

MANUAL OF PROCEDURE

PROCEDURE NUMBER: 5060

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PROCEDURE TITLE: Payment of Contractors

STATUTORY REFERENCE: FLORIDA STATUTES 1001.02, 1001.64 AND 1013.4

BASED ON POLICY: V-3 Construction Contract Documents and Submittals
V-10 Authorization to Approve Construction Change Orders
V-20 Contractor Payments and Project Closeout

EFFECTIVE DATE: December 6, 2005

LAST REVISION DATE:

LAST REVIEW DATE: December 6, 2005

The Project Manager, or other designated College employee using Professional Services, shall request a Purchase Order (PO) when the terms and conditions of the contracted services are agreed and authorized. The PO shall be in the total amount of the "Guaranteed Maximum Price" which may include an owner contingency up to a maximum of 10% of the original construction price.

APPLICATIONS FOR PAYMENT

The contractor must submit applications for payment in accordance with the requirements of their contract with the College. As part of this process, the contractor must also provide to the architect/engineer of record and the College, with each application for payment, all supporting documentation required.

Unless otherwise provided in the Contract Documents, Applications for Payment may include materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the College, payments may be similarly made for materials and equipment suitably stored off-site if stored in a bonded warehouse, provided that the contractor complies with procedures satisfactory to the College to ensure the College's title to such materials and equipment and other related matters. The contractor's signature on the application for payment constitutes a sworn statement that all materials and/or labor represented by the amounts indicated after each item on the previous applications for payment have been paid by the contractor. The signature also represents that the work is free of any claims of lien, encumbrances, security interests, charges or notices of nonpayment relating to the work, and that the contractor has no knowledge of any such claims.

CERTIFICATION FOR PAYMENT

The contractor shall submit an application for payment with a certification of contractor that all work has been performed and materials supplied in accordance with the contract and that all lawful bills for sub-contractors, materials, labor and equipment have been paid on a frequency no greater than once per month for each individual contract/specific authorization. The application and certification for payment shall be submitted to the architect/engineer of record (if applicable) and the project manager. The contractor, Facilities project manager, and architect/engineer shall meet on the job site to review and inspect progress of

work. The architect/engineer of record must certify the value of work performed, suitability of materials, and that all work was performed and materials supplied in accordance with the contract; if the value certified by the architect/engineer differs from the amount applied for, the architect/engineer must notify both the College and the contractor of its reasons for withholding such certification within the time frame stipulated in the contract. The Facilities project manager must accept or reject the architect's certification. Payment shall be processed for the undisputed portion of the payment application; and, the architect/engineer shall initial all changes to the figures on the application for payment and the attached schedule of values. Acceptance of a certificate of payment indicates that the Facilities project manager has reviewed the payment request for adherence to the contract requirements and found it in compliance. If a payment request is rejected, the contractor and the architect/engineer should be notified. The office of Facilities Management shall determine approval levels required for payment, which, when met, require payment be made.

The A/E, or Project Manager where no A/E of record is required, shall evaluate the payment request and certify whether the work was completed, accepted and is consistent with the value of the payment application. Any disputed values shall be modified to reflect the value accepted and all changes initialed. The undisputed portion of work shall be processed and submitted to the Office of Business Affairs for payment no more than 20 days after receipt of the payment request.

RETAINAGE

Ten percent of each requested payment will be retained until final completion of the project, as defined below. After the Certificate of Substantial Completion is issued to the contractor, the College, at the sole discretion of the Vice Provost of Operations, may reduce the retainage to 5%.

LIQUIDATED DAMAGES

Contracts shall provide time durations, defined in calendar days, for attainment of a certificate of substantial completion and for final completion. The contract shall stipulate the respective amount set forth for each calendar day beyond the respective established and agreed completion dates. If the contractor fails to achieve substantial completion on or before the contracted date for substantial completion or to achieve final completion on or before the expiration of the contract time, liquidated damages (which are not intended as a penalty) may be assessed against the contractor. The College may deduct any amounts attributable for liquidated damages from any amounts that may be due or may become due to the contractor. The College has the authority to determine the liquidated damages provision of any proposed construction contract at its sole discretion.

INCENTIVES

The College may recommend to the Board for its approval, incentives for early completion of a project prior to advertisement of the project.

SUBMISSION FOR PAYMENT

Payments will be made if the College receives all requisite documentation and authorizations from the architect/engineer for each payment. Each application for payment shall be marked as received on the date that it is delivered to an agent or employee of Facilities Management. The Project Manager shall evaluate the payment request and certify whether the work was completed, accepted and is consistent with the value of the application for payment. Subject to compliance with contract terms, the College will make authorized payments within the time frame stipulated in the contract. Any disputed values shall be modified to reflect the value accepted and all changes initialed. The undisputed portion of work shall be processed and submitted to the Office of Business Affairs for payment no more than 20 days after receipt of the application for payment. The contractor should then promptly pay each subcontractor, sub-subcontractor or other person or entity performing the work. Neither the College nor the architect/engineer shall have any responsibility or obligation to pay or ensure payment to subcontractors unless otherwise required by law.

SUBSTANTIAL COMPLETION

The architect/engineer shall issue a certificate of substantial completion, indicating that the facility can be occupied for its intended use, and identifying punch list items. Attainment of a Certificate of Occupancy from the College Chief Building Official, when required, shall be a prerequisite to certification of substantial completion. The contractor shall secure and deliver to the College all required written warranties and guarantees.

FINAL COMPLETION AND PAYMENT


The certificate of final completion shall not be issued for any project until the architect/engineer can certify that final completion has been achieved, and that all work has been performed in strict accordance with the contract documents and applicable laws.

The contractor must deliver to the architect/engineer a final application for payment within the time frame stipulated in the contract. Upon receipt of written notice from the contractor that the project is ready for final inspection and upon receipt of a final application for payment, the architect/engineer will promptly make such inspection. The architect/engineer will review and ensure that all conditions have been fully satisfied before the Certificate of Final Inspection is issued and final payment is authorized. The Vice Provost of Facilities Operations or designee shall be authorized to sign the Certificate of Final Inspection for Board Acceptance.

Upon receipt of the architect/engineer's final certificate for payment, the College will make its final inspection within the time frame stipulated in the contract. If the College approves the certificate for payment, it will pay the final retainage and any other amount being withheld, to the extent certified for final payment, in accordance with the contract terms.

ATTACHMENTS

- A. Checklist Form
- B. Application for Payment Form
- C. Schedule of Values Form
- D. Sub-Contractor or Material Supplier Partial Waiver and Release Form
- E. Sub-Contractor or Material Supplier Final Waiver and Release Form
- F. Contractor or Material Supplier Partial Waiver and Release Form
- G. Contractor or Material Supplier Final Waiver and Release Form
- H. Contractor's Affidavit for Final Payment Form
- I. Certificate of Substantial Completion Form
- J. Certificate of Final Inspection Form

	
12/6/05	
PRESIDENT	DATE