

**SOUTH DAKOTA BOARD OF REGENTS**

**Budget and Finance**  
**Consent**

**AGENDA ITEM: 3 – R (2)**  
**DATE: December 4-6, 2018**

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**SUBJECT**

**BOR Policy 6:4 – Capital Improvements (First & Final Reading)**

**CONTROLLING STATUTE, RULE, OR POLICY**

[SDCL 5-14-1](#) – Classification of Capital Improvements

[SDCL 5-14-2](#) – Supervision by Bureau of Administration of capital improvement projects

[SDCL 5-14-3](#) – Preparation of plans and specifications for capital improvements- State building committees – Approval by board or commission in charge of institution

**BACKGROUND / DISCUSSION**

The flowchart depicting the approval process of a capital improvement project at the end of BOR Policy 6:4 is changing such that the Board will no longer have to approve the Guaranteed Maximum Price as part of the Construction Management approval process.

The board approves a budget for projects as part of the Facility Program Plan. The attachment to BOR Policy 6:4 states that the Board must approve the Guaranteed Maximum Price (GMP) under the Construction Management process. Many times the GMP is not available when the facility design plan and final budget are approved, thus requiring the project to come back to the Board a fourth time for approval. Because the GMP is a subset of the total project cost already approved by the Board, approving the GMP does not seem necessary unless it will cause the project to exceed the approved budget.

Changes were also made to the Design-Build Process to align with how this process actually works today according to the Office of the State Engineer (OSE) guidelines.

**IMPACT AND RECOMMENDATIONS**

Changing the flow-chart to reflect that only the Building Committee approves the Guaranteed Maximum Price will allow projects to keep moving forward when they are within budget. If the project will exceed the approved budget, it will have to come back to the Board.

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**DRAFT MOTION 20181204\_3-R(2):**

I move to (1) waive the two-reading requirement of By-Laws Section 5.5.1, and (2) approve the first and final reading of BOR Policy 6:4 – Capital Improvements as shown in Attachment I.

BOR Policy 6:4 Revisions

December 4-6, 2018

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Changing the Design-Build steps will align with how this process will work according to OSE guidance. The Design-Build process is rarely used by the Board.

The major changes are highlighted.

**ATTACHMENTS**

Attachment I – BOR Policy 6:4 – Capital Improvements

**SOUTH DAKOTA BOARD OF REGENTS****Policy Manual****SUBJECT:** Capital Improvements**NUMBER:** 6:4

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**A. PURPOSE**

To document the necessary steps for moving a capital project request forward.

**B. DEFINITIONS**

- 1. Capital Improvement:** Any repair, rebuilding, renovation, alteration or construction project, that has a cost of \$1.5M or more shall be classified as a capital improvement. (SDCL 5-14-3)

**C. POLICY**

Building committees are assigned to capital improvements and the universities must garner all the necessary approvals from the Board and building committee before proceeding to the next step.

**1. Scope of Chapter**

As provided in SDCL § 5-14-1, capital improvements include expenditures for new construction or for the purchase of land and improvements affixed to it. Policy Numbers 6:1 and 6:2 govern the purchase of land and improvements. The present policy relates to new construction and other projects with a cost of \$1.5M or more.

**1.1. Capital improvements include:**

- The erection of a new facility;
- The addition, expansion or extension of an existing facility that adds to the facility's overall external dimensions or adds to the total gross square footage of the facility;
- Any major maintenance, repair, renovation or alteration project, as defined in Policy Number 6:6, whose cost exceeds \$1,500,000 whether done in phases or not.

**1.2. Cost objects recognizable as capital improvement expenditures include:**

Architectural and engineering services, site preparation, construction, furnishing, equipping such buildings and facilities or subsystems for use, including heating, plumbing, ventilation, water, sewer, and electrical facilities with necessary connections to existing systems, asbestos abatement where necessary, the construction of sidewalks, and the landscaping of grounds.

- 1.2.1. No costs associated with the acquisition of land may be charged against appropriations provided for new construction.

## **2. Justification for a New Facility**

Requests for capital improvements may be justified in one or more of the following circumstances:

- Where the new construction shall replace a facility or subsystem that has become inadequate through deterioration or obsolescence and that cannot be renovated at a cost below fifty percent of the facility replacement value;
- Where new construction shall provide the most effective and economical means to meet current operational requirements;
- Where new construction shall provide the most effective and economical means to meet new operational requirements, such as may arise from increased enrollments; and
- Where the new construction shall upgrade existing facilities or subsystems to reasonable standards of safety set forth in safety codes or other suitably documented safety standards.

## **3. Review and Approval of Capital Improvements Requests**

The review and approval of capital improvement projects involves four distinct phases. Board approval is required before a project may advance from one stage to another. All projects over \$1,500,000 should be submitted for approval as governed by Board Policy 6:6. A flow chart detailing the Board's internal procedure can be found at the end of this policy. All non-revenue projects require legislative approval, which usually happens after the facility program plan although it may happen at different stages.

- 3.1. Preliminary Facility Statement - Requests to initiate the formal review of proposed capital improvement projects must be accompanied by a preliminary facility statement prepared by the institution that addresses the following:
- General programmatic needs to be addressed;
  - Analysis of the student body or constituents to be served;
  - Additional services to be offered;
  - Compliance with master plan;
  - Analysis of needs assessment based on the facilities utilization report;
  - Location;
  - Reallocation or demolition of old space, if any;
  - Proposed funding source/sources; and
  - Budget for development of a Facility Program Plan.
- 3.2. Facility Program Plan - If the Board authorizes the preliminary facility statement for a proposed capital improvement project, the institution shall prepare a facility

program plan. If an A/E firm will be involved in the development of the program plan, a building committee will need to be appointed to interview A/E firms for the purpose of developing the facility program plan and for the final design stage (see BOR Policy 6:5). The facility program plan must be approved before a capital improvement project is authorized for submission to the Legislature unless the project received legislative authorization through a previous capital improvement planning process. The program plan shall address the following:

- Programmatic justification for discrete spaces (classrooms, offices, etc.);
- Gross square footage;
- Site analysis;
- Description of key building features;
- Illustrative floor plans;
- Initial cost estimates and funding sources;
- Identification of fund sources and impact to campus maintenance and repair. Budget and sources for ongoing operational costs including janitorial, utilities, and other costs. The operational cost projections should identify the estimates of utilities, custodial and maintenance services, supplies, materials, equipment, etc. The impact to utility budgets and WAPA electrical allocations must be provided. Options for mitigating this impact shall be included in the form of a facility life cycle cost analysis which includes utility, maintenance and operation costs.

If the operational costs are to be covered by general funds, the request should identify how the costs shall be funded if no new funds for operational costs are appropriated as well as the resulting impact of the realignment to the overall campus budget.

- 3.2.1. In conjunction with an approval to proceed, the Board shall also designate the source of funds – state, federal, revenue or private/foundation gifts – for the cost of a) construction; b) ongoing operations, and c) M&R. The Board may elect to use different sources of funds, totally or partially, for any facility construction, operations or M&R cost components.
- 3.2.2. If the Board requires capital improvement projects funded totally or partially from private donations or foundation funds to have ongoing operational and annual M&R expenditures covered by private donation or foundation funds, a financing plan shall be required.
- 3.2.3. This plan may be financed through the establishment of an endowment, annuity, operational revenues, or other external funds. If the plan includes the establishment of an endowment or annuity, the plan should identify the size of the endowment or annuity that shall be established to defray the operational and M&R expenditures over the projected life of the project, including reserves needed to fund demolition of the structure, and the assumptions used to project sufficient funds to cover the estimated

costs. If an endowment is used, the plan should address the disposition of endowment corpus in the event the building is taken out of service.

### 3.3. Facility Design Plan

The Facility Design Plan must be approved by the building committee prior to being submitted to the Board for approval. This phase of the project planning process shall address the following:

- Architectural, mechanical and electrical schematic design;
- Changes from facility program plan;
- Impact to existing building or campus-wide heating/cooling/ electrical systems;
- Total construction cost estimates (see 1.2.); and
- Changes from cost estimates for operational or M&R expenses.

3.3.1. The facility design costs should be part of the project costs and funded out of the approved revenue sources for the project.

3.3.2. If the facility is a non-revenue capital improvement project, the Board may approve the submission of legislation to authorize the construction and secure funding for the project.

3.3.3. Final Board approval of the project is granted with approval of the Facility Design Plan.

### 3.4. Facility Bid Documents

After the Board's approval of the facility design plan in 3.3.3. above, the building committee will proceed with final bid documents.

3.4.1. The final bid documents, including plans and specifications, must be reviewed and approved by the building committee prior to issuing the bid documents to contractors for bids. This review and approval may be concurrent with BOA/OSE and institutional final review and approval.

3.4.2. If either the final cost estimates or the bids, including a reasonable contingency, exceed the approved level of funding, the project must come back to the Board for approval of a revised budget.

3.4.3. The building committee can work with OSE and the A/E firm to value engineer to get the project within budget. Any changes proposed by the BOA/OSE, the A/E, or the institution that would significantly alter the facility program plan or the design plan and building functionality must be reviewed and approved by both the building committee and the Board.

### 3.5. Construction

Once the bids are approved by the building committee and the financing plan is in place, the project proceeds to construction.

## 4. Capital Improvement List

If an institution has more than one capital improvement project, a priority order must be established for the non-revenue academic projects and the revenue projects. Projects and estimated costs will be categorized into the following funding categories: HEFF; Institutional; Federal; Private; GAF; Student Rents; Student Fees; Other. Prioritized lists must be submitted with the institution's annual fiscal operating budget request. Projects placed on the capital improvement list should not be placed on maintenance and repair lists.

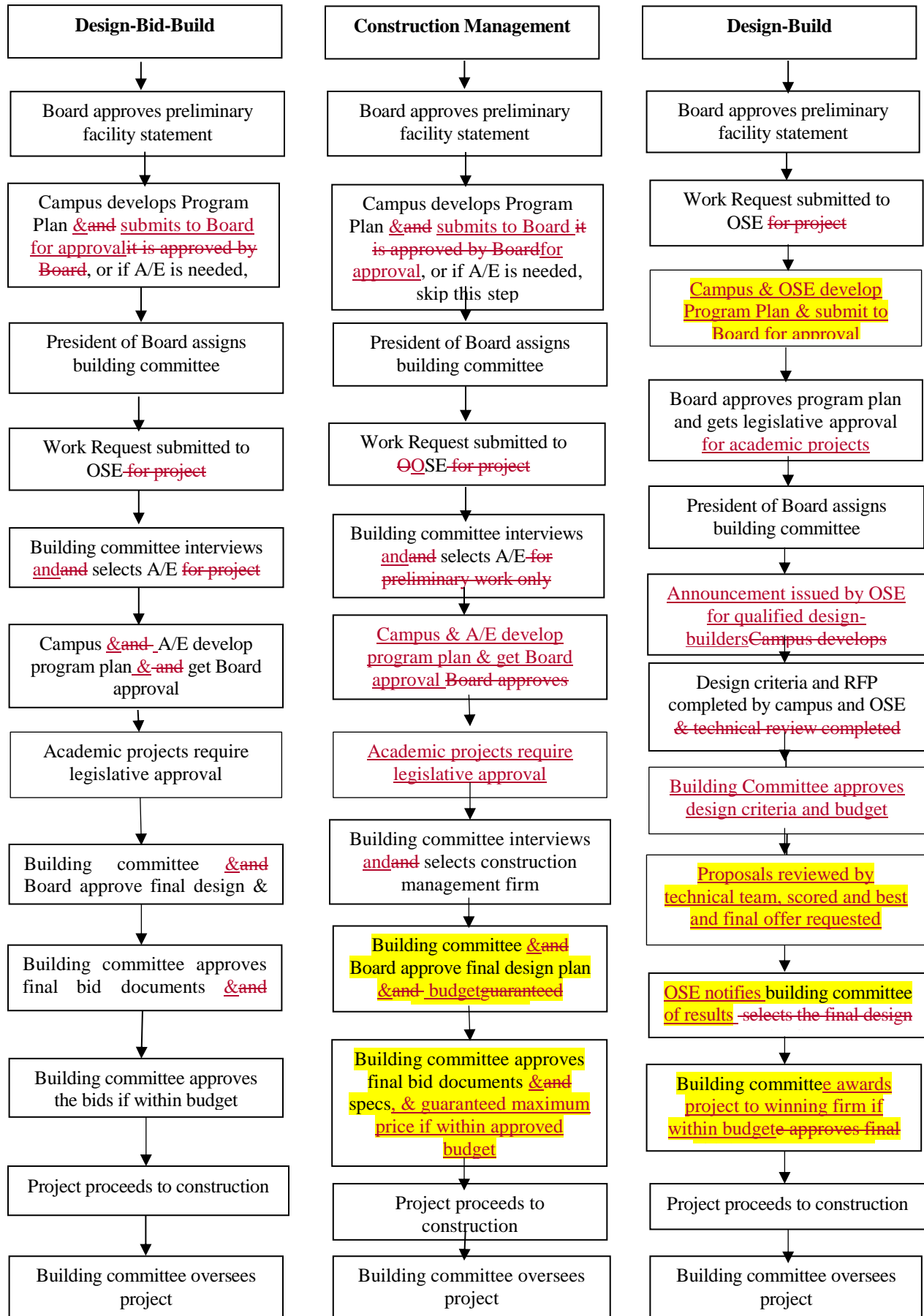
4.1. A capital improvement status report will be provided to the Board at each meeting identifying the status and stage of each active capital improvement project.

#### **5. Bureau of Administration Responsibility**

The Bureau of Administration shall be responsible for all capital improvements pursuant to SDCL § 5-14-2 and the funds appropriated shall be paid on warrants drawn by the state auditor on vouchers duly approved by the Bureau of Administration, the authorized representative of the institution and the board.

#### **6. Construction Methodologies**

The following flowchart identifies the approvals necessary using the common building methods used by the state and the Board.





**FORMS/APPENDICES:**

None.

**SOURCE:**

BOR June 1991; September 1991; April 1992; September 1992; December 1993; March 1995; October 1996; October 1998; December 2000; October 2002; March 2004; August 2006; April 2007; June 2010; August 2017;                     .