Software Agreement Best Practices

Why is it taking so long to have my software agreement processed?
Extreme High Volume

• At any given time Procurement is working on approximately 25 orders specifically for software.

• There are four people currently dedicated to software procurements.

• Every software agreement has anywhere from 5 to 25 pages of terms and conditions that have to be read and negotiated.

• Procurement receives multiple requisitions for software every day.

• Dependent on dollar threshold and funding source, we must collect exhibits and insurance for software purchases which usually requires multiple follow up attempts with the vendor which takes time.
Subject to internal and external approval

- Software agreements whether State funded or RF funded need to be thoroughly reviewed by Procurement, the CISO’s office and frequently Counsel’s office. Review by CISO’s office may take 4 – 8 weeks. Software that must integrate with current SBU technology requires DoIT approval. Requests can be submitted here: https://it.stonybrook.edu/pages/new-service-and-service-enhancement-request

- Purchase of software cannot conflict with any procurement guidelines, policies or procedures.

- Requests for new software exceeding $25K must be approved by DoIT.

- Procurement must add NYS and RF of SUNY required language into every software agreement as well as delete terms that NYS and the RF cannot agree to contractually. This is a manual negotiation process.

- Maintenance agreements cannot continue perpetually. Software and associated maintenance that will exceed $50K annually or over time must be bid out or approved by the Office of the State Comptroller as a single or sole source purchase. The Comptroller’s office discourages single/sole source procurements so be prepared to discuss what alternatives were considered and how you concluded that the price is fair and reasonable.
Procurement Office Software Review

• Step 1, contract officer reads software agreement and any associated ordering documents.

• Step 2, if there will be an exchange of data, or our data will be stored in the cloud both the department and the vendor must fill out a security questionnaire which must be reviewed and approved by the University CISO.

• Step 3, contract officer marks up software agreement to conform with NYS statute or RF Procurement guidelines. Contract officer sends to point of contact at vendor for their review.
Software review continued

• Frequently vendor will have to send marked up agreement to their counsel for review and acceptance. This can take several weeks, prolonged negotiation can take over a month.
Software best practices

• Plan ahead. You should anticipate and submit agreements for software at least a month before services are actually needed, 2 – 3 months should be the standard best practice.

• Don’t sign any agreements yourself. The department must read and state that they have read and will abide by the agreement, but only Procurement is authorized to sign off on any agreements.

• Enterprise software and software utilized by students must be ADA compliant and requires statements of compliance from the vendor.

• Term should follow SUNY’s fiscal year of July 1 – June 30.
Previously Purchased Software

• If submitting a renewal for annual maintenance and or additional licenses please indicate what the previous purchase order was/is.

• The agreement submitted with the requisition needs to be in editable format. Please request the agreement in a Word document rather than a PDF.

• It would also be helpful if departments included the sales rep’s contact information such as email and phone number, particularly if the T & C’s are associated with just a weblink and/or eSignature document.

• If the renewal pushes the aggregate spend with the vendor over $50K quotes need to be obtained, a CRER may need to be requested and a bid spec may need to be drawn up. OSC will not approve these in perpetuity or even for more than a year. They are now requiring that campuses put bids out for multi-year agreements on software renewals.
Checking if Software is on OGS Contract

• The NYS Office of General Services has an umbrella contract for hardware, software, cloud, implementation, consulting, system integration see award 22802 https://www.ogs.ny.gov/purchase/snt/awardnotes/7360022802pm.pdf

• Departments should check to see if the software is on NYS contract and if it has resellers. This award requires us to put software out as a mini bid to all manufacturers and resellers of that product. We do not have to advertise in the Contract Reporter if over $50K if on OGS contract.
Questions???