

ITEMS HELD FROM AUGUST 18, 2020, ACRC MEETING

1. Section 6-50-702(6), the definition of “governing council”, was amended by Act 910, § 143, to change the names of certain officers comprising the council, including changing the “Director of the Department of Career Education” to the “Director of the Office of Skills Development”. However, Act 910, § 1857, amended § 6-50-703(a) by changing the names of the departments to the divisions from which representation on the governing council is to come, including changing the name of the “Department of Career Education” to the “Division of Career and Technical Education”.

Section 6-50-702(6) makes the Director of the Office of Skills Development, an office in the Department of Commerce, one of the three members of the governing council, while § 6-50-703(a) instead includes a representative of the Division of Career and Technical Education, a division of the Department of Education. These sections constitute internal conflicts within Act 910. We believe that the reference in 6-50-703(a) should be corrected to conform to the change made in 6-50-702(6), *i.e.*, “Office of Skills Development” in place of “Division of the Office of Skills Development”.

6-50-702. Definitions.

As used in this subchapter, unless the context otherwise requires:

.....

(6) “Governing council” means the ~~directors~~ Director of the Arkansas Economic Development Commission, the ~~Department~~ Director of the Division of Higher Education, and the ~~Department~~ Director of the Office of Career Education Skills Development, or their designees;

.....

6-50-703. Arkansas Existing Workforce Training Program — Creation — Purpose.

(a) There is hereby created the Arkansas Existing Workforce Training Program, to be administered by a governing council composed of equal representation from the ~~Department~~ Division of Higher Education, the ~~Department~~ Division of Career and Technical Education [Office of Skills Development], and the Arkansas Economic Development Commission.

(b) The primary purpose of the program shall be to provide financial assistance to Arkansas business and industry for upgrading the knowledge and skills of the existing work force or a potential new workforce and to increase the capacity of state-supported educational institutions to supply the ongoing training needs of Arkansas companies.

(c)(1)(A) When an eligible company uses a state-supported

educational institution to provide its classroom training, financial support can be either in the form of a direct grant or in the form of an income tax credit.

(B) Companies that elect to receive a grant cannot claim a tax credit for the same purpose.

(2) When an eligible company is conducting internal training using company trainers or consultants, financial support can be only in the form of an income tax credit.

(3) When an eligible consortium uses a state-supported Educational institution to provide its classroom training, financial support can be only in the form of a grant.

2. By Acts 2015, No. 892, § 5, the “State Board of Career Education” was reorganized and renamed “Career Education and Workforce Development Board”. In Act 910, § 126, the Career Education and Workforce Development Board was transferred to the Department of Commerce. In several Arkansas Code sections the 2015 name change has not been effectuated yet because those Code sections have not been expressly amended since 2015, at which time we would ordinarily implement the name change.

Act 910, § 2390, changed the name of the “Department of Career Education” to “Division of Career and Technical Education” and transferred it to the Department of Education.

Scattered throughout Act 910 are sections that amend many, but not all, of the Arkansas Code sections with references to the State Board of Career Education. In many of those sections that are amended by Act 910 the references to the State Board of Career Education are not corrected or addressed. Those sections that do address the references to the State Board of Career Education do not do so in any consistent manner. The powers, duties, functions, and responsibilities of the State Board of Career Education/Career Education and Workforce Development Board and the Department of Career Education have been scattered and dispersed among several different entities, and not just to the Career Education and Workforce Development Board or the Division of Career and Technical Education. An additional layer to this problem is that Act 315 of 2019 amends several Arkansas Code sections that are not amended by Act 910 but do not address the name references either.

A. For example, see Arkansas Code § 6-50-505, as amended by Act 315, but which was not amended by Act 910 below. The highlighted text indicates the correct names based on the name changes we effectuated to implement the 2015 and the 2019 acts.

6-50-505. Waiver of rules — Articulation agreements — Duties of ~~State Board of Career Education~~ Career Education and Workforce Development Board.

(a) The ~~State Board of Career Education~~ [Career Education and Workforce Development Board, but should be State Board of

Education] may provide waivers of ~~regulations~~ rules adopted by the **Department of Career Education [Division of Career and Technical Education]** when waivers are necessary to accomplish the purposes of this subchapter so long as the waivers will not weaken the quality of the educational opportunities provided.

(b)(1) The department also shall take the lead role in seeking the establishment of articulation agreements between high schools, technical institutes or vocational-technical schools, and institutions of higher education, with a goal of eliminating barriers to lifelong learning.

(2) The resulting articulation agreements will need to be approved by the appropriate local and state boards of the participating school districts, postsecondary technical institutes or vocational-technical schools, and institutions of higher education.

(c) The board is authorized to promulgate rules for the implementation of the program established by this subchapter.

The concern we have is that the Division of Career and Technical Education, which is authorized to adopt rules in this area, has been placed in the Department of Education, while the Career Education and Workforce Development Board (the new as of 2015 name for the State Board of Career Education) which can provide waivers of those rules, is now in the Department of Commerce. In other words, one department may issue the rules while a different department may issue waivers to those rules.

While this is a possible intended result, it is an unusual one, especially since it skews the implementation of the law in a way that is contrary to how the Arkansas Code section was initially enacted, *i.e.*, the board supervising the then-department had the authority to waive the supervised department's rules. For organizational integrity we suggest correcting the reference to the "State Board of Career Education", now "Career Education and Workforce Development Board" to the "State Board of Education".

B. Contrast the above with the changes made in Arkansas Code § 6-52-205, as amended by Act 910, § 150, which changed in subdivision (b)(1) "Department of Career Education" to "Office of Skills Development", but did not address the reference in subsection (a) to the State Board of Career Education. We corrected that reference to the Career Education and Workforce Development Board, which we believe makes sense as the board and the office are both in the Department of Commerce.

6-52-205. State Apprenticeship Coordination Steering Committee — Duties.

(a) The State Apprenticeship Coordination Steering Committee shall recommend to the **State Board of Career Education [Career Education and Workforce Development Board]** a statewide plan for the development of a comprehensive program of apprenticeship training which shall include but not be limited to the following:

(1) Formulas and administrative procedures to be

used in requesting appropriations of state funds for apprenticeship training;

(2) Forms, formulas, and administrative procedures to be used in distributing available funds to apprenticeship training programs; and

(3) The content and method of the public notice required by this subchapter.

(b)(1) The ~~Department of Career Education~~ **Office of Skills Development** shall furnish the coordination committee with the current data necessary to develop the plan.

(2) All state boards and agencies shall cooperate with the coordination committee and shall furnish information and material on request.

(c) Pursuant to this section, the reporting procedures shall be included in the state plan for apprenticeship.

C. And then there is Arkansas Code § 6-52-204, as amended by Act 910, §§ 148 and 149, which changed in subdivision (b)(1) “Department of Career Education” to “Office of Skills Development”, but did not address the reference in subdivision (a)(4) to the Department of Career Education. We corrected that reference to the Office of Skills Development which we believe makes sense in light of the changes made elsewhere in the section and in § 6-54-205 above.

6-52-204. State Apprenticeship Coordination Steering Committee.

(a)(1) The Governor shall appoint an apprenticeship and training advisory committee composed of members with the following qualifications:

(A) Two (2) members representing employers of members of apprenticeable trades;

(B) Two (2) members representing bargaining agents for members of apprenticeable trades;

(C) Two (2) members representing the minority and female work-force who have knowledge of apprenticeship and are familiar with the needs of vocational and technical education; and

(D) Two (2) members who teach or immediately supervise preparatory instruction, supplementary instruction, or related instruction courses.

(2) Members of the coordination committee shall serve terms of Four (4) years.

(3) Vacancies shall be filled for the unexpired portion of a term vacated.

(4) The Governor shall consult the ~~Department of Career Education~~ **Office of Skills Development** before making an appointment under this subsection.

(5) Appointments made by the Governor under this subsection shall be subject to confirmation by the Senate.

(b) Advisory members of the coordination committee shall include the following:

(1) One (1) person designated by and representing the ~~Department of Career Education~~ Office of Skills Development;

(2) One (1) person designated by and representing the ~~Department~~ Division of Labor;

(3) One (1) person designated by and representing the United States Office of Apprenticeship;

(4) One (1) person designated by and representing the Career and Technical Education Program of the College of Education and Health Professions of the University of Arkansas at Fayetteville; and

(5) One (1) person representing the general public who is familiar with the goals and needs of apprenticeship in Arkansas and who is not otherwise eligible for service on the coordination committee.

(c)(1) The member representing the general public shall be appointed by the ~~Department of Career Education~~ Office of Skills Development for a term of four (4) years.

(2) All other nonvoting members of the coordination committee shall serve at the pleasure of the agency or institution each respective member represents.

(d) The apprenticeship coordination steering committee as outlined in this section will become the State Apprenticeship Coordination Steering Committee.

D. And Arkansas Code 6-51-213(c)(1) states:

(c)(1) The Director of the Division of Career and Technical Education, as executive officer of the board for the purpose of administering the federal act and this act, shall, by and with the advice and consent of the board, designate assistants as may be necessary to carry out properly the provisions hereof.

The division referenced was renamed from “State Department of Career Education” and assigned to the Department of Education by Act 910, § 1030, creating Arkansas Code § 25-43-502.

The “board” referred to in § 6-51-213(c)(1) was the State Board of Career Education as it is referred to in § 6-51-213(a), which subsection was not amended by Act 910. Technically, that board was renamed the “Career Education and Workforce Development Board” by Acts 2015, No. 892, § 5, Arkansas Code § 25-30-101, and assigned to the Department of Commerce, by Act 910, § 126, Arkansas Code § 25-43-302. The problem is that the referenced director of the division in the Department of Education is named the executive officer of a board that is in the Department of Commerce and is authorized to designate assistants in the Department of

Education's division with the advice and consent of the board in the Department of Commerce. To whom are they now responsible? The director is also required to implement the board's rules. If he or she fails or refuses to carry out the board's rules, what recourse would the board have?

Because the Division of Career and Technical Education is expressly amended into this section and is clearly in the Department of Education, we believe that the only board that the State Board of Career Education referred to in the section, which no longer exists under that name, can be corrected to is the State Board of Education. Scattered throughout Act 910 are several references to the State Board of Career Education that were expressly amended to refer to the State Board of Education.

6-51-213. Administration of certain federal and state vocational education laws.

(a) The **State Board of Career Education [State Board of Education]** is designated to:

(1) Carry into effect the provisions of the federal act and this act and have all necessary authority to cooperate with the United States Department of Education in the administration of the federal act;

(2) Administer any legislation pursuant thereto enacted by the General Assembly; and

(3) Administer the funds provided by the United States government and by the State of Arkansas under the provisions of the respective acts for the promotion of vocational-technical education in agricultural subjects and in trade and industrial subjects, as well as in family and consumer science.

(b) The state board shall have the full authority to:

(1) Formulate plans for the promotion of vocational education in subjects that are an essential and integral part of the public school system of education in the State of Arkansas and provide for the preparation of teachers of those subjects;

(2) Fix the compensation of officials and assistants as may be necessary to administer the federal act and this act for the State of Arkansas;

(3) Make studies and investigations relating to vocational education in such subjects;

(4) Promote and aid in the establishment by local communities of schools, departments, or classes;

(5) Prescribe qualifications for the teachers, directors, and supervisors of subjects and provide for the certification of the teachers, directors, and supervisors;

(6) Cooperate in the maintenance of classes under its own direction and control; and

(7) Establish and determine by general rules the qualifications to be possessed by persons engaged in the training of vocational teachers.

(c)(1) The **Director of the ~~Department~~ Division of Career and Technical Education**, as executive officer of the board for the purpose of administering the federal act and this act, shall, by and with the **advice and consent of the board**, designate assistants as may be necessary to carry out properly the provisions hereof.

(2) The director shall also carry into effect rules as the board may require.

(3) The records of the director as far as they pertain to the provisions of this act shall be kept in his or her office.

E. In Arkansas Code §§ 6-51-203, 6-51-205, 6-51-208, and 6-51-209, there are several uncorrected references to the State Board of Career Education. In light of the subject matter and because of the correction made in Arkansas Code § 6-51-213 (see above), we believe that these references should be corrected to State Board of Education.

6-51-203. Determining school location and establishing courses of instruction.

(a) In determining the location of technical institutes or vocational-technical schools and in establishing the courses of instruction to be offered in the schools, the **State Board of Career Education [State Board of Education]** shall give consideration to:

- (1) Trends in industrial development;
- (2) Concentration of population;
- (3) Concentration of industry;
- (4) Natural resources; and
- (5) Reasonable distance for people in all areas of

the state.

(b)(1) The **State Board of Career Education [State Board of Education]** shall develop a course content syllabus for each course of instruction offered in a postsecondary technical institute or vocational-technical school. The course syllabus for each course of instruction shall specify the essential competencies to be taught in the course of instruction.

(2)(A) Each instructor employed in a postsecondary technical institute or vocational-technical school shall utilize the appropriate course syllabus in providing instruction to postsecondary vocational students.

(B) It shall be the responsibility of the director of each postsecondary technical institute or vocational-technical school to ensure that vocational-technical instructors utilize the course syllabi developed pursuant to the provisions of this section in offering instruction to postsecondary vocational-technical students.

- (3) The course syllabi required to be developed

pursuant to the provisions of this section shall be adopted by the **State Board of Career Education [State Board of Education]** not later than July 1, 1990, and shall be utilized in postsecondary technical institutes or vocational-technical schools in the school year beginning 1990-1991.

(c)(1) The **State Board of Career Education [State Board of Education]** and the Arkansas Higher Education Coordinating Board are hereby authorized to certify certain courses of instruction offered by postsecondary technical institutes or vocational-technical schools as being equivalent to comparable courses offered by public two-year or four-year institutions of higher education.

(2) Any course of instruction offered by post-secondary technical institutes or vocational-technical schools that is certified as equivalent to a comparable course of instruction offered by a two-year or four-year institution of higher education shall be transferable for credit to a public two-year or four-year institution of higher education.

(d) The Arkansas Higher Education Coordinating Board and **State Board of Career Education [State Board of Education]** shall promulgate rules ~~and regulations~~ for implementation of the provisions of this section in accordance with the accreditation standards of the receiving institutions.

(e) Students who matriculate at institutions of higher education shall meet the same standards for college and university admission as are defined in § 6-61-110.

6-51-205. Board responsibility for school operation — Personnel and equipment.

(a) The **State Board of Career Education [State Board of Education]** shall be responsible for the operation of the schools and shall have authority to purchase, lease, or construct buildings, land, equipment, machinery, and supplies necessary for the teaching of trade, vocational, or other federally aided adult courses of less than college grade.

(b) The ~~state~~ board is authorized to employ personnel to set salaries which shall be comparable to those received by other similarly positioned personnel in the ~~Department of Education~~ Division of Elementary and Secondary Education, and to negotiate leases or purchases with any and all agencies of the ~~government of the United States~~ Government for the lease or purchase of suitable facilities, equipment, machinery, and supplies to be used for the purposes authorized by this section and §§ 6-51-201 — 6-51-203, 6-51-207, 6-51-208(a)-(c), 6-51-209, and 6-51-210.

(c) All laws governing the employment of personnel of the division, including such matters as leave ~~regulations~~ rules and

teacher retirement membership, shall apply to employees of all vocational-technical and adult education schools.

6-51-208. Student fees.

(a) The **State Board of Career Education [State Board of Education]** may establish a reasonable system of charges as fees to be paid by students in the technical institutes or vocational-technical schools and adult education courses, with the system of charges to be established according to the type of course of instruction and the length thereof.

(b) The rate or fees to be paid by students shall be set by the board, and all funds accruing in the fiscal year over and above the amount appropriated by the General Assembly from the fund shall be deposited into the State Treasury at the end of the fiscal year.

(c) Employees may not be paid from cash funds unless appropriated for this specific purpose by the General Assembly.

(d) No secondary student or school shall be made to pay a tuition charge as a condition of his or her enrollment in any vocational program funded by the ~~Department of Education~~ Division of Elementary and Secondary Education while enrolled in a regular high school program.

(e) When any person sixty (60) years of age or older is admitted and enrolls as a student in any state area vocational-technical school, the board or other appropriate institutional officials shall waive all the general student fee charges for each such student on a space-available basis in existing classes.

6-51-209. Accident insurance for students.

(a) The **State Board of Career Education [State Board of Education]** is authorized to expend fees collected from students to provide accident insurance coverage to students.

(b) Such purchases shall follow regular state purchasing procedures and ~~regulations~~ rules.

F. Arkansas Code § 6-51-401, was amended by Act 315, § 349, and Act 910, § 1861. However, neither act addressed the reference to the State Board of Career Education in subsection (a), although Act 910 did change the reference to the Department of Career Education to the Division of Career and Technical Education. Again, if we use the 2015 name for the State Board of Career Education, we have a law that authorizes one department to establish plumber training programs while directing another department to create courses of study to be used in those plumber training programs. That is because the Act 910 amendment “moved the course creating responsibility to a division in the

Department of Education. Despite the amendment made by Act 910, and in light of the subject matter, the reference in subsection (a) to the Career Education and Workforce Development Board in the Department of Commerce would appear to be a more accurate reference. That being said, the amendment made in subsection (b) would have been better if it had been changed to the Office of Skills Development. In that way the both parts of this act would be under the Department of Commerce. The alternative would be to change the reference in subsection (a) to the State Board of Education.

6-51-401. Course of instruction generally.

(a) The **State Board of Career Education [Career Education and Workforce Development Board]** is authorized to establish programs of vocational-technical training for the training of plumbers.

(b) A prescribed course of study will be set up by the ~~Department~~ Division of Career and Technical Education in conjunction with the Plumbing and Natural Gas Section of the Department of Health and the local training committee.

(c) Courses of study shall be as prescribed by national plumbing standards.

(d) Courses of instruction shall be developed in cooperation with, and with the approval of, the section and local training committees.

(e) Courses of instruction shall be designed to enable the student completing the course to qualify for licensure as an apprentice plumber upon taking and passing the examination required by § 17-38-101 et seq.

(f) The courses of instruction as authorized in this subchapter may be offered as a part of the vocational education program of any high school in this state and may be offered in any area high school, community college, or technical institute or vocational-technical school of this state.

(g) The course of instruction shall be in compliance with the appropriate rules ~~and regulations~~ and shall provide the level of instruction provided by rules of the board in cooperation with local plumbing training committees.

3. Secretary Fecher also requested revisions to Arkansas Code §§ 22-10-502 and 22-10-503 to provide that the Secretary of the Department of Transformation and Shared Services has rulemaking authority regarding public-private partnerships rather than the Arkansas Economic Development Commission or the Building Authority Division. Act 910 of 2019 transferred the Building Authority Division to the Department of Transformation and Shared Services and thus the Department is in the best position to promulgate these rules for use by all departments for statewide projects. Additionally, this revision makes the duplicative reference unnecessary. The markup below represents the suggested revisions.

22-10-502. Arkansas Economic Development Commission – Duties.

(a) The Secretary of the Department of Transformation and Shared Services ~~Arkansas Economic Development Commission or the Building Authority Division~~ shall promulgate certain rules regarding the definitions and guidelines related to the development of qualifying projects under this chapter within ninety (90) days of August 1, 2017.

(b) The guidelines promulgated under this section shall include without limitation:

(1) Criteria for selecting qualifying projects to be undertaken by a public entity;

(2) Criteria for selecting among competing proposals submitted according to a request for proposals under this chapter;

(3) Timelines for selecting a qualified respondent under the process for requests for proposals under this chapter;

(4) Guidelines for negotiating a comprehensive agreement; and

(5) Guidelines for allowing the accelerated selection of a qualified respondent and the review and approval of a qualifying project that is determined to be a priority by the Governor and is funded, in whole or substantial part, by dedicated revenues.

22-1-503. Rules.

(a) The Secretary of the Department of Transformation and Shared Services ~~Arkansas Economic Development Commission or the Building Authority Division~~ and the Arkansas Development Finance Authority shall jointly promulgate rules to administer this chapter, including without limitation rules regarding:

(1) Criteria for selecting a qualifying project;

(2) Guidelines for a public entity operating under this chapter;

(3) Guidelines for monitoring and reporting on qualifying projects;

(4) Timeline for selecting a qualified respondent;

(5) Guidelines for negotiating a comprehensive agreement;

(6) Guidelines for the accelerated selection of a qualified respondent and the review and approval of a qualifying project that the Governor determines to be a priority and that is funded, in whole or in part, by dedicated revenues;

(7) Guidelines for selecting a qualifying project, including without limitation:

(A) Reasonable criteria for selecting and scoring among competing proposals;

(B) Financial review and analysis procedures for financial and technical advisors or consultants that include without limitation:

(i) A cost-benefit analysis;

(ii) A value-for-money analysis, which shall include without limitation a:

- (a) Qualitative assessment;
- (b) Quantitative assessment;
- (c) Business case analysis; and
- (d) Comparison of the net present value of the total, risk-adjusted costs of delivering a qualifying project under this chapter and through procurement methods outside of this chapter;
- (iii) An assessment of the opportunity cost;
- (iv) An analysis of the lifecycle costs, including without limitation the design and construction costs, operating costs, and maintenance and upgrade costs; and
- (v) Consideration of the results of relevant studies and analyses related to the proposed qualifying project;
- (C) Procedures for considering the nonfinancial benefits of a proposed qualifying project;
- (D) Suggested timelines for selecting proposals and negotiating an interim agreement or a comprehensive agreement;
- (E) Criteria for allowing the responsible public entity to accelerate the selection, review, and documentation timelines for proposals involving a qualifying project that the responsible public entity considers to be a priority;
- (F) Procedures to:
 - (i) Determine the adequacy of the information released when seeking proposals under this chapter; and
 - (ii) Allow the responsible public entity to release more detailed information when seeking proposals if the responsible public entity determines that the release of additional information is necessary to encourage competition;
- (G) Criteria, key decision points, and approvals that are required to ensure that the responsible public entity considers the extent of competition before selecting proposals and negotiating an interim agreement or a comprehensive agreement;
- (H) Criteria for establishing and determining any fees that the responsible public entity elects to charge under § 22-10-202;
- (I) Procedures for posting and publishing the public notice of a responsible public entity's request for proposals, including without limitation:
 - (i) Specific information and documentation to be released regarding the nature, timing, and scope of the qualifying project;
 - (ii)(a) A reasonable time period as determined by the responsible public entity to encourage competition and public-private partnerships in accordance with the purpose of this chapter.
 - (b) However, the time period established under subdivision (a)(7)(I)(ii)(a) of this section shall not

be less than forty-five (45) days, during which time the responsible public entity shall accept the submission of proposals for the qualifying project under this chapter; and

(iii) A process for posting the notice required under this subdivision (a)(7)(I) on the responsible public entity's official website and otherwise publishing the notice; and

(J) The maximum term of a comprehensive agreement for each type of qualifying project for which the responsible public entity intends to request proposals or invite bids from private entities;

(8) A responsible public entity's interaction with affected local jurisdictions and other public entities, including without limitation:

(A) Considerations and guidelines for establishing and determining the delivery of a request for proposals or an invitation for bids by the responsible public entity to each affected local jurisdiction and public entity that has complementary authority with respect to a qualifying project;

(B) The method of identifying affected local jurisdictions and public entities that have complementary authority with respect to a qualifying project; and

(C) The time period during which an affected local jurisdiction and a public entity other than the responsible public entity may:

(i) Submit written comments regarding the proposed qualifying project to the responsible public entity; and

(ii) Indicate whether the proposed qualifying project is compatible with local plans and budgets;

(9) Considerations and guidelines for establishing and determining the mandatory and optional elements of a proposal by a private entity under this chapter, including without limitation:

(A) A project description, including without limitation:

(i) The location of the qualifying project; and

(ii) The specific or conceptual design of the proposed facility, building, infrastructure, or improvement or a conceptual plan for the provision of services or technology infrastructure;

(B) A feasibility statement that includes without limitation:

(i) The method by which the private entity proposes to secure any necessary property interests required for the qualifying project;

(ii) A list of all permits and approvals required for the qualifying project from local, state, and federal agencies; and

(iii) A list of public utility facilities, if any, that will be crossed by the qualifying project and a statement of how the private entity will accommodate the crossings;

(C) A schedule for the initiation and completion of the qualifying project, including without limitation:

- (i) The proposed responsibilities of the responsible public entity and the private entity;
 - (ii) A timeline of the activities to be performed by the responsible public entity and the private entity; and
 - (iii) A proposed schedule for obtaining the permits required under subdivision (a)(9)(B)(ii) of this section;
- (D) A plan for financing the qualifying project, including without limitation:
- (i) The sources of the private entity's funds;
 - (ii) Any dedicated revenue source or proposed debt or equity investment on behalf of the private entity;
 - (iii) A description of any user fees, lease payments, and other service payments to be paid over the term of the interim agreement or the comprehensive agreement; and
 - (iv) The methodology and circumstances for modifying any user fees, lease payments, and other service payments;
- (E) A business case statement that includes a basic description of the indirect and direct benefits that the private entity can provide in delivering the qualifying project, including without limitation relevant cost, quality, and time frame data;
- (F) The names and addresses of the persons who may be contacted for further information concerning the request; and
- (G) Any additional material and information that the responsible public entity reasonably requests;
- (10) Considerations and guidelines with respect to the preliminary, mandatory, and optional requirements of an interim agreement and a comprehensive agreement, including without limitation the:
- (A) Engagement of:
 - (i) An attorney;
 - (ii) A certified public accountant;
 - (iii) A financial or economics professional; and
 - (iv) A consultant or other professional with specialized expertise that is relevant to the proposed qualifying project;
 - (B)
 - (i) Delivery of one (1) or more written evaluations or assessments analyzing financial, legal, or other considerations that should be evaluated by the public entity, including without limitation an assessment of the costs of the qualifying project, the financial viability of the qualifying project, and all other financial and operating assumptions related to the qualifying project.
 - (ii) If municipal financing is a component of the interim agreement, the responsible public entity shall obtain a written evaluation of the proposed qualifying project from a municipal advisor registered with the United States Securities and Exchange Commission and the Municipal Securities Rulemaking Board;

(C) Fees and expenses and the responsibility for paying the fees and expenses associated with engaging an attorney, certified public accountant, financial or economics professional, or other consultant; and

(D) Negotiation and creation of additional contracts for services and materials, including without limitation revenue contracts, construction contracts, management contracts, services contracts, and other agreements related to the qualifying project;

(11) Considerations and guidelines with respect to the preliminary, mandatory, and optional terms and conditions of an interim agreement, including without limitation:

(A) Criteria for determining when the private entity is permitted to commence activities and perform tasks related to the qualifying project for which the private entity shall be compensated, including without limitation:

(i) Project planning and development;

(ii) Design and engineering;

(iii) Environmental analysis and mitigation;

(iv) Surveying; and

(v) Ascertaining the availability of financing for the proposed qualifying project and the ownership of any work product developed;

(B) Criteria for establishing the process and timing of the negotiation of the comprehensive agreement;

(C) The process for amending, extending, or supplementing an interim agreement; and

(D) Other provisions and criteria related to the development of a proposed qualifying project;

(12) Considerations and guidelines with respect to the preliminary, mandatory, and optional terms and conditions of a comprehensive agreement, including without limitation:

(A) A thorough description of the duties of the responsible public entity and the qualified respondent in relation to the development and operation of the qualifying project;

(B) Dates and schedules for the completion of the qualifying project, including any available extensions or renewals of the qualifying project;

(C) A pro forma analysis or budget under which the qualifying project shall be developed, financed, constructed, operated, and maintained;

(D) The source of all revenues derived from the operation and maintenance of the qualifying project and any process for modifying the revenues during the term of the comprehensive agreement;

(E) Financing and funding sources for the qualifying project and any contractual provisions related to the financing and funding sources for the qualifying project;

(F) A copy of each contract related to the development of the qualifying project;

(G) Reimbursements to be paid to the responsible public entity for services provided by the qualified respondent, if any;

by the responsible public entity and the engineering and architectural consultants of the responsible public entity, if any;

(I) A process for the periodic and final inspection of the qualifying project by the responsible public entity or its designee to ensure that the qualified respondent's development activities comply with the comprehensive agreement;

(J) For the components of the qualifying project that involve construction, provisions for the:

(i) Delivery of maintenance, payment, and performance bonds in the amounts that may be specified by the responsible public entity in the comprehensive agreement; and

(ii) Posting and delivery of all other bonds, letters of credit, or other forms of security acceptable to the responsible public entity in connection with the development of the qualifying project;

(K) Submission to the responsible public entity by the qualified respondent of proof of workers' compensation, property, casualty, general liability, and other policies of insurance related to the development and operation of the qualifying project in the amounts and subject to the terms that may be specified by the responsible public entity in the comprehensive agreement;

(L) A process for the responsible public entity's monitoring of the practices of the qualified respondent to ensure that the qualifying project is properly developed, constructed, operated, and maintained;

(M) The filing by the qualified respondent of appropriate financial statements with the responsible public entity related to the operations of the qualifying project within the timeframes established in the comprehensive agreement;

(N) Policies and procedures governing the rights and responsibilities of the responsible public entity and the qualified respondent if the comprehensive agreement is terminated according to the terms of the comprehensive agreement or as the result of a default under the terms of the comprehensive agreement; and

(O) The process for amending, extending, or supplementing the terms of the comprehensive agreement; and

(13) Guidelines for using the value-for-money analysis as a determinative factor in selecting a qualifying project.

(b) The Department of Transformation and Shared Services ~~commission or division~~ and the authority the Arkansas Development Finance Authority may jointly promulgate rules that establish procurement guidelines and requirements that vary depending on the type of qualifying project.