

CHAPTER 9

SPECIAL PROCEDURES & FORMS FOR PUBLIC SCHOOL & COLLEGE AUTHORITY (PSCA) PROJECTS

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A. INTRODUCTION

Projects funded partially or fully by the Alabama Public School and College Authority (PSCA) involve co-ownership and possible divisions of funding and payments. This chapter supplements the preceding chapters by setting forth special procedures to address co-ownership and severable payments of PSCA-funded projects, including payment application directions for PSCA-funded State Agency projects and PSCA-funded K-12 projects.

Contract Review: PSCA projects are administered by DCM Contract Administration Division, except for ACCS projects started on or after August 1, 2021.

Plan Review: All PSCA-funded State Agency projects, all PSCA-funded K-12 projects, and all PSCA-funded ACCS storm shelter-related projects must be submitted to DCM for full plan and specification review per the requirements of Chapter 3. If the PSCA project is for a K-12 public school, the plans must also be reviewed by the State School Architect, State Department of Education, in accordance with their procedures.

Construction Inspection: PSCA-funded State Agency and K-12 projects must have a pre-construction conference conducted with a DCM inspector. All PSCA projects, including ACCS storm shelter-related projects, must be inspected by DCM Inspectors, see Chapter 8.

DCM User Fees including Plan Review, Contract Document Administration (CDA) and Permit fees may be paid with PSCA funds. A PSCA-funded Agreement Between Owner and Architect (O/A agreement) or construction contract is subject to the CDA Fee based on the PSCA funds expended for the construction contract (see Chapter 1.G).

B. PSCA ALLOCATION

When legislation is enacted to authorize the Alabama PSCA to sell bonds and fund projects, the following occurs: After the sale of bonds and a meeting of the PSCA Board of Directors, letters of fund allocation and instructions are sent by the PSCA Board of Directors to each applicable entity. The Local Owner is the entity receiving a PSCA allocation such as a state agency, a K-12 public school system, the Alabama Community College System (ACCS) Board, or public higher education institution.

C. PSCA PROJECT FUNDING REQUEST

Once funds have been allocated by the PSCA Board of Directors, an entity must submit a project request for PSCA review to the PSCA Board of Directors or Board-designated approval authority. For example, K-12 local owners must request project approval for PSCA fund use from the Alabama State Department of Education (SDE)- School Architect's office. Upon approval the entity will be notified of the approved fund amount for a specific project and given a PSCA number assigned to that project.

D. PROJECT CO-OWNERSHIP, PSCA FORMS, PROJECT NUMBER and Name, and PSCA PLAQUE

All PSCA contract documents and bond forms must reflect co-ownership of the project by the PSCA and the Local Owner. At the end of this chapter are "PSCA Versions" of DCM's standard forms for O/A agreements and construction contracts, which reflect PSCA co-ownership and bear appropriate signature spaces for the PSCA. These forms are to be used for PSCA projects instead of their counterparts listed in Appendices B or C. The DCM uniform documents and standard forms without PSCA versions must also be used on PSCA projects. PSCA forms beginning with the digit 9 in the form reference number are not alterable. A select few standard forms as listed in Chapter 5, Section B are alterable. **As DCM transitions to paperless, many of the below listed documents will be available as a DocuSign link from DCM's website, and the instructions will be updated accordingly.**

In these forms, identification of the "Owners" is completed by adding the name of the Local Owner after "Alabama Public School and College Authority and..." The contract documents must be signed by both the PSCA and the Local Owner; therefore, the name of the Local Owner and the name and title of its signing officer must be inserted in the respective signature spaces.

All documents and correspondence related to a PSCA project must bear the

assigned PSCA Project Number as well as the DCM (BC) Project Number. The forms listed at the end of this chapter have spaces designated for the insertion of both of these numbers. Each project funded by PSCA must have its own O/A agreement with an assigned PSCA number and DCM number, and must use the same PSCA number and DCM number for the construction contract. PSCA funding is not applicable to Open-End O/A agreements.

Project Name: When the design professional and Awarding Authority/Owner assign a name to a project, it should be easily identifiable with the design documents to be produced and work to be performed. This is particularly important for projects of multiple bid packages and construction contracts. Such names as "Re-roofing of Various Schools of the XYZ Board of Education" are usually followed by the production of bid documents with titles that offer no relationship to the project name. **In compliance with PSCA requirements, and reporting requirements of the Alabama Legislature, "Various Schools" and "Various Buildings" are not acceptable project names; each specific school must be named in the project name. At the time of submittal, the specifically named schools on the B-1 transmittal form, on the O/A Agreement, on the plans and specifications, and on the Construction Contract must match the PSCA funding scope currently approved by a PSCA-Board designated approval authority.** Include Owner and Lead Design Professional project numbers, phases and bid package numbers, if any.

Detail of PSCA Plaque, DCM Form 9-M:

1. PSCA plaques are installed as a permanent part of a building and are required on the following partially or fully PSCA-funded projects: Major renovations, renovations of four (4) or more rooms, and all new construction as follows: buildings, additions and athletic facilities. DCM Form 9-M: Detail of PSCA Plaque must be included in the project manual of such projects.
2. PSCA plaques are not required on the following partially or fully PSCA-funded projects: Sitework, paving, parking lots, utility work, re-roofing, and finishes (such as painting). DCM Form 9-M: Detail of PSCA Plaque should not be included in the project manual of such projects.
3. If you have any questions regarding whether or not a PSCA plaque is applicable, contact DCM's Technical Staff.

E. SPECIAL PROVISION for SEVERABLE PAYMENTS

On PSCA construction contracts that are funded partially by both the PSCA and the Local Owner, PSCA funds must be used first and the payment applications for PSCA funds must be submitted to DCM, before local funds can be used. Once PSCA funds are expended, contract documents must continue to be submitted on PSCA forms to DCM; however, payment documents for local funds follow the local owner's procedures and are not submitted to DCM. Payments to the construction contractor are made first by the PSCA from the balance of its project funds and then the remaining balance of the Construction Contract is paid by the Local Owner. The "PSCA Version" of DCM's

standard Construction Contract form includes a “Severable Payments” special provision in which payment obligations of the PSCA and the Local Owner are to be established. Note: Severable payments are not available for O/A agreements, which must be either fully locally-funded or fully PSCA-funded.

When preparing the construction contract, the design professional should obtain the amounts of the payment obligations to be inserted in the Severable Payments provision from the Local Owner and confirm these figures with the Technical Staff.

F. RESPONSIBILITY for CHANGE ORDER FUNDING

DCM Form 9-J: Contract Change Order (PSCA Version), contains the following sentence: "The amount of this Change Order will be the responsibility of _____." Insert in the blank space whichever of the following is appropriate: **(1)** PSCA, **(2)** name of the Local Owner, or **(3)** name of the Local Owner and the PSCA.

G. DEDUCTIONS for LIQUIDATED DAMAGES

If liquidated damages are assessed and payments to the construction contractor are paid by the PSCA and the Local Owner (the Local Owner paying last), the deduction of liquidated damages from the contractor’s final payment will be by the Local Owner.

H. ADJUSTING PROJECT FUNDING

During the course of a project circumstances may arise warranting adjustment in funding to alter the severable obligations of the PSCA and Local Owner. When this occurs, the severable payments provision of the contract will be amended by using DCM Form 9-D: Modification to the Construction Contract, Adjustment of Severable Payments.

I. CONVERTING EXISTING PROJECTS to PSCA PROJECTS

Occasionally, PSCA bond issue funds can be used to supplement the Local Owner’s current funding of an in-progress project. When this occurs, DCM assumes administration of the project. PSCA forms must be used for the remainder of the project and the existing contracts must be amended as follows:

1. EXISTING O/A AGREEMENT

An existing executed fully locally-funded O/A Agreement must be amended, using DCM Form 9-LA: Amendment to Agreement Between Owner and Architect Adding The Public School & College Authority As Co-Owner, and stipulating that all, or part of, remaining payments are to be made by the PSCA. One copy of the existing O/A Agreement and any paid invoices must be furnished to the Technical Staff before such an amendment will be approved. A Contract Document Administration Fee-O/A is due with the Amendment to add PSCA funds to the

existing O/A Agreement and must be paid before the Amendment will be reviewed. This fee is .25% of the amount of PSCA funds allocated to the existing O/A Agreement. Note: Open-End O/A Agreements cannot be converted to PSCA. Note: Severable payments are not available for O/A agreements, which must be either fully locally-funded or fully PSCA-funded.

2. EXISTING CONSTRUCTION CONTRACT

An existing executed fully locally-funded construction contract must be modified making the PSCA a party to the contract as co-owner and stipulating the severable payment obligations of the PSCA and the Local Owner. DCM Form 9-E: Modification to the Construction Contract, Adding the Alabama Public School and College Authority as Co-owner, is utilized for this purpose. One copy of the existing contract and bonds, change orders, and previously paid estimates along with copies of the contractor's certificates of insurance must be furnished to the Technical Staff before such a modification will be approved. A Contract Document Administration Fee-CC is due with DCM Forms 9-E and 9-F and must be paid before the contract modification documents will be reviewed. This fee is .25% of the amount of PSCA funds allocated to the existing Construction Contract.

3. EXISTING CONTRACT BONDS

Both the performance and payment bonds originally furnished with the contract must also be modified adding the PSCA as an obligee and co-owner. DCM Form 9-F: Modification of the Performance Bond and Payment Bond, is utilized for this purpose.

J. PURCHASING MATERIALS and EQUIPMENT for CONSTRUCTION PROJECTS with PSCA FUNDS

The purchase of materials and equipment for construction projects with PSCA funds may be approved if the purchases comply with the Competitive Bid Laws and meet the following criteria established by the PSCA:

1. EQUIPMENT

The equipment must constitute a major capital outlay expenditure. In general, PSCA funds will not be used to pay for maintenance items such as, but not limited to, floor cleaning equipment, expendable equipment, and athletic equipment. Submission of equipment lists to the Authority/Authority Designee for pre-approval will prevent future problems and is highly recommended. Note: Equipment purchased with PSCA funds from ACT #2020-167 Bond proceeds must become a permanent part of the facility(s).

2. FURNITURE

Decorative accessories, art objects and supplies cannot be purchased with PSCA funds. Submission of furnishing lists to the Authority/Authority Designee for pre-

approval will prevent future problems and is highly recommended. NOTE: The purchase of furnishings by use of PSCA funds from ACT #2020-167 Bond proceeds is not allowed.

3. INVOICE PROCESSING

Invoices related to construction projects must be forwarded to DCM for review, approval, and processing for payment. Payment is then made by the Finance Department/Debt Management Office.

INVOICE CHECKLIST, DCM Form 9-G

Listed at the end of this chapter is DCM Form 9-G, Invoice Checklist, which is to be followed when preparing invoices for submittal to DCM for approval to be paid with funds of the PSCA. This checklist contains the prerequisites for DCM approval of invoices for materials and equipment. The prerequisites assure conformance with PSCA requirements, competitive bid laws, DCM recording methods, and distribution requirements. The entity submitting such invoices should utilize this checklist when preparing invoices for submittal to assure prompt approval and processing.

CERTIFICATION OF COMPLIANCE, TITLE 41: PUBLIC CONTRACTS

Listed at the end of this chapter is DCM Form 9-H, Certification of Compliance, Title 41: Public Contracts, which is a document cited in the Invoice Checklist to be executed and attached to invoices.

K. LISTING OF PSCA VERSIONS OF DCM STANDARD FORMS, AND UNIQUE PSCA FORMS

The following starred PSCA versions of DCM standard forms must be used on partially and fully PSCA-funded projects instead of their standard counterparts. DCM standard forms without PSCA versions as listed in Appendices B and C must also be used on any PSCA-funded project. The non-starred forms listed below are unique to PSCA projects and do not have DCM standard form counterparts; the unique PSCA forms must be used on PSCA-funded projects when applicable per their Form instructions in the above Chapter 9. All forms are available on www.dcm.alabama.gov.

- * DCM Form 9-A: Construction Contract (PSCA version)
- * DCM Form 9-B: Performance Bond (PSCA version)
- * DCM Form 9-C: Payment Bond (PSCA version)
- DCM Form 9-D: Modification to the Construction Contract, Adjustment of Severable Payments
- DCM Form 9-E: Modification to the Construction Contract Adding the Alabama Public School & College Authority as Co-owner
- DCM Form 9-F: Modification of the Performance Bond and Payment Bond, Adding, as Co-owner, the Alabama Public School & College Authority
- DCM Form 9-G: Invoice Checklist
- DCM Form 9-H: Certification of Compliance, Title 41: Public Contracts

- DCM Form 9-I: ~~Material Receipt~~ (Form 9-I no longer required; instead see Form 9-G)
- * DCM Form 9-J: Change Order (PSCA version)
- * DCM Form 9-K: Agreement Between Owner and Architect (PSCA version)
- * DCM Form 9-L: Amendment to Agreement Between Owner and Architect (PSCA version)
- * DCM Form 9-LA: Amendment to Agreement Between Owner and Architect Adding the Alabama Public School & College Authority as Co-owner (PSCA version)

- DCM Form 9-M: Detail of PSCA Plaque