# New York State Procurement Council

# Biennial Report of Significant Findings

# Calendar Years 2012 through 2013

**Prepared by: Office of General Services**

# New York State Procurement (NYSPro)

# In accordance with requirements of State Finance Law §161(2)(k), the New York State Procurement Council (Council) submits the following biennial report to the Governor, Honorable Members of the Legislature, and the Director of the Budget. The report addresses significant findings, activities and recommendations of the Council over one two-year reporting period. Regarding the statutory requirement to report on substantial savings generated by the Council, a number of the Council recommendations and endorsements described in this report resulted in individual agency or vendor administrative savings by streamlining processes. Due to the administrative and decentralized nature of those savings, actual dollar figures are not readily documentable.

# The Council, in accordance with its statutory obligations under State Finance Law §161, is charged “to work and improve procurement in New York State” through a variety of means. The Council is composed of representatives of state agencies, local governments, and private industry (See Attachment A—Procurement Council Membership Roster). The activities described in this report include joint efforts of the entire Council, as well as independent efforts of several member agencies of which the Council was regularly apprised, that impact procurement practices on a statewide basis.

# State Procurement Council Accomplishments

**Statewide Financial System**

The Statewide Enterprise Financial System (SFS), which provides end-to-end functionality for agencies went live in April of 2013. This New York State government initiative replaces its over 25-year-old Central Accounting System and several agency financial management systems with one integrated, statewide system. SFS provides financial management functions and information to all New York State agencies, while enabling New York’s control agencies, the Office of the State Comptroller (OSC) and the Division of the Budget (DOB), to perform their constitutionally separate oversight functions – all within a single, integrated environment. OGS, as part of an associated enterprise initiative, was asked to create a statewide Business Service Center (BSC) to centralize the processing of business, administrative, payroll, time attendance, human resources and financial services functions of executive agencies on a phased basis. BSC operations rely on SFS to enable it to provide this administrative support.

The Council remained apprised of SFS implementation during the process via presentations from SFS representatives at several meetings.

**Procurement Transformation**

Governor Cuomo has committed his administration to implementing enterprise-wide changes that will modernize business practices in running New York State government. One cornerstone of this new direction is the Strategic Sourcing initiative that will harness the buying power of the state in a way that has never been done before. Strategic Sourcing is a result of a four-part study of New York State operations that included the state’s real estate portfolio,

information technology services, customer services, and procurement. Its goal is to benchmark New York against both private and public sector practices and identify opportunities to make operational changes to improve efficiency and provide more value to the taxpayer. Accenture, a consulting firm under contract with New York State, was engaged to conduct the procurement portion of the project through a review and analysis on Strategic Sourcing.

As part of this transformation, OGS Procurement Services has changed its name. Formerly the NYS – OGS Procurement Services Group, it is now OGS - New **York State Procurement (NYSPro)**. By changing its name, OGS is formalizing its vision to be a world-class procurement organization, and embracing its role as a leader in the effort to improve public purchasing and procurement. NYSPro seeks to achieve the highest standards in procurement services and is guided by the following principles: **S**ervice, **A**ccountability, **V**alue, and **E**fficiency (SAVE).

In January of 2013 OGS launched extensive procurement transformation efforts internally, focusing on improving the operating model used to reduce the cycle times required to establish contracts, as well as looking at a number of issues related to business processes including Terms and Conditions, and processes for interacting with OGS customers and the thousands of suppliers on OGS statewide contracts. NYSPro is leveraging technology to assist in these efforts. With SFS, NYSPro is able to activate a number of procurement modules as a next step in moving forward with statewide Enterprise Resource Planning (ERP). NYSPro looks forward to creating online bidder portals to accept electronic bidding announcements and conduct electronic bidding, as well as streamlining organizational structure and communications.

NYSPro is establishing a number of advisory groups to interact with stakeholders to obtain their input and reaction to proposed changes. A number of Procurement Council members have had representatives participate on advisory groups. This process is transformational in terms of delivering value and services to the taxpayers as shareholders in the procurement process.

## Discretionary Purchasing Guidelines and

## Contract Reporter Advertising Thresholds And Notice Requirements:

## Changes to these informational documents were approved by the Council to reflect recent Legislative changes and were posted on the OGS Website at:

## [www.ogs.ny.gov/procurecounc/pdfdoc/DiscretionaryPurchasingGuidelines.pdf](http://www.ogs.ny.gov/procurecounc/pdfdoc/DiscretionaryPurchasingGuidelines.pdf);

##

## [www.ogs.ny.gov/procurecounc/pdfdoc/bulletin-contractreporterquarterlylistings\_2\_.pdf](http://www.ogs.ny.gov/procurecounc/pdfdoc/bulletin-contractreporterquarterlylistings_2_.pdf)

**Preferred Source Guidelines Update**

A subcommittee was formed to revise the Preferred Source Guidelines which had been followed for many years, but never published on the Council website. The subcommittee defined the meaning of a preferred source’s “value add” to an offering and detailed Value Added Statements (VAS) were created and provided for use by Preferred Sources in conjunction with commodity and service price approval. The Preferred Source Guidelines were also amended to reflect the changes promulgated by the legislature with regard to Minority/Women-Owned Business Enterprises (MWBE’s), specifically that MWBE’s partnering on preferred source contracts may be used by agencies in the fulfillment of their MWBE goals. These revised guidelines were presented to the Council for approval and are now posted on the OGS website at: <http://www.ogs.ny.gov/procurecounc/pdfdoc/psguide.pdf>.

**NYS Labeled Grape Wines**

In 1999 a law was enacted to lend support to the producers of New York State grape wines. In addition to recognizing the importance of New York’s wine industry, the law exempts purchases of New York State labeled grape wines from the competitive procurement laws. New York State labeled grape wines are given “favored source status.” Governmental bodies are allowed to purchase preferred source status products without regard to complying with any competitive procurement provisions. The message is clear: New York State wants to support its valued producers of New York State labeled wines. OGS receives a file from the NYS Liquor Authority containing the NYS Winery Farm Winery Licenses which shows the effective date and expiration date of the license and is updated on a regular basis to ensure it captures the most current information. The list was updated and will be maintained by the New York State Office of General Services, with additions and deletions to the list being approved by the State Procurement Council.

## Improved Communications and Training

In an ongoing effort to improve communication and training, since 2000 OGS and OSC have collaborated on a two-day State Purchasing Forum and Contractor Trade Show. Vendors with current OGS contracts are invited to participate in the Contractor Trade Show and their booth rental fee covers the costs to host the Forum. Attendance numbers by state and local government purchasing officers varied through the years, with a height of 1,465 in 2007. In 2013 there were 1200 attendees with 11% of these representing local governments. One-hundred, sixteen (116) contractors participated in the Trade Show; with 38 Preferred Source booths and 13 State agency booths. The Purchasing Forum was not held in 2012 due to the OGS transformation. In addition, OSC provides independent training at locations throughout the state and various times throughout the year. OSC and OGS provide joint training and outreach during local government association meetings, and participate in various other activities in response to requests from state agencies and local governments when staff and resources are available.

In an effort to foster communication with contract users, representatives from OGS and OSC continue to meet bi-annually with members of a number of local government associations through the Purchase Council for State and Local Governments. In light of resource constraints, both OGS and OSC are increasingly using electronic means to offer remote training that meets agency requests.

Various members of the Procurement Council participated in the Governor’s NYS Minority and Women Business Enterprise (MWBE) Forum at the Empire State Plaza, Albany, New York in both 2012 and 2013. New York State’s MWBE is the largest statewide business opportunities event for MWBEs. This event provides MWBEs the best opportunity to meet New York’s leading public and private sector leaders and procurement decision makers, identify the latest projects and business opportunities for their company, and learn what they need to know about government procurement.

More than 700 businesses attended this Forum in 2012. An unprecedented number of commissioners and agency leadership participated in this event, in addition to agency procurement officers. Several workshops were conducted to provide MWBEs with guidance for doing business with New York State. Much positive feedback on this event was received from the business community with this event becoming a recurring item on the Governor’s Office schedule. More information on this event may be found at: [www.nys.mwbe.forum.org](http://www.nys.mwbe.forum.org)

**LEGISLATION**

**Compliance with Provisions for Open Meetings Law:**

As a result of an amendment to the Public Officers Law, the Open Meetings Law now requires posting of documents intended for open meetings, such as Procurement Council meetings, on the website in advance of the scheduled meeting date. On the OGS Home Page there is a link titled Documents for Open Meetings which allows the public access to the documents which will be discussed with council members. Documents are posted on the OGS website as far in advance of a scheduled Council meeting as is reasonably possible. The meeting minutes from prior meetings may also be found at this site which is located at: [www.ogs.ny.gov/About/Meetings/](http://www.ogs.ny.gov/About/Meetings/)

**Iran Divestment Act:**

On January 13, 2012, Chapter 1 of the Laws of New York for 2012 was signed into law by Governor Andrew M. Cuomo. The law is known as the “Iran Divestment Act of 2012” (the “Act”) and can be found at §165-a of the NY State Finance Law. The Act became effective on April 12, 2012. The Act imposes limitations on “persons” that are determined to be engaged in investment activities in the Iranian energy sector, as defined in the Act and is available at [www.ogs.ny.gov/about/regs/docs/ida2012.pdf](http://www.ogs.ny.gov/about/regs/docs/ida2012.pdf).

The Commissioner of General Services was required and did develop and does maintain a list of persons determined to be engaged in investment activities in Iran. Once an entity appears on the list, it is considered to be a non-responsive bidder/offerer and prohibited from entering into contracts with New York State or local governments. This list may be found at: [www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf](http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf).

On July 17, 2012 Governor Cuomo signed into law Chapter 106 of the laws of 2012 which extended the Iran Divestment Act to state and local public authorities, the State University of New York, and the City University of New York. The link to that law is available at: [/www.ogs.ny.gov/about/regs/docs/chapter106.pdf](http://www.ogs.ny.gov/about/regs/docs/chapter106.pdf).

**Buy From Backyard Act/Impact on Discretionary Purchasing:**

In 2013, §165 of the State Finance Law was amended to enact the "buy from the backyard act" which may require, when letting contracts for the purchase of food products on behalf of facilities and institutions of the state, that the solicitation specifications of OGS and any other agency, department, office, board or commission may include provisions that mandate that all or some of the required food products are grown, produced or harvested in New York State, or that any processing of such food products take place in facilities located within New York State; subject to availability and the ability to meet the requirements included in the contract specifications. §163 of the State Finance Law was also amended in 2012 to make applicable the $200,000 discretionary thresholds for purchases from small, minority and women-owned business and of remanufactured and recycled products as well as food products grown produced and harvested within New York State including milk and dairy products.

**Procurement Stewardship Act**

The Procurement Stewardship Act, § 163 of the State Finance Law, which was due to sunset on June 30, 2012, was extended for four years and amended to include additional flexibility. When the Procurement Stewardship Act was signed in June of 1995 there was a dividing line between

contracts for commodities and contracts for services/technology wherein a different list of authorized users existed for the two contract types. OGS has been trying to merge this list since 1995. The passage of §163(1) (k) State Finance Law has eliminated that dividing line.

**Purchases of Services and** **Technology**

State Finance Law §§ 163(4)(b)(i) and 163(5)was amended to require that state agencies, except  state  agencies  where  the head of the agency is not  appointed by the governor, including but not limited to the state education department, the department of law, and the department of audit and control, consider the use of OGS Centralized service and technology contracts prior to such agency issuing its own competitive bid or using its discretionary purchasing authority to obtain those services or technolgy.

**Electronic Bidding**

State Finance Law §163(7) authorized electronic bidding for technology and for a limited list of commodities and services. This amendment requires the Commissioner of OGS to prepare a report on the use of electronic bidding.

**Advertisement of Procurement Opportunities in New York State Contract Reporter**

State Finance Law§163(8) was amended to increase the threshold for public advertisement of procurement opportunities in the New York State Contract Reporter from $15,000 to $50,000.

**OSC Review and Approval of Contracts**

Contracts for OGS centralized Commodities, Services and Technology resulting from solicitations issued after April 1, 2012 are exempt from the OSC Review and Approval process pursuant to State Finance Law §112(2)(a).

**NYS Printing and Public Documents Law:**

New York State Printing and Public Documents Law § 3and State Finance Law § 163, were amended permitting the procurement of printing the functional equivalent of purchasing commodities. Printing will continue to be based on low price but is now subject to the same statutory provisions set forth for the procurement of other commodities.

 Attachment A

**PROCUREMENT COUNCIL MEMBERSHIP ROSTER**

**DECEMBER 2013**

**Ex-Officio Members**

|  |  |
| --- | --- |
| Margaret BeckerDeputy ComptrollerOffice of the State Comptroller110 State Street, 10th floorAlbany, NY 12236 | Steven CohenDeputy CommissionerEmpire State Development633 Third AvenueNew York, NY 10017 |
| Mecca E. Santana, Esq.Chief Diversity OfficerExecutive Chamber633 Third Avenue, 38th FloorNew York, NY 10017 | Susan KnappChief Budget ExaminerDivision of the BudgetState CapitolAlbany, NY12225 |
| Sergio PanequeChair – Procurement CouncilChief Procurement Officer (CPO)Office of General ServicesCorning Tower, 38th FloorAlbany, NY 12242 | Jim AllenPresident & CEONew York Apple Association7645 Main Street – PO Box 350Fishers, NY 14453-2171 |

**Legislative Appointees**

|  |  |
| --- | --- |
| James A. HaggertyVeterans AdvocateNYS Council of Veterans Organizations111 Ottoville RoadValatie, NY 12184Appointment by Assembly Minority Leader(Kolb) Term/Expiration Date: 3 yr. – 7/6/14 Voting MemberRashida MendesCEORM Capital, LLC190 W. 134th St., Apt. 1New York, NY 10030Appointment of Senate President Pro TemMalcolm A. SmithTerm /Expiration: 3 yr. – 6/1/13Voting MemberGregory M. Weston, Esq.CounselPillsbury Winthrop Shaw Pittman LLP1540 BroadwayNew York, NY 10036-4039Appointment of Senate President Pro Tem (Smith)Term /Expiration Date: 3 yr. – 6/1/13 | Ronald Tascarella Board MemberNational Industries for the Blind 211 E. Main Street, Suite 268 Oswego, NY 13126Appointment of Senate Minority Leader (Stewart-Cousins)Appointment Pending Confirmation:Voting MemberRichard St. Paul, Esq. Local Government Representative211 E. Main St., Suite 268New Rochelle, NY 10801Appointment of Senate President Pro Tem (Smith)Term /Expiration Date: 3 yr. – 6/7/13 Voting Member  |

**Agency Designees**

|  |  |
| --- | --- |
| Andrew BechardAssociate AttorneyInformation Technology Services Office of the State CapitolPO Box 2062Albany, NY 12220-0062James B. BaysJamesJaJJJjj First Deputy CommissionerNYS Department of Agriculture & Markets10 B Airline DriveAlbany, NY 12235 | Thomas HippchenDirector of Universitywide ProcurementState University of New YorkState University Plaza Albany, NY 12246Michael Hurt Director, Division of Industries Department of Corrections & Community Supervision550 BroadwayMenands, NY 12204 |
| Marybeth HefnerDirector, Bureau of Accounts Management Department of HealthCorning Tower, Room 1395Albany, NY 12237 | Kelly S. Higgins Director, Fiscal & Contract ManagementOffice for People With Development Disabilities 44 Holland Avenue, 3rd FloorAlbany, NY 12229 |

David Russo

Office of Mental Health

Director, Consolidated Business Office

75 New Scotland Avenue, Unit N

Albany, NY 12208

**Non-Voting Observers**

|  |  |
| --- | --- |
| Edul AhmadThe Ahmad Group of Companies 105-20 Liberty AvenueOzone, NY 11417Appointment of Senate President Pro Tem (Smith)Term/Expiration Date: 3 yr. – 1/29/13Non-Voting Observer | Ronald P. RomanoPresident & CEONYS Industries for the Disabled (NYSID)11 Columbia Circle DriveAlbany, NY 12203Appointment by Assembly Majority Leader (Smith)Term/Expiration Date: 3 yr. – 11/9/1Non-Voting Observer |

**Vacancies**

|  |  |
| --- | --- |
| VACANTAppointment by Assembly Majority Leader(Silver) Term: 3 yrs.Voting MemberVACANTAppointment by Assembly Majority Leader(Silver)Term: 3 yrs.Voting Member  | VACANTAppointment by Assembly Majority Leader (Silver)Term: 3 yrsVoting Member  |