

Executive Summary: The University of Iowa has requested temporary emergency-based authorizations and waivers to several capital project processes to allow it to deliver critically needed flood recovery projects in an expedited time frame.

Background: On Sunday, May 25, 2008 and continuing, severe storm systems moved across portions of Iowa, resulting in widespread flooding and destruction in Iowa. The University of Iowa, in particular, was hard hit with massive and catastrophic flooding that surpassed the 500 year flood plain. As a result of the flood waters, 20 major campus buildings have been damaged and closed and many will require comprehensive structural analysis and major renovation. Additionally, many of the campus utilities, including the campus tunnel system which delivers steam, chilled water, power and information technology services, were flooded and many will require comprehensive structural analysis and major renovation.

In response to the flood emergency, on July 1, 2008, Governor Culver suspended the regulatory provisions of Iowa Code section 262.34(1) which requires the Board of Regents, when the estimated cost of construction, repairs, or improvement of buildings or grounds exceeds \$100,000, to advertise for bids for the contemplated improvement or construction and requires the Board to award the work to the lowest responsible bidder.

Additionally, Governor Culver suspended the regulatory provisions of Iowa Code sections 262.34A(1) and 68B.3 which respectively requires the Board of Regents to request bids and proposals for materials, products, supplies, provisions and other needed articles to be purchased at public expense, from Iowa State Industries as defined in section 904.802, subsection 2, when the articles are available in the requested quantity and at comparable prices and quantities and prohibits an official or state employee from selling, in any one occurrence, any goods or services having a value in excess of two thousand dollars to any state agency unless the sale is made pursuant to an award or contract let after public notice and competitive bidding.

Board Policy Manual section 9.03(B)(2)(h) confers authority upon the Executive Director of the Board of Regents to act on behalf of the Board on capital procedure actions subject to ratification of actions taken by the Board when failure to take immediate action would have an adverse impact on institutional programs, cause an unnecessary delay in the project, result in increased cost, or when it is otherwise in the public interest. The Executive Director is required to inform the Board of such actions at the next Board meeting

The University of Iowa has requested approval of a general plan for recovering buildings damaged by the flood as outlined in Attachment A entitled *The University of Iowa 2008 Flood-Building Recovery Plan*. Concomitantly, the University seeks immediate temporary emergency-based authorizations and waivers to several capital project

processes to allow it to deliver critically needed flood recovery projects in an expedited time frame. More specifically the University is seeking temporary waivers of specific provisions of the Board of Regents Policy Manual as follows:

- Section 9.03C: Capital Project Evaluation Criteria — request waiver of the requirements in this section for recovery of affected buildings to pre-existing conditions
- Section 9.05: Permission to Proceed with Planning — request waiver of the requirements in this section for recovery of affected buildings to pre-existing conditions.
- Section 9.06: Program Statements and Design Documents — request waiver of the requirements in this section for recovery of affected buildings to pre-existing conditions.
- Section 9.07A, B, C, D, E, F, H: Program Descriptions and Budgets — request waiver of the requirements in this section for recovery of affected buildings to pre-existing conditions and substitute a final budget reporting process following the completion of restoration projects. A budget projection would be provided to the Board Office in the course of seeking contractor pricing, or following determination of contractor pricing for restoration work.
- Section 9.08: Consultant Agreements and Amendments — request waiver of the requirements in this section and authorize the institution to approve agreements and amendments for recovery of affected buildings to pre-existing conditions.
- Section 9.09: Construction Contracts and Change Orders — request waiver of the requirements in this section for recovery of affected buildings to pre-existing conditions. Authorize the institution to award individual construction contracts and change orders up to \$10,000,000 if in accord with *The University of Iowa 2008 Flood-Buildings Recovery Plan* Dated June 30, 2008 and using Regents contracting conditions. Contracts would be shared with the Board Office immediately.
- Section 9.10A, B, C, F: Architect, Engineer and Construction Management Services Selection — request waiver of the requirements in this section for recovery of affected buildings to pre-existing conditions. Authorize the institution to enter into individual agreements up to \$1,000,000 with agreements shared with the Board Office immediately.
- Section 9.12A: Preparation of Plans and Specifications — request waiver of the requirements in this section for recovery of affected buildings to pre-existing conditions.
- Section 9.12B and D: Preparation of Plans and Specifications — request waiver of the requirements in this section for recovery of affected buildings to pre-existing conditions.

- Section 9.13A, B, C: Bidding for Construction Contracts — request waiver of the requirements in this section for recovery of affected buildings to pre-existing conditions and authorize the institution to employ a prequalification-based solicitation per *The University of Iowa 2008 Flood-Buildings Recovery Plan* dated June 30, 2008. The criteria for prequalifying contractors are outlined in Attachment B.
- Section 9.14: Process for Bid Openings, Receipt of Construction Bids and Award of Construction Contracts — request waiver of the requirements of this section for recovery of affected buildings to pre-existing conditions and authorize the institution to employ a prequalification-based solicitation per *The University of Iowa 2008 Flood-Buildings Recovery Plan* dated June 30, 2008. The criteria for prequalifying contractors are outlined in Attachment B.
- Section 9.15A: Construction — request waiver of the requirements in this section for recovery of affected buildings to pre-existing conditions. Authorize the institution to award individual construction contracts and change orders up to \$10,000,000 per *The University of Iowa 2008 Flood-Buildings Recovery Plan* dated June 30, 2008, and using Regents contracting conditions. Contracts would be shared with the Board Office immediately.

The University also seeks permission to solicit bids via job order contracting process through a request for proposal (RFP). Job order contracting is a unique indefinite quantity type of contract that enables facility owners to accomplish a large number of repair, maintenance and construction projects with a single competitively bid contract. The University is seeking specific approval to award a contract with an annual volume not-to-exceed \$5 million and renewable for up to four additional years.

In addition to the specific proposals above, the University is placing the recovery of its Main Power Plant, its many utility component systems, and utility service to the entire UI campus as a top priority. A plan is being developed to accomplish recovery of the Power Plant by the earliest possible date. Power Plant systems will be worked on concurrently, and the University intends to work closely with the Board Office in expediting critical Power Plant component work as it is identified and executed.

The University through Facilities Management staff and the Senior Vice President - Treasurer for Finance and Operations will maintain the highest level of direct communication with the Board Office throughout this challenging effort.

Recommendations

The Board Office recommends that the University's general plan for recovering buildings damaged by the flood and its request to temporarily waive the identified provisions of Chapter 9 of the Regents Policy Manual be approved subject to the following requirements:

- The extraordinary powers being granted to the University of Iowa through this waiver shall only apply to capital projects related to flood recovery.
- The RFP for job order contracting shall be limited to capital projects related to flood recovery.

- Competitive bidding shall be used to the greatest extent possible.
- The University shall immediately communicate contracts associated with flood recovery with the Board Office.
- Extraordinary due diligence shall be exercised by the University in its review of contracts.
- The University will provide weekly updates to the Executive Director regarding flood recovery efforts and will provide detailed updates to the Board at its regularly scheduled meetings until further notice.
- The University shall provide as soon as possible a detailed plan to the Board Office related to the repair and reconstruction of its utility system.

Attachment A

The University of Iowa 2008 Flood - Buildings Recovery Plan June 30, 2008

More than twenty buildings and other physical assets at The University of Iowa were affected in varying degrees by the June 2008 flood. The loss of the Main Power Plant and concerns with damage to the utilities distribution system represents a major challenge to the continued operations of the University, now and into next winter. While a separate plan is being developed to restore the utilities infrastructure, the recovery of buildings temporarily lost due to flood damage can be significantly accelerated by use of the following project delivery processes.

These proposed project delivery methods will require UI Administrative endorsement and Board of Regents authorization. Additionally, careful review of each proposed delivery method will ensure that anticipated FEMA funding requirements are addressed:

1. Approval to employ a Job Order Contracting project delivery method
2. Permission to prequalify bidders on a limited number of projects
3. Authorization to issue major change orders for specific projects

These authorized processes, as well as processes already in place, would be utilized in the following ways.

Small project contractor selection: Some of the impacted facilities sustained limited damage and can be restored to pre-flood conditions through an informal contractor selection process. Though not required by the Board of Regents, the UI currently institutes an informal public bid process for projects between \$25,000 and \$100,000. Therefore it is within the UI's authorization to waive the informal bid process and directly award contracts to specific firms. By selectively waiving this process, separate contractors for mechanical, electrical and general construction can be contracted for work packages of less than \$100,000. The informal process or the direct award process may be applied to projects anticipated to cost less than \$100,000:

- Hawkeye Court Apartments
- Danforth Chapel
- Hydraulic Annex
- Main Library
- North Hall
- Old Laundry Building
- Softball Stadium
- Lagoon Shelter House
- Madison Street Services Building
- Various parking booths and storage buildings

Plans & specifications can be minimized for this work and replaced by basic scope statements and contractor walkthroughs.

Bid/Build: This method is intended for a “replace-in-kind” scope of work. Archival drawings would be provided to supplement walkthroughs of affected buildings. Prequalified contractors would provide bids to the University following an abbreviated bidding period. Construction would be fast-tracked, possibly requiring double-shift coverage. Any scope of work that would vary from the pre-flood condition of the facility would be accomplished separately, through the use of Job Order Contracting or other methods.

The prequalification of contractors would remain objective in nature and be based primarily on previous experience in securing competitively bid contracts with the University of Iowa.

This approach would be applied to individual or combined groups of buildings that might include:

- Art Building West
- Iowa Advanced Technology Laboratories
- Adler Journalism Building
- Becker Communications Studies Building
- Hancher Auditorium
- Voxman Music Building/Clapp Recital Hall
- Theater Building
- Stanley Hydraulics Building
- Mayflower Residence Hall
- IMU and Hancher Footbridges

Change Orders: Several of the flood-damaged buildings would be fast-tracked toward recovery through the use of construction contract change orders. Three of the flooded facilities are currently under construction and/or still have open contracts. The firms either building or renovating these facilities are local and very familiar with the recent construction. Issuing change orders to these firms will save, at a minimum, two months on the front end of the schedule and additional time during the construction phase, due to familiarity with the work recently put into place. Construction would be fast-tracked, possibly requiring double-shift coverage. Any scope of work that varies from the pre-flood condition of the facility would be accomplished separately through the use of Job Order Contracting or other methods.

The University would propose that the following buildings would be restored using this method:

- Iowa Memorial Union Non-Mechanical Space (Recently completed by Knutson)
- Art Building (Currently being renovated by McComas Lacina)
- Cretzmeyer Track Facilities (Currently being renovated by McComas Lacina)

Traditional Method: Two facilities will require additional study and may not be rebuilt to pre-flood conditions. As such, the University proposes these be taken off-line and designed and constructed following normal Board of Regents procedures. Appropriate planning and use of these facilities will take into account their location within the flood plain.

- Museum of Art
- English Philosophy Building (subject to further considerations this week)

Ongoing UI Construction Needs: The flood reconstruction effort will have a significant impact on normal design and construction needs. In addition to critical time saving delivery methods like Job Order Contracting, the University will work closely with the Board of Regents to consider and enact other process refinements that will help to expedite recovery; including:

1. Altering the formal requirements for (a) Permission to Proceed with Planning, (b) Approval of Schematic Design and (c) Approval of the Project Budget.
2. Waiving the restrictions governing bid opening times
3. Waiving the requirement to list liquidated damages as alternates

Additional design and construction management capability will also be necessary to oversee the approaching spike in construction activities.

Finally, the extent of damages to the buildings identified in this plan has not been fully determined. The plan outlined above is tentative and based on perceived damages. The recovery plan will be finalized when the scope of reconstruction is better defined. The Board Office will be notified of all material changes to the plan.

Attachment B

Contractor Prequalification Criteria

The University proposes approval to work with a prequalified group of contractors. The list of prequalified contractors was established from a database of general and specialty contractors holding open contracts with the University of Iowa during the data sort period beginning July 1, 2005. By holding a contract directly with the University, the contractors are familiar with the contract administration requirements and procedures required by the UI. These contractors are assumed to be in a position to quickly respond to the bidding, award and performance needs required in response to the flood recovery.

Four pools of prequalified contractors are proposed:

- General Contracting
- Electrical
- Mechanical (HVAC and Plumbing)
- Utilities

General Contracting – six firms have met the requirement of holding at least one UI contract, during the specified period, valued at \$10 million or more. This level of contracting demonstrates the resources available to handle the aggressive project efforts planned.

Proposed Firms: McComas-Lacina; Knutson, Larson; Cardinal; Miron and Story

Electrical – three firms met the desired requirement of holding at least one UI contract, during the specified period, valued at \$200,000 or more.

Proposed Firms: Gerard Electric; Devries Electric and Tri City Electric

Mechanical (HVAC and Plumbing) – four firms met the desired requirement of holding at least one UI contract, during the specified period, valued at \$200,000 or more.

Proposed Firms: AAA Mechanical; Day Mechanical; Prime Mechanical and Universal Climate Control

Utilities – three firms met the desired requirement of holding at least one UI contract, during the specified period, valued at \$200,000 or more.

Proposed Firms: American Piping Group; Modern Piping and Pipe Pro

In the event that competition or market interest drops below three firms for any given category of work, the University will lower the sorting threshold for contract amounts (for example lower \$200,000 to \$100,000). If the available pool continues to fall below three firms, UI will use historical information on UI subcontractors to populate the pool.

Contact: Mark Braun

SPECIAL LEGISLATIVE SESSION AGENDA

Action Requested: Consider adoption of the recommended legislative program for the special legislative session.

Executive Summary: The Iowa Code makes several exemptions for public owners to dispense with competitive bidding procedures in the event of an emergency situation. Currently such power exists for cities, counties, the Department of Transportation, the Department of Administrative Services, the Department of Human Services, school districts, sanitary districts and port authorities.

Following the flooding at the University of Iowa, it was discovered that no similar authority exists for the Board of Regents. It is the recommendation of the Board Office that such authority be sought in the upcoming special legislative session of the General Assembly.