ACTION MEMO
CHANCELLOR APPROVALS

LEAD: Laura Glatt/Rick Tonder

TITLE: SBHE policy 902.5 revisions

DESCRIPTION: HB1426 (2015 session) increased the threshold for required architect/engineer services from over $100 to over $150K for state capital improvement projects.

ENCLOSURE: revised SBHE policy 902.5

VETTED/RECOMMENDED BY:

COS ✓ SE ADMIN ✓ IT ACAD

OTHERS: Rick Tonder

CHANCELLOR APPROVAL GRANTED: N

DATE APPROVED:

SBHE CHAIR INFORMED: Y N N/A

SBHE COMM CHAIR INFORMED: Y N N/A ✓

CAMPUS(ES) INFORMED: Y N N/A

CAMPUS(ES) INVOLVED: Laura Glatt distribute to Admin. Affairs Council

ADDED TO SBHE AGENDA: Y N N/A

SBHE SUMMARY/EXCERPTS COMPLETED BY: Laura Glatt distribute to Admin. Affairs Council

SUBMITTED TO EXEC ASST SBHE: Y N N/A

ADD'L COMMENTS: Policy change will require interim chancellor approval as the law changes takes effect on 8/1/15, prior to the next SBHE meeting. Chancellor has authority to approve during the interim per SBHE policy 304, 3 (k). Per that policy Chancellor shall notify the SBHE president of his approval. This will be placed on the 9/3/15 SBHE agenda for ratification. Due to limited changes, this was not vetted by AG's Office.
1. **Issue:** Change SBHE policy to reflect legislative change from >$100,000 to >$150,000 for procurement of architect or engineer services for public improvement projects.

2. **Proposed motion:** Ratify Chancellor’s interim authorization of revisions to SBHE policy 902.5 – Construction Process, Architects, Engineers and Construction Managers.

3. **Background:** Current law and policy requires campuses to procure licensed architect or registered professional engineer services for plans, drawings and specifications for public improvement projects costing over $100,000. HB1426 (2015) increased the dollar limit from $100,000 to $150,000. Other minor editorial changes are also included in proposed policy revisions.

4. **Financial implications:** Not material.

5. **Academic implications:** None

6. **Legal/policy issues:** Change is compliant with law taking effect on 8/1/15.

7. **Review Process:** Tonder, Glatt

8. **Enclosures:** Revised SBHE policy 902.5

9. **Contact person:** Laura Glatt, VC for Administrative Affairs, 701-328-4416, laura.glatt@ndus.edu

10. **Chancellor’s Recommendation:** Approve
SUBJECT: 900s: Facilities  EFFECTIVE: August 1, 2015

Section: 902.5 Construction Process-Architects, Engineers and Construction Managers

1. Institutions shall procure plans, drawings and specifications for public improvements and works estimated to cost in excess of $150,000 from a licensed architect or registered professional engineer when required by NDCC chapter 48-01.2 or NDCC 43-19.1-28. Plans or specifications of buildings to be used in connection with farm or agricultural research at the North Dakota Agricultural Experiment Station may, with the approval of the Board, be procured from a registered professional engineer employed by the Experiment Station.

2. Drawings and specifications for construction of public works involving an estimated cost in excess of $100,000 shall be prepared by a registered professional engineer in accordance with NDCC section 43-19.1-28.

3. All architects, engineers and construction managers shall be selected in accordance with NDCC chapter 54-44.7, and construction managers shall also be selected according to NDCC chapter 48-01.2. As stated in Policy 902.3, institutions have delegated authority to select architects, engineers, construction managers or land surveyors.

4. Architects shall not draw specifications leaving any portion of a building incomplete or unfinished, nor prepare any deduct alternate which postpones the completion of any work on the building or the building site, without express approval of the Board.

5. The Chancellor shall adopt procedures implementing this policy and establishing guidelines for architect, engineer and construction manager services and agreements and contractor agreement guidelines and forms.

History:
Replaces Article VII, Section 1(G-3), Section 4 A, and Section 5(A), 7/81.
Amendment SBHE Minutes, November 8-9, 1990, page 6059.
Amendment SBHE Minutes, January 20, 1994, page 6430.
Amendment SBHE Minutes, April 4, 2000.
Amendment SBHE Minutes, November 21, 2002.
Amendment SBHE Minutes, September 18, 2008.
Amendment SBHE Minutes, November 17, 2011.
Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1426
(Representatives Steiner, Rick C. Becker, Devlin, Trottier)

AN ACT to amend and reenact subsection 1 of section 15.1-38-01 and sections 43-19.1-28 and 48-01.2-02.1 of the North Dakota Century Code, relating to approval of school construction projects by the superintendent of public instruction and bids and plans and specifications for public improvements; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 15.1-38-01 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding the powers and duties of school boards provided by law, the superintendent of public instruction shall approve the construction, purchase, repair, improvement, modernization, or renovation of any public school building or facility before commencement of the project if the cost of the project, as estimated by the school board, is in excess of one hundred fifty thousand dollars.

SECTION 2. AMENDMENT. Section 43-19.1-28 of the North Dakota Century Code is amended and reenacted as follows:


Except as otherwise provided by law, the state and its political subdivisions may not engage in the construction of public works involving the practice of professional engineering when the contemplated expenditure for the project exceeds the sum of one hundred fifty thousand dollars, unless the engineering drawings and specifications and estimates have been prepared by, and the construction administration and construction observation services are executed under the supervision of, a registered professional engineer. Any engineering contract executed in violation of this section is void.

SECTION 3. AMENDMENT. Section 48-01.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

48-01.2-02.1. Public improvement construction threshold.

The threshold for bidding construction of a public improvement is one hundred thousand dollars. The threshold for procuring plans, drawings, and specifications from an architect or engineer for construction of a public improvement is one hundred fifty thousand dollars.

SECTION 4. APPLICATION. Sections 2 and 3 of this Act apply to any public improvement project for which a contract or agreement for plans, drawings, or specifications is executed after the effective date of this Act.