

CHAPTER 30 - STATE CONSTRUCTION

SUBCHAPTER 30A - DIVISION OF STATE CONSTRUCTION

SECTION .0100 - GENERAL PROVISIONS

01 NCAC 30A .0101 SCOPE

The regulations and policies set forth in this Chapter shall apply to the construction, renovation or alteration of all physical properties owned by the State of North Carolina through the various state institutions, departments or agencies which are subject to provisions of the Executive Budget Act, including land and improvements, but excluding public highways, bridges and railroads.

*History Note: Authority G.S. 143-341(3); 143B-10;
Eff. February 27, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*

01 NCAC 30A .0102 LOCATION AND HOURS OF OPERATION

01 NCAC 30A .0103 ORGANIZATION

*History Note: Authority G.S. 143-341(3); 143B-10; 143B-370;
Eff. February 27, 1979;
Repealed Eff. June 1, 1986.*

01 NCAC 30A .0104 DECLARATORY RULING

Any request for a determination regarding the application of any division rule to a specific factual situation will be directed to the Director of the Division of State Construction. The request for a ruling will follow the rules of the Department of Administration, Title 1 of the North Carolina Administrative Code.

*History Note: Authority 143B-10; 150B-4;
Eff. February 27, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*

01 NCAC 30A .0105 DESCRIPTION OF FORMS

01 NCAC 30A .0106 INFLATION POLICY

*History Note: Authority G.S. 143-341(3); 143B-10; 143B-370;
Eff. February 27, 1979;
Repealed Eff. June 1, 1986.*

SECTION .0200 - CONTRACTS AND BUDGET CONTROL OFFICE

01 NCAC 30A .0201 RESPONSIBILITIES

The contracts and budget control office of the division of state construction shall be responsible for assisting agencies with advance planning of capital improvements projects, budget preparation, negotiation and preparation of design contracts; and after bids are received, making notification of award of construction contracts. Further responsibilities are carried out by this office at the direction of the Director of the Division of State Construction.

*History Note: Authority G.S. 143-341(3); 143B-10;
Eff. February 27, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*

01 NCAC 30A .0202 ADVANCE PHYSICAL PLANNING

01 NCAC 30A .0203 PRELIMINARY DESIGN

01 NCAC 30A .0204 COMMENCEMENT OF DESIGN WORK

History Note: Authority G.S. 143-31.1; 143-341(3); 143-370; 143B-10; Chapter 129, Article 7;
Eff. February 27, 1979;
Repealed Eff. June 1, 1986.

01 NCAC 30A .0205 FORM OF REQUESTS

Institutions and agencies planning to request appropriations for capital improvements shall use Form OC-25, "Proposed Capital Improvement Project," and forward a copy of each request to the division of state construction for verification of cost estimation. This form, when completed, shall fully describe the proposed project and justification therefor. Each form must be approved by the requesting board or agency. After verification, these forms are then returned to the agency.

History Note: Authority G.S. 143B-10;
Eff. February 27, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

01 NCAC 30A .0206 PREPARATION OF DESIGN CONTRACT

Preparation of design contracts is a function of the division of state construction which will furnish advice and assistance to the institution, department or agency in selection of designers, if requested. Design contracts will not be prepared for any project for which funds are not available. Agencies subject to G.S. 143-135.25 will follow the procedures established by the State Building Commission.

History Note: Authority G.S. 143-128; 143B-10; 143-135.25; 143-135.26;
Eff. February 27, 1979;
Amended Eff. July 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

01 NCAC 30A .0207 DESCRIPTION OF DESIGN CONTRACT

All contracts for design shall be executed on Form OC-22. Form OC-22 represents an agreement between an owner and a designer for the purpose of establishing the terms under which the designer will furnish to the owner plans and specifications for a capital improvement project. Information contained in this document also contains provisions for discontinuance in the event that the project is terminated or expanded for any reason, as well as detailing the responsibilities of both the owner and the designer.

History Note: Authority G.S. 143-341(3); 143B-10;
Eff. February 27, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

01 NCAC 30A .0208 PLANNING PROCEDURES

History Note: Authority G.S. 143-31.1; 143-341(3); 143B-10;
Eff. February 27, 1979;
Expired Eff. August 1, 2018 pursuant to G.S. 150B-21.3A.

01 NCAC 30A .0209 CONTRACT CONDITIONS

History Note: Authority G.S. 143-31.1; 143-341(3); 143B-10;
Eff. February 27, 1979;
Repealed Eff. June 1, 1986.

01 NCAC 30A .0210 IMPLEMENT LIFE CYCLE COST: ENERGY CONSUMPTION ANALYSIS

Form OC-20, "Implementation of Life Cycle Cost and Energy Consumption Analysis," becomes a part of the design contract, when applicable, in accordance with North Carolina General Statutes 143-64.10 to 143-64.14, and details procedures to be followed for implementation of life cycle cost and energy consumption analysis.

History Note: Authority G.S. 143-341(3); 143B-10;
Eff. February 27, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

01 NCAC 30A .0211 DESIGN FEES
01 NCAC 30A .0212 AWARD OF CONSTRUCTION CONTRACTS

History Note: Authority G.S. 143-31.1; 143-341(3); 143B-10;
Eff. February 27, 1979;
Repealed Eff. June 1, 1986.

SECTION .0300 - ARCHITECTURAL/ENGINEERING REVIEW OFFICE

01 NCAC 30A .0301 RESPONSIBILITIES

Responsibilities of this office include review of all plans and specifications received from designers or consultants and state agencies for capital improvement projects; consultation and coordination of reviews with other agencies; coordination, communication and assistance with other offices in the division of state construction; and providing consulting assistance to state agencies.

History Note: Authority G.S. 143-135.26; 143-341(3); 143B-10;
Eff. February 27, 1979;
Amended Eff. May 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

01 NCAC 30A .0302 REVIEW
01 NCAC 30A .0303 PLANNING CONFERENCE
01 NCAC 30A .0304 SEALS

History Note: Authority G.S. 133-1.1; 143-31.1; 143-341(3); 143B-10; Chapter 83; Chapter 89;
Eff. February 27, 1979;
Repealed Eff. June 1, 1986.

01 NCAC 30A .0305 ADVERTISING FOR BIDS

- (a) No projects will be advertised for bids until cost estimates, assuring that the project is within budgeted funds or funds to be made available to the project, have been received from the designer.
- (b) The form of advertisement shall be prepared by the designer and published in one issue of a daily newspaper having general circulation in the State of North Carolina. Payment for advertisement shall be by owner. A minimum of seven days shall be observed from publication to actual bid opening.
- (c) Full project information shall be furnished by the designer to appropriate trade organizations for publication in their bulletins.

Plans and specifications shall be provided to plan rooms of recognized construction trade organizations in the area.

History Note: Authority G.S. 143-341(3); 143B-10;
Eff. February 27, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

01 NCAC 30A .0306 BIDDING DOCUMENTS

All contractors who desire to bid shall be furnished plans, specifications and all other data, upon payment of a plan deposit, when required, for use in making estimates in ample time for bidding purposes.

History Note: Authority G.S. 143-341(3); 143B-10;
Eff. February 27, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

01 NCAC 30A .0307 RECEIPT OF BIDS

(a) Bids shall be received in strict accordance with requirements of the General Statutes of North Carolina and the "Instructions to Bidders and General Conditions of the Contract" (Form OC-15). Bid security or a bid bond shall be required as prescribed by statute. The designer shall include in the documents the bid bond Form (OC-12) following the form of proposal (OC-7).

(b) The division requests all bidders to include with their bids a properly executed statement as follows: "The undersigned bidder hereby certifies that he is not knowingly in violation of the wage and price guidelines issued by the President's Council on Wage and Price Stability."

(c) The division will consider bidders' compliance with the wage and price standards as determined by the President's Council on Wage and Price Stability in determining award of contract in the event of tie bids.

History Note: Authority G.S. 143-341(3); 143B-10;
Eff. February 27, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

01 NCAC 30A .0308	CLOSE OF BIDDING
01 NCAC 30A .0309	CHANGE OF WITHDRAWAL OF BID
01 NCAC 30A .0310	OPENING OF BIDS
01 NCAC 30A .0311	AWARD OF CONSTRUCTION CONTRACTS
01 NCAC 30A .0312	ENERGY MANAGEMENT SECTION
01 NCAC 30A .0313	ENERGY ACCOUNTING
01 NCAC 30A .0314	STATE GOVERNMENT ENERGY SURVEY

History Note: Authority G.S. 113-7; 143-31.1; 143-64.10 through 143-64.14; 143-129.1; 143-340(10),(12); 143-341(3); 143B-10; N.C. Energy Policy Council Energy Conservation Plan, III, Sector Analyses and Recommendations, State and Local Government, (b) Buildings and Grounds; P.L. 94-163 and N.C. Energy Conservation Plan Grant Agreement Dated 6/20/77, Part III, Between the Energy Division, N.C. Department of Commerce and N.C. Department of Administration;
Eff. February 27, 1979;
Repealed Eff. June 1, 1986.

SECTION .0400 - CONSTRUCTION ADMINISTRATION OFFICE

01 NCAC 30A .0401 RESPONSIBILITIES

Responsibilities of this office include overseeing the construction of all capital improvement projects for the state, maintaining construction schedules and performing final and follow-up inspections.

History Note: Authority G.S. 143-341(3); 143B-10;
Eff. February 27, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

01 NCAC 30A .0402 CONSTRUCTION PHASE

History Note: Authority G.S. 133-1.1; 143-341; 143B-10;
Eff. February 27, 1979;
Repealed Eff. June 1, 1986.

01 NCAC 30A .0403 DESIGNER'S RESPONSIBILITIES

The designer's responsibilities during the construction phase shall be as described in the Planning Procedures (OC-18), the General Conditions and the State Construction Manual. The designer's responsibilities shall include the following:

- (1) Pre-construction Conference. The designer shall arrange for and give written notice to all contractors, the owner and the division of state construction as to a time and place of the pre-construction conference. The purpose of this meeting is to review all requirements of the division of state construction and to coordinate activities for all construction. Minutes of this conference shall be sent to all contractors, the owner and the division of state construction;
- (2) Monthly Progress Meetings
 - (a) The designer shall establish and conduct a regular schedule of monthly meetings to be held at the job site each month throughout the entire construction period. Authoritative home office and project personnel representatives of each prime contractor shall be required to attend such meetings. The owner and the division of state construction shall be notified of such meetings and are expected to be represented. The purpose of these regular meetings is to assess the monthly status and progress of the work. Remedial measures, if necessary, should be decided upon by joint agreement and the results thereof evaluated at the next meeting. These meetings shall be open to the subcontractors, material suppliers and any others who can contribute beneficially toward maintaining required job progress, and such personnel shall be encouraged to attend. It shall be the principal purpose of these meetings or conferences to effect coordination, cooperation, and assistance in every practical way to maintain progress of the project and to complete the project within the contract time.
 - (b) The designer shall prepare and submit to both the owner and to the division of state construction a report of the pertinent and salient matters considered and conclusions reached at each of these monthly meetings, together with such other matters relating to project progress throughout the life of the contract;
- (3) Construction Progress Reports
 - (a) The designer shall submit copies of monthly construction progress reports to both the owner and the division of state construction. Sample forms may be obtained from the division of state construction. Particular attention shall be given to the schedule status of the work, indicating whether or not work is on schedule, giving reasons if work is not on schedule, and the status of required insurance. Reports shall indicate date of starting work and scheduled date of completion.
 - (b) Construction progress reports shall include weekly inspection reports by the designer and all consultants involved, consistent with work in progress. Sample forms for weekly inspection reports may be obtained from the division of state construction;
- (4) Field Testing (Witnessing and Approving Results of All Field Testing on the Project). Copies of test results shall be sent to the division of state construction;
- (5) Details. Processing shop drawings, providing details and interpretations, and processing material lists and other data with sufficient dispatch to preclude construction delays;
- (6) Administration. Providing general administration for construction contracts;
- (7) Change Orders
 - (a) No change in the construction from approved plans and specifications shall be made until a change order has been prepared and approved, except in the case of emergency, as covered in general conditions (Form OC-15).
 - (b) Change orders shall be prepared with sufficient copies to provide one to each holder of contract documents and one copy for the contractor's surety.
 - (c) Change orders shall be accompanied by a complete breakdown showing computation of the cost, together with a written explanation of the change and reasons for the change.
 - (d) The designer, by his submission of the change order to the owning agency, certifies that he has examined and analyzed the change order and has found it to be in order, and the cost reasonable.
 - (e) The owning agency shall forward all copies of the change order to the division of state construction for final approval and distribution.
 - (f) Incomplete change orders will be returned to the designer for correction and completion;

- (8) Payments
- (a) Contractors' requests for payments shall be submitted to the designer for approval.
 - (b) Designer submits for payment. After payment requests have been approved, the designer shall apply his certificate and submit the requests to the owner in sufficient copies for payment. The designer's certificate shall show the following:
 - (i) total amount of contract,
 - (ii) extra work,
 - (iii) credits,
 - (iv) total of contract plus or minus any changes,
 - (v) value of work performed to date,
 - (vi) value of material stored on the site,
 - (vii) retainage,
 - (viii) amount previously paid,
 - (ix) amount of present certificate,
 - (x) balance of contract sum;
- (9) Final Inspection
- (a) Prior to issuance of final payment certificates, the designer shall schedule a formal final inspection.
 - (b) Written notice of the inspection shall be furnished not less than one week prior to the inspection to the owning agency, the division of state construction, the contractors concerned, other persons designed by the owning agency, and, where applicable, the Department of Insurance (engineering division), the division of health services of the Department of Human Resources (sanitary engineering section), and the Department of Labor.
 - (c) The designer shall conduct the inspection and tabulate a punchlist of all defects or discrepancies for correction by the responsible contractors. Copies of the punchlist will be furnished to all parties.
 - (d) Upon completion, by the contractors, of corrections required by the punchlist, the designer shall schedule a second inspection at the convenience of the owning agency and shall furnish written notice not less than one week prior to such inspection to the owning agency, the division of state construction and the contractors concerned. Within one week following such inspection, the designer shall furnish written notice to the division of state construction as to whether or not the punchlist items have been completed.
 - (e) Upon completion of the project, the designer shall compute the total time for completion as allowed in the contract, plus any time extensions granted and determine the number of days, if any, in excess of the contract construction time for which the several contractors appear liable for liquidated damages. The designer shall then notify the affected contractors of any proposed assessments of liquidated damages and allow the contractors time to respond thereto. The designer shall then prepare recommendation to the owning agency and to the division of state construction as to the amount of liquidated damages, if any, to be assessed and the portion of such assessment attributed to each of the several prime contractors.
 - (f) Upon acceptance of the project, the designer shall assemble written guarantees, affidavits, manuals of instruction for operation, and other required and closing papers of the contractors; issue certificates of final completion, certificates of compliance as required by G.S. 133-1.1, final certificates for payment; set the date for the beginning of the guarantee period; and forward all closing papers to the owning agency with appropriate duplicates to the division of state construction.
 - (g) Contractors shall not cancel their builder's risk insurance until final acceptance of the project (including completion of the punchlist items) and then shall furnish the required cancellation notice to the designer and the owning agency.
 - (h) Final inspection shall not be scheduled until all contracts are completed unless otherwise approved by the division of state construction.
 - (i) Owning agencies shall not occupy or use any portion of the project unless such occupancy or use has been approved by the division of state construction. In such instances, the owning agency must comply with all conditions required by the division.

History Note: Authority G.S. 133-1.1; 143-341; 143B-10;
Eff. February 27, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

01 NCAC 30A .0404 CONTRACTOR DISPUTES
01 NCAC 30A .0405 REVIEW BY DIVISION OF STATE CONSTRUCTION

History Note: Authority G.S. 143-135.3; 143B-10; 1 NCAC 1B;
Eff. February 27, 1979;
Expired Eff. August 1, 2018 pursuant to G.S. 150B-21.3A.

01 NCAC 30A .0406 REVIEW BY STATE CONSTRUCTION OFFICE FOR FIRE SAFETY REQUIREMENTS

In all cases where plans are submitted to the State Construction Office pursuant to G.S. 58-31-40:

- (1) The owner shall submit complete construction documents to the State Construction Office in accordance with the planning procedures in Rule .0208 of this Chapter.
- (2) Pursuant to G.S. 58-31-40 (c), should an owner request review and final approval of the plans by the State Construction Office and the Department of Insurance and if the plans have not been approved by the Commissioner of Insurance within 60 days of submittal, such review and final approval shall be conducted by the State Construction Office within 30 days.
- (3) No type of structural work shall be initiated by the owner without prior approval of the State Construction Office.

History Note: Authority: G.S. 143-135.26; S.L. 2001-496, s. 11;
Temporary Adoption Eff. February 1, 2003;
Eff. March 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.