

TITLE 753. UNIVERSITY HOSPITALS TRUST

CHAPTER 1. GENERAL AGENCY RULES

[Authority:63 O. S. § 3224; 75 O. S. § 302(A)]

[Source:63 O. S. § 3224; 75 O. S. § 302(A); Codified 9-14-07]

[Source:Expired eff 7-14-06]

SUBCHAPTER 1. GENERAL PROVISIONS

753:1-1-1. Purpose and scope

The purpose of this Chapter is to establish policies, procedures and standards that apply to the University Hospitals Trust and to other Chapters in this Title. The rules in this Chapter describe:

- (1) The organization of the University Hospitals Trust
- (2) Procedures for obtaining information and filing documents; and
- (3) The general practices of the University Hospitals Trust.

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-1-1 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-1-2. Definitions

The following words and terms, when used in the Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Chief Executive Officer" or **"CEO"** means the Executive Director or the highest ranking administrator at the University Hospitals Trust.

"Trust" means the entity governed by the Trustees which is a public trust authorized by the laws of the State of Oklahoma with the State of Oklahoma as beneficiary.

"Trustees" or **"Board of Trustees"** or **"Board"** means the University Hospitals Trust Board of Trustees which is the governing body of the University Hospitals Trust.

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-1-2 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-1-3. Legal references

In this Title, italic type means it exactly repeats language from a law or another legal document. The specific reference is in brackets following the italics. Language in the rules that restates laws or other legal material in other words is also followed by a reference in brackets, but it is not printed in italics.

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-1-3 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-1-4. Severability

If a court of competent jurisdiction finds any rule or part of a rule in this Title to be unenforceable, it shall not impair or invalidate the remaining rules in this Title; the remaining rules shall be valid and enforceable to the fullest extent allowed by law.

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-1-4 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-1-5. Organization

The Board of Trustees is the governing body of the Trust. The Board of Trustees appoints a CEO who is the highest ranking administrator at the Trust. The principal purpose of the Trust is to effectuate the purposes of the University Hospitals Authority as established by the University Hospitals Authority Act. [63:3224(A)(4)(a)]

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-1-5 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-1-6. Location for information and filing

(a) Unless otherwise specified in this Title, the address and telephone number for communications with the Trust is: The University Hospitals Trust, 940 N.E. 13th Street, Suite 6900, P. O. Box 26307, Oklahoma City, Oklahoma 73126, Telephone (405) 271-4962.

(b) The normal business hours of the Trust are 8:30 a.m. to 5 p.m., Monday through Friday, except legal holidays.

(c) Unless otherwise provided in this Title, anyone may file a document with the Trust by mail or hand delivery during normal business hours. The "filing date" is the date the Trust receives a document by mail or hand-delivery, not the date it is mailed or postmarked.

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07; Amended at 36 Ok Reg 2002, eff 9-18-19]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-1-6 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-1-7. Records

(a) The Trust keeps documents for at least the minimum time required by state and federal laws that pertain to archives and records. This varies depending on the type of document. The Trust has its records disposition schedules available for inspection.

(b) The Trust follows the Oklahoma Open Records Act and other relevant laws governing confidentiality.

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07; Amended at 36 Ok Reg 2002, eff 9-18-19]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-1-7 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-1-8. Forms and instructions [REVOKED]

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07; Revoked at 36 Ok Reg 2002, eff 9-18-19]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-1-8 was no longer effective, and remained as such until added by permanent action on 9-14-07.

SUBCHAPTER 3. GENERAL OPERATIONS OF THE UNIVERSITY HOSPITALS TRUST

753:1-3-1. Official office [REVOKED]

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07; Revoked at 36 Ok Reg 2002, eff 9-18-19]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-3-1 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-3-2. Meetings of Board of Trustees

The Trust follows the Oklahoma Open Meetings Act.

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07; Amended at 36 Ok Reg 2002, eff 9-18-19]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-3-2 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-3-3. Executive sessions [REVOKED]

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07; Revoked at 36 Ok Reg 2002, eff 9-18-19]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-3-3 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-3-4. Notice of meeting [REVOKED]

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07; Revoked at 36 Ok Reg 2002, eff 9-18-19]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-3-4 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-3-5. Agenda items [REVOKED]

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07; Revoked at 36 Ok Reg 2002, eff 9-18-19]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-3-5 was no longer effective, and remained as such until added by permanent action on 9-14-07.

SUBCHAPTER 5. ADMINISTRATIVE RULES

753:1-5-1. Procedure for adoption, amendment and repeal of rules

(a) The Board of Trustees may adopt, amend or repeal a rule on its own initiative, and may adopt, amend or repeal a rule at the request or recommendation of the CEO.

(b) The Board may on its own motion conduct hearings on proposed new rules, amendments or repeal of rules.

(c) Any interested person may petition the Board, requesting the adoption, amendment, or repeal of a rule. All such petitions shall be in writing and shall be filed with the principal office. The petition shall include the name and address of the petitioning party and shall state clearly and concisely all matters pertaining to the requested action and the reasons for the request.

(d) The time and location of hearing shall be stated in the notice as required under the Oklahoma Open Meeting Act and shall be conducted in accordance with the Administrative Procedures Act.

(e) Any person who is interested or affected by proposed actions may appear at the hearing, if such a hearing is held or required by law. An appearance may be made in person, by an attorney or by an authorized agent.

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-5-1 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-5-2. Requests for declaratory rulings [REVOKED]

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07; Revoked at 36 Ok Reg 2002, eff 9-18-19]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-5-2 was no longer effective, and remained as such until added by permanent action on 9-14-07.

SUBCHAPTER 7. FORMAL AND INFORMAL PROCEDURES

753:1-7-1. Purpose

The rules of this Subchapter describe general formal and informal procedures used by the Trust to take action and make decisions.

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07; Amended at 36 Ok Reg 2002, eff 9-18-19]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-7-1 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-7-2. Right of the CEO to initiate action

The CEO may take whatever action is consistent with the rules of this Title to carry out the duties of the CEO and accomplish the objectives of any program or activity within his or her authority. The CEO may use formal procedures or informal procedures, such as telephone calls, letters, meetings, mediation, investigations, electronic mail or other appropriate methods to resolve concerns.

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-7-2 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-7-3. Complaints [REVOKED]

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07; Revoked at 36 Ok Reg 2002, eff 9-18-19]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-7-3 was no longer effective, and remained as such until added by permanent action on 9-14-07.

753:1-7-4. Representation [REVOKED]

[Source: Added at 22 Ok Reg 2758, eff 7-22-05 through 7-14-06 (emergency)¹; Added at 24 Ok Reg 2924, eff 9-14-07; Revoked at 36 Ok Reg 2002, eff 9-18-19]

EDITOR'S NOTE: ¹ This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency action enacting a new Section, the Section is no longer effective. Therefore, on 7-15-06 (after the 7-14-06 expiration of the emergency action), Section 753:1-7-4 was no longer effective, and remained as such until added by permanent action on 9-14-07.

CHAPTER 11. ACQUISITIONS AND CONSTRUCTION

[Authority:63 O.S., §§ 3208(B)(1) and 3224]

[Source:63 O.S., §§ 3208(B)(1) and 3224; Codified 9-18-19]

SUBCHAPTER 1. GENERAL PROVISIONS

753:11-1-1. Purpose

The purpose of this Chapter is to establish the policies and procedures for acquisitions and construction for the Trust.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19]

753:11-1-2. Definitions

The following words or terms shall have the following meaning unless the context clearly indicates otherwise:

"Acquisition" means all types of purchases and rentals, whether bought or leased by contract or otherwise, and includes every means by which the Trust obtains for its use any materials, supplies, service, or equipment.

"Alternate bid" or **"Alternate"** means, for purposes of a construction contract, an amount stated in the bid to be added to or deducted from the amount of the base bid if the corresponding change in the work, as described in the bidding documents, is accepted.

"Architect" means a person legally qualified to practice the profession of architecture as defined in the State Architectural Act, 59 O.S. § 46.

"Architectural Design & Construction Team" or **"ADC"** means a team assembled within the Trust that may include an Architect, Project Manager, Superintendent, and/or other applicable member.

"Authority Having Jurisdiction" or **"AHJ"** means the University of Oklahoma employee who works on behalf of the Oklahoma State Fire Marshall, performing all building inspections and code review based on Oklahoma State Fire Marshall guidelines.

"Award" means when the Trust, the Chief Executive Officer, or other person authorized to make the acquisition, agrees on a suitable supplier for a bid and the successful supplier is notified.

"Base bid" means the sum stated in the bid for which the bidder offers to perform the work described in the bidding documents as the base. Work may be added or deleted for sums stated in the alternate bids.

"Best value" means an optional contract award system which can evaluate and rank submitted competitive performance proposals to identify the proposal with the greatest value to the Trust, which may not be the lowest bidder.

"Bid" means a cost proposal submitted by a supplier in response to a request or solicitation for bids from the Trust.

"Bidder" means an individual or business entity that submits a bid or proposal in response to an invitation to bid or a request for proposal. Bidder is synonymous with a "supplier" responding to a solicitation.

"Chief Executive Officer" or **"CEO"** means the highest-ranking administrator of the Trust.

"Chief Financial Officer" or **"CFO"** means the Chief Financial Officer or comparable position who reports to the CEO on matters concerning the budget of the Trust.

"Chief Operating Officer" or **"COO"** means the Chief Operating Officer or comparable position who reports to the CEO and manages the day-to-day operations and maintenance of the Trust's facilities.

"Claim" means a demand or assertion by a contractor seeking, as a matter of right, adjustment or interpretation of contract terms, payment of money, extension of time, or other relief with respect to the terms of the contract. The term "Claim" also includes other disputes and matters in question between the owner and contractor arising out of or relating to the contract.

"Code" means the minimum and applicable building code or codes provided by this rule.

"Construction" means the process of planning, acquiring, designing, building, equipping, altering, repairing, improving, maintaining, disposing, or demolishing any structure or appurtenance thereto including facilities, utilities, or other improvements to any real property.

"Construction Management" or "CM" means the project delivery method based on an agreement whereby the Trust acquires from a construction entity a series of services that can include, but are not necessarily limited to: design review, scheduling, cost control, value engineering, constructability evaluation, preparation and coordination of bid packages, and construction administration.

"Construction Management/At-Risk" means the project delivery method whereby the construction entity takes on the financial obligation to carry out construction under a specified cost agreement.

"Construction Manager" means a person who acts as an agent of the Trust for a construction project; who coordinates and manages the construction process; who is a member of the ADC; and who utilizes skills and knowledge of general contracting to assist in the development of schedules, preparation of project construction estimates, study of labor conditions; and who provides advice concerning construction, safety, and other issues related to the project that may surface. Issues may include, but are not limited to, monitoring progress, payments, changes and other factors affecting cost, or as may otherwise be specified in the solicitation issued by the state agency.

"Consultant" means an individual or legal entity possessing the qualifications to provide licensed architectural, registered engineering, or registered land surveying services or possessing specialized credentials and qualifications as may be needed to plan or design for any construction or public work improvement project.

"Contract" means the solicitation, supplier's response, negotiation document, and/or purchase order verifying an award and encumbering funds.

"Delivery system" means the approach used to develop and construct a project.

"Design-Bid-Build" means the delivery method used on construction projects whereby a licensed design professional retained based on qualifications, shall develop the project design in its entirety. the Trust shall then solicit bids and award the contract to the general contractor who demonstrates that they can complete construction, as specified in the design, and that they are the lowest responsible bidder.

"Emergency condition" means an event or need that was not reasonably foreseeable but that is serious, unexpected, and potentially dangerous, and for which action must be taken before a bid can be prepared or put into action.

"Engineer" means a person legally qualified to practice the profession of engineering as defined in Chapter 10, Engineering and Land Surveying, of Title 59 of the Oklahoma Statutes.

"Evaluation criteria" means that written criteria necessary to evaluate a supplier's or bidder's response to a solicitation which may include specialized experience, technical competence, capacity to perform, past performance, and other appropriate factors, as and where appropriate.

"Facility" means any building or improvement to real property.

"Federally funded project" means any acquisition funded wholly or in part with federal dollars.

"Fixed fee" means the type of fee which is expressed as a firm, fixed amount, for the services specified in the scope of work.

"FTE" means a full-time equivalent personnel position.

"Guaranteed Maximum Price" or "GMP" shall be the sum of the estimated cost of the work as defined in the contract and includes all of the contractor's fees and agreed upon contingencies.

"Internet" means the international computer network of both federal and nonfederal interoperable packet-switched data networks, including the graphical subnetwork called the World Wide Web.

"Interview committee" means a group of individuals designated by the CEO, CFO, CFMO, or other designee of the CEO to interview consultants for the purpose of selecting a consultant for a planned project. This group should include licensed architects or engineers, if available and when appropriate.

"Invitation to Bid" or "ITB" means a type of solicitation in which the Trust or its designee requests suppliers to submit a bid for an acquisition, i.e. suppliers are invited to bid.

"Minimal value" or "no value" means surplus property that has less value than the costs that the Trust may incur to sell, trade, or dispose of the property.

"Non-Collusion Certification" means a certification submitted by a supplier with any competitive bid or contract executed by the Trust for goods or services in accordance with 74 O.S. § 85.22.

"Notice to Proceed" means the formal written notice, by letter, informing the Construction Manager that the Guaranteed Maximum Price (GMP) is approved and the construction management services advance to the next phase.

"OMES" means the Office of Management and Enterprise Services.

"Online bidding" means an electronic procurement process in which the Trust receives bids from suppliers for goods, services, construction, or information services over the Internet in a real-time, competitive bidding event.

"OSFM" means the Oklahoma State Fire Marshal.

"Past performance rating" means a numerical rating on a 1-10 scale mathematically derived from customer satisfaction surveys completed by past clients.

"Percentage fee" means a fee to be paid which is based upon a negotiated percentage of a resultant construction contract. For the consultant contract purposes, the construction contract amount is estimated.

"Pre-Design services" means a formal planning process to establish function, scope, and cost of a future project.

"Procurement Officer" or **"PO"** means the individual with the authority to make purchases for goods and services on behalf of the Trust, such as the Human Resources Director and Comptroller or comparable position, with such authority and all necessary accompanying documentation clearly marked in the individual's file.

"Program" means the detailed description of the work and the scope of design services.

"Project" means the scope of services for which competitive proposals are requested from interested construction services suppliers.

"Project capability" means the ability of a supplier to perform the requested services based on understanding of the requirement and mastery of necessary technical requirements while demonstrating a lack of technical risk as evidenced by measurement or accomplishment.

"Project" or **"Improvement"** means the collective act of design and construction of a new building, facility, or improvement, or the renovation of an existing building, facility, or improvement; or the acquisition of a building or facility for the purpose of renovation and occupancy.

"Request for Proposals" or **"RFP"** means a type of solicitation in which the Trust requests submission of proposals from suppliers.

"Request for Quotation" or **"RFQ"** means a simplified written or oral quote that the Trust or its designee requests from suppliers.

"Risk assessment" means identification of risks that the supplier does not control and the supplier's plan to minimize the risk.

"Screening committee" means a group of individuals designated by the CEO, CFO, COO, or other designee of the CEO which reviews the files of interested consultants for the purpose of selecting a short list of consultants to be interviewed. The group should include licensed architects or engineers, if available and when appropriate.

"Selection criteria" means a listing of the considerations and requirements used to evaluate each prospective consultant.

"Short list" means a listing of consultants chosen during the screening process for detailed interview. When possible, this list shall contain at least three (3) consultants for a single project. If the process is selecting for more than one consultant contract, there should be two (2) consultants on the short list for every planned project.

"Solicitation" means the formal or informal manner in which the Trust determines the price of an acquisition from various suppliers.

"Supplier" means "bidder" as defined in this section.

"UHA" or **"Authority"** means University Hospitals Authority.

"UHAT" means University Hospitals Authority and Trust.

"UHT" or **"Trust"** means University Hospitals Trust.

"Value-added" means adjustment to the project requirement and/or benefit offered to the owner that may be proposed by a vendor, stated in terms of impact to the project in return for a deviation in price, schedule or quality.

753:11-1-3. General provisions

(a) Goods and services shall be acquired by one of the following methods:

- (1) Acquisition of products and/or services through organized buying groups such as OMES state-wide contracts or through similar federal contracts.
- (2) Direct purchase order for products and/or services to the supplier within the authorized dollar amounts and other limitations authorized by the Trust's purchasing policies and procedures.
- (3) Acquisition of products and/or services through contracts with its joint operator pursuant to 63 O.S. § 3226.
- (4) Formal or informal competitive solicitation of products and services.
- (5) Sole source acquisitions according to the procedure set forth in the Trust's purchasing policies and procedures.
- (6) Donation.

(b) Goods and services shall meet the specifications required, and awards shall be based on lowest and best or Best Value criteria. Determinations shall be documented as specified in the Trust's purchasing policies and procedures.

(c) Professional service contracts for personal services rendered by the following professionals are exempt from competitive bidding. [74 O.S. § 85.7 and 18 O.S. § 803]:

- (1) Physician, surgeon or doctor of medicine;
- (2) Osteopathic physician or surgeon;
- (3) Chiropracist-podiatrist;
- (4) Optometrist;
- (5) Architect;
- (6) Attorney;
- (7) Dentist;
- (8) Public Accountant;
- (9) Psychologist;
- (10) Physical Therapist;
- (11) Registered Nurse;
- (12) Professional Engineer;
- (13) Land Surveyor;
- (14) Occupational Therapist;
- (15) Speech pathologist;
- (16) Audiologist;
- (17) Registered Pharmacist;
- (18) Licensed Perfusionist;
- (19) Licensed Professional Counselor;
- (20) Licensed Marital and Family Therapist;
- (21) Dietitian;
- (22) Social Worker;
- (23) Licensed Alcohol and Drug Counselor;
- (24) Licensed Behavioral Practitioner, and
- (25) Certified General Real Estate Appraiser.

(d) This list will be automatically amended to include or delete professional services as amended by the Legislature.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-1-4. Ethics

(a) Employees of the Trust shall be subject to rules promulgated by the Oklahoma Ethics Commission concerning gifts from suppliers.

(b) One year limitation for certain contracts. Unless otherwise provided by law, the Trust shall not enter into a sole source or professional services contract or a contract for the services of any person who has terminated employment with or who has been terminated by the Trust for one (1) year after the termination date of the employee from the Trust. [74 O.S. § 85.42]

753:11-1-5. Online bidding [74 O.S. § 85.45r]

The Trust has determined that electronic or online bidding is often more advantageous than other procurement methods and thus may use online bidding to obtain bids for the purchase of goods, services, construction, and information services, where and as necessary. The Trust does not provide online bidding for bids and proposals that must be bid competitively.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23]

753:11-1-6. Transparency

The Trust purchases a substantial volume of goods and services while maintaining over 1,500,000 square feet of hospital, clinical, academic, and office space. These goods and services should be acquired through an open and competitive process, which shall include:

- (1) Acquisitions and all other financial matters related to the Trust are subject to the provisions of the Open Records Act unless otherwise specified in Title 63.
- (2) The Trust will have an annual audit performed by a nationally-recognized auditing firm or the State Auditor and Inspector. Said audit will be provided to the Board, House of Representatives, Senate, Governor, OMES, and State Auditor and Inspector [63 O.S. § 3208(A)(13)].
- (3) Acquisition records shall be maintained for a minimum of seven (7) years following completion and/or termination of the acquisition provided all audits have been completed, all applicable audit reports have been accepted and resolved by all applicable federal and state agencies, and provided no legal actions are pending. If an audit, litigation, or other action involving such records is started before the end of the seven (7) year period, the records shall be maintained for two (2) years from the date all issues arising from the audit, litigation or action are resolved or until the end of the seven (7) year retention period, whichever is later. Acquisition files shall contain justification for the acquisition supporting documentation, copies of all contracts, if any, evaluations, and written reports if required by contract [74 O.S. § 85.39(C)]. Records relating to acquisitions using federal or restricted funding sources shall comply with retention requirements dictated by those sources if those requirements are in excess of statutory requirements [74 O.S. § 85.39(C)].
- (4) The Trust will provide a copy of its inventory to OMES in accordance with statute.

[Source: Added at 40 Ok Reg 1679, eff 9-1-23]

753:11-1-7. Statutory increases

Any monetary acquisition or construction threshold set forth in these Policies and Procedures will automatically be updated and incorporated herein consistent with any later act of the Legislature that increases the monetary thresholds set forth in Title 74 of the Oklahoma Statutes.

[Source: Added at 40 Ok Reg 1679, eff 9-1-23]

SUBCHAPTER 3. PURCHASING

753:11-3-1. Supplier selection and standard requirements

- (a) The Trust shall develop and maintain purchasing policies and procedures that promote economy, short response time, appropriate competition, and efficient procurement practices. These policies shall include safeguards and recordkeeping requirements consistent with the standards set forth in 74 O.S. § 85.12(B)(5) and 63 O.S. § 3224.
- (b) The Trust's purchasing policies and procedures shall be reviewed and submitted to the State Purchasing Director for approval in accordance with 74 O.S. § 85.39 and OAC 260:115-5-7(d). Upon approval by the State Purchasing Director, such purchasing policies shall govern all acquisitions and purchasing activity conducted by the Trust.
- (c) The purchasing policies approved by the State Purchasing Director shall supersede any previously adopted administrative rules to the extent of any conflict. The Trust shall revise or repeal any inconsistent

administrative rules through the appropriate rulemaking process in accordance with the Oklahoma Administrative Procedures Act.

(d) The Trust shall conduct an internal review of its purchasing policies at least annually and shall resubmit its internal purchasing policies for re-approval by the State Purchasing Director at least once every two (2) years, or as otherwise required by law.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-2. Acquisitions [REVOKED]

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-3. Formal or Informal Competitive Solicitations (\$25,000 - \$250,000) [REVOKED]

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-4. Competitive sealed solicitations (\$250,000+) [REVOKED]

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-5. Bid submission [REVOKED]

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-6. Bid changes and withdrawal [REVOKED]

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-7. Non-responsive bids [REVOKED]

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-8. Contract negotiation and award [REVOKED]

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-9. Contract management [REVOKED]

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-10. Acquisitions by facilities management and housekeeping contractor [REVOKED]

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-11. Professional service contracts [REVOKED]

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-12. Sole source contracts [REVOKED]

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-13. Emergency acquisitions [REVOKED]

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-14. Credit/debit card [REVOKED]

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-3-15. Acquisitions requiring CEO approval [REVOKED]

[Source: Added at 40 Ok Reg 1679, eff 9-1-23; Revoked at 43 Ok Reg, Number 21, effective 7-27-26]

SUBCHAPTER 5. DESIGN CONSULTANTS

753:11-5-1. Registration of Design Consultants

All Design Consultants desiring to perform services for the Trust must be registered with OMES. Any consultant not registered with OMES at the time the Trust announces a project may register with OMES and submit a letter of interest to the Trust.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19]

753:11-5-2. Selection procedure

(a) The Trust shall develop a description of the project which shall include:

- (1) A narrative description of the work being planned.
- (2) The estimated cost and time schedule of the project.
- (3) The source of the funding i.e., appropriated state money, federal funding or other source of funding. Any funds designated for the project which has specific limitation of use, including deadlines for expenditure, shall be clearly defined and explained in the project description.
- (4) Any other pertinent data which would assist a consultant in determining his interest in the project.

(b) The Trust shall send a solicitation letter to each consultant on the list of registered consultants maintained by OMES. The solicitation letter will include the description identified at (a) of this Section and shall notify the consultants of the last day their letters may be received to be considered as a supplier for the project.

(c) The COO in conjunction with the ADC shall, where possible, select the three (3) best qualified consultants based upon internal selection criteria and other information that may be supplied by the consultants. If the selection is for more than one consultant contract, at least two (2) consultants for each project should be included in the short list.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-5-3. Scheduling and performing interviews

(a) The COO and the ADC will convene an interview committee to interview each consultant based on evaluation criteria developed by the COO in consultation with the ADC, including for example the following criteria:

- (1) How will the consultant staff the proposed project?
- (2) What is the consultant's proposed management plan?
- (3) What is his previous experience for this project?
- (4) Where is he located? How will he reduce travel costs if he is not close to the proposed project?
- (5) What are his plans for project control?
- (6) What examples of similar projects has he completed within the last five years?
- (7) Has a judgment been paid by the consultant on his behalf for liability caused by professional errors and/or omissions in the past five years?
- (8) Can the consultant demonstrate financial stability?
- (9) Is the consultant properly insured?
- (10) Does the consultant labor under any conflicts of interest as addressed at 753:11-1-4?

- (11) Any other additional factors?
- (b) Within thirty (30) days of the scheduled interviews, each consultant should be notified by letter informing him that he has been selected for an interview. The letter should contain:
- (1) Date, time, and place of interview. Interviews should be scheduled individually for each consultant.
 - (2) Period of time permitted for the interview. Indicate how much time the consultant shall be permitted for his presentation and how much time shall be reserved for questions by the committee.
 - (3) A copy of the interview criteria.
 - (4) The number of the interview committee members.
- (c) Consultants will be selected on the basis of qualifications only, and not on the basis of cost. Oklahoma statutes prohibit the release to a third party any information on fees. Any consultant who discloses his fee, or any indication thereof, prior to Negotiation of Contract, 753:11-3-8, shall be removed from consideration.
- (d) The interviews are conducted privately with each consultant out of the hearing of other consultants.
- (e) At the conclusion of all interviews, the interview committee will rate each, documenting its rationale, and select a consultant. All criteria and procedures used by the committee shall be documented for the record.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-5-4. Negotiation of contract

- (a) Following the interview committee's work, the COO or designee will contact the selected consultant and negotiate a contract. This is the first time that a discussion regarding the negotiation of fees may take place.
- (b) The COO will request a letter from the selected consultant detailing the cost proposal with a breakdown of costs.
- (c) The consultant shall develop his fee proposal and return it to the COO. Fee proposals shall be based on the consultant's cost to produce the work along with projected expenses and a fair profit not to exceed 15 percent.
- (d) The fee will be expressed as a firm fixed price fee according to an agreed scope of work, or may be based on a time and expense basis with a "not-to-exceed " cap. After a fee has been determined, the consultant will be asked to modify the proposal to reflect the agreed upon scope of work and fee, which modified proposal shall then become part of the contract.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-5-5. Award of contract

Contracts may be standard or non-standard depending on the project. Services may include all or any of the following depending on the size and type of project.

- (1) Program planning, which may include the following:
 - (A) Space plan.
 - (B) Written and/or graphic program document as specified.
 - (C) Circulation allowances.
 - (D) Cost estimate.
- (2) Schematic design, which may include the following:
 - (A) The line drawing and graphic representation of the floor plan, perspective drawings, and site orientation of the project.
 - (B) Energy and feasibility presentation of utility access, recommended materials, parking, traffic flow, site access, and space and volume estimates of cost.
 - (C) Cost estimate.
- (3) Design development. A set of drawings may be required to be produced which specifies the project's specified parameters, resulting in:
 - (A) The site plan for parking, street and pedestrian access.
 - (B) Overall dimensions.

- (C) Rooms and traffic circulation within the buildings.
 - (D) Types of materials.
 - (E) Building elevations.
 - (F) Building sections.
 - (G) Recommended structural systems.
 - (H) Recommended mechanical systems and equipment based upon life cycle studies.
 - (I) Cost estimate.
- (4) Construction phase services. The consultant may be required to perform specific construction phase services which include:
- (A) Review and approval of shop drawings.
 - (B) Review and approval of pay requests.
- (5) All standard contracts shall include a reference to construction monitoring which is periodic visits at intervals appropriate to the stage of the contractor's operations, by the consultant to the construction site to determine that the contractor is following the intent of the construction contract.
- (6) Changes to the consultant's base contract may be approved by the COO as long as the scope of the change is generally included within the project description developed at 753:11-5-2(a) for which the consultant selection process was conducted. Changes must reference the correct contract and include the scope of the change, the fee for the change, and the source of the funding for the change. Changes to the consultant's base contract shall not result in fees that would exceed the caps set by 753:11-5-4(c)-(d).

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-5-6. Professional services contracts

As indicated at 753:11-1-3(c), engineers, architects, and land surveyors shall be based upon their professional expertise and qualifications with their fees being negotiated after selection, and shall not be required to bid their contracts. The CEO may waive or modify any provision or requirement of this Subchapter when such waiver is in the best interest of UHAT.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

SUBCHAPTER 7. CONSTRUCTION

753:11-7-1. Bid solicitations

- (a) **Construction projects over \$100,000.** Construction projects over \$100,000 will be advertised in a newspaper of general circulation for two consecutive weekly issues of said newspaper with the first publication at least twenty-one (21) days prior to the day set for bid opening. Notice must also be provided to one in-state trade or construction publication and/or electronic bid platform whenever the estimated cost of construction exceeds \$100,000, with publication of that information left to the discretion of that publication. No work shall be commenced until a written contract is executed and all required bonds and insurances have been provided by the contractor. [61 O.S. § 104]
- (b) **Construction projects of \$25,000 to \$100,000.** Construction projects of \$25,000 to \$100,000 will not usually be advertised. The Trust shall develop a written, clearly defined scope of work with detailed requirements for the project. The Trust will then solicit bids by directly contacting three (3) or more contractors.
- (c) **Minor Maintenance or Repair.** The Trust may award small projects below \$25,000 to any qualified supplier. A written contract and proof of insurance is required prior to issuing the supplier a notice to proceed.
- (d) **Emergency Projects.** When the CEO determines that an emergency situation exists, a contract may be awarded without competitively bidding it to correct the emergency condition.
- (e) **Statutory Increases.** Any monetary threshold set forth in these rules will automatically be updated and incorporated herein consistent with any later act of the Legislature that increases the monetary thresholds set forth in Title 61 of the Oklahoma Statutes.

753:11-7-2. Bid documents

(a) **Solicitation notice.** The solicitation notice will contain:

- (1) Sufficient information concerning the proposed public construction contract to allow a contractor to determine if he may be interested in bidding the project.
- (2) The location where a complete set of bidding documents may be obtained.
- (3) The date and time for the MANDATORY site visit, if applicable. As most specifications shall indicate, contractors shall be responsible for visiting the site of a project prior to bidding. Failure to do so shall not excuse a contractor from any requirement of the specifications. Occasionally, a MANDATORY site visit shall be held which shall require the attendance of a contractor at a specific time and place prior to bidding.
- (4) The location and time for the pre-bid conference if applicable. Some projects may have a MANDATORY pre-bid conference which means that bidders MUST attend to have their bid accepted.
- (5) The date, time and place of the opening of bids.
- (6) The name and address to whom competitive, sealed bids must be submitted.
- (7) If applicable, any pre-qualification requirements pursuant to 61 O.S. § 118.
- (8) Other information deemed of benefit to the public or prospective bidders.

(b) **Prequalification of Bidders.** In order to determine the responsibility of bidders, the awarding public agency may require prospective bidders, general contractors, subcontractors and material suppliers to prequalify as responsible bidders prior to submitting bids on a public construction contract. Prequalification to bid or perform work does not constitute a license. Prequalification shall not serve as a substitute for a license otherwise required by law. Notice of any such prequalification requirement shall be made equally and uniformly known by the awarding public agency to all prospective bidders and the public in the same manner as proposals to award public construction contracts. Financial information including, but not limited to, audited financial statements required by the awarding public agency as part of prequalification shall remain confidential.

(c) **Bid forms.** Bidders must use the information found in the specifications and drawings to prepare their bids. Verbal information from any other source cannot be used. All supplemental information, when required, shall be in the form of a written addendum provided by the ADC to all bidders of record.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23]

753:11-7-3. Bid submittal

(a) **Bid preparation.** Bids must be prepared in accordance with any instructions provided in the solicitation.

(b) **Competitively-Bid Projects.** Competitive bids cannot be submitted by telephone or fax machine. Competitive bids may be delivered in person, electronically, by the U.S. Mail, or by any of the express/delivery services available during regular business hours, 8:00 AM to 5:00 PM weekdays. Each envelope or electronic submission shall contain only one bid. Bids received after the time specified in the bid documents cannot be accepted. If electronically submitted, the subject line should contain the project number followed by the company name. The following information must be placed on the outside of each sealed bid envelope or, if electronically submitted, in the subject line of the submission:

- (1) Company name and address.
- (2) Description of project.
- (3) Project number and trade, i.e. 10 HVAC.
- (4) Closing date and time.

(c) **Non-Competitively Bid Projects.** For projects between \$25,000 to \$100,000, written bids shall be received as indicated in the solicitation, which may permit the submission of bids electronically. Before a construction contract shall be awarded, the following must be assembled:

- (1) A properly signed requisition form.
- (2) Three (3) or more original written bids, when possible, including any declined bids, signed by the bidders.

- (3) Scope of work with detailed requirements.
- (4) Acceptance letter to award the contract.

[Source: Amended at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-7-4. Modifications/withdrawal of bids

Bids may be modified or withdrawn up to the time set for bid opening. Modification notices or withdrawal instructions may be sent by registered mail, delivered in person, or sent electronically. Appropriate identification reflecting the authority of the bearer to modify or withdraw a bid must be presented. A bid to be withdrawn shall not be opened and shall be returned upon request of the bidder at the conclusion of the bid opening.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23]

753:11-7-5. Bid openings

The bids are opened by the COO or his designee at the date and time specified in the announcement in the following manner and recorded by an assistant. Bid openings are open to the public and to all bidders.

- (1) The bidder's name is announced.
- (2) The bid is checked for completeness and correctness. Any of the following deficiencies may be grounds for disqualifying the bid:
 - (A) The bid must be signed.
 - (B) The Non-Collusion Certification must be present and signed.
 - (C) If the total bid exceeds \$100,000 [61 O.S. § 1], a certified check, cashier's check, or bid bond for 5 percent (5%) of the base bid price and the price of all alternate bids must be present.
 - (D) All equipment lists, selected materials, or other information when required by the specifications must be present.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-7-6. Bid review and evaluation

(a) At the conclusion of the bid opening, bids will be reviewed based upon the evaluation criteria and tabulated, and their contents verified. The following items are reviewed: Insurance carriers, bonding companies, and surety companies used to issue bonds and insurance must be registered to do business in Oklahoma and prequalified as good and sufficient by OMES.

- (1) Verification of bid contents.
 - (2) When there is a variance between the amount in words and the figures, the amount in words shall govern.
 - (3) Bids containing omissions, alterations, additions, or conditions not called for, or containing a clause in which the bidder reserves the right to accept or reject a contract, shall be disqualified.
 - (4) The ADC may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work; and, if there is reasonable doubt that the bid will result in the lowest overall cost to the Trust even though it may be the low evaluated bid; or, if it is so unbalanced as to be tantamount to allowing an advance payment.
 - (5) Failure to submit unit prices for any requested work item shall cause the bid to be disqualified.
- (b) Before a contract may be awarded to a bidder, the bidder's ability to perform the required work is considered. The Trust may require bidders to pre-qualify pursuant to 61 O.S. § 118 to determine the responsibility of bidders.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-7-7. Contract award

(a) Contracts shall be awarded to the lowest responsible bidder on a lowest and best or Best Value criteria basis as indicated on the solicitation notice. If an award is made to other than the lowest bidder, the Trust shall prepare a statement setting forth the reason for its action and place that statement on file or its website, open to public inspection. [61 O.S. § 117] The Trust will provide a copy of the contract to the successful bidder who shall be given a specific period of time, as outlined in project specifications, but not to exceed sixty (60) days [61 O.S. § 113(A)], in which to execute the contract and obtain the necessary bonds and insurance.

(b) Projects over \$100,000 require three bonds. [61 O.S. § 113(B)] All bonds required by Title 61 of the Oklahoma Statutes shall be provided by insurance carriers, bonding companies, or surety companies that are prequalified by OMES as good and sufficient in accordance with criteria established by OMES. [61 O.S. § 134]

(1) **Performance bond.** A bond with good and sufficient security valued at not less than the total value of the proposed contract which shall ensure the proper and prompt completion of the work in accordance with the contract.

(2) **Defect bond.** A good and sufficient bond in an amount equal to the total value of the contract to protect the Trust against defective workmanship and materials for a period of one (1) year after acceptance of the project.

(3) **Payment bond.** A good and sufficient bond in an amount equal to the total value of the contract to ensure that the contractor shall pay all indebtedness incurred by the contractor and his subcontractors and all suppliers for such labor, material, and repair of and parts for equipment as are used and consumed in performance of the contract, and to protect the Trust against claims from subcontractors or suppliers for services or materials used in the project.

(4) **Letters of credit.** Irrevocable letters of credit may be substituted for the bonds listed, but each letter must be for the total value of the contract. Alternatively, a single irrevocable letter of credit may be substituted for the bonds listed.

(c) If no timely bid is received after bid notices have been published on any proposed public construction contract which does not exceed \$100,000, the Trust may negotiate the contract with a prospective contractor. The contract shall be executed within six (6) months after the date initially set for opening bids, and the work to be performed shall be as specified in the initial bidding documents. [61 O.S. § 119.1]

(d) Public liability and workers' compensation insurance in reasonable amounts shall be required for all projects, regardless of project size. The Trust may require the contractor to name the Trust and its architects or engineers, or both, as an additional insured under the public liability insurance, which requirement, if made, shall be specified in the bid documents. [61 O.S. § 113(B)(4)]

(1) Proof of workers' compensation insurance shall be required for all projects exceeding \$50,000. The minimum level of coverage shall be the statutory requirement specified by Oklahoma law.

(2) For projects less than \$50,000, a sworn affidavit certifying an exemption to the requirement of workers' compensation insurance coverage may be accepted in lieu of proof of workers' compensation insurance.

(3) Additional forms of insurance or increases in the insurance amounts may be required, including builder's risk, for certain projects. Any additions or increases shall be contained in the bid documents.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-7-8. Pre-construction conference

Shortly after award of a contract, the Trust may, at its discretion, schedule a pre-construction conference. This meeting may include, when applicable, the Design Consultant, general contractor, a representative of the ADC and/or the COO, and other interested parties. The COO or his representative shall chair the meeting. The purpose of the meeting shall be to discuss the requirements and responsibilities of the various parties involved with the objective of expeditious handling of the construction contract.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-7-9. Construction conference

(a) A construction conference may be called periodically by, when applicable, the COO or his designee or the Design Consultant to discuss:

- (1) Project progress as it relates to schedule.
- (2) Payment requests and their status.
- (3) Change order requests and their status.
- (4) Special problems and remedial action required.
- (5) Results of previous remedial action.
- (6) Other subjects as required.

(b) The meeting shall be chaired by the COO or his designee or the Design Consultant. Minutes of the meeting shall be kept by a designee of the COO, typed, and distributed to all applicable parties within five (5) working days.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-7-10. Construction requirements; reviews and permits

(a) The Trust facilities shall be constructed, renovated, or improved in such a manner as to provide reasonable safety from fire, smoke, panic, and related hazards and to ensure a high level of health, comfort, and well-being for all occupants.

(b) Building construction, renovation, and improvement will require formal code review and a building permit.

(c) Plans and specifications for the Trust projects shall be reviewed and approved by the AHJ, who shall issue a permit upon approval.

(d) No project shall be awarded until such prescribed reviews are concluded and a building permit is issued.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19]

753:11-7-11. Adopted codes

The Trust construction projects shall comply with all applicable codes adopted by the Oklahoma State Fire Marshal, current at the time the project is initiated; codes adopted by the Construction and Properties Department, OMES, as identified at OAC 260:65-5-4 and OAC 260:65-5-5; and any other additional codes as required, including but not limited to, for example, the Americans with Disabilities Act and related standards.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19]

753:11-7-12. Payment requests

(a) Partial payments for work completed and materials stored on site may be submitted once each month. A detailed procedure to be followed is shown below:

(1) The contractor shall be required to complete a detailed breakdown of costs, arranged according to sections of the specifications, and submit it to the COO or his designee for approval. This breakdown shall be used throughout the job and cannot be changed without approval from the COO or his designee or Design Consultant.

(2) The contractor should meet with the COO or his designee and/or Design Consultant when the rough draft of the pay request is prepared to agree on percentages of work completed and finalize the final form. The contractor should furnish the COO or his designee and/or Design Consultant with one (1) electronic copy of the pay request and all supporting documents.

(3) An itemized listing of materials stored on site at the end of the period covered in the pay request shall be prepared on the contractor's letterhead. Copies of paid invoices are to be attached. The date on the listing must agree with the date on the pay request. The materials must be stored at the site and cannot be removed after the payment has been made. The detailed description of stored materials should show quantities and sizes of materials. The usual terms of reference such as tons of steel and types of windows shall be acceptable.

(4) If the contractor deems it necessary, and the COO or his designee and/or Design Consultant recommend, the contractor may store material off-site. To do so, there must be a written agreement between the Trust and the contractor which provides:

- (A) proof of applicable insurance;
- (B) a written guarantee of delivery to the job site;
- (C) photos; and
- (D) written title to all materials covered by the request for payment, which shall pass to the Trust.
- (E) For particularly large projects, the Trust may require an on-site inspection of facilities by the CM or Design Consultant to verify the authenticity of quantities of stored materials.

(b) The Certificate of Contract Completion, Consent of Surety, Lien Release, and the Contractor's Warranties must be submitted with the final request for payment.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-7-13. Change Orders and proposal requests

(a) When it has been determined that a change is needed in the work and prior to the issuance of any change order, the COO or his designee and/or Design Consultant shall issue a Proposal Request to the contractor. The Proposal Request shall fully describe the scope of work explaining completely what each proposed Change Order. The contractor shall provide a detailed breakdown of cost, showing quantities and sizes of materials; unit cost, labor, equipment, profit and overhead and shall include any time extension involved; and other expense items. The COO, in consultation with the ADC, will consider the proposed Change Order and sign if approved. The proposed Change Order then becomes an official Change Order.

(b) Miscellaneous Change Orders that occur during construction including missed items, unforeseen/existing conditions, etc., will be change ordered with the approval of the owner parties mentioned above.

(c) Change Orders to public construction contracts of \$1,000,000 or less shall not exceed a fifteen percent (15%) cumulative increase in the approved construction budget [61 O.S. § 121].

(d) Change Orders to public construction contracts of over \$1,000,000 shall not exceed the greater of \$150,000 or a ten percent (10%) cumulative increase in the approved construction budget [61 O.S. § 121].

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-7-14. Time extensions

The contract documents shall contain the basis upon which time extensions may be granted. Substantiating data must be submitted with the requests for extensions. Such time extensions, if justified, shall be granted by Change Order only. It is important that written notices of delay be submitted to the COO or his designee and/or Design Consultant within twenty (20) days of the delay. Time extensions for changes in the work must be included on the Change Order form authorizing such change.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-7-15. Substantial completion inspection

(a) This inspection is to be requested by the contractor after he has determined that the project is substantially complete. Substantial completion is defined as the construction is sufficiently completed in accordance with the plans and specifications, as modified by any authorized changes, so that the owner can occupy the building and/or use the facility for its intended use.

(b) After receipt of a list of items to be completed or corrected from the contractor, the inspection is to be scheduled by the COO or his designee and/or Design Consultant who shall send out written notification inviting the ADC and other interested persons to attend. After the inspection, the Certificate of Substantial Completion Form with punch list shall be prepared by the COO or his designee and/or Design Consultant. A time limit to complete the punch list of deficiencies shall be determined by the Contractor and approved by the COO or his designee and/or Design Consultant. Two (2) copies of the form shall be provided to the Trust for signature.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-7-16. Final inspection

This inspection shall occur upon completion of construction and when requested by the contractor after he determines the project is finally complete and all punch list items have been completed. The COO or his designee and/or Design Consultant shall send out formal notification inviting the ADC and other interested parties to attend.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-7-17. Contract completion

A Certificate of Contract Completion shall be prepared by the COO or his designee and/or Design Consultant. The contractor shall complete the Contractor's Affidavit on all required copies of the Certificate of Contract Completion and return to the COO or his designee and/or Design Consultant. The total of the contract shown on the certificate shall include the sum of all change orders. The contractor shall secure and transmit to the COO or his designee and/or Design Consultant a completed and signed Consent of Surety with the contractor's Certificate of Final Payment. All submittals, operating manuals, brochures, as-built drawings, keys, warranties, and all other requirements of the contract shall have been submitted to the COO or his designee and/or Design Consultant with signed receipts from the using agency for the items received by them, before final payment is made.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-7-18. Project reporting for federally funded projects

Projects that are paid for with federal dollars may be subject to additional incremental reporting requirements. These requirements will be met in accordance with funding award documents and requests from federal awarding agencies.

[Source: Added at 40 Ok Reg 1679, eff 9-1-23]

SUBCHAPTER 9. CONSTRUCTION MANAGEMENT/AT RISK

753:11-9-1. Registration of Construction Managers

All Construction Managers desiring to perform services for the Trust must be registered with OMES. Any Construction Manager not registered with OMES at the time the Trust announces a project may register with OMES and submit a letter of interest to the Trust. All Construction Managers desiring to perform services for the Trust that are funded using federal dollars must be registered with SAM.gov, obtain a Unique Entity Identifier, and shall not be on the federal debarred supplier listing.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23]

753:11-9-2. Project designation consideration

(a) The COO in consultation with the ADC shall consider the following three factors to determine whether a construction project merits consideration for use of the construction management delivery system:

- (1) The project benefits the public. When considering designation, it shall be clearly evident that Construction Management will provide a public benefit, which may include:
 - (A) early completion of work, allowing for beneficial public occupancy;
 - (B) accommodating construction progress with phased funding;
 - (C) enabling the project to be placed under contract prior to losing expiring funding source;or
 - (D) other demonstrated public benefit.
- (2) There is a need for cost control. When project requirements or technical components of a project are not fully defined, or options are available for building systems, the use of Construction Management would provide valuable input to the design process.

(3) The need exists for specialized or complex construction methods due to the unique nature of the project. Projects shall be considered specialized or complex when they involve sophisticated or complicated technical systems, renovation work, or work that must be completed on a critical time frame, or otherwise when a critical mission may be in jeopardy.

(4) Other factors may include:

(A) **Time constraints on project completion.**

(B) **The Trust's capabilities.** The capabilities of staff and whether staff has the ability and experience to effectively manage a project that utilizes construction management.

(C) **Funding.** The Trust shall demonstrate whether it has adequate funding to pay for services of the construction management firm and construction services.

(D) **Project components.** The construction execution could be enhanced by the services of a Construction Manager.

(b) Upon consideration of the identified factors and based on the recommendation of the COO, the CEO may designate the project delivery method as construction management.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-9-3. Selection procedure

(a) **Description of the project.** The Trust shall develop a description of the project which shall include:

- (1) A narrative description of the work being planned, including various project components;
- (2) The estimated cost and time schedule of the project; and
- (3) The source of the funding.

(b) **Request list of Construction Management.** The Trust shall submit a written request to OMES for a list of construction management firms currently registered with the Department.

(c) **Announce project.** The Trust will send a Request for Qualifications (RFQ) to each construction management firm on the list provided by OMES which must include the description of the project and the deadline when letters must be received for consideration.

(d) **Special circumstances.** In special circumstances, the Trust may choose to precede the RFQ with a request for Letters of Interest (LOI) from the registered construction management firms.

(e) **RFQ Contents.** An RFQ must contain, at a minimum, the following elements:

- (1) Procedures for submitting statements of qualification and procedures for making awards;
- (2) Evaluation factors to be considered by the selection committee;
- (3) A statement of work including the description of the project with any other summary information the Trust deems pertinent;
- (4) A schedule for planned commencement and completion of the contract;
- (5) Budget limits for construction of the project for which services are being sought;
- (6) Requirements for construction management firms to have bonds and insurance;
- (7) If project is funded using federal funding sources;
- (8) Whether preferential scoring will be given to organizations based in the United State of America; and
- (9) Whether additional preferences are designated by federal awarding agencies.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23]

753:11-9-4. Selection committee

(a) **Members.** Whenever a solicitation is issued requiring Best Value Methodology as described at Subchapter 6 of this Chapter to determine the successful bidder, the COO or designee will assemble the ADC to serve as a Selection Committee. Individuals may not serve as members of the selection committee if they are deemed to have a conflict of interest with firms submitting qualifications for consideration. Conflicts of interest are generally identified as an ownership interest or a close family member with an ownership interest in a submitting firm. The CEO, CFO, or COO may provide further clarification or determinations related to conflicts of interest.

(b) **Selection Monitor.** The COO will designate one member of the Selection Committee to serve as a Selection Monitor. The Selection Monitor is a non-voting member and presides over the Selection

Committee. Duties of the Selection Monitor may include:

- (1) schedule and preside over Committee meetings;
- (2) provide instructions to Committee members on the Best Value methodology for evaluation and rating of bid submittals;
- (3) tabulation of the evaluation scores;
- (4) review the Committee's rating results for dominant information and/or inconsistencies;
- (5) discuss evaluations with Committee members to seek clarifications, if necessary;
- (6) prioritize the final rating scores;
- (7) assist the Committee in determining the highest ranked firms for further consideration in interviews;
- (8) assist the Committee in determining the apparent Best Value firm; and
- (9) assisting with the Clarification Period activities.

(c) **Construction management interviews.** The Selection Committee shall select a competitive number of the best qualified construction management firms for interviews. When possible, a minimum of three (3) firms constitute a competitive number.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-9-5. Scheduling and performing interviews

(a) All members of the interview committee shall participate in all interviews of each firm.

(b) An evaluation criteria list shall be developed to ensure that each firm is evaluated against a clearly established list of criteria made available to the firm at least seven (7) days prior to the interview. All interviews will be conducted identically. Evaluation criteria may include, but is not limited to, the following:

- (1) Specialized experience and technical competence of the firm regarding the type of services required;
- (2) Capacity and capability of the firm, including any consultants, to perform the work, including any specialized services, within the stated time limitations of the project;
- (3) Past record of performance on contracts with government agencies or private industry with respect to control of costs, quality of work, and ability to meet schedules;
- (4) Proximity to or familiarity with the area in which the project is located;
- (5) The volume of work previously awarded by the State to the firm; and
- (6) Any other factors that are relevant to the project as determined by the Trust.

(c) Questions concerning fees shall not be asked. Oklahoma law prohibits the requesting of any information on fees at this stage of the process. Any firm that discloses its fee, or any indication thereof, shall be removed from consideration. Construction management firms will be selected on the basis of qualifications and not on a financial basis.

(d) Each firm shall be notified by letter of the selection for interview. The letter shall contain:

- (1) Date, time, and place of interview. Interviews should be scheduled individually for each firm;
- (2) An indication of how much time the firm shall be permitted for the presentation and how much time shall be reserved for questions by the committee;
- (3) A copy of the interview criteria; and
- (4) Any other information which would help the committee to obtain information needed for them to properly evaluate the firm.

(e) Interviews must be conducted privately with each firm.

(f) At the conclusion of all interviews, the committee shall rate each firm so as to recommend to the Trust the relative ranking of each firm. All criteria and procedures used by the committee shall be documented for the record.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19]

753:11-9-6. Fee negotiation and contracts

(a) Once the highest-ranking construction management firm is selected, the Trust shall request a fee proposal from the firm.

- (b) Upon receipt of the written fee proposal, the Trust shall negotiate a contract including fees.
- (c) In establishing the construction management fee, the Trust shall take into account the estimated value of the services to be rendered and the scope, complexity, and professional nature of the services.
- (d) In the event the Trust is unable to negotiate a satisfactory contract with the selected firm, at a price determined to be fair and reasonable, negotiations with that firm shall be formally terminated. The Trust may then undertake negotiations with the firm ranked second, beginning with a formal request for a fee proposal from that business. Failing accord with the second firm, the Trust shall formally terminate negotiations with that firm. This process may continue, with proposals received from and negotiations held with the next ranked firm, until such time as a contract is signed with a qualified firm or the procurement process is terminated and a new request for qualifications is initiated.
- (e) In general, pre-construction services are required on all types of construction management contracts. The fee for these services should be negotiated as a lump sum amount and should be based on the scope and duration of services.
- (f) For Construction Management/At-Risk, there are essentially two phases of the contract:
- (1) Phase One commences following completion of fee negotiations for pre-construction services. Pre-construction services include all activities by the Construction Manager up to the point at which the design is far enough along for the Construction Manager to establish a Guaranteed Maximum Price (GMP). The point in time when the GMP can be established will vary from one type of project to another. Included in the GMP quoted by the Construction Manager are the Construction Manager's fees for administering the construction contract (project fee) and the fee to cover the General Conditions for construction. The project schedule may also dictate the amount of contingency included in the GMP.
 - (2) Approval of the GMP advances the project from Phase One of construction management services to Phase Two. The Trust will signal a move into Phase Two through issuance of a Notice to Proceed. Once the GMP is established, it will remain in effect through the development of the construction documents by the Construction Manager and, if applicable, the Design Consultant. The Construction Manager will work in conjunction with the Design Consultant, if applicable, to perform value engineering and construction coordination reviews and to develop individual bid packages for issuance to subcontractor trades.
- (g) Upon receiving the Notice to Proceed, the Construction Manager/At-Risk will be required to furnish 100 percent performance, payment, and defect bonds, in an amount equal to the GMP or lump sum. Worker's Compensation, All Risk, Property and General Liability insurance shall be required.
- (h) Non-approval of the GMP allows the Trust to terminate the services of the Construction Manager or to renegotiate, as required.
- (i) Application of competitive bidding to subcontractor packages. When the design is complete and bid documents have been prepared for issuance of work packages to subcontractor trades, the Construction Manager becomes essentially a general contractor for the project, responsible for issuing and awarding individual work packages to subcontractor trades in accordance with Subchapter 3 of this Chapter. Thus, in administering the construction contract, the Construction Manager will adhere to the competitive bidding requirements for advertising and award of various work packages for a project. The estimated value of a work package will be published with the advertisement to bid.
- (j) Self-Performance of subcontractor packages by Construction Manager. Because the Construction Manager is "at risk" for the total contract amount, the Construction Manager is permitted to self-perform portions of the work, provided that the work is competitively bid as a lump sum (each work package) under the same terms and conditions as the other bidders. The Trust must be notified of the Construction Manager's intent to bid a work package during each pre-bid meeting held to discuss outgoing bid packages or otherwise in writing to the COO.
- (k) When individual work packages are bid as a lump sum, the Construction Manager's contract for that portion of the work converts from a GMP to a lump sum. Once all work packages have been bid, the Construction Manager's contract becomes all lump sum.
- (l) In the event that the GMP is exceeded after all bids are received from subcontractor trades, the Construction Manager and the Trust must determine whether individual work packages need to be revised and then rebid in order to reduce cost. As an alternative, the Trust may allow an adjustment to the GMP in order to allow the Construction Manager to award all work packages.

753:11-9-7. Award of contract

The construction management contract shall be written and included in the project file.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19]

753:11-9-8. Changes to base contract

Changes to the base contract are permitted as long as the scope of the change is generally included within the scope of work developed for which the selection process was conducted. All changes shall be in writing and signed by all parties to the contract.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19]

753:11-9-9. Statutory Increases

Any monetary threshold set forth in these rules will automatically be updated and incorporated herein consistent with any later act of the Legislature that increases the monetary thresholds set forth in Title 61 of the Oklahoma Statutes.

[Source: Added at 40 Ok Reg 1679, eff 9-1-23]

SUBCHAPTER 11. BEST VALUE METHODOLOGY

753:11-11-1. Best Value supplier selection

The Best Value supplier selection and project delivery process consists of three primary phases:

- (1) **Phase 1.** Supplier selection.
- (2) **Phase 2.** Clarification period, which includes but may not be limited to:
 - (A) agreement on scope;
 - (B) description of services using performance measurements, if applicable; and,
 - (C) creation of contract requiring a Risk Report, Risk Management Plan, and all applicable legal terms and conditions.
- (3) **Phase 3.** Management, which requires:
 - (A) the supplier to manage and control the project system to make reports to the Trust; and
 - (B) the Trust to perform project quality assurance by ensuring the supplier is using a quality control plan and through periodic inspection.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23]

753:11-11-2. Supplier selection

Phase 1 uses a series of filters to identify which bidder provides the most value. For Construction Management/At Risk contracts, for example, Subchapters 753:11-9-1 through 753:11-9-5 reflect Phase I supplier selection and should be read in tandem with this Subchapter. On or before the date stated in the solicitation, suppliers submit documentation requested in the solicitation or bid documents information that will be evaluated, rated, and/or weighted, which may include, but is not limited to:

- (1) **Past performance information.** The supplier submits performance information collected from past customers about past projects/services the supplier has completed.
- (2) **Project capability.** The supplier submits proof of their ability to perform the requirements of the proposed project/service specified in the solicitation, which includes but is not limited to risk assessment and mitigation, financial stability, proper insurance, the absence of any conflict of interest as such conflicts are addressed at 753:11-1-4, technical capability, documented performance measurements, supplier's ability to provide additional value, and pricing information as required by the solicitation.
- (3) **Interviews.** The Selection Monitor will schedule interviews with representatives of selected firms as designated by the Selection Committee. The interview provides a forum for the supplier to

discuss the project and answer questions concerning the ability to deliver the project/service.

(4) **Prioritization.** After completion of (1) through (3) of this Section, the Selection Monitor prioritizes bidders from the highest performing to least performing based upon past performance scores and the committee ratings and evaluation of the information provided by each supplier.

(5) **Dominance check.** The Selection Monitor reviews the prioritization and scoring of the bidders to identify the apparent Best Value supplier.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23]

753:11-11-3. Clarification period

(a) The identified apparent Best Value supplier is invited to participate in the Clarification Phase. Only one firm at a time may be invited to participate. The clarification period is not a contract negotiation. This period is the final "filter," and the invited firm may still lose the project. Once invited to the clarification period, the supplier is responsible for scheduling and management of the related activities. The objective is to:

- (1) ensure the supplier understands the project scope;
- (2) allow the supplier to clarify how they will deliver the project/service on time;
- (3) identify the accountabilities of other parties; and
- (4) explain how the supplier will mitigate and manage any risk the vendor does not control.

(b) The supplier is responsible for understanding the project requirements and expectations.

(c) To complete the clarification phase, the supplier conducts required meetings, identifies specific requirements and provides relevant documents, which may include but is not limited to, the following:

- (1) Executive Summary;
- (2) A critical milestone schedule that includes the clarification period, the award, project/service delivery, and the project completion, including requirements for information or actions by other parties necessary to meet the schedule;
- (3) Identify all technical concerns the customer may have or issues or risks identified by the customer and provide an explanation of how the Construction Manager will satisfy those concerns;
- (4) Make any additional investigations as warranted;
- (5) Provide a listing of major sub-supplier and suppliers. Ensure that any sub-suppliers have a complete understanding of the project and have no technical or non-technical questions or concerns;
- (6) Identify activities where the supplier will experience situations where there may be a lack of information, where un-foreseen conditions may exist, and activities where the supplier has no control over other participants or required activities in the delivery of the service.
- (7) Identify and document in writing any value-added ideas the Trust has accepted or rejected, along with corresponding adjustments to the contract terms;
- (8) A project plan including any final clarification of the proposal and any omitted information and identification of value-added provisions accepted by the Trust;
- (9) Validation that the proposal is accurate and complete prior to submitting the final project scope;
- (10) Develop a Risk Report template to communicate accountabilities and deviations, beginning with the clarification period;
- (11) Develop a Risk Management Plan, which includes any risks the supplier does not control and how the supplier will mitigate or minimize those risks should they occur;
- (12) Identify a performance measurement plan to communicate to the Trust how the supplier is performing during the project duration; and
- (13) Provide assurances to satisfy any remaining project concerns that the Trust may have, including but not limited to adverse publicity; noncompliance with local, state, or federal law; safety and accident prevention or other risks within the control of the supplier that would cause unnecessary time-and-effort transactions by the Trust.

(d) If the bidder determines the proposal contains errors or the proposal is inaccurate, the bidder may withdraw the project proposal, but the bidder shall be prohibited from modifying the proposal cost, duration, or project team, unless there is dominant information justifying such action as determined by the COO.

(e) The supplier must schedule a final Clarification Meeting at the end of the clarification period to present a summary of the project items developed. The clarification documents must be concise, organized, and suitable for attachment to a final negotiated contract.

(1) The final clarification meeting is not a question and answer session.

(2) The bidder must not wait for the meeting to ask questions. All coordination and planning with the Trust must be conducted prior to the clarification meeting.

(3) The bidder makes a clarification meeting presentation, which details completion of the project from start to finish and summarizes all coordination/planning completed during the Clarification Phase.

(f) The Clarification Phase is the final selection filter. If at any time during the Clarification Phase, the Trust determines progress being made by the invited bidder is unsatisfactory, the Trust may terminate Clarification Phase activities with the invited bidder. The Trust may then commence a new Clarification Phase with the next highest ranked bidder.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-11-4. Risk minimization and performance

(a) The Risk Minimization and Performance Measurement phase begins upon award of the project contract. Risk includes anything that impacts project cost, quality, or project schedule caused by the supplier, the Trust, unforeseen conditions, or other parties. The Phase consists of, but is not limited to, a Risk Report detailing information provided by the Construction Manager, which may include:

(1) all key contact information;

(2) project milestone schedule;

(3) risk sheet;

(4) modification/deviation tracking;

(5) Risk Management Plan;

(6) any risks the Trust may require the supplier to document that could impact satisfaction; and

(7) performance measurements.

(b) The Construction Manager shall submit a Risk Report for the project/service weekly throughout the contract, or as otherwise required by the COO.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-11-5. Transparency and Best Value documentation

(a) To protect the integrity of the selection process and fairness to bidders, the following will remain confidential as stated:

(1) Identities of individual bidders will not be revealed to voting members of a selection committee during evaluation of key submittals as identified in the solicitation until such time as the highest rated bidders are identified and advanced to the oral interview or award phase.

(2) To preserve integrity in the event a re-bid is necessary, contents of the individual bidders' submittals shall not be open to public inspection until such time as the contract award is made.

(3) A bidder shall clearly identify any information submitted in a response to a solicitation that the bidder considers confidential or proprietary and shall submit such clearly-identified information in a separate envelope. The COO shall review the information and may or may not designate the bidder's information as proprietary or confidential and may or may not reject requests to disclose the information so designated.

(b) Following the contract execution, all selection process documentation not otherwise protected will be available to the public for inspection.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-11-6. Other requirements for contracts awarded using Best Value methodology

(a) 753:11-11-2 and 753:11-11-5 may apply to any contract awarded by the Trust using Best Value methodology to select the successful supplier.

(b) Construction service solicitations and contracts shall comply with the requirements of the Public Competitive Bidding Act of 1974 with respect to performance bonds, payment bonds, defect bonds and change order limits.

(c) Construction Manager/At-Risk may use Best Value methodology to select subcontractors only in accordance with a plan authorized by the COO. Components of the plan must, at a minimum, include the following provisions:

- (1) Bid Notices: method of making uniform public notification to interested subcontractors and suppliers;
- (2) Availability of bid documents for inspection or acquisition by interested bidders;
- (3) Bidding and bid submittal requirements, including contents of submittals and the place and time that bids are due.
- (4) Method of evaluation of bid documents to determine final recommended contract awards.
- (5) Method of public access to pricing, scoring, and final award information.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

SUBCHAPTER 13. SUPPLIER PROTESTS

753:11-13-1. Supplier notification

A supplier may protest a contract award to the CEO of the Authority by submitting written notice to the CEO within ten (10) business days of contract award. The supplier protest notice shall state with specificity all facts and reasons for the protest. The CEO shall forthwith notify the supplier awarded the contract of the protest. Any ex parte contact with the CEO by the supplier protesting the award and the supplier awarded the contract is prohibited while any matter relating to the protest is pending. The CEO may enter an order by letter, staying contract performance upon such terms and conditions as the CEO determines to be proper. Any request for stay of contract performance must be made in writing and filed during the ten (10) business day time period in which an appeal may be commenced. The CEO shall have continuing jurisdiction to modify any such orders made in connection with a stay during the pendency of the appeal as appropriate under the circumstances presented.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-13-2. Review and determination

The CEO shall review the supplier's protest and contract award documents and shall send written notice of the decision to deny or sustain the protest to the supplier within ten (10) business days of receipt of the protest.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19]

753:11-13-3. Supplier appeal of decision to deny protest

If the CEO denies the protest, the supplier protesting the award may appeal a denial of protest by filing, within ten (10) business days of the date of the CEO's notice of denial, a written appeal, setting forth all the relevant facts and reasons for the appeal.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19]

753:11-13-4. Determination

The CEO shall assign the supplier's appeal to an Administrative Law Judge who shall be a licensed attorney retained by the Trust. The Administrative Law Judge shall review the appeal for legal authority and jurisdiction. If legal authority and jurisdictional requirements are met, the Administrative Law Judge shall conduct an administrative hearing and provide proposed findings of fact, conclusions of law, and a proposed order to the CEO. The CEO shall determine a final order and send written notice of the final order sustaining or denying the supplier's appeal to the parties. The cost of actions necessary for the Trust

to process a supplier's appeal, together with any other expenses incurred by the Trust due to the appeal, shall be paid by the Trust.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19]

753:11-13-5. Administrative procedure

Administrative hearings shall be conducted in accordance with the following procedures:

- (1) **Prehearing conference.** A prehearing conference shall be scheduled to determine the legal or factual issues which shall be limited to those brought by the supplier in its initial protest.
- (2) **Burden of proof.** The burden of proof shall be upon the protestant, which must prove its case by a preponderance of the evidence. A preponderance of the evidence is that evidence which, in light of the record as a whole, leads the Administrative Law Judge to believe a fact is more probably true than not true.
- (3) **Evidence.** The Administrative Law Judge shall give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The Administrative Law Judge shall give effect to the rules of privilege recognized by Oklahoma law for civil proceedings. Parties may conduct cross examination of witnesses required for a full and true disclosure of facts. Notice may be taken of judicially cognizable facts.
- (4) **Representation.** Parties may be represented by legal counsel in accordance with Oklahoma law. Legal counsel must be licensed or registered pursuant to the Rules Creating and Controlling the Oklahoma Bar Association.
- (5) **Proper parties.** In addition to the supplier protesting the contract award, the supplier awarded the contract and the Trust may participate in the bid protest proceedings as proper parties.
- (6) **Discovery.** Discovery shall be permitted as determined by the Administrative Law Judge.
- (7) **Testimony.** All testimony, either at depositions or at a hearing, shall be under oath or affirmation.
- (8) **Official record.** The Trust shall employ a certified court reporter for an official transcription or may use an electronic recording service. The transcription of the hearing and any related matters, together with all pleadings, motions, and other documents submitted or considered during the proceedings shall constitute the official record of the protest.
- (9) **Authority of the Administrative Law Judge.** The Administrative Law Judge may:
 - (A) Establish a scheduling order;
 - (B) Establish reasonable procedures such as authorizing pleadings to be filed electronically;
 - (C) Rule on all interlocutory motions;
 - (D) Require briefing of any or all issues;
 - (E) Conduct hearings;
 - (F) Rule on the admissibility of all evidence;
 - (G) Question witnesses;
 - (H) Make proposed findings of facts, conclusions of law and a proposed order to the Chief Executive Officer; and
 - (I) Take other lawful actions necessary and proper in the interests of justice.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 40 Ok Reg 1679, eff 9-1-23; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-13-6. Remedies

The Administrative Law Judge may recommend in a proposed order that the CEO deny the supplier's appeal, that the contract be awarded to the protesting supplier, that the contract award be cancelled and rebid, or for such other relief as the facts and law warrant.

[Source: Added at 36 Ok Reg 2004, eff 9-18-19; Amended at 43 Ok Reg, Number 21, effective 7-27-26]

753:11-13-7. Decision to be final

The CEO shall make a final determination as evidenced by a final order. If the CEO denies a supplier's appeal, the supplier may appeal pursuant to the provisions of 75 O.S. § 309 et seq.

SUBCHAPTER 15. INVENTORY AND SURPLUS PROPERTY

753:11-15-1. Authority

(a) By operation of law, OMES does not have *any authority or responsibility for property purchased for or under the management or control of the University Hospitals Authority except as expressly provided by law*. [74 O.S. § 63(G)] State property law expressly provides that the Trust must provide an inventory to OMES [74 O.S. § 110.1], but no such express provision appears in the Oklahoma Surplus Property Act. That being so, OMES has no authority over property belonging to the Trust beyond that of serving as a repository for the Trust's inventory. [74 O.S. § 63(G)].

(b) These administrative rules have thus been implemented to fully comply with the spirit of laws applicable to state property [74 O.S. § 110.1] and the Oklahoma Surplus Property Act [74 O.S. § 62.1-62.9] while reducing the risk of liability to the Trust for the transfer or disposal of surplus hospital property-property unique from other state property. These Policies and Procedures apply to University Hospitals Trust, in turn, which exists for the principal purpose of effectuating the purposes of the University Hospitals Authority as established in the University Hospitals Authority Act.

[Source: Added at 40 Ok Reg 1679, eff 9-1-23]

753:11-15-2. Inventory control

(a) Tangible assets shall be recorded in the Trust inventory system [74 O.S. § 110.1] which shall be maintained by the inventory control officer. In circumstances where unique assets or transactions are identified as not clearly covered by 74 O.S. § 110.1, the appropriate Trust personnel will document internal guidance in accordance with relevant industry and generally accepted accounting principles. Identification of the inventory control officer shall be provided in writing to OMES by January 15 of each year, with any change in identification of the inventory control officer submitted to OMES within thirty (30) days of the change.

(b) Tangible assets that are movable shall be tagged with a unique identifier of durable material in a location ensuring accessibility by an inventory control officer.

(c) If a movable tangible asset is transferred from one location to another, the transferring tenant shall report such movement to the appropriate Trust personnel and the new location shall be recorded in the system.

(d) Assets may be given or sold to the Joint Operator of the University Hospitals per Title 63, which donation in whatever form shall be recorded on the inventory system identified in these rules.

(e) The report generated from the inventory system shall be signed by the CFO, include tangible assets owned as of June 30 of the preceding year, and submitted to OMES by August 15. The report shall include for each asset:

- (1) The name of the University Hospitals Authority or University Hospitals Trust, as the case may be;
- (2) The tag number;
- (3) The model and serial number, if any;
- (4) The manufacturer;
- (5) The description;
- (6) Product name;
- (7) Acquisition date and cost;
- (8) Whether the asset is on loan;
- (9) Whether a tag cannot be affixed to the asset;
- (10) If the property was given or sold to the Joint Operator of the University Hospitals per Title 63, a designation of that fact; and
- (11) If the property has been disposed of, a designation whether it was traded in, was transferred, reached the end of its useful life, or was otherwise disposed of in accordance with these rules.

(f) Inventory records for motor vehicles shall specifically include:

- (1) A detailed description of each vehicle, including its original cost;

- (2) The vehicle identification number;
- (3) The license tag number;
- (4) Mileage; and
- (5) The make, model, and year of the vehicle [74 O.S. § 1103].

(g) Supporting documents identifying tangible assets shall be maintained. Such documents shall include acquisition, date, acquisition cost, digital photographs or images, or other documents that provide identification information. If federal funding sources are used in the acquisition of a tangible asset, the asset shall be identified with a federal source code. Federal awarding agencies may impose additional requirements for asset tracking and disposal. These requirements shall be followed in accordance with funding award documents and the Code of Federal Regulations.

(h) Trust shall maintain a report of any assets that are missing, stolen, or destroyed by vandalism. Any notice reporting a loss to the insuring entity and any report to a law enforcement agency in the event of theft or vandalism shall be included in the report.

(i) For purposes of these rules, a tangible asset is one that meets the federal useful life and cost criteria specified in the Office of Management and Budget Circular A-21, as may be amended or superseded.

[Source: Added at 40 Ok Reg 1679, eff 9-1-23]

753:11-15-3. Surplus property

(a) The Trust shall maintain a current list of all surplus property held and disposed of. Such list shall include the location where surplus property

- (1) is maintained;
- (2) purchase price;
- (3) when sold and selling price;
- (4) if transferred, to which entity; and
- (5) if otherwise disposed of, the manner of disposal.

(6) If any surplus property having minimal or no value or property carrying a risk of liability is disposed of, the list shall reflect that the property had minimal or no value or was otherwise disposed of because of such risk. Inclusion of assets on the surplus property list will coincide with removal of those items from the inventory system.

(b) The Trust may determine that its items, commodities, materials, supplies, equipment, or other like tangible assets are surplus when they:

- (1) are no longer required for the maintenance or operation of Trust facilities;
- (2) are no longer economical to operate, maintain or store, and do not provide a benefit;
- (3) can be converted to more liquid assets for other immediate needs or long-term requirements; or
- (4) have otherwise become excess, obsolete, antiquated, unused, or not needed.

(c) Assets may not be designated as surplus without the prior approval of the inventory control officer.

(d) While the Trust is exempt from the Surplus Property Act, it may nevertheless dispose of property in any manner set forth in the Act and may coordinate with OMES for disposal of surplus property. Other methods of disposal of surplus property are:

- (1) Transfer or sale to other state agencies or the Joint Operator of the University Hospitals.
- (2) Sealed bid. Sealed bids shall be received in accordance with these rules. Records of all surplus property sold through sealed bid shall be maintained and shall include the name of the buyer and the selling price.
- (3) Scrap metal.
- (4) Trade in.
- (5) Sell any property not exceeding \$25,000 with CEO approval. Property exceeding \$25,000 shall follow the sealed bid procedures outlined in the Trust's administrative rules.
- (6) Disposal in an appropriate waste facility, container, or with a waste service.

(e) Donations of Trust property to private individuals or Trust employees is strictly prohibited. The sale of Trust property to its employees must be at announced public sales or auctions and cannot be made through sealed bid.

(f) Payment by state entities shall be within forty-five (45) days of purchase and removal. Payment by other than state entities shall be at the time of purchase and prior to removal of property. Payment by state

entities shall be by a state-approved purchase card. Payment by other than state entities may be in the form of certified funds, business check, money order, or cashier's check, except that a business check will not be accepted for an amount in excess of \$2500. A private business shall provide a business tax identification number. Sales tax shall be collected unless a tax-exempt certificate is presented. Not-for-profit, non-governmental entities shall provide a copy of the letter issued by the Internal Revenue Service granting its tax-exempt status. All payments received for the purchase of surplus property are nonrefundable.
(g) All surplus property, vehicles, and equipment are sold "as is" and are nonreturnable.

[Source: Added at 40 Ok Reg 1679, eff 9-1-23]