

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Arkansas Building Authority
 DIVISION Construction Section
 DIVISION DIRECTOR Anne Laidlaw, ABA Director; Doran White Construction Section Admn
 CONTACT PERSON Doran White
 ADDRESS 501 Woodlane, Suite G-05, Little Rock, AR 72201
 PHONE NO. 501-682-5577 FAX NO. 501-682-5560 E-MAIL dwhite@aba.state.ar.us
 NAME OF PRESENTER AT COMMITTEE MEETING Doran White
 PRESENTER E-MAIL dwhite@aba.state.ar.us

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
 Administrative Rules Review Section
 Arkansas Legislative Council
 Bureau of Legislative Research
 Room 315, State Capitol
 Little Rock, AR 72201

Arkansas Building Authority Minimum Standards & Criteria
 Section Three Construction Section

1. What is the short title of this rule?

This section of the ABA Minimum Standards and Criteria (3-100 through 3-801) relate to policies and procedures regarding capital improvements. These are revision involving the bidding, awarding, contracting and observations made of capital improvements with respect to state agencies and some institutions of higher education.

2. What is the subject of the proposed rule?

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No

If yes, please provide the federal rule, regulation, and/or statute citation.

N/A

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No

If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule expire?

N/A _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes No

5. Is this a new rule?

Yes No

If yes, please provide a brief summary explaining the regulation.

N/A _____

Does this repeal an existing rule?

Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

N/A _____

Is this an amendment to an existing rule?

Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule?

If codified, please give Arkansas Code citation.

Ark. Code Ann. §22-2-107(a)(1) and §22-2-108(9)(A) _____

7. What is the purpose of this proposed rule? Why is it necessary?

To amend the section rules to provide clarification, update language due to recent recent legislative changes, and provide for reduction of paper usage.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

www.aba.arkansas.gov _____

9. Will a public hearing be held on this proposed rule?

Yes No

If yes, please complete the following:

Date: 1/20/12

Time: 10:00 am

Place: Real Estate Commission Meeting Room, 612 South Summit, Little Rock, AR

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

January 10, 2011

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

30 days after the filing of the final rules

12. Do you expect this rule to be controversial?

Yes No

If yes, please explain. _____

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

Arkansas Building Authority interacts with design professional and contractor groups in the course of providing services to agencies and doing business within the state.

Contractors Groups: the Arkansas Chapter of the Associated General Contractors (AGC), the Subcontractors Association (ASA), the Arkansas Chapter of the Association of Building Contractors (ABC) and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO).

Design Professional Group: the Arkansas Chapter of the American Institute of Architects (AIA) and the Arkansas Chapter of the American Consulting Engineers Council (ACEC).

We expect to receive no opposition or negative feedback.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Building Authority
DIVISION Construction Section
PERSON COMPLETING THIS STATEMENT Doran White
TELEPHONE NO. 501-682-5577 **FAX NO.** 501-682-5560 **EMAIL:** dwhite@aba.state.ar.us

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Arkansas Building Authority Minimum Standards and Criteria Section Three Construction

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Does this proposed, amended, or repealed rule affect small businesses? Yes No
If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

I have attached what as sent to AEDC. _____

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
N/A _____

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

General Revenue N/A
Federal Funds N/A
Cash Funds N/A
Special Revenue N/A
Other (Identify) N/A
Total N/A

Next Fiscal Year

General Revenue N/A
Federal Funds N/A
Cash Funds N/A
Special Revenue N/A
Other (Identify) N/A
Total N/A

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ N/A

Next Fiscal Year

\$ N/A

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year

\$ N/A

Next Fiscal Year

\$ N/A

QUESTIONNAIRE FOR FILING OF PROPOSED RULES WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

SECTION 5 OF THE QUESTIONNAIRE: SUMMARY OF 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

We do not expect any opposition to the revisions.

ARKANSAS BUILDING AUTHORITY

MIKE BEEBE, GOVERNOR

• ANNE W. LAIDLAW, DIRECTOR

501 WOODLANE • SUITE 101N • LITTLE ROCK, AR • 72201 • (501) 682-1833 • FAX (501) 682-5589 • TDD (501) 682-1487

November 14, 2011

Grant Tennille, Interim Director
Arkansas Economic Development Commission
900 W. Capitol, Suite 400
Little Rock, AR 72201

Re: Small Business Impact Statements for revisions to the Arkansas Building Authority
Minimum Standards and Criteria, Sections 2-5

Dear Mr. Tennille:

Please find enclosed copies of the proposed revisions to the Arkansas Building Authority Minimum Standards and Criteria. ABA has not begun the rule making process for the promulgation of these proposed revisions to the current rules. We are planning to begin the formal process on December 7, 2011 with the presentation of these revisions to the ABA Council with hopes to begin the 30 day notice period on December 8th. This submission today is to provide you and your staff time to review the proposed changes prior to ABA's formal processes.

In accordance with state laws, we are submitting the revisions to your office for your review and comment. A substantial portion of these revisions are referencing current laws or policies, or both. As you will find, ABA does not foresee any of these revisions to have a negative impact on small businesses.

For your ease of reference, we developed a cover sheet for each section of the four (4) sections of the ABA Minimum Standards and Criteria. The name of the administrator who completed the review is on each of these cover sheets. Should you or your staff have any questions, please direct them to the name and phone number listed on the applicable coversheet. Should you have any questions regarding the rulemaking process, please contact Susan Wilson, Deputy Director at 682-5091.

Sincerely,



Anne W. Laidlaw
Director

IMPACT ON SMALL BUSINESS

Completed by Doran White, ABA Construction Administrator (682-5577)

Name of the Rule: ABA Minimum Standards and Criteria, Section 3-Construction

Impact Statement Completion Date: November 14, 2011

- (1) **Identification of the small business:**
 - a. **What are the types of small business that will be directly affected by the proposed rule?** Design Professionals and Consultants and Construction Companies offering services to state agencies.
 - b. **What types of small business will bear the cost of the proposed rule?** None
 - c. **What types of small business will directly benefit from the proposed rule?** Same as (a.) above.
- (2) **Provide a description of how small businesses will be adversely affected.** None
- (3) **Provide a reasonable determination of the dollar amounts the proposed rule will cost small businesses in terms of fees, administrative penalties, reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs associated with compliance.** None
- (4) **Provide a reasonable determination of the dollar amounts of the costs to ABA of implementing the proposed rule, as well as the financial benefit to the agency of implementing the rule.** No cost to ABA for implementation.
- (5) **State as to whether and to what extent alternative means exist for accomplishing the objectives of the proposed rule that might be less burdensome to small businesses and why such alternatives are not being proposed.** No known alternatives exist.
- (6) **Is there a state or federal counterpart of the proposed rules? If yes, please compare.** No.