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Summary of changes to ABA Minimum Standards and Criteria Section Two: Design Review

Proposed changes incorporate legislated changes from the 2009 & 2011 Regular Sessions and align ABA policies on procurement of architecture and engineering design services with the Arkansas Department of Finance and Administration, Office of State Procurement policies. In addition, these changes incorporate changes in the Federal laws regarding design for accessibility by persons with disabilities.

Changes in § 2-100 through § 2-106 clarify the process for selection of design professionals to match the processes outlined in the Office of State Procurement (OSP) rules and ABA Design Review Section's roles in this process and reduces the number of times an agency must publish a public notice of intent to issue a request for qualification package to interested parties. Proposed changes in § 2-106 will streamline the selection process for certain types of contracts and reduce the time required for an agency to initiate contracts used for critical maintenance projects, emergency repairs and smaller projects.

Changes in § 2-200 through §2-211 incorporates the requirements of Act 1494 of 2009 and other minor clarifications of design services.

Changes in § 2-300 through 2-315 seek to clarify the development of a professional services contract and align ABA policies with OSP policies on the development and submittal of contracts for architectural and engineering services. Also clarifies allowable reimbursable expenses that an agency may include on a professional services contract to avoid confusion and delays in processing payments to design professionals.

Changes in § 2-800 through §2-805 incorporates the requirements of the Arkansas Energy Office rules for Energy Efficiency and Natural Resource Conservation in Public Buildings (Act 1494 of 2009) and Executive Order 09-07 for energy conservation and efficiency.

Changes in § 2-900 through § 2-905 incorporate the requirements of Act 1494 of 2009 into the ABA design standards and criteria and other minor technical changes to reflect current industry practices. Also streamlines the process for agencies to incorporate proprietary and sole-source specifications into a project when in the best interest of the agency and the State and provides for transparency in the source and cost of such specifications in the bid process.

Existing § 2-1000 is deleted and replaced by new § 2-1000 to reflect changes in the 2010 ADA Standards for Accessible Design adopted by the US Department of Justice in 2010 and to clarify ABA plan review requirements on Public School (K-12) projects as required by Act 1006 of 2011.

Changes in § 2-1200 thorough § 2-1208 include minor technical changes to reflect changes in construction practices in the roofing industry.

SECTION TWO DESIGN REVIEW SECTION

2-100 DESIGN PROFESSIONAL SERVICES SELECTION PROCEDURES

(A) To ensure an equitable opportunity for all practicing design professionals, and in accordance with Arkansas Code Annotated § 22-2-101 et. seq., ABA has initiated the

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following procedures that shall be followed to select firms or individuals to perform professional services for capital improvement projects. All agencies except as exempted by law, are required to use the MSC.

(B) Agencies shall comply with the Department of Finance and Administration, Office of State Procurement guidelines and policies in the development of requests for qualifications, structure of evaluation committees and evaluation of responses in the solicitation, evaluation and selection of design professional under this section.

(C) Any reference to the words "the Section" within Section Two shall mean the Design Review Section.

2-101 SELECTION AUTHORITY SCHEDULE

(A) Agencies' whose fund's have been appropriated by the General Assembly to the Agency or appropriated to ABA for specific buildings within Pulaski County shall have the responsibility for selecting the Design Professional. Any questions regarding the interpretation of this method should be directed to the ABA Design Review Section.

(B) Agencies desiring to enter into a professional services agreement wherein the contemplated fee, exclusive of reimbursable expenses, are \$5000 or less, may contact any qualified provider without ABA approval and negotiate an agreement for the required services.

~~(B)~~ C) Agencies desiring to enter into professional services agreements wherein the contemplated fee, exclusive of reimbursable expenses, do not exceed \$25,000, may utilize a purchase order for these services in accordance with Ark. Code Ann. §19-11-1014~~2~~(b)(9)(A). Agencies may enter into such purchase order agreements without prior approval of ABA.

~~(C)~~ D) Agencies desiring to enter into a professional services agreement wherein the contemplated fee, exclusive of reimbursable expenses, are more than \$5000 but \$25,000 or less, may solicit qualifications from 3 or more qualified providers without ABA approval. Agencies should review Ark. Code Ann. §19-11-801 before initiating the process. The following is the recommended process:

(1) Issue a letter of request to the selected firms describing the nature of the services desired, the description of the project contemplated and require interested parties to submit a statement of qualifications and or pertinent information;

(2) Form a selection committee to evaluate the qualifications of the respondents and select the firm or individual to negotiate with;

(3) Should negotiations for a fee of less than \$25,000 fail, Agencies may approach their next selection and initiate negotiations. If negotiations are unsuccessful with all respondents, the agency should determine to terminate the selection process and either re-evaluate the scope of services required and begin this process over or move to the formal selection process described in this section;

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(4) While these agreements (\$25,000 or less) are not submitted to ABA or DF&A for prior approval, Agencies must report the agreements to DF&A/OSP in accordance with their rules; ~~and regulations.~~

(5) While ABA approval is not required for contracts \$25,000 or less, Agencies can make a written request for ABA assistance in the selection process. (See §2-102 on the process of written requests.)

(E) Agencies desiring to enter into a professional services agreement wherein the contemplated fee, exclusive of reimbursable expenses exceeds \$25,000 shall follow the procedures described in § 2-102 through § 2-106.

~~(D)~~ (F) Selection of design professionals and consultants will be coordinated by the State Architect or State Engineer or designee depending upon their respective or related fields.

(G) Agencies desiring to enter into a sole-source professional services agreement wherein the contemplated fee, exclusive of reimbursable expenses exceeds \$5,000 shall follow the procedures established by DF&A/OSP. Upon DFA/OSP approval of a contract which exceeds \$25,000 in fees (excluding reimbursables), the Agency shall attach a copy of the justification and approval to the contract when submitting for ABA review.

2-102 AUTHORIZATION TO CONDUCT SELECTION

(A) Advertising shall not be implemented until approved by the Section. The Section shall assign the solicitation process the appropriate RFQ number for tracking purposes. This RFQ number shall be referenced on all documents and correspondence related to the selection process and shall be shown on the lower left-hand corner of the first page of the professional services contract. Any Agency requiring design professional services or other appropriate consultants, regardless of the nature of funding, shall submit by letter their intentions, and request "Authorization to Proceed" from the Section, providing the following information:

(1) Agency name and project;

(2) Location of project;

(3) Description of services desired;

(4) Source of funding;

(5) Description of the work to be accomplished and approximate square footage where applicable;

(6) Approximate time frame for the anticipated need to start and complete the project;

(7) Agency Project Coordinator and telephone number.

(8) Estimated cost of the construction project or estimated total fees that will be expended over the life of the contract.

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(9) Acknowledgement that the agency has the request for qualification (RFQ) document ready for distribution.

(B) Draft of advertisement, name of newspapers advertising in, and deadline for submitting advertisement. Notice shall be placed on the ABA website. ~~All published notices should run on Sunday, unless approved in writing by the Section.~~ Published notices shall run at least one (1) time. ~~each week for not less than two (2) consecutive weeks.~~ The date of publication ~~of the last notice~~ shall not be less than one (1) week before the day fixed therein for the receipt of the responses. See 2-105 EXCEPTION.

(C) The draft advertisement should contain but not be limited to the following information:

(1) Advertisement cost billing information from the Agency including the name, address, and phone number of the purchasing official to which all invoices should be submitted;

(2) Notice to the Design Professional as needed (i.e.: Architects, Engineers, Environmental Consultants or specialized fields such as Electrical Engineers);

(3) Name of the Agency, division, department and location of the project; and RFQ number;

(4) A brief description of the project, including the approximate square footage for new construction or renovations and the desired services;

(5) The desired deadline for responses to the request for qualifications;

(6) Instructions for obtaining a copy of the Request for Qualifications package (i.e. website address, telephone number, contact name);

(7) The name, address, and phone number of the Agency person to whom the responses should be directed.

2-103 PUBLIC NOTIFICATIONS REQUIRED

After approval by the Section to conduct selection procedures, the selecting Agency shall be required to publish a notification that Design Professional services are being solicited. A notice shall be published in at least one (1) statewide newspaper for each project pursuant to the advertisement criteria under §2-102(C). Agencies are encouraged to publish notification in other publications, including but not limited to newspapers or trade journals with general circulation in the county where the project will be located.

2-104 DESIGN PROFESSIONAL QUALIFICATIONS

The following are minimum qualifications required for Design Professionals desiring ~~working to contract for~~ design services with the State:

(A) All Design Professionals shall demonstrate their capability to perform the design of the project to the satisfaction of the ~~Section or their designee~~ selection committee.

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(B) All Design Professionals, except for geo-technical engineers, whether prime or serving as consultants to the prime, shall have in force professional and general liability insurance in the amounts shown in § 2-311 and § 2-312 and proof of compliance shall be attached to all standard professional services contracts.

(C) All Design Professionals, whether prime or serving as consultants to the prime, shall be licensed in their respective disciplines in Arkansas or shall be capable of being licensed and shall do so immediately, ~~with~~ in accordance with their respective licensing ~~boards rules~~ entities, if awarded the project. Bid documents shall not be released to bidders without Design Professional's Arkansas registration stamp or seal and signature as evidence of compliance.

2-105 RESPONDING PROCEDURES

~~Allow a minimum of not less than one (1) week after the last advertisement in for the receipt of responses from will be allowed for all interested design professionals. to respond~~ Responses shall be in writing and in the format stipulated in the RFQ, (FAX or telegram communications are not acceptable), and addressed to the Agency official identified in the RFQ document, indicating their interest in providing professional services for the particular project published EXCEPTION: Allow a minimum of not less than two (2) weeks for projects that are large or complex and that might require the services of an out-of-state design or consultant firm.

2-106 SELECTION METHOD

(A) After the response period, the receiving Agency, if it decides to move forward, shall take one of the following actions:

(1) For design professional type services or single project contracts wherein the estimated construction cost is less than one million dollars (\$1,000,000), pursuant to Arkansas Code Annotated § 19-11-801 through § 19-11-805, Agencies may select a design professional from annual statements of qualifications on file with the Agency. Nothing in this policy shall prohibit an agency from conducting an individual solicitation for on-call services or single projects regardless of estimated cost.

(a) Agency shall issue a public notice of their intent to solicit annual statements of qualifications and performance data from interested design professionals in accordance with § 2-103.

(b) Agency shall maintain qualifications received on file for a period of not more than 12 months after closing date of solicitation.

(c) When an Agency has a need for design professional services, the agency shall notify the Section of the need and the type of services desired. The Agency shall select no less than three (3) qualified firms (or individuals) from the qualifications on file and shall submit the names of the firms (or individuals) selected for consideration to the Section.

(d) The Section shall review the list of consultants and the scope of the services desired to determine that the correct type of design professionals are being considered. Upon a favorable determination, the Section will issue a letter of authorization and the Agency

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may then proceed with the selection process. The Section may request additional information as necessary to conduct this review.

(e) Agency shall then evaluate the qualifications of the consultants and select the best qualified candidate capable of providing the desired services and negotiate a contract. The agency shall conduct oral interviews of all selected candidates prior to making the final selection.

(f) Agencies shall initiate a contract with the Design Professional and then submit it to the DFA/OSP for review, approval, and processing. Prior to final approval, DFA/OSP submits contracts and amendments for the Section to review which are under its jurisdiction. Agencies may request the assistance of the Section in the negotiation phase of the contract development.

(2) For project specific contracts wherein the estimated construction cost is over one million dollars (\$1,000,000) per project, Agencies shall select design professionals from qualifications received from a specific public notifications of request for qualifications.

(a) The Agency shall ~~designate a~~ convene the Preliminary Selection Screening Committee. This Screening Committee shall be composed of no less than three (3) members from the particular Agency desiring design professional services. It is recommended members should have subject matter experience or expertise in the areas the project will affect, and/or financial management, contracting or experience managing construction or design professional services contracts.

(b) The Preliminary Selection Screening Committee shall meet at a designated time and place, and review all responses. There shall be no more than five (5) finalists selected. A minimum of three finalists may be selected for smaller, low budget projects (under \$5,000,000). The agency may request the assistance of the Section during the ~~preliminary~~ selection process. If requested, a Section representative will be assigned to the committee to guide the committee through the process but shall not vote. If five (5) or less firms (three (3) or less for smaller projects) respond, the Agency may submit a written request to the Section for a waiver from the pre-selection process provided the Agency agrees to interview all firms that responded. If only one firm responded, the Agency may submit a written request to the Section for a waiver of the pre-selection and interview process and may begin negotiations with the firm that responded to the advertisement. The Agency may also request authorization to begin the selection process over. Nothing shall prohibit an agency from interviewing more than the initial five (5) finalists, if the agency determines that is in their best interest to do so upon written approval of the Section.

(c) Upon completion of the pre-selection process, the committee chairperson shall complete the Design Professional Selection Tracking Form and return it provide (see tracking form) to the Section with the following information: list of all responses received, list of respondents selected for evaluation, list of respondents selected for interview, and list of committee members. Include a compact disk containing a copy of the RFQ documents, one complete copy of each respondent's qualification package received and a copy of the ABA tracking form completed to this point.

(d) Within three (3) working days, the agency shall notify all responding applicants by mail of the selection results, naming the finalists selected for interview.

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(e) The Final Selection Screening Committee shall be made up of the Preliminary Selection Screening Committee ~~minus the Section representative, if requested.~~ While it is recommended that no substitution of members of the final selection committee occur, if more than 3 members served on the pre-selection committee, agencies may reduce the number to a minimum of 3 members. ~~The representative of the Section is allowed to sit on the Final Selection Screening Committee by request of the Agency.~~

(f) The final selection shall be made by the Agency following ~~an open public hearing~~ the interviews and oral presentations from the finalists selected by the Preliminary Selection Screening Committee. Notice of said ~~hearing~~ interviews shall be mailed to the finalists notifying the respective finalists of the time and location of the interview at least ten (10) days prior to the ~~hearing~~ interview. Exception: Allow fifteen (15) working days for projects that are large or complex and that may require the services of an out-of-state design or consultant firm.

(g) Each finalist shall be given a specific time to make ~~his~~ their presentation and a time schedule to follow. The order of presentations shall be determined by random drawing during the pre-selection process.

(h) Preliminary designs or suggested designs shall not be permitted during the selection process and shall be grounds for disqualification. However, audio/video presentations and boards may be used to help communicate that the firm understands the nature of the proposed project and unique design challenges that may be encountered.

(i) Nothing in the MSC shall be construed to prohibit an ABA representative from attending any pre-selection or final selection proceeding for the purposes of auditing the process.

(j) The Agency shall forward the name of the Design Professional selected to the Section within ~~24 hours~~ two working days after the final selection is approved by the Agency. This notification will become part of the permanent record and the Agency shall notify all finalist of the result of the interviews. With the notification to the selected design professional, the Agency shall initiate a contract with the Design Professional and submit it to the ~~Section~~ DFA/OSP for review, approval, and processing. The DFA/OSP shall forward to the Section the contracts and amendments subject to ABA review. Agencies may request the assistance of the Section in the negotiation phase of the contact development.

(B) Agencies shall be responsible for maintaining a complete record of the selection process from initiation through execution of the contract and contract closeout. This record shall include copies of all qualifications, scoring, notes, and correspondence including the firms not selected for consideration. ABA is responsible for maintaining documents or copies thereof which have been submitted in the approval process.

(C) At the conclusion of the selection process submit to the Section a compact disk containing a copy of the initial request to begin the selection process, Section letter of authorization to proceed, the advertisement publication (tear sheet), a copy of the RFQ documents, one complete copy of each respondent's qualification package received and a copy of the completed ABA tracking form, and copies of all letters on notification. The professional services contract may not be approved until receipt of this information. To

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facilitate tracking, the contract shall reference the assigned RFQ number. The disk submitted to ABA should be labeled with the RFQ number and project name or type of services requested.

2-200 STANDARD FEE SCHEDULE FOR PROFESSIONAL SERVICES

The fees shown in this schedule § 2-211 are the maximum that will be allowed and are considered necessary for the performance of adequate professional services, unless exempted by law. Any increase beyond the scope of the fee schedule must be approved by the ABA Director if such increases are determined to be in the best interests of the state.

2-201 DESIGN PROFESSIONAL'S BASIC SERVICES DEFINED

(A) Basic services, when referred to in the following fee schedules, shall be defined as follows and include all the services of the architectural, landscape architect, civil, mechanical, electrical, and structural consultants under one (1) ~~base~~ basic fee. For review of funding and Agency programs refer to §2-401 through 2-404.

(1) Estimate of probable construction cost. Provide a separate line item for each of the technical specification divisions.

(2) Perform life cycle cost analysis of building components and systems in accordance with the Arkansas Energy Office rules for Energy Efficiency for Public Buildings for new construction projects exceeding 20,000 SF and renovation projects exceeding 20,000 SF wherein the estimated construction cost exceeds 50% of the insured valued of the building.

~~(2~~ 3) Schematic design, approximately 15% complete. (To be submitted to Agencies only for approval.)

~~(3~~ 4) Design development, approximately 50% complete. Include an estimate of the annual operation costs and energy consumption of all utilities, using industry standard average energy use for the building type. (To be submitted to the Agencies only for approval.)

(4 5) Seismic Design as required for projects to comply with Arkansas laws and the current Arkansas Fire Prevention Code.

~~(5~~ 6) Construction bid documents. 100% complete documents to be submitted to the Agencies for review and following the agency review, submitted on to and the Construction Section for review and approval. Include an up to date copy of the estimated annual operation cost and energy consumption submitted with the design development documents. Consumption data shall be expressed in terms of total BTUH/SF/YR for new buildings and additions over 20,000 SF and for renovations exceeding 20,000 SF wherein the estimated cost of the renovation exceeds 50% of the insured value of the building. For all other projects, Consumptions shall be expressed as total BTUH/YR for the affected work.

~~(6~~ 7) Agency reviews as applicable, which includes but is not limited to, ABA, the State Fire

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Marshall, and the Arkansas Department of Health.

(7 8) Advertisement, bidding of project, and contract negotiations as required to conform to the project funding ~~per § 2-215~~.

(B) Basic Services are also to include periodic construction observation (site visits) by the prime Design Professional and all consultants at key critical times, for that applicable portion of the work for which they are involved, during construction and construction administration, including:

(1) Contract, bonds, insurance requirements review, coordination of contract documents and processing to the Construction Section;

(2) Shop drawing and material submittal reviews by the appropriate Design Professional or consultant;

(3) Periodic observation reports, a minimum of one (1) per month, complying with § 2-1605, "Design Professional Observation Requirements", prepared by the Design Professional and his appropriate consultants and furnished to the Agency and the Construction Section. Include sub-consultant site visit(s) and an observation report(s) which is provided with the prime design professional's observation report and certification of contractor's payment applications.

(4) The appropriate Design Professional or Consultant shall monitor and ensure that all Agency operations/orientation/training or equipment manuals, or all, are submitted, reviewed, approved and transmitted to the Agency. Acknowledgment of this transmittal shall be included in the final closeout documents.

(5) Receive for the Agency from the Contractor, "record" drawings and all project close-out items pursuant to §3-500 through §3-504 and prepare a compact disc containing the record documents.

(6) Follow up inspection by all parties within thirty (30) days prior to the expiration of the one (1) year Contractor's Warranty.

2-202 ARCHITECTURAL AND BUILDING RELATED ENGINEERING SERVICES FEES

(A) Fees shall be based on the Design Services Fee Schedule shown in §2-211. This fee schedule is to be used for all Architectural, Civil, Landscape Architecture, Structural, Mechanical, and Electrical Design Professional Services. These fees shall be considered part of "Basic Services" for a project as defined in §2-201.

(B) Fee schedule shall be used to determine the base fee, which includes all consultants noted above, computed on the basis of the design professional providing all basic services, as defined in this Standards and Criteria manual, times a percentage of the total construction cost.

(C) Base fees shall include the "full services" (unless otherwise negotiated) of all normal consultants, i.e., civil, architectural, landscape, structural, mechanical, and electrical, per §2-201.

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(D) Note: All standard professional services contracts, negotiated as a percentage of construction cost, shall pay compensation to the Design Professional on the basis of actual construction cost, including all negotiations and change orders through final acceptance and payments to the contractor. Estimated construction cost, as approved by the Agency, shall be used until the bids are accepted, or if the project is canceled.

2-203 OTHER DESIGN PROFESSIONAL SERVICES

For boundary or topographical land survey services refer to §2-207; for Geo-technical engineering services, refer to § 2-208; for environmental engineering services, refer to § 2-209; for interior design services refer to § 2-206; for seismic design fee allowance refer to §2-204 and for asbestos consultant fees refer to §2-210.

2-204 SEISMIC DESIGN FEE ALLOWANCES

(A) For projects requiring seismic design and certification to comply with Arkansas laws and the current Arkansas Fire Prevention Code, fees may be increased, with the approval of the Section, as follows:

(1) Arkansas Seismic Design Categories A, B, and C: Basic services as defined under §2-200, §2-201.

(2) Arkansas Seismic Design Category D: Multiply base fee only, up to 1.04, maximum.

(3) Arkansas Seismic Design Category E: Multiply base fee only up to 1.05, maximum.

(4) Where applicable, the multipliers may be used to compute the seismic design allowance in Seismic Design Categories D and E only. These allowances shall be listed under the base fee shown on the standard professional services contract under "Compensation" as: Seismic Design Fee Allowance, "Category D" (or "E") = \$ (Amount). Do not list as a combined fee.

(B) Compliance with all applicable seismic design building codes shall include all ABA defined structural and normal non-structural elements. Refer to § 2-900.

(C) Additional Services for Non-Structural Elements (All Zones). Earthquake resistant design of specific, "out-of-the-ordinary" items or equipment not listed, may require "additional services" on the standard professional services contract, unless otherwise negotiated, for these non-structural seismic design bracing details. These "additional services", may be negotiated on an hourly, lump sum, or percentage of construction cost agreement when approved by the Section.

(D) Additional Services for Dynamic Structural Analysis: Should dynamic structural analysis be required for the seismic design of a structure to meet all applicable building codes, this analysis shall be considered an "additional service" under the standard professional services contract or its attachment, unless otherwise negotiated. This expense shall not be incurred without the approval of the Section.

2-205 SPECIALIZED CONSULTANTS

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Fees may be negotiated on a percentage of construction cost, lump sum, or hourly fee (not to exceed) agreement with approval by the Section. Specialized consultants could include the following specialized fields including but not limited to: acoustical, theatrical lighting, parking, food service, solar, computer, exhibit planners, building commissioning, graphic, geo-technical, testing, land surveying, and land planning. Include a line item for each specialized consultant's fee under "compensation" in the Professional Service Contract and list as "Additional Services-[TYPE OF CONSULTANT] Fees".

2-206 INTERIOR DESIGN SERVICES

A basic interior design service fee not to exceed ten percent (10%) maximum of the total cost of all furniture, draperies, equipment, fixtures, paintings, artifacts, and the like, including planning and observation of placement and installation of same, shall be used by all agencies. Extra services desired by the owner shall require prior approval by the Section. Include all "Interior Design Fees" under "compensation" in the Professional Service Contract and list as "Additional Services-Interior Design Fees".

2-207 BOUNDARY OR TOPOGRAPHICAL LAND SURVEYING SERVICES FEES

Boundary or topographical land surveys are considered a specialized engineering services and fees for these types of services shall be negotiated on an hourly not-to-exceed rate or a lump sum commensurate with the scope of the survey. Fees for this type of service require the approval of the Section. Prior to finalizing the negotiations, agencies shall submit a draft of the scope of the work and the proposed fee arrangement to the Section.

2-208 GEO-TECHNICAL ENGINEERING SERVICES FEES

Geo-technical investigations are considered a specialized engineering service and fees for geo-technical services may be negotiated on an hourly not-to-exceed fee or a lump sum agreement. If conditions are such that a lump sum (not to exceed) cannot be guaranteed, then a unit price per boring or trench may be included to cover the suspected conditions that may be encountered. Fees for this type of service require the approval of the Section. Prior to finalizing the negotiations, submit a draft of the scope of the work and the proposed fee arrangement to the Section.

2-209 ENVIRONMENTAL ENGINEERING SERVICES FEES

For projects involving purely environmental engineering services, excluding asbestos consulting services, independent of a new building construction project and where the services of the engineer are contracted directly to the Agency, the fees may be negotiated on a percentage of the construction cost, lump sum, or hourly fee (not to exceed) agreement with approval by the Section. Prior to finalizing negotiations, submit a draft of the scope of the work and the proposed fee arrangement to the Section.

2-210 ASBESTOS CONSULTANT FEES

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Asbestos inspection, design, air monitoring and project management services are considered a specialized consulting services and fees for these types of services shall be negotiated on an hourly not-to-exceed rate, a daily or abatement shift rate or a lump sum commensurate with the scope of the project. The Section shall approve fees for this type of service. Agencies shall submit a draft of the scope of work and the proposed fee arrangement to the Section prior to finalization of negotiations.

2-211 DESIGN SERVICES FEE SCHEDULE

(A) The following fee schedule for basic services as defined in § 2-201 is based upon a percentage of the total (final) construction cost including all adjustments (increases and decrease) by change order or negotiations and as modified by the footnotes at the bottom of this schedule. For projects less than \$50,000 or more than \$50,000,000, fees may be negotiated subject to ABA approval.

CONSTRUCTION COST	BASIC FEE
Less than \$50,000	As Negotiated
\$50,001 to \$75,000	9.25%
\$75,001 to \$100,000	9.00%
\$100,001 to \$200,000	8.75%
\$200,001 to \$300,000	8.50%
\$300,001 to \$400,000	8.25%
\$400,001 to \$500,000	8.00%
\$500,001 to \$600,000	7.75%
\$600,001 to \$700,000	7.50%
\$700,001 to \$800,000	7.25%
\$800,001 to \$900,000	7.00%
\$900,001 to \$1,000,000	6.75%
\$1,000,001 to \$20,000,000	6.50%
\$20,000,001 to \$ 22,500,000	6.25%
\$22,500,001 to \$25,000,000	6.00%
\$25,000,001 to \$27,500,000	5.75%
\$27,500,001 to \$30,000,000	5.50%
\$30,000,001 to \$32,500,000	5.25%
\$32,500,001 to \$35,000,000	5.00%
\$35,000,001 to \$37,500,000	4.75%
\$37,500,001 to \$40,000,000	4.50%
\$40,000,001 to \$42,500,000	4.25%
\$42,500,001 to \$50,000,000	4.00%
Over \$50,000,000	As Negotiated

(B) Prior to applying any of the modifiers listed below, Agencies shall submit a request to the Section for authorization to negotiate a contract containing these modifiers. The request shall include a description of the services to be added or deleted and the range the Agency intends to negotiate to.

(1) For simple projects such as warehouses, parking lots, parking decks, agricultural facilities or similar, deduct a minimum of 1% from the fees indicated.

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(2) For projects involving the site adaptation of an existing design such as a standard bath house, employee residence, or similar, deduct a minimum of 2% from the fees indicated.

(3) For complex projects such as hospitals, medical or research facilities, laboratories containing extensive amounts of scientific equipment, add a maximum of 1.5% to the fees indicated.

(4) For projects involving the renovation of existing structures where accurate as-built information does not exist, add a maximum of 2% to the fees indicated to allow the design professional to survey the facility and develop accurate plans of existing conditions.

(5) For ~~civil engineering~~ projects where more intense observation is required to ensure proper execution of the project such as but not limited to; installation of underground utilities, pouring of massive or structural concrete structures, add a maximum of 4% to the fees indicated. Agencies are encouraged to negotiate these additional fees on an hourly rate not to exceed the 4% maximum. These services shall be listed on the professional services under "compensation" as a separate line item entitled "Additional Project Observation".

2-300 PROFESSIONAL SERVICES CONTRACT DEVELOPMENT ~~INTENTIONALLY LEFT BLANK~~

(A) All professional service contracts and amendments shall be submitted on the forms developed and approved by DFA/OSP only. Attachments to these standard forms are permitted and encouraged. All attachments shall be edited to be in compliance with applicable rules and laws.

(B) Contracts may be amended to increase or decrease the fees, to add or replace sub-consultants or modify the terms and conditions at any time during the contract period and may be amended to extend the time annually until the project is completed. However, the contract may not be amended to extend the time beyond maximum limits for professional services contracts as established by laws and the DFA/OSP rules.

(C) All contracts and the selection of the design professional shall be only as approved by the Section , and must follow all ABA MSC rules and OSP rules regarding submission schedules, fees and reimbursable expenses for reporting and tracking unless exempted by law.

(D) All reports, studies, budget cost estimates and the like produced under these contracts shall be submitted to the Section for record in the same manner as plan reviews. Failure to do so may result in forfeiture of design fees.

2-301 PROJECT SPECIFIC TYPE CONTRACTS

(A) Agencies are required to use a project specific contract for each capital improvement project where the estimated construction cost exceeds \$1,000,000 including contingency cost. These contracts shall not be amended to add additional projects or to increase the scope of the work to add or alter additional buildings, or to make additional improvement

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to site work or utilities beyond the original defined scope in the solicitation for design service.

~~(B) Project specific contracts shall be initially written for a term not to exceed the current biennium fiscal year period in which the contract is written. These types of contracts may be amended to increase or decrease the fees at any time during the contract period and may be amended to extend the time annual until the project is completed. However, the contract may not be amended to extend the time beyond maximum limits for professional services contracts as established by laws and the DFA/OSP rules.~~

~~(C) (B) Fees for professional services under this type of contract should be~~ are customarily based on a percentage of the construction cost as established in § 2-211. Fee arrangements other than a percentage fee require written justification submitted to the Section for approval prior to negotiating the contract. Additional services beyond the basic fee may be added as appropriate and as defined in § 2-200.

(C) Agencies may enter into design professional contracts for project specific type of contracts in which the project is less than \$1,000,000.

2-302 DESIGN PROFESSIONAL SERVICES (MULTIPLE PROJECT TYPE) CONTRACTS

(A) In some instances, Agencies may elect to enter into a standard professional services contract with an architect, engineer, or consultant for multiple minor projects ~~not exceeding \$1,000,000~~ or minor projects which are time critical during the contract period. Do not use the phrases "Indefinite Delivery or Open End" when referring to these contracts. The use of these phrases implies that these contracts will not end. State contracts must have a finite term and cost. These types of contracts are referred to as design professional contracts as defined in Arkansas Code Annotated § 19-11-1001. All contracts and the selection of the design professional shall be only as approved by the Section , and must follow all MSC regulations, regarding plan review submissions for tracking projects to ensure funding. All reports, studies, budget cost estimates and the like produced under these contracts shall be submitted to the Section in the same manner as plan reviews. Failure to do so may result in forfeiture of fees.

(B) These types of contracts are to provide professional services for small projects and additions, particularly renovation and maintenance type projects, that do not exceed \$1,000,000 in construction cost. These types of contract are also applicable for feasibility studies, programming studies, budget estimates, technical assistance, emergency damage recovery projects and other similar activities involving architectural or engineering expertise. These contracts may be amended, as required, to be in force a maximum of four (4) consecutive years. At the end of the four-year period, a new selection process shall be initiated in order to allow other equally qualified firms to submit proposals and be selected based on their overall qualifications.

(C) Fees for each individual project under this type of contract should be based on a percentage of construction cost, lump sum, or an hourly (not to exceed) type contract. Detail statement of work documents or task order assignment documents should be developed for each assignment defining the scope of the assignment, fee arrangement, completion time and deliverables required from the consultant at the time of the project assignment. Fee payments should be closely audited to ensure they do not exceed the

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maximum allowable fee authorized by the assignment order. Terms for these contracts must remain the same for the duration of the contract period.

2-303 LUMP SUM OR HOURLY FEES (NOT TO EXCEED)

As an alternative to the fees as a percent of construction cost set forth in § 2-211, the Agency may negotiate a lump sum or hourly (not to exceed) fee contract, subject to approval by the Section. The lump sum or hourly (not to exceed) fee should be based on the estimated construction cost, which is applied the percentages set forth in § 2-211 or a lesser percentage figure may be used if the ~~Section~~ Agency determines that portions of the design work can be furnished by other qualified sources. ~~When a lump sum or hourly (not to exceed) fee basis is contemplated, then public notification to Design Professionals should so state.~~

2-304 ADDITIONAL SERVICES FEES

(A) Fees for "Additional Services" may be based on lump sum or hourly (not to exceed), unit prices. "Additional Services" fees shall be agreed upon in writing prior to the encumbrance of expense.

(B) Multipliers for additional services may not be used in an attachment to a professional services contract or invoice for services unless approved by the Agency and the Section in the initial standard professional services contract. Design Professionals may include a "multiplier" only where "above normal and lengthy" coordination of the additional services of outside specialized consultants is involved and approved by the Agency. This multiplier shall not exceed ~~4.20~~ 1.10 times actual cost and should be clearly stated in any invoices for payment.

(C) Multipliers shall not be applied to equipment, material, or incidentals furnished to complete a project. Only consultant or personnel charges are applicable.

2-305 MULTIPLIERS FOR REIMBURSABLE EXPENSES

(A) Certain contracts, such as the AIA Document ~~B151~~, "Abbreviated" "Standard Form of Agreement Between Owner and Architect", provide for the use of multipliers when computing the expenses incurred by the Architect (Design Professional), his employee, or consultants. Multipliers shall not be used when submitting invoices without the written agreement of the Agency and the Section during the initial preparation of a standard professional services contract. Multipliers up to a maximum of ~~4.20~~ 1.10 times actual expenses for the procurement, coordination, and review of the work required such as legal surveys, geo-technical services, specialized consultants requested by the Agency, and the like, may be used only if acceptable to the Agency and the Section, and are clearly stated and referenced to the standard professional services contract in an attachment.

(B) Reimbursable expenses for material items, printed materials, and reproduction of plans and specifications, testing lab fees, or Agency review fees shall not be billed or invoiced with any multipliers. Invoices are accepted for actual expenses incurred only. Expenses will not be accepted without an invoice.

2-306 ACCEPTABLE/ALLOWABLE REIMBURSABLE EXPENSES

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(A) Certain expenses will be incurred during a construction project, which may need to be included in all standard professional services contracts and also included as allowances in the design professional's contract under "Reimbursable Expenses", such as:

(1) Reproduction of design and bid documents (blueprints, printing, electronic media, cost, and the like). NOTE: These expenses to the Agency are limited to those provided the review agencies during the design review phases of the project, the minimum number of set required to bid the project subject to approval of the Agency, and the minimum numbers of sets to be furnished to the successful contractor (§2-1603). This includes all bid documents, drawings, specifications, addenda, negotiated changes, and change orders. Sub-contractors and suppliers requesting additional copies shall be responsible for all printing and shipping costs. The Design Professional shall furnish documentation of all printing and delivery cost. Acceptable documentation for printing cost shall be an invoice on letterhead or business forms from an outside printing company or service. Invoicing for these services on the design professional's letterhead only is not acceptable.

(2) Land and topographical surveys.

(3) Geo-technical soils testing services and material testing (soils compaction, asphalt, concrete, and similar testing services).

(4) Agency review fees, (example, Health Department plan reviews.)

(5) Postage and delivery expenses (including overnight or priority shipping when authorized by the Agency) related to transmittal of submittal documents, contracts, pay applications, and correspondence related to the project or contract. Request for reimbursement of these expenses must be accompanied by a receipt from the provider or a photo copy of the envelop showing the address of the recipient and value of postage when using regular mail where a receipt is not otherwise rendered.

(B) Travel Expenses:

(1) Out of state travel expenses, including airfare, lodging, meals, ground transportation, parking and tolls, for in-state design professionals when specifically requested by the Agency. Reimbursement rates shall be subject to the guidelines published by DF&A for out of state travel by state employees.

(2) In state travel expenses, including airfare, lodging, meals, ground transportation, parking and tolls, for out of state design professionals and out of state specialized consultants when specifically requested by the Agency. Reimbursement rates shall be subject to the guidelines published by DF&A for out of state travel by state employees

2-307 UNACCEPTABLE REIMBURSABLE EXPENSES

(A) Professional service contract and/or invoices for services shall not list any of the following as a "Reimbursable Expense":

(1) Mileage to and from a project site at any time.

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(2) Any other connected travel expenses such as meals, lodging, and parking (except for out-of-state travel when specifically requested by the Agency).

(3) Facsimile communications (fax).

(4) Long distance telephone expenses.

(5) In-house computer or CAD time or equipment expense.

(6) Telegrams.

(7) In-house printing or reproductions.

(B) This applies to all design professionals and consultants, including geo-technical consultants, whether in-state or out-of-state. These expenses are considered normal overhead costs covered in the contract agreement, and are not reimbursable expenses.

2-308 PROGRESS PAYMENTS TO THE DESIGN PROFESSIONAL (RENDERING OF COMPENSATION)

(A) While contract requirements may vary greatly, a mutually agreed upon Method of Rendering of Compensation shall be established in the standard professional services contract, under Section V, "Rendering of Compensation", or in a separate attachment. Compensation may be paid monthly or in stages of completion, but compensation or invoices may not be paid or processed until an Agency has received that portion of work.

(B) In a normal, average construction project, compensation for services and reimbursable expenses may be paid at the end of the following stages:

(1) Schematic Design: Up to 15% of fee (after completion of the Owner/Agency Review).

(2) Design Development: Up to 50% of fee (after completion of the Owner/Agency Review, where applicable).

(3) Construction Documents: Up to 75% of fee (after completion of ABA Plan Review and approval).

(4) Bidding, Negotiations, Award, Contract Administration: Up to 80% of the fee (after issuance of notice to proceed).

(5) Construction Administration through the final inspection and final punch list preparation up to 95% of fee.

(6) Project Closeout: Up to 100% after processing final pay request and project closeout items (Maximum 45 days). (Refer to §3-500 through §3-600)

(C) Any supplemental contracts (such as AIA Owner/Architect Agreements) listed as an "Attachment" to the standard professional services contract shall agree as to language and intent for all compensation, reimbursables, multipliers, and the like, noted.

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2-309 PROJECTS WITH FIXED LIMITS OF CONSTRUCTION COST

(A) Where applicable, the Agency and the Design Professional may jointly agree to a fixed limit of construction cost as a condition of a standard professional services contract between the Agency and the Design Professional (or on the project assignment form or letter for projects executed under multiple project type contracts). If such a fixed limit has been established, the Design Professional and the Agency will cooperate to mutually agree with the Section on contingencies for design, bid climate and price escalation, on building program scope, construction materials, equipment, component systems, and types of construction to be included in the contract documents.

(B) The fixed limit of construction cost shall be included with all plan review submittals to the Section. The fixed limit of cost shall be stated in bold letters on the cover sheet of all documents submitted for review. The cost shall be stated in the following manner, "FIXED LIMIT OF CONSTRUCTION COST = (enter dollar amount)." This statement shall be removed from the documents prior to publishing for bids. Budgetary concerns by all parties shall be resolved during program review and the schematic design phase, before the first plan review submittal to the Section.

(C) Where this fixed limit of construction cost is exceeded, the Design Professional shall, without additional compensation, modify the construction documents as necessary to comply with the fixed limit, if provided under the terms of the standard professional services contract.

2-310 PROJECTS EXCEEDING CONSTRUCTION FUNDING AFTER BIDDING

(A) When it becomes apparent, after bids have been opened and reviewed, that the project cannot be awarded because of budget overruns, and that bids exceed the maximum allowed for negotiations pursuant to Arkansas laws, the Design Professional shall initiate the following steps:

- (1) Meet with the designated project coordinator of the Agency or campus to review bids, budgets, program, and Owner's needs, within seven (7) working days.
- (2) Review project costs with bidders for areas of possible savings or cost reduction. Analyze areas of excessive cost.
- (3) Review project with the Agency's Project Coordinator(s), the Section, and the Construction Section to resolve project status as quickly as possible.
- (4) Modify bid documents as approved and directed by all parties and resubmit the bid documents to the Section for review, comments, and approval for re-bidding.
- (5) Re-bid project. Coordinate bid date with the Construction Section.
- (6) The Design Professional may be required to re-design the project for re-bid without additional compensation. Additional redesigns beyond one (1) re-bid may be eligible for additional compensation subject to the approval of the Section.

(B) Other than reimbursables for printing costs, no additional compensation for re-bidding

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will be allowed unless approved in writing by the Section.

2-311 OMISSIONS AND ERRORS IN CONSTRUCTION DOCUMENTS

(A) Omissions, or errors, or both in construction documents often arise from unrealistic project schedules, lack of communication, failure to coordinate, review, or edit construction documents accordingly, as well as many other shortcomings in the design and construction process.

(B) The Agency project coordinator should work closely with the chosen design professional to set realistic project schedules which allow time for review and coordination by all parties, particularly during the scheduled ABA plan reviews.

(C) Failure to include necessary construction detailing, lack of coordination in the architectural, civil, structural, mechanical, electrical, and other, portions of the drawings and specifications, may result in costly change orders.

(D) If these change orders are reasonably attributed in whole or part to errors or omissions on the part of the design professional or his consultants, the Design Professional shall without additional compensation (to the degree the change orders are responsibly required because of the errors and omissions of the Design Professional), correct or revise all errors or omissions in its designs, drawings, specifications and other services, and prepare construction change orders to effect corrective work. Good judgment and fair practice should be exercised by all parties in making these types of decisions. The Section and the Construction Section will review all decisions respectively.

(1) An omission of an item (such as a flagpole inadvertently left out of a set of project bid documents) which would have otherwise been included in the base bid for the project should not be used to penalize the Design Professional. However, if remedial work to the landscaping or concrete paving is needed to allow for installation of the flagpole at a later, less opportune time in the course of construction, then the Design Professional may be held responsible for these remedial costs (assuming the Agency has reasonably documented this requirement during preparation of bid documents for the project).

(2) In general, when additional costs are incurred in a construction project, which are directly attributed to negligent errors or omissions or both on the part of the Design Professional, said Design Professional may be required to bear some or all of the costs for remedial work needed to correct these negligent errors or omissions. The Design Professional should work closely with the Agency and the General Contractor to ensure that all errors or omissions or both are corrected in a timely manner, before any remedial costs are incurred, to contain and reduce change order costs. Errors and omissions should be resolved between the Agency and the Design Professional whenever possible, and as quickly as possible.

(3) The Administrator of the applicable section(s), shall have the authority to settle or resolve disputes concerning errors or omissions in a set of bid documents prepared for any Agency project utilizing professional judgment and accepted standards of care required of Design Professionals.

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(4) Any dispute involving negligent omissions, errors, or both not resolved by the Agency and the Design Professional shall be submitted to the Section. Either party may then request a conference review with the Section and the other party to attempt to resolve the issue. Request to the Section shall include but not be limited to a description of the omission or error, all documentation related to the item or items in question, copies of all meeting notes, and correspondence, or instructions referring to the issues in question. The requesting party shall copy all other parties on the request and documentation. All other parties shall submit a letter stating their position on the issue and any additional documentation related to the issue within 10 working days to the Section and copy all other parties. The Section will review the information provided and issue a letter of opinion within 15 working days (30 working days after receipt of the initial request) or request additional information from the parties.

(5) Change Orders required as a result of an error, omission, or both may not be eligible for Design Professional fee compensation. For omissions, the Design Professional may be assessed a percentage of the cost of the change order, subject to the Section approval as determined in § 2-312, to cover the additional cost of the work due to failure to include the work in the original bid package. For an error, the Design Professional may be assessed the full cost of the change order, not as punishment, but in fulfillment of the principal of betterment, that the owner should not be required to pay twice for the same element of construction.

2-312 DESIGN PROFESSIONAL'S LIABILITY INSURANCE

(A) The Design Professional shall carry professional liability insurance covering negligent acts, errors and omissions. Include a copy of the current certificate of insurance as an attachment to the standard professional services contract. The minimum policy value shall be \$500,000 except that the value shall be increased to a minimum of \$1,000,000 for projects where the estimated construction cost is between \$5,000,000 and \$20,000,000. For projects exceeding \$20,000,000 in estimated construction cost, the policy value shall be a minimum of 5% of the estimated construction cost. The Design Professional may utilize a Project Specific Professional Liability Policy for projects exceeding \$5,000,000 in estimated construction cost. The Design Professional shall be required to disclose the size and nature of all pending claims against his liability insurance during the negotiation phase. The Design Professional shall maintain this insurance in force after the completion of the services under the contract for a period of one (1) year after substantial completion of the construction.

(B) Neither the Section's nor the Agency's review, approval, acceptance of, nor payment for, any of the services required shall be construed to operate as a waiver by the Owner of any rights or any cause of action arising out of the Contract. The Design Professional shall remain liable to the State for reasonable project costs, which are incurred by the State as a result of negligent acts, errors, or omissions, or both on the part of the Design Professional. This liability shall extend to the Prime Design Professional's subcontractors and consultants in the performance of any of the services furnished.

(C) The Design Professional may be held responsible for reasonable project costs resulting from its professionally negligent acts, errors, omissions, or other breaches of the applicable standards of care established by Arkansas laws or regulations. Liability may include, but not be limited to, the Design Professional's own cost of for labor and

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other in-house cost, any resulting Contractor Change Order cost including demolition, cutting patching, repairs, or modification of work that is already in place. The Design Professional may also be held responsible for any Contractor or Owner delays or damages, and any judgment, fines, or penalties, against the Agency resulting from the Design Professional's professionally negligent acts, errors, omissions, and other breaches of the applicable standards of care.

(D) However, the Design Professional may not be held responsible for the cost of the correct equipment or system which should have been originally specified, except that the Design Professional shall be responsible for any increased cost, whether the result of inflation, reordering, restocking or otherwise of incorporating the corrected work into the Contractor's Change Order

(E) Upon determination that there may be Design Professional financial responsibility involved, the Design Professional shall be contacted by the Agency. The Design Professional shall be advised of the design deficiency, informed that it is the Agency's opinion that the Design Professional may be financially responsible, and requested to provide a technical solution to the problem, including a cost estimate. The Design Professional shall be given the opportunity to take the measures necessary to minimize the consequences of such defects within a timely manner without jeopardizing the integrity of the project. The Agency Project Coordinator shall promptly inform the Section of the issue and shall keep the Section informed until the issue is resolved.

(F) If the Design Professional refuses to cooperate in the negotiations, the Agency shall have the right to proceed with the remedial construction and/or change order negotiations without the Design Professional. Disputes shall be resolved as set forth in the Standard Professional Services Contract.

(G) Alternatively, the Design Professional may discharge its financial responsibility through negotiations with, and direct payment to, the Contractor. This action must be participated in and approved by the Owner. Evidence of the Agency's participation and approval of these negotiations and a description of the corrective action and cost incurred by each party shall be reported in writing to the Section for record.

2-313 OTHER INSURANCE REQUIRED OF THE DESIGN PROFESSIONAL

(A) Prior to the start of any work under the Professional Services Agreement, the Design Professional shall provide to the Agency Certificates of Insurance forms approved by the State and shall maintain such insurance until completion of all work under the agreement.

(B) The minimum limits of liability shall be as follows:

(1) Workers' Compensation: Standard Arkansas Workers' Compensation Policy with statutory requirements and benefits.

(2) Employers Liability: \$100,000 minimum.

(3) Broad Form Comprehensive General Liability: \$1,000,000 minimum

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Combined Single limit coverage. The State shall be named as an additional insured with respect to the services being provided. The coverage shall include but not be limited to premises/operations liability, Products and completed operations coverage, independent contractors liability, owners and contractor's protective liability, personal injury liability.

(4) Automobile Liability:

Arkansas Statutory Limits

2-314 PROFESSIONAL SERVICES CONTRACT

(A) Selection of architect, landscape architects, interior designers, engineers, land surveyors, and other related building consultants shall be coordinated and verified by the Section. When the Agency has completed the selection process ~~then~~ the agency shall prepare a standard professional services contract. All basic compensation items, compensation for additional services, and reimbursable expense items, shall be carefully reviewed by both the Agency and design professional before signing the standard professional services contract. The signature page of this form shall be the only signature page in the agreement. Delete or strikeout the signature pages from all attachments to avoid confusion. Upon request, the Section is available for contract draft reviews between the Agency and the design professional.

(B) For Compensation and Reimbursable expenses, see §2-200 et seq. and §2-300 et seq. Additional services of the Design Professional may be based on a percentage of construction cost, lump sum or hourly fee with a not to exceed amount stated on the contract.

(C) All standard professional service contracts and amendments shall be submitted to the DFA/OSP website. DFA/OSP will forward the contracts and amendments to the Section for review. ~~For new contract reviews, submit two copies. For an amendment review, submit two copies of the amendment and two copies of the original contract and all previous amendments. Contracts or amendments expected to receive Legislative review must have attached appropriate information regarding the contract or amendment justification. Contracts shall also contain disclosure forms and documents pursuant to EO 98-04. Appropriate information includes but is not limited to: Agency name; project description; construction and Design Professional funds; # of standard professional services contracts; identify Design Professional and the objectives and scope; Design Professional fees; estimated construction cost; contract control number; amendment compensation with explanation; Design Professional reimbursables with breakdown; contract extension date; name of the contractor; contract amount and change orders. Contracts shall be completed in its entirety prior to submission for review. Particular attention will be given to areas concerning "Calculations for Compensation" and "Description of Services to be provided. New contracts or amendments to contracts shall be submitted to the Section seven (7) calendar days before the deadline as set by the Department of Finance and Administration.~~

(D) Failure to meet the ~~above~~ DFA/OSP submittal schedule for review and approval can cause a delay of 30 days or more for legislative review. All standard professional services contracts \$25,000.00 or more require Legislative review. The standard professional services contract form takes precedent over any and all attachments regarding time, funds, and compensation. ~~After approval by the Department of Finance and Administration one (1) copy will be sent to the Owner/Agency for distribution to all~~

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~~other parties and one copy will be retained by the Department of Finance and Administration.~~

2-315 ATTACHMENTS TO THE PROFESSIONAL SERVICES CONTRACT

(A) Agency and Design Professionals may wish to add attachments to the standard professional services contracts. These attachments may be used to clarify the extent of the professional services, either basic or additional, for the Agency and the Design Professional. When Agencies and Design Professionals wish to add attachments to the standard professional service contract, the following shall be done:

(1) Attachments shall be referenced Attachment "A", "B", "C", or "1", "2", "3" and the like, and referenced on the contract under "Objectives and Scope".

(2) Attachments shall be neatly typed additions or the Agency and Design Professional may choose to use the standard American Institute of Architects "Abbreviated Standard Form of Agreement Between the Owner and the Architect", the Engineers Joint Council on Construction Documents "Standard Form of Agreement Between Owner and Engineer", or other documents approved by the Section. (ABA neither endorses nor rejects the use of these documents.) If these documents are used, they shall be carefully edited to fully agree with the standard professional services contract, Arkansas laws and regulations including the MSC regarding allowable fees, compensation, multipliers, acceptable reimbursable expenses, and the like, and the services to be provided under the contract. Hourly rates and attachments shall remain in place for the duration of the contract, subject to annual or biennial review and negotiations. The language contained within the standard professional services contract shall take precedence over all attachments except the ABA "Basic Services Defined" attachment.

(B) In addition, the ABA "Basic Services Defined" (refer to § 2-201) shall be attached to, or added under the AIA contract, Article 12, "Other Conditions or Services." All contracts shall adhere to the ABA "Basic Services Defined" as a condition of the contract.

2-316 AMENDMENTS TO PROFESSIONAL SERVICES CONTRACT

(A) Any modification to an existing standard professional services contract requires the submission of an "Amendment" for approval by all parties, as per the original contract, including, but not limited to, changes in the project cost and scope of the project, fee or hourly rate adjustment, reimbursable expenses or additional services adjustments, contract extension, funding change (character code), and additional sub-consultants.

(B) The base fee in a standard professional services contract will normally remain constant for the duration of a project. However, if the funding or scope of the project changes significantly enough to reduce or increase the base fee allowed by the ABA Standard Fee schedule (see § 2-211), then the standard professional services contract shall be amended by both parties to reflect the new base fee agreement, and submitted for approval.

2-800 ENERGY CONSERVATION

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(A) The life cycle cost of operating a building, including energy cost and labor cost, can often exceed the cost of the building construction by 8 to 10 times. Efforts to reduce energy consumption or improve employee efficiency by as little as 10% can often result in lifetime cost savings equaling the cost of new construction. It is therefore incumbent upon each building operator, manager, and designer to be aware of the issue regarding energy consumption in the building and to plan construction and operations as wisely as possible to minimize the energy consumption while meeting the operational needs of the facility and while promoting a healthy indoor environment.

(B) Energy Conservation for only the sake of avoiding energy consumption can often lead to indoor environmental problems that can have a potential cost far greater than the value of the energy saved. All energy plans should consider not only the energy reduction but also the impact upon the building materials, systems and upon the occupant's health and productivity. Pursuant to the Arkansas Energy Code and the Arkansas Fire Prevention Code, all new construction projects and renovations shall comply with these codes. Agencies should give careful consideration to the principles of the standards and codes for incorporation into the project design to allow a stable base from which the building operator can begin to manage the building's energy consumption. All occupied buildings shall be designed to maintain the indoor environment within the parameters of the "Comfort Envelope" as defined in the ASHRAE Fundamentals Handbook. This envelope defines a range of temperatures and humidity levels that are deemed to be acceptable to most occupants under normal activity levels.

2-801 LIFE CYCLE COST ANALYSIS

In accordance with the Arkansas Energy Office (AEO) rules for Energy Efficiency and Natural Resource Conservation in Public Buildings, Agencies and the Project Designer are encouraged required to evaluate all material and equipment selections on the basis of life cycle cost as opposed to a first cost only for new construction projects exceeding 20,000 SF and for renovations of buildings exceeding 20,000 SF wherein the renovation cost exceeds 50% of the insured value of the building. During a competitive bid process for construction, often the product having the better life cycle cost can be incorporated into the project for little or no incremental cost over the lesser quality product. Agencies should evaluate the proposed products at a ~~25~~ 30 year life cycle. Careful consideration should also be given to the utility escalation rates, the maintenance rate and the discount rates for the cost of money. These factors can vary significantly from those applied to private sector cost (shorter life cycle) and if improperly applied can invalidate the analysis. Agencies are encouraged to use life cycle costing on all other projects to the extent that it is economically feasible.

2-802 AUTOMATED CONTROLS

Where possible use automatic controls for HVACR systems and for lighting applications. Space temperature and humidity should be controlled by automatic controls capable of maintaining the space set-point within a fixed upper limit and lower limit. Where practical, provide for the automatic setback or setup of the space temperature during the un-occupied periods. Avoid turning off systems where the rise in space temperature or humidity above the ASHRAE recommended maximums might result in damage to the building materials or growth of microbiological organisms. Avoid exposing the building water systems or other components to potentially damaging freezing conditions. Where

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possible, use space occupancy sensors such as motion sensors to control lighting and individual room air conditioning terminal units allow setback or to turn out the lights when a space is unoccupied. Where sufficient natural lighting exist due to windows or skylights, use automatic lighting controls to regulate the overall space lighting levels.

2-803 MANUAL CONTROLS

When automatic controls are not part of the building systems, the building manager should develop policies for each building or facility. These policies should be written and distributed to all employees. The policy should encourage the conservation of energy through the direct involvement of the building occupants. Occupant efforts should include activities such as turning lights off when not in use; maintaining thermostat settings as directed by the building manager; set-back or set-up thermostat settings during the un-occupied periods; do not leave windows open when the building heating or air conditioning systems are in operation; use the blinds or drapes to moderate the lighting level in the space so as to take maximum advantage of the natural lighting and so as to reduce the building air conditioning load; leave blinds or drapes closed when the space is un-occupied and over the weekends and holidays; do not use electrical space heaters in spaces that are air-conditioned. Adjust the heating/cooling set-points or encourage employees to dress in multiple layers of lightweight clothing such as jackets or sweaters, which can be removed or added to accommodate individual variations in comfort levels.

2-804 EQUIPMENT EFFICIENCY

(A) Do not overlook water conservation as an opportunity to reduce or manage the building operating cost. When selecting water-cooled or liquid-ring seal equipment, consider the water usage rates. When designing or operating lawn irrigation systems, consult with the Cooperative Extension Service to determine the maximum water rates for all vegetation. Evaluate the soil conditions with regards to absorption rates. Where possible, provide irrigation systems that calculate the evaporation transpiration rate based on local conditions. It is more effective to have multiple watering cycles to allow ample time for the water to absorb into the soil than to have longer cycles, which result in excessive run-off. Be cautious not to over water especially where large trees are concerned. The damage caused by the loss of an old growth tree due to over watering can be many times the cost of proper watering in that area. Where possible, use plumbing fixtures with infrared sensors to activate the flow of water. This not only saves water but also is also more sanitary and reduces the transmission of bacteria from hand contact with the fixture.

(B) Agencies and designers should endeavor to specify new equipment and fixtures to be Energy Star compliant. Energy Star equipment has been tested and certified to be low energy consuming during normal operation. In addition many Energy Star products such as computers have built-in power reduction modes that further reduce energy consumption during non-use or standby periods. Building managers should encourage occupants to not defeat or disable these energy reduction features. Equipment, like building systems, should be selected based on the best life cycle cost for each specific application.

2-805 ENERGY STAR BUILDING PROGRAM

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(A) The Energy Star Building Program is a voluntary partnership between U.S. organizations and the U.S. Environmental Protection Agency (EPA) to promote energy efficiency in buildings. These organizations represent owner-occupied public and privately owned buildings. The EPA provides participants in the program with unbiased technical information, customized support services, public relations assistance, and access to a broad-range of resources and tools.

(B) The Energy Star Building Program allows building owners to benchmark their building's energy performance relative to other similar properties in the program database. The Energy Star Building Label is awarded to buildings performing in the top 25% percentile of the market. This mark of excellence in energy performance signifies that the building has out-standing energy performance, lower operating cost and superior value. Buildings qualifying for the Energy Star Building Label are eligible to receive a placard to display on the building denoting the building as an Energy Star Building and the year date the building was certified.

(C) The Energy Star Building Labeling program is co-sponsored by the EPA and the U.S. Department of Energy. Information concerning the program criteria and participation can be accessed through the EPA web site at www.epa.gov/buildinglabel. Agencies are encouraged to apply for the building label.

(D) The Energy Star Portfolio Manager building benchmarking program is recommended for agencies subject to the energy reduction mandate of Executive Order 09-07 and Arkansas Code Annotated § 22-3-2001 et. Seq. as a tool to monitor and achieve the goals of the Agency's Strategic Energy Plan.

2-900 DESIGN STANDARDS ~~[INTENTIONALLY LEFT BLANK]~~

(A) The standards contained herein are considered the minimum acceptable for capital improvement projects submitted to the Section. Agencies and their design professionals are encouraged to exceed these standards when in the best interest of the State. If the Agency encounters a situation whereby these minimum standards cannot be met, the Agency shall submit a written request to the Section for a waiver of each specific standard. The wavier request shall define the conditions of the project that cannot meet the MSC, the applicable paragraph references for which the waiver is sought, the cost of compliance with the MSC if the waiver is not granted, and the cost of the proposed alternate construction and why the Agency cannot comply with the standards under the proposed project. All waivers must be approved by the Section in writing prior to the first plan submittal to the Section.

2-901 DESIGN PHILOSOPHY

(A) The goal of the Agency and its consulting Design Professionals should be to create a capital investment that meets the user's functional requirements, program requirements and provides the most economical life cycle cost for the taxpayer. Buildings and structures will often be used for periods exceeding fifty (50) years and consequently, should be designed for durability, adaptability, and economy of operation and ease of maintenance. The State currently has many functioning buildings that are over fifty (50) years old.

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(B) Building system components should be selected on the basis of life cycle cost. If an increased first cost or initial cost can be documented to show a reduced life cycle cost for the State, particularly for operating and personnel cost, then the design should incorporate the more expensive first cost feature or system. Studies have shown that the initial construction cost for most buildings equals 10 percent or less of the total cost of owning and operating a building over the life cycle of the building. Agencies ~~are encouraged to~~ shall require the Design Professional to produce life cycle cost data for ~~analysis~~ review before approving a design element or system where required by the AEO rules for Energy Efficiency and Natural Resource Conservation in Public Buildings.

(C) Agencies must be alert to ensure their consulting Design Professionals exercise discipline in their designs to ~~avoid inefficient~~ promote efficient use of facility space in terms of floor area and building volume. Exterior design features and materials should be consistent with the architectural character of the surrounding buildings and should complement the natural materials at the site. Excessive features or unusual geometry, which are not related to the function or intended use of the facility, ~~should~~ shall be avoided.

(D) Acceptance of a particular design does not imply that other more cost-effective designs are not acceptable. Good architecture can be achieved simply by good design which implies sensitivity to scale, mass, proportion, color, materials, lighting and detail, none of which necessarily cost more.

2-902 DESIGN STANDARDS AND REQUIREMENTS FOR OWNER/AGENCIES

(A) The Agency and the Design Professional should be aware of differences between private work and work performed for the State. Failure to comprehend these basic differences in rules and policies can result in costly disputes, protest, claims, and document re-submittals. The Design Professional should become familiar with these differences, which include but are not limited to the following areas:

(B) Since the knowledge and experience of the contractors bidding on the project is unknown, drawings and specifications requirements shall be clear as to the intent of the work. The plans and specifications must be clear, concise, and provide thorough detailing of existing and new construction.

(C) Sections, details, and dimensions must be in sufficient quantity, clarity and detail to allow the bidder to understand what is expected, to make takeoffs of material types and quantities, and once hired, to prepare shop drawings and execute the construction. This particularly applies to stairs, special connections for framing, typical details of system interfaces, flashing for roofs, walls, and similar building features.

(D) Details should clearly distinguish between existing and new construction. The drawings must also clearly show the beginning and the ending point of demolition requirements.

(E) The project design is solely the responsibility of the Design Professional. Specifications requiring the contractor to provide engineering design are not acceptable unless the products specified for contractor design are closed-engineering systems. Closed engineering systems may include pre-engineered metal buildings, elevated water storage tanks, prefabricated trusses, post tensioned structural concrete slabs, pre-cast

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concrete systems and common steel structural connections. Other systems can be classified as closed-engineering systems if approved in writing by the State Engineer. When closed-engineering system specifications are used, the Design Professional shall include the requirement for such systems designs to be stamped by a professional engineer duly licensed to practice in the State pursuant to Ark. Code Ann. §22-9-101 et seq. Closed-engineering system shop drawings shall be submitted through the Design Professional to the engineer of record for review and approval for incorporation into the overall project design.

(F) In order to encourage competition required in the expenditure of public funds, performance specifications that define a desired result or assembly are strongly preferred. If performance specifications are not practical, and a manufactured product must be used to define a desired result of assembly, then at least three manufacturers and three products should be referenced. Do not reference both manufactured products and performance criteria because conflicts in the performance criteria and the product performance may create ambiguity and result in the misapplication of a product, a protest, or a claim. ~~Sole source and proprietary specifications are not allowed without prior written approval by the Section.~~

2-903 SPECIFICATION STANDARDS

(A) Specifications shall clearly define the quality, performance, and installation standards for the Work and the conditions under which the Work is to be executed. They shall be in sufficient detail to describe the materials, equipment and supplies, and the methods of installation and construction. Required tests and guarantees shall be indicated in the specifications.

(B) Federal Specifications, MILSPECS, Corps of Engineers Specifications, Arkansas Highway and Transportation Department Specifications, and the like often contain requirements or standards, which are not applicable to State work. Those specifications may contain requirements and options ranging from the lowest quality to the highest quality product, which must be carefully reviewed, selected and identified in the specifications. Therefore, it is recommended that all ~~any~~ reference to these types of specifications ~~should~~ be avoided.

(C) Specifications shall be on 8 ½" by 11" sheets and bound into a project manual with bid sets preferably printed on both sides of the sheet. Type print size shall be suitable for microfilming and shall not be smaller than 12-point type size. The table of contents pages, or index, shall be dated with the same date as the drawings and shall be sealed and signed by the appropriate Design Professionals.

(D) The Project Manual shall include but not be limited to:

(1) Title of Project and Name of Agency;

(2) Names, address, phone and fax numbers of the Design Professional and all consultants;

(3) An index of all contents;

(4) Notice of Invitation to Bid;

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- (5) Instructions to Bidders;
- (6) Bid Form;
- (7) The General Conditions;
- (8) Supplemental General Conditions, (if applicable);
- (9) Contract Between Owner and Contractor;
- (10) Workers Compensation Insurance Certificate;
- (11) Standard Performance and Payment Bond;
- (12) List of Drawings;
- (13) Other Division Zero (0) ~~4-General~~ Requirements, ~~Special Conditions, and the like~~ as appropriate;
- (14) Technical Specification (Divisions ~~2-16~~ 1-49 Applicable Sections);
 - (a) Technical Specification Sections shall be numbered with appropriate ~~five~~ six digit section numbers corresponding to the CSI numbering system. The preferred paragraph numbering system format is the Alpha Numeric format.
 - (b) Technical Sections shall be subdivided into the Part I-General, Part II, Products, Part III-Execution format.
 - ~~(c) The Construction Specification Institute's recently published 49-division format shall be adopted by ABA on July 1, 2010 and shall be the only acceptable format after that date. Until this date, Agencies may submit specifications in either the 16-division format or the 49-division format. This delay in implementation is intended to allow ample time for design professionals to update their in-house specifications.~~
- (15) Appendices containing Soils Report, Asbestos Report, or other information pertinent to the project but not a part of the Work. Such material should be noted as, "INFORMATION ONLY", for use by the Contractor as he deems appropriate.
- (E) The four (4) types of specifications used on State projects are performance specifications, non-proprietary specifications, proprietary specifications and sole source specifications.
- (F) Performance Specification or Non- Proprietary formats are the preferred methods of specifying materials, equipment and systems. A non-proprietary specification shall be written either as a generic performance specification (preferred); or as a specification naming a minimum of three (3) manufacturers with model or series numbers. The following describes the ABA requirements for performance specifications and non-proprietary specifications.

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(1) A generic performance specification must be written to describe the required characteristics, performance standards, capacities, quality, size or dimensions, and the like, of the item or system. The specifications must be written with sufficient detail to allow manufacturers to determine if their product meets the requirements of the project. Include only the salient features that will be used to judge a product's acceptability for the project. The performance specification shall not name manufacturers or brand name products.

(2) A non-proprietary specification may be based on a manufacturer/model number type specification and must list at least three (3) manufacturers with their respective model numbers. Each of the listed manufacturers/model numbers must have been determined by the Design Professional to meet the specifications and be acceptable. If a named manufacturer prepackages or preassembles its item or system, the model number shall be specified. If the named manufacturer(s) custom builds the item or system, naming of model numbers is not required. When model numbers are used in a specification, be aware that each number and letter may be a unique identifier for various features of that manufacturer's product line. Avoid listing model long numbers. Limit the model number to the point necessary to describe the appropriate series of products and describe the unique product characteristics in the body of the specification or the schedules.

(3) The non-proprietary specification must describe the required characteristics, performance standards, and capacities that will be used to determine equal products. Do not specify extraneous characteristics that do not relate to the products' performance or suitability for the project. The specification shall not be contrived to exclude any of the manufacturers listed or to benefit any one (1) manufacturer over any of the other manufacturers. If only two (2) acceptable manufacturers can be found and documented by model number but other equal products are acceptable if found by the bidder, the Design Professional may list only those two (2) manufacturers and the phrase "or approved equal". If the phrase "or equal" is used the design professional may only reject the unnamed substitute if there is clear evidence of non-compliance in the submittal information presented for review or documented evidence that the substitute product or material has failed to perform satisfactorily as intended.

(G) A specification is proprietary if it fails to meet requirements of a generic specification or a non-proprietary specification. Although a proprietary specification should be avoided because it restricts competition, circumstances such as space limitations, mandatory performance standards, compatibility with an existing system, and the like, may leave no other reasonable choice. Two (2) typical situations that may require proprietary specifications are:

(1) When only two (2) manufacturers or suppliers provide an acceptable product or system, when there are no equals and when no substitutions are allowed or

(2) When only one (1) manufacturer is available, but two (2) or more vendors or suppliers can purchase the material and compete to provide the product or system to contractors or bidders.

~~(H) Proprietary specifications may only be used when the Agency requests and receives, in writing, approval from the Section, to use a proprietary specification. The Agency must request approval as soon as the need for the specification is recognized, preferably in the preliminary design stage but definitely prior to submission of Final Plan Review~~

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~~Documents. The Agency request shall justify why the proprietary specification is necessary. A specification is sole source when it names only one (1) manufacturer or product to the exclusion of others, or when it is contrived so that only one (1) manufacturer, product, or supplier can satisfy the specification. A product or piece of equipment that is available only through a single franchised vendor is also considered to be a sole source item.~~

~~(I) A specification is sole source when it names only one (1) manufacturer or product to the exclusion of others, or when it is contrived so that only one (1) manufacturer, product, or supplier can satisfy the specification. A product or piece of equipment that is available only through a single franchised vendor is also considered to be a sole source item. Proprietary and sole source specifications may be used only when the Agency requests and receives, in writing, approval from the Section, to use a sole source specification. The Agency must request approval as soon as the need for the specification is recognized, preferably in the preliminary design stage but definitely prior to submission of Final Plan Review documents. The Agency request shall justify why the sole source specification is necessary. has determined that a proprietary or sole source specification is in the best interest of the State and that use of alternate materials or equipment will be cost prohibitive. When a sole source specification is used, the specification shall clearly identify the materials or equipment as a proprietary or sole source item, the approved supplier or installer and a cost allowance shall be allocated in the appropriate section for Allowances in the project manual. In this manner, all bidders will have equal pricing for all allowance items within their bid price. For projects awarded by summation of unit pricing, the item(s) may be shown as a unit price line item without the allowed cost shown. The Agency shall incorporate the proprietary or sole vendor/supplier's pricing based on the final construction drawings into the allowance item and shall retain a copy of the vendor/supplier's price proposal for the item for record. To ensure that accurate cost accounting of allowances is maintained, adjustments in the allowance cost during the construction phase shall be by individual line items matching the allowance schedule. Combining multiple allowance items into a single price or lumping allowance adjustments into a single pricing with other items is prohibited. It is acceptable and appropriate to include allowance adjustments with other cost items in a single change order provide supporting documentation is attached to delineate the allowance adjustments.~~

~~(J) Prior to advertising the project for bids that contain sole source specifications, the Agency is encouraged to either procure the sole source item and specify it as Owner furnished/Contractor installed or the Agency may pre-select a sole source item through a competitive life cycle cost request for proposals (RFP). The RFP, and evaluation criteria, shall be approved by the Section, prior to issuance of the RFP. The analysis shall also be submitted for and approved. The product having the lowest life cycle cost shall be selected and shall be included in the specification as an allowance cost item listing manufacture, product number, allowance price, vendor contact name, address and phone number and the manufacturer's quote number. The specifications shall clearly indicate that the specified product was selected on the basis of a Life Cycle Cost Analysis.~~

~~(K) The use of standardized specifications or "guide specs" as a basis or resource for editing has many advantages for the Design Professional, the Reviewer and the Contractor. The Design Professional shall edit the guide specifications to include only the materials, requirements, and procedures applicable to the project. Specifications,~~

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which are submitted without editing, will be rejected as an incomplete submittal. Where Military guide specifications are used on a project, they shall be edited to delete references to Military and Federal Specifications. References to the Contracting Officer shall be changed to the Agency. Also, requirements for tests, inspections, and visits to the manufacturer's plant, and the like, which are not normally required for state projects shall be deleted.

(L) The Design Professional shall not require samples, shop drawings, or similar materials to be submitted for approval prior to receipt of bids without the specific written approval of the Section. The specifications must contain sufficient information to describe to the contractor and bidders the performance and quality standards that will be used to evaluate the submittals.

(M) Complex or sensitive systems such as locking systems, detention equipment and security control systems for prisons often require manufacturers with a proven history of reliable, operable equipment in special situations with minimal malfunctions. ~~as well as subcontractors who are experienced installers of that manufacturer's products. In such instances, the Agency and Design Professional should develop the necessary documents to pre-qualify the manufacturers and/or subcontractors prior to bidding. The names of those pre-qualified shall be listed in the bid documents for use by all general contract bidders.~~ In these instances, sole source or proprietary specifications may be appropriate.

(N) Projects for the State are not "testing grounds" for new type of materials or equipment. However, the fact that a material is newly developed does not preclude its use if documentation of recognized, independent laboratory tests clearly shows that the material will meet the applicable requirements for the project. The Agency shall submit a written request and justification to the Section for approval to specify a new product or material prior to the Final Plan Review submittal. Unless the manufacturer of a new product furnishes factual data sufficient to evaluate the product, it should not be considered for use. If a new product is considered for use, a competitive-type specification should be written to assure that a competitive; good-quality product will be obtained. In instances where competitive specifications are not appropriate, a sole source or proprietary specification may be appropriate. The Agency, with the approval of ABA, may authorize use of a new material, equipment or system for a particular project on a trial basis for observation or evaluation.

(O) Specifications must clearly indicate the requirements for the project. Words or phrases, which are vague or may be interpreted more than one way often lead to problems during bidding or construction and result in change order or claims. The following instructions are intended to reduce common errors and conflicts evolving from interpretations of the specifications.

(1) Under Requirements, do not say, "the Work consists of." Drawings should show the entire 'scope of the work'. If necessary to list certain parts, say "Generally, the Work includes..."

(2) In lieu of reference to the accompanying drawings, use the words "as shown," "as indicated," "as detailed" or "as approved by...," "as directed by.....," "as permitted by....."

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(3) The Contractor is responsible for determining the packages of work for each subcontract. It is acceptable to specify certain specialty work to be performed by person qualified, certified or licensed (if appropriate) and experienced in this type of work. If it is necessary to reference a specific trade group, it may be referred to as that group or trade by the CSI division number or section number i.e.: "Division ~~46~~ 26" for electrical work instead of "electrical sub-contractor" or "Section ~~46724~~ 283100-Fire Detection and Alarm" instead of "fire alarm contractor".

(4) Do not use "etc." This term is too indefinite for bidding and inspection purposes.

(5) Minimize the use of cross-references and in no case use paragraph numbers for this purpose. If it is necessary to refer to a particular paragraph, do so by its section number and title (e.g. Section 03 30 00, Cast-in-Place Concrete).

(6) Do not include a paragraph in the various sections entitled "Work not Included", describe only the work that is included under the respective sections.

(7) Specifications should clearly delineate air conditioning ducts, heating ducts and piping systems, which require insulation. The phrase "insulating all ducts except in conditioned spaces" has resulted in differences of opinion and claim situations. All duct systems should be appropriately designated as supply, exhaust, outside air intake, transfer, relief, or return and further clarified by stating insulating requirements.

(8) Do not confuse "any" and "all": "Correct any defects" should read "Correct all defects."

(9) Do not confuse "either" or "both"; e.g., "Paint sheet metal on either side" should read "Paint sheet metal on both sides." "Either" implies a choice.

(10) Do not confuse "or" and "and"; e.g., "The equipment shall not have defects in workmanship and material." The use of "and" in this sentence indicates both requirements must be met. e.g. "Additives that decrease strength or durability are not permitted."

(11) Do not use "and/or." The courts have considered this phrase to be intentionally ambiguous and, therefore claims are often rendered in favor of the Contractor.

(12) Use statements that are definite and contain no ambiguous words and phrases "Remove" implies to take away from its current location. If "remove" is used, the Design Professional must also indicate whether to dispose of, salvage, or re-install the material "removed". "Reinstall" implies putting the existing back in the indicated place. If "reinstall" is used, the Design Professional must also indicate that the Contractor must carefully remove the item, properly store it, and then "reinstall" the item at appropriate time. "Replace" implies removal of old material and furnish and install new material. The preferred wording would be to "remove" and "provide".

(13) "Provide" is defined as "furnish and install." When material or equipment is "furnished" by the Agency directly or under other contracts for installation by the Contractor, the term, "install" should be used; however, the Contractor may be required to "provide" foundations, fastenings, and the like, for the installation. If the word "install"

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is used alone, the Bidder or Contractor has a right to assume, on the basis of the definition cited, that the Agency will “furnish” the materials in question.

(14) Do not include equipment schedules in the specifications. Equipment schedules should be provided on the plans for quick access and review. The construction record prints are often used by the building maintenance and operation personnel on a daily basis. Having the equipment schedule information readily available on the plans can save critical time and avoid confusion during an operational emergency or repair.

(15) Ensure that the plans and specifications do not contain statements or requirements similar to the following: “[Contractor][Supplier][Installer] must have a minimum of X-years of experience in [installation][manufacture] of the specified [project][product] or must have [office][facilities] located within X-miles of the project site.” These types of statements can be construed to unfairly limit competition in the procurement of State funded projects by unnecessarily excluding some Arkansas providers and can result in bid protest which may result in lengthy delays in award of the project or rejection of all bids and necessitate re-bidding and or redesign of the project. This prohibition will not negate the use of LEED MR Credit 5 for regional materials as this credit allows materials or products that have been extracted, harvested or recovered, as well as manufactured, within 500 miles of the project site. This range encompasses the entire state of Arkansas regardless of project locations so no Arkansas manufacturer or provider will be excluded by this requirement.

2-904 DRAWING STANDARDS

(A) The following represents the minimum requirements, standards, and expectations applicable to all drawings prepared for bidding and construction on state projects. Refer to § 2-1504 for a description of the contents of each discipline submittal. Note that not every category will be used on every project. The Design Professional shall select the appropriate categories for each specific project.

(B) Arrangement of Drawings: Drawings shall be arranged in the following order with the discipline identifying character shown:

- T Title Sheet & Index
- TS Topographical Surveys & Plot Plan Drawings
- B Boring Logs & Soils Data
- D Demolition Drawings
- C Civil Site Drawings
- L Landscaping Drawings
- FA Fire Service Access Drawings
- A Architectural Drawings

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- K Kitchen Equipment Drawings
- S Structural Drawings
- M Mechanical (HVAC) Drawings
- FP Fire Protection Drawings (Sprinkler Systems)
- P Plumbing Drawings
- E Electrical Drawings

- * Special Category Drawings (Assigned by the Section)
- * For special categories such as laboratory case work, acoustical plans, audio-visual plans, and the like, that do not readily fit into the defined categories, contact ABA for a drawing category assignment.

(C) Drawing Numbers: Drawings shall be sequenced by discipline letter and number, i.e., A1, A2, A3.1, A3.2, S1, S2, and the like. For large projects (exceeding 20 sheets) the Section recommends the designer use a flexible numbering system such as A1.01, A1.02 for plans, A2.01, A2.02 for sections, and the like. This will allow Designer to insert additional drawings as the project develops without requiring a re-numbering of sheets.

(D) Sizes of Drawing Sheets: Drawing sheet size, except in special cases approved by the Section, shall be 24" by 36" (preferred) or, alternatively, 30" by 42". Drawings shall be prepared so as to be suitable for microfilming and for making clear, legible half-size reproductions.

(E) Lettering: Unnecessary letter embellishments, poor spacing, careless lettering, weak lines, and lettering which is crowded or too small result in illegible films and poor reproductions. The minimum height for hand lettering on all projects shall be 1/8". Mechanical (typed or CADD) lettering shall be 1/10" minimum and in all caps. Make minimum gap between lines equal to one-half the letter height. Lettering and line weight must be in accordance with classical drafting practices.

(F) Detail Numbers: Each plan view, section view or detail shall be given an individual detail number to facilitate written and verbal communication.

(G) Scales: An indication of the scale of the object drawn shall be located directly under the title of each plan, elevation, section, detail, and the like. (Example: Scale 1/8"=1'0"). All floor plans shall be drawn at a minimum scale of 1/8" = 1'-0". The use of a smaller scale for floor plans must be approved in writing by the Section prior to the first submittal. Avoid odd size scales such as 3/32" = 1'-0" as these scales often lead to takeoff errors. In addition to the standard inch/foot scale, provide a graphic bar scale that can be used for the approximation of dimensions on reduced size plan sets. Use break lines and match lines for larger building plans. For sheets with one plan such as a floor plan or site plan, the title should be located centered under the main part of the plan or at the lower right-hand corner of the sheet. The north arrow should be located at the right side of the title.

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(H) Provide a master listing of all applicable abbreviations and symbols used in the set of drawings or provide a listing of all common abbreviations and symbols at the beginning of the drawings and provide a listing of the discipline specific abbreviations and symbols at the beginning of each discipline. For complex piping schematics, electrical riser diagrams of special system layouts, the designer is encouraged to provide an abbreviated legend of symbols on those specific sheets to minimize the need to flip sheets to find critical symbols.

(I) Topographic and civil site drawings shall conform to the approved site plan and shall show building location by dimensions, existing and approximate new finished grades, roads & walks, temporary & permanent erosion and sediment control devices, and storm-water management facilities.

(J) Boring logs representing soil conditions encountered in the site investigation including pertinent logs from previous explorations in the project location should be presented in the project manual for informational purposes. Logs shall show the ground elevation, the depths of borings, depths and classifications/descriptions of materials encountered, blow counts per ASTM D-1586, ground water elevation, and other pertinent information. Boring locations relative to the project shall be shown on a small-scale location plan or on the Site Plan.

(K) Building Floor Plan drawings for all disciplines shall be oriented the same to avoid confusion and to facilitate overlaying of drawings. It is customary for a building plan to be oriented with north toward the top or left edge of the sheet. All plans shall have a North Arrow for orientation. For projects where the plan is divided and shown on multiple sheets, provide a key plan on each plan sheet and crosshatch or shade the area of the key plan shown on the sheet. Provide clearly defined match lines and reference the sheet where the match can be found. Avoid showing construction information across the match lines as this can lead to confusion and duplication of material counts.

(L) The drawings shall describe/show the Work to be provided by the Contractor. Existing features, structures, or improvements to remain shall be so noted. Existing features, structures, or improvements to be demolished and/or removed shall be clearly identified. Work, improvements, demolition or construction, which the Agency will perform or have performed by separate contract, shall be identified as "Not in Contract" or "NIC" if the abbreviation has been defined. Do not use the phrase "Work by Others".

(M) All foundation and floor plans shall be drawn to a scale not less than 1/8"=1'-0" with all necessary dimensions shown. Roof plans are preferred at 1/8"=1'-0" scale; however, roofs without mechanical equipment and metal/shingled pitched roofs may be drawn at a 1/16"=1'-0" scale if approved in writing by the Section prior to the first submittal to the Agency. Foundation, floor and roof plans shall show all permanent equipment vents, utilities or pipe penetrations, openings and such items affecting the construction. All plans shall be provided with column numbers or grid numbers to facilitate written and verbal communication describing the location of specific information on the plan.

(N) Design live load capacity for all floors and the roof in pounds per square foot shall be noted on structural floor plans.

(O) Every floor plan or partial plan or space shall be provided with a unique room number and/or name. All schedules shall reference the specific room number to which

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the schedule applies. Reflected ceiling plans shall show room numbers, locations of lights, HVACR items, sprinkler heads, speakers, smoke detectors, and the like.

(P) Enlarged plans to 1/4" scale shall be furnished to clearly show the location and arrangement of built-in equipment/casework and of the furniture, fixtures, equipment, and the like, which influence the location of utilities, including electrical, plumbing, heating, and the like, and the assignment of space within the project.

(Q) A minimum of one transverse and one longitudinal section through the building shall be shown along with as many additional sections as are needed for understanding the overall construction requirements. Include necessary dimensions on each. All elevations shall be drawn to scale at not less than 1/8" equals 1'-0".

(R) Typical wall sections shall be drawn at not less than 3/4"=1'-0" scale. Typical window, door and special opening details shall be drawn at 1-1/2"=1'-0" scale or larger.

(S) Provide stair sections for each stair configuration including dimensions, sizes, framing members, components, and any special details required.

(T) Provide all necessary interior and exterior details, including special doors, windows, woodwork, paneling or other decorative work, toilets and washrooms, and the like, with plans and elevations at a minimum scale of 1/4"=1'-0" and with construction details at a minimum of 3/4"=1'-0".

(U) Door schedules shall include door number, label or type, size, material, frame, lintel, and remarks. Also provide elevation and detail references. Window schedules shall include make or type, size, material, and lintel remarks. Also provide elevations and details, if required for complete description. Finish schedules shall include space or room number, space name, floor finish, wall type/finish, ceiling type/finish, ceiling height, base, wainscot, remarks, and other comments, if required.

(V) Provide an enlarged plan view of each unique mechanical, electrical or equipment room. Equipment room plans shall be drawn at 1/4"=1'-0" scale minimum. Provide a minimum of one section through each equipment room drawn at 1/4" = 1'-0" minimum to clarify the height of, equipment, ductwork, piping and the like. Provide one (1) longitudinal section and one transverse section through the building (minimum) to show mechanical and electrical work with relation to the work by other disciplines. Provide other partial sections as required to clearly explain the scope of the work and to describe the restrictions at congested areas.

(W) Relation of Drawings and Specifications: Drawings generally indicate the scope of work, locations, relationships, and dimensions while specifications generally indicate quality, performance and installation requirements. Drawings and specifications shall supplement each other and must not conflict. Terminology used in specifications and drawings should be the same. For State projects, the drawings and specifications are considered complimentary of each other and neither shall take precedence over the other. Where conflicts arise between the drawings and specifications, the more stringent requirement shall apply.

(X) Since the final plan review drawing submittals are, in the opinion of the Design Professional, complete and ready for bid, all drawings submitted for final review shall

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bear the Arkansas registration seal and signature of the individual or individuals responsible for its design (and corporate seals where applicable). To prevent incomplete drawings from being mistaken as construction drawings, the Design Professional shall over stamp the seal with either "Preliminary" or "Not for Construction" or "For Review Only". To facilitate proper review by the Section, the name and registration numbers on the seal should be visible and legible.

(Y) All drawings and the specifications submitted with the final plan review responses and issued for bid or construction shall be dated with the same date which is established by the Design Professional as the date the documents are (or will be) complete. Documents printed for bidding shall bear the date described above with no revision numbers or dates. In accordance with Architectural Act and the Engineering Act, the Design Professional shall sign and date the stamp.

2-905 QUALITY CONTROL

(A) The Design Professional shall be responsible for the professional and technical accuracy and coordination of all designs, drawings, specifications, cost estimates and other work or materials furnished under the standard professional services contract.

(B) The Design Professional shall perform a Quality Control review of the specifications and drawings prior to making a plan review submittal to the Agency. The Design Professional shall ensure that the plans and specifications being submitted for review meet the MSC submittal requirements and that all elements of the design have been coordinated with respect to function and location. It is not the responsibility of the Agency, ABA, or the Contractor to ensure that the plans have been coordinated from sheet to sheet and discipline to discipline.

(C) The cover sheet of all plans and specifications submitted for review to the Section shall contain the following statement signed by the responsible Design Professional who is a Principal in the firm. Failure to perform proper coordination or to include and sign this statement may be grounds for rejection of the submittal without review. This statement may be removed from the cover sheet prior to issuing the plans for bids:

" A Quality Control check, including the appropriate coordination among disciplines, has been made on this project's documents, and corrections related to this check have been made. The undersigned principal/owner states that these plans and specifications as submitted for review are, to the best of his or her knowledge and ability, complete and ready for review."

Signed _____ Date _____
(name and title)

(This statement need not appear on sets of documents issued to bidders)

2-1000 ACCESSIBILITY FOR THE ~~PHYSICALLY DISABLED~~ INDIVIDUALS WITH DISABILITIES STANDARDS

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(A) Purpose: The requirements in this standard are intended to make buildings and facilities accessible to and usable by, ~~people with physical~~ individuals with disabilities such as but not limited to: the inability to walk, difficulty walking, reliance on walking aids, blindness and visual impairment, deafness and hearing impairment, coordination, reaching and manipulation disabilities, lack of stamina, difficulty interpreting and reacting to sensory information, and extremes of physical size. Accessibility and usability allow a ~~physically handicapped person~~ individuals with disabilities to get to, access, enter, and use a building or facility.

(B) This standard provides guidance for design and specifications for constructed elements that ~~can be used in making functional~~ make spaces accessible. ~~For example, it specifies technical requirements for making doors, routes, seating, and other elements accessible. These accessible elements can be used to design accessible functional spaces such as classrooms, hotel rooms, lobbies, or offices.~~

~~(1) Application: (C) This standard can be applied to the following: the design and construction of new buildings and facilities, renovations, alterations and rehabilitation of existing buildings and facilities and is applicable to permanent construction as well as temporary construction and emergency conditions.~~

(D) Arkansas Code Annotated § 6-20-1407(e) authorizes the Section to review and approve construction documents for new public school facilities for compliance with this standard prior to bidding or construction. Construction documents submitted for review shall comply with these standards.

~~(a) The design and construction of new buildings and facilities, including spaces and elements, site improvements, and public walks.~~

~~(b) Remodeling, alterations, and rehabilitation of existing construction.~~

~~(c) Permanent, temporary, and emergency conditions.~~

2-1001 ACCESSIBILITY DEFINITIONS

(A) The following are definitions for accessibility:

~~(1) Access Aisle: An accessible pedestrian space between elements, such as parking spaces, seating, and desks, that provides clearances appropriate for use of the elements.~~

~~(2) Accessible: Describes a site, building, facility, or portion thereof that complies with this standard and that can be approached, entered, and used by physically disabled people.~~

~~(3) Accessible Route: A continuous unobstructed path connecting all accessible elements and spaces in a building or facility that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps, and lifts.~~

MARK-UP

~~(4) Adaptability: The capability of certain building spaces and elements, such as kitchen counters, sinks, and grab bars, to be altered or added so as to accommodate the needs of persons with and without disabilities, or to accommodate the needs of persons with different types or degrees of disability.~~

~~(5) Administrative Authority: A jurisdictional body that adopts or enforces regulations and standards for the design, construction, or operation of buildings and facilities; also used in conjunction with "authority having jurisdiction."~~

~~(6) Assembly Area: A room or space accommodating a number of individuals as specified by the authority having jurisdiction and used for religious, recreational, educational, political, social, or amusement purposes, or for the consumption of food and drink, including all connected rooms or spaces with a common means of egress and ingress. Such areas as conference rooms would have to be accessible in accordance with other parts of this standard, but would not have to meet all of the criteria associated with assembly areas.~~

~~(8) Automatic Door: A door equipped with power-operated mechanism and controls that open and close the door automatically upon receipt of a momentary actuating signal. The switch that begins the automatic cycle may be a photoelectric device, floor mat, sensing device, or manual switch mounted on or near the door itself (see power-assisted door).~~

~~(9) Children: People below the age of twelve (that is elementary school age and younger).~~

~~(10) Circulation Path: An exterior or interior way of passage from one place to another for pedestrians, including, but not limited to, walks, hallways, courtyards, stairways, and stair landings~~

~~(11) Clear: Unobstructed.~~

~~(12) Common Use: Refers to those interior and exterior rooms, spaces, or elements that are made available for the use of a restricted group of people (for example, residents of an apartment building, the occupants of an office building, or the guests of such residents or occupants).~~

~~(13) Coverage: The extent or range of accessibility that a particular administrative authority adopts and requires.~~

~~(14) Cross Slope: The slope of a pedestrian way that is perpendicular to the direction of travel (see running slope).~~

~~(15) Curb Ramp: A short ramp cutting through a curb or built up to it.~~

~~(16) Detectable: Perceptible by one or more of the senses.~~

~~(17) Detectable Warning: A standardized surface texture applied to or built into walking surfaces or other elements to warn visually impaired people of hazards in the path of travel.~~

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~~(18) Disability: A limitation or loss of use of a physical, mental, or sensory body part or function.~~

~~(19) Dwelling Unit: A single unit of residence that provides a kitchen or food preparation area, in addition to rooms and spaces for living, bathing, sleeping, and the like. A single-family home is a dwelling unit, and dwelling units are to be found in such housing types as townhouses and apartment buildings.~~

~~(20) Egress Means of: A path of exit that meets all applicable code specifications of the Regulatory Building Agency having jurisdiction over the building or facility.~~

~~(21) Element: An architectural or mechanical component of a building, facility, space, or site that can be used in making functional spaces accessible (for example, telephone, curb ramp, door, drinking fountain, seating, water closet).~~

~~(22) Facility: All or any portion of a building, structure, or area, including the site on which such building, structure, or area is located, wherein specific services are provided or activities are performed.~~

~~(23) Functional Spaces: The rooms and spaces in a building or facility that house the major activities for which the building or facility is intended.~~

~~(24) Housing: A building, facility, or portion thereof, excluding inpatient health care facilities, that contains one or more dwelling units or sleeping accommodations. Housing may include, but is not limited to, one-family and two-family dwellings, multifamily dwellings, group homes, hotels, motels, dormitories, and mobile homes.~~

~~(25) Marked Crossing: A crosswalk or other identified path intended for pedestrian use in crossing a vehicular way~~

~~(26) Multifamily Dwelling: Any building containing more than two dwelling units.~~

~~(27) Operable Part: A part of a piece of equipment or appliance used to insert or withdraw objects, or to activate, deactivate, or adjust the equipment or appliance (for example, coin slot, push button, handle).~~

~~(28) Physically Disabled Person: An individual who has a physical impairment, including impaired sensory, manual, or speaking abilities, that results in a functional limitation in gaining access to and using a building or facility.~~

~~(29) Power-Assisted Door: A door used for human passage, with a mechanism that helps to open the door, or to relieve the opening resistance of the door, upon the activation of a switch or the use of a continued force applied to the door itself. If the switch or door is released, such doors immediately begin to close or close completely within 3 to 30 seconds (see automatic door).~~

~~(30) Principal Entrance: An entrance intended to be used by the residents or users to enter or leave a building or facility. This may include, but is not limited to, the main entrance.~~

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~~(31) Public Use: Describes interior and exterior rooms or spaces that are made available to the general public. Public use may be provided at a building or facility that is privately or publicly owned.~~

~~(32) Ramp: A walking surface in an accessible space that has a running slope greater than 1:20 and no greater than 1:12.~~

~~(33) Running Slope: The slope of a pedestrian way that is parallel to the direction of travel (see cross slope)~~

~~(34) Service Entrance: An entrance intended primarily for delivery of service.~~

~~(35) Signage: Verbal, audible, symbolic, and pictorial information.~~

~~(36) Site: A parcel of land bounded by a property line or a designated portion of a public right-of-way.~~

~~(37) Site Improvement: Landscaping, pedestrian and vehicular pathways, outdoor lighting, recreational facilities, and the like added to a site.~~

~~(38) Sleeping Accommodations: Rooms in which people sleep (for example, dormitory and hotel or motel guest rooms).~~

~~(39) Space: A definable area (for example, toilet room, hall, assembly area, entrance, storage room alcove, courtyard, or lobby).~~

~~(40) Tactile: Describes an object that can be perceived using the sense of touch.~~

~~(41) Temporary: Applies to facilities that are not of permanent construction but are extensively used or essential for public use for a given (short) period of time. For example, temporary classrooms or classroom buildings at schools and colleges, or facilities around a major construction site to make passage accessible, usable, and safe for everybody. Structures directly associated with the actual processes of major construction, such as portable toilets, scaffolding, bridging, trailers, and the like, are not included.~~

~~(42) Vehicular Way: A route intended for vehicular traffic, such as a street, driveway, or parking lot~~

~~(43) Walk: An exterior pathway with a prepared surface intended for pedestrian use, including general pedestrian areas such as plazas and courts.~~

~~(44) Walking Aid: A device used by a person who has difficulty walking (for example, a cane, crutch, walker, or brace).~~

~~(B) Questions relating to these definitions should be directed to the applicable Section.~~

2-1002 AMERICANS WITH DISABILITIES ACT

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~~The Americans with Disabilities Act Accessibility Guidelines (ADAAG) for Buildings and Facilities is the standard for all new construction and alterations as established in 28 CFR 35, Appendix A as amended. In instances such as, parking in which Arkansas law conflicts with the Americans with Disabilities Act, the more stringent requirements shall be met.~~

~~2-1003 COPIES OF AMERICANS WITH DISABILITIES ACT~~

~~Copies of this rule are available in the following alternate formats: large print, Braille, electronic file on computer disk, and audiotape. Copies may be obtained from Architectural and Transportation Barriers Compliance Board at (202)-272-5434 (Voice) or (202)-272-5449 (TTY). These telephone numbers are not toll-free numbers. For toll free ADA information call 1-800-872-2253. For email access, refer to TA@access-board.gov.~~

2-1001 REVIEW AUTHORITY

(A) The Section is responsible for the review of accessibility standards and criteria for capital improvement projects of those state agencies under its jurisdiction and for public school new construction projects. (See Ark. Code Ann. §6-20-1407 (e)).

2-1002 ACTS, CODES AND STANDARDS

(A) There are numerous codes and standards which address accessibility issue in the constructed environment. The most common are the 2010 ADA Standards for Accessible Design which is the current standards adopted by the U.S Department of Justice(USDOJ), ANSI A117.1 Standard for Accessible and Usable Buildings and Facilities which is the standard adopted by the Arkansas State Fire Marshall through the Arkansas Fire Prevention Code (AFPC), the Uniform Federal Accessibility Standards (UFAS) which applies to certain projects funded partially or fully with Federal funds, and the Fair Housing Accessibility Guidelines adopted by the U.S. Department of Housing and Urban Development (HUD) just to name a few.

(B) Since one or more of these standard may apply to a particular project (i.e. the ADA Standard and AFPC will apply to most projects subject to ABA review), the design professional should gain familiarity with the standards that apply to their specific project prior to submitting for review. When competing standards have differing requirements on a particular project, the most stringent requirement (the one providing the most accessibility) must be met.

(C) In certain projects, the use of a design guide other than the ADA Standard or the AFPC may be warranted or mandated by the funding source. Several of the standard accessibility guide documents are considered "Safe Harbor Documents" by the enforcement authority of other document review agencies. When the design professional prepares construction plans using one of the "safe harbor documents" he should include a note on the coversheet or the accessibility details sheet stating which guideline documents were used in the preparation of the plans and specifications.

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(D) Copies of the Standards for Accessible Design, Code of Federal Register (Federal law pertaining to ADA) and technical guideline bulletins published by the US Department of Justice and the Access Board may be obtained at the following website www.ada.gov or by calling the US Department of Justice ADA Information line at (800) 514-0301 voice or (800) 514-0383 TDD.

(E) Furthermore, copies of the American with Disabilities Act of 1990 are available in the following alternate formats: large print, Braille, electronic file on computer disk, and audiotape. Copies may be obtained from Architectural and Transportation Barriers Compliance Board at (202)-272-5434 (Voice) or (202)-272-5449 (TTY). These telephone numbers are not toll-free numbers. For toll free ADA information call 1-800-872-2253. For email access, refer to TA@access-board.gov. The ACT addresses program requirements and defines the situations for which accessibility must be provided. The ADA Standards provide scoping and technical requirements that define the method or manner in which the constructed environment must be built to provide program access. The limits of ABA's review is to the constructed environment as governed under the Act and as defined in the current enforceable ADA Standards. It is within this parameter that the Section reviews are limited to the technical requirement of the scoping provided in the submitted construction documents. The Section does not provide commentary on the scoping or program requirements for the agency's facilities. ABA review will be limited to the technical requirements for the scoping provided in the construction documents presented for review.

2-1003 OWNER/AGENCY RESPONSIBILITIES

Owners are responsible for ensuring all facilities are in compliance with accessibility acts, laws and codes. Owners should evaluate facilities for the minimum scoping requirements, such as minimum number and types of accessible parking spaces on a campus and the like, to ensure compliance with the ADA and ADA Standards. These evaluations should be reviewed when contemplating future capital improvement projects.

2-1004 CONSTRUCTION DOCUMENT SUBMITTAL REQUIREMENTS

(A) Unless the project has been approved under the Delivery Method, a full set of plans and specifications should be submitted to the Section for review when the documents are 100% complete. A full set of documents is required for plan review and record.

(B) Plans submitted for Agency and ABA review should clearly define the elements and features required to be accessible. Partial plans, section views, elevations and details shall be provided at a scale large enough to show all applicable clearance and mounting heights and dimensions for each unique accessible feature. The drawings shall include but not be limited to the following:

(1) Provide a plan view of the building showing the intended accessible path into the building and to each accessible space or clearly describe the accessible path with a general or keyed note on the plan. Incorporating the accessible path by arrows, shading or other identifiers on the life safety plan is an acceptable method.

(2) Where parking is a part of the project, define the accessible path from the designated parking into the building.

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(3) Where multiple buildings are included in the scope of the project show the accessible path between buildings.

(4) Where construction of a public transit stop such as a bus or trolley stop is included in the scope of the project or is existing on the developed site, define the accessible path between the stop and the project facilities.

(5) A detail sheet (or sheets) should be provided with the standard accessible elements shown and dimensioned and the plans should be cross referenced to the appropriate details. Referencing the ADA Standard is not a substitute for proper and accurate dimensions or specifications. Specific information on the drawing is required for the construction phase.

(6) Technical specifications shall clearly require that accessible components such as door hardware, furniture and fixtures be manufactured to meet accessibility standards and installed in accordance with the standards and manufacturer's recommendations. Components requiring adjustment pressure thresholds of the standards shall clearly specify the minimum and maximum allowable limits as required by the standards.

(7) Field construction techniques and issues often arise that can cause a designed accessible element to be built out of compliance. Field verification during the construction phase by the design professional, building inspectors, and the building owner are essential to ensuring that non-compliant issues are identified early and corrected before the project is completed. Plans and specifications shall have sufficient details and dimensions to allow proper verification during and after construction.

2-1200 ROOFING SYSTEM REQUIREMENTS

These Minimum Roofing Systems Requirements are to provide design professionals and State personnel with functional, working guidelines to aid in the determination of the required roofing systems and specifications. A proper understanding of the roofing industry, methods of construction, application, workmanship, and its inherent problems and pitfalls is necessary in order to design a proper roof system.

2-1201 DETERMINATION OF THE PROPER ROOF SYSTEM

(A) In designing and specifying the proper roof system for a new building, the following should be considered:

(1) Type of building refers to a state owned or leased property (library, office buildings, campus buildings, the like.) under ABA oversight.

(2) Special considerations refer to what goes on in the building. For example, will there be a pool, a unique use inside the structure? The uses of the building will determine roof traffic, surfacing, need for a vapor retarder sheet and insulation ("R" value) requirements.

(3) External considerations include high winds, snowfall, rains and their concentrations, and outside contaminating processes.

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- (4) Life of the building determines how long it will be expected to last.
- (5) Building and Regulatory Codes refer to Underwriters Laboratories, Factory Mutual, and the various applicable local, state and national codes.
- (6) Structural considerations mean that the roofing system must work with the other building components. For example, are the edges of the roof deck flush or are there parapets. Dimensions of the building and shape of the roof deck will determine the need for expansion joints. Any protrusion ~~in~~ through the roof will require flashing materials.
- (B) The Roofing System as specified should be a complete and compatible system. The system should be manufactured by a manufacturer doing business in this region of the United States. The design professional shall investigate the need for, and specify all roofing components needed for a complete roof assembly.

2-1202 STEEP ROOFING

- (A) Asphalt shingles on sloped roofs shall be Class "A", fiberglass based, asphalt shingles with a recommended 25-year minimum limited warranty over felt underlayment installed as per manufacturer's specifications minimum slope: 4 in 12. "Peel & stick" self-adhered Ice and Water Shield synthetic underlayments are recommended along the roof perimeter, valleys and penetrations.
- (B) Wood shingles shall not be used on buildings unless approved in writing by the Section. Any shingles used shall carry the "B" classification as listed by the Underwriters Laboratories, Inc. Minimum slope: 4 in 12.
- (C) Metal roofing systems on sloped roofs in excess of 1 in 12 slope (minimum: 2 in 12 (+) slope preferred) are acceptable when properly detailed and specified.

2-1203 ~~SINGLE PLY MEMBRANES~~/UNCONVENTIONAL ROOFING SYSTEMS

- (A) ~~All single ply membranes and Unconventional roofing systems (roof systems other than Built-up, Modified Bitumen, EPDM (Ethylene Propylene Diene Monomer) or Single-Ply) shall be submitted for review to the Section, for approval on a case by case basis for use on the roof of a State buildings under ABA oversight. Note: A torch applied, modified bitumen roof system applied over a base sheet in a mopping of hot asphalt over insulation is not considered a single ply roof system.~~
- (B) Criteria for approval shall be:
- (1) Acceptable material and method of application;
 - (2) Ability of local installers to apply the proposed roof system;
 - (3) Ability of the State to obtain competitive bids on the proposed roofing system;
 - (4) Proven track record of the system and the manufacturer; and
 - (5) Roof warranty available from the manufacturer for the particular installation.

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2-1204 ROOF SYSTEM COMPONENTS

(A) Decking:

(1) The type of structural deck and the complete roofing system to be used should be determined by the design professional. Slope for drainage shall be achieved by structural means if possible. If structural slope is not feasible, a lightweight concrete fill, sloped perlite board, or tapered insulation board shall be specified.

(2) The structural deck must be designed to provide an adequate "foundation" or base for the roofing system. In addition to supporting all design loads, it must also be relatively smooth, free of humps, depressions, offsets at joints, allow for expansion and contraction, and be rigid enough to support the equipment and materials needed to apply the roof system without undergoing excessive deflection or deformation, which could impair the life of the roofing system.

(3) Metal decks shall be fabricated from adequate gauge steel, accurately aligned, securely anchored to structure below. Provide side lap connections to prevent displacement between adjacent sheets. The design professional shall inspect deck for any possible defects prior to the installation of any insulation and roofing.

(4) On poured decks such as concrete, gypsum, light weight insulating concrete, the like, adequate drying time for the material shall be allotted prior to application of the roofing membrane.

(5) Over low slope wood decks, always specify a nailed down layer of sheathing, (5 lb. rosin paper), as a separator sheet followed by felt underlayment and a layer(s) of insulation to prevent problems with roofing such as nails backing out, expansion and contraction, the like.

(B) Insulation:

(1) Insulation thickness shall be specified by the design professional and be such that when combined with complete roof and ceiling construction, shall have an overall heat transmission coefficient to obtain a satisfactory "R" value meeting applicable energy use codes. Insulation should have sufficient density and rigidity to span any flutes or irregularities in the decking and support the weight of all anticipated traffic on the roof without crushing or breaking down of the edges. The design professional or consultants or both shall verify the insulation requirements for each particular building and roofing system. Provide adequate ventilation in the plenum spaces to prevent moisture and condensation from damaging the interior spaces of the building.

(2) All insulation shall be applied in two (2) layers with all joints broken and staggered. All insulation boards shall be installed in the same direction throughout, unless fields are separated by an expansion joint. Butt edges of insulation tightly and cut in neatly around all roof penetrations.

(3) Insulation shall be secured to deck using approved fasteners conforming to Factory Mutual System, Class I construction for wind uplift protection unless otherwise approved by the Section.

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(C) Securement/Fasteners: All roof assemblies for new construction shall meet or exceed specifications for Factory Mutual System, Class I, construction in regard to wind uplift protection.

(D) Fire, wind, and code requirements: New roof construction on buildings shall meet or exceed all applicable codes. In addition, the roof assembly shall meet or exceed specifications for Underwriters Laboratories, Inc., Class "A" construction and Factory Mutual System, Class I construction, in regards to fire resistivity and wind uplift. When re-roofing existing buildings, this may not always be possible, especially when re-roofing over existing membranes. Submit plans and specifications to the Section for approval.

(E) Vapor Retarder Sheets:

(1) The design professional shall investigate the need for, and specify as required, the proper vapor retarder sheet and its applications. All buildings with high humidity (such as swimming pools where moisture migration will be a problem) should be specified with vapor retarders unless otherwise approved by the Section.

(2) The vapor retarder sheet shall be installed over the roof deck prior to the installation of the insulation or roof membrane or both. Seal all edges, punctures, and around all penetrations through the roof to form an envelope enclosing the insulation.

(3) The vapor retarder application shall meet all fire retardant requirements which building use requires. Refer to ~~proper~~ applicable building codes for requirements. Determine proper attachment for wind uplift protection from manufacturer's specifications.

(F) Venting Base Sheets are usually heavy-coated base sheets with an embossed grid designed to channel current moisture out of built-up and modified bitumen roof assemblies and prevent blistering. Venting base sheets are primarily used on re-roofing applications or to vent moisture out of poured gypsum or lightweight concrete decks. Application is by spot mopping to existing membranes or mechanical attachment to a nailable deck. In some instances, it is more desirable and economical to use gypsum board fiberglass or perlite "re-cover" boards in lieu of a separate venting base sheet. Moisture release vents should always be specified in conjunction with a venting base sheet. See § 2-1204 (G).

(G) Moisture release vents shall be installed on all roof systems when required for certain type of poured decks and re-roofing over existing membranes. Vents for bitumen roof systems shall be only 'factory made' vents with spun aluminum housings designed to vent moisture out, but not allow moisture back into the roofing system. 'Shop built' sheet metal vents are not acceptable for use on buildings. Moisture release vents are primarily designed to vent moisture from a roof system including insulation and to reduce the possibility of blistering. To properly vent, holes should be cut all the way down to the deck, or vapor retarder sheet where applicable, according to the manufacturer's specifications.

(H) Membranes for Built-Up Roof Systems:

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(1) Built-up roofing membranes for buildings shall be asbestos-free felts with fiberglass and/or polyester mats.

(I) Membranes for Modified Bitumen Roof Systems:

(1) Membranes for Modified Bitumen roofing shall be a minimum of an asbestos-free felt with fiberglass and/or polyester mat overlaid with a modified bitumen cap sheet.

(J) Roof surfacing for Built Up and Modified Bitumen Roof Systems:

(1) For APP (or Atactic Polypropylene) Modified Bitumen and Built Up Roof Systems: An Energy Star® approved fibrated aluminum roof coating (asbestos free) (A.S.T.M., D-2824, Type III) ~~containing a minimum of 3 pounds of aluminum paste per gallon of coating~~, applied in two (2) separate coats, at the rate of 1 1/2-2 gallons per 100 sq. ft., is the preferred roof coating for state-owned buildings. Aggregate ballast is not recommend for built-up roofing with aluminum coating.

(2) For (or Styrene-Butadiene-Styrene) Modified Bitumen Roof Systems: Ceramic Granules or Metal Clad "Veral"

(3) For Built-Up roofs, where aggregate ballast is allowed by code: ~~aggregate roof surfacing is not recommended~~. All aggregate surfacing shall be clean, dry, rounded pea-gravel ranging in size from 1/4" to 3/8", applied as per manufacturer's specifications for the particular installation. (400 pounds per square, minimum is the typical application.) Light color aggregates are preferable to aid in heat reflectivity.

(4) Asphalt and Emulsion coatings are not recommended.

(K) Roof Cants

(1) Roof cants shall be required at all vertical projections including walls, equipment curbs, and the like on bituminous roof systems. Cants shall be securely set in hot steep asphalt or cold applied adhesives. Precautions should be taken to avoid bitumen drippage where it can occur, such as steel decks. Provide a minimum face width of 4" to provide a transition of the roofing felts from the horizontal to the vertical face.

(L) Membrane Flashing:

(1) All membrane roof flashing shall be compatible with the manufacturer's installed system.

(2) Membrane roof flashing shall be provided at all vertical projections, roof perimeters, curbs, parapets, walls, roof penetrations and elsewhere as required, and should be properly designed and carefully detailed to provide a watertight installation.

(3) All membrane flashing at vertical surfaces shall extend a minimum of 6" above the top of the cant strip (10" above the roof surface if a 4" cant is used) and 8" onto the roof surface from the bottom edge of the cant. Do not hot mop the base flashing above the

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top of the cant strip. Bituminous Mmembrane flashing shall be set in hand rubbed applications of industrial roof cement. The top edge of the membrane shall be sealed and metal counterflashing provided for protection. Do not surface mop base flashing of bituminous roof systems with hot asphalt.

(M) Metal Counterflashing:

(1) Metal counterflashing shall be provided over all membrane flashing where it occurs at vertical projections, parapet walls, equipment curbs, and the like.

(2) A two-piece locking type counterflashing shall be used in all masonry wall construction. The horizontal flashing part shall be laid in the wall during construction at the proper height. The vertical face of the counterflashing shall lock in place and be removable to facilitate maintenance and re-roofing.

(3) The counterflashing should be approximately 4" in height, have a hemmed edge and turn out at the bottom to form a drip edge. The counterflashing should never extend below the top edge of the cant.

(4) Refer to §2-1205(O) for the type, gauge, and quality of sheet metal to be specified and used.

(5) Cast-in-place reglets are acceptable. Specify only non-deteriorating type metal. Surface mounted extruded aluminum anchor bars will be acceptable if no other method is feasible. Anchor bars shall be fabricated of non-deteriorating type metal, of sufficient strength and rigidity, have pre-punched, slotted holes for attachment, using heavy-duty fasteners. (Note: Plastic anchor pins are not acceptable).

(~~M~~ N) Sheet Metal Components:

(1) All metal components of the roof assembly shall be fabricated of a non-deteriorating metal free of dents, waves and blemishes.

(2) 24-gauge pre-finished sheet metal or Mill finish aluminum of .032" thickness (minimum) shall be the standard material used on buildings.

(3) Other non-deteriorating metals such as copper and stainless steel are acceptable.

(4) 24-gauge pre-finished sheet metal or .040" thickness aluminum is recommended for scuppers, guttering, down spouts and splash pans.

(O) Expansion Joints:

(1) Provide expansion joints in the roofing system wherever structural expansion joints occur, wherever structural framing or roof decks change direction or materials, and where roof areas dictate the need for an expansion joint.

(2) Provide additional expansion joints within the roofing system itself wherever the roof perimeter is interrupted by either a projection into, or out of, the major field of roofing to form an isolated segment of roofing at the same elevation and as may be required by the dimensional stability of the several components used.

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(3) Curb type expansion joints, in lieu of low profile type, are desirable for purposes of maintenance and longevity. Treated 2x's should be used of sufficient height to install cant strips and membrane flashing of sufficient height for a watertight installation.

(4) Consider using, warranty permitting, metal expansion joint covers of .040" mill finish aluminum in lieu of neoprene expansion joints for all roof and roof-to-wall expansion joint conditions on state owned buildings. Hex-head fasteners shall only be used. Nails are prohibited.

(P) Roof Penetrations:

All roof penetrations shall be flashed as recommended by the roofing membrane or metal panel manufacturer furnishing materials for the particular installation and the recommendations of the National Roofing Contractors Association, based on the best, current roofing practice.

(Q) Roof Drainage:

(1) All roof drains are to be located at the low points of the roof deck. Areas drained should be limited so that no drain exceeds 4" diameter. Locate drains so that all roof surfaces may be readily drained (each side of expansion joints, and the like.). The roof drain itself should be set a minimum of 3/4" below the roof surface. Taper insulation in a 3'0" diameter around drains.

(2) Coordinate roof drain placement with drainage slopes so as to stay within acceptable limits according to manufacturer's recommendations. Install roof crickets between drains where required to properly drain roof areas.

(3) Roof drains shall be interior where possible in order to allow for future expansion of the building.

(4) Every roof shall have an appropriate overflow scupper or emergency roof drain to prevent flooding or roof failure should the roof drains become stopped up.

(R) Roof Protection Walk Pads:

(1) In most cases roof pads or walk boards are not recommended on roof except in extreme high traffic conditions that may include but are not limited to:

(a) Roof top protection walk pads are only recommended on roofs where mechanical equipment, flagpoles, penthouses, laboratory experiments, and the like, are located which required periodic maintenance and protection from daily foot traffic.

(2) Walk pads should be neatly laid out and designed in such a manner as to not impede roof drainage.

(3) 12" X 24" is the recommended size of the individual pieces of roof protection walk pads. Walk pads shall comply with and be installed per roof membrane manufacture's warranty requirements.

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(4) Walk pads should be installed prior to aggregate surfacing, or, if smooth surface roof membranes, before the application of the coating.

(5) In many instances, simply adding an extra layer of membrane for walk paths and roof protection is preferred.

2-1205 ROOFTOP MOUNTED MECHANICAL EQUIPMENT

(Self-contained heating and/or cooling package units and associated ductwork)

(A) Mechanical equipment shall not be located on the roof unless contained in a separate mechanical roof penthouse or submitted for approval in writing to the Section prior to the first plan review. Refer to §2-408 regarding unacceptable design configurations.

(B) In those instances where mechanical equipment is approved to be located on the rooftop, due to the building budget or design, the following guidelines should be followed:

(1) Rooftop equipment (defined here as self-contained heating and/or cooling package units and associated ductwork), which is elevated above a roof, shall be designed with adequate support and clearance. The larger a piece of equipment is, the more clearance it will require. Provide a minimum of 10" clearance above the finished roof surface and additional clearance as required sufficient to maintain and re-roof the building. Contact or refer to National Roofing Contractor's Association's "for recommended minimum heights of equipment and support systems above the roof.

(2) Rooftop equipment shall be adequately supported and attached to the structural system of the building.

(3) Provide vibration isolation, as required.

(4) Legs of equipment (of substantial size and weight) supports should be surrounded by a pitch pan filled with 1" of fast setting gypsum cement and topped off with a commercial Pitch Pan Sealer sloped to shed water. Lightweight equipment should be set on water-resistant treated wood blocking and secured to the roof structure (with metal straps) as needed for protection and safety.

(5) Protect pitch pans and pan sealants by installing watertight aluminum or pre-finished sheet metal umbrellas with drawbands attached to equipment support legs.

(6) Provide support for any piping or lightweight equipment on the roofs. Piping or equipment shall be supported by treated wood blocking set on an extra layer of loose membrane set in industrial roof cement on the roof surface. Electrical conduit shall not be surface run on the roof.

2-1206 MINIMUM ROOF SLOPES FOR POSITIVE ROOF DRAINAGE

(A) All state facilities of new construction shall be required to have roof surfaces, ~~which~~ with a minimum slope of 1/4" per foot for positive drainage.

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(B) Where possible, roof slopes shall be accomplished structurally, in lieu of large amounts of tapered insulation fill to reduce costs and weight on the structural system.

(C) Avoid excessive slopes (in excess of 1/2" per foot) in built-up and modified bitumen roof assemblies which cause slippage and bitumen run-offs. Use proper fasteners and bitumen for the slope of the roof and the type of roof assembly.

(D) On re-roofing of existing facilities, the roof slope may be reduced to 1/8" per foot. The existing roof should be surveyed for areas which pond water. These areas should be leveled or filled as required and practical for the type of substrate. Verify that equipment curbs, counterflashing heights, and the like, are of sufficient height for re-flashing after the installation of new tapered insulation and roof membrane.

2-1207 ROOF ACCESS REQUIREMENTS

(A) Roof access for inspection and periodic maintenance shall be required on all buildings.

(B) A lockable, factory produced roof access scuttle (minimum size 2'6" X 3'0") with an insulated curb and hinged door, shall be located as directed by the owner's representative in a convenient location such as a janitor's closet, mechanical equipment room, and the like.

(C) A heavy duty metal ladder (20" wide, minimum) shall be provided at all roof access scuttles. Bolt ladder to floor, wall, and scuttle curbing. Ladders shall comply with current OSHA requirements ~~with the centerline of rungs 7" from wall.~~

(D) Access to all roof levels shall be provided. Utilize lockable type doors, windows (of sufficient size), roof access scuttles or exterior mounted rungs or ladders to provide access.

(E) When re-roofing existing buildings, verify need for roof access and provide as needed. Coordinate locations with the owner's representative.

2-1208 WORKMANSHIP/QUALITY CONTROL

(A) Installer's Qualifications: Installers shall be recognized roofing contractors, specializing in the chosen system roof application, skilled and experienced in the type roofing required. In addition, installer shall be familiar with the specific requirements and methods needed for proper performance and workmanship in accordance with recognized standards of the industry and the manufacturer

(B) Pre-Installation Conference: A pre-installation conference shall be held prior to installation of any roofing and associated work on a state building. The pre-installation conference shall be initiated by the design professional at the proper time with a minimum of three (3) day notice for the following parties to attend:

(1) Installer's representative (roofing sub-contractor).

(2) General contractor's representative (where applicable).

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(3) Mechanical contractor's representative (where applicable).

(4) Electrical contractor's representative (where applicable).

(5) Deck installer's representative (where applicable).

(6) Testing services representative (where applicable).

(7) Design Professional.

(8) ABA Construction Section representative.

(9) Agency representative or project coordinator.

(10) Physical plant or maintenance representative.

(C) Review the Following with All Concerned Representatives:

(1) Letter from manufacturer furnishing roofing system/roof warranty, stating manufacturer has reviewed job specifications and agrees to furnish warranty as specified.

(2) Project requirements, drawings, specifications, construction details, and the like.

(3) Material submittals, manufacturer's requirements for bonding (where applicable).

(4) Deck condition, installation (where applicable).

(5) Storage of materials.

(6) Installers' set-up directions.

(7) Safety considerations.

(8) Protection of rooftop, building and grounds.

(9) Scheduling of work.

(10) Roof inspection, testing.

(11) Weather limitations. Rejection of "phased" construction.

(12) Application of materials/building and regulatory codes.

(13) Clean-up.

(14) Project close-out. A record shall be made by the design professional of the pre-installation conference discussions, the decisions and agreements reached, and a copy of the record shall be made available to each party attending

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(D) Roofing Materials Delivery and Storage Requirements Delivery:

(1) No materials are to be delivered to the site prior to approval of the materials submittal, the pre-installation conference, and the owner's representative's approval.

(2) No materials are to be delivered to the site without the proper arrangements for placement, storage and protection from the weather.

(3) Agencies and their representatives are instructed not to accept delivery or be responsible for acceptance.

(4) Deliver materials in manufacturer's original containers, dry, undamaged, seals and labels intact.

(E) Sheet Material Storage:

(1) Storage of all sheet materials (roll goods) and insulation shall be subject to the following requirements: If within 50 miles of contractor's warehouse: All sheet materials (roll goods), insulation, and the like, shall be trucked to job daily from enclosed warehouse storage.

(2) All other storage shall conform to the following:

(a) Enclosed trailer, vans, or truck storage on the project site.

(b) Canvas (no plastic sheeting is acceptable) tarpaulins, with material on wooden pallets, 6" minimum above the ground, secured by ropes, top and sides of all material protected from moisture and rain.

(c) Bitumen may be stored separate, adjacent to kettle location.

(F) Rejection of "Phased" Construction:

(1) The installer shall not "phase" the application of the roofing system. The roof system components shall be applied consecutively as recommended by the manufacturer (within the limits of a days work, and be weather-tight so that in the event of inclement weather, no damage will occur to the roof components or interior contents of the building. "Phased" roof construction will be rejected by the owner's representative and shall be removed and replaced by the installer.

(2) Final surfacing of aluminum coating, where applicable, may be delayed until the roof membrane cap sheet has properly weathered. Allow owner's representative time to inspect roof surfaces, all roof surfaces shall be clean and dry for approximately 48 hours prior to application of final surfacing.

(G) Weather Condition Limitations:

(1) Proceed with roofing and associated work only when weather conditions will permit unrestricted use of materials and quality control of the work being installed, complying with all requirements of the specifications and recommendations of the roofing materials manufacturers, without "phased" construction.

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(2) Proceed only when the installer is willing to guarantee the work as required and without additional reservations and restrictions. Record decisions or agreements to proceed with the work under unfavorable weather conditions, and contact ABA, Construction Section. State the reasons for proceeding and the names of the persons involved in the decisions, along with changes (if any) in other requirements or terms of the contract.

(H) Protection and Clean-Up

(1) Rooftop Protection and Clean Up

(a) Protect roof surfaces over which work is to be performed.

(b) Exercise care and caution that roofing materials placed on rooftop do not overload structure, or damage decking or other roofing materials.

(c) Take care to prevent bitumen, aggregate and debris from running into and clogging roof drains and rainwater conductors. Remove trash and debris promptly.

(d) Schedule work in order not to track over and damage newly installed roofing in place. If absolutely necessary to cross a newly applied roof area, coordinate exact protection procedures with owner's representative.

(e) The installers shall be responsible for all damage to any related items to his trade and will be responsible for the cleaning and repair or replacement of any such items.

(2) Building Protection and Clean-up:

(a) Properly and efficiently protect building and work of other trades from damage by roofing materials during the performance of the work.

(b) The installer shall protect building walls and other surfaces from disfiguration by bitumen stains, runs or spillage, etc. and the installer shall bear the labor and material costs for repair of these surfaces from damage by the roofing installer's work.

(c) Protection of the building and its interior contents is mandatory. The installing contractor shall submit a written plan for providing this protection to the owner's representative for approval. The installing contractor shall furnish plastic sheeting to protect computers, word processors, printers, typewriters, and any other sensitive equipment in the building.

(d) It is suggested, and may be necessary, for the installing contractor to contract with the Agency's designated employee(s) (custodial or physical plant) for after hours clean-up and protection.

(3) Grounds Protection and Clean-up:

(a) Coordinate access, parking, storage of materials and equipment on the grounds with the owner's representative designated at the pre-installation conference.

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(b) Protect the grounds, lawn, landscaping, shrubbery, and the like, from abuse and damage during roofing work.

(c) Remove trash, debris, wrapping, and the like, promptly and clean up daily around the job.

(d) The installer shall be responsible for removing all equipment and surplus material from the grounds prior to final acceptance of the work. Installer shall leave his portion of the work, as specified, clean, and in complete order. Upon final completion, the ground shall be cleaned of all trash, debris, gravel, bitumen, lumber, scraps, and the like, and the grounds raked to conditions prior to roof work.

(I) Installer's Guarantee

(1) Terms: Upon completion of all work and as a condition of its acceptance, deliver to the owner a written guarantee signed by the general contractor and the installing sub-contractor agreeing to correct all leaks and defects in the roofing system work.

(2) Time Period: The time period for correction of the roofing system work shall be two (2) years from the date of final acceptance of the roof by the owner's representative and ABA. Sixty (60) days before the end of the two-year period, review roof conditions of the site with the owner and all parties concerned and correct all defects in conformance with the original specifications

(3) Warranty Repairs: During the correction of work period, the roofing installer shall, upon notice from the owner, make immediate temporary repairs and notify the roofing materials manufacturer, a report made, and, if covered by this guarantee or the roofing materials manufacturer's guarantee, the roof shall be permanently restored to a water-tight condition, at no cost to the owner.

(J) Manufacturer's Roof Warranty

(1) A Manufacturer's Warranty shall be required on all re-roofing, new construction, and associated roof work on a state buildings unless the cost and size are very minor. General: Specified work shall be guaranteed by the roofing materials manufacturer for a period as specified (maximum term and maximum penal sum available) starting from date of final acceptance by the owner, of the completed roofing system. The materials manufacturer shall approve the roof warranty. Surety company bonds are not acceptable. Submit one (1) copy ~~two (2) copies~~ of the roof warranty on manufacturer's standard printed form to the Agency, upon acceptance of the roof.

(2) Specified work shall be inspected by qualified representatives of the manufacturer during its installation and at final completion, for conformance to manufacturer's warranty program. Minimum follow-up inspections shall be made in accordance with the manufacturer's requirements and corresponding observations and reports provided to the owner.

(K) Installer's Warranty Signs

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(1) Provide 10" X 12" minimum size painted signs (quantity of signs as needed or specified) made of aluminum with a light color background and letters of a contrasting color. Use paint that is compatible with the aluminum. Make the sign to read as follows:

"DO NOT MAKE REPAIRS OR ALTERATIONS TO THIS ROOF" without the written approval from the Agency's authorized representative. This roof is maintained until (insert the date, month and year, two years after date of final acceptance), by (insert contractor's name, address, and telephone number).

(2) Permanently post signs as directed by the owner's representative. Provide as least one (1) sign on each roof of the building where new roof work occurs.

(L) Roof Inspections/Roof Cuts

(1) The design professional's specifications, based on the manufacturer's recommended installation procedures, when approved by the owner and ABA, will become the basis for inspecting and accepting or rejecting actual installation procedures used on the work.

(2) Roof Inspections: Provide safe access to the roof for proper inspection by the owner's representative. Notify the roofing materials manufacturer whenever roofing work is to be done in sufficient time to arrange all inspections necessary for bonding of the roof system. Keep the owner's representative and Construction Section, informed of the status of the project and schedule for completion.

(3) Roof Tests, Roof Cuts:

(a) Roof cuts will be made only when considered absolutely necessary to determine compliance with specifications.

(b) When necessary, cut 4" X 42" test samples (to cut a total cross-section of all roof plies), of installed roofing as directed by the owner's representative. Immediately repair roof to conform to adjacent roof construction without cost to the owner.

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Summary of the Arkansas Building Authority Minimum Standards and Criteria Section Three: Construction

- Removed the exemption for higher education projects valued at \$25,000 or less. All projects which exceed \$20,000 will have ABA oversight. This revision provides consistency in the processes.
- Revisions made to be consistent with the Construction Specification Institute formatting.
- Reduce energy and paper usage by requiring only one instead of four original contracts.
- Revise ABA's new website address.
- Provide additional guidance for mandatory pre-bid conferences
 - appropriateness
 - guidelines for requesting/conducting meetings
 - standards for who sets the beginning/end timeframes.
- Updated rules to reflect Legislative changes
 - Removed the bidders list fee language – bidders will receive bid notices via email free of charge or access the ABA website for bids.
- Procedural change
 - Certified tabulation of bids is the responsibility of the ABA Construction Section.
 - ABA will be forwarding the apparent low bidder's submittal to the contracting agency.
- Directed questions regarding Arkansas Prevailing Wage Rates to the AR Dept of Labor. "
- Updated contract insurance requirements
 - Adjusted coverage amounts
 - Updated insurance language to current standards
 - Removal of the requirement to have the state agency named as additional insured
 - Reference insurance cancellation/notification provisions in accordance with Ark. Code Ann. § 23-66-206
 - Not allowing commercial general liability insurance policies to exclude products and completed operations verbiage
 - Reference to the Arkansas Insurance Commission/Risk Management website to assist agencies in establishing minimum amounts of insurance coverage for capital improvement project.
- Acknowledgement of Addenda
 - Allows electronic notification as acceptable form of delivery to bidders
 - Clarification on the issuance of addenda
 - Mandates the bidders responsibility for verifying if a project has addenda prior to bid submission
- Construction Contracts
 - Requiring additional information to be provide by the prime contractor regarding subcontractors disclosures

SECTION THREE CONSTRUCTION SECTION

3-100 INTRODUCTION

(A) Ark. Code Ann. § 22-2-102 et seq. provides authority to ABA to promulgate such reasonable rules and procedures as may be required to carry out its duties consistent with the purposes of this Act. The Construction Section provides a review of all applicable legal restraints and requirements to assure compliance with all laws

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pertaining to the contracting of capital improvements. Which includes but is not limited to Ark. Code Ann. § 22-9-101 et seq. (Public Works Law) and Ark. Code Ann. § 19-4-1401 et seq. (Accounting and Budgetary procedures).

(B) The Council has adopted the following rules in the interest of uniform application of all laws, encouraging a maximum of competition and participation among those interested in doing business with the State, and above all, establishing a climate which produces the greatest return for the taxpayers' dollars in the contracting of capital improvements.

(C) Any reference to the words "the Section" within this section shall mean the Construction Section.

3-101 CAPITAL IMPROVEMENTS

(A) Whenever an Agency intends to construct buildings and facilities or to make repairs or additions and improvements to existing buildings and facilities, the procedures as outlined in this manual must be followed.

~~(B) Institutions of Higher Education Capital improvement projects of \$25,000 and State Agencies at \$20,000 or less and under shall be exempt from ABA (Construction and Design Review Sections) oversight. While relevant statutory and regulatory bidding requirements must continue to be followed by the colleges and universities, no contact will be necessary with ABA on projects of \$25,000 or less, unless requested, by the colleges/universities, in writing to do so or statutorily mandated to do so. Capital improvement projects in the amount of \$5,000.00 or less may be bid or made by the open market. These projects shall be known as a "Small Order."~~

(C) Capital improvement projects which exceed \$5,000 and are \$20,000 or less (between \$5,000.01 and \$20,000.00) shall be contracted by contacting and requesting a minimum of three (3) bonafide bidders to bid the work. These projects shall be known as a "Quote Bid."

(D) See §3-408 (E) for guidance pertaining to change orders which increases the contract above the exempt amount.

3-102 AGENCY OFFICIALS

All contracts, unless exempted, shall be processed and approved by the Section. Upon sufficient justification, bid openings may be performed by persons other than the Section. Justification may include a health or safety, or both, related emergency. Under such circumstances, Agency procurement staff shall be responsible for adhering to all laws, rules and regulations, including processing of bid protests.

3-200 CAPITAL IMPROVEMENT REQUESTS - GENERAL REQUIREMENTS

(A) When an Agency requests a capital improvement unless specifically exempted from oversight, the Agency shall submit to the Design Review Section, a cover letter identifying the capital improvement (see section 6 2) with sufficient plans and specifications so as to describe what is required for formal bidding. When an Agency

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requests capital improvements on non-state owned or state owned leased facility they could be required to receive approval from the Real Estate Services Section, see also §5-103 (M).

(1) ~~With the exception of the Division Zero documents, †~~The project manual (specifications) shall be based on the C.S.I.'s CSI (Construction Specification Institute) format. All items, equipment, materials, etc., shall be specified under each of the appropriate Master Format Divisions. ~~The Division Zero documents will comply with the ABA approved format.~~

(2) The original specifications shall be submitted using a standard size paper of 8 1/2" X 11". A minimum of 1" left side margin will be provided for binding.

(3) Upon approval by the Design Review Section of the project plans and specifications, Agencies must complete and return the Project General Information and Project Disclosure Statement forms.

~~(B) Upon issuance of the approval to bid~~ the Design Review Section approval of the plans and specifications, the Section ~~will~~ shall notify the Design Professional to submit the ~~front end~~ Divisions "00" and "01" documents ~~sections~~ electronically to the ~~Constructions~~ Section for review and approval. The Section will coordinate with the Design Professional to set the bid date, place legal advertising, receive and open bids. Billing for legal advertising will be sent to the requesting Agency. Bid dates shall not be set until the invitation to bid, bid forms, ~~and divisions zero~~ "00" and "01" documents have been initially reviewed by the Section. Bid openings shall not take place until the final set of bid invitation to bid, bid forms and division zero documents have been approved by the Section. The Section ~~will~~ shall furnish the Agency with the bid results. Upon the Agency's selection of a contractor, the Agency shall notify the Section within the time frame established by the Section so that the contract may be awarded. A request for re-bid may be approved upon sufficient justification. Bids shall expire as provided within the bid documents unless an extension is agreed upon by the lowest responsible bidder and the Agency.

(C) Intent to Award: Once the Section receives the Agency's selection of a contractor and the ~~eContractor selection is subsequently~~ approved by the Section, a contract will be prepared by the Design Professional (or by the Agency if the Design Professional is not under contract to perform such services) and submitted with the intent to award to the eContractor. This enables the eContractor to acquire the performance and payment bond and the applicable insurance policies/certificates and disclosure statements. A contract will not be approved until these documents are received by ABA.

(D) Notice to Proceed: Upon approval by the Section, ABA will retain the original contract and provide of the contract with a copy of the contract, performance and payment bond, certificate(s) of insurance, and disclosure statements and a copy of the contractor's Bid form will be forwarded to the Agency official for disbursement, to the Contractor and the Design Professional. Design professionals who have contract administration shall be responsible for coordination and the issuance of the notice to proceed and shall provide a copy of the notice to proceed to the Section and Agency.

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(E) Unless exempted, no capital improvement contract shall be awarded to other than the lowest responsible bidder.

3-201 CONTRACTS

Contracts for capital improvement, regardless of the source of funds involved, shall be issued in accordance with §3-400 et seq. Capital improvement contracts for projects, ~~which exceed \$25,000 made by institutions of higher education and for projects which exceed \$20,000 by other Agencies,~~ shall be ~~submitted~~ approved by the Section prior to the start of work, and must specify the exact dollar amount to be paid. A performance and payment bond shall accompany the contract. The contract shall contain the applicable language, disclosure forms and documents, and approval pursuant to the Governor's Executive Order 98-04. A set of back up documents shall accompany the contract. Applicable back up documents shall include: ~~The Certified Bid Tabulation; Insurance Certificates documents, Executive Order 98-04 forms or approval or both; illegal immigrant disclosures, minority participation disclosures,~~ proof of advertising (if placed by a non ABA staff); performance and payment bond. The dollar amount of the capital improvement contracts shall include, but is not limited to all taxes, insurance, bonds, and freight costs. All contracts shall be submitted in ~~four (4)~~ one (1) original and shall be accompanied with the documents listed above. The Section will retain ~~one (1) the original and one (1) set of the backup documents and the remaining originals will be returned to the Agency for disbursement.~~

3-202 EMERGENCY CONTRACTING

(A) Capital improvement contracting may be made pursuant to Ark. Code Ann. §22-9-201 where unforeseen or unavoidable circumstances occur:

- (1) When human life, health, safety or state property is in jeopardy.
- (2) To reconstruct facilities, construct new facilities and related site work due to fire, storm, riots, etc.
- (3) Construction or repairs to immediately needed equipment or facilities where delay would result in overall higher expenditures or cause the Agency to lose revenue due to not providing the service responsible for, but is not limited to, medical treatment, education, military armories.
- (4) Where unsuccessful bids (see §3-330) occur and the Section determines that additional advertising of bids would be futile.

(B) The Agency shall invite a minimum of three (3) competitive bids, unless the emergency is critical or obviously single source such as public utility. If time does not allow, bids may be submitted via quote bid instead of sealed bids upon prior approval by the Section.

- (1) Prior to the invitation, Agencies shall provide the names of the proposed bidders to the Section for verification of eligibility.

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(C) The Section must be contacted in advance for prior written approval where time permits. Where time does not permit prior written approval, telephone, fax or electronic mail approval must be obtained at the earliest practical date from the Section. The Section shall receive and record details on all telephone approvals. ABA shall provide agencies notice of its determination after a review of the Agency's justification is conducted. All project plans and specifications must be processed through the ABA Design Review Section. Upon approval, the Agency through coordination with the Section can process the bid and award of the contract. The following documentation is required when submitting an emergency contract for approval:

(1) Written justification setting forth the circumstances of the emergency. Agencies may access emergency related documents at "www.arkansasbuildingauthority.com www.aba.arkansas.gov".

(2) Insurance Certificate.

(3) Performance and Payment Bond issued in accordance with Arkansas laws and rules. The bond must be filed in the county where the work is to be performed.

(4) List of subcontractors as required under Ark. Code Ann. §22-9-204.

(5) Contractor must be properly licensed in with the Contractors Licensing Board (refer to Ark. Code Ann. §17-25-101 et seq.)

(6) Any other applicable document required by law or rule including but not limited to EO 98-04 (Disclosure).

(7) All drawings and the project manual on engineering projects which exceed 25,000 and architectural projects which exceed \$100,000 shall be stamped, sealed and signed by the appropriate Design Professional.

(8) ~~Four (4)~~ One (1) originals of the Contract and related back up documentation.

3-203 SOLE SOURCE CONTRACTING

(A) Sole source on capital improvements will be approved only when there are no other available sources to perform the required work. Sole source contracting may involve leases processed through the Real Estate Services Section in which the non-public lessor has the sole authority to approve contractors to perform work on non-state property. Sole source contracting does not relieve the statutory requirements for license, insurance and bonds; nor the requirement for processing all project plans and specifications through the Design Review Section. Agencies shall submit a written request to the Section setting forth the circumstances which justify their sole source request. If approved, the following documentation is required when submitting a contract for approval:

(1) A written request setting forth the circumstances which justify their sole source request.

(2) Insurance Certificate.

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(3) Performance and Payment Bond issued in accordance with Arkansas laws and rules. The bond must be filed in the county where the work is to be performed.

(4) List of subcontractors pursuant to Ark. Code Ann. § 22-9-204.

(5) Contractor must be properly licensed pursuant to Ark. Code Ann. § 17-25-101 et seq.

(6) Any other applicable document required by law or rule including but is not limited to EO 98-04.

(7) ~~Four (4)~~ One (1) originals of the contract and related back up documentation.

(8) All drawings and the project manual shall be stamped, sealed and signed by the appropriate Design Professional.

(B) Agencies may invite multiple bidders, as approved by ABA, which involve proprietary specifications (as defined in §1-106) because maximizing competition is the goal within the limited parameters of qualified sources.

3-204 SPLIT PURCHASES

The Section shall not condone splitting of purchases to avoid these listed bidding procedures. When an Agency is found practicing split purchases, it shall result in revocation of the Agency's purchasing authority. Refer to § 3-102.

3-205 CAPITAL IMPROVEMENTS FOR LEASED PREMISES (STATE AND NON-STATE PROPERTY)

See Section 5-103 for agency contracting of improvements when the state is not the owner of the leased premises.

3-300 BIDDING RULES

These bidding rules are applicable to all bids produced by ABA, a ~~d~~Design p Professional or an Agency for state projects. In those instances where an agency has not contracted for the administrative services of a ~~d~~Design p-Professional, the ~~a~~Agency is responsible for performing those duties which include all phases from bidding to closeout of the project.

3-301 BIDDING PRE-REQUISITES

(A) Before an Agency shall advertise for bids for construction, all requirements shall be met pursuant to the General Accounting and Budgeting laws and other applicable laws. Agency officials (refer to § 3-102) shall follow these bidding rules when processing bids.

(B) Certification of Project Amount:

(1) Agencies must have sufficient appropriations and funds for the capital improvement project prior to the solicitation of bids. Agencies are responsible for verification or

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receiving approval of any Methods of Finance or any sufficiency of funds Agencies must certify the appropriated amount for the award of the contract. The amount certified on the project general information sheet is the amount appropriated as defined in Ark. Code Ann. §22-9-203(h).

3-302 PLANS AND SPECIFICATIONS

(A) Agencies, through their Design Professional, shall ensure adequate numbers of plans and specifications be made available to prospective bidders. One set of specifications and half-sized drawings will be provided to the Section within three (3) days of the first advertisement, or in the case of an emergency or sole source contract prior to the issuance to bidders. Failure to do so may cause the delay or cancellation of the bid date. See Section 2-1603 for plan disbursement requirements for the successful general Contractors at the award of contract.

(B) All drawings and the project manuals shall be stamped, sealed and signed by the appropriate ~~d~~Design p-Professional. No drawing used for the construction project shall be allowed on the site stamped or otherwise marked as "Not for Construction" or any other similar term. The Contractor will maintain a set of "approved for construction" drawings on the job site at all times.

3-303 ADVERTISING / PRE-BID CONFERENCE

(A) Once the plans and specifications have been given final approval by the Design Review Section the capital improvement projects shall be advertised pursuant to Ark. Code Ann. § 22-9-201 et seq. and § 19-4-1401 et seq. Proof of advertising shall be furnished to the Section when the advertisement is not issued by ABA. The Agency will be responsible for any advertising costs.

(B) (1) Pre-Bid Conference / General: While pre-bid conferences are recommended, they are not mandatory unless so designated in the plans and specifications. Should an ~~a~~Agency determine that ~~one~~ a pre-bid conference is to be conducted, it should be held at a time and place after the ~~initial~~ last advertisement has been published. Design Professionals shall conduct the meeting and inform all prospective bidders on the substantive elements regarding the project requirements, special conditions and any other unique bidding requirements. Contact the Section for additional pre-bid conference requirements or information.

(2) Mandatory Pre-Bid Conference: Agencies shall seek approval from the Section by submitting justification as to the necessity of a mandatory pre-bid conference. Only those unique or special conditions shall warrant approval. Conditions which can be readily explained in the project manual, plans or specifications, or all, shall not be sufficient justification for approval. Design Professionals shall conduct the meeting and inform all prospective bidders on the substantive elements regarding the project requirements, special conditions and any other unique bidding requirements. Design Professionals shall be responsible for establishing the official beginning of the meeting pursuant to the time stated in the bid documents. Failure to attend by the established official time and remaining until Design Professionals terminates the conference shall be grounds for bid rejection due to unresponsiveness for failure to attend the meeting in its entirety. However, should the mandatory conference fail to include for discussion the unique or

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special conditions approved for the mandatory pre bid conference, then no bidders shall be rejected for failing to attend and the project shall be advertised for at least one (1) additional time and shall provide for a time and place for an additional pre-bid conference which shall not be mandatory.

3-304 BIDDER'S LIST BID ANNOUNCEMENTS

~~The Section shall maintain a bidder's list, which is a list of bidders that ABA shall provide mailed notification of bids. Bidders do not have to receive mailed notification in order to submit bids on State projects. Applications for the inclusion into the list will be accepted from all licensed contractors who desire to contract for State work. Prompt notification shall be sent to those bidders no later than 2 working days of the notice being advertised. To defray the costs of postage and processing of such mailings, ABA shall charge an annual fee of twenty five dollars. No licensed contractor may be listed on the bidder's list until full payment of the fee is made. The contractors will receive bid notices from ABA for twelve (12) months from the date of the payment. ABA will make every effort to mail renewal notices approximately 60 days prior to the expiration date. However, the failure of ABA to mail renewal notices shall not excuse bidders from their responsibility to renew their application should the bidder determine to remain on the list. A renewal application will be considered timely filed if received by ABA or postmarked by the expiration date. Any interested bidder may sign up (free of charge) for email bid announcements by going to the ABA website. Bid announcements are also available via www.arkansasbuildingauthority.com Bid announcements and bid results are also posted on the ABA website (www.aba.arkansas.gov). Interested persons may sign up on the website for email notifications of bid announcements free of charge.~~

3-305 BID DATE AND LOCATION

Bid openings will be approved by the Section, only after receipt of the approval to bid letter from the Design Review Section. Bid openings are to be held on the premises of ABA unless other locations are approved by the Section.

3-306 SEALED BIDS

(A) All bids shall be submitted in a sealed envelope. Bidders shall comply with Ark. Code Ann. § 22-9-204 and the bid documents with respect to the listing of subcontractors. Every envelope should indicate the name of the bidder, project, project number, date and time of opening. Bidders utilizing a shipping courier (such as FedEx, UPS, DHL, etc.) should enclose the bid in an inner envelope with the above stated information listed. Upon receipt at the Section, or an approved alternate site, each bid shall be date and time stamped and held in a secure place until the bid opening. No bid may be surrendered to any person after it has been submitted except upon written request and authorization from that bidder. (Refer to Withdrawal of Bids, § 3-323).

(B) All capital improvement bids shall include all costs such as sales tax, use tax, permits, and insurance. The ~~e~~Contractor on capital improvement projects, where labor and materials are furnished is as defined by the Arkansas Revenue Laws ~~as tax laws is~~ the user and is responsible for the appropriate taxes. There are no provisions for a ~~e~~Contractor to avoid taxes by using the tax-exempt number of any Agency.

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3-307 AUTHORITY FOR OPENING BIDS

The responsibility for the supervision of opening bids is with the Section, ABA, unless special justification, such as a critical emergency has been determined by the Section to allow an Agency to open bids under §3-102. The person authorized to read the bids shall first review the bid documents to determine if the bid is responsive. Items determining responsiveness include but not limited to: Bid Form is complete, applicable bid security in the correct amount, and if a bid bond is utilized as bid security, the agent's power of attorney as his authority shall be enclosed bid amount (numerically shown), proper signatures, addenda acknowledgement, corrections or changes initialed, and applicable subcontractors are listed. Contractors submitting a bid must be licensed in accordance with the Contractors Licensing Board. If all documents appear to be properly submitted and executed, the official may proceed to read the bid. If any statutory formality is omitted, the bid should be declared non-responsive and remain unread. Formalities other than statutory may be waived.

3-308 BID OPENING AND RECORDING

(A) Bids shall be opened and read by a representative of the Section, at the designated time and place. Representatives of the Agency are recommended to be present at the bid opening. The Section representative is responsible for establishing the official expiration of time. In those instances where this is not practical or possible for the representative to attend the bid opening, the Section, may delegate this authority to a representative of the Agency. Also see § 3-305 thru 3-307.

(B) Bids may be opened in any order, but if listed on a prepared tabulation, they should be opened in such order. ~~Design Professionals or the Agency shall prior to the award of the contract furnish to the Section a certified tabulation of bids.~~ The review of Certification of licensure and bid security are the responsibility of the Section or the Agency official depending upon which entity is conducting the bid opening (see § 3-102). The bid tabulation form must be sent (faxed or mailed) to the Section within two (2) working days of the bid opening. Refer to §3-309 for Bid Tabulations.

(C) After the bids are opened and reviewed, a letter will be sent to the Agency by the Section with the results of the bid opening along with the apparent low bidder's submittal and a form to be completed and returned by the Agency to the Section designating one of the following. The Agency may:

(1) Bid Acceptance: The letter regarding the bid results must be completed and signed by the Agency. Agencies shall return the original to the Section.

(2) Rejecting all Bids and Rebidding: If the Agency wishes to reject all bids and rebid, it shall provide justification to the Section. Requests for rebids which contain revisions to the bid documents must be reviewed and approved by ABA before a new bid date will be set.

(3) Negotiation. The Section must be contacted before any negotiation can occur. Unless the project was bid and awarded under the historic site laws, emergency contracting procedures or the Alternative Delivery method, all negotiations shall be made

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pursuant to Ark. Code Ann. §22-9-203 and requirements under the minimum standards and criteria unless exempted by law.

(4) Bid or Award Cancellation: Agencies shall provide written justification to the Section for cancellations of a bid opening or award of contract.

3-309 BID TABULATION

~~Regardless of whether~~ If bids are opened by ~~ABA or the Agency~~ then all tabulations must be sent (faxed, mailed or electronic email) to the Section within two (2) working days of the bid opening. Bid tabulations must contain the following information which includes but is not limited to: the date and time of the bid opening; the project number; the amount of the bid; the contractor names, whether a bid security was included along with the bid security amount, and the listing of any applicable subcontractors. The Section will determine the responsiveness of all submitted bids. ~~Certification of the bid tabulation is the responsibility of the Design Professional.~~ Determination of the lowest responsible bidder is the responsibility of the Agency. The Section will complete the official bid tabulation upon the determination.

3-310 SCRIVENER ERRORS

Rejection of a bid due to scrivener error may be made pursuant to Ark. Code Ann. § 19-4-1405. The criteria under this law must be met before a bidder may receive relief including but not limited to serving written notice to the ABA Director any time after the bid opening, but no later than seventy-two (72) hours after receiving the intent to award, excluding Saturdays, Sundays, and Holidays.

3-311 CONTRACTOR'S LICENSE

Pursuant to Ark. Code Ann §17-25-101 et seq., for all state capital improvement projects, including residential projects, each contractor, including commercial, residential and residential remodeler, is required to be properly licensed with the Contractors Licensing Board and should indicate on his bid form his current license number as issued by the applicable licensing entity. The Section is responsible for licensure verification as well as the Agency official performing the bid opening pursuant to §3-102. Nothing in this section shall be construed to limit the authority of Ark. Code Ann. §17-25-315.

3-312 BID SECURITY

(A) All bids received shall be accompanied by a bid security for all bids exceeding \$20,000. Acknowledgement of the bid security shall be made aloud. The official reading of the bids shall indicate the bid security amount, the form of security as either a cashier's check or a bid bond. The official shall review and verify the bid security including but not limited to applicable agent licensure and power of attorney. Ark. Code Ann. § 19-4-1405 and § 22-9-203, and § 22-9-401 et seq. govern bid securities for capital improvements.

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(B) Failure to execute the Contract, submit and file an acceptable payment and performance bond, obtain proof of liability insurance, provide illegal immigration certifications and disclosure documents pursuant to EO98-04, within the time specified in the bid documents after the intent to award has been issued to the bidder shall be just cause for the cancellation of the award and forfeiture of the bid security which shall become the property of the Agency, not as a penalty but in liquidated damages sustained. Award may then be made to the next lowest responsible bidder, or the work may be rebid and constructed under contract or otherwise as the State determines. The responsible low bidder who fails to execute the Contract will not be considered for an award of contract on any subsequent bid of that project.

3-313 SUBCONTRACTOR'S BIDS

The listing of subcontractors on the form of proposal shall be made pursuant to Ark. Code Ann. § 22-9-204 and the bid documents. The designated official as stated in §3-308 shall verify the licenses of the applicable subcontractor's listed.

3-314 ALTERNATES

State projects under ABA jurisdiction shall not include the use of deductive or additive alternates.

3-315 CONTRACT AWARD

(A) Once the bid results are determined, and the Agency has requested to enter into a contract, intent to award a contract shall be prepared by the entity who has contract administration duties. A contract will not be issued until a performance and payment bond is received in accordance with Ark. Code Ann. § 18-44-501 et seq. and § 22-9-401 et seq. and other applicable documents are properly executed and received.

(B) Contracts shall be awarded pursuant to all applicable laws including but not limited to Ark. Code Ann. §22-9-201 et seq., and §19-4-1401 et seq. No capital improvement contract shall be awarded to other than the lowest responsible bidder.

(C) The Section ~~will~~ shall retain ~~one (1) the~~ original of the contract. ~~The remaining originals of~~ Copies of the Contract, ~~a copy of~~ the performance and payment bond, certificates of insurance, disclosure and certification statements will be forwarded to the Agency project coordinator upon ABA approval for disbursement. Upon approval the Design Professional may issue the Notice to Proceed to the Contractor. The Section shall receive a copy of the notice.

(D) The State reserves the right to rescind the award of any contract at any time before the execution of the contract by the parties and approval of ABA without any liability against the State.

3-316 DAVIS-BACON ACT (Federal Funds)

(A) The Davis-Bacon Act, pursuant to 40 U.S.C. 276(a) et seq., grants to the Secretary of Labor the power to determine wage rates paid to laborers and mechanics of contractors and subcontractors engaged in any construction activities supported by

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federal funds. The Davis-Bacon and related acts provide prevailing wage protection to workers on federal funded construction projects. These laws require the payment of locally prevailing wage rates and fringe benefits to employees of contractors or subcontractor performing work on federally financed or assisted construction projects valued in excess of \$2,000. Under the provision of the Act, the Contractor or their subcontractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. The Davis-Bacon Act directs the Secretary of Labor to determine such local prevailing wage rates.

(B) Agencies are responsible for providing specific federal regulations, guidelines and procedures as directed by their Federal Grantor/ funding source to the Design Professional or any party that will publish work requiring the expenditures of Federal funds.

(C) The advertisement of the notice for such projects and the invitations for bids shall state that federal funds are being used and that Davis-Bacon Wage Rates will apply.

3-317 ARKANSAS PREVAILING WAGE RATES

~~On state funded or other non-federally funded capital improvement projects, wage~~ Wage determinations shall be published pursuant to Ark. Code Ann. §22-9-301 et seq., unless exempted. Questions regarding applicability of wage rates should be made to the Arkansas Department of Labor for prevailing wage applications. The advertisement of the notice for such projects and the invitations for bids shall state ~~that state funds are being used and that~~ the State Wage Determinations shall apply whenever applicable.

3-318 CONTRACTOR'S INSURANCE REQUIREMENTS

(A) Dollar amounts and types of coverage limits for all insurance policies shall be set by the Agency. Deviations from the types of insurance and amounts set less than below shall be documented by the agency and maintained in the Section project file. Before an Agency enters into a contract for the construction or alteration of facilities or repairs to existing building, grounds or facilities, it shall ensure that the e Contractor has complied by showing proof with the following insurance requirements have been met:

(B) The e Contractor shall purchase and maintain such insurance as will protect him from claims set forth which may arise out of or result from the e Contractor's operations under the Contract, whether such operations be by himself or by anyone directly or indirectly employed by any of them, or by anyone for whose acts ~~may of them~~ may be liable;

(C) Builder's Risk Insurance: The Contractor shall procure and maintain during the life term of this Contract Builder's Risk Insurance or Installation Floater Insurance, and any extended coverage which shall cover damage for capital improvement projects. Perils to be insured are fire, lightning, vandalism, malicious mischief, explosion, riot and civil commotion, smoke, sprinkler leakage, water damage, windstorm, hail and property theft on the insurable portion of the Project on a 100 percent completed value basis against damage to the equipment, structures, or material. ~~The Agency and the contractor, as their interests may appear, shall be named as the Insured.~~ Exception: Contract documents

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which do not require coverage based upon inapplicable coverage (such as demolition or abatement work).

(D) GENERAL REQUIREMENTS: While it is not a requirement, it is recommended agencies accept policies issued by an insurer which has a claims paying ability rating of not less than "B+" or better as to claims paying ability by A.M. Best or not less than "A" by Standard and Poors rating service, or has an equivalent rating as established by one other nationally recognized statistical rating organization satisfactory to Agency. All policies shall contain a waiver of subrogation against the Owner, Owner's lenders ("Lender") and any designate agent of the representative of Owner (Owner's Agent").

(E) CANCELLATION/NOTIFICATION PROVISIONS: ~~All policies shall contain an endorsement that Owner, Lenders and Owner's Agent shall receive at least thirty (30) days' prior written notice of any modification, potential exhaustion of aggregate limits, intent not to renew, reduction or cancellation.~~ Each insurance policy shall contain a clause providing that it shall not be canceled by the insurance company without written notice to the Owner of intention to cancel that is in accordance with Ark. Code Ann. § 23-66-206.

(F) ~~EVIDENCE PROOF OF INSURANCE:~~ ABA approval of contract shall be conditional upon the Contractor providing ~~evidence~~ proof of insurance to the Owner. ~~The certificates shall specify the Agency as an additional insured and all other parties as additional insured as required by the Agency.~~ The Contractor shall be financially responsible for all deductibles or self-insured retentions.

(G) EQUIPMENT AND MATERIALS: The Contractor shall be responsible for any loss, damage, or destruction of its own property or that of any subcontractor's equipment and materials used in conjunction with the work.

(H) SUBCONTRACTORS: The Contractor shall require all subcontractors to provide and maintain general liability, automobile and workers' compensation insurance coverage substantially similar to those required of the Contractor. The Contractor shall require certificates of insurance from all subcontractors as evidence of coverage. Contractor will be the responsible party for any and all claims by subcontractors if subcontractor fails to have appropriate insurance.

(I) CONTRACTOR'S INSURANCE REQUIREMENTS:

(1) Commercial General Liability: The Contractor shall obtain, at Contractor's expense, and keep in effect during the term of the contract, Commercial General Liability insurance covering bodily injury and property damage containing minimum limits of ~~One Million Dollars~~ one million dollars (\$1,000,000) written on a per occurrence form with a two ~~Million Dollar~~ million dollars (\$2,000,000) aggregate limit. This insurance shall include personal injury coverage with employment exclusion deleted, and contractual liability. Such coverage shall include products and completed operations shall not be excluded under the commercial general liability insurance, to be maintained for two years following final payment. Nothing shall prohibit an Agency from requiring increased amounts than stated herein.

(2) Excess Umbrella Liability: The Contractor shall be required to furnish umbrella or excess liability coverage, and keep in effect during the term of the contract which

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provides excess limits over the primary coverages. Agencies must refer to the recommendation of the Risk Management division of the Arkansas Insurance Department on the minimum amount of coverage. ~~shall set the amounts, however no amount shall be less than one million dollars (1,000,000).~~

(3) Automobile Liability: The Contractor shall obtain, at Contractor's expense and keep in effect during the term of the contract, automobile liability insurance including hired and non-owned coverage in ~~limits of~~ minimum amounts of One Million Dollars- one million dollars (1,000,000) per occurrence.

(4) Workers' Compensation and Employers' Liability: The Contractor, its subcontractors, if any and all employee providing work, labor or materials used in connection with this work.

(5) Contractor's Equipment:

(a) The Contractor shall be responsible for any loss, damage or destruction of its own property or that of any subcontractor's equipment and materials used in connection with this work.

(b) Contractor will purchase at Contractor's own sole cost and expense such policy to cover contractor's owned property.

(c) Contractor will provide waiver of subrogation to Owner.

(d) Pollution Liability: If requested by Owner at any time, Contractor shall, at Contractor's expense, obtain and maintain in force and effect for the term of the contract Pollution Liability Insurance covering losses caused by pollution conditions that result from the performance of the Contract. This requirement also applies to any consultant or contractor engaged by Contractor or performing construction, geotechnical, well drilling, abatement activities or contractor services.

(e) Pollution Liability Insurance shall cover Owner costs and liabilities attributable to bodily injury; property damage, including loss of use of damaged property or of property that has not been physically injured; clean-up cost; and defenses, including costs and expenses (including attorney's fees) incurred in the investigation, defense or settlement of claims. Contractor shall maintain such insurance in an amount of at least ~~£~~ two M million ~~£~~ dollars (2,000,000) per loss with annual aggregate of at least ~~£~~ five M million ~~£~~ dollars (\$5,000,000). Nothing shall prohibit Agencies from increasing the amounts stated herein.

(i) If coverage is written on a claims-made basis, Contractor represents that any retroactive dates applicable to coverage under the policy precedes the effective date of the letter; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years or as required by law beginning from the time that services under the contract are completed.

(ii) If the scope of work as defined in this Contract includes the disposal of any hazardous or non-hazardous materials from the Projects site, the Contractor must furnish to the owner evidence of pollution liability insurance maintained by the disposal

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site operator for losses arising from the insured facility accepting waste under this Contract. Such coverage must be maintained in amounts conforming ~~with~~ to applicable laws, rules and regulations.

(f) Remediation: Remediation Contractor shall provide liability insurance for the removal or remediation of asbestos including the transportation and disposals of asbestos waste materials from the Project site. Limits of insurance shall be not less than those required under the Commercial General Liability policy. Depending on the nature and amount of asbestos to be removed/abate, Owner may request higher limits than those required by the Commercial General Liability policy.

(g) Additional Requirements: ~~The liability policies shall name the Owner, its Board, officers, employees and agents as additional insured(s).~~ All policies shall be provided by insurers qualified to write the respective insurance in the State of Arkansas, be in such form and include such provision as are generally considered standard provisions for the type of insurance involved.

3-319 ACKNOWLEDGEMENT OF ADDENDA

Any or all addenda will be acknowledged on the bid form and such acknowledgment shall be stated during the reading of the bids. Failure by the bidder to acknowledge all addenda shall be considered as a non-responsive bid. Every effort should be exerted to eliminate addenda. If addenda are necessary they should be issued as soon as possible, but in any event not later than twenty four (24) hours before receiving bids. An addendum, upon approval by the Section, which only sets a later bid date, may be issued anytime before time has been called for the opening of bids. While failure to acknowledge all addenda renders a bid non-responsive, failure to acknowledge an addenda which only sets a later bid date or time, or both, shall not be deemed to be non-responsive. In the event an addendum requires changes in the scope of the project, an appropriate extension of the bidding period should be granted. Changes in the scope of the work or specifications shall require review and approval by the Design Review Section. No addenda shall be issued without the prior approval of the Section. Within this subsection, issued means delivery of addenda by fax transmission to, hand delivered to, electronic notification or picked up by potential bidders who received plans and specifications from the official plan distribution entity. Design Professionals are responsible for issuance of all addenda and documentation relating to its issuance (not receipt). Bidders are responsible for verifying if any addenda were issued prior to submitting a bid.

3-320 CONTRACT TIME

The period of time allocated for the substantial completion of the work shall be stated as a calendar date or as calendar days. The Agency, with input from the Design Professional, shall decide on the amount of liquidated damages and the amount of such damages to be included in the project specifications. Refer to § 3-403.

3-321 LATE BIDS

All bids received shall be recorded by date and time on the sealed bid envelope. The recorded time and date shall be determinative regarding issues of lateness. Bids

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received at the office designated in the invitation to bid, but after the time has been called for receipt will not be considered, unless, it is determined that the late receipt was due solely to mishandling by the State after receipt at the State office designated in the invitation.

3-322 MODIFICATIONS OF BIDS

Bidders may submit written modifications to their bid at any time prior to the exact time set for receipt of bids. Modifications may be made on the bidder's envelope. No modifications made shall show the base bid amount. The bidder must sign any bid modification.

3-323 WITHDRAWAL OF BIDS

Withdrawal of bids by fax is authorized, but such withdrawal must be verified by a follow up letter from the bidder before such withdrawal is finally accepted, but only if the withdrawal is made prior to the time being called for the opening of the bid. Withdrawal by fax shall only cause the bid to remain unopened and unread for such period of time as required to receive confirmation by letter but no later than 3 business days. A bid may also be withdrawn in person by a bidder, or his representative, provided, his identity is made known and he signs a receipt for the bid, but only if the withdrawal is made prior to the exact time set for receipt of bids.

3-324 QUALIFICATIONS OF CONTRACTORS

(A) Contract awards should be made to the lowest responsible bidder. Breaches of responsibility may include but not limited to:

(1) Conviction for of a criminal offense in connection with obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.

(2) Conviction under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity;

(3) Conviction under State or Federal antitrust;

(4) Violation of contract provisions, as set forth below:

(a) Failure to perform in accordance with the specifications or within the time limit provided in the state capital improvement contract; or

(b) Failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts;

(5) Failure to post bid or performance bonds as required by laws or rules;

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- (6) Substitution of work or materials without the prior written approval of the Agency and the Design Professional; however these approvals shall not in any manner diminish the Section's approval of change orders;
- (7) Failure to replace inferior or defective work or materials after notification by the Agency or the Section to which such services or materials has been provided or delivered;
- (8) Refusal to accept a contract awarded pursuant to the terms and conditions of the contractor's bid;
- (9) Falsifying invoices, or making false representations to any Agency or State official, or untrue statements about any payment under a contract or to procure award of a contract, or to induce a modification in the price or the terms of a contract to the contractor's advantage;
- (10) Collusion or collaboration with another contractor or contractors in the submission of a bid or bids that results in, or could result in lessening or reducing competition for a bid;
- (11) Falsifying information in the submission of ~~an application for listing on the Section's bidders list~~ any document in any process related to the capital improvement project.
- (12) Failure to make appropriate and timely payments to their subcontractors;
- (13) Any other act or omission the Agency determines to demonstrate that the e Contractor cannot act in a responsible manner, including but is not limited to suspension or debarment by any other governmental entity for any cause, which may include but not limited to Contractors who are suspended or debarred by the State Department of Labor or deemed unqualified by the Contractor's Licensing Board.

3-325 OBLIGATIONS OF BIDDERS

At the time of opening of bids each bidder will be presumed to have read and to be thoroughly familiar with the plans and contract documents, including all addenda. Failure to do so is solely at the bidder's risk. The failure or omission of any bidder to examine any form, instrument or documents shall in no way relieve any bidder from any obligation in respect to his bid pursuant to Arkansas Gross Receipt Tax Rules. Bidders on capital improvement projects which are not tax exempt; and successful bidders cannot avoid sale or use taxes for whom they are performing the work for.

3-326 ADDITIONS TO OR DELETION FROM THE DOCUMENTS

All deletions, changes, additions, or alterations of the bid documents will be acknowledged and read aloud. If such modifications are not waived, the bid shall be declared non-responsive and rejected. Corrections or change of figures must be noted and unless initialed by authorized officials, shall be sufficient grounds for rejection.

3-327 ANNOUNCING LOW BIDDER

Until such time as the bids have been reviewed and certified, any announcement or

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reference to the low bidder will use the phrase, "apparent low bidder". Contract awards should not be made on the day of bid opening except in special cases and approved by the Section.

3-328 PROTESTS

Any actual or prospective bidder who is aggrieved in connection with the project documents, or award of a capital improvement contract has the right to protest to the Construction Administrator, or the Agency that opened and read the bid pursuant to §3-102. The protest shall be submitted in writing within five (5) business days after the bid opening; in the event a bidder is declared non-responsive or rejected after the five (5) day period, the bidder shall have three (3) business days from the declaration to submit a protest. All protests shall identify the project by bid number or with sufficient detail to identify the project, and shall with specificity, set forth the allegations of the acts or omissions related to the protest. Since time is of the essence in award of all capital improvement contracts, protests and their resolution shall be resolved promptly. ABA shall be informed of protests to Agency Officials and their response. Subcontractors or suppliers are not considered bidders under this subsection. Only official representatives of the actual or prospective bidder may submit a protest. This section shall not be construed as a waiver of the State's right to reject any or all bids and to waive any formalities.

Any and all protests regarding the Agency determination of the lowest responsible bidder shall be made to the Agency with copy to ABA in the timeframe stated above and in the manner stated in §3-329.

3-329 RESOLUTION OF PROTEST

The Construction Administrator, the Agency official (performing the bid opening) or a designee of either office shall have authority to settle or resolve a protest of an aggrieved bidder actual or prospective, concerning the project bid documents, solicitation, or award of a contract.

3-330 UNSUCCESSFUL BID

In the event no responsive bids are received or the bidders are deemed not responsible or both, and it is determined by the Section that further solicitation of bids would be futile, the contract may be awarded to any available qualified contractor only after obtaining the approval of the Construction Administrator or designee.

3-400 CONTRACT ADMINISTRATION

This section is applicable to all agency capital improvement projects regardless of whether a design professional has contract administration duties or not.

3-401 CONSTRUCTION OBSERVATIONS

A) The Section has the responsibility of periodic construction observations on all projects unless exempted. If the Agency has capital improvement project issues, which need to be addressed involving the eContractor or the project or both, the Agency should

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immediately notify the Section. Pre-construction meetings should include ABA personnel. Notification of pre-construction meetings shall be provided to the Section five (5) calendar days prior to the meeting.

B) When the project is presumed to be complete, the Section shall be notified by the Design Professional so that the certification of final completion may be signed by the parties, including ABA. Notification shall be provided to the Section five (5) calendar days prior to the certification of final completion. Final pay requests and release of retainage will not be approved by the Section until all close out procedures have been completed. See § 3-500 through § 3-504.

3-402 INVOICE/PAY REQUEST

(A) All invoices/pay requests shall be submitted to the Agency. All invoices and pay requests shall be processed in accordance with § 22-9-201 et seq. and § 19-4-1401 et seq.

If the invoice or pay request is for partial pay, then the amount of retainage pursuant to Ark. Code Ann. § 22-9-601 et seq. shall be withheld and shown on the invoice/pay request. No amount of the retainage shall be released until the conditions under the law are met. If the invoice/pay request is for full payment, no retainage is withheld.

(B) The following shall accompany any partial releases of retainage for phased work as well as the final pay request:

(1) An affidavit from the eContractor stating that other than those noted written exceptions no existing debts are owed and that all payments due to subcontractors or suppliers have been made regarding the capital improvement project. The eContractor shall submit a copy with the final invoice/pay request to the Agency. The Agency shall then submit a copy with pay request to the Section.

(2) Documentation that the Surety Company has approved and consented to the final payment. Approval of the surety company for final payment to the eContractor shall not relieve the surety company of any of its obligations.

(3) Retainage release pay request package prepared by the appropriate entity and submitted to the Section, including:

(a) Final pay request/invoice indicating retainage release executed by the eContractor, Design Professional and Agency; (not required to be submitted to ABA for phased completions)

(b) One (1) copy of the Certification Certificate of Substantial Completion, four (4) and executed by the Contractor, Design Professional, Agency and approved by ABA Agency that the project has been substantially completed; and

(c) Letter from Design Professional verifying that all punch list items have been completed by the eContractor, and approving the following if applicable:

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- (i) Commencement date of the eContractor's warranty period shall become effective on the date of substantial completion and shall not be less than one year;
 - (ii) Roof(s) warranty(s) Installer's warranty and the manufacture warranty if specified;
 - (iii) Termite Inspection Certificate;
 - (iv) Operational and Maintenance Manuals;
 - (v) Certificate of Air Balance; and
 - (vi) As built mark up prints and shop drawings provided by the eContractor for use by the design profession in the preparation of record drawings. (Not required for phased completions)
- (4) Certification of Final Completion: Certification of final completion will occur when the eContractor, Design Professional, Owner and ABA have signed and certified the project meets final completion which includes but not limited to all phases of the work, closeout documentation has been provided and punch list items are complete. A meeting with representatives from the parties above, shall occur on site prior to any project final certification (not required for phased completions).

3-403 LIQUIDATED DAMAGES

Any amount of liquidated damages owed by the eContractor to the Agency for delay in project completion will be calculated by multiplying the "amount per day" of liquidated damages specified in the contract documents by the number of days, which occur between the contract completion date (as amended by applicable change orders) and the date of issue of the certificate of substantial completion date. Deductions for liquidated damages can be deducted from the final pay request. Prior to final payment approval and retainage release, the Agency shall provide to the Section written documentation and justification regarding any assessment of liquidated damages. The final payment will be reflective of such actions. The Agency with input from the Design Professional, shall decide on the amount of liquidated damages and the amount of such damages to be included in the project specifications.

3-404 DESIGN PROFESSIONAL CONTRACT ADMINISTRATION RESPONSIBILITIES

(A) After the Design Professional has received written approval from ABA that the project has been approved for bid, the Section, shall set a bid opening date, time and place prior to any advertising for bids. Agency officials pursuant to §3-102 shall coordinate bid dates with the Section. Bids shall be solicited for the project in accordance with Arkansas laws and rules (Refer to § 3-200 (B)).

(B) One (1) copy of half size plans and specifications shall be provided to the Section within three (3) business days after the first advertisement or plan/specification disbursement. Failure to do so may cause a delay or cancellation of the bid opening. Any addenda to the plans and specifications must be reviewed and approved by the Section prior to issuance. Design Professionals shall submit addenda, which require a

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change in scope of work in sufficient time to allow for appropriate ABA review and comment.

(C) If the bid plans and specifications have been modified during negotiations (after the bid opening but prior to the award of contract) then one (1) set of the modified plans and specifications shall be furnished to the Design Review Section for review and approval. Upon approval, a set of the final construction documents issued shall be provided to the Section. Additionally, any modifications to the plans and specifications after the award of contract shall be submitted to the Design Review Section for review and approval. Upon approval, a set of plans and specifications shall be furnished to the Section.

(D) Detailed instructions for Design Professionals can be found in §2-100 et seq. pertaining to the Design Review Section. The Section will not approve bid opening time, place, or date without final plan review and approval from the Design Review Section. Observation reports shall be submitted by the Design Professional (Refer to §§2-201, 2-206, and 2-1605.) For payment of professional services see §2-308.

E) Design Professionals will complete all other contract administrative duties and responsibilities as noted in the MSC and all other standard services and responsibilities pursuant to their professional services contract.

3-405 AWARD OF CONTRACT

(A) After the lowest responsible bidder has been determined a letter of intent to award a contract may be issued by the Design Professional. Once issued, a contract is to be submitted to the Section, for approval with one complete set of as contracted plans and specifications (see §3-406). A notice to proceed shall not be issued, nor any work is to commence until and unless the contract has been approved by the Section.

(B) No capital improvement contract shall be awarded to other than the lowest responsible bidder. If the apparent low bidder is not determined to be the lowest responsible bidder, Agencies should contact the Section.

Refer also to §§ 3-315.

3-406 CONSTRUCTION CONTRACTS

(A) The Design Professional, will prepare the construction contract and after execution by the ~~e~~Contractor and Agency, the ~~four (4)~~ one (1) originals along with the appropriate documents shall be forwarded to the Section for review and approval. The following information shall be submitted: ~~B~~ bonds, insurance certificates, proof of advertising if placed by the Agency or Design Professional, illegal immigration certification, disclosure forms and documents pursuant to EO 98-04, ~~and certified bid tabulation~~ shall accompany the contract. The Section will review and approve or disapprove all construction contracts. The ABA contract number shall be used in pay requests, payments, correspondence, etc., pertaining to the contract.

(B) The Section will retain the one (1) original set of documents and ~~the remaining originals~~ copies will be forwarded to the Agency Project Coordinator for disbursement, to the Contractor and the Design Professional. The Design Professional shall issue a

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notice to proceed. Within ten (10) business days after the decision to proceed, the general eContractor shall submit a complete breakdown of the project cost (schedule of values) and project schedule to the Design Professional who in turn shall provide such to the Agency and the Section. No payment shall be made to the eContractor until the breakdown of project costs and project schedule are provided. The Contractor shall deliver to the Owner and the Section a copy of the subcontractors Contract and Grant Disclosure Statement along with a statement of the listed subcontractor's contract amounts, subcontractors Grant and Disclosure statements and any other statements requiring disclosure.

(C) The ABA construction project file shall contain copies of bonds, contracts, certified bid tabulation, insurance certificates, Design Professional agreements, proof of advertising, change orders, observation reports, processing of final payment requests and the applicable disclosure forms and documents pursuant to EO98-04. Documentation reflecting justification and approval shall also be contained in the project file if the contract was made pursuant to historic preservation, alternative delivery, sole source or emergency procedures.

(D) Refer also to §§ 3-315, 3-503. Refer to § 3-408 for information regarding contract change orders.

3-407 PRE-CONSTRUCTION CONFERENCES

A member of the Section may be available for pre-construction conferences. All notices of conferences specifying the time, date and location shall be delivered to ABA no later than working five (5) days before the scheduled conference date. Conferences shall be conducted at a location convenient to the site (Agency decision) with all parties (ABA, Agency project coordinator, Contractor and Design Professional) involved. All necessary information for discussion shall be made available including but is not limited to all subcontractors, applications for payments, payment procedures, change order process, construction time schedule, project superintendence, safety procedures, etc., that would be of significance to the project. The Design Professional shall provide the minutes of these proceedings to the parties involved. The Design Professional shall deliver a copy of the minutes, including the sign in sheet, to the Section within five (5) business days of the meeting.

3-408 CHANGE ORDERS

(A) A change order is an amendment to the original contract that may include but is not limited to changes in the dollar value of the contract or the time for completion. Change Orders shall be submitted for approval to the Section after agreement is reached by the Agency, Design Professional, and the eContractor as to the change. A Change Order is not effective until approved by the Section. Emergency change orders may be effective by following the same rules as emergency contracts. The distribution of change orders will be the same as the original contract.

(B) The Agency or authorized representative must submit with the Change Order form documentation stating the work to be accomplished or deleted, any revisions to the contract time and the exact dollar amount. In addition to the Section's review and approval of the change order, the Design Review Section shall review and approve any

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changes regarding the scope of the project within its jurisdiction. Submittals shall be in ~~four (4)~~ one (1) originals along with the appropriate backup documentation.

(C) The Design Professional shall prepare the change order and have the ~~ε~~ C Contractor and the Agency and the Design Professional execute it. After the signatures have been received, the Section will determine if the documentation is in order and approve the change order accordingly and provide the ~~remaining originals~~ copies to the Agency ~~Representative~~ Project Coordinator for disbursement to the Contractor and Design Professional. The Section shall maintain ~~an~~ the original of the change order. If proper documentation is not provided, the change order will be returned to the sender.

(D) Change orders shall be approved by the Section, before work is done, unless prior approval by the Section has been granted.

(E) The Section shall not be responsible for review nor approval of change orders on exempt contracts (Refer to § 3-101) unless the change order increases the total contract amount to more than the exempt amount. If the exempt contract is increased to more than the exempt amount by a change order, the Agency shall seek approval from the Section by submitting the original contract or purchase order along with justification for the increase. Under no circumstances shall an Agency abuse this process to subvert any law or rule relating to capital improvements.

(F) All drawings pertaining to the work referenced within the change order shall be stamped, sealed, and signed by the appropriate Design Professional prior to submission to ABA.

(G) The ~~back~~ documentation for change orders shall include any applicable copies of all requests for pricing from the Design Professional and responses from the Contractor and the subcontractors. Pricing and supporting documentation must comply with the contract documents.

3-500 PROJECT CLOSEOUT

(A) Substantial Completion: The ~~general ε~~ C Contractor shall notify all parties involved of the date upon which he will be ready for substantial completion at least five (5) calendar days in advance. The project architect or engineer and a representative of ABA and the agency will schedule and perform the observation to verify if the construction meets substantial completion status. No statement of substantial completion shall be effective without the Section's approval. The Agency or Design Professional shall submit ~~four (4)~~ one (1) originals and applicable documents to the Section for review and approval. The Section will retain ~~one~~ the original; ~~the remaining originals~~ copies will be forwarded to the Agency Project Coordinator ~~where one (1) original will be retained and the remaining originals will be sent to~~ the Contractor and Design Professional.

(B) Upon completion of the punch list items, the Contractor may submit a request for final payment. ABA shall be provided all necessary approvals including consent of surety, release of claims, certificate of final completion, payment document for final payment from the Contractor and the Agency's request for final payment. Contractor shall furnish copies of all maintenance manuals and warranty items to the design

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professional prior to the request for final payment. See § 3-402 for required documentation.

(C) Project Close Out Finals: The € Contractor shall notify the Design Professional that he is ready for a final review at least five (5) calendar days in advance, at which time the Design Professional, with the Agency and representatives of ABA will conduct a final review (walk through); and, if acceptable, accept the facility. All mechanical, (HVACR-Plumbing), Electrical, or other building systems shall be checked and inspected completely at the time of final review prior to project final acceptance. The mechanical system should be balanced once per each major seasonal change by the € Contractor under the administration of the Design Professional during the first year warranty period as per the project specifications. Written instructions concerning seasonal adjustment should be issued to the Agency/Owner for use by the applicable Agency building maintenance staff. The Design Professional shall provide ABA with a letter stating that all systems have been inspected and deficiencies listed have been corrected. Upon completion of the project, a certification of final completions shall be signed by the Contractor, Design Professional, Agency and ABA.

(D) When the project has reached final completion, the Design Professional shall provide to the Section and Agency Representative a CD Rom with the following information:

- (1) Complete bid proposals of all bidders;
- (2) Substantive correspondence relating to the project;
- (3) Complete pay applications and design professional inspection reports and photos;
- (4) Manuals/specification books;
- (5) All € Contractor warranty and equipment warranty documents;
- (6) Inspection and permit documents issued by Federal or State entities with approvals and/acceptance of Work;
- (7) All record documents; and
- (8) All equipment and system inspection and acceptance documents.

The CD-Rom shall be in an ABA approved readable format (MS-Word, MS-Excel, pdf, jpg, and tif files are acceptable). Failure to provide the above items may cause delay in the € Design p Professional's final payment. The information must be set up within folders for easy discovery. Upon request of the Design Professional, ABA will provide additional instructions on the required formatting or placement of documents or both, along with other requirements of the CD-Rom.

3-501 RECORD DRAWINGS

The € Contractor shall, during the progress of the work keep an accurate record of all changes and corrections from the layouts shown on the drawings. Record of changes may be kept by accurately marking all changes on a set of prints during the progress of the job. Exact locations of all underground utility service entrances and their connections

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to utility mains as well as all valves, etc., which will be concealed in the finish work shall be accurately indicated on the drawings by measured distances. Depths as well as horizontal distances shall be shown. Upon completion of the work and prior to final payments, the e Contractor shall furnish to the Design Professional, one (1) set each of "record" reproducible prints legibly and accurately drawn to indicate all changes, additions, deletions, etc., from the contract drawings. The Design Professional shall verify and add to information as required and transmit these reproducible prints to the Agency. On ABA owned property the Design Review Section shall receive the copy of the "record" drawings of reproducible prints or cd-rom copies for record keeping. In this instance the Section will still receive a cd-rom with the above stated data.

3-502 DELIVERY OF GUARANTEES, BONDS, MAINTENANCE MANUALS

Upon completion of the work and before final payment will be authorized, the e Contractor shall furnish the Design Professional, for review and approval prior to transmission to the Agency, the e Contractor's one-year acceptance warranty (the warranty period begins upon the date ~~when~~ as stated in the substantial completion document has been approved by ABA), bonds, roof warranties, termite inspection, maintenance and operation manuals and operation training, air balance data, shop drawings, catalog data, as-built "record" reproducible prints, etc., as called for under the various Divisions of Specifications. Certification of the above will be made by the Design Professional and attached to the e Contractor's request for final payment.

3-503 COMPLETION CERTIFICATES, AFFIDAVITS

Before final payment the e Contractor shall furnish to the Design Professional ~~four (4)~~ one (1) executed copies of the required documents which shall be attached to the e Contractor's request for final payment.

3-504 DUTIES OF DESIGN PROFESSIONALS ON STATE PROJECTS

(A) The Design Professional shall maintain up-to-date files on each project, which shall include project plans and specifications, shop drawings, record drawings, and observations and inspection reports. The Design Professional shall provide to ABA any and all applicable contracted medium regarding the project prior to their final payment. All drawings are the property of the Design Professional; however, the State retains the right to obtain copies of all drawings upon request and payment of direct reproduction costs. Drawings produced for State projects shall not be used or incorporated into any other projects unless permission to do so is provided in writing from ABA and the Design Professional. Refer to §2-1605 for Design Professional project observation requirements.

(B) Design Professionals shall be responsible for reviewing all closeout documents, manuals and warranty items for approval and compliance with the contract documents.

3-600 PAYMENT REQUESTS

(A) Requests for payments from capital improvement funds shall be made by the use of a payment document using the General Accounting Procedures pursuant to AASIS.

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(B) Each payment document shall indicate, the ABA project number and be supported by the Design Professional's certification of the € Contractor's estimates. Estimates must be broken down by units of work normally used to calculate the work accomplished during the invoicing period.

(C) The Design Professional shall conduct site visits to determine the responsibility and performance required by the Contract Documents. Refer to §2-1605 for Design Professional's project observation requirements. Observations shall concur with the € Contractor's payment request and shall be submitted in written form with the pay request.

(D) Observation reports by Design Professionals are required once a month at a minimum. The use of the standard A.I.A. Document G-711 "Architect Field Report" or other approved form is acceptable. Reports are to be maintained on file by the Design Professionals and shall be provided to the Owner/Agency and the Section on a monthly basis.

Minimal observation reports shall include but not limited to the following phases of construction:

(1) Foundation.

(2) Roof deck.

(3) Roofing and Insulation,

(4) Mechanical Equipment Installation.

(5) Electrical Equipment Installation

(6) Prior to application of interior wall, backfilling trenches, laying concrete, and ceiling finishes concealing the work (i.e. plumbing, electrical, HVACR) shall be observed.

(7) Plumbing equipment and fixtures.

(E) Contractor final pay requests must be approved by the Design Professional. Payment requests shall be submitted by the € Contractor in ~~four (4)~~ one (1) originals.

3-601 PAYMENTS

(A) For contracts in which a payment and performance bond was issued, a copy of all payment documents including labor or materials or both shall be sent to the Agency for approval prior to any payment being released. Where a payment document is supported by two (2) or more invoices, the Contractor shall provide documentation clearly evidencing the total to be paid. Failure to provide documentation shall result in return of the payment document to the Contractor.

(B) If pay estimates are not approved, the € Contractor involved shall be notified in writing immediately and shall be informed as to the reasons for non-approval.

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(C) Late payment penalties may be assessed pursuant to Ark. Code Ann. §19-4-1411 and §22-9-205.

3-602 FINAL PAYMENTS

(A) The following shall accompany the final payment document for contracts:

- (1) Contractor's invoice.
- (2) Certificate of Final Completion.
- (3) Contractor's release of claims.
- (4) Consent of surety
- (5) Agency request for final payment.
- (6) The Design Professionals acceptance and certification letter.

3-603 DELAY IN PROCESSING PAYMENT DOCUMENTS

Any penalties for the delay in processing of payments may be processed in accordance with Ark. Code Ann. §19-4-1411, §22-9-205.

3-700 CAPITAL IMPROVEMENT ALTERNATIVE DELIVERY METHODS

Pursuant to Ark. Code Ann. §19-4-1415, ABA, unless exempted by law, has authority to approve and administer contracts (contractor, construction manager, architect or engineer) for projects that exceed \$5,000,000, which are awarded through negotiations instead of the bid process. This type of alternative delivery method of contract shall be referred to as "negotiated work".

3-701 PROJECT CRITERIA

(A) Agencies may utilize "negotiated award" status for projects, which include but are not limited to the following criteria: Project's programming requires "Fast Tracking"; traditional design-bid-build process is less fiscally advantageous than negotiated work; and negotiated work is more practical for project needs.

(B) Prior to utilization of negotiated award, Agencies shall make a written request and provide justification to the ABA Director for the use of alternative methods and give justification for an alternative delivery method pursuant to § 3-700. The ABA Director may approve the request after reviewing the documents submitted. The Agency shall cooperate with the ABA Director if more information is requested. If approved by the ABA Director, the Agency shall then submit the project for review by the Arkansas Legislative Council. No contract shall be awarded without the approval of ABA and Legislative Council review.

3-702 SELECTIONS AND CONTRACT AWARD PROCESS

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(A) All selection processes involving the Design Professional, ~~e~~ Contractor or contract manager shall be made in accordance with §3-700. See also §2-1700 for the Design Professional selection process.

(B) The pre-selection committee shall consist of five (5) members. The ABA Director shall determine the two (2) members from ABA. The respective Agency director shall determine the three (3) members of the Agency.

(1) A request for proposals (RFP) shall be made in accordance with §3-700. The Agency shall prepare all RFPs. ABA shall approve the draft of the RFP prior to its publication. RFPs for ~~e~~ Contractor's services shall have a statement in regards to the state or federal prevailing wage.

(2) The pre-selection team shall meet at a designated time and place to review the proposals. No more than five and no fewer than three applicants shall be selected. ABA may waive the minimum amount if less than 3 proposals are submitted. The Agency shall notify the finalists within five (5) business days of the selection determination.

(C) The final selection committee shall consist of three (3) members of the Agency. The Agency director shall determine the members of the final selection committee. The Agency shall notify ABA and the finalists of the time and date that the final selection interviews will be held. The Agency shall notify the successful finalist within five (5) business days. While ABA may attend the final selection meeting, it shall not vote in the matter.

(D) The State reserves the right to reject any and all proposals and to waive any formality in the negotiation and award process.

(E) Once the final selection is determined, the Agency may begin to enter into final negotiations with the successful finalist. Nothing shall prohibit the Agency from entering into negotiations with other finalists, if final negotiations are not successful.

(F) Before ABA may approve any contracts:

(1) The contractor, engineer, architect, or construction manager shall be licensed in accordance with §3-700;

(2) Contract Documents shall be reviewed in accordance with all related laws and rules and the ABA Division ~~Zero~~ 00 requirements and §2-706

(3) The ~~e~~Contractor or ~~e~~Contract ~~m~~Aanager (Refer to §3-315) shall submit a performance and payment bond(s); and

(4) Insurance amounts and processes relating to such shall be in accordance with §3-318;

3-703 CONTRACT OVERSIGHT

The Section has contract oversight and responsibility.

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(A) The Design Professional shall provide the Section current approved for construction plans and specifications as the project progresses. The plans will be in half size. A copy of the plans and specifications that the GMP is established on will be provided to the Section, the Design Review Section, Agency official, and Contractor and the plans and specifications will be stamped or duly noted as "Guaranteed Maximum Price" and "Approved for Construction" with the date and signature and/or seal of the Design Professional. For additional Design Professional requirements see §2-1706.

(B) Phased Fast Track Projects: Notice to Proceed will be issued to the Contractor for each approved for construction phase of the work. No work may commence on any phased of work without ABA approval.

3-800 CAPTIAL IMPROVEMENTS HISTORIC SITES

Pursuant to Ark. Code Ann. §§22-9-208 through 22-9-211, ABA, unless exempted by law, has authority to approve and administer contracts for projects awarded pursuant to the Historic Site laws:

§22-9-208 – Legislative intent and construction

§22-9-209 – Advertising of contracts

§22-9-210 – Award of Contract

§22-9-211 – Payment

3-801 Project Criteria

Agencies requesting to utilize the Historic Site method of contracting shall send written request and justification to the ABA Director for placement on the ABA Council agenda. Upon ABA Council approval, the request may be forwarded for review by the Arkansas Legislative Council and approval by the Chief Fiscal Officer of the State. Nothing shall prohibit an agency from applying for Legislative Council review prior to the ABA Council review approval.

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Summary of the Arkansas Building Authority Minimum Standards and Criteria Section Four: Building Operations

The first revision is clarifying methods of documentation for building maintenance actions.
The second revision is a brief statement of existing energy conservation rules and codes that state agencies are required to follow.

SECTION FOUR BUILDING OPERATIONS

4-100 INTRODUCTION

The following minimum maintenance standards & criteria are established pursuant to Ark. Code Ann. § 22-2-101 et. seq. These standards are designed to address the areas of management, maintenance and operation of all public buildings and capital improvements in order to provide a clean, safe and comfortable working environment for employees and the public of the State of Arkansas. Any reference to the words "the Section" within Section Four shall mean the Building Operations Section

4-101 PREVENTIVE MAINTENANCE REQUIREMENTS

(A) In an effort to sustain safe and comfortable working environment in state owned buildings, the following requirements shall be performed pursuant to applicable state and federal laws and regulations; and in a manner deemed appropriate by the Agency director responsible for the maintenance and operations of the state owned building:

(1) Work Authorization System: The Building's Maintenance Office shall maintain a ~~formal written~~ work-order system which provides for a method of documentation.

(2) Equipment Inventory: Building maintenance offices shall have a complete ~~written~~ inventory of building equipment requiring regular maintenance attention which can be documented. This inventory should include, but should not be limited to air conditioning machines, boilers, pumps, fans, air compressors and other building service system components.

(3) Technical Library: Each building maintenance office shall maintain a library of as-built (record) drawings which show structural, architectural plan, mechanical systems, electrical systems, site details and manufacturers operating manuals necessary to operate and maintain the physical plant.

(4) Plant Logs: All buildings with central heating and cooling systems shall implement the use of daily logs to record boiler and water chiller operations. Logs should indicate the unit number and location of the equipment and in addition be initialed and dated. The building maintenance official is responsible for development of log forms to the building's specific mechanical and electrical systems. Information on the log sheet shall include but is not limited to steam pressure, sight glass on boilers, water temperature (out and return), blow down, chemical test, safety valve test, low water test, pumps checked, and the night set back status for boilers; the date and time for air temperature for ambient space, the compressors' oil level/temperature reservoir/leaving the cooler/pressure, the gears' oil level/temperature, chillers' water temperature in/out, refrigerators' level/pressure/temperature, the condensers' water temperature in/out and refrigerators' pressure for chillers.

(5) Equipment Maintenance Records: Building maintenance offices shall have a preventive maintenance program on all equipment requiring regular maintenance attention. This program should consist of ~~written~~ documented schedules of regular preventive maintenance assignments and documentation reflecting maintenance is being performed on a regular basis. Building maintenance offices shall also maintain adequate records of repair history of major components of equipment. In addition, if the Owner Agency utilizes maintenance contracts or extended warranties on equipment or materials, (beyond the one year contractor warranty for new construction), the maintenance offices shall maintain a list of the contacts (name and phone numbers) for the warranties along with a description of what the contract or warranty covers and the expiration date of the warranty. Maintenance staffs are expected to implement timely repair and maintenance procedures that are adequate to preserve the serviceability of all building systems.

(6) Chemical Water Treatment: All buildings with central heating and cooling systems shall use a water treatment program to prevent corrosion, scale, and algae build-up. Each building maintenance office shall maintain a record of water test analysis performed on a monthly basis during the respective heating and cooling seasons.

(7) Painting: Facilities shall be painted on an as needed basis to preserve surfaces against deterioration.

(8) Roof Maintenance: Maintenance offices shall inspect all building roofs on a periodic basis and maintain a record of those inspections. Built-up roofs shall be inspected twice a year. All roofs shall be inspected immediately after severe weather events. Maintenance staffs are expected to repair or cause to be repaired on a timely basis and implement maintenance procedures of roofs, roof drains, scuppers, base flashing, and gutters that are adequate to prevent deterioration of the roof and building.

(9) Masonry Maintenance: Masonry walls will be water-proofed, caulked, repainted and repaired with sufficient frequency to preserve surfaces and maintain a reasonably attractive appearance.

4-102 BUILDING CLEANING AND GENERAL BUILDING MANAGEMENT

(A) The following requirements and schedules shall be performed pursuant to applicable state and federal laws and regulations; and in a manner deemed appropriate by the Agency director responsible for the maintenance and operation of the state owned building:

(1) Building Cleaning: All buildings shall be cleaned with adequate frequency and diligence to protect the public health, and maintain the aesthetics of interior surfaces.

(2) Emergency Procedures: All buildings shall have an evacuation procedure to follow in the event of fire, bomb threats, or other emergencies. Building management shall conduct a fire drill at least once each year. Evacuation plans shall be posted in conspicuous locations along all evacuation routes to allow occupants and visitors to quickly determine the nearest path of egress in an emergency.

(3) Landscape Maintenance: All maintenance offices shall maintain grounds, malls, plazas, walks, parking lots, and streets in a manner designed to preserve the state's investment in landscaping.

(4) Energy Management: All building management offices shall have in place an on-going energy management program, designed to operate the facility/facilities in an efficient and economical manner. Set points should be inspected on an as needed basis but no less than once per quarter.

(5) Energy Conservation: Agencies shall maintain their facilities in accordance with their approved Strategic Energy Plan (StEP) in accordance with laws (see Ark. Code Ann. §22-3-2001 et seq.), rules and EO 09-07 regarding sustainability and energy efficiencies.

4-103 BUILDING RULES AND REGULATIONS:

(A) Each Owner Agency Director shall be responsible for developing and administering the building rules and regulations for his building and property. The rules and regulations should be provided to the building tenants in a written and bound form. The following requirements and schedules shall be performed pursuant to applicable state and federal laws and regulations; and in a manner deemed appropriate by the owner Agency director responsible for the maintenance and operation of the building.

(1) Parking: Parking should not be allowed in fire lanes.

(2) Weapons: Pursuant to Arkansas Code Annotated § 5-73-306 (10) concealed weapons are prohibited to be carried into any state office. Law Enforcement, Law Enforcement Retirees, and Parole Board Members who meet the criteria under Ark. Code Ann. § 5-73-301 et seq. (Law Enforcement), §12-15-202 (Law Enforcement Retirees) and §16-93-209 (permits issued to Parole Board Members) may carry a concealed handgun onto state property. This prohibition does not affect items considered to have historic, archival or educational purposes and have been approved by the director of the agency where the item will be stored or exhibited.

(3) Alcoholic Beverages and Controlled Substances: No alcoholic beverages or controlled, non-prescribed substances are allowed inside the building or on property grounds. Alcoholic beverages should not be allowed on the property (building or grounds) except as authorized by state laws, regulations or governor's directives.

(4) Disturbances: No conduct shall be allowed which creates a loud or unusual noise or nuisance; or which obstructs the usual use of entrances in an emergency; or in any manner creates a security or safety risk or endangers the safety of the building tenants or the public.

(5) Posting and Distribution of Materials: No signs shall be posted in the common or public areas of the building except as authorized by Building Operations officials.

(6) Assembly: Agency Heads, or Designees, reserve the right to: limit the number of persons entering their office area; demand that the premises be vacated and, if needed, call authorized Law Enforcement Officers to assist in such.

(7) Preservation of Property: The improper disposal of rubbish on property; the willful destruction of or damage to property; the theft of property; the creation of any hazard on property; the throwing of articles of any kind from or at the building or climbing on any part of a building or structure shall be prohibited.

(8) Persons entering ABA buildings and facilities shall upon request:

- (i) sign in by providing both full (not initials) first and last name; and
- (ii) provide proper identification.
- (iii) Entry may be refused to anyone not in compliance with (i) or (ii), or both.

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Summary of Arkansas Building Authority Minimum Standards and Criteria Section Five: Real Estate Services

Summary: The revisions to Section 5 consist of adhering to laws recently passed affecting references to disabled individuals and other minor clarifications/clean up of the rules. Other revisions expand the lease terms for the procurement of leases in §5-101 (H) & (I) from up to six (6) years to ten (10) years for requests for proposals and from up to ten (10) years to fifteen (15) years for requests for bids on new facilities process. These expanded terms are necessary to allow the Lessor to meet their financing terms and to allow the state agencies to lease property and meet its programming mandates.

SECTION FIVE REAL ESTATE SERVICES

5-100 PURPOSE

This manual has been compiled to provide every state agency, board or commission with written standards for the most economical and efficient utilization of space and with written procedures to be followed in leasing that space. Any reference to the words "the Section" within Section Five shall mean the Real Estate Services Section.

5-101 REAL ESTATE SERVICES RESPONSIBILITY

Pursuant to the Arkansas Building Authority Act (Ark. Code Ann. § 22-2-102 et seq.), the Real Estate Services Section of ABA is the leasing agency for all state agencies (agencies, boards, commissions and institutions of higher education).

(A) The Section has the responsibility to act as the leasing agent for all state agencies, and component parts thereof, acting either as Lessor or Lessee, including space in all private sector and public buildings.

(B) The Section shall with input from the agency, evaluate, determine and approve the needs of the Agency. The Section shall locate appropriate rental space, and act as the agent for the Agency in negotiation of the lease for such rental space.

(C) Pursuant to Ark. Code Ann. § 22-2-114 (a) (2), all state agencies shall execute and enter into leases with the Section when so requested for the leasing or renting of space and facilities in any public buildings.

(D) Any Agency or component thereof, making a request for lease space shall submit justification to the Section in written form with the signature of the agency's Director or an authorized designee thoroughly outlining information which includes but is not limited to the Agency division(s) to occupy the space, the date of the request and the date the space is needed, the name and phone number of the agency contact person, the type of space ~~is~~ needed, location needs, special location factors, terms desired, budgeted amounts for rents, operational costs, and anticipated moving expenses, alterations or special requirements, and parking requirements. This written request shall be

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submitted ninety (90) days prior to the date the space is needed and shall contain the following additional information:

- (1) List of positions to occupy the space and the functions of each position by state employment grade.
- (2) List of special requirements such as telecommunications room, library, hearing room, conference room, etc. and the function of those requirements. List any other pertinent information that would affect the planning of the space needs and the efficient operation of the Agency, including special HVAC requirements, i.e. ventilation for specific areas.
- (3) List of storage requirements.

Requests not containing this information shall be returned to the Agency without action. The Section shall locate appropriate space and negotiate a lease between the facility owner and the Agency. If space is available in a public building, the lease will be negotiated for placement in the public building. If space is not available in a public building, then the Section shall obtain adequate space ~~from~~ in a privately owned facility. It is unlawful for agencies to enter into any lease negotiations with any building owner or manager without the approval of the Section (See Ark. Code Ann. § 22-2-114(a)(1) . If such negotiations take place, the lease shall not be ratified. If the Agency requests the lease document be ratified, the Agency shall be required to appear before the ABA Council at the next regular meeting to explain their actions and the reasons for ratification.

(E) Standards for the utilization of space and the allocation of space to state agencies have been adopted by the Council and are a part of these standards as found in Section 5-104. These standards shall be used as a basis for all planning, leasing of space, allocation of space, or advising state agencies on leasing considerations. When available, the Design Review Section may provide or assist in space planning services through the Section.

(F) The Council has adopted a standard lease form for leasing of privately owned facilities and a standard form for leasing of ABA owned properties. Copies of these forms are located at the end of this section.

(G) Preferences to leased property within a Central Business District shall be granted pursuant to Ark. Code Ann. § 22-2-114 (a)(5)(A). The Section shall grant preferences in accordance with applicable laws and in the following manner:

GUIDELINES FOR CONSIDERATION OF LEASE PROPERTIES:

- (1) Establish a rating system for Evaluation:

5 – Excellent	“As is” condition meets applicable codes and compliance; premises can easily conform to state’s need and meets space criteria.
4 – Very Good	Some modifications are necessary for occupancy but are reasonable and achievable; can conform to the state’s need and criteria.

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- 3 – Acceptable Numerous modifications and building system replacement or upgrade are necessary to meet codes and compliance, but achievable. Some compromise may be necessary in space planning to satisfy need.
- 2 – Fair Extensive modifications required to meet criteria; space planning for maximum efficiency of space will be compromised; restricting flexibility
- 1 – Not Acceptable Modifications required far exceed the feasibility to conform. Structurally inferior and not adaptable to meet the space need and criteria.

(2) Survey Area for Available Properties:

Upon receipt of space request, the Real Estate Section shall conduct a visual survey and consult the Available Space Database maintained by the Section for properties available for Lease. The Section may choose to advertise the space through the local newspaper ~~and/or~~ or ABA website page (www.aba.arkansas.gov) or both.

(3) Evaluate Property:

- (a) Survey all properties by visual inspection and assess condition of building systems;
- (b) Obtain plans or specifications from the property owner if available;
- (c) Determine property's ability to conform to space need;
- (d) Compile a summary of modifications required to conform to state needs.;

(4) Obtain Proposal:

- (a) Provide property owner a summary of observed modifications (additional modifications may be necessary with more extensive inspection);
- (b) Provide property owner a description of the space request and provide specifications and floor plan if available;
- (c) Obtain a lease proposal inclusive of the initial recommended modifications and lease criteria; and
- (d) Confirm terms with property owner/agent.

(5) *Rating Properties by Categories:*

- (a) Divide the available properties into one of two categories:
 - (1) Located within the Central Business District (CBD)
 - (2) Located outside the CBD (non-CBD)
- (b) Rate the properties according to the established rating system in 1.
- (c) The following factors should be taken into consideration:
 - (1) Cost-effectiveness by the State to meet the space criteria
 - (2) Level of compromise by the State to meet the need
 - (3) Restrictions or impairments in use or access

MARK-UP

(d) Determine the highest rated property for each category (CBD/non-CDB)

(6) *Comparison of Proposals*

The highest rated CBD and non-CBD properties will be compared. If the CBD property meets all criteria and does not restrict or impair the services for which the lease is intended or the rental rates are justified in a non-CBD location, the CBD property will be granted the preference.

Nothing in the above and foregoing section will prevent the State from leasing with a non-CBD property owner in accordance with Ark. Code Ann. § 22-2-114 (a)(5)(A).

(H) The Section may utilize a Request for Proposal (RFP) selection process when locating lease options in response to an Agency's request for lease space in excess of 5,000 square feet and for a term up to ~~six (6)~~ ten (10) years. The Section will advertise through local newspapers and the ABA Website, such leasing needs; and will provide RFP packages to any property owners or managers interested in submitting a proposal in response to the RFP inquiry. This procedure awards based on selected criteria evaluation. Those proposals submitted with the proposed physical address found within the Central Business District (CBD) of the requested city shall earn the maximum weighted value for the "Location" criteria of the evaluation portion of the RFP selection process unless otherwise stated. The lease award shall be given to the proposal which, in the opinion of the Section and the Agency, serves the best interests of the State and is in accordance with applicable laws and regulations. Nothing in this section shall prohibit the Section from negotiating directly with a Lessor without utilizing the RFP process if it determines that it is in the State's best interest to do so.

(I) The Section may also utilize a formal bid procedure for the leasing of new construction (contract is between the private lessor and the prime contractor) when locating lease options in response to an Agency's request for lease space in excess of 10,000 square feet and for a term of ~~ten (10)~~ fifteen (15) years. The bidding and award of contracts under the public works laws do not apply. The Section will advertise this request for formal bids through local newspapers and the ABA Website and will provide formal bid packages to any interested party. This is a two step process: (1) the site submittal(s) and approval(s); and (2) submission of a bid consisting of a price per square foot. Bidders who obtain an option to purchase of sites they propose in step #1 above, shall obtain ownership of the property pursuant to the time frame established within the bid criteria upon acceptance of their bid. The State reserves the right to reject any or all bids and to waive any formalities. At the public bid opening, the Section shall open and compare the bids and thereafter award the lease to the lowest responsible bidder, but only if it is the opinion of the Section and the Agency that the best interests of the State would be served thereby and in accordance with applicable laws and regulations. Nothing in this section shall prohibit the Section from negotiating directly with a Lessor without utilizing the bid process if it determines that it is in the State's best interest to do so.

(J) If determined by the Section to be in the State's best interest, the Section may enter into a negotiated lease for a lease term which longer than any of the terms stated in (H) or (I) should the Lessor provide the State or any entities, or both, an option(s) to purchase the premises. While the Lessor and the Section may negotiate additional lease terms and conditions within the lease or subsequent amendments, the standard terms/conditions contained within the promulgated lease form at the time of execution shall prevail should any conflict arise between any standard terms or conditions or both and any non-standard term(s) or condition(s) or both.

MARK-UP

5-102 DETERMINATION BY ABA OF DESIRABILITY OF AVAILABLE SPACE

(A) Square Footage: A comparison of the square footage required to satisfy Agency needs with the square footage available in a given facility. Space leased shall be no more than 5% less nor 15% greater than stated Agency needs. Square footage required shall be determined according to the § 5-104 of this document.

(B) Analysis of Building Facilities: An analysis of the sustainable and energy-efficiency qualities and condition of building facilities, including such as mechanical systems, elevators, toilets, parking, public/common traffic areas, building envelope (window wall, windows & doors), location relative to associated agencies, ~~mechanical systems,~~ availability of storage and proximity to the other related offices of association.

(C) Operational cost of occupying the space for the term of the lease:

(1) Annual square foot cost of the leased space;

(2) Cost of interior modifications or TI Allowance (tenant improvement) provided by Lessor;

(3) The availability of all utility services and their estimated cost, if not included in the lease through utility history, if available by the Lessor;

(4) Cost of janitorial services if not included in the lease;

(5) Any other factors which would affect the actual cost to the Agency, i.e. parking, additional electrical requirements, custom furniture and fixtures, etc.

(D) Time factors affecting need for space.

(E) Capacity to accommodate future need of the Agency for space and services.

(F) Handicapped Accessibility and Special Accommodations: All buildings leased or rented in whole or in part for use by the state under any lease or rental agreement entered into shall be in accordance with the contractual terms and applicable accessibility guidelines. In all instances in which a Lessee employs an individual or individuals who require an emergency evacuation auxiliary aid to safely exit state-owned property during emergency situations, the Lessee is required to, and is solely responsible for obtaining, maintaining and training in the use of the said auxiliary aid. Any necessary installation of said device shall be coordinated with the approval of the Lessor.

(G) All leases shall be made pursuant to the Governor's Executive Order 98-04. Disclosures shall be made pursuant to the order and all necessary forms shall be completed and sent to the Section.

(1) All Lessors and Lessees shall be required to complete a disclosure certification form regarding their utilization of services of any real estate broker(s) for any and all lease negotiations.

5-103 ABA POLICY FOR LEASING

(A) Pursuant to Ark. Code Ann. §22-2-114 (a)(1), no Agency, board, or commission may renew or negotiate a lease, the Section is the responsible leasing agent for all state agencies.

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(B) Requests for lease action (whether lease renewals or request for new or additional space) shall be submitted to the Section at least ninety (90) days prior to the effective date of the space request or change is needed. The Request shall be submitted to the Section and shall include the information indicated in paragraph 5-101(D) of this document. This information should be as complete and accurate as possible since it will be used to determine space allocation to the Agency.

(C) All leases for real property, including but is not limited to offices, parking, storage, warehouses, land, antenna and towers must be approved by the Section and require a Lease Number assigned by the Section. The approved lease number must be used by all agencies.

The only exception shall be for short term use of facilities. Memorandums of Understanding or other type of agreements should be utilized. Examples of these types of agreements that are exempt from the Section approval are:

- (1) Classrooms (from 1-9 months)
- (2) Per Seat Fees
- (3) Per Semesters
- (4) School Years (9 months)
- (5) Short Term Specialty Classes
- (6) Golf, Bowling, Gyms, Spa's for classes
- (7) Conference/Meeting Rooms (from 1-10 days)
- (8) Workshop/Seminars
- (9) Fair Booths
- (10) Testings
- (11) Graduations
- (12) Ball Fields (including seasonal rentals)
- (13) Short-term Storage (less than 1 year)
- (14) Modular Units (less than 1 year)

(a) Memorandum of Understanding Exemption: Lease of modular units (portable buildings) for a period of 1 year or more shall be submitted to the Section in the same manner as traditional office space and shall require ABA approval. ABA recommends the lease of modular units should be planned on a temporary basis and not be utilized as a long term or permanent use of space. Examples of temporary use are as follows: utilization for disaster relief, while a facility is undergoing a capital improvement, temporary classroom space due to over-enrollment or temporary use for a site specific special program.

(D) Lease space will be provided to or negotiated for agencies on the basis of the Agency's submittal of the completed request for lease space with an authorizing signature and the Agency's justification for the existing need.

(E) Space in public buildings shall be negotiated pursuant to Ark. Code Ann. § 22-2-114. The number of moves will be kept to a minimum and efforts will be made that functional area remain as contiguous space.

(F) All leases may be terminated on thirty (30) days written notice to the Lessor if State or Federal appropriations of funds are insufficient for the Agency to continue the operations for which the leased premises are being used.

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(G) When negotiating rental rates, the State will not exceed the rental rate prevailing in the community for comparable facilities. Annual square foot price limits will be based on current market conditions in a locality, and rental rates will vary from city to city in the state. State policy for rental rates will reflect the state's position as a prime tenant. New Leases shall be supported by documentation which will reflect the lease rates available for comparable facilities in the market at the time the new lease was negotiated.

(H) It is preferable for the private sector Lessor to furnish all utilities except telephone/data and to furnish janitorial service. Private sector Lessors shall be required to provide maintenance of the building and building systems in all circumstances. However, in those instances involving consideration in the nature of a public advantage, in which the lease is negotiated in favor of the State in such instances as a significant reduction in rent or an exchange-in-services arrangement, or both, the requirement that the private sector Lessor provide all maintenance for the building and building systems, or casualty insurance may be exempted if it is determined to be in the best interests of the State.

(I) All State Agencies must receive invoices submitted by the Lessor to process rental vouchers. While rent may be paid monthly or quarterly, prior ABA approval is required for annual payment(s) and shall be reflected in the lease.

(J) Rentable area shall be computed by the standard method of floor measurement as adopted by the Building Owners and Managers Association International (BOMA). ~~ANSI 265-1-1980~~ ANSI/BOMA Z65.1-2010, as amended.

(K) Rental overlap, between the beginning date of a new lease for different premises and the last date of occupancy for existing premises, shall be held to a minimum and shall only occur when moving arrangements require an overlap.

(L) The Section will serve as contact between the Agency and Lessor or as the contact between the Agency and the tenant when the Agency is the Lessor in all matters pertaining to the lease prior to lease execution. Agencies shall be permitted to contact the Lessor for day-to-day issues, including but is not limited to invoices/payments, routine maintenance and repairs, and annual inspections. Agencies shall report any and all non-routine maintenance and repair issues to the Section. The Section shall act as the liaison between the two parties should lease interpretation and terms enforcement become necessary.

(M) Whenever possible, the Section shall lease space requiring only renovations necessary to accommodate the requesting Agency. Renovations shall always be held to the absolute minimum necessary to allow the Agency to function in the leased space. When renovation is necessary, the cost of such renovation shall be borne by the Lessor except when such renovation is to accommodate specific agency functions, which would be of no use or value to future tenants. It is the policy of the State to encourage the Lessor to provide any special alterations and improvements required to make the space suitable for the requesting agency, and to recapture this expenditure over the term of the lease as part of the rent. Lump sum payment by the State for improvements shall require prior approval of ABA. After the initial lease is in place and during the lease term, if the Agency requests tenant improvements, these guidelines must be adhered to:

(1) Request for Lease Action form containing information in 5-101(D);

(2) For work estimated under \$5,000.00, the requirements in (1) must be approved by the Section;

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(3) For work whereby the agency contracts (outside of the Lease Agreement and payment is not made through rent) for the work directly with a Contractor and is estimated over \$5,000.00 but less than \$20,000.00, the requirements in (1) must be approved by the Section and the Agency must submit it to the Section along with: a bid tabulation of three (3) competitive bids in which all taxes, permit fees are inclusive in the bids; bid specifications and drawings; any disclosure forms required under Executive Order 98-04; any required bonds and the purchase order. Any required notice of legal advertising must be made in accordance with Arkansas laws and rules; and

(4) All work whereby the agency directly contracts (outside of the Lease Agreement and payment is not made through rent) for the work with a prime contractor and is estimated over \$20,000.00 must be formally bid in accordance with Arkansas laws and regulations including but not limited to the public works laws. The requirements found in (3) above apply and must be submitted to the ABA Construction Section.

(1) Through (4) only can occur after the lease has been amended to allow the State to make these alterations if the current lease does not authorize these type improvements. All of #1, #2, and #3 and #4 would apply when the State pays a lump sum for the work to a contractor, not to the Lessor. The State can contract directly with the Lessor only when the Lessor held that right in the State approved lease or in an amendment. In these circumstances, the Agency would use sole source purchasing procedures. This method is the least desirable. However, situations may occur where there is no other alternative.

(5) If the Lessor cannot or will not provide for design professional services, the selection of such professionals shall be the responsibility of the Agency. (See the selection process in Section Six). Plans and specifications shall be made pursuant to Ark. Code Ann. § 22-29-201, which requires observation by registered design professionals for certain levels of expenditures.

(N) Modular office space leased and occupied by state agencies for one (1) year or more are considered leased space. Requests for this type of temporary space should be processed in the same manner as requests for new or additional space. (See §5-103(C)(14)(A))

(O) Pass-through escalation clauses in which the State agrees to pay all increases in property taxes, services, and/or utilities shall not be negotiated, nor approved. Escalations shall be pre-determined and negotiated with the original lease agreement.

(P) Information concerning leases shall be released pursuant to the Arkansas Freedom of Information Act.

(Q) When space has been located which meets the requested criteria, the Section shall negotiate and prepare for signature the standard State lease agreement. The agreement shall be signed by Lessor, Lessee, and approved by ABA. No lease document is valid unless signed by the proper ABA authorities. The Section shall ensure distribution of lease copies to the Lessor and Lessee.

(R) Agencies may enter into leases for residential dwellings or apartment-type facilities for use as living quarters, no lease, except for use as living quarters, shall be entered into which the premises is located in residential dwellings or in apartment type dwellings. (Example: A room in a residence cannot be leased as office space.)

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(S) All leased premises for agencies not located within a state-owned building must be identified with a separate address for each defined premises. Leased premises shall not be shared with any private entity or use, other than for official state or public purposes. The leased premises shall have a separate entrance from any other place of business unless the premises is supported by funding, such as grant programs, stipulated by an agreement with other entities which includes but is not limited to agencies and political subdivisions. All non-state Lessors or Sublessors shall state within the Lease Agreement their ownership or subletting rights of the leased premises.

(T) While lease agreements may reflect that office furnishings or equipment is being utilized or shared, the lease for such commodities may only be made with approval from the Department of Finance and Administration. Such reflections in the lease agreement for the premises must be identified through an itemized inventory and attached as a lease exhibit. Lease agreements, which combine the use of the premises and commodities, are discouraged and should only be done if it is in the best interest of the State. The use of separate lease agreements for such commodities is encouraged.

(U) Agencies entering into Memorandum of Understandings for the purpose of planning temporary space in the event of disasters shall submit the executed agreement to the Section even though ABA is not a party to the agreement. Agencies shall provide immediate notification to ABA upon activation of the agreement due for disaster relief.

5-104 ABA SPACE ALLOCATION STANDARDS FOR LEASE SPACE

(A) Private Offices	Area
(1) Commissioner or Department Director	240
(2) Deputy Commissioner or Deputy Director	200
(3) Departmental Division Director or Administrator	180
(4) Chief Departmental Fiscal or Personnel Officer	160
(5) Section Head	140
(6) Professional or Technical	120
(7) Line Staff positions requiring private office due to job function	100
(B) Reception and Public Areas	Area
(1) Receptionist + 4 Visitors	120
(2) Receptionist + 6 Visitors	160
(3) Receptionist + 8 Visitors	220
(4) Receptionist + 10 Visitors	240
(5) Public counter per work station	75

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(C) Open Area Work Stations	Area
(1) Clerical	48
(2) Clerical with reference	60
(3) Clerical with side chair	64
(4) Clerical with reference and side chair	80
(D) Conference, Meeting and Hearing Rooms	Area
<i>Based on 20 s.f. per person</i>	
(1) Consultation or Interview (2 – 4 people)	80
(2) 14 to 16 people	300
(3) 18 to 20 people	375
(4) 22 to 24 people	450
(5) 36 to 38 people	600
(E) Auxiliary Space	Area
(1) File Room (per file cabinet)	10
(2) Copier Room (per copier)	175
(3) Information Technology Room (minimum)	32
(4) Employee Break room (based on serving at the same time)	
Up to 5 people	120
6 to 10 people	180
11 to 15 people	220
(F) Service Areas	Area
(1) Janitorial Closet	24
(2) Electrical Closet (minimum clearance as required by building codes) (3' clearance in front of equipment & 12' above)	
(3) Telecommunications Closet (minimum)	32
(4) ADA Unisex Restroom (minimum dimensions) 7'6" x 6'	
(5) Mechanical space	See below

(G) Circulation

Corridor and circulation space, toilet rooms, stairs, elevators and separate mechanical space should not exceed 25% of the total building area. Ratio of net leasable area to gross building area should result in a building efficiency of 75% - 85%.

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5.105 ABA LEASE FORMS 1 & 2

Arkansas Building Authority
STATE OF ARKANSAS
COUNTY OF PULASKI
Standard Lease Form 1
Approved by Attorney General
<Month/Date/Year of Effective Date>

Lease Term:
Annual Rent: \$
Square Feet:
Rate:\$
Type: New -:
Worked By:
Agency: County:
Lease #:

STATE OF ARKANSAS LEASE AGREEMENT

This Lease is made this day of _____, 20____, by which Lessor leases the PREMISES to Lessee through ABA, Lessee's Leasing Agent.

For the purposes of this Lease Agreement the following definitions apply:

"LESSOR" means: <LESSOR'S NAME>, <individual, partnership or corporation>

"LESSEE" means: <STATE AGENCY AND PERMANENT ADDRESS>, an agency of the State of Arkansas.

"ABA" means the Real Estate Services Section of Arkansas Building Authority. By law ABA is the leasing agency for LESSEE. Arkansas Code Annotated §22-2-114. ABA is not an additional LESSEE and therefore shall not owe any rent.

"PREMISES" means the property which is the subject of this Lease which is further described in paragraph #1.

1. DESCRIPTION OF PREMISES:

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Approximately 0,000 square feet of <type of space> located at <street address>; all situated in the City of <city name>, County of <county name>, Arkansas.

2. TERM:

The initial term will begin on _____ and end on _____. The LESSEE may elect to extend the term not more than ninety (90) days upon the same terms by written notice to LESSOR, not less than thirty (30) days before the end of the initial term.

3. RENT:

The LESSEE agrees to pay \$_____ per calendar month on or before the tenth (10) day of each such period, upon invoice from the LESSOR, ~~apportionable on a daily basis at \$_____, such amount to be paid to LESSOR at: .~~ If the Term commences on a day other than the first day of a calendar month, then the installment of the Rent for such month shall be prorated upon a daily basis at the rate of \$_____ per day.

4. UTILITIES AND SERVICES:

The LESSOR will furnish the following utilities and services:

- | | |
|---|---|
| ___ - Electricity | ___ - Elevator Service |
| ___ - Gas | ___ - Trash Removal |
| ___ - Water and Sewer | ___ - Janitorial Services
and Supplies |
| ___ - Lamps, tubes, ballast
and replacements | |

5. MAINTENANCE, REPAIR AND REPLACEMENT:

The LESSOR shall maintain the leased PREMISES, including the building and all equipment, fixtures, and appurtenances furnished by the LESSOR under this Lease, in good repair and tenantable condition, except in case of damages arising from the acts of the LESSEE'S agents or employees. For the purpose of so maintaining said PREMISES and property, the LESSOR may at reasonable times, and with the approval of the authorized LESSEE representative in charge, enter and inspect the same and make any necessary repairs hereto. The LESSOR shall be responsible for maintaining all structural supports and exterior walls of the building, including windows, doors, and passageways from the lobby, street and parking areas leading to the leased property, and the adjacent sidewalks and entrance lobby, in good order and repair, and free of snow, ice, rubbish and other obstructions. LESSOR shall provide lawn and plant maintenance and shall provide monthly pest control service. LESSOR shall maintain in good working order and repair all plumbing, toilet facilities and other fixtures and equipment installed for the general supply of hot and cold water, heat, air-conditioning (including monthly maintenance and filters).

6. FAILURE TO PERFORM:

The covenant to pay rent and the covenant to provide any service, utility, maintenance, or repair required under this Lease are dependent. If the LESSOR shall breach any of the conditions required to be performed by it under this Lease, LESSEE may cure such breach and deduct the

MARK-UP

cost thereof from rent subsequently becoming due hereunder. If LESSOR fails to correct a deficiency within thirty (30) days after written notice from ABA and LESSEE, or within an appropriate shorter period stated in the notice, in the event of a deficiency constituting a hazard to the health and safety of the LESSEE'S employees, property, or any other person, ABA and LESSEE may elect to terminate this Lease.

Nothing shall prohibit the LESSEE from extending the time periods stated above if LESSEE determines that it is in its best interest to do so and LESSEE determines that the LESSOR is diligently seeking to cure such failure or breach and the deficiency can be corrected within the extended time period in a manner that will ensure throughout the time period as well as upon completion, the safety of the LESSEE'S employees, property and other persons.

7. DAMAGE BY FIRE OR OTHER CASUALTY:

LESSOR shall bear the risk of loss by fire or other casualty and shall maintain fire and extended coverage insurance to the full replacement value of the PREMISES. If the PREMISES are destroyed by fire or other casualty, this Lease will immediately terminate. In case of partial destruction or damage, so as to render the PREMISES unsuitable for the purposes for which they are leased, as determined by LESSEE and ABA, the LESSEE, may terminate the Lease by giving written notice to the LESSOR through ABA, within fifteen (15) calendar days thereafter; if so terminated, no rent will accrue to the LESSOR after such partial destruction or damage; and if not so terminated, the rent will be reduced proportionately by supplemental agreement hereto effective from the date of such partial destruction or damage.

Nothing shall prohibit the LESSEE from extending the time periods stated above if LESSEE determines that it is in its best interest to do so and determines in addition that the LESSOR is diligently seeking to cure the partial destruction or damage and the partial destruction or damage can be corrected within the extended time period in a manner that will ensure throughout the time period as well as upon completion, the safety of the LESSEE'S employees, property and other persons.

8. ALTERATIONS:

The LESSEE may attach fixtures and install signs in or to the PREMISES with LESSOR'S approval, which shall not be unreasonably withheld. Such fixtures and signs shall remain the property of LESSEE and may be removed from the PREMISES within a reasonable time after the termination of this Lease provided the LESSEE shall restore the PREMISES to a condition as good as at the beginning of this Lease, ordinary wear and tear excepted.

ABA, acting as agent for LESSEE, may during the course of this Lease negotiate with LESSOR for other improvements to be made in the PREMISES. No additional cost or fee for services or work will be charged by LESSOR without the prior written authorization of ABA.

9. TERMINATION:

In addition to other remedies provided herein, the LESSEE may terminate this Lease by thirty (30) days written notice to LESSOR by ABA if the LESSEE'S funds are insufficient for it to continue the operations for which the PREMISES are being used.

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10. SPECIAL PROVISIONS:

The parties agree that the terms and conditions of this Lease shall be read together and harmonized whenever possible; however in the event of a conflict between Section 10 or Section 11 and any other provisions elsewhere in this Lease Agreement, the provisions contained in Sections 1-10 (Special Provisions (a) through (e) and Section 11 (Miscellaneous (a) through (e) shall prevail.

(a) LESSOR shall be responsible that this facility conforms to the Arkansas Fire Prevention Code, as amended, Arkansas State Plumbing Code, The National Electrical Code, and any other state and local laws, codes, authorities, etc., applicable to the leased facility including the Arkansas adopted Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG).

(b) Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of terms of this contract. Any LESSOR, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the LESSEE.

(1) The LESSOR shall prior to assigning this Lease with any person or entity, for which the total consideration is greater than \$25,000, requires the assignee to complete a Contract and Grant Disclosure and Certification Form. The LESSOR shall ensure that any contract agreement, current or future between the LESSOR and an assignee for which the total consideration is greater than \$25,000 shall contain the following:

Failure to make any disclosure required by Governor Executive Order 98-04, or any violation of any rule, regulation or adopted pursuant to that Order, shall be a material breach of the term of this Sublease. The party who fails to make the required disclosure or who violates the rule, regulation, or policy shall be subject to all legal remedies available to the LESSEE.

(2) The LESSOR shall transmit to the agency a copy of the Contract and Grant Disclosure and Certification Form completed and signed by the assignee and a statement containing the dollar amount of the Sublease. The LESSOR shall transmit to ABA a copy of the disclosure form within ten (10) days of entering into any agreement with assignee.

(3) The terms and conditions regarding the failure to disclose and conditions which constitutes material breach of contract and rights of termination and remedies under the Executive Order 98-04 are hereby incorporated within.

(c) The LESSOR hereby acknowledges that <insert real estate broker firm or individual> <is/was> the LESSOR'S sole agent(s) for these lease negotiations and states that the named broker(s) <is/are> licensed by the State of Arkansas for such transactions.

(d) The State shall not be responsible for the payment of any taxes or assessments for the PREMISES.

(e) Lessor asserts that <he/she/it> <is/is not> the true owner of the PREMISES and the LESSOR'S rights to the PREMISES <are/are not> pursuant to a lease or sublease.

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(f) ADD ADDITIONAL SPECIALIZED PROVISIONS HERE

11. MISCELLANEOUS:

- (a) The Lease and any modifications or amendments to it will not be valid without the written approval of ABA.
- (b) This Lease shall benefit and bind the parties hereto and their heirs, personal representatives, successors and assigns.
- (c) The LESSEE may terminate this Lease by written notice from ABA to LESSOR upon the taking by eminent domain of any part of the PREMISES. This provision does not prevent the LESSEE from claiming or recovering from the condemning authority the value of LESSEE'S leasehold interests.
- (d) Nothing in this Lease shall be construed to waive the sovereign immunity of the STATE OF ARKANSAS or any entities thereof.
- (e) This Lease contains the entire agreement of the parties.

Executed by the parties who individually represent that each has the authority to enter into this Lease.

LESSOR

LESSEE

By: _____

By: _____

Date: _____

Date: _____

ARKANSAS BUILDING AUTHORITY
As Agent for

By: _____
<Name>, Administrator
of Real Estate Services

By: _____
<Name>, Director

Date: _____

Date: _____

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Arkansas Building Authority
STATE OF ARKANSAS
COUNTY OF PULASKI
Standard Lease Form 2
Approved by Attorney General
Month/Date/Year of Effective Date

Lease Term:
Annual Rent: \$
Square Feet:
Rate: \$
Type: New
Worked By:
County: Agency:
Lease #:

STATE OF ARKANSAS LEASE AGREEMENT BETWEEN STATE AGENCIES

This Lease is made this day of _____, <year>, by which Lessor leases the PREMISES to Lessee.

For the purposes of this Lease Agreement the following definitions apply:

"LESSOR" means: ARKANSAS BUILDING AUTHORITY, <permanent address >, an agency of the State of Arkansas.

"LESSEE" means: <STATE AGENCY AND PERMANENT ADDRESS>, an agency of the State of Arkansas.

1. DESCRIPTION OF PREMISES:

Approximately _____ square feet of office space located in the _____ Building at _____; all situated in the City of <city name>, County of <county name>, Arkansas, further described as follows:

2. TERM:

The term of this Lease will begin on <date> and end on <date>, unless the term shall be sooner terminated as hereinafter provided.

3. RENT:

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The LESSEE agrees to pay to LESSOR the sum of \$_____ per calendar annum, payable in monthly installments of \$_____, apportionable on a daily basis at \$_____. Such amount to be paid to LESSOR at: <address>, Little Rock, AR 72201.

This Lease will commence on the date which the LESSEE shall have commenced business operations upon the leased PREMISES. In the event that the term of the Lease shall commence on a day other than the first day of the calendar month, the LESSEE shall pay, upon the commencement date of the term, a portion of the fixed annual rental described in the foregoing provision, prorated on a daily basis.

4. UTILITIES AND SERVICES:

It is understood that the rental paid by the LESSEE is for the purposes of reimbursing the LESSOR for providing maintenance and repair of all mechanical and structural systems, janitorial service, utilities, pest control, security, trash removal, grounds, including applicable parking areas, maintenance, insurance, and all other expenses normally associated with the maintenance and operation of the lease PREMISES. LESSOR may seek additional reimbursements from LESSEE for "after-hour call outs" of ABA Building Operations Personnel due to acts or omissions by LESSEE'S employees, representatives or invitees.

5. ALTERATIONS:

The LESSEE may attach fixtures and install signs in or to the PREMISES with LESSOR'S approval, which shall not be unreasonably withheld. Such fixtures and signs shall remain the property of LESSEE and may be removed from the PREMISES within a reasonable time after the termination of this Lease provided the LESSEE shall restore the PREMISES to a condition as good as at the beginning of this Lease, ordinary wear and tear excepted. Any subsequent requested space alterations, attaching fixtures, and erecting additions after the initial construction has been completed and accepted by the LESSEE shall be the responsibility of the LESSEE. No services or work will be performed for which an additional cost or fee will be charged by LESSOR without the prior written authorization of the LESSEE.

6. ADDITIONAL PROVISIONS:

LESSOR and LESSEE mutually agree that the following additional provisions are hereby added to become a part of this Lease Agreement:

- (a) LESSOR shall bear the risk of loss by fire or other casualty and shall maintain fire and extended coverage insurance to the full replacement value of the PREMISES. If the PREMISES are destroyed by fire or other casualty, this Lease will immediately terminate. In case of partial destruction or damage, so as to render the PREMISES unsuitable for the purposes for which they are leased, as determined by LESSOR, the LESSOR, may terminate the Lease by giving written notice to the LESSEE, within fifteen (15) calendar days thereafter; if so terminated, no rent will accrue to the LESSOR after such partial destruction or damage; and if not so terminated, the rent will be reduced proportionately by supplemental agreement hereto effective from the date of such partial destruction or damage.

MARK-UP

- (b) LESSEE agrees to accept the lease PREMISES in "as is" condition. All modifications will be at the expense of the LESSEE.
<OR if alterations are made that are specific to the Lessee's operations conditional language can be added to state:
(1) Alterations shall remain the property of the LESSEE.
(2) Alterations shall be removed by LESSEE within thirty (30) days upon Lease termination or expiration, unless alterations are accepted in writing by ABA.
(3) LESSEE shall restore the PREMISES in a condition as good as at the beginning of the Lease term; ordinary wear and tear excepted.
- (c) This Lease shall benefit and bind the parties hereto and their heirs, personal representatives, successors and assigns.
- (d) Nothing in this Lease shall be construed to waive the sovereign immunity of the STATE OF ARKANSAS or any entities thereof.
- (e) In all instances in which a LESSEE employs an individual or individuals who require an emergency evacuation auxiliary aid to safely exit the PREMISES during an emergency situation, the LESSEE is required to, and is solely responsible for obtaining, maintaining, and training in the use of said auxiliary aid. Any necessary installation of said device shall be coordinated and approved by the LESSOR. This requirement shall apply in all instances regardless of whether the ~~disabled individual or individuals~~ individual(s) with disabilities are employed at the time of the execution of this Lease, are hired and employed after execution of this Lease, or a current employee regardless of hire date becomes disabled so as to require an emergency evacuation auxiliary aid.
- (f) LESSEE shall not sublease nor assign this Lease without the written approval of the LESSOR.
- (g) This Lease contains the entire agreement of the parties.

7. BUILDING RULES:

The LESSEE agrees to cooperate with LESSOR in enforcing the Building Rules attached hereto and incorporated herein by reference as Exhibit "A". In the case that LESSEE is notified by LESSOR of Building Rule infractions committed by LESSEE'S employees or invitees, LESSEE agrees to take prompt and appropriate action to correct such violations.

8. RELOCATION

Nothing in this Lease shall be construed to prohibit or lessen LESSOR'S authority to relocate LESSEE, therefore when requested by LESSOR, LESSEE agrees to execute and enter into a lease or an amended lease with LESSOR or other public entity for the leasing of space in any public buildings as deemed by the LESSOR to be in the best interests of the State.

Executed by the parties who individually represent that each has the authority to enter into this Lease:

LESSOR:

LESSEE:

MARK-UP

ARKANSAS BUILDING AUTHORITY

By: _____
 <Name>, Title, Real Estate
 Services Section

By: _____

Date: _____

Date: _____

By: _____
 <Name>, Director

Date: _____