

DEFINITIONS OF SELECTED WORDS USED IN NAHASDA FUNDED PROCUREMENT AND CONSTRUCTION CONTRACTING

- A -

Acceptance – The act of an authorized representative of the owner acknowledging that the supplies, services or activity are in conformity with the contract requirements.

Addendums - (Addenda) Written information adding to, clarifying or modifying the bidding documents. The owner generally issues an addendum to the contractor during the bidding process and as such, addenda are intended to become part of the contract documents when the construction contract is executed.

Additional Services - Services provided over and above those designated as basic services in owner agreements with A/Es and CMs.

Advertisement – a public announcement in a newspaper soliciting bids or proposals.

Architect/Engineer (A/E) - the design professional hired by the owner to provide design and design-related services.

Agreement (also contract) - A legal document that binds two or more parties to specific and implied obligations, e.g., Contract.

Alternate Bid - Amount stated in the bid to be added or deducted from the base bid amount proposed for alternate materials and/or methods of construction.

Apparent Low Bidder - The bidder who has submitted the lowest competitive proposal as determined by a cursory examination of the bids submitted.

Application for Payment (Request for Payment for draw) - Contractor's written request for payment for completed portions of the work and, for materials delivered or stored.

Approved Changes - Changes of any nature in contract requirements which have been agreed upon through a change approval process and approved by the owner.

Architect - An individual who designs and supervises the professional design for the construction of buildings or other structures.

Architect-Engineer (A/E) – The design professional hired by the owner to provide design and design related services.

As-Built Drawings - Drawings marked up to reflect changes made during the construction process or after construction that amend the Contract Drawings to show the exact location, geometry, and dimensions of the constructed project.

- B -

Beneficial Occupancy - The point of project completion when the owner can use the constructed facility in whole or in part for its intended purpose even though final completion may not be achieved.

Bid - A binding offer, usually expressed in dollars to provide specific services within clearly stated requirements.

Bid Bond - A written form of security issued by a surety company guaranteeing that the bidder will sign the contract, if awarded the contract, for the stated bid amount.

Bid Date/Time - The due date and time set by the owner for receiving and opening bids.

Bid Documents (Project Manual) - The documents distributed to contractors by the owner for bidding purposes. They include drawings, specifications, form of contract, general and supplementary conditions, proposal forms, and other information including addenda.

Bid Form – One of the standard written forms furnished by owner to all bidders to be used to submit a bid.

Bid Opening - The actual process of opening and tabulating bids.

Bid Price - The stipulated sum stated in a bid.

Bidder's List – List of prospective contractors.

Bidding Documents - The entire set of documents that bidders must submit to owner.

Bid Shopping - Negotiations to obtain lower costs and prices both prior to submitting proposals and after signing contracts by playing suppliers and contractors' prices against each other.

Bid Tabulation - A summary sheet listing all bid prices.

Bond - (see Bid Bond, Contract Bond, Contract Payment Bond, Contract Performance Bond, Labor and Material Payment Bond, Performance Bond or Subcontractor Bond).

Bonding Company (Surety) - A licensed corporation that issues bid, performance, and payment bonds for construction project.

Building Inspector/Official - A government representative authorized to inspect construction for compliance with applicable building codes, regulations and ordinances.

Building Permit - A written document issued by the appropriate governmental authority permitting construction to begin on a specific project in accordance with drawings and specifications approved by the governmental authority.

- C -

Cardinal Changes – Modifications to an existing contract which are beyond the general scope of that contract and are so extensive that a new procurement should be initiated.

Changed Conditions - Conditions or circumstances, physical or otherwise, which surface after a contract has been signed and which alter the circumstances or conditions on which the contract is based.

Change Order - A written document between the owner and the contractor authorizing a change in the work or an adjustment in the contract sum or the contract time.

Change Order Proposal - A change order proposal is the written document before it has been approved by the Contractor and Owner.

Change Order Request - A written document issued by the owner requesting a change order.

Claim - A formal notice sent by a contractor to an owner asserting the fact that the terms of the contract have been breached and compensation is being sought by the contractor from the owner.

Clerk-of-the-Work - An individual employed by an owner to represent him on a project at the site of the work.

Closed Bid Method - A bidding process limited to either a class of bidders or a list of specific bidders.

CM (Construction Management or Construction Manager) - a firm that provides CM services or persons who work for a CM firm.

Codes - Prevailing regulations, ordinances or statutory requirements set forth by governmental agencies associated with building construction practices and owner occupancy, adopted and administered for the protection of public health, life safety and welfare.

Competitive Proposals – A procurement method in which contractors as a result of requests for proposals submit proposals that contain more than a price.

Conditions of the Contract - Term that refers to the General Conditions, Supplementary and Special Conditions of a construction contract.

Construct - To assemble and combine construction materials and methods to make a structure.

Construction Contract – Agreement between an owner and a builder or construction contractor to build or rehab improvements on land.

Construction Management (CM) - A project delivery system that uses a construction manager to facilitate the design and construction of a project by organizing and directing men, materials, and equipment to accomplish the purpose of the designer. A professional service that applies effective management techniques to the planning, design, and construction of a project from inception to completion for the purpose of controlling time, cost and quality.

Constructive Change Order – Informal requests for additional work or services caused by some act or omission to act on the part of the owner which causes a contractor extra work, delays, or money.

Consultant – A firm or individual hired to give advice.

Contract - An enforceable, written or verbal agreement between two or more parties.

Contract Date - 1) Usually on the front page of the agreement (2) If not on front page it may be the date opposite the signatures when the agreement was actually signed (3) or when it was recorded (4) or the date the agreement was actually awarded to the contractor.

Contract Document Phase - The final phase of design on an architectural project when construction documents are completed and bidding documents formulated.

Contract Document Review - A review of Bid and/or Contract Documents on a continuing basis or at short intervals during the pre-construction phase, to preclude errors, ambiguities, and omissions.

Contract Documents – All agreements between the owner and contractor.

Contract Period - The elapsed number of working days or calendar days from the specified date of commencing work to the specified date of completion, as specified in the contract.

Contract Sum - The total agreeable amount payable by the owner to the contractor for the performance of the work under the contract documents.

Contract Time - The time period set forth in the contract documents for completing a specific project; usually stated in working days or calendar days.

Contracting Officer – The official representative of the owner with specific authority to act on his behalf in connection with a specific contract.

Contractor - A company that contracts to perform or deliver services.

Contractor's Qualification Statement - A written statement of the Contractor's experience and qualifications submitted to the Owner during the contractor selection process. The American Institute of Architects publishes a standard Contractor's Qualification Statement form for this purpose.

Coordination Meeting - Meeting held in the field to review project status and coordinate scheduled activities.

Cost Estimate – A written calculation of all items included in the scope of the work, tabulated under appropriate cost headings (direct costs, labor, overhead, and profit). Often done by contractors prior to bidding or performing work.

Cost Plus Contract - A form of contract where a contractor is reimbursed for costs in addition to being paid for services.

Cost-Reimbursement Contract – A contract in which the owner and contractor agree on an estimate of the contract amount. The owner agrees to reimburse the contractor for reasonable, allowable and allocable costs necessary to complete the work.

Critical Date Schedule - A schedule of milestones spanning from the start of construction to occupancy.

Critical Path Method (CPM) - A planning scheduling and control line and symbol diagram drawn to show the respective tasks and activities involved in constructing a specific project.

Cure Notice – A document issued by the contracting officer to the contractor specifying that the contract may be terminated by reason of default if the conditions endangering performance of the contract is not corrected within a specified number of days.

- D -

Daily Construction Report (Field Report) - A written document and record that has two main purposes: (1) they furnish information to selective off-site persons who need and have a right to know important details of events as they occur daily and hourly, and (2) they furnish historical documentation that might later have a legal bearing in cases of disputes. Daily reports should be as factual and impersonal as possible, free from the expression of personal opinions and feelings.

Design-Build (D-B) - A project delivery method where a design-build contractor (contractor-led D-B), A/E design professional (design-led D-B) or CM (CM-led D-B) is directly responsible for both the total project design and construction of the project. Design-Build liability can be explicitly conveyed through the contract documents or implicitly conveyed through the assumption of project-specific design liability, via performance specifications.

Direct Costs (Construction Costs) - The costs directly attributed to a work-scope, such as labor, material, equipment, and subcontracts but not the cost of operations overhead and the labor, material, equipment, and subcontracts expended in support of the undertaking.

Drawings (Plans) - Documents that graphically illustrates the design, location, geometry and dimensions of the components and elements contained in a specific project.

- E -

Engineer - A professional firm and/or individual who is professionally engaged in one of the engineering disciplines.

Escrow Account - Money put into the custody of the third party by the first party for disbursement to another party.

Estimate - To calculate approximately the amount, extent or value of something.

Estimating - A process of calculating the amount of material, labor and equipment required for a given project necessary to complete the work as specified.

Ethics - Rules or standards of performance and conduct.

Excusable Time Delay – Failure to perform, which under contract, the contractor is excused from without fault or negligence of the contractor.

- F -

Fast-Track or Fast-Tracking - The process of designing portions of a project while portions already designed are under construction.

Feasibility Phase - The conceptual phase of a project preceding the Design Phase used to determine from various perspectives whether a project should be constructed or not.

Fee Enhancement - The awarding of an additional fee, over and above the basic fee for services, based on the performance quality of the party providing the basic service.

Fiduciary - One who stands in a special relationship of trust, confidence, and responsibility regarding contracted obligations.

Field Order (FO) - A written order issued to a contractor by the owner, or owner's representative. A Field Order is an expedient process used in an emergency or need situation that in many cases does not involve an adjustment to the contract sum or an extension of the contract time.

Final Acceptance - The action of the owner accepting the work from the contractor when the owner deems the work completed in accordance with the contract requirements.

Final Completion - The point at which both parties to a contract declare the other has satisfactorily completed its responsibilities under the contract except for warranty responsibilities.

Final Design Phase - The designation used by engineers for the last portion of the design process prior to bidding.

Final Inspection - A final site review of the project by the owner usually with contractor and owner's authorized representative prior to issuing the final certificate for payment.

Final Payment - The last payment from the owner to the contractor of the entire unpaid balance of the contract sum as adjusted by any approved change orders.

Financial and Management Control System - A manual or computerized management control system used by the project team to guide the course of a project and record its status and progress.

Fixed Fee - A set amount often used for fees, prices and costs.

FF&E - furniture, fixtures and equipment

Float - A scheduling term indicating that an activity or a sequence of activities does not necessarily have to start or end on the scheduled date to maintain the schedule on the critical path. The difference between the early start and late finish of an activity, minus the activities duration.

Force Account Work – A phrase used in some government contracts where the owner performs general contracting and often, some or all sub-contracting responsibilities. The owner may also employ its own work force.

- G -

General Conditions - A portion of the contract documents stipulating the contractor's performance requirements.

General Contractor – An individual or company having "primary" responsibility for the work. A GC can perform work with its own contractors or can provide some or all services to owners through the use of subcontractors.

Guarantee - An agreement by which a party accepts responsibility for fulfilling an obligation that it or another party has.

- H -

- I -

Indefinite-Quantity Contract – A contract used when the exact number of deliverable items is not known at the time of contracting.

Indirect Costs (Soft costs) - Costs for items and activities other than those directly incorporated into the building or structure but considered necessary to complete the project.

Invitation for Bids (IFB) – A solicitation document which explains what the owner is buying and requests bids, proposals or quotas from potential contractors.

Invoice - A record or bill sent to a purchaser containing the items, charges of merchandise.

- J -

Joint Venture Partner - A two or more individuals or companies that come together in a legal partnership to provide greater financial strength, improved services or more acceptable performance qualifications.

- K -

K (the letter) - Used by lawyers as an informal abbreviation for Contract or Contracts.

- L -

Lien, Mechanic's – A legal right established usually under state laws to take and hold or sell an owner's property to satisfy unpaid debts to a qualified contractor for labor, materials, equipment or services to improve the property.

Lien Release (sometimes lien waiver) - A written release from contractors to owners and property owners that releases any mechanic lien or rights contractor and suppliers might have.

Liquidated Damages – A prefixed damages amount set by owner and concurred in by contract or that sets a per day amount that owner can collect for a contract or failures to complete a contract on time

Lump Sum Agreement - A written agreement in which a specific amount is set forth as the total payment for completing the contract.

- M -

Milestone – An activity with duration of zero (0) and by which progress of the project is measured. A milestone is an informational marker only; it does not affect scheduling and is used to delineate strategic events of signal importance to monitor progress on the construction milestone schedule.

Micro Purchase – Awards less than \$5,000 may be made without soliciting competitive quotations if the Contracting Officer considers the price to be reasonable (e.g., based on recent research, experience, or purchases).

- N -

Negotiation – Through an individual give and take bargaining process a contract or agreement is reached by an owner and contractor.

Noncompetitive Proposals – A procurement method where a contract is awarded by an owner to a single contractor without any other contractor being involved.

Not Damage for Delay Clause – A contract term that releases owner from damages resulting from owner caused delays and limits contractor to recovering time extensions for such delays.

Notice of Award - A letter from an owner to a contractor stating that a contract has been awarded to the contractor and a contract will be forthcoming.

Notice to Proceed - A notice from an owner directing a contractor to begin work on a contract.

- O -

Owner - An individual or an entity that owns or controls land.

- P -

Payment Bond - A written bond issued from a surety company to the owner, on behalf a contractor, guaranteeing payment to all persons providing labor, materials, equipment, or services in accordance with the contract.

Payment Bond - (1) A written form of security from a surety (bonding) company to the owner, subcontractors and suppliers as third parties, on behalf of an acceptable prime or main contractor or subcontractor, guaranteeing payment to the owner in the event the contractor fails to pay for all labor, materials, equipment, or services in accordance with the contract, and (2) to pay any claims against the owner from contractors and suppliers who have not been paid for labor, material, and equipment incorporated into the project.

Performance Bond - (1) A written form of security from a surety (bonding) company to the owner, on behalf of an acceptable prime or main contractor or subcontractor, guaranteeing payment to the owner in the event the contractor fails to perform all labor, materials, equipment, or services in accordance with the contract the face value of the performance bond. (2) The surety companies generally reserve the right to have the original prime or main or subcontractor remedy any claims before paying on the bond or hiring other contractors.

Performance Schedule (Including a Gantt Chart) - The schedule of projected and actual activities.

Plans – Drawings of improvements.

Policy – An official statement issued by a Board pronouncing an agency’s basic requirements.

Pre-qualification - A screening process of perspective bidders wherein the owner gathers 1) background information from a contractor or construction professional to pre-qualify contractors as bidder or 2) organizational information to determine prior to a selection process whether a bidder or proposal is 51% or more owned and controlled by a member of a federally recognized tribe and thus entitled to Indian preference in the awarding process. Qualifying considerations include competence, integrity, dependability, responsiveness, bonding rate, bonding capacity, work on hand, similar project experience, and other specific owner requirements.

Prime Contract (or General Contract) - A contract directly between owner and contractor where contractor is expected to utilize subcontractor.

Prime Contractor (or General Contractor) - A contractor who has a contract with an owner and one or more subcontractors.

Professional Liability Insurance (also errors and omission insurance) - Insurance provided for design professionals, lawyers, accountants, construction managers and others that protects the owner against negligent acts by the insured.

Professional Services - Services and work provided by a professional, i.e. architect, engineer, and lawyer.

Progress Payment - Partial payments on a contractor’s contract amount, periodically paid by the owner for work accomplished by the contractor to date.

Progress Schedule - A contractor line diagram showing proposed and actual starting milestone (often percentage of completion) and completion times.

Project - A word used to represent the overall scope of work, job or development.

Project Manual - An organized book setting forth the bidding requirements, conditions of the contract and the technical work specifications for a specific project that documents and augments the drawings.

Project Meeting - A meeting dedicated essentially to contractor performance and progress payments, involving supervisors from contractor home offices and the team’s Level 2 and 3 Managers.

Project Representative (sometimes the Contract Officer) - A qualified individual authorized by the owner to assist in the administration of a specific construction contract.

Proposal - A written offer to the owner to perform the work where more than price is to be determined by the proposal.

Purchase Order (PO) - A written document from a buyer to a seller to purchase materials, services, equipment or supplies with acceptable purchase terms indicated.

Punch List - A list prepared by the owner or his/her authorized representative of items of work requiring immediate corrective or completion action by the contractor.

- Q -

Quote – An offer that just contains a price for work or goods specified by the owner.

- R -

Regulations – rules issued by government departments such as HUD that are authorized by statute and are a type of law.

Reimbursable Expense – A charge to the owner for specific costs which contractor has occurred that is to be paid 100 cent on the dollar.

RFP – A "Request for Proposal" made by owner under the competitive proposal procurement method.

Responsible Contractor – A contractor that does not have a record of failing to properly and promptly perform its contracts.

Responsive Contractor – a contractor in the bidding or proposal process that has submitted all documents required in the solicitation.

- S -

Sealed Bids – A government procurement method involving contractor proposals that contain price quotes which are publicly opened at the same time by an owner.

Schedule of Values - The breakdown of a lump sum price into sub-items and sub-costs for identifiable construction elements, which can be evaluated by examination for contractor progress payment purposes.

Schematic - A preliminary sketch or diagram representing the proposed intent of the designer.

Scope of Work – A description of work or goods to be delivered by a contractor.

Shop Drawings - Detailed information provided by material and equipment suppliers demonstrating that the item provided meets the requirements of the contract documents.

Site - The place where a structure or group of structures is or will be located.

Small Purchase – An optional procurement method that can be used with simpler rules for procurement under \$100,000.

Special Conditions - Amendments to the General Conditions that change standard requirements to unique requirements, appropriate for a specific project.

Specifications - A detailed, exact statement of particulars, especially statements prescribing materials and methods, and quantitative and qualitative and qualitative information pertaining to material, products, and equipment to be incorporated into a specific project.

Statute of Limitations - The period of time in which legal action must be brought for an alleged damage or injury.

Structural Systems - The load bearing frame assembly of beams and columns on a foundation.

Solicitation – The effort taken by an owner to get bids or proposals in the procurement process.

Subcontract - A written form of agreement between the prime or general contractor and another contractor or supplier for the satisfactory performance of services or delivery of material.

Subcontractor (or sub) - A qualified subordinate contractor who has a contract with the prime or main contractor.

Substantial Completion - The stage in the progress of the work when the work, or designated portion of the work, is sufficiently complete in accordance with the contract documents so that the owner can occupy or utilize the work for its intended use.

Superintendent - A job title usually reserved for the administrative level person who supervises the work of an on-site contractor.

Supplemental Conditions - Supplements or modifies the standard clauses of the general conditions to accommodate specific project requirements. (Synonymous with Supplementary Conditions)

Supplier (also known as material man) - An individual or firm who supplies and/or fabricates materials or equipment for a specific portion of a construction project but does not perform any labor on the project.

Surety (bonding company) - A licensed corporation that issues bid, performance, and payment bonds for construction project.

- T -

Technical Specifications (Specifications)]

Termination for Convenience – Owner’s termination of a contract that is not caused on contractor’s failure but instead the owner’s own need.

Termination for Default – Termination of a contract because the other party has materially breached the contract.

Testing - Applying standard procedures to determine if prescribed technical criteria have been met in performance.

Timely Performance - Compliance with a time requirement.

Time is of the Essence - A provision in a construction contract by the owner that punctual completion within the time limits or periods in the contract is a vital part of the contract performance.

Timely Completion - Completing the work of the contract before the date required.

- U -

Uniform Building Code (UBC) - The Uniform Building Code is one of the families of codes and related publications published by the International Conference of Building Officials (ICBO) and other organizations, such as the International Association of Plumbing and Mechanical Officials (IAPMO) and the National Fire Protection Association (NFPA), which have similar goals as far as code publications are concerned. The Uniform Building Code is designed to be compatible with these other codes, as together they make up the enforcement tools of a jurisdiction.

Unit Price Contract - A written contract wherein the owner agrees to pay the contractor a specified amount of money for each unit of work successfully completed as set forth in the contract.

Unit Prices - A predetermined price for a measurement or quantity of work to be performed within a specific contract.

- V -

Value Engineering - A technical review process; the close matching of engineering design to the value an owner derives from the design.

Vendor - One that sells materials or equipment.

- W -

Warranty – Binding assurance by a providing party that the work, material, or equipment provided will work and perform as promised.

Working Drawing - A drawing sufficiently complete with plan and section views, dimensions, details, and notes so that whatever is shown can be constructed and/or replicated without instructions but subject to clarifications.

Work Order (WO) - A written order, signed by the owner or his representative, of a contractual status requiring performance by the contractor without negotiation of any sort.

- X -

- Y -

- Z -