

# 4-OP-B-11-D2 ADMINISTRATION OF CONSTRUCTION MANAGER AGREEMENTS

**Responsible Division:** Finance and Administration

**Approving Official:** Kyle Clark

**Effective Date:** January 1, 2014

**Last Revision Date:** Unrevised at this time.

## **SPECIFIC AUTHORITY**

Sections 240.209(3)(p), 1001.74, 1013.46, F. S.

## **OBJECTIVE**

To establish procedures for the administration of construction manager agreements, including negotiation, contracting and payments.

## **OVERVIEW**

This document describes contract administration procedures for Construction Manager agreements, including negotiations for preconstruction services and for the Guaranteed Maximum Price; amendments and change orders; approval of pay requests; contractor self-performance; subcontractor prequalification; and bidding.

### **A. SCHEDULING THE NEGOTIATION**

Upon approval of the construction manager selection as described in FSU Online Policies and Procedure [OP-B-11-C2](#), Construction Manager Selection Process, the Facilities Design and Construction Office (FDC) schedules the negotiation meeting with representatives of the construction manager. FDC directs the construction manager to online links to the standard Agreement between Owner and Construction Manager, the Project Manual, the Supplementary General Conditions for Construction Manager Agreements, applicable Supplements to the Project Manual, and a copy of this procedure document. FDC directs the construction manager to prepare a proposal for preconstruction services in accordance with the "Guidelines for Construction Managers for the Preparation of Proposals for Preconstruction Services" (forms section).

### **B. NEGOTIATION FOR PRE-CONSTRUCTION SERVICES**

FDC representatives meet with the construction manager to negotiate the pre-construction portion of the contract.

If negotiations with the first ranked firm are unsuccessful, negotiations with that firm may be terminated and negotiations may be commenced with the second ranked firm. If negotiations with the second ranked firm are unsuccessful, the negotiations with that firm may be terminated and begun with the third ranked firm. If negotiations with the third ranked firm are unsuccessful, negotiations with the third ranked firm may be terminated and additional firms from the original pool may be selected or the project may be re-advertised. At any time during the negotiation process, negotiations may be terminated entirely and the use of the construction management delivery method for the project may be reconsidered.

#### *1. Preparation of agreement*

Upon completion of successful negotiations, the FDC prepares the Agreement between Owner and Construction Manager. After approval by the University General Counsel, the FDC transmits four (4) copies of the agreement to the construction manager for execution.

#### *2. Distribution of executed agreement*

Upon final execution of the agreement by the University President, copies of the agreement are distributed as follows: the construction manager, the FDC, the University Accounting Office and the architect/engineer.

#### *3. Pre-construction agreement file*

FDC maintains a pre-construction agreement file containing: the pre-construction agreement, the pre-construction fee proposal and any additional information related to the pre-construction negotiation.

### **C. NEGOTIATION OF GUARANTEED MAXIMUM PRICE (GMP)**

When it is time for the construction manager to develop the GMP proposal, the project manager directs the construction manager to

prepare it in accordance with the "Guidelines for Construction Managers for the Preparation of Guaranteed Maximum Price Proposals" (forms section).

After the construction manager develops the GMP, FDC reviews the proposal. The project manager ensures the architect/engineer receives a copy for review and obtains a written recommendation from the architect/engineer that the GMP be accepted. When all parties have reviewed the GMP proposal, the project manager schedules the negotiation meeting.

If negotiations regarding terms of the GMP proposal are unsuccessful, FDC may terminate negotiations with that firm and begin negotiations with the second ranked firm from the original selection. If negotiations with the second ranked firm are unsuccessful, FDC may terminate negotiations with that firm and begin negotiations with the third ranked firm from the original selection. If negotiations with the third ranked firm are unsuccessful, FDC may terminate negotiations with the third ranked firm and may select additional firms from the original pool or re-advertise the project. At any time during the negotiation process, FDC may terminate negotiations entirely and reconsider the use of construction management for the project or may re-advertise the project.

#### **D. PREPARATION OF THE GMP AMENDMENT**

Upon successful negotiation of the GMP, FDC prepares the GMP amendment to the Agreement between Owner and Construction Manager. The amendment shall establish the GMP amount, number of calendar days for completion and the liquidated damages amount (see FSU Online Policies and Procedures [OP-B-11-E](#), Establishment of Construction Contract Time and Liquidated Damages) and shall reference any applicable supplements to the Project Manual. FDC also prepares the Performance Bond and the Labor and Materials Payment Bond.

#### **E. TRANSMITTAL OF AMENDMENT TO CONSTRUCTION MANAGER**

After approval by the University General Counsel, FDC transmits four (4) copies of the amendment to the construction manager, together with four (4) copies each of the Performance Bond and Labor and Materials Payment Bond, for execution. An example transmittal letter is included in the forms section.

#### **F. REVIEW OF INSURANCE ISSUES**

Upon receipt of the signed amendment, insurance certificates and bonds from the construction manager, FDC will provide the insurance consultant (if such services are being provided on the project) with insurance documents for review. If an insurance consultant is not providing service on the project, FDC reviews the bonds and insurance for compliance with the specifications.

#### **G. DISTRIBUTION OF EXECUTED GMP AMENDMENT**

Upon final execution of the GMP amendment by the University President, the amendment is distributed (each with a set of bonds), as follows: the construction manager, FDC, the University Accounting Office and the architect/engineer.

#### **H. GMP FILE**

FDC maintains a GMP file containing: the executed GMP amendment, the Performance and Payment Bonds, the insurance certificates, the approved GMP proposal, a recommendation letter from the architect/engineer, documentation of the approval of the bonds and insurance if reviewed by an insurance consultant, documentation of the calculation for liquidated damages and any correspondence related to the GMP.

#### **I. 100% CONSTRUCTION DOCUMENTS**

When the GMP was based on documents prior to the final 100% Construction Documents, the construction manager shall be required to execute a change order which accepts the 100% Construction Documents as the basis for construction. If there are scope increases between the 100% Construction Documents and the documents on which the GMP was based, those shall be addressed in the change order.

#### **J. BIDDING SCHEDULE**

The project manager discusses the bidding schedule with the construction manager. Based on the proposed schedule, FDC develops a payment schedule with the architect/engineer for the architect/engineer's bidding phase payments.

#### **K. PRE-QUALIFICATION OF SUBCONTRACTORS**

The construction manager develops procedures for pre-qualification of trade contractors and coordinates with FDC to ensure that the procedures are acceptable

#### **L. BID OPENINGS AND AWARD RECOMMENDATIONS**

##### *1. Advertisement and bid opening*

The construction manager must publicly advertise each bid package. While the bid openings are not required to be public, a university representative, generally the project manager, must be present when they are opened by the construction manager.

##### *2. Scope review and negotiation*

After receipt of bids, a scope review with the apparent low bidder may indicate the need to negotiate the bid amount. The construction manager may conduct such negotiations upon approval of the project manager.

### *3. Bid recommendation and approval*

The construction manager must provide a recommendation for award of each bid package, the recommendation from the architect/engineer, a copy of the bid tabulation form and a copy of each bid proposal. The Trade Contractor Recommendation/Approval form is included in the forms section.

### **M. CONSTRUCTION MANAGER INVOICES AND PAY REQUESTS**

During the pre-construction and construction phases, the construction manager is paid as provided for in "Invoicing Procedures" (forms section).

### **N. REQUESTS FOR SELF-PERFORMANCE**

If the construction manager makes a request to self-perform any portion of the work, the request is handled as described in "Procedures for Self-Performance of Work" (forms section).

### **O. CONSTRUCTION MANAGER'S CONTINGENCY MODIFICATIONS**

The GMP includes a contingency amount for the construction manager's use as described in the Agreement between Owner and Construction Manager. The project manager must approve a CM Contingency Modification for all expenditures of this contingency. These expenditures are to be supported by detailed breakdowns, including labor and material costs.

### **P. CHANGE ORDERS**

Prior to approval, change orders must be supported by bids or by the unit prices established in the original bid. The CM markup on the change order will be limited to the percentage of profit approved in the original GMP. If changes are funded from bid savings, they are not eligible for a CM markup until the originally contracted GMP amount has been exceeded.

### **FORMS**

[Guidelines for Construction Managers for the Preparation of Proposals for Pre-Construction Services](#)

[Guidelines for Construction Managers for the Preparation of Guaranteed Maximum Price Proposals](#)

[Construction Manager Multiplier Template \(excel sheet\)](#)

[Example Transmittal Letter](#)

[Trade Contractor Recommendation/Approval Form \(excel sheet\)](#)

[Invoicing Procedures](#)

[Procedures for Self-Performance of Work](#)

[Contingency Modification Request](#)