

STATE BOARD OF COMMUNITY COLLEGES
Guidelines for Certain Capital Projects

Request: The State Board of Community Colleges is requested to consider two actions that when taken together will provide community college transition for construction projects between \$500,000 and less than \$2,000,000.

First, the State Board of Community Colleges is asked to approve the attached Construction Delegated Authority Guidelines for Certain Capital Projects.

Second, the State Board of Community Colleges is requested to submit a request on behalf of colleges for continued supervision of projects between \$500,000 and less than \$2,000,000, until such time a college is approved under the Construction Delegated Authority Guidelines.

Background: Session Law 2021-180 (ratified on November 18, 2021), revised G.S. 143-341(3)(a)(2) regarding State Construction Office (SCO) supervision of community college projects between \$500,000 and less than \$2,000,000. Prior to Session Law 2021-180, the monetary threshold requiring SCO oversight was projects of \$500,000 and above. Session Law 2021-180 raised this threshold to \$2,000,000.

This change removed from the SCO the responsibilities for constructability, plan reviews, construction contract award, and project monitoring during construction for community college projects that are less than \$2,000,000. The 2021 Appropriations Act became law on November 18, 2021; however, the Act had an effective date of July 1, 2021.

On March 17, 2022, Session Law 2022-6 (Budget Technical Corrections) amended Session Law 2021-180 which changed the effective date of the legislative change to July 1, 2022, bringing capital construction projects between \$500,000 and less than \$2,000,000 back under SCO oversight for this time period.

Rationale: G.S. 115D-9(c) requires approved guidelines be adopted by the State Board and approved by the State Building Commission and the Director of the Budget. The guidelines will govern an increased delegation for projects between \$500,000 and less than \$2,000,000, effective July 1, 2022. These guidelines will be submitted to the State Building Commission and Director of the Budget in accordance with G.S. 115D-9(c). To facilitate the transition and effective date of July 1, 2022, the State Board's request to SCO for continued supervision will allow time for a college to request this delegated authority based on their college need. SCO will be made aware of any college that requests and receives this delegated authority moving forward.

Contacts:

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STATE BOARD OF COMMUNITY COLLEGES
Construction Delegated Authority Guidelines for Certain Capital Projects

Section 40.6 of Session Law 2021-180 revised G.S. 143-341(3)(a)(2) regarding State Construction Office (SCO) supervision of community college capital projects between \$500,000 and less than \$2,000,000. Session Law 2022-6, (Budget Technical Corrections) amended S.L. 2021-180 making the effective date July 1, 2022.

No college may exercise broadened authority to manage capital improvement projects absent State Board approval. If the State Board confers 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, Chapter 115D of the General Statutes, G.S. 143-64.31-.34, G.S. 143-128.2, G.S. 143-129, and G.S. 133-1.1.

Duties and Responsibilities

If the SBCC approves a college for this delegation, the college will assume 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 400 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 G.S. 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 a 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 700 of the State Construction manual as the designated project monitor.
- 8. Change Order Management:** The CPC, in consultation with other 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 G.S. 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 “Construction Management” chapter 700 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 Requesting Delegated Authority

To request State Board approval for delegated authority for a project with a total cost between \$500,000 and less than \$2,000,000, a college must submit the NC Community College System Office Form 3-8A via email to CIProjects@nccommunitycolleges.edu.

Once Form 3-8A is received from a college, System Office staff will review the request and provide the information to the State Board. The review will include, but is not limited to, the following:

- 1. Review of College Capacity:** This review 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. 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 experience with capital improvement projects, or comparable experience.
 - b. Technical Construction Expertise:** The college must have access to the technical construction expertise, as demonstrated by licensed credentials and experience, to fulfill duties and responsibilities. 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.
 - c. Attorney:** The board of trustees should 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.

The State Board will determine whether to delegate authority to the colleges. If a college receives approval of delegated authority, approval will be communicated to the State Construction Office. If a college is approved to have delegated authority under these guidelines, they may later request the SBCC to ask for SCO supervision for an individual project. This request must be in written form and submitted to the System Office at CIProjects@nccommunitycolleges.edu.

If a college receives approval for construction delegated authority, the college must submit a

NCCCS Form 3-8A each year.

Authority to Rescind Construction Delegated Authority

The State Board may rescind a college's delegated 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 3-8A to inform the State Board of any significant change impacting the college's capacity to manage the delegated authority as represented in its original request.
- 3.** Negative audit findings associated with construction management.
- 4.** Demonstrated problems managing its construction delegated authority.
- 5.** A college requests the State Board rescind a previously approved delegated authority.

REQUEST CONSTRUCTION DELEGATED AUTHORITY

Community College:		Phone:	
Address:			
City:		State NC	ZIP:
Person completing form:			

The college must complete this Request for Construction Delegated Authority – Capital Improvement (NCCCS 3-8A) form and submit to the System Office.

- Who is the person appointed to serve as the Capital Projects Coordinator (CPC)? _____
- Does the College have access to technical construction expertise, as demonstrated by licensed credentials and experience? Y _ N
- Do the Board of Trustees have available the services of an attorney versed in construction law? Y _ N
- Does the CPC have designated administrative support staff? Y _ N
- Does your college have a HUB coordinator identified for HUB reporting and compliance? Y _ N
- Does your college understand and assume the Duties and Responsibilities outlined in the Construction Delegated Authority Guidelines? Y _ N

Signatures

Capital Projects Coordinator:	Signature:	Date:
Chief Financial Officer:	Signature:	Date:
President:	Signature:	Date:
Board of Trustees	Signature:	Date:

The community college understands and accepts the responsibility of assuming delegated authority for capital improvement projects with a total project cost of \$500,000 to less than \$2,000,000. The college is committed to following the policies, procedures, and guidelines as provided by General Statute, the Administrative Code, the NCCCS Construction Manual, and the State Construction Manual.

Email To: CIProjects@ncccommunitycolleges.edu

**SBC
05/20/2022**