

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“MOU”), dated as of August 15, 2019, by and between the Offices of the New York State Governor Andrew M. Cuomo (“Executive”), New York State Comptroller Thomas P. DiNapoli (“OSC”), the State University of New York (“SUNY”), the State University of New York Construction Fund (“SUCF”), the City University of New York (“CUNY”), and the City University of New York Construction Fund (“CUCF”) establishes a package of procurement reforms to ensure State contracts adhere to the highest ethical and procurement standards while ensuring there are no costly delays or interference with State Operations.

1. **OSC Pre-audit Review Authority for SUNY, SUCF, CUNY, CUCF, the Office of General Services (“OGS”), and the Research Foundation for the State University of New York (“RFSUNY”).**
 - A. SUNY/SUCF/CUNY/CUCF: OSC shall have pre-audit review authority of SUNY, SUCF, CUNY, and CUCF contracts of \$250,000 or more for construction, commodities, computer equipment (inclusive of software and hardware), printing, and non-construction related services, except that OSC shall not have pre-audit review authority over SUNY hospital emergency contracts for health and safety. Provided however, that OSC’s pre-audit review authority of CUNY and CUCF contracts in accordance with this section is contingent upon CUNY and CUCF’s respective Boards of Trustees approving the terms of this MOU. If CUNY and CUCF’s Boards of Trustees fails to approve the terms of this MOU within 30 days of this MOU’s effective date, then the Executive will propose legislation mandating such review.
 - B. OGS: OSC shall have pre-audit review authority of OGS centralized contracts of \$85,000 or more, excluding any purchases, purchase orders, or other procurement transactions issued under such centralized contracts. Provided however, mini-bids awarded by State agencies under such centralized contracts shall be subject to OSC pre-audit review if the outcome of such mini-bids will result in rates, contract periods, or other specific objective provisions of the contract which are inconsistent with the centralized contract under which they were bid.
 - C. RFSUNY: SUNY will work with RFSUNY (which also includes Fort Schuyler Management Corporation (“FSMC”), Fuller Road Management Corporation (“FRMC”) and any related entities of FSMC and FRMC) to grant OSC pre-audit review authority over RFSUNY construction and construction related services contracts of \$1 million or greater that are paid with state funds. If such pre-audit review authority is not implemented prior to January 1, 2020, then the Executive will propose legislation mandating such review.

D. OSC's pre-audit review authority set forth in this section shall not apply to review of existing contracts and solicitations or transactions thereunder, including renewals, extensions, continuous periodic recruitments, assignment, and non-significant amendments of such existing contracts and solicitations. Significant amendments of existing contracts and solicitations will be subject to OSC pre-audit review.

2. Timeframe for OSC Review

A. OSC's pre-audit review for contracts covered by Section 1 of this MOU must be done within 30 days or the contracts shall become valid and enforceable without OSC's pre-audit review approval. Provided however, that OSC's pre-audit review for energy-related commodity contracts for electricity, gasoline, diesel, heating oil, liquid propane and natural gas shall be completed within 48 hours or the contracts shall become valid and enforceable without OSC's pre-audit review approval.

B. OSC review is contingent on the following agreed to parameters:

- i. The OSC review clock begins after all other reviews are complete, including any review by the Office of the Inspector General ("IG") or the Office of the Attorney General ("AG").
- ii. The review clock does not commence until OSC is in receipt of a complete procurement record. A complete procurement record shall mean a procurement record which contains all documents and approvals set forth in a checklist establishing required documents and approvals for a complete procurement record. Such checklist shall be pre-established and mutually agreed upon by the parties to this MOU.
- iii. Contracts identified within this MOU will be submitted electronically to OSC via the Electronic Document Submission System (EDSS). Use of the VendRep system is preferred but not required.
- iv. OSC and the contracting agency may agree to an extension of the 30-day review period in the event of extraordinary circumstances such as a bid protest.

3. New Contract Clauses.

A. Contracting entities covered by this MOU will add clauses to all procurement documents and contracts covered by section 1 of this MOU indicating that such procurement documents and contracts have no force and effect and that the State bears no liability unless such procurement documents and contracts

are approved by OSC or the pertinent pre-audit review period has elapsed.

4. Enhanced Vendor Responsibility and IG Oversight.

A. Enhanced vendor responsibility (e.g., Executive Order 192) will be applicable to Executive agencies only. Any vendor integrity certification forms required at the Executive's sole discretion will be applicable to Executive agencies and will be incorporated into the complete procurement record required by this MOU.

5. OSC Contracts.

A. OSC will send executed contracts of \$250,000 or more (including OSC's Appendices pertaining to procurement integrity) to the IG and make such contracts publicly available on its website. Common Retirement Fund contracts are excluded.

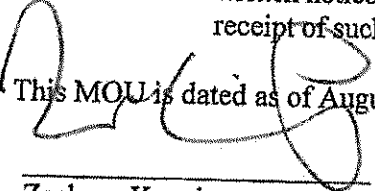
6. Effective Date.

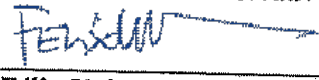
A. This agreement shall take effect 30 days following the signing of this MOU and finalization of the mutually agreed upon checklist required by this MOU.

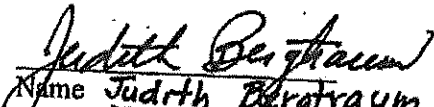
7. Termination Clause.

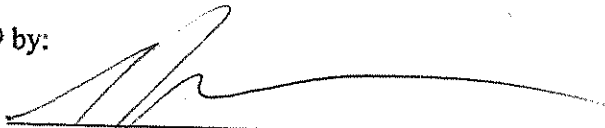
A. This MOU may be terminated by either the Executive or OSC upon 10 days written notice. The IG and OSC will return all documents within 30 days of receipt of such written notice.

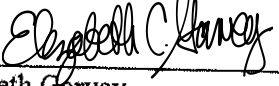
This MOU is dated as of August 15, 2019 by:



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