



POLICY

Capital Construction Project Approval

Policy Administrator: Vice President for Administration and Finance

Authority: State College Contracts Law, P.L.1986, c. 43 (C.18A:64-52 et. seq.); N.J.S.A. 18A:64-6; N.J.S.A. 18A:64-55; N.J.S.A. 18A:64-56

Effective Date: September 10, 2008

Index Cross-References: Policy VI-57: Debt Management; Procedure 6078: Capital Improvement Program

Policy File Number: VI-8.2

Approved By: Board of Trustees

I. Statutory Background:

The "State College Contracts Law, "P.L.1986, c. 43 (C.18A:64-52 et. seq.), effective July 9, 1986, was enacted to provide each State college with greater operational autonomy. The following provisions are applicable to the governance policy for capital construction projects:

N.J.S.A. 18A:64-6 of the State College Contract Law establishes the powers and duties of the Board of Trustees of a State college.

Under subsection (6)(w), amended and effective March 13, 2006, the Board is required to award contracts and agreements for the purchase of goods and services (as distinct from contracts or agreements for the construction of buildings and other improvements) to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the State college, price and other factors considered; and

Under new subsection (6)(x) of N.J.S.A. 18A:64-6, effective March 13, 2006, the Board is required to award contracts and agreements for the construction of buildings and other improvements to the lowest responsible bidder, whose bid, conforming to the invitation for bids, will be the most advantageous to the State college.

N.J.S.A. 18:A-64-55 requires every contract or agreement exceeding the current threshold amount, established by the legislature to be publicly advertised for bid.

N.J.S.A. 18A:64-56 establishes exceptions to the requirement of public bidding of purchases, contracts or agreements exceeding threshold amount and conditions allowing the making, negotiating and awarding of contracts by resolution of the Board without bidding. Subsection (a) lists, among other categories, the following:

- (1) Professional services
- (3) Materials or supplies which are not available from more than one potential bidder including, without limitation, materials or supplies which are patented or copyrighted
- (15) Professional consulting services, and
- (26) Construction management services for construction, alteration, or repair of any building or improvement

II. Definitions:

1. "Project:" means capital construction of new facilities including overbuilds, expansions, and major reconfigurations of existing space that has not been approved by the Board of Trustees as part of the "Capital Budget".
2. "Capital Budget" means a formal submission of all anticipated capital needs for the repair and improvement of existing buildings including the purchase of equipment, which will be adopted through resolution by the Board of Trustees subsequent to the State budget being adopted.
3. "Budget" means a cost estimate, in whole or in part, for any project as defined above.

III. Purpose:

To establish guidelines that shall govern the expenditure of funds for capital construction "projects". If funds for such projects are made available through the issuance of debt, they are subject to the Debt Management Policy, VI-57, as adopted by the Board of Trustees on June 14, 2006.

1. Any project exceeding expenditures in excess of \$500,000 that receives a positive recommendation from the President of the University, or the President's designee, will be reviewed by the Finance and Professional Services Committee (a sub-committee of the full Board of Trustees) and if recommended, considered by the full Board (of Trustees) for approval by formal resolution during an open public meeting.
2. All procurement of and expenditures of funds for projects will be made in compliance with all requirements of the State College Contracts Law.

3. **Projects under \$500,000.** Any project with an estimated cost under \$500,000 that receives a positive recommendation from the President of the University, or the President's designee, shall be publically advertised for bid, and awarded to the lowest responsible bidder, whose bid, conforming to the invitation for bids, will be the most advantageous to the State University. The essential information about the bid and award shall be included for informational purposes only in the Board's meeting packet at next regular scheduled meeting.
4. **Projects over \$500,000.** Any project exceeding an estimated cost of \$500,000 that receives a positive recommendation from the President of the University, or the President's designee, shall be handled in the following manner.
 - a) The project shall be reviewed by the Finance and Professional Services Committee of the Board of Trustees and, if recommended by the Committee, shall be considered by the full Board (of Trustees) for approval by formal resolution during an open public meeting.
 - b) A project's concept and budget for preliminary expenses that have received a positive recommendation from the President of the University, or the President's designee, shall be submitted to the Finance and Professional Services Committee. If the project's concept and budget for preliminary expenses are accepted by the Finance and Professional Services Committee, the President (or the President's designee) shall be authorized to award a contract for architectural and design services for the project, provided that it is publicly advertised for bid under N.J.S.A. 18A:64-55.
 - c) Following the design phase of a project, a final budget for the project that receives a positive recommendation from the President of the University, or the President's designee, will be submitted to the Finance and Professional Services Committee; and if recommended, considered by the full Board for approval by formal resolution during executive session.
 - d) Once funding has been approved, and secured, the President (or the President's designee) is authorized to award a construction contract, after the project is publicly advertised for bid, to the lowest responsible bidder, whose bid, conforming to the invitation for bids, will be the most advantageous to the State University and included for informational purposes only in the Board's next regularly scheduled meeting materials.

5. Following the Board's approval of the budget for any project exceeding \$500,000, modifications that increase the overall project budget by 10% or more that receive a positive recommendation from the President of the University, or the President's designee, must be reviewed and recommended by the Finance and Professional Services Committee and presented for approval to the full Board during an open public meeting.
6. After close out of the project a final report will be provided to the President, the Finance and Professional Services Committee, and included for informational purposes in the Board's next regular scheduled meeting materials.

It is the expectation of the Board of Trustees, through the issuance of this policy that projects approved for implementation will be delivered in a timely manner and carried out within budget as originally approved.

Approval History:

	Date
Board of Trustees	09/10/08