

3333-1-24

Local administration of capital projects receiving over four million dollars in state capital appropriations.**(A) Authority**

This rule is established by authority conferred upon the chancellor of higher education in section 3345.50 of the Revised Code.

(B) Background

- (1) Section 3345.50 of the Revised Code allows institutions to locally administer any capital project for which the total amount of funds expected to be appropriated by the general assembly does not exceed four million dollars.
- (2) Section 3345.50 of the Revised Code provides for the chancellor and the Ohio facilities construction commission to grant local administration authority for capital projects which will exceed four million dollars in state capital appropriations on a case by case basis, subject to the criteria established by this rule.

(C) Definitions

- (1) "Institution" means a state university, a state community college and the northeastern Ohio universities college of medicine.
- (2) "Capital project" means a project which consists of construction, reconstruction, improvement, renovation, enlargement, or alteration, or other structural improvements, or the installation of mechanical, electrical, or telecommunication systems or other equipment or material supplied therefore.
- (3) "Contract documents" means the state of Ohio standard requirements for public facility construction and the related agreements for professional design services for architects, engineers and construction managers.
- (4) "Institutional Designee" means the one principal contact designated by the institution for all capital projects for which local administration has been granted. The "Institutional Designee" may be the university architect or engineer, director of capital facilities or an institution vice president, empowered by the institution with a level of authority similar to the state architect.

(D) Process and criteria for permitting local administration of capital projects which exceed four million dollars in state capital appropriations

- (1) Biennial application

- (a) Capital projects which receive or are expected to receive state capital appropriations over one or more bienniums in excess of four million dollars may be locally administered provided the following criteria are met as determined by the chancellor of higher education or designee and the Ohio facilities construction commission. If both do not concur, the institution ~~shall~~will be notified of the reason. If approved, local administration ~~shall~~will be granted for the life of the project, subject to paragraph (D)(2)(b) of this rule.
- (b) Except as provided in paragraph (D)(3) of this rule, each biennium, an institution may request local administration of such capital projects.
- (c) As part of the biennial process for granting local administration authority, the institution ~~shall~~will submit the following for the review and approval by the chancellor of higher education or designee and the Ohio facilities construction commission. If both do not concur, the institution ~~shall~~will be notified of the reason.
 - (i) The name and credentials supporting the individual serving as the "Institutional Designee" for both ongoing and new capital projects.
 - (ii) The anticipated staffing levels for both ongoing and new capital projects.
 - (iii) Evidence of the institution's previous project management experience. The institution ~~shall~~is to submit a list of locally administered projects; each project's total budget amount; the square footage of each project (if applicable); each project's schedule; each project's administration team; and the current status of each project including any pending claims.
 - (iv) A listing of projects for which local administration authority is requested. The list ~~shall~~is to include the name of each project; a description of each project; total budget amount for each project; level of local funding contributed to each project; expected start date for each project and the project administration team for each project.
 - (v) Any other information requested by the chancellor of higher education or designee or the Ohio facilities construction commission.
 - (vi) If staffing or material conditions change once local administration authority has been granted, the institution ~~shall~~will notify the

chancellor of higher education or designee and the Ohio facilities construction commission.

(2) Revocation of local administration

- (a) Revocation of the approval to locally administer a capital project may occur if an institution fails to demonstrate an ability to properly manage its capital projects and/or fails to comply with the requirements of this rule during the capital project.
- (b) If the Ohio facilities construction commission with concurrence of the chancellor of higher education or designee determines that an institution has failed to demonstrate an ability to properly manage its capital projects and/or has failed to comply with the requirements of this rule then project administration ~~shall~~will be assigned to the Ohio facilities construction commission.

(3) Mid cycle applications

- (a) An institution may request local administration authority for projects not approved as part of the biennial process, either because the institution had not requested local administration authority or because the institution has responded to the problem(s) causing earlier denial.
- (b) Once the Ohio facilities construction commission has begun administration of a capital project the granting of local administration is at the discretion of the Ohio facilities construction commission and the chancellor of higher education or designee, subject to the ~~requirements of~~criteria set forth in this rule.

(E) Requirements for the local administration of capital projects which exceed four million dollars in state capital appropriations

- (1) An institution ~~shall~~will use the contract documents developed by the Ohio facilities construction commission, as applicable, under Chapter 153. of the Revised Code.
 - (a) An institution may modify the contract documents where necessary for the specific needs of a particular project and to identify the institution as the contracting entity.
 - (b) The Ohio facilities construction commission ~~shall~~will be notified in advance of any modifications of the contract documents. The Ohio facilities construction commission may disapprove such modifications.

- (2) An institution ~~shall~~will comply with all applicable state laws governing capital projects, including, but not limited to, Chapter 153. of the Revised Code; sections 9.31 to 9.333 of the Revised Code.
- (3) An institution ~~shall~~will advertise for the selection of an architect, engineer, planner, or construction manager for a capital project on the Ohio facilities ~~construction~~construction commission's website. The capital project may also be advertised in the local media.
- (4) An institution ~~shall~~will comply with sections 153.06 and 153.07 of the Revised Code regarding advertisement for construction. The institution ~~shall~~will also list bids on the Ohio business gateway web site.
- (5) An institution ~~shall~~will comply with the statutory requirements for the establishment of lien escrow accounts and the processing of contractor payment requests subject to any outstanding liens.
- (6) An institution ~~shall~~will use the alternative dispute resolution process established by the Ohio facilities construction commission for the resolution of construction disputes.

(F) Project scope and funding

- (1) Expenditures ~~must be~~are capital improvements as allowable by law.
- (2) The project scope ~~must meet~~meets the intent and purpose of the appropriation.
- (3) The location and positioning of the project should be in accord with a campus master plan or, in the absence of a master plan, should harmonize with the existing campus environment.
- (4) The size, capacity and arrangement of the project should meet projected enrollment and programmatic needs.
- (5) Project design should provide maximum flexibility to meet future facility requirements.
- (6) Project design should give priority to development or renovation which yields the maximum amount of usable or net assignable space and minimum amount of unusable or non-assignable space.
- (7) Project design must be such that the project can and will be completed, including necessary equipment and furnishings, and ready for full occupancy without exceeding appropriated funds. Should the project budget exceed

appropriated funds, the institution ~~must~~will either supplement funding from its own resources or revise the scale or scope of the project to bring the budget into balance with appropriated funding. Project design should take into account the potential need to eliminate or defer project elements by establishing alternate construction packages which may be accepted or rejected, based on budgetary constraints. If a program plan is approved containing elements which could lead to costs exceeding appropriated funds, such approval ~~shall~~will not imply that any additional state funding, either through transfers from other appropriations or from future appropriations, is or will be supported by the chancellor.

(G) Authorization to levy fees by the Ohio facilities construction commission and the institution.

- (1) The Ohio facilities construction commission, with the concurrence of the chancellor of higher education or designee, may assess an annual fee for general assistance applicable to all capital projects for which local authority has been granted.
 - (a) Upon request from the institution, additional services may be provided by the Ohio facilities construction commission for an additional negotiated fee.
- (2) Institutions may assess a local administration fee for a capital project for which local administration authority has been granted. The fee shall not exceed 1.5 per cent of actual construction costs.

Effective:

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Certification

Date

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