

NON-INSTRUCTIONAL SERVICES: Purchasing

Modification of Award of Contract

I. Procedures

- A. Modification of an award of contract shall be presented by staff to the Board of Education of Baltimore County (Board) for approval when the modification:
 - 1. Meets or exceeds the statutory limit for bidding.
 - 2. Causes the previously approved contingency allocation to exceed the statutory limit for bidding.
 - 3. Extends the contract term.
 - 4. 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 or his designee. Modifications that exceed the statutory limit shall be approved by the Superintendent.

II. Rescission of a Contract

- A. *Rescission of a Contract* shall be defined as the termination or withdrawal of a vendor 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 recommendation will be made to the Board to rescind a contract when conditions or performance of a vendor or contract reflect that it is in the best interest of the school system to terminate the contract (without or with cause).
- C. Justification
 - 1. Staff shall document the conditions or demonstrated performance of the vendor which contributed to the recommendation. The documentation shall identify the financial and instructional 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. New Award of Contract

1. Upon selection of a new vendor, a recommendation will be made to the Board for approval.

III. 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. Evaluation of performance and/or market conditions that warrant the extension of the term of a contract (based upon the original bid specification) or an increase in the dollar value of the contract equal to or exceeding the statutory bid limit must be approved by the Board. Extensions which have a dollar value less than the statutory limit for bidding shall be approved by the Superintendent or his designee for all capital projects and by the purchasing manager for all other expenditures.

C. Justification

Staff shall provide documentation to support the benefits (instructional, financial, or timeliness) of such an action to the school system.

D. 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. 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).

- B. Change in the specifications, the construction documents, or the scope of work in the authorized contract documents may be proposed by vendors, consultants, construction managers, contractors, or staff.

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

Change Orders exceeding the approved contract value (including approved contingency amount) by more than the statutory bid limit must be approved by the Board. Change orders which have a dollar value less than the statutory limit for bidding shall be approved by the Superintendent or his designee for all capital projects and the purchasing manager for all other expenditures.

- C. 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 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. 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.
- b. Change Orders shall be initiated jointly by the consultant and the representative of the Department of Physical Facilities, and when appropriate, the designated construction management representative of the Board.

2. State Funded

- a. The format and contents of a Change Order shall be prescribed by the State of Maryland Interagency Committee on Public School Construction.
- b. Change Orders shall be initiated by the consultant/contractor and the representative of the Department of Physical Facilities, and when appropriate, the designated construction management representative of the Board in accordance with the procedures issued by the State of Maryland Interagency Committee on Public School Construction.

V. Adjustment of the Financial Records

- A. Upon approval of a rescission, contract extension, or Change Order, appropriate documentation shall be prepared by staff and submitted to the Department of Fiscal Services to adjust the financial record.
- B. Any modification of an award of contract funded by the capital budget shall also be reviewed and approved by the 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

Superintendent of Schools

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