

DRAFT

New York State Procurement Council | Minutes of the Meeting

April 18, 2018 | 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 extended a special welcome to the new Procurement Council Member, Matthew Haag, Associate Vice President of Clinical, Research and Academic Development in the University of Rochester Medical Center within the University of Rochester.

Old Business

Meeting Minutes: The Chair called for a motion to adopt the minutes of the January 31, 2018 meeting. The motion was passed unanimously.

Appeal for Belt Equipped Trauma Kits: The Chair reported that the appeal received from the NYS Preferred Source Program for People who are Blind (“NYSPSP”) regarding the Procurement Council’s November 8, 2017 denial of NYSPSP’s application for Belt-Equipped Trauma Kits was reviewed and denied.

Single Source Reporting Reminder: Procurement Council members representing State agencies were reminded of the requirement to report on single source procurements.

New Business

Establishing a Procurement Guidelines Workgroup (“Workgroup”): The Chair provided an overview of the Workgroup’s April 13th kickoff meeting that outlined the Workgroup schedule and how the meetings will be handled. He advised that the May 17th session will focus on Section I of the Guidelines and that other sessions will be dedicated to special interest groups to identify their concerns for possible incorporation into the Guidelines. He advised that the June 8th session will involve organizations representing Service-Disabled Veteran-Owned Businesses, Minority and Women-Owned Business Enterprises (“MWBE”), New York State Small Businesses, and the Business Council of NY. The June 29th session will involve Preferred Source groups. The Chair further explained that the current plan is for the Workgroup to present the revised Procurement Guidelines to the Procurement Council for its review at the October 2018 meeting.

Outreach for Best Practices: OGS will have access to interns through the National Association of State Procurement Officers (“NASPO”) to do research for OGS on best practices and specific subjects in procurement. The interns will be reaching out to Procurement Council members for input on topic areas soon.

Legislative Updates: Marc Hiller, OGS Legal, gave legislative updates.

Part KK of Chapter 57 of the Laws of 2018 amended various laws to combat sexual harassment in the workplace, including amending the State Finance Law to add § 139-l, which requires a certification that “the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees” and that the policy at a minimum meets the sexual harassment prevention policy developed by the Department of Labor and the Division of Human Rights pursuant to Labor Law § 201-g, Prevention of Sexual Harassment. § 139-l of the State Finance Law takes effect on January 1, 2019 and § 201-g of the Labor Law takes effect on October 9, 2018.

Part OOO of Chapter 59 of the Laws of 2018 extended the expiration date of Article 15-A of the Executive Law, which is the MWBE law, for an additional year, until December 31, 2019.

Governor Cuomo’s Executive Order No. 177, Prohibiting State Contracts with Entities that Support Discrimination, was issued on February 3, 2018 and provides that the State “will not do business with entities that promote or tolerate discrimination or infringement on the civil rights and liberties of New Yorkers.” This Executive Order requires State entities to include in all procurements awarded after June 1, 2018, a statement that prevents State entities from “entering into

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contracts with entities that have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sexual orientation, gender identity, military status, sex, marital status, disability, or other protected basis.”

Buy NY Food: Jennifer Kuhn, OGS Procurement Services, presented on the Buy NY Food Program. She advised that State Finance Law § 165(4) allows State agencies procuring food products to require that all or some of the required food products be New York State Food Products. Ms. Kuhn reported that guidelines for the Buy NY Food Program were established jointly by OGS and the Department of Agriculture and Markets and that State agencies are required to report their purchases of New York State Food Products to OGS on an annual basis.

Preferred Source Applications Approved Under OGS Standing Authority: John Normile, OGS Procurement Services, reported that as of April 18, 2018 OGS has not approved any items under its standing authority since the last report given on January 31, 2018.

NYSID Application to add Temporary Personnel titles to the list of Preferred Source Offerings:

Joe Messina, Vice President of Sales with New York State Industries for the Disabled, Inc (“NYSID”) presented on the Temporary Personnel Applications for Transportation Field Workers, Test Monitors and Proctors, and Bindery Workers. NYSID sought approval of the applications to include these titles on the list of Preferred Source Offerings to preserve a large contract with the New York City Metropolitan Transportation Authority (“MTA”). He explained that the MTA contract then employed over 300 individuals with disabilities throughout the year performing a wide array of clerical and administration functions, as well as the duties outlined in the three applications for which NYSID sought statewide approval. The disabled labor ratio on the MTA contract then stood at 80.5% and for nearly 10 years, individuals with disabilities had been performing in these titles.

Mr. Messina further explained that without approval of these applications it was likely that the MTA would secure its future temporary staffing needs through a competitive procurement. This would result in the loss of jobs for 300 employees, contributing to the unemployment rate for individuals with disabilities, which already exceeds 70%. In preparing these three applications, NYSID reached out to the Office of the State Comptroller, State Education Department, and NYS Civil Service to identify additional market demands. The transportation agencies, including Capital District Transportation Authority, Rochester/Genesee Regional Transportation Authority, and NYS Department of Transportation communicated to NYSID that their staffing needs are typically in the clerical and administrative area, with no need for field work, test workers, or bindery workers. Also, on Open Book NY and GovSpend.com NYSID was not able to find any contracts specific to these categories.

Mr. Messina concluded by thanking OGS for their cooperation in extending the MTA contract which afforded NYSID the extra time needed to submit these three applications. He added that he understood Empire State Development’s (“ESD”) standpoint, but respectfully disagreed with ESD’s conclusion to disapprove NYSID’s applications.

Pravina Raghavan, Executive Vice President for the Small Business Services for ESD, stated that ESD identified a sample set of 225 companies in this marketplace and amongst those, ESD found 13 small businesses that offered Transportation Field Workers, Test Monitors and Proctors, and Bindery Workers, and that eight of those 13 companies were MWBE certified. Based on the analysis of all these companies, ESD determined that 12 out of the 13 companies could fill the MTA positions, however, they had not had the opportunity for the last 10 years because the MTA titles have been procured as a Preferred Source offering. ESD believed there was an opportunity for small businesses to compete in this space, therefore ESD denied approval of the applications.

John Normile summarized the OGS review and recommendation for approval of the application for Temporary Personnel Bindery Workers as a new service category to List D of the List of Preferred Source Offerings. He advised that the application meets the Preferred Source Guidelines for Section XV and Section XD.

Mr. Normile continued to summarize the OGS Preferred Source Team review of the Test Monitors and Proctors application. It was determined that 100% of individuals then employed in these titles were individuals with disabilities and the addition

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of this new service category will preserve 5.96 of full-time equivalents (“FTE”) by MTA. Mr. Normile reported that after the Preferred Source Team’s review of NYSID’s application to add Transportation Field Workers as a new service offering, it was determined that 77.78% of individuals then employed as Transportation Field Workers by MTA were individuals with disabilities. The addition of this new service category would preserve 39.66 FTE.

OGS recommended the Procurement Council approve all three applications.

The Chair opened the floor for the Procurement Council’s discussion on the three applications.

Julie Suarez, Cornell University, asked why Bindery Workers do not fall under the existing category of Temporary Office Worker. John Normile responded that the workgroup for Preferred Source Offering definitions decided that Bindery Workers are more industrial than Temporary Office Workers.

Matthew Hagg, University of Rochester Medical Center, asked for clarification on the background of why these three categories were not part of a larger re-classification. John Normile responded that in 2015, the Procurement Council began defining all Preferred Source Offerings and determined that the service offering of Temporary Personnel – Office would not encompass the positions being discussed today, so these needed to be new applications for new services.

Tom Hippchen, State University of New York (“SUNY”), asked if any of these three titles are covered under the current OGS centralized contracts. John Normile responded that these specific, proposed titles, are not currently listed on any OGS centralized contracts.

Lisa Davis, Office for People with Developmental Disabilities (“OPWDD”), reminded the Procurement Council that the unemployment rate for individuals with disabilities is over 70% and the tasks that some individuals can do is limited. Placing these individuals in jobs that they can perform is important. She asked the Procurement Council to be mindful of these facts.

Pravina Raghavan, ESD, clarified that ESD supports individuals with disabilities. However, ESD’s specific function under the Preferred Source Guidelines is to analyze at the impact the approval of these applications would have on NYS small businesses.

Lourdes Zapata, Chief Diversity Officer, added that they support the need to supply employment opportunities across the board, however, looking at the analysis performed and the businesses identified, 60% of the businesses that were identified as being able to provide these types of temporary personnel are MWBEs.

A motion to approve the addition of Temporary Personnel Bindery Workers as a new preferred source service offering was passed by a vote of 16-2.

A motion to approve the addition of Temporary Personnel Test Monitors and Proctors as a new preferred source service offering was passed by a vote of 16-2.

A motion to approve the addition of Temporary Personnel Transportation Field Workers as a new preferred source service offering was passed by a vote of 16-2.

Open Council Discussion

Pravina Raghavan, ESD, asked the Procurement Council to consider starting the meeting later in the morning due to the Amtrak train schedule for members traveling from New York City.

Tom Hippchen, SUNY, motioned to un-table the application and definition of Mail Fulfillment Services as a new preferred source service offering. Jason Wilkie, Office of Mental Health (“OMH”) seconded the motion. The Chair called for a vote to un-table the application and definition for consideration at the next meeting. The motion passed 16-0 with 2 abstentions. The Chair stated the motion carries and Mail Fulfillment application will be un-tabled and included on the agenda for the 7/18/18 meeting.

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Marybeth Hefner, Department of Health (“DOH”), advised the Procurement Council that Jerry Minot-Scheuermann from Division of the Budget (“DOB”) was retiring and this was his last Procurement Council meeting. The Chair recognized Jerry’s long and valued contribution to the Procurement Council.

Shawn Cullinane, Local Government Representative, asked if there were any other Preferred Source definitions that needed to be voted on in future meetings. John Normile responded that all services previously approved have been defined, however, there may be an application and accompanying definition for a new service offering of Temporary Personnel Janitorial in the near future.

Meeting Closure

Procurement Council members voted to unanimously adjourn the meeting at 12:27 p.m.

Next Meeting:

Wednesday, July 18, 2018, (Alternate August 1, 2018)

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
Charlotte Davis – OSC
John Behrle – DOCCS
Jason Wilkie – OMH
Lisa Davis – OPWDD
Marybeth Hefner - DOH
Thomas Hippchen – SUNY
Joel Lombardi – ITS

Pravina Raghavan – ESD
Lourdes Zapata – Chief Diversity
Officer
Gerard Minot-Scheuermann – DOB
Lisa Brooks – Ag & Mkts

Shawn Cullinane
Winifred Schiff

Steven Kasarda
Matthew Haag

Julie Suarez
Amber Mooney

Also in attendance:

Marc Hiller – OGS

Noreen VanDoren – OGS

John Normile – OGS

Members not in attendance:

Ronald Tascarella
Robert Drummond

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VOTING RECORD

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Motion to approve the Meeting Minutes for the JANUARY 31, 2018 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	x			
Agency Designee (Voting Member)	Dept. of Agriculture & Markets	Primary	Lisa Brooks			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	Alternate 2	Jason Wilkie			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	Primary	* Lourdes Zapata						
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	Alternate 1	Charlotte Davis			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)	Interagency Council of Developmental Disability Agencies, Inc.	Primary	* Winifred Schiff						
Legislative Appointee (Voting Member)	The Kasarda Law Group, LLC	Primary	Steven C. Kasarda			x			
Legislative Appointee (Voting Member)	University of Rochester, University of Rochester Medical Center	Primary	Matthew P. Haag			x			
* Zapata and Schiff were not present for the vote									
						16	0	0	0

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VOTING RECORD

New York State Procurement Council Meeting April 18, 2018 Meeting Room 6 North Concourse Empire State Plaza Albany, NY									
Motion to approve the Definition Temporary Personnel - Bindery Workers									
				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 Agriculture & Markets	Primary	Lisa Brooks			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	Alternate 2	Jason Wilkie			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	x			
Ex-Officio Members (Voting Member)	Empire State Development	Primary	Pravina Raghavan				x		
Ex-Officio Members (Voting Member)	Executive Chamber	Primary	Lourdes Zapata				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	Alternate 1	Charlotte Davis			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		x			
Legislative Appointee (Voting Member)	Interagency Council of Developmental Disability Agencies, Inc.	Primary	Winifred Schiff			x			
Legislative Appointee (Voting Member)	The Kasarda Law Group, LLC	Primary	Steven C. Kasarda			x			
Legislative Appointee (Voting Member)	University of Rochester, University of Rochester Medical Center	Primary	Matthew P. Haag			x			
						16	2	0	0

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VOTING RECORD

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Motion to approve the Definition Temporary Personnel - Test Monitors and Proctors									
				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 Agriculture & Markets	Primary	Lisa Brooks			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	Alternate 2	Jason Wilkie		x	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	Primary	Lourdes Zapata				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	Alternate 1	Charlotte Davis			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)	Interagency Council of Developmental Disability Agencies, Inc.	Primary	Winifred Schiff			x			
Legislative Appointee (Voting Member)	The Kasarda Law Group, LLC	Primary	Steven C. Kasarda			x			
Legislative Appointee (Voting Member)	University of Rochester, University of Rochester Medical Center	Primary	Matthew P. Haag			x			
						16	2	0	0

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VOTING RECORD

New York State Procurement Council Meeting April 18, 2018 Meeting Room 6 North Concourse Empire State Plaza Albany, NY									
Motion to approve the Definition Temporary Personnel - Transportation Field Workers									
				ACTION		VOTE			
Member Type	Organization	Role	Name	Motion	2nd	Aye	Nay	Abstain	Recuse
Agency Designee (Voting Member)	Department of Health	Primary	Marybeth Hefner	x		x			
Agency Designee (Voting Member)	Dept. of Agriculture & Markets	Primary	Lisa Brooks			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	Alternate 2	Jason Wilkie			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	Primary	Lourdes Zapata				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	Alternate 1	Charlotte Davis			x			
Governor's Appointee (Voting Member)	Cornell University College of Agriculture & Life Sciences	Primary	Julie M. Suarez		x	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)	Interagency Council of Developmental Disability Agencies, Inc.	Primary	Winifred Schiff			x			
Legislative Appointee (Voting Member)	The Kasarda Law Group, LLC	Primary	Steven C. Kasarda			x			
Legislative Appointee (Voting Member)	University of Rochester, University of Rochester Medical Center	Primary	Matthew P. Haag			x			
						16	2	0	0

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VOTING RECORD

New York State Procurement Council Meeting April 18, 2018 Meeting Room 6 North Concourse Empire State Plaza Albany, NY									
Motion to untable Mail Fulfillment									
				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 Agriculture & Markets	Primary	Lisa Brooks			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	Alternate 2	Jason Wilkie			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	x			
Ex-Officio Members (Voting Member)	Empire State Development	Primary	Pravina Raghavan			x			
Ex-Officio Members (Voting Member)	Executive Chamber	Primary	Lourdes Zapata			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	Alternate 1	Charlotte Davis			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)	Interagency Council of Developmental Disability Agencies, Inc.	Primary	Winifred Schiff			x			
Legislative Appointee (Voting Member)	The Kasarda Law Group, LLC	Primary	Steven C. Kasarda			x			
Legislative Appointee (Voting Member)	University of Rochester, University of Rochester Medical Center	Primary	Matthew P. Haag					x	
						16	0	2	0