

**MEMORANDUM**

**To:** Board of Regents  
**From:** Board Office  
**Subject:** Revisions to the Board of Regents Policy Manual  
**Date:** October 20, 2004

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**Recommended Action:**

Approve, as first reading, the revisions to Chapter 9 – Capital Procedures of the Board of Regents Policy Manual, which were not presented to the Board with the Chapter 9 threshold revisions in September 2004.

**Executive Summary:**

At its September 2004 meeting, the Board approved the first reading of the dollar threshold revisions to Chapter 9 – Capital Procedures of the Board of Regents Policy Manual. (The proposed threshold revisions are presented for second reading, and final approval, in Agenda Item 7.)

The proposed revisions to the remainder of the Board's capital procedures (Policy Manual Chapter 9), which are presented for the first reading this month, serve to document additional changes in the Board's capital procedures since the Chapter 9 revisions approved in January and April of 2003.

- The 2003 revisions reflected the Board's adoption of new threshold approval levels and clarified the process for the selection of design professionals.

The current proposed Chapter 9 revisions include:

- The requirements for major capital projects, as defined by Board policy adopted in June 2003, with respect to the capital project evaluation criteria and notification to the Executive Director prior to soliciting funds for major capital projects.
- Clarification of the duties and responsibilities of the Board, Executive Director, and institutions, particularly with respect to the proposed threshold revisions and the associated reporting requirements to the Board Office and the Board.
- The requirement for a comprehensive annual facilities governance report to the Board that addresses fire and environmental safety, deferred maintenance, and energy conservation, in lieu of separate reports to the Board.

- Board policy language, with updates, for the purchase and sale of property, disposal, transfer and sale of buildings, and approval of leases and easements, which was previously included in Chapter 7 (Business Procedures).
- Language documenting the special schools' capital procedures.
- The requirement for regular meetings of the Board Office and institutions to discuss capital project issues.
- Documentation of the two options relative to the sales tax exemption for Regent construction projects as permitted by Iowa Code, as amended by the 2002 General Assembly.
- Replacement of language duplicated from the Iowa Code and Iowa Administrative Code with Code references to ensure that current Code requirements are governing the Board's capital procedures.
- Removal of outdated schedule information for capital reports to the Board.
- Clarification of existing Chapter 9 requirements.

**Analysis:**

The following revisions are being presented for first reading this month.

Major Capital  
Projects

Chapter 9 does not currently reflect Board policy adopted in June 2003 for major capital projects.

The proposed revision would incorporate the Board's definition of a major capital project, and the requirements for presentation of the capital project evaluation criteria and for notifying the Executive Director prior to soliciting private and/or federal funds for major capital projects (§9.03.C).

Duties of Board,  
Executive  
Director, and  
Institutions

Section 9.01.B, which outlines the specific duties and responsibilities of the Board, Executive Director, and the institutions, does not reflect the changes associated with the threshold revisions that will be presented for final approval at the November meeting.

Subject to final approval of the threshold revisions, the proposed revision to the duties and responsibilities would incorporate the changes associated with the threshold revisions, including the reporting requirements to the Board Office and the Board (§9.03.B).

Facilities Governance Report	<p>Currently, §9.13 through §9.15 of the <u>Policy Manual</u> outline separate requirements for the annual governance reports to the Board for fire and environmental safety, energy conservation and deferred maintenance.</p> <p>The proposed revision would incorporate the requirement for a comprehensive annual facilities governance report (§9.01.H.2) and delete the separate requirements for the three governance reports.</p>
Property	<p>Former §7.10 and §7.11 of the <u>Policy Manual</u> (Business Procedures) outlined requirements for the purchase and sale of property, disposal, transfer and sale of buildings, and leases.</p> <p>These requirements have been relocated to Chapter 9 (§9.02), with the following changes:</p> <ul style="list-style-type: none"> <li>• Increase in the building fair market value requirement, from \$1,000 to \$10,000, for Board approval of the disposal, transfer or sale of buildings (§9.02.D).</li> <li>• New requirement for the institutions to notify the Board Office of lease terminations and expirations (§9.02 E.4).</li> <li>• Incorporation of language for the approval of easements (§9.02 F).</li> <li>• Clarification of current approval procedures, and elimination of duplicate Code language.</li> </ul>
Special Schools	<p>At the present time, Chapter 9 does not outline the specific capital project requirements for the special schools.</p> <p>The proposed revision would incorporate a section for the special schools (§9.14) which outlines the responsibility for administration of the capital projects at the schools.</p>
Interinstitutional Meetings	<p>Currently, Chapter 9 has no requirement for the meetings that take place between the Board Office and the institutions to discuss capital project issues.</p> <p>The proposed revision would incorporate language that outlines the basic scope of the meetings relative to capital projects (§9.03 B.4).</p>
Construction Sales Tax	<p>Section 9.10.E. of the existing Chapter 9 outlines the procedure for the institutions to apply for sales tax refunds for construction projects.</p> <p>The proposed revision (§9.18.C) would outline the two options now available with respect to the construction sales tax exemption. This section would incorporate the newer provision for the contractors' exemption from sales tax, as well as clarify the sales tax refund process.</p>

Code Language      Specific language from the Iowa Code and Iowa Administrative Code is currently included throughout Chapter 9.

                                 The proposed revision deletes the Code language throughout Chapter 9 and incorporates the applicable Code references to ensure that current Code requirements are governing the Board’s capital procedures.

Schedule              Currently, the Chapter includes a schedule of Board capital reporting requirements, which is out of date.

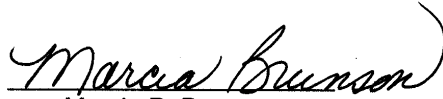
                                 The proposed revision would delete this schedule and incorporate schedule information, as applicable, throughout Chapter 9.

Clarification        The existing Chapter 9 requirements are in need of clarification to better Language              reflect actual capital procedures.

                                 The proposed revision incorporates these clarifications throughout Chapter 9.

Standard revision    Changes are proposed to the Policy Manual as a result of editorial review process takes two    and Regent comments. The traditional revision process for substantive Board meetings    revisions involves initial review and comment by the institution and the Board (the “first reading”) and then providing final Board approval for publication at a subsequent Board meeting.

                                 Revisions to the Policy Manual that have been approved by the Board to date are listed in **Attachment B**.

  
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 Marcia R. Brunson

Approved:   
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 Gregory S. Nichols

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**POLICY BEFORE REVISION**

**FIRST READING**

**9.01 Capital Plans, Requests and Reports**

- A. Duties and Responsibilities of the ~~State~~ Board of Regents include:
1. Review of long-range campus development plans.
  2. Approval of Five-Year Building Programs and capital appropriation request(s).
  3. Approval of annual capital plan.
  4. Approval of financing for capital projects.
  5. Review of capital issues.
  6. Receipt and/or approval of annual governance reports.
- B. Long-Range Campus Development Plans (*previously 9.02A*)
1. Each ~~institution~~ university shall present an updated campus master plan, including land use plan, to the Board at least once every four years or when the institution proposes changes in land use, or at the request of the Board. The plan should indicate past, present, and anticipated development and note indicate any significant changes from plans previously presented to the Board.
  2. The Campus Development Plan should include a description of all underutilized or unused space and the proposed modifications and future use of the space. Leased space on or in close proximity to the campus should be listed.
  3. The Campus Development Plan should relate directly to the institution's ~~academic~~ strategic plan.
- C. Five-Year Building Programs (Plans) (*previously 9.02B*)
1. Five-Year ~~General~~ State-Funded Building Program
    - a. The ~~State~~ Board of Regents is required to submit annually to the General Assembly (Chapter 262A.3 Iowa Code) its Five-Year Building Program for each of the universities under its jurisdiction. Required components of the program are detailed in the Iowa Code.
    - b. The capital requirements for the ~~two special schools~~ —Iowa School for the Deaf and Iowa Braille and Sight Saving School — ~~shall~~ are to be included in the Five-Year Building Program considered by the Board.
    - c. The building program is to be revised annually.
    - d. The Board Office shall coordinate the work of the institutions in preparing the Five-Year Building Program, including the format and date of submission.

~~e. The first two years of the Board approved five-year building program shall represent the Board's biennial capital request.~~

2. All-Funds Five-Year Building Program

a. An All-Funds Five-Year Building Program shall be presented to the Board annually and shall include major building needs anticipated to be funded by all sources. A separate Five-Year Building Program shall be submitted for the University of Iowa Hospitals and Clinics.

b. Any project with a budget expected to be in excess of \$1 million should be shown separately. Projects of lower cost can be aggregated by category (e.g., roof repairs, interior remodeling, fire safety, energy management). For the first year of the Five-Year Building Program projects of \$250,000 or greater should be listed separately.

D. Annual Capital Appropriation Requests (*previously 9.02C*)

1. The first two years of the Board approved Five-Year Building Program represent the Board's biennial capital request and the first year of the Program represents the Board's annual request. Capital request criteria are outlined in Chapter 7 of this Manual (Section 7.02A2b.)

2. The institutions shall submit recommendations of capital funding needs for consideration by the Board on forms provided by the Board Office. The planning completed for the projects recommended should be sufficient to provide the Board with necessary information on the scope and cost of the project. All projects subsequently funded will be subject to the capital improvement procedures ~~for the necessary planning and subsequent construction activities~~ as outlined in this Chapter.

E. Annual Capital Plan (*previously 9.02D*)

The institutions shall submit annually ~~(in June)~~ for Board approval spending plans for the upcoming fiscal year by project category ~~at the same time current operating budgets are presented to the Board for approval.~~ in a format and on forms provided by the Board Office.

F. Financing of Capital Projects (*previously 9.11*)

The Board of Regents has been granted statutory authority to finance capital projects in several ways. Specific authorizations in Iowa Code include issue Academic Building Revenue Bonds (Chapter 262A), Sale of Public Bonds (Chapter 75), Construction of Dormitories and other Self-Liquidating Facilities (Chapter 262), Easements (Chapter 262), and Hospital Revenue Bonds (Chapter 263A).

G. Capital Issues1. Fire and Environmental Safety-(*previously 9.13*)

- a. Each year the institutions shall submit reports to the Board Office indicating the results of the latest State Fire Marshal's inspection, the results of the latest Department of Labor or other environmental safety inspections, and programs completed or underway to correct deficiencies. The report shall indicate the financial needs to correct outstanding deficiencies. Financial needs are to be integrated into the annual capital request and the Five-Year Capital Plan Program.
- b. All institutions are required to notify immediately the executive director if any facilities within their jurisdiction have been cited for violations of any federal, state, or local laws or regulations or have been decertified or notified of the threat of decertification from compliance with any state, federal, or other nationally recognized certification or accreditation agency or organization.
- ~~c. Each institution shall submit annually to the Board a report on fire and environmental safety projects completed or underway and additional fire and environmental safety projects identified.~~

2. Deferred Maintenance and Improvements (*previously 9.15*)

Deferred maintenance and improvement needs shall be considered in the institutional Five-Year Capital Program Plan and annual capital program appropriation requests.

- ~~a. A report on other deferred maintenance and improvement items shall be submitted to the Board in November.~~

3. Energy Conservation-(*previously 9.14*)

- a. The institutions ~~shall~~ are encouraged to develop energy conservation plans. Those plans ~~are to~~ should include the following components:
  - i. Historical information on the pattern of energy consumption and the cost of energy consumed per square foot of building space.
  - ~~ii. A data base on other institutions for the purpose of establishing peer group norms. This data base would be established in cooperation with the Board Office.~~
  - iii. Projections of energy consumption and unit prices.
  - iv. Methodology used to: identify energy conservation project candidates and develop methods to determine which projects are economically feasible.

- v. Identification of specific energy conservation projects and the rate of return or payback period of those projects.
- vi. Possible means of financing the projects identified.
- b. Consultant architects and engineers should be required to emphasize energy conservation and life cycle cost in all new construction and remodeling undertaken.
- c. The institutions should review with the Board Office the means of financing energy conservation projects which have been identified. ~~Financing could include internal funds, short term borrowing, Regents bonding or the Iowa Facilities Improvement Corporation financing.~~
- d. ~~Each institution shall submit annually to the Board a report on energy conservation. The report shall include energy consumption projects completed or underway, proposed or needed projects and plans to accomplish energy conservation projects.~~

H. Governance Reports

1. Institutional Roads Program (previously 9.12)

The Board will annually approve a Six Five-Year Institutional Roads Program in accordance with requirements of the Iowa Department of Transportation. The ~~six-year~~ program is to be developed in cooperation with ~~the State Parks and Institutional Roads engineer~~ of the Iowa Department of Transportation, the Board Office, and institutional representatives.

Projects financed through this program shall adhere to the capital project policies and procedures outlined in Section 9.21 of this Chapter.

2. Facilities Report

Each year the institutions shall prepare a facilities report in a format provided by the Board Office.

**9.02 Property (previously included in Chapter 7 – Business Procedures)**

A. Duties and Responsibilities of the State Board of Regents include:

- 1. Approval of the purchase and sale of property.
- 2. Approval of the disposal, transfer and sale of buildings.
- 3. Approval of leases and easements



B. Control, acquisition, and disposition. The Board is responsible for management and control of real and personal property of the ~~shall manage and control the property, both real and personal, belonging to institutions under its control pursuant to Iowa Code §262.9[4]. (previously 7.10A)~~

1. All acts ~~of the Board~~ relating to the management, purchase, disposition, or use of lands and other property of ~~said the institutions shall be entered of record, which shall show the members present, and how each voted upon each proposition are to be approved via roll call vote pursuant to Iowa Code §262.11 (previously 7.10.A.5)~~

C.B Purchases and Sales

1. The Board shall, with the approval of the Executive Council, acquire real estate for the ~~proper uses of said the Regent institutions, and dispose of real estate belonging to said the institutions when not necessary for their purposes as delineated in Iowa Code §262.9[7] and Iowa Code §262.10. A disposal of such real estate shall be made upon such terms, conditions, and consideration as the Board may recommend and subject to the approval of the Executive Council. If real estate subject to sale hereunder has been purchased or acquired from appropriated funds, the proceeds of such sale shall be deposited with the treasurer of state and credited to the general fund of the state. There is hereby appropriated from the general fund of the state a sum equal to the proceeds so deposited and credited to the general fund of the state to the Board of Regents which, with the prior approval of the Executive Council, may be used to purchase other real estate and buildings, and for the construction and alteration of buildings and other capital improvements. All transfers shall be by state patent in the manner provided by law. (IOWA CODE §262.9[7])(previously 7.10.A.1)~~

- a. Acquisition includes the procurement of real property by gift, grant, purchase or any other method.
- b. Disposal includes the transfer of real property to another entity by gift, grant or sale or by any other method.

2. ~~No sale or purchase of real estate shall be made save upon the order of the Board made at a regular meeting, or one called for that purpose, and then in such manner and under such terms as the Board may prescribe and only with the approval of the Executive Council. No member of the Board or any of its committees, offices, or agencies, nor any officer of any institution, shall be directly or indirectly interested in such purchase or sale. (IOWA CODE §262.10) (previously 7.10.A.2)~~

~~Purchases of real estate may be made on written contracts providing for payment over a period of years, but the obligations thereon shall not constitute a debt or charge against the state of Iowa nor against the funds of the Board or the funds of the institution for which said purchases are made. Purchase payments may be made from appropriated capital funds or from other funds lawfully available for that purpose and allocated therefor by the Board, or from any combination of the foregoing, but not from appropriated operating funds. All state appropriated capital funds used for any one purchase contract shall be taken entirely from a single capital appropriation and shall be set aside for that purpose. In event of default, the only remedy of the seller shall be against the property itself and the rents and profits thereof, and in no event shall any deficiency judgment be entered or enforced against the state of Iowa, the Board, or the institution for which the purchase was made; provided, however, that no part of the tuition fees shall be used in the purchase of such real estate. (IOWA CODE §262.10) (previously 7.10.A.2)~~

- ~~3.2.~~ The Board's policy is to convey real estate for monetary consideration based on appraisal; in all cases in which monetary consideration is waived by the Board, the alternative consideration shall be approved by the Board and detailed in Board minutes. (previously 7.10.A.3)
- ~~4.~~ 3. The Board policy is that property so purchased shall be purchased at not more than 5 percent over the average of two appraisals or the high appraisal, whichever is the lower figure. This policy is not intended to limit negotiation for a price lower than the appraised value. (previously 7.10.A.4)
4. All requests for Board approval of the purchase or sale of property shall be accompanied by a map showing the location of the property to be purchased/sold.
5. It is the policy of the Board and the institutions to provide for the orderly use and development of land and related natural resources in Iowa for residential, commercial, industrial, and recreational purposes; to preserve private property rights, to protect natural and historic resources and fragile ecosystems of this state, including forests, wetlands, rivers, streams, lakes, and their shorelines, aquifers, prairies and recreational areas; promote the efficient use and conservation of energy resources, promote the creation and maintenance of wildlife habitat; to consider the protection of soil from wind and water erosion; and to preserve the availability and use of agricultural land for agricultural production. (previously 7.10A6)

When an institution, as part of actions undertaken under this section, determines that those actions are inconsistent with the land use policy outlined above, the institution shall notify the Board with an explanation of those adverse impacts and an explanation as to why alternatives without such adverse impacts are not feasible. (previously 7.10.A.6)

D. Disposal, Transfer, and Sale of Buildings (previously 7.11)

1. Disposal, transfer, or sale of buildings with an estimated fair market value of ~~\$1,000~~ \$10,000 or more will be ~~docketed~~ placed on the agenda by the institution for Board action.
2. The chief business officer of each institution is authorized to dispose of obsolete or worn out buildings with an estimated value of less than ~~\$1,000~~ \$10,000, under the conditions established in this Section §8.10 of the Policy Manual. (Board of Regents Minutes August 11-12, 1966, p. 62; January 20, 1983, pp. 391-395)

E. Leases

1. State law provides the Board with authority to lease properties and facilities, either as lessor or lessee, for the proper use and benefit of the institutions as detailed in Iowa Code §262.9[14]. upon such terms, conditions, and considerations as the Board deems advantageous, including leases with provisions for ultimate ownership by the state of Iowa, and to pay the rentals from funds appropriated to the institutions for operating expenses thereof or from such other funds as may be available therefor. (IOWA CODE §262.9[14]) (previously 7.10.B). All leases must be approved by the Board by roll call vote in accordance with Iowa Code §262.11.
2. For purposes of implementing this section of Iowa Code, a lease is defined as the right to the sole use and occupation of property in exchange for consideration, usually rent.
3. The institution will prepare an exhibit for all lease agreements being presented for Board approval. The exhibit will include the information requested by the Board Office.
4. The institutions will notify the Board Office when a lease agreement has been terminated prior to the end of the lease term, or when a lease agreement has expired (i.e., when either a renewal option or monthly extension is not exercised).
5. All lease agreements will be in the standard forms developed by the Board Office unless exceptions are granted.

6. When the Board is the landlord in a farm lease, the lease shall terminate on March 1 of a calendar year. ~~The institution for whose benefit the lease exists is responsible for providing the tenant with a Notice of Termination by certified mail on or before September 1 of the year prior to the year of the lease termination. A copy of the Notice of Termination shall be provided to the Board Office. If a farm manager is used by the institution, the contract with the farm manager shall provide that the farm manager will send the Notice of Termination and shall provide the institution and the Board Office with copies of the Notice of Termination. Notification of termination shall be in accordance with Iowa Code § 562.6 and 562.7. (Board of Regents Minutes January 11, 1989, pp. 464-465) (previously 7.10.B)~~

F. Easements

1. With approval of the Executive Council of Iowa, the Board is authorized to grant easements pursuant to Iowa Code §262.67
2. The institution will prepare an exhibit for all easements being presented for Board approval. The exhibit will include the information requested by the Board Office.

**9.03 Procedures for Capital Improvement Projects** Capital Improvements  
*previously 9.01)*

A. Definition of a Capital Project *(previously 9.01A)*

1. A capital improvement project is one which provides for the construction, repair, or improvement of buildings (including fixed equipment within buildings) or grounds under jurisdiction of the Board of Regents ~~which is estimated to cost \$25,000 or more. for which the estimated cost of construction, repair or improvement exceeds the bidding requirements found in Iowa Code §262.34.~~
2. A major capital improvement project is defined as any new building construction project with an estimated project budget of \$1 million or more or any building renovation project with an estimated project budget of \$2 million or more.

B. Duties and Responsibilities *(previously 9.01.B)*

1. Duties of the ~~State~~ Board of Regents

Whenever a capital improvement project is proposed or undertaken at any institution under the control of the Board of Regents, the Board may, as provided for in this Chapter:

- a. Grant permission to proceed with project planning.
- b. Approve a program statement.
- c. Approve the schematic design and design development drawings.
- d. Approve a project descriptions and budgets and revised project budget.

- e. Approve the selection of a design consultant or a construction manager and the agreement with the consultant or manager ~~consultant contracts including contracts for construction management services as defined herein~~ and participate in the architectural selection process. ~~for certain projects. (Board of Regents Minutes July 18, 1996, p. 110~~
- f. Approve amendments to a design consultant or construction manager agreement.
- g. Approve rejection of bids and contract awards if required.
- h. Approve change orders to construction contracts.
- i. ~~Accept completed construction projects.~~
- ~~j. Accept final project reports.~~
- ~~k. Review status reports.~~
- lj. Delegate responsibility to the executive director or the institution as provided for in this Chapter. ~~when time is of the essence on a project, as indicated in Section 9.01 B.2(f).~~

2. Duties of the Executive Director

Whenever a capital improvement project is undertaken at any institution under the control of the Board, the executive director is authorized and directed to carry out provisions of this Chapter, including:

- a. Negotiate financing arrangements other than appropriations as directed by the State Board of Regents and report to the Board.
- b. Receive certification from the institution's chief business officer that the nature and scope of a project is substantially the same as approved by the Board.
- c. Approve program statements; design consultant selection, negotiated agreements and amendments; project descriptions and budgets, and revised budgets; and construction contract change orders as provided for in this Chapter.
- d. Award of construction contracts ~~in accordance with these procedures as provided for~~ in this Chapter. ~~(Board of Regents Minutes October 18, 1995, p. 324)~~
- e. When ~~appropriate~~ it is determined to be in the best interest of the institution, reject all bids and/or recommend alternative procedures. ~~(Board of Regents Minutes October 18, 1995, p. 324)~~
- f. Advise the Board on capital procedure actions recommended by the institutions.
- g. Refer capital procedure actions requested of the Board Office to the Board at the discretion of the Board Office.

- h. Act on behalf of the Board on capital procedure actions subject to ratification of actions taken by the Board: ~~of actions taken by the executive director~~. ~~The executive director is authorized to take such actions~~ when failure to take immediate action would have an adverse impact on institutional programs, cause an unnecessary delay in the program project, result in increased cost, or when it is otherwise in the public interest. The Board shall be informed of such executive director actions ~~as soon as possible or~~ at the next Board meeting.
- i. Advise the Board regarding institutional plans for fundraising for capital projects.
- j. Provide reports to the Board as may be needed.

3. Duties of the Institutions

The institutions under the control of the State Board of Regents are authorized to carry out on behalf of the Board ~~the following~~ duties as provided for in this Chapter including:

- a. Survey needs, recommend capital projects and capital procedure actions to the Board.
- b. Furnish members of its staff to act as architect, engineer, or associate architect or engineer, when it is in the institution's best interest to utilize its staff, rather than consultant(s), to provide these services.
- c. Act as project manager.
- d. Certify to the executive director that the final plans and specifications have been completed in conformance with the nature and scope of the project approved by the Board.
- e. Make all reports and secure approvals as required by other governmental agencies.
- f. With the approval of the chief business officer of the institution and consistent with ~~subject to~~ procedures policies outlined elsewhere in this ~~Chapter, Register of Capital Improvements,~~ Chapter, Register of Capital Improvements, conduct projects, including approval of project descriptions and budgets, revised budgets, design consultant agreements and amendments, contract awards and change orders. ~~under \$50,000 in estimated costs without following the detailed capital procedures.~~
- g. Notify the executive director whenever it is determined that a contractor or consultant is not performing satisfactorily, and when consideration is being given to removing the contractor or consultant.

- h. Submit to the Board Office a A semi-annual report for all ongoing capital projects over \$250,000 ~~will be submitted to the Board in January and July of each year~~ as of June 30 and December 31 of each year, within 45 days of the end of each semi-annual period. The content and format of the semiannual report will be provided by the Board Office.

The semi-annual report shall include: ~~(1) A listing of all architects and engineers, with the location of the firm, employed by the institutions during the reporting period and the amount of work contracted during the reporting period. (2) A list of projects over \$50,000 anticipated to be undertaken by the institutions for the next semi-annual period.~~

- i. Notify the executive director prior to solicitation of private and/or federal funds for major capital projects by an affiliated organization or the institution.

- 4. The Board Office and institutions shall meet regularly to: a) discuss issues related to capital projects; b) ensure coordination of capital project policies and procedures; and c) provide, upon the Board's request, advice on capital project policies and procedures, and reports on activities.

C. Capital Project Evaluation Criteria

The institutions shall submit information to address the Board's capital project evaluation criteria for major capital projects as defined in this Chapter when Permission to Proceed with Project Planning is requested and when approval of the schematic design and project description and budget are requested. The criteria are outlined below:

- 1. How does this project help fulfill the institution's mission and strategic plan in the following areas:
  - Faculty needs in areas strategic to the university?
  - Program accreditation?
  - Student demand?
  - Other strategic plan-related criteria?
  - Environmental health and safety?
- 2. What other alternatives were explored to meet the needs identified in number 1 above, why were they rejected and why is the proposed project the best way to meet the identified need?
- 3. When this project is completed, what facilities and total square footage will be abandoned, transferred or demolished and how does this compare to the new or renovated square footage?
- 4. What financial resources are available to build/remodel/renovate the proposed capital project including:
  - Source(s) of funding?
  - Availability of funds as it relates to cash flow requirements?

Income stream to provide debt service on bonds, if they are to be issued?  
Calculation of financial return on investment, when applicable?

5. What resources are available to operate and maintain (O&M) the proposed capital project without compromising current programs and operations:  
Source of O&M funds, e.g., general fund, self-supporting, endowment, etc.?  
Effect on existing programs/operations if O&M support comes from general fund?
6. Identification of any compelling external forces that justify approval of this capital project:  
Federal and/or state mandate?  
Compliance with health/safety/welfare laws?  
Federal/foundation grant or other external funding opportunities?  
State policy direction consistent with institutional mission?

***Threshold portion of Chapter 9 which is before the Board for final approval as Agenda Item 7d will be inserted at this point.***

#### **9.14 Special School Capital Project Requirements**

The capital procedures for the universities shall apply to the special schools, with the following exception:

##### Responsibility for Administration of Capital Projects

Iowa State University shall be responsible for the overall administration of capital projects at the special schools (Iowa School for the Deaf and Iowa Braille and Sight Saving School) and shall develop, in conjunction with each school and the Board Office, a responsibility matrix to determine the specific responsibility (school or Iowa State University) for development / approvals of a project description and budget, preparation of Board agenda materials, bidding process and other components of the Regents capital project process. The specific responsibilities of Iowa State University or the school may change by project; these specific responsibilities could be determined by dollar thresholds or the level of complexity of a project.

~~A Project Description and Budget shall be prepared for all capital projects. Board approval of all projects is required. (previously 9.06)~~

#### **9.15 Preparation of Plans and Specifications** ~~(Board of Regents Minutes October 18, 1995, p. 324) (previously 9.08)~~

- ~~1. This phase of planning begins with approval of program statement and terminates with completion of bid documents. This phase includes the steps of budget development, schematic design, including the net-to-gross square footage ratio and estimated construction cost per square foot, and design development. (Board of Regents Minutes October 18, 1995, p. 324)~~



1. ~~Schematic design for projects of \$1,000,000 or more shall be approved by the Board. (revised and included in different section)~~
2. ~~Design development for projects of \$1,000,000 or more shall be approved by the Board, unless this step is waived by the Board at the time of schematic design approval.~~

A. Preparation of Plans and Specifications

1. Plans and specifications will be prepared in compliance with good practice, state and federal law, and Board policy. ~~Statutory requirements relating to the preparation of plans and specifications include the State Building Code (Chapter 103A), Fire Safety (Chapter 100), Occupational Safety and Health (Chapter 88), and Life Cycle Cost Analysis of Public Facilities (Chapter 470). (Board of Regents Minutes October 18, 1995, p. 324)~~
2. Final plans and specifications shall be in compliance with the project approved by the Board and the chief business officer shall so certify to the executive director. ~~The chief business officer shall certify that the plans and specifications are in compliance with the project approved by the Board and shall notify the executive director of the certification.~~

B. Liquidated Damages *(previously 9.09F)*

Liquidated damages clauses are to be used on those capital projects that are of extreme urgency to a university function or for a project involving income generation. When such clauses are used, they are to be inserted as a bid alternate to determine what the additional cost of the clause may be. ~~(Board of Regents Minutes July 23, 1975, pp. 8-9)~~

C. Requirement for Holding Bids

Institutions shall provide in their instructions to bidders that all bids be held for at least 45 days to allow Board action at a regular meeting in cases of unusual circumstances. *(previously included in 9.09E)*

D. Art in State Buildings

1. ~~Statutory and regulatory r~~Requirements relating to for the Art in State Buildings Program are included in the Iowa Code and in ~~Chapter 304A I.C. Fine Arts Projects and Iowa Administrative Code 222-23.~~ ~~(Board of Regents Minutes October 18, 1995, p. 324)~~
2. The Art in State Buildings Program shall apply to construction of new buildings, major renovations, or additions to existing buildings, with the exception of the facilities listed in the Iowa Code, Section 304A.8(1) (I.C.). ~~(Board of Regents Minutes October 18, 1995, p. 324)~~

3. The dollar amount allocated for Art in State Buildings shall be at least 0.5% of the project budget and will cover the cost of selection, acquisition, shipping, installation, and any other associated costs, except professional fees as referenced in ~~304A.10 of the I.C.~~ Iowa Code.
4. The ~~Board of Regents~~ institutions participate in the Iowa Arts Council's program with the following understanding:
  - a. The Regent institutions shall coordinate and administer the selection, purchase, and installation of art objects for each project affected by the program.
  - b. The Regent institutions shall receive, hold, and disburse the fine arts funds applicable and designated ~~for to this~~ each project.
5. When preparing capital appropriation requests, the Regent universities and special schools shall plan for the expense of fine arts elements in their appropriation requests.

**9.16 Bidding of Construction Contracts** (~~Board of Regents Minutes October 18, 1995, p. 324~~) (*previously 9.09*)

The policies of the Board of Regents, State of Iowa, for the bidding of construction contracts are in compliance with the requirements of the Iowa Code and Iowa Administrative Code.

A. Advertisement for Bids

The institution, in the name of the Board, shall advertise for bids for the contemplated improvement or construction consistent with provisions of Iowa Code.

B. Public Competitive Bidding

1. Regents capital projects are governed by Iowa statutory requirements relating to Competitive Bidding, Preference for Iowa Products and Labor (Chapter 73 of the Iowa Code) and Reciprocal Resident Bidder Preference (Chapter 73A.21). (Board of Regents Minutes October 18, 1995, p. 324) (*previously 9.09G*)
2. Pursuant to §262.34 of the Iowa Code, when the estimated cost of a construction contract is in excess of \$25,000 and the construction is not to be performed by institutional personnel, the institution shall advertise for public competitive bid.
3. It is the policy of the Board that construction work estimated to exceed \$25,000 shall be offered for public competitive bid under the procedures outlined in Section 262.34, of the Iowa Code, unless authorized otherwise by the executive director or the Board.

- a. Requests from the institutions to perform work on projects between \$25,000 and \$50,000 using institutional personnel will be considered by the executive director on an individual basis. After consideration, the executive director will either approve the institution's request or refer the project to the Board for action.
- b. Requests from the institutions to perform work on projects in excess of \$50,000 shall be referred to the Board for consideration. Such requests shall indicate why the work should be done by institutional personnel.

~~(Board of Regents Minutes October 18, 1995, p. 324)~~

4. Targeted Small Businesses Construction Contracts

All laws and rules pertaining to solicitations, bid evaluation, contract awards, and other procurement matters apply to targeted small business targets to the extent there is no conflict. ~~If this division Iowa Code related to targeted small businesses conflicts with other laws or rules, then this division Iowa Code related to targeted small business shall governs.~~ (Chapter 73.24) ~~(Board of Regents Minutes October 18, 1995, p. 324)~~

C. Public Hearings ~~(previously 9.09A)~~

1. Consistent with the provisions of Iowa Code, Regent institutions must conduct public hearings before entering into any contract for any public improvement estimated to exceed the threshold established in Iowa Code §73A.2.

~~1. Before any municipality shall enter into any contract for any public improvement to cost \$25,000 or more, the governing body proposing to make the contract shall adopt proposed plans and specifications and proposed form of contract, fix a time and place for hearing at the municipality affected or other nearby convenient place, and give notice by publication in at least one newspaper of general circulation in the municipality at least 10 days before the hearing. (Code 73A.2)~~

~~a. The word "municipality" as used in Chapter 73A means "township, school corporation, State Fair Board, and (?)Board of Regents." (Board of Regents Minutes October 18, 1995, p. 324)~~

~~b. At such hearing, any person interested may appear and file objections to the proposed plans, specifications or contract for, or cost of such improvement. The governing body of the municipality proposing to enter into such contract shall hear said objections and any evidence for or against the same and forthwith enter of record its decision thereon.~~

2. As per Iowa Administrative Code, ~~When the estimated cost of construction, repairs, or improvements of buildings or grounds exceeds \$25,000, initial public hearings are to be conducted by the chief business officer of each institution, or delegated representative. Reports of public hearings are to be filed with the executive director by the chief business officer. All final hearings required by law are to be held by the Board. (Iowa Administrative Code 681-8.6{1})~~
- D. Bid Security (See Iowa Administrative Code 681-8.6{2})
1. As required by Iowa Administrative Code, bids shall ~~are to~~ be accompanied and secured ~~only~~ by a cash deposit, cashier's check, certified check, or a bid bond in an amount of at least 5 percent of the bids. Bids accompanied and secured by any other form of bid security shall automatically be disqualified
  2. As permitted by Iowa Code, ~~On~~ bids of \$50,000 or less, Certified Targeted Small Businesses, ~~as part of the bid documents~~, may either provide a bid bond OR a bond waiver from the Department of Inspections and Appeals. (Board of Regents Minutes October 18, 1995, p. 324)
  3. Other provisions related to the requirements for and provisions of bid security are detailed in Iowa Administrative Code.
  - ~~3. Certified checks and cashier's checks shall be made payable to the Board of Regents. (Board of Regents Minutes October 18, 1995, p. 324)~~
  - ~~4. Bid bonds must be either in the form which is prescribed by the Board of Regents in the construction documents or in a form approved by the American Institute of Architects. Bid bonds must be executed solely by corporations authorized to contract as surety in Iowa and, in addition to all other provisions, clearly designate an Iowa resident agent as attorney in fact.~~
  - ~~5. Bid security shall be agreed upon as the measure of liquidated damages which owner will sustain by failure, neglect, or refusal of bidder to deliver a signed contract stipulating performance of the work in unqualified compliance with contract documents within 10 days after notification of award of contract is given.~~
  - ~~6. Bid security, when submitted in the form of a cash deposit, certified check, or cashier's check by any bidder, except the three lowest bidders, will be returned within 48 hours after opening.~~
  - ~~7. Bid security, when retained, if a cash deposit or a certified or cashier's check, will be returned within 48 hours after the contract and performance bond of the successful bidder have been fully executed. If the award process involves more than the bid holding time established in the contract documents, those bidders whose securities are retained shall have the right to negotiate with the Board of Regents on the matter.~~

**9.17 Process for Bid Openings, Receipt of Construction Bids and Award of Construction Contracts** (previously 9.09D, E)

A. Notification of Bid Openings

Institutions shall notify the Board Office immediately when a bid opening for a project with a budget of \$250,000 or greater is scheduled, via e-mail or an alternate method to be determined by the institution and the Board Office.

B. Receipt of Construction Bids

1. All construction bids shall be received until 2:00 p.m. on the date designated in the advertisement, after which such bids will promptly be publicly opened and read aloud by the chief business officer or designee. No deviation in the uniform receipt time shall be permitted without prior written permission ~~being received from~~ of the executive director. Bid openings on weekends or on Mondays or on days immediately preceding or following a recognized holiday will be avoided when possible.
2. Each envelope containing a bid shall receive a time stamp ~~be entered upon receipt into a time clock~~ which will register the official time of receipt.
3. A representative of the owner shall be present at the place designated for receipt of bids prior to and through the 2:00 p.m. uniform receipt time.
4. No bid shall be received after the 2:00 p.m. cutoff time, unless the owner's representative determines that a prospective bidder was in line ready to have a bid received at 2:00 p.m.
5. Bidders shall not use any institutional offices or equipment other than public telephones in bid preparation.
6. Upon receipt, bids will be secured by ~~the owner's~~ a university representative and will be moved by the same representative to the place designated for opening of bids.
7. The place where bids are to be opened publicly and read aloud shall be posted and announced to bidders when bids are received. Generally, such place shall be the same location as used for the public hearing which precedes the bid opening. The public hearing usually occurs at 1:30 p.m. A bidder shall be urged by the owner's representative to proceed immediately to the bid opening location after bid receipt has taken place.

C. Award of Construction Contracts

1. ~~The institution, in the name of the Board, shall advertise for bids for the contemplated improvement or construction and shall let~~ The A Regent construction contract the work shall be let consistent with Iowa Code to the lowest responsible bidder. However, if in the judgment of the Board, bids received are not acceptable, the Board may reject all bids and proceed with the construction, repair, or improvement by a method as the Board may determine as provided by Iowa Code. ~~(Iowa Code, 262.34)~~ (previously 9.09B.3)
  
2. Institutional Actions and Reports
  - a. ~~The chief business officer or designee shall open all bids and tabulate same and, w~~With the approval of the president of the institution, the chief business officer or designee shall recommend an award of contract(s), or, where authorized under these procedures for projects under \$250,000, award the construction contract as authorized by this Manual.
  
  - b. On projects with budgets of \$250,000 or more, the institutions shall forward to the Board Office, via e-mail or an alternate method to be determined by the institution and the Board Office, a copy of the bid tabulation within 24 hours of the bid opening. The bid tabulation shall include the engineering construction cost estimate(s) for the work being let Base Bid and any alternates.
  
  - c. A listing of contracts awarded by the institution for projects with approved budgets exceeding \$250,000 shall be provided to the Board Office as requested.
  
3. For construction contracts to be awarded by the Board Office as provided for in this Manual, Where required by these procedures, the chief business officer or designee, shall furnish to the Board Office, via e-mail or an alternative method to be determined by the institution and the Board Office, a report of the bid opening, tabulation of bids received, a recommendation as to award of contract, a signed recommendation for award of the construction contract, which will include the copy of the bid tabulation with construction cost estimate(s), a report of the bid opening and any bidding irregularities, as well as a written statement indicating whether award of the contract to the low bidder will allow the project to proceed within the last approved project budget or whether a revised project budget is necessary.
  - a. ~~The institution should mail or send via telecopier to the Board Office the following exhibits~~ award recommendation should include one of the following statements: (previously 9.09E.4)
  
  - a. ~~A copy of the bid tabulation (in addition to the copy sent within 24 hours of the bid opening). (Board of Regents Minutes October 18, 1989, p. 235)~~

~~b. A contract award recommendation accompanied by one of the following statements:~~

~~The award can be made as there are no unusual circumstances or irregularities in the recommended action~~

~~or~~

~~The following irregularities or unusual circumstances are called to your attention for appropriate action: (detail)~~

~~b. The award recommendation should include copies of any targeted small business documentation provided with the bid, if applicable.~~

~~f. The chief business officer is also to furnish a copy of the bid tabulation to Board members upon request, or when unusual circumstances warrant. The recommendation of award of contract will be furnished through the Board Office prior to the Board meeting for review and comment.~~

~~Where required, the chief business officer shall submit the contract(s) to the executive director for action by the Board at its next meeting.~~

~~c. If any objections are filed pursuant to §73A.3 of the Iowa Code or if the chief business officer determines that any unusual circumstances exist which require special attention of the Board, the report of the bid opening and the award recommendation shall include a statement thereof; and said matters shall be considered by the Board of Regents at its next meeting, at which time all interested parties may file a written statement. (Board of Regents Minutes October 18, 1989, p. 235)~~

~~d. Regardless of other provisions of this Manual, for all projects with budgets exceeding \$250,000 which there is a bidding irregularity, the construction contract shall be awarded by the executive director or may be forwarded by the executive director to the Board for its action.~~

~~e. The executive director shall notify each institution formally by letter of action taken on each award of a contract. ~~for projects over \$250,000.~~ Action will take one of these forms: (previously 9.09E.5)~~

~~1. Award of contract when there are no irregularities reported by the institution.~~

~~2. Award of contract with waiver of minor irregularities.~~

~~3. Referral of the matter to the Board for action at its next meeting.~~

- f. ~~The institution and/or the executive director shall docket for Board action any~~ If the proposed award involves unusual circumstances, in regard to the award of a contract, Board approval of a revision of the project budget as provided for in this Manual, or the necessity for a final public hearing in case there have been objections, as determined by either the institution or the executive director, the proposed award will be presented to the Board for action. (previously 9.09E.7)
- g. On construction contracts to be awarded by the executive director or the Board, ~~the contract shall not be considered to be awarded until the institution receives a formal letter from the executive director, or approval by the Board. Upon notice of approval to award the contract by the executive director or the Board, the institution may proceed to issue a "Notice of Award," to the contractor with a copy to the Board Office. If the proposed award involves unusual circumstances, the institution shall include the matter in its next register. The "Notice of Award" shall not be issued until the Board takes formal action on such transactions, unless the public interest requires award by the executive director prior to the Board's next meeting. (Board of Regents Minutes August 11-12, 1966, p. 62; November 10-12, 1966, p. 217; October 9-10, 1969, p. 94; May 25-26, 1976, pp. 565-568)~~ (previously 9.09E.6)

## 9.18 Construction

### A. Change Orders

1. Upon recommendation of the architect or engineer, the institution may authorize or submit to the Board Office for approval change orders in to the construction contract.
2. All change orders shall be submitted on standard change order forms and shall be accompanied by an explanation of the reason for the change.
3. Approval of change orders shall be as provided in Section X of this Manual.
4. Change orders approved by the institution shall be reported to the Board Office.
5. Contract change orders requiring approval ~~by~~ of the Board Office shall not be signed by the chief business officer until approved.
6. ~~All copies of contract change orders requiring Board approval shall be signed by the chief business officer after Board approval.~~

### B. Retention from Payments on Contracts (previously 9.10B)



1. Retention from payments to construction contractors are governed by provisions of Iowa Code, including Chapter 573, Labor and Material on Public Improvements.
1. ~~Payments made under contracts for the construction of public improvements, unless provided otherwise by law, shall be made on the basis of monthly estimates of labor performed and material delivered, as determined by the project architect or engineer. The public corporation shall retain from each monthly payment not more than 5 percent of that amount which is determined to be due according to the estimate of the architect or engineer. However, institutions governed pursuant to Chapter 262 may, on contracts where a bond is required under Section 573.2, make payments under this section without retention until ninety five percent of the contract amount has been paid and the remaining five percent of the contract amount shall be paid as provided under §573.14. (I.C. 573.12)~~
2. ~~The contractor shall be notified of the requirements for prompt payment of subcontractors (I.C. §573.12(2)).~~ Iowa Code provides for prompt payment by the contractor to its subcontractors.
3. ~~If a public corporation other than a school corporation, county, or city retains funds, the interest earned on those funds shall be payable at the time of final payment on the contract in accordance with the schedule and exemptions specified by the public corporation in its administrative rules. The rate of interest shall be determined by the period of time during which interest accrues, and shall be the same as the rate of interest that is in effect under Section 12C.6 as of the day interest begins to accrue. (I.C. §573.12(3)) (Board of Regents Minutes October 18, 1995, p. 324)~~
4. ~~A public corporation shall not be permitted to plead noncompliance with Section 573.12, and the retained percentage of the contract price, which in no case shall be more than five percent, constitutes a fund for the payment of claims for materials furnished and labor performed on the improvement and shall be held and disposed of by the public corporation as provided in Chapter 573. (I.C. §573.13) (Board of Regents Minutes October 18, 1995, p. 324)~~
5. ~~Said fund shall be retained by the public corporation for a period of 30 days after the completion and final acceptance of the improvement. If at the end of said 30-day period claims are on file as herein provided the public corporation shall continue to retain from said unpaid funds a sum equal to double the total amount of all claims on file or 5 percent of the contract price, whichever is less. (See I.C. §§573.12, 573.13, 573.14 and opinion of the Attorney General dated December 14, 1984.)~~

- ~~6. The public corporation shall order payment of any amount due the contractor to be made in accordance with the terms of the contract. Except as provided in section 573.12 for progress payments, failure to make payment pursuant to this section, of any amount due the contractor, within 40 days, unless a greater time period not to exceed 50 days is specified in the contract documents, after the work under the contract has been completed and if the work has been accepted and all required materials, certifications, and other documentations required to be submitted by the contractor and specified by the contract have been furnished the awarding public corporation by the contractor, shall cause interest to accrue on the amount unpaid to the benefit of the unpaid party. Interest shall accrue during the period commencing the thirty-first day following the completion of work and satisfaction of the other requirements of this paragraph and ending on the date of payment. The rate of interest shall be determined by the period of time during which interest accrues, and shall be the same as the rate of interest that is in effect under Section 12C.6, as of the day interest begins to accrue, for a deposit of public funds for a comparable period of time. This paragraph does not abridge any of the rights set forth in Section 573.16. Except as provided in sections 573.12 and 573.16 interest shall not accrue on funds retained by the public corporation to satisfy the provisions of this section regarding claims on file. This chapter does not apply if the public corporation has entered into a contract with the federal government or accepted a federal grant which is governed by federal law or rules that are contrary to the provisions of this chapter. (I.C. §573.14, unnumbered paragraph 2) (Board of Regents Minutes October 18, 1995, p. 324)~~
7. Notwithstanding anything in I.C. 573 to the contrary, when at least 95 percent of any contract for the construction of public improvements has been completed to the satisfaction of the public contracting authority and, owing to conditions beyond the control of the construction contractor, the remaining work on the contract cannot proceed for a period of more than 60 days, such public contracting authority may make full payment for the completed work and enter into a supplemental contract with the construction contractor involved on the same terms and conditions so far as applicable thereto for the construction of the work remaining to be done, provided, however, that the contractor's surety consents thereto and agrees that the bond shall remain in full force and effect. (I.C. §573.27)

C. Iowa State Sales Tax Refund Claims on Construction Projects (previously 9.10E)

- ~~1. Sales tax receipts on services and materials furnished as part of construction projects are eligible for refund to the institution. The Board of Regents or any of the institutions under its jurisdiction may make application to the Department of Revenue for the refund of any sales or use taxes. A refund procedure is established in §422.45(5) of the I.C.~~

- ~~\_\_\_\_\_ The refund procedure requires the contractor to provide the institution, before final settlement of the contract, with an itemized statement showing the amount of sales of goods, wares, merchandise, or services rendered, furnished, or performed and used in the performance of such contract, and the amount of sales and use taxes paid on said items.~~
- ~~\_\_\_\_\_ a. The institution has six months after the final settlement to file a claim for refund of sales or use tax paid by the contractor.~~
- ~~\_\_\_\_\_ b. The claim is made by the institution to the Department of Revenue, Excise Tax Division, using the department's Construction Contract-Claim for Refund Form (35-003).~~
- ~~\_\_\_\_\_ c. Institutions should not file refund requests when the sales tax amounts to less than \$25.00.~~
1. The services and materials furnished as part of Regent construction projects are generally exempt from state sales tax.
  2. Iowa Code provides two options to deal with Iowa state sales tax on Regent construction projects.
    - a. Regent institutions may issue exemption certificates to contractors and subcontractors allowing them to purchase, or withdraw from inventory, building materials for the contract free from Iowa sales tax following Department of Revenue procedures, or
    - b. The contractor pays Iowa sales tax on all building materials and includes that cost in the bid; the contractor then submits Department of Revenue forms to the Regent institution to document the amount of Iowa sales tax paid on the construction materials incorporated into the real property. The Regent institution would then apply for a refund of the Iowa sales tax following Department of Revenue procedures.
    - c. The Conditions of the Contract for all Regent construction projects shall identify whether exemption certificates will be issued.

**9.19 Acceptance of Completed Construction Contracts**

- A. The chief business officer, with the approval of the chief executive officer of each institution, is authorized to accept contract work as complete and authorize final payments on behalf of the State Board of Regents and in accordance with the Iowa Code. The 30-day waiting period, required by Iowa Code, shall commence on the date of such acceptance and authorization.

- ~~B. Upon request, the executive director shall be provided 10 day advance notification of the scheduled inspection of any contract exceeding \$10,000,000 and may have a representative participate with the institution in the inspection of the contract prior to contract acceptance.~~
- C. The contract performance bond shall provide coverage for at least one year following contract acceptance by the institution and permit the Board recourse to remedy contractor deficiencies without prejudice due to prior acceptance of the contract by the institution.
- D. All construction contracts for projects with budgets of \$250,000 or more, which have been accepted as complete by the chief business officer, shall be listed on the capital register reported to the Board Office in a method to be determined by the Board Office.

**9.20 Final Reports**

Final reports for completed capital projects with budgets of \$250,000 or more shall be ~~listed on the capital register~~ sent to the Board Office. A The final report document shall showing in summary form the current project budget, expenditures, balance or overdraft in the project account, and disposition of the balance or overdraft (with explanation). ~~shall be included as an exhibit to the capital register and/or forwarded to the Board Office.~~

**9.21 Procedures for Institutional Roads Projects**

- A. Projects administered by the Department of Transportation will proceed according to Department of Transportation rules and regulations after a project description and budget has been approved by the Board of Regents.
- B. Projects administered by the Board of Regents institutions will follow Board of Regents procedures as outlined in this Chapter.
- C. On certain projects a university may be responsible for the preliminary engineering, design, administration, contract letting, construction engineering, and inspection of a programmed institutional road construction project. The Iowa Department of Transportation shall be informed, consulted, and shall concur in the various phases of the project as determined by a formal agreement between the Board and the Iowa Department of Transportation. The Iowa Department of Transportation shall reimburse the university for the actual construction and design costs of such a programmed project, as prescribed and expressed in the formal agreement.

- D. The Iowa Department of Transportation shall enter into annual maintenance agreements with Board of Regent institutions. Agreements shall set out institutional road mileage to be maintained by each institution and shall specify in detail the routine maintenance categories for which each institution shall be reimbursed monthly for maintenance costs incurred in the preceding month. Such agreements shall be effective the first day of January each year.

~~— Schedule of Board Reports on Capital Projects~~

- ~~1. Capital Register Monthly, As Needed~~
- ~~2. Semiannual Status Report~~
- ~~o Ongoing Projects January, July~~
  - ~~o Architect/Engineer Agreements January, July~~
  - ~~o Anticipated Projects January, July~~
- ~~3. Campus Development Plan~~
- ~~When Land Use Changes, At Request of Board, At Least Once Every Four Years~~
- ~~4. Five Year Building Program July-September~~
- ~~5. Annual Capital Request July-September~~
- ~~6. Annual Capital Plan June~~
- ~~7. Institutional Roads Program July~~
- ~~8. Fire and Environmental Safety Report November~~
- ~~9. Energy Conservation Report September~~
- ~~10. Deferred Maintenance Report November~~

(Board of Regents Minutes September 20-21, 1989, pp. 150-151; April 21, 1993, p. 717; October 18, 1995, p. 324)

~~APPENDIX A, which details the statutory and regulatory requirements of the Art in State Buildings Program, is to be deleted. The requirements are referenced in Section 9.08C.1 of the revised chapter.~~

**POLICY AFTER REVISION**

**FIRST READING**

**9.01 Capital Plans, Requests and Reports**

- A. Duties and Responsibilities of the Board of Regents include:
  - 1. Review of long-range campus development plans.
  - 2. Approval of Five-Year Building Programs and capital appropriation request(s).
  - 3. Approval of annual capital plan.
  - 4. Approval of financing for capital projects.
  - 5. Review of capital issues.
  - 6. Receipt and/or approval of annual governance reports.
  
- B. Long-Range Campus Development Plans (*previously 9.02A*)
  - 1. Each university shall present an updated campus master plan, including land use plan, to the Board at least once every four years or when the institution proposes changes in land use, or at the request of the Board. The plan should indicate past, present, and anticipated development and note any significant changes from plans previously presented to the Board.
  - 2. The Campus Development Plan should include a description of all underutilized or unused space and the proposed modifications and future use of the space. Leased space on or in close proximity to the campus should be listed.
  - 3. The Campus Development Plan should relate directly to the institution's strategic plan.
  
- C. Five-Year Building Programs (Plans) (*previously 9.02B*)
  - 1. Five-Year State-Funded Building Program
    - a. The Board of Regents is required to submit annually to the General Assembly (Chapter 262A.3 Iowa Code) its Five-Year Building Program for each of the universities under its jurisdiction. Required components of the program are detailed in the Iowa Code.
    - b. The capital requirements for the Iowa School for the Deaf and Iowa Braille and Sight Saving School are to be included in the Five-Year Building Program considered by the Board.

- c. The building program is to be revised annually.
- d. The Board Office shall coordinate the work of the institutions in preparing the Five-Year Building Program, including the format and date of submission.

2. All-Funds Five-Year Building Program

- a. An All-Funds Five-Year Building Program shall be presented to the Board annually and shall include major building needs anticipated to be funded by all sources. A separate Five-Year Building Program shall be submitted for the University of Iowa Hospitals and Clinics.
- b. Any project with a budget expected to be in excess of \$1 million should be shown separately. Projects of lower cost can be aggregated by category (e.g., roof repairs, interior remodeling, fire safety, energy management). For the first year of the Five-Year Building Program projects of \$250,000 or greater should be listed separately.

D. Capital Appropriation Requests

- 1. The first two years of the Board approved Five-Year Building Program represent the Board's biennial capital request and the first year of the Program represents the Board's annual request. Capital request criteria are outlined in Chapter 7 of this Manual (Section 7.02A2b.)
- 2. The institutions shall submit recommendations of capital funding needs for consideration by the Board on forms provided by the Board Office. The planning completed for the projects recommended should be sufficient to provide the Board with necessary information on the scope and cost of the project. All projects subsequently funded will be subject to the capital improvement procedures as outlined in this Chapter.

E. Annual Capital Plan

The institutions shall submit annually for Board approval spending plans for the upcoming fiscal year by project category in a format and on forms provided by the Board Office.

F. Financing of Capital Projects

The Board of Regents has been granted statutory authority to finance capital projects in several ways. Specific authorizations in Iowa Code include Academic Building Revenue Bonds (Chapter 262A), Dormitories and other Self-Liquidating Facilities (Chapter 262), and Hospital Revenue Bonds (Chapter 263A).

G. Capital Issues

1. Fire and Environmental Safety

- a. Each year the institutions shall submit reports to the Board Office indicating the results of the latest State Fire Marshal's inspection, the results of the latest Department of Labor or other environmental safety inspections, and programs completed or underway to correct deficiencies. The report shall indicate the financial needs to correct outstanding deficiencies. Financial needs are to be integrated into the annual capital request and the Five-Year Capital Plan Program.
- b. All institutions are required to notify immediately the executive director if any facilities within their jurisdiction have been cited for violations of any federal, state, or local laws or regulations or have been decertified or notified of the threat of decertification from compliance with any state, federal, or other nationally recognized certification or accreditation agency or organization.

2. Deferred Maintenance and Improvements

Deferred maintenance and improvement needs shall be considered in the institutional Five-Year Capital Program and capital appropriation requests.

3. Energy Conservation

- a. The institutions are encouraged to develop energy conservation plans. Those plans should include the following components:
  - i. Historical information on the pattern of energy consumption and the cost of energy consumed per square foot of building space.
  - ii. Projections of energy consumption and unit prices.
  - iii. Methodology used to identify energy conservation project candidates and develop methods to determine which projects are economically feasible.
  - iv. Identification of specific energy conservation projects and the rate of return or payback period of those projects.
  - v. Possible means of financing the projects identified.
- b. Consultant architects and engineers should be required to emphasize energy conservation and life cycle cost in all new construction and remodeling undertaken.
- c. The institutions should review with the Board Office the means of financing energy conservation projects which have been identified.



H. Governance Reports

1. Institutional Roads Program

The Board will annually approve a Five-Year Institutional Roads Program in accordance with requirements of the Iowa Department of Transportation. The program is to be developed in cooperation with the Iowa Department of Transportation, the Board Office, and institutional representatives.

Projects financed through this program shall adhere to the capital project policies and procedures outlined in Section 9.21 of this Chapter.

2. Facilities Report

Each year the institutions shall prepare a facilities report in a format provided by the Board Office.

**9.02 Property**

A. Duties and Responsibilities of the Board of Regents include:

1. Approval of the purchase and sale of property.
2. Approval of the disposal, transfer and sale of buildings.
3. Approval of leases and easements

B. Control, acquisition, and disposition. The Board is responsible for management and control of real and personal property of the institutions under its control pursuant to Iowa Code §262.9[4].

1. All acts relating to the management, purchase, disposition, or use of lands and other property of the institutions are to be approved via roll call vote pursuant to Iowa Code §262.11

C. Purchases and Sales

1. The Board shall, with the approval of the Executive Council, acquire real estate for the use of the Regent institutions, and dispose of real estate belonging to the institutions when not necessary for their purposes as delineated in Iowa Code §262.9[7] and Iowa Code §262.10.
  - a. Acquisition includes the procurement of real property by gift, grant, purchase or any other method.
  - b. Disposal includes the transfer of real property to another entity by gift, grant or sale or by any other method.

2. The Board's policy is to convey real estate for monetary consideration based on appraisal; in all cases in which monetary consideration is waived by the Board, the alternative consideration shall be approved by the Board and detailed in Board minutes.
3. The Board policy is that property purchased shall be purchased at not more than 5 percent over the average of two appraisals or the high appraisal, whichever is the lower figure. This policy is not intended to limit negotiation for a price lower than the appraised value.
4. All requests for Board approval of the purchase or sale of property shall be accompanied by a map showing the location of the property to be purchased/sold.
5. It is the policy of the Board and the institutions to provide for the orderly use and development of land and related natural resources in Iowa for residential, commercial, industrial, and recreational purposes; to preserve private property rights, to protect natural and historic resources and fragile ecosystems of this state, including forests, wetlands, rivers, streams, lakes, and their shorelines, aquifers, prairies and recreational areas; promote the efficient use and conservation of energy resources, promote the creation and maintenance of wildlife habitat; to consider the protection of soil from wind and water erosion; and to preserve the availability and use of agricultural land for agricultural production.

When an institution, as part of actions undertaken under this section, determines that those actions are inconsistent with the land use policy outlined above, the institution shall notify the Board with an explanation of those adverse impacts and an explanation as to why alternatives without such adverse impacts are not feasible.

**D. Disposal, Transfer, and Sale of Buildings**

1. Disposal, transfer, or sale of buildings with an estimated fair market value of \$10,000 or more will be placed on the agenda by the institution for Board action.
2. The chief business officer of each institution is authorized to dispose of obsolete or worn out buildings with an estimated value of less than \$10,000, under the conditions established in this Policy Manual.

**E. Leases**

1. State law provides the Board with authority to lease properties and facilities, either as lessor or lessee, for the proper use and benefit of the institutions as detailed in Iowa Code §262.9[14]. All leases must be approved by the Board by roll call vote in accordance with Iowa Code §262.11.

2. For purposes of implementing this section of Iowa Code, a lease is defined as the right to the sole use and occupation of property in exchange for consideration, usually rent.
3. The institution will prepare an exhibit for all lease agreements being presented for Board approval. The exhibit will include the information requested by the Board Office.
4. The institutions will notify the Board Office when a lease agreement has been terminated prior to the end of the lease term, or when a lease agreement has expired (i.e., when either a renewal option or monthly extension is not exercised).
5. All lease agreements will be in the standard forms developed by the Board Office unless exceptions are granted.
6. When the Board is the landlord in a farm lease, the lease shall terminate on March 1 of a calendar year. Notification of termination shall be in accordance with Iowa Code §562.6 and §562.7

F. Easements

1. With approval of the Executive Council of Iowa, the Board is authorized to grant easements pursuant to Iowa Code §262.67.
2. The institution will prepare an exhibit for all easements being presented for Board approval. The exhibit will include the information requested by the Board Office.

**9.03 Procedures for Capital Improvement Projects**

A. Definition of a Capital Project

1. A capital improvement project is one which provides for the construction, repair, or improvement of buildings (including fixed equipment within buildings) or grounds under jurisdiction of the Board of Regents for which the estimated cost of construction, repair or improvement exceeds the bidding requirements found in Iowa Code §262.34.
2. A major capital improvement project is defined as any new building construction project with an estimated project budget of \$1 million or more or any building renovation project with an estimated project budget of \$2 million or more.

B. Duties and Responsibilities

1. Duties of the Board of Regents

Whenever a capital improvement project is proposed or undertaken at any institution under the control of the Board of Regents, the Board may, as provided for in this Chapter:

- a. Grant permission to proceed with project planning.
- b. Approve a program statement.
- c. Approve the schematic design and design development drawings.
- d. Approve a project description and budget and revised project budget.
- e. Approve the selection of a design consultant or a construction manager and the agreement with the consultant or manager and participate in the architectural selection process.
- f. Approve amendments to a design consultant or construction manager agreement.
- g. Approve rejection of bids and contract awards.
- h. Approve change orders to construction contracts.
- i. Delegate responsibility to the executive director or the institution as provided for in this Chapter.

2. Duties of the Executive Director

Whenever a capital improvement project is undertaken at any institution under the control of the Board, the executive director is authorized and directed to carry out provisions of this Chapter, including:

- a. Negotiate financing arrangements other than appropriations as directed by the Board of Regents and report to the Board.
- b. Receive certification from the institution's chief business officer that the nature and scope of a project is substantially the same as approved by the Board.
- c. Approve program statements; design consultant selection, negotiated agreements and amendments; project descriptions and budgets, and revised budgets; and construction contract change orders as provided for in this Chapter.
- d. Award construction contracts as provided for in this Chapter.
- e. When it is determined to be in the best interest of the institution, reject all bids and/or recommend alternative procedures.
- f. Advise the Board on capital procedure actions recommended by the institutions.
- g. Refer capital procedure actions requested of the Board Office to the Board at the discretion of the Board Office.

- h. 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 Board shall be informed of such executive director actions at the next Board meeting.
  - i. Advise the Board regarding institutional plans for fundraising for capital projects.
  - j. Provide reports to the Board as may be needed.
3. Duties of the Institutions

The institutions under the control of the Board of Regents are authorized to carry out on behalf of the Board duties as provided for in this Chapter including:

- a. Survey needs, recommend capital projects and capital procedure actions to the Board.
- b. Furnish members of its staff to act as architect, engineer, or associate architect or engineer, when it is in the institution's best interest to utilize its staff, rather than consultant(s), to provide these services.
- c. Act as project manager.
- d. Certify to the executive director that the final plans and specifications have been completed in conformance with the nature and scope of the project approved by the Board.
- e. Make all reports and secure approvals as required by other governmental agencies.
- f. With the approval of the chief business officer of the institution and consistent with policies outlined elsewhere in this Chapter, conduct projects, including approval of project descriptions and budgets, revised budgets, design consultant agreements and amendments, contract awards and change orders.
- g. Notify the executive director whenever it is determined that a contractor or consultant is not performing satisfactorily, and when consideration is being given to removing the contractor or consultant.
- h. Submit to the Board Office a semi-annual report for all ongoing capital projects over \$250,000 as of June 30 and December 31 of each year, within 45 days of the end of each semi-annual period. The content and format of the semiannual report will be provided by the Board Office.

- i. Notify the executive director prior to solicitation of private and/or federal funds for major capital projects by an affiliated organization or the institution.
4. The Board Office and institutions shall meet regularly to: a) discuss issues related to capital projects; b) ensure coordination of capital project policies and procedures; and c) provide, upon the Board's request, advice on capital project policies and procedures, and reports on activities.

**C. Capital Project Evaluation Criteria**

The institutions shall submit information to address the Board's capital project evaluation criteria for major capital projects as defined in this Chapter when Permission to Proceed with Project Planning is requested and when approval of the schematic design and project description and budget are requested. The criteria are outlined below:

1. How does this project help fulfill the institution's mission and strategic plan in the following areas:
  - Faculty needs in areas strategic to the university?
  - Program accreditation?
  - Student demand?
  - Other strategic plan-related criteria?
  - Environmental health and safety?
2. What other alternatives were explored to meet the needs identified in number 1 above, why were they rejected and why is the proposed project the best way to meet the identified need?
3. When this project is completed, what facilities and total square footage will be abandoned, transferred or demolished and how does this compare to the new or renovated square footage?
4. What financial resources are available to build/remodel/renovate the proposed capital project including:
  - Source(s) of funding?
  - Availability of funds as it relates to cash flow requirements?
  - Income stream to provide debt service on bonds, if they are to be issued?
  - Calculation of financial return on investment, when applicable?
5. What resources are available to operate and maintain (O&M) the proposed capital project without compromising current programs and operations:
  - Source of O&M funds, e.g., general fund, self-supporting, endowment, etc.?
  - Effect on existing programs/operations if O&M support comes from general fund?

6. Identification of any compelling external forces that justify approval of this capital project:
  - Federal and/or state mandate?
  - Compliance with health/safety/welfare laws?
  - Federal/foundation grant or other external funding opportunities?
  - State policy direction consistent with institutional mission?

***Threshold portion of Chapter 9 which is before the Board for final approval as Agenda Item 7d will be inserted at this point.***

#### **9.14 Special School Capital Project Requirements**

The capital procedures for the universities shall apply to the special schools, with the following exception:

##### Responsibility for Administration of Capital Projects

Iowa State University shall be responsible for the overall administration of capital projects at the special schools (Iowa School for the Deaf and Iowa Braille and Sight Saving School) and shall develop, in conjunction with each school and the Board Office, a responsibility matrix to determine the specific responsibility (school or Iowa State University) for development / approvals of a project description and budget, preparation of Board agenda materials, bidding process and other components of the Regents capital project process. The specific responsibilities of Iowa State University or the school may change by project; these specific responsibilities could be determined by dollar thresholds or the level of complexity of a project.

#### **9.15 Preparation of Plans and Specifications**

##### A. Preparation of Plans and Specifications

1. Plans and specifications will be prepared in compliance with good practice, state and federal law, and Board policy.
2. Final plans and specifications shall be in compliance with the project approved by the Board and the chief business officer shall so certify to the executive director.

##### B. Liquidated Damages

Liquidated damages clauses are to be used on those capital projects that are of extreme urgency to a university function or for a project involving income generation. When such clauses are used, they are to be inserted as a bid alternate to determine what the additional cost of the clause may be.

C. Requirement for Holding Bids

Institutions shall provide in their instructions to bidders that all bids be held for at least 45 days to allow Board action at a regular meeting in cases of unusual circumstances.

D. Art in State Buildings

1. Requirements for the Art in State Buildings Program are included in the Iowa Code and Iowa Administrative Code
2. The Art in State Buildings Program shall apply to construction of new buildings, major renovations, or additions to existing buildings, with the exception of the facilities listed in the Iowa Code.
3. The dollar amount allocated for Art in State Buildings shall be at least 0.5% of the project budget and will cover the cost of selection, acquisition, shipping, installation, and any other associated costs, except professional fees as referenced in the Iowa Code.
4. The Regent institutions participate in the Iowa Arts Council's program with the following understanding:
  - a. The Regent institutions shall coordinate and administer the selection, purchase, and installation of art objects for each project affected by the program.
  - b. The Regent institutions shall receive, hold, and disburse the fine arts funds applicable and designated for each project.
5. When preparing capital appropriation requests, the Regent universities and special schools shall plan for the expense of fine arts elements in their requests.

**9.16 Bidding of Construction Contracts**

The policies of the Board of Regents, State of Iowa, for the bidding of construction contracts are in compliance with the requirements of the Iowa Code and Iowa Administrative Code.

A. Advertisement for Bids

The institution, in the name of the Board, shall advertise for bids for the contemplated improvement or construction consistent with provisions of Iowa Code.



B. Public Competitive Bidding

1. Regents capital projects are governed by Iowa statutory requirements relating to Competitive Bidding, Preference for Iowa Products and Labor (Chapter 73 of the Iowa Code) and Reciprocal Resident Bidder Preference (Chapter 73A.21).
2. Pursuant to §262.34 of the Iowa Code, when the estimated cost of a construction contract is in excess of \$25,000 and the construction is not to be performed by institutional personnel, the institution shall advertise for public competitive bid.
3. It is the policy of the Board that construction work estimated to exceed \$25,000 shall be offered for public competitive bid under the procedures outlined in Section 262.34, of the Iowa Code, unless authorized otherwise by the executive director or the Board.
  - a. Requests from the institutions to perform work on projects between \$25,000 and \$50,000 using institutional personnel will be considered by the executive director on an individual basis. After consideration, the executive director will either approve the institution's request or refer the project to the Board for action.
  - b. Requests from the institutions to perform work on projects in excess of \$50,000 shall be referred to the Board for consideration. Such requests shall indicate why the work should be done by institutional personnel.
4. Targeted Small Businesses Construction Contracts

All laws and rules pertaining to solicitations, bid evaluation, contract awards, and other procurement matters apply to targeted small business targets to the extent there is no conflict. If Iowa Code related to targeted small businesses conflicts with other laws or rules, then Iowa Code related to targeted small business shall govern.

C. Public Hearings

1. Consistent with the provisions of Iowa Code, Regent institutions must conduct public hearings before entering into any contract for any public improvement estimated to exceed the threshold established in Iowa Code §73A.2.
2. As per Iowa Administrative Code, initial public hearings are to be conducted by the chief business officer of each institution, or delegated representative. Reports of public hearings are to be filed with the executive director by the chief business officer. All final hearings required by law are to be held by the Board.

D. Bid Security

1. As required by Iowa Administrative Code, bids are to be accompanied and secured by a cash deposit, cashier's check, certified check, or a bid bond in an amount of at least 5 percent of the bids. Bids accompanied and secured by any other form of bid security shall automatically be disqualified.
2. As permitted by Iowa Code, on bids of \$50,000 or less, Certified Targeted Small Businesses may either provide a bid bond OR a bond waiver from the Department of Inspections and Appeals.
3. Other provisions related to the requirements for and provisions of bid security are detailed in Iowa Administrative Code.

**9.17 Process for Bid Openings, Receipt of Construction Bids and Award of Construction Contracts**

A. Notification of Bid Openings

Institutions shall notify the Board Office immediately when a bid opening for a project with a budget of \$250,000 or greater is scheduled, via e-mail or an alternate method to be determined by the institution and the Board Office.

B. Receipt of Construction Bids

1. All construction bids shall be received until 2:00 p.m. on the date designated in the advertisement, after which such bids will promptly be publicly opened and read aloud by the chief business officer or designee. No deviation in the uniform receipt time shall be permitted without prior written permission of the executive director. Bid openings on weekends or on Mondays or on days immediately preceding or following a recognized holiday will be avoided when possible.
2. Each envelope containing a bid shall receive a time stamp which will register the official time of receipt.
3. A representative of the owner shall be present at the place designated for receipt of bids prior to and through the 2:00 p.m. uniform receipt time.
4. No bid shall be received after the 2:00 p.m. cutoff time, unless the owner's representative determines that a prospective bidder was in line ready to have a bid received at 2:00 p.m.
5. Bidders shall not use any institutional offices or equipment other than public telephones in bid preparation.
6. Upon receipt, bids will be secured by a university representative and will be moved by the same representative to the place designated for opening of bids.

7. The place where bids are to be opened publicly and read aloud shall be posted and announced to bidders when bids are received. Generally, such place shall be the same location as used for the public hearing which precedes the bid opening. The public hearing usually occurs at 1:30 p.m. A bidder shall be urged by the owner's representative to proceed immediately to the bid opening location after bid receipt has taken place.

C. Award of Construction Contracts

1. A Regent construction contract shall be let consistent with Iowa Code to the lowest responsible bidder. However, if in the judgment of the Board, bids received are not acceptable, the Board may reject all bids and proceed with the construction, repair, or improvement by a method as the Board may determine as provided by Iowa Code.
2. Institutional Actions and Reports
  - a. With the approval of the president of the institution, the chief business officer or designee shall award the construction contract as authorized by this Manual.
  - b. On projects with budgets of \$250,000 or more, the institutions shall forward to the Board Office, via e-mail or an alternate method to be determined by the institution and the Board Office, a copy of the bid tabulation within 24 hours of the bid opening. The bid tabulation shall include the construction cost estimate(s) for the Base Bid and any alternates.
  - c. A listing of contracts awarded by the institution for projects with approved budgets exceeding \$250,000 shall be provided to the Board Office as requested.
3. For construction contracts to be awarded by the Board Office as provided for in this Manual, the chief business officer or designee, shall furnish to the Board Office, via e-mail or an alternative method to be determined by the institution and the Board Office, a signed recommendation for award of the construction contract, which will include the copy of the bid tabulation with construction cost estimate(s), a report of the bid opening and any bidding irregularities, as well as a written statement indicating whether award of the contract to the low bidder will allow the project to proceed within the last approved project budget or whether a revised project budget is necessary.
  - a. The award recommendation should include one of the following statements:

The award can be made as there are no unusual circumstances or irregularities in the recommended action

or

The following irregularities or unusual circumstances are called to your attention for appropriate action: (detail)

- b. The award recommendation should include copies of any targeted small business documentation provided with the bid, if applicable.
- c. If any objections are filed pursuant to Iowa Code or if the chief business officer determines that any unusual circumstances exist which require special attention of the Board, the report of the bid opening and the award recommendation shall include a statement thereof; and said matters shall be considered by the Board of Regents at its next meeting, at which time all interested parties may file a written statement
- d. Regardless of other provisions of this Manual, for all projects with budgets exceeding \$250,000 which there is a bidding irregularity, the construction contract shall be awarded by the executive director or may be forwarded by the executive director to the Board for its action.
- e. The executive director shall notify each institution formally by letter of action taken on each award of a contract.
- f. If the proposed award involves unusual circumstances, Board approval of a revision of the project budget as provided for in this Manual, or the necessity for a final public hearing in case there have been objections, as determined by either the institution or the executive director, the proposed award will be presented to the Board for action.
- g. On construction contracts to be awarded by the executive director or the Board, the contract shall not be considered to be awarded until the institution receives a formal letter from the executive director, or approval by the Board. Upon approval to award the contract by the executive director or the Board, the institution may proceed to issue a "Notice of Award" to the contractor with a copy to the Board Office.

## **9.18 Construction**

### **A. Change Orders**

1. Upon recommendation of the architect or engineer, the institution may authorize or submit to the Board Office for approval change orders to the construction contract.
2. All change orders shall be submitted on standard change order forms and shall be accompanied by an explanation of the reason for the change.
3. Approval of change orders shall be as provided in Section X of this Manual.

4. Change orders approved by the institution shall be reported to the Board Office.
5. Contract change orders requiring approval of the Board Office shall not be signed by the chief business officer until approved.

**B. Retention from Payments on Contracts**

1. Retention from payments to construction contractors are governed by provisions of Iowa Code, including Chapter 573, Labor and Material on Public Improvements.
2. Iowa Code provides for prompt payment by the contractor to its subcontractors.

**C. Iowa State Sales Tax on Construction Projects**

1. The services and materials furnished as part of Regent construction projects are generally exempt from state sales tax.
2. Iowa Code provides two options to deal with Iowa state sales tax on Regent construction projects.
  - a. Regent institutions may issue exemption certificates to contractors and subcontractors allowing them to purchase, or withdraw from inventory, building materials for the contract free from Iowa sales tax following Department of Revenue procedures, or
  - b. The contractor pays Iowa sales tax on all building materials and includes that cost in the bid; the contractor then submits Department of Revenue forms to the Regent institution to document the amount of Iowa sales tax paid on the construction materials incorporated into the real property. The Regent institution would then apply for a refund of the Iowa sales tax following Department of Revenue procedures.
  - c. The Conditions of the Contract for all Regent construction projects shall identify whether exemption certificates will be issued.

**9.19 Acceptance of Completed Construction Contracts**

- A. The chief business officer, with the approval of the chief executive officer of each institution, is authorized to accept contract work as complete and authorize final payments on behalf of the Board of Regents and in accordance with Iowa Code. The 30-day waiting period, required by Iowa Code, shall commence on the date of such acceptance and authorization.

- B. The contract performance bond shall provide coverage for at least one year following contract acceptance by the institution and permit the Board recourse to remedy contractor deficiencies without prejudice due to prior acceptance of the contract by the institution.
- C. All construction contracts for projects with budgets of \$250,000 or more, which have been accepted as complete by the chief business officer, shall be reported to the Board Office in a method to be determined by the Board Office.

**9.20 Final Reports**

Final reports for completed capital projects with budgets of \$250,000 or more shall be sent to the Board Office. The final report document shall show in summary form the current project budget, expenditures, balance or overdraft in the project account, and disposition of the balance or overdraft (with explanation).

**9.21 Procedures for Institutional Roads Projects**

- A. Projects administered by the Department of Transportation will proceed according to Department of Transportation rules and regulations after a project description and budget has been approved by the Board of Regents.
- B. Projects administered by the Board of Regents institutions will follow Board of Regents procedures as outlined in this Chapter.
- C. On certain projects a university may be responsible for the preliminary engineering, design, administration, contract letting, construction engineering, and inspection of a programmed institutional road construction project. The Iowa Department of Transportation shall be informed, consulted, and shall concur in the various phases of the project as determined by a formal agreement between the Board and the Iowa Department of Transportation. The Iowa Department of Transportation shall reimburse the university for the actual construction and design costs of such a programmed project, as prescribed and expressed in the formal agreement.
- D. The Iowa Department of Transportation shall enter into annual maintenance agreements with Board of Regent institutions. Agreements shall set out institutional road mileage to be maintained by each institution and shall specify in detail the routine maintenance categories for which each institution shall be reimbursed monthly for maintenance costs incurred in the preceding month. Such agreements shall be effective the first day of January each year.

**Board approved revisions of sections of the Policy Manual**

- Chapter V. Equal Opportunity, in January 2002.
- Chapter II. Meetings and Chapter IV: Personnel, in March 2002.
- Chapter IV. Personnel -- §4.04: Appointment of Presidents, Superintendents, and Executive Director and §4.11: Employment and Supervision of Immediate Family Members, in April 2002.
- Chapter III. Board Office, in April 2002.
- Chapter VI. Academic Policies and Procedures (with the exception of §§6.03 and 6.04), in April 2002.
- Chapter I. Board of Regents, in May 2002.
- Chapter VI. Academic Policies and Procedures, §§6.03 and 6.04, in May 2002.
- Chapter VIII. Charges and Fees, in May 2002.
- Chapter IV. Personnel -- §4.37: Regent Employees Representing the Board of Regents and the Regent Enterprise, and §4.38: Regent Employees Serving on State Committees as Regent Employees, in June 2002.
- Chapter I. Board of Regents -- §1.07(A)(2)(b) (amended to include a community college president as a representative on the Committee on Educational Coordination), in June 2002.
- Chapter VII. Business Procedures -- §7.04: Purchasing, in July 2002.
- Chapter IV. Personnel -- §4.39: Conflict of Interest of Public Officers and Employees – Gifts, §4.40: Conflict of Interest – Duty of Loyalty, and §4.41: Inclement Weather, in January 2003.
- Chapter VII. Business Procedures -- §7.01: Authority, §7.02: General Practices, §7.04: Financing, §7.06: Risk Management, §7.07: Compliance and Reporting, and §7.08: Audits, in January 2003.
- Chapter IX. Property and Facilities -- §9.03: Register of Capital Improvement Business Transactions, §9.04: Permission to Proceed with Project Planning, §9.05: Program Statement, §9.06: Project Descriptions and Budgets, §9.07: Consultant Agreements and Amendments, §9.08: Construction Contracts and Change Orders, §9.09: Acceptance of Completed Construction Contracts, and §9.10: Final Reports, in January 2003.
- Chapter I. Board of Regents -- § 1.03: Report of Special Schools Advisory Committees; §1.04, subsections C and E; and §1.06I: Regent Advisory Committees on Iowa School for the Deaf and Iowa Braille and Sight Saving School, in April 2003.
- Chapter IV. Personnel -- §4.42: Interinstitutional Staff Sharing, in April 2003.
- Chapter VI. Academic Policies and Procedures -- §6.05: Academic Review and Program Approval and subsection 6.05B(3), in April 2003.
- Chapter IX. Property and Facilities -- §9.07: Consultant Agreements and Amendments, in April 2003.
- Chapter I. Board of Regents -- §1.03: Governance, subsection E: Governance Reports – Banking Committee, in May 2003.
- Chapter I. Board of Regents -- §1.05: Board of Regents Committee, in May 2003.
- Chapter VII. Business Procedures -- §7.09: Printing, in July 2003.
- Chapter VII. Business Procedures -- §7.02: General Policies, A. Budgets, 6. Reallocation, in October 2003.

## Attachment B

- Chapter I. Board of Regents - §1.06E: Economic Development and Technology Transfer, in October 2003.
- Chapter III. Board Office -- §3.03: Responsibilities of the Executive Director and Board Office, emeritus status for Board Office staff, in November 2003.
- Chapter IV. Personnel -- §4.16: Holidays, in December 2003.
- Chapter IV. Personnel -- §4.31: Drug-Free Environment and Controlled Substances, Subsection C, in December 2003.
- Chapter VI. Academic Policies and Procedures -- §6.05: Academic Review and Program Approval, in December 2003.
- Chapter V. Equal Opportunity -- §5.06: Affirmative Action Committee, in December 2003.
- Chapter VII. Business Procedures -- §7.09: Printing, Subsection D-4, in December 2003.
- Chapter I. Board of Regents -- §1.09, Affiliated Organizations, in January 2004.
- Chapter VII Business Procedures -- §7.04B, Master lease drawdowns, in January, 2004.
- Chapter VII Business Procedures -- §7.04C, Assistance in reporting, in January, 2004.
- Chapter VII Business Procedures -- §7.04I, Purchasing report, in January, 2004.
- Chapter VIII Fees and Charges -- §8.06A, Residence system reporting, in January, 2004
- Chapter I Board of Regents -- §1.03E, Governance Reports, in February 2004
- Chapter I Board of Regents -- §1.02, Strategic Plan, in April, 2004
- Chapter I Board of Regents -- §1.01C, Orientation of Board Members, in May, 2004
- Chapter IV. Personnel -- §4.40: Conflict of Interest, in May, 2004.
- Chapter I Board of Regents -- §1.04, Board Officers, in May, 2004
- Chapter I Board of Regents -- §1.05, Board of Regents Committees, in May, 2004
- Chapter I Board of Regents -- §1.06, Interinstitutional Committees, in May, 2004
- Chapter I Board of Regents -- §1.07, Special Committees, in May, 2004
- Chapter VII Business Procedures – A number of non-substantive editorial corrections were implemented to ensure that the Policy Manual conformed to the revisions in the Board’s committee structure (e.g., “Banking Committee” references were removed or revised) in May, 2004
- Chapter I Board of Regents -- §1.05b, Board Committee responsibilities, in June, 2004
- Chapter I Board of Regents -- §1.05d, Standing Committees of the Board, in June, 2004
- Chapter VI. Academic Policies and Procedures -- §6.01: Admissions Requirements (application fees), in June, 2004.
- Chapter VI. Academic Policies and Procedures -- §6.20: Admission Requirements (Iowa Braille and Sight Saving School) Approval, in June, 2004.
- Chapter VII Business Procedures -- §7.05B.12, Definition of “movable equipment, in January, 2004.
- Chapter 1 Board of Regents -- §1.02 Strategic Plan, August 24, 2004.
- Chapter 3 Board Office -- §3.01 Board Office Statement of Mission, August 24, 2004.
- Chapter 3 Board Office -- §3.03 Responsibilities of the Executive Director and the Board Office, August 24, 2004.



## **Attachment B**

- Chapter 4 Personnel – §4.03A Professional and Scientific Classification Systems, September 15, 2004.
- Chapter 4 Personnel – §4.35 Phased and Early Retirement Programs, September 15, 2004.
- Chapter 1 Board of Regents – §1.03 Governance, September 15, 2004.
- Chapter 8 Fees and Charges – September 15, 2004.
- Chapter 7 Business Procedures – §7.03 Investment Activity F(5) September 15, 2004.