

NFRC 703 – Research Contract Task Group Minutes of Conference Call

October 30, 2009

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Purpose – To consider new language for NFRC703 to address the unsatisfactory delays or cancellations of research projects

RM – contracts must be met, though must recognize extenuating circumstances, which could be the responsibility of difference parties or no one. Deadlines must be established as critical if so, and documented in RFP and Bid and Contract. What are valid excuses or reasons? Perhaps one delay is fine, but multiple delays are not. PMTGs are responsible to ID vital deadlines, any penalty or late fee or reaction. If milestones or deliverable dates are not hard and fast, then perhaps write out “pending delay” language...

JH – Legitimate delays happen. But a growing number of research projects are suffering delays, and we need to address it.

WL – We have had penalties in past contracts, but in one instance the contractor chose the penalty instead of completion as the cheaper alternative – to the dissatisfaction of the NFRC.

BS – We need the PMTG to monitor closely and complete status reports. NFRC should keep a database of reports on all contractors, and make that information available to BRTGs of new projects. These records would be available to the membership.

RM – record keeping by the NFRC of PMTG evaluations is manageable.

WdP – BRTG’s get only 1 or 2 bids on RFPs. Past performance of bidders is usually known by the Research Subcommittee and BRTG members. Failure could be due to an individual, rather than a company who completes the bid. The absence of payment for undelivered work is a penalty/disincentive already. PMTG must keep projects moving by meeting frequently and communicating problems, and considering project cancellation or re-awarding to others.

Contractors must be appreciated and not ‘scared off’ by unfair rules or excessive penalties.

BS – Delayed research needs additional disincentives/penalties.

RM – Payment schedules are important – if ¾ of contract is paid and the contractor quits, then the NFRC is ‘out’ and the payments are lost – sunk cost – that may have no value. Milestones should be adhered to, but final result needs primary emphasis. Quality of final product is more important than a delay in delivery.

JG – This need for improved contract language and management is common to business and organizations. What is seen in contracts at similar organizations (ASHRAE)?

WdP – Answer – a heavier weighting of payments to final deliverables. But remember than research is generally not profitable. A RETAINED PAYMENT of 25% after the project is complete may be the maximum tolerable.

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BS – Sometimes a project can fail due to NFRC committee problems. Procedures must be followed. What we want to address here is NEGLIGENCE of a contractor.

RM – Quality of the RFP is critical. True research reveals new requirements along the way, so a process is needed to recognize the evolution of a project. Some flexibility is needed – as timelines for some components of projects will change.

PMTG must report to the Research Subcommittee and report progress and milestones and deliverables, and explain reasons of contractor or PMTG, and indicate any unsatisfactory status. The PMTG must meet frequently.

RM – How and by whom are changes to the schedule approved?

BS – The PMTG has this authority; if issues arise, they report up to the Research Subcommittee, who reports to the R+T Committee, who reports to the Board. Staff is kept notified and support or facilitates. The PMTG may reach directly to the R+T Committee chair if urgent action is required, but should provide notice to Subcommittee and Staff.

PMTGs should meet at least twice between membership meetings.

Within NFRC703, opportunities for language change or addition are in these sections, as represented in some preliminary idea edits from Ray, Joe, and John:

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|---------|----------------------|--------------|
| - 2.2.1 | - 5.3.1 | - Appendix D |
| - 3.7.2 | - 6 | - Appendix E |
| - 4.4 | - Appendix G Item 4) | |

Efforts to edit NFRC703 should not happen until concepts are shared with the membership.

At the Research Subcommittee block of the November NFRC membership meeting, a summary of concepts for NFRC703 changes will be presented by John for discussion.

Next task group meeting will be November 23rd at 10 am Eastern time.

- Respectfully submitted by John Gant