

**Minutes of the Meeting**  
**New York State Procurement Council**  
**February 16, 2012 - 11:00 A.M. Meeting Room 6**  
**North Concourse**  
**Empire State Plaza**  
**Albany, NY**

**I. Call to Order**

Anne Phillips, Chair of the State Procurement Council, called the meeting to order at 11:05 am and thanked everyone for attending.

Noreen VanDoren, OGS Associate Attorney advised Council members that as a result of an amendment to the Public Officers Law, the Open Meetings Law now requires posting of documents intended for open meetings on the website in advance of the scheduled meeting date . On the OGS Home Page there will now be a link titled Documents for Open Meetings, which will allow the public access to the documents which will be discussed with council members. Beginning with today's meeting, the agenda and all associated attachments will be posted on the OGS website under the Documents for Open Meetings link, as far in advance of the meeting as is reasonably possible. The meeting minutes from prior meetings may also be found at this site.

**II. Minutes of Meetings**

Ms. Phillips called for a motion to adopt the draft minutes from the November 15, 2011 meeting (Attachment 1). The motion was seconded by Gerry Minot-Scheurmann and passed unanimously.

**III. New Business**

Preferred Source Applications Requiring Procurement Council Approval -

Expand the definition of Document Processing to include Digital Printing: Ms. Phillips advised that this Agenda Item has been tabled. The reason is that the Governor's Article 7 bill includes language related to the printing and public documents law which will change how printing will be handled in New York State. We believe that a better discussion of the Digital Printing application will be possible if or when the Article 7 bill passes.

**Procurement Related Legislation:**

Iran Divestment Act of 2012:

Ms. Phillips advised that Chapter 1 of the Laws of 2012, Bill number A8668/S5917 has passed. This law will prohibit companies from signing or renewing state or local government contracts if they provide goods, services, or credit worth \$20 million or more to Iran's energy sector. OGS has been charged with developing a list of those companies impacted by this legislation and this list will be made available on the OGS website following the effective date of the law. Companies on the list will be barred from bidding on government contracts. The process for putting companies on the list will include provisions according these companies due process as well as providing opportunities for companies to divest themselves of all business in Iran so they can come off the list. OGS is developing the process to follow and is also developing language for inclusion in existing contracts as required by the new law.

Buy from Backyard Act:

Ms. Phillips advised council members that Bill # A9031 / S2468 amends §165 of the State Finance Law by enacting the "buy from the backyard act" which requires OGS and other state agencies to buy 20% of all their food products from producers and/or processors in New York state; subject to availability and the ability to meet the requirements included in the contract specifications. OGS has been asked to give comments on this bill which we will be doing through the Governor's Counsel's office.

### **Procurement Related Amendments:**

#### Article VII Public Protection and General Government Budget Bill A.9055/S.6255 – Part L:

Ms. Phillips advised council members that the Governor's Article 7 Bill, Part L, includes a number of amendments to provide additional flexibility and to make permanent the Procurement Stewardship Act, § 163 of the State Finance Law, which is currently due to sunset June 30, 2012. Provided for your attention in the packet is a summary of various procurement related amendments (Attachment 2). If any of you would like more information about these please contact Ms. Phillips.

#### Sections 163 (1) (i) and (j) of the State Finance Law:

Ms. Phillips advised council members that amendments to Sections 1 (i) and (j) of the State Finance Law revises the definitions of "Lowest Price" and "Best Value" to authorize state agencies to procure services and technology using "Lowest Price" and expands the purchase of commodities to the use of "Best Value". Previously, state agencies had the ability to buy only commodities using lowest price; services and technology were available only through the use of best value. The Law is amended to authorize using lowest price for service & technology procurements and authorizes using best value to procure commodities and permits the use of a quantitative factor with respect to small, minority and women-owned bidders. This law places obligations on the agency to include the rationale in the procurement record in order to justify the standards for engaging in the new types of purchases for services, technology, or commodities.

#### Strategic Sourcing:

This transition continues at a rapid pace. There are presently a number of different open IFB's and RFP's which OGS staff members, together with members of the Accenture consultant staff, are working on. It is expected that a number of different announcements will be made over the course of the next couple of months with contracts presented to OSC for approval. Ms. Phillips provided the following status report:

- Presently bids are being evaluated on the Administrative Services Contract. This is an RFP to replace current contracts for the temporary personnel; court reporters; and interpretation and translation services. Interpretation and translation service is very important based on a recent executive order by the Governor's office on language accessibility.
- Bids are being evaluated on the IT Services contract which has a significant spend for hourly services. We are working to meet the needs of our customers with this new style of contract.
- The Security Guard contract is being evaluated at this time and may be the next contract presented to OSC for review and approval.
- The team is also undertaking a Microcomputer Aggregate Buy which is based on extensive, extended team effort to establish various configurations. We hope to have results of that undertaking shortly.

Ms. Phillips advised that this is a very busy time for OGS. She was pleased to have recently received an update on the Administrative Services contract advising that the award is expected to result in a number of minority and women-owned businesses appearing to be eligible for contract award. This will help the agencies meet the governors' goals for increased minority and women-owned business participation in public contracts.

David Russo – Director Consolidated Business Office, Office of Financial Management at the Office of Mental Health (OMH) raised a question regarding the IT Services contract. Presently, our engagements are set to expire at the end of June 2012. Is there an expectation that this June 30<sup>th</sup> date will be pushed out? Ms. Phillips advised there is not expected to be a need to push this date out as we have maintained a good line of communication with the Office of the State Comptroller (OSC). Charlotte Breeyear – Director Contracts, Division of Contracts and Expenditures - OSC, advised that because OGS is working so closely with them, OSC does not anticipate a problem meeting the June 30<sup>th</sup> deadline unless there is a bid protest. If a bid protest should occur, OSC will work closely to get through this in order to keep the contract on schedule.

Mr. Russo also raised a question on the timeliness of the award for the Security Guard Contract. Ms. Breeyear advised that OSC is working closely with OGS to have contracts in place before the current contracts expire. In event of a gap OSC will assist to extend existing contracts. If you have any concerns about gaps in services contact OSC.

#### Preferred Source Guidelines Update:

Ms. VanDoren referenced the discussion of providing clarification and guidance on the issue of value added services relative to Preferred Source offerings as discussed at the November 15, 2011 Council meeting. Michael Hurt – Director, Division of Industries, Department of Corrections and Community Supervision, (DOCCS) the spokesperson for the workgroup, advised that they have looked at the definition of value added services and have drafted language that reflects what value added should be. The workgroup would like to present this draft language to the council for review and approval at the next meeting. Additionally, the workgroup also looked at the overall Preferred Source Guidelines, as it has been several decades since these guidelines were fully updated. Ms. VanDoren advised that a section of the guidelines focusing on the addition of new commodities to the list of offerings, were voted on and adopted by the council but not formally published on the OGS website. The workgroup is looking for the Council to give us the authority to update these guidelines as a whole and OGS's authority regarding lower dollar preferred source offerings. Full guidelines will not be completed by the next meeting but portions will be. James Haggerty – Veterans Advocate, NYS Council of Veterans Organizations, made a motion for the workgroup to continue; the motion was approved.

#### NYS Purchase Forum 2012:

Don Greene, Acting Director of OGS PSG, reported that at the last council meeting there was some discussion and commitment to do the annual procurement purchasing forum. We have since had discussions with our training partners at OSC and are looking at more of a Fall 2012 time frame for training, which take into consideration the current implementation of the Statewide Financial System, and the expected development of additional Strategic Sourcing contract models. Ms. Phillips advised that recorded training session from past annual Purchasing Forums are posted on the OGS website for agency reference in the interim. If your staff has particular questions feel free to call on Anne Phillips, Don Greene or his staff. Ms. Breeyear advised that OSC is always available to help with procurement problems and to perform pre-reviews of contract documents.

#### Preferred Source Recommendations under OGS Standing Authority:

At this time, we have only one application that has been approved (Attachment 3): Velcro Closure Black Leather Belts. The raw material suppliers for this item is a New York State based company and is an example of a New York State company helping a Preferred Source to supply products. The direct labor for production of this product is almost one whole FTE for a very small annual sales volume of \$30,000.

**Open Council Discussion:**

Appendix A – Standard Clauses for NYS Contracts:

Ms. Phillips advised that OGS is engaged with the Executive Chamber and the Governor’s Counsels Office to review Appendix A. This initiative is not in connection with procurements for commodities, services and technology but in other contract area addressed under Article II-B of the State Finance Law - Contracts for Not for Profits. OGS was asked to assist as we undertook an exercise a number of years ago where Appendix A was presented as a document wherein everything in it is required by NYS statute; the exercise was to validate this. OGS found about half of the clauses contained in Appendix A were not required by statutes. This recent exercise was intended to provide information to the Governor’s Counsel Office to indicate what information in Appendix A is not required by statute but is determined to be prudent to keep. We also found a number of statutory provisions in Appendix A to be helpful to all state agencies; wherein these provisions were not omitted. Discussion regarding the retention of remaining clauses is underway. The first announcement to be made regarding these edits will not be related to state agencies but will be related to contracts with not-for-profits. Ms. Phillips will update the Council as the issue progresses.

Appendix B – OGS General Specifications:

OGS is currently undertaking a review of Appendix B. Some agencies use this document in their contracting efforts while others use only parts of the document. When we reach conclusion on our review and revisions, this document will be presented to council members and other state agencies for input. These changes are intended to bring documents more current based on input from contractors and to a make a clearer understanding of the properties of contracts. If you have a pet peeve with Appendix B feel free to get in touch with Anne Phillips, Don Greene or Noreen VanDoren to let us know what the issue is, providing any relevant background information with respect to the issue would also be helpful.

Four Corners Concept:

OGS is moving in the direction of simplifying our contract documents to make the review easier for the vendor community, state agencies, and OSC. Using a four corners concept, we are moving away from the tradition of requiring exchanges of information that add up to lots of paper to create contract documents with a beginning, a middle, and an end, as well as a logical and consistent format.

**IV. Closure**

The next meeting of the Procurement Council is tentatively scheduled for May 23, 2012. An agenda will be circulated in advance of the meeting. There being no further business, the meeting was adjourned at 11:45 a.m.

**NEXT MEETING**

Wednesday, May 23, 2012 @ 11:00 A.M.  
Meeting Rooms 6 North Concourse Level, Empire State Plaza

**Members in Attendance on February 16, 2012**

- |  |                               |
|--|-------------------------------|
| Charlotte Breeyear - OSC                       | Thomas Hippchen - SUNY        |
| Yrthya Dinzey-Flores – Chief Diversity Officer | Michael Hurt - DOCCS          |
| Nancy Fisher – ESD                             | Gerard Minot-Scheurmann - DOB |
| Robert Coyner - OPWDD                          | Anne G. Phillips - OGS        |
| Marybeth Hefner – DOH                          | Lucy Roberson – Ag & Mkts     |
|  | David Russo - OMH             |

**At-Large Members in Attendance on February 16, 2012**

James Haggerty – (NYSCVO)

Rashida Mendes – (RM Capital, LLC)

Richard Healey - (IBNYS)

Ronald Romano – (NYSID)

**Members Absent:**

Mary McGinty – OFT

**At-Large Members Absent:**

Edul Ahmad –

Richard St. Paul –

(The Ahmad Group)

(Local Government Representative)

Gregory Weston - (Pillsbury Winthrop Shaw Pittman LLP)

**Also in Attendance:**

Don Greene - OGS

Noreen VanDoren - OGS

**NYS PROCUREMENT COUNCIL  
VOTING RECORD**

MEETING DATE: February 16, 2012  
 QUESTION, MOTION OR ISSUE: November 15, 2011 Meeting Minutes

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
COMMISSIONER OF GENERAL SERVICES Anne G. Phillips (Noreen VanDoren) (Don Greene)				
CHIEF DIVERSITY OFFICER Yrthya A. Dinzey-Flores (not present for this vote)				X
OFFICE OF THE STATE COMPROLLER Margaret Becker (Charlotte Breeyear)	X			
DIRECTOR OF THE BUDGET Susan Knapp (Gerard Minot-Scheurmann) (Lorraine King)	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT Steven Cohen (Nancy Fisher)	X			
AGENCY REPRESENTATIVES:				
Robert Haggerty – Ag. & Mkts. (Lucy Roberson) (Carol Casale)	X			
Michael Hurt – Corrections (Michael Elmendorf)	X			
Thomas Hippchen - SUNY (Kellie Dupuis)	X			
John Smith - OPWDD (Robert Coyner)	X			
Marybeth Hefner - DOH (Frederick J. Genier)	X			
Mary McGinty – OFT (Christine Irvine)				X
David Russo – OMH (David Milstein) (Marc Kleinhenz)	X			
AT LARGE MEMBERS:				
Richard Healey	X			
James Haggerty	X			
Rashida Mendes	X			
Richard St. Paul				X
Gregory Weston				X

**NYS PROCUREMENT COUNCIL  
VOTING RECORD**

MEETING DATE:

February 16, 2012

QUESTION, MOTION OR ISSUE: Procurement Council Workgroup – continue present activities

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
COMMISSIONER OF GENERAL SERVICES <b>Anne G. Phillips</b> (Noreen VanDoren) (Don Greene)				
CHIEF DIVERSITY OFFICER <b>Yrthya A. Dinzey-Flores</b>	X			
OFFICE OF THE STATE COMPTROLLER Margaret Becker (Charlotte Breeyear)	X			
DIRECTOR OF THE BUDGET Susan Knapp (Gerard Minot-Scheurmann)	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT Steven Cohen (Nancy Fisher)	X			
AGENCY REPRESENTATIVES:				
Robert Haggerty – Ag. & Mkts. (Lucy Roberson) (Carol Casale)	X			
<b>Michael Hurt – Corrections</b> (Michael Elmendorf)	X			
<b>Thomas Hippchen</b> - SUNY (Kellie Dupuis)	X			
John Smith - OPWDD (Robert Coyner)	X			
<b>Marybeth Hefner - DOH</b> (Frederick J. Genier)	X			
Mary McGinty – OFT (Christine Irvine)				X
<b>David Russo – OMH</b> (David Milstein) (Marc Kleinhenz)	X			
AT LARGE MEMBERS:				
<b>Richard Healey</b>	X			
<b>James Haggerty</b>	X			
Rashida Mendes	X			
Richard St. Paul				X
<b>Gregory Weston</b>				X

