

ADMINISTRATIVE PRACTICE LETTER

SUBJECT: PROCEDURES FOR OBTAINING DESIGN AND CONTRACTING SERVICES FOR CAPITAL CONSTRUCTION PROJECTS

I. PROCEDURES

It is the practice of the University to obtain all goods and services at the lowest cost to the University consistent with those standards of quality, performance, service, and availability which will best meet the needs of the University.

This Administrative Practice Letter (APL) applies to the procurement of services related to capital construction projects, in particular those of professional architects and engineers and those of construction contractors. It is the intent of this APL to outline practices that will promote effective cost control, as well as give interested and qualified design professionals, contractors, and vendors an equal opportunity to supply goods and services to the University.

Purchase orders will be created in the Purchasing System for all design and contracting services connected with capital construction projects.

II. AUTHORITY

The Chancellor and Presidents of the universities by virtue of their office may initiate capital construction projects, as they determine the need, in conjunction with the System Capital Plan and other campus planning documents. Projects with total budgets (not just construction) of \$500,000 or more require presentation to and approval by the Board of Trustees, as indicated in the requirements of Board policy 701. Projects requiring Board approval may not be advertised for bid or otherwise contracted until Board approval has been obtained. The Chancellor and Presidents of the universities may re-delegate purchasing authority to designated employees. Each University shall maintain a list of employees authorized to approve payments for invoices and requisitions pertaining to capital projects.

III. DEFINITIONS

All definitions of terms utilized in design and construction contracts are provided within the text of those contracts.

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IV. ARCHITECTURE, LANDSCAPE ARCHITECTURE, AND ENGINEERING SERVICES

The University's interest in acquiring professional services rests solely in receiving the highest quality design at a fair price. Note that these services are not competitively bid. Under most circumstances, a procedure called Qualifications Based Selection (QBS) will be used to hire these types of professional services. QBS is currently used by the State of Maine, and the steps below are a basic outline of this process; further detail is available from the offices of the local chapters of the following organizations: Maine Chapter, American Institute of Architects (MAIA); Consulting Engineers of Maine (CEM); and Maine Chapter of the Society of Professional Engineers (MeSPA).

Universities may 1) obtain and administer professional design services contracts or 2) request, in unusual circumstances, that this be managed by the System Office of Facilities. In either case, the following procedures are required:

1. An advertisement for letters of interest is published for three days in major newspapers which provide coverage of the entire state, as well as in newsletters published by the Associated Constructors of Maine, The Dunlap Agency, and F.W. Dodge. Date and time for receipt of responses is included in the advertisement; no submissions received after that time will be opened and/or considered, nor may additional material be submitted for consideration after that time. This step must be done prior to Step 2 below.
2. Letters of interest received from designers are reviewed by selected staff for the purpose of forming a "short list" of four to six design firms/teams, each of which would be fully qualified to design the project. The staff then schedules the short listed firms/teams for interviews by the campus Building Committee. Then selected firms/teams to be interviewed must be notified that they are not to contact members of the Building Committee prior to the interview. The interview process should determine the firms' compatibility with the Committee, reputation, details of previous work, time schedules, and ability to perform the work according to the expectations of the Committee. At no time is discussion of fees permitted prior to selection of the recommended candidate(s). Also, presentation of design solutions for the subject project is not permitted at the interview.

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3. After the designer interviews, the Building Committee makes a recommendation to the President of a firm/team to be retained for the project design. If the President concurs with the recommendation, a confirming letter is forwarded by the President to the Building Committee. If the President does not concur with the recommendation, the process is returned to the Building Committee for further study.
4. The University (or System Office of Facilities) negotiates an Agreement for Design Services with the selected firm and acts as the Owner's representative for directions to be given to the design firm. Should the negotiations fail to establish agreement on the conditions of the work, the Building Committee will be asked to make another recommendation to the campus President, based on other candidates interviewed.
5. Exceptions: There are certain circumstances under which these procedures may be modified or suspended. However, every effort should be made to provide a process for open consideration of all design firms/teams. Examples of situations include:
 - a. The construction project involves modification of or addition to a facility about which a design firm has intimate knowledge as a result of recent previous design work for the University. In this case, it may be to the advantage of the project to hire, without consideration of other firms, a design team already familiar with both the building in question and with the procedures and personnel of the particular campus.
 - b. Circumstances dictate that time is critical to the immediate involvement of a designer.
 - c. The proposed project is of sufficiently small size as to make the normal selection process unreasonably cumbersome. For projects expecting to cost under \$500,000, or with design fees expected not to exceed \$50,000, selection of a design firm without the standard search is permitted.

The design agreement is the basis for establishing the conditions of the contract. All design agreements shall be those issued by the System Office of Facilities.

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V. CONSTRUCTION CONTRACTS

1. Any contract for new construction, modification or repair of a University owned building, utility or land improvement shall be administered under the guidelines for bidding as outlined on the [University System Office of Facilities](#) Website.

Exceptions

- a. In the interest of improving the economy, value, and efficiency of delivery systems for construction projects, the System Director of Facilities may from time to time authorize individual campus pilot projects intended to explore alternative processes and procedures for design and construction of University facilities.
 - b. For construction costing less than \$50,000 but more than \$10,000, a University may obtain a minimum of three written quotations, with the winning bid being the lowest qualified price. These competitive bid requirements may be waived by the CFO of a particular University in individual cases where emergency repairs are necessary to protect persons or University property and where delay in initiating repairs would cause unnecessary damage.
 - c. For construction costing less than \$10,000, a University may select, without competition, a contractor whose work is known and trusted by the University
2. Requirements for bid advertising, construction bonds, insurance, minimum required wage rates, etc. are based on project cost. These requirements are available from the System Office of Facilities.

VI. PROTESTS OF THE CONSTRUCTION BID PROCESS

- a. Notification of Process: All instructions to Bidders will contain the following language: "Bidders may appeal the award decision by submitting a written protest to the University of Maine System Director of Facilities within 5 business days of the date of the award notice (Letter of Intent) with a copy of the protest to the successful bidder. The protest must contain a statement of the basis for the challenge.

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b. Award Notice: Once an award decision has been made, notice of award will be made promptly to all bidders.

c. Protests of Award.

1. A bidder may submit a protest in writing to the University of Maine System Director of Facilities within five business days of the date of the Letter of Intent, with a copy to the bidder that was awarded the contract.

2. The protest must contain a brief statement of the basis for the challenge.

3. The Director may stay the award until the protest has been resolved.

d. Authority to Resolve Protest.

1. The Director will base his or her decision on a review of the facts. There will be no hearing, no testimony, and no additional information unless the Director deems that additional information is necessary to resolve the protest.

2. The Director will communicate his or her decision to the protesting bidder, the campus and the bidder originally awarded the contract.

3. If a protest is not resolved to the satisfaction of the protesting bidder, the bidder may file an appeal with the UMS Treasurer and Chief Financial Officer within ten business days of a written decision of the Director, with a copy to bidder awarded the contract. The determination of the Treasurer is final and will be given in writing and submitted to the protesting bidder, the campus and the bidder originally awarded the contract.

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Related Documents:

APL Section II: Facilities

[APL Section II-B Motor Vehicle Administration and Guidelines](#)

[APL Section II-F Sale or Lease of Real Property to Third Parties](#)

[APL Section II-G Acquisition of Real Property Through Purchase, Gift, Lease, or License](#)

APL Section IV: General Administration

[APL Section IV-C Signature Authority](#)

[APL Section IV-D Record Retention Practices](#)

APL Section VII: Procurement

[APL Section VII-B Procurement Standards of Conduct](#)

[APL Section VII-C Purchasing Cards](#)

[APL Section VII-D Cellular Telephone Acquisition, Use and Reimbursement](#)

[APL Section VII-H Determining Employee Versus Independent Contractor Status](#)

APPROVED

Vice Chancellor Finance and Administration