

RULES OF
UNIVERSITY OF FLORIDA

6C1-3.075 Finance and Administration; Construction; Procedures for Payment under
Unbonded Construction Projects

(1) On all construction projects where a performance and payment bond is not required to be provided, the following procedures shall be followed to ensure that laborers, materialmen and subcontractors performing work on University projects receive the payments due to them from the contractor:

(a) The contractor, before beginning work or within two workdays thereafter, shall post in a conspicuous place on the project site the following notice:

“Notice is hereby made to all those concerned and affected that
_____ (Contractor’s Name) is performing
_____ (Project Name), _____ (Project
Number) at _____ (Location). All parties
furnishing labor and/or materials to said project are to provide such
writing by certified mail to the University within twenty days of
first providing such labor and/or materials. Send notices to
_____ (Address of Facilities
Office).”

(b) Parties furnishing labor and/or materials on University projects should provide written notice of the same to the University by certified mail within twenty days of first

providing such labor and/or materials. Notice should be sent to the facilities office whose address is provided in the project site notice.

(c) In each pay request submitted by the contractor to the University, the contractor shall certify that all items and amounts shown on the face of the pay request are correct and that all just and lawful bills against contractor and his subcontractors for labor, materials, and equipment employed in the performance of the work have been paid in full in accordance with their terms and conditions.

(d) Throughout the project, the University will retain an amount equal to ten percent (10%) of the amount of each pay request submitted by the contractor and approved by the University. In the event of payment default by the contractor, such retainage shall be utilized to pay claims as described in subsection (2) hereof.

(e) The University will not pay the retainage to the contractor until all of the following, in addition to any other requirements of the contract, have occurred:

1. the project architect/engineer or other person designated by the University for that purpose has issued a written certificate that the project has been constructed in accordance with the approved plans, specifications and approved change orders;
2. the University has accepted the project; and
3. the contractor has supplied the University with written, signed and sealed statements which identify the project name and number and which state no claims against the contractor (final release of lien) from all laborers, materialmen, and subcontractors, as defined in Section 713.01, F.S., who have provided written notice to the University that they have provided labor or materials on the project or have notified the University of non-payment by the contractor.

(2) In case of default in payment by the contractor, the laborer, materialmen, and subcontractors, as defined in Section 713.01, F.S. making claims for unpaid bills, will be paid from the ten percent (10%) retainage on a pro rata basis. To determine a claimant's pro rata share, the sum of all claims made will be divided into each individual claim thereby deriving a percentage value for each claim. Then, the total retainage for the project will be multiplied by the claim's percentage value and the resulting quotient shall be the pro rata share of the retainage to be paid to a claimant, not to exceed the amount of the claim.

(3) Failure to file written notice with the University in the manner provided in paragraph (1)(b) or in the event of a payment default by the contractor no later than thirty (30) days after substantial completion of the project shall constitute a waiver of any rights in the ten percent (10%) retainage.

(4) The University shall not be liable to any laborer, materialman, or subcontractor for any amounts greater than the pro rata share as determined under subsection (2).

(5) All contractors shall pay the undisputed amounts owed for labor and/or materials to all laborers, materialmen and subcontractors within the time provided in Section 255.071, F.S.

(6) For purposes of this rule, "contractor" shall have the same meaning as ascribed thereto in Section 713.01, F.S.

Specific Authority 1004.74(4) FS.

Law Implemented 255.05, 1013.47, 1013.50 FS.

History--New 12-31-03