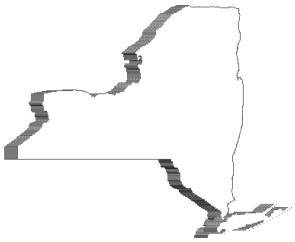
STATE OF NEW YORK
OFFICE OF GENERAL SERVICES
DESIGN AND CONSTRUCTION GROUP
THE GOVERNOR NELSON A. ROCKEFELLER
EMPIRE STATE PLAZA
ALBANY, NY 12242



ADDENDUM NO. 1 TO PROJECT NO. M3048

CONSTRUCTION WORK
REHABILITATE ROOFS, BUILDING 5, 111
BEDFORD HILLS CORRECTIONAL FACILITY
247 HARRIS ROAD
BEDFORD HILLS, NY

March 10, 2016

NOTE: This Addendum forms a part of the Contract Documents. Insert it in the Project Manual. Acknowledge receipt of this Addendum in the space provided on the Bid Form.

SPECIFICATIONS

1. SECTION 012200 COST COMPUTATIONS: Discard the section bound in the Project Manual and substitute the attached Section (pages 12200-1 thru 12200-6) noted "Revised 3/10/16".

END OF ADDENDUM

Margaret F. Larkin
Executive Director

SECTION 012200

COST COMPUTATIONS

PART 1 GENERAL

1.01 DESCRIPTION

A. The Contracting Officer shall determine the value of any order on contract or field order by one or more of the following methods:

1. Agreed to Amount:
   a. By estimating the fair and reasonable cost of:
      1) Labor, including all wages, required wage supplements and insurance/taxes required by law (workers' compensation, social security, disability, unemployment, etc.) paid to or on behalf of working foremen, workers and other employees below the rank of the Contractor's designated representative directly employed at the Site of the Project, and, on contracts with an award price less than $500,000, the Contractor's designated representative, regardless of job title or work status.
      2) Materials (to be installed or turned over to the State).
      3) Consumables are items that are used during the progression of the extra work that do not become a permanent part of the Work and as such are considered overhead.
      4) Equipment, excluding hand tools, which, in the judgment of the State, would have been or will be employed exclusively and directly on the omitted work or extra work.
      5) Where the omitted or extra work is performed directly by the Contractor; by adding to the total of such estimated costs a sum equal to 15 percent thereof, but, where the omitted or extra work is performed by a subcontractor, by adding a sum equal to 15 percent of said costs for the benefit of such subcontractor, and by adding, for the benefit of the Contractor (no further allowance will be made where extra work is performed by any sub-subcontractor), an additional sum equal to:
         a) 10 percent of the first $10,000 of the above-estimated costs, including the subcontractor's percentage override.
         b) Plus 5 percent of the next $90,000 of the total of said items.
         c) Plus 3 percent of any sum in excess of $100,000 of the total of said items.
         d) For the purposes of the aforesaid percentage overrides, the words "extra work" shall be defined as a complete item of added, modified or changed work as described in writing to the Contractor and the reductions enumerated shall be applied individually to each Order on contract issued on a Contract. Such "extra work" may include the work of one or more trades and/or subcontractors or sub-subcontractors and shall include all labor, material, plant, equipment, tools and all incidentals directly and/or indirectly necessary, related, involved in or convenient to the successful completion of the extra work item.

b. By accepting an amount agreed upon by both parties, which amount is to be calculated in a manner similar to that provided in subparagraph 1.01 A. 1. a.

c. Should the Contractor fail to submit the required proposal as required by Article 10.5.1, the Contractor shall be compensated as follows:

1) The costs will be determined by the State as described in 1.01 A. 1. a. above, but the percentages for profit and overhead will be as follows:

a) Where the omitted or extra work is performed directly by the Contractor; by adding to the total of such estimated costs a sum equal to 10 percent thereof, but, where the omitted or extra work is performed by a subcontractor, by adding a sum equal to 10 percent of said costs for the benefit of such subcontractor, and by adding, for the benefit of the Contractor (no further allowance will be made where extra work is performed by any sub-subcontractor), an additional sum equal to:

(1) 5 percent of the first $10,000 of the above-estimated costs, including the subcontractor's percentage override.

(2) Plus 3 percent of any sum in excess of $10,000 of the total of said items.

2. ACTUAL COSTS - By determining the actual cost of the extra work in the same manner as in the above Subparagraph 1.01 A. 1.a. except that actual costs of the Contractor be utilized in lieu of estimated costs. The State shall have the option to utilize this method provided it notifies the Contractor of its intent to do so prior to the time the Contractor is properly authorized to commence performance of such work.

3. By applying the applicable price or prices set forth in the Contract Documents or by applying a unit price agreed to by both parties.

4. All profit, overhead and expense of whatsoever kind and nature, other than those set forth above in Subparagraphs A.1.a. 1), 2) and 4), and below in Paragraph 1.01 F., of the Contractor, its subcontractors and sub-subcontractors, are covered by the aforesaid percentage overrides and no additional payment therefore will be made by the State.

B. Irrespective of the method used or to be used by the State in determining the value of extra or omitted work, the Contractor shall, after receipt of a request, shall within 15 days submit to the State a detailed breakdown of the Contractor's estimate of the value of the omitted or extra work. The Contractor shall submit evidence, satisfactory to the Contracting Officer, to substantiate each and every item that constitutes his proposal for the change. The State shall promptly respond to such submission.

C. Whenever this Contract requires the determination of labor hours, it shall be determined as follows:

1. Labor Hours shall be based on the labor factors as published in "RSMeans" by Reed Construction Data. The latest versions of the following books shall be used:

a. Building Construction Cost Data

b. Electrical Cost Data

c. Mechanical Cost Data

d. Plumbing Cost Data

e. Site Work and Landscape Cost Data

2. In the event that a labor factor for an item of work is not available from these publications the Director shall establish a labor factor as to the amount of time it takes to perform an item of Work.

a. Conditions that affect the performance of the extra work whether addressed in the Contract Documents or not shall be taken into consideration and negotiated.

b. Unforeseen conditions or conditions that are not identifiable shall not be included in the Contractor's proposal. If while in the process of performing the omitted or extra work a condition or event that affects the work becomes evident, it will be addressed at that time via a field order or change order.

D. Materials:

1. Materials used in performance of the extra work shall conform to Contract Documents and shall be listed by description, quantity and standard unit of measure.
2. Where the extended value of an item of material is FIVE THOUSAND DOLLARS OR MORE a quote or invoice from a supplier shall be included as part of the Contractor's proposal. The Director's Representative reserves the right to request substantiating pricing documentation to verify actual and reasonableness of any and all submitted costs. This requirement does not impede Subparagraph 1.01 B. above.
3. Travel costs including mileage, tolls, and overnight lodging and meal per diems incurred as a result of the extra work will be reimbursed at costs without any markup for the Contractor or subcontractor as the case may be. Daily travel to the project site must exceed 35 miles, one way, from the Contractor's office address to claim mileage and toll expenses; only mileage beyond 35 miles will be reimbursed. Distance must exceed 50 miles, one way, from Contractor's office address to the project site to claim overnight lodging and meal per diems. Actual cost for overnight lodging and meal per diems will be reimbursed up to the maximum rates listed per locality, as established by U.S. General Services Administration (GSA).
4. Personal Protection equipment required for hazardous materials abatement and materials used to create critical barriers and protection barriers, provided that they are expended during the performance of the extra work or turned over to the State at the request of the Director's Representative, are reimbursable as part of an order on contract.

E. Whenever this Contract requires the determination of the cost of equipment, it shall be determined as follows:

1. Equipment used or to be used in the performance of Work shall be specifically described by the manufacturer, model number and date of manufacture and be of suitable size and capacity required for the work to be performed.
2. Equipment, excluding hand tools which are defined as tools and equipment having a new purchase price of less than ONE THOUSAND DOLLARS, and which will be used exclusively and directly on the Work. For the purposes of computing the Contractor's cost for self-owned equipment, the rate used for periods of under five days shall be the monthly rate set forth for the item of equipment in the Equipment Watch® "Rental Rate Blue Book" published by Penton Media (800 669-3282) divided by 22 days to establish a **daily rate** and divided again by eight hours to establish an **hourly rate**. **The rate used for periods of 5 days or more shall be 45% of the published monthly rate.** In the event the "Rental Rate Blue Book" does not list the item of equipment used, the applicable rate shall be determined in the same manner as set forth above except that the monthly rate used shall be that set forth in "The AED Green Book" published by Penton Media (800 669-3282). In the event that a rate is not established in the "Rental Rate Blue Book" or "The AED Green Book" for a particular piece of equipment, the Contracting Officer shall establish a rate for ownership costs and operating costs for that piece of equipment that is consistent with its cost and expected life. Self-owned equipment is defined to include equipment rented from controlled or affiliated companies.
3. Rented equipment will be paid for at the actual rental cost. Equipment rented for the Work used in the performance of extra work will be reimbursed for operating costs only.

4. For the purposes of the performance of extra or additional work, when, in the opinion of the Contractor, and as approved in writing by the Director's Representative, suitable equipment is not available on the Site, the moving of said equipment to and from the Site will be paid for at actual cost.
5. Notwithstanding any other provision, if the State should determine that the nature or size of the equipment used by the Contractor in connection with the performance of Work is larger or more elaborate, as the case may be, than the size or nature of the minimum equipment determined by the State to be suitable for the performance of Work, the cost of equipment used in calculating the costs of extra work or delay damages will not be based upon the equipment used by the Contractor but instead will be based on the smallest or least elaborate equipment determined by the State to have been suitable for the performance of the Work. In no event shall the amount paid to the Contractor as the allowance for the use of self-owned construction equipment exceed the lower of the actual cost of such equipment or the depreciated value of such equipment as carried on the Contractor or subcontractors books.
6. The Contractor shall be reimbursed for its operating costs for self-owned equipment based on actual cost data. Operating costs shall include fuel, lubricants, other operating expendables and preventive and field maintenance. Operating costs do not include the operator's wages. In the event, after documented and demonstrated due diligence, actual operating costs are not ascertainable, then the Contractor will be compensated utilizing 100 percent of the operating costs set forth in the "Rental Rate Blue Book" and the Contractor shall be reimbursed the product of the number of hours of actual use multiplied by the operating cost per hour.
7. The maximum amount of reimbursement for the ownership costs of self-owned equipment is limited to the original purchase price of the equipment as listed in the "Green Guide for Construction Equipment" published by Penton Media (800) 669-3282. In the specific event when the ownership reimbursement is limited by the original purchase price, the Contractor shall, nevertheless, be reimbursed for the operating cost per hour for each hour of actual use.

F. Insurance and Bonds:
1. The additional cost of all required Bonds and Liability and Builder's Risk Insurance Premium required by this Contract, arising from the additional cost of performing extra work shall be paid by a change order or field order to be issued upon physical completion of the Work and upon the submission of proof of payment of such additional premiums assessed by the respective insurance companies for such additional cost of the extra work.
2. Should the additional work require an additional insurance policy not initially required or anticipated in the execution of the contract, whether required of the Contractor or a subcontract between the Contractor and a subcontractor actually performing extra work, will be reimbursed based on actual cost.

G. Unless otherwise specifically provided for in an order on contract or field order, the compensation specified therein for extra work includes full payment for both the extra work covered thereby and for any damage or expense caused the Contractor by any delays to other work to be done under the Contract resulting from or on account of said extra work, and the Contractor waives all rights to any other compensation for said extra work, damage or expense.

H. In computing the value of an order on contract or field order which involves additions and deletions of work and the cost of the added work exceeds the cost of the deleted work, overhead and profit shall be computed on the amount by which the actual cost of additional labor and material exceeds the actual cost of the deleted labor and material, except no additional overhead

and profit shall be allowed on the value of any order on contract or field order determined by the method provided in Subparagraphs 1.01 A. 1.b. or 1.01 A. 3.

I. In computing the value of an order on contract or field order which involves additions and deletions of work and the cost of the deleted work exceeds the cost of the added work, the Contractor will be allowed to retain the overhead and profit on the amount by which the cost of the deleted work exceeds the cost of the added work, except that no overhead and profit shall be retained on the cost of work determined by the method provided in Subparagraphs 1.01 A. 1.b. or 1.01 A. 3.

J. Subject to the provisions of Article 17A of the General Conditions, the following elements of damage, and only the following elements, as determined by the Contracting Officer, will be recoverable by the Contractor as "delay damages" provided that they are actual, reasonable and necessary:

1. Documented additional or escalated job site labor expenses.
2. Documented additional or escalated costs for materials.
3. Documented additional or escalated equipment costs less appropriate credits, as such are determined in accordance with this Section.
4. Documented costs of extended job-site overhead (including job superintendent, office engineer and clerical staff, but not including working foremen).
5. An additional 15 percent of the total of the above items in Subparagraphs 1.01 J. 1., 2., 3. and 4. for home office overhead and profit thereon.
6. Documented additional or escalated insurance and bond costs.
7. When the work is performed by a subcontractor, the Contractor shall be paid the actual, reasonable and necessary cost of such subcontracted work as outlined Subparagraphs 1.01 J. 1. through 4., including the subcontractor's main office overhead and profit of 15 percent. The Contractor shall also be allowed an additional 5 percent administrative fee for processing.
8. The phrases "additional expenses", "escalated expenses", "additional costs" and "escalated costs" shall include expenses and costs above or below those normally incurred in the performance of the work, less any appropriate credit, and/or attributable, with appropriate credits, to the performance of work or portions of work in a different time period than that which was indicated on the approved progress schedule.

K. The parties agree that, with regard to delay damages, the State will have no liability for the following items and the Contractor further agrees it shall make no claim for the following items:

1. Profit, in excess of that provided for above.
2. Loss of anticipated or unanticipated profit.
3. Labor inefficiencies and loss of productivity.
4. Home office overhead in excess of that provided for above.
5. Consequential damages, including but not limited to interest on monies in dispute, including interest which is paid on such monies, loss of bonding capacity, bidding opportunities, or interest on retainage or investment, or any resultant insolvency.
6. Indirect costs or expenses of any nature.
7. Direct or indirect costs attributable to performance of work where the Contractor, because of situations or conditions within its control, has not progressed in a manner satisfactory to the Executive Director.
8. Attorneys' fees, or claims preparation expenses.

L. Remedies Exclusive: With respect to extra costs and delay damages, the parties agree that the State shall have no liability to the Contractor for expenses, costs, or items of damage other than

those which are specifically identified as payable above. In the event any legal action is instituted against the State by the Contractor on account of any extra work or for additional compensation, whether on account of delay, acceleration, breach of contract, or otherwise, the Contractor agrees that the State's liability will be limited to those items which are specifically identified as compensable above. The Contractor further agrees to make no claim for expenses other than those which are specifically identified as compensable above.

PART 2 PRODUCTS (Not Used)

PART 3 EXECUTION (Not Used)

END OF SECTION