

**[DRAFT] Minutes of the Meeting**  
**New York State Procurement Council**  
**November 17, 2015 - 11:00 A.M.**  
**Meeting Room 6 | North Concourse | Empire State Plaza | Albany, NY**

**I. Call to Order**

Susan Filburn, OGS Deputy Chief Procurement Officer, called the meeting to order. A new member was welcomed to the Procurement Council, Sonia Lindell, Manager of Government Affairs for the Business Council of New York State was welcomed as a new member to the Procurement Council. It was announced that Anne Phillips, OGS Deputy Council and Director of Legislative Affairs, who has been the legal resource for the State Procurement Council since its inception, was retiring from State service. She was recognized for her long standing service and contributions to the Council.

**II. Minutes of Meetings**

**Link to:** [Agenda/Minutes](#)

Susan Filburn asked Council members for a motion to approve the September 10, 2015 meeting minutes. Tom Hippchen, advised that the minutes incorrectly listed him as present for the meeting. He stated that he was not present and that SUNY had been represented by Michelle Feathers. Ron Romano advised that his question regarding accommodating regional approvals for various vendors was also not included in the minutes. Susan Filburn indicated that these corrections would be made to the meeting minutes, and they would be presented for approval at the next meeting.

**III. Legislative Updates**

Anne Phillips advised that OGS is presenting two departmental bills for extensions of procurement related legislation. One is the extension of State Finance Law §§ 139 J and K, related to the Procurement Lobbying Law, which is set to expire on July 31, 2016. This law relates to restrictions on communications during the procurement process. There have been recommendations for potential improvements to these provisions, such as further explanation of the beginning of a restricted period which is not as well defined in the law as we would want to have it, but for now the departmental bill is a pure extender of the law for 5 years.

The second bill relates to State Finance Law § 163, which is commonly referred to as the Procurement Stewardship Act and is the nuts and bolts of how to do public procurement. This section of the law is set to expire on June 30, 2016. Currently the bill is a straight 5 year extender as we need to ensure we are able to continue to conduct public procurements in the same manner as currently provided under the State Finance Law. Anne reported that she expects there may be discussions and negotiations on possible additions to the Procurement Stewardship Act, which would be welcomed, and discussions and issues would be brought back to the procurement council.

By a show of hands, the procurement council voted to approve OGS's requests for extensions of these two statutes for 5 years. The vote to approve was unanimous and the Council, was thanked for their support.

**IV. Statewide Training Initiative Update**

Tom Hippchen, from SUNY, provided an update on the statewide training initiative. The committee, representatives of OGS, OSC, SUNY and CUNY have met since late spring. They have discussed existing training materials throughout the state, and creating a block foundation of courses. More feedback is needed from stakeholders and the state agencies so they have created a survey to learn more about the potential audience of the people being trained, the current training programs and resources, and what agencies are identifying as their most pressing training needs. OSC emailed a survey to over 200 state agency financial officers on Friday November 13th, and responses are due Monday November 23<sup>rd</sup>. They are hoping to track and analyze the responses to better determine the next steps. The Procurement Council did not have any questions about the survey.

**V. OSC Fall Conference**

**Link to:** [Handout](#)

Laurel Nittinger, from OSC provided the Procurement Council with information about the OSC Fall Conference. The OSC Fall Conference offers classes related to procurement and financial operations topics. This year's event will be held on December 8<sup>th</sup> and 9<sup>th</sup>. All state agency fiscal and payroll officers are invited, and anyone within the agencies can subscribe to the mailing list for financial advisories and fall conference notices from OSC. OSC welcomes agencies to partner with OSC staff to present on topics of interest. If there is an interest in participating in future events, please reach out to the OSC. Course listings for this year's event were included in a handout provided to the Council members.

## VI. Update on New IT Suite of Contracts

Marc Kleinhenz, OGS Procurement Services, provided an update on the new OGS technology contract suite. There are three components to the suite; Project Based Consulting, the Manufacturer's Based Umbrella Contract, and the Distributor Based Umbrella Contract. These three contracts have common themes, mandatory competition, standardized terms and conditions for all vendors regardless of size, standardized forms, and OGS provided training for authorized users and vendors.

The Project Based IT Services contract is for the purchase of consulting services only. No products can be purchased from this contract as it is a strictly deliverable based contract. Services can be purchased for up to 36 months in duration with no extensions and no amendments. There are three lots available from which to obtain your services, depending on your estimated value: Lot 1 is \$0 - \$200,000 and are for services only from MWBE's and SB's. Lot 2 is \$200,000 - \$7.5 million, and Lot 3 is 7.5 million dollars - 25 million dollars. This contract is currently up on OGS' website and there are 31 contracts awarded in Lot 1, 24 of those are MWBE's. Lot 2 has 51 contracts awarded, 19 are MWBE's. Lot 3 has 13 contracts awarded, with two of those being MWBE's. Contracts are continuing to be awarded on a daily basis. Trainings are being scheduled. Advice was given for using Project Based. It was explained that the payments are only made once an authorized user has approved a deliverable. These projects are a team approach, it is important to keep these projects on track, and to get deliverables signed off as soon as possible.

The IT Umbrella Manufacturer Based contract is intended to replace many of the current OGS technology contracts. There are 4 lots, software, hardware, cloud, and implementation, and future lots can be added through periodic recruitment. Vendors are expected to include their entire catalog of offerings within that lot, in order to provide full solutions to customers. The implementation lot is much like the Project Based Contract, and is limited to 36 months, and deliverable based only. No contracts have been awarded at this time, but there are a number of tentative awards. Training packages will start when contracts are signed, first for authorized users, then for vendors. For cloud, there are specific pieces of advice. For non-state agencies or state agencies not represented by ITS, a cyber-security insurance policy is strongly recommended. A risk mitigation plan should be built into your contract in case a security breach does happen.

The Umbrella Distributor Based contract is still being worked on. It will contain 2 lots, hardware and software. It will be like the current miscellaneous software contract with 3-5 distributors for each lot. There will be a mandatory competition built into the contract with an Authorized User issuing an RFQ to the awarded contractors. There will be restrictions on installations and services. The intent of this contract will be to buy bits and pieces.

Marc opened the floor up to questions from the Procurement Council. Rashida Mendes, legislative appointee, asked what is the typical timeline, and has the new process decreased the time from evaluation to award, and then to distribution of the contract? Marc expects the procurement process to be much faster, and that it will probably shave off a good 6 months, if not more for the Authorized Users. OMH representative, David Russo asked when a training for state agencies is planned for. Marc reports that there has been a short training with ITS, and another training is scheduled, with a plan to schedule 2 to 4 trainings a month for the foreseeable future. Another question was asked regarding Lot 1 of Project Based, which is restricted to MWBE's and SB's and whether there was also a designation for service disabled veterans in that grouping. Service disabled veterans are not included in this grouping, but are included in lots 2 and 3. Anne Phillips added that agencies have the unique ability to do a set aside for their procurement needs with only service disabled veterans, to retain goods and services from service disabled veterans.

## VII. Emergency Contracting Opportunities

**Link to: [Presentation](#)**

Pierre Alric, Contract Manager from the OGS Design & Construction group, provided the Procurement Council with information about Emergency Contracting Opportunities. Pierre explained what constitutes a construction emergency as "Damage to or a malfunction in buildings or property of the State of NY caused by an unanticipated, sudden and unexpected occurrence that requires immediate repair, reconstruction, or maintenance for the safe continuation of a necessary public use or function."

Currently 23 state agencies participate in the emergency program, and agencies who are interested in participating in this program can write a letter of interest from the Agency Head Officer to OGS Commissioner RoAnn M. Destito. The Emergency Coordinator will then contact the interested agency with details of the process and next steps.

The three phases of an Emergency Contract were presented, which include the acceptance and verification of an emergency, the soliciting and receiving of bids, and managing the contract work to alleviate the

emergency, until the emergency is alleviated. OGS personnel are on standby 24 hours a day, 7 days a week for emergency declarations. To expedite this, the Public Buildings Law waives formal competitive bidding requirements, although OGS is required to solicit and receive at least 3 oral bids from a rotational bidders list by region and construction trade. Currently there are 7 regions and 14 top level construction trades. Once a qualified low bidder is identified, a notice to proceed is sent to the contractor, and forwarded to the Office of the State Comptroller for review and approval. The contract work is monitored by OGS and progress reports are delivered.

Information was presented on how to become a qualified emergency bidder. Currently there are 264 qualified emergency bidders. Requirements are outlined on the OGS website at <http://ogs.ny.gov/BU/DC/esb/EmergencyDefault.asp>. Potential bidders undergo a review of their capability and vendor responsibility. A map of the 7 regions was provided, as well as a list of the 14 construction trades. A table was provided for certified MWBE firms by region and specialty, and the need for more certified MWBE's. Statistics for the emergency contract program were provided, and from October 2014- September 2015, 257 emergency contracts were awarded at a total value of \$55.5 Million.

After Superstorm Sandy, 103 contracts were awarded with \$100 Million in payments to contractors, with 20% of expenditures going to MWBE vendors. The extreme winter in November 2014 in Erie County resulted in 9 contracts being awarded with \$800,000 in payments to contractors for plowing and snow removal.

Pierre Alric opened the floor to questions. Rashida Mendes inquired about what is being done to increase the number of MWBE's in the categories that they are not present in, such as chimney repair vendors. Pierre explained, that it is a coordinated effort with the MWBE compliance office to reach out to vendors and referring vendors to the Empire State Development if they have not been certified. Rashida Mendes also inquired about any feedback regarding contractors who have pulled out for any reasons. Pierre explained that the focus is on more participation. Pierre stated that vendors rarely drop out of the qualified bidders list, and if they do, it is due to financial reasons.

#### **VIII. Preferred Source List Definitions & Application Status**

**Link to:** [Handout](#)

Christine Irvine, OGS Assistant Director Procurement Services presented on proposed definitions for approved Preferred Source Service offerings. She advised that OSC had requested that OGS define the approved offerings to assist purchasing officers and reduce confusion as to what is and is not covered within the title of the offering. Prior to this meeting, proposed definitions for the Section D approved services, under the heading of Maintenance and Janitorial, were shared with Council representatives and the OGS finalized definitions were submitted to the Procurement Council for final review and approval. Charlotte Breyer from OSC inquired about grounds keeping and lawn maintenance, where the word upkeep is used regarding the upkeep of sidewalks and parking lots, and there is a concern of the word upkeep and that it could imply construction repairs. After discussion, it was agreed that the terms "cleaning and clearing" will replace the word upkeep. David Russo from OMH pointed out that in the janitorial section, it states that the "manager" should be notified when buildings need repairs. After discussion it was agreed this would be clarified as the "building manager." It was suggested that the current heading of "Maintenance and Janitorial" be changed to "Grounds Maintenance and Janitorial."

A motion was presented to approve the proposed definitions, with the three amendments. The motion was approved. Ron Romano abstained from voting.

Christine Irvine also informed the Council that there are no new preferred source applications to report at this time.

#### **IX. Schedule of Meetings for 2016**

- Thursday January 14<sup>th</sup> (main), Friday January 29<sup>th</sup> (backup)
- Wednesday May 11<sup>th</sup> (main), Wednesday May 25<sup>th</sup> (backup)
- Wednesday September 14<sup>th</sup> (main), Wednesday September 28<sup>th</sup> (backup)
- Wednesday November 16<sup>th</sup> (main), Tuesday November 29<sup>th</sup> (backup)

#### **X. Open Council Discussion**

Susan Filburn opened the floor for discussion. There were no questions or statements.

#### **XI. Closing**

Susan Filburn thanked everyone for attending. She asked for a motion to end the meeting. The motion to close was moved by DOCCS representative, Michael Hurt and was seconded by legislative appointee, Rashida Mendes.

The meeting concluded at 11:50am.

**Next Quarterly Meeting:** Thursday January 14, 2016

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**Members in Attendance on November 17, 2015**

Charlotte Breyer – OSC	Ronald Romano – NYSID	Phil Giltner – Ag & Mkts
Alexandra Greene – Labor	Ronald Tascarella – NIB	Marybeth Hefner – DOH
Susan Filburn – OGS	Richard St. Paul – Local Gov. Rep.	Michael Hurt – DOCCS
Christine McCann – ESD	Andrew Bechard – ITS	Lisa Davis – OPWDD
Rashida Mendes – RM Capital, LLC	Thomas Hippchen - SUNY	David Russo – OMH
Sonia Lindell – Business Council		

**Also in Attendance**

Christine Irvine – OGS	Anne Phillips – OGS
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**Members Absent on November 17, 2015**

Robert Drummond - AB Ranch Beef	Gerard Minot-Scheurmann – DOB
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