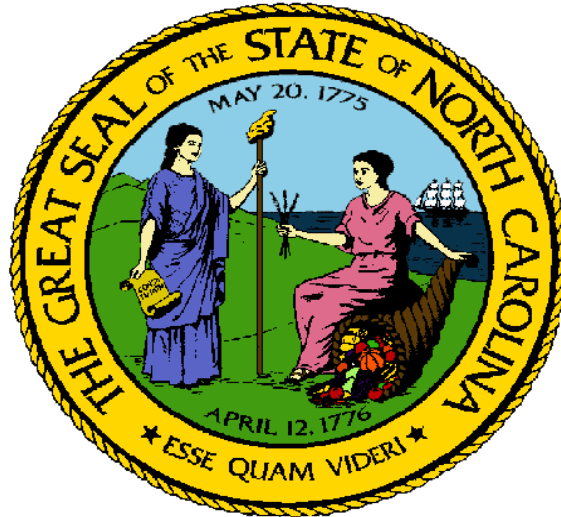


State Construction Manual



State of North Carolina

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Ninth Edition

January 2006 *

Energy Revisions October 2008

CHAPTER 100 ADMINISTRATION AND DESIGN CONTRACTS

SECTION 101 SCOPE

The regulations, policies and procedures set forth in the SCO Construction Manual shall apply to the construction, renovation or alteration of all physical properties owned by the State of North Carolina through the various state institutions, departments or agencies which are subject to provisions of the Executive Budget Act, including land and improvements, but excluding public transportation facilities. The Community Colleges are locally owned but State supported and are also included by statute.

The regulations, policies, guidelines, procedures, forms and documents were established over many years by statute, legal opinions, consensus of committees of design professionals and construction industry representatives, and particularly in accordance with established design and construction industry standards. The SCO Construction Manual is the framework for consistency and consensus in the application of the statutes governing design, construction, bidding and contracting of all State and Community College facilities.

SECTION 102 DEPARTMENT OF ADMINISTRATION – STATE CONSTRUCTION OFFICE

102.1 SCO HISTORY

This is a very condensed history taken from “The Division of State Construction – A History” (1984) by John H. Emerson, PE - SCO staff from 1956-1989. Director 1987 to 1989.

The 1917 Session of the General Assembly authorized the issuance of \$3 million dollars in bonds to “permanently enlarging the State’s educational and charitable institutions”. The Governor was to appoint a State Building Commission directed to have “entire supervision, direction and control of the distribution of the bonds.” and “to require the State institutions to submit plans and specifications drawn by a competent architect” for the commissions approval.

The 1919 Session expanded the SBC to “supervise, control, and direct all building operations” and to employ a competent architect to be the State Architect. He was to prepare and submit plans for new buildings and renovations. The salary was \$5,000 per year and exemption from any licensing requirements. This attempt at centralized control was short lived and in 1921 Governor Morrison requested control be reverted to the institutions’ boards/trustees to control their own programs. There was no evidence that the commission actually functioned or a State Architect ever hired.

In 1925, an Executive Budget Act established a budget bureau and an Advisory Budget Commission to bring order out of a chaotic budgeting process in the state. Capital improvements were to be submitted to the Director of the Budget for prior approval and the responsibility to see that the monies were spent in accordance with the institution’s budget and within the appropriation.

In 1953, The General Assembly amended the act to include the basic language in effect today regarding *consideration for architectural features, economy in first cost and maintenance costs, materials and type of construction*. The Director of the Budget was required to have prepared a *complete study of all plans and specifications* for capital improvement projects and that bids were not to be received until the results of such study were incorporated into the plans and specifications.

In 1957, the General Assembly formed the Department of Administration to assume the duties of the Assistant Director of the Budget, which included control of real property and the architecture and engineering of State buildings. The Property Control and Construction Division was created within DoA for that function.

In 1977 The Secretary of Administration separated the Division into the State Property Division and

the Division of State Construction. There was a brief period in 1984 when the Property Division, Division of State Construction and General Services were combined into the State Building Division. Upon separation, the name became the State Construction Office.

The State Construction Office has been internally divided into 3 basic sections since 1978 - Contract Administration, Design Review, and Construction Administration. As capital project workloads increased these 3 sections had to shed some additional duties and functions to specialize and maintain project loads. Additional sections were created to carry out those duties and services as well as additional roles. Consulting Services and Facilities Condition Assessment Program were formed.

102.2 DEPARTMENT OF ADMINISTRATION (DoA)

A. POWERS AND DUTIES OF DEPARTMENT [GS 143-341](#)

Architecture and Engineering:

1. To examine and approve all plans and specifications for the construction or renovation of:
 - a) **All State buildings* or buildings located on State lands**, except those buildings over which a local building code inspection department has and exercises jurisdiction; and **(**See UNC Exception below)**
 - b) **All community college buildings** requiring the estimated expenditure for construction or repair work for which public bidding is required under [GS143-129](#) (> \$300,000) prior to the awarding of a contract for such work; and to examine and approve all changes in those plans and specifications made after the contract for such work has been awarded.

*Buildings, under [GS143-336](#), include all State buildings, utilities and improvements to physical properties, facilities, property developments. Does not include railroads, highways, bridge structures and Global Transpark.
2. To assist, as necessary, all agencies in the preparation of requests for appropriations for the construction or renovation of all State buildings. (OC-25)
 - a) To certify that a statement of needs (OC-25) pursuant to GS 143-6 is feasible. For purposes of this sub-division, “feasible” means that the proposed project is sufficiently defined in overall scope; building program; site development; detailed design, construction, and equipment budgets; and comprehensive project scheduling so as to reasonably ensure that it may be completed with the amount of funds requested. At the discretion of the General Assembly, advanced planning funds may be appropriated in support of this certification. This sub-division shall not apply to requests for appropriations of less than one hundred thousand dollars (\$100,000).
3. To supervise the letting of all contracts for the design, construction and renovation of all State buildings and all community college buildings whose plans and specifications must be examined and approved under (a.2) of this sub-division.
4. To supervise and inspect all work done and materials used in the construction or renovation of all State buildings and all community colleges whose plans and specifications must be examined and approved under (a.2) of this subdivision; and so such work may be accepted by the State or by any State agency until it has been approved by the Department.

()Except for subdivision 2. and 2.a) this subdivision does not apply to the design, construction or renovation of projects by The University of North Carolina pursuant to GS116-31.11.**

A similar exemption exists (with no dollar limit) for UNC HealthCare Systems ([GS116-37](#)) and ECU Medical Faculty Practice Plan ([GS116-40.6](#))

GS116-31.11 essentially provides that, on UNC system projects of \$2,000,000 or less, the UNC Board of Governors has the authority to perform the duties and responsibilities of the Department of Administration and the Director of the State Construction Office.

1. Conduct fee negotiations for all design contracts and supervise the letting of all design and construction contracts.
2. Develop procedures governing the responsibilities of the UNC and its institutions to perform those duties and responsibilities.
3. Develop procedures governing reasonable limitations governing the use of open-end design agreements subject to GS 143-64.34 and the approval of the State Building Commission.

(b) The Board may delegate its authority to its institutions if the institution is qualified (with professional staff) under guidelines adopted by the Board and approved by the State Building Commission and the Director of the Budget.

(c) The University shall use the standard contracts for design and construction currently in use for State capital projects by the State Construction Office of the Department of Administration

(d) A single project may not be subdivided for the purpose of evading the monetary limit under this section.

(e) The Department of Administration shall not be the awarding authority for contracts awarded pursuant to this section.

B. SCO REVIEW RESPONSIBILITIES [GS 143-31.1](#)

Study and review of plans and specifications for building, improvement, etc., projects.

* (Note: These duties were transferred to DoA by general statute in 1957.)

It shall be the duty and responsibility of the Director of the Budget* to determine whether buildings, repairs, alterations, additions or improvements to physical properties for which appropriations of State funds are made have been *designed for the specific purpose* for which such appropriations are made, that such projects have been designed giving *proper consideration to economy in first cost, in maintenance cost, in materials and type of construction*. Architectural features shall be selected which give proper consideration to *economy in design*. The Director of the Budget* shall have prepared *a complete study and review of all plans and specifications* for such projects and *bids on same will not be received until the results of such study and review have been incorporated in such plans and specification*, and until economic conditions of the construction industry are considered by the Office of State Budget and Management to be favorable to the letting of construction contracts. The Director of the Budget* may, when he considers it in the best interest of the State to do so, terminate design contracts when it is documented that the designer has failed to perform the conditions enumerated in the contract.

102.3 STATE CONSTRUCTION OFFICE RESPONSIBILITIES (GS143-31.1)

The SCO role can be described as an oversight process for the state's capital expenditures in the design, construction and renovation of State facilities. This *third party* oversight provides for an overall consistency in; projects being in accordance with appropriations; how the State contracts for the design and construction of State capital projects; in accordance with State statutes.

This oversight is accomplished in the following duties:

- A. Serves as staff support to the State Building Commission.
- B. Certifies appropriateness of agency and institution requests for Capital funds (OC-25).
- C. Designer selection and contracting process.
- D. Design review and approval prior to bidding.
- E. Certifies appropriateness of the Life Cycle Cost Analysis.
- F. Bidding and award of construction contracts.
- G. Monitoring construction progress, conduct final inspection and acceptance of a facility for the State.
- H. Inspection and assessment of the condition of State facilities on a recurring basis to evaluate needs and deficiencies for budgeting repairs and renovations. (FCAP) [GS143-34.42](#)
- I. Provide consulting services for state agencies and in-house design services of limited scope projects. Consulting Services staff members are project managers and monitors for projects in the State Government Complex in Raleigh.

Ref: GS143-341, GS143-31.1, GS143-129, and GS116

102.4 SCO ORGANIZATION

SCO is organized in 5 Sections: ([See Website contacts](#))

- A. **Contract Administration Section:** (Currently integrated into the Design Review Section and the Construction Administration Section) Designer selection process, SBC staff, negotiate and prepare design contracts, construction contracts, manage computer systems and files.
- B. **Design Review Section:** Review and approve design submittals and construction documents up to bidding and award.
- C. **Construction Administration Section:** Monitor construction contracts and progress monthly, conduct a final inspection and approve the project for acceptance into the State system.
- D. **Facilities Condition Assessment Program: FCAP** –Inspect and assess state facilities condition and needs and report to owners for budgetary planning.
- E. **Consulting Services Section:** Provide in-house design services and projects, monitor all project construction in Raleigh downtown complex, and provide consulting services for other State agencies.

SECTION 103 STATE BUILDING COMMISSION (SBC)

Created in July 1987 by the Legislature, Art. 8B GS 143-135.25-28 established the State Building Commission as the successor to the previous Capital Building Commission.

Nine members are appointed by the Governor and the General Assembly, representing owners, designers, contractors, a public member and local governments who serve staggered three-year terms. They meet monthly in the State Construction Office. [GS143-135.25](#)

(See SCO website for SCO/SBC Rules in the NC Administrative Code ([NCAC 30](#)))

103.1 POWERS & DUTIES OF THE SBC [GS143-135.26](#)

The State Building Commission, as a statutory body, is empowered to adopt rules and establish procedures for the State's capital facilities process. The following represent the areas that have been addressed by the SBC.

- A. Procedures and rules for bidding and construction of public building projects.
- B. Authorize the use of alternative contracting methods requested by public entities. [NCAC-30G](#)
- C. Establish procedures and rules for Designer/Consultant/Construction Manager-at-Risk procurement, selection and contract negotiation by state agencies and universities, but not for community colleges. [NCAC-30D](#)
- D. Establish rules plan review and approval in a specific time frame. ([GS143-135.26 \(2\)](#))
- E. Establish procedures and rules for evaluation of the performance of the Designer ([NCAC-30E](#)) and Contractor ([NCAC-30F](#)) for state agencies, institutions and community colleges.
- F. Provide for dispute resolution procedures including mediation for subcontractors.
- G. Establish Rules governing the use of open-end design agreements. (NCAC-30D)

103.2 OTHER DUTIES AND RESPONSIBILITIES

The Commission meets at least four time per year but typically on a monthly schedule as needed to facilitate the capital improvement process. The following are duties addressed monthly.

- A. Review and evaluate designer selections by State agencies and make the final selection from a list of three presented by the agency CPC in priority order. UNC institutions make the final selection on their projects and submit reports to the SBC monthly. (GS143-128)
- B. Evaluate and approve requests from public entities for Alternative Contracting Methods such as design build, which is not included in GS143-128 list of public contracting methods. A form is submitted and a presentation made at a Commission meeting. [NCAC-30G](#)

SECTION 104 NORTH CAROLINA CAPITAL PLANNING COMMISSION

[GS143B-373](#) and 374 created a commission to consider long range planning for buildings and facilities in Wake County, State government building requirements, land sales and acquisitions, jurisdictions, building names, monuments, locations, etc. and to provide for rules or requirements for same. [GS143B-374](#) named to the commission the Governor as chairman with the Lieutenant Governor as vice-chairman. Members include the Council of State, 4 Senate members, 4 House members and a representative of the City of Raleigh. The members meet quarterly or as called by the Chairman.

SECTION 105 COUNCIL OF STATE (FUTURE)

SECTION 106 AGENCY AND INSTITUTIONS RESPONSIBILITIES – CAPITAL PROJECTS

- A. The agencies shall name an individual(s) as their *capital projects coordinator (CPC)* responsible for all capital processes within their agency or institution. See 107.
- B. State agencies, institutions, and community colleges (owners) establish their own needs, scope and budgets for new physical facilities as well as repair and renovation needs. The owner shall request legislative funding via the OC-25 process described below. The SCO FCAP program reports can assist owners in prioritizing needs and preparing cost estimates.

- C. Once an OC-25 is complete and certified by SCO the owner submits the request to the State Budget Office for possible inclusion in a budget request for funding project. When projects are funded by the legislature, the owner shall expeditiously follow all procedures and actively participate in the designer selection and contracting processes. The owner shall provide all programming and information needed for the designer to prepare an appropriate scope of design work, a schedule and a design fee to meet the requirements established in the fund appropriation.
- D. During the design process the owner shall meet regularly and as needed to coordinate with and to provide program information to the designer as required to meet schedules. He shall review and approve plans and specifications at designated design stages to ensure project design, program and scope are appropriate and within budget. Owner comments and approvals should be provided to SCO for coordination and review.
- E. Should there be any owner changes in scope, budget, or design fee, the owner shall request the design contract be amended accordingly and should do so in a timely manner.
- F. For design and construction of Capital Projects, the owner shall ensure that the performance of building systems meets the design intent. To provide quality assurance on a project, the owner may contract with an independent Commissioning Authority to serve as an advisor. State commissioning guidelines can be found at <http://www.nccx.org/>.

SECTION 107 CAPITAL PROJECT COORDINATOR - CPC

- A. The “Capital Project Coordinator” (CPC) is the individual authorized by each funded agency to coordinate all capital improvement projects and related matters with the State Construction Office and to represent that agency on all matters presented to the State Building Commission. The individual so designated for purposes of these rules may have other titles within his or her agency but shall carry out the duties assigned herein to the Capital Project Coordinator. Whenever the Capital Projects Coordinator is referenced herein, it shall be understood to include a designated assistant or representative.
- B. The State Construction Office will periodically, based on demand, conduct a 2-day course of instruction on the role and duties of the CPC as well as all things pertinent to the state construction process, including statutes, forms and documents, policies, procedures, review agencies, etc.
- C. The CPC is responsible for the Designer and Contractor Evaluations required by Statute and SBC rules. (GS143-135.26 (4)) and NCAC –[30E](#) & [30F](#). At the end of pre-bid phase, contract award phase, construction phase and post-construction phase, the CPC shall evaluate the designer(s) and prime contractor(s) performance at each phase of the project as well as the overall performance on the project at the conclusion of the work. An interim evaluation may be prepared by the CPC at the request of either party and either party can review and comment on evaluations prior to filing the report.

SECTION 108 STATE CAPITAL BUDGETS

- A. New capital funding: (2 year budgeting cycle) Funds available are typically reversions of monies not spent under the previous budget cycle.
- B. Repair and renovation funds: Funds are 3% of the replacement value of State buildings. ([GS143-15.3A](#)) NOTE: R & R funds shall not be used to construct new facilities nor increase an existing building footprint except for State or Federal Code Requirements.
- C. Special Appropriations. Allocations are created by specific legislative bills.

D. Non-appropriated funds.

1. Self-liquidating projects - Receipts supported – Ex.-Dorm rentals, parking fees, student activity/recreation fees, gate receipts, food service, bookstores, etc.
2. "Gift-in-Place" - Private funding, design & construction. See Section 1011.
3. "Foundation" financing.
4. Issuance of State bonds.

Note: SCO reviews and approves all State buildings and buildings built on State land regardless of funding source. Review scope may vary depending upon the project situation.

SECTION 109 REQUEST FOR CAPITAL IMPROVEMENT FUNDING ([OC-25](#))

State institutions and agencies planning a budget request for appropriations for capital improvements shall use Form OC-25, *Proposed Capital Improvement Project*, and forward a copy of each request to the State Construction Office for verification of scope, schedule and cost estimate. This form shall fully describe the proposed project and justification for need. The State Construction Office will act on Form OC-25 **only** when the request has been duly approved by the governing board of the institution or agency. Each form shall be signed by an authorized representative of the institution or agency. After review and certification by SCO, these forms are then returned to the agency for submittal to the Office of State Budget and Management for consideration in a proposed State Budget ([GS143-6](#))

Advance planning funds may also be requested via the OC-25 process. See Chapter 300 - 305 Advance Planning

109.1 OC-25 FORMS

The [OC-25](#) form is available in electronic format (Excel) on the SCO website and also a project worksheet that may help identify additional issues that could impact project cost.

109.2 OC-25 CHECKLIST

A [worksheet/checklist](#) is to be attached to the OC-25 Form and was developed by SCO to assist Owners in preparing their budget request. The checklist presents the Owner different categories of projects such as new construction, renovation/repair, roofing, etc. within which questions are posed about issues or conditions that may have a significant impact on the project which might otherwise not have been considered. Issues such as site conditions, available utilities, historic district, flood plain, etc. can impact program budgets if not considered early on.

- A. In accordance with requirements from State Statute GS 143.135 – Article 8C, designers for all State projects are required to submit an energy model for any new building over 20,000 gross sq. ft. (gsf), or any major renovation of an existing building over 20,000 gsf. Refer to the drop down menu under Guidelines on the State Construction Office website for energy performance modeling and reporting, water conservation, building commissioning and building performance verification guidelines.

This State Statute mandates a 30% energy savings for new construction over 20,000 gsf and a 20% energy savings for major renovations over 20,000 gsf against the standard ASHRAE 90.1-2004 baseline for a code compliant building.

A major renovation project is defined in the statute as a renovation project where the cost of the

project is greater than 50% of the insurance value of the building prior to the renovation, and the renovated portion of the building is larger than 20,000 gsf of occupied or conditioned space as defined by the North Carolina State Building Code.

Buildings with historic, architectural, or cultural significance under Part 4 of Article 2 of Chapter 143B of the General Statutes are excluded from the Statute requirements.

GS 143-135.35 -.40 also mandates that an independent Commissioning Authority shall be contracted by the owner for all projects that are over 20,000 gsf. The project design and construction teams and the public agency shall jointly determine what level of commissioning is appropriate for the size and complexity of the building and its components.

109.3 SCO CERTIFICATION OF THE OC-25

GS143-341 (3)b) - SCO is to certify that a statement of needs (OC-25) pursuant to GS143-6 is feasible.

“Feasible” means that the proposed project is sufficiently defined in overall scope; building program; site development; construction and equipment budgets; and comprehensive project scheduling so as to reasonably ensure that it may be completed within the amount of funds requested.

109.4 ADVANCE PLANNING

Advance planning contracts with designers are encouraged to assist Owners in programming, scope and budget analysis, site selection, studies, master planning, etc. Those reports, studies, estimate, etc. shall be included with OC-25 submittals for funding. Advance planning contracts are typically letter agreements for services or the standard design contract with limited scope. See also Chapter 305

- A. Advance planning of capital improvement projects may be accomplished subject to GS [143-18.1](#). Funds may be made available to Owners to pay for advance planning only to establish scope, budget, programming, schedule, or feasibility of a project prior to a request for full funding.
- B. Projects funded for advance planning through the normal capital improvement budget processes will be handled the same as fully funded projects in the procedures for designer selection, contracting and review.
- C. Long-range planning or master planning for institutional development is encouraged. All agencies are requested to consult with the State Construction Office relative to these programs.
- D. Advance planning is required for buildings that are required to comply with GS- 143-135.35 - .40(Article 8C), Sustainable, Energy Efficient Buildings. The extent of the advance planning required shall be determined in consultation with the State Construction Office. A flowchart to assist design team with the advance planning process for energy and water efficient buildings is available in the drop down menu under “Guidelines” on the State Construction website. (Advanced Planning Flowchart – GS 143-135.35 thru .40)

109.5 EMERGENCIES

Emergency situations are addressed in the General Statutes and SBC Rules: [NCAC 30D .0302\(e\)](#)

“(e) Special Procedures for Emergency Projects: On occasion, emergency design or consultation services may be required for restoration or correction of a facility condition which by its nature poses a hazard to persons or property, or when an emergency exists. Should this situation occur, in all likelihood there will not be sufficient time to follow the normal procedures described in this Rule. The

Capital Projects Coordinator on these occasions may declare an emergency, notify the State Construction Office and then obtain the services of a designer or consultant for consultation or design of the corrective action. In all cases, such uses of these emergency powers shall involve a written description of the condition and rationale for employing this special authority signed by the head of the agency and presented to the SBC at its next normal meeting. Timeliness for obligation of funds or other non-hazardous or non-emergency situations do not constitute sufficient grounds for invoking this special authority.”

SECTION 110 BUILDING DEMOLITION

110.1 GENERAL AUTHORITY

No building or structure owned by the State of North Carolina, except highways, bridges and railroads, may be razed, demolished or otherwise disposed of unless and until authority for such disposition has been approved by the Council of State and given in writing by the Department of Administration, State Property Office. ([G.S. 143-341.4](#)) All buildings to be razed or demolished shall be surveyed for asbestos-containing materials or other hazardous materials that shall be properly removed in accordance with environmental regulations and legally disposed of prior to demolition.

110.2 PROCEDURE TO OBTAIN AUTHORITY

Request for authority to raze or demolish any building or structure as defined above shall be made to the State Property Office on Form PO-2, *Disposition of Real Property*. Such request shall be accompanied by a resolution of the board or governing body where such board or governing body exists.

SECTION 111 ACQUISITION OF REAL PROPERTY BY GIFT

111.1 GIFT OF *EXISTING* REAL PROPERTY TO THE STATE

A gift to the State of land, or land and building(s), or other structures thereon. Proposals shall be submitted by the recipient institution to the DoA-State Property Office for review and referral to the Office of State Budget and Management with a recommendation. If approved by the Office of State Budget and Management, the State Property Office shall request the State Construction Office to provide a team of architects and engineers to inspect and evaluate the property as to suitability for use and estimate the cost of any needed repairs or renovations. The State Property Office reports those findings and makes recommendations to the Council of State for its consideration.

111.2 GIFT OF *PROPOSED* REAL PROPERTY ON STATE PROPERTY

This is referred to as a *gift-in-place* of a *proposed* building, structure or other improvement that is to be constructed by the donor on State property. Proposals shall be submitted by the recipient institution to the DoA-State Property Office for review and referral to the Office of State Budget and Management with a recommendation to the Council of State. If approved, the Office of State Budget and Management and the State Property Office shall typically prepare a lease of the proposed site to the donor as a construction site for the proposed gift. The selection, contracting and payment of the designer and the contractor is typically performed by the donor. The project is then designed and constructed as a "private" project. A building permit is required from the local inspections department or the plans may be reviewed and approved by the SCO and the Department of Insurance and construction monitored by SCO. Upon completion, SCO and DoI Electrical Inspector will conduct a final inspection and, if appropriate, shall inform the State Property Office that the

project has been accepted.

The property and "gift" will revert back to the State after building acceptance.

SECTION 112 EMPLOYMENT OF DESIGNERS AND OTHER OWNER AGENTS

Procurement of Architectural, Engineering, Surveying, Construction Manager at Risk, **Materials Testing Agency, and Commissioning Authority** services by all public entities shall be advertised publicly. Selections shall be made on a competence and best *qualification* basis without regard to fee, and then to negotiate a contract for those services for a fair and reasonable fee with the best qualified firm. [GS143-64.31](#)-34

Advertisement and selection of designers for State agency projects shall follow the *Designer Selection and Evaluation Procedures* established by the State Building Commission (SBC). The sections below are a brief description of the procedures and process. ([NCAC 30D](#))

Exception: UNC Systems follow SBC designer selection procedures and provide designer selection results to the SBC but do not present to the SBC for approval. Each Community College is locally owned and follows their own procedures and do not report or present to the SBC. The State Construction Office is not involved directly in UNC or Community College designer selection process but has the responsibility of negotiating their designer contracts.

112.1 AGENCY REQUEST FOR DESIGN SERVICES:

- A. Once funds are appropriated via the OC-25 process, the agency requests the SCO to advertise for design services on the State website. An agency contact person is listed who may be contacted by interested designers for additional information on scope or to arrange a site visit prior to the designer sending a letter of interest.
- B. The owning agency sends project information with a request for designers to submit letters of interest to the NC Interactive Purchasing System (IPS) website for electronic advertisement (<http://www.ips.state.nc.us/ips/pubmain.asp>). Letters of interest from Designers are received by the Owner up to and including a *specified date*.
- C. The scope of the materials and information to be submitted by the Designer is limited and defined by the State Building Commission rules to cover pertinent information only and to limit the size of submittals and a consistency in material. (NCAC 30D .0101).
- D. The next process is determined by the size of the project in dollars. A project whose cost is greater than \$500k or a planning study greater than \$50k will require interviews of selected designers. Less than those values, interviews are not required.

112.2 DESIGNER PRE-SELECTION PROJECTS <\$500,000 (MINOR PROJECT)

- A. A selection committee composed of the owner's capital projects coordinator, a representative(s) of the user group and two SCO representatives will review and discuss all designer submittals received relative to a range of criteria pertinent to the project.
- B. Three firms are selected and presented by the CPC at the next SBC meeting. Selections are presented in priority order, for any discussion and final selection by the SBC. There is no interview process.

112.3 DESIGNER INTERVIEWS - PROJECTS >\$500,000 (MAJOR PROJECT)

- A. A *pre-selection* committee, as described above, selects no less than three or more than six design firms to be interviewed by the selection committee.

- B. Selected firms are notified by SCO at least one week in advance of the interview and requested to prepare a presentation of the firm's qualifications and experience to the selection committee. The presentation may be at the SCO or the Owner's facility as appropriate. Typically the presentation is 15 minutes, with 30 minutes for questions and answers. This may vary with size and type of project. Presentation should be specific to or related to the proposed project. Any specific issues for the designers to address in the presentation will be provided to them in the request to present.
- C. The committee selects three firms in priority order. The CPC will prepare an information packet on the project for delivery by SCO to the SBC members at least one week prior to their meeting for their consideration.
- D. **IMPORTANT:** Selection committee members shall not divulge any information about discussions or decisions made by the selection committee. Designers and others should not contact any member pertaining to the process prior to public presentation and final action by the State Building Commission. The selected firm will be notified directly by SCO and listed on the State website.

112.4 STATE BUILDING COMMISSION APPROVAL OR RECOMMENDATION

- A. Designer selections are presented by the capital projects coordinator at the monthly public meeting of the State Building Commission.
- B. The SBC may question, approve, not approve, re-order, or reject and request the owner to re-advertise for designers. The final selection is made by majority vote of the State Building Commission.
- C. The SBC requires at least three reasons be listed for the selection of any firm. The reasons may be one or more of the following: Expertise and experience in similar work, makeup of the design team and consultants, current workload including state work, location of the firm, interest in the project or other attributes.

SECTION 113 STANDARD DESIGN CONTRACT

The institution, department or agency shall notify by letter to the State Construction Office of the selection of the designer for each capital improvement project, or other project, involving design of physical facilities on properties owned by the state regardless of the source or amount of funds. The Designer will receive a letter from SCO requesting a fee proposal. See 113.5

All contracts for design shall be executed on the *Standard Form of Agreement between Owner and Designer, Form OC-22*, which includes, by reference, the latest edition of this manual available on the SCO Website. The designer should review this material carefully prior to negotiating the contract. Advance planning, engineering studies, energy audits and special type agreements will be executed on an individual basis using letter agreement contracts applicable to the circumstances.

This standard document (OC-22) is for use only for "standard" capital projects for State facilities. The Designer should verify his scope of work as expected and defined by the Owner. Major institutions or major projects may require more extensive Designer activity and submittals such as presentations to numerous groups or stakeholders, additional design documentation at early design stages, phased construction, CMR involvement, etc. These should be addressed in a written amendment as an attachment under Article 14 of the design contract.

NOTE: The Designer and contractor will be evaluated by the CPC on their performance throughout the project in accordance with statutes and SBC rules. See Section 107 for procedures and links.

NOTE: Capital improvement projects proposed by or on behalf of a health care facility covered under either

P.L. 92-603, Section 1122, or the state certificate of need statute must be reviewed and approved through the Certificate of Need Section, Division of Facility Services. The State Construction Office will not prepare design contracts for health care facility capital improvement projects without proof of compliance with this legislation.

113.1 PROGRAMMING AND ADVANCE PLANNING

Programming may be accomplished with a “letter agreement” type contract. *Advance planning* may use the Standard Design Contract with a limited scope of work. Typically Article 14 would limit the scope to Schematics or Design Development in order to better establish the project scope and budget for funding request. When funds are available the contract may be extended through construction documents, bidding and construction administration.

113.2 ANNUAL SERVICE AGREEMENTS (FIXED TERM CONTRACT)

An annual service agreement is a one year, open end contract for professional design services that are to be provided on a routine or as needed basis for small, miscellaneous projects under \$300,000. Designers are selected under the minor projects procedures. Annual fees may not exceed \$150,000 in total value and no single project shall exceed a \$36,000 fee. The contract may be extended one additional year. See SBC Rules for details. ([NCAC 30D.0302](#))

113.3 FORMAL AND INFORMAL PROJECTS (BIDDING AND CONSTRUCTION)

- A. “**Formal**” projects are considered those defined by [GS143-129](#) with a *construction* contract value of \$300,000 or more, which is the threshold for several specific statutory requirements such as bid advertisement, bid procedures, bonding and minority business participation.
- B. “**Informal**” projects are considered those projects with a *construction value* below \$300,000. SCO has created an “informal” construction contract format such that these projects will have a consensus and consistency in forms and procedures.
- C. **NOTE:** A construction project does not have a clear dollar demarcation until bids are received and opened. If an apparent informal project has a cost estimate “close” to the \$300,000 threshold, then designer and owner should consider a formal bid package be used to ensure award of contract without re-bidding or negotiations. (See Chapter 400 - Forms and Documents - Bidding - for specific details and differences between the formal and informal contract procedures.)

113.4 STANDARD DESIGN CONTRACT - COMPONENTS AND DEFINITIONS

- A. **Owner:** The State of North Carolina through the project owning agency or institution.
(Exception: Community Colleges are county owned but State supported. By statute (GS143-341) any community college projects \$300,000 and over are required to follow all State Construction Office policies, forms and procedures, including review and approval. Therefore, Community College projects using SCO forms and documents shall delete the State of NC as the Owner and substitute “The Trustees of -- (Community College--)” as the Owner on all bid forms and contract documents.
- B. **Project:** Funding components of the project are:
 1. **Project Scope** is a basic description of the type, scope and/or size of the facility as required to define the project in accordance with the capital appropriation.
 2. **Project Budget** is the total funds available for the project identified by a budget code and item number. These funds include all items described below .
 3. **Less Reserves** that may be set aside for work or equipment that may be in the project budget but will/may not be a part of the design and /or construction contract. Examples are:

Site work and/or Utilities infrastructure not part of the facility or by others

Moveable Equipment by Owner

Data/video equipment/cablings not part of general construction

Parking allocations

Utilities contribution

Special Inspections or LCCA designer fees may be held in reserve if the SI final scope of work is not clear at the time the contract is negotiated. If not used, the monies may revert to contingency or construction funds.

4. **Balance of Project Budget:** (Including design fee and owner contingency below.)
 5. **Less Owner Contingency:** Owner's reserve funds to pay for soils investigations, testing, change orders, fee adjustments, etc. This figure is typically 3%-5% of the construction costs. **Important:** The Owner's Contingency funds cannot be used for the award of the construction contract.
 6. **Less Design Fee:** Negotiated between SCO and the Designer as a lump sum.
 7. **Construction Funds Available (CFA):** The amount of funds remaining for the award of construction contracts. This is the total project budget less the design fee, less the owner's fixed contingency and less any reserves.
- C. **Schedule:** Design stages with estimated dates for design phase submittals and an estimated bid date. Designer may wish to consult with the Design Review Section as to submittals required and estimated time of review. Time frames and exceptions are described in Chapter 300.
- D. **Consultants:** Designer shall list all consultants to be used on the project. Their subcontracts are to be attached and shall not contradict the terms and conditions of the design agreement.
- E. **Article 1-21:** Designer should verify Owner requirements for review copies at various design stages.
- F. **Article 14: Supplemental Agreement - (Amendments to Design Contract)** Any changes to project scope, project budget(s), submittals or design fees require an amendment to the contract under this article.

113.5 NEGOTIATION OF DESIGN CONTRACT

The State Construction Office - Contract Administration Section shall negotiate all design contracts.* The selected Designer will receive a written request to submit a design fee proposal for consideration. The Designer shall carefully review scope, budget, site, special requirements and regulatory time frames of the project with consultants and the Owner. The Designer shall review the State Construction Manual, forms, procedures and guidelines. The proposal shall set forth:

- A. A proposed lump sum design fee based on the project program, scope and budget.
- B. A proposed design production schedule and a proposed bid date. Designer should verify current regulatory review times to use in preparing the schedule. SCO schedule for review times are SD and DD - 30 calendar days and CD - 60 calendar days.
- C. Proposed design consultants to be employed for the project.
- D. The design contract fees will be negotiated with SCO on an individual project basis.
- E. Designer should consult with the Owner as to number of submittal copies the Owner requires for each stage of review and for record drawings, including facility management needs.

***Exception:** UNC System projects under \$2 million and Community College projects under \$300,000 are exempt from SCO negotiation of contract. GS143-341

113.6 PREPARATION OF DESIGN CONTRACT

The State Construction Office shall prepare the design contract and forward it to the institution, department or agency for execution and distribution. A design contract will **not** be prepared for any project that has not been previously approved by the General Assembly or the Office of State Budget and Management through the OC-25 process.

Note: No obligation on the part of the state shall exist until a design contract has been properly executed and distributed. Proceeding without a contract would be at the Designer's own risk and may delay review of the project. Typically a design submittal will not be reviewed until a design contract has been completed.

C. **Standard Form of Agreement Between Owner and Designer ([Form OC-22](#))**

This is the standard state design contract that defines the scope of work, project funds and the design fee. SCO Administrative Section prepares the design contract for signatures.

D. **[Guidelines](#)** for Recruitment and Selection of Minority Businesses for Participation in State Construction Contracts + Form E and MBE **[Forms and Affidavits](#)** – A,B,C,D describe roles and requirements for Owner, Designer, Contractor, SCO and the MBE office in accomplishing the State statutory goal of 10% minority business participation in State capital improvement projects. The Guidelines and Forms A thru E shall be included in the project bid documents. This guideline shall be included in the project bid documents for all formal projects over \$300,000.

For informal projects, under \$300,000, the Guidelines and Forms are not required of the contractor but the Owner is responsible for meeting the MBE participation goal.

E. **State Building Commission Guidelines for [Opening of Public Construction Bids](#)**

This is a text guide to the procedures for receipt and opening of bids for the Dual (Single Prime/Separate Prime) or the Separate Prime bidding methods. Also included is a graphic chart illustrating the required number of bids that must be received to open and as well as the various combinations thereof.

114.2 PROJECT DOCUMENT FORMS

The Advertisement for Bids, Notice to Bidders and the Proposal Form are in MSWord for [editing](#) by the Designer. These forms should not be modified in text content except to conform to the specific project.

Note: The [Construction Contract](#) link includes the Bid Bond, Performance and Payment Bond forms, Power of Attorney and Insurance pages and the Budget Office and Attorney General Approval page. These forms do not require editing until construction contracts are prepared.

114.3 TECHNICAL GUIDELINES AND CRITERIA

The State Construction Office - Design Review Section has produced design guidelines in the various disciplines. Those currently available are listed in Chapter 300 and on the SCO website.

The Designer and consultants should obtain copies and review prior to negotiating and signing the design contract.

114.4 ADDITIONAL INFORMATION AND POLICIES

The following are items of importance when negotiating the design contract that the Designer should be aware of and address prior to negotiating the contract. More details are available in this manual or on the SCO Website.

A. Professional seals identifying the “authors” and/or the “designer of record” shall be affixed to **all documents and drawings** submitted at each design phase submittal. No signature or date is required over the imprinted seals until final bid documents are printed for release to bidders. Designers may stamp the documents as “Review only”, “Not for Construction”, “Design Development” or any other statement accepted by their respective licensing boards. Do not stamp over the seal so as to render the name and number unreadable. That may arouse suspicion.

Note: SCO follows the NC architect and engineer licensing board rules and statutes explicitly as written. Pay particular attention to the use of “all”, “may”, and the definitions of “direct supervision”. See 2005 [SCO Conference](#) presentation addressing Seals

- B. Hazardous materials such as asbestos containing materials and lead paint may be involved in a project. Unless agreed to otherwise with the Owner, hazardous material abatement will be part of the scope of the design contract.
- C. Special inspections may be required by SCO on any project meeting the state building code criteria such as construction type in seismic and soils conditions or wind exposure. If indicated.
- D. A life cycle cost analysis is required by [GS143-64.10](#) for any new building, *or the renovation of an existing building*, that is over 20,000 square feet. (See [LCCA Guidelines](#) on the SCO Website.) If the project scope is not clearly defined at the time of design contract negotiation, a reserve of funds can be set aside in the contract for later adjustment to the design fee as required for the LCCA . The analysis report must be certified with an engineer or architect seal imprinted on the cover. [GS 143-6415A](#)
- E. Designer Evaluations and Contractor Evaluations are required by the State Building Commission and performed by the Capital Projects Coordinator.

SECTION 115 REFERENCE TO GENERAL STATUTES

All persons concerned with the planning, construction, disposition or acquisition of state-owned facilities or properties (or any public buildings) are advised to become familiar with the provisions of the NC General Statutes that pertain to those activities. They are categorized here and include title and number. The State website - www.ncgov.com under NC Agencies – General Assembly – Statute Lookup or <http://www.ncleg.net/homePage.pl> under “Statute Lookup” provides access to current NC General Statutes as well as new bills under consideration.

115.1 DESIGNERS AND CONTRACTORS

Chapter 1, Art. 5	Limitations, other than Real Property (Consumer protection)
Chapter 44A, Art. 3	Model Payment and Performance Bond
Chapter 75, Art. 1	General Provisions, Monopolies, Trusts and Consumer Protection
Chapter 83A	Architects
Chapter 143-64.31	Procurement of Architectural and Engineering Services
Chapter 87	Contractors
Chapter 89A	Landscape Architects
Chapter 89C	Engineering and Land Surveying
Chapter 89D	Landscape Contractors
Chapter 89E	Geologists Licensing Act
Chapter 102	Official Survey Base

115.2 ENVIRONMENTAL AGENCIES

Chapter 104E	N.C. Radiation Protection Act
Chapter 113A, Art. 1	Pollution Control and Environment
Chapter 130A, Art. 2	Local Administration (Part)
Chapter 130A, Art. 8	Sanitation of Establishments Providing Food and Lodging
Chapter 130A, Art. 9	Solid Waste Management
Chapter 130A, Art. 10	North Carolina Drinking Water Act
Chapter 130A, Art. 11	Sanitary Sewage System
Chapter 130A, Art. 19	Asbestos Hazard Management
Chapter 143, Art. 21	Water and Air Resources
Chapter 143, Art. 21B	Air Pollution Control

115.3 PUBLIC ADMINISTRATION

Chapter 14, Art.31	Misconduct in Public Office
Chapter 143, Art. 1	Executive Budget Act
Chapter 143, Art. 3	Purchases and Contracts (Part)
Chapter 143-64.31 ,	Procurement of Architectural and Engineering Services
Chapter 143-135.25 , Art. 8B	State Building Commission
Chapter 143, Art. 13	Publications
Chapter 143, Art.36	Department of Administration
Chapter 143B, Art.3	Department of Human Resources
Chapter 143-128, Art. 8	Public Construction and MBE Participation
Chapter 143B-374-375	N.C. Capital Planning Commission

115.4 PUBLIC BUILDINGS AND RELATED STRUCTURES

Chapter 69, Art.2	Fire Escapes
Chapter 113B, Art.1	Energy Policy Council
Chapter 113B, Art.2	Energy Crisis Administration
Chapter 121, Art.1	Historic Preservation Program
<u>Chapter 133, Art.1</u>	Public Works - General Provisions
Chapter 133, Art.3	Regulation of Contractors for Public Works
Chapter 136, Art.2-18	Airport Construction and Aircraft Landing Areas(DoT)
Chapter 136, Art.2-28.4	State Policy; Minority Participation (DoT)
Chapter 136, Art.2-44.14	Curb Ramps and Curb Cuts for Handicapped Persons (DoT)
Chapter 143, Art.3B	Energy Policy (LCCA)
<u>Chapter 143-128</u>	Public Building – Construction Contracts
<u>Chapter 143-129</u>	Public Building - Procedures for Bidding
Chapter 143, Art.9	Building Code Council and Building Code
Chapter 153A, Art.18	County Zoning
Chapter 153A, Art.18	Building Inspections - Permits
Chapter 160A, Art.19	City Zoning
Chapter 160A, Art.19	Building Inspections - Permits

115.5 REGULATORY AGENCIES – SEE LINKS IN CHAPTER 200

Chapter 58, Art.21	Insurance
Chapter 74, Art.7	The Mining Act of 1971
Chapter 95, Art.1-11	Department of Labor
Chapter 95, Art.7A	Uniform Boiler and Pressure Vessel Act
Chapter 95, Art.16	Occupational Safety and Health Act of North Carolina
Chapter 106, Art.56	N.C. Commercial Fertilizer Law
Chapter 113, Art.2	Acquisition and Control of State Forests and Parks
Chapter 113, Art.17	Marine Fisheries Commission and Department
Chapter 113A, Art.7	Coastal Area Management Permit Letting and Enforcement
Chapter 113A, Art.14	Mountain Ridge Protection
Chapter 119, Art.5	Liquefied Petroleum Gases
Chapter 121, Art.1	Historic Preservation Program
Chapter 130, Art.13B	Solid Waste Management
Chapter 130A, Art.2	Local Administration (Part)
Chapter 130A, Art.8	Sanitation of Establishments Providing Food and Lodging
Chapter 130A, Art.9	Solid Waste Management
Chapter 130A, Art.10	North Carolina Drinking Water Act
Chapter 130A, Art.11	Sanitary Sewage System
Chapter 130A, Art.19	Asbestos Hazard Management
Chapter 133, Art.3	Regulation of Contractors for Public Works
Chapter 143B, Art.10	Dept. of Commerce - NC Hazardous Waste Treatment Commission
Chapter 148, Art.1	Organization and Management - State Prison System