



Changing What's Possible

HOW TO DO BUSINESS WITH UNIVERSITY PROCUREMENT

Vendor's Guide for Doing Business with the Medical University of South Carolina

TABLE OF CONTENTS

[About MUSC](#)

[Introduction](#)

[Visitation and Vendor Passes](#)

[Procurement Policy and Procedures](#)

[General Information](#)

[Shipping Instructions](#)

[Minority Business Enterprises](#)

[Resident Vendor Preference](#)

[Formal Bidding Conditions and Instructions](#)

[Gratuities](#)

[Reservation of Rights](#)

[Helpful Hints](#)

[Purchase Order Terms and Conditions](#)

[South Carolina Purchase Orders Utilizing Federal Funds in Excess of \\$100,000](#)

[I-312 Instruction and Requirements](#)

I. ABOUT MUSC

The Medical University of South Carolina (MUSC) has served the citizens of South Carolina since 1824. It has expanded from a small private college for the training of physicians to a state university with a medical center and six colleges for the education of a broad range of health professionals, biomedical scientists and other health related personnel. The campus area is an 82-acre academic medical complex, with 150 buildings.

As South Carolina's only comprehensive academic health center providing a full range of programs in the biomedical sciences, the Medical University of South Carolina is engaged in activities statewide. Its campus is located on more than 50 acres in the city of Charleston. The educational component of MUSC includes colleges of Medicine, Pharmacy, Nursing, Graduate Studies, Dental Medicine, and Health Professions. More than 2,700 students attend the University with approximately 800 graduating each year. The MUSC Medical Center consists of Medical University Hospital, Storm Eye Institute, Children's Hospital, Institute of Psychiatry, the Ashley River Tower and Charleston Memorial Hospital. There are 709 licensed beds throughout these facilities.

MUSC employs more than 12,000 people and has an annual payroll of more than \$535 million. It is one of South Carolina's largest State agencies and also one of the largest higher education employers. Today, MUSC accounts for more than \$2.3 billion in economic activity within the Trident area.

II. INTRODUCTION

The responsibility of the procurement office of the Medical University of South Carolina is to procure quality goods and services and to maximize the value of the tax dollar. This guide contains information that you will need in order to do business with the University.

The State of South Carolina Consolidated Procurement Code governs university procurement policies and procedure.

The procurement office is open for consultation with perspective vendors and sales persons, during regular offices 8:30 a.m. - 5:00 p.m., Monday – Friday. We are located at:

1 South Park Circle, Building 1, Suite 501
Charleston, South Carolina, 29407

An appointment to meet with a procurement representative is required and may be scheduled by calling (843) 792-4521.

III. VISITATION AND VENDOR PASS

The Medical University of South Carolina administers a vendor pass policy in keeping with our security procedures. Vendors are required

to obtain passes to visit departments for purposes of routine appointments, repair calls or deliveries on university property. There are two type of vendor passes that the university issues:

Temporary Vendor Pass:

The vendor representative must first contact the MUSC department to be visited to make an appointment. Once the appointment is made, a vendor pass must be requested through University Procurement office through the Vendor Day Pass link on the main page. The Procurement Office will confirm the vendor representative's appointment with the requested University department; upon confirmation the vendor pass will be prepared. The Procurement office will then coordinate an appointed time and location with the vendor representative to pick up the pass.

In most instances, passes being dispersed during regular business hours will be distributed from Suite 501 of Building 1, located at 1 South Park Circle, Charleston, South Carolina. Weekend and after-hour passes will be issued from University Public Safety, located at 101 Doughty Street, Charleston, SC, after verification has been received from the appropriate university official. A picture ID must be presented to receive your vendor pass.

A Temporary Pass is issued for a very short period of time, usually one day or less. The information displayed on the pass consists of the company's name and address, the name of representative, location and telephone extension of the person the vendor is visiting on the MUSC campus. The company (vendor) representative MUST sign the pass request, which will be kept on file in the Procurement office. The temporary pass is a throw away stick on label which can be disposed of at the conclusion of the visit.

Contract Vendor Pass:

A Contract Pass is issued upon award of a contract and issuance of a purchase order (PO). There are several forms that must be completed and approved prior to the contractor's arrival on campus. The Procurement Officer who issued the purchase order must sign the contract vendor pass. The pass may be for duration of 1 year or the university's fiscal year. A copy of the Contractor Pass Request will be forwarded to Public Safety. Once Public Safety processes the request, the vendor will be notified to go to Public Safety to pick up the issued pass.

The pass displays the following information: (1) the wording 'CONTRACT VENDOR'; (2) name of the department requesting the vendor pass for which the service will be performed i.e., Procurement; and (3) expiration date of the contract. Upon expiration of the pass, it must be returned to university procurement for return to public safety.

While on MUSC campus, the vendor pass must be visibly displayed at all times.

Vendor passes issued by the University may not be used to access departments within the Medical Center. The Medical Center maintains several Vendor Mate check-in stations located throughout the campus where vendor representatives may access to print temporary badges.

IV. PROCUREMENT POLICY AND PROCEDURES

It is the intent of the Medical University of South Carolina to procure and provide goods and services at the time and place needed, in the proper quantity, of the proper quality and at the best available price.

The University normally uses three types of procurement methods: telephone quotations, written price quotations, and competitive sealed bids or proposals.

The Medical University of South Carolina reserves the right to waive irregularities and informalities and to accept any bid or to reject any and all bids in the best interest of the Medical University and the State of South Carolina.

V. GENERAL INFORMATION

In most cases, purchases must be approved by the procurement office. Normally, shipments should not be made without receipt of the University purchase order and definitely not until a purchase order number has been provided. All invoices shall be referenced with the University purchase order number. Invoices must be submitted to the Medical University of South Carolina, Accounts Payable Department, 1 South Park Circle, Building 1, JB402, Charleston, SC 29407 or emailed to acctspayable@musc.edu. Any purchases that have not been approved by the procurement office will be returned to the vendor at the vendor's cost or may be considered a donation to the Medical University of South Carolina.

Some vendors may be interested in offering items to the University on consignment; the Procurement Office will consider such offers on a case by case basis.

All products for evaluation must have a valid University Purchase Order assigned for tracking and insurance purposes prior to delivery to the University complex. Evaluation products without assigned purchase order numbers WILL NOT be considered viable evaluations.

VI. SHIPPING INSTRUCTIONS

All shipments must be shipped F.O.B. destination unless otherwise directed on the purchase order. All shipments must be directed to the location shown on the purchase order.

VII. MINORITY BUSINESS ENTERPRISES

In accordance with Article 21 of the South Carolina Consolidated Procurement Code, the Medical University of South Carolina seeks to use the services of businesses owned by ethnic minorities and women and small businesses. To accomplish this goal more effectively, the procurement office maintains and regularly updates a list of such businesses.

VIII. RESIDENT VENDOR PREFERENCE (applies only in some formal solicitations)

As provided in Section 11-35-1524(6) of the South Carolina Consolidated Procurement Code, a vendor shall be deemed to be a resident of South Carolina if such vendor is an individual partnership, association or corporation that is:

- a. Authorized to transact business in South Carolina.
- b. Maintains an office in South Carolina. (As defined in Section 11-35-310(22) of SCCPC.)
- c. Maintains an inventory for expendable items which are representative of the general type of commodities on which the bid is submitted and located in South Carolina at the time of the bid having a total value of ten thousand dollars or more based on the bid price, but not to exceed the amount of the contract, or is a manufacturer which is headquartered and has at least a ten million dollar payroll in South Carolina and the product is made or processed from raw materials into a finished end product by such manufacturer or an affiliate (as defined in Section 1563 of the Internal Revenue Code) of such manufacturer, and
- d. has paid all duly assessed taxes.

If you wish to exercise the Resident Vendor Preference as defined, a claim must be completed and returned with your bid.

IX. FORMAL SOLICITATION CONDITIONS AND INSTRUCTIONS

Each bidder should carefully examine solicitation documents, including any addenda. Should the bidder identify any discrepancies or ambiguities, he shall at once notify the procurement office. No allowance will be made for oversight or misunderstandings by the bidder after solicitations are received.

Electronic Submissions:

MUSC uses a statewide system for issuing solicitations. Known as the South Carolina Enterprise Information System or SCEIS, this system includes a procurement component known as Supplier Relationship Management (SRM). All covered governmental bodies use SRM to publish on the internet all competitive solicitations with a value in excess of the threshold values set forth above for request for written quotes. Vendors must register on SCEIS before submitting a bid or proposal or being issued a purchase order upon award. Thereafter, vendors must log onto the SRM system in order to submit a bid or proposal.

Being a registered vendor does not guarantee notification of every solicitation of interest by every State agency. Vendors will receive notification only of SCEIS-generated solicitations for which matches the commodity codes assigned by the solicitation's buyer. The only definitive listing of all competitive procurements above the three quote thresholds is the South Carolina Business Opportunities (SCBO) newsletter. This publication is provided free of charge by Procurement Services. For more information about what SCBO is and how to use

it, please go to the SCBO home page at <https://scbo.sc.gov>.

Non- Electronic Submissions:

The bid form must be either typewritten or handwritten in ink to show prices and notations. No erasures will be permitted. An error must be crossed out and initialed by the person signing the bid. A signature on a formal solicitation must be a principal duly authorized to bind contracts.

Formal solicitations must be received by MUSC Procurement Department in a sealed envelope, clearly marked, with the solicitation number. Bidders are responsible for the actual delivery of formal solicitations during business hours. No formal solicitations will be accepted after the stated solicitation opening.

Affirmative Action:

The successful proposer will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of the handicapped, and concerning the treatment of all employees without regard or discrimination by reason of race, color, religion, sex, national origin, or physical handicap.

Formal Solicitation Opening:

The formal solicitation opening shall be public on the date and at the time specified. Invitations for Bid (IFB's) will be opened and tabulated. IFB files may be examined during normal working hours after award and upon receipt of request. No formal solicitation shall be altered, amended, or withdrawn after the scheduled bid opening. Negligence on the part of bidders in preparing bids confer no right for the withdrawal of bid after opening.

No oral or telephone interpretations of specifications shall be binding upon the University. All requests for interpretations or clarifications shall be made to the University at least five (5) business days prior to the date set for the bid opening. All changes or interpretation of the specifications shall be made by written addendum.

By submitting any solicitation, the bidder certifies under penalty of perjury that the bidder has not acted in collusion with any other bidder or potential bidder.

Intent to Award:

Intent to Awards documents are maintained for public viewing in the Department of Procurement, Ste. 501, Building, 1 South Park Circle, Building 1, Charleston, SC, 29407. These may also be published on the SCEIS and MUSC vendor portal website.

Protesting Solicitations & Awards:

If specifications of a solicitation are perceived restrictive or the process is unfair, vendors have a statutory right to protest. If aggrieved in connection with the intended award of a contract, vendors may be entitled to protest, but only as provided in SC Code Ann. §11-35-4210.

To protest an intended award of a contract pursuant to §11-35-1560, vendors shall (i) notify the chief procurement officer in writing of intent to protest within fifteen days of the date the applicable solicitation document is issued. To protest an award, vendor must (i) submit notice of your intent to protest within seven business days of the date the award notice is posted, and (ii) submit your actual protest within fifteen days of the date the award notice is posted. Days are calculated as provided in Section 11-35-310(13). Both protests and notices of intent to protest must be in writing and must be received by the appropriate Chief Procurement Officer within the time provided. See clause entitled "Protest-CPO". The grounds of the protest and the relief requested must be set forth with enough particularity to give notice of the issues to be decided. [02-2A085-2] Both protests and notices of intent to protest must be in writing and must be received by the appropriate Chief Procurement Officer within the time provided. The grounds of the protest and the relief requested must be set forth with enough particularity to give notice of the issues to be decided.

Any protest or notice of intent to protest must be addressed to the Chief Procurement Officer, Materials Management Office, and submitted in writing (a) by email to: protest-mmo@mmo.sc.gov or (b) by post or delivery to: 1201 Main Street, Suite 600, Columbia, SC 29201

X. GRATUITIES

Employees:

All employees of the Medical University of South Carolina are prohibited from accepting gifts, meals, trips or any other article and/or object of value from a vendor although the intent of such gesture may be honorable or a customary practice of the vendor.

It is suggested that these gratuities be directed in cost savings to our solicitations for benefit to the entire University.

Vendors:

Vendors who are doing or seeking to do business with public agencies are prohibited from offering or providing travel, meal, and lodging expenses to public officials or employees of such agencies, even if the expenses are incurred in the officeholder's responsibility to inspect and observe the vendor's products in operations. Likewise, public officials and employees whose responsibilities include writing specifications, awarding contracts, making recommendations, or are otherwise involved in the procurement process are prohibited from soliciting, accepting, or receiving travel, meal and lodging expenses from a vendor who is doing or seeking to do business with the agency.

XI. RESERVATION OF RIGHTS

The Medical University of South Carolina reserves the right to make modifications to the contents of this guide without prior notice to the vendor. If a disparity occurs between this guide and the solicitation documents or purchase order, the solicitation document and/or purchase order will govern. The information stated in this guide shall not be construed as an interpretation of University policy and procedures or interpretation of State statutes.

XII. HELPFUL HINTS

- Suggest and carry out improvements in your services which will better suit our requirements.
- Advise us if our specifications for a product on a formal solicitation can be improved to provide better performance, more durable products, and/or a lower cost.
- Keep us supplied with current information regarding the goods and/or services provided. Advise us of your vacation schedules, back orders, impending shortages or strikes, and technological advances.
- Follow through on orders to ensure delivery is on schedule, this applies to dealers who supply the University on your behalf.
- Insist on receiving a purchase order number on any request that the University places with you.
- Ensure all shipments contain our purchase order number on the invoice and all packages.
- Make each visit a profitable one for both you and us.

XIII. PURCHASE ORDER TERMS AND CONDITIONS

Medical University of South Carolina is an agency of the State of South Carolina, created by the State of South Carolina. Accordingly, it is limited in scope of authority and subject to procurement laws. The MUSC is exempt from federal income tax under Section 115 of the Internal Revenue Code. Purchases by the University are exempt from the excise taxes imposed by chapter 31 and 32 and subchapter B chapter 33 of the Internal Revenue Code.

By Acceptance of This Order Seller Agrees with Buyer as Follows:

Purchase Orders:

- a. Contractor shall not perform any work prior to the receipt of a purchase order from MUSC. The University shall order any supplies or services to be furnished under this contract following the issuance of a purchase order.. Purchase orders may be used to elect any options available under this contract, e.g. quantity, item, delivery date, payment method, but are subject to all terms and conditions of this contract.
- b. The purchase order may be accepted only upon the terms and conditions set forth herein which have been incorporated into the contract unless otherwise agreed to by the parties. If this purchase order is based upon a written Invitation for Bid or Request for Proposal, terms contained in those documents shall, if in conflict, supersede those contained herein. When so accepted, the purchase order contains the complete and final agreement between the buyer and seller respecting the goods and services specified. Any additional or different terms proposed by the seller are hereby rejected unless accepted in writing by MUSC University Procurement Office. The purchase order constitutes a contract on the part of the Medical University of South Carolina to pay the seller for the goods or services described.
- c. Purchase orders may be electronic. No particular form is required. Purchase order requirement may be waived if approved in writing by University Procurement Services.
- d. An order placed pursuant to the purchasing card provision qualifies as a purchase order.
- e. The seller, by acceptance of the order will be deemed to represent that seller has complied, or will comply, with all applicable federal, state and local laws and ordinances and all lawful orders, rules and regulations thereunder.
- f. Seller warrants that the prices stated in the contract and/or invoice are as low as any net prices now given by seller to any other customer
- g. for like goods or services and seller agrees that if at any time during the life of the contract, seller quotes or sells the product/goods or service at lower net prices, under similar conditions, such lower net prices shall, may be substituted with Seller's consent for the prices provided in the contract. The purchase order is not assignable by the seller without the prior consent of the University Procurement Office.
- h. The failure of MUSC to enforce at any time any of the provisions stated herein or in the contract itself shall in no way be construed as a waiver of such provision, nor in any way affect the right of the buyer thereafter to enforce each and every provision of the contract or order.

- i. Seller shall submit invoice and address any invoicing concerns to: Medical University of South Carolina, Accounts Payable, MUSC Accounts Payable, 1 South Park Circle, Building 1, JB402, Charleston, SC 29407, (843)792-4343, or email at acctspayable@musc.edu.
- j. All other concerns or questions can be addressed to the MUSC Procurement Officer noted at the bottom of the General section on the front of the purchase order form.

Performance/Delivery/Completion:

- a. All shipments are to be made FOB destination, freight prepaid, to receiving point at the University unless otherwise indicated on the purchase order. If other than FOB destination, all transportation, insurance, crating and/or packing charges are to be entered as separate items on seller's invoice.
- b. Any materials shipped in excess of the quantity specified in the order may, at the MUSC Procurement Officer's option, be returned to the seller at seller's expense. MUSC will not be obligated to pay for services or labor provided in excess of that specified in this order.
- c. Complete shipments are preferred; however, partial shipments may be acceptable and payable. Final payment will not be made until this order is filled in its entirety or until unfilled items are canceled.
- d. Subject to conditions beyond the control of the seller, delivery or completion must actually be effected within the time stated on the purchase order. When completion is not timely, the MUSC University Procurement Officer, may, if stipulated, obtain the goods or services elsewhere and charge the seller with any loss incurred as a result thereof or, at his option, to cancel the order. It is understood that time is of the essence under this agreement. Whenever the seller has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this order, seller shall so inform the MUSC Procurement Office.

Inspection/Warranties:

- a. All goods purchased hereunder shall be subject to inspection by the buyer to the extent practicable at all times and places including the period of manufacture. Notwithstanding any prior inspection or payments hereunder, items shall also be subject to final inspection prior to acceptance within a reasonable time after delivery. No inspection or test made prior to the final inspection shall relieve the seller from responsibility for defects or other failure to meet the requirements of this order.
- b. Seller warrants that all items delivered hereunder shall be free from defects in workmanship, material and manufacture; shall comply with the requirements of this agreement, including any drawings or specification incorporated in design. Seller further warrants that all items purchased hereunder shall be merchantable quality and shall be fit and suitable for the purposes intended. The foregoing warrants are conditions to this agreement and are in addition to all other warranties, expressed or implied and shall survive any delivery, inspection, acceptance or payment by the buyer. If any warranties specified herein or otherwise applicable are breached by the seller, the MUSC Procurement Office, may at its election, (1) require the seller to correct at seller's sole expense any defect or non-conformance by repair or replacement, or (2) return any defective or non-conforming goods to seller at the seller's expense and recover from the seller the price thereof. The foregoing remedies are in addition to all other remedies of law or as contained in this agreement and shall not be deemed to be exclusive. The foregoing representation and warranties shall survive acceptance of the goods or services.
- c. The manufacturer guarantees that the design of the equipment being purchased conforms to National Fire Protection Association

(NFPA), Underwriters Laboratories (UL), American National Standards Institute (ANSI), Occupational Safety and Health Administration (OSHA) and any other existing safety standards in effect at time of shipment.

Background Check:

- a. MUSC is subject to the Drug Free Work Act and, is charged with maintaining a safe patient and learning community. If Vendor's employee is required to enter onto University, Hospital or University Medical Associates property in order to fulfill the terms of the contract, must bring one or more of its employees on to the Medical University of South Carolina campus or other property in order to fulfill the terms of this agreement, Vendor acknowledges that it will conduct a criminal background check and drug screen on said employee(s) prior to bringing or sending the employee(s) arriving on said property. Vendor agrees that any employee with a criminal history that Vendor reasonably believes poses a threat to property or persons will not be brought or sent to the Medical University of South Carolina campus or other property. Vendor agrees that it will not assign nor send an employee that vendor has reason to believe poses a threat of risk to either property or persons to perform work under the contract. Vendor agrees to impose this same criminal background check and drug screen requirements on any subcontractors used by Vendor to fulfill its responsibilities under this agreement. MUSC reserves the right to verify compliance by Vendor upon request.
- b. Vendor agrees that the drug screen utilized will consist of a ten-panel drug test screening from an independent accredited laboratory which includes THC (marijuana), Cocaine, Phencyclidine (PCP), Synthetic Opiates with extended opiates, Amphetamines, Barbiturates, Benzodiazepines, Methadone, Propoxyphene and Methamphetamines. The results must be within a 30-day period.

Bankruptcy:

- a. **Notice.** In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to MUSC. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all MUSC contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract.
- b. **Termination.** This contract is voidable and subject to immediate termination by MUSC upon the contractor's insolvency, including the filing of proceedings in bankruptcy or may be cancelled due to MUSC's unavailability of funds in succeeding fiscal periods pursuant to SC Code Ann. §11-35-2030.

Discount For Prompt Payment:

- a. Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award and will be taken if payment is made within the discount period indicated in the offer by the offeror.
- b. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

False Claims:

According to the S.C. Code of Laws § 16-13-240, "a person who by false pretense or representation obtains the signature of a person

to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.

Certificate of Insurance:

- a. A 'Certificate' of Insurance MUST be on file in MUSC Procurement for vendors located at MUSC, visiting on-site at MUSC, and those providing on-site equipment maintenance, evaluation, or other for the protection of MUSC.
- b. A CONTRACTOR shall maintain throughout the performance of its obligations under an Agreement (i) a policy or policies of Workers' Compensation Insurance with such limits as may be required by law, and a policy or policies of general liability insurance with limits sufficient to cover any loss or potential loss resulting from this contract insuring against liability for injury to and death of persons and damage to and destruction of property arising out of or based upon any act or omission of the CONTRACTOR or any of its subcontractors or their respective officers, directors, employees or agents (ii) a policy or policies of Automobile Liability Insurance with such limits as may be required by law insuring against liability for injury to and death of persons and damage to and destruction of property arising out of or based upon any act or omission of the CONTRACTOR or any of its subcontractors or their respective officers, directors, employees or agents while operating their vehicle(s) on MUSC property.

Drug Free Workplace Certification:

Contractor will comply with all applicable provisions of The Drug-free Workplace Act, SC Code Ann. § 44-107-30 *This clause applies to any resultant contract for a stated or estimated value of \$50,000.00 or more.

State Ethics:

- a. By accepting this Purchase Order Contractor has not, and will not, induce a person to violate SC Ethics Act, more specifically § SC Code Ann.8, - 13-700, use of official position for financial gain; Section 8-13-705, gifts to influence action of public employee, member or official; Section 8-13-720, offering money for advice or assistance of public employee, member, or official; Sections 8-13- 755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public employee, member or official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract.
- b. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of the State Ethics Act.

If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the Procurement Officer at the same time the law requires the statement to be filed.(02-2A075-2)

Open Trade Representation:

By accepting this purchase order, offeror represents that it is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Ann . §11-35 -5300.

(02-2A083-1)

*This clause applies to any resultant contract for a stated or estimated value of \$10,000.00 or more.

Smoking Policy:

As South Carolina's academic health center and home to the only National Cancer Institute-designated cancer institute in the state, it is a part of our mission to prevent cancer and to lead by example in providing the healthiest environment possible for everyone on our campus. MUSC is a tobacco-free campus. Smoking is not permitted in any areas on campus. This includes the use of chewing tobacco and e- cigarettes.

Indemnification -Third Party Claims:

- a. Notwithstanding any limitation in this agreement, and to the fullest extent permitted by law, Contractor shall defend and hold harmless MUSC for and against any and all suits or claims of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property arising out of or in connection with the goods or services acquired hereunder or caused in whole or in part by any act or omission of contractor, its subcontractors, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by MUSC , and whether or not such claims are made by a third party or MUSC; however, if MUSC negligent act or omission is subsequently determined to be the sole proximate cause of a suit or claim, MUSC shall not be entitled to indemnification hereunder.
- b. Contractor shall be given timely written notice of any suit or claim. Contractors' obligations hereunder are in no way limited by any protection afforded under workers compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancelation, or expiration of the parties' agreement. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. As used in this clause, MUSC means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees.

Choice of Law:

Any dispute, claim or controversy relating to the agreement, and all the rights and obligations of the parties, in all respects shall be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. The seller agrees to submit to the jurisdiction of the State of South Carolina and agrees that the laws of South Carolina will control this agreement (Please note that as a state entity MUSC is prohibited from submitting to the laws of another jurisdiction SC Code Ann. §11-35-2050).

No Indemnity or Defense:

Any term or condition is void to the extent it requires MUSC to indemnify, defend or pay attorney's fees to anyone for any reason SC Code Ann. §11-35-2050. MUSC as an agency of the State of South Carolina is prohibited from agreeing to indemnification and/or the

payment of attorney's fees. This obligation is a material requirement of this contract and applies to subcontractors at any tier.

Equal Opportunity Employer:

MUSC is an equal opportunity/affirmative action employer and does not knowingly conduct business with suppliers who practice discrimination. Performance under this contract certifies that seller is an Equal Opportunity Employer, and as applicable, in compliance with Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference.

Illegal Immigration:

Contractor certifies that it will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide MUSC upon request any documentation required to establish either: (a) the Title 8, Chapter 14 is inapplicable to you and your subcontractor(s); or (b) that you and your subcontractor(s) are in compliance with Title 8, Chapter 14. You agree to include in any contracts with subcontractor(s) language requiring your subcontractor(s) to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts their sub-contractors language requiring that the sub-contractors comply with the applicable requirements of Title 8, Chapter 14.

Material and Workmanship:

Unless otherwise specifically provided in the purchase order, all equipment, material, and articles incorporated in the Work are to be new and of the most suitable grade for the purpose intended.

Publicity:

Contractor shall not publish any comments or quotes by State employees or include the State in either news releases or published list of customers, without the written approval of the Procurement Officer.

Contract Clauses and Administration:

Pursuant to the South Carolina Consolidated Procurement Code, unless otherwise specifically provided or authorized by law, if a contract contains any of the following terms, the term shall be void, and the contract is otherwise enforceable as if it did not contain such term or condition:

- a. Terms (a) subjecting the State of South Carolina or its agencies to the jurisdiction of the courts of other states; or (b) requiring the State of South Carolina or its agencies to bring or defend a legal claim in a venue outside this State. (Sections 11-35-2050 and -4230)
- b. Terms limiting the time in which the State of South Carolina or its agencies may bring a legal claim under the contract to a period shorter than that provided in South Carolina law. (Sections 11-35-4230(2) and 15-3-140)
- c. Terms imposing a payment obligation, including a rate of interest for late payments, inconsistent with the terms of Section 11-35-45.
- d. Terms that require the State to defend, indemnify, or hold harmless another person. (Section 11-35-2050).

- e. Terms requiring that the contract be governed or interpreted by other than South Carolina law. (Section 11-35-2050) Provisions of the South Carolina Consolidated Procurement Code have been complied herein. These terms and conditions and the ensuing purchase order shall not be modified except by written agreement of the MUSC Procurement Office and Vendor/Contractor.

XIV. SOUTH CAROLINA PURCHASE ORDERS IN EXCESS OF \$100,000 UTILIZING FEDERAL FUNDS

In anticipation of a Medical University of South Carolina Purchase Order in excess of \$100,000 being issued utilizing federal funds, your signature is necessary to indicate compliance.

Clean Air Act (42 USC 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.) as amended:

Contracts and subgrants of amount in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 84-1 et seq) and the Federal Water Pollution Control Act as amended (33 U.S.C. et seq.). Violations shall be reported to the Federal awarding agency and the regional office of the Environmental Protection Agency (EPA).

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352):

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non- Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

Debarment and Suspension (E.O. #'s 12549 and 12689):

No contract shall be made to parties listed on the General Services Administration's List of Parties excluded from Federal Procurement or Non-procurement programs in accordance with E.O. #'s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contracts with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

XV. I-312 INSTRUCTION AND REQUIREMENTS

Bidder/Offeror Re: SC Withholding Tax Amendments Code Section 12-9-310 (A) (2) (3) (Code Section 12-8-540 and 12-8-550 Revised 2/96)

Effective July 1, 1994, Section 49, Appropriations Bill, Part II Amended, Code Section 12-9-310 (A) (2) (3) to eliminate withholding

from payments to nonresident contractors and rental recipients if the nonresident is registered or registers with the SC Department of Revenue or the SC Secretary of State's Office. The nonresident must provide an affidavit to whomever they are contracting with to that effect. This information will be included in IFB's and RFP's. Note: Effective 2/96, Code 12-8-540 and 12-8-550 as referenced below.

The affidavit will be retained by the entity or persons letting the contract to the nonresident. In the absence of an affidavit being provided, withholding will be required (Contracts -- 2%, Individual/Partner Rental or Royalty Recipients --7% and Corporation Rental or Royalty Recipients -- 5%).

The filing of the affidavit affirming registration by the nonresident eliminates the requirement to withhold by those letting contracts to nonresident as well as the posting of the surety bond by the nonresident. Enclosed is an affidavit and instructions to be used when contracting with nonresidents.

Forms to register for all taxes administered by the SC Department of Revenue may be obtained by calling the License and Registration Sect at (844) 898-8542 or writing the SC Department of Revenue Withholding, PO Box 125, Columbia, SC 29214-0400.

Section 12-8-550 requires persons hiring or contracting with a nonresident taxpayer to withhold 2% of each payment made to the nonresident under the contract that exceeds \$10,000. However, this section does not apply to payments on purchase orders for tangible personal property when those payments are not accompanied by services to be performed in this state.

Section 12-8-540 requires persons making payment to a nonresident taxpayer for rentals or royalties, at a rate of \$1,200 or more a year for the use of/the privilege of using property in South Carolina, to withhold:

- a. 7% of the total of each payment made to a nonresident taxpayer who is not a corporation
- b. 5% of the total of each payment made to a nonresident taxpayer that is a corporation

Purpose of Affidavit:

A person is not required to withhold taxes with regard to any nonresident taxpayer who submits an affidavit certifying that it is registered with either the South Carolina secretary of state or the South Carolina department of revenue.

Term and Duration of Affidavit:

It is recommended that an affidavit be obtained from a nonresident taxpayer for each separate contract or agreement; otherwise, the affidavit submitted by a nonresident taxpayer shall remain in effect for a period of three (3) years, or for a lesser time if the person earlier receives notice of revocation of exemption from withholding from the South Carolina Department of Revenue