

EXECUTIVE ORDER No. 121

OFFICE OF CONTRACT SERVICES

August 11, 2008

WHEREAS, the agencies of the City of New York, in order to exercise their powers, duties, and responsibilities, enter into a variety of contracts with vendors, including private entities, not-for-profit organizations and other governmental agencies, for the purchase of goods, services, construction and information technology in excess of several billion dollars each year;

WHEREAS, to serve the citizenry well, the City must obtain fair prices, high quality and timely delivery of essential goods, services, construction and information technology, while safeguarding the integrity of the procurement process;

WHEREAS, the consolidation of the City's policy development and technical oversight functions for procurement, including construction procurement, will promote the effective and efficient fulfillment of these responsibilities, as well as the realization of savings opportunities;

WHEREAS, the achievement of such effectiveness, efficiency and savings requires collaboration between and among all of the participants in the procurement process, including line agencies, oversight agencies and vendors;

NOW, THEREFORE, by the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. Office Continued. The Office of Contract Services, established by Executive Order No. 114, dated April 13, 1988 and continued by Executive Order No. 16, dated August 31, 1990, as amended by Executive Order No. 11, dated July 26, 1994 and as renamed and continued by Executive Order No. 48, dated June 17, 2004, is hereby continued. The Office shall be headed by a director who shall report to the Deputy Mayor for Operations.

§ 2. Director of the Office. The Director shall have the following powers and duties:

- a. The Director is appointed the City Chief Procurement Officer ("CCPO") for purposes of the rules and regulations for the Procurement Policy Board ("PPB"). The Director is further designated to exercise the authority of

the Director of the Office of Construction (“ODC”) pursuant to the PPB Rules, and of the Director of Citywide Environmental Purchasing (“CEP”) pursuant to §6-304 of the Administrative Code. Whenever the title of CCPO, ODC, CEP or similar title describing an officer performing functions similar to those of a CCPO, ODC or CEP is used in any other provision of law, rule or regulation, such title or description shall be deemed to refer to the Director of the Office of Contract Services.

- b. The Director is authorized to:
- (i) perform all reviews, make all determinations and give all approvals and certifications to be performed, made or given by the Mayor pursuant to Chapter 13 of the Charter;
 - (ii) perform all reviews, make all determinations and give all approvals and certifications to be performed, made or given by the Mayor pursuant to the rules of the PPB;
 - (iii) perform such other functions of the Mayor relating to contracting or procurement as may be delegable by the Mayor;
 - (iv) perform all reviews, make all determinations and give all approvals and certifications relating to franchises, concessions and revocable consents, as may be delegable by the Mayor;
 - (v) execute all authorizations, approvals and certifications to be made or given by the Mayor pursuant to §§ 384, 824(a), 1802(6)(j) and 1804 of the Charter, and §§ 4-201, 11-424 and 11-424.1 of the Administrative Code, with regard to the acquisitions and dispositions of real property; and
 - (vi) perform any function, power or duty of the Mayor relating to the execution of deeds and satisfactions;
 - (vii) perform any function and make all determinations assigned to the CEP pursuant to Chapter 3 of Title 6 of the Administrative Code, with regard to environmental purchasing, the purchasing of energy efficient products, the reduction of hazardous substances, the use of products with recycled content, and the purchase of green cleaning and other custodial products;
 - (viii) perform all functions, make all determinations and give all approvals assigned to the CCPO pursuant to §6-129 of the Administrative Code, with regard to the minority- and women-owned businesses and other small businesses;

- (ix) make all determinations assigned to the CCPO or other person designated by the Mayor pursuant to §3-702(18)(c) of the Administrative Code, with regard to the doing business database;
 - (x) perform all functions assigned to the Mayor's Office of Contract Services pursuant to Executive Order No. 71, dated September 9, 2005, with regard to enhancing City contracting opportunities for minority- and women-owned businesses and other small businesses;
 - (xi) perform all functions and make all determinations assigned to the Mayor's Office of Contract Services pursuant to Executive Order No. 72, dated October 6, 2005, with regard to equal access to health insurance coverage for the domestic partners of employees of City vendors and other businesses; and
 - (xii) perform all reviews and make all determinations assigned to the Mayor's Office of Contract Services or the Director of the Mayor's Office of Contract Services pursuant to Executive Order No. 102, dated July 18, 2007, with regard to prevailing wage and living wage requirements in City contracts.
- c. The General Counsel and Deputy and Associate Directors of the Office are hereby additionally designated to exercise any of the powers and duties set forth in subdivisions a and b, above. The General Counsel and Deputy and Associate Directors may act on this designation only on the direction, specific or general, of the Director.

§ 3. Functions of the Office: Contracting and Procurement. The Office of Contract Services shall perform the following functions relating to contracting and procurement:

- a. Establish procedures implementing the rules adopted by the PPB, and assist the PPB in carrying out its Charter duties and responsibilities;
- b. Review departmental and specialized contract guidelines and procedures for conformance with citywide guidelines and regulations;
- c. Conduct pre-audit and post-audit reviews of selected contracts to ensure adherence to citywide contracting and procurement procedures;
- d. Pursuant to § 1064 of the Charter, establish and maintain a computerized contract and contractor information system as part of a centralized contract registry;
- e. Inform the Mayor of major policy issues or patterns concerning City contracting and procurement;

- f. Draft guidelines and policy statements for review and issuance by the Mayor;
- g. Coordinate City procurement practices with Mayoral agencies and the PPB;
- h. Coordinate hearings to be conducted by agencies pursuant to § 326 of the Charter;
- i. Develop guidelines, as appropriate, for professional qualifications for Mayoral Agency Chief Contracting Officers (“ACCOs”) and procurement staff;
- j. Coordinate citywide information on contracts and contractors, establish and maintain centralized bidder/proposer lists for use by City agencies in their contracts and procurements, maintain liaison with ACCOs, and provide technical assistance to agencies on contract and procurement related issues, including but not limited to prevailing wage compliance, performance evaluation and other matters pertinent to vendor responsibility determinations;
- k. Establish working relationships with associations of contractors from industry and nonprofit groups that do business with the City in order to encourage contractors to compete for business with the City; and
- l. Coordinate and review the activities of the Citywide Central Insurance Program.

§ 4. Procedural Requisites and Delegation.

- a. The Director may delegate to the ACCO of each City agency the function of certifying pursuant to § 327 of the Charter that the procedural requisites for the solicitation and award of contracts have been met, provided that the Director has made a determination in writing that the agency possesses the capacity to comply with procedural requirements, and such determination is concurred in by the Deputy Mayor for Operations; provided also that the Director has the ongoing responsibility to audit agency compliance with procedural requirements pursuant to audit protocols to be agreed to by the agency and the Director.
- b. To the extent permitted by the Charter, the Director may also delegate to the ACCO of each City agency the function of approving pre-solicitation review reports for all procurements irrespective of dollar value.

- c. The Director may also delegate the ACCO of each City agency the functions of approving renewal contracts, contract amendments, change orders and any other procurement approval authority established pursuant to the PPB Rules or Mayoral policy, including the approval authority of the ODC pursuant to the PPB Rules.
- d. The Director shall periodically review each ACCO's performance of the functions delegated pursuant to this Executive Order, and if such performance is found unsatisfactory, the Director shall revoke the ACCO's authority to exercise such function and the Director shall resume the exercise of such function.

§ 5. Functions of the Office: Franchises, Concessions and Revocable Consents. The Office of Contract Services shall perform the following functions relating to franchises, concessions and revocable consents:

- a. Perform reviews, make all determinations and give all approvals and certifications respecting franchises, concessions and revocable consents, as the Mayor may direct; and
- b. Pursuant to § 373(b) of the Charter, the Director shall designate a member of the Office to serve as clerk of the Franchise and Concession Review Committee.

§ 6. Functions of the Office: Public Hearings. The Director, and staff of the Office of Contract Services designated by the Director, are authorized to coordinate and, where applicable, hold any public hearings or other proceedings, including required public notice thereof, to be held pursuant to §§ 384, 824(a), 1301(2)(g), 1802(6)(j) and 1804 of the Charter, and §§ 4-106(9), 5-358, 11-424 and 11-424.1 of the Administrative Code.

§ 7. Rules, Guidelines and Procedures. The Director is authorized to promulgate such rules, guidelines and procedures as may be necessary and appropriate to effectuate the purposes of this Order.

§ 8. Prior Order Amended. Subdivision a of Section 3 of Executive Order No. 38, dated June 11, 1992, is amended to read as follows:

- a. The Institute shall be governed by a Board consisting of the Assistant Commissioner for the Bureau of Personnel Development of the Department of Citywide Administrative Services, who shall serve as Chair, the Director of the Mayor's Office of Contract Services, and an ACCO to be appointed by the Mayor.

§ 9. Prior Order Revoked. Executive Order No, 48, dated June 17, 2004, is hereby revoked. Any reference to the Office of Contracts or to any Executive Order relating to the

Office of Contracts contained in any other laws, regulations or Executive Orders are deemed to refer to the Mayor's Office of Contract Services and to this Executive Order, respectively.

§ 10. This Order shall take effect immediately.

MICHAEL R. BLOOMBERG
MAYOR