

# **Maryland Stadium Authority (“MSA”)**

## **Change Order Guidelines for Construction Projects**

### **I. Introduction**

Pursuant to the Change Order Fairness Act (15-112 of the State Finance and Procurement Article, Annotated Code of Maryland) and the requirements established through the Change Order Fairness Act Construction Change Order Workgroup, MSA hereby issues the following guidelines for the application of the Construction Change Order process for applicable construction projects.<sup>1</sup> This document is to be treated as general guidelines for the Change Order process and does not supersede any terms and conditions stated on solicitations issued by MSA.

### **II. Definitions**

1. **Contract Representative** – MSA’s representative primarily responsible for contract administration functions including, but not limited to, ensuring compliance with the terms and conditions of the contract. The Contract Representative may also be the Procurement Officer and/or the Project Manager.
2. **Procurement Officer** –MSA’s representative responsible for the solicitation process. The Procurement Officer is the sole point of contact for a solicitation prior to the award of any contract.
3. **Project Manager** –MSA’s representative responsible for managing a project and ensuring that the project is completed on time, on budget, and within the scope of the contract. The Project Manager may also fulfill the responsibilities of the Procurement Officer.

### **III. Pre-Bid/Proposal Meetings and Questions**

Invitations to Bid and Requests for Proposals will include the date, time and place of any pre-bid/proposal meeting, and site visit, if a site visit is applicable. Firms that consider participating in the project as either a prime contractor or a subcontractor are highly encouraged to attend the pre-bid/proposal meetings however, they are not required to do so. MSA will accept and respond to

---

<sup>1</sup> MSA procures and manages many capital projects for other State agencies and local jurisdictions. Depending on the applicable law and related terms of any Memorandum of Understanding, these procedures may not be applicable. For example, these guidelines do not apply to the 21<sup>st</sup> Century School Buildings Program. Please contact the Procurement Officer to determine if a contract is subject to these guidelines.

questions posed in writing by the deadline given in the solicitation. Questions submitted after the deadline for submission of questions may be answered at the discretion of MSA. Invitations to Bid and Requests for Proposals for open procurements will be advertised on eMaryland Marketplace and MSA's website.

#### IV. Pre-Construction Meetings

Subcontractors are encouraged to attend pre-construction meetings in order to gain a better understanding of the project and its requirements, including but not limited to, contractual obligation, reporting, and compliance guidelines; however, they are not required to do so unless directed by the prime contractor. Prime contractors are encouraged to notify their subcontractors of the date, time and location of pre-construction meetings, particularly for contracts that have an MBE requirement.

#### V. Delegation of Authority

Any changes to the scope of work and/or extra work must be authorized in writing by MSA prior to the work being performed. Specific procedures for change order approval will vary depending on the terms and conditions of the specific contract. Please contact the Project Manager of the specific project for additional information.

#### VI. Change Order ("CO") and Contract Modification Processes

##### A. Delegation of Authority for Change Orders

1. The procedures for approval of COs will vary depending on the terms and conditions of the contract.
2. Generally, the Project Manager may make any change to the contract work within the general scope of work. The changes may consist of, by way of example only, changes in the specifications provided for a contract, and method, manner, and/or timeframe for the completion of work.
3. No extra work or changes to the existing scope of work shall be performed unless authorized in writing by MSA prior to proceeding with any such change as set forth in the contract.
4. Any other written or verbal order from the Project Manager shall be considered a change order only if the prime contractor acknowledges such a change order in writing within thirty (30) days, stating the date, circumstances, and source of the change order, and that the prime contractor specifically regards it as such.

## B. Change Orders

1. For no cost change orders, the Project Manager provides a written statement regarding the desired changes in the scope of work, and/or schedule deadline, for review and approval.
2. For change orders requiring adjustment to the contract price, a written, itemized statement of quantities and prices, along with a detailed explanation and justification for the proposed additional costs, if any, shall be submitted to MSA by the prime contractor.
3. It is the Project Manager's responsibility to notify promptly the prime contractor if sufficient funds are not available to proceed with the change order/contract modification.
4. After approval by MSA, the Project Manager or Contract Representative will generate a modification to the contract, to indicate the change order requirements and updated dollar value of the contract. The contract modification shall be signed by all parties to the original contract.
5. MSA may not require a prime contractor, and a prime contractor may not require a subcontractor, to perform work until the Project Manager issues a written directive that specifies whether the work is to proceed, according to all contract terms and conditions, on:
  - a. Agreed Unit Price;
  - b. Issuance of a construction change directive allowing partial funding for price to be negotiated within thirty (30) days;
  - c. Time and Material; or
  - d. Force Account.

## C. Contact Modification Process

1. Contract modifications shall be initiated by the Project Manager.
2. Written documentation to include, but not limited to, details regarding any revisions to the scope of work and justification for said revision(s), critical path schedule, and/or cost change and substantiation must be submitted to the Project Manager and/or the Contract Representative, along with the prim contractor's breakdown of quantities and cost, if applicable. Additional documentation to justify the modification may be requested by the Project Manager.
3. The cost of additional administration may be added to the modification only when the nature of the Change Order makes it necessary to hire additional staff, to be determined by the Project Manager and/or Contract Representative.

4. The rental cost of machinery, tools and/or any other equipment necessary for the completion of the contract shall be allowed, as long as the prime contractor and MSA reach a written agreement on the rental rates, which must follow the standard industry rental rates for said type of machinery, tools and/or equipment.
5. A contract modification shall be reviewed and authorized by the Project Manager and/or Contract Representative, including other appropriate signatories prior to finalizing the change order and modification.
6. No claims or adjustments shall be allowed after final contract payment.
7. A copy of the signed modification shall be placed in the contract file and shall become part of the contract terms.

#### VII. Retainage

Retainage is withheld in accordance with MSA's contract requirements and as stated in the solicitation documentation. Once the contractual obligations of the prime contractor have been satisfied, the prime contractor can submit a written request for the release of said retainage. The request must be submitted to the Project Manager and/or Contract Representative.

#### VIII. Payment Issues/Disputes Hierarchy for MSA

If a payment issue arises during the life of the contract, the prime contractor shall address the issue with the Project Manager. Supporting documentation must be provided in case of a dispute/inconsistent information. If the issue(s) cannot be resolved, the Contract Representative shall be informed of the situation in writing and shall issue a written response to the prime contractor. The Contract Representative may request additional information from the prime contractor, subcontractor (if applicable), and/or Project Manager before reaching a determination.

#### IX. Point of Contact Hierarchy for MSA

MSA assigns a Project Manager to every construction project. The Project Manager name and his/her contact information are provided in the solicitation and/or contract documents. The Project Manager shall be the primary point of contact for the prime contractor for day-to-day project/contract management issues. In the event that an issue cannot be resolved, the Contract Representative may be notified. The Contract Representative is identified in the contract/agreement with the prime contractor. The Contract Representative must be notified of any issue(s) related to a request for a change order or a

payment bond. Requests to the Contract Representative must be submitted on company letterhead and contain, at a minimum, the following: name or title of the project; the contract number; the date of the request; an explanation of the request/issue in need of resolution; a brief history of any steps that may have been taken to resolve the issue; and, the primary point of contact information for the prime contractor's representative submitting the request.

#### X. MSA'S CONTACT INFORMATION

Inquiries regarding contact information for Project Managers and Contract Representatives of a specific project can be made at 410-333-1560 (MSA Facilities), 410-223-4150 (Capital Projects Development Group), or by going to the MSA website [www.mdstad.com](http://www.mdstad.com).