**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:

1. 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.
2. Notify the governmental body of its findings in writing.

**Objectives:**

* Are procurement term **definitions** consistent with the code and in a place where they can be conveniently referenced (accepted practice is in front)
* Are policies generally separated from definitions?
* R 19-445.2005 (B) requires agencies to maintain **procurement files** sufficient to satisfy external audits. Agency manuals should document a filing system 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.
* 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.
* 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.
* Agencies are encouraged to develop high level **workplans for use in procurement projects** that provide procurement managers with a consistent process, milestones, and approval/check points during the process to promote efficiency and consistency.
* Develop and maintain a **training process** that supports reference to the agency’s internal procurement procedure manual.
* Provide a mechanism that conveys to non-procurement staff, when a purchase has to go through procurement, and when a direct expenditure is acceptable consistent with the CG’s PO Policy.
* Provide a policy and procedures for Assistance to **Minority Businesses Enterprises**
* Provide a **Code of Conduct** for Procurement Personnel including training
* Rights, responsibilities, and principles of procurement **data ownership**. 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).
* Define the **roles and responsibilities** for performance, review, and approval of the various aspects of procurement procedures by position to provide for accountability.

Copying the Code and Regulations into the manual is not recommended

**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 |  |  |
|  | 11-35-540 | 2005 | **Procurement Records** – 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? | Procurement File Checklist A-3 |  |
|  | 11-35-2430 |  | **Retention of Procurement Records** – State the Agency’s Policy  Is the record retention schedule consistent with the Department of Archives and History?  Where on the Agency Network are the Active or Complete files maintained? |  |  |
|  |  | 2165 | **Gifts** – Gifts are excluded from the Procurement Code.  The manual should include the state policy not to accept or solicit gifts from a donor if there is reason to believe the donor has or is seeking to obtain contractual, business, or financial relationships with the agency. |  |  |
|  | 11-35-410 | 2010 | **Disclosure** of procurement information |  |  |
|  |  |  | **FOIA Requests**  Receipt and logging  Develop and approve response. Timeline?  Whos responsibility is it to approve the response; communicate the response? | FOIA Document Guides |  |
|  |  |  | Agency Policy for Use of **Non-Disclosure Agreements** | **MMO-** |  |
|  |  |  | **Data Ownership**  Who owns the agency’s procurement data? ERP System  Who approves access requests?  Who processes granting of approved requests?  How is end-user notified? | Agency Form? |  |
|  |  |  | **Ethics/Code of Conduct**  Training? Media/Method of delivery?  Record of who has been trained?  Progressive discipline applied? |  |  |
| **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 List**  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 have to workflow electronically? If so, to whom does it go and how is the system monitored to ensure the approvals were obtained? | System Control |  |
| **III** |  |  | **Planning** | Checklist for Procurement Process |  |
|  |  | 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? |  |
|  |  |  | **Use of State Term Contracts is Mandatory** |  |  |
|  | 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 | Procurement Work Plan-A-2 |  |
|  | 11-35-1550 | 2100 | **Small Purchase Procedures**  Who is authorized to conduct small purchase procedure?   1. Adequate **Public Notice** including Statement of Right to Protest   For how long? Who decides? Is approval required?   1. Three Written Quotes 2. Advertised Small Purchase |  |  |
|  |  |  | $0 to 10,000 **No competition**  Requisition must state “Price is fair and reasonable” and be signed by procurement officer  Equitable distribution among qualified suppliers |  |  |
|  |  |  | $10,000.01 to 25,000 **Written request for** **three written quotes**  (catalogue pricing not acceptable; this includes prices from the internet) |  |  |
|  |  | (E) | **Blanket Purchase Agreements** –  When to use - Non-contract, miscellaneous supplies  Required Terms and Conditions – See compendium  Semi-annual review requirement |  |  |
|  |  | 2141 | Commercial Products and **Commercially Available Off-the-Shelf** (COTS) products  Preference for commercially available products  Procurement department to verify COTS qualification |  |  |
|  | 11-35-2040 |  | **Laws Inapplicable** to COTS listed or referenced |  |  |
|  | 11-35-1250 and 1260 | 2025 | The authority to contract for **audit or accounting services** and **legal services** is subject to approval by the State Auditor’s Office and Attorney General, respectively; consultant, employee, employment, legal, and auditing selection and use of source selection methods and documented justification  Is agency management approval required prior to SAO or AG approval?  CFO General Counsel  Is competition required before submission to SAO or AG?  At what point will the SAO obtain quotes? |  |  |
|  |  |  | **Use of State Term Contracts is Mandatory** |  |  |
|  |  |  | **Source Selection and Contract Formation** |  |  |
|  | 11-35-1510 |  | **Methods of Source Selection** |  |  |
|  |  |  | **Comment**:  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 |  |  |
|  | 11-35-1520 |  | **Competitive Sealed Bidding** – Invitation for Bids |  |  |
|  | 11-35-1580 | 2115 | **Information Technology Procurements** – Certification of IT Plan approval by Agency IT Director or designee **required** prior to solicitation for IT procurements greater than $50,000.  (SC Code Ann. § 1-11-190; Proviso) |  |  |
|  | 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 |  |
|  |  | 2137 | **Food Service Contracts** – Required to be covered in a procurement manual only if the agency or institution operates a cafeteria or food court.  Requirement to turn over to DPS for source selection  What level of pre-solicitation work is done? Who reviews prior to submission to DPS? |  |  |
|  |  |  | **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 |  |  |
|  | 11-35-4210 |  | **Right to Protest**  Requirement to include clause in solicitation |  |  |
|  | 11-35-1524 |  | **Resident Vendor Preference** – Definitions and application  Use of calculator on DPS website | Preference Calculator |  |
|  | 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 |  |
|  |  | 2080 | Bid Reduction |  |  |
|  |  | 2085 | Correction or withdrawal of bids; **Cancellation of Awards** |  |  |
|  | 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 |  |
|  | 11-35-1530 | 2095 | **Competitive Sealed Proposals** – | MMO 104 |  |
|  |  |  | **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 |  |
|  | 11-35-1525 |  | **Competitive Fixed Price Bidding** | MMO 104a |  |
|  | 11-35-1528 |  | **Competitive Best Value Bidding** | MMO 104b |  |
|  | 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.  > $50,000 must be advertised in SCBO for at least 5 business days;  if > $250,000, must be posted for at least 10 business days before entering a contract  **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? | Public Notice- SCBO Format-wLink to  Written Determination\_  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  **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? | SCBO Format  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? |  |  |
|  | 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** |  |  |
|  |  |  | Policy on who is authorized to create a **Purchase Order**?  When is a PO required, or not?  Policy follows State PO Policy Direct Pay guidance  Use of **State Term Contracts** is Mandatory  What is the procedure for tying a PO to a contract?  How is the delivery address communicated?  Prohibition against delivery to other than business address.  Will a copy be provided to the loading dock or other location where delivery will be accepted? |  |  |
|  |  |  | **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? |  |  |
|  | 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? |  |  |
|  |  |  | **Recommendation**  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 |  |  |
|  |  |  | **Purchase Order modification** requirements and procedure |  |  |
|  |  |  |  |  |  |
|  |  |  | **Year-end PO Processing**  Establish procedure for closing and re-establishing POs at year-end in compliance with OCG and MMO policies. |  |  |
|  |  |  |  |  |  |
|  |  |  | **Receiving** |  |  |
|  |  |  | Who is responsible for accepting supply 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? |  |  |
|  |  |  |  |  |  |
|  |  | 2015 | **Unauthorized or Illegal Procurements,** Disposition of  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? | Written Determination |  |
|  |  |  |  |  |  |
| **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? |  |  |
|  | 11-35-2060 | 2143 (C) | **Material Changes Prohibited**  A material change is a change order or contract modification that is beyond the general scope of the original contract… |  |  |
|  |  |  | **Responsibility for Contract Controversy** |  |  |
|  |  |  |  |  |  |
| **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? |  |  |