

UNIVERSITY OF CALIFORNIA, BERKELEY

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SANTA BARBARA • SANTA CRUZ

FACILITIES SERVICES

BERKELEY, CALIFORNIA 94720-1528

March 15, 2012

Theresa Cerney  
Contracts Manager

**RE: Delegation of Authority 2564 – Bid Solicitation and Execution of Construction Contracts, including Limited Authority within the Best Value Selection Program**

Effective immediately you are hereby redelegated the authority to execute design and professional service agreements and authorizations and construction documents up to the amount of \$200,000 per transaction provided that:

- The contract documents are issued in accordance with University policies and procedures; and
- Funds are available

Documents include but are not limited to: Construction Contracts and documents, Notices to Proceed, Change Orders, Field Orders, Payment Applications, Escrow Agreements, Professional Service Agreements (PSA) and Authorizations, and Design Services Agreements and Authorizations (all of which shall not exceed the delegation limits listed in the Capital Projects Approval Authority Table for Contract Related Documents).

You shall be responsible to ensure that all transactions are in compliance with procedures and policies as covered in the most current revisions of the University of California’s Business and Finance Bulletin and in the Facilities Manual.

This redelegation supersedes Delegation DA 2173. Attached is the redelegation letter from Chancellor Birgeneau and a copy of DA 2564.



Edward J. Denton, FAIA  
Vice Chancellor – Facilities Services

Attachments (2)

- cc: S. Bhatia, Manager, Capital Projects Accounting (w/o attachments)  
 M. Cole, Manager, Capital Projects Contracts (w/o attachments)  
 J. Hing, Campus Delegations Coordinator (w/o attachments) ✓  
 W. Riley, Director, Audit and Advisory Services (w/o attachments)  
 J. Wilton, Vice Chancellor, Administration and Finance (w/o attachments)



1111 Franklin Street  
Oakland, CA 94607-5200  
Phone: (510) 987-9074  
Fax: (510) 987-9086  
<http://www.ucop.edu>

December 15, 2011

**CHANCELLORS  
DIRECTOR – LAWRENCE BERKELEY NATIONAL LABORATORY  
EXECUTIVE VICE PRESIDENT – BUSINESS OPERATIONS  
VICE PRESIDENT – AGRICULTURE AND NATURAL RESOURCES**

**Delegation of Authority – Bid Solicitation and Execution of Construction Contracts, including Limited Authority within the Best Value Selection Program**

This Delegation of Authority confers authority related to the construction of capital projects, including utilizing approved modes of construction contracting, soliciting and consenting to withdrawal of bids, executing construction contracts (subject to established bonding requirements), negotiating and executing change orders, signing notices of completion in the name of the Corporation, and implementing the Best Value contractor selection processes.

Standing Order of The Regents 100.4 provides as follows:

\* \* \*

(z) The President is authorized to approve building plans and to solicit bids in connection with approved projects, except that the President shall not approve the design of such projects as the Board has specifically designated as requiring design approval by the Committee on Grounds and Buildings.

\* \* \*

(dd) Except as otherwise specifically provided in the Bylaws and Standing Orders, the President is authorized to execute on behalf of the Corporation all contracts and other documents necessary in the exercise of the President's duties, including documents to solicit and accept pledges, gifts, and grants, except that specific authorization by resolution of the Board shall be required for documents which involve or which are:

\* \* \*

(8) Construction contracts in excess of appropriated funds.

The authority assigned to the President in Standing Orders 100.4(z) and 100.4(dd) is governed by Regents' Bylaw 5.1, which references statutory authority regarding competitive bidding procedures for the letting of construction contracts. (The relevant authority is California Public Contract Code, Part 2, Chapter 2.1, *University of California Competitive Bidding* (commencing with Section 10500)).

\* \* \*

Regents Policy 5503: Policy on Bonding Requirements for Construction Contracts provides:

That the President be authorized to set requirements for bid bonds or other forms of bid security, performance bonds, and payment bonds for construction contracts unless such requirements would be inconsistent with the requirements of a funding agency for a funded project or with mandatory requirements established by State law.

\* \* \*

Authority for Construction Bid Solicitation and Execution of Approved Modes of Contracting

Effective immediately, for approved projects within your respective jurisdictions, you are authorized to use the following modes of contracting as defined in California Public Contract Code Section 10503, subject to requirements published in the University of California *Facilities Manual*:

1. Complete plans and specifications [Lump Sum];
2. Design-and-build [Design-Build];
3. Construction manager [CM at Risk]; and
4. Cost-plus-fee.

California Public Contract Code Section 10503(e) authorizes The Regents to solicit bids under such other contracting modes as The Regents determine to be in the best interest of the University, provided that such bids or proposals are compared on a uniform basis and that the award is made as determined by the published selection standards. To the extent they are not encompassed within items 1-4 above, you are also authorized to use the following additional approved contracting modes, subject to requirements in the *Facilities Manual*:

- a. Job order or delivery order;
- b. Time and materials;
- c. Unit pricing; and
- d. Cost plus guaranteed maximum price ("cost plus GMP").

Bids shall be solicited subject to the following restriction:

Bid solicitations and contract awards shall comply with applicable State law and shall be subject to regulations and requirements specified in the *Facilities Manual* and other requirements which may be established from time to time by the Office of the President, including the requirements of delegations of authority pertaining to appointment of consultants, approval of project design, transfer of funds and amendments to the Capital Improvement Program (i.e., DAs 2219, 2220, 2229, and 2230 or their successors).

Subject to requirements in the *Facilities Manual*, you are also authorized to:

1. Consent to the withdrawal of a bid after bids are opened and the bidder claims a mistake, under the conditions specified in the *Facilities Manual* section on "Modification or Withdrawal of Bids After the Bid Deadline";

2. Execute contracts and other documents necessary in the exercise of this delegation, subject to the following parameters:
  - a. Execution of a contract for a project shall not cause the total cost of the Project (including site clearance, building construction, exterior utilities, site development, A&E fees, campus administration, surveys & tests, special items, construction contingency, and group 2 & 3 equipment) to exceed the approved capital improvement budget; and
  - b. Construction contracts valued at less than \$25,000 may be executed without requiring bid bonds or other forms of bid security, performance bonds, or payment bonds; contracts valued between \$25,000 and \$50,000 can be executed with payment bond security alone. Future changes in the authorized dollar limits, if any, will be reflected in the *Facilities Manual*.
3. Negotiate and execute change orders to a construction contract, within appropriated funds; and
4. Sign notices of completion in the name of The Regents.

The delegation of authority to the Director - Lawrence Berkeley National Laboratory is subject to applicable State and federal law and conformance with the management contract between The Regents and the Department of Energy.

Any modifications to approved contract documents not authorized by guidelines published in the *Facilities Manual* require review by the General Counsel and approval by the Office of the President.

\* \* \*

#### Authority to Set Bonding Requirements

Effective immediately, the Executive Vice President – Business Operations is authorized to set requirements for bid bonds or other forms of bid security, performance bonds, and payment bonds for construction contracts, unless such requirements would be inconsistent with the requirements of a funding agency for a funded project or with mandatory requirements established by State law.

\* \* \*

#### Authority for Best Value Selection

California Public Contract Code Sections 10506.4 et seq. authorize the campuses of the University of California to utilize Best Value selection as a pilot program for a period of 5 years from January 1, 2012 until January 1, 2017.

Effective January 1, 2012 and until January 1, 2017 or as otherwise authorized by statute, Chancellors (but not the Director-LBNL, EVP-Business Operations, and VP-ANR) are authorized to use the Best Value program for selection of construction contractors, subject to statute mandated guidelines published in the *Facilities Manual* and the following requirements for each project:

1. Approval of bidding documents by the Associate Vice President – Capital Resources Management (or designee) prior to advertising;
2. Approval of the selected Best Value contractor by the Associate Vice President – Capital Resources Management (or designee) prior to award;

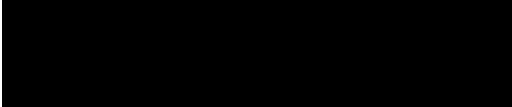
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3. Adherence to the Best Value Procedures and Required Guidelines for Evaluating the Qualifications of the Bidders published by the Associate Vice President – Capital Resources Management (or designee); and
4. Notification to the Office of the President of any bid protest, in accordance with the contract documents.

This delegation supersedes Delegations of Authority 2173 and 2174 issued on November 13, 2006 and Delegation of Authority 1040 issued on November 19, 1990 on these same subjects.

  
Mark G. Yudof  
President

cc: Members, President's Cabinet  
Vice President Lenz  
Associate Vice President Wylie  
Associate Director Hornbeck  
Universitywide Policy Director Capell