



**Mayor's Office of
Contract Services**

Bill de Blasio
Mayor

Lisette Camilo
City Chief Procurement
Officer and Director of
Contract Services

253 Broadway, 9th Fl
New York, NY 10007

+1 212 788 0010 tel
+1 212 788 0049 fax

lcamilo@cityhall.nyc.gov

To: The Procurement Policy Board
From: Lisette Camilo
Date: May 20, 2015
Re: Final Report pursuant to PPB Rule Section 3-12(f) Innovative Procurement for Master Academic Consortium Contracts

This is the final report on the Innovative Procurement method (as defined below) being tested by the Department of Design and Construction (“DDC”) on behalf of the City’s Town+Gown program. This report is mandated by Section 3-12(f) of the Procurement Policy Board (“PPB”) Rules and supplements DDC’s interim report, *Results of Innovative Procurement for Report Required by PPB Rule Section 3-12(f)*, attached to this report as Exhibit A (the “Initial Report”). The Mayor’s Office of Contract Services (“MOCS”) approved an innovative procurement request (see Attachment A to Exhibit A hereto) made by DDC, in connection with the Town+Gown program pursuant to Section 3-12 of the PPB Rules (the “Innovative Procurement”) on December 12, 2010. As the City’s Chief Procurement Officer, I submit this final report to the PPB, which includes a summary of DDC’s findings related to the Innovative Procurement since its submission of the Initial Report.

City agencies are continually evaluating existing programs, policies and practices in order to improve them and they are continually seeking to develop new and innovative programs, policies and practices to meet changing conditions. Academic-based research tools and analytic methodologies are well suited for resolving long-standing systemic issues and analyzing complex data sets that may reside among several agencies, yet City agencies have tended to utilize professional consultants for most all research needs. The realities of the procurement process in the context of budget rules that require an agency to spend expense funds within the fiscal year appropriated have tended to discourage longer-term academic approaches. Procuring the services of professional consultants will always have a place in the agency toolkit, but the types of analyses and recommendations from such consultants will primarily be aimed at shorter-term and targeted solutions because of the nature of the work of professional consultants.

The Innovative Procurement method used by DDC has created a process to support a long-term partnership between practitioner agencies and academic institutions to generate the types of applied research projects that will, over time, facilitate

resolution of long-standing systemic issues. The contracts registered through the innovative method focuses on the built environment (construction) with a Town+Gown master consortium contract that allows agencies to work with a number of academic institutions to access academic resources quickly, when the need for research coincides with the availability of expense funds. The Consortium Contract's vendor pool is open to more than architecture and engineering programs and is intended to include all interested academic institutions with departments or programs that overlap the built environment multi-disciplinary field.

While all public programs have some nexus to the built environment to support most agencies' use of the Town+Gown master consortium contract most of the time, there are clusters of agencies—human services and criminal justice are two examples—that operate in areas that deserve their own focused master consortium contract with academic institutions that have strong programs in these other areas. As those areas fall outside of the built environment, they would not be able to utilize the Town+Gown master consortium contract. Thus, taking into consideration the results of the Initial Report and the results summarized below, I conclude that it in the City's best interest to codify the Innovative Procurement method in the PPB Rules. I will present a preliminary draft of PPB Rule amendments to codify the Innovative Procurement method for the next PPB meeting.

The Director of Town+Gown as has advised me as follows:

1. DDC's initial solicitation, conducted before the initial registration on June 2, 2014, resulted in a public hearing on March 14, 2013, for the following 12 academic institutions (the "Initial Public Hearing Schools"):

- Manhattan College
- New York Institute of Technology
- Pace University
- New York University
- Pratt Institute
- Louisiana Tech University
- Fordham University
- Research Foundation for The City University of New York
- The Trustees of Columbia University in the City of New York ("Columbia University")
- The New School
- The Trustees of the University of Pennsylvania ("University of Pennsylvania")
- Brooklyn Law School
- The Cooper Union for the Advancement of Science and Art ("Cooper Union")

2. Of the Initial Public Hearing Schools, the Town+Gown academic consortium contract (the “Consortium Contract”) had been registered with respect to the following academic institutions (the “initial six schools”), as of June 3, 2014¹:

- Research Foundation for The City University of New York
- Fordham University
- Manhattan College
- New York Institute of Technology
- New York University
- Pace University

3. DDC’s post-initial-registration solicitation, conducted before June 2, 2015, resulted in a public hearing on July 17, 2014, for Rutgers, The State University.

4. The initial six schools established the Gown Advisory Council (the “Council”), as required by Section 2.4 of the Consortium Contract. Since the Council’s first meeting on September 25, 2014, the Council has met three times, during which time the members approved bylaws and a “no bid” form and a Mini-RFP template for all consortium members to use. At the last meeting the members agreed to meet on a monthly basis in anticipation of both new academic institutions joining the consortium and agencies using the Consortium Contract.

5. In late March 2015, the Department of Transportation (DOT) requested to use the Consortium Contract, leading to the release of a Mini RFP to the vendor pool on March 21, 2015 and a resulting Task Order that was submitted to the Comptroller’s Office on May 15, 2015, for registration. Before and after DOT requested to use the Consortium Contract, DDC has received inquiries from many city agencies and one state agency (which the Consortium Contract permits to use) about the Consortium Contract) about the contract. When the vendor pool is complete and DDC embarks on marketing the Consortium Contract to potential requestors, is likely there will be significant and increasing usage.

6. DDC’s post-initial-registration solicitation conducted before June 2, 2015, resulted in a public hearing on April 16, 2015, for the following nine academic institutions:

- Tufts University
- University of Illinois

¹ Manhattan College, Pace University, Fordham University and New York Institute of Technology were registered on June 2, 2014; New York University and the Research Foundation for CUNY were registered on June 3, 2014.

- New York Law School
- SUNY Research Foundation
- Lehigh University
- Cornell University
- Michigan University
- UC Berkeley
- Princeton University

7. DDC has continually been working with all academic institutions as to which a public hearing was held in order for the academic institutions to complete the City's procurement requirements, including successful submissions of the VENDEX forms, the Small Business Department's Department of Labor Services ("SBS DLS") questionnaire and the FMS payment registration.

The registration packages for Brooklyn Law School, Tufts University and Pratt Institute are with the Comptroller's Office for registration.

The following academic institutions are at various stages as they approach the registration process:

- Columbia University
- Cooper Union
- Cornell University
- Drexel University
- Princeton University
- SUNY Research Foundation
- The New School
- University of Illinois
- University of Pennsylvania

8. DDC has made the following observations as the result of its experience to date.

- The research operations at many colleges and universities appear to be almost wholly focused on applying for and processing public grants, as opposed to local government procurements, for research services, which resulted in an initial disconnect at some schools when DDC began working with their central staff. Once the vendor pool for the Consortium Contract is complete with the registration of the remaining schools, the collective

experience of the participating academic institutions with government agencies on applied research projects over time may help to revive what was once a feasible option for funded research at academic institutions.

- For many schools—both in-state and out-of-state—the VENDEX form with the three principal questionnaires became problematic. At some of the larger universities where the contracting officers have broad and specific delegations to sign documents on behalf of the university and its officers, the City’s practice of requiring those named as principals in the VENDEX form to sign the forms, was seen as unnecessary in view of the legal delegation on their end and an unreasonable imposition on people running academic institutions which are different than profit-making corporations.
- For out-state-schools, subject to their own state and local equal employment opportunity laws, complying with the City’s requirements as indicated in the SBS DLS questionnaire raised the question of whether they could comply with the City’s rules without risking non-compliance with their state and local laws. Those issues seemed to have been resolved. State schools’ exemption from submitting the SBS DLS form did tend to resolve those issues easily for those schools.
- The serial—as opposed to simultaneous—approval processes involved in the responsibility determination, especially when the process identified outstanding liens, posed issues for both large and small schools. While the schools tried to track down the liens we identified, their VNCs and CNCs would expire, forcing the staff to continually update the CNCs several times and adding the 30-day VNC review period to the serial approval process. One small school with no in-house counsel had to track down over 30 liens, which turned out to be expired or for which the school was the creditor. A large school with two out-of-state liens is still trying to track them down. A risk assessment analysis of the fiscal and ethical responsibility of not-for-profit academic institutions should inform the responsibility determination analysis for these types of procurements.



MEMORANDUM

August 1, 2014

To: Lisette Camillo, City's Chief Procurement Officer and Director, Mayor's Office of Contract Services

From: Terri Matthews, Director, Town+Gown, New York City Department of Design and Construction

Re: Results of Innovative Procurement for Report Required by PPB Rule Section 3-12(f)

Introduction. The City's Chief Procurement Officer ("CCPO") approved an innovative procurement request (see Attachment A) made by the Department of Design and Construction in connection with the Town+Gown program pursuant to Section 3-12 of the Procurement Policy Board ("PPB") Rules on December 2, 2010 (the "Innovative Procurement"). As of June 3, 2014, the Town+Gown academic consortium contract (the "Consortium Contract") has been registered with respect to the following academic institutions (the "initial six schools"):

- City University of New York
- Fordham University
- Manhattan College
- New York Institute of Technology
- New York University
- Pace University

Since four of the above contracts were registered on June 2, 2014, August 1, 2014 marks the 60-day submission requirement of an interim report by the CCPO to the PPB summarizing the results of the innovative procurement method. Since, however, the PPB is not yet fully re-constituted, we submit this interim report to the CCPO for further submission to the PPB at the appropriate time.

Consortium Contract Update. Under the terms of the innovative procurement authorization, DDC can solicit other academic institutions for participation in Town+Gown and work with them to register the Consortium Contract with respect to such institutions until June 2, 2015. Town+Gown has been working with interested academic institutions to help them comply with requirements necessary to register the Consortium Contract with respect to them and has also reached out to others to ascertain their interest (see Attachment B). Subsequent to the initial registration, Town+Gown published notice of the Consortium Contract in the July 17, 2014 issue of *The Chronicle of Higher Education* (see Attachment B), and plans to publish additional notices in September, November and January in *The Chronicle of Higher Education* to develop awareness of the Consortium Contract among academic institutions, leaving sufficient time to accomplish the registration process for interested schools. It is anticipated that the Consortium Contract will be sent to the Comptroller's Office for registration on a rolling basis as each academic institution complies with the registration requirements. Town+Gown's website contains a section on the Consortium Contract, with an "interest in participation" form designed to help interested academic institutions understand how to comply with the necessary elements of the City's procurement process.

At the same time that Town+Gown is soliciting additional academic institutions, it is also working with representatives of the initial six schools to develop the Gown Advisory Council, required by the Consortium Contract to be a governance body for the Consortium Contract in the context of Town+Gown. At the July 23, 2014 inaugural meeting of the Gown Advisory Council, representatives of the initial six schools discussed the development of bylaws that would cover, among other things, developing a process to support Town+Gown's systemic action research cycle, including the annual research agenda, developing a process aimed at refreshing the institutional memory at Consultant entities with respect to Town+Gown and the Consortium Contract, developing a mission statement and strategic plan related to increasing built environment applied research in the context of Town+Gown, including but not limited to collaborating on increasing third-party funding for such research, and working with the Town+Gown to expand the open source platform within Town+Gown to facilitate multi-disciplinary collaborations across Consultant organizations, with members of Town. As the Consortium Contract is registered as to additional academic institutions, they will participate as members of the Gown Advisory Council.

The Director of Town+Gown made a presentation on the Consortium Contract to all ACCOs who attended the monthly ACCO meeting hosted by MOCS on June 19, 2014. As a result of that presentation, Town+Gown has received several inquiries from City agencies about how to use the Consortium Contract. Town+Gown plans to conduct more outreach efforts with potential agency users about Town+Gown and the Consortium Contract over the next several months. Town+Gown's website contains a section on the Consortium Contract, with an "operating memo" designed to help agencies learn about how to use the Consortium Contract.

The PPB Rules require the CCPO to submit a final report recommending whether or not it would be in the City's best interests to codify this innovative procurement method no later than eight months following the initial registration of the Consortium Contract. Town+Gown will submit a report to the CCPO by February 2, 2015, providing an update on the Innovative Procurement, including additional academic institutions registered on the Consortium Contract, the activities of the Gown Advisory Council, the nature of agency inquiries and a listing of any Mini RFPS issued and Task Orders registered.

Background on Town+Gown @DDC. Town+Gown has been operating, on behalf of all City agencies, as an open-source systemic action research platform, since academic year 2009-2010, linking practitioners and academics to increase applied research to support changes in practice and policy in New York City and elsewhere. The physical built environment serves as a setting and laboratory for research and also provides an effective lens through which to study and resolve complex systemic issues, engaging the many built environment-related disciplines. Town+Gown facilitates partnerships between academics and practitioners on research projects aimed at supporting changes in practices and policies based on research results. Please see <http://www.nyc.gov/html/ddc/html/design/tg.shtml> for the program website.

The New York City Department of Design and Construction (DDC), created in 1996 as a "reinventing government" initiative that consolidated the City's various construction functions, is the City's primary capital construction project manager. DDC manages the design and construction of a significant share of the City-funded construction projects, ranging from vertical building projects to horizontal infrastructure projects. DDC has a citywide policy development role and supports several policy-based initiatives, including Town+Gown. The City's capital program not only provides the public spaces within which the City's agencies perform their program functions, but it also functions as an economic development catalyst.

Town+Gown chose, as an initial strategy, to focus on existing action learning and research programs (also known as experiential or service learning programs) within the public

administration, public policy and urban planning masters programs, and later within the architecture and engineering programs, at City academic institutions, for two reasons. First, as a “systemic action research” program that incorporates the importance of practice as a source of knowledge, it was important for Town+Gown to make headway with experiential learning programs that place value on practice as a valid source of knowledge. There was the added benefit of not having to rely on using the City’s procurement process during the initial phase of Town+Gown’s operation. Working with experiential learning programs, however, highlighted the limited ability of these types of arrangements to support sustained research with complex data sets. It became clear, as the “action-reflection” cycles proceeded, that it would be necessary for Town+Gown’s practitioner members to engage with academic institutions for the types of skills that reside in programs with professional researchers in order to complete many of the projects begun with experiential program students.

The inspiration and structural model for such engagement was an academic consortium master contract that facilitated built environment research activities during the period from the Dinkins Administration and until the end of the Giuliani Administration, with seven professional schools in the City¹ that stood ready to provide the City's construction agencies with academic resources for scientific, engineering, design, planning and development research projects via “sub-agreements” supported by a construction agency’s own funds. To recreate the elements of that earlier contract under the City’s current procurement rules to support Town+Gown, it was necessary to proceed via the Innovative Procurement. Like the prior contract, the structure of the Consortium Contract is intended make it as easy as possible for public agencies to access academic resources quickly, when the need for research coincides with the availability of expense funds. Unlike the prior contract, the Consortium Contract’s vendor pool is open to more than architecture and engineering programs and is intended to include all interested academic institutions with departments or programs that overlap the built environment multi-disciplinary field. Moreover, the Consortium Contract is available to all New York City agencies, State of New York agencies and certain not-for-profit organizations associated with such agencies to procure academic research services via task orders, funded by such agencies and/or organizations, to support the Town+Gown program.

¹ City University of New York, Columbia University, Cooper Union, Manhattan College, The New School for Social Research, Polytechnic University and Pratt Institute.

See following pages



NEW YORK CITY DEPARTMENT OF
DESIGN + CONSTRUCTION

DAVID J. BURNEY, FAIA
Commissioner

CAROL DIAGOSTINO
Agency Chief
Contracting Officer

November 24, 2010

Marla Simpson
Chief City Procurement Officer
Mayor's Office of Contract Services
253 Broadway, 9th Floor
New York, New York 10007

Re: Request for Approval of Innovative Procurement Method
Pursuant to Section 3-12 of the Procurement Policy Board Rules

Dear Ms. Simpson:

Request for Approval of Innovative Procurement Method. The undersigned Agency Chief Contracting Officer of the New York City Department of Design and Construction ("DDC") requests your approval of the following proposed innovative procurement method for an academic consortium contract, pursuant to Section 3-12 of the Procurement Policy Board Rules (the "Rules"). DDC would like to create, and manage, a multiple award task order/open ended requirements contract to be available to all City agencies pursuant to Sections 3-03(j) and 3-14 of the Rules, in order to support the goals of the City's Town+Gown program that DDC also manages (the "Consortium Contract").

In the Consortium Contract, established via this proposed innovative procurement, all interested academic institutions in New York City and outside the City would stand ready, in a consortium arrangement, to reply to task orders for research related to the Built Environment from the participating City agencies (see Appendix A for a list of participating agencies as of the date of this letter). All academic institutions (a) either participating in Town+Gown (see Appendix B for a list of participating academic institutions as of the date of this letter) or expressing an interest to participate in Town+Gown and (b) expressing an interest to participate in the Consortium Contract in response to the open solicitation, would receive a first level award to be an academic partner under the Consortium Contract, which gives them the ability to respond to future task orders from participating agencies under the Consortium Contract. Academic institutions would be awarded contracts, in the typical sense of the words "award" and "contract", in connection with a competitive process pursuant to individual task orders pursuant to Rules Section 3-03(j)(2). The Consortium Contract cannot establish the criteria for this level of selection under task orders because there is no way to know, at the time the Consortium Contract is executed, the nature of research agencies will want to do and what selection criteria will be appropriate. Agencies will establish the selection criteria for their task orders under the Consortium Contract,





as permitted by Rules Section 3-03(j)(2). DDC would like the initial term of the Consortium Contract to be ten (10) years with one option to renew/extend the term for a period of up to five (5) years. The Consortium Contract would be funded nominally in order to register it, but agencies would fund their task orders under the Consortium Contract from their own budgets. During the life of the Consortium Contract, individual task order amounts would vary according to the nature of the research work and the funds available at the agencies for such work.

As discussed in greater detail below, the Town+Gown program seeks to create an ongoing collaborative working relationship among academic institutions and programs, working within the multi-disciplinary Built Environment field, and the City and its agencies. In addition to the research that would be the subject of the Consortium Contract, participating Town+Gown members collaborate and will continue to collaborate on projects via experiential learning programs that are generally free to City agencies participating as clients. As a result, it would be destructive of existing relationships to force these academic institutions, as part of the initial solicitation component, to compete with each other in order to be among the participating academic institutions, when the Town+Gown program has been completely open to participation from its inception. We have no reason to exclude any interested academic institution or program from participating in the Consortium Contract to the extent of being "on call" for future task orders from the agencies. Competition among the academic institutions, and exclusion based on criteria stated in the task order, would happen at the second level of the Consortium Contract in connection with responses to a task order under the Consortium Contract pursuant to the terms of the task order. The Consortium Contract would not put limits on the nature of task orders to be generated during the term of the Consortium Contract beyond those required by the Rules. Participating agencies would have the same flexibility to develop their task orders as they would have in a standard solicitation for academic research services, with agency research needs and available financing as the controlling factors. Thus, the existing Section 3-02 Competitive Sealed Proposal ("RFP") method is not appropriate for the first level selection of partners under the Consortium Contract, because it is inconsistent with the collaborative setting of Town+Gown and it would be less efficient than using the existing Town+Gown program as the basis of the solicitation/negotiation exercise as described below.

The Town+Gown program provides an existing structure of relationships and expectations within which an opportunity exists to explore with participating academic institutions and programs how we might structure the Consortium Contract to maximize the reach of future agency task orders, thus maximizing future competition. Many academic institutions already participate in Town+Gown (see Appendix B), and we expect the number of participating institutions and programs to expand as a recruitment effort gets underway this academic year. Experience in the Town+Gown program reveals a great difference in organization, operation and educational philosophy among academic institutions and among the programs within them. It would thus be most helpful to be able to meet with members of the Town group, as part of the procurement process, to explore contact structure and governance





issues with them before finalizing the terms of the Consortium Contract. Such an exploration with an existing group of potential vendors is akin to the Section 3-04 Negotiated Acquisition method, but none of the existing criteria to use the Negotiate Acquisition method apply in this case.

Town+Gown chose its initial strategy to focus on existing action learning and research programs (also known as experiential or service learning programs) found at public administration, public policy and urban planning masters programs at City academic institutions, for two reasons. First, as a “systemic action research” program that incorporates the importance of practice as a source of knowledge, it was important to make headway with academic institutions’ experiential learning programs that also respect practice as a source of knowledge. Second, there was the added benefit of not tripping the City’s procurement process in the initial phase of operation. Experience with these experiential learning programs, which are important components of professional education programs, has highlighted the limits of these types of arrangements for sustained research with complex data sets. At some point in the repeated cycles of “action-reflection”, it will be necessary for practitioners to pay academic institutions for the types of skills that reside in programs with more purely research-driven Ph.D. graduate students. Town+Gown needs to compensate for limits necessarily posed by the professional experiential learning programs, in order to complete many of the projects in its research agenda. Town+Gown seeks to create the Consortium Contract in order to give City agencies relatively easy access to academic institutions and programs for sophisticated research needs that require skills and personnel not available via the experiential learning programs.

To strengthen the culture of Built Environment research at the City, we must create a procurement methodology leading to a contract structure that makes it as easy as possible for agencies to access academic resources quickly, when both the need for research coincides with the availability of funds. Both (i) the fact of Town+Gown participating schools already having worked with the City in this systemic action research program, creating collaborative working relationships focused on a collectively-generated knowledge base, and (ii) the need to develop a governance structure for the consortium arrangement, argue for being able to (x) *begin* to negotiate with the current group of schools to develop the structure of the Consortium Contract, especially its operational and governance features, (y) ultimately not exclude any interested educational institution from participating in the pool and (z) require a fully competitive process of vendor selection at the task order stage.

The default source selection methodology, competitive sealed proposals, is inconsistent with the Town+Gown program’s ethos and current operation. First, even if we make it clear that the vendor pool is an open one, the very word “competitive” create a sense of competition completely at odds with this collaborative bridging program. Second, using the RFP methodology for the first level solicitation would add time in itself and would require a formalized process to develop a governance structure when Town+Gown already provides a





history of regular meetings with these academic institutions, the foundation for a governance structure and a venue in which to begin the negotiations. As described in greater detail below, leveraging the Town+Gown program to initiate this procurement, we expect we could be in a position to have a registered Consortium Contract by the end of the summer to begin the next 2011-2012 academic year and work on Town+Gown's third research agenda. The RFP method would add considerable time and a formalized process that would not produce a better programmatic result.

The Section 3-01(j) requirements contract form mirrors the Town+Gown program and, once set up, would make it fairly easy, on the Town side, assuming funds were available at the agency, to seek an appropriate academic partner on a research project, through the task order process, which would be fully competitive among the responding institutions. The Town+Gown program treats all participating local academic institutions equally, so that there would be no reason to favor any academic institution—local or from outside the City—in the creation of the vendor pool. In fact, programmatically, there is every reason to have the pool as large and robust as possible to service Built Environment research needs. And, while it is likely that schools located in the New York City metropolitan area would be most interested in New York City Built Environment research projects, given the physicality of much of the subject matter, there is no reason to exclude schools from outside the region. The only issue is the permissible timing for reaching out to the greater academic community to explore the details of participation, open to all. It would be preferable to begin the process to define expectations, relationships and governance with the existing members of Gown and then expand the solicitation of academic institutions and program by advertising as widely as possible in the appropriate academic journals. It would also be preferable to establish the contract as an open-ended contract, so that over time, as institutions become aware of Town+Gown and we become aware of them, they could be added to the pool, subject to the same conditions as the initial set of institutions.

Findings Required by Rules Section 3-12(c). The following are determinations required by Rules Section 3-12(c).

(1) The structure of the Consortium Contract, described below, would mirror the operation of the Town+Gown program and would support a primary goal of the Town+Gown program, which is to create an ongoing relationship among academic institutions and programs and the City and its agencies, working collaboratively on issues within the multi-disciplinary Built Environment field. The form of the Consortium Contract would be a multiple award task order/open ended requirements contract to be available to all City agencies pursuant to Sections 3-03(j) and 3-14 of the Rules. The Consortium Contract would also be available to all accredited academic institutions (a) either participating in Town+Gown or expressing an interest to participate in Town+Gown and (b) expressing an interest to participate in the Consortium Contract in response to the open solicitation. Participating in Town+Gown and a response to the solicitation would result in a first level award to be an academic partner





under the Consortium Contract, which gives them the ability to respond to future task orders under the Consortium Contract.

Academic institutions would be awarded contracts, in the typical senses of the words "award" and "contract", in connection with a typical competitive process pursuant to the individual task orders as permitted by Rules Section 3-03(j)(2). It is at this second level of the Consortium Contract that competition among the academic institution would take place. Competition among the institutions, and exclusion based on criteria stated in the task order, would happen in connection with their responses to a task order under the Consortium Contract pursuant to the terms of the task order. The Consortium Contract would not put limits on the nature of task orders to be generated during the term of the Consortium Contract because there is no way to know, at the time the Consortium Contract is executed, the nature of research agencies will want to do and what selection criteria will be appropriate. Pursuant to Rules Section 3-30(j)(2), participating agencies would have the same flexibility to develop their task orders as they would have in a standard solicitation for academic research services, with agency research needs and available financing as the controlling factors.

The first innovative procurement feature—the lack of a need to adhere to special case determination—results from the absence of a need to eliminate competition in the formation of the vendor pool. We have no reason to exclude any interested academic institution or program from participating in the Consortium Contract to the extent of being on call for future task orders from the agencies. Competition among the institutions, and exclusion based on criteria stated in the task order, would happen after they respond to a task order under the Consortium Contract pursuant to its terms. The existing Section 3-02 Competitive Sealed Proposal method is not appropriate for the first level solicitation of the Consortium Contract, because it is inconsistent with the collaborative setting of Town+Gown.

The second innovation procurement feature—an open ended negotiated acquisition in the absence of a special case determination—permits the City to leverage the relationships fostered in the Town+Gown program to provide the basis of the solicitation/negotiation exercise. Experience in the Town+Gown program reveals a great difference in organization, operation and educational philosophy among academic institutions and among the programs within them. It would thus be most helpful to meet with members of the Town group, as part of the procurement process, to explore contact structure and governance issues with them before finalizing the terms of the Consortium Contract. Such an exploration with an existing group of potential vendors is akin to the Section 3-04 Negotiated Acquisition method, but none of the existing criteria to use the Negotiate Acquisition method apply in this case.

(2) This innovative procurement would serve the City's interest in a number of ways. Town+Gown program is one means to increase public sponsorship of Built Environment research and development, with the City as an equal partner in knowledge creation. As part





of the existing Town+Gown program, this innovative procurement would permit City-funded research and development around a holistic City-generated Research Agenda with a City-wide feedback loop into further research or changes in practices and policies. The participating academic members of the Gown group, as the City's partners in Town+Gown, are a part of a continuing conversation with the City about completed research. Continuing and productive conversations depend on the City treating all academic institutions and programs equally as part of Town+Gown and as part of the gathering of academic institutions and programs into the vendor pool under the Consortium Contract. It is in the City's interest to have the Consortium Contract's vendor pool as large and as robust as possible so that individual agency task orders receive the highest competition—intellectual and otherwise—among respondents. The structure of the Consortium Contract as a multi-agency task order minimizes the procurement steps and process time within which a line agency can coordinate the appearance of funds to do research during a fiscal year with the academic institutions and programs able to satisfy the agency's particular research need. The ability to leverage the existing Town+Gown program in the solicitation/negotiation process would assure an efficient process without sacrificing any of the goals of public procurement.

(3) The last Town+Gown meeting with the participating academic members of the Gown group to discuss the academic 2010-2011 Research Agenda occurred in April 2010, right before the end of the 2009-2010 academic year. The 2010-2011 Research Agenda went to participating members of Gown in early June and we are in the process of developing several projects with schools for the current academic year. If you were to approve this request, we anticipate setting up a meeting with Gown members to explore the Consortium Contract concept and governance mechanisms in January 2011, the beginning of the spring semester. We would develop the solicitation documents and the contract form and place ads in various academic journals to solicit participation by schools outside the City during the spring and summer, with the expectation of being in a position to have a registered Consortium Contract by the end of the summer to begin the next 2011-2012 academic year and work on Town+Gown's third research agenda.

(4) The Consortium Contract would represent a procurement of academic services in the context of Town+Gown's systemic action research program, in which City agency practitioners are a source of knowledge equal to that of academia and an equal partner with the academic institution or program. In the standard academic research project procured by a governmental agency, the academic entity performs its knowledge creation *for* the agency, not *with* the agency. Often such procurements lead to unsatisfactory results for the practitioner because the practitioner is treated as a subject and not as a partner in knowledge creation equal to that of the academic.

(5) With an initial term of ten (10) years with one option to renew/extend the term for a period of up to five (5) years, the Consortium Contract would be funded nominally in order to register it, but agencies would fund their task orders under the Consortium Contract from





their own budgets. Thus, during the life of the Consortium Contract, the amounts of individual task orders would vary according to the nature of the research work and the funds available at the agencies for such work.

Background on Town+Gown. Town+Gown is a "systemic action research" program aimed at collectively increasing evidence-based analysis, information transfer and understanding related to the City's physical built environment. The program marshals and coordinates various analytical capacities and data sets initially focusing on government entities with public works programs, such as the City, and the City's academic institutions and programs. The Built Environment is a multi-disciplinary field encompassing the traditional disciplines of Management, Economics, Law, Technology and Design.¹ Few people and organizations actively working in the physical built environment have enough time, funds and/or analytical capacity to do the kind of analysis in a way that meets the research needs of all those who can benefit from analysis. Town+Gown responds to calls from various groups, in areas as distinct as the construction industry and the preservation community, for enhanced research activity in the Built Environment.

Long-standing structural hurdles conspire to produce low levels of research and development in the Built Environment:

- the fragmented nature of the construction industry,
- fragmented research mirroring the industry itself produced by traditional discipline-based research methodologies, leaving research results often locked within various sub-disciplines,
- inadequate linkages between research (academia) and application (practitioner), and
- low levels of public sponsorship.

Beginning in academic year 2009-2010, Town+Gown embarked on its pragmatic, integrated approach to enhance the weak culture of research within the City's construction and construction-related agencies and thus increase research applied to the physical setting of the City's built environment. To support the culture of Built Environment research at the City, Town+Gown's systemic action research model has developed a process with City agencies to create, for each academic year, a City-wide Built Environment research agenda and support academic-practitioner collaborations, by bridging the academic-practitioner gap on particular research projects from the research agenda and highlighting the importance of practice as a source of knowledge. Town+Gown continues such activities, in academic year 2010-2011, with the 2010-2011 Research Agenda released in June 2010. Town+Gown plans to release its review, entitled "Building Ideas", abstracting completed 2009-2010 projects (also called "action learning sets") sometime in the fall, which will lead to a cycle of action-

¹ Paul Chynoweth, *The Built Environment Interdiscipline: A Theoretical Model for Decision Makers in Research and Teaching* (Proceeding of the CIB Working Commission Building Education and Research Conference 2006), <http://www.lawlectures.co.uk/bear2006/chynoweth.pdf>, pp. 1, 5.





reflection with follow-up discussion events in the second half of the 2011-2012 academic year.

The City's physical built environment serves as a laboratory for the formal disciplines—Management, Economics, Law, Technology and Design—that comprise the multi-disciplinary Built Environment field. Some of these disciplines are also component disciplines within various professional degree programs. While the Built Environment is not explicitly taught in most of the professional degree programs, the analytical skills taught by these programs overlap with the necessary skills for analyzing Built Environment issues. Moreover, Built Environment policy areas exhibit conditions under which empirically-based analyses are likely to alter policy positions and related practices based on analytical results because there exists a wide level of agreement on fundamental principles, a wide level of agreement on data and theory that leads to "a narrow range of plausible analytical claims" and a high level of participation by professionals who "share common bases for assessing analytical claims."²

Evaluation Issues. We understand that the Rules require you to submit reports to the PPB on activities, results, and findings related to this innovative procurement method. The first is an interim report no later than 60 days after contract registration summarizing the results of the innovative procurement method, and the second is a final report no later than eight (8) months after contract registration recommending whether or not it would be in the City's best interests to codify the innovative procurement method used within the Rules. We believe that the beneficial Consortium Contract features resulting from this innovative procurement method could be replicated in other public policy issue areas within the City and we would be able to assist your office in preparing the final report with a survey of the participating academic institutions and programs.

Sincerely,

Carol DiAgostino.

Approved: Andrew Shin

Title: First Deputy Director
Mayor's Office of Contract Services

Date: 12/2/10

² Jenkins-Smith, Hank C., *Democratic Politics and Policy Analysis* (Pacific Grove: Brooks/Cole, 1990), pp. 1-5, 103.



Town + Gown Participating City Agencies

Department of Design and Construction

Department of Environmental Protection

Department of Parks and Recreational Services

Department of Health and Mental Hygiene

Department of City Planning

Department of Small Business Services

Department of Information Technology and Telecommunications

Housing Preservation Department

Department of Transportation

Department of Sanitation

Law Department

Department of Citywide Administrative Services

Department of Aging

Department of Cultural Affairs

Department of Buildings

Landmarks Preservation Commission

Office of Management and Budget

Mayor's Office of Capital Programs

Mayor's Office of Contract Services

Mayor's Office of Environmental Coordination

Mayor's Office of Long-Term Sustainability

Mayor's Office of Operations

Design Commission

Economic Development Corporation

Health and Hospitals Corporation

School Construction Authority

Town + Gown Participating Schools

Public Administration/Policy

- Columbia/School of International and Public Affairs
- NYU/Wagner School of Public Service³
- New School/Milano School of Management and Urban Policy
- CUNY/Baruch School of Public Affairs
- Pace University Graduate School

Urban Planning

- Columbia/Graduate School of Architecture, Planning and Preservation
- CUNY/Hunter College, Graduate School, Departments of Urban Affairs and Urban Planning

Engineering

- NYU/Polytechnic Institute
- Columbia/Fu School of Engineering, Center for Technology, Innovation and Community Engagement
- CUNY/Grove School of Engineering, City College of New York

Architecture

- New School/Parsons School of Design
- New York Institute of Technology
- Columbia/Graduate School of Architecture, Planning and Preservation

Real Estate Development/Construction Management

- NYU/School of Continuing and Professional Studies, Schack Institute of Real Estate

³ Includes Urban Planning program.

Law

- Brooklyn Law School/Clinical Program
- NYU/School of Law/Clinical Programs

Business

- NYU/Stern School of Business

List of Academic Institutions in Queue

Pratt Institute
Louisiana Tech University
Columbia University
The New School
University of Pennsylvania
Brooklyn Law School
The Cooper Union for the Advancement of Science and Art
Rutgers University
Rensselaer Polytechnic Institute
St. John's University
Cornell University
Drexel University
Lehigh University
Catholic University
State University of New York
New York Law School
Harvard University
Tufts University

Attachment C

See following page

Professor Schemes to Keep Colleges in the Web's Fast Lane

By AVIWOLFMAN-ARENT

WILLIAM F. BAKER has no quarrel with net neutrality, the principle that says all Internet traffic should be treated equally, regardless of substance or source. He's all for it—in the abstract.

But after 50 years in media, Mr. Baker, a former television executive who now directs the Bernard L.

TECHNOLOGY

Schwartz Center for Media, Public Policy, and Education at Fordham University, no longer dwells in the abstract. "I'm a person who's been in the trenches a long time," he says. "I'm not a theoretician."

So when the Federal Communications Commission proposed new rules in May that could allow Internet-service providers, or ISPs, to charge extra for faster connection speeds, Mr. Baker didn't despair. Instead, he strategized. This month, while moderating a panel on net neutrality on the New York campus of the University of Navarra's IESE Business School, Mr. Baker unveiled a paper advocating a "public-sector space on the Internet" akin to the bandwidth reserved for public broadcasting.

He believes the idea to be novel, simple, and potentially transformative. It also rests on a cynical—critics might say defeatist—premise: that net neutrality is doomed because the major telecommunications providers oppose it.

"Since it looks like we're heading toward some form of a two-speed American Internet," Mr. Baker wrote, "why not take some of what the big players will be paying to ISPs for a fast track to consumers and use the money to make sure public media, not-for-profits, and tech innovators get bailed out of the slow lane?"

To do that, he'll have to persuade interested parties, including the nation's universities and libraries, that the demise of neutrality on the Internet is imminent. That figure to be a tough sell. Last week 11 mainstream higher-education groups released a set of principles advocating staunch support for an open Internet. The document said any move toward paid prioritization of choice content "inherently disadvantages other content, applications, and services providers—including those from higher education and libraries that serve vital public interests."

The principles are just the latest in a long line of pronouncements from higher-education advocates

that together raise a central question: Is academe ready to plan for a future without net neutrality?

If it were, Mr. Baker's proposal would be an attractive one. His chief desire is to insulate nonprofits like colleges from the competitive disadvantages that would accompany a postneutrality web. He isn't sure what form those provisions would take. It could be a redistributed tax on Internet providers. It could wind up as an exemption guaranteeing nonprofit access to the Internet's fast lane. But Mr. Baker says the particulars don't matter right now. What matters, he says, is getting the notion of a public-sector Internet "into the public drinking water."

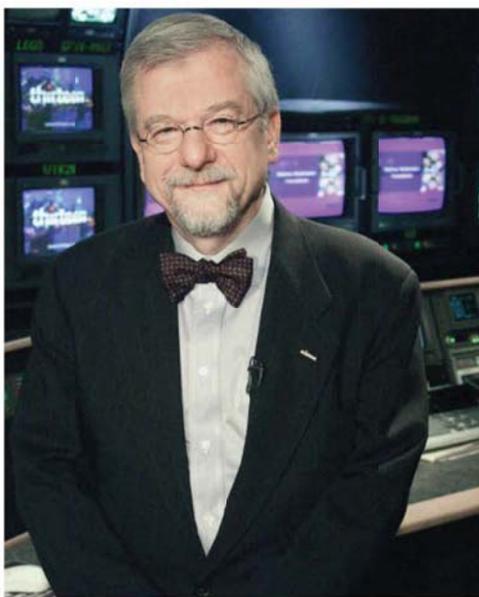
LEANING ON HISTORY

Mr. Baker's pitch leans hard on history. In his introductory paper he points to U.S. government subsidies for rural, residential telephone service beginning in the 1930s as an instance when potential losers in a new technological arena received special protection.

Nathan Newman, a panelist at the IESE event and a fellow at New York University's Information Law Institute, says one can go all the way back to the 18th century for examples of similar projects. "The post office gave massive discounts for sending newspapers through the mail under the premise you needed small newspapers to get ideas out across the country," he says.

Like Mr. Baker, Mr. Newman believes it's time to "start talking about details" if indeed the FCC abandons the neutral Internet. "The ideal is a world where you have some prioritization payments but the FCC makes sure those payments go to greater access in urban and rural areas, and you provide nonprofit priority access," he says.

A tiered and unregulated Internet, Mr. Baker fears, would marginalize public-interest voices much in the way American radio and television did. By the time Congress established the Corporation for Public Broadcasting, in 1967, Mr. Baker says, the moment for creating a domestic equivalent to the BBC had passed. Now, he says, is the time to correct that: "In my long career in media, this is the only window I've ever seen for a chance to have some meaningful new regulatory activi-



William Baker, director of the Bernard L. Schwartz Center for Media, Public Policy, and Education at Fordham U., proposes public-sector space on the Internet, akin to the bandwidth reserved for public broadcasting.

ty that embraces the public service and academic world."

Mr. Baker's message is likely to resonate in the public-media world, where he is a fixture. Before coming to Fordham, he spent two decades as chief executive of the Educational Broadcasting Corporation,

Why not use the money the big players will be paying for a fast track to make sure public media, nonprofits, and tech innovators get bailed out of the slow lane?

which was then the parent company of the New York-based public-television stations WNET-TV and WLIV-TV. Before that he was president of Westinghouse Television. Already his contingency plan for a postneutrality web seems to have captured the attention of others in the New York media landscape.

"If this happens, if there's danger and net neutrality is really threatened, what is the public-policy response?" asks Laura R. Walker, president and chief executive of New York Public Radio. "And how do you create a system where free, high-quality educational content can remain readily accessible? I think Bill is onto something."

Courting academe, however, is another task entirely. Higher-education groups have been committed to preserving net neutrality since it became a topic of public conversation, in the early to mid-2000s. Advocates say paid prioritization would hamstring cyber-education, hinder research collaboration, and slow the analysis of Big Data.

"They also believe it contradicts the spirit of the Internet, a technology nurtured and weaned in academe. "There is a really deep appreciation with the higher-ed and research-library community for the open Internet," says Prudence S. Adler, associate executive director of the Association of Research Libraries.

NO PREFERENTIAL ACCESS

After the U.S. Court of Appeals for the District of Columbia Circuit vacated the FCC's existing net-neutrality rules, in January, Ms. Adler and leaders of Educause and the American Library Association wrote a joint letter urging the commission to preserve net neutrality. "Paid prioritization and other forms of preferential access will significantly disadvantage libraries, education, and other nonprofit institutions," they wrote.

Though they're disappointed by the FCC's proposed move away from net neutrality, advocates connected to academe say they aren't yet willing to consider contingency plans like Mr. Baker's. "We need to

really focus on net neutrality," says Ms. Adler. "That's the fight we need to win."

Representatives of Educause, the American Library Association, and the Association of Research Libraries met with the FCC's internal open-Internet working group on May 12 to discuss the commission's proposal.

In addition to signing the net-neutrality principles released last week, all three groups plan to submit an official filing with the FCC on July 15, the last day of the public-comment period. That document, they say, will ask the FCC to reclassify Internet-service providers as common carriers, in essence equating the Internet to a public utility.

The filing will also lay out ways the FCC can preserve an open Internet without pursuing reclassification, by focusing on a clause in the Telecommunications Act of 1996. The FCC has authority to "implement open-Internet rules that would preserve what they called the virtuous cycle of Internet development," says Janet Cummings, director of policy and external relations for Educause.

Mr. Cummings and other net-neutrality backers in higher education do not concede the inevitability of an Internet split asunder. Mr. Cummings says that would lead to a scenario where "everyone is trying to clamber on the lifeboat that is the priority lane, and the overall ship that is the Internet sinks from neglect."

Susana Crawford, a visiting professor at Harvard Law School and former special assistant to President Obama for science, technology, and innovation policy, agrees that a two-tiered scheme would weaken higher education's position over the long term.

"If you start thinking about what kind of deals higher ed should be cutting with the incumbent, you're essentially taking the same role as the media conglomerates," she says. "You may get a deal today, but that means your destiny 10 years from now is at the mercy of these very few actors." She is convinced that public pressure on the FCC will buoy net neutrality, obviating the need for any kind of contingency plan.

But Ms. Crawford also believes advocacy focused solely on maintaining net neutrality misses larger issues. She hopes academe, for example, will agitate for the creation of municipal fiber-optic networks that would compete with cable-company broadband.

And on that point, she and Mr. Baker may have some common ground. At root, Mr. Baker says, nonprofit groups should look beyond the open-Internet debate as it has been framed for the past decade and should embrace new ways of thinking. "Instead of saying, 'Net neutrality, that's it,'" he says, "let's think bigger than that." ■

New York City Department of Design and Construction ("DDC") has, as of June 2, 2014, registered an academic consortium contract (the "Consortium Contract") with respect to four (4) academic institutions, with two (2) additional academic institutions having been registered as of June 3, 2014. The Consortium Contract is a multiple vendor master requirements contract for academic research services, available to all New York City agencies. State of New York agencies and certain not-for-profit organizations associated with such agencies, to procure academic research services via task orders, funded by such agencies and/or organizations, to support Town+Gown, a systemic action research program managed by DDC that focuses on the built environment multi-disciplinary field ("Town+Gown"). Under the terms of the innovative procurement method authorizing the Consortium Contract, DDC has until June 2, 2015, to solicit academic institutions for participation in Town+Gown and to work with interested institutions to register the Consortium Contract with respect to such institutions. For more information, please visit Town+Gown's website at <http://www.nyc.gov/html/ddc/html/procurement/tdg.shtml>.

These academic institutions interested in learning more about becoming an academic member of Town+Gown and complying with the procurement process to become a party to the Consortium Contract should contact Terri Matthews, Director, Town+Gown, by email at tmattews@ddc.nyc.gov.