

New York State Procurement Council | Minutes of the Meeting

November 8, 2017 | 11:00 a.m.

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

Call to Order

Welcome and Introductions

Sean Carroll, New York State Procurement Council (“Procurement Council”) Chair, called the meeting to order and thanked everyone for attending. Mr. Carroll announced that Ronald Romano’s three-year term with the Procurement Council ended and he thanked him for his service. Mr. Carroll also advised that Patti Kelly-Sbrega, Procurement Council Coordinator, will be retiring soon and thanked her for all her hard work. Judy Dorsman will be assuming the role of Procurement Council Coordinator.

Old Business

Meeting Minutes: The Chair called for a motion to adopt the minutes of the September 20, 2017 meeting. The motion passed unanimously.

Temporary Personnel-Office Definition: John Normile, OGS Procurement Service as Staff to the Procurement Council, briefed the members regarding the September 20, 2017 discussion regarding the proposed workgroup definition of Temporary Personnel – Office, which had been tabled to this meeting for further discussion. He reminded the Procurement Council that the definition for the service of Temporary Personnel-Warehouse was previously approved and that the Procurement Council is now considering the category of Office Worker. Mr. Normile restated that from the last meeting and the New York State Industries for the Disabled (“NYSID”) letter dated September 24, 2017, that was sent to the Procurement Council members, NYSID had expressed its objection to certain portions of the definition and would like the Office Worker definition to include positions that require a four-year degree as a prerequisite to employment. Mr. Normile stated that the workgroup felt that these additional categories are not typically thought of as Office Temp workers and it doesn’t make sense to include them in the definition of Office Worker. The workgroup felt that the solution to address NYSID’s concerns about potential job loss for people currently employed in the excluded job titles was for NYSID to submit applications to the Procurement Council to add service offerings under appropriate job titles that provide clear guidance to purchasing entities and not to include those positions in this definition. Since the last workgroup meeting was held, NYSID has known that certain job titles referenced in the MTA Contract were at risk and no application to add these job categories has been submitted for approval nor was an application for a replacement MTA Contract submitted before its expiration on September 30, 2017. OGS, as staff, request that the Procurement Council reject all changes requested by NYSID and that the Procurement Council approve the definition as developed by the workgroup.

A motion was made and seconded to approve the proposed workgroup definition and it was opened for discussion. Winifred Schiff, Legislative Appointee, proposed that the definition of Temporary Personnel-Office be amended to omit “in a defined office environment” in the introductory section and reference to a four-year or higher degree in section 4(b). She advised that due to certain disabilities, temporary workers may find it difficult to travel to an office location and consideration should be given to allow them to work from home.

Thomas Hippchen, SUNY, presented a copy of a letter from Ronald Romano, President and CEO of NYSID, addressed to the Procurement Council Members dated November 7, 2017. Mr. Hippchen asked if OGS, as staff to the Procurement Council, could address the issues raised in the letter challenging some of the claims in the “lengthy definitional process.” OGS, as staff to the Procurement Council, advised that they had not had time to review the letter so could not respond during the meeting.

Margaret Becker, OSC, mentioned that two years ago, the Procurement Council was challenged to create specific, clear, identifiable definitions for all of the service offerings, and not just the Office Worker, going forward. Ms. Becker reminded the Council that the goal is to create a clear definition for this kind of worker, that works in an office, and not to define or include all temporary personnel titles.

Many questions, answers, and concerns were discussed. Marybeth Hefner, DOH, stated that Noreen VanDoren, OGS, provided a clear explanation regarding the area of location for the office workers, that working from home could be permitted, and that an office environment need not be restricted to a government agency’s main office but an alternate office could be utilized to accommodate an individual’s disability. The expectation that a four-year degree would be required for a temporary office position is rare. Ms. Hefner asked if OGS could provide a document that would guide authorized users in understanding the definition and Ms. VanDoren said that Staff could provide that guidance

Mr. Carroll also stated that he recognized the need to provide authorized users with education and materials for this service. After a lengthy discussion, the motion to approve the definition as proposed failed.

Mr. Carroll recommended consideration of an amended version of the proposed workgroup definition. The issues to be addressed were defined location and four-year degree. Ms. Schiff proposed the following amendments to the workgroup definition; paragraph one, line two, strike "in a defined office environment," Section 3, strike "in an office environment," Section 4(b), strike "a four-year or higher degree, or a." She stated that she was not proposing the amendments requested by NYSID on page two of the workgroup's proposed definition regarding field work but that a traditional office environment is less and less the case and keeping the four-year degree is too restrictive.

Ms. Becker asked Ms. Schiff to confirm that through her proposed amendments she was not intending to include the titles where people work on a subway platform or in a test location and Ms. Schiff confirmed that was correct. A motion was made by Amber Mooney to consider the amendments to the definition as proposed and seconded by Shawn Cullinane. The motion to approve the amended definition passed.

New Business

Legislative Updates: There were no legislative updates presented at this meeting.

OGS Service-Disabled Veteran-Owned Businesses ("SDVOB"): Kenneth Williams, SDVOB Executive Director, provided a brief history of the SDVOB program, the goals, and who is qualified to be a New York State certified SDVOB. There are currently 400 certified SDVOBs who have received over \$63 million in awards and over \$37 million in distribution sales. Mr. Williams reminded the Procurement Council members that all State contracts must include language referencing the SDVOB program and including SDVOB goals where possible.

Preferred Source Applications Approved Under OGS Standing Authority: John Normile, reported that between June 1, 2017 and September 1, 2017 there were five applications submitted to OGS for additional preferred source commodities and they were for nearly the same product. The applications were submitted by NYSID, the Preferred Source Facilitator for preferred member Herkimer ARC. The products are Fall Protection Kits with five different configurations. The items met the criteria of the authority delegated by the Procurement Council to OGS. Empire State Development ("ESD") also approved each of the applications. The Fall Protection Kits are now approved preferred source commodities offer for sale to all NYS users.

NYSPSP Application for Preferred Source Designation of Belt Equipped Trauma Kits: Carey Laney, Executive Director, New York State Preferred Source Program for People who are Blind ("NYSPSP"), presented an overview of the NYSPSP application for Preferred Source designation of Belt Equipped Trauma Kits. Ms. Laney explained that this application was brought to the Procurement Council for vote because of ESD's recommendation to deny adding this commodity to the List of Approved Preferred Source Offerings. Ms. Laney further explained that the application was for a trauma kit that included a belt carrier, a tactical mechanical tourniquet, hemostatic gauze, a CPR face shield, gloves, a chest seal, and a four-inch compression bandage. She advised that all labor is performed by people who are blind or legally blind in New York City. She also advised that the price of this kit is lower than the list price of a similar item on an OGS Centralized Contract.

John Normile summarized the OGS review and recommendation for approval. The OGS Preferred Source Team reviewed the application and concluded that it was complete and met all requirements of State Finance Law and the Preferred Source Guidelines, Section 10(D). OGS determined that the value-added labor meets the requirements of Preferred Source Guidelines, Section B (1-3) and the proposed price was within 10% of the prevailing market. Also, OGS found there were no reported sales on State contract for these items.

Pravina Raghavan, Executive Vice President for the Small Business Services for ESD, stated that ESD had to define a marketplace, determine market demand, and use publicly available resources that drill down to the specifics. After reviewing their research results, ESD found that there would be a significant impact on a substantial number of New York State businesses and concluded that due to sales of similar kits by New York State small businesses, the application should be denied and NYSPSP and small businesses can directly compete for sales of trauma kits.

During the Procurement Council discussion, Suzanne Bacowitz, Herkimer Industries a/k/a The ARC of Herkimer, stated the approval of this life saving trauma kit would have a negative impact on the workers at Herkimer Industries as they produce and sell a similar trauma kit. She stated that Herkimer Industries brought a medical kit to market three years ago, that was approved by OGS under its delegated authority to approve preferred source commodities meeting certain requirements. Ms. Bacowitz stated that the components in their trauma kit are the same that are used by the United

States Army. Ms. Bacowitz stated that the addition of an NYSPSP product that has the same form, fit, and function as an existing product already approved as a preferred source commodity will pit Agency against Agency, disability against disability. Mike Lamb, Herkimer Industries, listed the contents of their trauma kit.

Mr. Carroll asked both Herkimer and NYSPSP to compare the content of their kits to the other. Herkimer stated that the only component that was different was that NYSPSP had a chest seal versus Herkimer's quick clot product (a preferred Army product). The design of the quick clot product is such that it can be inserted directly into the wound to stop the bleeding which is more beneficial than the chest seal that is applied on top of the wound.

After a lengthy discussion, a motion was made by Thomas Hippchen to approve the Belt Equipped Trauma Kits and seconded by Margaret Becker. The motion to approve failed.

Open Council Discussion:

As a follow-up to the September 20, 2017 Open Council Discussion, Mr. Carroll responded to Alex Greene's question as to the mechanism to add members to the Procurement Council. He indicated that the only way to do this was through a legislative change.

Ms. Schiff requested an orientation be provided for new members.

Ms. Mooney stated she would like information regarding best value verses lowest cost in bidding.

Ms. Greene asked if OGS as Staff to the Procurement Council was aware of any changes presented for inclusion in an Article 7 bill for the upcoming budget season. Mr. Carroll stated he was not aware of any such proposals.

Meeting Closure:

Procurement Council members voted to unanimously adjourn the meeting at 1:16 p.m.

Next Meeting:

Wednesday, January 31, 2018, (Alternate February 7, 2018)

2018 Procurement Council Meeting Schedule:

- January 31, 2018 (Alternate February 7, 2018)
- April 18, 2018 (Alternate April 25, 2018)
- July 18, 2018 (Alternate August 1, 2018)
- October 17, 2018 (Alternate October 31, 2018)

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

Webcast location:

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

<https://ogs.ny.gov/about/Webcast/Media/ProcCouncil/2017/PC0920.mp4>

Members in Attendance:

Sean Carroll – OGS
Margaret Becker – OSC
John Behrle – DOCCS
Daniel Clark – OMH
Lisa Davis – OPWDD

Thomas Hippchen – SUNY
Joel Lombardi – ITS
Pravina Raghavan – ESD
Alexandra Greene – Chamber
Mary Beth Hefner – DOH
Gerard Minot-Scheuermann – DOB

Amber Mooney
Shawn Cullinane
Winifred Schiff
Julie Suarez
Ronald Tascarella

Also in attendance:

Marc Hiller – OGS
Noreen VanDoren – OGS

John Normile – OGS
David Keneston – OGS

Members not in attendance:

Robert Drummond
Lisa Brooks
Steven Kasarda

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Motion to approve the Meeting Minutes for the **SEPTEMBER 20, 2017** Meeting

				ACTION		VOTE			
Member Type	Organization	Role	Name	Motion	2nd	Aye	Nay	Abstain	Recuse
Agency Designee (Voting Member)	Department of Health	Primary	Marybeth Hefner			x			
Agency Designee (Voting Member)	Dept. of Corrections & Community Supervision	Primary	JP (John) Behrle			x			
Agency Designee (Voting Member)	Information Technology Services	Primary	Joel Lombardi			x			
Agency Designee (Voting Member)	Office for People with Developmental Disabilities	Primary	Lisa Davis			x			
Agency Designee (Voting Member)	Office of Mental Health	Primary	Daniel Clark			x			
Agency Designee (Voting Member)	State University of New York	Primary	Thomas Hippchen			x			
Ex-Officio Members (Voting Member)	Division of the Budget	Alternate 1	Gerard Minot-Scheuermann			x			
Ex-Officio Members (Voting Member)	Empire State Development	Primary	Pravina Raghavan						
Ex-Officio Members (Voting Member)	Executive Chamber	Alternate 1	Alexandra Greene			x			
Ex-Officio Members (Voting Member)	Office of General Services	Primary	[Council Chair] Sean Carroll			x			
Ex-Officio Members (Voting Member)	Office of the State Comptroller	Primary	Margaret N. Becker	x		x			
Governor's Appointee (Voting Member)	Cornell University College of Agriculture & Life Sciences	Primary	Julie M. Suarez			x			
Legislative Appointee (Voting Member)	Local Government Representative	Primary	*Shawn Cullinane						
Legislative Appointee (Voting Member)	NYS Business Council	Primary	Amber L. Mooney			x			
Legislative Appointee (Voting Member)	NYS Preferred Source Program for People who are	Primary	Ronald Tascarella		x	x			
Legislative Appointee (Voting Member)	Interagency Council of Developmental Disability Agencies	Primary	Winifred Schiff			x			
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*Shawn Cullinane - Absent during this vote									

New York State Procurement Council Meeting
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Motion to approve the Definition Temporary Personnel - Office

				ACTION		VOTE			
Member Type	Organization	Role	Name	Motion	2nd	Aye	Nay	Abstain	Recuse
Agency Designee (Voting Member)	Department of Health	Primary	Marybeth Hefner			x			
Agency Designee (Voting Member)	Dept. of Corrections & Community Supervision	Primary	JP (John) Behrle			x			
Agency Designee (Voting Member)	Information Technology Services	Primary	Joel Lombardi	x		x			
Agency Designee (Voting Member)	Office for People with Developmental Disabilities	Primary	Lisa Davis				x		
Agency Designee (Voting Member)	Office of Mental Health	Primary	Daniel Clark			x			
Agency Designee (Voting Member)	State University of New York	Primary	Thomas Hippchen					x	
Ex-Officio Members (Voting Member)	Division of the Budget	Alternate 1	Gerard Minot-Scheuermann			x			
Ex-Officio Members (Voting Member)	Empire State Development	Primary	Pravina Raghavan		x	x			
Ex-Officio Members (Voting Member)	Executive Chamber	Alternate 1	Alexandra Greene				x		
Ex-Officio Members (Voting Member)	Office of General Services	Primary	[Council Chair] Sean Carroll			x			
Ex-Officio Members (Voting Member)	Office of the State Comptroller	Primary	Margaret N. Becker			x			
Governor's Appointee (Voting Member)	Cornell University College of Agriculture & Life Sciences	Primary	Julie M. Suarez			x			
Legislative Appointee (Voting Member)	Local Government Representative	Primary	Shawn Cullinane			x			
Legislative Appointee (Voting Member)	NYS Business Council	Primary	Amber L. Mooney				x		
Legislative Appointee (Voting Member)	NYS Preferred Source Program for People who are	Primary	Ronald Tascarella				x		
Legislative Appointee (Voting Member)	Interagency Council of Developmental Disability Agencies	Primary	Winifred Schiff				x		
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Motion to approve the Amended Definition Temporary Personnel - Office

				ACTION		VOTE			
Member Type	Organization	Role	Name	Motion	2nd	Aye	Nay	Abstain	Recuse
Agency Designee (Voting Member)	Department of Health	Primary	Marybeth Hefner			x			
Agency Designee (Voting Member)	Dept. of Corrections & Community Supervision	Primary	JP (John) Behrle					x	
Agency Designee (Voting Member)	Information Technology Services	Primary	Joel Lombardi			x			
Agency Designee (Voting Member)	Office for People with Developmental Disabilities	Primary	Lisa Davis			x			
Agency Designee (Voting Member)	Office of Mental Health	Primary	Daniel Clark			x			
Agency Designee (Voting Member)	State University of New York	Primary	Thomas Hippchen			x			
Ex-Officio Members (Voting Member)	Division of the Budget	Alternate 1	Gerard Minot-Scheuermann			x			
Ex-Officio Members (Voting Member)	Empire State Development	Primary	Pravina Raghavan			x			
Ex-Officio Members (Voting Member)	Executive Chamber	Alternate 1	Alexandra Greene			x			
Ex-Officio Members (Voting Member)	Office of General Services	Primary	[Council Chair] Sean Carroll			x			
Ex-Officio Members (Voting Member)	Office of the State Comptroller	Primary	Margaret N. Becker			x			
Governor's Appointee (Voting Member)	Cornell University College of Agriculture & Life Sciences	Primary	Julie M. Suarez			x			
Legislative Appointee (Voting Member)	Local Government Representative	Primary	Shawn Cullinane		x	x			
Legislative Appointee (Voting Member)	NYS Business Council	Primary	Amber L. Mooney	x		x			
Legislative Appointee (Voting Member)	NYS Preferred Source Program for People who are	Primary	Ronald Tascarella			x			
Legislative Appointee (Voting Member)	Interagency Council of Developmental Disability Agencies	Primary	Winifred Schiff			x			
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Motion to approve the NYSPSP Application for Belt Equipped Trauma Kits

				ACTION		VOTE			
Member Type	Organization	Role	Name	Motion	2nd	Aye	Nay	Abstain	Recuse
Agency Designee (Voting Member)	Department of Health	Primary	Marybeth Hefner				x		
Agency Designee (Voting Member)	Dept. of Corrections & Community Supervision	Primary	JP (John) Behrle					x	
Agency Designee (Voting Member)	Information Technology Services	Primary	Joel Lombardi				x		
Agency Designee (Voting Member)	Office for People with Developmental Disabilities	Primary	Lisa Davis				x		
Agency Designee (Voting Member)	Office of Mental Health	Primary	Daniel Clark				x		
Agency Designee (Voting Member)	State University of New York	Primary	Thomas Hippchen	x		x			
Ex-Officio Members (Voting Member)	Division of the Budget	Alternate 1	Gerard Minot-Scheuermann				x		
Ex-Officio Members (Voting Member)	Empire State Development	Primary	Pravina Raghavan				x		
Ex-Officio Members (Voting Member)	Executive Chamber	Alternate 1	Alexandra Greene				x		
Ex-Officio Members (Voting Member)	Office of General Services	Primary	[Council Chair] Sean Carroll			x			
Ex-Officio Members (Voting Member)	Office of the State Comptroller	Primary	Margaret N. Becker		x		x		
Governor's Appointee (Voting Member)	Cornell University College of Agriculture & Life Sciences	Primary	Julie M. Suarez				x		
Legislative Appointee (Voting Member)	Local Government Representative	Primary	Shawn Cullinane				x		
Legislative Appointee (Voting Member)	NYS Business Council	Primary	Amber L. Mooney				x		
Legislative Appointee (Voting Member)	NYS Preferred Source Program for People who are	Primary	Ronald Tascarella						x
Legislative Appointee (Voting Member)	Interagency Council of Developmental Disability Agencies	Primary	Winifred Schiff					x	
						2	11	2	1