



## ONEIDA COUNTY BOARD OF LEGISLATORS

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ONEIDA COUNTY OFFICE BUILDING ♦ 800 PARK AVENUE ♦ UTICA, N.Y. 13501-2977

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Susan L. Crabtree  
Clerk  
(315) 798-5901

David J. Wood  
Majority Leader

Michael J. Hennessy  
Minority Leader

ATTACHED FOR YOUR INFORMATION ARE RESOLUTIONS  
NUMBERED 286 THROUGH 295 THAT WERE ACTED UPON BY THE  
BOARD OF COUNTY LEGISLATORS AT THEIR REGULAR SESSION  
HELD AUGUST 26, 2009.

**ONEIDA COUNTY BOARD OF LEGISLATORS**

**RESOLUTION NO. 286**

**INTRODUCED BY: Mr. Porter**

**2<sup>ND</sup> BY: Mr. Miller**

**RE: APPROVAL TO REFER THE MATTER OF CAROLYN BATTELENE V. ONEIDA COUNTY  
ET AL TO AN ARBITRATOR FOR RESOLUTION**

**WHEREAS,** Pursuant to Section 50-3 of the General Municipal Law a Notice of Claim dated February 5, 2009 was filed in the matter of Carolyn J. Battelene v Oneida County, et al, and

**WHEREAS,** To avoid litigation in this matter, it is the recommendation of Oneida County's Labor Counsel, Gregory J. Amoroso, that such claim be referred to an arbitrator for resolution, now, therefore, be it hereby

**RESOLVED,** That the Oneida County Board of Legislators authorizes and approves acceptance of a proposal to retain the services of an arbitrator, on behalf of the County, in the matter of Carolyn J. Battelene v. Oneida County, et al, to satisfactorily conclude said issue without litigation.

APPROVED: (Ways & Means Committee August 12, 2009)

DATED: August 26, 2009

Adopted by the following v.v. vote:

AYES: 28 NAYS: 0 ABSENT: 1 (Wilcox)

## **ONEIDA COUNTY BOARD OF LEGISLATORS**

### **RESOLUTION NO. 287**

**INTRODUCED BY:** *Messrs. Wood, Porter*

**2<sup>ND</sup> BY:** *Mr. Clancy*

**RE: APPROVAL OF CONTRACT BETWEEN THE PUBLIC WORKS DEPARTMENT AND BONACCI ARCHITECTS OF UTICA, NY FOR PROFESSIONAL SERVICES FOR THE PREPARATION OF PLANS AND CONSTRUCTION ADMINISTRATION FOR THE RENOVATION OF 300 W. DOMINICK STREET, ROME**

**WHEREAS,** Oneida County Executive Anthony J. Picente, Jr., is in receipt of correspondence from the Commissioner of Public Works requesting approval of a Consultant Agreement between Oneida County and Bonacci Architects of Utica, NY, to provide construction administration services related to the renovation of 300 W. Dominick Street, Rome, NY, to accommodate the offices of Social Services, Health and Working Solutions, and

**WHEREAS,** In accordance with Local Law #3 of 2001, said Agreement must be approved by the Oneida County Board of Legislators now, therefore, be it hereby

**RESOLVED,** That the Oneida County Board of Legislators authorizes and approves acceptance of a Consultant Agreement between Oneida County and Bonacci Architects of Utica, NY, to provide construction administration services related to the renovation of 300 W. Dominick Street, Rome, NY, to accommodate the offices of Social Services, Health and Working Solutions, and it is further

**RESOLVED,** That funding for said services in the amount of \$122,295 shall be supported, in full, by Capital Account #H-441.

APPROVED: Public Works Committee (August 19, 2009)  
Ways & Means Committee (August 26, 2009)

DATED: August 26, 2009

Adopted by the following v.v. vote:

AYES: 23 NAYS: 5 (Flisnik, Hennessy, Tanoury, Goodman, Scott) ABSENT: 1 (Wilcox)

## **ONEIDA COUNTY BOARD OF LEGISLATORS**

### **RESOLUTION NO. 288**

**INTRODUCED BY: Messrs. Damsky, Porter  
2ND BY: Mr. D'Onofrio**

### **RE: DESIGNATION OF THE ONEIDA COUNTY CONVENTION AND VISITORS BUREAU AS THE COUNTY'S TOURISM PROMOTION AGENCY**

**WHEREAS,** Section 12 of Local Law #3 of 1993, provides that net revenues resulting from the Oneida County Occupancy Tax are to be allocated by the Board of Legislators for the purpose of promoting tourism within Oneida County by a not-for-profit corporation, and

**WHEREAS,** The Convention and Visitors Bureau wishes to apply for the New York State Matching Funds Program and needs to be designated as the County's official Tourism Promotional Agency to do so, and

**WHEREAS,** County Executive Anthony J. Picente, Jr. is in receipt of a proposed Agreement between the County and the Convention & Visitors Bureau for Oneida County, Inc., authorizing the County to designate the Bureau the official Tourism Promotional Agency so an application for the New York State Matching Funds program can be submitted by September 4, 2009, now, therefore, be it hereby

**RESOLVED,** That Oneida County Executive Anthony J. Picente, Jr. be and hereby is authorized and directed to designate the Oneida County Convention and Visitors Bureau the official Tourism Promotional Agency for Oneida County.

APPROVED: Economic Development & Tourism Committee (August 26, 2009)  
Ways & Means Committee (August 26, 2009)

DATED: August 26, 2009

Adopted by the following roll call vote:

AYES: 19 NAYS: 9 (Hennessy, Tallarino, Flisnik, Kernan, Clancy, Davis, Scott, Tanoury, Furgol)

ABSENT: 1 (Wilcox)

**ROLL CALL**

DATE August 26, 2009

SESSION REGULAR

MEMBERS PRESENT: 28

MEMBERS ABSENT: 1

AYES: 19 NAYS: 9

INTRODUCTORY NO. 301

RESOLUTION NO. 288

**DIST MEMBERS AYES NAYS**

D-1	PUMA	X	
D-2	HENNESSY		X
D-3	STEPHENSON	X	
R-4	LEACH	X	
R-5	WATERMAN	X	
R-6	PORTER	X	
D-7	TALLARINO		X
R-8	FLISNIK		X
R-9	WILCOX	ABS	
R-10	JOSEPH	X	
D-11	KERNAN		X
D-12	CLANCY		X
D-13	GOODMAN	X	
R-14	DAMSKY	X	
R-15	D'ONOFRIO	X	
R-16	MILLER	X	
R-17	MANDRYCK	X	
D-18	DAVIS		X
R-19	ROEFARO	X	
R-20	FIORINI	X	
R-21	WELSH	X	
D-22	SCOTT		X
D-23	CONVERTINO	X	
R-24	PAPARELLA	X	
D-25	TANOURY		X
D-26	CARUSO	X	
D-27	FURGOL		X
R-28	WOOD	X	
D-29	HUDAK	X	

## **ONEIDA COUNTY BOARD OF LEGISLATORS**

### **RESOLUTION NO. 289**

**INTRODUCED BY: Mr. Porter**

**2ND BY: Mr. Wood**

**RE: RESOLUTION EXTENDING THE IMPOSITION OF TAXES ON SALES AND COMPENSATING USE OF TANGIBLE PERSONAL PROPERTY AND CERTAIN SERVICES, ON OCCUPANCY OF HOTEL ROOMS, AND ON AMUSEMENT CHARGES, PURSUANT TO ARTICLE 29 OF THE TAX LAW OF THE STATE OF NEW YORK**

**Be it enacted by the Board of Legislators of the County of Oneida, as follows:**

SECTION 1. The first sentence of section two of Resolution #202 as enacted in nineteen hundred ninety, as amended, is amended to read as follows:

Section 2. Imposition of sales tax.

On and after December 1, 1990, there is hereby imposed and there shall be paid a tax of three percent upon, and for the period commencing September 1, 1992, and ending November 30, 2011, there is hereby imposed and there shall be paid an additional tax of one percent upon:

SECTION 2. Subdivision (f) of section three of Resolution #202 as enacted in nineteen hundred ninety, as amended, is amended to read as follows:

(f) With respect to the additional tax of one percent imposed for the period commencing September 1, 1992, and ending November 30, 2011, the provisions of subdivisions (a), (b), (c), (d) and (e) of this section apply, except that for the purposes of this subdivision, all references in said subdivisions (a), (b), (c) and (d) to an effective date shall be read as referring to September 1, 1992, all references in said subdivision (a) to the date four months prior to the effective date shall be read as referring to May 1, 1992, and the reference in subdivision (b) to the date immediately preceding the effective date shall be read as referring to August 31, 1992. Nothing herein shall be deemed to exempt from tax at the rate in effect prior to September 1, 1992, any transaction which may not be subject to the additional tax imposed effective on that date.

SECTION 3. Section four of Resolution #202 as enacted in nineteen hundred ninety, as amended, is amended to read as follows:

Section 4. Imposition of compensating use tax.

(a) Except to the extent that property or services have already been or will be subject to the sales tax under this enactment, there is hereby imposed on every person a use tax for the use within this taxing jurisdiction on and after September 1, 1992, except as otherwise exempted under this enactment, (A) of any tangible personal property purchased at retail, (B) of any tangible personal property (other than computer software used by the author or other creator) manufactured, processed or assembled by the user, (i) if items of the same kind of tangible personal property are offered for sale by him in the regular course of business or (ii) if items are used as such or incorporated into a structure, building or real property, by a contractor, subcontractor or repairman in erecting structures or buildings, or building on, or otherwise adding to, altering, improving, maintaining, servicing or repairing real property, property or land, as the terms real property, property or land are defined in the real property tax law, if items of the same kind are not offered for sale as such by such contractor, subcontractor or repairman or other user in the regular course of business, (C) of any of the services described in paragraphs (1), (7) and (8) of subdivision

(c) of section two, (D) of any tangible personal property, however acquired, where not acquired for purposes of resale, upon which any of the services described under paragraphs (2), (3) and (7) of subdivision (c) of section two have been performed, (E) of any telephone answering services described in subdivision (b) of section two and (F) of any computer software written or otherwise created by the user if the user offers software of a similar kind for sale as such or as a component part of other property in the regular course of business.

(b) For purposes of clause (A) of subdivision (a) of this section, for the period commencing September 1, 1992, and ending November 30, 2011, the tax shall be at the rate of four percent, and on and after December 1, 2011, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for such property, or for the use of such property, including any charges for shipping or delivery as described in paragraph three of subdivision (b) of section one, but excluding any credit for tangible personal property accepted in part payment and intended for resale.

(c) For purposes of subclause (i) of clause (B) of subdivision (a) of this section, for the period commencing September 1, 1992, and ending November 30, 2011, the tax shall be at the rate of four percent, and on and after December 1, 2011, the tax shall be at the rate of three percent of, the price at which items of the same kind of tangible personal property are offered for sale by the user, and the mere storage, keeping, retention or withdrawal from storage of tangible personal property by the person who manufactured, processed or assembled such property shall not be deemed a taxable use by him.

(d) For purposes of subclause (ii) of clause (B) of subdivision (a) of this section, for the period commencing September 1, 1992, and ending November 30, 2011, the tax shall be at the rate of four percent, and on and after December 1, 2011, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the tangible personal property manufactured, processed or assembled into the tangible personal property the use of which is subject to tax, including any charges for shipping or delivery as described in paragraph three of subdivision (b) of section one.

(e) Notwithstanding the foregoing provisions of this section, for purposes of clause (B) of subdivision (a) of this section, there shall be no tax on any portion of such price which represents the value added by the user to tangible personal property which he fabricates and installs to the specifications of an addition or capital improvement to real property, property or land, as the terms real property, property or land are defined in the real property tax law, over and above the prevailing normal purchase price prior to such fabrication of such tangible personal property which a manufacturer, producer or assembler would charge an unrelated contractor who similarly fabricated and installed such tangible personal property to the specifications of an addition or capital improvement to such real property, property or land.

(f) For purposes of clauses (C), (D) and (E) of subdivision (a) of this section, for the period commencing September 1, 1992, and ending November 30, 2011, the tax shall be at the rate of four percent, and on and after December 1, 2011, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the service, including the consideration for any tangible personal property transferred in conjunction with the performance of the service and also including any charges for shipping and delivery of the property so transferred and of the tangible personal property upon which the service was performed as such charges are described in paragraph three of subdivision (b) of section one.

(g) For purposes of clause (F) of subdivision (a) of this section, for the period commencing September 1, 1992, and ending November 30, 2011, the tax shall be at the rate of four percent, and on and after December 1, 2011, the tax shall be at the rate of three percent, of the consideration given or contracted to be given for the tangible personal property which constitutes the blank medium, such as disks or tapes, used in conjunction with the software, or for the use of such property, and the mere storage, keeping, retention or withdrawal from storage of computer software described in such clause (F) by its author or other creator shall not be deemed a taxable use by such person.

SECTION 4. Section 4-A of Resolution #202 as enacted in nineteen hundred ninety, as amended, is amended to read as follows:

Section 4-A. Imposition of additional rate of sales and compensating use taxes. Pursuant to the authority of section 1210 of the Tax Law, in addition to the sales and compensating use taxes imposed by sections 2 and 4 of this resolution, there is hereby imposed and there shall be paid an additional three quarters of one percent rate of such sales and compensating use taxes, for the period December 1, 2007, and ending November 30, 2011. Such additional taxes shall be identical to the taxes imposed by such sections 2 and 4 and shall be administered and collected in the same manner as such taxes. All of the provisions of this resolution relating or applicable to the administration and collection of the taxes imposed by such sections 2 and 4 shall apply to the additional taxes imposed by this section, including the applicable transitional provisions, limitations, special provisions, exemptions, exclusions, refunds and credits as are set forth in this resolution, with the same force and effect as if those provisions had been incorporated in full into this section and had expressly referred to the additional taxes imposed by this section.

SECTION 5. Subdivision (k) of section 6 of Resolution #202 as enacted in nineteen hundred ninety, as amended, is amended to read as follows:

(k) Exemption of certain energy sources and related services from additional one percent rate of tax. Notwithstanding any inconsistent provision of this resolution, receipts from the retail sale or use of fuel oil and coal used for residential purposes; the receipts from the retail sale or use of wood used for residential heating purposes; and the receipts from every sale, other than for residential heating purposes; and the receipts from every sale, other than for resale, or use of propane (except when sold in containers of less than one hundred pounds), natural gas, electricity, steam and gas, electric and steam services used for residential purposes shall be exempt from the additional one percent rate of sales and compensating use taxes imposed by sections 2 and 4, respectively, of this resolution for the period commencing September 1, 1992, and ending November 30, 2011.

SECTION 6. Paragraphs (B) and (E) of subdivision (1) of section 11 of Resolution #202 as enacted in nineteen hundred ninety, as amended, are amended to read as follows:-

(B) With respect to the additional tax at the rate of one percent imposed for the period beginning September 1, 1992, and ending November 30, 2011, in respect to the use of property used by the purchaser in this County prior to September 1, 1992.

(E) With respect to the additional tax at the rate of three quarters of one percent imposed for the period beginning December 1, 2007, and ending November 30, 2011, in respect to the use of property used by the purchaser in this County prior to December 1, 2007.

SECTION 7. Subdivisions (e) and (g) of section fourteen of Resolution #202 as enacted in nineteen hundred ninety, as amended, are amended, to read as follows:

(e) Notwithstanding any contrary provision of law, with respect to the additional one percent rate of sales and compensating use taxes imposed by sections two and four of this resolution for the period September 1, 1992, through November 30, 2011:

(1) where a city in Oneida County imposes tax pursuant to the authority of subdivision (a) of section twelve hundred ten of the Tax Law of the State of New York, the County shall allocate, distribute and pay in cash quarterly to such city one-half of the net collections attributable to such additional one percent rate of the County's taxes collected in such city's boundaries;

(2) where a city in Oneida County does not impose tax pursuant to the authority of such subdivision (a) of such section twelve hundred ten, the County shall allocate, distribute and pay in cash quarterly to such city not so imposing tax a portion of the net collections attributable to one-half of the County's additional one percent rate of tax calculated on the basis of the ratio which such city's population bears to the County's total population, such populations as determined in accordance with the latest decennial federal census or special population census taken



pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, which special census must include the entire area of the County; and

(3) the County hereby dedicates the first one million five hundred thousand dollars of net collections attributable to such additional one percent rate of tax received by the County after the County receives in the aggregate eighteen million five hundred thousand dollars of net collections from such additional one percent rate of tax imposed for any of the periods: September 1, 1994, through August 31, 1995; September 1, 1995 through August 31, 1996; September 1, 1996 through August 31, 1997; September 1, 1997 through August 31, 1998, September 1, 1998 through August 31, 1999, and September 1, 1999 through August 31, 2000; and September 1, 2000 through August 31, 2001; and September 1, 2001 through August 31, 2002; and September 1, 2002 through August 31, 2003, and September 1, 2003 through August 31, 2004, and September 1, 2004 through August 31, 2005; and September 1, 2005 through August 31, 2006, and September 1, 2006 through August 31, 2007; and September 1, 2007, through August 31, 2008, and September 1, 2008, through August 31, 2009; and September 1, 2009, through August 31, 2010; and September 1, 2010, through August 31, 2011 to an allocation on a per capita basis, utilizing figures from the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law, completed and published prior to the end of the year for which such allocation is made, which special census must include the entire area of the County, to be allocated and distributed among the towns of the County by an appropriation of the County's Board of Legislators; provided, further, that nothing herein shall require the Board of Legislators to make any such appropriation until it has been notified by any town by appropriate resolution and, in any case where there is a village wholly or partially located within a town, a resolution of every such village, embodying the agreement of such town and village or villages upon the amount of such appropriation to be distributed to such village or villages out of the allocation to the town or towns in which it is located.

(g) Net collections from the additional taxes imposed at the rate of three-quarters of one percent for the period December 1, 2007, through November 30, 2011, shall be set aside for county purposes and shall be available for any county purpose, and shall not be subject to any revenue distribution agreement entered into pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of the Tax Law.

SECTION 8. This enactment shall take effect December 1, 2009

APPROVED: Ways & Means Committee (August 26, 2009)

DATED: August 26, 2009

Adopted by the following roll call vote:

AYES: 23 NAYS: 4 (Tallarino, Kernan, Scott, Tanoury) ABSENT: 2 (Damsky, Wilcox)

**ROLL CALL**

**DATE** August 26, 2009

**SESSION** REGULAR

**MEMBERS PRESENT:** 27

**MEMBERS ABSENT:** 2

**AYES:** 23 **NAYS:** 4

**INTRODUCTORY NO.** 302

**RESOLUTION NO.** 289

**DIST MEMBERS AYES NAYS**

D-1	PUMA	X	
D-2	HENNESSY	X	
D-3	STEPHENSON	X	
R-4	LEACH	X	
R-5	WATERMAN	X	
R-6	PORTER	X	
D-7	TALLARINO		X
R-8	FLISNIK	X	
R-9	WILCOX	ABS	
R-10	JOSEPH	X	
D-11	KERNAN		X
D-12	CLANCY	X	
D-13	GOODMAN	X	
R-14	DAMSKY	ABS	
R-15	D'ONOFRIO	X	
R-16	MILLER	X	
R-17	MANDRYCK	X	
D-18	DAVIS	X	
R-19	ROEFARO	X	
R-20	FIORINI	X	
R-21	WELSH	X	
D-22	SCOTT		X
D-23	CONVERTINO	X	
R-24	PAPARELLA	X	
D-25	TANOURY		X
D-26	CARUSO	X	
D-27	FURGOL	X	
R-28	WOOD	X	
D-29	HUDAK	X	

**ONEIDA COUNTY BOARD OF LEGISLATORS**

**RESOLUTION NO. 290**

**INTRODUCED BY: Messrs. Paparella, Porter  
2<sup>ND</sup> BY: Mr. Furgol**

**RE: SUPPLEMENTAL APPROPRIATION OF \$2,260,000 TO A6109.495, FAMILY ASSISTANCE  
(TANF)**

**WHEREAS,** In accordance with Section 609 of the Administrative Code, the County Executive has requested a supplemental appropriation be made in the amount of \$2,260,000 to A6109.495, Family Assistance (TANF), and

**WHEREAS,** Said supplemental appropriation will be supported by unanticipated revenue in the following account in the following amount:

A3609, State Aid – Family Assistance	. . . . .	\$ 452,000
A4609, Federal Aid – Family Assistance	. . . . .	\$1,808,000
now, therefore, be it hereby		

**RESOLVED,** That a supplemental appropriation, from 2009 funds, as hereinafter set forth, be and the same is hereby approved:

TO:		
A6109.495, Family Assistance (TANF)	. . . . .	\$2,260,000

APPROVED: Human Resources Committee (August 19, 2009 )  
Ways & Means Committee ( )

DATED: August 26, 2009

Adopted by the following v.v. vote:  
AYES: 27 NAYS: 0 ABSENT: 2 (Wilcox, Damsky)

**ONEIDA COUNTY BOARD OF LEGISLATORS**

**RESOLUTION NO. 291**

**INTRODUCED BY: Messrs. Porter, Welsh**

**2ND BY: Mr. Goodman**

**RE: APPROVAL OF RESOURCE ALLOCATION PLAN FOR FY2009 FOR THE YOUTH BUREAU**

**WHEREAS,** Oneida County Executive Anthony J. Picente Jr. is in receipt of correspondence from the Youth Bureau Director requesting approval of a Resource Allocation Plan authorizing the distribution of funds in the amount of \$516,082 from the New York State Office of Children & Family Services to be distributed among various agencies and municipalities who have contractual agreements with the Oneida County Youth Bureau for FY2009, and

**WHEREAS,** Said Allocation Plan must be approved by the Oneida County Board of Legislators, now, therefore, be it hereby

**RESOLVED,** That the Oneida County Board of Legislators hereby authorizes and approves a Resource Allocation Plan for the allotment of funds in the amount of \$516,082 from the New York State Office of Children & Family Services to be distributed among various agencies and municipalities having contractual agreements with the Oneida County Youth Bureau to provide youth services, delinquency prevention, recreation and runaway/homeless youth programs during FY2009.

APPROVED: Ways & Means Committee (August 26, 2009)

DATED: August 26, 2009

Adopted by the following v.v.vote:

AYES: 27 NAYS: 0 ABSENT: 2 (Damsky, Wilcox)

**ONEIDA COUNTY BOARD OF LEGISLATORS**

**RESOLUTION NO. 292**

**INTRODUCED BY: Messrs. Porter, Paparella**

**2ND BY: Mr. Roefaro**

**RE: APPROVAL OF GRANT AGREEMENT FROM THE OFFICE OF CHILDREN AND  
FAMILY SERVICES TO SUPPORT THE CHILD ADVOCACY CENTER**

**WHEREAS,** This Board is in receipt of correspondence from County Executive Anthony J. Picente, Jr. requesting approval of an Agreement between Oneida County and the Office of Children and Family Services for acceptance of a Grant in the amount of \$182,830 designated for the Oneida County Child Advocacy Center, and

**WHEREAS,** As proposed, said Grant Agreement must be approved by the Oneida County Board of Legislators, now, therefore, be it hereby

**RESOLVED,** That Oneida County Executive Anthony J. Picente, Jr. is hereby authorized and directed to execute any and all documents related to an Agreement by and between the County of Oneida and the Office of Children and Family Services for a Grant in the amount of \$182,830 to be used by the Oneida County Child Advocacy Center, and it is further

**RESOLVED,** That said Grant, which does not require matching County funds, shall commence October 1, 2009 and end September 30, 2010.

APPROVED: Ways & Means Committee (August 26, 2009)

DATED: August 26, 2009

Adopted by the following v.v. vote:

AYES: 27 NAYS: 0 ABSENT: 2 (Damsky, Wilcox)

## **ONEIDA COUNTY BOARD OF LEGISLATORS**

### **RESOLUTION NO. 293**

**INTRODUCED BY: Messrs. Waterman, Porter, Welsh, Roefaro, Hennessey**

**2ND BY: Mr. Wood**

**RE: APPROVAL OF UPDATED ONEIDA COUNTY PROCUREMENT POLICY**

**WHEREAS,** In compliance with NYS General Municipal Law and/or any other applicable federal or state laws, rules, or regulations governing procurement, Oneida County has an established Procurement Policy for the purpose of providing fair and equitable treatment of all persons involved in public purchasing with the County of Oneida to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity, and

**WHEREAS,** Said Policy applies to contracts for the procurement of all supplies, services, materials and equipment and for professional service contracts entered into by the County of Oneida which shall apply to every expenditure of public funds by the County for public purchasing regardless of the source of funds, and

**WHEREAS,** In correspondence dated January 22, 2009, Board Chairman, Gerald J. Fiorini, has advised that proposed modifications have been recommended for, and incorporated into, Oneida County's procedural policies regarding its system of procurement and, prior to implementation thereof, such proposed changes must be approved by this Board, now, therefore, be it hereby

**RESOLVED,** That the Oneida County Board of Legislators authorizes and approves revisions incorporated into Oneida County's Procurement Policy in accordance with terms and conditions more fully set forth in said document on file with the Clerk of this Board and further authorizes the adoption of same in its entirety.

APPROVED: Internal Affairs Committee (February 21, 2009)  
Ways & Means Committee (February 25, 2009)

DATED: August 26, 2009

Adopted by the following v.v. vote as amended and attached:

AYES: 27 NAYS: 0 ABSENT: 2 (Damsky, Wilcox)

# ONEIDA COUNTY BOARD OF LEGISLATORS

## AMENDMENT TO F.N. 2009-044

**INTRODUCED BY:** Mr. Davis

**2ND BY:** Mr. Wood

**RE: THAT THE UPDATED ONEIDA COUNTY PROCUREMENT POLICY BE AMENDED AS FOLLOWS:**

WHEREAS, Section's 3-101, Paragraph 3, and 3-106, Paragraph 3 and 4 of the proposed Oneida County Procurement Policy currently call for the County to advertise all bids and RFP's in the Observer Dispatch, the Rome Daily Sentinel and the Oneida Daily Dispatch, and

WHEREAS, the County currently advertises in the two official newspapers of the Board of Legislators, and

WHEREAS, increasing the number of required newspapers to advertise in will increase the cost for Oneida County, Now, Therefore Be It

RESOLVED, that the language shall be amended to the following;

**3-101 Competitive Sealed Bidding.**

- 3) *Public Notice.* Adequate public notice of the invitation for bids shall be given, not less than fifteen (15) calendar days prior to the date set forth therein for the opening of bids, unless it is determined by the Director of Purchasing, in writing that a public notice of less than fifteen (15) days is adequate. In no instance shall the public notice be less than five (5) business days. Such notice shall be in the public notice section of the **[the official newspapers as designated by the Board of Legislators]** ~~Observer Dispatch, the Rome Daily Sentinel and the Oneida Daily Dispatch~~ for a period of three **[two]** ~~(3)~~ **[2]** consecutive business days. The public notice shall state the place, date, and time of the bid opening.

**3-106 Property Leases**

Proposals shall be solicited via a formal Request for Proposals (RFP) document. Each RFP shall be published for a period of (5) business days in the public notice section of the **[official papers as designated by the Board of Legislators]** ~~Observer Dispatch, the Rome Daily Sentinel and the Oneida Daily Dispatch~~. The RFP shall also be posted on the Oneida County website from the time of the publication of the RFP notice through the deadline for response. Additionally, the Purchasing Director shall provide each County legislator a copy of the RFP via the legislator's electronic mailbox.

In the event that at least three (3) proposals are not obtained, the Purchasing Director shall re-advertise the RFP for period of (2) business days in the public notice section of the **[official papers as designated by the Board of Legislators]** ~~Observer Dispatch, the Rome Daily Sentinel and the Oneida Daily Dispatch~~. A second failure to obtain at least three (3) proposals in response to the RFP shall allow the Purchasing Director or the requesting Department head to make a recommendation based on the proposals received.

DATED: August 26, 2009

Adopted by the following v.v. vote:

AYES: 27 NAYS: 0 ABSENT: 2 (Damsky, Wilcox)

**COUNTY OF ONEIDA  
PROCUREMENT POLICY**

AUGUST 2009

**ARTICLE 1 – GENERAL PROVISIONS**

*Part A – Purpose and Applications*

**1-101 Purpose**

The purpose of this Policy is to provide for the fair and equitable treatment of all persons involved in public purchasing with the County of Oneida, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

**1-102 Application**

This Policy applies to contracts for the procurement of all supplies, services, materials and equipment; as well as professional service contracts entered into by the County of Oneida after the effective date of this Policy. It shall apply to every expenditure of public funds by a public agency for public purchasing irrespective of the source of the funds. When the procurement involves the expenditure of federal and/or state grant monies or contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal and/or state laws and regulations. Nothing in this Policy shall prevent any public agency from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

*Part B –Definitions*

**1-201 Definitions**

- 1) *Architect-Engineer and Land Surveying Services.* Those professional services within the scope of the practice of architecture, professional engineering, or land surveying, as defined by the laws of the State of New York.
- 2) *Brand Name or Equal Specification.* A specification limited to one or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet County requirements, and which provides for the submission of equivalent products.
- 3) *Brand Name Specification.* A specification limited to one or more items by manufacturers' names or catalogue numbers.
- 4) *Business.* Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
- 5) *Change Order.* A written order signed and issued by the Director of Purchasing or his or her designee directing the contractor to make changes in relation to a specific purchase order or county contract.



**COUNTY OF ONEIDA  
PROCUREMENT POLICY**

August 2009

Page 2

- 6) *Contract Modification (bilateral change).* Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.
- 7) *Confidential Information.* Any information which is available to an employee only because of the employee's status as an employee of the County and is not a matter of public knowledge or available to the public on request.
- 8) *Construction.* The process of building, altering, repairing, improving, or demolishing any public structure, building, road, highway, bridge or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.
- 9) *Contract.* All types of County agreements, regardless of what they may be called, for the procurement of supplies, services or construction.
- 10) *Contractor.* Any person, firm or corporation having a contract with the county or a using agency thereof.
- 11) *Cost Analysis.* The evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.
- 12) *Cost Data.* Factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.
- 13) *Cost-Reimbursement Contract.* A contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of this Policy, and a fee for profit, if any.
- 14) *Direct or Indirect Participation.* Involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
- 15) *Employee.* An individual drawing a salary or wages from the County, whether elected or not; any non-compensated individual performing personal services for the County or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the County.
- 16) *Financial Interest.*
  - a) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive more than \$100.00 per year, or its equivalent;
  - b) Ownership of 25% of any property or business; or
  - c) Holding a position in a business such as officer, director, trustee, partner, employee, or the like or holding any position of management.

**COUNTY OF ONEIDA  
PROCUREMENT POLICY**

August 2009

Page 3

- 17) *Gratuity.* A payment, loan, subscription, advance, deposit of money, service, or anything else with a nominal value of \$25.00 or more.
- 18) *Immediate Family.* A spouse, children or step-children, parents, or step-parents, brothers or step-brothers, and sisters or step-sisters.
- 19) *Invitation for Bids.* All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.
- 20) *Person.* Any business, individual, union, committee, club, other organization, or group of individuals.
- 21) *Price Analysis.* The evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at prices to be paid and costs to be reimbursed.
- 22) *Pricing Data.* Factual information concerning prices for items substantially similar to those being procured. Pricing in this definition refers to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.
- 23) *Procurement.* The buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- 24) *Public Agency.* A public entity subject to or created by the County or created under State law.
- 25) *Request for Proposals.* All documents, whether attached or incorporated by reference, utilized for soliciting proposals.
- 26) *Responsible Bidder of Offeror.* A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.
- 27) *Responsive Bidder.* A person who has submitted a bid that conforms in all material respects to the requirements set forth in the invitation for bids.
- 28) *Services.* The furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.
- 29) *Specification.* Any description of the physical or functional characteristics or of the nature of a supply, service, equipment or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, equipment or construction item for delivery.

**COUNTY OF ONEIDA  
PROCUREMENT POLICY**

August 2009

Page 4

- 30) *Supplies.* All property, including but not limited to equipment, materials, and printing, excluding land or a permanent interest in land.
- 31) *Surplus.* Any unused, obsolete or excess materials, equipment or supplies no longer needed for public use as determined by the Director of Purchasing or his or her designee after consultation with and upon the recommendation of the relevant department head.
- 32) *Using Agency.* Any department, commission, board, or public agency requiring supplies, services, equipment, or construction procured pursuant to this Policy.

**Part C – Public Access to Procurement Information**

**1-301 Public Access to Procurement Information**

Procurement information shall be a public record to the extent provided in the New York State Freedom of Information Law (Public Officers Law,–Article 6), and shall be available to the public as provided in such statute.

**ARTICLE 2 – OFFICE OF THE DIRECTOR OF PURCHASING**

**2-101 Authority and Duties**

- 1) *Principal Public Purchasing Official.* Except as otherwise provided herein, the Director of Purchasing shall serve as the principal public purchasing official for the County, and shall be responsible for the procurement of supplies, services, equipment, and public works projects in accordance with this Policy, as well as the management and disposal of supplies, services, and equipment.
- 2) *Duties.* In accordance with this Policy the Director of Purchasing or his or her designee shall:
  - a) Procure or supervise the procurement of all supplies, services, materials and equipment, as well as professional services \$50,000.00 as needed by the County;
  - b) Sell, trade, or otherwise dispose of surplus supplies belonging to the County; and shall, with the prior approval of the County Executive, provide electronic notification to the members of the Board of Legislators of any sale, trade or disposition of surplus property with an original value in excess of \$10,000.
  - c) Establish and maintain programs for specification development, contract administration and inspection and acceptance, in cooperation with the public agencies using the supplies, services, and construction.
- 3) *Operational Procedures.* Consistent with this Policy the Director of Purchasing may adopt operational procedures relating to the execution of his or her duties.
- 4) *In accordance with General Municipal Law §104-b (2)(f) the Procurement Policies of Oneida County will include the names and titles of the individuals responsible for purchasing at the end of this document. This list will be updated biennially as required.*

2-102 **Delegations to Other County Officials**

With the approval of the County Executive, the Director of Purchasing may delegate authority to purchase certain supplies, services, equipment, or construction items to other County officials, if such delegation is deemed necessary for the effective procurement of those items.

**ARTICLE 3 – SOURCE SELECTION AND CONTRACT FORMATION**

*PART A – Methods of Source Selection*

3-101 **Competitive Sealed Bidding.**

- 1) *Conditions for Use.* All contracts of the County of Oneida shall be awarded by competitive sealed bidding, and in accordance with Section 103 of the General Municipal Law and any applicable federal or state laws, rules or regulations governing same, except as otherwise provided in Sections 3-102 (Competitive Sealed Proposals), 3-103 (Contracting for Designated Professional Services), 3-104 (Small Purchases), 3-105 (Sole Source Procurement), 3-106 (Emergency Procurements), and 5-401 (Public Announcement and Selection Process) of this Policy. No later than ten (10) days prior to the invitation for bids being issued, the specifications for equipment with anticipated costs in excess of \$50,000 shall be provided to the appropriate Legislative Committee for its review and comment.
- 2) *Invitation for Bids.* An invitation for bids shall be issued and shall include specifications, and all contractual terms and conditions applicable to the procurement.
- 3) *Public Notice.* Adequate public notice of the invitation for bids shall be given, not less than fifteen (15) calendar days prior to the date set forth therein for the opening of bids, unless it is determined by the Director of Purchasing, in writing that a public notice of less than fifteen (15) days is adequate. In no instance shall the public notice be less than five (5) business days. Such notice shall be in the public notice section of the official newspapers as designated by the Board of Legislators for a period of two (2) consecutive business days. The public notice shall state the place, date, and time of the bid opening.
- 4) *Bid Opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the Director of Purchasing deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with Section 1-301 (Public Access to Procurement Information).
- 5) *Bid Acceptance and Bid Evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Policy. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth

the evaluation criteria to be used. No criteria may be used in bid evaluations that are not set forth in the invitation for bids.

- 6) *Correction or Withdrawal of Bids; Cancellation of Awards.* Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, correction of bids shall not be permitted. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the county or fair competition shall be permitted. In lieu of bid correction, a bidder alleging a material mistake of fact may be permitted to withdraw his bid if
  - a) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
  - b) The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made. All decisions to permit correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by written determination made by the Director of Purchasing.
- 7) *Award.* The contract shall be awarded with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.
- 8) *Multi-Step Sealed Bidding.* When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting submission of un-priced offers to be followed by an invitation for bids based on the product information received from the first solicitation.

3-102

**Contracting for Designated Professional Services**

- 1) *Authority.* For the purpose of procuring the services of [accountants] [physicians] [lawyers], engineers, land surveyors, architects and other professional services as defined by the laws of the State of New York, any using agency requiring such services may procure them on its own behalf, in accordance with the selection procedures specified in this section.
- 2) *Selection Procedure.*
  - a) *Conditions for Use.* Except as provided under Section 3-105 (Sole Source Procurement) or Section 3-106 (Emergency Procurements), the professional services designated in subsection (1) of this Section shall be procured in accordance with this Subsection.
  - b) *Request for Proposals.* Proposals shall be solicited via a formal Request for Proposals (RFP) document. The using agency shall make every reasonable effort to obtain at least (3) proposals.
  - c) *Statement of Qualifications.* Persons solicited for providing the designated types of professional services may submit statements of qualifications or expressions of interest in providing such professional services. An agency using such professional services may specify a uniform format for statements of

qualifications and may request submittal of fee estimates with statements of qualifications. Persons may amend these statements at any time prior to the request for proposals due date by filing a new statement.

- d) *Discussions.* The head of a using agency procuring the required professional services or a designee of such officer may conduct discussions with any offeror who has submitted a Statement of Qualifications to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from Statements of Qualification's submitted by other offerors.
- e) *Award.* Award shall be made to the offeror determined in writing by the head of the using agency procuring the required professional services or a designee of such officer, to be best qualified based on the agency's evaluation of the Statement of Qualifications, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best-qualified offeror, the negotiations will be formally terminated with the selected offeror. If Statements of Qualifications were submitted by one or more other offerors determined to be qualified, negotiations may be conducted with such other offeror or offerors, in the order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable. Awards in excess of \$50,000 must be approved by the Oneida County Board of Legislators.

3-103

**Purchases not subject to Competitive Bidding**

- Purchases of \$10,000 or less for commodities, equipment, materials, supplies and services.
- Purchases of \$20,000 or less for public works projects.

Section 104-b of New York State General Municipal Law requires that procedures for purchasing goods and services that fall below the monetary bid limits be established and approved by the governing board. The following shall constitute Oneida County Policy:

- 1) *Cumulative Purchases.*
  - a) Purchases shall be evaluated with attention given to cumulative dollar amounts expected in a given fiscal year. The Director of Purchasing shall canvas using agencies to determine yearly value of a commodity or service. Past history can be taken into consideration when evaluating yearly costs associated with the purchase of a commodity or service. If the bid limit is suspected to be exceeded, competitive bidding shall be used. This decision shall rest with the Director of Purchasing.
  - b) If there are several comparable separate public works projects for the same or various locations, in a foreseeable time frame, whose expected cumulative total is \$5,000 or more, written quotes must be obtained from a minimum of three suppliers.

- 2) *Methods of Procurement Not Covered By Competitive Bidding.*
  - a) Purchases for **commodities, equipment, supplies, materials and services** under \$1,000 shall be awarded at the discretion of the Director of Purchasing; Purchases from \$1,000 to \$2,999.99 will require a minimum of three telephone, facsimile or e-mail quotes; Purchases from \$3,000 to \$10,000 will require a minimum of three written quotes. All purchases of more than \$10,000 will be Competitively Bid,
  - b) Purchases that are defined as **Public Works Projects** under \$4,999.99 will be awarded at the discretion of the Director of Purchasing; Purchases from \$5,000 to \$20,000 will require a minimum of three written quotes. All purchases of more than \$20,000 will be Competitively Bid.
  - c) Purchases and contracts defined as **Professional Services** up to \$50,000 will be awarded by the Board of Acquisition and Contract, upon the advice of the Director of Purchasing and the Commissioner or Director of the using Agency. Purchases and contracts of more than \$50,001 will require the issuing of a formal Request for Proposal; and the approval of the County Legislature.
- 3) *Award.* All awards from telephone, facsimile, e-mail or written quotes shall be made to the supplier offering the best value to the County. In determining the best value for the County, the purchase price and whether the goods or services meet specifications are the most important considerations. However, the Director of Purchasing may consider other relevant factors, including:
  - a) installation costs;
  - b) life cycle costs;
  - c) the quality and reliability of the goods and services;
  - d) the delivery terms;
  - e) indicators of probable supplier performance under the contract such as past supplier performance, proximity to source of need, the supplier's financial resources and ability to perform, the supplier's experience or demonstrated capability and responsibility, and the supplier's ability to provide reliable maintenance agreements and support;
  - f) the cost of any employee training associated with a purchase;
  - g) the effect of a purchase on agency productivity and other factors relevant to determining the best value for the County in the context of a particular purchase;
  - h) the completion of a certified "Statement of Good Standing," indicating that the supplier does not owe any outstanding taxes or municipal/governmental fees (e.g. school, property, water, sewer, utilities).
  - i) Oneida County vendors whose proposal to provide goods or services is within five per cent (5%) of the lowest proposal submitted may be entitled to preferential consideration in the awarding of a contract. "Oneida County vendor" shall mean any vendor doing business in Oneida County and employing Oneida County residents.

- 4) *Documentation.* All quotes (written or telephone) shall be documented on existing quote forms and shall be filed in the respective year's quote files or attached to the Purchasing Divisions copy of the Purchase Order. All purchases resulting from a written or telephone quote shall have the quote number referenced on the electronic purchase order or voucher, thus creating an audit trail.

3-104

**Preferred Sources**

a) All bidders should note that certain legally established preferred source suppliers, such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled have expressed an interest in supplying products/services covered by this solicitation. Therefore, one or more of these suppliers may be designated as a "Preferred Source" and as a result, we may issue no award for the products/services affected.

(In accordance with Section 162 of the State Finance Law requires that agencies afford first priority to the products/services of preferred source suppliers such as Correctional Industries (Corcraft), Industries for the Blind of NYS, and NYS Industries for the Disabled, when such products/services meet the form, function and utility of the agency.

b) *Other County Agencies Bids* as allowed Under NYS General Municipal Law section (103), subdivision (3), section (1).

3-105

**Sole Source Procurement**

A contract may be awarded without competition when the Director of Purchasing, after conferring with the County Attorney, determines in writing and after conducting a good faith review of available resources and the specifications for the particular good or service being required, that there is only one source for the required commodity, supply, and service or construction item. The Director of Purchasing shall conduct negotiations, as appropriate, as to price, delivery and terms. A record of sole source procurements shall be maintained as a public record and shall list each suppliers name, the amount and type of each contract, a listing of the item(s) procured under each contract, and the identification number of each contract file. The Director of Purchasing shall provide the County Executive and the members of the Board of Legislators with a copy of such record upon determination that a vendor or contractor is a sole source provider

In determining whether procurement qualifies as a sole source, the Purchasing Division and the agency requesting the procurement shall show at a minimum:

- (a) the unique benefits to the County of the item as compared to other products available in the marketplace;
- (b) that no other product provides substantially equivalent or similar benefits;
- (c) and that, considering the benefits received, the cost of the item is reasonable in comparison to other products in the marketplace.
- (d) That there is no possibility of competition, as from competing dealers or distributors.



**3-106 Property Leases**

The Purchasing Director shall survey available property and obtain at least three (3) written proposals for lease based on the following factors: proximity to origin of need, square footage, availability date for occupancy, building condition and review of suitability for occupancy including access for the handicapped and presence of any hazardous materials on site, landlord provided amenities, e.g., security, janitorial, parking and public access to the building. Final recommendations as to choice of properties shall be made by the Commissioner of Public Works. This procedure shall only apply to the County as Lessee.

Prospective property lease solicitations shall be provided to the Executive Director of the Utica-Rome Board of Realtors and the relevant Chambers of Commerce via e-mail from the Purchasing Director or the requesting Department head.

Proposals shall be solicited via a formal Request for Proposals (RFP) document. Each RFP shall be published for a period of (5) business days in the public notice section of the official papers as designated by the Board of Legislators. The RFP shall also be posted on the Oneida County website from the time of the publication of the RFP notice through the deadline for response. Additionally, the Purchasing Director shall provide each County legislator a copy of the RFP via the legislator's electronic mailbox.

In the event that at least three (3) proposals are not obtained, the Purchasing Director shall re-advertise the RFP for period of (2) business days in the public notice section of the official papers as designated by the Board of Legislators. A second failure to obtain at least three (3) proposals in response to the RFP shall allow the Purchasing Director or the requesting Department head to make a recommendation based on the proposals received.

Each RFP must contain language offering the unsuccessful proponent(s) an opportunity to be advised of the reasons why an award was not made to them based on their response to the RFP. Upon request, either the Purchasing Director or the relevant County department shall provide such information in writing to the unsuccessful proponent within a reasonable time after the award of the contract.

The County shall only enter into leased property with owners who can provide verification to the County that all of the applicable property taxes and municipal, governmental or district fees levied against such property have been paid to date and that the subject property is not in violation of any New York State or local building and fire code regulations or ordinances.

**3-107 Emergency Procurements**

Notwithstanding any other provisions of this Policy, the Director of Purchasing, with the approval of the County Executive, the Commissioner of Public Works, and the County

Attorney may make or authorize others to make emergency procurements of commodities, supplies, services, or construction items when there exists a threat to public health, welfare, or safety; or county property; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular supplier shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the supplier's name, the amount and type of contract, a listing of the item(s) procured under the contract, and the identification number of the contract file.

The Board of Legislators shall be provided with electronic notification of each instance in which an emergency procurement has been required and has been approved by the County Executive.

**3-108 Cancellation of Invitations for Bids or Request for Proposals**

An invitation for bids, a request for proposal, or other solicitation may be cancelled, or any or all proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interests of the County. The reasons therefor shall be made part of the contract file. Each solicitation issued by the County shall state that the solicitation may be cancelled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the County. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

*Part B – Qualifications and Duties*

**3-201 Responsibility of Bidders and Offerors**

- 1) *Determination of Non-responsibility.* If a bidder or offeror who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility, setting forth the basis of the finding, shall be prepared by the Director of Purchasing or his or her designee. The unreasonable failure of a bidder or offeror to supply promptly information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder or offeror. The final determination shall be made part of the contract file and be made a public record.

**3-301 Contract Clauses and Their Administration**

- 1) *Contract Clauses.* All County of Oneida contracts for supplies, services, materials and equipment as well as public works projects shall include provisions necessary to define

the responsibilities and rights of the parties to the contract. The Director of Purchasing, after consultation with the County Attorney, may issue clauses appropriate for supply, service, or public works contracts, addressing among others the following subjects:

- a) the unilateral right of the County of Oneida to order in writing the changes in the work within the scope of the contract;
- b) the unilateral right of the County of Oneida to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;
- c) variations occurring between estimated quantities of work in contract and actual quantities;
- d) defective pricing;
- e) liquidated damages;
- f) specified excuses for delay or nonperformance;
- g) termination of the contract for default;
- h) termination of the contract in whole or in part for the convenience of the County of Oneida;
- i) suspensions of work on a construction project or by the County of Oneida; and
- j) site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract:
  - (i) when the contract is negotiated;
  - (ii) when the contractor provides the site or design; or
  - (iii) when the parties have otherwise agreed with respect to the risk of differing site conditions.

2) *Price Adjustments*

- a) Adjustments in price resulting from the use of contract clauses required by Subsection (1) of this Section shall be computed in one or more of the following ways:
  - (i) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
  - (ii) by unit prices specified in the contract or subsequently agreed upon;
  - (iii) by the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
  - (iv) in such other manner as the contracting parties may mutually agree;
- b) A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of Section 3-202 (Cost or Pricing Data).

3) *Standard Clauses and Their Modification.* The Director of Purchasing or his or her designee, after consultation with the County of Oneida, County Attorney, may establish standard contract clauses for use in County of Oneida contracts. If the Director of Purchasing establishes any standard clauses addressing the subjects set forth in Subsection (1) of this Section, such clauses may be varied provided that any variations are supported by a written determination that states the circumstances justifying such variations, and provided that notice of any such material variation be stated in the invitation for bids or requests for proposals.

**3-302 Contract Administration.**

A contract administration system designed to insure that a contractor is performing in accordance with the solicitation under which the contract was awarded, and the terms and conditions of the contract, shall be maintained. This shall include a documented review and approval process which insures that all contracts have been examined by the relevant departments including, but not limited to the County Attorney, Budget, the Board of Legislators (when appropriate) and the County Executive.

**3-303 Approval of Accounting System**

Except with respect to firm fixed-price contracts, no contract shall be awarded unless it has been determined in writing by the Director of Purchasing that:

- a) the proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and
- b) the proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted cost accounting principles.

**3-304 Right to Inspect Plant.**

The County of Oneida may, at reasonable times, inspect the part of the plant, place of business, or worksite of a contractor or subcontractor at any tier which is pertinent to the performance of any contract awarded or to be awarded by the County of Oneida.

**3-305 Right to Audit Records.**

- 1) *Audit of Cost or Pricing Data.* The County of Oneida may at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data pursuant to Section 3-202 (Cost or Pricing Data) to the extent that such books, documents, papers, and records are pertinent to such cost or pricing data. Any person who receives a contract, change order, or contract modification for which cost or pricing data is required, shall maintain such books, documents, papers, and records that are pertinent to such cost or pricing data for three (3) years from the date of final payment under the contract.
- 2) *Contract Audit.* The County of Oneida shall be entitled to audit the books and records of a contractor or subcontractor at any tier under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books, documents, papers, and records are pertinent to the performance of such a contract or subcontract. Such books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the contract and by the subcontractor for a period of three (3) years from the date of final payment under the subcontract.

**3-306 Reporting of Anti-competitive Practices.**

When for any reason collusion or other anti-competitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the State Attorney General, County Attorney and District Attorney.

**3-307 County of Oneida Procurement Records.**

- 1) **Contract File.** All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained by the County of Oneida in a contract file by the Director of Purchasing.
- 2) **Retention of Procurement Records.** All procurement records shall be retained and disposed of by the County of Oneida in accordance with record retention guidelines and schedules approved by the State of New York.
  
- 1) **Competition.** The Director of Purchasing shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 3-105 (Sole Source Procurement).

*Part C – Fiscal Responsibility*

**ARTICLE 6 – DEBARMENT OR SUSPENSION**

**6-101 Authority to Debar or Suspend.**

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Director of Purchasing, after consultation with the County Attorney, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than three years. After consultation with the County Attorney, the Director of Purchasing is authorized to suspend a person from consideration for award of contracts if there is a probable cause to believe that the person has engaged in any activity that might lead to debarment.

The suspension shall be for a period not to exceed three years. The causes for debarment include:

- a) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such a contract or subcontract;
- b) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which
- c) currently, seriously, and directly affects responsibility as a County of Oneida contractor;

- d) conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
- e) violation of contract provisions, as set forth below, of a character which is regarded by the Director of Purchasing to be so serious as to justify debarment action:
  - i) deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
  - ii) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
- f) any other cause the Director of Purchasing determines to be so serious and compelling as to affect responsibility as a County of Oneida contractor, including debarment by another governmental entity for any cause listed in this Policy; and
- g) for violation of the ethical standards set forth in Article 12 (Ethics in Public Contracting).

**6-102 Decision to Debar or Suspend**

The Director of Purchasing shall issue a written decision to debar or suspend. The decision shall state the reasons for action taken and inform the debarred or suspended person involved of its rights concerning judicial or administrative review. The Board of Legislators shall receive electronic notification of each decision to debar or suspend issued by the Director of Purchasing.

**6-103 Notice of Decision**

A copy of the decision required by Section 6-102 (Decision to Debar or Suspend) shall be mailed or otherwise furnished immediately to the debarred or suspended person.

**6-104 Finality of Decision**

A decision under Section 6-102 (Decision to Debar or Suspend) shall be final and conclusive, unless fraudulent, or unless the debarred or suspended person within 10 days after receipt of the decision takes an appeal to the County Executive or commences a timely action in court in accordance with applicable law.

**ARTICLE 7 – APPEALS AND REMEMDIES**

**7-101 Bid Protests.**

- 1) *Right to Protest.* Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the County Executive. Protestors are urged to seek resolution of their complaints initially with the Director of Purchasing. A protest with respect to an invitation for bids or request for proposals shall be submitted in writing prior to the opening of bids or the

closing date of proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposals. The protest shall be submitted within 3 calendar days after such aggrieved person knows or should have known of the facts giving rise thereto.

- 2) *Stay of Procurements during Protests.* In the event of a timely protest under Subsection (1) of this Section, the Director of Purchasing shall not proceed further with the solicitation or award of the contract until all administrative and judicial remedies have been exhausted or until the County Executive makes a determination on the record that the award of a contract without delay is necessary to protect substantial interests of the County of Oneida.

The Board of Legislators shall receive electronic notification of each bid protest and any stays of procurement issued during the pendency of such protest or other action taken by the County Executive under this section of the procurement policy.

7-102

### **Contract Claims**

- 1) *Decision of the Director of Purchasing.* All claims by a contractor against the County of Oneida relating to a contract, except bid protests, shall be submitted in writing to the Director of Purchasing for a decision. The contractor may request a conference with the Director of Purchasing on the claim. Claims include, without limitation, disputes arising under a contract, and those based upon breach of a contract, mistake, misrepresentation, or other causes for contract modification or rescission.
- 2) *Notice to the Contractor of the Director of Purchasing's Decision.* The decision of the Director of Purchasing shall be promptly issued in writing, and shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of its appeal rights under Subsection (3) of this Section.
- 3) *Finality of Director of Purchasing's Decision; Contractor's Right to Appeal.* The Director of Purchasing's decision shall be final and conclusive unless, within, 5 calendar days from the date of receipt of the decision, the contractor mails or otherwise delivers a written appeal to the County Executive or commences an action in a court of competent jurisdiction.
- 4) *Failure to Render Timely Decision.* If the Director of Purchasing does not issue a written decision regarding any contract controversy within 20 days after written request for a final decision, or within such longer period as may be agreed upon between parties, then the aggrieved party may proceed as if an adverse decision had been received.

7-103

### **Authority of the Director of Purchasing to Settle Bid Protests and Contract Claims.**

The Director of Purchasing is authorized to settle any protest regarding the solicitation or award of a County of Oneida contract, or any claim arising out of the performance of a County of Oneida contract, prior to an appeal to the County Executive or the commencement of an action in a court of competent jurisdiction.

**7-104 Remedies for Solicitations or Awards in Violation of Law.**

- 1) *Prior to Bid Opening or Closing Date for Receipt of Proposals.* If prior to the bid opening or closing date for receipt of proposals, the Director of Purchasing, after consultation with the County Attorney, determines that a solicitation is in violation of federal, state, or municipal law, then the solicitation shall be cancelled or revised to comply with applicable law.
- 2) *Prior to Award.* If after bid opening or the closing date for receipt of proposals, the Director of Purchasing, after consultation with the County Attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state, or municipal law, then the solicitation or proposed award shall be cancelled.
- 3) *After Award.* If, after an award, the Director of Purchasing, after consultation with the County Attorney, determines that a solicitation or award of a contract was in violation of applicable law, then:
  - (a) If the person awarded the contract has not acted fraudulently or in bad faith:
    - (i) the contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of the County of Oneida; or
    - (ii) the contract may be terminated and the person awarded the contract shall be compensated for the actual costs reasonably incurred under the contract, plus a reasonable profit, prior to the termination; or
  - (b) If the person awarded the contract has acted fraudulently or in bad faith, the contract may be declared null and void or voidable, if such action is in the best interests of the County of Oneida.

**ARTICLE 8 – ETHICS IN PUBLIC CONTRACTING**

**8-101 Criminal Penalties.**

To the extent that violations of the ethical standards of conduct set forth in this Article constitute violations of any New York State or Oneida County law they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this Part. Criminal, civil, and administrative sanctions against employees or non-employees which are in existence on the effective date of this Policy shall not be impaired.

**8-102 Employee Conflicts Of Interest**

It shall be unethical for any County of Oneida employee to participate directly or indirectly in a procurement contract when the County employee knows that:

- a) the County of Oneida employee or any member of the County employee's immediate family has a financial interest pertaining to the procurement contract; or
- b) any other person, business, or organization with which the County employee or any member of a County employee's immediate family is negotiating or has an



arrangement concerning prospective employment is involved in the procurement contract. A County of Oneida employee or any member of a County employee's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest.

**8-103 Gratuities and Kickbacks**

- 1) *Gratuities.* It shall be unethical for any person to offer, give, or agree to give any County employee or former County employee, or for any County employee or former County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.
- 2) *Kickbacks.* It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
- 3) *Contract Clause.* The prohibition against gratuities and kickbacks prescribed in this section shall be conspicuously set forth in every contract and solicitation therefor.

**8-104 Prohibition Against Contingent Fees**

It shall be unethical for a person to be retained, or to retain a person, to solicit or secure a County contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

**8-105 Contemporaneous Employment Prohibited**

It shall be unethical for any County employee who is participating directly or indirectly in the procurement process to become or to be, while such a County employee, the employee of any person contracting with the governmental body by which the employee is employed.

**8-106 Waivers for Contemporaneous Employment Prohibition and Other Conflicts of Interest.**

The County Board of Ethics may grant a waiver from the employee conflict of interest provision (Section 8-102; Employee Conflict of Interest) or the contemporaneous employment provision (Section 8-105; Contemporaneous Employment Prohibited) upon making a written determination that:

- a) the contemporaneous employment or financial interest of the County employee has been publicly disclosed; and
- b) the County employee will be able to perform its procurement functions without actual or apparent bias or favoritism; and
- c) the award will be in the best interests of the County of Oneida.

**8-107 Use of Confidential Information**

It shall be unethical for any county employee or former county employee to knowingly use confidential information for actual or anticipated personal gain, or for the actual or personal gain of any other person.

**8-108 Sanctions**

- 1) *Employees.* Sanctions against employees shall be in accordance with Chapter 66 of the Laws of Oneida County. (Code of Ethics)
- 2) *Non-Employees.* The Director of Purchasing may impose any one or more of the following sanctions on a non-employee for violations of ethical standards:
  - a) written warnings or reprimands;
  - b) termination of contracts; or
  - c) debarment or suspension as provided in Section 6-101 (Authority to Debar or Suspend).

**ARTICLE 9 – DISPOSITION OF SURPLUS PERSONAL PROPERTY**

**9-101 Purpose**

The method chosen for sale is within the sound discretion of the Director of Purchasing, subject to the approval of the County Executive. However, in order to fill a fiduciary duty, the method of sale adopted should be one which is thought to bring the best price or maximum benefits and may include sale by public auction or the use of online auction services such as e-Bay.

**9-102 Methods of Competition to be used for Non-Bid or Auction Dispositions**

The methods of disposition to be used are as follows:

1. For dispositions with an estimated value greater than one thousand (\$1,000) dollars will be offered to the public via public auction;
2. For dispositions with an estimated value less than or equal to one thousand (\$1,000) dollars, will be left to the discretion of the Director of Purchasing.
3. A good faith effort shall be made to sell all surplus items, if the County is unable to sell said items via public auction it may at that time dispose of items

any way deemed responsible by the Director of Purchasing. The attempts made shall be documented and become part of the disposition record.

4. The above notwithstanding, the Director of Purchasing, at his/her discretion, may require standards which exceed those presented in this policy.

**9-103 Adequate Documentation**

Documentation of actions taken in connection with each method of disposition is required, as follows, and will be maintained as part of the disposition record.

1. Any memorandums, forms, notations, or other documentation used in establishing the basis of the disposition decision.
2. No documentation other than the independent estimate itself is required when the disposition is left to the discretion of the Director of Purchasing.

**9-104 Awards to Other than Highest Responsible Dollar Offer**

Whenever any disposition is awarded to other than the highest responsible dollar offerer, the reasons such an award furthers the purpose of the County as set forth herein above shall be documented by the Director of Purchasing and be maintained as part of the disposition record.

**9-105 Items Exempted From Disposition Policies and Procedures**

The Legislature will set forth, by resolution, circumstances when, or types of dispositions for which, in the sole discretion of the governing body, the solicitation of alternative offers to purchase will not be in the best interest of the County. Such resolution will state the reasons for such conclusion, and will become an attachment to the disposition record.

**ARTICLE 10 – ADDITIONAL REQUIREMENTS FOR  
FEDERAL TRANSIT ADMINISTRATION FUNDED CONTRACTS**

**10-101 Disadvantaged Business Enterprise Program**

The County of Oneida's Department of Planning has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U. S. Department of Transportation (DOT), 49 CFR Part 26. The County of Oneida's Department of Public Transportation has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the County of Oneida's Department of Planning acknowledges that the requirements of 49CFR part 26, as amended, shall be complied with.

It is the policy of the County of Oneida and its Department of Planning to ensure that DBE's, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts.

**10-102 Required Contract Clauses**

It is the policy of the County of Oneida and its Department of Planning to ensure that the most current FTA required contract clauses will be used in all FTA funded contracts and that the FTA Website and other appropriate sources shall be checked prior to the undertaking of each procurement action.

**ARTICLE 11 – NAMES AND TITLES OF ONEIDA COUNTY  
PURCHASING STAFF**

Effective January 1, 2009, General Municipal Law §104-b (2) (f) requires that the procurement policies and procedures of each political subdivision and district therein will identify the individual or individuals responsible for purchasing and their respective titles. This information is required to be updated biennially.

The following individuals are the individuals responsible for purchasing in Oneida County as of January 1, 2009:

Director of Purchasing:	Mello Testa
Assistant Director of Purchasing:	Greg Grower
Senior Buyer:	Shelley Nowak
Buyer:	Ron Ling
Buyer:	Sam Trapanick
Senior Clerk:	Diana Pierce

**ONEIDA COUNTY BOARD OF LEGISLATORS**

**RESOLUTION NO. 294**

**INTRODUCED BY: ALL MEMBERS**

**2ND BY: ALL MEMBERS**

**RE: EXTENSION OF SYMPATHY TO THE FAMILY OF THE LATE GUY G. RUBINO**

WHEREAS, In the death of Guy G. Rubino the family of the deceased, the City of Rome, NY and the County of Oneida have lost a valued citizen whose contributions were many and who held the respect and esteem of the citizens of Oneida County.

WHEREAS, Guy G. Rubino served Oneida County as a member of the Board of Supervisors from the 36th District for several years, and

WHEREAS, That in addition to his services as an Oneida County Legislator, Mr. Rubino also had a distinguished 49-year career as a Rome businessman, operating a service station and mobile home sales operation, and

WHEREAS, That Mr. Rubino was an exemplary husband, father, grandfather, and friend

WHEREAS, That the members of this Board of Legislators, speaking for the citizens of their respective communities, extend to the family of the late Guy Rubino their sincere sympathy, appreciation of the value of his services to the County of Oneida, and respect for his worth as a man.

Seconded and adopted viva voce by all members present, standing for a moment of silence in respect to the memory of Guy G. Rubino.

DATED: August 26, 2009

**ONEIDA COUNTY BOARD OF LEGISLATORS**

**RESOLUTION NO. 295**

**INTRODUCED BY: ALL MEMBERS**

**2ND BY: ALL MEMBERS**

**RE: EXTENSION OF SYMPATHY TO THE FAMILY OF THE LATE REXFORD D.  
(REX) SMALL**

WHEREAS, In the death of Rexford D. (Rex) Small, the family of the deceased, the City of Rome, NY and the County of Oneida have lost a valued citizen whose contributions were many and who held the respect and esteem of the citizens of Oneida County.

WHEREAS, Rex Small served honorably Oneida County as a member of the Board of Legislators for 18 years, and

WHEREAS, In addition to his services as an Oneida County Legislator, Mr. Small also served his country in the US Army during World War II, was employed as an electrician at Revere Copper and Brass for 42 years, and

WHEREAS, That Mr. Small was an exemplary husband, father, grandfather, and friend, and

WHEREAS, That the members of this Board of Legislators, speaking for the citizens of their respective communities, extend to the family of the late Rexford D. (Rex) Small their sincere sympathy, appreciation of the value of his services to the County of Oneida, and respect for his worth as a man.

Seconded and adopted *viva voce* by all members present, standing for a moment of silence in respect to the memory of Rexford D. Small.

DATED: August 26, 2009