

TEXAS STATE TECHNICAL COLLEGE SYSTEM
SYSTEM OPERATING STANDARD

No. GA.4.4	Page 1 of 11	Effective Date: 06/20/05
DIVISION:	General Administration	
SUBJECT:	New Construction, Modification and Rehabilitation of Facilities	
AUTHORITY:	Minute Order #90-01	
PROPOSED BY:	<i>Original Signed by Mike Buck</i>	
TITLE:	Associate Vice Chancellor, Administrative Services	Date: 06/20/05
RECOMMENDED BY:	<i>Original Signed by Mike Buck</i>	
TITLE:	Associate Vice Chancellor, Administrative Services	Date: 06/20/05
APPROVED BY:	<i>Original Signed by Bill Segura</i>	
TITLE:	Chancellor	Date: 06/20/05

STATUS: Approved by MC 06/20/05

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 Approved MC 07/25/96
 Proposed 06/04/96

POLICY

It is the policy of Texas State Technical College System for all new construction, modification, and rehabilitation of facilities projects to have advance approval by the

appropriate authority prior to commitment of funds or commencing a project. The authority and responsibility for construction contract approval and management rests with the Board of Regents or its designee(s).

PERTINENT INFORMATION

When undertaking a construction project many factors must be considered including speed of completion, final construction quality, financial efficiency and budget restrictions, energy efficiency and cost of operation, and user needs, to name a few. Additionally, there exists many different methods of planning and executing a construction project and each brings with it an inherent and varying level of these fundamental characteristics. Frequently, these characteristics can be mutually exclusive and, therefore, require the colleges to prioritize and balance them to insure the desired outcome is obtained.

There are two primary considerations for construction projects: approval of the project and management of the construction process. These two functions are fulfilled by various TSTC components based on the actual aggregate dollar amount of the construction contract cost. No inclusion of professional fees, college expenses or other miscellaneous items will be used in determining the construction contract amount.

APPLICABILITY: This operating standard applies to all construction and/or remodeling projects located on a TSTC college or extension center.

DEFINITIONS: The following terms whenever used or referred to in this operating standard shall have the following meanings:

1. "Project" means any construction and/or remodeling project. The term "Project" shall include the construction of any building or any structure or any facility or any addition to, alteration, rehabilitation, or major repair of any existing building, structure, facility or supporting utilities.
2. "Project Costs" includes, but shall not be limited to, the cost of construction, installed equipment, architectural and engineering and legal expenses, cost of surveys and plans and specifications, site development, and other expenses required to provide a completed project.
3. "Construction" means acquisitions, construction, and reconstruction.
4. "Rehabilitation" means renewal, restoration, extension, enlargement, and improvement.
5. "Alteration" means any change or modification to any structural, mechanical, or electrical component of a building or facility.
6. Construction Delivery Methods:

- a. Competitive Bids - A delivery method wherein the College selects an architect, engineer to design and develop construction documents from which the College solicits lump sum bids. Selection is based on the lowest responsible bid and the contractor serves as a single point of responsibility for construction.
- b. Competitive Sealed Proposals - A delivery method similar to competitive bidding. The College selects an architect, engineer to design and develop construction documents. Once documents are fully complete, the College solicits sealed proposals. Selection is based on a combination of price and other factors that the College deems provide best value.
- c. Construction Manager-at-Risk – A delivery method wherein the construction manager serves as the general contractor providing pre-construction and construction services. The Construction Manager at Risk provides design phase consultation in evaluating costs, schedule, implications of alternative designs, systems and materials during design, and serves as a single point of responsibility contracting directly with the subcontractors during construction.
- d. Construction Manager Agent - A delivery method wherein the construction manager serves as an agent for the College providing pre-construction and construction services in lieu of a general contractor. The Construction Manager, Agent provides design phase assistance but holds no subcontracts nor provides project bonding for the construction. The multiple trade contracts are held by the College. Selection is based on the proposal offering the best value to the College.

DELEGATION OF AUTHORITY

The approval authority for construction contract projects is distributed as follows:

Aggregate Contract Amount	Approval Authority	May be Delegated
Less than \$50,000	College President	No
\$50,000 or more but less than \$250,000	Chancellor	Yes
\$250,000 or more	Board of Regents	Yes

The management responsibility for the process of planning and performing a construction project is as follows:

Aggregate Contract Amount	Managing Party	May be Delegated
Less than \$50,000	College President, or Designee	Yes
\$50,000 or more but less than \$250,000	College President, or Designee	Yes

\$250,000 or more	Chancellor, or Designee	Yes
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The authorities and responsibilities outlined above may be delegated if so indicated. A delegation of authority or responsibility may be issued on a project-by-project basis or may be a blanket designation. Such a delegation shall be written and copy shall be promptly filed with the Chancellor’s Office. In order to insure a regular review by the grantor, a blanket designation shall have an expiration date of not more than two years.

OPERATING REQUIREMENTS

Construction projects are classified by their aggregate costs. A “Major” project is one that has an aggregate cost of \$250,000 or more. A “Minor” project has an aggregate cost of less than \$250,000. A Major project shall not be partitioned in order to make it a series of Minor projects. No inclusion of professional fees, college expenses or other miscellaneous items will be used in determining the aggregate costs of a construction contract. TSTC shall use one of the following construction delivery methods: competitive bids, competitive sealed proposals, construction manager at risk, or construction manager agent.

MAJOR PROJECTS

The provisions of this section apply to projects for the construction of new buildings, facilities, or other permanent improvements and projects for the repair, renovation, or rehabilitation of existing buildings, facilities, or other permanent improvements that are \$250,000 or more in cost. Project initiations, appropriations, Architect/Engineer, Construction Manager selections and/or contract awards shall be in accordance with the following:

1. Requests for all construction and modification/rehabilitation projects of \$250,000 or more shall be submitted to the Board of Regents for approval prior to the commencement of any professional or construction activity. A Minute Order shall be prepared and submitted to the Board of Regents approving the concept of the project and approving an application to the Texas Higher Education Coordinating Board, if needed.
2. An Architect/Engineer (hereinafter referred to as “A/E”) and/or Construction Manager (hereinafter referred to as “CM”) shall be used on all major projects and the A/E and/or CM selection process outlined in System Operating Standard GA 4.3 shall be followed. An A/E must hold an appropriate Texas professional registration and/or certification in order to be engaged by TSTC. A Minute Order shall be prepared for the Board of Regents to approve the selection of the project A/E and/or CM.
3. By Minute Order, the Board of Regents shall approve the final plans and specifications prior to authorizing the Chancellor (or designee) to seek bids.

CONSTRUCTION DELIVERY METHODS

TSTC shall use either competitive bids, competitive sealed proposals, construction manager agent, or construction manager-at-risk as the approved construction delivery method.

- a. Competitive Bids – TSTC shall award a competitively bid contract at the bid amount to the bidder offering the best value to TSTC according to the selection criteria that were established by TSTC.
- b. Competitive Sealed Proposal – TSTC may use competitive sealed proposals to select a contractor for construction services, to select a construction manager, or to award a job order contract for construction services and shall base its selection or award on a combination of price and other factors that TSTC determines provides the best value to TSTC.

TSTC using competitive sealed proposals may discuss proposals with offerors after proposals have been opened to allow for clarification and changes. TSTC shall take adequate precautions to ensure that information from competing proposals is not disclosed to other offerors.

TSTC shall provide or contract for, independently of the contractor, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by TSTC. TSTC shall select those services for which it contracts in accordance with Section 2254.004, Government Code.

TSTC shall prepare a request for competitive sealed proposals that includes construction documents, selection criteria, estimated budget, project scope, schedule, and other information that contractors may require to respond to a request. TSTC shall state the selection criteria in the request for proposals. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the contractor.

TSTC may provide for prequalifying offerors before proposals are submitted. Prequalification may not be a conclusive determination that an offeror offers the best value to TSTC, and a prequalified offeror may be rejected on the basis of subsequently discovered information. A failure to prequalify does not bar a subsequent determination that an offeror offers the best value to TSTC with respect to a given proposal.

TSTC shall receive, publicly open, and read aloud the names of the offerors and the monetary proposals, if any, stated in each proposal. Within 45 days after the date of opening the proposals, TSTC shall evaluate and rank each proposal submitted in relation to the published selection criteria.

TSTC shall select the offeror that offers the best value to the TSTC based on the

published selection criteria and on its ranking evaluation. TSTC and its engineer or architect may discuss with the selected offeror options for cost reduction. If TSTC is unable to reach a contract agreement with a selected offeror, TSTC shall terminate further discussions and proceed to the next offeror in the order of the selection ranking until a contract agreement is reached or all proposals are rejected.

In determining best value for TSTC, TSTC is not restricted to considering price alone, but may consider any other factor stated in the selection criteria.

- c. Construction Manager Agent – TSTC may use the construction manager-agent method for the construction, rehabilitation, alteration, or repair of a facility. In using that method and in entering into a contract for the services of a construction manager-agent, TSTC shall follow the procedures prescribed by this section.

A construction manager-agent is a sole proprietorship, partnership, corporation, or other legal entity that provides consultation to TSTC regarding construction, rehabilitation, alteration, or repair of the facility. A construction manager-agent represents TSTC in a fiduciary capacity, except that it may perform general conditions as provided by the contract.

TSTC shall select a construction manager-agent on the basis of demonstrated competence and qualifications in the same manner as provided for the selection of engineers or architects under System Operating Standard GA.4.3, Employment of Architects, Engineers, and Construction Managers.

TSTC using the construction manager-agent method shall procure a general contractor, trade contractors, or subcontractors who will serve as the prime contractor for their specific portion of the work.

TSTC or the construction manager-agent shall procure in accordance with Section 2254.004, Government Code, all of the testing of construction materials engineering, the inspection services, and the verification testing services necessary for acceptance of the facility by TSTC.

- d. Construction Manager-At-Risk – TSTC may use the construction manager-at-risk method for the construction, rehabilitation, alteration, or repair of a facility. In using that method and in entering into a contract for the services of a construction manager-at-risk, TSTC shall follow the procedures prescribed by this section.

A construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repairs of a facility at the contracted price as a general contractor and provides consultation to TSTC regarding construction during and after the design of the facility.

TSTC shall provide or contract for, independently of the construction manager-at-risk, the inspection services, the testing of construction materials, engineering,

and the verification testing services necessary for acceptance of the facility by the district. TSTC shall select those services for which it contracts in accordance with Section 2254.004, Government Code.

TSTC shall prepare a request for competitive sealed proposals that includes general information on the project site, project scope, schedule, selection criteria, estimated budget, the time and place for receipt of proposals, and other information that may assist TSTC in its selection of a construction manager-at-risk. TSTC may request that proposals provide the construction manager's proposed fee and its price for fulfilling the general conditions. TSTC shall state the selection criteria in the request for proposals. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction manager.

TSTC may provide for prequalifying offerors before proposals are submitted. Prequalification may not be a conclusive determination that an offeror offers the best value to TSTC, and a prequalified offeror may be rejected on the basis of subsequently discovered information. A failure to prequalify does not bar a subsequent determination that an offeror offers the best value to the district with respect to a given proposal.

TSTC shall receive, publicly open, and read aloud the names of the offerors and monetary proposals, if any, for each proposal. Within 45 days after the date of opening the proposals, TSTC shall evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

TSTC shall select the offeror that offers the best value to TSTC based on the published selection criteria and its ranking evaluation. If TSTC is unable to reach a contract agreement with the selected offeror, TSTC shall terminate further discussions and proceed to the next offeror in the order of the selection ranking until a contract agreement is reached or all proposals are rejected.

A construction manager-at-risk shall publicly advertise and solicit either competitive bids or competitive sealed proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction manager-at-risk may seek to perform portions of the work itself if the construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors and if TSTC determines that the construction manager-at-risk's bid or proposal provides the best value for TSTC.

The construction manager-at-risk and TSTC or its representative shall receive and open all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process. All bids or proposals shall be made public within seven days after the date of the final

selection.

If the construction manager-at-risk reviews, evaluates, and recommends to TSTC a bid or proposal from a trade contractor or subcontractor but TSTC requires another bid or proposal to be accepted, TSTC shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk may incur because of TSTC's requirement that another bid or proposal be accepted.

4. Bids or proposals will be opened and evaluated within approved purchasing guidelines.
 - a. For Competitive Bids, the Board of Regents will approve the acceptance of the bid, award a construction contract and approve a construction budget.
 - b. For Competitive Sealed Proposals, a recommendation will be made to award a contract to the respondent who can best deliver the project at the best value to TSTC as determined by pre-established criteria. The Board of Regents will approve awarding a Standard Agreement and approve a construction budget.
 - c. For Construction Manager Agent (CMA) proposals, a recommendation will be made to award a contract to the Construction Manager Agent who can best provide the best value to TSTC before, during and after construction. CMA contracts may be project specific, or to meet the general needs of the college for a period not to exceed three years. The Board of Regents will approve awarding a standard agreement and approve a construction budget, if not already approved as a component of the annual budget. The Construction Manager Agent will then develop and award sub-contracts between TSTC and subcontractors for the project, in full compliance with approved purchasing guidelines. F
 - d. For Construction Manager Risk (CMR) proposals, a recommendation will be made to award a contract to the Construction Manager Risk who can best provide the best services and costs associated with this construction delivery method. The Board of Regents will approve awarding a standard agreement for the project and a construction budget. The Construction Manager Risk is then responsible for developing subcontractor interest in the project and determining, prior to receipt of bids, the qualifications of subcontractors to perform the work. In this delivery method the Construction Manager Risk holds the contracts with the subcontractors. The CMR is also responsible for developing the guaranteed maximum price.
5. When the project is 95 percent complete, a Minute Order will be recommended to the Board of Regents for acceptance of the building, pending approval by the Architect/Engineer and authorization to release retainage.

MINOR PROJECTS

The provisions of this section apply to projects for the construction of new buildings, facilities, and other permanent improvements, and projects for the repair, renovation, or rehabilitation of existing buildings, facilities, or other permanent improvements that are less than \$250,000 in cost. Projects \$50,000 or more but less than \$250,000 in cost require the Chancellor's approval. Projects less than \$50,000 in cost require the President's approval.

With respect to such minor construction and rehabilitation projects and in accordance with their respective authorities as outlined herein, the Chancellor or President(s) are hereby authorized:

- (1) to initiate projects;
- (2) to appropriate funds to provide project funding;
- (3) to select and contract with A/E's for professional design services;
- (4) to award, execute, and administer contracts;
- (5) to do any and all things necessary to complete construction and rehabilitation.

Minor projects do not require the engagement of an A/E but the use of one is recommended on larger and/or more complex projects that involve structural, electrical, or mechanical engineering and for which the contemplated expenditure for the completed project exceeds \$8,000.

CHANGE ORDERS

The Board of Regents shall approve any change order which causes the aggregate cost of a "Major" project to exceed its original approved budget by ten percent or more.

The Board of Regents shall approve any change order which causes the aggregate cost of a "Minor" project to exceed its original approved budget by ten percent or more and causes the aggregate cost to become \$250,000 or more.

On "Minor" projects, change orders shall be approved by the Chancellor, his designee, or the party that originally approved the overall project.

EASEMENTS

All easement granted by TSTC shall be approved in advance by the Board of Regents following a review by legal counsel.

Documentation required for consideration by the Board must include, but is not limited to (1) a legal description of the easement (2) a site plan showing an outline rendering of the

entire easement and an indication of all existing facilities or improvements related to, or impacted by, the easement, (3) a copy of the actual instrument (if available) that will be filed in the real property records, (4) a statement from the administration regarding the expected current and future impact of the easement on TSTC, and (5) the general counsel's recommendation regarding the easement.

MANAGEMENT PROCEDURES

The following procedure shall be followed for the management of a construction contract and related activities required to complete the contract.

1. When the need for a construction project is identified, the administration of the respective college shall develop a summary of needs and requirements appropriate to the scope of the project. These needs and requirements should be developed and reviewed by the Associate Vice Chancellor for Administrative Services, the appropriate College President and any other appropriate individuals or department personnel prior to submitting the project concept to the appropriate approving authority.
2. An Architect/Engineer and/or Construction Manager should be selected in accordance with the selection guidelines.
3. Final plans and estimates of project costs are submitted to the appropriate approving authority for review and approval.
4. Bids are advertised, received and compiled on the approved project by the Director of Purchasing in accordance with established purchasing laws and procedures.
5. Bids on the project are submitted to the appropriate approving authority and the contract is awarded in accordance with established laws and regulations on purchasing.
6. The Architect/Engineer prepares the construction project documents and the TSTC legal counsel approves them. The Architect/Engineer insures that all documents are signed by the contractor (and other appropriate parties) and secures performance bonds (if applicable) from the contractor.
7. The Architect/Engineer issues a Notice to Proceed and the project commences.
8. Change orders are prepared by the Architect/Engineer and are submitted to the contractor for a cost estimate and completion schedule changes, then reviewed by the college administration and approved by the appropriate approving authority.
9. The contractor or construction manager initiates and submits to the Architect/Engineer all applications for payment or partial payment of the contract for review and approval. The Architect/Engineer forwards approved applications to the appropriate

approving authority for college approval. All approved requests for payment are transmitted to the Business Office for processing.

10. When contracted work has been substantially completed (95 percent), the Architect/Engineer completes a Certification of Substantial Completion and submits it to college administration. The Architect/Engineer also submits a list (“punch list”) of those items not yet completed.
11. Based on the Certificate of Substantial Completion, the college administration approves acceptance (Minor Projects) or initiates a Minute Order for the Board of Regents acceptance (Major Projects). After approval, the college assumes ownership of the facility and commences using it.
12. Upon satisfaction of items on the “punch list” and notification by the Architect/Engineer, college administration releases payment of retainage and closes out the project.

PERFORMANCE STANDARDS

1. College procedures, consistent with this System Operating Standard exist, are up-to-date, and are followed.
2. All documentation to support this System Operating Standard is filed with the Associate Vice Chancellor for Administrative Services.
3. Quarterly progress reports are filed with the Associate Vice Chancellor for Administrative Services one month prior to Board of Regents meeting.

COLLEGE OPERATING PROCEDURE	
COLLEGE	Page 1 of
OFFICE OF RESPONSIBILITY:	
APPROVED BY:	
TITLE:	Date
FORWARDED TO SYSTEM OFFICE ON	