Summary
This procedure, along with other publications referenced throughout, is intended to assist campuses in the execution of contracts/purchase orders for construction services. The purpose of this document is to identify and clarify differences from the general procurement procedures found in “Purchasing and Contracting” procedure (Procedure Item #7553). Funding for projects under this Procedure can come from monies either appropriated to SUNY or monies appropriated to the Construction Fund.

Process
I. General

Definitions:

1. AG – Attorney General of the State of New York
2. OSC – Office of the State Comptroller
3. NYSCR – New York State Contract Reporter
4. SUCF – State University Construction Fund
5. Campus Let – Campus managed construction projects funded by SUCF appropriations
6. Campus Funded – Campus managed construction projects funded by SUNY appropriations
7. 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.

This procedure deals with two basic project categories:

1. Contracts up to $20,000, and
2. Contracts exceeding $20,000 which, due to their size, are required to meet more rigorous requirements (e.g. contracts exceeding $250,000 require AG and OSC approval).

It is the University's policy to take affirmative action to ensure that New York State certified minority- and women-owned business enterprises (“M/WBEs”) are given the opportunity to demonstrate their ability to
provide the University with construction services at competitive prices. To ensure compliance with NYS Executive Law Article 15-A, see requirements outlined in document 7557 (Participation by Minority Group Members and Women (MWBEs) with Respect to State University of New York Contracts).

This procedure contains provisions for addressing construction emergencies and contracts requiring an exemption from competitive bidding and NYSCR requirements. These provisions require certain criteria to be met, and appropriate written justification/substantiation provided and approved (see Section IV, Parts A & B).

Health and Safety:

A. The New York State 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. It does not apply to (1) farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes; (2) residence buildings of gross area of fifteen hundred square feet or less, not including garages, carports, porches, cellars or uninhabitable basements or attics; or (3) alterations which do not affect the structural safety or public safety costing ten thousand dollars or less for any building within the city of New York and twenty thousand dollars or less for any building or structure outside the city of New York. However, regardless of legal requirement, all contract documents should generally bear the seal of a licensed professional.

B. Design work can be accomplished by a licensed professional on campus staff or through a consultant service agreement.

C. All construction/renovation work shall comply with the New York State Uniform Fire Prevention and Building Code.

D. Please note that failure to fully carry out all necessary project reviews for Code compliance might expose personnel to personal liability. The New York State Public Officers Law provides for representation and indemnification of employees only when carrying out activities within the scope of their employment, i.e., within the limits of the individuals licensing and/or training.

II. Rules and Regulations Governing Construction Contracts Not Exceeding $20,000

No formal bid solicitation is required for contracts that do not exceed $20,000. Reasonableness of price must be established (i.e., itemized campus estimate, standardized reference, or third party proposal). Campuses may use Form UF-1 to solicit bids at their discretion. Approval by other State agencies is not required for construction contracts under this section.

A. Payments:

Upon successful completion and acceptance of the invoiced portion of the work, submit the following documents to the Office of the State Comptroller:

1. If applicable, a Batch Transmittal (Form AC 2387, Batch Code Type EFL), with Purchase Order (Form AC 130) attached. The batch transmittal is not a required document if the campus supplies a contact person and phone number on the batch control list in case of questions.

2. If applicable a Batch Transmittal (Form AC 2387, Batch Code Type KPV, V01 or V02, is applicable by virtue of the contract amount) with a fully executed State Voucher (Form AC 92) attached. The batch transmittal is not a required document if the campus supplies a contact person and phone number on the batch control list in case of questions.

3. Error-free Batch Control Listings for Items 1 & 2.
4. OSC Forms - AC 2947, AC 2948 & AC 2958, from the prime contractor, all subcontractors and all sub-subcontractors, with the final payment.

5. A tax clearance is required for the first and final payments from all out-of-state contractors (see section IV, Part I, below).

6. A copy of the advertisement from the New York State Contract Reporter (see Section IV, Part H, below), or the date and page number of the same with the first payment, for projects valued at $10,000 or more.

If more than two (2) payments are to be made to the contractor, payment procedures will vary (see Section IV, Part D)

B. Obtain proof of insurance on Form UF-14. The insurance must be in the amounts and types required in the specifications, naming the State of New York, the State University of New York as additional insureds, with the campus designated as the Certificate Holder. The policy expiration date must cover the period within which the work will take place.

C. Obtain a Schedule of Prevailing Wage Rates from the New York State Department of Labor. To do so, submit a Request for Wage and Supplement Information (Form PW39) either online at the NYS Dept. of Labor Web Site or by mail or fax to the Bureau of Public Works Central Office in Albany, NY.

D. Contracts with a value of $10,000 or more must be advertised in the New York State Contract Reporter in the manner described in the procedure, "Purchasing and Contracting Procedures," Item 7553.

E. Contracts Which Exceed $250,000 Due to Change Orders

A Change Order is not to be treated as a separate contract but as an addendum to the original contract. If due to Change Order(s), the total contract value exceeds $250,000 appropriate approvals and procedures must be followed (see Section IV, Part E).

F. Project Capitalization

See Project Capitalization Procedures - Section IV, Part G

G. Procurement Lobbying procedures must be followed for contracts that exceed $15,000. See Procurement Lobbying Procedure.

H. The Vendor Responsibility Construction Questionnaire (Form UF-15) must be submitted by the contractor for any contract valued at $10,000 or more.

I. SUNY Exhibit A must be attached to and incorporated into the contract.

III. Rules and Regulations Governing Construction Contracts Exceeding $20,000

A. Required Project Bidding Documents:

1. The Project Manual which contains the Project Manual cover page (Form UF-7), and those forms and items referenced in the Table of Contents.

2. Drawings, if any, which graphically illustrate the work.

B. Overview of the Initiation/Approval Process:
1. In addition to the following, please see the Information for Bidders document in the Project Manual for detailed instructions.

2. Obtain a Schedule of Prevailing Wage Rates from the New York State Department of Labor. To do so, submit a Request for Wage and Supplement Information (Form PW39) either online at the NYS Dept. of Labor Web Site (www.labor.state.ny.us) or by mail or fax to the Bureau of Public Works Central Office in Albany, NY.

3. Determine the amount of deposit to be required for plans and specifications.

4. Determine if a site visit/walk through will be made available and whether it will be mandatory or optional.

5. Assemble the Project Manual, including technical specifications and drawings, if any. Each set of bid documents will be accompanied by loose copies of those items indicated in section 2 of the Information to Bidders.

6. Advertise and bid the project as specified in Section III C.

7. After receiving sealed bids with appropriate security, award to the lowest cost bidder who is responsible and reliable. Utilize the information provided by the contractor on Form UF-15 in the evaluation process.

8. Have the successful contractor obtain the required bonds and insurance, and sign five originals of the Agreement with Acknowledgment Form.

9. For contracts requiring Attorney General and OSC approval (see Section III Part G):
   
   i. Retain one original of the signed Agreement plus all support material. Forward one complete original and three original signature pages along with the required materials to the Attorney General's Office.
   
   ii. After review and approval, the Attorney General will forward all materials to the Office of the State Comptroller.
   
   iii. After review and approval, the Comptroller will retain the original of the fully executed Agreement and Project Manual support material and return three approved fully executed signature pages directly to the campus.

10. The campus will re-attach the signature pages to the contracts and retain two originals of the fully executed Agreement (one for the campus Facilities Office and one for the campus Business Office). The campus will forward one original fully executed Agreement to the Contractor with a complete set of contract documents, and one copy of the Agreement and all relevant materials to the Consultant.

C. Solicitation of Bid Proposals:

1. Advertise the project in the New York State Contract Reporter. (See Section IV, Part H). If estimated value of the contract is greater than $50,000, using Form UF-8, advertise the project for one (1) day in an Albany, New York, newspaper and in a local newspaper of general circulation.

2. Contact a reasonable number of local contractors (a minimum of 5, if feasible). Describe the to be bid and invite the contractors to submit a bid Proposal on the work. Listing of project with at least one Local Builder's Exchange and/or contract reporting services is also recommended.

D. Issuance of Addenda:
If, during the bid period, questions arise from one or more of the prospective bidders relating to part of the bidding documents determined to be vague, incorrect, incomplete or inconsistent or the campus determines that information must be added or changed, a written Addendum must be issued by the campus. The Addendum must be forwarded to all contractors who obtained copies of the Bidding Documents from the campus, and to all locations where documents were sent for review by prospective bidders (i.e., Brown's Letter, Dodge Reports, etc.). This may be done by first class mail or electronic transmission (Fax, mail-gram, telegrams, etc.) depending on the remaining available time. If sufficient bid time does not remain to incorporate the impact of each Addendum into the bid, the Addendum should also extend the bid time to allow for the same. Sequentially number and date each Addendum issued. Campuses must receive written acknowledgment from each contractor of receipt of each addendum.

E. Bid Opening:

1. On the designated day, hour and place, all bids received up until that time shall be publicly opened and read aloud in the presence of a campus staff witness. In opening the bids, contractor's name, bid amount, and form of Bid Security (or lack of the same), shall be read aloud. Bids cannot be withdrawn after the designated day and time of the deadline for submission of bids.

2. Summarize the bids received and certify the results on Form UF-5.

3. Proposals received after the designated day and hour will not be opened, and will be returned unopened to the bidder.

4. Proposals that contain minor irregularities, such as those submitted without a proper Bid Security, or in the wrong form, or executed improperly, shall be considered informal. Informal proposals may be considered in selecting a low bidder where the public interest will be promoted thereby. Consultation with University Counsel is recommended prior to accepting any informal bid.

F. Bid Award:

1. Award to lowest cost, qualified bidder meeting the criteria established above and forward the same a Notice of Award Letter (Form UF-13).

2. Have the contractor sign five originals of the Agreement with the Table of Contents and corresponding Notary's Acknowledgment.

3. Have the contractor obtain a Labor & Material Bond and Performance Bond (unless the Performance Bond is waived, reference Section IV, Part F—Labor and Materials Bonds may not be waived). The Bonds are required to be acknowledged by a notary and to be accompanied by a Financial Statement for the Surety and Power of Attorney.

4. Obtain proof of insurance on Form UF-14. The insurance shall be in the amounts and types required in the specification, naming the State of New York, the State University of New York, as additional insured, with the campus designated as the Certificate Holder. The Insurance Policy expiration dates must be current and cover the period within which the work will take place.

5. Return the Bid Securities to all bidders as outlined in Section 6 (IB-3) of the Information to Bidders in the Project Manual. Notify each bidder, in writing, of the bid results. If for any reason, the apparent low bidder cannot obtain the required bonds or insurance, or informs you in writing that its bid was in error, or that it is unable to meet the obligations of the contract, such bid may be rejected and the contract awarded to the next lowest bidder. The campus, at this point, may either retain or return the rejected bidder's Bid Security. This situation must be PROPERLY documented and a copy of the same forwarded with the
paperwork required in the Contract Approval Process in Part H below. Consultation with University Counsel is recommended under these circumstances. If a tie bid should occur, see Section IV, Part K, below.

6. Retain or return the deposits on plans and specifications in accordance with State Finance Law Article 9, Sections 140 and 143.

G. Attorney General and OSC approval

1. Construction contracts of $250,000 or less shall require no prior approval by any state agency. However, due to the nature of construction contracts and the possibility of change orders, it is strongly recommended that campuses send construction contracts in excess of $225,000 for approval of the Attorney General and OSC.

2. Contracts exceeding $250,000 are subject to the approval of the Attorney General and OSC, after consultation with, but not prior approval of, any other state agency.

3. Contract work should not begin until all necessary approvals are received. Authorizing the start of work before all approvals are received is beyond the scope of a State employee's authority, and the employee may be held personally liable.

H. Documents to be submitted for contracts requiring AG and OSC approval:

Having obtained the required signatures, bonds, insurance and financial forms, assemble the package in the sequence and quantity indicated below and forward to the Attorney General:

1. SUNY Construction Procurement Checklist
2. Transmittal letter to the Attorney General, original and one copy.
3. Transmittal letter to the Office of the State Comptroller, original.
4. Notice of Award Letter, (Form UF-13), one copy.
5. A Batch Control List.

   If applicable, a Batch Transmittal (Form AC 2387), Batch Code Type TDC. The batch transmittal is not a required document if the campus supplies a contact person and phone number on the batch control list in case of questions.

6. A Contract Encumbrance Request (Form AC 340) with A D0XXXXX contract number assigned (hard copy original).

7. One copy of the Proof of Advertisement Affidavits from both newspapers (the Albany newspaper and the local newspaper), and the New York State Contract Reporter (or a statement referencing the volume, date and page of the latter). (See Section IV Part H.)

8. A concise project justification.
9. A Pre-bid Cost Estimate (Form UF-6), or the actual consultant's cost estimate, one copy.
10. A list of the contractors invited to bid.
11. A Bid Tabulation (Form UF-5), original.
12. The originals of all proposals received.
13. If site visit and/or walk-through was mandatory, a copy of the sign-in sheet(s).
14. One originally signed Agreement with acknowledgment forms, and Table of Contents attached along with required number of additional signature pages with original signatures.
15. One copy of the Project Manual with any addenda issued stapled to the inside of the Cover Page. (Note: if required by the scope of work, consistent with the New York State Education Law and SUNY Procedures - the seal of a Registered Architect, Licensed Professional Engineer or Registered Landscape Architect must appear on the cover of the
Project Manual or first inside page and must also appear on any drawings for the proposed contract.)

16. The original Performance Bond and Labor and Material Bond, acknowledged, with the Financial Statement of the Surety and Power of Attorney attached.


18. One signed copy of the Project Construction Permit. (Note: if required by scope of work consistent with Title 19, Part 448 NYCRR.)

19. If applicable, one copy of the contractor’s EEO Policy Statement.

20. The following in connection with Procurement Lobbying Law:

   i. Vendor’s Affirmation of Understanding of and Agreement pursuant to State Finance Law §139-j(6)(b).

   ii. Vendor’s Disclosure and Certification of Compliance with State Finance Law §139-k(5).

   iii. Governmental Entity Representation Concerning Compliance with State Finance Law Sections 139-j and 139-k.

   iv. Record of Contacts if applicable.

21. The following forms in connection with Vendor Responsibility

   i. The Vendor Responsibility Construction Questionnaire (Form UF-15)

   ii. Vendor Responsibility Profile

   iii. Agency Certification and supporting documentation of Vendor Responsibility

22. WICKS Law:

Campus-funded projects may be subject to the WICKS Law, which requires separate specification and bidding for each subdivision of work. The threshold for triggering Wicks Law mandates is determined by a campus’ geographical location as indicated below:

$3 million for campuses in counties of the Bronx, Kings, New York, Queens, and Richmond (HSC @ Brooklyn, Maritime and Optometry);

$1.5 million for campuses in the counties of Nassau, Suffolk and Westchester (Farmingdale, Old Westbury, Purchase and Stony Brook);

$500,000 for all other counties within the state (all other state-operated campuses).

Where the preparation of separate specifications is not required, the bidder must submit with its bid a separate sealed list that names each subcontractor that the bidder will use to perform work on the contract, and the agreed-upon amount to be paid to each for the different trades.

The list of subcontractors and the amount they will each be paid should be included with the procurement record when it is submitted to OSC for review and approval.

Campus-Let projects are exempt from the Wicks Law. When a campus manages a campus-let project, the campus should obtain a letter from the SUCF verifying this exemption and submit a copy of the letter to OSC.

Effective: September 05, 2008
If a campus intends to enter into a Project Labor Agreement (PLA), prior to the campus signing the agreement a draft of the PLA should be sent to OSC for review.

23. Also include the following if applicable:

1. An Emergency Justification and/or NYSCR exemption justification, signed by a senior campus officer (see Section IV, Parts A & B), and/or documentation regarding the number of bidders (see Section IV, Part C), original.

2. Price justification if the low bid is not within 15% of the Pre-Bid Cost Estimate or the next lowest bidder.

3. Documentation required if fewer than three bids were received.

4. A memorandum of explanation for any rejected or withdrawn bids.

5. Copies of any bid protests and the campus' response to each.

When the above items have been completed, forward the entire package to the Attorney General.

I. Payments to the Contractor:

Payments to the contractor shall be made in accordance to Section E of the Project Manual with Article IV of the Agreement and submitted to the Office of the State Comptroller by the campus business office as follows:

1. For a Single/Final Payment:
   a. An executed Contractor’s Application and Certification for Payment labeled single/final on Forms UF-2 & UF-2A. If applicable, a Batch Transmittal (Form AC2387), Batch Type Code VCD. The batch transmittal is not a required document if the campus supplies a contact person and phone number on the batch control list in case of questions.
   b. An error-free Batch Control List.
   c. Appropriately executed Contract Payment Request (Form AC 92).
   d. OSC Forms AC 2947, AC 2948 & AC 2958, from the prime contractor, all subcontractors, and all sub-subcontractors.
   e. A Tax clearance letter, if the prime contractor is out-of-state (see Section IV, Part I, below).
   f. A Release (Form UF-4), from the prime contractor.

2. For Multiple Payments:
   a. An executed Contractor’s Application and Certification for Payment, sequentially numbered, less retainer, (Forms UF-2 & UF-2a). If applicable, a Batch Transmittal (Form ype Code VCD, The batch transmittal is not a required document if the campus supplies contact person and phone number on the batch control list in case of questions.
   b. An error-free Batch Control List.
   c. A properly executed Contract Payment Request (Form AC 1319).

The final payment for a multiple payment project shall be the same as Part I.1 above.
IV. General Requirements for All Project Categories:

A. Construction Emergencies:

1. General Information Regarding Construction Emergencies:

   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."

   When a construction emergency exists, a waiver of formal competitive bidding, as described in Section III is allowed. Reasonableness of price must be established, however, by obtaining a minimum of three (3) verbal or written quotes. In soliciting verbal quotes, the potential contractors must be informed of the contractual obligations required of them if their proposal is accepted (reference the Required project Bidding Documents in Section III above). If the scope of the emergency work can be verbally quantified, A LUMP SUM quote should be requested. If the scope of the emergency work cannot be reasonably quantified, A COST PLUS FIXED FEE quote should be requested. A Cost Plus Fixed Fee quote is the percentage of overhead plus profit a contractor will charge in addition to the actual material and labor cost required to execute the work. Emergencies can exist which involve exemption from NYSCR; these require additional written justification and approval by a senior campus officer. With the exception of how the proposals are solicited and the Initiation/Approval Processes indicated below, all other procedures and documentation are the same as those indicated in Sections II and III, whichever is applicable by virtue of the project dollar amount.

2. Initiation/Approval Process for Emergencies:

   a. 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. Indicate why it conforms to the above emergency definition and why alternative actions are not viable in this situation. To the degree possible, estimate the cost of the repairs.

   b. Notify OSC, seeking their concurrence, and initiate an emergency project.

   c. Have a senior campus officer approve/sign the written Emergency Justification (and exemption from NYSCR justification, if applicable). If the campus intends to proceed based on cost plus fixed fee quotes, include justification for this direction. If the estimated value of the repairs exceeds $10,000, fax the emergency declaration to OSC to receive an exemption from having to advertise in the NYSCR.

   d. Obtain a minimum of three verbal or written quotations.

   e. Compile the documents required in Section II or III, whichever is applicable, and obtain the required signatures; process the paper work in the manner indicated, excluding NYSCR advertising if the project exceeds $20,000.

B. Exemption from Competitive Bidding and NYSCR Advertisement:

   A waiver of competitive bidding and publication in the New York State Contract Reporter is allowed when meeting such requirements is not feasible due to emergency or extraordinary circumstances. Adequate documentation must be provided to support the declaration; the declaration must be signed by a senior campus officer, reasonableness of price established, and PRIOR APPROVAL OBTAINED FROM OSC. (See Part H). Consultation with University Counsel is recommended in this situation.

C. Fewer Than Three Bids:

   It is imperative, when only one or two bids are received on a project exceeding $250,000, or that requires OSC approval, that the campus confirms that all reasonable steps were taken to ensure that
the opportunity for competitive bidding was maintained and reasonableness of price was established. When fewer than three bids are received the following steps must occur and be documented:

1. Review the contract documents and determine if they contained any restrictive, unclear, and/or ambiguous contents which would have caused the limited competition.
2. Determine if sufficient time was provided to enable proper preparation and submission of bids.
3. Take the necessary steps to determine if any other reason may have inhibited competition, including contacting vendors who did not submit bids to determine their reasons for not responding.

If any of the above-mentioned conditions exist, or there is any other irregularity, the project must be re-bid. If none of the above conditions exist, the project may be awarded to the lowest cost, qualified bidder. Proper documentation addressing each of the above steps must be provided and included with the materials sent to the Office of the State Comptroller.

D. Multiple Payments for Projects Not Exceeding $250,000:

OSC will not accept more than two (2) Voucher Payment Requests (AC 92’s), for any contract encumbered by Purchase Order. This equates to a job duration of approximately 60 days (i.e., two monthly payments). The job duration is filled out by the campus in Proposal portion Section 4 of Form UF-1. If the time period to complete the work exceeds 60 calendar days and if the contractor will not agree to a two-payment maximum, a Contract Encumbrance Request (Form AC 340) must be generated to encumber and expend funds under a “TXXXXX” contract (the “T” prefix has been established in the SUNY financial system to denote a multiple payment contract not exceeding the campus flex threshold) or not exceeding $250,000 on a D0XXXX contract.

1. Multiple payments will be made as follows:
   a. A fully executed, hard copy, Contract Encumbrance Request (Form AC 340) with TXXXXX or D0XXXXX contract number with the first payment only.
   A Batch Transmittal (Form AC 2387), Batch code type VCC or VCD. The batch transmittal is not a required document if the campus supplies a contact person and phone number on the batch control list in case of questions.
   b. An error-free Batch Control List.
   c. A properly executed Contract Payment Request (Form AC 1319).
   d. A Bid Tabulation.

2. Final payment will be made as follows:
   a. Items b, c and d above.
   b. OSC Forms AC 2947, AC 2948 and AC 2958, from the prime contractor, all subcontractors, and all sub-subcontractors.
   c. Tax clearance, if the prime contractor is out-of-state, from the Department of Taxation and Finance Contract Offset Unit. Phone the Unit at (518) 457-7512 with the contractor’s name, Federal I.D. number and the contract number. A response will be faxed directly to the campus.
   d. A Release (Form UF-4), from the prime contractor.

Note- One project may have multiple Purchase Orders (not exceeding $250,000) encumbered against its allocation (line of coding) provided that the two-payment maximum is not exceeded on any one individual contract.

E. Project Change Orders General - All Dollar Categories:

If, during the course of the project, unforeseen conditions arise which add to or delete from the
original project scope of work, a Change Order can be issued. Prior approval for a Change Order is required from the appropriate campus designee.

Change Orders in all categories shall not be initiated which increase the scope of work beyond the confines of the original project intent unless extraordinary circumstances exist mandating this action. In such a case, campus should consult with OSC before proceeding. A written justification supporting any Change Order must be provided and must also indicate why the work in question cannot be accomplished by separate bid letting.

All Change Orders shall be executed in the following manner, and with the help and participation of the consultant, if a consultant was hired to prepare contract documents and oversee construction:

1. Describe in writing to the contractor, on a Request for Cost Proposal (Form UF-10), the addition to, or deletion from the work of the project. As noted on the form, attach any pertinent back-up material needed to adequately specify and quantify the proposed change (i.e., drawings and/or additional specifications).

2. Review the contractor's response to affirm reasonableness of price. Negotiate until an acceptable response is received from the contractor.

3. Forward (1) and (2) above to the appropriate campus designee with a cover letter describing the reason for the change and fairness of the price.

4. Upon receipt of the proper approvals, initiate a Change Order on Form UF-11. Have the contractor, the consultant, and a senior campus officer sign four (4) copies of the Change Order.

5. If contract requires OSC approval, forward all originally executed copies of the Change Order to OSC for approval, together with the campus' approval letter, written justification and all necessary cost data.

6. Upon receipt of the approved Change Order from OSC, the campus will retain one copy and provide one to the consultant and one to the contractor.

7. If due to Change Order(s), the total contract value exceeds $250,000, the entire original contract and all back-up documentation, as outlined in Section III, Rules and Regulations Governing Contracts Exceeding $250,000, must be submitted for approval to the Attorney General and the Office of the State Comptroller.

F. Waiver of Performance Bond:

Bonds for Performance and Labor and Materials are required for contracts greater than $50,000. If the campus deems it appropriate, a Performance Bond may be waived on a project when there is to be only one (1) payment made to the contractor. If the Performance Bond is waived, payment shall occur only after successful completion of the work and acceptance by the campus. UNDER NO CONDITION SHALL A LABOR AND MATERIAL BOND BE WAIVED.

If a Performance Bond is waived, retainage may be increased to 20%. All potential bidders must be notified prior to submission of bids if the Performance Bond is waived and if the retainage is increased.

G. Project Capitalization

For all building and land acquisition projects, as well as those with a total cost of $100,000 or more, the campus must submit a Project Capitalization form to the SUNY Controller’s Office. This Project Capitalization form is available from the Office of the University Controller. This form should be submitted when the project is substantially completed or the asset is placed in service and the project costs are known or able to be easily estimated. The completed form should be sent via email to PCF@sysadm.suny.edu or faxed/mailed to:
H. New York State Contract Reporter:

Typically, projects with an estimated value exceeding $10,000 or more must be advertised in the New York State Contract Reporter.

The notice in the New York State Contract Reporter must occur at least fifteen business days in advance of the date on which a bid or proposal is due, unless a shorter period is specifically authorized by law.

Projects with a value exceeding $20,000 or more must be advertised in the New York State Contract Reporter on an individual basis as well as the other publications noted in Section III, Part C. Projects with a value exceeding $10,000, but less than $20,000, may be advertised on an individual basis or published on a quarterly listing. The latter must contain instructions on how to apply for placement on the campus's bidder list and how advance notice by mail will be provided to those bidders by the campus. Upon preparation of a Request for Proposal, the campus shall notify by mail all bidders that responded to the quarterly listing.

For those bids which were granted an exemption from the pre-award publication requirements (i.e., emergency and contracts for which advertising is not feasible), the campus must provide the Office of the State Comptroller with proof confirming that the Department of Economic Development has been requested to publish the notice of the exemption in the New York State Contract Reporter. The notice must state the reason for the exemption and must be placed as soon as practical.

I. Tax Clearance:

Tax clearance is required for the first and last payments made to out-of-state prime contractors. To obtain the clearance, phone the Department of Taxation and Finance Contract Offset Unit, with the contractor’s Federal I.D. number and the contract number. A response will be faxed directly to the campus.

J. Quick Contracting:

In order for a contract to be eligible for "Quick Contracting" it must be a clean, low risk contract.

The contract must:

1. have been competitively bid;

2. have three bids received, opened and accepted, and the award must have been made to the lowest bidder.

3. however, if only two bids were received, you may still use "Quick Contracting" if you;

   a. provide documentation demonstrating that adequate competition was secured and that the specifications were fair and did not target any particular party of parties; and

   b. the low bid is within 15% of the Pre-Bid Cost Estimate.

There cannot be:

1. an emergency justification;

2. an NYSCR exemption justification;

3. any rejected or withdrawn bids; or
4. any bid protests.

If the contract meets the above criteria, the following changes must be made to the contract approval package:

1. The financial forms must have a "QCT" batch type.

2. The package must contain one original and one copy of a fully executed "Office of the State Controller Highway/Building Contracts Certification Form for Quick Contract Processing", Form UF-16 (which will be kept by OSC). The person(s) who sign(s) the contract must have been designated and authorized by the campus president to sign on behalf of the campus and have their signature on file with OSC.

3. With the exception of items 1 and 2 above, the contract approval package shall remain unchanged. The certification should be inserted in the package immediately behind the transmittal letter to the AG and OSC.

K. Tie Bids:

If a tie bid should occur, assemble the affected contractors. Have them select a method to determine the successful bidder (i.e., coin toss, drawing names from a hat, etc.). Have the contractors sign a document agreeing to the method chosen. If a mutually agreeable method cannot be agreed to, rebid the project.

---

**Forms**

- Required forms for M/WBE reporting (i.e., Policy Statement, Work Plan, Utilization Report, etc.)
- UF-1 Request for Proposal
- UF-2 Contractor’s Application and Certification for Payment
- UF-5 Bid Tabulation
- UF-6 Cost Estimate
- UF-8 Notice to Bidders (Newspaper Ad)
- UF-10 Request for Cost Proposal
- UF-11 Contract Change Order
- UF-13 Notice of Award Letter
- UF-14 Contractor’s Certificate of Insurance
- UF-15 Vendor Responsibility Construction Questionnaire, Financial Statement
- Project Manual Cover Page (UF-7)
- Table of Contents
- Notice to Bidders (UF-9)
- Proposal
Bid Bond & Acknowledgment
Labor & Materials and Performance Bonds w/Acknowledgment
Contractor, Subcontractor, and Sub-subcontractor’s Certification
Release (UF-4)
Division 1, etc., General Requirements
Attorney General Transmittal Letter
State Comptroller Transmittal Letter
Project Capitalization Form
SUNY Construction Procurement Record Checklist
Building Contracts Quick Certification Form
Construction Agreement
Information to Bidders

Related Procedures
Construction-Related Consultant Contracting Procedures
Purchasing and Contracting (Procurement)
Participation by Minority Group Members and Women (MWBEs) with Respect to State University of New York Contracts

Other Related Information
Procurement Lobbying Procedure for State University of New York
Procurement Opportunities for New York State Certified Minority- and Women-Owned Businesses

Authority
The following link to FindLaw's New York State Laws is provided for users' convenience; it is not the official site for the State of New York laws.

NYS Public Officers Law: Article 4 - §§60 - 79 Powers and Duties of Public Officers
§73(4) (Business or professional activities)
§74 (Code of ethics)

NYS Education Law
§355 (Powers and duties of trustees.)
§376 (Letting of construction contracts)
§7307 (Architecture – Special Provisions)

NYS Executive Law Article 15-A (Participation by Minority Group Members and Women with Respect to State Contracts)

Effective: September 05, 2008
NYS State Finance Law Article 9 - (§§135 - 146) Contracts
§139i (Obligations with respect to procurement contracts with New York state and foreign business enterprises)
§139j (Restrictions on contacts during the procurement process)
§139k (Disclosure of contacts and responsibility of offerers)

NYS Labor Law

NYS Tax Law

In case of questions, readers are advised to refer to the New York State Legislature site for the menu of New York State Consolidated.

OSC Procurement and Disbursement Guidelines, Bulletin No. G111, dated February 9, 2006
OSC Procurement and Disbursement Guidelines, Bulletin No. G175, dated February 7, 2002
OSC Procurement and Disbursement Guidelines, Bulletin No. G107B, dated April 14, 2000
OSC Procurement and Disbursement Guidelines, Bulletin No. G-224, dated April 4, 2006


History

There is no history relevant to this procedure.

Appendices

Appendix B - Standard Contract Clauses - Affirmative Action Clauses - Exhibit A-1

Standard Contract Clauses State University of New York - Exhibit A