

# Council & Workgroup Manual

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This manual is intended to provide guidance in the establishment, development, functionality, and governance of the Councils, Workgroups, and Taskforces under the National Institute of Building Sciences (NIBS).

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## 1. About NIBS

The National Institute of Building Sciences was authorized by the U.S. Congress in the Housing and Community Development Act of 1974, Public Law 93-383 (Appendix). In establishing NIBS, Congress recognized the need for an organization that could serve as an interface between government and the private sector. NIBS' mission is to serve the public interest by advancing building science and technology to improve the built environment. NIBS' vision is to improve lives through collaboration to integrate science into the built environment. Through NIBS, Congress established a public/private partnership to enable findings on technical, building-related matters to be used effectively to improve government, commerce and industry.

NIBS is a non-profit, non-governmental organization bringing together representatives of government, the professions, industry, labor and consumer interests to focus on the identification and resolution of problems and potential problems that hamper the construction of safe, affordable structures for housing, commerce and industry throughout the United States. NIBS' provides an authoritative source of advice for both the private and public sector of the economy with respect to the use of building science and technology. Congress recognized that the lack of such an authoritative voice was a burden on all those who plan, design, procure, construct, use, operate, maintain and retire physical facilities, and that this burden frequently resulted from failure to take full advantage of new useful technology that could improve our living environment.

NIBS has provided the opportunity for free and open discussion of issues and problems where there was once conflict and misunderstanding between government and the private sector construction industries. NIBS brings together representatives of regulatory agencies, legislators and representatives of the private sector to open working sessions that seek a consensus solution to problems of mutual concern.

NIBS is headquartered in Washington, D.C. and is directed by a 21-member Board of Directors, 15 of whom are elected and six of whom are appointed by the President of the United States subject to the approval of the U.S. Senate. NIBS' operates a number of councils which advise key aspects of many of our technical programs. NIBS' professional staff provides essential technical, managerial and administrative support for all of the organization's programs.

NIBS' Councils and Workgroups– the Consultative Council; the Building Enclosure Technology and Environment Council (BETEC); the Building Seismic Safety Council (BSSC); the Building Information Management (BIM) Council; the Facility Management and Operations Council (FMOC); the Multi-hazard Mitigation Council (MMC); the Off-site Construction Council (OSCC); and the Whole Building Design Guide Workgroup(WBDG) – are integral and vital components of NIBS. They focus on broad-based and specialized building process issues. Each specialty council is governed by a voluntary Board of Direction comprised of nationally recognized leaders in appropriate disciplines.

NIBS operates with a balanced blend of public and private funding. Private sector contributions and membership dues are augmented by contracts and grants with federal, state and local agencies and the sales of NIBS publications. These funds have made possible numerous programs which have brought together the nation's finest experts available from the public and private sectors to identify and resolve issues affecting the

building process. This blend of public and private funding and NIBS' balance and representation requirements assure that no single interest area will dominate or hold undue influence over NIBS and its work and assures the maintenance and free exchange of information and views between the private and public sectors.



2020-2022  
STRATEGIC PLAN

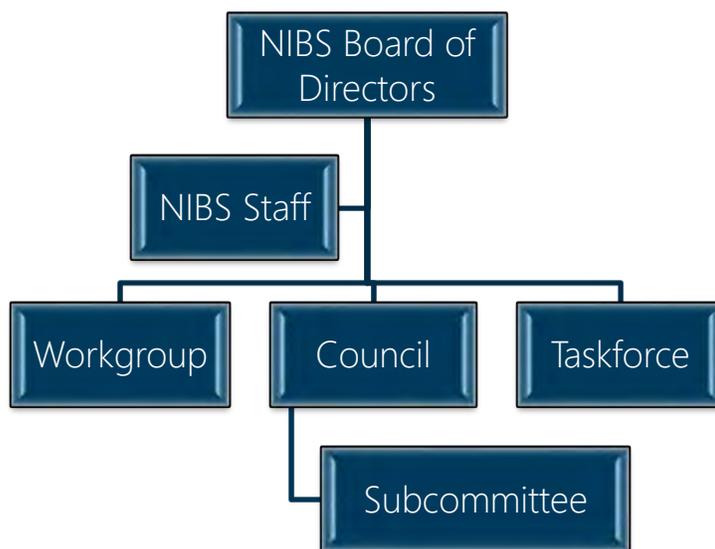


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INNOVATIVE SOLUTIONS FOR THE BUILT ENVIRONMENT

## 2. Hierarchy and Description

To carry out our goals and objectives, NIBS Board of Directors relies upon Councils, Workgroups, and Taskforces (Decision-Making Bodies) established to function in relative areas of expertise. A Decision-Making Body is established to carry out the work of NIBS in accordance with the Enabling Legislation and the organization's policies and procedures. When a Body is developed, there is a specific purpose in mind and it should endeavor to align its goals with the goals of NIBS in achieving its stated missions and purpose.



### Council

Volunteer-led body that represents and advances key topic areas of importance for NIBS. Councils have a defined governance structure. They work closely with the NIBS Staff and NIBS Board liaisons.

### Workgroup

Volunteer-led body that is created for a specific contract. It has an informal governing structure and reports directly to the NIBS Board, led by the staff member managing the contract.

### Task Force

Volunteer-led body formed for a specific, time-limited purpose on issues identified by the NIBS Board of Directors, Chair of the Board or CEO. They are managed by NIBS staff and will have a set date to sunset, which can be extended when appropriate.

### Subcommittee

Volunteer-led body responsible for working within the guidelines established by, their parent Council. Members can be hand-selected by their parent Council and are led by a Chair. They can be created for a specific contract or formed for a specific, time-limited purpose.

## 3. Councils and Workgroups

### **Building Enclosure Technology and Environment Council**

The purpose of the Building Enclosure Technology and Environment Council (BETEC) is to develop a sound technical and economic basis for the design, construction, and operation of new buildings and the modification of existing buildings to optimize energy efficiency, while maintaining function, durability, and a healthy and comfortable indoor environment. Also, to expedite the use of promising new and improved technologies and practices to enhance energy efficiency and the building environment.

### **Building Seismic Safety Council**

The purpose of the Building Seismic Safety Council (BSSC) is to enhance the public's safety by providing a national forum to foster improved seismic safety of buildings and related infrastructure.

### **Building Information Management Council**

The purpose of the Building Information Management (BIM) Council (formerly the BuildingSMART Alliance) is to provide and promote methods for the integration of all facility life-cycle processes that embody the planning, construction, operation, occupancy and disposal of the built environment through the dynamic and interoperable exchange, use and retention of digital representation, and the functional characteristics of accurate and useful information.

### **Consultative Council**

The mission of the Consultative Council is to advise and support NIBS by making findings and recommendations for presentation by NIBS to the President of the United States on developing and applying science and technology to improve the built environment in the public interest through standards, codes, regulations, and industry practices affecting the design, construction and operation of buildings.

### **Facility Management and Operations Council**

The Facility Management and Operations Council (FMOC), provides industry-wide, public and private support for the creation of higher quality facilities through improved maintenance and operation and real property management. Also, under FMOC is the Commercial Workforce Credentialing subcommittee; that works to advance the development and recognition of quality building industry credentials.

### **Multi-hazard Mitigation Council**

The mission of the Multi-hazard Mitigation Council (MMC) is to disseminate credible information and counsel on major policy issues involving multi-hazard disaster resilience and risk reduction. The Council will promote increased all-hazard (man- caused and natural) disaster resilience and risk reduction in the built environment as part of a whole building strategy. This strategy will focus on sustainable, economic, and practical solutions through effective research and policy making. Also, under MMC is the subcommittee for finance, insurance and real-estate. Banks, insurance companies and real estate firms all play a significant role in how buildings are procured, designed and constructed. This subcommittee (formerly CFIRE) works to promote collaboration and buy-in across these sectors to better address the

challenges of evaluating risks, benefits, technologies and practices associated with the achievement of cost-effective high-performance buildings.

### **Off-Site Construction Council**

The mission of the Off-Site Construction Council (OSCC) is to serve as a research, education, and outreach center for relevant and current information on off-site design and construction for commercial and multifamily buildings.

### **Whole Building Design Guide Workgroup**

The Whole Building Design Guide (WBDG) is a comprehensive, Internet-based portal to a wide range of federal and private sector, building-related guidance, criteria, education & technology. It creatively links information across traditional professional disciplines to encourage integrated thinking and a “whole building” performance.

## **4. Governance**

### **4.1. ESTABLISHMENT**

Each Decision-Making Body of NIBS is established based on an identified goal and objective to support the work of the organization in meeting our mission and in keeping with our strategic plan. In most cases, the Board of Directors establishes Councils, Workgroups, and Taskforces and their functional expectations in the form of a charter. Provisions in the charter should reflect the expectations outlined below.

NIBS may create such entities within its structure as it feels are necessary or desirable to promote its purposes as set forth in Section 809, Public Law 93- 383, provided that all such entities report to the Board of Directors and are so constituted and conduct their affairs in such a manner as to be consistent with the law, these Bylaws, and the principles of balance and representation.

#### **4.1.1. Purpose and Objective**

Each Decision-Making Body shall have a clearly articulated statement of purpose and objective. This can be expressed for a specific targeted issue or timeline. It may also be to provide overall guidance to a segment of the building industry.

#### **4.1.2. Mission**

The Mission of the Decision-Making Body must be aligned with the overall Mission of NIBS.

### **4.2. STRUCTURE**

Each Decision-Making Body must adhere to the following governance structure.

### 4.2.1. Governance Structure

1. Each Council shall have elected officers to provide leadership to the Council Members.
  - a. Chair, Vice Chair, and Secretary.
2. A Council has a Board of Direction consisting of the 3 elected officers and 2 additional members. The 2 additional members will be the immediate past Chair and 1 member at large.
3. Workgroups and Taskforces have a more informal structure based on the needs of the Decision-Making Body and NIBS. Each is mandated to have a Chair. If they wish to have a full Board of Direction, they must follow the same structure and guidelines as Councils.
4. Subcommittees are mandated to have a Chair. The Chair is appointed by the parent Council's Board of Direction. If they wish to have a full Board of Direction, they must follow the same structure and guidelines as Councils. They will work closely with the leadership of the parent Council.

### 4.2.2. Selection Process

1. Officers should be elected from within the Decision-Making Body membership through a nominations process, which includes nominations at large and from a nominations committee.
2. The Nominating Committee of a Body shall be composed of their Board Liaison and 4 other individuals selected from among the Body's membership. Board of Direction members who are subject to re-election in that year shall be ineligible to serve on the Committee. The Chair of the Decision-Making Body shall recommend individuals for Committee membership to the Board of Direction for approval. No more than 2 may be members of the preceding years.
3. 60 days prior to the Annual Meeting of the Body, the Nominating Committee must produce a slate of nominees to the Board of Direction Chair. 30 days prior to the Annual Meeting, the Committee must vote (using a tool of their choice) and inform the Board of Direction of the results.
4. An officer must receive a majority vote of the members of the Nominating Committee.
5. Officers of each Decision-Making Body must be presented to NIBS' Board of Directors for review and acceptance. The Board, in the exercise of its discretion, may by majority vote, decline to accept a presented officer on grounds that it is in the best interest of NIBS to do so.
6. The appointment of initial officers for a Decision-Making Body will be completed by the NIBS Board of Directors.

### 4.2.3. Terms of Office

1. Officers are elected to a 1-year term. An Officer may serve no more than 2 consecutive terms in an office.
2. Officers may be removed from office for failure to adhere to the Charter of the Decision-Making Body of NIBS policies and procedures.

### 4.2.4. Membership

1. Members of a Decision-Making Body must be a member in good-standing of NIBS.
2. There are times when a contract allows for non-members to participate in Body activities.
3. Membership of NIBS shall be available to representatives of all appropriate private, trade, professional, and labor organizations, private and public standards, code and testing bodies, public regulatory agencies, consumer groups, and to individuals that in their own capacity represent such interests.
4. Membership in NIBS should be balanced to afford all sectors of the building industry the ability to participate in Councils, Workgroups, and Taskforces. NIBS membership categories are defined as:
  - a. Individual Member-Public Interest
  - b. Individual Member-Industry
  - c. Individual Member-Student
  - d. Sustaining Organizations
  - e. Contributing Organizations

### 4.2.5. Meetings

Councils, Workgroups, and Taskforces must hold at least two meetings each year. Meetings can be held in person, via conference call, or via video conference.

### 4.2.6. Subcommittees

1. Councils may establish subcommittees for specific tasks under the scope of the Council.
2. Subcommittees may not operate outside the scope of the Council and must report their activities at each Council Meeting.
3. Members of sub-committees are subject to same requirements as Members of the Council.

### 4.2.7. Staff Liaison

1. Each Body will be appointed a Staff Liaison by the NIBS President.
2. Staff Liaisons are appointed to each Body to assist in carrying out their mission and scope of work.

### 4.2.8. Board Liaison

1. One or more Member(s) of the NIBS Board of Directors shall be assigned to each Decision-Making Body and will serve as a Liaison. Appointment of Liaisons is made by the Board Chair and confirmed by the Board of Directors.
2. Liaisons can serve to facilitate and advocate discussions among the Decision-Making Body and provide direction based upon policies and discussion from the NIBS Board of Directors.
3. Liaisons shall be included in material distribution to keep apprised of actions within the Body.
4. Liaisons shall serve on the Nominating Committee of the respective Body to which assigned.

## 4.3. FINANCIAL

Typically, Decision-Making Bodies have existed based on financial resources through grants or support from federal agencies or private organizations. NIBS provides staffing support for each body as a part of the Mission of the organization.

Each Body must be financially viable to exist. To assist each Body in remaining financially viable, NIBS requires planning by the Staff Liaison for the Annual Fiscal Year Budget.

- Each Council and Workgroup must submit an Annual Budget outlining proposed projects, funding sources for each project, any potential ongoing revenue streams, and a return on investment analysis for both the Body and NIBS.
- Fund raising activities must be conducted in a manner in keeping with the overall fundraising strategy of NIBS. This includes changes in program or registration fees, cost for products or services, and consistent with the NIBS brand.
- When a Council or Workgroup is contemplating a fundraising activity, a clearly defined statement of need, purpose and strategy must be submitted to NIBS' President & CEO for approval. When practical, such a request shall accompany the Body's annual report as part of an overall strategy for the direction and activities of the Council or Workgroup.
- Fund raising activities shall not be initiated without written approval from NIBS' President & CEO.

## 4.4. REPORTING

Sharing of each Decision-Making Body activities is necessary for oversight, allocation of resources, communications and strategic planning.

- Each Body shall submit an annual report of activities. This report will be used for both internal planning purposes and for generation of NIBS' Annual Report. The annual report should include current project status, next steps in ongoing projects, projects being proposed

for the ensuing year, and how the Body is meeting the overall mission of NIBS (including its interactions with Councils, Workgroups, or Taskforces).

### 4.5. ANNUAL REVIEW

Each Decision-Making Body shall be subject to an Annual Review by the Board of Directors. The Board may elect to establish a new Body, rescind or reconstitute existing Bodies based on performance, need and other business factors established by the Board for Review of Councils, Workgroups, and Taskforces.

### 4.6. POLICIES

All Councils, Workgroups, and Task Forces are subject to the following policies. Failure to adhere to these policies will cause review by the Board of Directors and may include sanctions up to and including expulsion of a member and/or recession of a Decision-Making Body.

#### 4.6.1. Compensation

5. Members of the Councils, Workgroups, or Taskforces may not receive compensation for services rendered in connection with work of a Decision-Making Body unless the arrangement for compensation is disclosed to said Body and approved by the President of NIBS prior to performance of the work.
6. Neither the Chair nor any Board of Direction member or any organization they represent shall serve as a paid contractor or consultant to a Decision-Making Body of NIBS, unless specifically exempted from this prohibition by NIBS Board of Directors action and recusal by the affected individual(s) on any action voted on by the Board of Direction related to the paid activity.

#### 4.6.2. Copyright and Ownership

It is NIBS policy and intent to own and hold copyright in its publications and to respect the copyright interests of others. All publications authored by NIBS, which include works created by employees of NIBS acting in the scope of their employment, are considered property (copyright) of NIBS and should be treated accordingly. Ownership of copyright gives NIBS exclusive right to reproduce the work in copies, to distribute copies of the work to the public; to display the work to the public; to perform the work in public; to create derivative works from the copyrighted work; and to authorize others to do those things. Care is to be taken not to give away or destroy NIBS' property interests such as by granting others exclusive rights or unnecessarily broad licenses to use NIBS property.

Members of a Decision-Making Body may not hold personal ownership in work developed or created as a part of a Decision-Making Body project.

Where NIBS members or other volunteers submit works that they have authored specifically for inclusion in a NIBS publication, NIBS will consider such contributed works to be works made for hire as agents and employees of NIBS. The Decision-Making Body should obtain from the contributor a written acknowledgement, in a form approved by NIBS, that the contributed work is work made for hire or, alternatively, that the contributor assigns his/her rights in the work to NIBS. If a member or other volunteer fails or refuses to sign such a written agreement, that person's work shall not be accepted for inclusion in the NIBS' publication.

Where an outside person or entity is contracted to prepare work for inclusion in a NIBS publication, the work must be contracted by NIBS in writing, and the contract shall provide that the work is work made for hire or is assigned to NIBS.

Where a member, volunteer or contractor submits work that was not prepared specifically for inclusion in NIBS publication or was prepared by a third party, the Decision-Making Body is responsible to obtain written permission from the author or holder of copyright in the work in the form of a license or an assignment of copyright, as may be appropriate, to use the particular work in NIBS publication.

### 4.6.3. Lobbying

It is the policy of the National Institute of Building Sciences that any communication or activity that constitutes, or might reasonably be construed to constitute, lobbying within the meaning of Federal, State or local law, is not allowed. This policy is to be strictly construed as a matter of compliance with applicable law and NIBS' Articles of Incorporation and Bylaws, and protection of the NIBS' status as a nonprofit, tax exempt 501(c)(3) organization.

### 4.6.4. Trademarks

The use of the NIBS' logo, name and other images that contain the NIBS name, logo, trademarks, and registered names is only permissible when permission has been expressly granted by the President of NIBS or in other legal agreements granting such permission.

A Decision-Making Body and their members should not endeavor to create separate or unique designations without first receiving approval for such designations.

The use of NIBS Trademarks shall comply with the Corporate Identity Guidelines and Standards Manual.

## 4.7. PLANNING

The success of NIBS and its Councils, Workgroups, and Taskforces relies on careful planning, strategic allocation of resources, and a holistic and consistent examination of activities. All Decision-Making Bodies are encouraged to conduct a strategic planning session annually to identify council priorities,

assess progress in meeting their objectives, the success of current projects, potential new projects, and assess alignment with NIBS' mission and goals.

## 5. Diversity & Inclusion Statement

The National Institute of Building Sciences is committed to cultivating and preserving a culture of inclusion and connectedness. We believe that diversity, equity and inclusion are critical to the strength of the built environment and building industry as a whole.

We do this by:

- Recognizing that we are able to grow and learn better together with a diverse team of employees and members.
- Acknowledging that the collective sum of the individual differences, life experiences, knowledge, innovation, self-expression, and talent that our employees and members invest in this industry represent our culture, our reputation, and achievements.
- Welcoming the unique contributions that potential team members bring while recruiting for our team, including education, opinions, culture, ethnicity, race, sex, gender identity and expression, nation of origin, age, languages spoken, veteran's status, color, religion, disability, sexual orientation and beliefs.

## 6. Non-Harassment Policy

It is the law and NIBS policy to prohibit harassment in the workplace in accordance with applicable laws, including harassment based on a person's sex, race, age, disability, religion, sexual orientation, ancestry or ethnic group. Some forms of harassment include, among other things, derogatory or unwelcome comments, whether verbal, written or graphic, or actions referring or directed to a person's race, gender or ethnic group in circumstances reasonably viewed as offensive to the individual involved and which undermine a proper working environment. Sexual and other types of prohibited harassment of NIBS employees or job applicants by directors, supervisors or employees are unacceptable and will not be tolerated. No director or employee, male or female, shall harass an employee by making unwelcome sexual advances, requests for sexual favors, or harass through other verbal or physical conduct of a sexual nature. Nor shall any director or employee threaten or insinuate that submission to such action is a condition of continued employment, or make submission to or rejection of such conduct the basis for employment decisions affecting the employee or create an intimidating, hostile or offensive working environment by such conduct.

## 7. Anti-Trust Compliance Policy

The National Institute of Building Sciences (NIBS) is a not-for-profit scientific and educational organization that provides authoritative support for the public interest in building science, engineering, construction, and technology. NIBS conducts much of its business and activity through various unincorporated councils and committees which are subject to the authority and direction of the NIBS Board of Directors. NIBS performs its work through employed staff, members, and many volunteers from both public and private sectors.

The purpose of the antitrust laws is to preserve economic competition in the marketplace by prohibiting unreasonable restraints of trade and market monopolization. Notwithstanding NIBS' nonprofit status, public interest orientation and largely voluntary nature of much of its work, federal and state antitrust and trade regulation laws can apply to NIBS' conduct and activities. Applicable federal laws include the Sherman Act, the Clayton Act, the Robinson-Patman Act, and the Federal Trade Commission Act. Most states have enacted their own laws which parallel the federal laws. There are potentially serious civil and even criminal penalties for violation of the law as well as the potential for substantial liability and costs of defense in civil lawsuits brought by parties claiming injury to their business resulting from violations of law.

## 7.1. GENERAL STATEMENT OF NIBS POLICY

It is NIBS policy, and the policy of each of its component councils, workgroup and task force, to conduct all business and activity in full compliance with the letter and spirit of federal and state antitrust and trade regulation laws.

## 7.2. SPECIFIC POLICIES

Application of the antitrust laws can be complex and uncertain. Whether particular conduct constitutes a violation of law will often depend upon a “Rule of Reason” analysis of the economic purpose and effect of that conduct in a defined market and whether, on balance, the anticompetitive effects of the conduct outweigh any precompetitive benefits. It may be difficult, therefore, to determine beforehand whether specific conduct will violate the law.

However, certain types of conduct will always be found to be unreasonable and thus *per se* unlawful, regardless of purpose or actual effect:

### **Price fixing**

Persons or firms may not agree between or among themselves to raise, lower, or in any way set or fix the prices at which they will sell their goods or services.

### **Market allocation**

Persons or firms may not agree to divide or allocate product or geographic markets for the sale of goods or services between or among themselves.

### **Group boycotts**

Persons or firms may not agree between or among themselves to prevent any supplier, customer or other competitor from freely obtaining goods or services, or freely selling goods or services, in the market.

Other types of conduct that may harm competition and violate the law, depending upon the facts and circumstances, include the following:

### **Agreements in restraint of trade**

Various types of agreements may unreasonably restrain trade, depending upon their purpose and economic effect. Such agreements can include exclusive dealing arrangements, adoption and implementation of unreasonable standards, joint or concerted activities of competitors or potential competitors, and other actions which harm competition by driving competitors out of a market or otherwise reducing the output of goods or services in a market.

### **Monopolization/Attempt to monopolize**

Generally, it is unlawful to acquire or maintain monopoly power in a relevant market. The existence of

monopoly power depends upon the structure of the relevant market, the share of the market held by the entity in question, and the manner in which the monopoly power has been, or threatens to be, attained.

### **Price discrimination**

It can be unlawful to charge competitors different prices for goods where the effect is to lessen competition between purchasers.

It is not possible to provide a comprehensive list of all specific conduct that may violate antitrust or trade regulation laws. Nevertheless, in order to avoid creating or slipping into problems under the applicable laws, NIBS, its councils and committees, and the persons performing or involved in NIBS work, whether compensated or as volunteers, shall adhere to the following specific policies:

- It is inappropriate for NIBS staff, members or any other person participating in NIBS activities to agree upon, formally or informally, tacitly or implicitly, or even to discuss at NIBS meetings or as part of NIBS communications, prices that competitors charge or plan to charge for their goods or services, the terms or conditions under which competitors sell their goods or services, or the current costs incurred by competitors in producing or delivering their goods or services; division or allocation of product or geographic markets among competitors in the market; collective action to refuse to deal with certain providers of goods or services or customers for goods or services; or collective action to prevent the new entry of firms into any market or to cause any firm or person to exit a market.
- Persons in charge of conducting NIBS meetings, whether in person or by electronic communication, should adhere to established agendas and promptly cut off any discussion that strays into areas prohibited or questionable under this Policy.
- NIBS should not collect or report current, recent, or future prices charged for products in the market, or current, recent, or future costs incurred by firms or individuals in the market in connection with their production or delivery of goods or services, without review and express approval of the plan by legal counsel.
- It is inappropriate for NIBS to agree with any of its members, or with firms or individuals participating in NIBS activities, upon the prices at which NIBS will sell any of its products or services. It is appropriate for NIBS to determine unilaterally, or in agreements with buyers or sellers, the prices at which NIBS will sell or purchase products or services.
- It may be inappropriate for NIBS to charge competing customers different prices for NIBS products where the effect may be to lessen competition between those customers.
- In any activity involving the development and/or approval of technical standards for products, services, methods, or performance, the standards should be reasonable on their technical merit and should be developed and adopted by a fair and reasonable process. Standards should not be developed or adopted based upon their effect, whether positive or negative, upon specific competitors in the market.
- It is inappropriate for NIBS to organize or implement, or to facilitate or assist others in organizing or implementing, any plan to prevent any firm or individual from freely selling or providing goods or services or obtaining goods or services in any market.

- It is inappropriate for NIBS in conducting its own business or activity to engage in any unfair or deceptive practices, the effect of which may be to lessen competition in any market.
- It is inappropriate for NIBS or NIBS' staff to be involved in any way in the competitive business decisions of NIBS members, firms participating in NIBS activity or individuals, or other outside firms or individuals.
- Any plan involving concerted action by two or more competitors or potential competitors must be reviewed and approved by NIBS management and legal counsel.
- Any clear or suspected violation of this Policy should be brought to the attention of NIBS management and, if necessary, the Board of Directors.
- Complaints from government officials, private firms, or individuals that the effect of NIBS conduct or actions may be to lessen competition in the market must be taken seriously and reported to NIBS management for appropriate consideration.
- Any question as to the propriety of NIBS conduct or activity under the antitrust laws or the validity of complaints that NIBS conduct is lessening or will lessen competition in any market can and should be referred to NIBS legal counsel.
- NIBS Staff shall be made aware of this Policy and periodically reminded of it. Other persons working on NIBS projects shall be made aware of this Policy, reminded of it as often as reasonably necessary, and provided copies of it upon request. The Policy shall be posted on the NIBS website.

## 8. Code of Conduct Decision-Making

### 8.1. I. INTRODUCTION

#### 8.1.1. Background.

This Code of Conduct (the "Code") is a set of principles to govern the conduct of the members of any council, task force, working group or other subset of individuals organized by the National Institute of Building Sciences ("NIBS") for the purpose of making a decision, ruling or recommendation (collectively, a "Decision-Making Body"). NIBS expects members of a Decision-Making Body to abide by this Code and other relevant NIBS policies. By serving as a member of a Decision-Making Body, members assume responsibility for leadership, thoughtful judgment, and advancement of NIBS programs and activities. Membership on a Decision-Making Body imposes the duty to serve as a fiduciary for the organization, including promoting NIBS' effectiveness in carrying out its Mission and goals. Maintaining the standard

set forth in this Code is critical to the credibility and function of NIBS. Accordingly, all members of a Decision-Making Body shall comply with this Code of Conduct at all times.

### 8.1.2. Expectations.

NIBS expects members of its Decision-Making Bodies to endeavor to:

- i. i. Promote and utilize NIBS' resources in order to inform, educate and prepare those engaged in the built environment.
- ii. ii. Maintain a standard of quality in programs that are developed to complement, not substitute for, NIBS' programs.
- iii. iii. Not misrepresent their affiliation with NIBS for personal gain.

### 8.1.3. Miscellaneous.

The principles set forth herein are not designed to govern all matters, events or situations possible. A waiver of the conflict of interest section of the Code for any member of a Decision-Making Body may be granted only by the Board of Directors of NIBS (the "Board"). No other such waivers will be granted unless the majority of the Board has the same conflict, in which instance the Board may grant such waivers.

This Code is intended to supplement, but not replace, any applicable state and federal laws applicable to nonprofit and charitable organizations.

#### 8.1.3.1. II. Principle of Care

**Fair Dealing.** All members of a Decision-Making Body should endeavor to deal fairly in conducting NIBS' business. No member of a Decision-Making Body shall take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts, or any other unfair-dealing practice.

**Confidential Information.** Members of a Decision-Making Body shall protect NIBS' Confidential Information. NIBS' policy is that all information defined or identified as confidential is considered Confidential Information. The unauthorized use or disclosure of this information is prohibited.

- I. Each member of a Decision-Making Body shall refrain from disclosing any Confidential Information acquired in connection with his or her role as a member of the Decision-Making Body. Furthermore, members of a Decision-Making Body shall not disclose or use information relating to the business of

NIBS for their personal profit or advantage or the personal profit or advantage of their immediate family.

- II. While serving on a Decision-Making Body, a member may be given information that is deemed confidential by either a representative of NIBS or the chair of the NIBS Board of Directors. The member shall take all steps reasonably necessary to protect such Confidential Information, and to prevent the Confidential Information from falling into the public domain or into the possession of unauthorized persons. Any such information is required to be kept in strict confidence until NIBS issues any form of public announcement (written or oral) regarding the information.
- III. Exceptions: Confidential Information does not include information that: (i) is or becomes available from public sources through no wrongful act of the member of the Decision-Making Body; (ii) is already in the possession of the member of the Decision-Making Body prior to the commencement date of his/her service on the Decision-Making Body without an obligation of confidentiality, except for information disclosed during discussions related to his/her nomination or appointment; (iii) is disclosed to the member of the Decision-Making Body by a third party with no obligation of confidentiality; or (v) is required to be disclosed pursuant to any court or regulatory order served on the member of the Decision-Making Body.

### 8.1.3.2. III. Principle of Obedience

#### a. **Legal Compliance.**

Every member of a Decision-Making Body shall avoid any activity that involves or is likely to lead to the involvement of NIBS, its affiliates, assets, directors, officers, volunteers or employees in any unlawful practice.

- i. It is the personal responsibility of all members of a Decision-Making Body to acquaint themselves with this Code and all other NIBS policies applicable to their duties and responsibilities and to conduct themselves accordingly. Over and above the strictly legal aspects, however, members of a Decision-Making Body are expected to observe the additional standards of business and personal ethics specified in the Code and to conduct themselves in a manner that would not be an embarrassment or detriment to NIBS.

- b. **Communications.** All public statements from a Decision-Making Body shall be released through NIBS' communications department. No Decision-Making Body or member of a Decision-Making Body may make public statements on behalf of the Decision-Making Body or NIBS without express approval from NIBS.

- c. **Compliance with Other Policies.** Members of a Decision-Making Body must abide by relevant NIBS policies, including its Antitrust policy, its Anti-Harassment policy, and its Policies and Procedures for Councils, Workgroups, & Taskforces.

### 8.1.3.3. IV. Principle of Loyalty

#### **Conflicts of Interest.**

It is in the best interest of NIBS to be aware of and properly manage all potential sources of “bias” and perceived and actual conflicts of interest.

- i. **Actual Conflict of Interest Defined:** It is essential that the work of a Decision-Making Body not be compromised by any actual conflict of interest on the part of any member of a Decision-Making Body or anyone associated with the work of a council (e.g., consultants, staff, immediate family, etc.). For this purpose, the term “Conflict of Interest” means any financial interest which conflicts with the service of an individual because it (1) could impair the individual's objectivity or (2) could create an unfair competitive advantage for any person or organization.
  - 1. A person has a “financial interest” if the person has, directly or indirectly, through business, investment, or immediate family:
    - a. An ownership or investment interest in any entity with which the Decision-Making Body has an existing or proposed transaction or arrangement,
    - b. A compensation arrangement with NIBS or with any entity or individual with which the Decision-Making Body has an existing or proposed transaction or arrangement, or
    - c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Decision-Making Body is negotiating a transaction or arrangement.
  - 2. The existence of an actual Conflict of Interest ordinarily disqualifies an individual from making motions, voting, executing agreements or taking any other similar direct action of NIBS on matters which directly or predominantly involve the matter of conflict, unless waived by the NIBS Board of Directors (“Board”) as stated herein.
  - 3. A member of a Decision-Making Body with an actual Conflict of Interest must abstain from making motions, voting, executing agreements or taking any other similar direct action of NIBS on matters which directly or predominantly involve the matter of conflict, unless the Board reviews and approves of such action.

### **Disclosure.**

Members of a Decision-Making Body are required to disclose to the members of the Decision-Making Body considering the proposed transaction or arrangement: 1) any financial interest in any entities, suppliers, clients, or competitors that are, or could be, involved in a transaction, contract or arrangement being considered by NIBS; or 2) any other either existing or proposed relationship with an individual or entity that the member of the Decision-Making Body has that may be deemed a Conflict of Interest and the reasons they believe such relationship would not violate the Conflict of Interest provisions of this Code. Relationships and dealings of NIBS with corporations, partnerships, joint ventures, or other entities owned, controlled, or managed by NIBS shall not constitute a Conflict of Interest under this definition.

1. Members of a Decision-Making Body may not knowingly create a “financial interest” in any NIBS supplier of goods or services or any other organization that is engaged in doing business with, engaged in an existing or proposed contract, transaction or arrangement, or otherwise serving NIBS *without previously making disclosure to the respective Decision-Making Body and the Board nor knowingly continue an existing “financial interest” without such disclosure.*
2. After such disclosure is made, should the member believe that they should be able to continue making motions, voting, executing agreements or taking any other similar direct action on behalf of NIBS on matters which predominantly involve the matter of conflict, without undermining the best interests of NIBS, they may submit a written request to the Board to permit such conduct. The Board will review the disclosure and a decision will be made as to whether the disclosed item constitutes an actual conflict of interest that requires a waiver of the Code. All determinations made by the Board pursuant to this section shall be by a majority of the disinterested directors.

### **Perceived Conflict of Interest/Bias Defined:**

The question of potential sources of “bias” ordinarily relates to views stated or positions taken that are largely intellectually motivated or that arise from the close identification or association of an individual with a particular point of view or the positions or perspectives of a particular group. Such potential sources of bias are not disqualifying for purposes of serving on a Decision-Making Body; however, such sources are disqualifying for purposes of serving as Chair (or Vice-Chair) of the Decision-Making Body involved in the decision related to the bias. In connection with any bias or perception of a Conflict of Interest, it is necessary for the member to promptly, fully, and frankly disclose to the remaining members of the Decision-Making Body the existence of such bias or potential conflict.

1. While a member of a Decision-Making Body with the ongoing appearance of a bias or perceived Conflict of Interest may not serve as chair (or Vice-chair) of the Decision-Making Body involved in the decision related to the bias or conflict of interest, the Member of the Decision-Making Body may remain a voting part of such entity.
2. Members of a Decision-Making Body are encouraged to request pre-clearance from the NIBS Board of Directors on any bias or perceived Conflict of Interest in advance of the relationship or transaction taking place. Any matter of question or interpretation that arises relating to a bias or perceived Conflict of Interest should be referred to the NIBS Board of Directors for a determination.
3. A member of a Decision-Making Body with a bias or perception of a Conflict of Interest may participate in a vote on the issue; however, such person may not use his position(s) and/or personal influence to unduly persuade the vote of the Decision-Making Body regarding the contract, transaction or arrangement involving the bias or perceived Conflict of Interest.

### **Review**

The Board (regarding a bias, perceived conflict, or an actual conflict), as appropriate, shall examine such written requests for a waiver of a bias or perceived or actual Conflict of Interest, pursuant to any procedures it deems reasonable and appropriate. Before determining that either an actual or perceived Conflict of Interest does exist, the respective reviewing panel shall allow the subject of the inquiry to present evidence and a written statement relating to such alleged conflict or bias.

1. In order to permit a member of a Decision-Making Body to continue its participation in the Decision-Making Body, the reviewing panel must find that any actions by the member will not result in a contract, transaction or arrangement which is not in NIBS' best interest; and that the proposed contract, transaction or arrangement is fair and reasonable to NIBS.
2. Copies of documentation regarding the review of a conflict or bias should be provided to the Board.
3. NIBS may also ask staff to monitor the work of the Decision-Making Body and respond as the staff member deems necessary or appropriate in order to ensure the interests of NIBS remain the first priority in all decisions and actions.

### **Gifts**

Accepting gifts, entertainment or other favors from individuals or entities can also

result in a conflict or duality of interest when the party providing the gift/entertainment/favor does so under circumstances where it might be inferred that such action was intended to influence or possibly would influence a member of a Decision-Making Body in the performance of his or her duties. This does not preclude the acceptance of items of nominal or insignificant value or entertainment of nominal or insignificant value which are not related to any particular transaction or activity of NIBS. This policy statement is not intended to apply to gifts and/or similar entertainment of nominal value that clearly are in keeping with good business ethics and do not obligate the recipient.

- ◆ **Corporate Opportunities.** Except as approved by the Board, members of a Decision-Making Body are prohibited from (a) taking for themselves opportunities that are discovered through the use of NIBS property, information or position; and (b) using NIBS property, information, or position for personal gain. Members of a Decision-Making Body have an obligation to give their unconflicted loyalty to the best interest of NIBS.

#### 8.1.3.4. V. Reporting and Discharge

##### **Reporting of Illegal or Unethical Behavior.**

Members of a Decision-Making Body are required to report suspected misconduct of any nature.

- i. Violations of laws, rules, regulations or this Code shall be reported to the Secretary of NIBS Board of Directors. NIBS will not allow retaliation against members of a Decision-Making Body for reports made in good faith regarding suspected violations by other persons.
- ii. It is against NIBS policy for a member of a Decision-Making Body to discriminate or take adverse action against another member of a Decision-Making Body who provides information to governmental or NIBS authorities about actions they reasonably believe to represent misconduct.
- iii. NIBS will maintain a confidential reporting channel for members of a Decision-Making Body.

##### **Member Discharge**

A member of a Decision-Making Body may be discharged from the Decision-Making Body by the Board with or without cause. Cause may be as a result of, but not limited to, violation of any NIBS policy, including this Code, the NIBS Antitrust or Anti-Harassment policies, missing more than 1/3 of the Decision-Making Body meetings (phone or in-person) in a year, misconduct, or resignation.

### **VI. Affirmative Statement**

Upon initial election or appointment to a Decision-Making Body, all members of a Decision-Making Body shall make an affirmative statement in the form attached and included as part of this Code. It shall be the obligation of the members of the Decision-Making Body to inform NIBS of any changes to this statement. Thereafter, members shall make disclosures, pursuant to the Conflict of Interest provisions of this Code, at each the beginning of each meeting during which their respective conflict or bias is scheduled to be discussed.

## 9. Affirmative Statement Signature Sheet

### AFFIRMATIVE STATEMENT REGARDING

The Code of Conduct for Council, Task Force, & Workgroup Members

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Please describe below any relationships, transactions, positions you, or a member of your immediate family, hold (volunteer or otherwise), or circumstances that you believe is a conflict of interest between NIBS and your personal interests, financial or otherwise over the course of the coming year. Such relationships, positions or circumstances might include service as a director of or consultant to another nonprofit organization, or ownership of a business that might provide goods or services to NIBS. Note that the consequences of declaring an actual conflict include, among others, that you will not be permitted to vote on matters relating to the conflict, so no conflict should be declared unless it actually exists.

\_\_\_\_\_ I have no conflict of interest to report.

\_\_\_\_\_ I have the following conflict of interest to report (please specify other nonprofit and for-profit boards or councils you (and your spouse) sit on, any for-profit businesses for which you or an immediate family member are an officer or director, or a majority shareholder, and the name of your employer and any businesses you or a member of your immediate family may own):

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

Attach additional sheets as necessary. Any specific actual or perceived conflict or bias shall be declared at the beginning of each meeting in relation to the meeting's agenda.

I hereby certify that the information set forth above is true and complete to the best of my knowledge. I have received a copy of the Code of Conduct for Councils, Workgroups, and Taskforces of, The National Institute of Building Sciences, reviewed it, understand it, and agree to abide by it. For emphasis, I certify that I understand and agree to abide with the confidentiality and non-disclosure provisions contained in Section II(C). Any changes to this statement will be reported to NIBS when the information becomes known to me.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix

### A.1. ENABLING LEGISLATION

12 U.S. Code § 1701j–2. National Institute of Building Sciences

#### A.1.1. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

The Congress finds (A) that the lack of an authoritative national source to make findings and to advise both the public and private sectors of the economy with respect to the use of building science and technology in achieving nationally acceptable standards and other technical provision for use in Federal, State, and local housing and building regulations is an obstacle to efforts by and imposes severe burdens upon all those who procure, design, construct, use, operate, maintain, and retire physical facilities, and frequently results in the failure to take full advantage of new and useful developments in technology which could improve our living environment; (B) that the establishment of model buildings codes or of a single national building code will not completely resolve the problem because of the difficulty at all levels of government in updating their housing and building regulations to reflect new developments in technology, as well as the irregularities and inconsistencies which arise in applying such requirements to particular localities or special local conditions; (C) that the lack of uniform housing and building regulatory provisions increases the costs of construction and thereby reduces the amount of housing and other community facilities which can be provided; and (D) that the existence of a single authoritative nationally recognized institution to provide for the evaluation of new technology could facilitate introduction of such innovations and their acceptance at the Federal, State, and local levels.

The Congress further finds, however, that while an authoritative source of technical findings is needed, various private organizations and institutions, private industry, labor, and Federal and other governmental agencies and entities are presently engaged in building research, technology development, testing, and evaluation, standards and model code development and promulgation, and information dissemination. These existing activities should be encouraged and these capabilities effectively utilized wherever possible and appropriate to the purposes of this section.

The Congress declares that an authoritative nongovernmental instrument needs to be created to address the problems and issues described in paragraph (1), that the creation of such an instrument should be initiated by the Government, with the advice and assistance of the National Academy of Sciences–National Academy of Engineering–National Research Council (hereinafter referred to as the “Academies-Research Council”) and of the various sectors of the building community, including labor and management, technical experts in building science and technology, and the various levels of government.

### **A.1.2. ESTABLISHMENT; ADVICE AND ASSISTANCE OF ACADEMIES-RESEARCH COUNCIL AND OTHER AGENCIES AND ORGANIZATIONS KNOWLEDGEABLE IN BUILDING TECHNOLOGY**

1. There is authorized to be established, for the purposes described in subsection (a)(3), an appropriate nonprofit, nongovernmental instrument to be known as the National Institute of Building Sciences (hereinafter referred to as the "Institute"), which shall not be an agency or establishment of the United States Government. The Institute shall be subject to the provisions of this section and, to the extent consistent with this section, to a charter of the Congress if such a charter is requested and issued or to the District of Columbia Nonprofit Corporation Act if that is deemed preferable.
2. The Academies-Research Council, along with other agencies and organizations which are knowledgeable in the field of building technology, shall advise and assist in (A) the establishment of the Institute; (B) the development of an organizational framework to encourage and provide for the maximum feasible participation of public and private scientific, technical, and financial organizations, institutions, and agencies now engaged in activities pertinent to the development, promulgation, and maintenance of performance criteria, standards, and other technical provisions for building codes and other regulations; and (C) the promulgation of appropriate organizational rules and procedures including those for the selection and operation of a technical staff, such rules and procedures to be based upon the primary object of promoting the public interest and insuring that the widest possible variety of interests and experience essential to the functions of the Institute are represented in the Institute's operations. Recommendations of the Academies-Research Council shall be based upon consultations with and recommendations from various private organizations and institutions, labor, private industry, and governmental agencies entities operating in the field, and the Consultative Council as provided for under subsection (c)(8).
3. Nothing in this section shall be construed as expressing the intent of the Congress that the Academies-Research Council itself be required to assume any function or operation vested in the Institute by or under this section.

### **A.1.3. BOARD OF DIRECTORS; NUMBER; APPOINTMENT; MEMBERSHIP; TERMS OF OFFICE; VACANCIES; APPOINTMENT, ETC., OF CHAIRMAN AND VICE CHAIRMAN; EMPLOYEES OF UNITED STATES; TRAVEL AND SUBSISTENCE EXPENSES; APPOINTMENT AND COMPENSATION OF PRESIDENT AND OTHER EXECUTIVE OFFICERS AND EMPLOYEES;**

## ESTABLISHMENT, MEMBERSHIP, AND FUNCTIONS OF CONSULTATIVE COUNCIL

1. The Institute shall have a Board of Directors (hereinafter referred to as the "Board") consisting of not less than fifteen nor more than twenty-one members, appointed by the President of the United States by and with the advice and consent of the Senate. The Board shall be representative of the various segments of the building community, of the various regions of the country, and of the consumers who are or would be affected by actions taken in the exercise of the functions and responsibilities of the Institute, and shall include (A) representatives of the construction industry, including representatives of construction labor organizations, product manufacturers, and builders, housing management experts, and experts in building standards, codes, and fire safety, and (B) members representative of the public interest in such numbers as may be necessary to assure that a majority of the members of the Board represent the public interest and that there is adequate consideration by the Institute of consumer interests in the exercise of its functions and responsibilities. Those representing the public interest on the Board shall include architects, professional engineers, officials of Federal, State, and local agencies, and representatives of consumer organizations. Such members of the Board shall hold no financial interest or membership in, nor be employed by, or receive other compensation from, any company, association, or other group associated with the manufacture, distribution, installation, or maintenance of specialized building products, equipment, systems, subsystems, or other construction materials and techniques for which there are available substitutes.
2. The members of the initial Board shall serve as incorporators and shall take whatever actions are necessary to establish the Institute as provided for under subsection (b)(1).
3. The term of office of each member of the initial and succeeding Boards shall be three years; except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. No member shall be eligible to serve in excess of three consecutive terms of three years each. Notwithstanding the preceding provisions of this subsection, a member whose term has expired may serve until his successor has qualified.
4. Any vacancy in the initial and succeeding Boards shall not affect its power, but shall be filled in the manner in which the original appointments were made, or, after the first five years of operation, as provided for by the organizational rules and procedures of the Institute; except that, notwithstanding any such rules and procedures as may be adopted by the Institute, the President of the United States, by and with the advice and consent of the Senate, shall

appoint, as representative of the public interest, two of the members of the Board of Directors selected each year for terms commencing in that year.

5. The President shall designate one of the members appointed to the initial Board as Chairman; thereafter, the members of the initial and succeeding Boards shall annually elect one of their number as Chairman. The members of the Board shall also elect one or more of their Members as Vice Chairman. Terms of the Chairman and Vice Chairman shall be for one year and no individual shall serve as Chairman or Vice Chairman for more than two consecutive terms.
6. The members of the initial or succeeding Boards shall not, by reason of such membership, be deemed to be employees of the United States Government. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Board pursuant to this section, be entitled to receive compensation at the rate of \$100 per day including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized under section 5703 of title 5, for persons in the Government service employed intermittently.
7. The Institute shall have a president and such other executive officers and employees as may be appointed by the Board at rates of compensation fixed by the Board. No such executive officer or employee may receive any salary or other compensation from any source other than the Institute during the period of his employment by the Institute.
8. The Institute shall establish, with the advice and assistance of the Academies-Research Council and other agencies and organizations which are knowledgeable in the field of building technology, a Consultative Council, membership in which shall be available to representatives of all appropriate private trade, professional, and labor organizations, private and public standards, code, and testing bodies, public regulatory agencies, and consumer groups, so as to insure a direct line of communication between such groups and the Institute and a vehicle for representative hearings on matters before the Institute.

### **A.1.4. FINANCIAL RESTRICTIONS AND PROHIBITIONS**

1. The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.
2. No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or other individual except as salary or reasonable compensation for services.
3. The Institute shall not contribute to or otherwise support any political party or candidate for elective public office.

### A.1.5. EXERCISE OF FUNCTIONS AND RESPONSIBILITIES

- d. The Institute shall exercise its functions and responsibilities in four general areas, relating to building regulations, as follows:
- e. Development, promulgation, and maintenance of nationally recognized performance criteria, standards, and other technical provisions for maintenance of life, safety, health, and public welfare suitable for adoption by building regulating jurisdictions and agencies, including test methods and other evaluative techniques relating to building systems, subsystems, components, products, and materials with due regard for consumer problems.
- f. Evaluation and prequalification of existing and new building technology in accordance with subparagraph (A).
- g. Conduct of needed investigations in direct support of subparagraphs (A) and (B).
- h. Assembly, storage, and dissemination of technical data and other information directly related to subparagraphs (A), (B), and (C).
- i. The Institute in exercising its functions and responsibilities described in paragraph (1) shall assign and delegate, to the maximum extent possible, responsibility for conducting each of the needed activities described in paragraph (1) to one or more of the private organizations, institutions, agencies, and Federal and other governmental entities with a capacity to exercise or contribute to the exercise of such responsibility, monitor the performance achieved through assignment and delegation, and, when deemed necessary, reassign and delegate such responsibility.
- j. The Institute in exercising its functions and responsibilities under paragraphs (1) and (2) shall (A) give particular attention to the development of methods for encouraging all sectors of the economy to cooperate with the Institute and to accept and use its technical findings, and to accept and use the nationally recognized performance criteria, standards, and other technical provisions developed for use in Federal, State, and local building codes and other regulations which result from the program of the Institute; (B) seek to assure that its actions are coordinated with related requirements which are imposed in connection with community and environmental development generally; and (C) consult with the Department of Justice and other agencies of government to the extent necessary to insure that the national interest is protected and promoted in the exercise of its functions and responsibilities.

### **A.1.6. CONTRACT AND GRANT AUTHORIZATION; DONATIONS; FEES; AMOUNTS RECEIVED IN ADDITION TO AMOUNTS APPROPRIATED**

1. The Institute is authorized to accept contracts and grants from Federal, State, and local governmental agencies and other entities, and grants and donations from private organizations, institutions, and individuals.
2. The Institute may, in accordance with rates and schedules established with guidance as provided under subsection (b)(2), establish fees and other charges for services provided by the Institute or under its authorization.
3. Amounts received by the Institute under this section shall be in addition to any amounts which may be appropriated to provide its initial operating capital under subsection (h).

### **A.1.7. TECHNICAL FINDINGS AND PERFORMANCE CRITERIA AND STANDARDS; APPLICABILITY AND USE BY FEDERAL DEPARTMENTS, AGENCIES, AND ESTABLISHMENTS, AND STATE AND LOCAL GOVERNMENTS; SUPPORTING GRANTS AND CONTRACTS**

1. Every department, agency, and establishment of the Federal Government, in carrying out any building or construction, or any building- or construction-related programs, which involves direct expenditures, and in developing technical requirements for any such building or construction, shall be encouraged to accept the technical findings of the Institute, or any nationally recognized performance criteria, standards, and other technical provisions for building regulations brought about by the Institute, which may be applicable.
2. All projects and programs involving Federal assistance in the form of loans, grants, guarantees, insurance, or technical aid, or in any other form, shall be encouraged to accept, use, and comply with any of the technical findings of the Institute, or any nationally recognized performance criteria, standards, and other technical provisions for building codes and other regulations brought about by the Institute, which may be applicable to the purposes for which the assistance is to be used.
3. Every department, agency, and establishment of the Federal Government having responsibility for building or construction, or for building- or construction-related programs, is authorized and encouraged to request authorization and appropriations for grants to the Institute for its general support, and is authorized to contract with and accept contracts from the Institute for specific services where deemed appropriate by the responsible Federal official involved.
4. The Institute shall establish and carry on a specific and continuing program of cooperation with the States and their political subdivisions designed to encourage their acceptance of

its technical findings and of nationally recognized performance criteria, standards, and other technical provisions for building regulations brought about by the Institute. Such program shall include (A) efforts to encourage any changes in existing State and local law to utilize or embody such findings and regulatory provisions; and (B) assistance to States in the development of in-service training programs for building officials, and in the establishment of fully staffed and qualified State technical agencies to advise local officials on questions of technical interpretation.

### A.1.8. ADVANCED BUILDING TECHNOLOGY PROGRAM

5. ESTABLISHMENT OF ADVANCED BUILDING TECHNOLOGY COUNCIL There is established within the Institute, the Advanced Building Technology Council (hereafter referred to as the "Council").
6. PURPOSES The Council shall carry out an Advanced Building Technology Program for the purposes of—
  - a) identifying, selecting, and evaluating existing and new building technologies, including energy cost savings technologies, that conform to recognized performance criteria and meet applicable test standards for maintenance of life, safety, health, and public welfare when used in occupied buildings;
  - b) to the extent necessary, developing criteria for the use of such technology;
  - c) conducting economic analyses of proposed new technologies when produced and installed in buildings at volumes associated with comparable conventional technologies;
  - d) in cooperation with the appropriate Federal agencies, advising building designers, installers, subcontractors, contractors and supervisory officials on the appropriate design and use of new building technology incorporated in federally owned or operated buildings;
  - e) in cooperation with the appropriate Federal agencies, monitoring and evaluating the performance of new building technologies for at least 1 year after installation and building occupancy; and
  - f) disseminating resulting data to affected parties through automated information management systems.
7. COUNCIL MEMBERSHIP The Council shall be comprised of not less than 6 and not more than 11 members selected by the Secretary of Housing and Urban Development from among representatives of the various segments of the nationwide building community that have extensive experience in building industries, including, but not limited to—
  - a) product manufacturers;
  - b) experts in the fields of health, fire hazards, and safety; and

- c) independent representatives of the public interest such as architects, professional engineers, and representatives of consumer organizations, except that serving members of the National Institute of Building Sciences Advisory Council shall not be eligible to serve simultaneously on the Council.
8. (4)FEDERAL PARTICIPATION
- a) In general Any agency of the Federal Government involved in any building or construction may participate in the Advanced Building Technology Program with the Council to develop and implement programs to incorporate one or more of the recommended new technologies in a new or existing building within the agency.
  - b) Required assurances Upon agreement between a participating Federal agency and the Council, with respect to the selection of the appropriate technology and the schedule of necessary work, the Council shall—
    - I. provide the Federal agency with a 5-year guarantee from the technology manufacturer that—
    - II. all necessary corrections to the technology will be made in the design, installation, and maintenance of the technology;
    - III. all malfunctions will be repaired without delay; and
    - IV. the technology manufacturer will be responsible for removal of the technology in the event of its failure to perform as required;
    - V. provide the Federal agency and its officials responsible for constructing or renovating buildings utilizing the new technology, as well as the designers, installers, subcontractors, and contractors responsible for the design, construction, or renovation of the buildings utilizing such technology with the technical information necessary to ensure its most appropriate use,
    - VI. in cooperation with the Federal agency, monitor and evaluate the performance of the new technology, and
    - VII. prepare reports to be made available to public agencies at all levels of government, the industry, and the public on the performance of the new technology.
9. REPORT TO THE INSTITUTE The Council shall submit to the Institute annually a description of its activities under the Advanced Building Technology Program for inclusion in the Institute’s annual report to the Congress under subsection (j).

### **A.1.9. (i) AUTHORIZATION OF APPROPRIATIONS**

There is authorized to be appropriated to the Institute not to exceed \$5,000,000 for the fiscal year 1975, and \$5,000,000 for the fiscal year 1976, and \$5,000,000 for each of the fiscal years 1977 and 1978, and any amounts not appropriated in fiscal years 1977 and 1978 may be appropriated in any fiscal year through 1984 (with not more than \$500,000 to be appropriated for each of the fiscal years 1982, 1983, and 1984 and with each appropriation to be available until expended), to provide the Institute with initial capital adequate for the exercise of its functions and responsibilities during such years; and thereafter the Institute shall be financially self-sustaining through the means described in subsection (f). In addition to the amounts authorized to be appropriated under the first sentence of this section, there are authorized to be appropriated to the Institute to carry out the provisions of this section not to exceed \$512,000 for fiscal year 1991 and \$534,000 for fiscal year 1992. Any amount appropriated under the preceding sentence shall be made available for expenditure or obligation by the Institute only to the extent of an equal amount received by the Institute after November 30, 1983, from persons or entities other than the Federal Government.

### **A.1.10. (j) ANNUAL REPORT TO PRESIDENT FOR TRANSMITTAL TO CONGRESS; CONTENTS**

The Institute shall submit an annual report for the preceding fiscal year to the President for transmittal to the Congress within sixty days of its receipt. The report shall include a comprehensive and detailed report of the Institute's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Institute deems appropriate.

(Pub. L. 93–383, title VIII, § 809, Aug. 22, 1974, 88 Stat. 729; Pub. L. 94–375, § 24, Aug. 3, 1976, 90 Stat. 1078; Pub. L. 95–557, title III, § 319, Oct. 31, 1978, 92 Stat. 2101; Pub. L. 97–35, title III, § 339E, Aug. 13, 1981, 95 Stat. 417; Pub. L. 98–181, title I [title IV, § 462], Nov. 30, 1983, 97 Stat. 1232; Pub. L. 100–242, title V, § 570(f), Feb. 5, 1988, 101 Stat. 1950; Pub. L. 101–625, title IX, § 952(a), Nov. 28, 1990, 104 Stat. 4418; Pub. L. 102–550, title IX, § 904(a), Oct. 28, 1992, 106 Stat. 3868.)

