

MEMORANDUM

To: Board of Regents
From: Board Office
Subject: Public Hearing - 3:00 p.m., Wednesday, October 18, 2000
University of Iowa Hospitals and Clinics Roof Replacement Project
Date: October 9, 2000

Recommended Action:

Conduct hearing pursuant to law.

Executive Summary:

At its meeting of April, 2000, the Board approved a project description and budget (\$588,000) for the replacement of certain portions of the roof of the General Hospital and Boyd Tower at the University of Iowa Hospitals and Clinics (UIHC). The University of Iowa (University) advertised for bids for the project following Board approval. The University conducted a pre-bid conference on May 31, 2000, which was attended by T & K Roofing Company (T&K) and other interested contractors. Following this conference, T & K requested substitution of either a Firestone or GAF product as an approved equivalent to the Garland product named in the bid specifications. The University denied T&K's request for the substitution.

As required by Iowa Code §73A.3, The University conducted a public hearing on June 14, 2000, for the purpose of considering issues related to its proposed plans, specifications, contract, and costs for this project. At this hearing, T&K asked that all bids be rejected and rebidding be undertaken by this University with open specifications. The request was not granted and the bids were opened at the conclusion of the hearing. Through their counsel, Robert S. Hatala of Crawford, Sullivan, Read & Roemer of Cedar Rapids, T&K requested a hearing before the Board, as provided by Iowa Administrative Code §681-8.6(1) and Iowa Code §73A.3.

T&K maintains that the specifications for this project were written so that no substitutions would be considered, regardless of whether those substitutions would be equivalent to Garland materials. It is T&K's position that all bids should be rejected and new specifications prepared that will include equivalent roofing materials. The University argues that the materials suggested by T&K as equivalent do not constitute an equivalent to the Garland material.

The Board is asked to conduct a hearing regarding T&K's objections, pursuant to Iowa Code §73A.3. This statute requires that any "municipality", which is defined to include the Board of Regents, must conduct a public hearing to consider issues related to the proposed plans, specifications or costs of any public improvement which will cost twenty-five thousand dollars or more. The statute further provides:

"The governing body of the municipality proposing to enter into such a contract shall hear said objections and any evidence for or against the same, and forthwith enter of record its decision thereon."

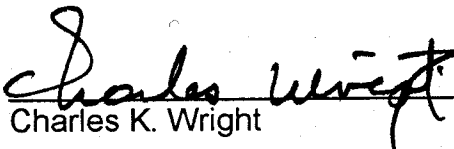
Interested parties have been asked to submit documentary evidence to the Board Office by October 6, 2000 for consideration by the Board in this hearing. Such submissions will be sent to the Board under separate cover and are available to interested parties by request to the Board Office.

Background:

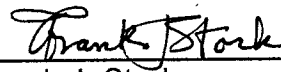
The capital project process, pursuant to the Regent Procedural Guide and state statute, is included as Attachment A. Based on previous Board actions and correspondence from the parties, an abbreviated chronology of the essential elements of this hearing is as follows:

- The Board approved the project and proposed budget at its meeting in April 2000.
- Bid specifications were developed by the University and its consultant, Shive-Hattery, pursuant to Iowa Code §262.34.
- The University advertised for bids for the project in the spring of 2000.
- T&K Roofing, along with other prospective contractors, attended a pre-bid conference on May 31, 2000.
- Subsequent to the pre-bid conference and prior to bid opening on June 14, T&K applied to the University to use an approved equivalent as a substitute for the Garland roofing material contained in the bid specifications.
- T&K did not get from the University or its consultant, Shive-Hattery, approval to substitute either a Firestone or GAF product for the Garland product.
- At the public hearing on June 14, 2000, at 1:30 p.m., T&K asked that all bids be rejected and re-bidding take place with open specifications.
- T&K also asked that its bid not be opened and that no contract be awarded.

- The University offered to permit T&K to withdraw its bid, which was rejected. T&K then proposed that the University reject all bids and re-bid the project, which was rejected by the University.
- At approximately 2:00 p.m., June 14, 2000, the bids for this project, including T&K's, were opened.
- On June 21, 2000, T&K timely filed its request for a hearing before the Board of Regents, pursuant to the decision of the University and its consultant, Shive-Hattery, to reject products by Firestone and GAF as not meeting the specifications for this project.


Charles K. Wright

Approved: _____

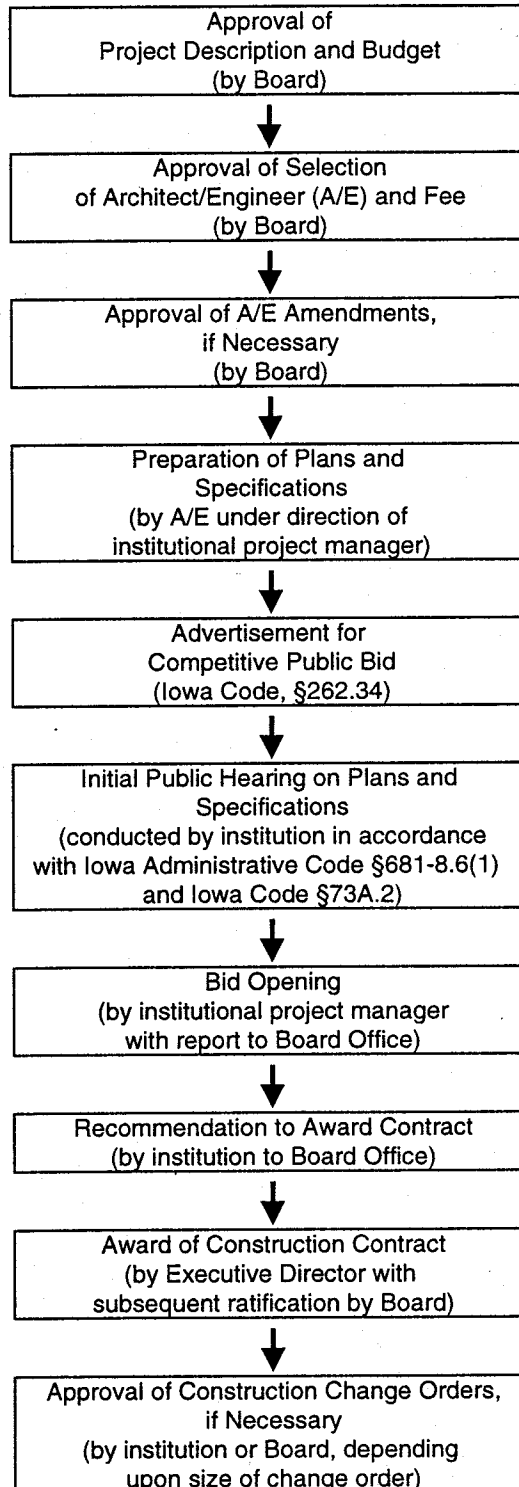

Frank J. Stork

H:hr/Docket 2000/octgd23

ATTACHMENT A

BOARD OF REGENTS, STATE OF IOWA
CAPITAL PROJECT PROCESS*

All Projects Estimated to Cost More than \$250,000 and Less than \$1 Million



*Process is per Regent Procedural Guide unless other reference is provided.