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## N.Y.S. Procurement Bulletin

### CONSORTIA PURCHASING GUIDELINES

#### I. PURPOSE

To provide an alternative method of purchasing, §163(3) of the State Finance Law allows an agency to purchase from a consortia contract **when justified by price.**

#### II. DEFINITIONS, APPLICABILITY, AND SCOPE

A consortium is defined as like entities which agree to collectively purchase commodities at a lower price than would be otherwise achievable through purchase by such entities individually. All State agencies, and hospitals and facilities managed and controlled by State agencies pursuant to section twenty-eight hundred three-a of the public health law, are eligible to make consortia purchases.

Purchases from consortia may be made of commodities only, services are excluded from this procurement alternative.

#### III. MEMBERSHIP/PARTICIPATION AGREEMENTS

Membership/Participation agreements are subject to the same statutory requirements as any other contract.

#### IV. CONSORTIA PURCHASING PROCESS

The following procedures apply to purchases from consortia contracts.

**Step 1.** The purchasing agency determines and defines its need for commodities.

**Step 2.** The use of consortia purchasing is an option if the commodity is not available from a preferred source in the form, function and utility required and if justified by price. The purchasing agency reviews the List of Preferred Source Offerings and determines if the commodity being sought is provided by one or more preferred sources in the form, function and utility required. (See NYS Procurement Bulletin - Preferred Source Guidelines).

a) If the commodity is available on the List in the form, function and utility required, purchase from the preferred source.

b) If the commodity is not available on the List, or does not meet the form, function, and utility requirements, continue to Step 3.

**Step 3.** The purchasing agency reviews the commodities available on centralized state contracts. The provisions of "OGS or Less" apply to consortia purchasing.

a) If the commodity being purchased from the consortium is available on a centralized OGS centralized contract at a lower price, then the OGS centralized contract is to be used.

b) When the consortium price is lower than the OGS centralized contract price, OGS centralized contractors must be allowed a minimum of two business days to match the consortia price. If the OGS centralized contractor provides written confirmation that it will match the lower price, the purchase must be made from the OGS centralized contract and not from the consortium. If the OGS centralized contractor is unable or unwilling to match the lower price, the agency must document this in the procurement record, and may proceed with the consortia purchase.

c) If the commodity is not available on centralized contract, the consortium purchase may be appropriate.

**Step 4.** Purchases from Consortia (See NYS Procurement Bulletin Discretionary Purchases).

a) For Procurements under the Agency's Advertising Threshold, an Agency must:

Indicate on the purchase order that the purchase is being made from the consortia contract and maintain justification to support both the selection of the vendor and the reasonableness of the price to be paid. Methods for determining reasonableness of price include, but are not limited to:

- informal quotes (telephone or written)
- cost to other governmental entities;
- historical cost of price comparison, or
- OGS or Less, where applicable.

b) For Procurements above the Agency's Advertising Threshold, an Agency must:

- Comply with all requirements for procurements listed above and;
- Comply with the requirements of NYS Procurement Bulletin - Contract Reporter Advertising Thresholds and Notice Requirements;

c) For Procurements above the Agency's State Finance Law §112 threshold, an Agency must:

- Comply with all of the above requirements; and
- Submit all copies of the Purchase Order and documentation supporting the procurement to OSC for approval.