

NON-INSTRUCTIONAL SERVICES: Purchasing

Modification of Award of Contract

I[1]. Procedures

- A. Modification of an award of contract shall be presented by staff to the Board of Education OF BALTIMORE COUNTY (BOARD) for approval [at a regularly scheduled meeting] when the modification meets or exceeds the statutory limit for bidding, exceeds the value of the award of contract, **EXTENDS THE CONTRACT TERM AND COST BEYOND THAT PREVIOUSLY APPROVED**, or nullifies in whole or part an award of contract approved by the Board.
- B. Modifications which have a dollar value of less than the statutory limit for bidding shall be approved by the Superintendent [of Schools or his/her designee].

II[2]. Rescission of a Contract

- A. *RESCISSION OF A CONTRACT* – SHALL BE DEFINED AS THE TERMINATION OR WITHDRAWAL OF A VENDOR (CONTRACTOR) FROM A CONTRACT PREVIOUSLY APPROVED BY THE BOARD. THE RESCISSION OF THE CONTRACT SHALL NULLIFY THE AWARD (IN WHOLE OR IN PART) PENDING RESOLUTION OF POTENTIAL DAMAGES OR FORFEIT OF DESIGNATED SURETY (BID/PERFORMANCE/PAYMENT BOND) TO THE SCHOOL SYSTEM.
- B[a]. A RECOMMENDATION WILL BE MADE TO THE BOARD TO RESCIND A CONTRACT WHEN conditions or performance of a[n award bidder] VENDOR or contract reflect that it is in the best interest of the school system to terminate the contract (without or with cause). [An exhibit shall be prepared by staff, with the approval of the Superintendent, to recommend that the original award of contract, in whole or in part, be rescinded.]

C[b]. Justification

Staff shall document the conditions or demonstrated performance of the [award bidder or contractor] VENDOR which contributed to the

recommendation. The documentation shall identify the financial [,] AND instructional [, and scheduled] consequences, if any, to the school system. The recommendation shall include the proposed actions of staff relative to the continuance of the program or project.

D[c]. New Award of Contract

Upon selection of a new VENDOR [award bidder or contractor for the rescinded contract], A RECOMMENDATION WILL BE MADE [an exhibit shall be prepared and submitted by staff] to the Board [of Education] for approval.

III[3]. Extension of a Contract

A. *EXTENSION OF A CONTRACT* – SHALL BE DEFINED AS AN INCREASE IN THE AWARD OF THE CONTRACT FOR A DOLLAR VALUE WHICH MEETS OR EXCEEDS THE STATUTORY LIMIT FOR BIDDING, OR AN ADJUSTMENT IN THE TERM OF A CONTRACT WHEN THE ORIGINAL SPECIFICATION GRANTS THE SCHOOL SYSTEM SUCH AN OPTION. IN EXERCISING SUCH AN OPTION, THE PARTIES AGREE TO HONOR THE SCOPE, RESPONSIBILITIES, TERMS, AND CONDITIONS OF THE ORIGINAL SPECIFICATIONS.

B[a]. [When] Evaluation of performance and/or market conditions THAT warrant[s consideration of] the extension of the term of a[n existing] contract (based upon the original bid specification) or an increase in the dollar value of the CONTRACT [award] EQUAL TO OR EXCEEDING THE STATUTORY BID LIMIT, [staff will present a recommendation to] MUST BE APPROVED BY the Board [of Education for approval]. EXTENSIONS WHICH HAVE A DOLLAR VALUE LESS THAN THE STATUTORY LIMIT FOR BIDDING SHALL BE APPROVED BY THE PURCHASING MANAGER.

C[b]. Justification

Staff shall [document appropriate information] PROVIDE DOCUMENTATION to support the benefits (instructional, financial, or timeliness) of such an action to the school system.

D[c]. Contract Document

Upon approval of the extension, the Office of Purchasing shall prepare the appropriate contract addenda or contract documents for execution by the parties.

IV[4]. Issuance of a Change Order

A. *ISSUANCE OF A CHANGE ORDER* – SHALL BE DEFINED AS A MODIFICATION TO AN EXISTING CONTRACT DOCUMENT (OR PURCHASE ORDER) [FOR A CONSTRUCTION, RENOVATION, OR MAJOR MAINTENANCE PROJECT].

B[a]. Change in the [educational] specifications, the construction documents, or the scope of work in the authorized contract documents may be proposed by VENDORS, [the] consultantS, [the] construction managerS, [the] contractorS, or [by] staff.

The price or credit for such changes shall be submitted by the VENDOR OR contractor.

[The Superintendent or designee shall approve any Change Order that is less than the statutory limit for bidding. The Superintendent or designee shall report to the Board when the accumulated amount of individual Change Orders exceeds the statutory bid limit or when Change Orders relate to the same item of work within the project.]

Change Orders exceeding THE APPROVED CONTRACT VALUE (INCLUDING APPROVED CONTINGENCY AMOUNT) BY MORE THAN THE STATUTORY BID LIMIT must be approved by the Board [of Education]. [The Board of Education or its designee, when appropriate, shall approve any Change Order which exceeds the statutory bid limit and is within the amount allocated prior to the initiation of the work, unless such change shall be documented by the Superintendent or designee to be of an emergency nature. A report of the emergency action shall be presented to the Board at the next regularly scheduled meeting.] CHANGE ORDERS WHICH HAVE A DOLLAR VALUE LESS THAN THE STATUTORY LIMIT FOR BIDDING SHALL BE APPROVED BY THE PURCHASING MANAGER.

C[b]. Justification – CONSTRUCTION CHANGE ORDERS

During the course of a construction project, situations may occur wherein changes are mandatory, or desirable, in the work called for in contract documents and drawings. The consultant and the construction engineer of the [Division] DEPARTMENT of Physical Facilities who are overseeing the progress of construction, shall be jointly charged with the responsibility of justifying such work changes. The execution of a Change Order will not have the effect of invalidating the construction contract or relieving or releasing the contractor from any obligations under the contract or from any guarantee given pursuant to the contract provisions. Any such change in the scope of the work, furthermore, shall not affect the validity of the guaranty bonds or relieve or release the surety of the bonds.

1. County Funded

A Change Order shall contain the following: (1) detailed description of the change in the work, (2) statement as to the resulting change in the contract price and/or time, and (3) statement that all work involved in the change shall be performed in accordance with contract requirements except as modified by the Change Order.

Change Orders shall be initiated jointly by the consultant and the representative of the [Division] DEPARTMENT of Physical Facilities, and when appropriate, the designated construction management representative of the Board [of Education].

2. State Funded

The format and contents of a Change Order shall be prescribed by the State of Maryland Interagency Committee on Public School Construction.

Change Orders shall be initiated by the consultant/CONTRACTOR and the representative of the [Division] DEPARTMENT of Physical Facilities, and when appropriate, the designated construction management representative of the Board [of Education] in accordance with the procedures issued by the State of Maryland Interagency Committee on Public School Construction.

V[5]. Adjustment of the Financial Records

Upon approval of a RESCISSION [rescind of award], contract extension, or

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Change Order, appropriate documentation shall be prepared by staff and submitted to the [Division of Finance] DEPARTMENT OF FISCAL SERVICES to adjust the financial record.

Any modification of an award of contract funded by the capital budget[,] shall also be reviewed and approved by the [Division of Finance] DEPARTMENT OF FISCAL SERVICES. Approval shall occur prior to the issuance of a new contract or a change order by the Office of Purchasing.

Rule

Approved: 1/25/73
Revised: 10/22/87
Revised: 7/13/99
REVISED: _____

Superintendent of Schools