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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARCIANO PLATA, et al.,

Plaintiffs,

v.

ARNOLD SCHWARZENEGGER, et al.,

Defendants.

Case No. C01-1351 TEH

**[PROPOSED] ORDER GRANTING
RECEIVER'S SUPPLEMENTAL
APPLICATION NO. 2 FOR ORDER
WAIVING STATE CONTRACTING
STATUTES, REGULATIONS AND
PROCEDURES, APPROVING
RECEIVER'S SUBSTITUTE
PROCEDURE FOR BIDDING AND
AWARD OF CONTRACTS**

Receiver Robert Sillen submitted his Supplemental Application No. 2 for an Order Waiving State Contracting Statutes, Regulations and Procedures ("State Contracting Procedures") And Approving Receiver's Substitute Procedure for Bidding and Award of Contracts ("Supplemental Application No. 2") for consideration by the Court.

Receiver previously submitted a Master Application for Order Waiving State Contracting Statutes, Regulations, and Procedures, and Request for Approval of Substitute Procedures for Bidding and Award of Contracts ("Master Application"). The Plaintiffs and Defendants filed separate statements of non-opposition to the Master Application.

The Court granted Receiver's Master Application in an order dated June 4, 2007 (the "June 4, 2007 Order") noting that no "party offered any alternative to the requested waiver to achieve a constitutional remedy in this instance." June 4, 2007 Order 4:22-23.

Having considered the Supplemental Application No. 2, the entire record herein and good cause appearing, the Court HEREBY GRANTS Receiver's Supplemental Application No. 2.

IT IS HEREBY ORDERED AS FOLLOWS:

1 1. The following state codes and laws shall be waived with respect to the Receiver's
2 planned Quality Improvement projects including, but not limited to, the Asthma Initiative,
3 described more fully in the Supplemental Application No. 2.

- 4 • Government Code ("Gov't Code") §§ 14825 – 14828 and State Contracting
5 Manual ("SCM") §§ 5.10A, 5.75, 5.80 (governing advertisement of State
6 contracts).
- 7 • Public Contracts Code ("PCC") §§ 10290 – 10295, 10297, 10333, 10335, 10351,
8 10420 – 10425; Gov't Code § 14616; SCM §§ 4.00 – 4.11; (governing approval
9 of contracts by Department of General Services ("DGS") and exemption from and
10 consequences for failure to obtain DGS approval).
- 11 • PCC §§ 10308, 10309, 10314; SCM vol. 2, State Administrative Manual
12 ("SAM") §§ 3500 – 3696.3 (governing procurement of goods).
- 13 • PCC §§ 6106, 10109 – 10126, 10129, 10140, 10141, 10180 – 10185, 10220,
14 10301 – 10306, 10340 – 10345, 10351, 10367, 10369; Gov't Code §§ 4525 –
15 4529.20, 4530-4535.3, 7070-7086, 7105-7118, 14835-14837; and Mil. &
16 Veterans Code §§ 999-999.13; 2 CCR §§ 1195 – 1195.6; SCM §§ 5.00 – 6.40 and
17 Management Memo ("MM") 03-10 (governing competitive bidding, required
18 language in bid packages, Non-competitive Bid ("NCB") procedures, preferential
19 selection criteria, contractor evaluations and notice, contract award and protest
20 procedures for service, consulting service, construction project management and
21 public works contracts).
- 22 • PCC §§ 10314, 10346 (progress payment limitations).
- 23 • Gov't Code § 13332.09 and MM 06-03 (governing vehicle purchases).
- 24 • PCC §§ 12100 – 12113, 12120 – 12121, 12125 – 12128; SCM vol. 3; SAM §§
25 4800 – 4989.3, 5200 – 5291 (governing procurement of IT, telecommunication
26 and data processing goods and services and applicable alternate protest
27 procedures).

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- Gov't Code §§ 13332.10, 14660, 14669, 15853 (governing acquisition and leasing of real property).
- Gov't Code §§ 13332.19, 15815 (governing plans, specifications and procedures for major capital projects).
- PCC §§ 10365.5, 10371; SCM § 3.02.4 (governing restrictions on and approval for multiple contracts with same contractor).

2. The Receiver shall follow the alternative, streamlined contracting procedures as set forth in detail in this Court's June 4, 2007 Order for the five projects described in this Supplemental Application No. 2.

3. At the Receiver's discretion he may either (1) publish provisions requiring contractor certifications of compliance on his website and include a single representation in the contracts he awards to the effect that the contractor has read, and attests that he/she/it is in compliance with, the required provisions; or (2) directly incorporate into the agreements standard contract provisions pertaining to contractor certifications of compliance utilized by the Department of General Services ("DGS"), and available online on the DGS's website.

4. The Receiver's quarterly progress reports shall contain a summary that (1) specifies each contract the Receiver has awarded during the quarter, (2) provides a brief description of each such contract, (3) identifies to which of the five categories of projects such contract pertains, and (4) identifies the method the receiver utilized to award the contract (*i.e.*, expedited formal bid, urgent informal bid, sole source). In addition, in his quarterly progress reports to the Court the Receiver shall report on the progress of the Asthma Initiative, as well as any future Quality Improvement projects which he undertakes.

IT IS SO ORDERED.

Dated: _____, 2007

 THELTON E. HENDERSON
 UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned hereby certifies as follows:

I am an employee of the law firm of Futterman & Dupree LLP, 160 Sansome Street, 17th Floor, San Francisco, CA 94104. I am over the age of 18 and not a party to the within action.

I am readily familiar with the business practice of Futterman & Dupree, LLP for the collection and processing of correspondence.

On November 20, 2007 I served a copy of the following document(s):

[PROPOSED] ORDER GRANTING RECEIVER'S SUPPLEMENTAL APPLICATION NO. 2 FOR ORDER WAIVING STATE CONTRACTING STATUTES, REGULATIONS AND PROCEDURES, APPROVING RECEIVER'S SUBSTITUTE PROCEDURE FOR BIDDING AND AWARD OF CONTRACTS

by placing true copies thereof enclosed in sealed envelopes, for collection and service pursuant to the ordinary business practice of this office in the manner and/or manners described below to each of the parties herein and addressed as follows:

___ BY HAND DELIVERY: I caused such envelope(s) to be served by hand to the address(es) designated below.

X BY MAIL: I caused such envelope(s) to be deposited in the mail at my business address, addressed to the addressee(s) designated. I am readily familiar with Futterman & Dupree's practice for collection and processing of correspondence and pleadings for mailing. It is deposited with the United States Postal Service on that same day in the ordinary course of business.

___ BY OVERNIGHT COURIER SERVICE: I caused such envelope(s) to be delivered via overnight courier service to the addressee(s) designated.

___ BY FACSIMILE: I caused said document(s) to be transmitted to the telephone number(s) of the addressee(s) designated.

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