**R23. Government Operations, Facilities Construction and Management.**

**R23-29. Categorical Delegation of Project Management.**

**R23-29-1. Purpose.**

This rule provides the terms and conditions for delegation of construction projects to the University of Utah, Utah State University, regional universities as defined in Subsection 53H-3-602(1)(b)(ii) (Regional Universities), comprehensive community colleges as defined in 53H-3-602(1)(b)(iii) (Comprehensive Community Colleges); technical colleges as defined in Subsection 53H-1-102(1)(b) (Technical Colleges) and the Utah Department of Transportation on a categorical basis for projects within a particular dollar range and particular project type.

**R23-29-2. Authority.**

This rule is authorized under Subsection 63A-5b-305(2)(c), which authorizes the director to make rules necessary for the division or director to perform the division or director's duties. This rule is also authorized under Subsection 63A-5b-604(4) which provides that in accordance the Utah Administrative Rulemaking Act, the director may delegate control of design, construction, and all other aspects of any project to entities of state government on a categorical basis for projects within a particular dollar range and particular project type.

**R23-29-3. Authority and Extent of Categorical Delegation.**

(1) Projects Delegated on a Categorical Basis. As permitted by Subsection 63A-5b-604(4), authority is delegated to the University of Utah, Utah State University, Regional Universities, Comprehensive Community Colleges, Technical Colleges and the Utah Department of Transportation, to exercise direct supervision over the design and construction of all projects on their respective properties or facilities up to the dollar amounts stated.

(2) Delegation Dollar Limitations. The delegation referred to in this rule is granted to the University of Utah, Utah State University, Regional Universities, Comprehensive Community Colleges, Technical Colleges and Utah Department of Transportation for projects having a budget for construction, excluding soft costs, consistent with the division's Construction Budget Estimate (CBE) form, of:

(a) $10,000,000 or less for Utah State University;

(b) $30,000,000 or less for the University of Utah;

(c) $1,000,000 or less for Regional Universities;

(d) $1,000,000 or less for Comprehensive Community Colleges;

(e) $250,000 or less for Technical Colleges; and

(e) $350,000 or less for the Utah Department of Transportation.

**R23-29-4. Annual Review and Revocation of Categorical Delegation.**

Categorical delegation under this rule is subject to renewal in writing by the director on an annual basis. In the event the director does not renew a categorical delegation under this rule, such delegation shall be deemed revoked. At any time the director may revoke a delegation on a categorical basis and the division may assume control of the design, construction, or other aspect of a category of delegated projects or specific project delegated on a categorical basis if the director considers revocation of the delegation and assumption of control to be necessary to protect the interests of the state.

**R23-29-5. No Artificial Division of Projects.**

Projects may not be divided into multiple projects to create projects which are small enough to meet the dollar limits for delegation. Projects that are designed to be constructed in conjunction with each other and are to be constructed by the same construction contractor, including construction manager/general contractor, are projects that are prohibited from being artificially divided under this rule.

**R23-29-6. When Legislative Authorization and a Program Is Required.**

When applicable, this delegation authority may not take effect for a specific project until the following requirements are met:

(1) legislative authorization, when required, for design and construction has been obtained for the construction; and

(2) the requirements of Section R23-29-18, when applicable, regarding the completion of a division administered architectural program have been satisfied.

**R23-29-7. Building Official.**

Pursuant to Subsection 63A-5b-604(7)(a)(iv), for projects delegated on a categorical basis pursuant to this rule, the role of compliance agency under Title 15A, State Construction and Fire Codes Act, shall be filled by the division's building official for Regional Universities, for Comprehensive Community Colleges, for Technical Colleges and for the Utah Department of Transportation. The University of Utah and Utah State University shall use an in-house building official or contract for a building official; all as approved by the division's building official. The director may change the foregoing designations at any time.

**R23-29-8. Procurement.**

The state entity delegated a project on a categorical basis under this rule shall be responsible for compliance with the Utah Procurement Code, Title 63G, Chapter 6a and all applicable procurement rules.

**R23-29-9. Contract Documents.**

The state entity delegated a project on a categorical basis under this rule shall utilize substantially the same standard Contract Documents as used by the division. Any substantive differences must be approved by the division.

**R23-29-10. Transfer of State Funds.**

To the extent possible, state funds appropriated to the division for projects delegated to a state entity under this rule shall be transferred to the respective state entity in a timely manner upon the receipt of such funds by the division and on a reimbursement basis after providing supporting documents as required by the division.

**R23-29-11. Contingency Funds, Contingency Reserve, and Project Reserve.**

The state entity delegated a project on a categorical basis under this rule shall be subject to the same laws and rules regarding contingency funds as is the division except that:

(1) contingency funds for delegated projects shall be segregated from the contingency funds held by the division for non-delegated projects; and

(2) the state entity may not access for the delegated project, the division's statewide contingency reserve and project reserve authorized in Section 63A-5b-609.

**R23-29-12. Space Standards.**

A state entity delegated a project on a categorical basis under this rule shall comply with the space standards as adopted by the division. Any significant deviations from these standards must be approved in advance by the director.

**R23-29-13. Design Criteria.**

A state entity delegated a project on a categorical basis under this rule shall utilize the design criteria adopted by the division. These may be supplemented by special requirements that are unique to each state entity delegated a project on a categorical basis under this rule.

**R23-29-14. Value Engineering.**

A state entity delegated a project on a categorical basis under this rule shall comply with applicable laws and rules regarding the value engineering and life cycle costing of facilities. The division may assist the state entity as requested by the state entity in complying with these requirements.

**R23-29-15. Record Drawings.**

At the completion of each delegated project, each state entity delegated a project on a categorical basis under this rule shall be responsible for retention of record drawings and shall submit a copy of all record drawings of any new facility to the division as well as record drawings for any other project when requested by the division.

**R23-29-16. Specific Statutory Requirements.**

(1) In addition to the statutory requirement specified elsewhere in this rule, each state entity shall comply with the following requirements:

(a) laws relating to retention;

(b) laws relating to health insurance;

(c) laws relating to historical preservation;

(d) laws relating to the protection of the environment;

(e) laws relating to the notification to local governments or any person regarding certain types of projects;

(f) the Percent-for-Art program as provided in the Utah Code;

(g) Section 63A-5b-406 relating to the reporting of completed projects to the Office of the Legislative Fiscal Analyst;

(h) Section 63A-5b-605 relating to the listing and changing of subcontractors and the disclosure of subcontractor bids; and

(i) all applicable constitutional provisions, laws, rules, codes, and regulations.

**R23-29-17. Reporting.**

(1) The University of Utah, Utah State University, Regional Universities, Comprehensive Community Colleges, Technical Colleges and the Utah Department of Transportation shall report monthly to the division on the status of their delegated projects.

(2) The director may at any time indicate minimum requirements for reports as well as ask for further information.

(3) The reports shall be submitted to the division in accordance with the schedule established by the division.

**R23-29-18. Programming for Delegated Projects.**

(1) For delegated projects within the definition of "New Facility" as defined in Title 63a, Chapter 5b, Administration of State Facilities, a facility program shall be developed under the supervision of the division unless this requirement is waived by the division.

(2) For delegated projects where a program is not required under this rule, the state entity may determine the extent of programming or scope definition required and supervise the development of these documents.

**R23-29-19. Sharing of Resources.**

The division and the state entity delegated a project on a categorical basis under this rule shall coordinate to share personnel resources to make sure that all personnel resources from both the division and the state entity delegated a project on a categorical basis under this rule are sufficient for the delegated project. The state entity and the division shall enter into a separate agreement to accomplish this sharing of resources.

**KEY: buildings, delegation**

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