

## **6Hx19-4.10 CONSTRUCTION CONTRACTS AND PAYMENTS**

The purpose of this Board Rule is to establish Board policy relating to construction contracts and payments.

In accordance with Florida Statutes and the State Requirements for Educational Facilities, the District Board of Trustees shall have full authority and responsibility for all decisions regarding construction contracts and payments. The Board hereby establishes the following terms and conditions under which payments will be made to construction managers and/or general contractors.

### **Payments**

- Pay requests shall be submitted monthly or as stipulated in the approved contract and be based on the percentage of project completion; materials purchased and stored on site and actual, substantiated general conditions and reimbursable expenses.
- The President or designee is authorized to approve all progress payments except the final payment.
- Change orders shall be submitted to the Board for approval.
- Requests for final payment, including any undistributed retainage, shall be submitted to the Board for approval once a project is complete and all contract terms have been fulfilled.

### **Retainage, Penalties, and Incentives**

- Construction contracts shall include a retainage provision.
- The retainage amount will be 10% of a progress payment.
- Construction contracts shall contain provisions established by the Florida College System, Council of Presidents Guideline *Procedures for Contractual Provisions for Construction Contracts* relating to the timely payment of subcontractors.
- The President or designee is authorized to negotiate contract terms that reduce the retainage percentage rate for projects totaling \$100,000 or less or completely waive retainage when a contract stipulates a single payment upon completion of the project.
- The President or designee is authorized to release up to 50% of the total project retainage held upon achievement of substantial completion or in accordance with the terms of the Contract. Substantial completion is deemed to have been achieved when a facility has been constructed to design specifications, has been inspected by College staff and a representative of the Board, a punch list has been prepared, and the Board has accepted and approved the project as substantially complete. In the case of projects authorized by the President pursuant to District Board of Trustees Rule 1.14, *President's Authority to Sign Contracts and Agreements* or those projects completed pursuant to Continuing Contracts

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for Construction Services entered into by the Board or as may be otherwise authorized by the Board Chair, the President or the Associate Vice President of Facilities Management and Administrative Services may serve as the Board representative for inspection of completed projects.

- The President or designee is authorized to release up to 100% of the retainage held for an individual subcontractor who has achieved final completion of their scope of work but prior to the end of the overall project. Final completion will be determined collectively by the Associate Vice President of Facilities Management and Administrative Services, the College's Building Official, the College's Building Inspector, and the project Architect (if appropriate) based on documented inspections.
- All construction contracts shall include a provision to assess up to \$500.00 per day in liquidated damages for failure to achieve substantial completion based on the contract project schedule.
- The President or designee is authorized to negotiate contracts terms that reduce the rate of or completely waive liquidated damages based on the size, scope, and amount of the project. The President or designee is authorized to negotiate contract terms to include early completion incentives if it is in the best interest of the College.

### Federal Wage Rates

- Federal wage rates and hourly scales shall be used where required by federal fund sources. Federal wage rates are not required for construction projects financed by local or state funds.

### Project Closeout

- Construction contracts approved by the Board shall include the criteria and conditions for project completion as delineated in Internal Management Memorandum #4-5 *Construction Contract Payments and Change Orders*.

Rule Adopted: 3/21/77; 11/19/79; 10/19/81; 4/21/86; 1/20/98; 5/15/07; ■3/09/09;  
1/19/10; 11/10/12

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Reviewed:

President's Administrative Leadership Team – Non-Substantive/Editorial: 5/29/18

Legal Authority:

General Authority: Florida Statutes: 1001.64; 1001.65; 1013

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Other References: Florida Administrative Code: 6A-2.0111 (SREF 4.2.3)

Law Implemented: Florida Statutes: 1001.64(1)(2)(4)(34)(43)(44);  
1001.65(1)(5)(16)(24); 1013.47;  
1013.50

Proposer: Timothy L. Beard, President

■President's Cabinet Approval – Non-Substantive/Editorial