

-DRAFT-

New York State Procurement Council | Minutes of the Meeting

February 8, 2017 | 10:00 AM

Meeting Room 6 | North Concourse | Empire State Plaza | Albany, NY

I. Call to Order

Sean Carroll, New York State Procurement Council (“Procurement Council”) Chair, called the meeting to order and thanked everyone for attending. Mr. Carroll extended a special thank you and farewell to departing Procurement Council member Sonia Lindell, Legislative Appointee from the NYS Business Procurement Council, for her service as a Procurement Council member, and to Christine Irvine, OGS, Procurement Services, Assistant Director of Intergovernmental Services and Preferred Sources, who has accepted a Director’s position at NYS OTDA.

II. Minutes of Past Meetings

Sean Carroll called for a motion to adopt the draft minutes of the September 14, 2016 meeting. The motion passed unanimously. (Note: After the vote, Lisa Davis, OPWDD requested a correction to the minutes to reflect her attendance at the September 14, 2016 meeting.) Mr. Carroll agreed to have this change implemented.

III. New Business

Legislative Updates: Marc Hiller, OGS Legal Services Supervising Attorney, briefed the Procurement Council on the following procurement related provisions in the 2017-18 Executive Budget: establishing a Chief Procurement Officer for the State; establishing a restricted vendor contribution period for persons or entities that submit a bid to a state governmental procurement; establishing the New York Buy American Act which provides a preference for products manufactured in America in procurements by state agencies and public authorities for products greater than \$100,000; various amendments to the Preferred Sources Program; extending until December 31, 2018 of provisions of law relating to participation by minority and women-owned business enterprises in state contracts; and, extending the Infrastructure Investment Act and expanding the definition of an authorized entity that may utilize design-build contracts.

Statewide Financial System (SFS) Update: Paul Kalinowski and Margaret Sherman presented the Procurement Council with the status of the SFS system. Their presentation included an overview of SFS joint governance, the 2017 road map and vision for a fully integrated, end to end, procure to pay system for purchasers and vendors. The presentation also outlined a number of enhancements planned for April 2017. The complete SFS PowerPoint presentation is available on the Procurement Council website. <https://ogs.ny.gov/BU/PC/Mminutes/2017/>.

Laundry Services Workgroup Findings and Definition: Christine Irvine provided the Procurement Council with a summary of workgroup activities, which concluded in December 2016. Chaired by OGS, with participation from ESD, SED, SUNY, SUNY hospitals, private sector industrial laundry representatives from NYSID affiliated and non-affiliated providers, as well as NYSID member Jawonio, Inc. and NYSID employees, workgroup activities commenced in July 2016. The group activities included discussions, Q&A sessions, a review of business process flowcharts, a video, and a site visit to the Unitex Laundry plant in Mount Vernon, NY. At the conclusion of these actions, the workgroup met and finalized a definition for the Procurement Council’s consideration.

The finalized definition of Laundry Services was distributed to Procurement Council members on January 27, 2017, for discussion and vote at the February 8, 2017 meeting.

Mr. Carroll invited Procurement Council discussion. There was no discussion from the Procurement Council. Mr. Carroll called for a motion to adopt the workgroup proposed definition of Laundry Services. The motion passed unanimously.

List of Preferred Source Offerings Sections C and E: Christine Irvine provided the Procurement Council with a recap of activities regarding the List of Preferred Source Offerings (List) Sections C and E. (Section C lists three (3) NYSID products that do not have preferred source status. Section E lists six (6) NYSID services, and three (3) Corcraft services that do not have preferred source status.) In an effort to reduce purchaser

confusion, in May 2016, OGS as Staff to the Procurement Council proposed removal of these two sections from the List. OGS was asked to work with NYSID and Corcraft toward an agreement on the continued presentation of lists C and E.

Ms. Irvine reported that in letters to OGS, both NYSID and Corcraft declined to remove Sections C or E, noting that in accordance with SFL §162 these sections can only be deleted at the request of the preferred source. Staff recommends that the Procurement Council revisit this topic after all service definitions are complete.

There was open Procurement Council discussion regarding the purpose of Sections C and E, the addition of a watermark to these sections to remove ambiguity and confusion regarding the sections, and the need for additional purchaser training.

Mr. Carroll invited Procurement Council members to provide additional comment and feedback to Staff after the meeting. There was no formal call for action on this subject.

NYSPSP Data Imaging Application for Preferred Source Designation: Carrie Laney, Executive Director, New York State Preferred Source Program for People who are blind, presented the Procurement Council with an overview of their application for preferred source designation to offer data imaging services. Ms. Laney provided an organizational overview, high-level staffing and a work plan outlining the benefits to incorporating data imaging services into the expanding NYSPSP portfolio of services. Procurement Council members were provided with a copy of the NYSPSP application for data imaging services on January 27, 2017. The complete NYSPSP PowerPoint presentation is available on the Procurement Council website. <https://ogs.ny.gov/BU/PC/Mminutes/2017/>.

Christine Irvine, as Staff to the Procurement Council, summarized the OGS review and recommendation for approval to the Procurement Council stating that NYSPSP met the all requirements of the Preferred Source Guidelines § X. D including, but not limited to, demonstrating value added labor and pricing within 15% of prevailing market. Also noted was the low per image cost in the proposed project, the high percentage of blind labor and FTEs associated with this application.

Empire State Development offered no objections to this application.

There was a brief discussion from the Procurement Council with questions for both Ms. Laney and Ms. Irvine. A motion to approve the NYSPSP application for Data Imaging Services passed unanimously with recusals by Ronald Romano and Ronald Tascarella.

Temporary Personnel Workgroup: Sean Carroll advised the Procurement Council that several agencies and organizations have offered to participate on this workgroup, and further advised that additional workgroup volunteers are needed. Procurement Council members were asked to contact Staff at the conclusion of the meeting. There was no formal call for action regarding this subject.

2016 Single Source Reporting: Christine Irvine provided a summary for the 2015-2016 reporting period. The Commissioner of OGS, on behalf of the Procurement Council, has received eight reports from the NYS agencies for this period. These reports were submitted to OGS pursuant to paragraph (vi) of subdivision 14 of Section 163 of SFL which requires NYS agencies to report the total number and dollar value of single source contracts awarded by the Agency during the fiscal year, and the percentage that such contracts represent of the agency's total number and total dollar value of contract awards during the reporting period. The statute requires each agency to include with its report an assessment by the agency head of the agency's efforts to minimize the award of single source contracts. All reports required under this paragraph are to be available for public inspection upon request. The following NYS agencies filed single source reports for fiscal year 2015-16:

- Department of Financial Services
- Department of Corrections and Community Supervision
- Gaming Commission
- Higher Education Services Corporation
- State Insurance Fund
- Office of General Services
- Office of Parks Recreation and Historic Preservation
- SUNY

Report of Preferred Source Applications Under OGS Standing Authority: Christine Irvine reported that two new products were given Preferred Source Status by OGS in accordance with SFL § 162 and the Procurement Council Guidelines which include delegated authority for approval of applications for preferred source designation of new commodity and service offerings under the following conditions:

- a.) The price is within 10% of the prevailing market, and
- b.) Projected annual sales do not exceed \$500,000; and,
- c.) Empire State Development does not identify objections from the business community

Both new product offerings were approved based on applications submitted to OGS by NYSID.

1. Accessibility Parking Signs – These signs are used for ADA compliance to identify parking spaces for individuals with disabilities. This sign includes the NYS Accessibility signage design change as signed into law by Governor Cuomo on July 25, 2014. Severely disabled employees at Herkimer ARC will provide 100% of the labor to prepare and ship this product. First year sales are estimated at \$230,000.

2. Jamboxx Midi Controller – This is a hands-free, breath-driven musical instrument. The device and software make it possible for severely disabled people to play over 200 sounds from electric guitar to oboe, even if they have no prior musical training. This device was invented locally, and is now assembled by Schenectady ARC-Pineridge Industries in collaboration with My Music Machines, Inc. of NY and NJ as the supplier for this product. Severely disabled employees at Schenectady ARC-Pineridge Industries will provide 75% of the labor required to assemble and ship this product. First year sales are estimated at \$69,850.

NYGovBuy Update Sean Carroll provided the Procurement Council with information about the 2017 NYGovBuy Event, formerly known as the State Purchasing Forum. This year's event is scheduled for May 3-4, 2017, at the Empire State Plaza and the State Association of Municipal Purchasing Officials (SAMPO) is partnering with OGS and OSC for the first time. Registration will begin in March. There are many changes to this year's event including participation by and training for local governments and school districts. There are over 200 vendor booths reserved. Purchasers will have direct access to preferred source organizations, MWBE, SDVOB, and state contract vendors, manufacturers of recycled and remanufactured products, and NYS food producers. OSC and ESD have collaborated with OGS to ensure this event is a success.

Preferred Source Training will be offered again this year to ensure state agency purchasers understand their obligations.

Procurement Council Member Alex Greene offered to assist in the distribution of information regarding this event by sharing a one-page brief about the event at an upcoming Chamber monthly Commissioners meeting. OGS will report to the Procurement Council on the event at the next Procurement Council meeting. There was no call for action regarding this subject.

Open Procurement Council Discussion

Steven Kasarda (Legislative Appointee) offered comment about the Preferred Source Application process and the late distribution of material for Procurement Council review. The receipt of last minute information is not supportive of the process. A specific solution was not proposed, however, suggestions such as a cut-off date or other controls should be implemented so that Procurement Council members have sufficient time to review the recommendations.

Sean Carroll apologized for the late distribution of documentation, and invited Procurement Council members to submit suggestions regarding a cut-off date, or other solutions.

David Russo (OMH) offered comment on the Legislative proposals and changes to State Finance Law § 162, inserts b and c, which propose establishment of Procurement Council guidelines to determine the reasonableness of price, noting that the second version of this bill is currently under review. Although it is unclear who submitted the pending legislative changes, if submitted by the Procurement Council, the language should have been shared with the Procurement Council before it was proposed.

Sean Carroll explained that there is no way of knowing what is going to appear in budget bills or in what format bills will appear. Procurement Council members are welcome to submit comments to the Procurement Council or the entities responsible for passing legislation.

Jerry Minot-Scheuermann (DOB) explained that Article 7 bills are placed in the budget by the Governor. . Finalization of the Article 7 bills occurs within the Executive Chamber, and the information is not publicly available until the budget is released. Once the budget is open, any person or agency can reach out through the legislature to request a change. Agencies with questions should have their agency counsel contact the Governor's counsel responsible for the bill. Likewise, the Procurement Council members have the opportunity to take action through similar channels during this interim period.

Ron Romano, (NYSID), inquired about the role and responsibility of the Procurement Council to review (and vet) language regarding the Procurement Council and preferred sources before it is formally proposed. Citing for comparison, the Commissioner's Procurement Stewardship renewal workgroup, Mr. Romano, wanted to know why no similar action regarding this year's proposed legislative changes was undertaken.

Next Meeting

Wednesday May 17, 2017, (Alternate Date Wednesday May 31, 2017)

Closure

There being no further business, the meeting was adjourned.

2017 Procurement Council Meeting Schedule

- ✓ February 8, 2017
- **May 17, 2017** (Alternate Date 05/31)
- September 20, 2017 (Alternate Date 09/21)
- November 8, 2017 (Alternate Date 11/09)

All Procurement Council meetings are scheduled on Wednesdays, from 11:00 AM – 1:00 PM, in Meeting Room 6 on the Empire State Plaza in Albany, NY.

Webcast

<https://ogs.ny.gov/about/Webcast/Archive.asp>

Members in Attendance on February 8, 2017

Sean Carroll – OGS
Alexandra Greene – ESD
Charlotte Davis – OSC
Lisa Davis – OPWDD
Jerry Minot-Scheuermann – DOB

Christine McCann – ESD
John Behrle – DOCCS
Thomas Hippchen – SUNY
Suzanne Mantica – DOH
Joel Lombardi – ITS

David Russo – OMH
Steven Kasarda
Ronald Romano
Ronald Tascarella

Also in attendance:

Marc Hiller - OGS

Christine Irvine – OGS

Members not in attendance:

Lisa Brooks – AG&MKTS

Robert Drummond

Richard St. Paul

Voting Record

Motion to Approve the Minutes of the September 14, 2016 Procurement Council Meeting

Ex-Officio Members	Alternates	Action		Vote			
		Motion	2nd	Aye	Nay	Abstain	Recuse
OGS							
Sean Carroll	Sue Filburn						
Executive Chamber							
Rose Rodriguez	Alexandra Greene						
OSC							
Margaret Becker	Charlotte Davis Donna Blake			X			
DOB							
Robert (Bob) Barbato	Gerard Minot- Scheuermann	X		X			
ESD							
	Christine McCann			X			
Agency Designees							
Agriculture & Markets							
Phil Giltner	Lisa Brooks						
DOCCS							
John (JP) Behrle	Michael Elmendorf			X			
SUNY							
Thomas Hippchen	Michele Feathers		X	X			
OPWDD							
Lisa Davis	John Smith			X			
DOH							
Marybeth Hefner	Suzanne Mantica			X			
ITS							
Kim Szady	Joel Lombardi			X			
OMH							
David Russo				X			
Legislative Appointees							
Robert Drummond							
Steven Kasarda				X			
Ronald Romano (NYSID)				X			
Richard St. Paul							
Ronald Tascarella (NYSPSP)				X			

Note: Alexandra Greene was not present for this vote, but was present for subsequent votes on this date.

Voting Record

Motion to Approve the Definition of Laundry Services

Ex-Officio Members	Alternates	Action		Vote			
		Motion	2nd	Aye	Nay	Abstain	Recuse
OGS							
Sean Carroll	Sue Filburn						
Executive Chamber				X			
Rose Rodriguez	Alexandra Greene						
OSC				X			
Margaret Becker	Charlotte Davis Donna Blake						
DOB				X			
Robert (Bob) Barbato	Gerard Minot- Scheuermann						
ESD			X	X			
	Christine McCann						
Agency Designees							
Agriculture & Markets							
Phil Giltner	Lisa Brooks						
DOCCS				X			
John (JP) Behrle	Michael Elmendorf						
SUNY		X		X			
Thomas Hippchen	Michele Feathers						
OPWDD				X			
Lisa Davis	John Smith						
DOH				X			
Marybeth Hefner	Suzanne Mantica						
ITS				X			
Kim Szady	Joel Lombardi						
OMH				X			
David Russo							
Legislative Appointees							
Robert Drummond							
Steven Kasarda				X			
Ronald Romano (NYSID)							X
Richard St. Paul							
Ronald Tascarella (NYSPSP)							X

Voting Record

Motion to Approve NYSPSP Data Imaging Services Application for Preferred Source Designation

Ex-Officio Members	Alternates	Action		Vote			
		Motion	2nd	Aye	Nay	Abstain	Recuse
OGS							
Sean Carroll	Sue Filburn						
Executive Chamber				X			
Rose Rodriguez	Alexandra Greene						
OSC		X		X			
Margaret Becker	Charlotte Davis Donna Blake						
DOB			X	X			
Robert (Bob) Barbato	Gerard Minot- Scheuermann						
ESD				X			
	Christine McCann						
Agency Designees							
Agriculture & Markets							
Phil Giltner	Lisa Brooks						
DOCCS				X			
John (JP) Behrle	Michael Elmendorf						
SUNY				X			
Thomas Hippchen	Michele Feathers						
OPWDD				X			
Lisa Davis	John Smith						
DOH				X			
Marybeth Hefner	Suzanne Mantica						
ITS				X			
Kim Szady	Joel Lombardi						
OMH				X			
David Russo							
Legislative Appointees							
Robert Drummond				X			
Steven Kasarda							
Ronald Romano (NYSID)							X
Richard St. Paul							
Ronald Tascarella (NYSPSP)							X