

**CAPITAL
PROFESSIONAL SERVICES CONSULTANT (PSC)**

**ERROR AND OMISSION POLICY
University of Illinois**

Effective January 2024

University Policy Statement: *The policy and procedures of the University of Illinois System require that a Professional Services Consultant's (PSC)'s performance on a project be reviewed and damages assessed when the cumulative value of change orders due to PSC Errors and/or 30% of PSC Omissions is equal to or exceeds 3% of the original construction bids.*

- *Modification: Neither this policy nor its process may be modified without the prior written approval of the University Office of Capital Programs.*

Background:

In accordance with University Policy design errors and omissions that exceed minor levels on a project merit a review of the PSC's performance and possible recovery of University cost due to the errors and omissions. PSC error and omission are defined as follows:

- PSC Error is defined as a change in buildings/systems design, detailing, or documentation in the contract documents that requires repurchase of materials, reconstruction of work in place, or revisions during the construction/warranty process to make the project work properly and that is the result from incorrect information or a lack of information. (See Appendix A for examples)
- PSC Omission is defined as a change or that portion of a change in buildings/systems design that could/should have been included initially in the contract documents and that does not require repurchase of materials or reconstruction of work in place and that is the result from incorrect information or a lack of information. (See Appendix A for examples).
- Exception: Costs due to programmatic changes made after completion of the bid documents, user changes, staff changes scope, or unforeseeable conditions are not considered an error or omission. Costs to comply with codes or standards that changed after issuance of the bid documents are not considered an error or omission. Delivery or schedule changes are not considered an error or omission except when they result from an error or omission.

The University of Illinois has determined allowable acceptable limits for error and omission change orders that are acceptable without prejudice to the PSC, and require neither an assessment nor waiver of any assessment by the Project Manager (PM).

On projects where the criteria are met, the Campus Construction Unit (CCU) representative(s) shall either:

1. Assess the PSC the cost of the PSC Error change orders that they are directly responsible for that exceeds the allowable limits. Assess the PSC 30% of the PSC Omission change orders that exceed the allowable limits.

This shall be accomplished by a modification to the PSC contract; and, if included as part of a final modification, the assessed amount shall be clearly shown in the calculations on the modifications. (See Appendix B for example); or

2. Waive the assessment. Waivers of any or all assessment(s) shall be documented in writing and indicate the factors that support the waiver of the assessment.
3. Based on the amount of the assessment above, approval of the assessment or waiver shall be as follows:

Assistant Vice President for Capital Programs and Utility Services	No Limit
Director of Capital Programs	Up to \$30,000
PM/CCU Representative	Up to \$ 5,000

Procedures:

1. It is the PM's responsibility to classify all change orders. The PM shall consult with the CCU representative(s) and the project team as appropriate for determining the classification. The PM shall indicate on the Construction Contract Change Order form (See Appendix C) the appropriate classification.
2. The PM shall consider the PSC's overall performance and the complexity of the project, when making determination and/or recommendations on any waiver requests. Any error or omission classification disputes between the PSC and PM/CCU representatives may be changed with the written approval of the UIC Vice Chancellor for Administration, UIUC Executive Director of Facilities and Services, or UIS Associate Chancellor of Administrative Affairs.
3. Prior to the PSC's final payment and as part of the PSC's contract close out package, the PM shall initiate a memorandum documenting the disposition of any and all assessments on projects that exceeded the error and/or omission limits. This memorandum shall in all instances be submitted to, and if applicable, approved by, both the Assistant Vice President for Capital Programs and Utility Services and the respective campus representative as follows: University of Illinois Chicago Vice Chancellor for Administration, University of Illinois Urbana-Champaign Executive Director of Facilities and Services, or University of Illinois Springfield Associate Chancellor of Administrative Affairs and state the amount to be assessed or waived.
4. The PSC shall be notified of any assessment by the PM prior to the final close out of the contract. Assessments shall be incorporated by a modification to the contract and the amount assessed clearly noted.

5. The PSC may appeal the assessment to the UIC Vice Chancellor for Administrative Services, the UIS Associate Vice Chancellor of Facilities and Services, or the UIUC Associate Vice Chancellor and Executive Director of Facilities and Services upon notification from the PM of the pending modification to the contract.
6. A copy of the final PSC contract modification showing the assessment was either executed, or a memorandum from the PM indicating the approval of a waiver of the assessment, shall be included with the final voucher.
7. The PM shall use the University financial tracking software to monitor PSC error and omission change orders to ensure potential assessments do not exceed PSC contract funding.
8. PSC error and omission may affect the PSC performance evaluation.

Policy Statement: All firms including sub-consultants, selected under the QBS Act, shall be formally evaluated at the conclusion of all projects. The results of the evaluation shall be given to firms evaluated and each firm shall have an opportunity to respond in writing. Firms may be evaluated at interim milestones, and the evaluation shared with the firms. All evaluations and responses from the firms shall be kept on file, and not made available to persons or firms outside the University. The QBS Act specifically exempts these evaluations and responses from the Freedom of Information Act (FOIA).

Evaluations by the CCUs resulting in less than acceptable performance plus any imposed assessments shall be forwarded for informational purposes to the University of Illinois System Office of Capital Programs.

Appendix A – PSC Error and Omission Examples

The following examples are intended for illustrative purposes only and shall not be deemed an inclusive list of PSC Errors and/or Omissions. Any determination(s) as to whether Errors and/or Omissions exist shall be made in accordance with the Error and Omission Policy and such determination(s) shall in no way be governed by the examples contained in this Appendix.

PSC Error: PSC Error is defined as a change in buildings/systems design, detailing, or documentation in the contract documents that requires repurchase of materials, reconstruction of work in place, or revisions during the construction/warranty process to make the project work properly and that is the result from incorrect information or a lack of information.

Example (1): Steel has been fabricated in accordance with contract documents and approved shop drawings but it is determined that the steel will not meet the functional requirements of the project. The cost to re-fabricate or replace the steel is considered an error.

Example (2): A partition has been constructed and it is later determined that it should have been specified with a fire rating. The cost to remove and reconstruct the partition or any portion or components of the partition is considered an error.

Example (3): A change to the MEP system(s) that requires reorder of materials or reconstruction of work in place. The cost of reordered materials of any restock value and the cost to reconstruct work in place are considered errors.

Example (4): The cost to accelerate the work if the change impacts the critical path and will delay completion of the project past the established completion date is considered an error.

PSC Omission: PSC Omission is defined as a change or that portion of a change in buildings/systems design that could/should have been included initially in the contract documents and that does not require repurchase of materials or reconstruction of work in place and that is the result from incorrect information or a lack of information.

Example (1): It is determined that the steel, if fabricated in accordance with contract documents and prepared shop drawings will not meet the functional requirements of the project. Any and all costs related to reissuing the shop drawings are considered an error borne by the PSC. Additional costs related to the fabrication and/or erection of the steel are considered an omission.

Example (2): The construction documents show a non-fire rated partition and it is determined prior to construction of the partition that it should have been specified with a fire rating. The added cost to construct the partition with the required fire rating is considered an omission.

Example (3): A change to the MEP system(s) that is identified prior to installation and does not require reorder of materials or equipment or reconstruction of work in place. Any and all costs related to reissuing coordination drawings is considered an error borne by the PSC. The costs related to additional materials, equipment and/or installation are considered an omission.

Appendix B – PSC Error and Omission Damage Assessment Example

The following example is intended for illustrative purposes only. Any determination(s) as to whether Errors and/or Omissions exist and any Assessment(s) related thereto shall be made in accordance with the Error and Omission Policy. Such determination(s) shall in no way be governed by the example contained in this Appendix.

The value of errors and 30% of the value of omissions are summed. The portion of the sum that exceeds 3% of the total value of the original construction bids is charged to the PSC.

Example:

Total value of original construction bids	\$1,000,000
Cost of changes due to errors	\$30,000
Cost of changes due to omissions	\$40,000
3% of the value of the original construction bids	\$30,000
Sum of errors and 30% of omissions	
Errors	\$30,000
Omissions (30% of \$40,000)	<u>\$12,000</u>
Total	\$42,000
Total charged to the PSC	\$12,000
(sum of errors and 30% of omissions less \$30,000)	

APPENDIX C – CHANGE ORDER EXAMPLE

UNIVERSITY OF ILLINOIS
CONSTRUCTION CONTRACT CHANGE ORDER

- ☐ Contractor with Assigned Subcontractor(s) (AS)
- ☐ Assigned Subcontractor(s) (AS)

Project _____

Contractor/AS/Address _____

UI Change Order No. _____

UI RFP/EWA No. _____

Change Order Amount _____

UI Document No. _____

UI Encumbrance No. _____

UI Project No. _____

Contractor/AS Project No. _____

PSC Project No. _____

The above referenced contract is hereby amended to provide for the following described change(s) upon the terms set forth below:
Contractor shall provide: (SCOPE)

Original Calendar Days to Complete the Work	_____	Current Calendar Days to Complete the Work	_____
Increase/(Decrease) in Calendar Days by Previous Change Orders	_____	Revised Substantial Completion Date	_____
Increase/(Decrease) in Calendar Days by this Change Order	_____		

	Column A		Column B		Column C		TOTAL A+B+C
Contractor's Original Base Bid + Accepted Alternate(s)	\$	Total of Previous Change Order(s)	\$	Increase/(Decrease) by this Change Order	\$	Contractor's Revised Base Bid + Accepted Alternate(s) + Change Orders	\$
		Total of Previous Change Order(s) Assignment Fee	\$	TOTAL AS(s) increase(s) by this change order x 0.05	\$	Contractor's Revised Change Order(s) Assignment Fee	\$
Contractor's SUBTOTAL	\$		\$		\$		\$
Plumbing AS Original Subcontract Sum	\$	Total of Previous Change Order(s)	\$	Increase/(Decrease) by this Change Order	\$	Revised Subcontract Sum	\$
Heating AS Original Subcontract Sum	\$	Total of Previous Change Order(s)	\$	Increase/(Decrease) by this Change Order	\$	Revised Subcontract Sum	\$
Ventilation AS Original Subcontract Sum	\$	Total of Previous Change Order(s)	\$	Increase/(Decrease) by this Change Order	\$	Revised Subcontract Sum	\$
Electrical AS Original Subcontract Sum	\$	Total of Previous Change Order(s)	\$	Increase/(Decrease) by this Change Order	\$	Revised Subcontract Sum	\$
Fire Protection AS Original Subcontract Sum	\$	Total of Previous Change Order(s)	\$	Increase/(Decrease) by this Change Order	\$	Revised Subcontract Sum	\$
AS Original Subcontract Sum	\$	Total of Previous Change Order(s)	\$	Increase/(Decrease) by this Change Order	\$	Revised Subcontract Sum	\$
GRAND TOTAL (Contractor's Original Contract Sum)	\$	GRAND TOTAL of Contractor's Previous Change Order(s)	\$	GRAND TOTAL of Contractor's Increase/(Decrease) by this Change Order	\$	GRAND TOTAL of Contractor's SUBTOTAL + Revised Subcontract Sum(s) ("Contractor's Revised Contract Sum")	\$

As changed hereinabove, the above referenced contract shall continue in full force and effect.

CLASSIFICATION (for UI use only)							BUDGET/SCOPE (for UI use only)	
Client Request	PSC Error	CM Error	Code/Std	Unforeseen Conditions	Liquidated Damages		Does NOT affect project budget and/or scope	
Staff Changes/Scope	PSC Omission	CM Omission	Delivery/Schedule	Closeout	Crisis Response		Affects project budget and/or scope (see attached documentation)	

Chart *	Fund *	Organization *	Account *	Program *	Activity	Location
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THE UNDERSIGNED HEREBY CERTIFY THAT THIS CONTRACT CHANGE ORDER IS GERMANE TO THE ORIGINAL CONTRACT AS SIGNED AND THAT THE CIRCUMSTANCES NECESSITATING THIS CONTRACT CHANGE ORDER WERE NOT REASONABLY FORESEEABLE AT THE TIME THE CONTRACT WAS SIGNED. THIS CONTRACT CHANGE ORDER IS IN THE BEST INTEREST OF THE UNIVERSITY OF ILLINOIS AND IS AUTHORIZED BY LAW.

PSC/Contractor Approvals

Assigned Subcontractor (AS) _____ Date _____

Contractor _____ Date _____

Professional Services Consultant (PSC)* _____ Date _____

University of Illinois Approvals

Campus* _____ Date _____

Board of Trustees of the University of Illinois – Interim Comptroller*, Paul N. Ellinger _____ Date _____

* Approvals only required for Contractor's Change Order

EXAMPLE