



To: Sean Carroll, NYS Office of General Services
CC: John Normile, NYS OGS
From: Chris McCann, Empire State Development
Date: August 28, 2017
RE: NYSPSP Application for Medicine Cups

NYSPSP MEDICINE CUP APPLICATION

DESCRIPTION OF MEDICINE CUPS APPLICATION

New York State Preferred Source Program (NYSPSP) is requesting to sell plastic 1 oz. graduated markings medicine cups, 1 oz. paper soufflé medicine cups and plastic 5 oz. drinking cups as a Preferred Source designation. Medicine cups are also sold in other sizes, colors and types of plastic (durable or inexpensive). The current request is for the three types of medicine cups listed above.

NYSPSP along with Central Association for the Blind & Visually Impaired (CABVI) plan to partner with Mountainside Medical Equipment which is a Service Disabled Veteran Owned Small Business located in Marcy, NY and has been a supplier partner of CABVI for several years.

MARKETPLACE

The sources below were used to determine the marketplace:

1. NYSPSP estimate of annual sales – provided by NYSPSP application;
2. OSC Directory of Frequently Purchased Commodities and Services;
3. Survey of agencies from OSC Directory;
4. OGS Centralized Contracts;
5. Search for NYS small business firms through NYS Contract System, Hoovers and Google;
6. Survey of companies identified by search; and
7. Historical Contract Reporter Ads.

In addition to the above data sources, the marketplace includes purchases done through discretionary spend and purchase cards (P-Card) which are not collected by OGS. The records for P-Card information do not provide spend details on what specific items are purchased. Agencies would have to give P-Card and discretionary spend information voluntarily. In addition, the Preferred Source designation would also provide exclusivity to purchases made by

local governments and municipalities. No database records the purchase or spend data of these entities.

ESD performed analysis based on available data provided by publicly available data sources and survey responses. All survey data collected from agencies and businesses is voluntary and self-reported. Therefore, a complete marketplace analysis is not possible and the analysis below does not encompass the entire spend on medicine cups.

Each section below includes an analysis and survey results using the available data.

NYPSP Estimate of Annual Sales

NYPSP is estimating their total annual sales for the four types of medicine cups to be \$17,060.

OSC Directory of Frequently Purchased Commodities and Services by New York State Agencies, 27th Edition, February 2017

<https://www.osc.state.ny.us/reports/fiscal/directorycommodities.pdf>

This annual directory tracks state agency spending by broad categories such as supplies, equipment, maintenance and repairs, information technology services and many other categories.

Medicine cups would fall in the Supplies category, under the subcategory of Medical/Dental/Lab Supplies. Medicine cups would be sold to both dental and medical facilities: (1) dental facilities spend \$150 million on supplies and (2) medical facilities spend \$114 million on supplies. There is no further detail about the type of supplies that are sold under this category. Based on the OSC directory alone, it is hard to determine how much was actually spent on medicine cups. Therefore, we surveyed agencies from this list who spend between <\$5 million to <\$50 million to assist in determining the potential marketplace. Those agencies are CUNY, DOCCS, DOH, OPWDD, OMH and SUNY.

Survey Results with State Agencies

The state agencies surveyed were CUNY, DOCCS, DOH, OPWDD, OMH and SUNY about their purchase of medicine cups.

Below are the responses received to date:

Agency	Total amount per year spent on medicine cups	Purchasing Method
CUNY		Has not responded

Agency	Total amount per year spent on medicine cups	Purchasing Method
DOCCS	\$15,000-\$18,000	Discretionary purchasing for all facilities with a WBE
DOH:		
Veterans Home at St. Albans	\$4,327	Discretionary purchasing; Need specific cups that withstand the pressure of pill crushing machine.
Veterans Home at Oxford	\$2,052	Piggy-back off an M-Cap contract (Federal)
NYS Veterans' Home at Batavia		Has not responded
NYS Veterans' Home at Montrose		Has not responded
Helen Hayes Hospital		Has not responded
OPWDD	Unknown	Either Preferred Source for medical supplies or OGS CC
OMH ¹ :		
Creedmore Psychiatric Hospital	Unknown	Purchase through Centralized Contract on P-Card
Children's Facility	Unknown	Purchase through Centralized Contract on P-Card
Mid-Hudson Forensic Psychiatric Center	Unknown	Purchase through P-Card from an MWBE
SUNY:		
SUNY Downstate		Has not responded
SUNY Stony Brook		Has not responded
SUNY Upstate	\$7,500	Discretionary purchasing
University of Buffalo School of Dental Medicine	Unknown	Purchase 3.5 oz cups through P-card from a WBE

OGS Centralized Contracts

OGS reports that the average yearly sales of all medicine cups from 2014-2016 is \$56,465. The average yearly sales for similar or equivalent items to the NYSPSP proposed items are \$31,104.

¹ There are two OMH additional facilities that have not yet responded.

OGS reported this number based on analysis of the centralized contract for medical and surgical supplies and equipment.

Search Results for NYS Small Business

Searches were conducted in the NYS Contract System, Hoovers and Google. The breakdown of each search is below:

Hoovers Search	# of companies
Hoovers search term medical supplies	1,212
Hoovers search NAICS code 423450 ²	1,060
Total	2,272

NYS Contract System Search	# of companies
MWBE search term medical supplies	23
MWBE NAICS code 423450	15
Total	38

Google Search	# of companies
Google search term medicine cups NY	3
Total	3

Of the thirty-eight MWBE firms found in the New York State Contract System, thirty-three were also part of the Hoovers data set. The three firms found via Google search were part of the Hoovers data set.

NAICS code 423450 is broad category of Medical Equipment Supply & Wholesaler. There is no further detail about the type of supplies that are sold under this NAICS code. Based on the NAICS code alone, it is hard to determine how much was actually spent on medicine cups. Therefore, a smaller subset of ninety-one was chosen as a sample set to assist in determining the potential marketplace.

² NAICS code 423450 Medical Equipment Supply & Wholesaler

Survey Results with Companies

Of these ninety-one companies sample set, eighteen companies were initially determined to sell either the actual or similar cups. These eighteen companies were surveyed via email or phone.

Of the eighteen companies contacted/surveyed, ten are either M or WBE firms or both.

Mountainside Medical, which would partner with NYSPS and CABVI, was not one of the companies from the Hoovers list that we surveyed.

Below are the results of the survey respondents:

Company	Total # of Employees in NYS	Agencies or Municipalities Sold to	% of sales to government entities	\$ value of sales to government entities³	Certifications
Company A ⁴		Does not sell to NYS Agencies currently	0%	\$0	MBE/WBE
Company B	5	DOCCS, NYS School Districts, OPWDD, NYS Jails	2%-3%	\$35,000	WBE
Company C ⁵					MBE/WBE
Company D	16	DOCCS	1% or less	No response	WBE
Company E	30	NYCDOH, FDNY, NYS School Districts	~1%	No response	
Company F ⁶	45	Unknown	Unknown	Unknown	
Company G ⁷					WBE
Company H		Retailer and does not sell to NYS agencies currently	0%	\$0	
Company I	23	Dutchess ARC & Downstate Correctional	0.25%	No response	MBE

³ A second email was sent to ask the dollar value of medicine cup sales to governmental entities and some firms have not responded.

⁴ Company A does offer 1 oz. paper and 1oz. plastic cups.

⁵ Company C does offer 5 oz. drinking cups.

⁶ Company F uses distributors to fill their orders and therefore does not have the detailed data to share.

⁷ Company G does offer 5 oz. drinking cups.

Company	Total # of Employees in NYS	Agencies or Municipalities Sold to	% of sales to government entities	\$ value of sales to government entities ³	Certifications
Company J	3	DOCCS, SUNY, OMH	10%	\$5,000 - \$10,000	MBE
Company K	7	DOCCS, SUNY Hospitals, Dental Schools, Developmental Disabilities	Does not have permission to share numbers	Does not have permission to share numbers	WBE
Company L	50	Hospitals, Nursing Homes	Under 5%	No response	
Company M		Does not sell to NYS Agencies currently	0%	\$0	WBE
Company N ⁸	30	Westchester Jail, SUNY Albany/LI/SB	Currently 0%	Currently \$0	MBE

Contract Reporter Ads

Contract Reporter was searched for previous solicitations for medicine cups from January 1, 2010 – December 31, 2016 and only one ad was found for December 2010. OPWDD was looking to purchase 3 oz. fully waxed coated paper cold cups for their Broome DDSO locations, case quantities varied depending on shipping locations. There is no dollar amount listed. The contract term was listed as one year.

ANALYSIS AND CONCLUSION

First, ESD's assessment of the market place indicates it is larger than NYSPSP's estimated annual sales. How large the market is still being determined at this time given the limitations as stated above. However, given the preliminary analysis, DOCCS alone spends what NYSPSP states is its estimated annual sales. One small business has \$35,000 of its revenue from medicine cups sold to state agencies. As the market is greater than \$15,000, then NYSPSP would be getting a larger market place for Preferred Source designation. Given that the market place currently does support small businesses, MWBE firms and NYSPSP, there does not seem to be a reason to make this solely Preferred Source category.

⁸ Company N has sold to NYS agencies in the past but does not currently have a contract.

NYSPSP and CABVI do plan to partner with one small business, Mountainside Medical Equipment, but that will still preclude other small businesses from participating in this market if these categories become a Preferred Source designation. Currently, there are already small businesses and MWBEs competing and winning contracts in this category who are not the current partner of NYSPSP and CABVI. We have also identified potential certified MWBEs who could compete in the market for medicine cups and would be denied the opportunity if this becomes a Preferred Source category. By taking all these firms out of competition, it will likely affect agencies' utilization rate of MWBE firms.

Another data point on the effect of the Preferred Source Program on small businesses is the new State of New York 2016 MWBE Disparity Study issued June, 2017. The 2016 MWBE Disparity Study indicates that Preferred Source Program may negatively impact MWBE contracting opportunities. Related excerpts from the study are:

- Page 8: "Several MWBE business owners in the anecdotal interviews expressed concern that the Preferred Source Program posed a significant barrier to their participation on State contracts. For example, a minority male owner of a janitorial service questioned why certain contracted services were reserved only for preferred vendors.";
- Page 9: "The stated objectives of the Preferred Source Program include promoting social benefits, such as increased resident employment, increased State income tax revenue, and provision of commodities and services at competitive prices. However, this program also limits free market competition. The results of the 2016 MWBE Disparity Study indicate that willing and able market area MWBEs that provide the types of approved preferred source commodities and services solicited by the State agencies and authorities are being denied the opportunity to contract with the State."; and
- Page 10: "This Program, as applied, reduces opportunities for business owners to participate in State contracts for the commodities and services approved under the Preferred Source Program. The Program should be assessed to remove the barriers to MWBEs that provide the commodities and services currently in the exclusive domain of the Preferred Source Program."

Given that small businesses and MWBE firms are already participating in contracts, if this category becomes a Preferred Source designation then we would be hampering small businesses' ability to provide services in an area where they already do business in.

Therefore, our recommendation is to deny the NYSPSP application for medicine cups as Preferred Source designation.