

SECTION ONE GENERAL/DEFINITIONS

1-100 SCOPE

This document shall be known as the Arkansas Building Authority Minimum Standards and Criteria (MSC). Copies of this manual may be obtained from Arkansas Building Authority (ABA). It may also be examined in the Office of the Secretary of State or at the Office of the Circuit Clerk in any county in the State. ABA maintains a website at "www.arkansasbuildingauthority.com". The MSC may also be reviewed or downloaded from this site. The purpose of this document is to establish standards and procedures as required by Ark. Code Ann. § 22-2-101 et seq. and by other applicable laws.

1-101 PURPOSE

ABA has various duties and responsibilities involving capital improvements, real estate transfers and leases. Capital improvements are overseen and managed in part by the Construction, Design Review and Building Operations Sections. The Real Estate Services Section oversees the state leasing of publicly or privately owned space as well as transfers of State real property.

1-102 FUNCTION

Although ABA has specific tasks, which it carries out on a daily basis, it also has within its organization the expertise to serve various state entities in the resolution of special problems relating to state-owned and leased buildings. Other functions of ABA are described by law and as determined by the Director or the Council, or both.

1-103 ORGANIZATION

(A) ABA functions under the guidance of the Council pursuant to Ark. Code Ann. § 22-2-101 et seq. which is also known as the "Arkansas Building Authority Act," and empowered to establish policies, guidelines, standards and procedures to guide and govern the agency, however in certain instances, ABA may promulgate rules of its own.

(B) The daily operation of the agency is administered by a Director who is appointed by the Governor and confirmed by the Senate. Four sections are established in the ABA with each section having duties as specifically assigned by law and with the administrator of each office being directly responsible to the Director. These sections are: the Building Operations Section, the Construction Section, the Real Estate Services Section and the Design Review Section. The Director may transfer the various duties and functions among the various sections of the agency and effect any other organizational or administrative changes that may be necessary to bring about the efficient and effective implementation of the applicable laws.

1-104 REGULATORY AUTHORITY

The authority of ABA and its Council to issue rules and regulations is established by Ark. Code Ann. § 22-2-101 et seq. and other applicable laws. All agencies within ABA jurisdiction are within the jurisdiction of the MSC, including Institutions of Higher

Education who have entered into agreements with ABA pursuant to Ark. Code Ann. § 22-2-113 (b) (1).

1-105 GRIEVANCE PROCEDURES

(A) If any person, organization or agency believes they have a non-employee related grievance with ABA due to ABA action(s) or omission(s), they should first attempt to resolve the grievance informally with the Administrator of the ABA Section involved. If this is not possible, the person believing himself to be aggrieved should send a letter to the Administrator explaining his grievance in as much detail as possible and requesting an audience with the Director.

(B) Within five (5) working days of receipt of this letter, the section head or designee must schedule a meeting with the alleged aggrieved person, the Director, the Section Administrator and all other parties directly involved, and notify the alleged aggrieved party and all other parties in writing of the date, time and location of this meeting. This meeting must be set within thirty (30) calendar days of receipt of the letter of grievance. The Director may, at his discretion, conduct the meeting as an informal meeting or a formal hearing. If the grievance cannot be satisfied in one meeting, the Director may schedule as many as three additional meetings within thirty (30) calendar days of the first meeting or he may ask that the grievance be heard at the next regularly scheduled meeting of the ABA Council. If the grievance cannot be resolved in four meetings, with the Director, then it must be submitted to the next regularly scheduled meeting of the Council. Any grievance taken to the Council must be heard according to the by-laws of the Council, and the procedures set forth in the Arkansas Administrative Procedures Act (Ark. Code Ann. § 25-15-201 et seq.).

1-106 DEFINITIONS

(A) As used within the entirety of the Minimum Standard and Criteria, masculine pronouns when used within the following sections shall also include the feminine and legal entities.

(1) Americans with Disabilities Act Accessibility definitions are located in § 2-1000.

(2) Addendum/Addenda means a supplement or supplements to the bid documents, issued prior to the submission of bids, for the purpose of clarifying, correcting, deleting or adding to the bid documents previously issued.

(3) Agency means any state agency including state boards, commissions, agencies, departments, and institutions of higher learning, which are under the jurisdiction of ABA pursuant to Arkansas laws or regulations.

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

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

(6) Bid Formalities means requirements established by statute for bidding that shall not be waived.

(7) Bid Tabulation means a tabulation of all bids received, reflecting bidders name, address, license number (if applicable), amount of bid(s), receipt of bid bond, acknowledgement of addenda, and sub-contractors' names.

(8) Building or Facility means all or any portion of building, structures, equipment, roads, walks, parking lots, parks, sites, or other real property or interest in such property.

(9) Building Operations Administrator means the Arkansas Building Authority Building Operations Section Administrator.

(10) Building Operations Section means the Arkansas Building Authority Building Operations Section.

(11) Capital improvement means all lands, buildings, structures, utilities, on-site and off-site improvements, and other appertaining improvements, existing or future, and all construction, repairs, alterations, demolitions and renovations thereof which are undertaken, owned, operated, or otherwise managed by a state agency except those exempted by law or regulation. However, demolitions used within this meaning, pertains to the bidding/awarding/contracting of such projects and does not in any way abrogate the rules pertaining to the DFA M&R program.

(12) Change Order is defined as an amendment to the contract that is a written authorization executed by the Owner, Design Professional, Contractor, and approved by ABA to change the design or scope of work from the original plans, specifications, or other contract documents. This can include changes in price and time to complete the project. A change order must fall within the original capacity of the project. Upon proper execution and ABA approval, the change order modifies the original contract between Owner and Contractor and becomes part of the contract documents.

(13) Commissioning means a systematic process of ensuring that building systems perform interactively according to the design intent and the Owner's operational needs. This is achieved beginning in the design phase by documenting the design intent and continuing through construction, acceptance, and the warranty period with actual verification of performance, operation and maintenance (O&M) documentation verification and training of operating personnel. (See also re-commissioning and retro-commissioning)

(14) Competitive Bid means bidding by quote from a minimum of three (3) invited bidders for capital improvements where solicitation of bids by formal means is unnecessary due to the quote bid limit. Competitive bids may be solicited by mail, telephone, email, fax or in person by the purchasing agent.

(15) Construction means making or forming an improvement by combining parts, labor, or materials; the erection, alteration, or repair of a structure or physical object under the jurisdiction of ABA.

(16) Construction Administrator means the ABA Construction Section Administrator.

(17) Construction Section means the Arkansas Building Authority Construction Section.

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

(19) Council means the Arkansas Building Authority Council.

(20) Design Professional means a person or firm who provides professional expertise in order to carry out a capital improvement. Design professionals may include but may not be limited to the following professionals: Planners (land, city, utilities, etc.), Architects, Landscape Architects, Surveyors (land), and Engineers (Consulting and Professional Engineers providing expertise in various licensed fields only that is, civil, electrical, mechanical, structural, sanitary, etc.).

(21) Design Review Section means the Arkansas Building Authority Design Review Section.

(22) Director means the Director of Arkansas Building Authority.

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

(24) Final Completion means the agency, with ABA approval, acceptance of a project from the contractor or Lessor upon certification by the design professional, if applicable, that the project is complete and in accordance with the contract documents; final acceptance is confirmed by making the final payment unless otherwise stipulated at the time of making such payment or by letter of notification and rent commencement in leasing situations.

(25) Formal Bid, as used within the Construction Section, means a bid that has been solicited through published plans and specifications in accordance with statutory requirements including; legal advertising stating a bid time, bid date, and bid opening at a published location; bond requirements; wage determination (if applicable), etc. Formal Bid, as used within the Real Estate Services Section means a bid that has been solicited through published specification and criteria, advertised notice stating a bid time and date for a bid opening at a published location.

(26) Formalities means any procedural, administrative, or clerical requirements not required by statute. Formalities may be waived where such waiver is in the best interest of the agency or state. Formalities in bid documents, which contain the word "shall" may be waived where such waiver is in the best interest of the agency and not required by statute.

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

(28) Intent to Award means a letter to the contractor who has the successful bid for a project stating that it is the owner's intent to award him a contract. Intent to award letters may be issued to assist contractors in obtaining performance bonds prior to issuance of a contract.

(29) Maintenance Work means the repair, but not the replacement, of existing facilities or equipment when the size capacity, type or extent of the existing facility or equipment is not thereby changed or increased.

(30) Minimum Standards and Criteria - and other like phrases means those standards and criteria relating to bidding and requests for proposals, construction, design, maintenance, roofing, transfers of property, including but not limited to the purchasing or selling of property, and leasing of state agencies' capital improvements or leasing of private properties to state agencies or entities as adopted by the Council after appropriate deliberation and where advisable, public hearings, or notice to interested persons and organizations. The Arkansas Building Authority Minimum Standards and Criteria is also referred to as the "MSC."

(31) MSC means the Arkansas Building Authority Minimum Standards and Criteria.

(32) Notice to Proceed means a written notice to proceed with prosecution of the work on a specific project in accordance with an ABA approved contract.

(33) Performance Specification means a specification which generally describes the characteristics of the item required, e.g. the style, type, quality, character, economy of operation and purpose to be served by the item and the results required of the item provided. It does not restrict the bidder to a specific brand, make, or manufacturer, nor does it tell the Contractor how to achieve the required result.

(34) Proprietary Specifications means a specification that limits or restricts the bidder to two (2) sources only for a product or service. Specifications are considered proprietary when: (1) Only two (2) manufacturers or suppliers can provide an acceptable product or system and where no substitutions are allowed; (2) Only one manufacturer can provide an acceptable product or service but two (2) or more vendors or suppliers can compete to provide the product or system.

(35) Real Property means building(s) or land(s) or both; real estate.

(36) Real Estate Services Section means the Arkansas Building Authority Real Estate Services Section.

(37) Real Estate Services Administrator means the administrator of the ABA Real Estate Services Section.

(38) Re-Commissioning means the process of re-verifying the performance of building systems that have been commissioned previously to ensure the systems continue to operate according to the design intent or current operating needs. Re-commissioning may be initiated periodically or in response to building renovation or a change in usage.

(39) Retro-Commissioning means the process of commissioning existing building systems that were not commissioned when originally constructed. It is a process to

ensure building systems perform interactively according to the design intent and/or meet the Owner's current operational needs. This is achieved by documenting the design intent where possible and the current operational needs measuring the existing performance, implementing necessary operational and/or system modifications, followed by actual verification of performance, operation and maintenance (O&M) documentation verification, and training of operating personnel.

(40) Repair: The necessary work to restore a facility component or fixed asset to its intended use.

(41) Request for Proposals means all documents, whether attached or incorporated by reference, utilized for soliciting proposals for negotiated work or services.

(42) ABA means Arkansas Building Authority.

(43) Shall as written in the pages of the Arkansas Building Authority Minimum Standards and Criteria denotes a mandatory requirement. Formalities in bid, requests for proposal, or request for qualification documents, which contain the word "shall", may be waived where such waiver is in the best interest of the agency and not a requirement by law.

(44) Site means a parcel of land bounded by a property line or a designated portion of a public right-of-way.

(45) Site Improvements means various improvements including but not limited to landscaping, paving for pedestrian and vehicular ways, outdoor lighting, recreational facilities, and similar site additions.

(46) Split Purchases means dividing a capital improvement purchase into various components to avoid bidding procedures.

(47) Standard Professional Services Contract means the agreement, along with any initial or subsequent attachments or amendments, between the agency and the design professional pursuant to Ark. Code Ann. §19-11-1001.

(48) Sole Source means a product, item of equipment, service or combination of these which is available from only one manufacturer, vendor or provider in an area to the exclusion of others (e.g. within the constraints of the particular project whether geographic, time, material, software support, or other). If products, equipment, or services are franchised to only one vendor in an area, the vendor would be considered a Sole source for such products, equipment or services specified for the project.

(49) State Architect means the ABA State Architect.

(50) State Engineer means the ABA State Engineer.

(51) Substantial Completion means the project contracted for or a designated portion thereof, is sufficiently complete, in accordance with the contract documents, so the owner agency may occupy the work, or designated portion thereof, for the use for which it is intended despite minor defects to be corrected or minor incomplete aspects of the work.

(52) Work means all labor, materials, equipment, and other services necessary to perform the complete services, or any separate identifiable part thereof, or to provide the completed product required by the Contract. In construction, work includes, but is not limited to performing services, furnishing labor, furnishing and incorporating materials and equipment into the construction to provide the entire completed construction, or the various separately identifiable parts thereof, as required by the contract documents.

(B) Questions relating to these definitions should be addressed to the administrator of the Section involved.