

DRAFT
New York State Procurement Council | Minutes of the Meeting
January 30, 2019 | 11:30 a.m.
Meeting Room 6 | North Concourse | Empire State Plaza | Albany, NY

Call to Order

Welcome and Introductions

Sean Carroll, New York State Office of General Services (“OGS”) Chief Procurement Officer (“CPO”) and acting Chair of the New York State Procurement Council (“Procurement Council”) as the designee of the Commissioner of General Services, called the meeting to order.

Gov Buy 2019 Presentation: Harry Brown, OGS Procurement Services, presented on the 2019 GovBuy event to be held on Tuesday, April 30th and Wednesday, May 1st at the Empire State Plaza and the Albany Capital Center. OGS is teaming up with the NYS Office of the State Comptroller (“OSC”), State University of New York (“SUNY”), NYS State Association of Municipal Purchasing Officials (“SAMPO”), and Boards of Cooperative Educational Services (“BOCES”) (a new co-sponsor) for this year’s event.

Mr. Brown noted that the event allows vendors to connect with buyers from New York State agencies, municipal governments, public and private schools, etc.; and for buyers to network with other buyers and to participate in a host of training classes designed to help buyers make better procurement decisions. Exhibitors and Procurement Services Contract Management Specialists will also participate in a meet-and-greet on Monday, April 29th, before the trade show begins on April 30th.

Training classes will be taught by representatives of the NYS Business Service Center (“BSC”), Statewide Financial System (“SFS”), Office of Minority and Women-owned Business Enterprises (“MWBE”), Division of Service-Disabled Veterans’ Business Development, OGS Procurement Services, Bureau of Risk & Insurance Management (“BRIM”), OGS Counsel, SAMPO, OSC, and BOCES.

Attendee registration is scheduled to open in early March. Announcements regarding the 2019 GovBuy are ongoing via the OGS website, the NYS Contract Reporter, and social media on Twitter and Facebook.

Old Business

Meeting Minutes: Mr. Carroll called for a motion to adopt the minutes of the November 28th, 2018 meeting. Valerie White requested that her title be changed from “Chief Diversity Officer” to “Chief Diversity Officer Representative.” The motion to adopt the minutes with the proposed change passed unanimously.

NYSPSP Digital Accessibility and Usability Testing and Remediation Reporting Services (DAUTRRS) Appeal Update: New York State Preferred Source Program for New Yorkers Who Are Blind (“NYSPSP”) filed an appeal to the NYS Procurement Council for approval to add DAUTRRS to the list of approved preferred source services. The appeal was directed to the Commissioner of OGS and was upheld. Procurement Council has added DAUTRRS to the list of approved preferred source services to be provided by NYSPSP.

Mr. Carroll announced that Mail Fulfillment has also been added to the list of approved preferred source services to be provided by NYSID.

Rules Workgroup: Mr. Carroll reported that a rules workgroup meeting has not yet been held, but that he will be sending out a schedule for the rules workgroup, meeting invitations, and a draft agenda to the entire Procurement Council and workgroup volunteers in the near future.

Procurement Guidelines Workgroup Update: Mr. Carroll reported that the Procurement Guidelines (“Guidelines”) workgroup has discovered that the current Guidelines, while very good, need to be reformatted to provide ease of access. Work on the first three sections of the Guidelines has focused on separating out procurement methodology from payment methodology. The Guidelines will address ways to overcome barriers to successful procurement, including proper scoping

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and cost estimation, as well as provide a series of best practices. The workgroup is working to conform the Guidelines to the current statutes.

The Chair, after requesting feedback and receiving no objections from the Procurement Council, stated that unless the Procurement Council requests to see finished sections of the Guidelines as they are completed, the workgroup will wait to present the whole draft document to the Procurement Council for review.

New Business

Preferred Services Report of Denied Services: Mr. Carroll reported that no services were denied in this cycle.

Legislative Updates: Tyler Feane, OGS Legal, reported on newly enacted State Finance Law, Section 139-L, effective January 1st, 2019, relating to sexual harassment prevention policies of bidders. The new law requires that any bids that are made to a state agency or department on or after January 1st, 2019, where competitive bidding is required, must contain a certification that the bidder has a written policy addressing sexual harassment prevention in the workplace (which at the minimum meets the requirements of labor law Section 201 (g)) and that the bidder will provide annual sexual harassment prevention training to all of its employees. There is solicitation language that should be included in all new solicitations effective January 1st, 2019. The Department of Labor's website contains an FAQs link with information about the new law.

Mr. Feane reported that Counsel is also monitoring three procurement related proposals in the Executive budget's transportation and economic development section:

1. "Part V" which would incorporate internet neutrality principles into the state's procurement process;
2. "Part AA" which would reauthorize and extend provisions of law relating to the MWBE program and would expand upon the provisions of the 2016 disparity study; and
3. "Part K" which would impose prohibitions on vendors making contributions during a procurement.

Counsel is also monitoring a list of bills in the legislature relating to procurement.

Preferred Source Applications Approved Under OGS Standing Authority: John Normile, OGS Procurement Services, reported that OGS has not approved any new items for addition to the Preferred Source List under its standing authority since the last report given on November 28, 2018.

NYSID Report on Mail Fulfillment: Mr. Normile stated that the Procurement Council has received a report from NYSID; the report indicated that there was no action.

Mr. Carroll explained the new reporting procedure, whereby NYSID's approval of mail fulfillment now comes before the Procurement Council every time the Procurement Council meets. Mr. Carroll requested the Procurement Council's feedback on this new model of reporting; the Procurement Council was in approval.

Debriefing Bulleting Discussion and Vote: Mr. Carroll explained that the Procurement Council releases bulletins for procurement officers that address rules not contained in the Guidelines. This allows the Procurement Council to ensure that procurement officers are following the rules in statute or guidance provided by the Procurement Council. Several of the existing bulletins require updating, and the Procurement Council will be addressing this issue over the next few meetings.

Mr. Carroll explained that the Guidelines workgroup determined the current Procurement Council Bulletin on Debriefings needed to be updated. The consensus from all the agencies participating in the workgroup was that the bulletin should reflect the language of the statute and draw attention to the mechanisms for delivery under that statute, but should not prescribe a particular methodology that every agency must use. Accordingly, the draft Bulletin on Debriefings distributed to the Procurement Council was mainly an expanded catalogue of the responsibilities under the statute, and no worksheets were attached.

Mr. Carroll laid out two options allowed under the current operating rules to guide the Council's action on the bulletin: have discussion and then call for a motion, or make a motion to move it forward and then discuss it.

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Winifred Schiff made a motion to move it forward and Joel Lombardi made a motion to second.

Mr. Carroll opened the floor for discussion. A discussion then ensued regarding the terms “award,” “tentative award” and “final award;” the impact of whether the contract was subject to OSC approval; and the ramifications of having the language in the Debriefing Bulletin mirror the language of the statute. Mr. Carrol also noted that the Guidelines workgroup has not resolved the issues yet but welcomes input from any Procurement Council member.

Mr. Carroll stated that there was a motion on the floor to approve the new Bulletin on Debriefings and called for a vote. The motion passed.

The bulletin would be issued immediately and be posted on the website, ahead of the revised procurement guidelines being approved. This new Bulletin on Debriefings will replace the previous debriefing bulletin issued by the Procurement Council.

Open Council Discussion

Amber Mooney asked what the timeline is for the rules workgroup.

Mr. Carrol responded that the original expectation was to have completed several meetings by the current Procurement Council meeting. He was, however, hopeful to have the work completed in the next four weeks and to have a rules workgroup report to present at the next Procurement Council meeting.

Jason DiGianni asked if the first agenda for the rules workgroup would be distributed to the Procurement Council.

Mr. Carroll responded that the agenda would consist of items that had been identified as issues. It would not be the full working agenda of the workgroup, but rather serve as a starting point for conversation.

Winifred Schiff asked if there were enough volunteers for the workgroup.

Mr. Carroll responded that he is taking more volunteers.

John Behrle asked how the procurement bulletin is going to be issued.

Mr. Carroll explained that the procurement bulletins are housed on the Procurement Council website (which OGS hosts) and will also be made available to all the Procurement Council members and agencies. The Procurement Council will also distribute the bulletin to any recommended mailing lists.

Meeting Closure

Procurement Council members voted unanimously to adjourn the meeting at 12:23 p.m.

Next Meeting:

Proposed 2019 Procurement Council meeting dates:

1. April 17th, 2019 with an alternate of April 24th, 2019
2. September 5th, 2019 with an alternate of September 12th, 2019
3. November 7th, 2019 with an alternate November 13th, 2019

Webcast location: <https://ogs.ny.gov/event/nys-procurement-council-meeting-january-30-2019>

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Members in Attendance:

Sean Carroll – OGS
Joel Lombardi – ITS.
Winifred Schiff - Legislative Rep.
Amber Mooney – Legislative Rep.
Thomas Hippchen – SUNY

Jason DiGianni – Division of Budget.
Christine McCann – ESD
John Behrle - DOCCS
Paul Murray - OMH
Margaret Becker – OSC

Valerie White – Chief Diversity Officer
Representative

Also in attendance:

Tyler Feane – OGS

Noreen VanDoren – OGS

John Normile – OGS

Members not in attendance:

Robert Drummond – Legislative Rep.
Shawn Cullinane – Local Government Rep.
Steven Kassarda – Legislative Rep.
Ronald Tascarella – Legislative Rep.
Julie Suarez – Gubernatorial Agriculture Rep.
Lisa Davis - OPWDD
Lisa Brooks – Ag & Markets
Marybeth Hefner - DOH

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VOTING RECORD

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Motion to approve the Meeting Minutes for the **November 28, 2018** Meeting

Member Type	Organization	Role	Name	ATTENDANCE		ACTION		VOTE			
				Name		Motion	2nd	Aye	Nay	Abstain	Recuse
Ex-Officio Members (Voting Member)	OGS CPO		Sean Carroll					x			
Ex-Officio Members (Voting Member)	Division of Budget	Primary	Jason DiGianni					x			
Ex-Officio Members (Voting Member)	Office of the State Comptroller	Primary	Margaret Becker					x			
Ex-Officio Members (Voting Member)	Empire State Development	Primary	Christine McCann					x			
Ex-Officio Members (Voting Member)	Division of MWBE	Alternate 1	Valerie White				x	x			
Legislative Appointee (Voting Member)	Manager of Government Affairs, NYS Business council	Primary	Amber L. Mooney					x			
Legislative Appointee (Voting Member)	Interagency Council of Developmental Disability Agencies, Inc.	Primary	Winifred Schiff					x			
Agency Designee (Voting Member)	Dept of Corrections	Primary	John Behrle					x			
Agency Designee (Voting Member)	State University of New York	Primary	Thomas Hippchen					x			
Agency Designee (Voting Member)	Office of Mental Health	Alternate 1	Paul Murray					x			
Agency Designee (Voting Member)	Office of Information Technologie Services	Primary	Joel Lombardi			x		x			
Totals:								11			

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VOTING RECORD

New York State Procurement Council Meeting January 30, 2019 Meeting Room 6 North Concourse Empire State Plaza Albany, NY Motion to approve the Debriefing Bulletin

Member Type	Organization	Role	Name	ATTENDANCE	ACTION		VOTE			
				Name	Motion	2nd	Aye	Nay	Abstain	Recuse
Ex-Officio Members (Voting Member)	OGS CPO		Sean Carroll				x			
Ex-Officio Members (Voting Member)	Division of Budget	Primary	Jason DiGianni				x			
Ex-Officio Members (Voting Member)	Office of the State Comptroller	Primary	Margaret Becker				x			
Ex-Officio Members (Voting Member)	Empire State Development	Primary	Christine McCann				x			
Ex-Officio Members (Voting Member)	Division of MWBE	Alternate 1	Valerie White				x			
Legislative Appointee (Voting Member)	Manager of Government Affairs, NYS Business council	Primary	Amber L. Mooney		x		x			
Legislative Appointee (Voting Member)	Interagency Council of Developmental Disability Agencies, Inc.	Primary	Winifred Schiff				x			
Agency Designee (Voting Member)	Dept of Corrections	Primary	John Behrle				x			
Agency Designee (Voting Member)	State University of New York	Primary	Thomas Hippchen				x			
Agency Designee (Voting Member)	Office of Mental Health	Alternate 1	Paul Murray				x			
Agency Designee (Voting Member)	Office of Information Technologie Services	Primary	Joel Lombardi			x	x			
Totals:							11			