



Introduction to Campus Let Contracts (Abbreviated)

For Contract College Facilities
Cornell University
October 2022



Course Objectives

Increase knowledge and understanding of:

- Capital Funds
- Procurement Requirements
- Consultant Selection

as they related to state-operated facilities (Cornell's Contract Colleges)





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TOOLS
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Campus Let Contracts

Session 1: Capital Funds

The SUNY logo is positioned in the bottom right corner. It features the word "SUNY" in a bold, white, sans-serif font. The letters are partially enclosed by a large, white, semi-circular arc that starts from the left and curves around the top and right sides of the text.

SUNY

Learning Objective

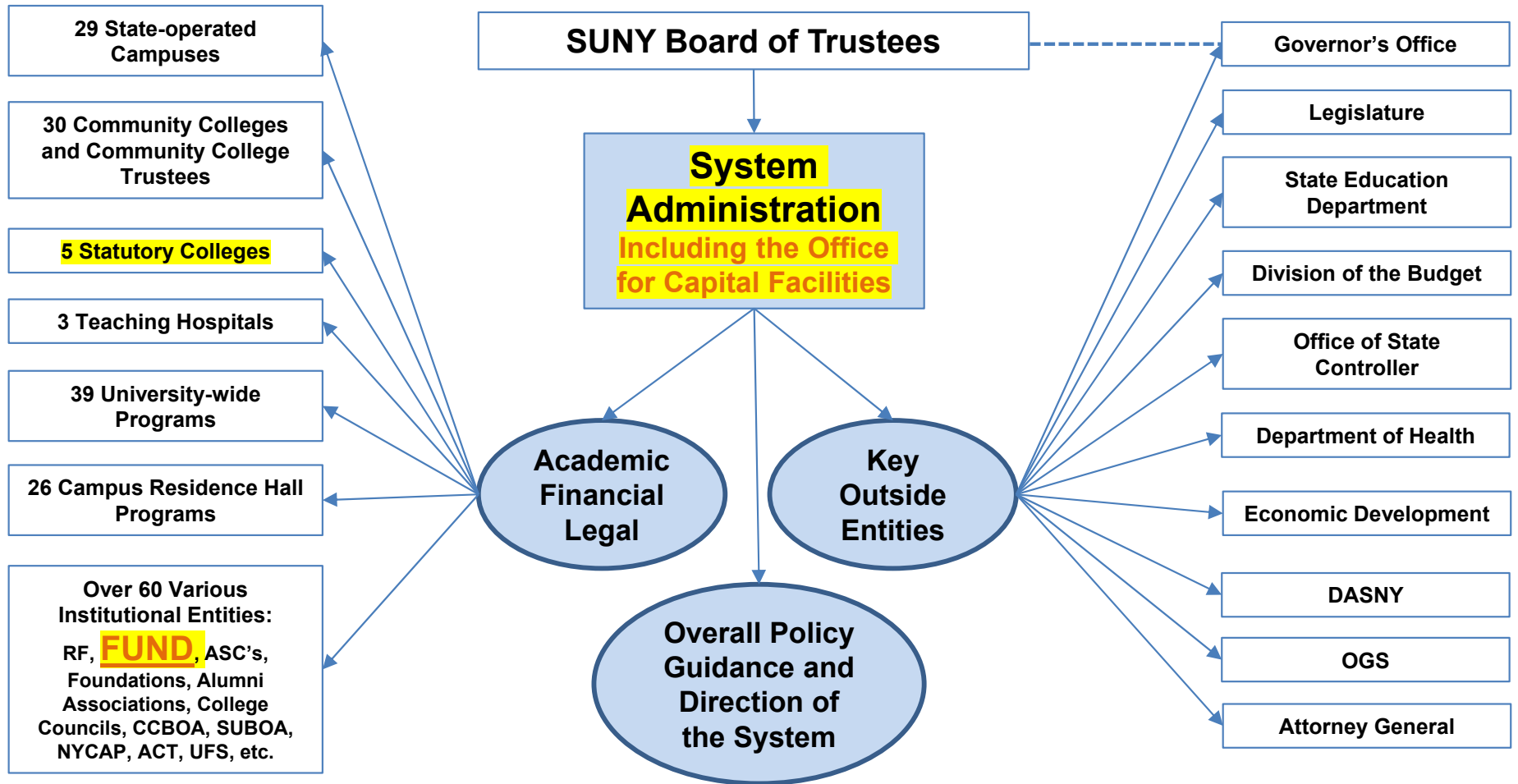
Increase knowledge and understanding of:

- State University of New York (SUNY), the State University Construction Fund (FUND)
- Capital funding – where it comes from and how it is managed





State University of New York (SUNY) State University Construction Fund (SUCF)





Capital Project Management

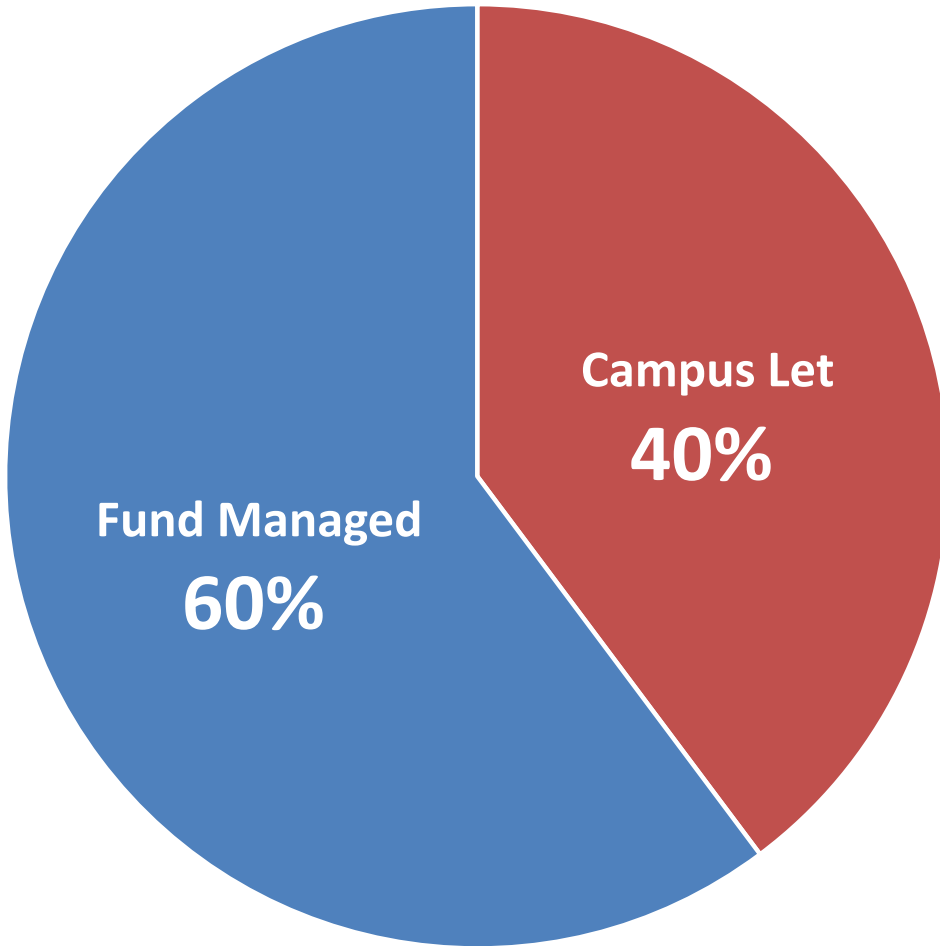
There are two primary means of capital project management:

Fund Managed

- Construction Fund acts as agent
- Contracts let through the Fund
- Design & Construction administration by the Fund

Campus Let (e.g., Campus Administered)

- Local contracts let by the campus
- Funded with Capital
- Design and construction administration by campus staff
- Campus Administered Procedures apply



Total All Funds Disbursements

Five Year - Y15/16 – FY19/20

Including Bonded Funds, Campus Funds (384), and Other Agency Suballocations



The NYS Budget Cycle and Securing State Funding Support

NYS Fiscal Year is April 1st through March 31st



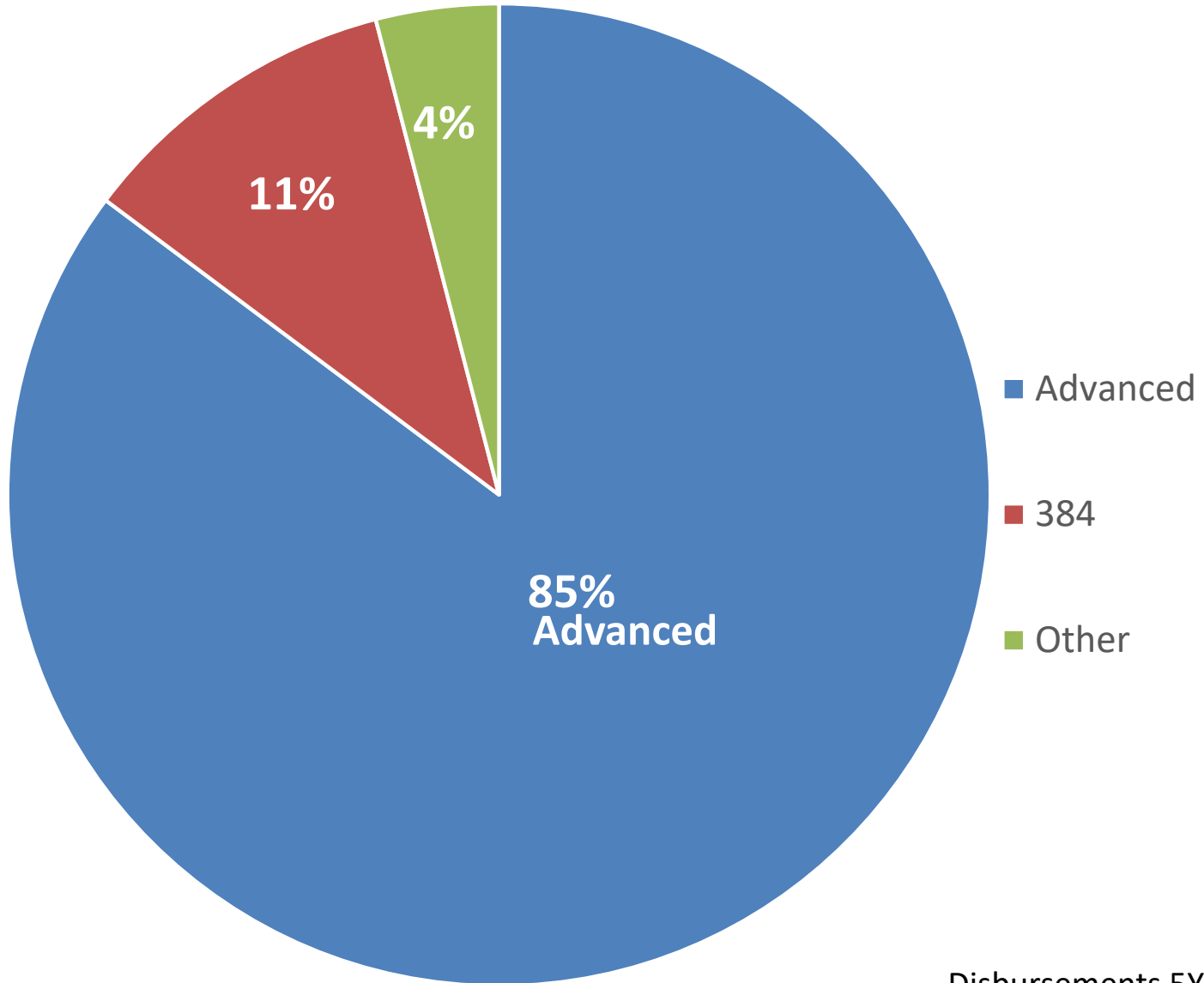
- SUNY and the Fund in collaboration with each campus develop a multi-year capital budget request.
- Governor releases an Executive Budget in January that provides a recommended level of support for each of SUNY’s capital programs.
- SUNY and the campuses engage in an advocacy effort.
- A final budget, due by April 1, is enacted that provides the final level of support and establishes annual spending limits for each program.



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Types of Appropriation

Educational Facilities and Hospitals



Advanced = Bonded = 30 year loan

Disbursements 5Y History
FY 15/16 to 19/20



Campus Let Contracts

- Memorandum of Understanding (MOU) between the Campus and the Fund
- Capital Funds are bonded
- Bonds come with Restrictions

Capital funding is
appropriated to the
State University
Construction Fund



Management of Capital Funds

Bond Restrictions



Declaration of intent

Useful life of Project

Tax exempt vs. taxable bonds

Annual Private Use Survey

Bond proceeds must be used
only for capital costs



Campus Administered Procedures



- Applies to Campus Let Contracts
- Ties to the MOU between the Campus and the Fund
- Establishes the funding process
- Requires the campus to certify its compliance

Campus Administered Procedures



Campus Let Contracts

Projects funded with Capital, follow the Campus Administered Procedures:

- Capital Project Request
- B-1184 Approval - Division of Budget
- B-1223 Approval - Division of Budget
(managed through your Fund Program Manager)
- Project Funding Request

**Project Funding Requests must be approved by the Fund
prior to placing an advertisement**

Campus Administered Procedures

Operating vs. Capital Expense

Operations and Maintenance

- Budgeted staff payroll
- Utilities
- Office supplies and janitorial supplies to support regular operations
- Disposal of hazardous waste from academic or research activities



Capital

- Architecture and Engineering Studies
- Design
- Construction
- Construction Material
- Equipment - Fixed



Operating vs. Capital Expense

Operations and Maintenance expense, unless done as part of a new construction or major renovation project

- Landscaping
- Painting
- Carpet
- Furniture
- Moving expenses
- Resealing, resurfacing or relining parking areas



Recap

- SUNY's capital program is funded with bond proceeds; bonds come with restrictions.
- Capital appropriations are granted to the Construction Fund. These appropriations are permissive; additional approvals are needed to access the appropriations (B-1184 and B-1223 approvals)
- Capital funding must only be used for capital expenses, operations and maintenance cannot be funded with capital.

Campus Let Contracts

Session 2: Procurement Requirements

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Learning Objective

Increase knowledge and understanding of:

- The state procurement requirements that the State University of New York (SUNY) is required to follow for construction and construction related consultant services contracts





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Procurement Requirements



Procurement Requirements

SUNY Construction and Consultant Contract Threshold Chart is located in the FCS PM Guidance Documents on the FCS Website

Polices and Procedures

- 7553 – Purchasing
- 7552 – Procurement Lobbying
- 7554 – Construction
- 7555 –Consultants

SUNY Construction and Construction Related Consultant Contract Thresholds

Category	\$0 - \$10,000	\$10,000.01 - \$15,000	\$15,000.01 - \$20,000	\$20,000.01 - \$25,000	\$25,000.01 - \$50,000	\$50,000.01 - \$100,000	\$100,000.01 or more
Consultant Contracts (Construction Related)							
1 Most Qualified Selection	N	N	N	N	N	N	N
2 DOB 1184 (capital appropriations only)	N	N	N	N	N	N	N
3 NYSCR Advertisement	N	N	N	N	N	N	N
4 Newspaper Advertisement	N	N	N	N	N	N	N
5 MWBE Subcontractor Goals	N	N	N	N	N	N	N
6 Vendor Responsibility	N	N	N	N	N	N	N
7 Procurement Lobbying	N	N	N	N	N	N	N
8 Certificate of Insurance	N	N	N	N	N	N	N
9 Campus Procurement Certification	N	N	N	N	N	N	N
10A Consultant Reporting - OSC Form A	N	N	N	N	N	N	N
Construction Contracts							
1 Competitive Bid Process	N	N	N	N	N	N	N
2 DOB 1184 (capital appropriations only)	N	N	N	N	N	N	N
3 NYSCR Advertisement	N	N	N	N	N	N	N
4 Newspaper Advertisement	N	N	N	N	N	N	N
5 MWBE Subcontractor Goals	N	N	N	N	N	N	N
6 Vendor Responsibility	N	N	N	N	N	N	N
7 Procurement Lobbying	N	N	N	N	N	N	N
8 Certificate of Insurance	N	N	N	N	N	N	N
9 Campus Procurement Certification	N	N	N	N	N	N	N
10 Prevailing Wage Rates	N	N	N	N	N	N	N
11 Bonds: Performance, Labor & Material	N	N	N	N	N	N	N
12 Wick's - Multiple Contracts Required	N	N	N	N	N	N	N

(1) Quarterly ads are required for projects greater than \$10K but less than \$50K. Individual ads are required for contracts greater than \$50K.
 (2) Campus Let contracts require a one day ad in an Albany paper and in a local paper of general circulation; Campus Funded contracts require an ad in a local paper of general circulation.
 (3) Determination of Vendor Responsibility is required for all contracts and purchase orders. For those in excess of \$100,000 contractor disclosure of all information relevant to a responsibility determination, completion of the Vendor Responsibility Questionnaire, and an Agency Certification of Vendor Responsibility.
 (4) For contracts of \$250,000 or more certifications must be signed by the Campus Vice President and uploaded to the "SUNY Procurement Officers" space in Confluence.
 (5) See Wick's Law information under descriptions for applicable thresholds by county.
 For a full explanation or requirements please see the procedures located at the Office for Capital Facilities website. This table summarizes thresholds for Construction and Construction Related Consultant contracts as set forth in SUNY Procurement items #7554 & #7555.
 Visit our website. Ensure you have the latest version of this document.

Office for Capital Facilities
April 2012

Methods of Award



Construction

- Awards made by public letting to the lowest qualified bidder
- Public bid opening required
- Invitation for Bid (IFB)
- Competitive Procurement: >\$20,000
- Procedure 7554

Construction Related Services

- Awards are made on the basis of qualifications, price is NOT a factor
- Contracts are negotiated with the most qualified consultant
- Request for Qualifications
- Competitive Procurement: >\$25,000
- Procedure 7555

State Finance Law §136-a

Most Qualified
Negotiate



It is the policy of New York state to negotiate contracts for architectural and/or engineering services and/or surveying services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable fees.

Minority and Women Owned Business Enterprise (MWBE) Participation



Service Disabled Veteran Owned Business (SDVOB) Participation

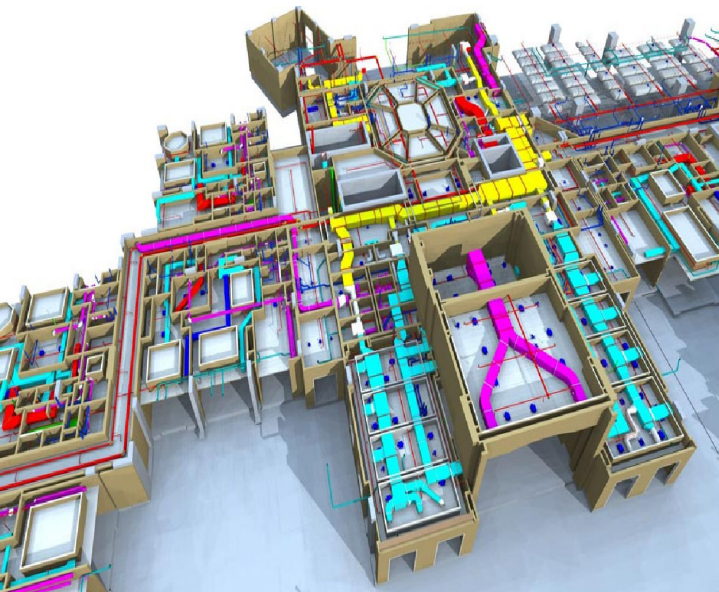


To promote business opportunities for minorities and women, Cornell University has established Minority/Woman-owned Business Enterprises (MWBE) business participation goals for contractors on construction projects over \$100,000 and for construction-related consultants on procurement contracts over \$25,000. MWBE's are certified through New York State and can be found at [NYS Certified MWBE Directory](#).

Wicks Law (Construction)

Contracts over the threshold require separate specifications and bids for;

- General Contracting
- Mechanical: steam heating, hot water heating, ventilating and air conditioning apparatus
- Electrical: electric wiring and standard illuminating fixtures
- Plumbing: plumbing and gas fitting
- Tompkins County: >\$0.5M
- Wick's Waiver Request



Prevailing Wage Rates

- Applicability: All contracts and purchase orders
- Provide a copy to the prime contractor and incorporate it into the contract
- Primes provides schedules to subcontractors
- Prime provides copies of certified payroll to the campus
- Request a wage schedule from the [Department of Labor website](#)



NYS Labor Law, Article 8 & 9



New York State Contract Reporter

- Advertisement for at least 15 business days prior to the bid due date
- Individual ad for contracts in excess of \$50,000
- Quarterly ad for anticipated contracts >\$10,000 but <\$50,000
- [NYS CR Website](#)



NYS Economic Development Law (§142)



Newspaper Advertisement (Construction)

- Campus Let contracts require a one-day ad in an Albany paper and in a local paper of general circulation
- Contact a reasonable number of local contractors, a minimum of 5, if feasible
- Applicability: >\$50,000



NYS Education Law (§376) and
Public Building Law (§8)

Albany Paper = Times Union

Vendor Responsibility

- For all contracts vendors and contractors must be deemed responsible
- Contracts >\$100,000 require
- Vendor Responsibility Questionnaire using [VendRep](#)
- Agency certification of Vendor Responsibility



[OSC Guide to Financial Operations](#),
Section XI.16 Vendor Responsibility

NYS State Finance Law §163



Certificate of Insurance

- Required for ALL contracts and purchase orders
- At a minimum, insurance limits must equivalent to the limits in the construction and consultant agreements



- General Liability
- Auto
- Workers Comp and Disability
- Owners and Contractors Protective Liability (const)
- Builders Risk (*Cornell policy*)
- Professional Liability
- Environmental
- Cyber

Required Forms

- ACORD 25 - Certificate of Liability Insurance
- NYS Workers' Compensation Form
 - Generally, form C-105.2
- NYS-required Disability Insurance Form
 - Generally, form DB-120.1
- SUNY Insurance Checklist (internal)

For more information see:

**[CLC-10 Insurance](#) and the Council of
Contracting Agencies [Insurance Guidelines](#)**

Bonds



Learn more, see
Guidance Document CLC-1

Construction Bonds

- Applicability: >\$50,000
- Performance Bonds
- Cornell Procedures do not allow for Performance Bonds to be waived
- Labor & Material Bonds cannot be waived

NYS State Finance Law § 139-f

Construction Change Orders

A contract amendment must be submitted to the New York State Office of the State Comptroller's (OSC) Bureau of Contracts (BOC) for review if the original contract was subject to OSC review and if any terms and conditions are modified by the amendment. Following are examples of terms and conditions that when modified would result in an amendment transaction that is subject to OSC review:

- Begin Date
- Expire Date
- Contract Maximum Amount
- Budget adjustments (refer to SFL Article 11-B for Grant budget adjustments)
- Scope changes
- Contract provisions

Amendments that result in changes not contemplated in the original agreement may require additional justification, supporting documentation and/or a contract reporter exemption request, depending on the scope of changes.

[OSC Guide To Financial Operations](#)

Construction Change Orders

When is it a change? When should it be a new contract?

- What was the scope, schedule and budget of the original contract?
- At the end of the contract, did we buy what we bid out?
- We must be able to support that change order work could have been reasonably contemplated as part of the original scope

Field Orders

- To address a field condition or barrier to accessing the construction site
- To clarify the specification, address the technical execution of a problem or update contract documentation
- To address an omission

**Learn more, see
Guidance Document CLC-8**



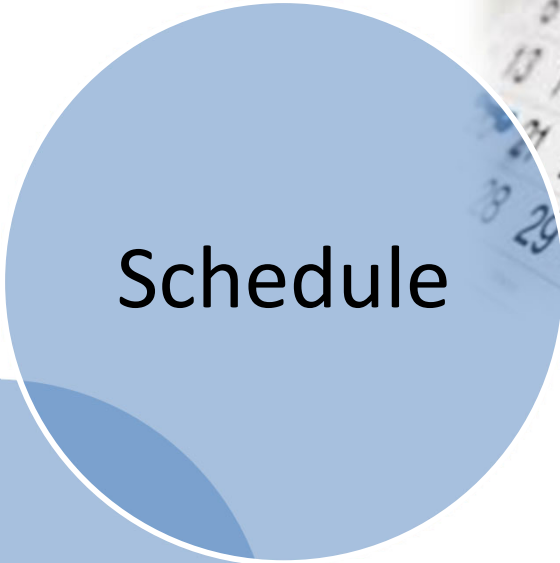
Change Orders

- A program change
- A substitution
- A bond premium and/or insurance adjustment
- A time extension not resulting from a field order condition
- An allowance adjustment
- To address an error





Pre Solicitation





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Session 3: Consultant Selection

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Learning Objectives

Increase knowledge and understanding of:

- The process for consultant selections
- The procurement requirements associated with consultant selections

Committee chairs: fulfill the requirement in Procedure 7555 to have completed consultant selection training



Construction Related Consultants

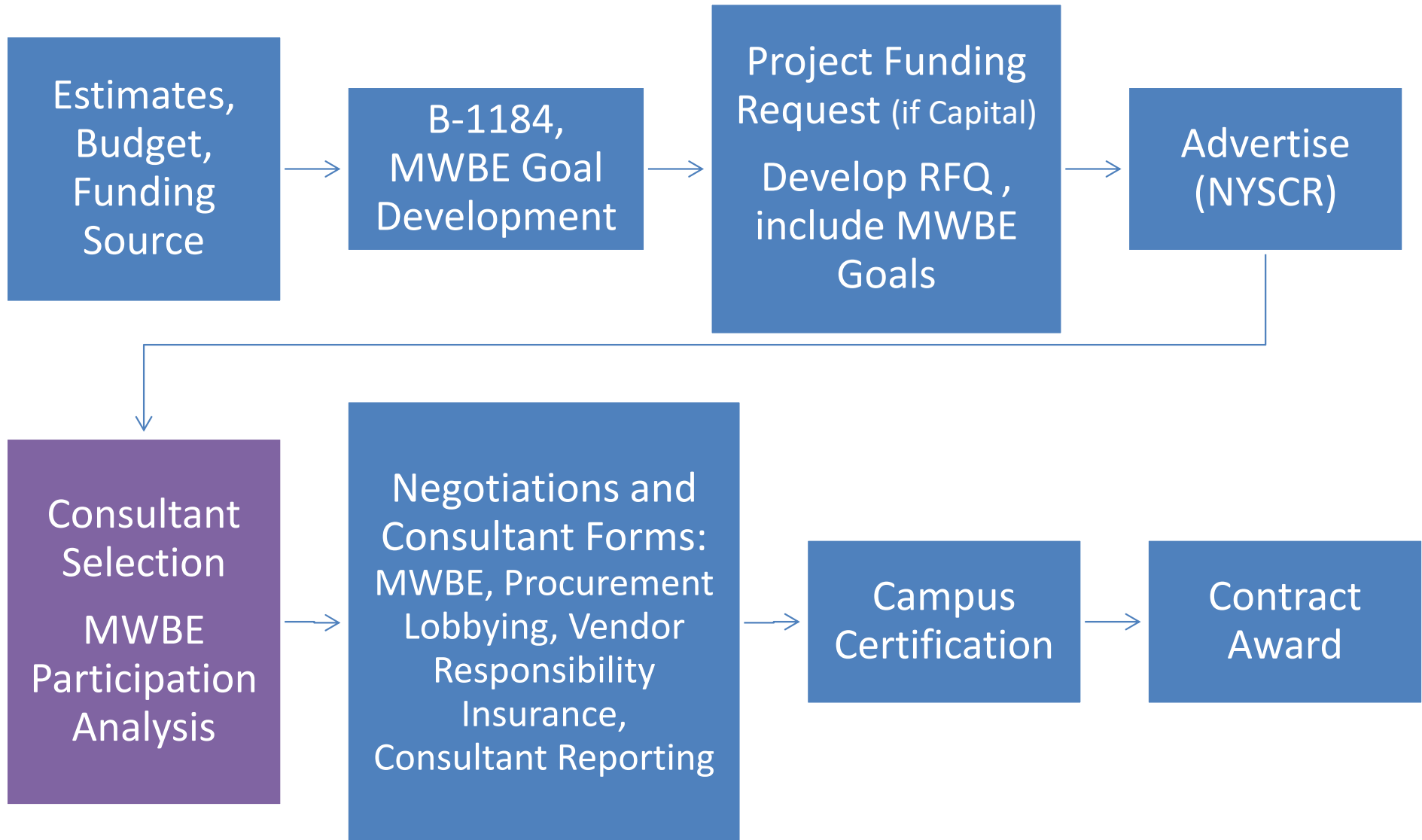
- Contracts are negotiated with the most qualified consultant
- Selections are made on the on the basis of qualifications
- An RFQ is required for contracts >\$25,000
- **SUNY: Procedure #7555**
- **Cornell: Pre-Design Phase**
- **Request for Qualifications (RFQ) – State PD3a**

Construction related consultants:
Architecture, engineering,
geological, landscape
architecture or surveying services



NYS Finance Law §136-A

Campus Let Design Project





Campus Let Contracts

Projects funded with Capital, follow the Campus Administered Procedures:

- Capital Project Request
- B-1184 Approval - Division of Budget
- B-1223 Approval - Division of Budget
(managed through your Fund Program Manager)
- Project Funding Request

**Project Funding Requests must be approved by the Fund
prior to placing an advertisement**

Campus Administered Procedures

Selection Committee

- A minimum of three members are required
- If interviews are held, all voting committee members must attend all interviews
- At a minimum the committee chair must have completed the Consultant Selection Training



Procurement Lobbying Act

- Limits communications during the Restricted Period – from Contract Reporter Ad to Contract Execution
- All inquires must be directed to the Designated Contact
- Requires vendor affirmation, certification and disclosure of compliance
- Applicability: >\$15,000
- SUNY Procedure #7552



NYS State Finance Law § 139-j



Procurement Lobbying Act

"Restricted period" means from the earliest written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from offerers intending to result in a procurement contract

"Contact" means an oral, written or electronic communication to SUNY related to the procurement by or on behalf of the Offerer during the Restricted Period that could be inferred as intending to influence the procurement

SUNY Procedure 7552

Project Sunlight

- SUNY is required to report 'appearances' by individuals/firms who 'appear' before State decision-makers or persons who advise decision-makers.
- An 'appearance' is a substantive interaction, in person or over video conference, that is meant to have an impact on decision making process of the state entity.
- The Project Sunlight database, hosted by the NYS Office of General Services, aggregates the inputted data and makes it available to the public for viewing.

Cornell – Mandatory Training every two years
For more, see SUNY's [compliance website](#)

Conflict of Interest

A conflict of interest occurs when the Committee member or an immediate family member (spouse/domestic partner, parent, sibling or child) has a financial interest in or has been employed by any of the firms under consideration within the previous two years.



Contact your campus ethics officer

Cornell: The Long List

- Brief review of all Submittals of Qualifications
- Each committee member individually completes a **Long** List Rating Form
- **Long** List Ratings are compiled in the **Long** List Summary Form



Sub-consultant Staffing List

7555-15 Architecture	7555-16 Construction Management	7555-17 Commissioning
<ul style="list-style-type: none"> •Architecture •Civil Engineering •Landscape Architecture •Structural •Plumbing/Fire Protection •HVAC •Electrical •Cost Estimating •Asbestos/Hazmat •Other 	<ul style="list-style-type: none"> •CM-Primary Services •Pre-Construction- Constructability Review •Pre-Construction-Scheduling •Cost Estimating •Construction Phase Scheduling •Safety Review •Construction Phase Technical Staffing •MWBE & EEO •Other 	<ul style="list-style-type: none"> •Commissioning Agent •Engineering •Indoor Air Quality Testing •Inspection Services •Balancing •Other

Getting to the Short List

- At a minimum, the five firms with the highest ratings are to continue in the selection process.
- In the event, the fifth and sixth firms' ratings are tied, both firms are to continue in the selection process.
- Ratings may be reconsidered if pool of firms is too large or too small
- Provide the MWBE Program Coordinator copies of the Submittal of Qualifications and Sub-consultant Staffing Lists for each short-listed firm

Evaluating Firms

- Detailed review of Submittal of Qualifications
- Site visits and interviews, as applicable
- Contact references
- Committee members individually complete the Consultant Selection Rating Form



Score in ink.

Do not write comments on the score sheets.

Consultant Selection Rating Form

- Firm Qualifications and Experience
- Personnel Qualifications & Experience
- Previous Experience with Work Specific to Project Scope
- Approach & Capability
- MWBE Utilization
- References

Make Selection

- Compile the Selection Committee members individual scores
- The highest ranking consultant is determined by calculating the average of all Selection Committee member's scores
- The selection is communicated to Contracts, they then request the cost proposal





Negotiate a Fair and Reasonable Fee

- Request and evaluate the cost proposal
 - Hours
 - Rates
 - Multipliers

No cost proposals are to be submitted with the qualifications. Cost proposals are to be requested after a consultant selection is made.



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TOOLS TRAINING COMMUNICATION

Consultant Procurement Checklist

Form 7555-01

Consultant Procurement Checklist, Form 7555-00

General Information

Project Name: _____ Date: _____
 Project Number: _____ Reviewer: _____
 Agency/Div Code: _____ Contract No.: _____
 Contract Amt.: _____ No. of Qualifications Reviewed: _____
 Alternates: No. Proposed _____ No. Selected: _____

Agency Documentation

1. B-1184 approval, if applicable
2. Project justification
3. Request for Qualifications (7555-01) and Transmittal Letter to Consultants (7555-02) Including a scope of work, addenda, and specifications as applicable
4. Advertisements and solicitation
 - a. New York State Contract Reporter Advertisement (>\$50,000)
 - b. Proof of solicitation of at least five consultants No. Contacted: _____
 - c. Make a good faith effort to solicit MWBE consultants
 - d. Less than 2 qualifications explanation letter, if applicable
5. Recommendation of Award and Associated Documentation
 - a. Reasonableness of price justification
 - b. Campus pre-bid cost estimate
 - c. Short List Rating Forms (7555-03)
 - d. Short List Summary Form (7555-04)
 - e. Consultant References (7555-05)
 - f. Original Selection Rating Forms (7555-06)
 - g. Memo of qualifications, including any rejected qualifications
 - h. Protests and campus response, if applicable
 - i. Copy of termination of negotiations letter with initial firm, if applicable
 - j. Letter of Intent (7555-08)
6. Procurement Lobbying
 - a. State University of New York Procurement Lobbying Law Record of Contact (Form D, Procedure 7552)
 - b. Governmental Entity Representation Concerning Compliance with State Finance Law §§139-j and 139-k (Procedure 7552)
7. Campus Procurement Certification (Form XV, Procedure 7553)
8. Fully encumbered AC340

SUNY Procedure 7555: Form 7555-00
January 2013

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AG/OSC approval is NOT required for Construction related consultant contracts

Recap: Construction Related Consultant Contracts

- Contracts are negotiated with the most qualified consultant
- Selections are made on the on the basis of qualifications
- An RFQ is required for contracts >\$25,000

Construction related consultants:
Architecture, engineering,
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NYS Finance Law §136-A



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