

**UAB FACILITIES
STANDARD OFFICE INSTRUCTIONS
PROCEDURES FOR INVOKING ARTICLE 25
DURING CONSTRUCTION**

PURPOSE:

To establish the procedures to invoke Article 25 of the General Conditions of the Contract and the Modified General Conditions of the Contract upon a contractor during the construction phase of a project.

DEFINITIONS:

ARTICLE 25. OWNER'S RIGHT TO CORRECT DEFICIENCIES:

Upon failure or neglect by the Contractor to properly prosecute, or to perform the Work in accordance with the Contract Documents, including any requirements with respect to the Progress Schedule and/or Charts, and after ten (10) days written notice to the Contractor by the Director, the Owner may, without prejudice to any other remedy he may have, correct such deficiencies and may deduct the actual cost thereof to the Owner from payment then or thereafter due to the Contractor, provided, however, that the Director shall approve both such action and the amount charged the Contractor.

**ARTICLE 25. OWNER'S RIGHT TO CORRECT DEFICIENCIES:
(MODIFIED CONDITIONS OF THE CONTRACT)**

Any such failure or neglect by the Contractor to properly prosecute, or to perform the work in accordance with the Contract Documents, may be cause for the Contractor to be declared "not responsible" or considered "non-responsive" as a bidder relative to the award of any other work for the Owner.

REQUIREMENTS:

- 1.0 The failure or neglect by the contractor must be substantial and directly impact the project or a portion thereof.
- 2.0 The Project Manager shall maintain accurate and sufficient records to document the contractor's failure or neglect.
- 3.0 To implement Article 25, the Project Manager must receive prior approval from the Director of Project Management Services and the AVP for Facilities.

PROCEDURES:

1.0 Step One – Recognition

The Project Manager (PM), upon recognition of the possibility of failure or neglect on the part of the contractor, shall direct the architect and/or construction consultant to document in weekly construction progress meeting minutes the areas of concern for failure or neglect and copy the contractor.

Upon convening of the next scheduled weekly progress meeting, a request shall be made by the PM to the contractor that he respond to the areas of concern for failure or neglect with acceptable remedies to eliminate concerns.

2.0 Step Two – Direct Notice

After approval by the AVP for Facilities, the PM shall advise the contractor through the Architect of Record (AOR) and/or construction consultant of the Owner's intent to give Direct Notice (attachment #1) for failure or neglect by the Contractor to properly prosecute, or to perform the Work in accordance with the Contract Documents. The contractor shall have ten (10) working days to remedy.

3.0 Step Three – Owner's Correction

Upon the contractor's failure to remedy the deficiencies stated in the Direct Notice, the PM shall advise the contractor through the AOR and/or construction consultant of the Owner's intent to correct all such deficiencies as stated in the Direct Notice.

3.1 Method of Remedy

The PM and AOR and/or construction consultant shall determine the methods/actions to be taken during the project or a portion thereof to correct the deficiencies of said contractor that will bring the Work into compliance with the Contract Documents. The methods may be performed by the Owner's forces or by others (contractors) not directly associated to the project or a portion thereof.

3.2 Cost of Remedy

The cost of the remedy shall be the actual cost to the Owner for correction of said deficiencies.

3.3 Recovery of Remedy

Upon the present or next payment due the contractor, the PM shall deduct the actual cost to the Owner for correction of said deficiencies.

If the contractor fails or neglects to make a request for his next scheduled payment, the PM may request in writing to the Director of Project Management Services for immediate financial adjustment to the contract amount. The Architect of Record shall notify the contractor of this financial adjustment and issue a deductive Change Order.