

## Chapter 9 – Design Guides

### 9.3 MULTIPLE PRIME CONTRACTS GUIDE (WICK’S LAW)

#### A. GENERAL

1. OGS D&C projects are identified as either “Single Contract” or “Multiple Prime Contracts”.

#### B. MULTIPLE PRIME CONTRACTS

1. Multiple Prime Contracts are awarded for interrelated major elements of the Work that must be performed simultaneously. These projects are considered as related contracts and require close coordination of the work. Related contracts are identified in Section 011000 Summary of the Work, Article 1.02 of the Project Manual.
2. Section 135 of the New York State Finance Law, commonly known as the “Wick’s Law”, requires OGS D&C to bid specific separate Multiple Prime Contracts for certain public work projects where the cost of the public work exceeds:
  - a. \$3 million in Bronx, Kings, New York, Queens and Richmond counties
  - b. \$1.5 million in Nassau, Suffolk and Westchester counties
  - c. \$0.5 million in all other counties(In rare instances this requirement can be waived using a Project Labor Agreement see Section 222 Labor)

For projects with costs below the thresholds above, a single contract may be utilized which includes the work of multiple trades. Such contracts are referred to as Wicks-exempt. The use of a single contract is strongly recommended to reduce the management and coordination effort of contractors on the project site. However, the PM should use caution when the estimated construction value is very close to the threshold levels. If the project bid exceeds the threshold value then the project will need to be repackaged and rebid as a multi-prime project.

*Prior to Wick’s Law reform in July 2008, bidding specific separate Multiple Prime Contracts for a public work projects was required for projects exceeding \$50,000 in total project cost.*

3. Multiple Prime Contracts are sometimes referred to as “multi-contract” or “separate contracts”. These types of projects require separate project manuals for the subdivisions of the work as defined by the Wick’s Law. Although not specifically defined in the law, OGS D&C’s policy requires that separate drawings must be prepared for each Multiple Prime Contract. This is to avoid confusion on the part of the Contractors as well as to preclude the possibility of contradicting the definition of contract documents contained in the General Conditions.

4. Wick's Law requires that the contract documents be subdivided into the following major Prime Contracts to permit separate and independent bidding and award:
  - a. Construction
  - b. Heating Ventilation and Air Conditioning (HVAC)
  - c. Plumbing
  - d. Electrical

The project cost cited in section 2 above refers to the total project cost, not to the cost of each individual prime contract.

5. Site utilities (outside of building) and the demolition of a building are *not* subject to the multi-contract constraints of the Wick's Law. Non-building related projects are usually exempt from these requirements. Check with the OGS Team Leader for project specific requirements.
6. Due to the importance of the Wick's Law it is quoted below:

### 135. SEPARATE SPECIFICATIONS FOR CONTRACT WORK FOR THE STATE

*Every officer, board, department, commission or commissions, charged with the duty of preparing specifications or awarding or entering into contracts for the erection, construction or alteration of buildings, for the state, when the entire cost of such work shall exceed fifty thousand dollars (modified to the dollar limits cited in section 2 above) must have prepared separate specifications for each of the following three subdivisions of the work to be performed:*

- 1. Plumbing and gas fitting.*
- 2. Steam heating, hot water heating, ventilating and air conditioning apparatus.*
- 3. Electric wiring and standard illuminating fixtures.*

*Such specifications must be so drawn as to permit separate and independent bidding upon each of the above three subdivisions of work. All contracts hereafter awarded by the state or a department, board, commissioner or officer thereof, for the erection, construction or alteration of buildings, or any part thereof, shall award the three subdivisions of the above specified work separately to responsible and reliable persons, firms or corporations engaged in these classes of work. A contract for one or more buildings in any project shall be awarded to the lowest responsible bidder for all the buildings included in these specifications.*

*Nothing in this section shall be construed to prevent the authorities in charge of any state building, from performing any such branches of work by or through their regular employees, or in the case of public institutions, by the inmates thereof. As amended L. 1961, c.292, eff. April 3, 1961.*

7. The three subdivisions of work listed in the Wick's Law are expressed in very general terms, which are not clearly defined, and no mention is made of Construction Work. This does not however permit OGS D&C to include substantial Construction Work in the other contracts. If there is Construction Work, and the estimated cost of the project is over the dollar limit cited in section 2 above, a separate contract is prepared for the Construction Work. To aid in the preparation of contract documents for the subdivisions of work, the following definitions for the terms used in Section 135 of the State Finance Law are provided:

<b>Plumbing</b>	The potable water supply system and other waste systems within the building. NOTE: Exterior waste systems, i.e., roof drain systems, can be included in a Construction Work contract.
<b>Gas Fitting</b>	The natural gas supply system within the building.
<b>Steam Heating Apparatus</b>	The building space steam heating system.
<b>Hot Water Heating Apparatus</b>	The building space hot water heating system.
<b>Ventilating Apparatus</b>	The powered air supply and exhaust system.
<b>Air Conditioning Apparatus</b>	The built-in central air conditioning system.
<b>Electric Wiring</b>	The built-in electric power supply and distribution system of 110 volts or higher. NOTE: OGS D&C's procedure for specifying <i>control vs. power</i> wiring is as follows: <ol style="list-style-type: none"> <li>1. <i>Control</i> wiring for a piece of equipment is included in the same contract as the equipment.</li> <li>2. <i>Power</i> wiring for that same piece of equipment is included in the related Electrical Work contract.</li> </ol>
<b>Standard Illuminating Fixtures</b>	The interior space lighting system.

8. Judgment must be used when deciding which prime contractor should be responsible for specific scopes of work. The following examples are provided for guidance:
  - a. Equipment housekeeping pads can be considered part of the equipment package, and might best be included in the contract providing the equipment. This minimizes coordination issues concerning pad size, anchor bolts, seismic bracing, etc. In other cases, where similar construction work is occurring in close proximity for equipment provided under multiple contracts, it may be prudent to include all equipment pads in the Construction contract.
  - b. Supplemental framing and cutting openings in existing construction can be considered part of the equipment package and can be included in the contract providing the equipment. This same logic extends to issues such as flashing roof curbs and mechanical penetrations, etc. However, if the complexity or extent of the supplemental framing and cutting of openings dictates, the work might best be included in the Construction contract.
  - c. Disconnection and reconnection of electric power supplies to accommodate the replacement of equipment can be considered part of the equipment package and included in the contract providing the replacement equipment.

- d. Minor relocation of piping, conduit, raceway, etc. to accommodate the installation or modification of building elements can be included in the prime contract responsible for the modifications.
- e. Hazardous material abatement can be accomplished under a single contract. For example, pipe insulation containing asbestos and vinyl asbestos floor tile can be abated under a single prime contract.
- f. Removals can be accomplished under a single contract. For example, if a space is being gutted, utilities can be disconnected/secured by the appropriate trade contract, and then removals can be accomplished under the construction contract.

The Consultant/Designer should consult with the TL / PM if questions arise as to the appropriateness of including work in a particular contract.

## C. SINGLE CONTRACT

1. A Single Contract can be a project that is bid and constructed as a stand-alone project with no related contracts and no multiple trade work. There is no dollar limit on the value of a single contract if the work of only a single trade is involved.
2. Single Contracts can be associated with a main project or contract, such as early building demolition and early site preparation, which may be completed before building construction contracts are awarded. These types of contracts would not be considered as related contracts to a main building contract for coordination because they would have been bid and constructed separate from the main project.

## D. WICK'S EXEMPT CONTRACT

1. Projects with costs lower than the thresholds noted below should be considered for WICK's exemption and a single contract may be utilized which includes the work of multiple trades. The use of a single contract is highly recommended to reduce OGS's field staff management, oversight and coordination effort of multiple contractors on the project site. However, the PM should use caution when the estimated construction value is very close to the threshold levels. If the project bid exceeds the threshold value then the project will need to be repackaged and rebid as a multi-prime project. It is highly recommended that these projects be organized by C, H, P and E subcontractor trade disciplines.
  - a. \$3 million in Bronx, Kings, New York, Queens and Richmond counties
  - b. \$1.5 million in Nassau, Suffolk and Westchester counties
  - c. \$0.5 million in all other counties(In rare instances this requirement can be waived using a Project Labor Agreement. See Section 222 Project labor agreements).
2. WICK's Exempt Contracts involving work of multiple trades (C, H, P & E) requires approval from the Business Unit Leader.
3. For Wicks-exempt projects which involve the work of multiple trades in a single contract, the bidders must include in their bids a separate sealed list that names

each trade subcontractor and their respective bid amount in accordance with Document 002220, Supplemental Instructions to Bidders – Wicks Exempt and BDC 59 Contractor's List of Subcontractors. For this reason, contract documents shall be prepared that clearly indicate the work of the electric, plumbing, and heating trades. This requirement applies to all Wicks-exempt projects - there is no dollar threshold below which the requirement for named subcontractors is waived.

4. Any changes by the low bidder to subcontractors or agreed-upon amounts to be paid to each subcontractor shall require the approval of the OGS D&C Contracting Officer.

## E. ADDITIONAL SUBDIVISION OF WORK

1. In addition to the required subdivision of Multiple Prime Contracts by Wick's Law, there may at times be reason to include additional Prime Contracts. This depends on the nature of a project and the size and complexity of an individual element of the work. It is OGS D&C's recommendation to have the minimum number of prime contracts on a project wherever possible unless saving time; money or achieving a higher quality product can justify it otherwise.
2. Cost alone should not be the sole determining factor for qualifying a construction operation as a major subdivision of the Project. For consideration as a major contract, a construction operation should involve a specialty contractor and several trades. Most major contracts should last throughout the construction period.
3. The TL / PM, OGS Division of Construction and the Consultant/Designer must decide in advance if additional contracts will be considered and how the work will be subdivided and coordinated with the required (Wicks Law) Multiple Prime Contracts. The Consultant/Designer then prepares separate bid packages for each prime contract.
4. If there are many contracts, coordination becomes difficult to handle efficiently during design and construction. The contract documents should clearly delineate the division of work. The fragmentation of documents into smaller bid packages sometimes leads to the duplication of responsibilities that may result to problems.
5. Care must be exercised to properly identify and allocate work to avoid gaps or overlapping responsibilities among the contracts, which can be difficult depending on the complexity of the Project. Although significant segments of the Project are typically candidates for a separate contract, separate contracts may also be included for the following:
  - a. Commissioning
  - b. Hazardous material abatement
  - c. Demolition
  - d. Site preparation
  - e. Site utilities
  - f. Detention equipment

- g. Landscape development
- h. Food-service equipment
- i. Furnishings
- j. Elevators and escalators
- k. Testing, adjusting, and balancing

6. Below is a listing of contract designations with suffix code for the more common types of projects prepared by OGS D&C.

Code	Trade Description
C	Construction
H	HVAC
P	Plumbing
E	Electrical
G	Environmental
K	Inmate Labor

Code	Trade Description
N	Fire Protection
T	Roofing
U	Elevator
V	High Voltage
B	Hazardous Material

7. Clear assignment of responsibilities, especially at the points where different contracts meet or interface, must be included in the division of the Project. Example: Who is responsible for painting mechanical equipment?

## F. PROJECT COORDINATION

1. Each Consultant/Designer is responsible for the overall design coordination of the Project between Multiple Prime Contracts. The Consultant/Designer needs to clearly specify the scope and responsibilities of each contract and cross-check the responsibilities for each contract to ensure that no overlaps or gaps exist.
2. Construction under multiple contracts often means that different contractors require access to the same space at the same time. Coordination problems can develop if the Work installed by one contractor obstructs or disturbs the Work of another. Coordination is essential for the success of multiple contract projects because they are prone to delays caused by the need to coordinate elements of the project among several contractors. Each prime contractor is responsible for coordinating the activities of their subcontractors and the work between other prime contracts in a cooperative manner per Article 17 of the General Conditions.
3. OGS D&C field representatives direct and coordinate construction operations between the prime contractors. OGS D&C may retain construction management services for selected projects.
4. The best project results occur when the documents are properly coordinated and the project properly managed during the construction phase.
5. Clearly identify the work of each major trade within the documents when projects are approved for bidding as WICK's exempt. This clarity of separation of scope within the single contract documents facilitates sub-contractor bid take-offs during

the bid period and helps ensure that the bidder has sound cost proposals from their sub-contractors.

## G. MULTIPLE PRIME CONTRACTS RELATIONSHIP TO DIVISION 1 SECTIONS

1. Multiple Prime Contracts affect Division 01 specification sections more than any other division in the Project Manual. Division 01 specifications section requirements for administration, procedures, and temporary facilities apply to each contract. Some Sections apply to all contracts, and some apply to only a specific contract. The suffix letter at the end of the project number distinguishes the separate contracts. The Sections in Division 01 of the Specifications that have more than one suffix letter are common to each related Contract. For example, requirements for Shop Drawings and Product Data apply to all contracts. In contrast, a section specifying a State Field Office (trailer) only applies to the Construction Contract. The following paragraphs summarize the effect of multiple contracts required by Wick's Law on some of the OGS Master Specification Division 01 Sections:

- a. **Section 011000 Summary of the Work:**

- 1) Requirements apply equally to all contracts.
- 2) Article 1.02 A - states that the Project will be constructed under a multiple contracting arrangement and identifies the name of each related contract by project number and suffix designation.
- 3) Article 1.04 describes work restrictions on the use of the Project site and the existing building apply equally to all contracts even though work restrictions such as asbestos removal, roofing work, heating system shutdown, etc. may be identified by a specific contract.
- 4) Article 1.12 describes openings and chases required by related contracts and designated as work to the Construction Contract if the information is provided in a timely manner. If information is not timely, then the related contracts are responsible for cutting and patching at their own expense.
- 5) Article 1.13 describes sprayed on fireproofing coordination with related contracts. Hangers, clips and sleeves are to be installed by related contracts in a timely manner. If this work is not performed in a timely manner then the related contract is required to cut and repair fireproofing at own expense.
- 6) Article 1.15 Building location layout work is done by the Construction Contract. All other lay out work to be done by the related contracts.

- b. **Section 012100 Allowances:**

- 1) Requirements apply equally to all contracts.
- 2) Allowance for contingencies to cover cost of additional labor and materials for contingent activities within the scope of the Contract as directed by Field Order.
- 3) For specific allowances include clear descriptions of the Work for a specific contract. Example: fuel required for temporary heat by the Construction Contract.

- c. **Section 012300 Alternates:**

- 1) Include this section when an alternate applies to a contract.

- 2) Multiple prime contracts should be listed on Article 1.02 and should include clear descriptions of the Work so the scope of each contract can be determined. Modify the footer project number and suffixes as required.
- d. **Section 013300 Submittals:**
- 1) Product requirements and product selection procedures apply equally to all contracts. Contractor requests for material substitution or “or equal” submissions may affect more than one contract, however, thereby creating coordination problems. Because of this, the General Conditions Article 5.6 states that the contractor shall make all adjustments to contingent work, whether the contingent work be the work of its contract or the work of other contractor’s, necessary to accommodate the option or “or equal” product it selects without extra or additional cost.
- e. **Section 013350 Computer Aided Design Coordination Drawings:**
- 1) Requirements apply equally to all contracts.
  - 2) This section should be used when coordination and layout of building systems is necessary between contracts to avoid conflicts prior to construction.
- f. **Section 015000 Construction Facilities & Temporary Controls:**
- 1) Generally apply equally to all contracts. However, some requirements are typically assigned to one contract. The specific assignment depends on which prime contracts are included in the project. For example, each contract must provide its own field office; however, the responsibility for providing a State Field Office, if required, must be assigned to a specific contract (generally this is to the Construction Contract).
  - 2) Temporary light and power service and wiring for the project is usually assigned to the Electric Contract. The exception would be for wiring of individual contractor trailers. If electrical energy is not free of charge at a state facility then provisions need to be detailed for payments of associated energy bills. This may be assigned to a single prime contract such as the Construction Contract. Usually, energy for contractor’s individual trailers is not included.
  - 3) Temporary water service and maintenance is typically assigned to one contract. Usually this is the Construction Contract for single-story construction. For multi-story construction this may be assigned to the Plumbing Contract.
  - 4) Temporary toilets are typically assigned to the prime contract with the largest scope, which is usually the Construction Contract. The number of toilets required is based on a table within the specification.
  - 5) Temporary material and personnel hoists (if required) are usually assigned to the Construction Contract and used by all contractors. The percentage of hoist usage needs to be determined to set a standard and to avoid conflicts during construction.
  - 6) Temporary use of permanent elevator as material and personnel hoist is an option that may be available for a project. The Construction contract is usually assigned the task of operation, protection and

- maintenance. The percentage of elevator usage needs to be determined to set a standard and to avoid conflicts during construction.
- 7) Temporary closures for exterior wall openings and temporary partitions to separate the work area from State occupied areas are usually assigned to the Construction Contract.
  - 8) Temporary fence enclosures are usually assigned to the Construction Contract.
  - 9) Temporary fire standpipe protection system is assigned to the Plumbing Contract.
  - 10) Temporary roads, parking and staging area construction and maintenance (including snow removal) are usually assigned to the Construction Contract.
  - 11) Progress cleaning applies equally to each contract for its own work and own portion of the project site. All contractors are required to provide rubbish removal. Containerized rubbish removal may be assigned to the prime contract with the largest scope, which is usually the Construction Contract. Some larger projects may benefit from a laborer assigned to facilitate project site clean up for common-use areas where more than one contractor is working.
  - 12) The Consultant/Designer should review the specification and hidden text in Section 015000 for more information. The specification does not define all construction facilities and temporary controls. The Consultant/Designer is responsible for identifying and properly addressing all project specific issues.
- g. **Section 015123 Temporary Heat:**
- 1) Construction heat requirements apply to all contracts.
  - 2) Temporary heat (building enclosed) is usually provided by the Construction Contract. The Construction Contractor is to assume responsibility for damage due to frost and freezing during this period.
- h. **Section 017123 Field Engineering:**
- 1) Field-engineering services are usually assigned to one contract to avoid duplication that may lead to conflicts and misunderstandings. This work is usually associated with major site improvements, establishment of property lines and other critical grading requirements.

## H. RESPONSIBILITY FOR DAMAGE

1. Contractor responsibility for damage during construction is described in Article 18 of the General Conditions.

**Revision History:**

<i>Rev</i>	<i>Date</i>	<i>Description</i>	<i>Reviewed by:</i>	<i>Approved by:</i>
0	07/29/11	Last revised date		
1	07/08/13	Increase in use of Wick's exempt projects	Parnett	Dirolf
2	09/18/13	Added WICK's Exempt projects	Parnett	Dostie