

Draft Minutes of the Meeting
New York State Procurement Council
December 18, 2013 - 11:00 A.M.
Meeting Room 6
North Concourse
Empire State Plaza
Albany, NY

I. Call to Order

Sergio Paneque, Chief Procurement Officer, OGS NYS Procurement (NYSPRO) called the meeting to order and thanked everyone for attending.

II. Minutes of Meetings

Mr. Paneque asked Council members for additions or corrections to the draft minutes from the November 26, 2013 meeting. Thomas Hippchen, Director of University wide Procurement, State University of New York advised that he had voted in favor of the motion to approve Drug Test Kits With Inclusion Of Overlapping Items; this change will not alter the final outcome of this motion but it should be recorded as correct. Nancy Fisher, Deputy Director, Small Business Division Empire State Development noted some confusion in the Question and Answer section and suggested that speakers should be addressed in a consistent format throughout the document. Mr. Paneque noted that these changes/modifications would be reflected in the Meeting Minutes. There being no additional changes offered, a motion to accept the amended minutes as noted was made, seconded and passed unanimously.

III. Procurement Related Legislation

Anne Phillips, OGS Deputy Counsel & Director of Legislative Affairs, advised that presently the legislature is engaged in the departmental review phase; no information is available publicly. Ms. Phillips will share more information at the next Council Meeting.

IV. New Business

NYS Procurement Bulletin – Discretionary Purchasing Guidelines: Noreen VanDoren, OGS Associate Attorney advised that the document changes presented at the November 2013 Meeting did not reflect that state agencies where the head of the agency is not appointed by the governor, including but not limited to the State Education Department, the Department of Law, and the Department of Audit and Control are not required to use OGS service contracts as their second or third procurement choice. The Guidelines were updated to be consistent with State Finance Law Section 163(4)(b)(i) and were presented for review and approval. A motion was made to accept the amended document, seconded and passed unanimously.

Mr. Paneque noted that discretionary spending is an avenue that may be used to expand MWBE and agricultural business purchases, and that OGS is investigating opportunities for MWBE and Agricultural business expansion at the Purchasing Forum in 2014.

Contract Reporter Advertising Thresholds and Notice Requirements: Ms. VanDoren advised that OGS had made changes to this document based on increased purchasing thresholds in the law. A redline version was presented for review. Mr. Hippchen stated that within the header at Section B – Procurements Valued at \$50,000 or More (\$50,000 for SUNY and CUNY as well), it is not necessary to distinguish SUNY/CUNY, as a result of the legislative threshold changes. This modification pertains only to the heading for Section B. A motion was made to accept the changes, including the change identified by Mr. Hippchen, and was seconded and passed unanimously.

Procurement Guidelines: Ms. VanDoren advised that OGS has been working on updating the Procurement Guidelines that were developed by a Procurement Council Sub-Committee in 2009. Numerous changes were included relative to the Statewide Financial System (SFS), the P-card, and other legislative changes impacting the procurement process. This revised document, with redline changes, will be posted on the OGS Website at the Document for Open Meetings site and members will be notified via e-mail of that posting. Ms. VanDoren asked members to take the time to review and provide comments prior to Friday January 17, so that the document may be finalized at the January 28, 2014 Meeting.

V. Preferred Source Recommendations under OGS Standing Approval Authority

OGS has not approved any new applications using its delegated authority since the November 26, 2013 meeting.

VI. Procurement Source Recommendations requiring Procurement Council Approval

DRUG TEST KITS (NYSPSP-NIB):

Ms. Irvine brought members attention to the Summary Sheet of Key Points for Consideration for the Drug Test Kits dated December 18, 2013 in their packets, which summarizes and answers the points of concern brought up at the November meeting. Ms. Irvine also noted that OGS had provided a revised recommendation memo that removes the prior recommendation to exclude eight items offered by NIB that overlapped with NYSID drug test kits. Ms. Irvine stated that OGS is now recommending the NIB application be approved in its entirety. Ms. Irvine summarized key points of the analysis. One is that with the lapse of the statewide contract for drug test kits the “size of the pie” is bigger than it has ever been, thereby providing more opportunity for preferred sources to garner additional sales. With regard to overlap items, there are many opportunities for overlap, the statute allows for overlap items. With regard to benchmarking, Ms. Irvine explained that OGS used comparable benchmarking based on the applications submitted. NYSID’s drug test application for price revisions is still under review. Although a request for price revision is not an item that would normally come before the Council, for the sake of transparency OGS wanted to mention the current status of the application. OGS stands by the NIB pricing analysis as presented to the Procurement Council on November 26th and the methods of evaluation. Carrie Laney, Executive Director - NIB thanked OGS for providing clarification on outstanding points and advised that her agency had no additions to present as the clarifications provided by Ms. Irvine set the record straight for action by the Council.

A motion was made to approve the application as presented with the eight additional items included; the motion was seconded and passed by the majority.

NYSID DIGITAL PRINTING:

Ms. Irvine advised that NYSID had requested that the Council not act on this application during this meeting as there is still information being gathered. She further advised the Council that she prepared a summary packet consisting of letters from the legislature received in response to this application, which was recently sent electronically to the voting members and their alternates. If anyone has any comments or did not receive this packet please contact OGS.

VII. Open Council Discussion

MaryBeth Hefner, Director, Bureau of Accounts Management, Department of Health said that the Preferred Source applications are getting more and more uncomfortable and suggested that the Council address these issues globally. She noted that the preferred sources are increasingly reaching out to their own customer base and forming relationships with for-profit entities, which suits their business purpose, but can also give those partners almost something close to a monopoly. They can completely select who they do business with and when approved they [preferred source agencies] are telling us who we are doing business with. Ms. Hefner requested training on various aspects of the process, including the required percentage of work to be done by the disabled.

She noted that this is a “grey” area and that the letters of support and critique provided by OGS could cancel each other out, since there seems to be an equal amount of support from each side of the public. She expressed concern that, when the Council approves a body of work for preferred source priority, at least as much good is being done in that community as there is negative impact on the for-profit, NYS and small business community. She requested assistance from OGS in this area.

Mr. Paneque noted that OGS is allocating a significant amount of internal resources to address the backlog of applications brought up by Mr. Romano at the November meeting. During that process, OGS is taking a deep look at the application review process. A training to describe what the law requires of OGS, OSC and the Council is called for, and OGS hopes to have that training ready for the next Council meeting. Mr. Hurt noted that CorCraft does not partner with private entities in the same manner as the other preferred sources. Ms. Fisher noted that CorCraft advertises all of their purchase requirements in the NYS Contract Reporter, but that other preferred sources, as they are not NYS agencies, are not required to do so. Mr. Romano stated that he

would be happy and willing to participate in this process and the development of training for the Council. Charlotte Breeyear, Director, Contract Unit, Office of the State Comptroller also suggested that a full vendor responsibility review be done on preferred source partners prior to asking the Council to vote. Mr. Romano advised that NYSID does so as part of their process. Mr. Paneque advised that this is not part of the law right now but we can look to amend the guidelines to note the inclusion of such due diligence.

There being no additional questions a motion was made to adjourn the meeting; seconded and approved. The meeting adjourned at 11:35 p.m.

Members in Attendance on November 26, 2013:

James Bays – Ag & Mkts	Thomas Hippchen – SUNY
Andrew Bechard – ITS	Michael Hurt – DOCCS
Charlotte Breeyear – OSC	Gerard Minot-Scheurmann – DOB
Nancy Fisher – ESD	Sergio Paneque – OGS
Mary Beth Hefner – DOH	David Russo – OMH
Kelly S. Higgins – OPWDD	Mecca Santana – Chief Diversity Officer

At-Large Members in Attendance:

James Haggerty – NYS Council of Veterans Organizations	Ronald Tascarella – NIB
Ronald Romano – NYSID	

At Large Members Absent:

Edul Ahmad – The Ahmad Group	Richard St. Paul – Local Government Representative
Rashida Mendes – RM Capital, LLC	Gregory Weston – Pillsbury, Winthrop, Shaw, Pittman LLP

Also in Attendance:

Christine Irvine – OGS	Noreen VanDoren - OGS
Anne G. Phillips – OGS	Carrie Laney – NIB

**NYS PROCUREMENT COUNCIL
VOTING RECORD**

Meeting Date:

December 18, 2013

Question, Motion or Issue:

Meeting Minutes – November 26, 2013

MEMBER	VOTE			
	AYE	NAY	ABSTAIN	ABSENT
COMMISSIONER OF GENERAL SERVICES Sergio Paneque (Anne Phillips) (Christine Irvine)			x	
Chief Diversity Officer Mecca E. Santana (Ashley Harrington)	X			
Office of the State Comptroller Margaret Becker (Charlotte Breeyear) (Diane Taylor)	X			
Director of the Budget Susan Knapp (Jerry Minot-Scheurmann)	X			
Commissioner of Economic Development Steven Cohen (Nancy Fisher)	X			
NY Apple Association Jim Allen	X			
AGENCY REPRESENTATIVES				
Ag & Mkts James B. Bays (Lucy Roberson) (Carol Casale)	X			
DOCCS Michael Hurt (Michael Elmendorf)	X			
SUNY Thomas Hippchen (Kellie Dupuis)	X			
OPWDD Kelly S. Higgins (John F. Smith)	X			
DOH Marybeth Hefner (Joseph Zeccolo)	X			
ITS Andrew Bechard (Theresa Papa) (John Cody)	X			
OMH David Russo (David Milstein)	X			
AT-LARGE MEMBERS				
James Haggerty	X			
Ronald Tascarella – NIB (not yet confirmed)			x	
Rashida Mendes				X
Richard St. Paul				X
Gregory Weston				X

**NYS PROCUREMENT COUNCIL
VOTING RECORD**

Meeting Date: December 18, 2013
 Question, Motion or Issue: Discretionary Purchasing Bulletin and Contract Reporter Advertising
 Thresholds and Notice Requirements

MEMBER	VOTE			
	AYE	NAY	ABSTAIN	ABSENT
COMMISSIONER OF GENERAL SERVICES Sergio Paneque (Anne Phillips) (Christine Irvine)			X	
Chief Diversity Officer Mecca E. Santana (Ashley Harrington)	X			
Office of the State Comptroller Margaret Becker (Charlotte Breeyear) (Diane Taylor)	X			
Director of the Budget Susan Knapp (Jerry Minot-Scheurmann)	X			
Commissioner of Economic Development Steven Cohen (Nancy Fisher)	X			
NY Apple Association Jim Allen	X			
AGENCY REPRESENTATIVES				
Ag & Mkts James B. Bays (Lucy Roberson) (Carol Casale)	X			
DOCCS Michael Hurt (Michael Elmendorf)	X			
SUNY Thomas Hippchen (Kellie Dupuis)	X			
OPWDD Kelly S. Higgins (John F. Smith)	X			
DOH Marybeth Hefner (Joseph Zeccolo)	X			
ITS Andrew Bechard (Theresa Papa) (John Cody)	X			
OMH David Russo (David Milstein)	X			
AT-LARGE MEMBERS				
James Haggerty	X			
Ronald Tascarella – NIB (not yet confirmed)			X	
Rashida Mendes				X
Richard St. Paul				X
Gregory Weston				X

**NYS PROCUREMENT COUNCIL
VOTING RECORD**

Meeting Date: December 18, 2013

Question, Motion or Issue: Motion to approve Drug Test Kits with inclusion of eight overlapping items

MEMBER	VOTE			
	AYE	NAY	ABSTAIN	ABSENT
COMMISSIONER OF GENERAL SERVICES Sergio Paneque (Anne Phillips) (Christine Irvine)			x	
Chief Diversity Officer Mecca E. Santana (Ashley Harrington)	X			
Office of the State Comptroller Margaret Becker (Charlotte Breeyear) (Diane Taylor)	X			
Director of the Budget Susan Knapp (Jerry Minot-Scheurmann)	X			
Commissioner of Economic Development Steven Cohen (Nancy Fisher)	X			
NY Apple Association Jim Allen	X			
AGENCY REPRESENTATIVES				
Ag & Mkts (Lucy Roberson) James B. Bays (Carol Casale)	X			
DOCCS Michael Hurt (Michael Elmendorf)	X			
SUNY Thomas Hippchen (Kellie Dupuis)	X			
OPWDD Kelly S. Higgins (John F. Smith)	X			
DOH Marybeth Hefner (Joseph Zeccolo)	X			
ITS (Theresa Papa) Andrew Bechard (John Cody)	X			
OMH David Russo (David Milstein)	X			
AT-LARGE MEMBERS				
James Haggerty			X	
Ronald Tascarella – NIB (not yet confirmed)			X	
Rashida Mendes				X
Richard St. Paul				X
Gregory Weston				X