



FACILITIES SERVICES

BERKELEY, CALIFORNIA 94720-1528

March 15, 2012

Michael Cole
Director – Contracts Administration

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

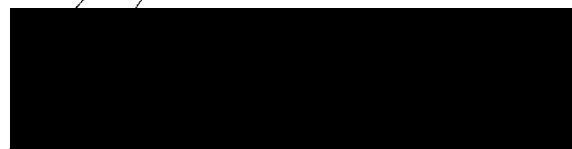
Effective immediately, I am re delegating to you in your position as Director – Contracts Administration for Capital Projects the authority to solicit bids and to execute construction contracts and other documents necessary in the exercise of this delegation subject to the following restrictions:

1. 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).
2. 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 and test, special items, construction contingency, and group 2 & 3 equipment) to exceed the approved capital improvement budget.

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*.

This re delegation supersedes Delegation of Authority 2173 and Delegation of Authority 1040. Attached is the re delegation letter from Chancellor Birgeneau and a copy of DA 2564.

Please contact Campus Delegations Coordinator Janice Hing, Office of Ethics, Risk and Compliance Services, at 3-9318 or jhing@berkeley.edu with any concerns you may have regarding this delegation of authority.



Edward J. Denton, FAIA
Vice Chancellor – Facilities Services



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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.

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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.

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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;

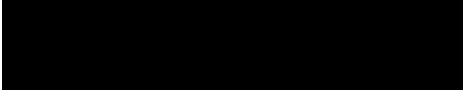
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3. Adherence to the Best Value Procedures and Required Guidelines for Evaluating the Qualifications of the Bidders published by the Associate Vice President – Capital Resources Management (or designee); and
4. Notification to the Office of the President 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