



# **D** SUNY **DOWNSTATE** Medical Center

## **NYS GUIDELINES AND PROCEDURES FOR REQUESTING A CONTRACT FOR SERVICES OR CONSTRUCTION**

# PROCUREMENT AT SUNY DOWNSTATE



- **Integrity of the process**

Protect the interests of the State and its taxpayers

- **An equal playing field for all vendors**

Ensure fair and open competition

- **A clear audit trail**

Vendor selection, price reasonableness, document procurement activities

- **Meets NYS legal requirements**

Guard against favoritism, Fraud & corruption

# CONTRACTS

- ❑ **Contracts** are used to procure any type of service—including, but not limited to, consulting services, banking services, technology, maintenance agreements on equipment and construction services.
- ❑ It is every requestor's duty to adhere to the procurement guidelines, plan appropriately to implement contracts, be accountable to ensuring receipt of contract services, and to track spending on all contracts.

# SERVICE CONTRACTS

There are several things to consider when you want to enter into a contract to procure a service:

- What needs to be ***procured?***
- What are the ***specifications*** and ***scope of work?***
- Does the procurement require a ***competitive bid?***
- What is the ***best procurement vehicle*** for this good/service transaction? ***Lowest bid, best value, single/sole source, other?***
- What evaluation/award ***methodology*** will be used?
- What are the steps involved?
- How much ***time*** will it take?
- What is your ***budget?***
- Are there many vendors offering the product? Is there only one optimal choice?
- How many years will this contract be in place? (e.g. ***Three years, five years or more?***)
- What is ***my role and responsibility?***

# WRITING SPECIFICATIONS

- ❑ Writing specifications is the responsibility of the requesting department
- ❑ The Contracts & Procurement Division is responsible for reviewing the specifications to ensure a proper description of the product or service
- ❑ If a vendor prepares the formal specifications for your procurement, that vendor shall be precluded from bidding for that job
- ❑ Specifications include what the product can do, must do, and must not do
- ❑ Specifications must be as detailed as possible and state clearly what is needed, yet not so specific as to limit competition.

# Safety

NYS Education Law (Article 147) requires that with limited exceptions, construction/alteration projects bear the seal of a licensed professional and be designed by a registered Architect, Professional Engineer or registered Landscape Architect and all design work must be under the direct supervision of the same. This requirement applies to projects that affect public or structural safety, regardless of the dollar amount.

# Thresholds

- **All vendors doing business with DMC must provide proof of Workers Compensation and Disability Benefits**
- **< \$10,000 – justification for vendor selection – 3 verbal or written quotations**
- **\$10,000 - \$50,000 – justification with documentation showing that the price is reasonable and Quarterly Ad in NYSCR**
- **> \$15,000 – SFL 139 J&K and G-226 Consultant Services required**
- **> \$25,000 – must have goals of 30% for State certified MWBE**
- **> \$50,000 – must advertise in the NYSCR, Albany Times & Brooklyn Minority (Competitive Bidding)**
- **> \$75,000 – may need AG and must have approval of OSC prior to execution of the procurement (due to DMC De-certification)**
- **\$100,000 – ST220, G-221 and Vendor Responsibility**

# Contract & Procurement Requirements

OSC and AG approval is **NOT** required for the following contracts regardless of the amount:

- Procurement of materials, equipment and supplies (including computer equipment);
- Procurement of motor vehicles;
- Construction contracts;
- Construction-related services contracts such as Architectural or surveying services;
- Printing contracts.

**All** other Contracts, excluding any of the above, but including those specified below, of an amount exceeding \$75,000 and other applicable oversight approval thresholds must be pre-approved by OSC and AG:

- Real Estate: Acquisition and disposition of real estate such as real property purchases, deeds, leases, revocable permits etc;
- Contracts for services, other than construction related services contracts. Services contracts are those which require the vendor to perform a task or tasks or those for which the bulk of the expenditure on the contracts is for the payment vendor's personnel costs;
- Contracts which involve the vendor's deployment of a technical means or method in providing a solution to SUNY such as the acquisition of computer software systems and products etc;
- Revenue contracts;
- Article eleven-B (Contracts with not for profit organizations)

Please note that the foregoing list is not exhaustive and only provides examples of contracts which still require pre-approval



# Contract & Procurement Requirements

- ❑ OSC still has the authority to ***post audit*** ALL SUNY DMC's contracts. Every procurement and facilities office must be vigilant in maintaining strict adherence to the NY STATE and SUNY's procurement requirements so that our new procurement flexibility is not jeopardized.

# General Definitions

- **AG** – Attorney General of the State of New York
- **OSC** – Office of the State Comptroller
- **NYSCR** – New York State Contract Reporter
- **SUCF** – State University Construction Fund
- **Campus Let** – Campus managed construction projects funded by SUCF appropriations
- **Campus Funded** – Campus managed construction projects funded by SUNY appropriations
- **Consultant** – the Architect, Engineer, Landscape Architect, Surveyor or other designated entity named by the University to design and/or inspect and/or generally administer the project.

# Purchase Requisition

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AGENT PO#

**SUNY HEALTH SCIENCE CENTER AT BROOKLYN**

DO NOT FILL IN GREY AREAS  
Please Type or Print Only  
Read Instructions on Back of Last Copy

PURCHASE REQUISITION  EXTERNAL VENDOR  
 INTERNAL RECHARGE

DATE 1/10/06 HSCB BOX # 63 REQ 0 6 4 6 5 0 3 9

SUGGESTED SUPPLIER <b>United Supply Corp.</b>		REQUISITIONED BY: NAME <b>Jane Doe</b>	TEL <b>(718)270-0000</b>	BOX <b>63</b>	
ADDRESS <b>250 44<sup>th</sup> Street</b>		FINAL DELIVERY POINT (BLDG. ROOM) <b>150 East 34<sup>th</sup> Street – Room 100</b>			
CITY <b>Brooklyn</b>	STATE <b>NY</b>	ZIP <b>11232</b>	TEL. # <b>(888)439-9387</b>	DATE <b>1/13/06</b>	
ITEM	COMPLETE DESCRIPTION & SPECIFICATIONS <small>ATTACH ANY &amp; ALL JUSTIFICATION LETTERS</small>	QUAN.	UNIT	PRICE PER UNIT	TOTAL
1	7 Gal Plastic Waste Basket Color Black #UNV-29901	2	EA	\$5.82	\$11.64
2	7 Gal Plastic Waste Basket Color Beige #UNV-29902	2	EA	\$5.82	\$11.64
3	Sharp Calculator (2 Color) #SHR-EL1192BL	2	EA	\$69.95	\$139.90
TOTAL <b>16</b> <b>\$163.18</b>					

CHECK POINTS SAM# PC Pre enc. COMMENTS	CHARGE TO			AUTHORIZED SIGNATURE <i>Jane Doe</i> Director of Procurement TITLE <i>John Doe</i> AUTHORIZED SIGNATURE (WHEN SECOND SIGNATURE IS NEEDED) Assistant Vice President of Materials Management TITLE
	ACCOUNT CODE	OBJECT CODE	AMOUNT	
	17	18	19	
	860760	3001	\$163.18	
VENDOR TAX ID NUMBER				23

DISCT.	BATCH TYPE
FOB SHPG. PT.	COMMODITY GROUP NUMBER
FOB DEST.	
M	CONTRACT NU
S	
W	
PURCHASING AGEN	DATE

It is important to complete a requisition in its entirety and with comprehensive information. Please type all info on reqs. so it is legible. It could make the difference in your purchase being delayed or in obtaining the wrong or incomplete service/product. Make sure you have obtained the correct signatures before forwarding to the Contract & Procurement Department. If the proper authorizing signatures are not on the requisition when Purchasing receives the requisition, it will be returned to the department to obtain them. This will also delay your purchase.

# Purchase Requisition Guide

1. Date Requisition Prepared
2. Department Name
3. Interoffice Mail Box Number
4. Req. # - First two boxes represents the last two digits of the fiscal year. Third and fifth boxes represents the departments ID number;( which are assigned by Contracts & Procurement Management): the last three numbers are sequence numbers assigned by User department starting from 001.
5. Suggested Vendor/Supplier by User Department, Requisitioner.
6. Requisitioner's Name, Telephone Number, Box Number
7. Delivery Address. Include Bldg. and Room Number
8. Suggested Vendor/Supplier's Telephone Number & Contact Person
9. Requested Delivery Date. (need by date)
10. Line Item Number
11. A & B- Detailed description of Products/Services: equipment serial numbers, model numbers, location of equipment, length of contract, etc. Attach all pertinent documents if appropriate (quotations, statement of need, service agreements, renewals, etc.)
12. Quantity (# of equipment/machines)
13. Unit of Measure UOM (annual cost per machine)

# Purchase Requisition Guide con't

14. N/A
15. N/A
16. Total cost of Requisition (Total 1<sup>st</sup> year encumbrance)
17. Account Code (8 digits)
18. Object Code
19. Amount – When using multiple account codes, you must specify total dollar amount for each account code for the total amount of the requisition. Indicate Fiscal Year of Funding Allocation (i.e. SCF 2006 or 2008)
20. Authorized Signature
21. Title of authorized signature
22. Second authorized Signature
23. Title of authorized signature
24. Page number, if more than one page (top right corner)

**Purchase Requisition must be printed legibly or typed**

# Procurement Requirements

Procurements are made in the following order:

## 1<sup>st</sup> – Preferred Sources

- State Law mandates all State Agencies purchase from certain vendors
  - Correctional Industries (Corcraft)
  - Industries for the Blind of New York (IBNYS)
  - NYS Industries for the Disabled (NYSID)

## 2<sup>nd</sup> – Office of General Services Contracts

- Negotiated statewide, for all State “Agencies”
  - Staples
  - Dell

## 3<sup>rd</sup> – Agency’s own or Multi-Agency Established Contracts

- We could potentially piggy back onto other State Agencies contracts

## 4<sup>th</sup> – Single/Sole Source Procurements

- Need a strong justification

# Procurement Bidding Vehicles

- Competitive Procurements
  - IFB (Invitations for Bid)
  - RFP (Request for Proposal)
  - RFQ (Request for Qualifications)

# OGS Contracts

- ❑ If the preferred sources cannot provide the commodity meeting the form, function and utility that the agency requires then the agency must then go to the OGS Centralized Contracts. This applies to commodities only.
  
- ❑ If the product on the OGS contract does not meet form, function and utility, the agency must document findings in the Procurement Record.
  
- ❑ OGS or less - If an agency obtains pricing from a vendor through a method prescribed by the SFL, and that product is available from an OGS contract, then the agency must afford the OGS contract vendor the opportunity to match this price.



# Confirming Orders

“A STATE EMPLOYEE WHO DIRECTS A VENDOR TO START PROVIDING GOODS OR SERVICES WITHOUT AN APPROVED CONTRACT MAY BE PERSONALLY LIABLE FOR ANY INDEBTEDNESS THAT IS ULTIMATELY HELD TO BE OWED TO THE CONTRACTOR.”

Contract work should not begin until all necessary approvals are received.

# Confirming Orders

- **THE POLICY AT DOWNSTATE MEDICAL CENTER STRICTLY PROHIBITS CONFIRMING ORDERS**
- Confirming Orders are goods or services received without a valid purchase order or contract, these transactions are in violation of SUNY Downstate's policy
- In the event a confirming order did occur, the User department must secure the signature of a Senior Vice President or Chief Financial Officer before submitting the requisition and Letter of Justification to Contract & Procurement Management.

# Split Ordering

- Split Ordering is prohibited.
- Split Ordering is the practice of “splitting” a transaction into two or more smaller dollar value transactions to avoid competitive bidding requirements.
- Office of General Services (OGS) purchasing guidelines state that multiple purchases by an agency of similar materials, equipment, and supplies within a 12 month period shall be considered a single purchase. Agencies are to consider their total annual need for a particular good or service and then determine the most appropriate procurement method.

# Emergency Procurement Orders

- ❑ An emergency is defined as an urgent and unexpected event where health and public safety or the conservation of public resources is at risk. A failure to properly and timely plan in advance for a procurement, which then results in a situation in which normal procurement practices cannot be followed, will not constitute an emergency.
- ❑ In the event of an emergency, the relevant DMC User Department must immediately alert the Contracts & Procurement Department of the nature of the situation followed by a complete written explanation of the emergent situation.
- ❑ (If the emergency occurs on off hours, 5pm – 8am, or on the weekend, Saturday or Sunday, the notification to the Contracts & Procurement department should be the next business day.)

# CONSTRUCTION EMERGENCY

A Construction Emergency is defined as "...damage to, or a malfunction in buildings or property of the State of New York caused by an unanticipated, sudden and unexpected occurrence which involves a pressing necessity for immediate repair, reconstruction or maintenance in order to permit the safe continuation of a necessary public use or function, or to protect the property of the State of New York, or the life, health or safety of any person."

# Emergency Orders

- Identify the Emergency
  - Document the time, date, place, location and what occurred
  - If applicable, indicate whether the emergency was caused by an insured/non-insured outside entity
  
- Have a senior campus officer approve/sign the written Emergency Justification (and exemption from NYSCR justification if applicable)

# **ACCOUNTABILITY OF SERVICE CONTRACTS**

# Contract Compliance

- All contracts must be reviewed to ensure the User department is receiving services and products as stipulated in the terms and conditions of the contract
- Invoice **rate** must be verified against Contract **price list**
- Ensure funds are available for all payments
- Maintain a Payment Accountability Grid Sheet
- Track PM performance and retain copies of all Service Reports
- All equipment must receive the required contractual PM (Preventative Maintenance)



# User Department Responsibilities

- ❑ Select the staff member who will be responsible for managing the contract throughout the term of the contract for payments. In addition, Service Contracts for equipment must be monitored for service calls and approving payments for labor and parts.
- ❑ The appointed person should receive the specifics of the work being done from the Service Technician (including the completed service report showing the rate charged, parts, and materials used, etc.)
- ❑ Maintain the payment Accountability Grid Sheet for all contracts (Service, Consultants, Technology, Software, etc.)
- ❑ Invoice detailing cost must be reviewed and signed off by the appropriate person.

# User Department Responsibilities

- Indicate on invoice which departmental account code to charge if encumbrance is tied to multiple account codes.
- Ensure funds are available for all payments during the term of the contract. If account **balance is depleted** the User Department is responsible to submit an additional requisition to increase the allocation.

# Contract Department's Responsibility

1. Evaluate the most effective way of developing the Service Contract (length of contract, time and material, etc.)
2. Provide User Department and Account Payable Department with the details of the Service Contract (to include scheduled PM, specifics on what is covered, cost, contract period, etc.)
3. Attach a Departmental Payment Accountability Grid Sheet detailing the start-up allocation of funds and space to record payment against the allocation with an ending new balance.

# Recommendation for User Departments

- Develop policies and procedures to ensure all required preventive maintenance is performed on equipment according to the terms of the contract
- Ensure these policies and procedures are documented and communicated to staff responsible for verifying preventive maintenance are received
- Review preventive maintenance performance, parts replaced, completed service reports in order to validate invoice for payment

# Workers Compensation & Disability Insurance Requirements

- ❑ RULE #1 - Every entity (vendor) MUST provide proof of New York Workers Comp and Disability or a CE-200 exemption form.
- ❑ RULE #2 - Every out-of-state entity (vendor) MUST carry NYS insurances if they have employees working in New York (including independent contractors, installers, sales reps, etc.).
- ❑ RULE #3 - Standard Insurance Certificate (ACCORD) forms are not acceptable proof of coverage for NYS workers' compensation or disability benefits. The vendor must provide the buyer with the specific NYS WCB forms to prove the mandatory insurance coverage is in effect. (The ACORD form is acceptable as a certificate of liability insurance.)

# Workers Compensation & Disability Insurance Requirements

- ❖ RULE #4 - A screen print of the WCB website showing coverage, by itself, IS NOT sufficient documentation that proper coverage exists.
- ❖ RULE #5 - If a vendor is legitimately exempt under the law it must provide the NYS exemption form for EVERY transaction.
- ❖ RULE #6 - Any forms received from vendors must reference the FEIN that matches the FEIN on the purchase order/contract.

# NYS Insurance Matrix

New York State  
Insurance Matrix A - Recommended Policy Limits<sup>1</sup>  
CAPITAL CONSTRUCTION

Category	Workers' Compensation	NYS Disability Benefits	Commercial General Liability <sup>2</sup> in combination with Excess (Umbrella) Liability		Owners & Contractors Protective Liability <sup>3</sup>		Builders' Risk <sup>4</sup>	Business Automobile Liability	Professional Liability <sup>5</sup>	Railroad Protective	Environmental Liability <sup>6</sup>	Marine <sup>7</sup> (Protection & Indemnity)				
			Each Occurrence	General Aggregate	Each Occurrence	General Aggregate		Combined Single Limit								
													Total Value of Contract			
<b>Design</b>	Coverage shall be required in every contract, with limits as specified by law		\$2,000,000	\$2,000,000	Does Not Apply		Does Not Apply	\$1,000,000	< \$25M = \$2,000,000	Limits to be determined by the Railroad	\$2,000,000	\$2,000,000				
Architectural									\$2,000,000			\$2,000,000	\$2,000,000			
Engineering															TBD	
<b>Construction</b>																
Contract Value																
< \$10M			\$2,000,000	\$2,000,000	\$1,000,000	\$2,000,000	Total Value of Contract		\$1,000,000		Does Not Apply	Does Not Apply	Limits to be determined by the Railroad	\$2,000,000	\$2,000,000	\$2,000,000
= \$10M - \$50M			\$5,000,000	\$5,000,000											\$5,000,000	\$5,000,000
= \$50M			\$10,000,000	\$10,000,000											\$10,000,000	\$10,000,000
<b>Construction Management</b>																
Contract Value																
< \$10M	\$5,000,000	\$5,000,000	\$1,000,000	\$2,000,000	Does Not Apply	\$1,000,000	Does Not Apply	< \$25M = \$2,000,000	Limits to be determined by the Railroad	\$2,000,000	\$5,000,000	\$5,000,000				
= \$10M - \$50M	\$10,000,000	\$10,000,000									\$10,000,000	\$10,000,000				
= \$50M	\$25,000,000	\$25,000,000									\$25,000,000	\$25,000,000				

NOTES:

- The recommended limits and forms of insurance coverage listed in this matrix contemplate those exposures that are considered most common for the subject operations. The limits and lines of insurance coverage are not necessarily intended to apply to all contracts or intended operations. The Agency must take into consideration the potential exposure created by the work or operations that are the subject of the contract, and then adjust the form of insurance coverage and the corresponding limits commensurately. Consideration should be given to including insurance requirements in all transactions, even those which fall under discretionary purchasing.
- Commercial General Liability and Excess (Umbrella) Liability:**
  - Each Occurrence limits should be provided such that the sum of the Commercial General Liability (CGL) Per Occurrence and the Excess/Umbrella limits is equal to or greater than the total listed in column C. CGL insurance limits for Construction contracts are to be based on the total value of the contract, using the ranges shown in the Category column.
  - General Aggregate limits should be provided such that the sum of the General Aggregate and Excess/Umbrella limits is equal to or greater than the total listed in column D. CGL insurance limits for Construction contracts are to be based on the total value of the contract, using the ranges shown in the Category column; the limits apply on a per project/per job basis.
  - Products/Completed Operations limits should be provided such that the sum of the Products/Completed Operations Aggregate and the Excess/Umbrella Liability limits is equal to or greater than the General Aggregate limit listed in column D.
  - Personal & Advertising Injury limits of \$1,000,000 (see Chapter 3 of this manual) can be achieved by a combination of CGL and Excess (Umbrella) limits.
- Owners & Contractors' Protective** - This insurance type is *not applicable* to Architectural or Engineering contracts.
- Builders' Risk** - This form of insurance applies *only to* Construction contracts that involve buildings or structures being constructed, erected or fabricated (i.e., vertical construction). The insurance does not apply to road (i.e., horizontal) construction, but may apply to related structures like bridges, toll booths, etc. Limits should be determined based on the total value of the contract.
- Professional Liability** - Limits are to be based on the total value of the completed project. Requirements *do not* apply to Construction contracts.
- Environmental Liability** - Limits specified in the matrix are guidelines. Contractual limit requirements should be adjusted commensurate with the exposures and the nature of the contracted work. When environmental coverage is included in a CGL policy, minimum required limits should be increased to the sum of the two required limits.
- Marine (Protection & Indemnity)** - Limits specified in the matrix are guidelines. Contractual limit requirements should be adjusted commensurate with the exposures and the nature of the contracted work.

# What is SFL §139j & §139k?

When the estimated annualized expenditure will exceed **\$15,000**:

- Obligates SUNY DMC and its Vendors to undertake specific actions as part of the procurement process
- Sets forth specific requirements regarding communications during the procurement process
- Establishes specific contractual requirements
- Imposes new consequences if Vendors have impermissible communications



# Multiple Prime Contracts (WICKS LAW)

- ❑ Section 135 – State Finance Law requires separate Multiple Prime Contracts for **public work projects** in KINGS COUNTY (Brooklyn) that exceed \$3 million dollars
- ❑ Projects below \$3 million can be a single contract that include the work of multiple trades. These contracts are referred to as Wicks-exempt. However, use of a single contract which combines the work of multiple trades must be approved by the OGS Deputy Commissioner of Design & Construction prior to advertising for bids.

# WICK'S Law

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 & Air Conditioning (HVAC)
- c. Plumbing
- d. Electrical

The total ***Project Cost*** will be the combined price of each Prime Contract added together.

# Prevailing Wage Rates

- ❑ Prevailing Wage Rates are the wages and supplements to be paid and/or provided to laborers, workers and mechanics employed on a public work project
- ❑ The minimum wages and supplements that must be paid are listed in the current Prevailing Wage Schedule

# Prevailing Wage Rates

- ❑ State Law requires that Prevailing Wage Schedules be made part of all contracts between a government entity and a contractor
- ❑ The Contracting Agency must provide the prime contractor with a copy of the appropriate prevailing wage schedule

# PRC# - Prevailing Rate Case

- The Contracts and Procurement Department must register all public work projects with the Department of Labor
- DOL will issue a PRC # after the On-line Prevailing Wage application is completed

[www.empire.state.ny.us](http://www.empire.state.ny.us)

# Prevailing Wage Rates

- Prevailing Wage Rates must be used on any public work project
- Generally, projects for construction, reconstruction or maintenance done on behalf of a public agency (entity) are public work.
- In addition, projects for electrical wiring, movers, installation of cabling, etc.

# Prevailing Wage

## LEGISLATION

OSHA 10- requires that Public Contracts in excess of two hundred fifty thousand dollars (\$250,000) contain a provision that all workers complete a OSHA course in construction safety that is at least 10 hours in duration.

(Effective date: July, 2008)

# NYS Certified Minority & Women Owned Business

- ❑ NYS Executive Law Article 15-A and SUNY policy require all campuses and vendors/contractors with whom they do business, to make a ***good faith effort*** to procure materials, supplies, equipment, and services from NYS certified minority or women owned business (**MWBEs**) and meet established goals for MWBE participation in contracts.
- ❑ Also, the procurement process must outline steps to be in compliance with Federal Equal Employment Opportunity Act of 1972.



# Supplier Diversity (M/WBE) Requirements

## DMC must:

- Employ and document a good faith effort
- Require vendors to submit a work plan to be approved by the DMC campus, for achieving MWBE's goals established in the contract
- Require vendors to submit compliance reports and other relevant documentation (e.g., books, records, payroll records)
- Review vendor and any subcontractor documentation to determine whether the contractor made a good faith effort
- When appropriate, grant a partial or total waiver of goal requirements

# Consultant's Utilization Plan

(Form BDC 327)

- ❑ Consultants are required by law to submit the Consultant's Utilization Plan form to the NYS Office of General Services (OGS). The Consultant commits to good faith efforts in the utilization of sub-consultants as required by the MBE/WBE goals contained in the contract.
  
- ❑ OGS reserves the right to require the Consultant to submit periodic compliance reports relating to the operation & implementation of the approved Utilization Plan.

# Consultant Disclosure Legislation

## June 19, 2006

- ❑ The State of New York amended State Finance Law to add a reporting requirement for vendors that provide **consultant services**
- ❑ New York State Finance Law mandates the annual reporting of employment data from vendors that have active consultant services agreements valued above \$15,000 with any New York State agency

# CONSULTANT SERVICES

- Consultant Contract includes FORM “A”
  
- State Consultant Services Contractor’s Annual Employment Report (“Form B”) is to be used to report the required information
  - Number of persons employed
  - Number of hours worked
  - Amount paid to vendor for work performed by employees
  
- The first required reporting period was the 2006 – 2007 fiscal year, which ends March 31, 2007. ( The State fiscal year April 1<sup>st</sup> – March 31<sup>st</sup> )

# OMNIBUS PROCUREMENT ACT

## Discriminatory Jurisdictions

- ❑ State Finance Law requires the Commissioner of the Department of Economic Development to develop a list of jurisdictions that impose sanctions or otherwise restrict the ability of New York State companies when they compete for contracts on an equal basis within those jurisdictions.
- ❑ The current list of discriminatory jurisdictions with policies against New York State are identified as follows: **Alaska, Hawaii, Louisiana, South Carolina, West Virginia and Wyoming**

# Discriminatory Jurisdictions - Omnibus

- ❑ State Finance Law and the Public Authorities Law requires all State agencies, Public Authorities and Public Benefit Corporations, to deny businesses from these jurisdictions with discriminatory policies against New York State contracts and placement on any bidders list.
- ❑ Deny business to any potential vendor that's principal place of business is in a jurisdiction that discriminates against NYS businesses.
- ❑ Also a construction contractor must only have its principal place of business in a state on the discriminatory list in order to require imposition of the sanctions.

# Discriminatory Jurisdictions - Omnibus

- ❑ Sanctions may be waived in writing if it is determined that it is in the “best interests of the state”.
- ❑ Government Entities must send/fax Waiver Notifications to the Commissioner of the Department of Economic Development, attention Procurement Assistance Unit at (518) 292-5884.

# BAA - BUSINESS ASSOCIATE AGREEMENTS

- ❑ The BAA is to ensure that all business associates (BA) enter into an appropriate contract with SUNY Downstate that will provide satisfactory assurance to SUNY Downstate that the BA will appropriately safeguard the protected health information (PHI), in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- ❑ A Business Associate is a person who is not a member of SUNY Downstate's workforce who on behalf of SUNY performs or assists in the performance of a function or activity involving the use or disclosure of individually identifiable health information (IIHI).



# BAA – Con't

- ❑ All contracts after **April 14<sup>th</sup>, 2003** must have an appropriate **Business Associate Agreement**.
  
- ❑ The development of the procedure section is the responsibility of the respective department. It is dependent upon the unique needs of each department's operating structure and shall be customized accordingly.
  
- ❑ It is the responsibility of all medical staff members and hospital staff members to comply with this policy. Medical staff members include physicians as well as allied health professionals. Hospital staff members include all employees, medical or other students, trainees, residents, interns, volunteers, consultants, contractors and subcontractors of the hospital.

# Additional Contract Documentation

- ❑ Workers Compensation – [www.wcb.state.ny.us](http://www.wcb.state.ny.us)
- ❑ Vendor Responsibility – G-Bulletin 221
- ❑ VendRep OnLine System
- ❑ Lobbying Law – SFL 139 j & 139 k
- ❑ DRA – Deficit Reduction Act of 2005

# Methods of Procurement

## Competitive Bids

- RFP (Request for Proposal)

  - Contracts

- IFB (Invitation for Bid)

  - Purchase Orders

- RFQ (Request for Qualifications)

# Methods of Procurement

- ❑ Quote/Proposal - a non-binding statement of price, terms of sale, and description of goods or services offered by a vendor as a basis for negotiations for entering into a contract.
- ❑ Bid – a binding price offering that has been submitted in a sealed envelope to prevent dissemination of its contents before the deadline for the submission of all bids.

# Methods of Procurement

## Competitive Bids using IFB

- Invitation for Bids (IFB) is **most typically used** where requirements can be stated and award will be made to the “lowest responsive and responsible bidder”
- Must be used for commodity/printing purchases
- May be used for the purchase of services and technologies

# Methods of Procurement

- ❑ **IFB** states: “As a requirement to bidding, bidders must attend a site visit.
- ❑ The word **MUST** indicates a mandatory requirement.
- ❑ The agency cannot waive the site visit for the incumbent vendor as it was a mandatory requirement.
- ❑ The site visit was mandatory, therefore, anyone who did not attend the site visit should be rejected as being non-responsive.

# Methods of Procurement

## Competitive Bids using **RFP**

- **Request for Proposals (RFP)** is used for procurements where factors in addition to cost are considered and weighted in awarding the contract and when the method of award is “best value”
- Mostly used for services and technology
- Used for complex procurements
- Bid evaluations completed by User Department and Contracts & Procurement

# Sole and Single Source

## **Sole Source Procurements**

- A procurement in which only one vendor can provide the commodities or services required.

## **Single Source Procurements**

- A procurement in which two or more vendors can supply the commodities or services required, the state agency, upon written findings setting forth the material and substantial reasons therefore, may award the contract to one vendor over the other(s).



# Single Source Vendor Justification

The state agency shall document:

- The circumstances leading to the selection of the vendor, including the alternatives considered
- Specify unique feature of the vendor's product or service. Describe how the unique features are pertinent to your requirements
- List other brands or models of the product or service which were considered and an explanation of why they were unacceptable
- The basis upon which it determined the cost reasonable.

# Bidders Debriefings

- ❑ Bid solicitations ***must include*** information advising bidders that a debriefing may be requested by any unsuccessful offerer, within a reasonable time frame after the contract award, regarding the reasons that the proposal or bid submitted by the unsuccessful offerer was not selected for an award.
  
- ❑ During the ***debriefing***, you may do one or more of the following:
  - ❑ Limit the discussion to the reasons why the bid was not successful.
  - ❑ Discuss the reasons why the winning bid was selected
  - ❑ Offer advice and guidance to the bidder to improve future bids.



SEARCH >>

- ABOUT SUNY
- PROSPECTIVE STUDENTS
- CURRENT STUDENTS
- FACULTY & STAFF**
- ALUMNI & SUPPORTERS
- ACADEMIC AFFAIRS
- OUTREACH & ENGAGEMENT
- RESEARCH & ECONOMIC DEVELOPMENT
- NEWS & INFORMATION



### Faculty & Staff

#### Employment Resources

- Human Resources
- Employment Opportunities
- SUNY Benefits
- Employee Relations
- SUNY Giving Campaign Form (txt) (pdf)\*
- Faculty & Staff PC Discount Program: Apple Dell

#### SUNY Secure



SIGN ON >>

Unauthorized use prohibited

#### Professional Development

- SUNY Center for Professional Development

# SUNY Policy #7554

suny.edu - University-wide Policies & Procedures Search Results - Windows Internet Explorer

http://www.suny.edu/sunypp/sort.cfm

File Edit View Favorites Tools Help

Convert Select

suny.edu - University-wide Policies & Procedures Sear...

SUNY University Wide

## University-wide Policies & Procedures Search Results

A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W | X | Y | Z

0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | All

**Policies & Procedures**

By Category (+)  
By Alphabetical  
By Numerical

**Forms & Appendices**

By Category (+)  
By Alphabetical  
By Numerical

**SUNY Regulations**

By Category (+)  
By Alphabetical  
By Numerical

Advanced Search

What's New

Name	Related Docs	Doc.#	Type	Category Code (Key)
<a href="#">Bid Bond &amp; Acknowledgment</a>		7554.16	Form	FI
<a href="#">Building Contracts Quick Certification Form</a>		7554.25	Form	FM
<a href="#">Construction Agreement</a>		7554.17	Form	FI
<a href="#">Construction Contracting</a>		7554	Procedure	FI
<a href="#">Contractor, Subcontractor, and Sub-subcontractor's Certification</a>		7554.20	Form	FI
<a href="#">Contractor's EEO Policy Statement, etc.</a>		7554.19	Form	FI
<a href="#">Division 1, etc., General Requirements</a>		7554.22	Form	FI
<a href="#">Information to Bidders</a>		7554.14	Form	FI
<a href="#">Labor &amp; Materials and Performance Bonds w/Acknowledgment</a>		7554.18	Form	FI
<a href="#">Notice to Bidders (UF-9)</a>		7554.13	Form	FI
<a href="#">Project Capitalization Form</a>		7554.23	Form	FI
<a href="#">Project Manual Cover Page (UF-7)</a>		7554.11	Form	FI
<a href="#">Proposal</a>		7554.15	Form	FI
<a href="#">Release (UF-4)</a>		7554.21	Form	FI
<a href="#">SUNY CONSTRUCTION PROCUREMENT RECORD CHECKLIST</a>		7554.24	Form	FM
<a href="#">Table of Contents</a>		7554.12	Form	FI
<a href="#">UF-10 Request for Cost Proposal</a>		7554.6	Form	FI
<a href="#">UF-11 Contract Change Order</a>		7554.7	Form	FI
<a href="#">UF-13 Notice of Award Letter</a>		7554.8	Form	FI
<a href="#">UF-14 Contractor's Certificate of Insurance</a>		7554.9	Form	FI
<a href="#">UF-15 Vendor Responsibility Construction Questionnaire, Financial Statement</a>		7554.10	Form	FI

Done

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Default Design

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A - i307 (admi...)

09/19/2011 0...

STORENGO

3esunycons.ppt

FM D Contract...

suny.edu - Uni...

2:58 PM

Monday

9/19/2011

# SUNY Policy #7555

The screenshot shows a Windows Internet Explorer browser window with the address bar displaying <http://www.suny.edu/sunypp/sort.cfm>. The page title is "SUNY University Wide University-wide Policies & Procedures Search Results".

On the left side, there are three main navigation sections:

- Policies & Procedures** (with a right-pointing arrow):
  - By Category (+)
  - By Alphabetical
  - By Numerical
- Forms & Appendices** (with a right-pointing arrow):
  - By Category (+)
  - By Alphabetical
  - By Numerical
- SUNY Regulations** (with a right-pointing arrow):
  - By Category (+)
  - By Alphabetical
  - By Numerical

At the bottom left of the page, there is an "Advanced Search" link and a "What's New" link.

The main content area displays the search results for "7555". At the top of the results, there are navigation links: "A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W | X | Y | Z |" and "0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | All".

Name	Related Docs	Doc #	Type	Category Code (Key)
<a href="#">Construction-Related Consultant Contracting Procedures</a>		7555	Procedure	FI
<a href="#">CS-11 Consultant Agreement</a>		7555.8	Form	FI
<a href="#">CS-12 Consultant's Certificate of Insurance</a>		7555.9	Form	FI
<a href="#">CS-13 Letter of Intent</a>		7555.10	Form	FI
<a href="#">CS-14 Contract Amendment</a>		7555.11	Form	FI
<a href="#">CS-1 Request for Qualifications</a>		7555.1	Form	FI
<a href="#">CS-3 Transmittal Letter to Consultant (RFQ)</a>		7555.2	Form	FI
<a href="#">CS-4 Consultant Selection Rating Sheet</a>		7555.3	Form	FI
<a href="#">CS-5 Term Contract Consultant Rating Sheet</a>		7555.4	Form	FI
<a href="#">CS-6 Consultant's Application for Payment</a>		7555.5	Form	FI
<a href="#">CS-7 Authorization to Proceed (Term)</a>		7555.6	Form	FI
<a href="#">CS-8 Scope of Services (Term)</a>		7555.7	Form	FI

Below the table is a "Category Codes Key" table:

Category Codes Key	
GO	= Governance
AA	= Academic Affairs

The browser's taskbar at the bottom shows the Start button, several open applications (including a document titled "3esunycons.ppt" and "FM D Contract..."), and the system tray with the date and time: "2:46 PM Monday 9/19/2011".

# SUNY Policy #7557

suny.edu - University-wide Policies & Procedures Search Results - Windows Internet Explorer

http://www.suny.edu/sunypp/sort.cfm

File Edit View Favorites Tools Help

Convert Select

Favorites Find A Bargain Web Slice Gallery Suggested Sites Free Hotmail

suny.edu - University-wide Policies & Procedures Sear...

## SUNY University Wide Policies & Procedures

By Category (+)  
By Alphabetical  
By Numerical

## Forms & Appendices

By Category (+)  
By Alphabetical  
By Numerical

## SUNY Regulations

By Category (+)  
By Alphabetical  
By Numerical

Advanced Search

What's New

### University-wide Policies & Procedures Search Results

A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W | X | Y | Z |

0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | All

Name	Related Docs	Doc #	Type	Category Code (Key)
<a href="#">Campus' Consultant/Contractor Affidavit Part 1</a>		7557.9a	Form	FI
<a href="#">Campus' Consultant/Contractor Affidavit Part 2</a>		7557.9b	Form	FI
<a href="#">Contract Breakdown and Sample</a>		7557.6	Form	FI
<a href="#">EEO Staffing Plan</a>		7557.8	Form	FI
<a href="#">MWBE Contractor Solicitation Letter</a>		7557.1	Form	FI
<a href="#">MWBE Contractor Unavailability Certification</a>		7557.3	Form	FI
<a href="#">MWBE-EEO Work Plan</a>		7557.5	Form	FI
<a href="#">MWBE Participation Quote</a>		7557.2	Form	FI
<a href="#">MWBE Utilization Plan</a>		7557.7	Form	FI
<a href="#">Monthly EEO Workforce Utilization</a>		7557.10	Form	FI
<a href="#">Monthly MWBE Compliance Report</a>		7557.11	Form	FI
<a href="#">MWBE-EEO Policy Statement</a>		7557.4	Form	FI
<a href="#">Participation by Minority Group Members and Women (MWBEs) with Respect to State University of New York Contracts</a>		7557	Procedure	FI
<a href="#">Quarterly EEO Workforce Utilization</a>		7557.12	Form	FI
<a href="#">Quarterly MWBE Compliance Report</a>		7557.13	Form	FI
<a href="#">Request for Waiver</a>		7557.14	Form	FI

Category Codes Key

Slide 59 of 64      Default Design      Internet      100%

start      A - i307 (Disco...      Mail - Inbox - I...      3esunycons.ppt      suny.edu - Uni...      STORENGO      FM D Contract...

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# OGS – OFFICE OF GENERAL SERVICES

[www.ogs.state.ny.us](http://www.ogs.state.ny.us)

New York  State

☰ State Agencies

🔍 Search all of NY.gov



Governor Andrew M. Cuomo

## OFFICE OF GENERAL SERVICES



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🔍 Entire site

GO

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- [Statewide Capital Assets Accounting System](#)
- [Statewide Travel](#)

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- [Deliveries to Empire State Plaza](#)
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