

EXECUTIVE SUMMARY

The General Assembly recently authorized MUSC to establish the Medical University Hospital Authority. The enabling legislation requires the Authority to adopt a Procurement Policy for its construction contracts. Section 59-123-60 of the South Carolina Code of Laws. The enabling legislation also requires that the Budget and Control Board approve any Policy adopted by the Authority.

MUSC has developed a draft Procurement Policy and is now seeking approval from the Board. The draft Policy was adapted from the South Carolina Consolidated Procurement Code to address only construction. All references to information technology, non-construction services, and supplies were removed. Likewise, the Policy was adapted to address a single entity, rather than all of state government. This Executive Summary identifies the salient differences between the Procurement Code and MUSC's Policy.

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1. Since the enabling legislation only requires that the Policy address construction bidding, the Policy does not address the selection of Architects and Engineers. The Hospital Authority plans to develop parallel procurement guidelines for selection of such entities substantially similar to those contained in the Manual for Planning and Executing State Permanent Improvement Projects Part II.
2. The Policy modifies the Code's process used to review protests of the procurement process by relying on industry arbitration rules and by eliminating any appeal to circuit court.
3. The Policy modifies the Code's provisions regarding resolution of contract disputes. Rather than having a parallel to the Procurement Review Panel, MUSC opted to use arbitration as a method for resolution of Contract Controversies.
4. The Policy modifies the Code's process for suspension and debarment by removing any appeal to circuit court.
5. For Indefinite Delivery Contracts, the Policy increases the limit for total construction from \$750,000 for 2 years to \$2,000,000 for 3 years and the limit for individual projects from \$150,000 to \$500,000.
6. For small purchases, the Policy increases the limit from \$25,000 to \$50,000 and replaces a simplified bidding procedure with direct negotiations.
7. Under the Code, all construction must be acquired by Competitive Sealed Bidding or by Competitive Sealed Proposals. Under the Policy, the Authority can also use Competitive Best Value Bidding and Competitive Fixed Price Bidding to acquire construction.
8. Under the Code, the state is allowed to retain only five percent of each progress payment to contractors. The Policy increases this amount to ten percent.

9. Under the Code, the Board is required to adopt standard contracts for construction. The Policy eliminates this requirement.

10. Under the Code, the Office of the State Engineer oversees the procurement of construction by state agencies. The Policy eliminates this oversight function.

11. Where the Code allows the Board to promulgate procurement related regulations, the Policy allows the Authority to adopt binding Procurement Guidelines.