§ 1740. Use of outside design, drafting or inspection services. 1. All design, drafting or inspection services necessary in connection with the approved educational facilities capital plan shall be performed by appropriate employees of the authority, except as otherwise provided in this section.

2. a. The authority will undertake design, drafting and inspection services with employees of the authority so that (i) not less than twenty percent of such work performed in the years ending June thirtieth, nineteen hundred eighty-nine, and June thirtieth, nineteen hundred ninety will be so undertaken; (ii) not less than thirty percent of such work performed in the year ending June thirtieth, nineteen hundred ninety-one will be so undertaken; and (iii) not less than forty percent of such work performed in the year ending June thirtieth, nineteen hundred ninety-two and thereafter will be so undertaken. Each such percentage shall be determined by the value of the work performed for its respective fiscal year for such design, drafting and inspection services in the approved educational facilities capital plan.

b. Notwithstanding the provisions of paragraph a of this subdivision, design, drafting and inspection services may be performed by persons other than employees of the authority in any given fiscal year when the amount of services allowed to be performed by persons other than employees of the authority pursuant to the provisions of this subdivision have been exhausted for that fiscal year, and when:

(1) Performance by persons other than employees of the authority is necessary to avoid a conflict of interest, as defined in regulations promulgated by the authority, and is a direct consequence of an accident or other unforeseen circumstance; or

(2) (A) Current employees of the authority are otherwise engaged and cannot be reassigned to perform the services; (B) new employees cannot be hired within a reasonable time to perform such services; and (C) such services are needed in connection with work undertaken in response to an emergency. For purposes of this subparagraph, the term "emergency" shall mean a situation involving danger to life, safety or property which requires immediate action, is essential to efficient operation or the adequate provision of service by the city board or the authority, and is

a direct consequence of an accident or other unforeseen circumstance.

3. a. Design, drafting or inspection services above the minimum percentages reserved for employees of the authority pursuant to paragraph a of subdivision two of this section may be performed by other than appropriate employees of the authority if to do so is (i) cost effective, (ii) required to obtain special expertise not available through the appropriate employees of the authority, (iii) required to perform a service of short duration, (iv) required to respond to an emergency, or (v) required to avoid a conflict of interest.

b. Prior to executing a contract for design, drafting or inspection services pursuant to paragraph a of this subdivision, the authority shall prepare a specific statement which sets forth the objective data supporting the reasons why the proposed contract meets one or more of the requirements set forth in such paragraph. Where use of the contract is stated to be in compliance with subparagraph (i) of such paragraph, such statement shall include certification that the contract will not cause the displacement of authority employees.

c. (1) Prior to the scheduled award of the contract proposed to be awarded pursuant to paragraph a of this subdivision, the authority shall provide all employee organizations that represent authority employees who would otherwise perform such work with copies of the statement rendered pursuant to paragraph b of this subdivision and the proposed contract so that each such employee organization shall have at least fifteen days to object to the proposed contract. Any employee organization which provides a timely written notice of objection and the reasons therefor shall, unless the authority agrees in writing to withdraw the proposed contract, be permitted to be heard by the authority's trustees prior to the award of the contract.

(2) Notwithstanding the provisions contained within subparagraph one of this paragraph, the employee organization may be provided less than the required fifteen days to object to the proposed contract when the contract is required to respond to an emergency as defined in subparagraph two of paragraph b of subdivision two of this section; provided, however, that all other provisions of such clause shall be

observed.

4. No later than ten days prior to the date set by the city charter for the holding of hearings on the mayor's annual preliminary budget statements for capital projects, the authority shall prepare a report specifying the projects from the approved educational facilities plan which the authority plans to commit to during the next fiscal year. If the authority intends to contract for design, drafting or inspection services in connection with any project so specified, the report shall further specify (i) for which projects the services are needed; (ii) the type of services to be provided pursuant to contract; (iii) the estimated cost of the contract; and (iv) the reason or reasons why award of the contract is consistent with this subdivision. The report shall be filed in the authority's office and in the office of the city board, and shall be available to the public upon request. The authority shall file revisions to the report so as to provide advance notice of not less than thirty days of additional projects that the authority plans to undertake on which the authority intends to contract for design, drafting or inspection services. Such revisions shall be in accordance with the criteria of this subdivision. Such revisions shall also identify projects which the authority included in its report but which the authority does not intend to pursue in the applicable fiscal year. The authority shall file such revisions in the authority's office and in the office of the city board, and such revisions shall be available to the public upon request. Such report and revisions shall not preclude the authority from entering into contracts or undertaking projects.

5. Nothing herein shall be deemed to create a cause of action against the authority challenging the board's determination to award a contract pursuant to subdivision three of this section, except to challenge a failure by the authority to adhere to the process set forth in paragraphs b and c of subdivision three of this section.