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Purchasing in New York State 101



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Class Description

This introductory course will help those new to NYS government procurement and those looking for a refresher on various Purchasing 101 topics such as:

- Preferred Sources
- Centralized contracts
- Agency contracts
- Discretionary purchases
 - From MWBEs
 - From SDVOBs
 - From NYS small businesses
 - Of recycled/remanufactured products
 - Of NYS food products

New York State Procurement Guidelines

- New York State agencies must procure commodities, services, and technology in accordance with Article 11 of the New York State Finance Law
- The New York State Procurement Guidelines assist State agencies in making procurements in accordance with the New York State Finance Law

[New York State Procurement Guidelines](#)



Determining Form, Function, and Utility

- To apply the “form, function, and utility” standard, the agency’s determination of need should be defined in terms of the minimal essential requirements by the agency (e.g. quality, quantity, delivery terms, packaging, performance standards, etc.)
- An agency’s minimal essential requirements should not be over or understated
- It is important that the essential needs and related requirements are fully understood in order to choose the proper procurement vehicle in accordance with the order of statutory purchasing priority

Order of Purchasing Priority

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Statutory Purchasing Priority

- Statutory priority is accorded in the following order:
 - 1st Preferred Sources
 - 2nd OGS centralized contracts
 - 3rd Agency or multi-agency established contracts
 - 4th Other means of contracting

1st Priority – Preferred Sources

- Commodities
(Goods)
 1. Corcraft
 2. NYSPSP
 3. NYSID
- Services
 - NYSPSP & NYSID – equal priority

NOTE: If more than one Preferred Source meets your requirements, **cost** shall be the determining factor of your selection.

2nd Priority - OGS Centralized Contracts

- State Finance Law requires agencies to use centralized contracts to purchase commodities and services (including technology) that meet their agencies' requirements with respect to form, function, and utility

<https://ogs.ny.gov/procurement/ogs-centralized-contracts>

- **Note:** SDVOB set-aside contracts can preempt OGS centralized contracts, but not Preferred Sources



2nd Priority - OGS Centralized Contracts

- ~1,500+ contracts
- ~8,000+ authorized users
- Terms vary; may be awarded up to 5+ years
- Single award, multiple award, backdrop with request for quote (RFQ)/mini-bid
- Estimated quantities, indefinite delivery/indefinite quantity (IDIQ), and filed requirements
- Sales result when purchases are made referencing the contract

2nd Priority - OGS Centralized Contracts

Example Contracts

- Administrative Services
- Athletic Equipment
- Audio Visual Equipment
- Bank Card Services
- Books and Databases
- Computer Hardware and Software
- Elevator Maintenance
- Fuels
- Hazardous Incident Response Equipment (HIRE)
- Medical Equipment
- Office Supplies
- Personal Protective Equipment
- Recycling and Trash Removal
- Telecommunications
- Vehicles

2nd Priority - OGS Centralized Contracts

OGS or Less

Many commodity contracts contain an “OGS or Less” clause

- Agencies can buy from suppliers other than those participating in a centralized contract when more beneficial to the acquiring State agency
- This procedure applies only to products not available from a Preferred Source
- “OGS or Less” cannot be used if the existing state contractor will match the lower non-contract price

3rd Priority – Agency/Multi-Agency Established Contracts

- These are contracts established by an agency or multiple agencies to procure on an ongoing basis
- They enumerate the specific terms and conditions binding both the vendor and the State
- These contracts are usually in effect for multiple years

Now What?

If your form, function and utility cannot be met by any of the following:

- Preferred Sources
- OGS centralized contract
- Agency/multi-agency established contracts

You have more options:

- Competitive procurements
- Non-competitive procurements
- Discretionary purchases



Competitive Procurements

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Competitive Procurements

A formal competitive procurement process must include:

- A clear statement of need
- A description of required specifications governing performance and related factors
- A reasonable process for ensuring a competitive field
- A fair and equal opportunity for bidders to submit responsive offers
- A balanced and fair method of award

IFBs and RFPs

Invitations for Bid (IFBs)	Requests for Proposal (RFPs)
Used for the procurement of commodities	Used for the procurement of services or technology
Price is the determining factor	Price is not the sole determining factor
Award is based on lowest price	Award will be based on a combination of cost and technical factors (“best value”)
Contract is awarded to the responsive and responsible bidder(s)	

Non-Competitive Procurements

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Sole Source / Single Source

Non-competitive procurements where the agency selects one vendor to award:

Sole Source	Single Source
Only one offerer is capable of supplying the required commodities or services	Although two or more offerers can supply the required commodities or services, the agency, selects one offerer over another based upon a written finding setting forth the material and substantive reasons

Emergency Procurements

- An emergency is “an urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk”
 - Agencies can purchase without a formal competitive procurement but should obtain 3 quotes if possible
 - NYS Office of the State Comptroller (OSC) will accept oral requests, provided the agency follows up immediately in writing clearly stating the nature of the emergency

Piggyback

- Using an existing contract to acquire the same commodities or services from another public entity's contract
 - Agency must first seek approval from OGS
 - Agency should consider discounts based on the increase in spending
 - Agency must also receive OSC approval

Discretionary Purchasing

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Discretionary Purchases

- Purchases of services and commodities without a formal competitive process
- Limits for general discretionary purchases:
 - **\$50,000**: State agency, department, board, officer, commission, or institution
 - **\$85,000**: OGS or customer agencies serviced by OGS Business Service Center (BSC)
 - **\$125,000 / \$250,000**: State University of New York (SUNY)

Determine Cost

- What is the estimated cost? Cost will determine if an agency can utilize its **Discretionary Purchasing Authority** or must conduct a **Formal Procurement**
- Consider whether extra costs apply such as shipping, inside delivery, setup, etc.
- The total costs need to be incorporated into the “One Year Rule”

One Year Rule

Determination of Discretionary Threshold Amount

State Finance Law § 163(6-b):

- State agencies must consider the total amount of expected purchases for the same commodity or service to be made within the twelve-month period from the date of purchase
- Expressly prohibits split ordering
- Cannot change or a renew a discretionary purchase if the change or renewal would bring the aggregate amount for the twelve-month period over the discretionary threshold

Exceptions to General Discretionary Limits

Limit of up to \$500,000 for **commodities or services**:

- NYS certified minority and/or women-owned business enterprises (MWBES)
- Small business enterprises (SBEs)
- NYS certified service-disabled veteran owned businesses (SDVOBs)

Limit of up to \$500,000 for **commodities or technology**:

- Recycled or remanufactured products

Limit of up to \$200,000 for **commodities**:

- Food “grown, produced, or harvested” in NYS



Minority/Women-Owned Business Enterprise

- An MWBE must be certified by NYS Empire State Development in accordance with NYS Executive Law Article 15-A
- For information on the **certification** process, please have interested vendors contact **Empire State Development** at mwbecertification@esd.ny.gov or visit the website <https://esd.ny.gov/doing-business-ny/mwbe>



New York State Small Business Enterprises

- An NYS SBE is defined as:
 - Resident to New York State
 - Independently owned and operated
 - 100 or fewer employees
 - Not dominant in its field
- *There is no certification process for NYS SBEs*

Service-Disabled Veteran Owned Business

- An SDVOB must be certified by OGS pursuant to Executive Law Article 17-B
- For information about certifying as an SDVOB, please direct interested vendors to contact the OGS Division of Service-Disabled Veterans' Business Development at:
<https://ogs.ny.gov/veterans>

Recycled/Remanufactured and NYS Food

- Recycled or remanufactured products:
“commodities or technology that is recycled or remanufactured”
- Food grown, produced or harvested in New York:
“commodities that are food, including milk and milk products, grown, produced, or harvested in New York State”
 - NYS Department of Agriculture & Markets “New York Grown & Certified Program” is an option for such purchases



NYS Contract Reporter (NYSCR)

- The NYSCR is the State's procurement opportunities newsletter
- All procurements by State agencies, including SUNY and CUNY, in excess of \$50,000 shall be advertised in the NYSCR in accordance with Article 4-C of the Economic Development Law

<https://www.nyscr.ny.gov/>



NYS Contract Reporter (NYSCR)



[Services](#)
[News](#)
[Government](#)
[COVID-19 Vaccine](#)

New York has been made aware of a scam involving fraudulent State agency purchase orders. Please be on heightened alert should you receive any purchase orders that appear out of the ordinary from State agencies. Should you have any doubt about the authenticity of an order, please make sure to confirm by telephone with your established point of contact for the authorized user.

Opportunities posted today

44

Opportunities posted in the last 7 days

222

Total available opportunities

983



NYSCR.ny.gov

The
New York State
Contract Reporter

*NYS' official source of contracting opportunities
Bringing business and government together*

Log In

Sign up and register
for your free account!

Click here to get started

I want to find contracts to bid on

I want to advertise opportunities

Learn about the New York State
Business Registry

Learn about doing business
with New York



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NYSCR Registration Process

- If you are a state agency that needs to submit ads to the NYSCR for publication, you will want to register for a government entity account by accessing registration at <https://www.nyscr.ny.gov/newAccount.cfm>

Get started by creating your FREE Account Today!

Business Entity Account:

Sign up now to access contracting opportunities from NYS agencies, public authorities, public benefit corporations, and list your company in the NYS Business Registry.

Not sure if this is the right account for you?
[Click here to learn more](#)

Create my account >

Government Entity Account:

Request your FREE account today to advertise your New York State government procurement opportunities to thousands of businesses.

Not sure if this is the right account for you?
[Click here to learn more](#)

Request an account >

NYSCR Registration Process

- The registration process will check to see if your agency has an active NYSCR account
 - **If your government entity has an active account:** Complete the registration process and a message will be sent to your entity's Contract Reporter administrator for approval
 - **If your government entity does not have an account:** complete the registration process and a message will be sent to the Contract Reporter system administrator for approval
- Once registered, the NYSCR system will guide you through the advertising process

Resources

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Reference Materials – Preferred Source Links

- Dept. of Corrections & Community Supervision (Corcraft):
<https://corcraft.ny.gov/>
- NYS Preferred Source Program for People who are Blind:
<https://www.nyspspabilityone.com/>
- NYS Industries for the Disabled: www.nysid.org
- General Preferred Source information:
<https://ogs.ny.gov/procurement/preferred-sources>

Reference Materials

- State Finance Law, Article XI:
<https://www.nysenate.gov/legislation/laws/STF/A11>
- NYS Procurement Guidelines:
<https://ogs.ny.gov/system/files/documents/2018/08/psnys-procurement-guidelines.pdf>

Reference Materials

- OSC Guide to Financial Operations:
<https://www.osc.state.ny.us/agencies/guide/MyWebHelp/>
- OGS Business Service Center: <https://bsc.ogs.ny.gov/>
- Guidelines for Purchasing NYS Food Products:
https://ogs.ny.gov/system/files/documents/2019/09/NYS_FoodPurchase_Guidelines_2019_1.pdf

Questions?

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