**Purpose:**

**§ 11-35-540 - Authority and Duties of the Board**

**(3)** Approval of Operational Procedures. Governmental bodies shall develop internal operational procedures consistent with this code; except, that the operational procedures must be approved in writing by the appropriate chief procurement officer. The operational procedures must be consistent with this chapter.

Operational procedures adopted pursuant to this chapter are exempt from the requirements of §1-23-140.

**Reg. 19-445.2005 Internal Procurement Procedures; Procurement Records**

1. Procedures Manual - All Governmental bodies shall develop and maintain an internal procurement procedures manual and forward a copy, and any revisions, of such to the Materials Management Officer. Upon receipt of the respective governmental body’s internal procurement procedures manual, the MMO shall be responsible for the following review:
2. Determine that the written internal operations procedures as submitted (a) are consistent with the South Carolina Consolidated Procurement Code and Regulations, (b) are consistent with any policies and procedures published by the chief procurement officers for their respective areas of responsibility, and (c) establish a clear means by which vendors can identify the governmental body’s procurement officers and the limits of their authority.
3. Notify the governmental body of its findings in writing.

**General:**

We recommend agency procurement manuals limit copying the Procurement Code and Regulations to the extent possible. Limit agency manuals to agency specific information regarding responsibility and accountability for performance and approval of procurement functions. Cross-referencing the Code, Regulations, and forms used to complete specific functions within the agency will provide more useful information to users not provided elsewhere.

**Objectives:**

* Provide a **Code of Conduct** for Procurement Personnel including training
* Procurement term **definitions** consistent with the code and in a place where they can be conveniently referenced
* Separate policies from definitions
* Develop an **Agency PO Policy** that requires a purchase order for all purchases not specifically allowed as direct payment, requires all PO to come from procurement, and provides specific instances when a **direct payment** is acceptable, consistent with the Statewide PO Policy.
* Define the **roles and responsibilities** for performance, review, and approval of the various aspects of procurement procedures by position to provide for accountability.
* Where possible, the agency may develop, and the manual should cross-reference, **agency or DPS forms** that support compliance with policies and procedures included in the manual.
* Agencies are encouraged to adopt the **procurement** **workplan** on DPS’ website to provide procurement officers with a consistent process, milestones, and approval/check points during the process to promote efficiency and consistency.
* R 19-445.2005 (B) requires agencies to maintain **procurement files** sufficient to satisfy external audits. Agency manuals should document a filing system and structure that provides for consistent organization and retention of procurement files and assign accountability to positions for compliance with the system. There should be a policy stating that the official record is electronic or hard copy. A file naming convention is critical to consistency.
* To the extent an agency uses an **Enterprise Resource Planning (ERP)** system, the agency procurement manual should document the steps in the system. Accepted practice is to use Screenshots. As some approvals are required by the Code, documentation of those approvals accomplished through ERP workflows should be included in the manual, along with documentation and/or explanation of any other system controls, such as access and limits of individual authority.
* Rights, responsibilities, and principles of procurement **data security**. Specify who the data owner(s) is and a provide a procedure for granting the appropriate level of **access** to stakeholders consistent with the agency’s information privacy and security policy(s).
* Develop and maintain a **training process** that supports reference to the agency’s internal procurement procedure manual.
* Provide a policy and procedures for Assistance to **Minority Businesses Enterprises**

**Checklist:**

The manual is the chronological order that procurement is performed and includes relevant guidance on application of:

| **Index** | **SC Code Ann. §** | **Regulation 19-445.:** | **Description** | **Form No.** | **Manual Page Nos.** |
| --- | --- | --- | --- | --- | --- |
| **I** |  |  | **General** |  |  |
|  |  |  | **Organization Structure**  Procurement should be independent from operations  Include an organization chart showing where procurement fits into the overall organization and then a chart of the procurement department. |  |  |
|  | 11-35-1210 | 2020 | **Certification** - Agency Certification limits and individual Procurement Officers limits of authority are clearly posted on the agency’s website. |  |  |
|  | 11-35-40 | 2000 | **Application of the Code** - Compliance with SC Consolidated Procurement Code and Regulations is required |  |  |
|  | Title 8 |  | **Ethics/Code of Conduct**  Training? Media/Method of delivery?  Record of who has been trained?  Progressive discipline applied? |  |  |
|  |  |  | Adopt a **Procurement Work Plan** for agency procurement officers to use in conducting procurements | DPS Form |  |
|  | 11-35-540 | 2005 | **Procurement File Organization** – Each governmental body must maintain procurement files sufficient to satisfy the requirements of external audit.  Provide procurement file indexing system; file naming convention.  Provide location of active and complete procurement file on agency network  If document management system used, how will file organization be maintained? Who is responsible for organizing, maintaining, accessing? Who owns the system? | DPS Procurement File Checklist |  |
|  | 11-35-2430 |  | **Retention of Procurement Records** – State the Agency’s Policy consistent with the Department of Archives and History. A plan to comply with the Dept of Archives and History policy does not tell how long to maintain procurement files. Typically, three years beyond the end of the contract is sufficient.  Where on the Agency Network are the Active or Complete files maintained? |  |  |
|  |  |  | **FOIA Requests**  Develop and approve response. Receipt and logging Timeline?  Whose responsibility is it to approve the response; communicate the response? | FOIA Document Guides |  |
|  |  |  | **Data Security**  Who owns the agency’s procurement data? ERP System  Who approves access requests? Who processes approved requests? How is end-user notified? | Agency Form? |  |
| **II** |  |  | **Requisitions** |  |  |
|  |  |  | **Authority** – All requisitions should originate outside procurement from operations; except for supplies for the procurement department.  Procurement officer should always get approval from operations prior to renewing contract.  Individual limits of authority may also be included here. | MMO-159 |  |
|  |  |  | **Suggested Vendor Lists**  Operations may include a list of suggested vendors  Operations will provide procurement with all the vendors they have identified and/or spoken with regarding the supplies or services available. |  |  |
|  | 11-35-1580 | 2115 | **Information Technology Procurements** – Provide for certification of IT Plan approval by Agency IT Director or designee prior to solicitation for IT procurements greater than $50,000.  (SC Code Ann. § 1-11-190; Proviso) | Form No. ? |  |
|  |  |  | **Requisitions in Excess of Agency Certification** | Solicitation Request Form  4/29/22 |  |
|  |  |  | **Shopping Cart** – Who is responsible for entering shopping cart in ERP system? Does the shopping cart workflow electronically?  If so, document the creation and approval process, and how the system monitored to ensure compliance. | System Control |  |
| **III** |  |  | **Planning** |  |  |
|  |  | 2017 | **Pre-Solicitation procedures** – Policy for what is expected from operations and what Procurement Dept will do. |  |  |
|  |  |  | **Acquisition Planning**  Who is responsible? | Form? |  |
|  |  |  | **Market Research**  Who is responsible? | Form? |  |
|  | 11-35-2710 | 2140 | **Specifications** – explains that specifications should be developed in such a way as to be inclusive and encourage competition.  **Brand Name Specifications**  Who is authorized to approve? | DPS justification form  MMO-139 |  |
|  | 11-35-710 |  | **Conference Site Selection –**  Form will be completed by operations and approved by procurement department? | MMO-138 |  |
| **IV** |  |  | **Procurement of Goods and Services, Consulting, and Information Technology** |  |  |
|  |  |  | **Management of Requisitions through Procurement**  When requisition is received in Procurement Department, Procurement Director assigns to procurement officer |  |  |
|  |  | 2141 | Commercial Products and **Commercially Available Off-the-Shelf** (COTS) products  Preference for commercially available products |  |  |
|  |  |  | **Use of State Term Contracts is Mandatory** |  |  |
|  |  |  | **Source Selection and Contract Formation** |  |  |
|  | 11-35-1510 |  | **Methods of Source Selection**  It may be a good idea to include examples of supplies, services, IT or construction under each source selection method commonly used by the agency |  |  |
|  | 11-35-2030 | 2135 | Conditions for Use of **Multi-term Contracts**  When is a multi-term contract appropriate?  Requirements for use and approval; by whom? | MMO-106 |  |
|  |  |  | **Solicitation**  Who drafts, reviews, approves? Limits of authority by area  POC with operations  Posting **Public Notice** in SCBO; filing copy procurement file  Who is responsible for maintaining Procurement File? Indexing W/Ps |  |  |
|  | 11-35-1520 | 2042 | Pre-bid conferences | FOIA Meeting Guide |  |
|  | 11-35-1520 | 2045 | **Receipt and safeguarding of bids**  Who receives bids for the agency? Where are they kept prior to and after opening? | Checklist |  |
|  | 11-35-1520 | 2050 | **Bid opening and Tabulation**  Record of those in attendance  Disclosure of Bid Information  Who conducts meetings, opens bids, announces what by whom, records tabulation | Tabulation Form/Format |  |
|  | 11-35-1520 | 2055 | **Bid acceptance and evaluation**  Are there written procedures for the receipt, control, opening and evaluation of bids? |  |  |
|  |  |  | Use of **Procurement Integrity Representations**  At what point are they signed? By whom?  Who is responsible for filing the documents? Where are they kept? | Form on DPS Website |  |
|  | 11-35-1710 | 2065 | **Rejection of bids**  Who has the authority to reject? Is management approval required? |  |  |
|  | 11-35-1810 | 2125 | **Responsibility of Bidders and Offerors**  Determination of Non-Responsibility.  Procurement Officer drafts. Who approves? | MMO105 |  |
|  | 11-35-1520 | 2090 | **Contract Award** and Notice of Intent to Award –  Timing and notifications required  Who is authorized to make award?  Is operations required to approve prior to award? How is this documented? |  |  |
|  |  | 2410 | **Written Determination** required for use of source selection methods other than Competitive Sealed Bidding  Is approval required? When? By whom? | MMO Form |  |
|  |  |  | **Record of Negotiation**  Who prepares? Is approval of strategy required prior? By whom? Are results required to be reviewed prior to agreement? By whom? | MMO Form |  |
|  | 11-35-1535 | 2099 | **Competitive Negotiations** –  Does the use of this source selection method require prior approval?  By whom? Does the agency have a documented process? |  |  |
|  | 11-35-1560 | 2105 | **Sole Source Procurements** –  Written determination required.  Indicate position above the level of the procurement officer to approve determination.  Delegation of determination authority to position below agency head must be in writing and submitted to MMO.  If > $50,000 Public Notice must be made in SCBO for at least 5 business days.  if > $250,000, Public Notice must be posted for at least 10 business days before entering a contract  Who is responsible for posting public notice in SCBO?  **Quarterly Reporting**  Who tracks approved SS Procurements for the agency  At what point are they put on the list to report?  Who approves the report prior to submission?  When/how often is the information keyed into the system? By whom? What if they are out at the time the reports are due? | MMO-102 |  |
|  | 11-35-1570 | 2110 | **Emergency Procurements**  Written Determination –  Adequately define emergency condition consistent with 19-445.2100 (B) and SC Supreme Court Opinion No. 26534, August 25, 2008  Indicate position with approval authority  Who is responsible for posting public notice in SCBO?  **Quarterly Reporting**  Who tracks approved emergency Procurements for the agency  At what point are they put on the list to report?  Who approves the report prior to submission?  When/how often is the information keyed into the system? By whom? What if they are out at the time the reports are due? | MMO-103 |  |
|  |  | 2000 E. (3) | **Revenue Generating Contracts** – examples concession agreements, and contracts structured as a design-build-finance-operate-maintain project.  (§ 11-35-2910(8))  Disclose level of certification for revenue generating contracts and how level of authority is calculated (based on gross sales by the contractor) |  |  |
|  | 11-35-1830 | 2120 | **Cost or Pricing Data** – Thresholds and requirements  Who will obtain? At what Point? | Compendium Appendix U |  |
|  | 11-35-3830  (2)  (3) | 2150 (G)  (H) | **Trade-in Sales**  Initiated on Requisition form and Approval by Procurement Department  SPMO Approval of transactions >$5,000  SPMO written determination if >$100,000  Definition of Junk  Record of Trade-In Sales – **Quarterly Reporting** transactions to DPS | Request for Trade-In  MMO-137 |  |
|  | 11-35-3830 | 2152 | **Personal Property Leases**, Lease/Payment, Installment Purchase, and Rental of personal property  Policy for use. Initiated by? Approved by?  Agency policy of lease v. purchase decision. Who is authorized to approve?  Agency checklist?  Use of standard lease agreement | Standard Equipment Lease |  |
|  | 11-35-4830 |  | **Interagency Agreements**  Who will initiate contact with the other agency  Who will complete Form and send to SPO | MMO-136 |  |
|  | 11-35-4900 | 2155 | **Intergovernmental Acquisitions** – Does the agency have procedure to obtain CPO approval using form 136 for contemplated Interagency agreements? |  |  |
|  |  |  |  |  |  |
| **V.** |  |  | **Purchasing** |  |  |
|  |  |  | **Agency PO Policy**  By requiring a PO for all exempt purchases, and requiring a procurement officer to create all POs, the agency can mitigate the risk of illegal or unauthorized procurements  When is a Direct Payment allowed? Is approval by procurement director required?  Will a copy be provided to the loading dock or other location where delivery will be accepted? |  |  |
|  | 11-35-710 |  | **Exempt from Procurement Code**  If the purchase is for supplies or services exempt from the Code, is approval by the Procurement Director required to verify qualification as exempt?  Is a PO required for an exempt purchase? |  |  |
|  |  |  | **10% Rule**  When is the ten percent rule applicable?  Prohibit solicitation of better price unless permitted by contract terms  Who approves? Who will contact the Contractor?  Documentation? |  |  |
|  |  |  | **Purchase Order modification** approval responsibility |  |  |
|  |  |  |  |  |  |
|  |  |  | **Receiving** |  |  |
|  |  |  | Who is responsible for accepting deliveries? Central or by department? After hours? |  |  |
|  |  |  | **Goods Receipts –** Are goods receipts on paper? Are they electronic? Who enters them in the ERP system?  What about deliveries that are incomplete? What if the goods are damaged?  What if the carrier does not want to wait for inspection? | Form #  System Control |  |
|  |  |  |  |  |  |
|  | **Article 9** | 2145 | **Construction, Architect Engineer, Construction Management, and Land Surveying Services** |  |  |
|  | 11-35-3220 | 2040 | publication of proposed procurements of construction, information technology, supplies, and services |  |  |
|  |  |  | **Manual for Planning and Execution of State Permanent Improvements** | Addendum |  |
|  |  |  | Who maintains the agency’s list of construction projects? Where is it kept? Digital or hard-copy? |  |  |
|  |  |  |  |  |  |
| **VI.** |  |  | **Contract Administration** |  |  |
|  |  |  | Assign responsibility(s) to agency personnel | **Contract Administration Guide** by SPO as Addendum |  |
|  |  |  | **Assignment of Contract Officer for Responsibility**  Who makes the assignment? |  |  |
|  |  |  | **Filing of Contract Administration Plan**  How are files organized? Where are they kept? By whom? |  |  |
|  |  |  | **Receipt and resolution of Complaints**  Use of vendor complaint form  Where are complaints received? E-mail address? Physical address?  To whom are they directed?  How are they tracked? | MMO-141 |  |
|  |  |  | **Complaint Resolution**  Responsibility for resolution |  |  |
|  | 11-35-2015 |  | **Contract Change Order** requirements and procedure  Who initiates? Approves? Communicates to Contractor? |  |  |
|  |  | 2015 | Disposition of **Unauthorized or Illegal Procurements**  Who drafts written determination of facts and circumstances? Who approves?  Who approves written determination to ratify? Continue or terminate  When is CPO Concurrence required?  **Quarterly Reporting** –  At what point are they added to a list? Who reviews and approves the list prior to reporting? Who reports? What if they are out when the reports are due? | MMO Form |  |
|  |  |  |  |  |  |
| **VII.** |  |  | **Surplus Property** |  |  |
|  | 11-35-3820 | 2150 | **Surplus Property Management** – define surplus property  Responsibility of Authority of agency versus Surplus Property Office (SPO)  Require the notification of SPO in writing within 180 days of determining the property to be surplus  Explain SPO reporting process and use of TIDs  Define surplus versus Junk, the determination thereof, and disposition by agency of Junk. |  |  |
|  |  |  |  |  |  |
| **VIII.** |  |  | **Small and Minority Business** |  |  |
|  | 11-35-5210 | 2160 | **Assistance to Minority Businesses** –  Procedure for maintaining a list of certified minority business enterprises.  Who is responsible for developing and submitting Annual Utilization Plan?  Who is responsible for preparing and approving quarterly progress reports?  Who is responsible for submitting quarterly progress reports? |  |  |