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SBHE Policies

SUBJECT: FACILITIES

EFFECTIVE: October 23, 2009

Section: 902.1 Construction Process-Legislative Approval; List of Funding Requests

1. Board approval is required prior to making a request or application for state or federal legislative appropriations and all other fund sources, or to begin a formal fundraising campaign for new building construction, major renovations, or major building additions. The Chancellor shall adopt an implementing procedure that includes definitions or guidelines to identify "major" projects governed by this policy.
2. In conjunction with biennial budget preparation, each campus shall submit to the Chancellor a prioritized list of projects that are defined below in subparagraphs a and b, consistent with the goals and strategies set forth in the campus master plan. The project descriptions shall include the total estimated purchased or donated project costs, including but not limited to, design and preplanning costs (including OMB preplanning revolving funds), architect and engineer fees, permits, insurance, land acquisition and site preparation or development, demolition and disposal, foundation and building construction or renovation, landscaping, infrastructure and utilities, mechanical and electrical, parking and driveways or roadways, fixed or movable appliances, furniture and equipment, third-party costs, contingencies, value of work completed by institution staff and billed to the project and all other costs, including costs the institution does not intend to include in the legislative budget request, which must be separately identified. The project descriptions shall also include estimates of current and future costs and funding sources of operating costs and all other improvements directly related to or necessitated by the requested improvements. The Chancellor, in consultation with the campuses, shall submit a prioritized list of system projects to the Board for their consideration. The Board shall approve a rank order list of funding requests for major capital projects from all fund sources listed in categories defined in subparagraphs a and b.
 - a. (1) Major renovations to existing facilities.
(2) Major renovations to existing infrastructure, including technology upgrading.
 - b. New construction and additions to existing facilities, including the cost of renovating existing facilities that are made necessary by an addition or new construction.
3. Major capital project priorities shall be consistent with the following categories, which are listed in order of priority (except that a and b have equal priority):
 - a. Projects to meet life, health and safety requirements.
 - b. Projects that are necessary to comply with local, state, or federal law or requirements.
 - c. Projects that preserve current assets.
 - d. Projects that represent new strategic investments through the enhancement of current assets or the creation of new assets.

4. The Board shall use the following criteria to determine a rank order of projects listed. These criteria are not weighted, but shall be considered in their totality when determining rank order of priorities.
 - a. Project addresses current life, health and safety issues.
 - b. Project addresses compliance with local, state or federal law or requirements.
 - c. Project corrects significant deferred maintenance.
 - d. Project addresses a critical maintenance need defined by those which must be addressed, and which, if neglected, could result in substantial damage to the structural integrity of the building.
 - e. Project meets a compelling programmatic or accreditation justification consistent with campus mission and strategic goals.
 - f. Project has been partially funded by the legislature in a previous biennium, but is not yet complete.
 - g. Project is supported by significant outside funding.
 - h. Space will be used to advance a specific program or activity that is a high priority of the state.
 - i. Project addresses an urgent infrastructure need.
 - j. Project is consistent with campus master plan and is highly rated by the campus.
 - k. Project is necessary based on clearly demonstrated condition of existing space.
 - l. Project fosters the consolidation of services or enhances operating efficiencies.
 - m. Project enables the institution to remove obsolete or unnecessary facilities.
5. According to NDCC Section 15-10-12.1, approval of the legislature (or, if the legislature is not in session and it is not within six months prior to a legislative session, budget section approval) is required to use donated funds, gifts or grants to construct buildings or other improvements if the cost exceeds \$385,000. Institutions must have Board approval to seek legislative or budget section authorization to proceed with a project funded with donations, gifts or grants.
6. Improvements may be financed by issuance and sale of bonds under NDCC chapter 15-55 and other applicable laws and regulations. Institutions must have Board approval to request required legislative authorization for revenue bonds.

REFERENCE: N.D.C.C. Section 15-10-12.1; N.D.C.C. Section 48-01.2-25

HISTORY: New policy. SBHE Minutes, January 12-13, 1984, page 5200.
Amendment SBHE Minutes, December 7, 1989, page 5915.
Amendment SBHE Minutes, January 20, 1994, page 6430.
Amendment SBHE Minutes, December 21, 1995, page 6603.
Amendment SBHE Minutes, December 20, 1996, page 6711.
Amendment SBHE Minutes, April 4, 2000.
Amendment SBHE Minutes, February 19, 2004.
Amendment SBHE Minutes, September 18, 2008.
Amendment SBHE Minutes, October 23, 2009.

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SBHE Policies

SUBJECT: FACILITIES

EFFECTIVE: October 23, 2009

Section: 902.3 Requests for Construction, Renovation & Remodeling; Change Orders; Changes in Project Scope or Size

1. All buildings and other improvements shall be constructed within the limits of appropriations, bond issues, or other specific allocations of funds made by the Board or the legislature. Except with Board and, when required according to NDCC § 48-01.2-25, legislative or budget section approval, an institution may not significantly change, expand, or reduce a project (including changes to project size, intended use or funding source(s)) the Board or the legislature has specifically authorized and an institution may not spend or contract for expenditure of an amount that exceeds amounts authorized by the Board or legislature. The Chancellor is delegated to act for the Board and approve a request for a significant change or increased expenditure for a Board-approved project or approve a request to seek legislative or budget section approval when required if a delay in approving the request pending Board action will result in a significant delay in project completion or additional cost increases. A request for Chancellor approval must be in writing and include a detailed explanation regarding the impact of a delay in granting approval.
2. Institutions have authority under SBHE Policy 902.5 to select architects or engineers, including authority to retain an architect or engineer for preliminary design work that may be required or useful to develop a viable project proposal and reliable project cost estimates. Costs shall be paid from currently available institutional resources or OMB preplanning revolving funds.
3. Board approval is required to proceed with a capital project or improvement, including maintenance or repairs, infrastructure or projects designed to increase building or facility usefulness, efficiency or useful life, for which the total cost exceeds \$250,000. Required requests for authority to proceed shall include:
 - a. A project description;
 - b. Estimated total purchased or donated costs of the project, including but not limited to, design and preplanning costs (to include OMB preplanning revolving funds), architect and engineer fees, permits, insurance, land acquisition and site preparation or development, demolition and disposal, foundation and building construction or renovation, landscaping, infrastructure and utilities, mechanical and electrical, parking and driveways or roadways, fixed or movable appliances, furniture and equipment, third-party costs, contingencies, value of work completed by institution staff and billed to the project and all other costs, including costs not included in the project request, which must be separately identified
 - c. Specific source(s) and availability of funds by amount;
 - d. Estimated completion date; and
 - e. An explanation of how the project coincides with or deviates from the campus facilities master plan and the biennial budget and reference to any previous Board or legislative authorization.

4. Projects estimated to cost more than \$100,000 shall be contracted from competitive bids as required by N.D.C.C. ch. 48-01.2.
5. The contract sum and contract time may be changed only by change order. Change orders may not be utilized to substantially increase the scope or size of the project or to evade competitive bidding laws or policies. A "change order" means a written order to the contractor signed by the owner and architect and issued after execution of the contract, authorizing a change in the work or an adjustment in the contract sum or contract time.
6. Builder's risk insurance, carried by the contractor or the institution, is required throughout the construction period.
7. Except as otherwise explicitly approved by the Board and excluding institution land leased to a private entity for development under SBHE Policy 910.1, all projects on institution land or involving institutionally-owned buildings or facilities, or projects for the benefit of the institution on land or in a building or facility not owned by the institution requiring expenditure of any public funds, must be managed by the institution, with the institution or a construction manager or contractor contracted by the institution a party to all contracts. Institutions must account for all project costs through the ConnectND accounting system. Projects must be monitored to ensure that project authorizations are not exceeded. In the event it reasonably appears that a project will exceed the spending authorization, institutions must seek appropriate Board or legislative approval before any expense that exceeds the authorized amount is incurred.
8. The Chancellor shall establish procedures implementing this policy.

REFERENCE: N.D.C.C. 48-01.2

Reference: NDUS Procedure 902

HISTORY: SBHE Minutes, July 15-16, 1982, page 5063.
Amendment SBHE Minutes, May 24, 1990, page 6002.
Amendment SBHE Minutes, April 23, 1992, page 6235.
Amendment SBHE Minutes, January 20, 1994, page 6430.
Amendment SBHE Minutes, February 20, 1998, page 6841.
Amendment SBHE Minutes, March 5, 1999, page 6958.
Amendment SBHE Minutes, April 4, 2000.
Amendment SBHE Minutes, November 21, 2002.
Amendment SBHE Minutes, September 18, 2008.
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