



NORTH CAROLINA COMMUNITY COLLEGE SYSTEM

Thomas A. Stith III

President

NUMBERED MEMO CC21-047

TO: Community College Presidents
Chief Financial Officers, Business Officers, Capital Project Coordinators

FROM: Elizabeth Grovenstein
Vice President and Chief Financial Officer

SUBJECT: Revised Special Construction Delegation Guidelines

DATE: October 5, 2021

On August 20, 2021, the State Board of Community Colleges approved the attached revisions to the special construction delegation guidelines. On August 27, 2021, the Director of the Budget approved these revisions, and on August 31, 2021, the State Building Commission approved these revised guidelines. Revisions are underlined in Attachment A. All future special construction delegation requests will be evaluated consistent with these revised guidelines. In addition, all currently approved colleges will need to submit documentation to show compliance with these changes by December 31, 2021. If a currently approved college needs additional time to comply, the college should contact me to request an extension.

A college's decision to request special construction delegation authority is voluntary and should only be pursued after thoroughly considering the duties, responsibilities, and related liabilities associated with this increase in authority. The attached guidelines describe the process a college must follow to request special construction delegation authority. Also attached is the required Form 3-8.

Please note that if the State Board grants special construction delegation authority to a college, the college continues to be subject to all other statutes and rules governing community college capital improvement projects. The State Board may rescind a college's special construction delegation for failure to comply with these laws and regulations.

If you have any questions regarding these guidelines, please contact me or Brandy Andrews.

Special Construction Delegation Guidelines (Revised August 2021)

Section 8.19 of S.L. 2011-145 authorizes the State Board of Community Colleges (State Board) to delegate special authority to colleges to manage the following categories of capital improvement projects:

- Projects funded in part or in total with State funds requiring the total estimated expenditure of public funds of \$4,000,000 or less; and
- Projects funded in total with non-State funds regardless of the project's estimated cost.

No college may exercise broadened authority to manage capital improvement projects absent State Board approval. The State Board may grant special construction delegation to one or both categories of capital improvement projects noted above. If the State Board confers special delegated authority to a college, **the college continues to be subject to all other statutes and rules governing community college capital improvement projects**, including, but not limited to, G.S. 115D, G.S. 143-64.31-.34, G.S. 143-128.2, and G.S. 143-129. Delegated authority in no way prohibits a college from using the services of State Construction, if requested.

Duties and Responsibilities of Special Construction Delegation Authority

If a college is approved for special construction delegation and does not voluntarily obtain the assistance of the State Construction Office, the college is responsible for the following duties and responsibilities:

- 1. Selection of Architect/Engineer:** The college Board of Trustees continues to select the architect/engineer. The Board of Trustees may expedite the designer approval process through documented delegation of limited authority to the college president for designer selections. The Capital Project Coordinator (CPC) must review the process to ensure compliance with State Building Commission recommendations and GS 143-64.31-34.
- 2. Design Fee Negotiation and Preparation of Design Agreements:** The college is responsible for negotiating design fees and preparing design agreements. These duties shall be accomplished in consultation with the CPC, college Facilities staff, college Business Office staff, and college attorney. System Office staff will provide periodic feedback to the college regarding design fee trends as such information is obtained. The design agreement must be signed by a person authorized to commit the college to a financial obligation.
- 3. Design Review and Coordination of Design Reviews with Regulatory Agencies of State Government:** The college is responsible for examining and approving all plans and

specifications for the capital improvement project. The CPC, or other college designee, is responsible for coordinating with the design consultant to ensure that applicable reviews by the regulatory agencies as described in the **Regulatory Review Agencies** chapter of the State Construction Manual are submitted and that all subsequent comments are satisfactorily resolved.

4. **Advertisement of Construction Bids, Bid Opening, Bid Evaluation, and Award Recommendation:** The college is responsible for ensuring that these responsibilities are performed consistent with GS 143-129.
5. **Construction Contract Award:** The college Board of Trustees is the contract award approving authority. The college attorney must review the contract as to form.
6. **Pre-Construction Conference and Issuance of Notice to Proceed:** The college is responsible for holding the pre-construction conference and issuing the Notice to Proceed in consultation with the design consultant.
7. **Work in Progress (Construction Management):** The CPC, in consultation with college staff, is responsible for this duty as described in the Construction Management chapter of the State Construction manual as the designated project monitor.
8. **Change Order Management:** The CPC, in consultation with the college staff, shall have the responsibility of managing change orders.
9. **Dispute Resolution:** The college is fully responsible for managing the resolution of disputes. The college Board of Trustees must adopt a dispute management resolution process consistent with GS 143-128 and incorporate this dispute resolution process in the terms of the construction contract.
10. **Final Acceptance and Close Out:** The Board of Trustees is responsible for authorizing final project acceptance, based on the recommendations of the CPC and after issuance of a Certificate of Occupancy by the local building and electrical inspector and a Certificate of Compliance by the designer as described in the Final Acceptance chapter of the State Construction Manual.
11. **Historically Underutilized Business (HUB) and Interscope Reporting:** The college is required to comply with all current statues, HUB office regulations, and executive orders involving utilization of HUB-certified firms, and associated reporting of such usage through the State Construction Office’s Interscope system.

Process for Receiving and Reviewing College Delegation Requests

To request State Board approval for special construction delegation authority, a college must submit the following documents to the Vice President for Business and Finance:

- Letter signed by the college president on college letterhead requesting special construction delegation authority and stating that the Board of Trustees has authorized the college to make this request.
- Request for Special Construction Delegation (NCCCS Form 3-8).

System Office staff will review the request and make a recommendation to the State Board. The analysis will include, but is not limited to, the following assessments in determining any recommendation of delegation:

- 1. Assessment of College Capacity:** This assessment will be based on the presence of the following capacity:
 - a. Capital Projects Coordinator (CPC):** The CPC is the person at the college who is responsible for the capital construction process and performs the duties as described in the State Construction Manual. This person will work with the System Office to coordinate the capital process with the State Board. This includes project initiation, budgeting, and state funds reimbursement requests. The CPC must be familiar with the State Construction process as demonstrated by having attended the training course for CPC's given by the State Construction Office and having completed two or more formal capital improvement projects in the role of CPC from project initiation to project close out.
 - b. Technical Construction Expertise:** The college must have access to the technical construction expertise, as demonstrated by licensed credentials and experience, necessary to fulfill its responsibilities of design review, construction monitoring, and the close out process for each capital improvement project. This technical expertise may be provided by either college staff or through contracted professional services. Acceptable licensed credentials include 1) licensed architect or 2) licensed professional engineer. The college's technical construction expert will be responsible for performing the services of design review, construction monitoring, close out, and other duties typically performed by the State Construction Office.
 - c. Attorney:** The Board of Trustees must have available the services of an attorney versed in construction law to provide the appropriate legal advice and representation. The attorney may either be an employee of the college or on contract.

- d. **Administrative support personnel:** The college must designate administrative staff to provide support to the CPC.
 - e. **An identified HUB coordinator:** The college must identify a staff member responsible for HUB reporting and compliance. This individual must have attended an Interscope training class and participate in the monthly CPC meeting hosted by the HUB office.
2. **Assessment of College Policies and Procedures:** The college must have a construction procedure manual outlining the procedures for managing capital improvement projects.
3. **Assessment of Past Practices:** System Office staff, in conjunction with the State Construction Office, will conduct a review of past practices and actions regarding issues associated with formal construction projects. This will be accomplished by a review of project files, timely and appropriate submissions for State Board approval, timely and appropriate submissions for State Construction review and approval, college audit reports concerning facility management and financial management of capital facility projects, and a review of projects requiring dispute resolution by the State Construction Office. If the review reveals a pattern of failing to follow procedures as set forth in the NC Community College System Construction Manual and the State Construction Manual, that pattern may serve as a basis for recommending disapproval.

The State Board will determine whether to delegate authority to the college to the fullest extent provided under the law for each authorized category of special construction projects. The Board will not consider authorizing partial or incremental increases in construction delegation. If the State Board approves a college's request to grant special construction delegation authority, the approval will be effective on the first day of the month following State Board approval and applies to any project in the approved categories for which the construction contract is executed after the effective date.

All colleges approved for special delegated authority must submit a new 3-8 annually. The form should be updated to reflect most recent college assignments and procedures.

If a college **does not** receive special delegation authority, the college must continue to follow the procedures as addressed in GS 143-129 and GS 143-341 to include review and oversight by the State Construction Office. A college may submit a request for reconsideration after one year. The new application should include information identifying the steps taken to improve the deficiencies and demonstration of the success of those changes.

Authority to Rescind Special Construction Delegation Authority

The State Board may rescind a college's special delegation authority under any of the following circumstances:

1. Failure to comply with statutes, rules, and procedures governing community college capital improvement projects.
2. Failure to annually submit a Form 3-8 to inform the State Board of any significant change impacting the college's capacity to manage the increased delegation as represented in its original request.
3. Negative audit findings associated with construction management.
4. Demonstrated problems managing its special construction delegation authority.

NCCCS FORM 3-8

All 3-8 forms should be emailed to ciprojects@nccommunitycolleges.edu

College

The College understands and accepts the responsibilities of assuming an increase of delegation for capital improvement projects. The College is committed to following the policies, procedures, and guidelines as provided by General Statute, the Administrative Code, the NC Community College System Office Construction Manual, and the State Construction Manual.

Signatures: Fill in names and then sign and date

Capital Projects Coordinator

CPC Signature and date

Chief Financial Officer

CFO Signature and date

President

President's Signature and date

Chair, Board of Trustees

BOT Signature and date

NCCCS FORM 3-8

All 3-8 forms should be emailed to ciprojects@ncccommunitycolleges.edu

Please attach documents to provide the following information. Refer to numbered memo CC 21-XXX for additional information.

For which category or categories of capital improvement projects is the College requesting increased delegated authority to handle?

Capital Project Coordinator

- Explain what experience qualifies the individual to serve as the CPC.
- When did the CPC complete the State Construction Office Capital Projects Coordinator class?
- How many formal capital improvement projects has the current CPC overseen from design to close out?
- Describe the administrative support available to the CPC.

Attorney

- Provide the name and describe the experience of the attorney who will provide appropriate legal advice and representation.

Technical Construction Expertise

- Provide the name, experience, and licensing credentials of the college staff or other contracted professional who will provide design review, construction monitoring, and close out for the capital improvement projects.
- How many formal capital improvement projects has each individual overseen at the College?

HUB Coordinator

- Provide the name and position of the person who will perform HUB reporting for both major (>\$500K) and minor (<\$500K) projects.
- When did this person attend Interscope training?

Attach a pdf of the College's Construction Manual that details procedures to be followed for capital improvements.

Attach a copy of the College's organizational chart.

Attach a pdf of the sample design contract and construction contract to be used.

Attach any other information relevant to the application for increased construction delegation.