

Title 22. Public Property

Chapter XVII. Building Authority Division, Department of Shared Administrative Services

Subchapter B. Building Authority Minimum Standards and Criteria

Part 110. General — Definitions

Subpart 1. Generally

22 CAR § 110-101. Scope.

(a) This subchapter shall be known as the Department of Shared Administrative Services, Building Authority Division, Building Authority Minimum Standards and Criteria (MSC).

(b)(1) Copies of this subchapter may be obtained from the division.

(2) It may also be examined in the office of the Secretary of State.

(c)(1) The division maintains a website at <http://www.transform.ar.gov/building-authority/>.

(2) This subchapter may also be reviewed or downloaded from this site.

(d) The purpose of this subchapter is to establish standards and procedures as required by the Building Authority Division Act, Arkansas Code § 22-2-101 et seq., and by other applicable laws.

Authority. Arkansas Code § 22-2-108.

22 CAR § 110-102. Purpose.

(a) The Building Authority Division has various duties and responsibilities involving:

(1) Capital improvements;

(2) Real estate transfers; and

(3) Leases.

(b) Capital improvements are overseen and managed in part by the:

(1) Construction Section;

(2) Design Review Section; and

(3) Building Operations Section.

(c) The Real Estate Services Section oversees the state leasing of publicly or privately owned space as well as transfers of state real property.

Authority. Arkansas Code § 22-2-108.

22 CAR § 110-103. Function.

(a) Although the Building Authority Division has specific tasks which it carries out daily basis, it also has within its organization the expertise to serve various state entities in the resolution of special problems relating to state-owned and leased buildings.

(b) Other functions of the division are described by law and as determined by the Director of the Building Authority Division or the Secretary of the Department of Shared Administrative Services.

Authority. Arkansas Code § 22-2-108.

22 CAR § 110-104. Organization.

(a)(1) The Building Authority Division functions under the guidance of the Secretary of the Department of Shared Administrative Services pursuant to Arkansas Code § 22-2-101 et seq., also known as the Building Authority Division Act.

(2)(A) The division is empowered to establish policies, guidelines, standards, and procedures to guide and govern the division.

(B) However, in certain instances, the division may promulgate rules of its own.

(b)(1) The daily operation of the division is administered by the Director of the Building Authority Division who reports to the secretary.

(2) Four (4) sections are established within the division having duties specifically assigned by law and with the administrator of each office being directly responsible to the director.

(3) These sections are the:

- (A) Building Operations Section;
- (B) Construction Section;
- (C) Design Review Section; and
- (D) Real Estate Services Section.

(4) The director may transfer duties and functions among the various sections of the division and effect any other organizational or administrative changes that may be necessary to bring about the efficient and effective implementation of the applicable laws.

Authority. Arkansas Code § 22-2-108.

22 CAR § 110-105. Regulatory authority.

(a) The authority of the Building Authority Division to issue rules is established by Arkansas Code § 22-2-101 et seq.

(b) All departments, divisions, and other entities within the Building Authority Division jurisdiction are within the jurisdiction of this subchapter, including institutions of higher education who have entered into agreements with the Building Authority Division pursuant to Arkansas Code § 22-2-113(b)(1).

Authority. Arkansas Code § 22-2-108.

22 CAR § 110-106. Definitions.

(a) The Americans with Disabilities Act of 1990 Accessibility Guidelines, 42 U.S.C. § 12101 et seq., definitions are located in 22 CAR § 111-1001.

(b) As used in this subchapter:

(1) "Addendum/addenda" means a supplement or supplements to the bid documents, issued prior to the submission of bids, for the purpose of clarifying, correcting, deleting, or adding to the bid documents previously issued;

(2) "Alteration" means work performed to change the interior arrangement or other physical characteristics of an existing facility or installed equipment so that it can be adapted to a new use;

(3) "Bid documents" means all documents associated with the bid process, which includes but is not limited to the advertisement, invitation to bid, instruction to bidders, the bid form, and the proposed contract documents including any addenda issued prior to the receipt of bids;

(4) "Bid formalities" means requirements established by statute for bidding that shall not be waived;

(5) "Bid tabulation" means a tabulation of all bids received, reflecting bidder's name, address, license number (if applicable), amount of bid or bids, receipt of bid bond, acknowledgement of addenda, and subcontractors' names;

(6) "Building" or "facility" means all or any portion of:

(A) Buildings;

(B) Structures;

(C) Equipment;

(D) Roads;

(E) Walks;

(F) Parking lots;

(G) Parks;

(H) Sites; or

(I) Other real property or interest in such property;

(7) "Building Operations Administrator" means the Building Authority Division Building Operations Section administrator;

(8) "Building Operations Section" means the Building Authority Division Building Operations Section;

(9)(A) "Capital improvement" means all lands, buildings, structures, utilities, onsite and off-site improvements, and other appertaining improvements, existing or future, and all construction, repairs, alterations, demolitions, and renovations thereof

which are undertaken, owned, operated, or otherwise managed by a department except those exempted by law or regulation.

(B) However, demolitions used within this meaning pertains to the bidding/awarding/contracting of such projects and does not in any way abrogate the rules pertaining to the Department of Shared Administrative Services M&R program;

(10)(A) "Change order" is defined as an amendment to the contract that is a written authorization executed by the owner, design professional, contractor and approved by the Building Authority Division to change the design or scope of work from the original plans, specifications, or other contract documents.

(B) This can include changes in price and time to complete the project.

(C) A change order must fall within the original capacity of the project.

(D) Upon proper execution and Building Authority Division approval, the change order:

(i) Modifies the original contract between owner and contractor; and

(ii) Becomes part of the contract documents;

(11)(A) "Commissioning" means a systematic process of ensuring that building systems perform interactively according to the design intent and the owner's operational needs.

(B) This is achieved beginning in the design phase by documenting the design intent and continuing through construction, acceptance, and the warranty period with actual verification of performance, operation and maintenance (O&M) documentation, and verification and training of operating personnel.

(C) See also recommissioning and retro-commissioning;

(12)(A) "Competitive bid" means bidding by quote from a minimum of three (3) invited bidders for capital improvements where solicitation of bids by formal means is unnecessary due to the quote bid limit.

(B) "Competitive bids" may be solicited by mail, telephone, email, fax, or in person by the purchasing agent;

(13) "Construction" means making or forming an improvement by combining parts, labor, or materials, the erection, alteration, or repair of a structure or physical object under the jurisdiction of the Building Authority Division;

(14) "Construction Administrator" means the Building Authority Division Construction Section administrator;

(15) "Construction Section" means the Building Authority Division Construction Section;

(16) "Contract documents" means those documents which comprise a contract in a capital improvement project including but not limited to the owner department/contractor agreement, the general and supplementary conditions of the contract, plans or drawings or both, specifications, all addenda, modifications, and change orders together with any other items stipulated as being specifically included;

(17) "DBA" means Building Authority Division;

(18) "Department" means any department, division, or other entity of the state including boards, commissions, agencies, and institutions of higher learning, which are under the jurisdiction of the Building Authority Division pursuant to Arkansas laws or rules;

(19)(A) "Design professional" means a person or firm who provides professional expertise to carry out a capital improvement.

(B) "Design professionals" may include but may not be limited to the following professionals:

(i) Planners (land, city, utilities, etc.);

(ii) Architects;

(iii) Landscape architects;

(iv) Surveyors (land); and

(v) Engineers (consulting and professional engineers providing expertise in various licensed fields only that is civil, electrical, mechanical, structural, sanitary, etc.);

(20) "Design Review Section" means the Building Authority Division Design Review Section;

(21) "Director" means the Director of the Building Authority Division;

(22) "Element" means and includes but is not limited to an architectural or mechanical component of a building, facility, space, or site, e.g., telephone, curb ramp, door, drinking fountain, and seating;

(23)(A) "Final completion" means the department's, with Building Authority Division approval, acceptance of a project from the contractor or lessor upon certification by the design professional, if applicable, that the project is complete and in accordance with the contract documents.

(B) Final acceptance is confirmed by making the final payment unless otherwise stipulated at the time of making such payment or by letter of notification and rent commencement in leasing situations;

(24)(A) "Formal bid", as used within the Construction Section, means a bid that has been solicited through published plans and specifications in accordance with statutory requirements including legal advertising stating a bid time, bid date, and bid opening at a published location, bond requirements, and wage determination (if applicable), etc.

(B) "Formal bid", as used within the Real Estate Services Section, means a bid that has been solicited through published specification and criteria, advertised notice stating a bid time and date for a bid opening at a published location;

(25)(A) "Formalities" means any procedural, administrative, or clerical requirements not required by statute.

(B) "Formalities" may be waived where such waiver is in the best interest of the state.

(C) "Formalities" in bid documents which contain the word "shall" may be waived where such waiver is in the best interest of the agency and not required by statute;

(26) "Improvements" means a change or addition that improves the original intended purpose, performance, or appearance of an existing facility or equipment;

(27)(A) "Intent to award" means a letter to the contractor who has the successful bid for a project stating that it is the owner's intent to award him or her a contract.

(B) "Intent to award" letters may be issued to assist contractors in obtaining performance bonds prior to issuance of a contract;

(28) "Maintenance work" means the repair, but not the replacement, of existing facilities or equipment when the size capacity, type, or extent of the existing facility or equipment is not thereby changed or increased;

(29) "Minimum Standards and Criteria (MSC)" means those standards and criteria relating to bidding and requests for proposals, construction, design, maintenance, roofing, transfers of property, including but not limited to the purchasing or selling of property, and leasing of departments' capital improvements or leasing of private properties to departments;

(30) "MSC" means the Building Authority Division Minimum Standards and Criteria;

(31) "Notice to proceed" means a written notice to proceed with prosecution of the work on a specific project in accordance with a Building Authority Division approved contract;

(32)(A) "Performance specification" means a specification which generally describes the characteristics of the item required, e.g., the style, type, quality, character, economy of operation, and purpose to be served by the item and the results required of the item provided.

(B) It does not restrict the bidder to a specific brand, make, or manufacturer, nor does it tell the contractor how to achieve the required result;

(33)(A) "Proprietary specifications" means specifications that limit or restrict the bidder to two (2) sources only for a product or service.

(B) Specifications are considered proprietary when:

(i) Only two (2) manufacturers or suppliers can provide an acceptable product or system and where no substitutions are allowed; or

(ii) Only one (1) manufacturer can provide an acceptable product or service but two (2) or more vendors or suppliers can compete to provide the product or system;

(34) "Real property" means:

- (A) Building or buildings;
- (B) Land or lands; or
- (C) Real estate;

(35) "Real Estate Services Section" means the Building Authority Division Real Estate Services Section;

(36) "Real Estate Services Administrator" means the administrator of the Building Authority Division Real Estate Services Section;

(37)(A) "Recommissioning" means the process of reverifying the performance of building systems that have been commissioned previously to ensure the systems continue to operate according to the design intent or current operating needs.

(B) "Recommissioning" may be initiated periodically or in response to building renovation or a change in usage;

(38)(A) "Retro-commissioning" means the process of commissioning existing building systems that were not commissioned when originally constructed.

(B) It is a process to ensure building systems perform interactively according to the design intent and/or meet the owner's current operational needs.

(C) This is achieved by:

- (i) Documenting the design intent where possible and the current operational needs measuring the existing performance;
- (ii) Implementing necessary operational and/or system modifications;
- (iii) Actual verification of performance, operation, and maintenance (O&M) documentation verification; and
- (iv) Training of operating personnel;

(39) "Repair" means the necessary work to restore a facility component or fixed asset to its intended use;

(40) "Request for proposals" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals for negotiated work or services;

(41)(A) "Shall" as written in this subchapter denotes a mandatory requirement.

(B) Formalities in bid, requests for proposals, or requests for qualification documents which contain the word "shall" may be waived where not required by law and a waiver is in the best interest of the state;

(42) "Site" means a parcel of land bounded by a property line or a designated portion of a public right-of-way;

(43) "Site improvements" means various improvements including but not limited to:

(A) Landscaping;

(B) Paving for pedestrian and vehicular ways;

(C) Outdoor lighting;

(D) Recreational facilities; and

(E) Similar site additions;

(44)(A) "Sole source" means a product, item of equipment, service, or combination of these which is available from only one (1) manufacturer, vendor, or provider in an area to the exclusion of others (e.g., within the constraints of the particular project whether geographical, time, material, software support, or other).

(B) If products, equipment, or services are franchised to only one (1) vendor in an area, the vendor would be considered a sole source for such products, equipment, or services specified for the project;

(45) "Split purchases" means dividing a capital improvement purchase into various components to avoid bidding procedures;

(46) "Standard professional services contract" means the agreement, along with any initial or subsequent attachments or amendments, between the department and the design professional pursuant to Arkansas Code § 19-11-1001;

(47) "State Architect" means the Building Authority Division State Architect;

(48) "State Engineer" means the Building Authority Division State Engineer;

(49) "Substantial completion" means the project contracted for or a designated portion thereof is sufficiently complete in accordance with the contract documents so the owner department may occupy the space, or designated portion thereof, for the use in which it is intended despite minor defects to be corrected or minor incomplete aspects of the work; and

(50)(A) "Work" means all labor, materials, equipment, and other services necessary to perform the complete services or any separate identifiable part thereof, or to provide the completed product required by the contract.

(B) In construction, "work" includes but is not limited to performing services, furnishing labor, and furnishing and incorporating materials and equipment into the construction to provide the entire completed construction or the various separately identifiable parts thereof, as required by the contract documents.

Authority. Arkansas Code § 22-2-108.

Codification Notes. "M&R" means marketing and redistribution.