



MEMORANDUM

To: New York State Procurement Council (“Procurement Council”)
From: OGS Preferred Sources Team (as Staff to the New York State Procurement Council)
Date: November 26, 2018
Subject: New York State Industries for the Disabled (“NYSID”) Application to add Mail Fulfillment to the List of Approved Preferred Source Service Offerings (“the List.”)

OVERVIEW

NYSID submitted an update to its April 1, 2016 application for preferred source designation to provide Mail Fulfillment Services to the New York State Office of General Services (“OGS”) and Empire State Development (“ESD”) on June 1, 2018 and amended it on June 19, 2018, July 10, 2018, August 27, 2018, and August 31, 2018. NYSID also submitted additional information on July 26, 2018.

Currently, NYSID is approved to offer a number of mailing services, including Mail Collating, Mail Distribution, Mail Folding and Inserting, Mail Inkjet Labelling, Mail Packaging, Mail Presort, and Mailroom Services – Offsite (collectively referred to as “Mailing Services” in this memorandum). According to NYSID, Mailing Services have provided employment to individuals with significant disabilities for the past 25 years. This current application seeks to add a new preferred source service offering called “Mail Fulfillment Services,” which would include all the services currently covered under “Mailing Services” plus a digital printing component to allow the production of the documents to be mailed.

As detailed below, the OGS Preferred Source Team, acting as staff to the Procurement Council (“Staff”), recommends approval of this application on a provisional basis subject to certain conditions as described more fully below.

BACKGROUND

In April 2016, NYSID submitted an application for approval of Mail Fulfillment Services. At the May 25, 2016 Procurement Council meeting, the Procurement Council passed a motion to establish a workgroup for further consideration of Mail Fulfillment Services. The workgroup consisted of Procurement Council members and representatives from NYSID, the Center for Disability Services, and the Printing Industries Alliance (“PIA”) and met over the course of five weeks in June and July 2016. The workgroup endeavored to arrive at a definition of Mail Fulfillment Services that fairly addresses (i) the needs of customer agencies for mail fulfillment services, including document preparation, (ii) the ability of preferred members to provide meaningful opportunities for employment of workers with significant disabilities, and (iii) the concerns of the printing industry.

During the course of the workgroup meetings, representative of NYSID and the Center for Disability Services explained that customer agencies are requesting document preparation as part of a suite of mail fulfillment services. In the past, form letters could be reproduced using photocopiers, but because of advances in technology, there is now an expectation that letters will be individually addressed. Consequently, document preparation today is largely accomplished by digital printers

and not by photocopiers. The intent of NYSID's application is to ensure that member agencies can continue to provide the document reproduction and mailing services they have provided for many years but do so using current technology to provide those services. The PIA, on the other hand, wants to ensure that the use of digital printers by preferred members will not lead to preferred members taking on printing work that has been traditionally handled by commercial printers.

Much of the work of the workgroup was devoted to crafting a definition of Mail Fulfillment Services that all parties could endorse and present to the Procurement Council as a consensus recommendation. All members had a fair opportunity to make their views known, and the deliberations, while lively, were respectful. Representatives of NYSID, the Center for Disability Services, and the PIA both sought and made concessions in an effort to reach a consensus. While Staff felt that the workgroup was very close to a consensus at the last meeting of the workgroup held on July 8, 2016, Staff was sorry to report that the PIA informed Staff on July 12, 2016 that it had decided to oppose the application. While Staff regretted that the workgroup was unable to reach a consensus, Staff believes that the definition developed by the workgroup strikes a fair balance between the competing interests of NYSID and the PIA.

At the July 14, 2016 meeting, the Procurement Council discussed the application but ultimately approved a motion to table the application. At the April 18, 2018 Procurement Council meeting, a motion was passed to un-table the application for discussion at the following Procurement Council meeting.

The proposed definition of Mail Fulfillment Services (attached) remains substantially the same as the July 14, 2016 proposed definition developed by the workgroup. Four types of changes have been made and all are non-substantive: (1) Parts of the definition have been placed in a different order, (2) a note has been added regarding the use of a disaster recovery site, (3) the dates related to NYSID's provisional approval have been updated, and (4) the text has been separated into the definition of the Mail Fulfillment Service, which if approved, will be added to the List, and a separate document titled "Conditions for Approval of NYSID to provide Mail Fulfillment Services," which if approved, will create the checkmark on the List for NYSID to offer this service.

ANALYSIS OF NYSID'S APPLICATION

State Finance Law § 162(3)(b) provides that the Procurement Council may recommend the addition of services to the List based upon a review of relevant factors as determined by the Procurement Council "including costs and benefits to be derived from such addition and shall include an analysis by the Office of General Services." In addition, Section X.D of the Preferred Source Guidelines adopted by the Procurement Council contains 10 detailed requirements for applications seeking to add commodities or services to the List. Set out below is Staff's review of NYSID's application against each of the 10 requirements.

1. *Service Specifications, including a recitation as to how the service is new or substantially different from the services already offered by the preferred source*

NYSID has requested that Mail Fulfillment Services, as defined in the attached document, be added to the List. Mail Fulfillment Services contains several service offerings already included on the List, such as Mail Collating, Distribution, Folding & Inserting, Inkjet Labeling, Packaging, Presort, and Mailroom Services – Offsite. Mail Fulfillment Services would add to those services a digital printing component to permit the production of the documents to be mailed. Digital printing is currently prohibited as a component of preferred source mailing services.

2. Market Information, including information on the potential market for the new service

NYSID researched all contracts on Open Book New York that included mailing services in their description. Of the 71 contracts listed, 12 of them also included “printing” in their descriptions. The total estimated annual value of the 12 contracts is \$3,940,189. This information demonstrates that there is a market for this service.

3. Client Employment, including the nature of the tasks workers with disabilities will perform

NYSID has indicated that its primary concern is the preservation of jobs related to its existing Mailing Services contracts as more agencies look to include a printing component in meeting their Mailing Services needs. According to NYSID’s 2018 updated application, NYSID preferred source contracts for Mailing Services in the previous year provided 136,736 direct labor hours, of which 119,533 hours were performed by individuals with disabilities. This equates to 61.30 disabled direct labor full-time equivalents (“FTEs”) and a disabled direct labor ratio of 87.42%. NYSID’s 2016 application for Mail Fulfillment listed 104,141 annual direct disabled labor hours or 53.41 FTEs of employment for individuals with disabilities working on NYSID Mailing Services contracts. The total direct labor hours related to NYSID Mailing Services contracts was not provided in the 2016 application.

NYSID reported the number of individuals with disabilities that are currently working on their Mailing Services contracts in their original application and in their 2018 update. The 2018 update reported a total of 301 individuals with disabilities working on NYSID Mailing Services contracts. The 2016 application reported a total of 281 individuals with disabilities working on NYSID Mailing Services contracts.

NYSID’s reported changes to client employment from 2015-2016 to the present are summarized as follows:

	Total Individuals with Disabilities Employed in Mailing Services	Disabled Labor Hours
2015-2016	281	104,141.00
Current (2018)	301	119,533.00
Gross Change	+20	+15,392.00
% Change	+7.12%	+14.78%

NYSID estimates that approval of Mail Fulfillment Services will generate an additional 9,840 labor hours (5.046 FTEs) for Mail Fulfillment Services contracts over the next year. This is based on NYSID’s estimation that its members will capture an additional \$985,047 in contract opportunities.

NYSID stated that the increase of four disabled FTEs per year since 2016 is not significant growth and attributed the modest increase in employment to having more trained workers performing on NYSID mailing contracts and its success in gaining ancillary mail processing business in the last reporting period.

4. Preferred Source, identifying the specific preferred source member organizations that will provide the service

In its 2018 update, NYSID reported that seven member agencies independently offer some or all Mailing Services. These are: ARC of Onondaga County in Syracuse; Center for Disability Services (“CFDS”) in Albany; Fedcap Rehabilitation Services, Inc. in New York City; Southeast Works in Depew (Erie County); Warren, Washington & Albany Counties Chapter of NYSARC in Albany; Westchester County ARC in White Plains; and Northeast Career Planning in Menands (Albany County).

NYSID provided additional information regarding the current capabilities of its members to perform Mail Fulfillment Services on July 26, 2018:

Of the seven members listed in the July 2018 update, there are two (CFDS and Fedcap) that are amply capable and qualified of providing mail-fulfillment services and can do so at a high level. The other five member agencies have typically performed mailing services but are pursuing the commercial markets on the mail-fulfillment side. NYSID member agencies remain committed to identifying employment opportunities for individuals with disabilities as they continue to transform the way they do business which includes the investment into equipment that provides bona fide employment to the individuals they serve. Furthermore, NYSID has matching grant and interest free revolving loan programs that are available to assist members in expanding upon a service offering/s they currently offer. We actually envision more NYSID members becoming interested in pursuing this service offering understanding this need to be an emerging one for private and public sector customers and as a way of providing opportunities for the individuals they service.

5. Value Added, identifying the value added by the preferred source client labor to the service

NYSID has reported that, “jobs in Mail Fulfillment Services provide jobs to workers with varying abilities; it is an ideal industry for rehabilitation agencies that employ people with a diversity of functional abilities.” In its application, NYSID lists the labor steps included in Mail Fulfillment Services as:

1. Production
2. Folding and Inserting
3. Metering
4. Mail Presort Services
5. Finishing
6. Collating, Packaging, Distribution
7. Post Mailing Services
8. Deliver Mail to Post Office
9. Offsite Mailroom Services

6. Direct Labor Workforce, identifying the number and hours of direct labor to be performed by people with disabilities, including the percentage of direct labor to be performed by workers with disabilities

NYSID’s application contains the total number of individuals with disabilities being employed through Mailing Services contracts for each member. According to NYSID, in the past year, NYSID contracts for Mailing Services provided 136,736 direct labor hours of employment, of which 119,533 hours were performed by individuals with disabilities. This equates to 61.30 disabled direct labor FTEs and a disabled direct labor ratio of 87.42%.

The Preferred Source Guidelines state that 75% of the direct labor under a preferred source agreement must be provided by people with significant disabilities. The 87.42% disabled direct labor ratio achieved by NYSID on Mailing Services contracts surpasses that requirement. Staff does not believe that the addition of digital printing will significantly reduce the labor ratio.

NYSID estimates that approval of Mail Fulfillment Services will generate an additional 9,840 labor hours (5.046 FTEs) for Mail Fulfillment contracts over the next year. NYSID indicates in their application they will continue to comply with disabled labor ratios for preferred source providers, as detailed in the Preferred Source Guidelines and New York State Finance Law.

NYSID stated in its application that individuals with disabilities will earn at least the minimum hourly wage prescribed for the locale where the work is to be performed and can earn more based on the type of work performed, and their work experience. For example, individuals working in the Capital Region will earn at least \$10.40 per hour, while individuals in NYC will be paid an hourly wage of \$13.00 per hour during the current 2018 calendar year.

7. Cost/Benefit Analysis, including a summary of projected costs and benefits expected to accrue to the State and the preferred source, as well as broader social and economic impacts on client employment and government costs

NYSID specified that its core objective in obtaining Procurement Council approval of their application is to preserve the current employment of individuals with disabilities. Because NYSID has been unable to offer digital printing services in conjunction with Mailing Services, NYSID reports that it lost the following as preferred source contracts:

- Office of Administrative Trials and Hearings, which had an annual value of \$369,664. The contract provided just over four FTEs for people with disabilities.
- The Housing Trust Fund Corporation (“HTFC”), with an annual value of \$50,000. Five employees with disabilities work part-time on the contract, for a total of just under two FTEs. NYSID member agency Fedcap, was awarded that contract in a commercial bid.
- New York State Department of Health DSRIP opt-out mailing contract, which has an annual value of \$1,713,518, according to Open Book New York, and could provide employment for up to 10 FTEs.

NYSID stated in its application that if it cannot perform digital printing in the context of Mail Fulfillment contracts, it will have to stop providing service for the Department of Housing Preservation and Development (“HPD”), worth approximately \$1,150,000 annually and 6.36 disabled FTEs will lose their jobs. NYSID explained that HPD carved out the printing component of the contract to allow NYSID to continue to provide the mail processing component. NYSID stated that if Mail Fulfillment Services is not approved as a preferred source service, HPD will likely put out a competitive bid and award a contract to meet its desire to have printing and mailing services combined in one contract.

On August 27, 2018, NYSID submitted correspondence from three State agencies and two New York City agencies to demonstrate that NYSID has lost or will lose mailing services opportunities based on its inability to print what it mails.

8. Cost/Price Data, providing information sufficient for OGS to approve the price data and confirm that the price of the service will not exceed 15% above prevailing market price

NYSID submitted pricing from a competitively awarded contract for mailing and printing services for the HTFC involving NYSID member agency Fedcap, which demonstrates that the proposed pricing is within 15% of prevailing market price. NYSID also included the RFP and award letter in its application. Staff confirmed with the HTFC that this was a competitive procurement and that Fedcap was the lowest bidder. Staff also obtained the pricing proposal of the other bidder (Wells Fargo Bank) and MWBE and SDVOB entities involved with the contract. Based on this comparable contract, Staff has determined that NYSID has demonstrated it can provide Mail Fulfillment Services at statutorily compliant prices. NYSID has also noted that individual contracts with a value over \$50,000 will be subject to a price reasonableness review by OGS.

9. Current Suppliers, identifying the current suppliers or contract holders of the proposed service if known

NYSID researched all contracts on Open Book New York that included mailing services in their description. Of the 71 contracts listed, 12 of them also included "printing" in their descriptions. Of those 12 contracts, two were awarded to companies based in New York State: Lane Press and Newkirk Products. Both companies are located in Albany, NY.

10. Preferred Source Suppliers, providing the projected first year value of anticipated contracts, information on any proposed suppliers, and any information as to methods employed in selecting such suppliers

NYSID estimates that approval of Mail Fulfillment Services will generate \$985,047 in contract opportunities in the first year. This is based on their assumption that NYSID will be able to capture a 25% share of the market it identified based on its research in Open Book New York.

STAFF NOTE ON THE USE OF CORPORATE PARTNERS FOR PRINTING AND MAILING

The proposed definition of "Mail Fulfillment Services" requires that all services be performed by a preferred member and that none of the services are performed by a corporate partner. In the course of performing background research, Staff became aware of a contract for printing and mailing between the New York State Insurance Fund ("NYSIF") and Center Commercial Services Corporation ("CCSC"). CCSC is a for-profit corporation that shares an address and is affiliated with the Center for Disability Services, Inc. ("CFDS"), a not-for-profit corporation that is a preferred member of NYSID. In addition, in several NYSID applications for mailing services, equipment ledgers were included that show CCSC as the owner of the equipment. Staff wanted to ensure that CFDS is fully capable of providing Mail Fulfillment Services independently and that CCSC would not be functioning as a corporate partner to CFDS if Mail Fulfillment Services is approved.

OGS met with representatives of CCSC and CFDS and asked several questions regarding the relationship between the two organizations. The representatives indicated that the disabled employees working on the NYSID preferred source mail-sorting contracts are employed and paid by the CFDS and use equipment owned by CFDS and not CCSC. Although managers and employees may refer to the two interchangeably, the two corporations have separate equipment or equipment agreements, separate overhead, separate tax IDs and separate accounting units. Each corporation has designated space in the building at Karner Road. The NYSIF contract, which was bid competitively by CCSC, uses very few disabled workers, if any, because they cannot be competitive in a "competitive bid" situation, which is why CFDS is seeking approval for Mailing Fulfillment Services as a preferred source offering, which will allow a 15% differential for labor. All profits made

by CCSC go to support CFDS. CFDS has agreed to the proposed definition that will not allow for corporate partnerships.

Based on the responses provided, Staff accepts that there is not a corporate partnership relationship between CFDS and CCSC.

EMPIRE STATE DEVELOPMENT REVIEW:

As of the date of this summary, OGS has not received ESD's recommendation regarding this application.

STAFF RECOMMENDATION

Based upon the foregoing, Staff recommends approval of this application, but further recommends that the approval be granted in two steps.

Step One: Approval of the Definition. In keeping with recent practice, Staff believes it makes sense to approve a definition of new services, which will allow procuring agencies to readily determine if a preferred source offering meets their form, function, and utility, as required by State Finance Law § 163(4). As noted above, the proposed definition is largely the product of the workgroup that met in 2016.

Step Two: Approval of NYSID to Provide Mail Fulfillment Services. Staff recommends that NYSID's approval be provisional and subject to the conditions set forth on the document titled "Conditions for Approval of NYSID to provide Mail Fulfillment Services." Provisional approval will give the Procurement Council an opportunity to evaluate the effect of the service offering on NYS businesses and NYS preferred sources. The suggested approval conditions include a requirement that NYSID provide a report to the Procurement Council at all meetings from January 2019 through the third meeting in 2020. NYSID has agreed to this requirement.