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President

OPERATING PROCEDURE 100-5<sup>1</sup>  
PROCUREMENT METHODS, REQUIRED APPROVALS  
AND REPORTING

TO: DISTRIBUTION D

FROM: Alan D. Aviles 

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**PART I**  
**INTRODUCTION AND PROCUREMENT OVERVIEW**

**ARTICLE I**  
**INTRODUCTION**

A. **Purpose:** This Procedure establishes rules for procurement and contracting for all Goods, Equipment, Construction Services, Non-Professional and Professional Services for the Corporation and the different approvals required depending on the type of procurement and the cost.

B. **Policy:** The underlying purposes of this Procedure are to: (i) enable the Corporation to obtain the best prices and most favorable terms in its contracting by approaching procurement from an enterprise-wide model; (ii) protect against corruption, self-dealing, fraud, and abuse; (iii) safeguard the integrity of the procurement system and its fairness to contractors; and (iv) promote simplicity and consistency so that the procurement system is efficient and easy to use. This Procedure shall be interpreted and implemented to further such purposes.

C. **Procurement Methods Chart:**

*i. Procurement Methods:* There are seven methods the Corporation can use to contract for Goods, Equipment, Construction Services, Non-Professional and Professional Services: (i) accessing an existing enterprise-wide Corporate contract or a contract available to the Corporation through an approved Third Party Contract including a Group Purchasing Organization contract or a government contract; (ii) Formal and Informal Bidding; (iii) a Request for Proposals; (iv) a Negotiated Acquisition; (v) a Sole Source Acquisition; (vi) as part of a Construction Project; or (vii)

through an Auction. Only under Article XI, F may purchases be made using a “for payment only” purchase order without a pre-existing contract procured as permitted under this Procedure.

*ii. Procurement Chart:* The chart appearing at pages 2 – 5 gives a summary of when each method is appropriate, the procedures and the approvals each method requires. The text that follows the chart provides additional details and relevant definitions.

**D. Determining Contract Values; Segmentation:**

*i. Calculating Contract Value.* To determine the value of a contract for purposes of applying the rules of this Procedure that depend on dollar value, the value of the contract over its entire term including any option(s) held by the Corporation for additional periods shall be taken into account. Multiple Purchase Orders issued to a single vendor for similar products should be aggregated. When particular Products or Services are repeatedly obtained from the same vendor, one should project the need for such Products or Services over the next three years and seek to enter into a three year contract for the total projected value and the resulting contract shall be reviewed and approved in accordance with this Procedure for contracts of the three year aggregate value.

*ii. Segmentation Prohibited.* Two or more contracts may not be awarded to the same individual or business entity for the same or related projects for the purpose of avoiding the approval and other requirements for transactions governed by this Procedure. Nevertheless, separate contracts with the same individual or business entity should not be aggregated if they: do not involve the same project; have distinct deliverables; are performed independently of each other; are administered separately; and if one may be terminated independently without impacting the performance of the other.

**GLOSSARY OF TERMS USED IN THE CHART ON THE FOLLOWING PAGES**

“EEO” Equal Employment Opportunity/Affirmative Action rules at Article X, Section E

“INFORMAL BIDDING” Uses emailed bids rather than formal bid packages

“LOCAL” Facility Executive Director or designee

“MOD RFP” A process approved by Corporate Finance and the Office of Legal Affairs in accordance with rules promulgated by those departments

“PMDF” Participating Member Designation Form issued by GPOs (Art IV)

“RFB” Request for Bids

“RFQ” Request for Quotation

Other capitalized terms used in the following charts are defined in the definitions section of the Procedure at Article I, Section E.



| Construction              |                |   |          |                   |        |     |             |      |                                      |
|---------------------------|----------------|---|----------|-------------------|--------|-----|-------------|------|--------------------------------------|
| Cost                      | Method         | Outreach  | Response | Selection         | Vendex | EEO | Advertising | DBDF | Approval(s)                          |
| \$0-4,999                 | RFB            | Site Visit  | Bid      | Price and Quality | N      | N   | N           | N    | Local                                |
| \$5,000-<br>\$20,000      | RFB            | email 3 bidders and site visit                                    | Bid      | Price and Quality | N      | N   | N           | N    | Local                                |
| \$20,001 –<br>\$24,999    | Formal Bidding | Write to at least 3 bidders and site visit                        | Bid      | Price             | N      | N   | Y           | N    | ED                                   |
| \$25,000-<br>\$99,999     | Formal Bidding | Write to at least 3 bidders and site visit                        | Bid      | Price             | N      | Y   | Y           | N    | ED                                   |
| \$100,000-<br>\$2,999,999 | Formal Bidding | Write to at least 3 bidders and site visit and bidders conference | Bid      | Price             | Y      | Y   | Y           | N    | Network SVP, CRC                     |
| \$3,000,000 and above     | Formal Bidding | Write to at least 3 bidders and site visit and bidders conference | Bid      | Price             | Y      | Y   | Y           | N    | Network SVP, SVP Finance, CRC, Board |

**Equipment (Medical Equipment not Equipment used for Facility Operation)**

| Cost                       | Method                 | Outreach  | Response              | Selection         | Vendex     | EEO | Advertising | DBDF | Approval(s)   |
|----------------------------|------------------------|---|-----------------------|-------------------|------------|-----|-------------|------|---|
| \$0-99,999                 | TPC                    | Identify Vendors from third party contract lists                    | PMDF                  | Price and Quality | N          | N   | N           | N    | Office of Procurement                                       |
| \$100,000 -<br>\$2,999,999 | TPC                    | Identify Vendors from third party contract lists                    | PMDF                  | Price and Quality | Modified * | N   | N           | N    | Office of Procurement, Network SVP, SVP Finance, CRC        |
| \$3,000,000 and above      | TPC                    | Identify Vendors from third party contract lists                    | PMDF                  | Price and Quality | Modified * | †   | N           | N    | Office of Procurement, SVP Finance, Network SVP, CRC, Board |
| \$0-4,999                  | RFB                    | Optional  | Bid                   | Price             | N          | N   | N           | N    | Office of Procurement                                       |
| \$5,000-<br>\$24,999       | RFB                    | Email 3 bidders   | Bid                   | Price             | N          | N   | N           | N    | Office of Procurement                                       |
| \$25,000-<br>\$99,999      | Formal Bidding         | Write to at least 3 bidders   | Bid                   | Price             | N          | Y   | N           | N    | Office of Procurement                                       |
| \$100,000 -<br>\$2,999,999 | Formal Bidding         | Write to at least 3 bidders, optional bidders' conference           | Bid                   | Price             | Y          | Y   | Y           | N    | Office of Procurement Network SVP, CRC                      |
| \$3,000,000 and above      | Formal Bidding         | Write to at least 3 bidders, optional bidders' conference           | Bid                   | Price             | Y          | Y   | Y           | N    | Office of Procurement, SVP Finance, SVP, CRC, Board         |
| \$100,000 -<br>\$2,999,999 | RFP, NA or Sole Source | If applicable, write to at least 3 proposers, proposers' conference | Proposal              | Price and Quality | Y          | Y   | Y           | Y    | OCAC, Network SVP, SVP Finance, GC, CRC                     |
| \$3,000,000 and above      | RFP, NA or Sole Source | If applicable, write to at least 3 proposers, proposers' conference | Proposal              | Price and Quality | Y          | Y   | Y           | Y    | OCAC, Network SVP, SVP Finance, GC, CRC, Board              |
| \$100,000 and above        | Auction                | Price Ceiling of pre-identified item                                | Advise if winning bid | Price             | N          | N   | N           | N    | OFD   |

†Only required for non-government TPCs over \$3 million

\*See special rules for TPCs at Art. X, Section D(vii)

Items:

Lease rental of medical surgical movable equipment

Lease rental of non-medical movable equipment

Medical Equipment—Asset

Non-Medical Equipment-- Asset

| Cost                    | Method                 | Outreach  | Response              | Selection         | Vendex     | EEO | Advertising | DBDF | Approval(s)   |
|-------------------------|------------------------|---|-----------------------|-------------------|------------|-----|-------------|------|---|
| \$0-99,999              | TPC                    | Identify Vendors from third party contract lists                    | PMDF                  | Price and Quality | N          | N   | N           | N    | Local   |
| \$100,000 - \$2,999,999 | TPC                    | Identify Vendors from third party contract lists                    | PMDF                  | Price and Quality | Modified * | N   | N           | N    | Network SVP (CIO for IT Equipment), CRC                         |
| \$3,000,000 and above   | TPC                    | Identify Vendors from third party contract lists                    | PMDF                  | Price and Quality | Modified * | †   | N           | N    | Network SVP (CIO for IT Equipment), SVP Finance, CRC, Board     |
| \$0-4,999               | RFB                    | Optional  | Bid                   | Price             | N          | N   | N           | N    | Local   |
| \$5,000-\$24,999        | RFB                    | Email 3 bidders   | Bid                   | Price             | N          | N   | N           | N    | Local   |
| \$25,000-\$99,999       | Formal Bidding         | Write to at least 3 bidders   | Bid                   | Price             | N          | Y   | N           | N    | Local   |
| \$100,000 - \$2,999,999 | Formal Bidding         | Write to at least 3 bidders, optional bidders' conference           | Bid                   | Price             | Y          | Y   | Y           | N    | SVP Finance, SVP, CRC   |
| \$3,000,000 and above   | Formal Bidding         | Write to at least 3 bidders, optional bidders' conference           | Bid                   | Price             | Y          | Y   | Y           | N    | Network SVP (CIO for IT Equipment), SVP Finance, CRC, Board     |
| \$100,000 - \$2,999,999 | RFP, NA or Sole Source | If applicable, write to at least 3 proposers, proposers' conference | Proposal              | Price and Quality | Y          | Y   | Y           | Y    | Network SVP (CIO for IT Equipment), SVP Finance, GC, CRC        |
| \$3,000,000 and above   | RFP, NA or Sole Source | If applicable, write to at least 3 proposers, proposers' conference | Proposal              | Price and Quality | Y          | Y   | Y           | Y    | Network SVP (CIO for IT Equipment), SVP Finance, GC, CRC, Board |
| \$100,000 and above     | Auction                | Price Ceiling of pre-identified item                                | Advise if winning bid | Price             | N          | N   | N           | N    | OFD   |

†Only required for non-government TPCs over \$3 million

\*See special rules for TPCs at Art. X, Section D(vii)



| Goods               |                        |   |          |                   |           |     |             |      |   |
|---------------------|------------------------|---|----------|-------------------|-----------|-----|-------------|------|---|
| Cost                | Method                 | Outreach  | Response | Selection         | Vendex    | EEO | Advertising | DBDF | Approval(s)                             |
| \$0-99,999          | TPC                    | Identify Vendors from third party contract lists                    | PMDf     | Price and Quality | N         | N   | N           | N    | Office of Procurement                   |
| \$100,000 and above | TPC                    | Identify Vendors from third party contract lists                    | PMDf     | Price and Quality | Modified* | †   | N           | N    | Office of Procurement                   |
| \$0-4,999           | RFQ                    | Optional  | Quote    | Price and Quality | N         | N   | N           | N    | Office of Procurement                   |
| \$5,000-\$24,999    | RFQ                    | Email   | Quote    | Price and Quality | N         | N   | N           | N    | Office of Procurement                   |
| \$25,000-\$99,999   | RFQ                    | Write to 3 bidders  | Quote    | Price and Quality | N         | Y   | N           | N    | Office of Procurement                   |
| \$100,000 and above | Formal Bidding         | Write to at least 3 bidders, bidders' conference                    | Bid      | Price             | Y         | Y   | Y           | N    | Office of Procurement                   |
| \$100,000 and above | RFP, NA or Sole Source | If applicable, write to at least 3 proposers, proposers' conference | Proposal | Price and Quality | Y         | Y   | Y           | Y    | OCAC, Network SVP, SVP Finance, GC, CRC |
| \$100,000 and above | Auction                | Price Ceiling of pre-identified item                                |          | Price             | N         | N   | N           | N    | OFD                                     |

†Only required for non-government TPCs over \$3 million

\*See special rules for TPCs at Art. X, Section D(vii)

Items:

anesthetic  
antihistamines  
anti-infective agents  
anti-infective agents  
antineoplastics  
autonomic agents  
biological – other  
biological response modifier  
blood derivatives  
blood format & coagulation  
bulk oxygen  
cardiovascular agents  
central nervous system agents  
cleaning supplies  
computer software  
computer supplies  
dental agents  
dental implants & prosthesis  
diagnostic agents  
dietary supplies  
disinfectant (other than skin)  
disposable packs  
dues: books & subscriptions

electrolyte solutions  
employee wear apparel - disposable  
employee wear apparel - reuse  
engineering/maint supplies  
enzymes  
expectorants & antitussives  
eye ear nose throat agents  
food  
food supplements  
freight  
gasoline for HHC vehicles  
gastrointestinal drugs  
gold compounds  
heavy metal antagonists  
hormones & synth substance  
housekeeping supplies  
implants  
investigational agents  
iv solutions  
laboratory supplies  
licenses and taxes fees  
linen and bedding disposable  
linen and bedding reusable

local anesthetics  
medical instruments  
medical surgical supplies  
non-ionic contrast media  
non-med & non-surg supplies  
office and admin supplies  
orthotics and prosthesis  
oxygen and medical gases  
oxygen cylinders  
oxytocics  
pacemakers  
paper  
patient wear apparel - disposable  
patient wear apparel - reuse  
patients recreation  
pharmaceuticals  
postage  
protective sharps  
radioactive & antirad agents  
radioactive substances  
radiology film  
reagent price agreement  
rental

rx supplies non drugs  
sera toxics' vaccines  
skin & mucous memb. agents  
smooth muscle relaxants  
stents  
telephone & other comm. serv.  
toner/cartridge  
unclassified therapeutic agent  
universal safeguard - wear apparel  
utility gas  
utility gas dcas direct charges  
utility - electric dcas charge  
utility - electric facility charge  
utility water  
vehicle supplies  
vitamins  
whole blood  
wound care supplies

### Non-Professional Services†

| Cost                    | Method                 | Outreach  | Response | Selection         | Vendex     | EEO | Advertising | DBDF | Approval(s)   |
|-------------------------|------------------------|---|----------|-------------------|------------|-----|-------------|------|---|
| \$0-99,999              | TPC                    | Identify Vendors from third party contract list                     | PMDF     | Price and Quality | Modified * | †   | N           | N    | Office of Procurement                                       |
| \$100,000 - \$2,999,999 | TPC                    | Identify Vendors from third party contract list                     | PMDF     | Price and Quality | Modified * | †   | N           | N    | Office of Procurement                                       |
| \$3 million and above   | TPC                    | Identify Vendors from third party contract lists                    | PMDF     | Price and Quality | Modified * | Y   | N           | N    | Office of Procurement                                       |
| \$0-4,999               | RFQ                    | Optional  | Quote    | Price and Quality | N          | N   | N           | N    | Network SVP, SVP Finance CRC, Board                         |
| \$5,000- \$24,999       | RFQ                    | Email 3 bidders   | Quote    | Price and Quality | N          | N   | N           | Y    | Office of Procurement                                       |
| \$25,000- \$99,999      | RFQ                    | Write to 3 bidders  | Quote    | Price and Quality | N          | Y   | N           | Y    | Office of Procurement                                       |
| \$100,000- \$2,999,999  | Formal Bidding         | Write to at least 3 bidders, bidders' conference                    | Bid      | Price             | Y          | Y   | Y           | N    | Office of Procurement                                       |
| \$3 million and above   | Formal Bidding         | Write to at least 3 bidders, bidders' conference                    | Bid      | Price             | Y          | Y   | Y           | N    | Office of Procurement, Network SVP, SVP Finance, CRC, Board |
| \$100,000 - \$2,999,999 | RFP, NA or Sole Source | If applicable, write to at least 3 proposers, proposers' conference | Proposal | Price and Quality | Y          | Y   | Y           | Y    | OCAC, Network SVP, SVP Finance, GC, CRC                     |
| \$3 million and above   | RFP, NA or Sole Source | If applicable, write to at least 3 proposers, proposers' conference | Proposal | Price and Quality | Y          | Y   | Y           | Y    | OCAC, Network SVP, SVP Finance, CRC, Board                  |

†See Special Subjects at Article XII for special rules for IT contract renewals

‡Only required for non-government TPCs over \$3 million

\*See special rules for TPCs at Art. X, Section D(vii)

Items:

- computer hardware maintenance
- computer software maintenance
- contracted service collection agency fees
- contracted service data processing
- contracted service facility maintenance
- contracted service language interpreting
- contracted service laundry
- contracted service transcription
- contracted services not otherwise identified in other expense
- general insurance
- hospital waste hazardous and regulated
- hospital waste non-hazardous non-regulated
- laboratory contracted service
- maintenance agreement medical equipment
- maintenance agreement of non-medical equipment
- malpractice insurance
- off-site storage fees
- other fees not otherwise identified
- patient transportation service
- sales taxes fees
- shredding HIPAA compliance and regulations
- special event expense (reserved for central office)



| Professional Services   |                        |   |                     |                   |            |     |             |      |   |
|-------------------------|------------------------|---|---------------------|-------------------|------------|-----|-------------|------|---|
| Cost                    | Method                 | Outreach  | Response            | Selection         | Vendex     | EEO | Advertising | DBDF | Approval(s) <sup>β</sup>                |
| \$0-99,999              | TPC                    | Identify Vendors from third party contract list                     | Supplier Acceptance | Price and Quality | Modified * | †   | N           | N    | Office of Procurement                   |
| \$100,000 - \$2,999,999 | TPC                    | Identify Vendors from third party contract list                     | Supplier Acceptance | Price and Quality | Modified * | †   | N           | N    | Office of Procurement                   |
| \$3 million and above   | TPC                    | Identify Vendors from third party contract lists                    | Supplier Acceptance | Price and Quality | Modified * | Y   | N           | N    | SVP, Finance, CRC                       |
| \$0-4,999               | Mod. RFP               | Optional  | Proposal            | Price and Quality | N          | N   | N           | N    | Network SVP, SVP Finance, CRC, Board    |
| \$5,000-\$24,999        | Mod. RFP               | Email 3 bidders   | Proposal            | Price and Quality | N          | N   | N           | N    | Office of Procurement                   |
| \$25,000-\$99,999       | Mod. RFP               | Write to at least 3 bidders   | Proposal            | Price and Quality | N          | Y   | N           | Y    | Network SVP, SVP Finance, GC            |
| \$100,000 - \$2,999,999 | RFP, NA or Sole Source | If applicable, write to at least 3 proposers, proposers' conference | Proposal            | Price and Quality | Y          | Y   | Y           | Y    | SVP, SVP Finance, GC                    |
| \$3,000,000 and above   | RFP, NA or Sole Source | If applicable, write to at least 3 proposers, proposers' conference | Proposal            | Price and Quality | Y          | Y   | Y           | Y    | OCAC, Network SVP, SVP Finance, GC, CRC |

†Only required for non-government TPCs over \$3 million

\*See special rules for TPCs at Art. X, Section D(vii)

<sup>β</sup>Regardless of dollar amount all contracts for audit services require CRC and Board approval and all medical affiliation agreements require Board approval

Items:

- advertising
- audit fees
- consulting fees operational
- financial consulting fees
- home health aid fees
- it consulting fees
- legal fes
- licensed practical nurse fees
- marketing
- nurses aide fees
- nutritionist fees
- other professional serv. fees
- physician fees
- registered nurse fees
- temporary employment
- therapist fees

E. **Effectiveness:** The procedures established herein are effective immediately and shall remain in effect until modified or superseded by the President in writing.

F. **Definitions:** The following defined terms are used in this Procedure:

**“Affirmative Action/Equal Employment Opportunity Office” or “AA/EEO Office”** The Central Office department responsible for ensuring compliance with applicable affirmative action and equal employment opportunity laws and regulations.

**“Auction”** The holding of a public sale of Goods under court order, pursuant to an arrangement for the benefit of creditors, upon a business liquidation or in a similar situation where (a) there is a reasonable expectation that the Goods might be purchased at prices below their normal market price; (b) the prices of the Goods are not established in advance; (c) subject to the possible imposition by the seller of a minimum price or a “reserve,” the price of the Goods will be established based upon competitive bids submitted by prospective purchasers within a pre-determined time period; (d) the payment terms are established in advance; (e) neither the bidding method nor the price is susceptible to prior negotiation; (f) the method for the conduct of the sale generally allows for the participation of the general public; and (g) payment for the Goods is required within a short time after the successful bidder is determined or immediately upon the determination of the successful bidder.

**“Contract Review Committee” or “CRC”** A committee established by the President to review certain procurement transactions as described in Article II of this Procedure.

**“Construction Project”** The totality of the work and materials needed to complete a capital improvement or addition to one of the Facilities and includes all elements that are planned, budgeted or contracted together. The object of such definition is to make it possible to consider such projects as a single endeavor. That a single entity will oversee or coordinate the entire effort will render the entire effort a single Construction Project. If a project is to be constructed in phases, all of the phases shall be considered together as a single Construction Project.

**“Construction Services”** The services required to complete a Construction Project.

**“Doing Business Data Form” or “DBDF”** A form required to be completed by the City’s Mayor’s Office of Contract Services as detailed in Article X(C), hereof.

**“Equipment”** Those items listed in the Chart starting at Page 2 of this Procedure and identified as Equipment.

**“Facility” and “Facilities”** The properties operated by the Corporation including hospitals, diagnostic and treatment centers, other health-related facilities and Central Office.

**“Formal Bidding”** A formal, structured method for soliciting competitive bids to purchase Goods and Non-Professional Services including the procedures required by NY General Municipal Law Article 5-A to be used to procure Construction Services.

**“Goods”** Those items listed in the Chart starting at Page 2 of this Procedure and identified as Goods.

**“Group Purchasing Organization” or “GPO”** An organization that procures vendors of Goods and services, negotiates standard contracts for the purchase of such Goods and services from such vendors using the aggregated purchasing power of the participants in such organization to obtain relatively low prices for such Goods and services and makes available to its participants the right to access such vendors and the contracts that the GPO has negotiated.

**“Maintenance”** As used in Article II, Section A and Article IX, Section F means a Service performed to preserve electro-mechanical systems and building systems in optimal working condition and efficiency so as to avoid unscheduled Repairs, premature aging and breakdown.

**“Negotiated Acquisition” or “NA”** A procurement technique to be used where it is unclear how a service should be best performed and it is shown that the Corporation will obtain the best price and terms through negotiation with a limited number of qualified contractors.

**“Non-Professional Services”** Services, the performance of which are so standardized and with respect to which there is so little variation in how the service is rendered and so little room for judgment in the performance of such service that any person or firm that meets minimum standards for its performance would be qualified and be equally acceptable and where the sole criteria in selecting a qualified vendor is price.

**“Office of Facilities Development” or “OFD”** The Central Office department responsible, among other things, for all Central Office construction procurement, for providing assistance to the Facilities in their procurement of Construction Services, for procuring all Construction Services for Construction Projects that will cost more than \$1 million and for managing the capital budget.

**“Office of Contract Administration and Control” or “OCAC”** The Central Office department responsible, among other things, for conducting RFPs, Sole Source and NA procurements.

**“Office of Procurement”** The Central Office department responsible for procuring all Goods, Non-Professional and Professional Services throughout the Corporation with the exception of Construction Services and Services pertaining to the maintenance of the Corporation’s non-medical physical structures and Auction purchases.

**“Panel of Contractor Responsibility” or “POCR”** A Central Office administrative body consisting of officers of the Corporation or their designees that has the sole authority to address certain issues that arise during the procurement and management phases of construction contracts covered by this Procedure.

**“Procurement Suite”** Is the electronic reporting system used by the Corporation to track and report procurement throughout the Corporation such as GHX or such other system as the Corporation may use from time to time.

**“Product”** A general term including Goods and Equipment.

**“Professional Services”** Services that may be performed in a wide variety of ways, that involve the use of judgment and/or specialized skill, and that, when procured, require consideration of factors in addition to price. A “Professional Services Agreement” is an agreement for Professional Services which are not directly paid through payroll.



**“Purchase Order” or “PO”** A short form document issued by the Corporation to a vendor stating the Corporation’s intent to purchase a Good or Service from the vendor, and containing all relevant and required information to effectuate the purchase.

**“Repair”** As used in Article II, Section A and Article IX, Section F, means scheduled or unscheduled work to cure building equipment failures or to restore such equipment to a state of readiness for normal use and operation and includes the replacement or upgrading of inoperative component of plant equipment.

**“Request for a Bid” or “RFB”** A Formal Bidding procedure involving advertisement and written bids as provided in this Procedure.

**“Request for Proposals” or “RFP”** A formal procurement procedure involving the posting and advertising of solicitations for the procurement of Goods or services as provided in this Procedure, the use of a structured process to evaluate proposers taking into account factors in addition to price and the making of an award based upon such process.

**“Service”** A Professional Service or a Non-Professional Service.

**“Sole Source”** The procurement of an item or service after considering only a single vendor because that vendor is the only viable candidate. See Article VII(A)(iii).

**“Senior Responsible Administrator”** The most senior staff person or officer with immediate responsibility for the operation of a Facility or a Central Office unit.

**“Supply Chain Council” or “SCC”** A committee established by the President to make decisions so as to establish and enforce standardized and centralized procurement throughout the Corporation.

**“Third Party Contracts” or “TPCs”** Contracts directly negotiated with vendors by governmental bodies, such as the City, the State, or the Federal Government, or non-governmental Group Purchasing Organizations, and then made available to the Corporation.

**“Value Analysis Committee” or “VAC”** One of 6 committees established by the SCC each having subject matter expertise in an area of procurement and responsible for conducting Value Analysis with respects to Goods and Services within its area of subject matter expertise.

**“Value Analysis”** A process that evaluates specific Products and Services or the explicit specifications for Products or services based on evidence of outcomes, quality, service, reimbursement, and total cost to identify the best Products and services for the Corporation to use for identified purposes.

**PART II**  
**ROLES AND RESPONSIBILITIES**

**ARTICLE II**  
**CONTRACT REVIEW COMMITTEE**

A. **General Rule:** For procurements requiring Board authorization before contracting, the prior approval and report of the CRC is required. Additionally, the CRC shall be responsible for reviewing and approving all procurements except for "Goods" when the contract amount will be over \$100,000 and when the transaction did not involve an RFP, NA or Sole Source Acquisition, even if the transaction will not require Board approval. No such contract shall proceed without CRC approval. All contracts for Construction Services for Equipment or for Goods, Equipment or Services obtained in connection with the Maintenance or Repair of the physical, plant of a Facility that costs more than \$100,000 but less than \$3 million also require CRC approval; provided that the CRC review function for such transactions shall be delegated to the senior officer responsible for the OFD. All contracts in the area of information systems for services and Equipment obtained through a TPC costing more than \$100,000 but less than \$3 million shall also require CRC approval, provided that the CRC function shall be delegated to the Senior Vice President/Chief Information Officer. In any cases of doubt as to the extent of such delegations, the responsibility of the executive over the budget for the procurement in question shall establish that such procurement is within the scope of the delegation. The Senior Officer overseeing IT and OFD shall each be responsible to establish controls that will assure that the solicitation process that was used to acquire the Equipment or Service in question was in accordance with this Procedure. In both of these cases of delegation, the officer delegated shall keep a record of his/her review of the transactions in question and submit to the CRC quarterly reports of the transactions reviewed and such reports shall be subject to audit by Internal Audits. Included in such reports, shall also be any such transactions that are of large enough size that they are brought to the Board for its approval. The reports prepared by the Senior Officer overseeing each of IT and OFD and made to the CRC shall be included in the reports to the Board the CRC is to prepare under Article II, E, below.

B. **Composition:** The CRC shall be comprised as the President shall direct in writing, or, in the absence of contrary direction, of the following individuals or their designees:

- i.* Corporate Chief Operating Officer acting as Chairperson of the Committee;
- ii.* Senior Vice President, Finance;
- iii.* General Counsel;
- iv.* Chief of Staff to the President;
- v.* The designee of the Chairperson of the Board;
- vi.* Senior Vice President/Chief Information Officer;
- vii.* Assistant Vice President for EEO/AA;
- viii.* The senior executive responsible for the operation of the SCC;

- ix.* The senior executive responsible for the operation of the OCAC;
- x.* Each of the six Network Sr. Vice Presidents; and
- xi* Special Assistant to the COO (non-voting), acting as Secretary.

C. **Purpose:** In all cases, the CRC shall conduct its reviews and issue its approvals so as to promote the goals of this Procedure as stated in Article I, Section B, "Policy." When the CRC is empowered by this Procedure to approve the procurement of a contract that is not also subject to the approval of the Board, the CRC shall also be responsible to confirm that the proposed contract is in the best interests of the Corporation.

D. **Procedure:** The CRC shall promulgate guidelines consistent with this Procedure that shall be the basis for the above referenced approvals. The CRC shall meet at least twice monthly unless it has no matters to consider. Despite Board and/or CRC review, the Office of Legal Affairs shall be required to sign off on the form of all contracts presented to the President for signature and any contracts that deviate from standard forms promulgated by the Office of Legal Affairs. The CRC may adopt guidelines that subject different kinds of proposed contracts to different CRC review procedures. For example contracts obtained through TPCs or ones that merely renew previous contracts may be reviewed by the CRC under different procedures than apply to other proposed contracts.

E. **Reports:** The CRC shall promptly forward to the Board reports of all contracts approved by the CRC that require Board authorization prior to execution. The CRC will advise the Board periodically (but at least quarterly) of all contracts that were approved by the CRC but that did not require Board approval. Finally, the CRC shall report to the Board at such intervals as the Board requests the total contract spending of the Corporation organized by vendor listing the largest vendors accounting for approximately 80% of the Corporation's purchasing, indicating the spending associated with each individual contract as well as the subject and expiration date of each contract. The CRC shall also be the body responsible for coordinating the preparation of any other contracting reports requested by the Board.

### **ARTICLE III SUPPLY CHAIN COUNCIL**

A. **General Rule:** The SCC shall oversee an enterprise-wide value analysis process that evaluates product selection and utilization, focusing on evidence-based clinical and/or operational outcomes, quality, service, reimbursement and total cost to determine particular brands and/or types of Products or Services to be procured by the Corporation on a Corporate-wide basis to achieve optimal value consistent with this Operating Procedure. Upon making such a determination (and subject to the procurement process described below) the SCC may require that only such brands of Products and/or type of Service be procured throughout the Corporation or that all brands and/or types of Products and Services satisfy certain specifications and that such requirements preempt all other attempted procurement of such Products or Services by individual Facilities or Central Office units.

B. **Composition:** The SCC shall be comprised as the President shall direct in writing or, in the absence of contrary direction, of the following individuals or their designees: Corporate Chief Operating Officer, SVP for Finance/CFO, SVP/Chief Information Officer, SVP/Chief Medical



Officer, SVP/General Counsel, the senior official responsible for the OCAC, the senior official responsible for the Office of Procurement, the Corporate Chief Nursing Officer, the Value Analysis Committee Chairs, and the SVP for each regional Network.

C. Purpose: The primary purpose of the SCC shall be to find value, quality, safety, efficiencies and economies in the Corporation's procurement. In this regard, the SCC shall direct that contracting and procurement decisions be guided by these principles and work to achieve standardization, and support the Corporate goals of clinical and operational excellence.

D. Value Analysis Committees: The SCC shall establish VACs in the areas of medical and surgical; perioperative; laboratory and radiology; cardiology; pharmacy; and business or such number of VACs with such specialization as the SCC determines.

i. Composition. Each VAC shall contain representatives of each of the Corporation's Networks with expertise in the subject matter of such VAC. Each clinical VAC shall be chaired by a physician and co-chaired by a nurse. Each VAC shall be supported in its work by one or more specialists assigned to such VAC from the Office of Procurement.

ii. Authority. The VACs shall operate under the authority of the SCC.

iii. Purpose. The VACs will conduct Value Analyses of Products and Services within the subject matter scope of each. Based on its Value Analysis, the VACs will recommend to the SCC that the Corporation use for a given purpose only a certain brand of Product or Services, only certain brands of Products or Services or only may recommend that only Products or services that meet identified specifications be used.

iv. Meeting and Reporting Frequency. The Value Analysis Committees shall meet at least monthly and report to the SCC on at least a bi-monthly basis.

v. Procurement Rules. The procurement of Products and Services specified by the VACs and adopted by the SCC shall be the responsibility of the staff of the Office of Procurement that is assigned to each VAC. The procurement of Products and Services identified by the SCC shall be subject to the terms of this Procedure. Nevertheless, the conclusions of the VACs as adopted by the SCC as to standardization based on value analysis shall not be subject to review by the CRC. The CRC's review shall be limited to whether the procurement of the Products and Services identified by the SCC was made in accordance with this Procedure. Whether Board approval is required for any proposed transactions shall be determined under this Procedure without regard to its having been proposed by the SCC.

vi. Rules Handbook; Reporting. The VACs and the Office of Procurement staff assigned to each VAC shall develop written rules for their Value Analysis procedures, such rules shall be posted and the VACs shall adhere to such rules. The VACs shall maintain contemporaneous written records of its proceedings so as to permit an outside audit or review of the manner in which its decisions were made to determine whether such rules and this Procedure were followed.

vii. Recommendations to SCC. The VACs shall make written recommendations to the SCC of the brand of Product or Services, brands of Products or Services or the specifications for all brands of Products or Services to be procured by the Corporation on a Corporate-wide basis to achieve optimal value consistent with this Procedure. The SCC may accept,

reject or modify the recommendations of the VACs and may resolve any disputes that exist within any VAC. If the SCC should reject or modify any recommendations of the VACs, it shall state in writing its reasons for doing so.

E. SCC's Determinations: The SCC determinations made on the recommendations of the VACs shall be binding throughout the Corporation and shall establish the standard brand or brands for the Products or Services of the type specified that may be purchased for the use of the Corporation. Alternatively, the SCC may establish the specifications that all brands of a given Product or Service must meet.

### **PART THREE** **RULES FOR EACH METHOD OF PROCUREMENT**

#### **ARTICLE IV** **THIRD PARTY CONTRACTS**

A. When Appropriate: Except for Construction Services where General Municipal Law governs, any Goods, Equipment or services needed by the Corporation may be purchased through a TPC.

B. Due Diligence: Before entering into any contract made available through a TPC, due diligence must be exercised to determine that the price is favorable to the Corporation. Due diligence may be performed by, among other methods, comparing the price available through the TPC to listed prices for equivalent Goods or Services, by comparing the price to that paid previously by the Corporation for similar Goods or Services, by comparing the price to that available through other TPCs or issuing a request for expression of interest to vendors available through TPCs or otherwise. A contemporaneous written record of these due diligence efforts shall be maintained for examination on audit.

C. Approvals: CRC and Board approvals are required if the contract is for \$3 million or above unless the procurement is for Goods.

#### **ARTICLE V** **SMALL TRANSACTION FORMATS**

A. When Appropriate: The small transaction formats are appropriate for transactions under \$100,000. Small transactions of all formats are subject to the reporting requirements contained at Article X, Section H of this Procedure.

B. Professional Service Agreements under \$100,000: Due diligence must be used in selecting a vendor to perform Professional Services. For contracts exceeding \$4,999, use HHC Form 1 "Professional Service Checklist" to document the vendor selection process. Use HHC Form 2, "Professional Services Agreement." These forms and instructions shall be posted on the websites of each of these divisions.

i. Approvals. For Professional Services Agreements under \$100,000 neither Board nor CRC approval is required. The transaction must, however be approved by the appropriate Executive Director or Senior Vice President and by the SVP for Finance and the General Counsel.

ii. *Distinction from Employees.* In all cases when an individual is to be engaged by the Corporation as an independent contractor, care must be taken to ensure that the law would not require that such individual be treated as an employee for tax, benefit and other employment law purposes. Before an individual may be engaged as an independent contractor, the approval of the facility Controller or Corporate Comptroller or designee shall be required to establish that such individual is properly classified and should not be treated as an employee.

iii. *Former Employees.* Former employees of the Corporation may not be engaged as independent contractors for a period of one year subsequent to the termination of their employment by the Corporation except upon a finding by the President or a Senior Vice President that there is a critical need for the services of such individual due to his/her unique skills.

iv. *Procurement.* The services of individuals to serve as independent contractors shall be procured in accordance with this Procedure.

C. Informal Bidding Rules for Non-Professional Services, Goods and Equipment Valued at less than \$100,000 and for Construction Services Valued at less than \$20,000:

i. *Goods, Non-Professional Services and Equipment.* The procurement of Goods, Non-Professional Services and Equipment generally requires the use of a TPC or formal bidding procedures but when the amounts involved are less than \$100,000, informal bidding as described on the Procurement Chart may be used.

ii. *Approvals.* The procurement of Goods, Non-Professional Services, or Equipment requires neither Board nor CRC approval when under \$100,000.

## ARTICLE VI FORMAL BIDDING

A. When Appropriate: Formal Bidding is the appropriate procurement method when the sole criteria in making the procurement is price, when one is certain of the precise Goods, Equipment, Construction Services, Non-Professional and Professional Services sought, and when Goods, Equipment, non-Professional Services and Professional Services over \$100,000 are not available through a DCC or a TPC, or if the procurement is for Construction Services over \$20,000 (see Section IX of this Procedure for a full explanation of Construction Agreements).

B. Initiation of Bids:

i. *Bid Request.* The Office of Procurement, working with the appropriate requesting site representative, shall prepare the bid package including a detailed description of the Goods or services sought. A record of the bid process shall be maintained with appropriate time/date stamps at all critical steps.

ii. *Preference Items.* When a "brand-name only" specification is required, the director of the department concerned shall approve and document the reasons and justification for such request.



C. Identification of Bidders: The Office of Procurement shall identify potential bidders from among vendors who qualified on previous Corporate procurements; vendors with current contracts with the NYC Department of Citywide Services; vendors on HHC's bidders lists; vendors with TPCs; and those who, in the director's judgment, will suit the Corporation's needs. An effort should be made to include Minority/Women-Owned Business Enterprises as potential bidders and this effort should be documented and made part of the official file.

D. Minimum Number of Bids: It is best to get at least three bids but if this is impossible, there should be a memo to the file explaining the efforts to generate bids.

E. Responsibilities of the Department: The Office of Procurement shall be responsible for:

i. *Recording*. Record the Request for Bid in the bid request log and assign a bid request number.

ii. *Finalizing the Request for Bid*. Finalize the RFB in consultation with the Office of Procurement especially if there have been changes to specifications. Assign a bid number.

iii. *Completing Request for Bid*. Enter the requirements on the RFB, HHC Form 1400a (attached as Formal Bidding Exhibit 1) and, if required, HHC Form 1400b (attached as Formal Bidding Exhibit 2) and/or 1400c (attached as Formal Bidding Exhibit 3). Upon completion of all changes, a bid opening date shall be assigned allowing sufficient time for a copy of the RFB to be posted on the bulletin board of the Facility or Office of Procurement for ten calendar days. The bid time may be lengthened if specifications are complex or the bidders must visit a site for clarification or requirements.

iv. *Advertising and Mailing*. RFBs must be posted in the City Record and on the Corporation's website for a minimum of 5 business days. Bids must be mailed, emailed or faxed to the prospective bidders identified under Section (C), above.

v. *Maintaining Files*. Maintain on file at the office of Procurement all original bid request forms. Any reproduction of the RFB should be made from a copy of the original bid request form.

vi. *Posting*. After mailing to prospective bidders post a copy of the RFB for public display.

vii. *Recording of Solicitations*. Include the bidders' mailing list, indicating the bidders' names and addresses, the number of RFBs that were mailed and the date mailed in the bid folder maintained by the Office of Procurement.

viii. *Stamping*. Time/date stamp all bids responsive to the RFB, log them in and secure them until the bid opening.

F. Opening; Cancellation of Bids:

i. *Public Opening*. On the bid opening date, the bids shall be opened in public promptly at the appointed time by the bid opening officer and recorder in the presence of the bidders

attending the opening and recorded by the recording clerk with a time stamp.

ii. *Bid Tabulation Sheet.* The clerical group shall prepare, prior to bid opening, the formal bid tabulation sheet listing items, quantities, description and items bid. All sealed bids are recorded on HHC Form 385 (attached as Formal Bidding Exhibit 3). Prices shall be recorded as bids are opened.

iii. *Late Bids.* Late bids shall be rejected. All late bids shall be returned to the bidders unopened, either in person or certified mail. Photocopies of the date and time-stamped late bid envelopes shall be made part of the bid file.

iv. *Cancellation.* If a contract is not awarded, the bid must be cancelled and a notice of cancellation sent to each bidder.

G. Evaluation of Bids:

i. *Lowest Bid.* Except as noted, all awards shall be made to the lowest responsive and responsible bidder.

ii. *Responsible Bidder.* A bidder is a *responsible* bidder if it has received VENDEX clearance or another form of vendor responsibility determination from the Office of Legal Affairs as provided in Article X(D) of this Procedure and if the bidder satisfies the minimum qualifications established in the RFB.

iii. *Responsive Bidder.* A bidder is a *responsive* bidder if its bid substantially conforms to the specifications in the RFB.

iv. *Exceptions to Specifications.* The Office of Procurement shall determine whether to accept bids, *e.g.*, when exceptions are taken to the specifications, pricing is above the estimate, or for any other reason deemed necessary.

v. *Rejection of Bid.* If a deviation is made by a bidder that alters the bid performance specifications in a material way, the bid shall be rejected as not responsive. If, however, the Office of Procurement determines that a bid with materially altered specifications better meets the Corporation's needs, the bid shall be cancelled and re-solicited. In all cases, the determination as to whether a deviation is material shall be made by the Office of Procurement and its decision shall be final.

vi. *Acceptable Exceptions.* If one material exception is taken by a bidder to the bid terms and conditions, the bid shall be rejected. However, exceptions may apply to unique situations, such as medical specialty and/or proprietary awards.

vii. *Confidentiality.* During the evaluation and referral period, neither the Facility nor Central Office personnel shall discuss the evaluation with any bidder or vendor. Clarification of specifications offered by a bidder who has offered alternates or deviations may be discussed only to the extent the Office of Procurement wishes to evaluate the alternate material or the deviations for recommendation. Any discussion of bids beyond this may result in the rejection of the bids.

viii. *Disclosure at Public Opening.* The prices (including deviations, substitutions, etc.) shall be revealed at the public bid opening. A duplicate copy of the abstract of the bids together with a blank copy of the bid shall be maintained at a central point for viewing by interested parties for not less than one year following the opening. The bid tabulation sheet shall be made available for public inspection.

H. Approvals: Formal Bidding for Construction Services and Equipment requires only the approval of the appropriate Executive Director or the Senior Vice President unless the amount involved is \$100,000 or more, in which case CRC approval is required. If the amount is \$3 million or more, then the approval of the Board is also required. Formal Bidding for Goods requires only approval by the Office of Procurement regardless of the amount involved.

I. Control; Audit: So as not to delay procurement, the review of bid transactions shall be on a post-audit basis. Responsibility for auditing and assuring compliance with this Procedure rests with the Senior Vice President/Executive Director. The Office of Internal Audits may conduct audits of compliance with this Procedure when appropriate. Further, the Office of the Inspector General may investigate the propriety of specific procurements when appropriate.

**ARTICLE VII  
REQUESTS FOR PROPOSALS, NEGOTIATED ACQUISITIONS  
AND SOLE SOURCE ACQUISITIONS PROCUREMENTS  
INCLUDING TPC PROCUREMENTS MADE USING SUCH METHODS**

A. When Appropriate:

i. *Requests for Proposals and Negotiated Acquisitions.* When it is not clear how a needed service is to be performed, what kind of Equipment or system will meet the Corporation's needs, or when the capabilities and qualifications of the vendor are key considerations, an RFP or an NA should be used.

ii. *Negotiated Acquisition.* NA is appropriate if it is unclear how a service should be best performed and it is shown that the Corporation will obtain the best price and terms through negotiation with a limited number of qualified contractors.

iii. *Sole Source.* Sole Source procurement may be used only when there is only one source for the required Goods, Equipment, Construction Services, Non-Professional or Professional Services. In such case, the accepted price and terms and conditions shall be achieved through negotiation between the Office of Procurement and the contractor. Among the situations where a Sole Source procurement is appropriate is when the Corporation owns or is buying Equipment or a system and the manufacturer requires, as a condition of its warranty, that the maintenance on such Equipment or system be provided by only one specified vendor.

B. Roles of Office of Procurement and OCAC:

i. *Office of Procurement.* Facilities and Central Office divisions wishing to procure Products or Services shall initially bring such request to the Office of Procurement which shall evaluate the need for such Product or Service and the appropriate method for its procurement. The Office of Procurement shall determine whether the requested procurement is appropriately made

through an RFP, NA or Sole Source Acquisition. If such determination is made, then the procurement will be referred by the Office of Procurement to the OCAC.

*ii. OCAC.* The OCAC shall provide technical procurement services to any Corporate departments that are directed by the Office of Procurement to use RFPs, NAs and Sole Source Acquisitions to acquire Products or Services. The Office of Procurement shall provide to the OCAC a statement of the scope of the Services sought to be purchased or the description of the Products to be obtained and any requirements for such Products or Services including the desired schedule for completing the transaction. The Facility or department desiring the procurement shall work with the OCAC to refine, if necessary, the scope of Services or description of Products including any technical specifications required for the procurement process. The Facility or department shall designate the individuals to serve on any selection or negotiation committees including any subject matter experts available from the Office of Procurement. The OCAC shall provide support to such committees. The OCAC will be responsible, in consultation with such Facilities or departments, for preparing any solicitation documents, publishing the same as required in this Procedure, advising regarding or conducting (as requested by such departments) communications with potential vendors, managing the documentation of all proceedings of any evaluation or negotiating committees, preparing documents required to be presented to the CRC and to the Board and coordinating with the Office of Legal Affairs the preparation of the contract documents.

**C. RFP/NA CRC Application:** Depending on the procurement method to be used, the OCAC shall submit to the CRC an Application to Issue a Request For Proposals or an Application to Initiate a Negotiated Acquisition including the following:

*i. Justification for RFP or NA.* For an RFP or NA, evidence that an RFP or NA is the appropriate contracting method because it meets the criteria described in Section A(i) or (ii), above;

*ii. Scope, Duration and Cost.* The requested scope of services, contract duration, evaluation criteria and estimated cost;

*iii. List of Invitees.* For an a RFP, a broad list of business entities, drawn from the relevant marketplace, that will be invited to submit proposals and for an NA, a list of the business entities, drawn from the relevant marketplace, with whom the Requestor intends to negotiate;

*iv. RFP Selection Committee.* For an RFP, the proposed selection committee, which shall include responsible Corporation officials, Facility representatives, and users of the Service or Product, as appropriate;

*v. NA Negotiating Committee.* For an NA, a list of proposed members of the negotiating committee consisting of a minimum of five Corporate employees at the Director level or above;

*vi. Selection Criteria.* The criteria on which proposers will be evaluated and the weight given each factor, including understanding the work and soundness of approach; previous experience and technical qualifications of key people; previous client references; and a cost proposal (attached as Solicitation Exhibit 3); and

vii. *Budget Authorization.* An executed Budget Authorization Form.

viii. *TPC Procurement.* TPC procurements shall be subject to CRC review in the same manner as other procurements provided that the CRC shall require only those processes required to be followed for TPC procurements by this Procedure.

D. RFP Process: After receiving approval from the CRC for the form of the RFP, the OCAC shall be responsible for:

i. *Advertisement.* Advertise the RFP in the City Record and on the HHC website, nyc.gov/hhc, under the link "Contracting Opportunities" for a minimum of 10 business days;

ii. *Issuance.* Issue the RFP to at least three prospective proposers;

iii. *Convene Selection Committee.* Convene a selection committee to: (a) maintain minutes of the deliberations including the evaluation criteria and weights; (b) review and evaluate proposals submitted by the proposal due date, and identify the top ranked proposer; and (c) negotiate contract terms and conditions with the panel's selected proposer.

E. NA Process: After receiving CRC approval to proceed, the NA negotiating committee shall be responsible for:

i. *Advertisement.* Advertise the NA in the City Record and on the HHC website, nyc.gov/hhc, under the link "Contracting Opportunities" for a minimum of 10 business days and directly contact at least three possible vendors, if possible;

ii. *Issuance.* Issue a request for qualifications to identify qualified firms and;

iii. *Convened Negotiating Committee.* Meet and negotiate with the candidates to develop the best business terms from the candidate offering the best combination of qualifications, price and other terms.

F. Confidentiality: When proceeding with an RFP or an NA neither the Facility nor any Central Officer personnel shall discuss the evaluation or negotiation with any other proposer responding to an RFP or party with which negotiations for a Negotiated Acquisition are being conducted during the evaluation and/or negotiation period. Any violation of this prohibition may result in the invalidation of the process.

G. CRC Authorization to Contract after RFP or NA: After a contractor has been identified, in the case of an RFP and after negotiations with the proposed contractor are completed in the case of an NA, the OCAC shall submit to the CRC an Application Seeking Authorization to Enter into a Contract as follows:

i. *Contract Application;*

ii. *Contract Fact Sheet;*

iii. *Proposed Contract.* The proposed major contract terms, highlighting



those terms that vary from the Corporation's standard form contract keeping in mind that less significant contract terms may be resolved later with the Office of Legal Affairs in the process of preparing the contract;

- iv. *VENDEX*. Proof of VENDEX submission (See Article X(D)); and
- v. *EEO*. Proof of submission of a completed Supply and Service Employment Report.

H. The Sole Source Process:

i. *The CRC Application*. The OCAC shall submit to the CRC an Application to Initiate a Negotiation for a Sole Source Contract including the following:

- a. the requested scope of services, contract duration, and estimated cost;
- b. that the OCAC is familiar with the relevant marketplace and that the circumstances satisfy the criteria described in Section A(iii), above;
- c. the list of the members of the negotiating committee consisting of a minimum of five Corporate employees at the Director level or above;
- d. an executed Budget Authorization Form.
- e. a Contract Fact Sheet identifying the proposed contractor, and the proposed contract.
- f. If the transaction will require the approval of the Board, the OCAC shall also submit a draft Board Resolution and Executive Summary.

ii. *Approval of Negotiated Contract*. After receiving the CRC's approval to negotiate a Sole Source Contract and after having conducted such negotiations through the negotiating committee approved by the CRC, the OCAC shall return to the CRC with the basic terms of the proposed Sole Source Contract as negotiated for the approval of the CRC. The CRC shall grant such approval unless it appears that the proposed Sole Source Contract violates a basic Corporate policy, is inconsistent with a current Corporate initiative or appears to be plainly not in the best interests of the Corporation.

I. Approvals: RFPs, NAs and Sole Sources involving more than \$100,000 require the approval of the applicable Senior Vice President, the Senior Vice President of Finance, the General Counsel and the CRC. When more than \$3 million will be spent for Professional Services, Non-Professional Services, Construction Services or Equipment (medical and non-medical) the approval of the Board is also required. All contracts for the services of auditors, regardless of the amount of the contract, require both CRC and Board approval.

J. Contract Execution: After the required approvals are obtained, the Office of Legal Affairs shall review and approve the contract documents for execution by an Assistant Vice President or the President with the President's signature required if so stipulated by Board resolution. If necessary, the Office of Legal Affairs will assist in negotiating the actual language

of the contract and any terms not yet resolved.

## ARTICLE VIII PURCHASES AT AUCTION

A. **Policy:** Facilities may participate in Auctions as set forth in this Procedure. Goods purchased under this Procedure shall be exempt from the competitive procurement requirements that otherwise apply. Similarly, sellers at an Auction sale shall be exempt from the requirement for VENDEX clearance, meeting EEO standards and from Doing Business Data Form requirements.

B. **Procedures:**

i. ***Identification of Goods or Equipment.*** Prior to participation in an Auction, Senior Vice Presidents shall identify to the OFD (i) the Auction he/she wishes to participate in; (ii) the specific Goods or Equipment that he/she wishes to bid upon; and (iii) the specific Facility for which the Goods or Equipment will be purchased.

ii. ***Maximum Price.*** Prior to the Auction in question, a Senior Vice President wishing to participate shall advise OFD of the maximum price the Network will pay for identified Goods or Equipment with a written justification for the maximum bid price. Such report shall document the due diligence performed on behalf of the Network to justify the price including whether a physical inspection was made and such items as the price the Network has paid for the targeted item in the recent past, the price at which such Goods or Equipment are currently available from other sources such as approved TPCs or prices quoted to the Network in writing or over the phone by other vendors or other information that would assist in establishing the market price for the Goods or Equipment. In comparing the maximum price payable at the Auction with the price at which the targeted Goods or Equipment are available through other channels, the Senior Vice President shall take appropriate account of such factors as (a) the cost of transporting the Goods or Equipment; (b) the lack of any warranty of the Goods or Equipment if bought at Auction; (c) the cost of any maintenance service that might have been included in the price for the Goods or Equipment if purchased through other channels; (d) the cost of any required refurbishing of the Goods or Equipment; and (e) whether the targeted Goods or Equipment are used. To be eligible to participate in the Auction, OFD must determine from the materials presented that the maximum bid price which the Network is willing to pay is less than the price at which the Goods or Equipment are otherwise available after making appropriate adjustments for the factors listed in the preceding sentence.

iii. ***Finance Certification.*** The Facility for which the Goods or Equipment are intended must have funds available in its OTPS Account or its Capital Budget, as is appropriate, for the Goods or Equipment to be purchased. The Senior Vice President shall send to OFD confirmation that adequate funds are available for the proposed purchase at the maximum authorized price.

iv. ***Vendor Number.*** Prior to participation in the Auction, the Office of Procurement shall obtain from the seller the information necessary to establish the seller as a vendor in the Corporation's OTPS/eCommerce system and the relevant banking information to be used in making a wire transfer if wire transfers are required and an acceptable form of payment.

v. ***OFD to Bid.*** Only OFD shall be authorized to represent the Corporation at an Auction and to bid for the purchase of Goods or Equipment offered for sale. OFD shall bid on the targeted items on behalf of any Facility for which its Senior Vice President has appropriately

identified such Goods or Equipment and the maximum price payable, as provided above. OFD shall attempt to purchase such Goods or Equipment for the lowest possible price.

vi. *Choice among Facilities.* If more than one Facility wishes to bid on the same item(s), OFD shall attempt to purchase at Auction enough of the items to satisfy all interested Facilities. If that is not possible, then OFD shall purchase the targeted Goods or Equipment and they shall be deemed to have been purchased by the Network or Networks determined by OFD using a random process coordinated with Finance.

vii. *Payment.* OFD shall arrange with the Corporate Comptroller's Office for issuance of certified checks or a wire transfer for any deposit due at the time of bidding and for the subsequent payment of the balance if the Corporation is the successful bidder. If possible, wire transfers should be used for all payments made under this Operating Procedure.

viii. *Approvals.* Only the approvals of the appropriate Network Senior Vice President or the appropriate Central Office-based Senior Vice President and the most senior officer responsible for the Office of Facilities Development are required for purchases made at Auction.

ix. *Journal Entries.* Finance, in the case of capital Goods or Equipment, or the Facility, Network or Central Office Division making the purchase, in other cases, will make appropriate accounting or journal entries to ensure that the cost of the Goods or Equipment purchased is charged against the correct Network and Facility within such network or Central Office unit.

x. *Reports.* OFD shall report to the Board the results of any Auctions at which OFD appeared and bid. Such report shall be presented at the meeting of the Board immediately following any such Auction.

## ARTICLE IX CONSTRUCTION AGREEMENTS

A. General Rule: The procurement of Construction Services when the amount is in excess of \$20,000 is governed by General Municipal Law Article 5-A that requires open, competitive, sealed bids. Any construction contract issued in violation of the General Municipal Law is illegal and void. For Construction Services under \$20,000, informal bidding procedures may be used in accordance with the Small Transaction bidding rules in Article V of this Procedure. Certain Construction Services are to be procured centrally by OFD.

B. Central Office Procurement:

i. *Responsibility for Procurement.* Networks and Facilities are responsible for procuring their own construction contracts provided that if the Construction Project is one that will cost more than \$1 million, then the procurement of the contract(s) for such Construction Projects must be managed by OFD.

ii. *OFD Procurement.* Notwithstanding the foregoing, OFD may require that certain types of contracts be managed centrally. For example, all elevator maintenance contracts may be required to be procured by OFD. From time to time, OFD shall issue to the Facilities memoranda specifying those services that OFD will procure centrally.

C. Procedure:

i. *Over \$20,000.* Contracts for more than \$20,000 must be let in accordance with the Formal Bidding rules of General Municipal Law Article 5-A. Contracts for lesser amounts may be let in accordance with the Small Transaction Bidding rules of Article V of this Procedure except as provided herein.

ii. *Manual for Acquisition of Construction and Maintenance Services.* The Corporation's Manual for Acquisition of Construction and Maintenance Services shall be followed. In addition, all procurements shall incorporate and include Part I of the Corporation's Standard Maintenance Engineering Systems Maintenance Service Agreement or Part I of the standard Maintenance Engineering Systems Service Agreement, as appropriate containing Information for Bidders, the Agreement Articles, and the General Conditions governing the contract work.

iii. *OLA Advice.* Networks should consult as necessary with the Office of Legal Affairs during the procurement process on issues of law and with OFD on compliance with this Procedure.

iv. *Authority to Contract within Networks.* Network Senior Vice Presidents shall be responsible to delegate written authority and responsibilities establishing tiers of authority for appropriate staff within the limits of this Procedure.

D. Financial Management: OFD shall register and encumber funds for all construction contracts that are partially or totally debt funded or that are required by other procedures to be recorded in the O.T.P.S. Capital Project Management System.

E. Insurance Administration: OFD shall administer the construction contract insurance requirements. OFD together with the Office of Legal Affairs shall, from time to time, distribute standard forms of contract for (1) construction contracts for less than \$20,000; (2) construction contracts for more than \$20,000; and (3) all maintenance contracts. The insurance provisions required to be contained in construction agreements shall be as contained in such standard forms of contract.

F. Labor Law: Each Network shall be responsible for monitoring compliance with requirements of the New York State Labor Law with respect to Construction Projects and Maintenance and Repair contracts performed at such Facility. All contractors and vendors are required to provide certified payroll reports for all contracts/purchase orders.

G. Panel of Contractor Responsibility:

i. *Composition.* The POCR shall consist of the following persons or their designees: the General Counsel; Assistant Vice President for OFD; and the SVP for Finance/CFO.

ii. *Responsibility.* The POCR shall be responsible for:

- a. Reviewing written requests from low bidders for withdrawal of bids;
- b. Reviewing written appeals of low bidders who are declared non-responsible, including denial of VENDEX clearance;

- c. Convening hearings to consider declaring contractors to be in default;
- d. Hearing appeals of contractors who are debarred;
- e. Hearing appeals of contractors given less than a satisfactory performance evaluation;
- f. Approving contract changes as per the Construction Procedures Manual;
- g. Approving Extension of Time requests;
- h. Reviewing written appeals of bidders denied approvals of NYS Article 15A-W/MBE goals compliance; and
- i. Assessing Liquidated Damages against contractors.

H. Approvals: Procurement of Construction Services involving less than \$20,000 requires only approval at the Facility level. Procurement of Construction Services involving amounts from \$20,000 to \$100,000 requires the approval of the Executive Director or Network Senior Vice President. If the amount involved will be \$100,000 or more then the approval of the CRC is additionally required. For amounts in excess of \$3 million the approval of the CRC and the Board is also required.

## ARTICLE X GENERAL REQUIREMENTS

### A. Assignment of New Vendor Account Numbers:

*i. Requirement for Assignment.* Whenever the Corporation enters into an agreement or memoranda of understanding in which the Corporation pays or receives money or other value to or from a person, firm or entity, without a current Vendor Number, a new Vendor Number must be issued to such person, firm or entity. Any organization that does not have a Federal Tax ID number in the OTPS System must be treated as a new vendor.

*ii. Responsibility for Assignment.* The Office of Procurement is responsible for assigning Vendor Numbers and for revising existing vendor-related information within the OTPS System. When issuance of a Vendor Number is required, or when existing vendor-related information must be modified, the Facility Director of Materials Management or Accounts Payable, or the Central Office Cost Group Manager, shall forward a completed HHC Form 2250, "Vendor Number Request" (attached as General Requirements Exhibit 1) to the Central Office Division of Office of Procurement with any documents required by Form 2250. The person submitting Form 2250 must check the vendor for government exclusions or disbarment on the websites listed on Form 2250.

*iii. Changes to Vendor Information.* Requests to change existing vendor information must be made by a letter from the vendor on its letterhead with supporting documentation such as tax certificates, social security cards, and W-9s.

*iv. Controls.* Senior Responsible Administrators shall implement appropriate controls, including periodic test checking, to ensure that the requirements of this Article X(A) are properly executed.

*v. Audits.* The Office of Internal Audits shall periodically audit compliance with these procedures.



**B. Contract Number Assignments:**

*i. Assignment of Contract Numbers.* Once a Vendor Number has been assigned as discussed under subsection A, above, the Office of Procurement shall issue a Contract Number for each contract awarded before issuing a purchase order. The Contract Number shall be listed on the purchase order and on all other contract-related documents.

*ii. Exceptions.* Exceptions to the foregoing rule are purchase orders: (a) for \$5,000 or less; (b) issued to a TPC; (c) issued to the State Office of General Services; (d) issued to City Department of Citywide Administrative Services; (e) issued to the Federal Department of General Services contractors; or (f) issued by MetroPlus Health Plan to its healthcare providers.

*iii. Administration of System.* The Office of Procurement shall link the Contract Number with the Vendor Numbers in the OTPS system and supply the following information (either by inputting it into the OTPS system or by uploading it through Procurement Suite):

- a. The start and end date of the contract;
- b. The value of the contract or estimated value, if appropriate;
- c. The method of procurement;
- d. The solicitation number (Facilities shall assign solicitation numbers when more than one vendor proposed during the solicitation period that shall also be used as unique identifiers for the purposes of Doing Business Data Forms, discussed below); and
- e. The type of entity (corporation, partnership etc.).

*iv. Controls.* Senior Responsible Administrators shall implement appropriate control systems, including periodic test checking, to ensure that the requirements of this Article X(B) are properly executed.

**C. Contract Proposer and Awardee Reporting Procedures:**

*i. Requirements of Local Law 34.* The Corporation is required to comply with the reporting requirements of Local Law 34 that mandates the creation of a City-wide database containing information about entities doing business with the City for the purpose of enforcing limits on campaign contributions by such entities.

*ii. Doing Business Data Form.* Most entities seeking to do business with the City must submit a signed DBDF first upon submitting a contract proposal, and again upon receiving a contract award. The Facility awarding the contract shall review the DBDF and forward it to the Office of Legal Affairs together with a completed Coversheet for Proposer Data Form. For Central Office contracts, the DBDFs should first be sent to Office of Procurement for review and forwarding to the Office of Legal Affairs.

*iii. Exceptions.* This rule and the procedures below apply to all Facilities, and all contracts and purchase orders, except (a) contracts under \$5,000; (b) contracts awarded under the emergency procedures described in Article XI; (c) contracts awarded by Formal Bidding; (d) construction and maintenance contracts under \$20,000 awarded by informal bidding pursuant to

Article V; (e) procurements through an approved TPC pursuant to Article IV; and (f) Auction purchases made under Article VIII of this Procedure.

iv. *Notice to Bidders.* A Notice to bidders/proposers must be included in all solicitation materials. The notice shall read: "Pursuant to Local Law 34 of 2007, amending the City's Campaign Finance Law, the City is required to establish a computerized database containing the names of any "person" that has "business dealings with the City" as such terms are defined in the Local Law. In order for the City to obtain necessary information to establish the required database, **vendors responding to this solicitation must complete the DBDF and return it with this proposal.** The submission of a DBDF that is not accurate and complete may result in appropriate sanctions." Facilities will have seven days from the opening date of the proposal to cure missing or incomplete DBDFs. If the Facility is unable to obtain a complete DBDF, the proposal must be found to be **non-responsive.**

v. *DBDF on Contracts.* Anyone applying for or being awarded a grant must submit a signed DBDF. Facilities may cure missing or incomplete forms at any time prior to making an award. Otherwise, the same procedures and notice requirements applicable to contract proposers apply to prospective grant recipients.

vi. *Interpretation.* Questions concerning the interpretation of this Section shall be referred to the Office of Legal Affairs for a determination in consultation with the Office of Procurement.

D. **VENDEX:**

i. *Policy.* It is the Corporation's policy to transact business only with contractors that can reasonably be expected to satisfactorily perform their obligations with integrity. In line with this policy, the Corporation will not transact business with a contractor with a history of poor performance or a lack of integrity which is to say, one that is not "responsible." The Corporation shall use the City's VENDEX system as a method of checking the background of prospective contractors to determine responsibility. Except as provided herein, no contract shall be awarded to a contractor unless the contractor is found responsible based on the VENDEX findings.

ii. *Scope of Requirement.* Except as provided below, VENDEX clearance shall be required of all prospective contractors.

iii. *Exception.* VENDEX clearance is not required: (a) for any vendor who will receive less than \$100,000 from the Corporation under a single contract; (b) for any governmental or quasi-governmental entity; or (c) for TPC transactions as provided in (vii) below.

iv. *Administration.* The VENDEX clearance process shall be administered by the Office of Legal Affairs using the City's Department of Investigations and the Corporation's Office of the Inspector General to conduct background investigations of prospective contractors.

v. *Factors Considered On Review.* The Office of Legal Affairs shall make the determination that a prospective vendor is responsible based on the VENDEX findings taking into account the following factors concerning the contractor, its principals and affiliates:

- a. whether they have a satisfactory record of performance for the Corporation and the City;
- b. whether they have outstanding obligations due the Corporation or the City – any outstanding taxes must be paid;
- c. whether they have honestly and accurately completed the VENDEX questionnaires – intentional omissions or mis-representations are serious demerits;
- d. whether they have been the subject of any criminal proceedings or the target of any governmental investigations;
- e. whether any such criminal proceedings or investigations are material in light of the vendor’s size and whether any implicate the vendor’s division with which the Corporation would do business;
- f. whether any law suits, crimes or investigations indicate a pattern of misconduct throughout the vendor’s organization;
- g. whether any information reported indicate a pattern of illegal discrimination or abusive relations with employees;
- h. whether any negative information about the vendor might be mitigated by special agreements or undertakings by the vendor; and
- i. such other factors as come to its attention as a result of the VENDEX process.

vi. *Disputes.* Contractors’ disputes concerning VENDEX shall be handled either under Article IX(G) (if regarding a construction agreement) or Article X(F) (if regarding all other agreements).

vii. *Special Rule for TPCs.* In lieu of the full VENDEX process, contractors available to the Corporation through TPCs shall be subjected only to a check of the VENDEX database for cautions. If a contractor available through a TPC is not in the VENDEX system, then no VENDEX filing will be required. In the event that any VENDEX cautions are found regarding a prospective contractor, then the Office of Legal Affairs shall determine whether to disqualify the contractor from doing the proposed business with the Corporation.

E. Equal Employment Opportunity Requirements:

i. *General Policy.* The Corporation is committed to providing equal employment opportunities in its contracting for Goods and services. The Corporation is subject to NYS Executive Law 15-A and the Board has agreed to subject the Corporation to the requirements of Chapter 56 of the New York City Charter Executive Order No. 50 (1980) (“E.O. 50”). The State law requires that Women and Minority Owned Business Enterprises (“MWBEs”) be given an opportunity to bid on all contracts of the Corporation and that vendors that do bid provide opportunities to MWBEs to subcontract for part of the work. Both laws require that companies with which the Corporation will contract show either that their workforces contain a portion of women and minorities representative of the general population or that such contractors have adopted plans to achieve a workforce that will come to reflect the general population in its share of women and minorities.

ii. *The AA/EEO Office.* The AA/EEO Office is responsible for HHC’s compliance with the mandates of NYS Executive Law 15-A and E.O. 50.

iii. *MWBEs on Bidder's Lists.* Under New York State Executive Law 15-A, the State Division of Minority and Women's Business Development ("DMWBD") encourages and assists agencies engaged in contracting to award a fair share of contracts to MWBEs, and maintains a list of businesses certified as MWBEs. To meet the DMWBD's goal of awarding a fair share of contracts to MWBEs, all contract solicitations, such as RFBs, RFPs or NAs, should be forwarded to potential MWBE vendors on the DMWBD list. Efforts to use MWBE firms are to be documented and made part of the official file.

iv. *Contracts over \$25,000; Requirements on Contractors.* Before a contract is awarded to any company with employees within New York State and which contract will cost more than \$25,000, such company must submit to the AA/EEO Office:

- a. Part I of the Employment Report (attached as General Requirements Exhibit 4);
- b. A Staffing Plan describing the anticipated workforce on the contract broken down by ethnic background, gender and federal occupational categories; and
- c. A statement of commitment to the goals of equal employment opportunity as it is presented in such company's publications and posted on such company's bulletin boards.

Additional equal employment requirements under Executive Law 15-A applicable to potential vendors are set forth in the Instructions for the Supply and Service Employment Report (attached as General Requirements Exhibit 5).

v. *Contracts over \$50,000 with Companies with More than 50 Employees; Requirements for Contractors.* Before a contract costing more than \$50,000 is awarded to any company with more than 50 employees (regardless of whether they are in New York State), such company must submit to the AA/EEO Office, in addition to the requirements set forth above, Part I and II of the Employment Report (attached as General Requirements Exhibit 4). This requirement applies to subcontractors as well. For more detail on filing the Employment Report and E.O. 50 requirements, see the Instructions for the Supply and Service Employment Report (attached as General Requirements Exhibit 5).

vi. *Contractor Approval Process.* Based on a contractor's Employment Report and other required submissions, the AA/EEO Office will either issue an approval or a conditional approval. A conditional approval is appropriate when analysis of the submitted documentation reveals a significant underutilization of women or members of a minority group that appear to be caused by discriminatory policies. In such cases, approval will be conditioned upon such contractor's legal and factual explanation and the contractor's taking corrective action deemed appropriate by the AA/EEO Office. In cases of a conditional approval, contractors must show the effectiveness of the corrective action plan after one year.

vii. *Board Review; Contracts of More than \$3 million.* If the AA/EEO Office issues a conditional approval with respect to a contract that will cost \$3 million or more in which underutilization or a potentially discriminatory practice is an issue, then review by the Board of Director's Equal Employment Opportunity Committee (the "EEO Committee") is required. The EEO Committee may question the company about its corrective action plan and satisfy itself of the company's good faith. The EEO Committee may review such company's progress under the

corrective action plan after one year. If the EEO Committee finds that a contractor's employment practices reflect bad faith, it may vote to send such contract to the full Board for revocation.

vii. *Special Rule for TPCs.* Purchases made by accessing contracts available through TPCs shall be exempt from the EEO/AA rules of this Procedure where the TPC administrator is a governmental entity subject to substantially similar equal employment opportunity rules. Where the TPC is administered by a non-governmental entity, then the EEO/AA rules set forth in this Procedure shall apply only to the purchase of services and to any purchase of Goods or Equipment for more than \$3 million, provided that the minimum contract amounts and minimum number of employees, as set forth above, are exceeded.

F. Disputes; Procurement Review Board: The Procurement Review Board (the "PRB") has the responsibility to address issues that arise during the solicitation and contract management phases covered by this Procedure when those issues cannot be resolved at the Facility or Central Office department level.

i. *Composition.* The PRB shall be comprised of the following persons or their designees: the General Counsel; the SVP for Finance/CFO; and the Director of the Office of Procurement.

ii. *Functions.* The PRB shall be responsible for the following:

- a. Reviewing written appeals of low bidders who are declared non-responsive or non-responsible after the bid opening, or are denied VENDEX clearance;
- b. Reviewing written appeals of contractors who are terminated for cause;
- c. Reviewing written appeals of low bidders denied approvals of Article 15A-W/MBE goals compliance; and
- d. Considering all other kinds of disputes that arise in the procurement process.

iii. *Not Construction.* The PRB shall not deal with disputes arising in connection with Construction Projects as those shall be handled by the POOCR.

G. Responsibility and Accountability: Whenever in this Procedure an individual or a body is given the authority to review and approve a proposed transaction, such individual or body shall maintain a contemporaneous written record of each exercise of such authority. Such record shall reflect the steps taken to evaluate the proposed transaction and the factors considered in either approving or disapproving the transaction. Such record shall be retained in accordance with the Corporation's policies for record retention in order to be available upon any audit of the transaction.

H. Database Recording: Every procurement should indicate the Contract Number assigned to the matter on the Corporation's procurement database. This number should appear on the purchase order generated for the purchase. There are no exceptions to this requirement, which extends to purchases using TPCs, purchases made using only Purchase Orders and For Payment Only transactions. In the event of any difficulty in entering less standard contracts in the database, the Office of Procurement should be consulted.



**ARTICLE XI  
DEVIATIONS AND EMERGENCIES**

A. Deviations: The procedures established herein are effective immediately and shall remain in effect until modified or superseded by the President. These procedures shall be followed except in an emergency or other extraordinary circumstances in which the President specifically directs in writing that a deviation from this Procedure is merited and as otherwise provided below. The Senior Responsible Administrator shall submit to the President a written request setting forth in detail the justification for such deviation. Deviations shall be made in a fair and impartial manner. The President shall report any deviations to the Board at its next meeting if the deviation pertains to a matter that would otherwise have been brought to the Board under this Procedure.

B. Construction Emergency; Less than \$20,000: The Senior Responsible Administrator may authorize an emergency construction purchase on his/her own authority upon finding that there is an unforeseen danger to life, safety, property that creates an immediate and serious need for Goods or services that cannot be met through normal procurement methods.

C. Construction Emergency; More than \$20,000:

i. *Statute*. Emergency purchases of Construction Services that will cost more than \$20,000 must satisfy General Municipal Law, Section 103(4). While procurement may be expedited under the statute, eventual issuance of Part I (Construction or Maintenance) is required and the project should be administration as required by other applicable Operating Procedures.

ii. *Construction Emergency*. For this purpose an emergency is “an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health safety or property of the inhabitants of a political subdivision or district therein require immediate action which cannot await competitive bidding ....”

iii. *General Counsel’s Finding*. For procurements involving emergency construction estimated at \$100,000 and above, the General Counsel shall determine if the condition constitutes an emergency as defined in General Municipal Law, Section 103(4). The General Counsel shall make his/her determination based upon a written request by the Senior Responsible Administrator. If the General Counsel determines that an emergency exists as defined in the statute, he/she shall recommend to the President that he/she should authorize the emergency procurement.

D. Construction Emergency; \$20,000 - \$100,000: If the emergency procurement will be for more than \$20,000 but less than \$100,000, the General Counsel must make a finding of an emergency, as above, but his/her determination shall be sent to the appropriate Senior Responsible Administrator rather than to the President.

E. Non-Construction Emergency Procurement:

i. *Authority When Under \$100,000*. In the event of an emergency procurement not in excess of \$100,000, the appropriate Senior Vice President may make a finding of an emergency on his/her own authority and no opinion of the General Counsel shall be required if no Construction Services are involved.

*ii. More than \$100,000.* In the event of any emergency procurement in excess of \$100,000 not involving the purchase of Construction Services, the appropriate Senior Responsible Administrator shall submit a written request to the General Counsel outlining the facts and circumstances that support a finding of an emergency. The General Counsel shall review the matter and, if he/she concurs, the General Counsel shall forward the matter to the President with a recommendation that a deviation be made.

F. For Payment Only Procurement: For Payment Only shall be allowed only in the following situations:

*i.* Payment for all utilities;

*ii.* Payment for Products or Services required for emergency patient care provided that the transaction must be authorized in writing with an explanation of the nature of the procurement and the reason for the use of the For Payment Only method by the Facility Executive Director within four days of service or product delivery by the vendor, to the Corporation;

*iii.* Fines that are levied on the Corporation by a regulatory agency and are authorized for payment by the Office of Legal Affairs;

*iv.* Payments made to settle active or threatened legal actions against the Corporation on the authorization of the Office of Legal Affairs.

G. Due Diligence: Notwithstanding the existence of an emergency, any procurement made pursuant to this Article XI shall be made in accordance with the policies supporting this Procedure as set forth in Article I(B) hereof. The Senior Vice President shall be required to find that reasonable methods have been used under the circumstances to procure the necessary Products and Services in accordance with the policies of this Procedure and when the General Counsel's approval of an emergency procurement is required, he/she shall be required to endorse such finding.

H. Documentation: The General Counsel shall maintain a contemporaneous written record of all requests for, and findings of, emergencies. Senior Vice Presidents shall maintain similar contemporaneous written records of all emergencies for which that he/she has requested a deviation or that he/she has found on his/her own authority.

## ARTICLE XII SPECIAL SUBJECTS

A. Utilization of Recruitment Agencies to Fill Open Positions Including for Per Diem Nurses: The use of private recruitment agencies to fill open positions including for per diem nurses shall be subject to the rules for procurement of services as set forth in this Procedure. Notwithstanding the foregoing, when the Corporation seeks to fill administrative positions above the level of Assistant Vice President or seeks physicians with specialized skills or who are to head medical departments within Facilities, the Corporation may use the services of recruitment agencies or "head hunters" without any competitive procurement requirement.

B. Standards for Use of Recruitment Agencies for Per Diem Nurses: Agencies that

provide per diem nurses must provide documentation of (i) personal identification card with photo; (ii) passing of annual physical health examination based on State Department of Health standards; (iii) satisfactory clinical references showing at least one year's work experience; (iv) specialty training when the nurse is to be assigned to such specialty services; (v) evaluation of basic nursing skills appropriate to the level of practice prior to assignment; (vi) completion of CPR training and annual review of the same; (vii) licensure to practice as a professional or practical nurse in New York State; and (viii) coverage by malpractice insurance. The Facility must verify the existence and current status of all such documentation.

C. Facility-Based Training: The Facility nursing administrators are responsible for orienting all per diem nurses to the nursing policies in effect at the Facility. All per diem nurses must receive a written set of all such policies.

D. Evaluation of Work Performance: The Facility nursing administrators are responsible for performing a written evaluation of all per diem nurses. Per diem nurses assigned to the same Facility for extended periods of time shall be evaluated initially at the end of the first three months and then annually thereafter.

E. Subscriptions and Memberships: The Corporation may subscribe to publications, be they electronic or in paper form, join organizations and may pay the associated subscription or membership fees if the Senior Responsible Administrator determines that the publication or membership is necessary for the operation of the procuring Facility or Central Office unit and that publication or organization in question is the best value for the cost associated. The Senior Responsible Administrator shall prepare a contemporaneous memorandum recording the basis of his or her determination and such memorandum shall be retained for examination on audit. However, if the subscription or membership fee will, over the life of the subscription or membership, equal or exceed \$3 million, the prior approval of the Board of Directors is required.

F. Renewals of Computer Maintenance Equipment: For renewals of contracts for the maintenance of any of the Corporation's computer equipment, computer systems or related components or replacement of an existing contract with the same vendor and for a scope of maintenance services substantially the same as in the previous contract, Board approval shall not be required however the CRC shall report such transactions to the Board under Article II, (E).

### ARTICLE XIII TECHNICAL MATTERS

A. Legal Status of Operating Procedure: This Procedure is not intended to, and shall not, create any rights in favor of any party or give rise to any cause of action based on any deviations made by the Corporation from the standards of this Operating Procedure, whether or not authorized by the President.

B. Interpretation: Questions concerning the interpretation of this Procedure shall be referred to the Office of Legal Affairs.