

**CAPITAL PLANNING DESIGN & CONSTRUCTION  
SECTION X - PROFESSIONAL SERVICES FOR CAMPUS DEVELOPMENT  
CONTENTS 9200 – 9212**

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**9200 PUBLIC WORKS-RELATED SERVICE AGREEMENTS**

References: Public Contract Code, Sections 10707, 10820; Coded Memo ABS 86-04; Chancellor's Executive Order No. 668.

Under the authority given the trustees in the Education Code and the Public Contract Code, authority has been delegated to the campuses to develop and administer service agreements in connection with public works projects, provided that such agreements, regardless of cost and source of funding, are reviewed and approved by the Office of General Counsel (PCC §§ 10707, 10820). See also SUAM, Section 9210.01, Agreement Review and Approval. Campus delegated authority shall be exercised in conformity with the requirements of the law and CSU policy.

**9201 DEFINITIONS**

Definitions applicable to this section are listed in SUAM Appendix A.

**9202 FUNDING SOURCES**

Projects shall be administered in compliance with the particular funding requirements of fund sources associated with the project.

Professional services performed under the CSU Contract Law may be funded from state appropriations or from state self-supported program sources depending on the kind of project. Examples of state self-supported programs are housing, parking, health centers, student unions, extended education, and independent operations (reimbursed activities).

**9203 CODES AND REGULATIONS**

Professional services undertaken on behalf of the CSU and its campuses shall be in compliance with a range of codes and regulations. Agreements with design professionals shall make these codes applicable to the design and development of the project. Codes and other regulatory requirements that are applicable to CSU projects include the following:

1. The **California Building Code** in Title 24 of the California Code of Regulations which includes the Uniform Building Code modified with California supplemental sections, Uniform Mechanical Code, Uniform Electrical Code, Uniform Fire Code, Energy Conservation Code, and Accessibility Standards, as adopted by the California Building Standards Commission. (*Reference: Health & Safety, Code § 18944.5*).
2. Public Contract Code, **Sections 10700 et seq. (CSU Contract Law)**
3. The California Code of Regulations, Title 8, (**CAL/OSHA Standards**)
4. The California Code of Regulations, Title 17 (**Public Health**)
5. The California Code of Regulations, Title 19 (**Industrial Relations/ Public Safety**)
6. The California Environmental Quality Act (**CEQA**)
7. Federal Environmental Protection Agency (**EPA**) requirements
8. Regional Water Quality Board requirements
9. Local county health department requirements (relative to plan review and approval of food service and aquatic facilities)

**Note on Local Agency Reviews:**

In most cases CSU projects are not subject to local city/county jurisdiction reviews, however the campus should endeavor to accommodate fire access features requested by the local responding fire department. In cases of

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public health and regional water boards, state oversight has been delegated to local departments for plan review and enforcement.

**9203.01            REQUIRED PLAN REVIEWS AND CODE CERTIFICATIONS**

The following specific plan review and approvals are required for all projects (state, non-state, new, remodel, renovation, alteration):

**1. State Fire Marshal (SFM):** All CSU projects are required to be approved by the California State Fire Marshal (*Health & Safety Code § 13108(c)*) (*Health and Safety Code, Section 13143; Title 19, California Code of Regulations, Section 3.28(b).*) Typically projects require a plan review and approval followed by periodic field inspections and concluding with issuance of a certificate of occupancy or, on renovation/repair works, a field issued notice of SFM acceptance. At their discretion, on small minor projects, SFM field inspectors may review and issue plan approvals on site in lieu of a submittal to the SFM central office in Monrovia, CA.

**2. Access Compliance (ADA):** **As of July 1, 2006 DSA has elected to not renew the DSA/CSU Pilot Program for access compliance reviews.**

With the expiration of this program, full DSA access compliance review fees now apply and our systemwide plan review firms are no longer allowed to coordinate submittals to DSA on our behalf.

**Projects that require DSA access compliance approval:**

All CSU construction, *state and nonstate funded*, including buildings, structures, sidewalks, curbs, and related facilities, intended for use by the public, with any reasonable availability to or usage by, persons with disabilities, constructed in whole or in part by the use of state funds requires access compliance review and certification by *Department of General Services, State Architect, Access Compliance Unit (DSA)*.

**\$25,000 cost threshold exemption does NOT apply to CSU projects**

Previously it was understood that CSU work with a construction cost of \$25,000 or less could be CSU-self-certified. DSA has informed us that that requirement applies only to Field Act facilities and thus not to CSU. DSA reminds us of the requirements of Gov Code 4454 that states:

*‘where state funds are utilized... ..no contract shall be awarded until the Department of General Services (DSA) has issued written approval stating that the plans and specifications comply with the intent of this chapter’.* All CSU construction work that is not repair-related requires DSA approval.

**Projects that CSU can self-certify for access compliance:**

Repair, maintenance and re-roofing projects

*Authority cited: 1995 WL 274917 Cal. A.G. Opinion No. 94-1109. State attorney general defines normal maintenance, re-roofing, painting or wallpapering, asbestos removal, or changes to mechanical and electrical systems not to be alterations (i.e. construction). Per GC 4450 such work thus is not subject to DSA review.*

**Projects not intended for use by the public:**

This may include: Some faculty/staff housing projects

*The determination of CBC Chapter 11B accessibility applicability is complex and project specific. Faculty/staff projects will likely have elements that trigger the requirement for DSA review and approval. Contact CPDC to discuss.*

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**Any reasonable availability to or usage by, persons with disabilities:**

Projects that have no reasonable availability to persons with disabilities are limited, but might include mechanical system installations/upgrades, roof-top solar arrays in non- public areas, utility tunnel changes, etc.

Most infrastructure projects however will likely have elements that trigger a requirement for DSA review and approval. For example below-grade utility line or street improvement work that removes/replaces curbs or walks affect paths of travel and will require access compliance review. Contact CPDC to discuss.

**Access Compliance submittals to DSA**

Submittals to DSA shall be made by the architect-of-record for the project directly to DSA. The campus shall coordinate payment *by check* for DSA access review fees to DSA. Initial DSA reviews may take 4 to 6 weeks. Plan accordingly. For small projects DSA currently accepts appointments for over-the-counter reviews.

**Access Compliance submittals to CSU**

Where applicable, the CSU building official or campus deputy building official provides the certification. The architect of record shall coordinate with the campus for submittal instructions in these cases.

**Access compliance review by CSU systemwide plan check firms**

Campuses may continue to authorize systemwide plan check firms to provide access compliance reviews recognizing that this does not substitute for DSA or campus deputy building official certification.

Although DSA review and approval is required in most situations, an access compliance review by CSU plan check firms performed concurrently, *but separately*, from the DSA review does provide a knowledgeable opinion of access compliance and may be useful for internal evaluation by Office of the Chancellor.

**3. Building Code Plan Check:**

The CSU is responsible for the enforcement of building codes as approved by the California Building Commission. (*Ref. Health and Safety Code Section 18901 - 18949.6 and California Building Code Section 101.17*). (See also SUAM, Section 9232, Building Code Enforcement).

The designated campus deputy building official shall issue a **written construction authorization** for *each project* and maintain a record of all **authorizations**. The construction authorization shall be issued only after confirmation of all required approvals has been obtained.

The campus deputy building official may elect to review and certify code compliance directly through their own personal review of the construction documents or alternatively retain the services of one of several systemwide pre-qualified plan check firms to perform this review. It is important to note that a plan check firm provides only a recommendation of building code compliance. It remains the responsibility of the approving authority to certify (authorize) the project or work.

In case of conflicting determinations, State Fire Marshal determinations shall take precedence for fire life safety aspects, Department of State Architect determinations shall take precedence for access compliance aspects on projects that it is required to certify, and CSU building official determinations shall govern for all other issues.

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- 4. Seismic Safety Structural Peer Review (SPR):** Per trustees' policy on seismic safety (RCPB&G 05-93-13) all CSU projects require seismic peer review. A member of the CSU Seismic Review Board shall perform the seismic peer review. The trustees' seismic policy allows the campus the discretion to self-certify minor capital projects for consistency with the seismic policy. The details of this review are described within the seismic policy (available online).

In the event of disputes over interpretation of the trustees' seismic safety policy, the full CSU Seismic Review Board shall make a final determination under the authority of the university building official.

- 5. Local Health Department Review:** All CSU projects require certification by the local county health department of food service and aquatic elements.

Early consultation by the project architect/engineer with these review parties is strongly recommended. In the case of seismic peer review early consultation is required.

**9204                    PROFESSIONAL SERVICES**

**9204.01                DELEGATION OF AUTHORITY FOR MAJOR CAPITAL OUTLAY PROJECTS**

Reference: Executive Order 666, dated March 7, 1997

**I. Authority**

Each campus President or designee is delegated authority to make all professional appointments relative to major capital outlay projects and campus physical development.

**II. Responsibility**

The campus President or designee is responsible for ensuring that:

- A. The authority delegated by Executive Order No. 666 is exercised in compliance with all applicable statutes and regulations and policies of the Board of Trustees.
- B. The process for all architectural appointments relative to capital outlay projects is carried out in accordance with Board of Trustees' 'Policy on the Appointment of Architectural Firms for State and Nonstate Capital Outlay Projects' (RCPBG 01-97-01).
- C. The process for all other professional appointments is consistent with guidelines of the State University Administrative Manual (SUAM).
- D. Appropriate internal controls are in place to ensure that systemwide standardize architectural, engineering, and other professional appointment contract forms are utilized when contracting with the selected professional.

**III. Accountability and Reporting**

**A. Notice of Project Architect/Engineer Selection and Appointments**

Each campus shall advise Capital Planning Design and Construction (CPDC) of their selections on major capital architectural appointments when made. CPDC shall review selections for compliance with trustee policy and append information to the systemwide project tracking records (API) maintained by CPDC.

**B. Annual Performance Indicator (API) Reporting**

The campuses shall keep CPDC informed on major milestone data (both actual *and* projected) in their management of major capital projects. This information shall be used by CPDC to support systemwide

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contractor and developer prequalification and in the development of various required legislative and trustee reports. Currently these reports include:

- Capital Program reporting to legislature (Quarterly)
- API reporting to Trustees on Active Projects (July)
- API reporting to Trustees on Completed Projects (January)
- Capital Streamlined Project Reporting to Legislature (Annually)

Campuses shall supply initial and/or updated project information to CPDC in a consolidated, per-project, standardized, format (currently via the API Excel database forms) on a quarterly basis for each active and recently completed project. CPDC shall review and validate this data by means of periodic campus visits and telephone inquiries.

*Note on timing: Project information for reporting will generally lead the final report by a three-month period.*

**C. Annual Summary of Major Capital Professional Appointments**

The campus shall provide to the assistant vice chancellor, Capital Planning Design and Construction (CPDC), an annual report identifying the appointment of the consulting architect, consulting landscape architect, consulting engineer, etc. The report shall include a list of the firms that were considered and the methods used for selection. This report shall be submitted by July 1 of each year.

**D. Revocation of Delegation**

Authority delegated by Executive Order No. 666 may be revoked in whole or in part if in the judgment of the chancellor, the campus President or his designee has not complied substantially with provisions of Executive Order No. 666. Annual post performance reviews may be employed to determine compliance with provisions of Executive Order No. 666.

**9204.02 POLICY ON THE APPOINTMENT OF ARCHITECTURAL FIRMS FOR STATE AND NONSTATE FUNDED MAJOR CAPITAL OUTLAY PROJECTS**

**I. Purpose**

The purpose of this policy is to establish well-defined and equitable procedures to be used by the University in the selection of architectural firms to design major capital outlay projects.

**II. Policy**

It is the policy of the California State University Board of Trustees to identify and effectively utilize the professional skills of architectural firms most highly qualified for a CSU project and to base the CSU architect selection process on the professional qualifications and past performance of the applicant firms. It is further the policy of the trustees to endeavor to hire architects who can create functional, aesthetically pleasing and efficient buildings and facilities that further the educational mission of the CSU.

**III. Procedure**

To implement this policy, the CSU Office of the Chancellor, Department of Capital Planning Design and Construction (CPDC) shall establish and maintain a prequalification process for architectural firms. CPDC may make administrative adjustments to the particulars of this process as needed to effectively carry out the Trustees' intent.

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Architectural firms seeking commissions on major capital design-bid-award projects shall be prequalified through the CPDC process. Prequalification for architectural firms shall be issued on an annual basis. Prequalification from prior years shall *not* automatically roll over into the next year.

**A. Systemwide Architectural Prequalification Notice/Announcement**

Once each year, the chancellor's office shall announce and publish a notice that the CSU desires submittals of a questionnaire and brochure from all architectural firms interested in performing architectural services for the CSU during the following fiscal year.

**1. General Prequalification Requirements:**

- Firms seeking architectural prequalification shall be a firm primarily providing architectural services. Other service providers, i.e., engineering firms, landscape architects, etc., are not subject to systemwide prequalification and therefore will not be considered for this systemwide architectural listing.
- Firms seeking prequalification shall maintain an office within the state of California.
- While other officers of the company may co-sign, the prequalification application shall list an architect licensed in the state of California and directly associated with the office applying that will be empowered to sign agreements.
- Architectural commissions awarded through a design-build project are prequalified on a per project basis and need not be prequalified systemwide.
- Joint ventures created specifically for a project will need to pre-qualify. Component firms cannot apply their prequalification to a new corporate entity.

**2. Allowable Work On CSU Projects By Non-Prequalified Architects:**

- As a consultant to a prequalified architect. The CSU shall require the prequalified architect to act as the architect of record for the project.
- As the architect of record on a design-build project. Qualification of the developer/architect team occurs on a per project basis as a part of the technical review of the submittal.
- As architect of record on minor capital projects. Systemwide prequalification is not required.
- Providing feasibility or other design concept studies.

**B. Prequalification Submittals and CPDC Review**

Once each year, interested architectural firms shall submit the completed questionnaire and brochure by an announced date to the CSU Office of the Chancellor, Attention: Capital Planning Design and Construction (CPDC). CPDC shall, review the questionnaires and brochures of each firm, evaluate the qualifications and consider the past performance of each applicant firm. CPDC shall make individual determinations and place the firms in appropriate project type and construction value categories valid for the upcoming year. The CSU Systemwide Prequalified Architect's Database shall be published and made available for systemwide use on the CPDC website. See <http://rodgers.calstate.edu/CPDC/PreQualArch/>

CPDC shall monitor and consider the past performance of provider firms both in terms of quantifiable factors (E&O rates, etc.) and on performance evaluations as reported by campuses. Below-average rankings may be used by CPDC as the basis for a probationary warning, suspension or denial of architectural firms from current and/or future prequalification. Affected firms shall be provided written notification of imposed sanctions. An affected firm may appeal a sanction in writing to the assistant vice chancellor of CPDC. The decision by the AVC of CPDC shall be considered final and exhaust administrative remedies available.

**C. Short List/Interviews/Appointments of Architectural Firms**

Once a capital outlay project has been included in the trustees' budget written project criteria for the proposed project shall be developed by the campus.



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Considering the needs of the project and using the CSU Systemwide Prequalified Architect's list the campus shall develop a short list of firms to be interviewed and prepare invitations to the short listed firms. The campus shall form a panel for the purpose of interviewing the short list of architects. The panel may contact previous clients and users of projects designed by the short listed firms and, upon completion of the interviews, prioritize the list of firms to establish a first, second, and third order of preference. Upon completion of the interview process, the campus shall select the firm rated first and notify the architect of the intended appointment.

In the event that it is not possible to conclude an agreement for architectural services with the first choice appointed architect, the campus shall terminate negotiations with the architect and endeavor to enter into an agreement with the architect rated next in preference.

In the event that an architect is unable to complete (or the campus elects to terminate) architectural services once under agreement, the campus shall terminate the agreement and enter into a new agreement with another prequalified firm that, in the assessment of the campus, is well-qualified to complete the project in the best interest of the CSU.

**9204.03            POLICY ON THE APPOINTMENT OF ARCHITECTURAL/ENGINEERING FIRMS  
FOR STATE AND NONSTATE MINOR CAPITAL PROJECTS (TOTAL PROJECT  
COST OF \$400,000 OR LESS)**

If the campus determines that a project architect is required for an approved minor capital outlay or other public works project that is minor in nature, it may select and appoint any architectural firm based upon their assessment of the firms qualifications from the current year's systemwide prequalified listing (see appointment policy 9204.02) or the campus may establish its own prequalified list.

If the campus determines that a project engineer is required for any public works project that is minor in nature, the campus may either solicit its own proposals or use its appointed consulting engineer.

**9205                TYPES OF PROFESSIONAL SERVICE PROVIDERS**

**Campus Consulting Architect/Master Plan Architect:**

Each campus shall appoint a consulting campus architect. This shall be an annual appointment starting July 1 of each year. The campus shall call upon the consulting architect to advise on both architectural and master planning issues that may arise during the appointment year.

**Campus Consulting Landscape Architect:**

Each campus may appoint a campus consulting landscape architect. Appointments if made shall be on an annual basis starting July 1 of each year.

**Campus Consulting Engineers:**

Each campus may appoint consulting engineers in various disciplines, such as mechanical, electrical, civil, soils, hazardous material abatement, etc. Appointments if made shall be on an annual basis starting July 1 of each year.

**Project Architect, Landscape Architect, Engineer, etc.:**

Shall be taken to mean the lead entity selected to design and act as the designer of record for a specific project. They are responsible (including their consultants efforts) for the design of a facility in accordance with the approved program specifications and in compliance with relevant codes and regulations.

**Consultants to Project Architects, Landscape Architects, and Engineers:**

Project architects, landscape architects, and engineers having fully executed agreements for their services are responsible for obtaining necessary consulting services required by their agreements. As per their agreement, those consultants must be accepted by the project administrator at the time the service agreement is executed.

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**Special Consultants:**

Requests for special consultants or other professional services (other than those required in connection with the Project Architect/Engineer Agreement) shall be evaluated and if deemed appropriate and necessary by the project administrator authorized as an extra service to the base agreement.

**Performance Evaluations Applicable to All Service Providers:**

CPDC via the Annual Performance Indicator (API) database and campus input shall, over time, compile service histories of various provider firms. Below-average rankings may be used by CPDC as the basis for probationary warning, suspension or denial of firms from future work on CSU projects. Sanctions, if imposed, shall be effective to the end of the following prequalification cycle after which they shall expire unless specifically renewed. Affected firms shall be provided written notification of imposed sanctions. An affected firm may appeal a sanction in writing to the assistant vice chancellor of CPDC. The decision by the AVC of CPDC shall be considered final and exhaust administrative remedies available.

**9206 GUIDELINES FOR DETERMINING NEED FOR PROFESSIONAL SERVICES**

Under the California Building Code no building or structure shall be erected, constructed, enlarged, repaired, moved, improved, removed, converted or demolished without a building permit. Under the California Business and Professions Code Sections 5535-5538 no permit may be issued unless the person who prepared the plans is a California licensed architect or civil engineer. Exemptions to the licensing requirements are limited to dwellings up to four units (multiple clusters of units are not exempted), garages appurtenant to above dwellings, and wood frame agricultural buildings. Agricultural buildings utilized or accessed by students would not be exempt.

This license requirement can be legally met by a university staff person if they are a California licensed architect or civil engineer. It should be recognized that the university under these conditions would retain much of the liability for code compliance and design defects.

The following guidelines are intended to assist campuses in determining the need for outside professional services.

1. Professional services of a California licensed architect normally are required for every new building regardless of size or cost.
2. A licensed architect or engineer is required for every project that involves an addition to, or remodeling of, any basic building structure. An architect or engineer shall certify any work that may compromise the structural integrity or mechanical/electrical system of a facility.
3. A licensed architect or engineer is required for every project that may affect human safety; for example, alteration or remodeling projects that change building exits (adding or removing doors) that may require handicapped access considerations, or that involve work (including repairs) on electrical panels or switchgear, the extension of electric, gas, heating, or cooling lines, and alarm systems, fuel tanks, or pressure vessels. If public safety may be compromised, it is essential to employ professionals to be responsible for the proper design of the project.
4. A licensed architect or engineer is required for special repair projects where design or structural considerations are beyond the level of expertise available on campus. For example, road repairs may require sub-grade testing by a soils engineer, and replacement of Group I equipment may require competent design or structural analysis prior to installation. In general, professional services often provide more cost-effective, long-term benefits by identifying potential problems, structural inadequacies, or a more efficient method or product prior to the expenditure of project funds.
5. A licensed engineer is required for projects involving modifications to the utility systems (electrical/mechanical/water systems) or for those that may have significant complexities beyond the level of expertise available on campus. In general, these projects should be reviewed for technical and

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design considerations to ensure public safety and efficient operation. Any work that may compromise the architecture, structural integrity or mechanical/electrical system of a facility shall be certified by a licensed architect or engineer.

**9207                    SELECTION AND APPOINTMENT OF PROFESSIONAL SERVICES PROVIDERS**

Reference: Public Contract Code Sections 10701(b), and 10707.

The selection of firms to provide professional services in connection with a public works project shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. Further, these services are to be obtained at fair and reasonable cost to the CSU. The CSU also has adopted procedures to encourage the participation of small businesses, and Disabled Veteran Business Enterprises (DVBE) firms in this process.

**9207.01                SELECTION CRITERIA AND APPOINTMENT PROCEDURES**

Although the CSU does not procure professional services on the basis of competitive bids, it is obligated to obtain the best services at fair and reasonable costs (See also SUAM, Section 9208.04, Compensation).

The following professional services employ specified criteria and procedures as shown for work in connection with public works projects:

**9207.01.01            PREQUALIFIED PROJECT ARCHITECTS**

Project architects shall be appointed in accordance with trustees' policy as described in SUAM, Section 9204.02: Policy On The Appointment Of Architectural Firms For State And Nonstate Funded Major Capital Outlay Projects.

**9207.01.02            PROJECT ENGINEERS**

The CSU maintains systemwide prequalification only for *architectural* firms. Systemwide prequalification for engineering firms and other service providers is not required. The campus shall either solicit its own proposals or use its appointed consulting engineer. If the campus declines to make that appointment, the campus shall solicit statements of qualifications from at least three other engineering firms. Qualifications should be evaluated by the campus according to the following criteria:

1. Experience relevant to the project including construction administration.
2. Design and technical engineering ability.
3. Demonstrated competency in performing under budget, program, and schedule requirements of the job.
4. Prior work for a university or CSU.
5. Understanding of program requirements.
6. Availability of key personnel.
7. Schedule and budget performance record.

**9207.01.03            PROJECT LANDSCAPE ARCHITECTS**

The campus shall either solicit its own proposals or use its appointed consulting landscape architect. If the campus declines to make that appointment, the campus shall solicit statements of qualifications from at least three other landscape architect firms.

If a firm other than the consulting landscape architect firm is desired, campuses should utilize the same sequential steps for the selection of a project landscape architect as detailed above for securing an engineer.

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**9207.01.04 CONSTRUCTION MANAGERS AND INSPECTORS OF RECORD**

Reference: SUAM Section XII, 9792, Duties and Responsibilities During Construction Phase.

Campuses shall estimate the manpower requirements for construction management (CM) and inspector of record (IOR) duties that will be required for each project. Campuses may elect to perform these duties in-house with qualified campus staff or obtain outside construction management and/or construction inspectors of record to provide these services for the project. In either case, the credentials for Inspectors of Record shall be appropriate to the project and in conformance with SUAM, Section 9785.01, Credentials for Inspector of Record.

Construction management and inspector of record services shall be provided under a service agreement between the trustees and the firms furnishing these services. The construction administrator shall use a Request for Proposal process to contract with a firm to supply these services (reference **SUAM 9785**). The response should include, at a minimum, the inspector's hourly rate, the approach to the work or methods to be used, the number and types of inspections anticipated as required by applicable construction codes and laws, and the inspector's resume. Note, construction management services are considered professional services and thus fee considerations should be secondary to qualifications of the services provided.

References should be checked and various clients should be contacted to determine performance records. Other selection factors should include:

- Previous satisfactory work for the CSU or other public institutions
- Certification by the International Conformance of Building Officials (ICBO) or other appropriate certifications for the type of construction contemplated.

Prospective CM/IOR's should be interviewed by campus personnel. Fees will vary according to geographic area and credentials. CPDC is available to assist in evaluating qualifications and assessing the fairness and reasonableness of costs. The CM/IOR service agreement shall specify the hourly rates and also the lump sum estimated maximum cost for the job. Reference 9792.05 and 9792.06 for duties and responsibilities on major capital outlay projects. All service agreements in connection with a construction project shall be approved by the Office of General Counsel (Public Contract Code Sections 10707 and 10820).

**9207.01.05 MISCELLANEOUS SERVICES**

Testing services and project related studies shall be contracted by the campus for the proper and timely execution of capital outlay projects. Such services may include, but are not limited to, planning services, soils analysis, feasibility studies, hazardous materials surveys, constructability reviews or equipment testing and analysis. Campuses should use applicable criteria such as those specified in the preceding sections for the selection of individuals or firms. The primary objective is the selection of the best-qualified firm at a fair and reasonable cost. Care shall be taken to appropriately apply prevailing wage rates for public contract work. Prevailing wage rates may apply to portions of work (i.e., the survey component of a soils report) or may allow for special determinations (i.e., residential versus commercial rate scales). Given the complexity and changing nature Prevailing Wage Law Campuses are encouraged to contact CPDC for assistance as necessary.

**9208 GENERAL REQUIREMENTS FOR AGREEMENTS**

Professional services for capital improvements shall not be performed without an approved, fully executed agreement. All agreements shall cover the specific conditions involved.

Standard form agreements for professional services have been developed by the chancellor's office for use where the Board of Trustees (*campus or Chancellor's Office*) is the contracting party or where systemwide revenue bonds are used.

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Standard form agreements include:

<b>Agreement type</b>	<b>Use for:</b>	<b>Limitations on Use</b>
Project Architect/Engineer Agreement	A/E design services for Major Capital projects	Intended as the owner/architect agreement for larger building projects.  Typically not appropriate for use on minor capital projects or supporting design services due to extensive deliverables defined in agreement.
Service Agreements	Design services for Minor Capital or JOC projects  Supporting design services for any project  CEQA, feasibility, master plan studies  Miscellaneous professional services, specialty design services including geotechnical, hazardous material reviews, acoustical, laboratory or other design studies, testing or inspection, services.	Service Agreements do not contain the comprehensive framework of deliverables identified in the Project A/E Agreement thus campuses must use care to develop Service Agreement Scope of Services to comprehensively describe:  Scope of work, project schedule, deliverables, fee, payment times, and special conditions which may include, but are not limited to the following: Extent of cost estimates to be provided, listing of consulting engineer disciplines required as a part of the work, extent of outside agency plan reviews required, extent of bidding support is required, extent and frequency of construction administration support required, extent of as-built documents required
Task Order Service Agreements for Professional Services	Design services for Minor Capital or JOC projects  Supporting design services for any project	Same as Service Agreements plus the following:  Agreement value limited to \$400,000 maximum. Agreement term limited to one year.  May not issue multiple concurrent agreements to a single service provider.
Systemwide Master Enabling Service Agreements	Plan check reviews, Seismic Peer Reviews, Mechanical Systems reviews.	Must use Service Order Authorizations to initiate services. The base enabling agreements may only be implemented by CPDC.  Extra Services directly related, but outside of the MEA scope may be authorized by the campus.
Energy Service Agreements	Use within ESCO program.	For use only within ESCO program  Contact CPDC Plant Energy & Utilities Group for information on this program.

Copies of these professional agreement forms are available for campus use from the CPDC A&E web site.

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**Standard form agreements need not be used where the Board of Trustees is not the contracting party.** In such cases the CSU standard form agreements may be modified to delete reference to trustees and substitute the contracting party or other agreements may be used.

The following general requirements are applicable to agreements for services in connection with capital outlay projects.

**9208.01           SCOPE OF SERVICES**

Services to be performed shall be stated clearly and concisely. Services shall be clearly defined by the campus for each phase, as applicable, for the project. The objective is to provide a description of the project and campus expectations so that the service provider understands the total extent of the work to be performed and to preclude misunderstandings. Representative scope of work examples are available from CPDC for architect and engineer's services.

**9208.02           AUTHORIZATION OF PROFESSIONAL SERVICES**

Service providers shall not begin work on a CSU project before an agreement has been fully executed and approved. Campuses are directed not to encourage such work and to stress to their service providers that any such work performed is at the service provider's own risk.

Campuses are encouraged to solicit firms and prepare design agreements in advance of the earliest anticipated start date of work, but are cautioned not to authorize work until funds are available. The campus has the option to fund initial design work with its own funds in advance of state funding. On state projects campus reimbursement of advanced funds may occur, but is dependent upon the specifics of the state budget authorization and cannot be guaranteed.

Extra services for professional service agreements call for the provision of services to be authorized in writing in advance and, in the main, it is expected that projects be administered in this manner. Considering the above, when the project administrator considers it to be in the best interest of the trustees, it is permitted to verbally direct a service provider to start extra service work in advance of formal written authorization. In such cases the project administrator shall make a specific request for the service provider to proceed with work in expectation of a confirming written authorization.

At the time of the request the project administrator shall identify and obtain verbal confirmation from the service provider regarding:

1. Scope of work
2. Start/completion date
3. Dollar limit of the authorization
4. Payment terms, either hourly or lump sum

Verbal authorization of any individual extra service shall not exceed \$50,000.

The project administrator shall provide written follow up (email is acceptable) to the service provider confirming the intent of the trustees to issue an authorization within two (2) working days.

The project administrator shall issue the written authorization for services without undue delay (no longer than three (3) weeks) thereafter.

**9208.03           TIME OF COMPLETION**

The expected time of completion of services shall be specified in the agreement documents. This may be stated in terms of calendar days or as a schedule of milestones and corresponding dates. If services are to continue

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through the construction phase of the project, it may be difficult to define a specific period of performance. In these cases, the time of completion should be defined in conjunction with an event, such as the date of the filing of a Notice of Completion for the project or upon written notification to the service provider of the acceptance by the campus of work performed.

**9208.04            COMPENSATION**

For major capital project commissions to architects, engineers and landscape architects the university shall negotiate fees, using the appropriate trustee approved ‘Schedule of Project Architect and Engineer Lump Sum Fees’. If the campus elects to vary from this schedule an explanation letter shall be provided to CPDC and maintained in the project file.

Professional fees for minor capital projects, master plans, and special studies shall be determined by the campus on an individual basis.

**9208.05            TIME OF PAYMENT**

The amount and time of payment, i.e., in arrears when the services are completed to the satisfaction of the campus or upon a mutually agreed schedule, shall be specified in the agreements. If progress payments are elected, payments shall be for only the portions of the work properly completed and for which the campus has received tangible benefits; e.g., after approval of preliminary drawings or after receipt of an acceptable preliminary report of findings. It also is important to define reimbursable expenses or extra services (see standard professional Architectural or Engineering Agreements) and the rate at which they will be compensated.

**9208.06            OMITTED**

**9208.07            OWNERSHIP**

Designs, drawings, specifications, electronic equivalents and other technical data produced in the performance of agreements shall be specified to become the property of the trustees. Agreements may grant the Architect/Engineer the right to reuse *aspects* (i.e. details and design elements) of the design developed for this project in other designs for other future projects including those with other clients.

Agreements shall specify that the trustees shall have access at reasonable times to inspect and make copies of notes, designs, drawings, specifications, electronic files, calculations and other technical data pertaining to the work performed under the agreement.

**9208.08            USE OF DOCUMENTS**

The university retains the right to utilize any documents prepared under a CSU professional services agreement regardless of whether the agreement is terminated or the project is suspended or abandoned. This right allows the university to use these documents in the future for the same project, a modified version of it, or for one that is similar.

Reusing the documents on *another* project without the approval of the Architect/Engineer relieves the Architect/Engineer of liability resulting from their use.

**9208.09            INCOMPATIBLE ACTIVITIES AND CONFLICT OF INTEREST AFFIDAVIT**

Reference: Education Code, Section 89006.

The following provisions are to be included in the terms of any professional services agreement between the CSU and the service provider:

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- A. The service provider is prohibited from utilizing any information, not a matter of public record, which is received by him/her by reason of his/her employment by, or contractual relationship with, the trustees, the CSU, or an auxiliary organization of the CSU, for personal gain not contemplated by the terms of the employment or of the contract. Such prohibition shall remain in effect, regardless of whether the service provider is or is not employed or under contract at the time the gain is realized.
- B. Any report, survey, or product developed by the service provider pursuant to this contract becomes the property of the trustees of the CSU, unless otherwise indicated within the contract. Such property shall not be utilized by the service provider in any manner unless authorized by the trustees.

**9208.10           NONDISCRIMINATION**

All employers who are, or who wish to, provide professional services for the state shall develop and implement a nondiscrimination program. The campus is required to include this provision in its agreements for services in connection with a public work. The appropriate nondiscrimination clause and statement of compliance have been included in the Contract General Provisions, SUAM Appendix BA 2969-, Exhibit 4.

**9208.11           NOTICE OF AGREEMENT**

Reference: Government Code Sec. 12990, Title 2 California Code of Regulations, Section 8117.5.

Written notice shall be given at least quarterly to the Department of Fair Employment and Housing, Office of Compliance Programs, of all contracts over \$5,000. For each contract awarded, the notice shall list the name, address, and telephone number of the contractor; the date of the contract award; the contract number; the contractor's Federal I.D. or Social Security identification number; the date of the contract award; the contract amount; the project location; the name of the agent who signed the contract; the name of the contract-awarding campus, and name of the officer signing on behalf of the trustees.

**9208.12           FEDERALLY FUNDED PROJECTS**

Agreements for projects that are either fully or partially funded from federal sources (e.g., Department of Energy grant funds) shall contain the following provision:

"Copeland 'Anti-Kickback' Act: All work performed as part of this project shall conform to the provisions of the Copeland 'Anti-Kickback' Act (18 U.S.C. 874) as implemented in Department of Labor regulations (29 CFR Part 3)."

This general requirement shall be incorporated either in the Contract General Provisions or in the Supplementary Provisions to these procedures. The campus is required to incorporate this provision, along with other special provisions it deems proper, in all contracts for services in connection with a public work. Any deviation from the required provision shall be approved by the CSU Office of General Counsel.

**9208.13           INCORPORATION OF GENERAL AND SUPPLEMENTARY PROVISIONS**

The CSU Construction Contract General Conditions and Supplementary General Conditions shall be referenced in all agreements for professional services that involve construction phase design activities, i.e. Contract Administration services.

**9208.14           DRUG FREE WORKPLACE CERTIFICATION**

Reference: Government Code Sections 8355, 8356, 8357.

Government Code Sections 8355 requires state professional consultants and recipients of state grants to maintain a 'drug-free workplace'. A campus may cancel an agreement or grant if a professional agreement or grantee has failed to comply with requirements defined in the statute.



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**9208.15            VENDOR DATA RECORD (STANDARD FORM 204)**

Reference: Revenue & Taxation Code Section 18637.

The State Revenue and Taxation Code requires the state to report (called an information return) certain payments made to individuals, corporations, and partnerships when such payments total at least \$600 of income in a calendar year from a state agency, including the CSU. A state Standard Form 204 shall be completed by each vendor or contractor (except for a state or other governmental entity) doing business with the State of California. This form shall be completed only for a new vendor or contractor, at the time the initial purchase order or contract with such vendor or contractor is issued. The completed form (or a copy of it) shall be retained on file in the campus accounting office for subsequent forwarding to the State Franchise Tax Board.

**9209                OMITTED**

**9210                PROCEDURES FOR EXECUTION OF AGREEMENTS FOR PROFESSIONAL SERVICES**

Reference: Public Contract Code, Section 6106; Government Code, Section 4528.

After providing notification to the successful proposer of its selection, the campus shall provide instructions to allow the negotiations to proceed in an orderly fashion. Negotiations shall begin within 14 days after the notification, unless proposer has been otherwise advised by the campus that additional time is required. In the event that an impasse is reached in negotiations, the campus may terminate negotiations and enter into negotiations with the next higher ranked proposer. Upon completion of negotiations, the two parties shall proceed to execute an agreement within 45 days, unless campus notifies contractor that additional time is needed. The campus and professional consultant shall work together to ensure the agreement is fulfilled in a timely fashion.

**9210.01            AGREEMENT REVIEW AND APPROVAL BY COUNSEL**

Agreements for professional services are not in force or effect until approved by the CSU Office of General Counsel (PCC § 10820). The campus shall submit a minimum of five counterparts of the agreement documents, along with an Agreement Transmittal form. Four of the counterparts shall bear original signatures.

Service Order Authorizations do not require General Counsel approval.

Task Orders do not require General Counsel approval.

Extra Services to Agreements incidental and consistent with the original scope do not require approval by General Counsel. Consult CPDC and General Counsel where extra services in excess of twenty percent (20%) of the original agreement amount are contemplated. In such cases an amendment to the agreement may be appropriate or required.

Amendments to Agreements require approval by Office of General Counsel.

**9210.02            AUTHORIZATIONS BY PHASE FOR PROFESSIONAL AGREEMENTS**

The CSU Project Architect/Engineer Agreements and Service Agreements and are intended to be executed as single documents with subsequent individual phases of work authorized by letter. It is generally not appropriate to amended agreements to authorize additional phases of work.

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Agreements may be encumbered in full or by phase. Individual authorizations by phase to proceed shall be issued by letter only after funds are encumbered for that particular phase. Issuance of the initial agreement shall constitute authorization to proceed with initial work.

**Phase Approval Authorization Letters:**

- Should be crafted in letter form and not as Amendments to the Agreement
- Require the approval of the appropriate campus personnel, but do not require the review and approval of CSU general counsel
- Do not require countersignature by the service provider.

**Authorization letters shall identify within the letter:**

- The project name, contract, and agreement number
- An explicit statement approving the previous phase and authorizing the service provider to proceed into the next phase.
- The approved budget
- The approved ENR

Approval letters may be conditional with required corrections noted.

If there is a budget increase, the letter shall include a revised Exhibit B (Schedule of Lump Sum Fees) and clearly identify from what point the fee increase takes effect. In most cases this shall be concurrent with the start of the newly approved phase.

Sample approval letters are available in SUAM Appendix C and on the CPDC A/E Web page.

**9210.03            EXTRA SERVICES CHANGES TO PROFESSIONAL AGREEMENTS**

In agreements for professional services, extra services authorize additional work beyond that required under the base agreement. The Model CSU Project Architect/Engineer Agreements and Service Agreements utilize the mechanism of written Extra Service Authorization letters to facilitate additional services. Extra Services are often required to address special project requirements (i.e. special design consultants) and should be anticipated.

It is not appropriate to amended design or service agreements to authorize extra services.

**Extra Service Authorization Letters:**

- Do not materially change the ‘Scope of Work’ in the Agreement
- Should be crafted in letter form and not as Amendments to the Agreement
- Require the approval of the appropriate campus personnel, but do not require the review and approval of CSU general counsel

**Extra Service Authorization letters shall:**

- Identify the project name, contract, and agreement number
- Define a scope of work
- Define deliverables and time frame for completion of work
- Define a fee amount or fee limit if based on time and materials
- Require a countersignature by the service provider

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Extra services shall be tracked separately and paid in addition to the base fee due to the service provider. Basic services shall continue to be provided and paid for under the terms and amounts specified in the base agreement.

Extra services shall be of a scale and nature to support the original scope of work. Where it is desired to undertake extensive additional work not originally contemplated, i.e., a new phase, a substantial extension to the work area, or work not closely related to the original scope, a new design agreement for the separate work should be drafted.

Sample Extra Service Authorization letters are available in SUAM Appendix C and on the CPDC A/E Web page.

**9211 REVIEW AND EVALUATION OF PROFESSIONAL SERVICES**

In order to establish a written record of design professional performance, the campus shall conduct an evaluation of each service provided in connection with a public work (contractor and professional).

An Evaluation Report---Public Works shall be prepared on all contracts where the total cost exceeds \$10,000. The person preparing the report (the evaluator) should be an individual with direct knowledge of the professional consultant's performance. This report shall be maintained in the project files and shall include:

- Cost estimation
- Adherence to time schedule
- Cooperation with campus, consulting architect, and other architects
- Quality of technical work, as measured in part by the number and cost of change orders attributed to architects' errors and omissions in the contract documents
- Quality of professional service and of the product delivered

**9212 PAYMENTS FOR PLAN REVIEW SERVICES**

**Access Compliance Review by DSA**

As of July 1, 2006 CSU does not have any fee reduction agreement in effect with DSA.

The Division of the State Architect (DSA) has a formula driven access compliance review fee. DSA requires that access compliance fees be paid by check payable to DSA and accompany the submittal application. Project managers should review the CPDC and DSA web sites for the latest information in this regard.

DSA has the right to modify its fees or require additional fees for any project.

**Seismic Peer Review**

A formula driven seismic peer review fee shall be paid by the university to the seismic peer review firm when documents are initially submitted for review.

**Code Compliance Review**

A formula driven code compliance review fee shall be paid by the university to the code review firm when documents are initially submitted for review. Note: Occasionally a CSU project may occur where the required review work needed is not appropriate to the standard fee curves established for code plan and peer reviews. In such cases, when approved by CPDC, campuses may negotiate revised fees with the CSU approved plan and peer review entities. Examples may include particularly large projects and faculty/staff single family housing projects. Unless approved by CPDC the standard fee curve for services shall apply.

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**State Fire Marshal Review**

Starting in 2004, State Fire Marshal services are being provided on a hourly rate basis. Invoicing for SFM services is coordinated through CPDC. CPDC filters and pays for all capital project-related SFM services. These payments are funded from the assessment that CPDC makes on capital projects. State Fire Marshal charges not directly related to plan review or construction inspections of capital projects are consolidated by CPDC and invoiced to the campus for reimbursement. These charges include condition inspections of existing facilities, campus special events, i.e., fireworks displays, and services provided for certain campus foundation funded tenant improvements for which CPDC does not collect fees.

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