

New York State Procurement Council | Minutes of the Meeting

May 31, 2017 | 11:00 AM

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

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 welcome to two new Procurement Council Members Amber Mooney, Legislative Appointee from the NYS Business Council, and Shawn Cullinane, Legislative Appointee from Village of Lindenhurst, Business Improvement District.

Sean Carroll called for a motion to adopt the draft minutes of the February 8, 2017, meeting. The motion passed unanimously.

New Business

Legislative Updates: Marc Hiller, OGS Legal Services Supervising Attorney, briefed the Procurement Council on the following legislative actions related to procurement and purchasing in NYS:

- **A6355/S3984** Proposes to restore the State Comptroller's oversight of SUNY, CUNY, and OGS centralized contracts. Current status – (A6355) March 3rd referred to Governmental Operations Committee; (S3984) May 22nd amended on 3rd reading.
- **A3265/S270** Proposes to create a new Article 15-D of the New York State Executive Law, entitled "Equal Pay Disclosure with Respect to State Contracts." Current status – (A3265) May 4th Advanced to 3rd Reading; (S270) January 4th referred to Finance Committee.
- **A2022/S383** Proposes to require agencies prior to entering into a contract for consultant services of more than \$750,000 to compare costs to determine whether the work can be performed at lower cost by utilizing state employees rather than by consultants. Current Status – (A2022) May 4th advanced to 3rd reading; (S383) January 4th referred to Finance Committee.
- **A2185/S3918** Proposes to enact the "buy from the backyard act" to require State agencies that purchase food and food products to purchase 20% of their total contracts for food from within NYS. Current status – (A2185) January 17th referred to Agriculture Committee; (S3918) May 24th advanced to 2nd reading.
- **A6832/S5096** Proposes to clarify provisions providing for the contracting for commodities and services by government entities from certain preferred sources by: 1. providing definitions for terms widely used, but undefined within the statute; 2. providing specifics as to what is required for the price approval process; and 3. moves the value of contracts that require price approval to \$200,000 annually. Current status – (A6832) March 21st referred to Governmental Operations Committee; (S5096) May 8th advanced to 3rd reading.

NYSID Application for Preferred Source Designation of 30 and 55 Gallon Spill Kits: Joe Messina, NYSID, presented the Procurement Council with an overview of the NYSID application for preferred source designation of Spill Kits. Mr. Messina, was accompanied by Liberty Enterprise's Dawn Jackland, who provided information about the longstanding production and manufacturing of absorbent mats by Liberty Enterprises and explained how these items presented an opportunity for disabled workers to expand their production capabilities while working in a NYS small business environment. John Normile, OGS Procurement Services as Staff to the Procurement Council, summarized the OGS review and recommendation for approval to the Procurement Council stating that NYSID met all requirements set forth in the Preferred Source Guidelines § X. D including, but not limited to, demonstrating value added labor and pricing below prevailing market. Also noted was the October 2016 objection to the NYSID application by Empire State Development (ESD).

Christine McCann, ESD, yielded the floor to Beth Warren, ESD, who spoke on behalf of ESD. Ms. Warren reported that that ESD needed more time to complete their market analysis and provide details as to the impact the application would have on New York State small businesses.

There was a lengthy discussion by the Procurement Council members with questions for NYSID, ESD and OGS. After numerous motions were made, a final motion to approve the NYSID application for preferred source status of 30 and 55 Gallon Spill Kits passed with the condition that any future application for a Spill Kit product line extension must be brought before the full Procurement Council.

Note: Questions were raised by Procurement Council Members regarding what constituted a majority, a quorum, and the number of votes required for a motion to pass. Sean Carroll reported that 11 votes are required for both a quorum and to pass a motion.

Resolution Regarding Application Submission Time (Change from 45 to 90 Days Prior to Council Meeting). Staff to the Procurement Council (“Staff”) presented a resolution to modify the 2014 Preferred Source Guideline application submission time from 45 to 90 days prior to a Procurement Council Meeting. Staff stated that the current time frame does not allow sufficient time (for either Staff or ESD) to review applications for new products or new services and to prepare the required Procurement Council recommendations sufficiently in advance of Procurement Council meetings so that the members could receive the recommendations at least a week before the meeting at which the application will be presented.

Council members discussed this resolution briefly and expressed multiple concerns about the impact of the proposed change on the overall length of time a new application would be under review, with particular concerns about missing a quarterly meeting all together.

Staff withdrew the resolution for reconsideration of the overall timeline.

Preferred Source Applications Approved Under OGS Standing Authority: John Normile, reported that between January 1, 2017 and April 30, 2017 OGS approved four new NYSPSP Preferred Source Offerings under the standing authority granted by the NYS Procurement Council: Defender Tactical Press Tip Pen, Luminator LED Tactical Pen, Tactical Mechanical Tourniquet, Tuna/Mackerel Ready to Serve Pouches.

Update Temporary Personnel - Office Definition Workgroup: Sean Carroll reported that the first meeting of the workgroup to define the approved Preferred Source service offering titled “Temporary Personnel – Office” has been scheduled for Wednesday, June 15, 2017.

NYGovBuy Report: Sean Carroll reported that in the interest of time this topic will be presented at a later meeting.

Town Hall Meeting Report / Update Preferred Source Service Application Forms and Web: Sean Carroll stated that he hosted Preferred Source Town Hall meeting and that a new preferred source application was being implemented. He encouraged members to visit the OGS website located at: <https://nyspro.ogs.ny.gov/content/buying-preferred-source-0> to review the Town Hall Presentation, biweekly Preferred Source Application Status Reports, and to download the new Preferred Source Service Application Forms Package.

Old Business

BuyOMH: David Russo, Office of Mental Health (OMH) reported that in 2014, OMH decided to discontinue the “BuyOMH” Preferred Source Program. With that decision, OMH requests that all references to “BuyOMH” be removed from the List of Preferred Source Offerings, State Finance Law §162, NYS Procurement Guidelines and NYS Preferred Source Guidelines.

Public Comment: Sean Carroll stated that there had been requests in the past for a policy on public comments. He provided a draft document to the members and asked that members review the document and provide response to the Procurement Council mailbox OGS.sm.Procurement.Council@OGS.NY.Gov by August 1. Member comments will be added to the draft document which will be resubmitted to the Council for discussion at the next Council meeting.

Roberts Rules: Sean Carroll advised that OGS will provide a guide for procedural reference at future meetings.

Meeting Material Distribution: Sean Carroll reported that OGS, as Staff to the Procurement Council continues to strive for timely distribution of material for upcoming meetings. Timely distribution, of material in advance of scheduled meeting remains a top priority of the Procurement Council meeting coordinators. Tablet devices have been purchased and will be distributed to Procurement Council Members for use at Procurement Council meetings. The addition of these tablet devices is expected to improve the meeting experience.

Open Discussion: Ron Romano, NYSID requested that a status update of the tabled Application for Mail Fulfilment be provided for the next meeting. The Sean Carroll acknowledged the tabled application and advised that there was no “status” to be reported. He suggested that NYSID work with the Procurement Council Members who recommended tabling, and

use the procedural process at the next Procurement Council meeting to “un-table” or bring the Mail Fulfillment Application back for consideration.

Meeting Closure: Procurement Council members voted unanimously to adjourn the meeting at 1:45pm.

Next Meeting: **Wednesday September 20, 2017,** (Alternate Date Thursday September 27, 2017)

2017 Procurement Council Meeting Schedule:

- ✓ February 8, 2017
 - ✓ May 31, 2017
 - **September 20, 2017** **(Alternate Date 09/27)**
 - 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 location: <https://ogs.ny.gov/about/Webcast/Archive.asp>

Members in Attendance:

Sean Carroll – OGS	Michael Elmendorf – DOCCS	Shawn Cullinane
Charlotte Davis – OSC	Thomas Hippchen – SUNY	Amber Mooney
Lisa Davis – OPWDD	Phil Giltner – Ag& Mkts	Steven Kasarda
Gerard Minot-Scheuermann – DOB	Suzanne Mantica – DOH	Ronald Romano
Christine McCann – ESD	Joel Lombardi – ITS	Ronald Tascarella
	David Russo – OMH	

Also in attendance:

Marc Hiller - OGS	Noreen VanDoren – OGS	John Normile - OGS
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Members not in attendance:

Alexandra Greene	Robert Drummond
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New York State Procurement Council Meeting May 31, 2017 Meeting Room 6 North Concourse Empire State Plaza Albany, NY									
Motion to approve the Meeting Minutes for the February 8, 2017 Meeting									
Member Ty	Organization	Role	Name	ACTION		VOTE			
				Moti	2nd	Aye	Nay	Absta	Recuse
Agency Design	Department of Health	Primary	Marybeth Hefner, Dep. Director Fiscal Management			X			
Agency Design	Dept. of Agriculture & Markets	Primary	Phil Giltner, Deputy Commissioner			X			
Agency Design	Information Technology Service	Alternate 1	Joel Lombardi			X			
Agency Design	Office for People with Developm	Primary	Lisa Davis, Director Fiscal & Contract Management			X			
Agency Design	Office of Mental Health	Primary	David Russo, Director Consolidated Business Office			X			
Agency Design	State University of New York	Primary	Thomas Hippchen, Director of University-wide Procurement	X		X			
Ex-Officio Mem	Office of General Services	Primary	[Council Chair] Sean Carroll, Chief Procurement Officer					X	
Ex-Officio Mem	Division of the Budget	Alternate 1	Gerard Minot-Scheuermann			X			
Ex-Officio Mem	Empire State Development	Alternate 1	Christine McCann			X			
Ex-Officio Mem	Office of the State Comptroller	Alternate 1	Charlotte Davis			X			
Legislative App	Local Government Representati	Primary	Shawn Cullinane			X			
Legislative App	Economic Development	Primary	Amber L Mooney			X			
Legislative App	New York State Preferred Sour	Primary	Ronald Tascarella, Board Member		X	X			
Legislative App	NYS Industries for the Disabled	Primary	Ronald Romano, President & CEO			X			
Legislative App	The Kasarda Law Group, LLC	Primary	Steven C. Kasarda, Esq.			X			
		Key	Present for this vote						
OGS Staff to PC Also Present			Noreen VanDoren :Preferred Source Counsel						
			Mark Hiller: Procurement Council Counsel						
			Susan Filburn: Recorder						
			John Normile: AD, OGS Preferred Source Team						
			John Indelicato: Recorder						
			Patti Sbrega: Recorder						

May 31, 2017

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Motion to approve the NYSID APPLICATION FOR PREFERRED SOURCE DESIGNATION OF 30 & 55 GL SPILL KITS APPROVED WITH THE CONDITION THAT SUBSEQUENT PRODUCT LINE EXTENSIONS MUST BE APPROVED BY PROCUREMENT COUNCIL

				ACTION		VOTE			
Member Ty	Organization	Role	Name	Moti	2nd	Aye	Nay	Absta	Recuse
Agency Desigr	Department of Health	Primary	Marybeth Hefner, Dep. Director Fiscal Management			X			
Agency Desigr	Dept. of Agriculture & Markets	Alternate 1	Lisa Brooks, Director of Fiscal Management						
Agency Desigr	Dept. of Agriculture & Markets	Primary	Phil Giltner, Deputy Commissioner	X		X			
Agency Desigr	Dept. of Corrections & Commu	Alternate 1	Michael Elmendorf, Deputy Director for Sales and Marketing			X			
Agency Desigr	Information Technology Service	Alternate 1	Joel Lombardi				X		
Agency Desigr	Office for People with Developm	Primary	Lisa Davis, Director Fiscal & Contract Management			X			
Agency Desigr	Office of Mental Health	Primary	David Russo, Director Consolidated Business Office			X			
Agency Desigr	State University of New York	Primary	Thomas Hippchen, Director of University-wide Procurement		X	X			
Ex-Officio Merr	Office of General Services	Primary	[Council Chair] Sean Carroll, Chief Procurement Officer			X			
Ex-Officio Merr	Division of the Budget	Alternate 1	Gerard Minot-Scheuermann			X			
Ex-Officio Merr	Empire State Development	Alternate 1	Christine McCann				X		
Ex-Officio Merr	Office of the State Comptroller	Alternate 1	Charlotte Davis			X			
Legislative App	Local Government Representati	Primary	Shawn Cullinane					X	
Legislative App	Economic Development	Primary	Amber L Mooney			X			
Legislative App	New York State Preferred Sour	Primary	Ronald Tascarella, Board Member			X			
Legislative App	NYS Industries for the Disabled	Primary	Ronald Romano, President & CEO						X
Legislative App	The Kasarda Law Group, LLC	Primary	Steven C. Kasarda, Esq.				X		
		Key	Present for this vote						
	OGS Staff to PC Also Present		Noreen VanDoren :Preferred Source Counsel						
			Mark Hiller: Procurement Council Counsel						
			Susan Filburn: Recorder						
			John Normile: AD, OGS Preferred Source Team						
			John Indelicato: Recorder						
			Patti Sbrega: Recorder						

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May 31, 2017
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Motion to **ADJOURN THE MEETING**

				ACTION		VOTE			
Member Ty	Organization	Role	Name	Moti	2nd	Aye	Nay	Abst	Recuse
Agency Design	Department of Health	Primary	Marybeth Hefner, Dep. Director Fiscal Management		X	X			
Agency Design	Dept. of Agriculture & Markets	Primary	Phil Giltner, Deputy Commissioner	X		X			
Agency Design	Dept. of Corrections & Commu	Alternate 1	Michael Elmendorf, Deputy Director for Sales and Marketing			X			
Agency Design	Information Technology Service	Alternate 1	Joel Lombardi			X			
Agency Design	Office for People with Developm	Primary	Lisa Davis, Director Fiscal & Contract Management			X			
Agency Design	Office of Mental Health	Primary	David Russo, Director Consolidated Business Office			X			
Agency Design	State University of New York	Primary	Thomas Hippchen, Director of University-wide Procurement			X			
Ex-Officio Mem	Office of General Services	Primary	[Council Chair] Sean Carroll, Chief Procurement Officer						
Ex-Officio Mem	Division of the Budget	Alternate 1	Gerard Minot-Scheuermann			X			
Ex-Officio Mem	Empire State Development	Alternate 1	Christine McCann			X			
Ex-Officio Mem	Office of the State Comptroller	Alternate 1	Charlotte Davis			X			
Legislative App	Local Government Representati	Primary	Shawn Cullinane			X			
Legislative App	Economic Development	Primary	Amber L Mooney			X			
Legislative App	New York State Preferred Sour	Primary	Ronald Tascarella, Board Member			X			
Legislative App	NYS Industries for the Disabled	Primary	Ronald Romano, President & CEO			X			
Legislative App	The Kasarda Law Group, LLC	Primary	Steven C. Kasarda, Esq.			X			
		Key	Present for this vote						
	OGS Staff to PC Also Present		Noreen VanDoren :Preferred Source Counsel						
			Marc Hiller: Procurement Council Counsel						
			Susan Filburn: Recorder						
			John Normile: AD, OGS Preferred Source Team						
			John Indelicato: Recorder						
			Patti Sbrega: Recorder						