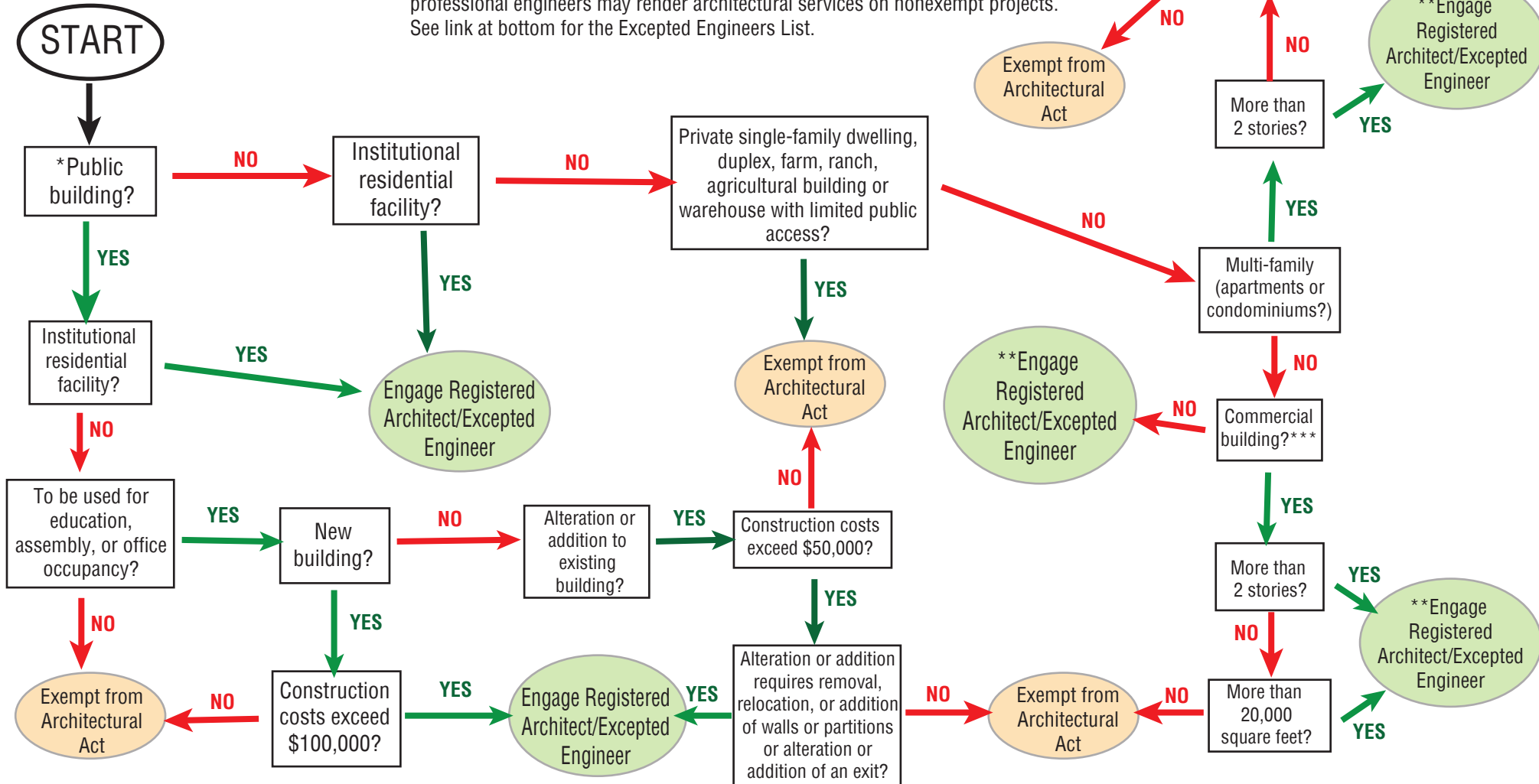


When to Engage an Architect or Excepted Engineer for Design and Construction Observation

Note: An unlicensed person who wishes to offer or perform design services pursuant to any of the exemptions **must not use any form of the word "architect"** in connection with the offer or performance of design services. Pursuant to HB 2284 (82nd Texas Legislature, effective September 1, 2011), a limited number of professional engineers may render architectural services on nonexempt projects. See link at bottom for the Excepted Engineers List.



* "Public Building" means any building that is owned by a State agency, a political subdivision of the State, or any other public entity in Texas.
 ** If a project involves only the alteration of an existing building and the alteration does not involve a substantial structural or exitway change to the building, the project is exempt from the architectural act.
 *** "Commercial building" means an enclosed structure primarily used for the purchase, sale, or exchange of commodities or services.

TBAE “Architect Required Flowchart” Notes:

(For the latest information and complete details, see Tex. Occ. Code Ann. Ch. 1051 and the Rules and Regulations of the Board at www.tbae.state.tx.us.)

Clarification of certain types of privately owned buildings

RULE 1.211 PRIVATELY OWNED BUILDINGS (excerpt from Rule 1.211) For the purposes of Section 1051.606 of the Texas Occupations Code:

“**multifamily dwelling**” means a building containing more than two separate units intended to be used for human habitation where the units are not separated by open space but instead are separated only by walls or partitions.

“**commercial building**” means an enclosed structure primarily used for the purchase, sale, or exchange of commodities or services.

“**warehouse that has limited public access**” means a building primarily used for the storage of equipment, merchandise, or commodities where:

- (1) only employees, delivery persons, and other specifically authorized people are routinely expected to enter the building; and
- (2) persons who enter the building are expected to occupy the building only on a limited basis.

Clarification of terms regarding publicly owned buildings

Public Entity--A state, a city, a county, a city and county, a district, a department or agency of state or local government which has official or quasi-official status, an agency established by state or local government though not a department thereof but subject to some governmental control, or any other political subdivision or public corporation.

RULE 1.212 PUBLICLY OWNED BUILDINGS (excerpt from Rule 1.212 regarding intended uses)

education: the use of a building at any time for instructional purposes;

assembly: the use of a building for the gathering together of persons for purposes such as civic, social, or religious functions or for recreation, food or drink consumption, or awaiting transportation; or

office occupancy: the use of a building for business, professional, or service transactions or activities.

Alterations: Determining if “substantial” structural or “substantial” exitway change.

RULE 1.213 EXEMPTION FOR ALTERATIONS TO EXISTING BUILDINGS

(a) For purposes of Section 1051.606 of the Texas Occupations Code, **a structural change is “substantial”** if the engineering plans and specifications for the structural change must be prepared by a licensed engineer pursuant to Chapter 1001 of the Texas Occupations Code.

(b) For purposes of Section 1051.606 of the Texas Occupations Code, **an exitway change is “substantial”** if the change will affect a path of egress intended to be used by more than fifty (50) persons.

Clarification of requirements regarding institutional residential facilities

RULE 1.214 INSTITUTIONAL RESIDENTIAL FACILITIES (excerpt from Rule 1.214)

(b) For purposes of this section, “**institutional residential facility**” means a building intended for occupancy on a 24 hour basis by persons who are receiving custodial care from the proprietor or operator of the building.

Architect required for construction observation on projects requiring an architect for plans and specs

RULE 1.217 CONSTRUCTION OBSERVATION

If, pursuant to Section 1.211, Section 1.212, or Section 1.214, an Architect must prepare or supervise and control the preparation of the architectural plans and specifications for a new building or the alteration of or an addition to an existing building, construction observation for the project shall also be conducted by an Architect or by a person working under the Supervision and Control of an Architect. For purposes of this Subchapter, “**construction observation**” means the administration of the portion of the construction contract described and documented in the architectural plans and specifications, including the following:

- (1) reviewing each shop drawing, sample, and other submittal by a contractor or consultant;
- (2) preparing or reviewing each change to an architectural plan or specification;
- (3) visiting the construction site at intervals appropriate to the stage of construction to:
 - (A) become generally familiar with and keep the client generally informed about the progress and quality of the portion of the construction completed;
 - (B) make a reasonable effort to identify defects and deficiencies in the construction;
 - (C) determine generally whether the construction is being performed in a manner indicating that the project, when fully completed, will be in accordance with the architectural plans and specifications; and
- (4) in addition to any responsibilities under Section 1.216, notifying the client in writing of any substantial deviation from the architectural plans and specifications that may prevent the building from being occupied or utilized for its intended use.