Facility Improvements Financed from Donations

Policy Statement:
Private donors' gifts for capital improvements such as buildings, classrooms, laboratories, offices, libraries or other University of Oregon facilities may be made either to the University or to the University of Oregon Foundation. If the gift is made or proposed to be made directly to the University, the procedures followed must conform to the Administrative Rules and Internal Management Directives of the Oregon State Board of Higher Education and to Oregon statutes relating to bidding and contracting for public improvements. If the gift is made or proposed to be made to the University of Oregon Foundation, the planning and implementation guidelines listed below shall be followed.

1. Initial Contact
   a. The person initially contacted by an interested donor, the Foundation and the affected Dean or Department Head shall designate a person to serve as the sole contact with the donor during the proposed project stage. Once final project approval is received from the University President's Office, all contact with the donor shall be through the Foundation. All solicitation of donors shall be through the Foundation.
   b. Upon initial contact from an interested donor and/or prior to initiating any solicitation program, the affected Dean or Department Head shall discuss the program implications of the proposed project with the appropriate Vice-President of the University.
   c. The Vice-President shall review the proposed project with other interested University Vice-Presidents, considering the potential operating costs and the financing thereof, program capability, intended use of the facilities and any donor-requested or desirable restrictions on use. By majority decision of such Vice-Presidents, the project may be preliminarily accepted. Notice of such preliminary acceptance or of rejection of the proposed project shall be provided to the Dean or Department Head and the contact person. Such notice shall include any conditions on which preliminary acceptance will be made.

2. Planning
   a. The Dean or Department Head, after receiving preliminary approval, and if all conditions of preliminary acceptance, if any, are accepted by the donor, shall submit to the appropriate Vice-President:
      1. a written statement of need;
      2. a written description of the proposed project, including any design documents or plans prepared by a professional architect, engineer or other licensed consultant for the donor; and
      3. a preliminary project budget, including estimated direct construction costs, professional service fees, furnishing equipment costs, construction supervision, and other project costs.
   b. The Vice-President shall then forward to the Campus Planning Committee for analysis and recommendation in accordance with established procedures the statement of need, project description, and budget. Response time may be stipulated by the Vice-President. The committee's review may include:
      1. determination that an appropriate group of users be identified to collaborate with the architect in the development of the facility design;
      2. identification of design policies, or "patterns" that should be accounted for in the development of the design;
      3. recommendation of appropriate intervals for further review by the committee.
c. The Campus Planning Committee's analysis and recommendation shall be forwarded to the University President's Office. The President's Office will approve, reject, or modify the committee's recommendation.

d. The Vice-President shall notify the Dean or Department Head and the Foundation of final project approval, rejection, or modification and forward to them copies of the needs statement, project description and budget, and the Campus Planning Committee's analysis and recommendation.

e. Before the Foundation will accept responsibility for an approved project, it shall have all project funds in hand or evidence satisfactory to it that all pledges will be met before any project contract is executed. If arrangements are needed for interim financing pending the collection of amounts pledged, they shall be made prior to the execution of any project contract. If gifts-in-kind are pledged, they should be on hand or be firmly committed for delivery on an acceptable date prior to the start of construction.

f. If the project is to be built (in whole or in part) on state-owned undeveloped land, the Foundation shall obtain a lease for such land from the Oregon State Board of Higher Education before any outside design or construction contract negotiations are commenced. The Foundation shall reconvey to the Board the land with the constructed facility upon completion and acceptance of the project. If the above-described procedure is followed, the following sections of these Guidelines shall be modified to provide that:

3. (c) The Board's Office of Facilities Planning shall also approve drawings and specifications (including a site plan);
3. (g) The contractor shall be required to obtain and maintain builder's all-risk coverage; and
3. (m) The Board's Office of Facilities Planning shall also guide the Foundation in the final review and acceptance of the completed project.

3. Implementation

a. As a general rule, competitive bidding procedures for the awarding of public contracts are to be followed. However, it is possible for a donor, with institutional concurrence, to select design professionals and/or contractors and ask the Foundation to negotiate a contract satisfactory to the Foundation.

b. All communications with project designers, contractors, sub-contractors, and other outside persons providing project services, except for day-to-day construction inspection, shall be through the foundation or its designated representative.

c. Drawings and specifications (including a site plan) developed for the project shall be reviewed by the Campus Planning Committee and approved by the Director of Facilities Services prior to seeking building permits or proceeding with construction. A set of such documents shall be made available to the Oregon State Board of Higher Education's Office of Facilities Planning for its review and comment. The Physical Plant Director's approval and the Board Office's comments shall be communicated to the Foundation.

d. Any design contract or construction contract shall be negotiated and executed by the Foundation.

e. No construction on the project shall commence unless all required building permits have been issued.

f. The construction contract shall impose upon the contractor the responsibility for completing the project pursuant to the drawings and specifications and in accordance with all applicable laws, ordinances, rules and regulations and shall indemnify and save harmless the State of Oregon, the Oregon State Board of Higher Education, the University of Oregon, the University of Oregon Foundation, the architect (or engineer), and all officers and employees of any of them from all suits or actions of every name and description brought for or on account of any damage, injury, loss, expense, inconvenience, or delay received or sustained by any person, or damage caused to any property, which damage, injury, loss, expense, inconvenience or delay is or may have been caused by or may have resulted from the carrying out of the work to be done under the contractor, a
The contractor shall be subcontractor of their employees.

g. The contractor shall be required to provide evidence of insurance coverage not less than that comparable to that required in construction contracts executed on behalf of the Oregon State Board of Higher Education. The contractor should be required to obtain and maintain a performance and payments bond in an amount equal to the contract price.

h. To assure that the project stays within the funds donated to the Foundation, the architect (or engineer) and the contractor shall each agree with the Foundation in writing before commencement of the project on a maximum price that will not exceed the sum of the amounts budgeted for direct construction costs and contingencies at the origin of the contract.

i. The architect and contractor shall agree to complete the project within a time frame agree upon with the Foundation. While the contract may permit extensions in certain circumstances, it shall require that every effort be made to meet a firm construction schedule.

j. A project on University facilities shall proceed under the supervision of a construction inspector assigned from the University Physical Plant Department staff. The inspector shall, in conjunction with any architect providing contract administration, provide project inspection and shall have authority to direct minor changes in the work which do not require change orders. The inspector shall assist the contractor in the check-out and testing of the completed project. The Foundation and Facilities Services shall agree prior to execution of any contract with the contractor or architect on any fee to be paid for the inspector’s services by the Foundation. Such fee shall be paid from the donated funds through the University’s Business Office.

k. The University shall:
   1. Cooperate with and assist the Foundation and the contractor in making and testing all utility service connections, including steam, electricity, classroom television and computer cable, between such existing University systems and the project.
   2. Provide, at the Foundation’s request and at a reasonable charge, areas reasonably close to the project site which are adequate for construction employee parking, equipment and materials storage, and materials fabrication and staging.
   3. Obtain any permits required for permanent access to the project from any public road.
   4. Supply to the Foundation all surveys, soils reports, sub-surface investigations, and utility location information in the University’s possession which may be helpful in the design or construction of the project.

l. All progress payments, final payment, and all other expense for the project shall be paid by the Foundation at no expense to the University. The Foundation shall have sole authority to approve project payment requests with the assistance of any architect providing contract administration.

m. Final project acceptance will depend upon the contractor fulfilling all terms of the contract, including any required occupancy permit, approval of the work by the architect (when applicable) and final review and acceptance of the completed project by the Foundation as guided by the University Facilities Services Director.

n. The Foundation shall negotiate for and impose such other requirements on the contractor and architect as it deems necessary or desirable for the protection of the Foundation, the University, the Board, and the public.

o. The Foundation may, upon final completion and acceptance of the project, assign its rights under any warranties made or bonds filed by the contractor regarding the project to the Board.
Reason for Policy:
To provide guidelines for responding to private donors' gifts for capital improvements; to outline procedures to be followed.

Reviewed and Approved By:
President's Staff
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02/03/1984  Approved by President's Staff
04/04/1984  Revised
Reissued by Vice President for University Relations
02/08/2010  Policy number revised from 7.000 to 07.00.05
11/04/2010  Repealed. University Foundation owns this policy and the Foundation is an entity separate from the University of Oregon. Foundation policies are found on a separate website at http://www.uofoundation.org/resources/policies.php