

Submitted by: David P. Massaron, Chief Business Officer, Chief Financial Officer and Senior Vice President for Finance and Business Operations; Treasurer

Revisions to University Board of Governors Contract Awards Statute, Section 2.81.01

Recommendation

The Wayne State University Administration recommends the approval of the revisions to the Wayne State University Code Annotated statute 2.81.01, Contract Awards, as presented in the attached document Exhibit 1, with the effective date for these changes of October 1, 2023. The recommendation would increase contract approval and competitive bidding thresholds to address inflationary increases since they were approved.

Background

The Procurement & Business Services department is charged with examining those policies related to the acquisition of construction, equipment, and other goods and services on a regular basis. The last update to the Contract Awards section was made approximately in October 2012. We are recommending adjustments to monetary thresholds to reflect inflation and increase efficiency.

In addition, some opportunities for consistency and simplification have been identified. The goal of these changes is to increase efficiency within both Procurement and Facilities Planning & Management units as these units strive to exceed customer expectations among University Schools, Colleges, and Divisions.

The recommendation would do all of the following:

- Combines *New Construction* and *Alteration of Facilities* into one category for simplification purposes and raises *New Construction* threshold necessary for Board approval from \$0 to \$500,000. (2.81.01.090 & 2.81.01.100)
 - This separates Planning Services (architectural & engineering services) into a separate category and also ensures that small projects like the creation of a lawn equipment shed on the Athletic campus can move more quickly.
- Combines Furnishings and Equipment into one category for simplification purposes, and raises threshold for expenses not previously approved as part of construction from \$200,000 to \$1 million, to make it consistent with non-construction furnishings and equipment acquisitions. (2.81.01.075 & 2.81.01.120)
- Increases competitive bid limit and required Board reporting threshold from \$25,000, established in 2009, to \$50,000. (2.81.01.080)

Exhibit 1

Wayne State University Board of Governors – Code Annotated

2.81.01 Contract Awards

2.81.01.010	Preamble	The authority to contract on behalf of the University is vested in the Board of Governors (Board). This authority includes contracts for the purchase, sale or other disposition of all personal and real property; for capital construction, renovation and related expenditures; for the purchase, sale or loan of supplies or equipment and special maintenance of physical plant; for sponsored research and fellowships, scholarships, grants-in-aid from private sources and governmental units; for personal services of independent contractors; and for other purposes.
2.81.01.020	Policy	To facilitate the day-to-day administration of the University, this contractual authority is delegated as follows; however, no contract shall be entered into which calls for the expenditure of funds unless those funds have been previously budgeted for that purpose by the Board, or otherwise allocated for programs as set out in Sec. 2.81.01.040.
2.81.01.030	Implementation	The President shall establish and promulgate written administrative procedures and guidelines for the delegation and implementation of the authority and power granted herein. A copy of the established administrative procedures and guidelines shall be kept on file for public inspection in the Office of the Secretary to the Board.
2.81.01.040	Budget Approvals	Funds to execute contracts shall be considered to have received budget approval if they are financed by budgetary unit allocations from the approved General Fund budget, from other budgets authorized by the Board; from grant, contract, or gift funds accepted in accordance with University policy; from the disbursement of investment income, and from other departmental income. Financing provided by a contingency allocation from the General Fund or provided by any other University fund shall have specific budgetary approval by the Board prior to contract approval.
2.81.01.050	Real Property	All transactions involving the purchase, sale or other disposition of real property over \$100,000 shall be first approved and authorized by the Board. All transactions involving the purchase, sale, or other disposition of real property under \$100,000 shall be reported to the Board at the meeting following the completion of the transaction. Unless otherwise specifically provided for by the Board, all land contracts and deeds conveying University property and all discharges of mortgages and cancellations of land contracts shall be executed by any two of the three following: President, the Treasurer

or officer(s) designated by them to act on their behalf; and shall be reported to the Budget and Finance Committee.

2.81.01.055 Leases

All contracts for the lease of real property by the University shall be executed by the President or his/her designee. Leases of real property for a period longer than 120 months or for more than \$200,000 annually in net rental cost during the original term of the lease must first be approved by the Board. For the purpose of this provision, if a lease includes an unconditional right of renewal for either party, then the duration of the lease is the original term together with the period covered by the unconditional right of renewal.

2.81.01.060 Investments

The investment or reinvestment of gift, trust, agency, and deposit funds; the purchase and sale of personal property acquired in connection with the investment or reinvestment of such funds, and the approval of real estate mortgages may be made by the President, the Treasurer, or their designee(s). Any two of the said officers are hereby authorized and empowered to sell, assign, and transfer the documents necessary to complete the sale of stocks, bonds, evidences of indebtedness or other securities, including the rights and options to acquire or sell the same owned or held by the University. The transfer of any such securities by the officers herein authorized shall be sufficient to convey ownership to the transferee.

2.81.01.070 Routine Contracts

All routine contracts for the purchase, sale or lease of supplies or equipment or of services, and for special maintenance of the physical plant within authorized budgets may be executed by the President or his/her designee(s).

2.81.01.075

Contracts for the acquisition of **furnishings and** equipment, whether by direct purchase or by a capital lease, with a purchase price of \$1,000,000 or more, shall first be approved by the Board. All contracts (purchase orders) for furnishings and equipment related to new construction or alteration/modification projects **in excess of \$200,000**, which exceed **\$500,000 \$1,000,000** for an item or the aggregate of **an** items shall require prior approval of the Board, **unless such purchases were included in the construction budget approved by the Board under sections 2.81.01.090 or 2.81.01.100.**

2.81.01.080

Contracts for the purchase of supplies, equipment or the services of independent contractors requiring the expenditure of budgeted funds in excess of **\$25,000 \$50,000** shall be awarded on the basis of competitive bids. The President or his/her designee(s) may grant a written exception in the case of contracts requiring highly specialized service for which a public bid would not be appropriate, or in the case of an emergency. Such exceptions shall be reported to the Budget and

Finance Committee quarterly or not less than the second regularly scheduled meeting thereafter. Architectural and engineering contracts may be awarded on the basis of specialized experience and strength among the firms which indicate a desire to do business with the University.

2.81.01.090 Capital Outlay

All contracts exceeding \$100,000 calling for planning services ~~and all contracts for the construction of new facilities~~ shall require prior approval of the Board.

2.81.01.100

All contracts ~~for the construction of new facilities~~ or for the alteration or modification of existing facilities of real property involving a project expenditure of more than \$500,000 shall require the prior approval of the Board.

2.81.01.110

All contracts for the alteration of existing buildings owned or leased by the University which do not call for expenditures exceeding \$500,000 may be executed by the President or his/her designee.

2.81.01.120

Deleted

~~All contracts (purchase orders) for furnishings and equipment related to new construction or alteration/modification projects in excess of \$200,000, which exceed \$200,000 for an item or the aggregate of an item shall require prior approval of the Board. The President or his/her designee shall execute such contracts upon approval.~~

2.81.01.125

The President or his/her designee shall make every effort to accurately estimate the cost of contracts requiring Board approval for the construction of new buildings or for the alteration and modification of existing buildings. In cases where such costs exceed the amount of the original estimate approved by the Board, the Board provides authority to the President or his/her designee to exceed the estimated cost of such contracts by up to 10%, but in no event more than \$500,000, without prior approval of the Board, provided that the President or his/her designee reports to the Board any such cost overage at the next regularly scheduled Board meeting.

2.81.01.130 Sponsored Programs

All contracts for sponsored educational and research programs and supplements thereto, including agreements for fellowships, scholarships, and grants-in-aid may be executed by the President or his/her designee, and his/her signature shall be certified by the Secretary where such certification is requested.

2.81.01.140 Employment

The employment contracts are not included in these contract procedures.

2.81.01.150 Loans and Loan Guarantees

The credit of Wayne State University, whether by loan or by loan guarantee, will not be granted to or in aid of any individual, association, corporation, or entity except as permissible by law and in accordance with this statute.

2.81.01.155

Any extension of credit greater than \$100,000 must be approved by the Board. Any extension of credit \$100,000 or less must be approved by the President and reported to the Board at its next regularly scheduled meeting.

2.81.01.160

Extensions of credit shall not be funded by State appropriations and may be granted only upon a finding by the Board (or in the case of an extension of credit less than \$100,000 by the President) that:

- The beneficiary of the extension of credit is an entity under the substantial control of Wayne. This is indicated when Wayne has substantial control of the governing board of the entity; or
- The extension of credit is essential to maintaining or supporting Wayne's research, teaching, and/or community engagement mission. This is indicated when there is an ongoing relationship between Wayne and the recipient of the extension of credit, and the recipient provides substantial research, educational, or community engagement opportunities to Wayne students and/or Wayne faculty and staff.

Legislative History

Adopted 7-0; Official Proceedings 21:2790 (15 October 1976) Amended Official Proceedings 22:3041 (10 March 1978) Amended Official Proceedings 23:3163 (10 November 1978) Amended Official Proceedings 25:3474 (14 November 1978) Amended Official Proceedings 25:3580 (10 July 1981) Amended Official Proceedings 29:3988 (2 November 1984) Amended Official Proceedings 30:4083 (13 December 1985) Amended Official Proceedings 30:4112 (9 May 1986) Amended Official Proceedings 36:4795 (1 May 1992) Amended Official Proceedings 37:4953 (16 July 1993) Amended Official Proceedings 40:5281 (7 June 1996) Amended Official Proceedings 44:5804 (20 July 2000) Amended 23 June 2010 Amended 3 October 2012. Prior Acts: Official Proceedings 3:611, 5:774, 11:1284, 14:1766, 15:1925, 25:3580

Cross References

Sec. 2.28.01.100, Sec. 2.81.03.050