

## Memorandum

**TO:** Honorable Frank A. Ciccione III.  
Chairperson, Senate Committee on Government Oversight

**FROM:** H. Chris Der Vartanian, CPA *HCD*  
Chief, Bureau of Audits

**DATE:** March 22, 2012

**SUBJECT:** AUDIT OF THE URI'S OCEAN SCIENCE AND EXPLORATION CENTER

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Enclosed is a copy of our report on the Audit of the University of Rhode Island Ocean Science and Exploration Center. In accordance with Rhode Island General Law § 35-7-3 entitled "Audits performed by the bureau of audits," copies of this audit report are being submitted to the Chairpersons of the House Finance Committee and the Senate Committee on Finance.

Enclosure

c: Richard Licht, Director, Department of Administration  
David M. Dooley, Ph.D., President, University of Rhode Island  
Robert A. Weygand, Vice President, URI Div. of Administration and Finance  
J. Vernon Wyman, Assistant Vice President, URI Business Services  
Paul M. Depace, Director, URI Capital Projects  
Honorable Daniel DaPonte, Chairperson, Senate Committee on Finance  
Honorable Helio Mello, Chairperson, House Finance Committee  
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Thomas Mullaney, Executive Director/Budget Officer  
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Tom Evans, State Librarian (5)

**UNIVERSITY OF RHODE ISLAND**

**NARRAGANSETT BAY CAMPUS**

**AUDIT OF URI'S OCEAN SCIENCE AND EXPLORATION  
CENTER**

**MARCH 2012**



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March 22, 2012

Honorable Frank A. Ciccone III  
Chairperson  
Senate Committee on Government Oversight  
Rhode Island Senate  
State House, Room 18  
Providence, RI 02903

Dear Senator Ciccone:

The Bureau of Audits (Bureau) has completed its review of the procurement and construction of the University of Rhode Island's Ocean Science and Exploration Center. Our review initiated at your request was conducted in accordance with Rhode Island General Laws (RIGL) §35-7-3 entitled "Audits performed by the Bureau of Audits" which states in part, "The bureau of audits is authorized to conduct audits of any state department, state agency, or private entity that is a recipient of state funding or state grants."

Subsection (b) of the aforementioned General Law states that, "Within twenty (20) days following the date of the issuance of the final audit report, the head of the department, agency or private entity audited shall respond in writing to each recommendation made in the final audit report..." The findings and recommendations included herein have been discussed with you and the management staff at the University of Rhode Island and the Department of Administration's Division of Purchases and Budget Office, and we have considered all comments in the preparation of our report. Subsequently, management submitted their responses to the audit findings and recommendations, and such responses of the aforementioned agencies are included in this report.

In accordance with RIGL §35-7-3(b), the Bureau may follow up on recommendations included in our reports within one year following the date of issuance of the report.

We thank the officials, capital projects staff and business services staff at the University, as well as the staff of the Department of Administration, Division of Purchases and Budget Office, for working together to resolve findings contained in this report prior to its release.

Respectfully yours,

H. Chris Der Vartanian, CPA  
Chief, Bureau of Audits

## TABLE OF CONTENTS

<b>AUDIT EXECUTIVE SUMMARY.....</b>	<b>1</b>
What the Bureau Found.....	1
<b>INTRODUCTION.....</b>	<b>2</b>
Background.....	2
Audit Objectives, Scope and Methodology .....	4
<b>FINDINGS, RECOMMENDATIONS, AND MANAGEMENT’S RESPONSES.....</b>	<b>5</b>
Key internal controls that might prevent bond fund overspending and ensure a proper accounting for the project were not in place.....	5
Contingency Allowance is not an effective method for managing costs and ensuring transparency.....	8
Amounts recorded as Contingency Allowances exceeded the amount identified in the Purchase Order.. ..	8
Language in the contract implied that the contractor controlled the \$550,000 amount designated as the Contingency Allowance .....	10
Contingency Allowances should not be disclosed in requests for proposals, contract documents, or purchase orders .....	12
<b>APPENDIX A: Draft Prospective Construction Project Change Management Process and Support.....</b>	<b>14</b>
<b>APPENDIX B: Glossary of Terms.....</b>	<b>17</b>
<b>APPENDIX C: Management’s Response.....</b>	<b>19</b>





## Audit Executive Summary

### Why the Bureau Did This Review

The Bureau of Audits (Bureau) performed its review of the procurement and construction of the University of Rhode Island's (URI's) Ocean Science and Exploration Center (OSEC) at the request of the Senate Committee on Government Oversight.

### Background Information

URI's Narragansett Bay Campus is the home of the Graduate School of Oceanography (GSO). OSEC, which is comprised of the Pell Marine Science Library, the National Sea Grant Library and the Inner Space Center, serves as the intellectual center of the GSO.

The Pell Marine Science Library and National Sea Grant Library share the top floor of the OSEC building. The contents of the National Sea Grant Library, however, are not part of the Pell Marine Science Library, and, accordingly, its collections and catalogs are kept separate. The newly expanded Pell Marine Science Library contains one of the nation's most important collections of oceanographic information, including the Narragansett Bay Collection and Bibliography, and the administrative record of the North Cape oil spill. The new facility allows the library to adapt to rapid changes in technologies and in libraries in general.

The Inner Space Center (ISC), located on the lower level, enables researchers and students to monitor, track and disseminate information from oceanographic expeditions. ISC utilizes "telepresence" technology to connect the world to oceanographic exploration projects and to share undersea discovery as it happens.

### What the Bureau Found

#### Our audit resulted in the following findings:

- Key internal controls preventing bond fund overspending were not effective at the Department of Administration (DOA) or the University of Rhode Island (URI). Additionally, neither the Budget Office nor URI performed timely reconciliations that might have identified these errors.
- Accounting records at URI and DOA do not reflect the correct amounts for the total project cost, inclusive of bond issuance costs associated with the OSEC; adjusting entries are required by both agencies.
- Amounts recorded as Contingency Allowances exceeded the Contingency Allowance amount identified in the Purchase Order.
- Contingency Allowance records include a charge that did not meet the definition of a contingency.
- Language in the contract with Gilbane, the general contractor for the OSEC facility, implied that the contractor controlled the \$550,000 amount relative to the Contingency Allowance.
- Amounts identified for contingency allowances should not be disclosed to potential bidders during the bid process. Additionally, the Contingency Allowances should not be included in the contract or purchase order.



## **INTRODUCTION**

### **Background**

#### **Purpose of Ocean Science Exploration Center (OSEC)**

The University of Rhode Island (URI), Narragansett Bay Campus, is the home of the Graduate School of Oceanography (GSO). The OSEC, which is comprised of the Pell Marine Science Library, the National Sea Grant Library and the Inner Space Center, serves as the intellectual center of the GSO.

Prior to the construction of the OSEC, the intellectual resources of the GSO were maintained at the Pell Marine Library, a 14,000 square-foot facility formerly adjacent to the new building. The Pell Marine Library building was dedicated in October 1968, and at the time, was considered to be the leading marine science library in the United States. In 2004, it was determined that the facility required expansion and significant renovations to protect its library collections. URI deemed it to be cost beneficial to replace the Pell Marine Library site with a new 42,365 square-foot, state-of-the-art OSEC facility. The OSEC building was dedicated on June 1, 2009, and the Pell Marine Library was demolished.

#### **Design and Construction of the OSEC**

The design portion of the project was awarded to the architectural firm Burt Hill Kosar Rittelmann Associates, Inc., (Burt Hill) on April 20, 2004. The construction contract was awarded to Gilbane Building Company (Gilbane) on October 12, 2007, and ground was broken for the new facility during October 2007. The OSEC was designed and constructed to be a “green facility” and is a U.S. Department of Energy Silver Certified “Leadership in Energy and Environmental Design” due to its various sustainable features such as reduced energy lighting, low-flow plumbing fixtures, a stormwater infiltration system and its drought-tolerant plantings and no-mow grass species.

#### **Highlights of Building Use**

As noted above, the OSEC is home to the Inner Space Center (ISC), the Pell Marine Science Library, and the National Sea Grant Library. The building also contains laboratories, a central computing facility containing a wireless computer network, and several other educational and administrative facilities. The OSEC has additional features including an electronic classroom and map room.

#### **Library Facilities**

The Pell Marine Science Library and National Sea Grant Library share the top floor of the OSEC building. The contents of the National Sea Grant Library, however, are not part of the Pell Marine Science Library; accordingly, its collections and catalogs are kept

separate.<sup>1</sup> The newly expanded Pell Marine Science Library contains one of the nation's most important collections of oceanographic information, including the Narragansett Bay Collection and Bibliography, and the administrative record of the North Cape oil spill. The new facility allows the library to adapt to rapid changes in technologies and libraries in general.

## Exploration Project

The Inner Space Center, located on the lower level, enables researchers and students to monitor, track and disseminate information from oceanographic expeditions. ISC utilizes "telepresence" technology to connect the world to oceanographic exploration projects and to share undersea discovery as it happens. The ISC facility includes a "mission control" room for use by scientists, engineers and students who are working directly with the exploration ships and teams of researchers onboard. The ISC facility also includes a "production control" room for use by broadcast, education and outreach professionals who create and deliver real-time educational content about the exploration projects.

## Project Cost and Funding Sources

The total cost of the OSEC was \$16,566,390. The facility was primarily financed through the issuance of a \$14 million general obligation bond approved by the voters in November 2004. However, during the course of the project, URI obtained other funding sources which financed desired components of the building. These "add alternate components" were contemplated at the time of the bond referendum, but not included in the original purchase order due to lack of funds. The following is a summary of OSEC's financing:

### Total project cost by funding sources<sup>2</sup>:

Sponsored Programs	\$ 811,286
Unrestricted Funds (URI)	707,003
Restricted Overhead Funds (URI)	659,469
URI Foundation	299,799
RICAP Asset Protection	69,733
General Obligation Bond	<u>14,019,100<sup>3</sup></u>
Total:	<u>\$16,566,390</u>

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<sup>1</sup> Burnett, Alexander (2010) "The History of Senator Clairborne Pell Marine Science Library," *Sci-Tech News*: Vol. 64: Issue 2, Article 4.

<sup>2</sup> Refer to Appendix B – Glossary of Terms, for funding source definitions.

<sup>3</sup> This amount is comprised of the \$13,997,165 of general obligation bond funds, \$22,685 of bond issuance costs less \$750 misallocated permit fee, all of which is explained in the findings and recommendations section of this report.

### **Audit Objectives, Scope and Methodology**

The Bureau, at the request of the Senate Committee on Government Oversight, conducted a limited review of matters relating to the construction of URI's OSEC. This limited review focused on the purchasing process for the OSEC and extent of communications between URI and Department of Administration (DOA), specifically the Division of Purchases, Office of Accounts and Control and the Budget Office. Additionally we reviewed the expenditures for the OSEC and related funding sources in order to determine the final cost of the project and the use and appropriateness of contingency amounts assigned to this contract.

With respect to the above, we evaluated current business policies and procedures, and tested expenditure reports and contractor invoices, including the labor burden and overhead rates. We also assessed compliance with significant bonding covenants, laws and regulations.

The Bureau discussed its findings and recommendations with the Chairman of the Senate Committee on Government Oversight, as well as the officials from URI and DOA's Division of Purchases and Budget Office. We considered comments from each of the aforementioned parties in the preparation of this report. RIGL §35-7-3(b) entitled, "Audits performed by the bureau of audits," states in part that, "Within twenty (20) days following the date of the issuance of the final audit report, the head of the department, agency or private entity audited shall respond in writing to each recommendation made in the final audit report..." Accordingly, DOA and URI management submitted their responses to the audit findings and recommendations, and said responses are included in this report.



## **FINDINGS, RECOMMENDATIONS, AND MANAGERIAL RESPONSES**

### **Key internal controls that might prevent bond fund overspending and ensure a proper accounting for the project were not in place**

As noted in the background section of this report, the OSEC was primarily financed through the issuance of a \$14 million general obligation bond approved by the voters in November 2004. The \$14 million bond approval was inclusive of issuance costs but not interest. General obligation bonds are typically issued (sold) as the need for funding arises, and issuance costs are incurred at each sale/issuance. Often during the course of a capital project, bond sales and related issuance costs span across fiscal years, as was the case with the OSEC. The Budget Office is responsible to account for and monitor total bond fund expenditures, including issuance costs.

During our audit we noted that the total liability for the bond, including issuance costs, was \$14,019,850, \$19,850 greater than the \$14 million that was approved. This error occurred as a result of two separate incidences: (1) a failure to record an adjusting entry for bond issuance costs, and (2) an amount relating to the Department of Environmental Management was incorrectly recorded to the bond account as follows:

(1) The Budget Office has manual, not systematic, budgetary controls intended to prevent bonds from being overspent. This error is apparently a consequence of a year-end closing process that cuts off and records the year-end balance in the bond account at June 30, and transfers the remaining balance to the new fiscal year. The year-end closing process, however, allows for audit adjustments to be made to prior fiscal year account balances up to six months into the new fiscal year. In this instance, a manual prior period adjustment was made to the bond account without a corresponding manual adjustment to the ensuing fiscal year; resulting in an overstatement in subsequent year balances. As a result, bond issuance costs totaling \$19,100, although not material, were overlooked. However, as a result of this audit and the follow up with the Budget Office, this amount was corrected, and no over-expenditure occurred; and (2) a \$750 Department of Environmental Management permitting fee which was unrelated to the OSEC project (fee was for a different URI capital project) was inadvertently recorded by DOA's Office of Accounts and Control in this bond account.

With respect to URI's accounting for this project, its records were understated by \$10,680 of bond issuance costs. Although URI maintained accounting records for the OSEC, like the Budget Office, it did not have controls in place to note that the bond expenditures had exceeded the \$14 million approved bond issue amount. If URI had reconciled the bond account, it might have noted the \$10,680 unrecorded bond issuance cost.

***Finding 1— Key internal controls preventing bond fund overspending were not in place for this project at DOA or URI. Additionally, neither the Budget Office nor URI performed timely reconciliations that might have identified these errors.***



**Recommendations:**

- (a) DOA's Budget Office should strengthen internal controls over the accounting for bond issues and should perform timely (at least quarterly) reconciliations of the bond accounts.
- (b) URI should strengthen controls over bond expenditures by reconciling the activity at least quarterly to prevent overspending of the fund and to accurately track and record the total costs of its capital assets.

**Management's Response (DOA Budget Office):**

Over the last few years our office has been working on several automations to help streamline how we do business. One of those automations relates to the manual controls that we have been using to control bond expenditures in our office. As a result of our review and the review that was done by your office, we have come up with what I [Thomas Mullaney, State Budget Officer] believe is the solution to ensure that overspending on bond accounts will never occur in the future.

There are two parts to this resolution. First, the Budget Office has automated the process of determining the available balances of all bond accounts such that the budget can be updated more efficiently and without much manual intervention. Second, the Budget Office is working with the Controller's Office to place additional controls in the RIFANS system that will reject any expenditure that does not meet both a budget control and a cash control. When this error occurred, there were no cash controls set up in the system. The combination of these two actions will resolve any additional potential overpayments from occurring in the future.

**Management's Response (URI):**

All GO [General Obligation] Bond Capital Project expenditures, which are processed through the State RIFANS system for Agency 086 (URI), are also recorded on the URI PeopleSoft financial system. Expenditures recorded on the two systems are reconciled monthly. Additional OSEC bond issuance costs, \$10,680, were recorded in RIFANS under Agency 085 (Office of Higher Education). URI requested that the State Budget Office correct these cost of issuance expenditures and that the \$10,680 be transferred to Agency 086 in RIFANS. In the future, URI will monitor expenditures posted to Agency 085 to verify if any relate to URI, then request the State Budget Office to process journal entries to correct them in RIFANS.

URI implemented the PeopleSoft Project module for capital projects starting in FY 09. The project module tracks capital expenditures by funding source and compares actual and encumbered costs to budget categories. This module will assist URI in monitoring the total capital project budget for all funds and available balances.

The Office of the Assistant Vice President for Business Services, in consultation with the University Controller's Office and the State Budget Office, will continue to conduct regular reconciliations of active bond-funded capital improvement projects. This reconciliation will encompass all uses of bond funds, including the cost of bond issuance.

***Finding 2 – Accounting records at URI and DOA do not reflect the correct amounts for the total project cost, inclusive of bond issuance costs associated with the OSEC; adjusting entries are required by both agencies.***

**Recommendations:**

- (a) An adjusting journal entry should be made to URI's general ledger prior to fiscal close to record the additional bond issuance costs in the amount of \$10,680.
- (b) An adjusting journal entry of \$750 should be made in the State general ledger (RIFANS) to reclassify this expenditure to the correct capital project and bond fund account.
- (c) URI must reimburse the bond fund \$19,100 for the overage.

With respect to the above recommendations, the Bureau noted that management at URI and DOA made the appropriate adjustments prior to the release of this report.

**Management's Response (DOA Budget Office):**

As for the \$750.00 charge to the incorrect project, our office has developed a Percentage of Completion form that we will be requiring agencies to submit to us on a quarterly basis, for all capital projects. This form includes a list of all expenditures that reconcile to the amount spent and reported in the accounting system each quarter. This report will be reviewed by the budget analyst who will in turn be working with each agency to reconcile the activity of each project.

**Management's Response (URI):**

- (a) An adjusting journal entry in PeopleSoft has been recorded for the additional OSEC bond issuance cost in the amount of \$10,680.
- (b) The University is aware that the State recorded the adjusting journal entry of \$750 in RIFANS for the RIDEM permit fee expense from the OSEC bond to the Center for Biotechnology and Life Sciences Center bond in June 2011.
- (c) The University provided reimbursement to the bond fund for \$19,100 in June 2011.



## **Contingency Allowance is not an effective method for managing costs and ensuring transparency**

There were two contractors that submitted bids for the construction of the OSEC building. Gilbane tendered the lowest bid in the amount of \$12,288,000. In accordance with the bidding process, included in Gilbane's bid was \$550,000 for Owner's Contingency and Allowances (Contingency Allowance). This allowance was intended to be used for unforeseen or unknown costs, was predisclosed to the bidders and added to the bid amount. As a result of including the Contingency Allowance in the purchase order, this amount was effectually preapproved by the Division of Purchases. As long as the funds were used for their intended purpose, URI was not required to provide an Advice of Change<sup>4</sup> to the Division of Purchases, premise being that the amount was contemplated by the contract. However, it was noted that URI had processed internal change orders for all spending related to this Contingency Allowance.

Thus, the Bureau reviewed this Contingency Allowance to determine: (1) whether the amounts expended in the allowance account met the definition of a contingency, and (2) whether a contingency should be part of a contract or purchase order.

### **Amounts recorded as Contingency Allowances exceeded the amount identified in the Purchase Order; there was a charge to the account that did not meet the definition of a contingency**

In our review of the sub-ledger balance of the Contingency Allowance provided by URI, we noted that approximately \$777,509 worth of expenditures was recorded in the Contingency Allowance account and was documented by Change Orders.<sup>5</sup> Within this spending, was a charge for a generator, which included installation cost. This generator was not a valid Contingency Allowance expenditure, in that it was not unforeseen or unknown. It was identified as an "add alternate" in the original bid documents which is a modification, not a Contingency Allowance item, and should have resulted in an Advice of Change. This Advice of Change would have identified the funding sources (other than the Contingency Allowance) and would have been submitted to the Division of Purchases for approval.<sup>6</sup> The fact that some of this expenditure was funded by private donations does not change the concern that the transaction did not meet the definition of a Contingency Allowance item, and, accordingly, should not have been funded by this account.

Also, we noted that URI transferred additional monies into the Contingency Allowance to fund expenditures in excess of the \$550,000 limit as noted below:

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<sup>4</sup> URI defines an "Advice of Change" to be a document that changes the cost or original scope of the contract. Refer to Appendix B.

<sup>5</sup> URI defines "Change Order" to be an internal approval document for allowance items. Refer to Appendix B.

<sup>6</sup> The generator, and related electrical work to install, cost \$162,104. After the work was completed, URI received partial reimbursements from a private donation in the amount of \$100,000 and \$7,000 from the URI Asset Protection Fund which was transferred to the Contingency Allowance. The net amount of \$55,104 was expended via the Contingency Allowance.

### Summary of Transfers and Credits to Contingency Allowance

Transfers from private donations (generator noted above)	\$107,000
Transfers from testing allowance	\$ 77,398
Transfer within the purchase order	\$ 20,000
Cost savings credited to contingency allowance	<u>\$ 23,111</u>
Total transfers/credits increasing contingency allowance:	<u>\$227,509<sup>7</sup></u>

Once the \$550,000 Contingency Allowance per the purchase order had been exhausted, URI should have presented the remaining expenses as Advice of Change documents to the Division of Purchases for approval as these expenses exceeded the contractual limit.

***Finding 3 – Amounts recorded as Contingency Allowances exceeded the amount identified in the Purchase Order.***

#### **Recommendation:**

URI Capital Projects must ensure that allowance costs do not exceed stipulated amounts for Contingency Allowances.

#### **Management's Response (URI):**

The University believes that providing for contingency is an essential requirement for managing unforeseen conditions and responding promptly to address such conditions during the delivery of construction and major renovation projects. Transparency is served by following a fully documented and accountable change authorization process, involving the user agency project manager and project architects and engineers, and the provision of this documentation with the purchasing authority.

During the early course of this project, the University processed a change order to utilize funding designated for the contingency to accept an add-alternate from the original bid. A few months later, the University brought an additional funding source to restore capacity within the contingency allowance and reflected these adjustments in the change order documentation that supported the use of the Contingency Allowance. Change Order No. 18, associated with the first advice of change to the project processed through the Division of Purchases, brought \$100,000 from a restricted funding source and the documentation indicated "add this contingency increase."

The University also identified cost savings from the testing allowance and from beneficial reductions in cost to the base purchase order, which were similarly reflected in the change order documentation associated with the Contingency Allowance. It is understood that such redeployment of funding within the base purchase order should have received express approval by the Division of Purchases. The University agrees moving

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<sup>7</sup> In order to ensure that transactions are transparent and purchasing policies and procedures are followed, these additional contingencies should be approved by the Division of Purchases.



forward they will manage to the level of any project's Contingency Allowances, or seek express approval by the Division of Purchases for any redeployment of funds.

***Finding 4 – Included in the records for the Contingency Allowance account was a charge that did not meet the definition of a contingency.***

**Recommendation:**

URI must refrain from charging non-contingency amounts to the Contingency Allowance account.

**Management's Response (URI):**

In the case of the generator, the University did draw upon the OSEC contingency allowance to lock-in the add alternate price secured during the bid process and later brought new funding to restore a \$100,000 share of that contingency value through an advice of change, processed through Division of Purchases. In the future, contingency allowance will only be employed for unforeseen conditions.

**Language in the contract implied that the contractor controlled the \$550,000 amount designated as the Contingency Allowance**

In our review of the contract with Gilbane, we noted that pursuant to Section 01200, Part 1.03(D) relative to Contingency Allowance, the following language was used:

*At closeout of Contract, funds remaining in Contingency Allowance will be credited to Owner by Change Order.*

This language implied that the contractor (Gilbane) had control over the amount designated as the Contingency Allowance, and at the closeout of the contract the contractor (Gilbane) would return any remaining funds to the Owner (URI).<sup>8</sup>

***Finding 5 – Language in the contract with Gilbane implied that the contractor controlled the \$550,000 amount relative to the Contingency Allowance.***

**Recommendation:**

Language in contracts should be carefully reviewed to ensure that terms are not misleading or ambiguous.

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<sup>8</sup> In reality, Gilbane did not control the Contingency Allowance.



**Management's Response (URI):**

The change authorization process and documentation that the University followed with regard to the commitment of contingency allowance reinforced the fact that the contractor could not access or bill against the contingency allowance without the approval of the URI project manager and Office of the Assistant Vice President for Business Services. The University is presently engaged in a review of its specifications and terms and conditions language associated with the delivery of major construction, built upon the America Institute of Architects standards. The University is presently joining with the Department of Administration in this contract language review and will address this issue as part of that process as is deemed appropriate.

**Management's Response (DOA – Division of Purchases):**

The Division of Purchases and University of Rhode Island are working together to standardize and implement revised language in University construction project solicitations and contracts that eliminate any ambiguity regarding control of owner contingency funds. Towards that end, future solicitations, plans, specifications, and contracts shall eliminate any reference to or disclosure of owner contingency allowances. In addition, Division of Purchases has begun the process of revising standard solicitation language to eliminate references to contingency funds on all state agency public works projects. It is anticipated that a policy memo from the Chief Purchasing Officer will be issued by the end of March, 2012 to all state agencies with specific instructions and guidelines regarding non-disclosure of project contingency fund information.

The Chief Purchasing Officer's guidelines will include a process for identifying and utilizing contingency funds for specific project related purposes. The Division of Purchases will identify the apparent low bidder and will require agencies to request in writing the amount of funding required for project contingency purposes. Agencies will be required to disclose both the amount of the contingency fund and the limitations on its use. The request for contingency funding will be subject to review and approval by the Chief Purchasing Officer. Once a request for contingency funds is approved by the Chief Purchasing Officer, a separate purchase order will be issued from Central Purchasing with specific guidelines for documenting disbursement of the project contingency allowance. Information regarding the separate contingency fund Purchase Order, except for its amounts, will be accessible to the public and will provide detailed documentation submitted by the agency responsible for the project.

In order to better serve the needs of the University and its sister institutions, the Division of Purchases is posting a position for an individual with significant construction management experience whose primary responsibility will be to monitor and process requisitions on Higher Education construction projects.

**Contingency Allowances are disclosed in Requests for Proposals, contract documents, or purchase orders**

The contract with Gilbane included a \$550,000 Contingency Allowance. This amount was disclosed to the bidder and incorporated in the purchase order. Accordingly, URI was not required to provide an Advice of Change to the Division of Purchases with respect to expenditures relating to this Contingency Allowance, premise being that the amount was contemplated by the contract and thus preapproved. However, it was noted that URI prepared internal change orders reflecting express authorization provided by the contract to proceed with work related to the Contingency Allowance.

A construction contingency typically is a predetermined amount or percentage of a contract held for unknown or unforeseen changes to the original scope of work to avoid possible construction delays. Due to such uncertainty, it appears unreasonable to include an amount for such a contingency in the Request for Proposal and/or contract documents because the amount, if any, cannot be reasonably estimated at the time of the bid. If contingencies are removed from contracts, however, they will require timely approval by the Division of Purchases as any delay in processing may impede the progression of the construction project.

***Finding 6 – Amounts identified for Contingency Allowances are disclosed to potential bidders during the bid process. Additionally, the Contingency Allowances are included in the contract or purchase order.***

**Recommendation:**

Eliminate Contingency Allowances in contracts and purchase orders. Such allowances should be estimated based on historical data and a reserve set up for potential, unforeseen circumstances. When such a contingency occurs, an Advice of Change should be sent to the Division of Purchases in a timely manner with adequate documentation supporting the unforeseen circumstance and the cost to remedy the matter. The Division of Purchases should ensure that there is a process for expediting these matters so that valuable time and potential additional costs are not incurred or are at least minimized.

**Management's Response (DOA – Division of Purchases):**

The Department of Administration is in agreement with the Bureau of Audit's recommendation to eliminate contingency allowance language from public works project solicitations, plans, specifications, and contract documents. As set forth in the response to "Finding 5," the Division of Purchases is working with the University to identify efficient and expedited procedures to process change orders which will also provide transparency, accountability for all interested parties and the public.

**Note:** The Division of Purchases worked with the University of Rhode Island to develop its draft "Prospective Construction Project Change Management Process and Support." This continues to be a work in progress which both parties believe will result in implementation of best practices and procedures and a stronger working relationship.



### **Management's Response (URI):**

The University agrees that nondisclosure of a project's construction contingency allowance is beneficial from the perspective of an 'implied' dedication of this funding source to a respective construction purchase order, even though its deployment via change order is expressly subject to signed approval by the project architect of record and the project owner's representative. Nonetheless, the University also sees value in encumbering a construction contingency allowance, possibly on a separate, associated purchase order, that is not shared with the contractor on the project. In this way a change order, for a project that has undergone the necessary due diligence and is accepted at the architect and user agency project management level, can be transmitted to the Division of Purchases electronically for review and approval, and if approved, can trigger the authorization for the non-disclosed purchase order encumbrance to be drawn upon to support progress payments for the associated scope as it is performed by the contractor. The primary advantage of such an arrangement is that it reserves project funding sources for this purpose in one transaction, streamlining and expediting the commitment of reserved funds once the Division of Purchases has approved the documented change order. At the same time, the contractor sees only the value of the work that has been approved by change order. This contrasts with the current method, where, for GO [General Obligation] Bond funding, a series of advices of change would need to be processed for approved change orders through the University, Division of Purchases, State Budget Office, and State Accounts and Control levels, impacting both work load and the timeliness of the completed transaction in support of ongoing construction.

The University has developed a pilot electronic 'project site,' accessible via the web, that would provide current encumbrance and expenditure data for all sources and uses of funds pertaining to a University capital project. This pilot 'project site' has been reviewed with the State Division of Purchases and is being adjusted to meet their preferences. If the Division of Purchases wanted to see the overall fiscal commitment and expenditure status of the capital project associated with one or more change order approval requests, the purchasing agent could access this 'project site' and view that information. The pilot 'project site' also has the capability to serve as a location for posting active change order approval requests to the Division of Purchases and can certainly serve as a progressive record depository for change orders that have already been approved by the Division of Purchases against the construction contingency allowance for reference. The University is working with the Division of Purchases to refine this pilot version and is preparing the 'project site' for a University project that is approaching readiness for construction bidding by the Division of Purchases.

**(Note:** See the enclosed Draft document entitled: "Prospective Construction Project Change Management Process and Support"<sup>9</sup> to review a prospective construction project change management process, with parameters and possible resource constraints that were discussed at a work session between URI and RIDOA staffs on January 25, 2012.)

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<sup>9</sup> Appendix A—Draft Prospective Construction Project Change Management Process and Support

## APPENDIX A

### DRAFT

#### **PROSPECTIVE CONSTRUCTION PROJECT CHANGE MANAGEMENT PROCESS AND SUPPORT**

##### **Goal:**

For the University of Rhode Island (URI) and the RI Department of Administration (DOA) to provide an effective and efficient, professionally supported, accountable and timely process for considering and executing required and justifiable changes to construction contract awards.

Will address required changes within the original scope of a project as awarded (i.e., **unforeseen conditions addressed through the fully documented use of a Contingency Allowance**) in order to avoid consequential impacts from public safety and health, environmental impact, design deficiencies or omissions, disruption of a project's work sequence, extension of a project's schedule, contractor delay, claims and unnecessary increases in project costs.

Will also address justifiable changes to the original construction contract award (i.e., **added or modified scope through fully documented Advices of Change to the contract award**) that are best integrated with the project delivery and in the public interest.

##### **Assumptions:**

The value of a Contingency Allowance will be set at a level that is appropriate for the scale and complexity of the construction project, will be fully encumbered at that value so as to avoid inefficient, incremental processing of individual change orders, and the total value of the Contingency Allowance will not be disclosed to the contractor (either before or after contract award).

Use of Contingency Allowance will be authorized only with the approval of the project owner and the project architect of record with a fully documented AIA form of Change Order and executed through the designated purchasing authority.

An Advice of Change will be initiated only with the approval of the project owner and the architect of record with one or more fully documented AIA form of Change Order(s) and executed through the designated purchasing authority.

##### **Resources/Staffing and Role:**

- An RIDOA assigned purchasing agent (experienced with construction contract delivery) to be on-site at URI, RIC and CCRI no less than three-four days per week



- Paid for by URI, RIC and CCRI
- Will attend job meetings for active construction projects and interact with URI Office of Capital Projects and project management personnel at URI, RIC and CCRI
- Will be informed of emerging unforeseen conditions and/or contemplated Advices of Change and the due diligence associated with their pricing and documentation
- Will communicate the nature and reasons for anticipated changes with the designated purchasing authority
- Will facilitate the prompt assessment and transmittal of change order documentation through the purchasing process
- Where deemed critical to the preservation of the goals referenced above, the assigned purchasing agent may trigger a documented "Construction Change Directive," in consultation with the URI Office of Capital Projects, RIC or CCRI and the designated purchasing authority.
- Such "Construction Change Directive" is a notice to the contractor (and where necessary the project architect of record) to proceed with actions associated with a change, while detailed scope and associated pricing are being developed for review and acceptance prior to their incorporation into the documented change order signed by the project owner, project architect and contractor.

**Transparency:**

- Presence of the assigned purchasing agent at URI, RIC or CCRI construction job meetings regarding emerging issues and required actions
- Close involvement of the assigned purchasing agent in the change order documentation assembly and review process
- Use of SAKAI, or other online means, for posting of project status, funding commitments and sequential change order documentation associated with previous and current use of Contingency Allowance and/or Advices of Change
- Full documentation of all contract change actions throughout the purchasing and project management process through completion for ongoing or post-project review

**Contingency Allowance:**

- Separate encumbrance from the project construction purchase order to be established at the same time as the construction contract award for internal use only during the project delivery period
- Allowances may be established by the project owner within, but expressly identified within the purchase order, for such items as testing, floor coverings, window treatments and fixed technology at the time of project award and only accessed with the express approval of the project owner
- The value of the Contingency Allowance will not be disclosed to the contractor before or during the construction delivery period



- The Contingency encumbrance will be reduced as change orders are submitted for use of contingency.
- “Construction Change Directive” activated by agreement by URI, RIC or CCRI and RIDOA
  - Common practice in the industry
    - State of Colorado, California State University, et.al.
    - Sample of “Emergency” definitions:
      - An immediate threat to life and/or property, or when the potential for delays in processing a standard change order will result in substantial delays and/or increases to the cost of the project.
      - When immediate action is required to avoid a serious work stoppage, delay and/or extra costs.

**Office of the Assistant Vice President for Business Services  
University of Rhode Island**

**January 25, 2012**

## APPENDIX B

### Glossary of Terms

#### Funding Sources

*Sponsored Program* – Restricted grant awards from either federal or state agencies. These awards require a specific outcome attached to the grant; for example, completion of specific technological improvement. Federal sponsored program grants are subject to audit by the respective federal agency. Sponsored programs are audited by the external auditor in accordance with Office of Management and Budget A-133.

*Unrestricted Funds*– The sources of these general funds are student tuition, fees and state appropriations. The University may use these funds to support their mission and higher education.

*Restricted Overhead Funds* – Overhead funds are revenue generated from charging the approved Facility & Administration Rate (Indirect Cost) based upon Sponsored Grant expenditures. A percentage of the overhead revenue is then allocated to the Deans/College based upon the indirect cost charged to their sponsored grants.

*Unrestricted Self-Supported Funds* – Self-supporting programs are unrestricted accounts that record revenue and expenditures related to Education and General (E&G) activities. They are deemed self-supporting because the revenue must support the direct and indirect costs related to the programs. The use of these funds is for the support, maintenance and development of the self-supporting activity generating the revenue in the fund. Expenditures are restricted to those necessary to fund the activities that generate the revenue. Self-supporting funds cannot be created to receive revenue that has its offsetting expenditures paid from appropriated or other URI funds. Also, self-supporting funds cannot be generated or used by units for discretionary purposes.

*URI Foundation* – The URI Foundation exists solely to benefit URI by administering and overseeing the full scope of charitable fundraising activities which generates a significant level of support each year, providing vital scholarship, faculty and program funding. Funds are restricted by the donor or by the Foundation (e.g., Capital Campaign).

#### Contractual Change Documents

*Advice of Change* – Documentation of a change (increase or decrease) to the agreed upon bid specification or cost as defined in the Purchase Order. This document requires signature/approval of the Contractor, Architect, URI Office of Capital Projects, the respective funding authority, and DOA's Division of Purchases' signature/approval. In those cases the actual document which URI receives from DOA's Division of Purchases are either issued as (1) an Agreement Amendment–when it is a Contract Purchase

Agreement or (2) a Purchase Order Change Order—if the initial Purchase Order was issued as a Standard Purchase Order.

*Change Order* - This is an internal document to the URI Office of Capital Projects (OCP) of an established allowance account or substitution to a contract item which does not result in a change to the agreed upon bid specification or Purchase Order value. It requires the signature/approval of the Contractor, Architect and the Director of OCP. The standard format utilized by URI is the American Institute of Architects (AIA) G701.

## **APPENDIX C: Management's Response**



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration  
BUDGET OFFICE  
One Capitol Hill  
Providence, R.I. 02908-5886

March 21, 2012

H. Chris DerVartanian, CPA  
Chief of the Bureau of Audits  
One Capital Hill  
Providence, R.I. 02903

Dear Mr. DerVartanian:

Please accept this letter as my formal response to the Audit finding related to the URI Ocean Science and Exploration Center audit. Over the last few years our office has been working on several automations to help streamline how we do business. One of those automations relates to the manual controls that we have been using to control bond expenditures in our office. As a result of our review and the review that was done by your office we have come up with what I believe is the solution to ensure that over spending on bond account will never occur in the future.

There are two parts to this resolution. First the Budget Office has automated the process of determining the available balances of all bond accounts such that the budget can be update more efficiently and without much manual intervention. Second the Budget Office is working with the Controllers Office to place additional controls in the RIFANS system that will reject any expenditure that does not meet both a budget control and a cash control. When this error occurred there were no cash controls set up in the system. The combination of these two actions will resolve any additional potential overpayments from occurring in the future.

As for the \$750.00 charge to the incorrect project, our office has developed a Percentage of Completion form that we will be requiring agencies to submit to us on a quarterly basis, for all capital projects. This form includes a list of all expenditures that reconcile to the amount spent and reported in the accounting system each quarter. This report will be reviewed by the budget analyst who will in turn be working with each agency to reconcile the activity of each project.

As always if you are in need of any further information or have any questions do not hesitate to contact me.

Respectfully yours,

Thomas A. Mullaney  
Executive Director/State Budget Officer

TAM:sma12-22

TDD#: 277-1227



THE  
UNIVERSITY  
OF RHODE ISLAND  
DIVISION OF  
ADMINISTRATION  
AND FINANCE

BUSINESS SERVICES

210 Flagg Road, Suite 208, Kingston, RI 02881 USA p: 401.874.2501 f: 401.874.5959 uri.edu/businessservices

THINK BIG WE DO™



March 5, 2012

H. Chris Der Vartanian, CPA  
Chief Auditor, Bureau of Audits  
State of Rhode Island  
Department of Administration  
One Capitol Hill  
Providence, RI 02903

**Subject: Formal University of Rhode Island Management Response to the Final Draft Audit of URI's Ocean Science and Exploration Center**

Dear Mr. Der Vartanian:

The University of Rhode Island appreciates this opportunity to reply formally to the final draft of the Audit of URI's Ocean Science and Exploration Center, distributed on February 15, 2012. I have anticipated that the URI Management Responses will be inserted into the text of the final Audit document, so I have limited the referenced from that document to the "Findings" and "Recommendations." The University's responses are provided below.

**FINDINGS, RECOMMENDATIONS, AND URI MANAGEMENT'S RESPONSES**

*Finding 1-Key internal controls preventing bond fund overspending were not in place for this project at DOA or URI. Additionally, neither the Budget Office nor URI performed timely reconciliations that, if such were in place, might have identified these errors.*

**Recommendations:**

- (a) DOA's Budget Office should strengthen internal controls over the accounting for bond issues and should perform timely (at least quarterly) reconciliations of the bond accounts.
- (b) URI should strengthen controls over bond expenditures by reconciling the activity at least quarterly to prevent overspending of the fund and to accurately track and record the total costs of its capital assets.

**Management's Response (URI):**

All GO Bond Capital Project expenditures, which are processed through the State RIFANS system for Agency 086 (URI) are also recorded on the URI PeopleSoft financial system. Expenditures recorded on the two systems are reconciled monthly. Additional OSEC bond issuance costs, \$10,680, were recorded

in RIFANS under agency 085 (Office of Higher Education). URI requested that the State Budget Office correct these cost of issuance expenditures and that the \$10,680 be transferred to Agency 086 in RIFANS. In the future, URI will monitor expenditures posted to Agency 085 to verify if any relate to URI, then request the State Budget Office to process journal entries to correct them in RIFANS.

URI implemented the PeopleSoft Project module for capital projects starting in FY09. The project module tracks capital expenditures by funding source and compares actual and encumbered cost to budget categories. This module will assist URI in monitoring the total capital project budget for all funds and available balances.

The Office of the Assistant Vice President for Business Services, in consultation with the University Controller's Office and the State Budget Office will continue to conduct regular reconciliations of active bond-funded capital improvement projects. This reconciliation will encompass all uses of bond funds, including the cost of bond issuance.

***Finding 2 -Accounting records at URI and DOA do not reflect the correct amounts for the total project cost, inclusive of bond issuance costs associated with the OSEC; adjusting entries are required by both agencies.***

**Recommendations:**

- (a) An adjusting journal entry should be made to URI's general ledger prior to fiscal close to record the additional bond issuance costs in the amount of \$10,680.
- (b) An adjusting journal entry of \$750 should be made in RIFANS to reclassify this expenditure to the correct capital project and bond fund account.
- (c) URI must reimburse the bond fund \$19,100 for the overage.

*With respect to the above recommendations, the Bureau noted that management at URI and DOA made the appropriate adjustments prior to the release of this report.*

**Management's Response (URI):**

- (a) An adjusting journal entry in PeopleSoft has been recorded for the additional OSEC bond issuance costs in the amount of \$10,680.
- (b) The University is aware that the State recorded the adjusting journal entry of \$750 in RIFANS for the RIDEM permit fee expense from the OSEC bond to the Center for Biotechnology and Life Sciences Center bond in June 2011.
- (c) The University provided reimbursement to the bond fund for \$19,100 in June 2011.

***Finding 3 -Amounts recorded as Contingency Allowances exceeded the amount identified in the Purchase Order.***

**Recommendations:**

URI Capital Projects must ensure that allowance costs do not exceed stipulated amounts for Contingency Allowances.

**Management's Response (URI):**

The University believes that providing for contingency is an essential requirement for managing unforeseen conditions and responding promptly to address such conditions during the delivery of construction and major renovation projects. Transparency is served by following a fully documented and accountable change authorization process, involving the user agency project manager and project architects and engineers, and the provision of this documentation with the purchasing authority.

During the early course of this project, the University processed a change order to utilize funding designated for the contingency to accept an add-alternate from the original bid. A few months later, the University brought an additional funding source to restore capacity within the contingency allowance and reflected these adjustments in the change order documentation that supported the use of the Contingency Allowance. Change Order # 18, associated with the first advice of change to the project processed through the Division of Purchases brought \$100,000 from a restricted funding source and the documentation indicated "add this contingency increase."

The University also identified cost savings from the testing allowance and from beneficial reductions in cost to the base purchase order, which were similarly reflected in the change order documentation associated with the Contingency Allowance. It is understood that such redeployment of funding within the base purchase order should have received express approval by the Division of Purchases. The University agrees moving forward they will manage to the level of any project's Contingency Allowances, or seek express approval by the Division of Purchases for any redeployment of funds.

*Finding 4 -Included in the records for the Contingency Allowance account was a charge that did not meet the definition of a contingency.*

**Recommendations:**

URI must refrain from charging non-contingency amounts to the Contingency Allowance account.

**Management's Response (URI):**

In the case of the generator, the University did draw upon the OSEC contingency allowance to lock-in the add alternate price secured during the bid process and later brought new funding to restore a \$100,000 share of that contingency value through an advice of change, processed through Division of Purchases. In the future, contingency allowance will only be employed for unforeseen conditions.

*Finding 5 -Language in the contract with Gilbane implied that the contractor controlled the \$550,000 amount relative to the Contingency Allowance.*

**Recommendation:**

Language in contracts should be carefully reviewed to ensure that terms are not misleading or ambiguous.



#### **Management's Response (URI):**

The change authorization process and documentation that the University followed with regard to the commitment of contingency allowance reinforced the fact that the contractor could not access or bill against the contingency allowance without the approval of the URI project manager and Office of the Assistant Vice President for Business Services. The University is presently engaged in a review of its specifications and terms and conditions language associated with the delivery of major construction, built upon the America Institute of Architects standards. The University is presently joining with the Department of Administration in this contract language review and will address this issue as part of that process as is deemed appropriate.

*Finding 6 -Amounts identified for Contingency Allowances should not be disclosed to potential bidders during the bid process. Additionally, the Contingency Allowances should not be included in the contract or purchase order.*

#### **Recommendation:**

Eliminate Contingency Allowances in contracts and purchase orders. Such allowances should be estimated based on historical data and a reserve set up for potential, unforeseen circumstances. When such a contingency occurs, a change order should be sent to the Division of Purchases in a timely manner with adequate documentation supporting the unforeseen circumstance and the cost to remedy the matter. The Division of Purchases should ensure that there is a process for expediting these matters so that valuable time and potential additional costs are not incurred or are at least minimized.

#### **Management's Response (URI):**

The University agrees that non-disclosure of a project's construction contingency allowance is beneficial from the perspective of an 'implied' dedication of this funding source to a respective construction purchase order, even though its deployment via change order is expressly subject to signed approval by the project architect of record and the project owner's representative. Nonetheless, the University also sees value in encumbering a construction contingency allowance, possibly on a separate, associated purchase order, that is not shared with the contractor on the project. In this way a change order, for a project that has undergone the necessary due diligence and is accepted at the architect and user agency project management level, can be transmitted to the Division of Purchases electronically for review and approval, and if approved, can trigger the authorization for the non-disclosed purchase order encumbrance to be drawn upon to support progress payments for the associated scope as it is performed by the contractor. The primary advantage of such an arrangement is that it reserves project funding sources for this purpose in one transaction, streamlining and expediting the commitment of reserved funds once the Division of Purchases has approved the documented change order. At the same time, the contractor sees only the value of the work that has been approved by change order. This contrasts with the current method, where, for GO Bond funding, a series of advices of change would need to be processed for approved change orders through the University, Division of Purchases, State Budget Office, and State Accounts and Controls levels, impacting both work load and the timeliness of the completed transaction in support of ongoing construction.

The University has developed a pilot electronic 'project site', accessible via the web, that would provide current encumbrance and expenditure data for all sources and uses of funds pertaining to a University capital project. This pilot 'project site' has been reviewed with the State Division of Purchases and is being adjusted to meet their preferences. If the Division of Purchases wanted to see the overall fiscal commitment and expenditure status of the capital project associated with one or more change order approval requests, the purchasing agent could access this 'project site' and view that information. The pilot 'project site' also has the capability to serve as a location for posting active change order approval requests to the Division of Purchases and can certainly serve as a progressive record depository for change orders that have already been approved by the Division of Purchases against the construction contingency allowance for reference. The University is working with the Division of Purchases to refine this pilot version and is preparing the 'project site' for a University project that is approaching readiness for construction bidding by the Division of Purchases.

(Note: See the enclosed Draft document entitled: "Prospective Construction Project Change Management Process and Support" to review a prospective construction project change management process, with parameters and possible resource constraints that were discussed at a work session between URI and RIDOA staffs on January 25, 2012.)

The University of Rhode Island appreciates having the opportunity by the Bureau of Audits to provide our responses to the Audit's recommendations as an integral part of the final published document. If there are any further questions or suggestions with respect to the on-line documentation and the prospective construction change management process referred to above, I am available to coordinate the University's response.

Sincerely,



J. Vernon Wyman  
Assistant Vice President for Business Services  
University of Rhode Island

cc: David M. Dooley  
Robert A. Weygand  
Sharon Bell  
Betty Gil  
Paul DePace  
Lou Saccoccio  
Lorraine Hynes  
Kenneth C. Kirsch

Enclosure

## DRAFT

### PROSPECTIVE CONSTRUCTION PROJECT CHANGE MANAGEMENT PROCESS AND SUPPORT

#### **Goal:**

For the University of Rhode Island (URI) and the RI Department of Administration (DOA) to provide an effective and efficient, professionally-supported, accountable, and timely process for considering and executing required and justifiable changes to construction contract awards.

Will address required changes within the original scope of a project as awarded (i.e. **unforeseen conditions addressed through the fully documented use of a Contingency Allowance**) in order to avoid consequential impacts from public safety and health, environmental impact, design deficiencies or omissions, disruption of a project's work sequence, extension of a project's schedule, contractor delay claims, and unnecessary increases in project costs.

Will, also, address justifiable changes to the original construction contract award (i.e. **added or modified scope addressed through fully documented Advices of Change to the contract award**) that are best integrated with the project delivery and in the public interest

#### **Assumptions:**

The value of a Contingency Allowance will be set at a level that is appropriate for the scale and complexity of the construction project, will be fully encumbered at that value so as to avoid inefficient, incremental processing of individual change orders, and the total value of the Contingency Allowance will not be disclosed to the contractor (either before or after contract award).

Use of Contingency Allowance will be authorized only with the approval of the project owner and the project architect of record with a fully documented AIA form of Change Order and executed through the designated purchasing authority.

An Advice of Change will be initiated only with the approval of the project owner and the architect of record with one or more fully documented AIA form of Change Order(s) and executed through the designated purchasing authority.

#### **Resources/staffing and role:**

- An RIDOA assigned purchasing agent (experienced with construction contract delivery) to be on-site at URI, RIC and CCRI no less than 3-4 days per week
- Paid for by URI, RIC and CCRI
- Will attend job meetings for active construction projects and interact with URI Office of Capital Projects and project management personnel at URI, RIC and CCRI
- Will be informed of emerging unforeseen conditions and/or contemplated advices of change and the due diligence associated with their pricing and documentation



## DRAFT

- Will communicate the nature and reasons for anticipated changes with the designated purchasing authority
- Will facilitate the prompt assessment and transmittal of change order documentation through the purchasing process.
- Where deemed critical to the preservation of the goals referenced above, the assigned purchasing agent may trigger a documented "Construction Change Directive," in consultation with the URI Office of Capital Projects, RIC or CCRI and the designated purchasing authority.
- Such "Construction Change Directive" is a notice to the contractor (and where necessary the project architect of record) to proceed with actions associated with a change, while detailed scope and associated pricing are being developed for review and acceptance prior to their incorporation into the documented change order signed by the project owner, project architect, and contractor.

### **Transparency:**

- Presence of the assigned purchasing agent at URI, RIC or CCRI construction job meetings regarding emerging issues and required actions
- Close involvement of the assigned purchasing agent in the change order documentation assembly and review process
- Use of SAKAI, or other on-line means, for posting of project status, funding commitments, and sequential change order documentation associated with previous and current use of Contingency Allowance and/or Advices of Change
- Full documentation of all contract change actions throughout the purchasing and project management process through completion for ongoing or post-project review

### **Contingency Allowance:**

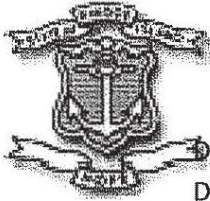
- Separate encumbrance from the project construction purchase order to be established at the same time as the construction contract award for internal use only during the project delivery period
- Allowances may be established by the project owner within, but expressly identified within the purchase order, for such items as testing, floor coverings, window treatments, and fixed technology at the time of project award and only accessed with the express approval of the project owner
- The value of the Contingency Allowance will not be disclosed to the contractor before or during the construction delivery period
- The Contingency encumbrance will be reduced as change orders are submitted for use of contingency.

## DRAFT

- “Construction Change Directive” activated by agreement by URI, RIC or CCRI and RIDOA
  - Common practice in the industry
    - State of Colorado, California State University, et al
    - Sample of “Emergency” definitions:
      - An immediate threat to life and/or property, or when the potential for delays in processing a standard change order will result in substantial delays and/or increases to the cost of the project.
      - When immediate action is required to avoid a serious work stoppage, delay, and/or extra costs.

Office of the Assistant Vice President for Business Services  
University of Rhode Island

January 25, 2012



**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

Department of Administration  
DIVISION OF PURCHASES  
One Capitol Hill  
Providence, RI 02908-5855

Tel: (401) 574-8100  
Fax: (401) 574-8387  
Website: [www.purchasing.ri.gov](http://www.purchasing.ri.gov)

March 9, 2012

H. Chris DerVartanian, CPA  
Chief Auditor, Bureau of Audits  
Rhode Island Department of Administration  
One Capitol Hill  
Providence, RI 02903

**Re: University of Rhode Island-Ocean  
Science and Exploration Center Audit Report**

Dear Mr. DerVartanian:

I am writing on behalf of the Department of Administration, Division of Purchases in response to the Bureau of Audit's February 15, 2012, report on the audit of the Ocean Science and Exploration Center project. The Division of Purchases concurs with the Bureau of Audit's findings and responds to its recommendations as follows:

**FINDINGS, RECOMMENDATIONS, AND MANAGEMENT RESPONSES**

- **Key internal controls that might prevent bond fund overspending and ensure a proper accounting for the projects were not in place.**

***Finding 5 – Language in the contract with Gilbane implied that the contractor controlled the \$550,000 amount relative to the Contingency Allowance.***

**RECOMMENDATIONS:**

Language in contracts should be carefully reviewed to ensure that terms are not misleading or ambiguous.

**Management Response (DOA – Division of Purchases):**

The Division of Purchases and University of Rhode Island are working together to standardize and implement revised language in University construction project solicitations and contracts that eliminate any ambiguity regarding control of owner contingency funds. Towards that end, future solicitations, plans, specifications, and contracts shall eliminate any reference to or disclosure of owner contingency allowances. In addition, the Division of Purchases has begun the process of



revising standard solicitation language to eliminate references to contingency funds on all state agency public works projects. It is anticipated that a policy memo from the Chief Purchasing Officer will be issued by the end of March, 2012 to all state agencies with specific instructions and guidelines regarding non-disclosure of project contingency fund information.

The Chief Purchasing Officer's guidelines will include a process for identifying and utilizing contingency funds for specific project related purposes. The Division of Purchases will identify the apparent low bidder and will require agencies to request in writing the amount of funding required for project contingency purposes. Agencies will be required to disclose both the amount of the contingency fund and the limitations on its use. The request for contingency funding will be subject to review and approval by the Chief Purchasing Officer. Once a request for contingency funds is approved by the Chief Purchasing Officer, a separate Purchase Order will be issued from Central Purchasing with specific guidelines for documenting disbursement of the project contingency allowance. Information regarding the separate contingency fund Purchase Order, except for its amounts, will be accessible to the public and will provide detailed documentation submitted by the agency responsible for the project.

In order to better serve the needs of the University and its sister institutions, the Division of Purchases is posting a position for an individual with significant construction management experience whose primary responsibility will be to monitor and process requisitions on Higher Education construction projects.

- **Contingency Allowances should not be disclosed in Requests for Proposals, contract documents, or purchase orders.**

***Finding 6 – Amounts identified for Contingency Allowances should not be disclosed to potential bidders during the bid process. Additionally, the Contingency Allowances should not be included in the contract or purchase order.***

**RECOMMENDATIONS:**

Eliminate Contingency Allowances in contracts and purchase orders. Such allowances should be estimated based on historical data and a reserve set up for potential, unforeseen circumstances. When such a contingency occurs, a change order should be sent to the Division of Purchases in a timely manner with adequate documentation supporting the unforeseen circumstance and the cost to remedy the matter. The Division of Purchases should ensure that there is a process for expediting these matters so that valuable time and potential additional costs are not incurred or are at least minimized.

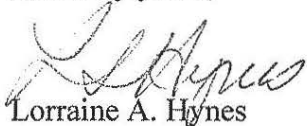
**Management Response (DOA – Division of Purchases):**

The Department of Administration is in agreement with the Bureau of Audit's recommendation to eliminate contingency allowance language from public works project solicitations, plans, specifications, and contract documents. As set forth in the response to "Finding 5," the Division of Purchases is working with the University to identify efficient and expedited procedures to process change orders which will also provide transparency, accountability for all interested parties and the public...

Note: The Division of Purchases worked with the University of Rhode Island to develop its draft "Prospective Construction Project Change Management Process and Support." This continues to be a work in progress which both parties believe will result in implementation of best practices and procedures and a stronger working relationship.

Thank you for bringing the Bureau of Audit's findings and recommendations to our attention. If you have any further recommendations or questions regarding the Division of Purchases responses set forth herein, then do not hesitate to contact me.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "L. Hynes".

Lorraine A. Hynes

Purchasing Agent

cc: Richard Licht, Director  
Kenneth Kirsch  
J. Vern Wyman, URI  
Paul DePace, URI  
Michael Mitchell, Esq.  
Lou Saccoccio, Esq.

## DRAFT

### **PROSPECTIVE CONSTRUCTION PROJECT CHANGE MANAGEMENT PROCESS AND SUPPORT**

#### **Goal:**

For the University of Rhode Island (URI) and the RI Department of Administration (DOA) to provide an effective and efficient, professionally-supported, accountable, and timely process for considering and executing required and justifiable changes to construction contract awards.

Will address required changes within the original scope of a project as awarded (i.e. **unforeseen conditions addressed through the fully documented use of a Contingency Allowance**) in order to avoid consequential impacts from public safety and health, environmental impact, design deficiencies or omissions, disruption of a project's work sequence, extension of a project's schedule, contractor delay claims, and unnecessary increases in project costs.

Will, also, address justifiable changes to the original construction contract award (i.e. **added or modified scope addressed through fully documented Advices of Change to the contract award**) that are best integrated with the project delivery and in the public interest

#### **Assumptions:**

The value of a Contingency Allowance will be set at a level that is appropriate for the scale and complexity of the construction project, will be fully encumbered at that value so as to avoid inefficient, incremental processing of individual change orders, and the total value of the Contingency Allowance will not be disclosed to the contractor (either before or after contract award).

Use of Contingency Allowance will be authorized only with the approval of the project owner and the project architect of record with a fully documented AIA form of Change Order and executed through the designated purchasing authority.

An Advice of Change will be initiated only with the approval of the project owner and the architect of record with one or more fully documented AIA form of Change Order(s) and executed through the designated purchasing authority.

#### **Resources/staffing and role:**

- An RIDOA assigned purchasing agent (experienced with construction contract delivery) to be on-site at URI, RIC and CCRI no less than 3-4 days per week
- Paid for by URI, RIC and CCRI
- Will attend job meetings for active construction projects and interact with URI Office of Capital Projects and project management personnel at URI, RIC and CCRI
- Will be informed of emerging unforeseen conditions and/or contemplated advices of change and the due diligence associated with their pricing and documentation



## DRAFT

- Will communicate the nature and reasons for anticipated changes with the designated purchasing authority
- Will facilitate the prompt assessment and transmittal of change order documentation through the purchasing process.
- Where deemed critical to the preservation of the goals referenced above, the assigned purchasing agent may trigger a documented "Construction Change Directive," in consultation with the URI Office of Capital Projects, RIC or CCRI and the designated purchasing authority.
- Such "Construction Change Directive" is a notice to the contractor (and where necessary the project architect of record) to proceed with actions associated with a change, while detailed scope and associated pricing are being developed for review and acceptance prior to their incorporation into the documented change order signed by the project owner, project architect, and contractor.

### **Transparency:**

- Presence of the assigned purchasing agent at URI, RIC or CCRI construction job meetings regarding emerging issues and required actions
- Close involvement of the assigned purchasing agent in the change order documentation assembly and review process
- Use of SAKAI, or other on-line means, for posting of project status, funding commitments, and sequential change order documentation associated with previous and current use of Contingency Allowance and/or Advices of Change
- Full documentation of all contract change actions throughout the purchasing and project management process through completion for ongoing or post-project review

### **Contingency Allowance:**

- Separate encumbrance from the project construction purchase order to be established at the same time as the construction contract award for internal use only during the project delivery period
- Allowances may be established by the project owner within, but expressly identified within the purchase order, for such items as testing, floor coverings, window treatments, and fixed technology at the time of project award and only accessed with the express approval of the project owner
- The value of the Contingency Allowance will not be disclosed to the contractor before or during the construction delivery period
- The Contingency encumbrance will be reduced as change orders are submitted for use of contingency.

## DRAFT

- “Construction Change Directive” activated by agreement by URI, RIC or CCRI and RIDOA
  - Common practice in the industry
    - State of Colorado, California State University, et al
    - Sample of “Emergency” definitions:
      - An immediate threat to life and/or property, or when the potential for delays in processing a standard change order will result in substantial delays and/or increases to the cost of the project.
      - When immediate action is required to avoid a serious work stoppage, delay, and/or extra costs.

**Office of the Assistant Vice President for Business Services  
University of Rhode Island**

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