Agenda item:

USF Board of Trustees
December 2, 2004

Issue: The need to expedite the payment of subcontractors on University construction projects.

Proposed action: Board of Trustees adoption of guidelines providing for the prompt payment of subs by the Construction Manager on University construction projects.

Background information: There has historically been a perception in the construction trades that they have not been timely paid for work done, or materials provided, for government construction projects. In situations where the governmental entity as owner has made payment to the general contractor, the subs have still not been paid in a timely fashion.

The last four legislative sessions have seen bills introduced to address this issue. At the close of the last session, the institutions of the SUS agreed with the bills sponsors to voluntarily adopt guidelines aimed at addressing this concern. These guidelines would be substantially the same as guidelines used by the community college system. Further, the provisions of the guidelines would form part of the master construction agreement thereby contractually obligating the general contractor to pay prompt payment to their subs.

Workgroup Review: Fiscal Workgroup/Executive Committee 11-23-04
Supporting documentation: Draft Guidelines
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Guidelines for Contractual Provisions for University of South Florida (USF) Construction Contracts

The following provisions shall be included in all USF construction contracts in order to promote timely payments to subcontractors for work satisfactorily completed. Subcontractors, forty-five (45) days after satisfactory completion of their work on the USF project, can invoice the Contractor for the remainder of unpaid work, including the full value of the retainage related to their work, less the value of any item contested in accordance with the terms and conditions of the construction Contract. The subcontractor shall include a conditional release of lien and all appropriate warranties and closeout documentation with this final payment invoice to the Contractor. The Contractor must include this subcontractor payment request in the next Application for Payment in the pay application cycle to the Architect following the receipt of the subcontractor payment request, if deemed to be complete and in compliance with this section. USF shall process the payment request within twenty (20) days of receipt of the Certificate for Payment from the Architect, and shall include payment of the retainage, less the value of any contested item, in its next payment to the Contractor. When a Contractor receives payment from USF for labor, services, or materials furnished by subcontractors and suppliers hired by the Contractor, the Contractor shall remit payment due to those subcontractors and suppliers, less the value of any item contested in accordance with the terms and conditions of the construction Contract, within ten (10) days after the Contractor’s receipt of payment.

USF shall include the following provision in all construction contracts to promote timely payments to subcontractors for services satisfactorily completed. “When the Contractor receives payment from the Owner for labor, services, or materials furnished by subcontractors and suppliers hired by the Contractor for the project, the Contractor shall remit payment due to those subcontractors and suppliers, less the value of any item contested in accordance with the Contract, within ten (10) days after the Contractor’s receipt of payment from the Owner. When the payment due the subcontractor is for final payment, including retainage, the subcontractor must include with the invoice for final payment a conditional release of lien and all appropriate warranties and closeout documentation. When the subcontractor receives payment from the Contractor for labor, services, or materials furnished by subcontractors and suppliers hired by the subcontractor, the subcontractor shall remit payment due to those subcontractors and suppliers, less the value of any item contested in accordance with the Contract, within ten (10) days after the subcontractor’s receipt of payment.”

This provision shall not be construed to create a contractual relationship of any kind (1) between the Architect and Contractor, (2) between USF and a subcontractor or sub-subcontractor (et al.), (3) between USF and Architect or (4) between any persons or entities other than USF and Contractor.