



POLICIES AND PROCEDURES

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I. GENERAL

- A. Planning: During the project planning process and prior to requesting an appropriation, agencies should consult with State Buildings Program in the Office of the State Architect (hereafter referred to as SBP) to determine the appropriate project delivery method (i.e. design/bid/build, construction manager/general contractor or design/build).
- B. Prevailing Wage Software: With the passing of SB19-196 all agencies and institutions are required to purchase a subscription to LCPtracker for the submission, reporting, and approval of all certified payroll and apprenticeship contributions.
- C. OSA TEMPLATES: Unless edits to OSA templates have been approved by the organization, and the OSA, the latest template should always be downloaded from the OSA/State Buildings Program website for each document. When utilizing the templates referenced in this document, blue text should be edited, and in some cases deleted, if not applicable. Text should also be changed to black before finalizing. **Special attention should be made to all “Note to Drafter” comments on contract templates**
- D. State Buildings Program Delegation Responsibilities : Refer to Letter of Delegation from Office of the State Architect (OSA) for specific SBP delegate authorization.
 - 1. The SBP Delegate is responsible for following the Code Compliance Policy. They will review all construction projects with an OSA contracted code consultant to determine if a plan review and building inspections are required.
 - 2. They shall also be responsible for determining if the services of an Architect/Engineer are required.
 - 3. As the Procurement Official for construction, the SBP Delegate is responsible for following these Policies and Procedures for all capital assets.
- E. OSA policies are intended to instruct all state agency/institution personnel in the process of selecting professional design and construction services in order to conduct fair, open and consistent selection processes throughout the state. Agencies/institutions are encouraged to consult with OSA before solicitation if any type of modification from these policies is desired.
- F. The Office of the State Architect regularly participates in a task force with representatives from the design and construction community whose goal is to review the state’s construction procurement process and make industry best practice procedural recommendations. Those recommendations have been accepted and incorporated into this policy. It is intended that the task force will meet from time to time to review the process.

II. DEFINITIONS:

A/E - Architect / Engineer

Agency: Agency refers to an executive agency or institution of higher education

CDHE - Colorado Department of Higher Education

Colorado Labor - Per C.R.S. § 8-17-101(2)(a), means any person who is a resident of the state of Colorado at the time of the public works project

Contract: Any Commitment Voucher that constitutes a state contract or purchase order, where the principal purpose is to acquire supplies, services, or construction or to dispose of supplies for the direct benefit of the State.

Contract Manager: the individual, usually residing in the program, division, or unit at the Agency/IHE who is responsible for the day to day management of the services being provided by the Contractor.

Contract Management System (CMS): A centralized contract management system, maintained by the Department of Personnel & Administration (DPA), in which the Department is required to maintain information about personal service contracts over \$100,000, in accordance with statutory requirements (§§ 24-106-103 through 24-106-107, C.R.S.).

Contractor: Construction General Contractor that is a party to a Contract.

Construction Manager / General Contractor (CMGC): Construction Manager / General Contractor is an Integrated Project Delivery method where the State has separate contracts with the architect/engineer and the contractor. The contractor is contracted as early as possible to assist constructability reviews, value engineering, cost estimating and scheduling.

Design/Bid/Build: Design/Bid/Build is a project delivery method where the process is linear. The project is fully designed, The documents are competitive bid to general contractors and the lowest responsible bidder is typically awarded the project.

Design/Build: Design/Build is an Integrated Project Delivery method to deliver a project in which the design and construction services are contracted by a single entity. For efficiency, the design builder can control all aspects of the design and construction.

Discretionary Construction Procurement: Agencies may procure construction up to \$50,000 without benefit of competition.

Documented Quote: A documented quotation is a process of soliciting informally for fulfilling the State's need for a specific product(s) or service(s) and receiving and evaluating vendor responses. The dollar limit for use of documented quotes for construction is less than \$250,000.

Fixed Limit of Construction (FLC): The Fixed Limit of Construction Cost shall set forth a dollar amount available for the total Construction Cost of all elements of the Work as specified by the Principal Representative.

Guaranteed Maximum Price (GMP): The Guaranteed Maximum Price is the maximum amount for which the work shall be accomplished as provided by the Construction Manager. It shall include all of the Construction Manager's obligations to be performed pursuant to the terms of the Contract Documents.

Integrated project Delivery (IPD): Integrated Project Delivery is a construction project delivery method by which key parties involved in the design, fabrication, and construction are joined together under a single agreement.

OSPB - Governor's Office of State Planning and Budgeting

OSA - Office of the State Architect

Personal Services Commitment Voucher: A Commitment Voucher, including Personal Service Contracts and Purchase Orders, between a State Agency or Institution of Higher Education and a Party, where the Party provides labor, time, or effort for the direct benefit of the State. An individual or entity performing services under a Personal Services Commitment Voucher is an independent contractor and not an employee of the State.

Principal Representative: A principal representative is defined as the governing board of a state agency or state institution of higher education, or the governing board's designee, or, if there is no governing board, the executive head of a state agency or state institution of higher education, as designated by the governor or the general assembly, or such executive head's designee.

Procurement: Buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction. "Procurement" includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. "Procurement" also includes the procurement of information technology as defined in §24-37.5-102(11), C.R.S.

Procurement Official: The individual of a purchasing agency with purchasing authority created pursuant to §24-102-202(3), C.R.S., or §24-102-302(2), C.R.S.

Procurement Staff: The employee(s) at an Agency/IHE responsible for Procurement, also referred to as "procurement agents" in the Code and Rules.

Public Project - Per C.R.S. § 24-103-908 (1), means any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of public health, welfare, or safety and any maintenance programs for the upkeep of such projects and (b), to projects for which appropriation or expenditure of funds equal or exceeds \$500,000.

Public project -- Per C.R.S. § 24-92-102 (8)

- a. Means any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of the public health, welfare, or safety and any maintenance programs for the upkeep of such projects.
- b. Except as provided in paragraph (c) of this subsection (8), "public project" does not include any project for which appropriation or expenditure of moneys may be reasonably expected not to exceed five hundred thousand dollars in the aggregate for any fiscal year. Nothing in this paragraph (b) shall affect the requirements for the delivery of bonds or security pursuant to sections 24-105-202, 38-26-105, and 38-26-106, C.R.S.
- c. "Public project" does not include any project under the supervision of the department of transportation for which appropriation or expenditure of funds may be reasonably expected not to exceed one hundred fifty thousand dollars in the aggregate of any fiscal year.

Public project -- Per C.R.S. § 24-92-201 (5) means any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of public health, welfare, or safety and any operation or maintenance programs for the operation and upkeep of such projects. "Public project" includes any work, construction, or repair performed by a private party through a contract

to rent, lease, or purchase at least fifty percent of the project by one or more agencies of government.

Public Works - Per Procurement Rule R24-103-910(5)(b), shall have the same definition as "Public Project" as defined in C.R.S. § 24-92-102(8) and 24-103-908(1).

Resident Bidder -- As per Procurement Rule R24-103-301(37) and C.R.S. § 24-103-908, means a person, partnership, corporation, or joint venture which is authorized to transact business in Colorado, maintains a place of business in Colorado and pays unemployment compensation taxes.

SCO - State Controller's Office

State Agency - As Means this state or department, institution, or other agency of the state, including institutions of higher education.

SBP - State Buildings Program is within the Office of the State Architect which is within the Colorado Department of Personnel & Administration.

III. STATE BUILDINGS PROGRAM DELEGATION

- A. In a collaborative effort to streamline state construction processes, the Department of Personnel & Administration/Office of the State Architect delegates authority to sign and act on behalf of the State Buildings Program (SBP). Each delegate acts as the Procurement Official for Construction as defined in C.R.S. 24-101-301, Procurement Code. Delegation is made to an individual and cannot be further delegated or reassigned without the written permission of SBP. Delegation may be revised with any major changes in SBP policies, procedures or statutory requirement.
- B. Statutory Authority
 - C.R.S. 24-30-1303. (5) (a) The office may delegate to state agencies or state institutions of higher education any or all of the responsibilities and functions outlined in this part 13 and the office's responsibilities and functions under part 14 of this article, pursuant to rules and regulations promulgated by the department, when the state agency or state institution of higher education has the professional or technical capability on staff to perform such functions competently.
 - C.R.S. 24-30-1301 (14) "Principal representative" means the governing board of a state agency or state institution of higher education, or the governing board's designee, or, if there is no governing board, the executive head of a state agency or state institution of higher education, as designated by the governor or the general assembly, or such executive head's designee.
 - C.R.S. 24-101-301. (30) "Procurement official" means the individual of a purchasing agency with purchasing authority created pursuant to section 24-102-202 (3) or 24-102-302 (2) or the individual authorized to enter into contracts for capital construction or controlled maintenance pursuant to section 24-30-1303 (5).
- C. Qualifications for a Strong Candidate

Strong candidates have construction project management experience from planning through construction and move-in. This includes understanding the design and construction phases - Schematic Design, Design Development, Construction Documents, Bidding, Construction and Closeout. Strong project managers understand the difference between *project* budgeting and *construction* budgets. Candidates have experience managing construction within the State of Colorado, understanding how construction differs from goods and services procurement and contracting.

D. Process for Recommending Delegation

1. A Principal Representative for the agency or institution shall provide to the State Architect, a letter of recommendation with an accompanying resume of the candidate.
2. If the candidate is approved, the Office of the State Architect will draft a delegation letter and send it to the Principal Representative and candidate for review.
3. The State Architect will approve or deny the request.
4. If denied the State Architect will schedule a meeting with the Principal Representative to discuss.
5. If approved the State Architect Office will draft the delegation letter for review and will set up a meeting between the Principal Representative, the candidate, the State Buildings Manager and the State Architect.

E. After reviewing the delegation letter in the meeting, the OSA will upload the letter for signatures. **Note that the candidate is not delegated until this letter is fully executed.** This delegation may be revised commensurate with any changes in SBP policies, procedures or statutory requirements.

F. Partial versus Full Delegation

Based on individual experience, a delegate will be given either Temporary, Partial or Full Delegation. Delegation type is at the discretion of the OSA.

1. **Temporary Delegation:** Temporary delegation is granted when a current delegate will be away from the office for more than 3 days. This delegation could also be Full or Partial depending on the experience of the delegate in question.
2. **Partial Delegation:** Partial delegation is granted to a candidate who has a basic understanding of professional services and construction. The delegate may have previous State construction experience but not in the same capacity as their current position. For example, a delegate moves from an institution of higher education into a state agency; while similar, there are distinct differences.
 - a) An eligible Partial delegate demonstrates consistent administration of construction projects and associated reporting responsibilities, follows all OSA policies, procedures and guidelines, and has accepted full responsibility for the processes to the State Buildings Program regardless of funding source.

3. **Full Delegation:** Full delegation is granted to a delegate who demonstrates an advanced understanding of professional services and construction. Full delegation will be considered if the following are met by both the delegate and the agency/institution:
 - a) Has only minor corrections by the OSA office on Design/Bid/Build solicitations and contracts, and
 - b) Has few clarifications and questions on Design/Bid/Build process and contracts; and
 - c) The delegate's agency has an appropriate amount of construction work that the delegate is able to maintain proficiency over an extended period.

G. Delegation for Integrated Project Delivery (IPD)

A full delegate may receive a waiver from the requirement to submit draft contracts, amendments and associated exhibits related to IPD documents based on their demonstrated understanding of integrated project delivery methods. This includes both Construction Manager/General Contractor (CMGC) at Risk and Design/ Build (D/B) delivery.

H. Delegation Responsibilities

1. Signatory Responsibilities of the SBP delegation are defined in each delegate's Delegation Agreement.
2. Delegation is made to a single employee and cannot be further delegated or reassigned without the written permission of SBP.
3. It is understood that the administration of construction projects and associated reporting responsibilities will follow all OSA policies, procedures and guidelines.
4. The administration of construction projects will utilize standard procedural and contract documents currently in use by State Buildings Program and available on the OSA website.
5. SBP Delegates will ensure that Project Managers complete agency specific Contract Management training each fiscal year¹.
6. The State Buildings Delegate will be solely responsible for the agency following the policies of the State Buildings Program regardless of funding source.

IV. PROJECT MANAGER

- A. Each Agency/IHE is responsible for designating a Project Manager who will also act as the Contract Manager with subject matter expertise and responsibilities for day-to-day management of the Contract, including performance monitoring, §24-106-107(3), C.R.S.. The Project Manager responsibilities include, but are not limited to:
 1. Participating in contract management training each fiscal year if Contract Manager manages a personal service commitment voucher over \$100,000¹;

2. Being knowledgeable about the Contract terms, statement of work, available remedies, and any other exhibits or attachments referenced in the Contract;
 3. Ensuring all Contract provisions are being adhered to by all parties;
 4. Tracking and documenting deliverables, including ensuring all services are being delivered in accordance with the Contract requirements;
 5. Documenting performance issues;
 6. Notifying the SBP Delegate immediately as issues arise or changes to the Contract are needed;
 7. Meeting ethical standards and avoiding conflicts of interest per State law and agency policy;
 8. Working with consultants and Contractor day-to-day;
 9. Tracking deliverables in each Contract;
 10. Approving invoices and complying with Agency/IHE payment policies and internal controls;
 11. Reviewing, approving and tracking change orders/amendments/supplements.
 12. Compiling and reporting project status reports and final closeout reports to the SBP Delegee
 13. Confirming line item budgets with actual costs
 14. Monitoring contingency funds
 15. Reverting unencumbered funds to the capital construction fund at project close out. (This activity should be conducted in close coordination with the State Controller's Office (as applicable).
 16. Overseeing the consultant's and Contractor's performance and escalating performance issues.
- B. All Project Managers must complete agency specific Contract Management training each fiscal year¹.

V. PUBLIC PROJECTS

A. Solicitations

1. Advertisement for Bids (AFB) A ColoradoVSS or Rocky Mountain E-Purchasing/BidNet Direct (only as authorized by DPA) notice must be used and contracts may be awarded by Competitive Sealed Bidding per Procurement Rule R24-105-101 with adequate public notice given at least fourteen days prior to opening of bids or Competitive Sealed Best Value Bidding per Procurement Rule R24-105-101-03 and C.R.S. § 24-92-103.5(a), with adequate public notice given at least thirty days prior to the opening of bids. or,

2. Request for Proposals (RFP) A ColoradoVSS or Rocky Mountain E-Purchasing (only as authorized by DPA) notice may be used and contracts may be awarded by an Integrated Project Delivery Method (IPD) per C.R.S. § 24-93-101, with adequate public notice given at a minimum of thirty calendar days prior to submission of proposals. (Refer to Integrated Delivery Methods Policy and Procedures on OSA web site). Note in an Integrated Project Delivery that Step 1 Request for Qualifications must be advertised for a minimum of 15 days and the shortlisted firms must be posted for an additional 14 days prior to the proposals being due.
3. Rationale for selecting the contracting method by State agency (type of AFB or RFP) to be posted on its web site per C.R.S. § 24-93-109. Rationale should include but not be limited to project schedule impacts, cost limitations, complexity of work and any other specific requirements of the project impacting the selection of the contracting method. The **posting of the agency's written rational** should be made on the date of the first published solicitation and remain for not less than thirty (30) calendar days in a conspicuous web site location of the state agency under the title - "Reporting Requirements for Public Projects as per HB13-1292". (Does not apply to any project that receives federal moneys and does not apply to the selection of the Sealed Best Value Bidding Contracting Method).
4. Bid Preference shall be applied per Procurement Rule R24-103-908(2)(a). ColoradoVSS or Rocky Mountain E-Purchasing (only as authorized by DPA) notice to contain a clause to nonresident bidders from a state that provides a percentage bidding preference to bidders from that state that a comparable percentage disadvantage will be applied to the bid of that nonresident bidder and that additional information may be obtained from the department of Personnel and Administration's (DPA) web site. (Refer to the State Purchasing & Contracts Office web site for a list of all bidding preferences per state). Does not apply to any project that receives federal moneys.¹
5. Service-Disabled Veteran Owned Small Business¹
 - a) Each solicitation by a state agency for construction services shall contain a clause requiring the bidder to disclose if they are a Service-Disabled Veteran Owned Small Business (SDVOSB). A SDVOSB must be incorporated or organized in Colorado or maintains a place of business or has an office in Colorado and who is officially registered and verified as a SDVOSB by the Center for Veteran Enterprise within the U.S. Department of Veterans Affairs.
 - b) As a requirement of the bid or proposal submittal the bidder shall provide proof of current registration.
 - c) Each state agency is responsible for manually or systematically tracking necessary information for reporting annually by August 31 each year to the Department of Personnel & Administration State Purchasing Office.
6. Colorado Labor shall be employed to perform at least eighty percent (80%) of the work on a public works project per C.R.S. § 8-17-101. **The justification is a requirement of the bid or proposal submittal.** State Agency shall waive the 80% requirement and post justification on its web site; if there is reasonable evidence to demonstrate insufficient Colorado labor to perform the work and, if

compliance with the 80% would create an undue burden that would substantially prevent a project from proceeding to completion. **Posting of the agency's written waiver** should include but not be limited to contractor's justification for insufficient available Colorado labor and the agency's determination that there is an undue burden negatively impacting the project schedule, budget/appropriation, quality/standards of care or any other specific requirement of the project due to compliance with the 80% Colorado labor requirement. The posting of rationale should be made on the date of the award and remain for not less than thirty (30) calendar days in a conspicuous website location of the state agency under the title "Reporting Requirements for Public Projects per HB13-1292".

7. Contract Performance outside the United States or Colorado¹ per Procurement Rules R24-102-206-01 and R24-102-206-02. ColoradoVSS or Rocky Mountain E-Purchasing (only as authorized by DPA) notice to contain a clause requiring the contractor to provide in a written statement of work to the state agency whether it anticipates subcontracting any services outside the United States or Colorado, the types of services that will be performed and the location and the reason why it is necessary or advantages to do so. **The written statement is a requirement of the bid or proposal submittal and contract** (Does not apply to any project that receives federal moneys). If contractor fails to notify the state agency of any outsourced services, the state agency may terminate the contract.

B. Contracting

1. Each contract for construction services entered into by a state agency will contain a clause requiring the **contractor to disclose in writing to the state agency** within twenty days of decision to perform or subcontract services outside the United States or Colorado per Procurement Rules R24-102-206-01 and R24-102-206-02.¹
2. Each state agency is required to provide written notice to the Department of Personnel & Administration/Division of Finance and Procurement for each contract it awards with services performed outside the United States or Colorado to be posted on the State Purchasing Website per Procurement Rules R24-102-206-01 and R24-102-206-02.¹
3. Each state agency is required to submit an annual report to the general assembly of contracts from the previous year that were awarded for any work performed outside the United States or state separating data by type of contract, percentage of total services performed by contractor and or subcontractor and initiatives that the state agency has taken to actively reduce services performed outside the United States or Colorado per Procurement Rules R24-102-206-01 and R24-102-206-02.¹
4. All construction contracts that meet a statutory definition of Public Project must:
 - a) Utilize a Contract as the commitment voucher.

¹ Only applicable to agencies and institutions under State Procurement and Fiscal Rules

- b) Require a Bid bond
 - c) Require a Performance bond
 - d) Require Labor and material payment bond
5. Apprenticeship Utilization Requirements Per C.R.S. § 24-92-115 For all Public Projects one million dollars or more that does not receive federal money, the contractor is required to submit Apprenticeship Certification prior to the execution of the contract for all mechanical, sheet metal, fire suppression, sprinkler fitting, electrical, and plumbing work required on the project. Documentation shall:
- a) Certify that all firms participate in apprenticeship programs registered with the United States department of labor's employment and training administration or state apprenticeship councils recognized by the United States department of labor;
 - b) Have a proven record of graduating a minimum of fifteen percent of its apprentices for at least three of the past five years;
 - c) Supply supporting documentation from the United States department of labor's office of apprenticeship verifying the information provided in the certification.

This certification is required to be publicly posted within 30-days of receipt from the contractor by the agency/institution (C.R.S. § 24-92-115 (2))

Upon evaluation of the submitted bids, the contracting agency of government may waive the requirements of apprenticeship if it is determined that there is substantial evidence that there were no responsive, eligible subcontractors available to fulfill the mechanical, electrical, or plumbing portions of the contract, or there is no apprenticeship program within 50 miles of the project All waivers and the specific rationale for granting the waiver shall be posted on its website.

6. Prevailing Wage is required on all Public Projects Per C.R.S. § 24-92-202. Any contractor who is awarded a contract for a public project by an agency of government in the amount of five hundred thousand dollars or more, and any subcontractors working on the public project, shall pay their employees at weekly intervals and shall comply with the enforcement provisions established in section 24-92-209. This does not apply to contracts for public projects that receive federal funding or projects approved by the governing board of an institution of higher education prior to July 1, 2021.
- a) Agencies and institutions shall utilize OSA solicitation and contract templates containing apprenticeship and prevailing wage requirements. Wage determinations, apprenticeship contribution rates and fringe benefit requirements shall be included in the solicitation of each Public Project.
 - b) Wage Determinations (WDs) and Local Apprenticeship Rates shall be made available on a the OSA website as approved by the Department of Personnel & Administration and the Governor's Office of Information Technology. OSA and the Colorado Department of Labor & Employment are required to have

access to all information uploaded into the database for reporting and enforcement.

- c) Prior to site mobilization, agencies/IHE's shall provide to the contractor the prevailing wage poster, available on the OSA website, that contains the current prevailing wage rates, which shall be posted on the jobsite and readily accessible to all workers on the project.
- d) Agencies/IHE's shall review monthly payroll reports in a timely manner as required by the state contract; If the contractor or any subcontractor fails to pay wages as defined in the solicitation/contract, the agency/IHE shall not approve that portion of the pay application until the contractor furnishes sufficient evidence that such wages have been paid.
- e) Contractors shall maintain a daily log. The log shall include, at a minimum, the name, primary job title, and employer for each employee. The log shall be available for inspection on the site at all times by the contracting agency/IHE and SBP.
- f) Upon receipt of a complaint from an employee or a former employee, the agency/IHE shall report any perceived violation to the contractor within forty-eight hours of being made aware of the perceived violation. In connection with the perceived violation:
 - (1) The agency/IHE shall allow the contractor to cure the perceived violation within fifteen calendar days if the contractor can demonstrate the instance in question was the result of legitimate administrative error.
 - (2) If the contractor does not remedy the perceived violation within fifteen calendar days or if the agency determines that the perceived violation was willful, the contracting agency shall report the perceived violation to the Colorado Department of Labor and Employment for investigation.

C. Reporting

1. Annual reporting of Service-Disabled Veteran Owned Small Business¹ shall include:
 - a) Total number of contracts awarded to SDVOSBs
 - b) Total number of contracts awarded
 - c) Total dollar amount of contracts awarded to SDVOSBs
 - d) Percentage dollar amount of contracts awarded SDVOSBs to total dollar amount of contracts awarded
 - e) Total number of SDVOSBs that responded to solicitations or proposals
 - f) Total number of respondents to solicitations or proposals
2. Use of Foreign-produced goods At each project closeout for projects over \$500,000, the state agency will submit in a written disclosure to OSA the Five Most Costly Goods, total cost and country of origin of the goods, and any applicable federal domestic content preferences incorporated into the project,

including iron, steel, or related manufactured goods as provided by the contractor per the contract pre-settlement requirement. This information shall be submitted with the Exhibit L-2, Budget Reconciliation/Project Evaluations Transmittal and will subsequently be published in the OSA annual report to the Capital Development Committee and then be made available on the OSA web site. (Refer to Project Monitoring and Cost Management Guidelines Policy and Procedures for Exhibit L-2). Does not apply to any project that receives federal moneys.

- a) In the case of iron or steel product, the product will be considered manufactured in the United States if all of the manufacturing processes for the final product take place in the United States. The manufactured good is deemed a product manufactured predominantly of steel or iron if the product consists of more than fifty percent steel or iron content when it is delivered to the job site for installation.
- b) In the case of a manufactured good, a good will be considered manufactured in the United States if all of the manufacturing process for the final product takes place in the United States irrespective of the origin of the manufactured good's subcomponents.

BASIC STEPS CHECKLIST (BSC) DESIGN/BID/BUILD PROJECTS

Regardless of the funding source, State Agencies, not exempted from CRS 24-30 Part 13, must follow OSA Policies and Procedures Basic Steps Checklist (s) related to:

- Procurement and solicitations
- Prevailing wage and apprenticeship
- Contracting and encumbrances
- Code Compliance
- Construction Procedures
- Record keeping

VI. UNRESTRICTING FUNDS

- A. The agency receives a copy of the signed Long Bill for General Funded Capital Construction, Capital Renewal, or Controlled Maintenance appropriation (or funding from other sources for Capital Construction).
- B. If a project is included in the Long Bill, the State Controller's Office (SCO) assigns a project number.
- C. Follow instructions included with the **Construction Project Application SC-4.1** for completion of the document
 1. Capital Construction/Capital Renewal Project Signatures & Routing:
 - a) For State-appropriated projects, the **Construction Project Application (SC-4.1)** shall be completed and signed by the Agency/Institution's Principal Representative. For state agency projects, the SC-4.1 is forwarded to the Office of the State Architect (OSA). Institutions of higher education forward the SC-4.1 to the Colorado Department of Higher Education (CDHE).
 - b) OSA/CCHE reviews and approves the Application by signature.
 - c) The Application is signed by the SBP delegate.
 - d) Agency/institution distributes the application to their respective state controller delegate after required signatures.
 - e) Copies of initial, revised, and final executed applications are to be retained by the agency as required for close-out documentation
 2. Controlled Maintenance project signatures & routing:
 - a) The **Construction Project Application (SC4.1)** is to be completed and signed by the Agency/Institution's Principal Representative.
 - b) The Application is signed by the SBP delegate. **NOTE: CM fund transfers are not a delegated responsibility. These may only be signed by the OSA.**
 - c) Agency/institution distributes copies of Application to their respective state controller delegate after required signatures. Copies of initial, revised, and final applications are to be retained and sent to OSA as part of the required

close-out documentation. Refer to CLOSING THE PROJECT for specific information.

VII. SETTING UP A PROJECT

- A. Agency shall follow the Policies and Procedures established by SBP to assist all state personnel responsible for the administration of capital construction, capital renewal, and controlled maintenance projects.
- B. Records Management and Project Files
 - 1. With the passage of SB03-033 all state agencies are subject to the mandatory establishment of a records management program as implemented by the *Colorado State Archives - Records Management Manual Schedule 6 - Facility Management Records*.
 - 2. Project files maintained by agencies should be organized and maintained to include, but shall not be limited to, the following categories:
 - a) General information including names, addresses, telephone, cell, and FAX numbers of participants;
 - b) Project correspondence
 - c) Programming/planning documents
 - d) Financial Documents (Budget request documents and Construction Project Applications (SC4.1)
 - e) RFQ/RFP documents
 - f) A/E agreement
 - g) A/E supplements and amendments
 - h) Contract drawings and specifications
 - i) Construction change order documents and amendments
 - j) Architect pay applications
 - k) Contractor pay applications
 - l) Code review and inspection reports
 - m) Owner supplied surveys, reports, etc.
 - n) project close-out documents
 - 3. All agencies and institutions are required to send copies of code compliance Building Inspection Record, SC-4.1s and supporting documentation on all general funded CC/CM projects and any cash projects over two million dollars to State Buildings Program at the completion of each project per code compliance policy, utilizing the Code Compliance Policy Exhibits L1 & L2 transmittals.
 - 4. Budget tracking documentation should also be set up. Reference **Project Specific Status Report (SC-10.1)** if tracking spreadsheets are not already established by the agency.
 - a) Budgets should be organized similar to the Budget request documentation and Project Application SC4.1.

- C. Statutorily approved electronic Solicitation websites are available on the State Purchasing and Contracts website under Solicitations
- D. Name a project manager responsible for the day-to-day management of the services being provided for the project as well as the overall project budget.
- E. Project Managers are considered Contract Managers as defined by State Fiscal Policy¹.
- F. Public Projects by statute are any projects over \$500,000. Review the Public Projects Policy if applicable.
- G. Per CRS 24-105-101, provide a written statement documenting the factors that led to the selection of the project delivery method/solicitation process. Save within the project file
- H. Review the State Project Development Requirements (Exhibit I of the Code Compliance Policy) for all requirements relevant to the project.
- I. The six-month encumbrance deadline for professional services agreements, or for construction agreements (if professional services are not needed), must be met if general funded.

VIII. STARTING THE PROJECT - PROFESSIONAL SERVICES

- A. As defined by 24-30-1402, Professional Services include architecture, engineering, land surveying, landscape architecture and industrial hygiene.
- B. Note that Professional Services are exempt from the State Procurement Code.
- C. Selection of professional services is always a qualification-based selection with the fees negotiated only after the most qualified consultant has been selected. If the fees cannot be negotiated with the most qualified consultant, negotiations with the next most qualified consultant may take place.
- D. For professional services fees are estimated to be less than or equal to \$25,000 for state agencies and institutions of higher education are considered discretionary and do not require competitive negotiations pursuant to C.R.S 24-30-1403 (2) (a). A RFQ is not required.
- E. For professional services fees estimated to be between \$25,000 and \$100,000 for state agencies and institutions of higher education, public notifications (advertising) is not required pursuant to C.R.S. 24-30-1405. Agencies must contact/interview at least three (3) firms and select the most qualified. A RFQ is not required.
- F. For professional services fees estimated to be greater than \$100,000 or construction cost over \$1 million for state agencies and institutions of higher education pursuant to C.R.S. 24-30-1405 both a public notification (advertisement) and a RFQ are required. Minimum solicitation time is 15 days and may include publication by electronic access or in a newspaper of general circulation.

1. The Agency Develops Project Specific Criteria for the selection of professional services.
2. The agency prepares a **Request for Qualifications (RFQ-AE)** draft for professional services as defined pursuant to C.R.S. 24-30-1402 for services provided by an architect, engineer, landscape architect, surveyor, and industrial hygienist.
3. Professional services can also include project management and efforts to produce studies, surveys, and programming documents. Utilize the **Request for Qualifications for Professional Consulting Services (RFQ-PM)** solicitation template and the **Consultant Agreement (SC5.3)**.
4. Provide project specific Scoring Weight on Appendix A and A1 of the RFQ template before posting.
 - a) Standard **OSA prequalification and oral interview forms (Appendix A and A1)** must be used for all evaluations. the weights must be provided prior to advertising the solicitation.
 - b) Standard RFQ prequalification (Step I) and oral interview (Step II) evaluation forms (Appendix A and A1) contain the following general categories:
 - (1) Project Team
 - (2) Team Capabilities
 - (3) Prior Experience
 - (4) Project Approach
 - (5) Work Location
 - c) Each category is required and the general selection criteria for qualifications within each category are typically applicable to most projects. However, some projects have unique characteristics for services and expertise and justify modifying the criteria accordingly and agency/institutions are encouraged to do so. A few examples of justifying specialized selection criteria might include: unique building types and construction methodologies, advanced technological requirements, complex phasing and scheduling, energy conservation and environmental constraints, and historic restoration. (Consult with OSA before solicitation when modifying).

5. Selection Criteria Weighting for Qualifications

Selection committees for prequalification (Step I) and oral interviews (Step II) should include a balance of skills and expertise related specifically to the project. Each committee should include and be chaired by the Office of the State Architect/State Buildings Delegate or their designee, technical state personnel experienced in design and construction, program end users, and possibly representation from experienced individuals from outside the state system. Committee size should typically be between three to seven individuals with the majority being experienced in design and construction. (Some projects may require greater numbers of individuals depending on the number of programs impacted). All committee member names should remain

confidential and an identification number should be assigned to use on all prequalification and oral interview evaluation forms.

6. Determine Competitive Range for Oral Interview

The agency/institution may determine prior to and include in the RFQ solicitation the competitive range (shortlist) of firms to be invited to the oral interview (Step II) typically 3 to 5. Methodology to determine the number may be based on an established passing score or determined from the spread of overall scores, however, what is published in the RFQ document must be followed. Pass/fail scoring or ranking by total score of prequalifications (Step I) must be determined only by using published criteria and weights as per the RFP document.

7. Review and approval of **RFQ-AE** draft for content, format and application.

8. **RFQ-AE** documents are posted on the State or Institution approved solicitation website.

9. Selection Committee

a) Expertise and Representation

Selection committees should include a balance of skills and expertise related specifically to the project. Each committee should include and be chaired by the Office of the State Architect/State Buildings Delegate, technical state personnel experienced in design and construction, program end users and possibly representation from experienced individuals from outside the state system. Committee size should typically be between three to seven individuals with the majority being experienced in design and construction. (Some projects may require greater numbers of individuals depending on the number of programs impacted).

b) Selection Committee Evaluations

Committee members are to evaluate and score the strength of each firm's prequalification submittal (Step I) and qualifications during the oral interview (Step II) separately and assign by criteria a numerical rating of 1 to 5 with 5 being the highest rating using whole numbers. Committee members' scores should be consistent whether or not they score high or low across all firms.

10. Most qualified respondents are invited to interview. Allow 4-5 days for these short-listed firms to prepare for the interview.

11. Conduct Roundtable Discussion after the Oral Interview for Clarifications and Consensus

After the prequalification scoring (Step I) and the last oral interview scoring of qualifications (Step II) the agency/institution shall conduct a roundtable discussion with all selection committee members to compare rankings in each selection criteria and adjusted if appropriate. The total scores from each committee member will then be divided by the number of committee members to determine the average score and

ranking per step for each firm's qualifications. Do not combine firm's scores from each step.

12. Provide Transparent Feedback

After award of the project, any firm having submitted prequalifications (Step I) or submitted prequalifications and was invited to the oral interviews (Step II), upon request, shall be provided a debriefing meeting by the agency/institution with access to all submittals, scoring and ranking documentation used in the determination of the award.

13. Highest rated professional services firm is selected and contract negotiations commence pursuant to C.R.S. 24-30-1405.

G. A standard **Architect/Engineer Services Agreement (SC-5.1)** including the **Architect/Engineer Agreement Terms and Conditions (SC-5.1TC)** shall be prepared regardless of fee amount for all professional services involving design and specification of projects where the product of the services will result in construction or demolition. Or a standard **Consultant Agreement (SC-5.3)** for professional services should be used where the product does not result in construction or demolition (Considered the Limited Professional services option).

1. Attach the proposal letter from the architect/engineer, their schedule, and insurance certificate (on Acord form), Wage Rates Schedule, and Design Program/Facility Program Plan (if applicable). Note that the insurance certificate for the A/E Agreement must include professional liability insurance.
2. For architects, engineers, landscape architects, and land surveyors verify that a Colorado license is current for the individual in the firm who will serve as responsible charge for the project.
3. Project managers should read and familiarize themselves with both the Agreement and the Terms and Conditions of the contract.
 - a) If modifications are proposed to the standard agreement language, a draft of the Architect/Engineer Agreement with tracked changes must first be approved by SBP prior to signing the Architect/Engineer Agreement.
4. Agencies without contract signature authority will:
 - a) Forward a memo describing the selection process with the list of interview questions and a score sheet to SBP for approval and signature.
 - b) Send the draft contract with their template edits in an alternative color or with "tracked changes". Include all exhibits.
5. The **Agreement** is first signed by the Architect/Engineer, then the agency's Principal Representative, then SBP Delegate.
6. After SBP signature approval of Agreement, the **Agreement** is then sent to the State Controller's Office or Controller delegate as applicable for Institutions of Higher Education. Attorney General review is waived on standard A/E agreements.

7. The State Controller will establish an effective date.

- H. Architect/Engineer or Consultant receives signed (executed) **Agreement (SC-5.1)** or **(SC-5.3)** and commences work.
- I. If the A/E is not a Colorado office, per §24-102-206 C.R.S., under the Procurement Code, agencies are required to submit vendor notifications of work performed outside of Colorado. The form for submitting vendor notifications can be found on the State Procurement eSubmissions webpage.

IX. STARTING THE PROJECT: CODE CONSULTANT

- A. Select a code consultant from the consultants found on the OSA SBP website and prepare a **Plan Review Authorization (SBP-017)**. This document is the Task Order to encumber their fee.
- B. If code review is not required, document this with an email from the code consultant. Save a printout of this e-mail in the file for close-out.
- C. Progress sets of the Architect/Engineer's prepared drawings and specifications are sent to the state's code consultant (refer to *Building Code Compliance Policy, Exhibit B, Code Compliance Plan Review Procedures*).

X. STARTING THE PROJECT: INTEGRATED PROJECT DELIVERY

- A. Integrated Project Delivery methods includes Construction Manager/General contracting services, Design/Build Guaranteed Maximum Price and Design/Build Lump Sum contracting services.
- B. For Construction services Prepare the Request for Proposals for an Integrated Project Delivery Method utilizing the appropriate Request for Proposal template to the delivery method as described below for STARTING THE PROJECT-CONSTRUCTION SERVICES.
- C. It is recommended that the CM/GC should be selected and brought on at the beginning of the Schematic Design phase and no later than midway through the Design Development phase of design.
- D. The draft RFP must be reviewed and approved by SBP in accordance with the Agency's SBP Delegation Letter

XI. DESIGN

- A. Regular progress reviews are completed as described in the terms and conditions of the consultant's contract and the Code Compliance Policy.
- B. Agency and Architect/Engineer shall simultaneously follow the Plan Review Procedures of the Building Code Compliance Policy throughout the design process.
- C. Architect/Engineer prepared drawings and specifications are reviewed by Agency in an administrative review process.

1. Agency must thoroughly review specifications to confirm consideration of State Project Development Requirements (Exhibit I of the Code Compliance Policy).
 2. Agency must thoroughly review specifications to confirm no restrictiveness.
 3. Agency shall confirm the Architect/Engineer specified Environmental Product Declarations (EPD) for each eligible material in the bid documents. Refer to the Energy & Environment Program Buy Clean Colorado Act website.
- D. Agency confirms the drawings and specifications comply with the OSA High Performance Certification Policy (Controlled Maintenance projects are exempt from the policy). A waiver from the policy or a modification of the policy is submitted to OSA and comments are incorporated into the project.
 - E. Agency certifies the drawings and specifications comply with the State Project Development Requirements
 - F. Agency must determine if renovation, addition or new construction has a satisfactory site or sites for the location and operation of vending facility for a blind person (CRS 26-8.5-103)¹.
 - G. Responses to SBP and code consultant comments are incorporated into drawings and specifications. At the completion of plan review, the code consultant will issue a Compliance Notice and a list of required inspections
 - H. A **Building Inspection Authorization (SBP-018)** (Task Order) is executed with the same code consultant that performed the plan review and issued code compliance
 - I. Prepare **Authorization to Bid (SBP-6.10)** for a design/bid/build project with Architect/Engineer's estimate and signature.
 - J. Agency confirms with Architect/Engineer that all documents are included in the Bid Package per **Index for Bid Package (SBP-Bid Index)**.

XII. DESIGN - PRE-CONSTRUCTION SERVICES (GMP)

- A. At the end of each design phase, A/E submits design documentation, as described in A/E Agreement or Contractor Agreement and assist in preparing reports.
- B. Architect/Engineer to provide Statement of Probable Costs.
- C. Contractor evaluates design documents, statements of Probable Costs and provides a written report, preliminary schedules and cost estimates. Value Engineering workshops commence as needed to align costs, estimates and budget. Agency to allow a minimum of 14 days.
- D. Architect/Engineer incorporates all code consultant, SBP Delegate and Contractor comments into documents.
- E. Agency provides written authorization for Architect/Engineer and Contractor to proceed to next design phase.

- F. At the conclusion of the Schematic Design phase, the List of Pre-qualified subcontractors (Exhibit F) as well as the approved Schematic Design Estimate Summary and any updated summaries (Exhibit G) as described in their agreement, are added by Amendment.
- G. If an Early Bid Package is warranted, Agency must request OSA approval prior to proceeding.
- H. Guaranteed Maximum Price: At the conclusion of the Design Development phase, the Contractor provides a Guaranteed Maximum Price Proposal, which shall include all H-Exhibits as described in their agreement.
 - 1. **Contract Amendment (SC-6.0B)** is drafted incorporating the Exhibits to the Agreement including the Guaranteed Maximum Price, List of Pre-Qualified Subcontractors (if not incorporated at Schematic Design with Schematic Design Summaries) Schedule of Bid packages, Schedule of Values and Allowance Schedule. (See CHANGE MANAGEMENT for general information on executing Amendments)
 - 2. If incorporating an early bid package with the approval of the GMP, **Contract Amendment (SC-6.0C)** is drafted to combine the GMP with a Bid package. This will Include the H and I Exhibits. NOTE: This requires OSA approval at the beginning of Design Development.
- I. Bid packages: The following steps should be duplicated with each subsequent phase/bid package.
 - 1. A/E submits, at a minimum, 50% and 95% review documents of each bid package, including an Opinion of Probable Cost. Agency and contractor will review and provide comments to be formally addressed by A/E
 - 2. Final Acceptance of the Construction Documents should be formally documented
 - 3. Once Contractor has completed their written report and the Code Consultant has issued a Compliance Notice, final acceptance of the Construction Documents is formally documented with an executed **Authorization to Bid (SBP-6.10)**
 - 4. Contractor is responsible for the bid process. They will bid to a minimum of 3 subcontractors and will coordinate with the A/E and Agency all conferences, bid opening and results.
 - 5. **Contract Amendment (SC-6.0B)** is drafted incorporating the bid package (actual cost of work). The amendment should include all I-Exhibits as described in the Contract Agreement
 - 6. **Notice to Proceed to Commence Construction Phase (CMGC) (SBP-7.26) or (Design/Build) SBP-8.261** is executed and forwarded to the Contractor.
 - 7. At the conclusion of and award of all bid packages, the difference between the bidding contingency established with the Fixed Limit of Construction, and the actual cost of work should be formally distributed to either compensate for cost

overruns, acceptance of alternates or reduce the Fixed Limit of Construction as part of an amendment.

- J. Within the Guaranteed Maximum Price, **Change Orders (SC-6.31)** may be used to make modifications to the Contractor's Agreement within the Fixed Limit of Construction only after all bids have been completed. Refer to CHANGE MANAGEMENT for clarifications on when to use an Amendment versus Change Order after bidding is complete.
- K. **Change Orders (SC-6.31)** are also used to transfer funds from the GMP construction contingency to the direct cost of work.

XIII. STARTING THE PROJECT-CONSTRUCTION SERVICES

A. General Requirements

1. **Bid Bond:** If the cost of the project is estimated to be \$50,000 or more, a **Bid Bond (SBP-6.14)** and power of attorney are required. Failure to provide a bid bond if required but not cured makes the bid unacceptable. State agencies should seek legal advice when bid bonds have been required and the terms of the quote are modified after receipt.
2. For services for construction, the contractor's response constitutes an "offer" and is binding if accepted by the State.
3. For services for construction, the award must be made to the low acceptable quote.
4. The state agency may negotiate with any bidder to clarify its quote or to effect modifications that will: make the quote acceptable (including curing a defective bid bond) or make the quote more advantageous to the State. However, in the negotiation process, the terms of one bidder's quote shall not be revealed to a competing bidder and quotes may be kept confidential until a commitment voucher is fully executed.
5. **Standing Order Contracting:** Agencies may, with the approval of Office of the State Architect, utilize a Standing Order process for projects less than \$250,000. An approved process must include open public solicitation (including advertising on ColoradoVSS or an approved electronic medium) for eligible contractors at least once per year, a process for obtaining at least three quotes before awarding a contract to an eligible contractor, and an equitable process for determining which contractors will be given an opportunity to provide quotes.
6. **State Prevailing Wage:** The State Prevailing Wage must be posted with any construction project solicitation over \$500,000. Due to the current construction market, construction projects budgets at the \$400,000 value should be considered Public Projects and solicited as such until the lowest responsive bid is confirmed to be below the required thresholds.
 - a) Solicitations must contain State of Colorado wage determinations by the county where the project is located. Prevailing wages lock at posting of solicitation.

- b) Projects subject to State Prevailing Wage must also contain apprenticeship contribution rates in accordance with CRS 24-92-208.
- c) Wage conformance requests
 - (1) Bidders must review the wage determinations for all public projects at the time of solicitation to determine where to classify employees. This will also need to occur with each bid package.
 - (2) If a bidder feels that there is not an appropriate classification for the type of work to be performed on the project, then a conformance may be requested.
 - (3) Note: Wanting to pay a lower rate than the prevailing wage listed is not grounds for a conformance request.
 - (4) Bidders will contact the Agency/IHE for clarification on the requested conformance.
 - (5) Bidders must provide the Agency/IHE with information about the work to be performed on the project, the requested labor classification, the duties to be performed by that labor classification and a recommended wage rate.
 - (6) The Agency/IHE will research the existing classifications and verify;
 - (a) There is an existing classification fitting the work to be done; or
 - (b) There is not an existing classification fitting the work to be done.
 - (c) If the Agency/IHE deems that there is not an acceptable, existing classification, the request is sent to OSA for review and determination.
 - (7) A Conformance Request Form (SF-1444) is to be completed by the Agency/IHE and submitted to the Federal Wage and Hour Division (WHD)
<https://www.gsa.gov/forms-library/request-authorization-additional-classification-and-rate>

or email to:

whd-cbaconformance_incoming@dol.gov

- 7. Apprenticeship Utilization Certification. Apprenticeship Utilization Certification is required for construction contracts estimated to be \$1 million or more. Due to the current construction market, construction project budgets at the \$900,000 value should be considered Public Projects and solicited as such until the lowest responsive bid is confirmed to be below the required thresholds.

B. Solicitation Thresholds

- 1. Discretionary. Construction projects less than \$50,000 are considered discretionary and do not require a competitive bid or documented quote. An Advertisement for Bids is not required.

2. Documented Quote (DQ). Projects between \$50,000 and \$250,000 can be procured by use of a documented quote process (Procurement Rule R-24-105-101.4. A *DQ must be* published as an Advertisement for Bids, for at least three days.
 - a) These documented processes do not require a public bid opening (R-24-1058-101-13(d)).
3. Projects of \$250,000 or more may be solicited through Advertisement for Bids (AFB) with adequate public notice given at least fourteen days from the opening of bids for *Competitive Sealed Bidding* or thirty days for *Competitive Sealed Best Value Bidding* and require publication by electronic on-line access and/or in a newspaper of general circulation. Requests for Proposals may also be used with thirty day public notice.

C. Advertisement for Bids and Requests for Proposals

1. Preparation of **Advertisement for Bids (AFB)** may include publication by electronic access and/or in a newspaper of general circulation for a minimum of 14 days. The solicitation should include:
 - a) **Information for Bidders (SBP-6.12)** which includes SBP policy regarding the bid form, inconsistencies and omissions, applicable laws and regulations, taxes, “as equal” submittal process, addenda, method of award with deductible or additive alternates and settlement advertising.
 - b) If necessary include Bid Alternates (SBP-6.131), Multiple Project Bid (SBP-6134) or Unit Pricing (SBP-613).
2. Allow a minimum of 3 days prior to the bid date for questions to be received by the agency.
3. For electronic submissions and virtual bid openings, agencies should utilize a platform that allows documents to be timestamped. Email is not an acceptable bid submission platform. Bids must be electronically opened during the virtual bid opening, not before.
4. Each bidder is required on the **Bid Form (SBP-6.13)** to acknowledge receipt of all addenda and indicate the time to substantial completion and the period of time to finally complete the project from the date of substantial completion.
 - a) Bids are received with accompanying **Bid Bond (SBP-6.14)** or security per C.R.S. 24-105-201 and opened publicly pursuant to Procurement Code 24-105-201.
5. Bids should be recorded on the **Bid Tabulation (SBP-6.132)**.
6. If utilizing a Request for Proposal (RFP) other than for a guaranteed maximum price project delivery, all the requirements for an Advertisement for Bids are required unless specifically noted below.
 - a) Request for proposals must be posted publicly for a minimum of thirty (30) days.

- b) Design/Build Lump Sum project delivery requires the use of an RFP solicitation.
 - c) RFPs may also be used for two-step selection where an agency would like to prequalify the general contractor and the major subcontractors.
- D. A **Notice of Award (SBP-6.15)** is prepared by the Agency for all projects over \$50,000.
 - 1. Include the **Contractors Setup Information Form (SBP-2.6)** for State Prevailing Wage projects. This form needs to be returned by the contractor to establish the LCPTracker account for certified payroll submission.
 - 2. Distribution of **Notice of Award (SBP-6.15)** signed by Principal Representative.
 - 3. Post an award notice in the same location(s) as the original solicitation.
 - 4. Contractor is given 10 working days to provide their Performance Bond (SC-6.22), Labor and Material Payment Bond (SC-6.221) with limits of each equal to 100% of the accepted bid with power of attorney; certificate of insurance, Direct Labor Burden Calculation(s) (SBP-6.18) for all major trades, **Contractors Setup Information Form (SBP-2.6)** and Apprenticeship Utilization Certification(s) (SBP-6.17) as described above.
 - 5. Contractor provides their Direct Labor Burden Calculations (SBP-6.18) to agency for review and approval prior to incorporating into the Contract agreement

XIV. CONSTRUCTION CONTRACTING

- A. Contracting Thresholds
 - 1. Use of a **Purchase Order (SBP-3.1)** or the **Contractor's Agreement (SC-6.21)** as the commitment voucher is acceptable for projects less than \$150,000.
 - a) Construction purchase orders require bilateral signatures.
 - 2. For projects greater than \$150,000, use of the Contractor's Agreement (SC-6.21) is required.
- B. Preparation of the standard **Contractor's Agreement (SC-6.21)**.
 - 1. General
 - a) If modifications are proposed to the standard contract templates, the draft of the Agreement must first be approved by the OSA prior to signatures by the Principal Representative, Contractor and SBP.
 - b) Project Managers should read and become familiar with both the agreement and the General Conditions of the Contract.
 - c) Partial SBP delegates must send draft contract and all exhibits to OSA for review and approval before signing.
 - 2. Guaranteed Maximum Price Contractors Agreements

- a) It is imperative that that the agency review Article 2 of the contract agreement to fully understand the Exhibits required for the base agreement and subsequent amendments.
 - b) The contract initially incorporates only fees including general conditions to establish the original contract sum.
 - c) In lieu of the Performance Bonds and Labor and Material Payment Bond GMP contractors provide a letter from their surety stating that coverage will be provided up to an amount equal to the fixed limit of construction as each bid package is added to the contract sum and certificate of insurance.
3. Documents that must be attached are:
- a) Bid Form and any alternates or unit pricing
 - b) **Labor Burden Calculations (SBP-6.18)** for general contractor and all major subcontractors.
 - c) Performance Bonds (projects \$150,000 or over)
 - d) Labor and Material Payment Bond (projects \$150,000 or over)
 - e) Contractor's insurance certificate(s)
 - f) State Sales and Use Tax or Tax exemption form
 - g) Applicable Prevailing Wage Determinations (projects \$500,000 or over)
 - h) Apprenticeship Contribution Rates (projects \$500,000 or over)
 - i) Apprenticeship Utilization Certifications (SBP-6.17) (projects \$1 million or over) for all the mechanical, sheet metal, fire suppression, sprinkler fitting, electrical and plumbing trades.
 - (1) A **Waiver (SBP-2.2)** may be issued if there are no responsive, eligible contractors or any responsive, eligible contractors and apprentices are in excess of 50 miles one way from the project.
4. Partially delegated agencies must submit the draft agreement separate, and all exhibits to the OSA State Buildings for signature approval.
5. IPD agreements and all exhibits must be submitted to OSA State Buildings and appropriate legal review for signature approval unless the agency has a waiver from this requirement.
6. If a contract is over \$100,000 and your agency is required to report in CMS, attach a CMS print screen (if applicable) and a personal services waiver for standard agreements.¹

XV. CONTRACT EXECUTION

- 1. Agency provides electronic signature block to Architect/Engineer to be inserted on the cover of the contract documents-drawings and specifications.
- 2. Architect/Engineer provides a complete set of stamped contract documents-drawings and specifications, with the signature block incorporated to the agency.

3. Agency prepares the DocuSign Envelope²
 - a) Contract Agreement, all applicable exhibits, General Conditions of the Contract and contract documents-drawings and specifications.
 - b) Contractor and State Buildings delegate sign the cover of the specifications and the coversheet of the construction drawings.
 - c) Principal Representative, Contractor, State Buildings delegate and Controller sign the Contractor's Agreement.
 - (1) Attorney General review is waived for standard agreement (SC-6.21).
 - d) Controller Dates the Performance Bonds and Labor & Material Payment Bond

XVI. NOTICE TO PROCEED

1. The **Notice to Proceed (SC-6.26)** is prepared, signed and forwarded to the Principal Representative State Buildings delegate for signature.
 - a) The Compliance Notice with certification is signed by the Agency project manager, and both are submitted as attachments.
2. The **Notice to Proceed to Commence Construction Management (CMGC Agreement) (SC-7.26)** is prepared, signed and forwarded to the Principal Representative State Buildings delegate and Controller for signature.
3. The **Notice to Proceed to Commence Design Phase (Design/Build GMP Agreement) (SC-8.26)** is prepared, signed and forwarded to the Principal Representative State Buildings delegate and Controller for signature.
4. Agency forwards to the Contractor the state code consultant's recommended inspections which have been transferred to the **Building Inspection Record (SBP-BIR)** to be posted by the Contractor at the job site.
5. Agency completes the bottom portion of the Department of Revenue's **Application for Sales Tax Exemption Form (DR-0172)** and attaches it to the contract / forwards to contractor electronically.
6. Agencies must add their contact phone number and email to the **Prevailing Wage Poster** prior to sending it to the contractor. The poster is available in English and Spanish and must include the Prevailing Wage Rates from the solicitation.
 - a) Contractor must display the **Prevailing Wage Poster** and associated Prevailing Wages where easily accessible to workers. The **Prevailing Wage Poster** must be readily accessible to all workers. Failure to comply may result in a \$100/day fine to the contractor and deemed guilty of a Class 3 misdemeanor. For more information, see **CDLE INFO #13**.

² DocuSign is the only approved electronic contract signature for State agencies and Institutions that follow State Fiscal Rule. Institutions of Higher Education with their own Fiscal Rules must utilize the electronic signature platform approved by their university.

7. Contractor is authorized and directed to proceed with the work within ten days of date stipulated on **Notice to Proceed (SC-6.26)**. These ten days are included within the time of completion indicated on the **Bid (SBP-6.13)**.
8. Prior to the start of construction, the agency project manager conducts a coordination meeting with the code consultant who will serve as inspector of record for the project and others who may have building inspection responsibilities to identify the responsible parties for each required inspection and adds the responsibility for the final inspection sign off. The Architect/Engineer, Contractor and representative from the local fire district (if applicable) also attend this meeting.
9. Prior to mobilization, for Public Projects (\$500,000 and over) the agency project manager should schedule regular partnering sessions as described in the construction agreements. At a minimum the design team, stakeholders, general contractor and major subcontractors should attend.
10. If the Contractor is not a Colorado company, §24-102-206 C.R.S., under the Procurement Code, agencies are required to submit vendor notifications of any work performed outside of Colorado. The form for submitting vendor notifications can be found on the State Procurement eSubmissions webpage¹.
11. The **Apprenticeship Utilization Certification(s) (SBP-6.17)** must be posted on the Agency website within 30 days of receipt.
12. **Waivers (SBP-2.2)** must be posted along with the specific rationale for granting the waiver, on the Agency website.

XVII. MANAGING THE PROJECT: ARCHITECT/ENGINEER AGREEMENT

- A. Preparation of **Application for Payment of Architect/Engineer/Consultant Fees (SBP-7.1)** for services completed and sends to Agency. A/E attaches an invoice on their letterhead that reflects the dollar amount of contract, breakdown of fees, fees requested to date, and balance due. Invoices for reimbursable should also be included.
- B. **Application for Payment of Architect/Engineer/Consultant Fees (SBP-7.1)** is reviewed against contract and progress of services provided to date and dollar amount requested.
- C. Process is repeated monthly until all contractual services have been completed.

XVIII. MANAGING THE PROJECT: CONTRACTOR'S AGREEMENT

- A. Preparation of **Application and Certificate for Contractor's Payment (SBP-7.2)** for portion of work completed and sends to A/E for approval.
- B. A/E reviews progress of work completed to date and dollar amount requested and recommends for approval. **Application and Certificate for Contractor's Payment (SBP-7.2)** and sends to Agency.
- C. **Application and Certificate for Contractor's Payment (SBP-7.2)** and LCPTTracker Certified Payroll are reviewed against contract, wage rates and retainage held (required for projects greater than \$150,000) per C.R.S. 24-91-103.

1. No payment is made if there are unpaid Certified Payrolls for the time frame included in the Pay Application (SB-7.2).
 2. All Apprentice contributions must be paid in the appropriate manner.
 3. If a temporary wage classification is in use pending a wage conformance determination, the contractor is responsible for paying all employees the correct wage and tracking said wages in LCPTracker.
- D. A contract amendment shall be executed if the Federal Wage and Hour Division (WHD) provides a new wage determination. If a wage conformance is granted, the contractor must verify that all employees working under the new classification have been paid in accordance with the set wages. If overpayment was made, no refund will be given to the contractor. If an underpayment was made, restitution must be made to all employees within 15 calendar days. See CDLE violations chart referenced in **INFO #13**.
- E. Process is repeated monthly until the project is complete, and retainage is released after final settlement.

XIX. ART IN PUBLIC PLACES (CAPITAL CONSTRUCTION PROJECTS)

- A. For projects that must comply with the **Art in Public Places** program, 1% Allocation for Art (C.R.S. 24-48.5-312(3)(a)(I)(A)) requires that each capital construction appropriation for a public construction project shall include as a nondeductible item an allocation of not less than one percent of the capital construction costs to be used for the acquisition of works of art.” This requirement applies to all renovation projects where the construction cost is estimated to be \$500,000 or greater and all new construction projects regardless of the amount of the estimated construction cost. The 1% allocation for art is applicable to all subsequent project appropriations impacting construction costs. This is computed as 1% of the total of sections C.1, C.2, and C.3 of the Project Application (SC-4.1) if appropriate
- B. Contact Colorado Office of Economic Development & International Trade / Art in Public Places for compliance with this program

XX. MANAGING THE PROJECT: ON-GOING

- A. During the submittal process the consultant shall work with the contractor to ensure that eligible maximum acceptable global warming potential materials are obtainable and can be installed. If an eligible material with a compliant EPD is unobtainable, the waiver process defined by OSA shall be utilized.
- B. Agency should periodically confirm that contractor has their daily logs and Prevailing Wage poster available on site.
- C. Change Log: The change log is a contract modification document used to record changes in the work typically occurring during the construction phase of a project. The process used to manage change orders should be applied in a similar manner to architect/engineer supplements and contract amendments.

1. Change documents should be closely monitored from initiation/approval through implementation and reconciliation. A change order log should be kept for each construction project to account for all related change orders. The log and all change orders should be kept together in the same central project file.
 2. Reconciliation of each change should be resolved by the assignment of responsibility for cause and, if necessary, the determination of appropriate compensation. Reconciliation should be conducted on a routine basis throughout the life of the project. All change orders are to be reconciled prior to the final advertisement for contractor's settlement.
 3. The **Project Specific Status Report (SBP-10.1)** Workbook is provided as a template for project financial management. It is essential that agencies track projects from both budget and actual spending. The "Change Log" tab of the SBP-10.1 is a suggested format for tracking all change orders.
- D. **Project Contingency Management:** It is essential that the project contingency is based on the overall project budget including all associated costs and not solely on the construction cost. Project contingencies for all new construction, equipment purchases, or facility-related planning studies will be 5% of the total project cost, excluding land or building acquisition costs. Contingencies for project renovations/capital renewal/controlled maintenance and capital renewal will be 10% of total project costs, excluding land or building acquisition costs.
1. It is recommended that project contingencies be subdivided into, but not limited to, the following categories for budgeting purposes:
 - a) Professional services
 - b) Construction or improvements
 - c) Furniture, fixtures, and equipment
 - d) Miscellaneous
 2. Contingencies are established to compensate for unknowns. It is not expected, however, that the budgeted sub-category amounts are fixed and static. Contingency dollars can move from one category to another as required if they are not used to increase the scope of work outside the legislative intent of the appropriated funds. The portion of the contingency attributable to the construction budget should not be factored into the Authorization to Bid (SBP-6.10 line C) nor should it be used in order to compensate for a bid overage without first consulting with the Office of the State Architect. Acceptable use of contingencies are:
 - a) **DIFFERING SITE CONDITIONS:** Circumstances encountered on site or in the building structure because of existing conditions not identified or detected during initial investigations.
 - b) **BID ALTERNATES:** Implementation of either additive or deductive bid alternates because of favorable/unfavorable base bid results where the functionality of the project is not compromised by implementation of deductive alternates.

- c) **ADDED VALUE:** Change work represents essential work necessary to achieve original scope of work but was not identified in the original bid documents due to omission.
 - d) **UPGRADES:** Change work due to voluntary upgrading by agency/institution of materials and/or equipment/systems within original scope of work. Justification is to be based on durability, energy efficiency, aesthetics, etc.
 - e) **UNKNOWN ITEMS:** Unforeseen costs associated with impact of project on existing functions of the agency/institution causing disruptions, shut downs, relocations, etc.
- E. **BIDDING CONTINGENCY:** In an integrated project delivery the Bidding Contingency is available to cover overages between the GMP estimate and the buy-out.
 - 1. Any unused Bidding contingency may be applied towards whatever the agency chooses to add to the project after all bidding is completed.
- F. **CONSTRUCTION CONTINGENCY:** In an integrated project delivery the Construction Contingency is available to cover unforeseen conditions within the GMP. As a general rule, the GMP should be established without utilizing the requisite percentage of the Owner's Project Contingency that is attributed to the construction budget, as demonstrated in the Authorization to Bid (SBP-6.10) for Design/Bid/Build delivery methods.
 - 1. Construction Contingency shall only be used to cover the Construction Managers costs for:
 - a) Work to be furnished during the construction phase of the Project.
 - b) Costs arising from estimating cost overruns in the costs of the Allowance Schedule
 - c) Unexpected additional trade coordination costs incurred for Work directly performed by the Construction Manager that could not have been reasonably contemplated
 - d) Items required and reasonably inferable from the Contract Documents
 - e) Items included within the Contract Documents but missed within the subcontractor buy-out which the Construction Manager can show were not specifically called out within the estimate or bid documents of the Construction Manager or any subcontractor
 - f) Losses or damages to property related to the Work not covered by insurance provided by the Construction Manager, but not including any insurance deductible(s)
 - g) Costs arising from expediting or acceleration of the Project schedule where such cost is not a basis for an increase in the GMP
 - h) Bid Package buyout overrun costs for additional Bid Packages that were not part of base agreement but only if bidding procedures were followed and the bidding contingency has been exhausted

- i) Other costs incurred not reasonably to have been expected that are approved by the Principal Representative in the Principal Representative's sole discretion, so long as those costs are not recovered under any insurance policy
- 2. Construction Contingency shall not be used for:
 - a) Costs incurred during the Pre-Construction phase or bidding phase
 - b) Costs to correct any errors, omissions, mistakes or rejected Work caused by subcontractors.
 - c) Scope increase outside the GMP unless mutually agreed upon by the Construction Manager.
- G. TRANSFER: With approval from OSA, Controlled Maintenance (CM) project funds can be transferred to another CM project or an OSA declared emergency project. Capital construction and capital renewal projects cannot transfer funds to other projects.
- H. REVERSION: Contingency dollars, as well as any other budgeted project dollar balances that remain after the project is completed, are to be reverted to the capital construction fund.

XXI. CHANGE MANAGEMENT

- A. Forms: The following standard State Buildings forms are to be used to process changes:
 - 1. Change Order Bulletin (From SC-6.311). This document is issued to define the scope of revision in drawings and/or specifications for a contemplated change order request. The architect/engineer prepares this document. A/E or Agency issues Change Order Bulletin (SC-6.311) with instructions to Contractor.
 - 2. Change Order Proposal (Form SC-6.312). This document is issued after the State's approval of the Bulletin to define all associated labor and material and/or anticipated time required to complete the change. The contractor prepares this document. Contractor prepares Change Order Proposal (SC-6.312) based on the scope of work described on the Change Order Bulletin with price and returns it to A/E.
 - a) A/E reviews and approves the price against the contract agreement and forwards it to Agency.
 - b) Agency reviews and approves Change Order Proposal (SC-6.312) and authorizes A/E to prepare Change Order (SC-6.31).
 - c) A/E prepares Change Order (SC-6.31) or Amendment and issues it to agency for review.
 - 3. Consultant Proposal: A consultant will submit a proposed change to their scope of work on their letterhead describing the nature of the change and the dollar value.
- B. Construction Changes:

- C. Amendments: Amendments are not waived documents. Therefore, the following State approval signatures are required on all amendments: Principal Representative, State Buildings Delegate, Attorney General/Delegate and State Controller/Delegate.
1. Exception #1: A State Controller Office (SCO)-waived contract could also be waived from Attorney General legal review if a delegated agency has classified the risk of the amendment according to State Controller Fiscal Rule.
- D. Formal Amendments are required when:
1. Changing a funding source to other than that referenced in the original contract.
 2. Change work is not at the same project location as referenced in the prime contract.
 3. Modifying contracts to reflect negotiated claims settlements.
 4. Contract modifications substituting contracting parties or otherwise changing the parties from the original agreement (e.g., novation, assignment, other).
 5. Change work amends contract provision other than specifications or drawings.
 6. Change work is greater than 10% of the contract value.
 7. Incorporating anticipated bid packages into the Construction Manager/General Contractor (CM/GC) Base Agreement to raise the contract value after establishment of the guaranteed maximum price.
 8. Incorporating bid packages into the “Design/Build GMP” (D/B GMP) Base Agreement to raise the contract value after establishment of the guaranteed maximum price.
 9. Modifying or establishing the guaranteed maximum price (GMP) or the fixed limit of construction cost in a CM/GC Agreement.
 10. Modifying or establishing the guaranteed maximum price (GMP) or the fixed limit of design and construction cost in a D/B GMP Agreement.
 11. Incorporating design and construction phases into the “Design/Build Lump Sum” (D/B LS) base agreement within the contract price.
- E. Amendments may be drafted by A/E or Agency. The draft must be reviewed and approved by SBP and legal representation prior to signing.
1. When signature authorization is provided, **Amendments (SC-6.0A, SC-6.0B or SC-6.0C as applicable)** is signed in the following order.
 - a) A/E
 - b) Contractor
 - c) Principal Representative
 - d) Legal
 - e) Controller/IHE CFO

2. A/E or Contractor receives signed (executed) Amendment and commences additional or change work.
- F. Change Order and Supplement: A Change Order modifies scope of work, price and or time for a construction contract. A Supplement is the equivalent form for professional services contracts.
1. Change Orders are permitted when the drawing and specification change work accumulated value is less than or equal to the contingency identified in a Guaranteed Maximum Price construction contract
 2. Supplements are permitted when additional services are less than or equal to 10% of the professional services contract as long as within the general scope of the contract.
 3. If proposed change work exceeds the construction contract contingency or the 10% accumulated value of the professional services contract, the agency shall issue a formal amendment.
 4. Within the Guaranteed Maximum Price, **Change Orders (SC-6.31)** may be used to make modifications to the Contractor's Agreement within the Fixed Limit of Construction only after all bids have been completed. Refer to CHANGE MANAGEMENT for clarifications on when to use an Amendment versus Change Order after bidding is complete.
 5. **Change Orders (SC-6.31)** are also used to transfer funds from the GMP construction contingency to the direct cost of work.
 6. The following State approval signatures are required on all change order or supplements and in the following order:
 - a) Contractor or A/E
 - b) Principal Representative
 - c) Controller/IHE CFO
- G. Executing an A/E Supplement: **Supplement to Architect/Engineer Agreement (SC-7.0A)** and **Supplement to Consultant Agreement (SC-7.0B)** are used to make modifications to a professional services contract.
1. Agency prepares the **Supplement (SC-7.0A) (SC-7.0B)** form and sends it to SBP for review.
 2. When signature authorization is provided, it is sent to A/E for signature.
 3. Principal Representative and SBP Delegate sign next.
 4. **Supplement (SC-7.0A) (SC-7.0B)** is sent to the State Controller's Office if delegation is not within the Agency.
 5. Distribution of signed Supplement (SC-7.0A) (SC-7.0B).
 6. A/E receives signed (executed) Supplement **(SC-7.0A) (SC-7.0B)** and commences additional work.

- H. Executing a **Change Order (SC-6.31)** are used to make modifications to the Contractor's Agreement.
1. Change work can be requested by the Principal Representative, Architect/Engineer, or Contractor.
 2. **Change Orders (SC-6.31)** are used to make modifications to the Contractor's Agreement. Refer to *Change Order Management Guidelines* policy (**SBP-CO-MGMT**).
 3. Contractor receives signed (executed) Change Order (**SC-6.31**) and commences change work.
- I. **EMERGENCY FIELD CHANGE ORDERS:**
1. Emergency Field Change Orders: **Emergency Field Change Orders (SC-6.31E)** are permitted when there is an immediate threat to life or property or where the likelihood of delays in processing a normal change order will result in substantial delays and/or significant cost increases for the project. Key features of an EFCO include:
 - a) Immediate implementation: EFCOs are used when time is of the essence. The State issues the directive, and the contractor is expected to proceed with the change immediately, without waiting for formal approval or negotiation.
 - b) Provisional nature: EFCOs are temporary instructions that enable work to continue while the details are finalized. They specify the change but do not determine the final cost or schedule impact.
 - c) Cost and schedule determination: Once an EFCO is issued, the contractor is obliged to implement the change. The subsequent negotiations between the owner and contractor establish the final cost and schedule adjustments associated with the change via a Change Order or Amendment.
 - d) An EFCO is not an encumbrance document. It is more like a hybrid between an emergency procurement and a Commitment Voucher. There is no solicitation because it is related to the construction already in place. There is no encumbrance document because the exact changes are still unknown. It is a "commitment" which is why it is necessary that a Principal Representative must sign the document.
 2. The following State approval signatures are required on all emergency field change orders: Principal Representative and State Buildings/Delegate.
 3. Change work can be requested by Principal Representative, Architect/Engineer, or Contractor. Contractor language establishing the **Emergency Field Change Order (SC-6.31E)** is included in the General Conditions.
 4. A/E prepares **Emergency Field Change Order (SC-6.31E)** with unit prices and a not-to-exceed cost (as provided by contractor) and forwards to Principal Representative.

5. **Emergency Field Change Order (SC-6.31E)** is signed and approved. (Note that the State Controller's signature is not required for approval or commencement of the work).
6. Distribution of **Emergency Field Change Order (SC-6.31E)** to A/E, Contractor and SBP.
7. Contractor receives signed (executed) **Emergency Field Change Order (SC-6.31E)** and commences work.
8. The final adjustment of the Emergency Field Change Order amount and the adjustment to the time for completion shall be prepared on a standard **Change Order (SC-6.31)** after the emergency work is completed.

XXII. FISCAL YEAR END

- A. Agency prepares and distributes an Open Projects List as required by agency institution fiscal rules and policies.
- B. Review of Open Projects List for the following:
 1. Expiration of three year closing deadline for the appropriation;
 2. Additional appropriations for upcoming year; unexpended funds remaining versus outstanding encumbrances;
 3. Project completion and/or project continuation status and reverting funds.
- C. Preparation and submittal of Capital Construction Continuing Appropriation Status (CCCAS) form as required by State Controller's Office instructions to either request for project close out or continuance of appropriate spending authority.

XXIII. CLOSING THE PROJECT

- A. Contractor files a written notice of completion when the Work or a discrete physical portion of the Work is substantially complete in the opinion of the Contractor and the Contractor requests final inspection and punch list from A/E.
- B. A/E determines if the project is sufficiently complete for a final inspection. If so, A/E, SBP and the Principal Representative inspect and the A/E prepares the final punch list of items not acceptable. Punch list is sent to the Contractor with copies to the Agency.
- C. A/E prepares **Notice of Substantial Completion (SBP-07)** or **Notice of Partial Substantial Completion (SBP-071)** for a discrete physical portion of the Work per the General Conditions when:
 1. Contractor affixes any final inspection certifications to the **Building Inspection Record (SBP-BIR)** (State plumbing, electrical or local fire department, etc.) if not physically signed off on the SBP-BIR.
 2. All required building code inspections have been conducted and the appropriate code officials have affixed their signatures to the **Building Inspection Record (SBP-BIR)** including the agency project manager and code consultant indicating

- successful completion of all required code inspections for the Work or a discrete physical portion of the Work; and,
3. The project or a discrete physical portion of the work is deemed by the A/E and the Principal Representative to be fully usable and safe for public use; and
 4. The project has been completely cleaned; and,
 5. Contractor has provided a schedule for the completion of each and every item identified on the punch list.
- D. A/E prepares the **Notice of Approval of Occupancy/Use (SBP-01)** after issuance of Notice of Substantial Completion.
 - E. Agency prepares the **Code Compliance Documentation Transmittal (Exhibit L-1)** and associated documents and submits to OSA.
 - F. Before receipt of final payment, Contractor sends as-built drawings to the A/E for incorporation into the record drawing set and sends EPDs, warranties and Operations and Maintenance (OM) manuals to A/E for review per specifications.
 - G. A/E sends EPDs, as-built and record drawings and warranties and OM manuals to the Agency.
 - H. Contractor completes all items from the final punch list and prepares the **Pre-Acceptance Checklist (SBP-05)** and sends it to the A/E.
 - I. After the Contractor completes all work on the **Pre-Acceptance Checklist (SBP-05)** the A/E signs off and issues a Letter of Final Completion.
 - J. Agency's Principal Representative and SBP Delegate executes the **Notice of Final Acceptance (SBP-6.271)** for a discrete physical portion of the Work.
 - K. Pursuant to C.R.S. 38-26-107(1) the **Notice of Contractors Settlement (SBP-7.3)** or **Notice of Partial Contractors Settlement (SBP-7.31)** is advertised either in newspapers or electronic media (as defined in Electronic Access A.5.) for all projects over \$150,000. Ten days after the last advertisement, Contractor is eligible for final payment and retainage less funds withheld to settle claims (if any). If a subcontractor or supplier files a statement of verified claim with the Agency before the date of final settlement, the Agency must withhold from the payment due to the Contractor for 90 days an amount equal to the claim(s) filed per C.R.S. 38-26-107. The subcontractor or supplier must file a suit in the district court where the project is located and notify the Agency of such action (lis pendens) within this 90-day period in order to have the amount of the claim continue to be withheld.
 - L. For construction contracts over \$150,000, the Agency's Principal Representative then authorizes the **Notice of Contractor's Settlement (SBP-7.3)** or **Notice of Partial Contractor's Settlement (SBP-7.31)** for a discrete physical portion of the Work. It is advertised either in newspapers or the electronic media where the initial solicitation was posted. Ten days after the last advertisement, Contractor is eligible for final payment and retainage less funds withheld to settle claims (if any).

- M. After all claims have been resolved, Contractor sends final **Application and Certificate for Contractor's Payment (SBP-7.2)** which includes release of retainage to A/E for approval.
- N. A/E approves the final application and **Certificate for Contractor's Payment (SBP-7.2)** and sends it to the Agency.
- O. Agency's Principal Representative signs final **Application and Certificate for Contractor's Payment (SBP-7.2)** and distributes. No payment is made if there are unpaid certified payrolls, or unresolved issues regarding certified payroll on Public Projects, such as restitution payments. No payment is made if there are ACR payments outstanding or not paid to the correct fund.
- P. Schedule and hold six-month and eleven-month walk-through inspections with A/E and SBP and Contractor per the Agreement.
- Q. A/E sends the final **Application for Payment of Architect/Engineer/Consultant Fees (SBP-7.1)** to the Principal Representative for approval.
- R. If any portion of funds come from the Capital Construction Fund or if Cash funds over \$500,000 are expended on a project, full reporting of the **Code Compliance Documentation Transmittal (Exhibit L-1)** and **Budget Reconciliation/Project Evaluations Transmittal (Exhibit L-2)** is required.
 - 1. The **Project Close Out Code Compliance Documentation Transmittal (Exhibit L-1)** must be fully signed. See the L-1 for instructions. Submittal should be sent immediately after signing the Approval of Occupancy/Use.
 - 2. The **Project Close out Budget Reconciliation/Project Evaluations Transmittal (Exhibit L-2)** See the L-2 for instructions. Exhibit L-2 is prepared and signed by the Principal Representative and sent after closeout to SBP.
- S. SB17-267 AND HB20-1408 Project Closeout
 - 1. If prior phases were still under construction when the SB267/HB1408 funds were released, submit all phases at once, noting the construction phases as required of all CM projects.
 - a) The code documentation may be comingled. Consistently note construction phasing on each document so it is clear which compliance document matches which Building Inspection Record, Occupancy etc.
 - b) When submitting the L-2 Transmittal, provide SC4.1 documents for the appropriated projects and for the SB267/HB1408 projects. **DO NOT COMBINE.**
 - 1. A new SC4.1 exclusive to SB267/HB1408 funds, incorporating all phases should have been executed
 - 2. Submit both sets of Initial, any Revised and Final SC4.1 documents for review.
 - c) Separate Contingency Use and Use of Foreign Produced Goods forms are only required if separate construction contracting took place.
 - d) Project Monitoring and Lessons Learned may combine both appropriations.

2. For phased projects that were complete, or nearly so, when the funds were released, treat them as separate projects. All closeout documentation would follow standard Policy and Procedures.

XXIV. REFERENCES

A. Colorado Revised Statutes (C.R.S.):

Title 24, Article 30, Parts 13 and 14;

Title 24, Article 91

Title 24, Article 92

Title 34, Article 93

Title 24, Article 101, Sections 210-203 and 301-302;

Title 38, Article 26, Sections 106-108, and;

Title 8, Article 17, Section 101

B. Fiscal Rules: Issued by the State Controller's Office.

C. Procurement Code and Rules: Issued by the State Purchasing and Contracts Office

D. Budget Instructions: Issued by the Office of the State Architect and Colorado Commission on Higher Education.

E. Capital Construction Accounting Guidelines: Issued by the State Controller's Office.

F. State of Colorado Contract Manual: Issued by the State Controller's Office.