

New York State Procurement Guidelines

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Section I: Overview

1.1 Introduction and Purpose

New York State (“State”) agencies must procure commodities, **services**, and **technology** in accordance with Article 11 of the New York State Finance Law, current statutes, regulations, **executive orders**, and other actions with the force of law. Executive orders governing **procurement** carry the force of law. A list of current executive orders can be found at the end of this document.

The Procurement Guidelines (“Guidelines”) presented in this document are established by the **State Procurement Council** pursuant to State Finance Law § 161(2)(d). The Guidelines are designed to assist State agencies in making procurements efficiently and effectively by providing **agency** program and fiscal staff with a source of basic, systematic guidance about State procurement policies and practices.

State procurement must facilitate each agency's mission while protecting the interests of the State and its taxpayers and promoting fairness in contracting with the business community. The Guidelines are intended to advance these goals by encouraging agencies to adopt and implement appropriate procurement practices consistent with State statutes and policies (State Finance Law § 163(2)).

The State's procurement policies form a framework for conducting procurements and establishing **contracts**. Policies address such issues as ensuring sufficient competition; preserving fair and open competition; establishing **vendor** responsibility; providing for participation of **preferred sources**, State-certified **minority- and women-owned business enterprises (“MWBs”)**, State-certified **service-disabled veteran-owned businesses (“SDVOBs”)**, **NYS small business enterprises (“SBEs”)**; promoting local food growers; and protecting human health and the environment, and **New York State Textiles (“NYS Textiles”)**; promoting local plant fiber products and textiles. When conducting procurements, each agency may have supplemental policies and requirements that should also be reviewed and followed.

New York State procurement policies and practitioners embody the internationally accepted values for Public Procurement of:

Accountability: Taking ownership and being **responsible** to all stakeholders for our actions. This value is essential to preserve the public trust and protect the public interest.

Ethics: Doing the right thing. This value is essential to deserve the public's trust.

Impartiality: Unbiased decision making and actions. This value is essential to ensure fairness for the public good.

Professionalism: Upholding high standards of job performance and ethical behavior. This value is essential to balance diverse public interests.

Service: Obligation to assist stakeholders. This value is essential to support the public good.

Transparency: Easily accessible and understandable policies and processes. This value is essential to demonstrate responsible use of public funds.

1.2 Terminology

Becoming familiar with vocabulary is fundamental to understanding and properly performing procurements. In these Guidelines, important terms will appear in blue italicized boldface font upon first use (as demonstrated in this section) and are defined in the Glossary.

An entity that provides **commodities**, services, or technology may be referred to as a vendor, offeror, **bidder**, proposer, supplier, or **contractor**. Similarly, the words “service” or “services,” when used in these Guidelines, are meant to include both services and technology (as each term is separately defined in the glossary), unless the context indicates that the meaning is expressly directed at one or the other term. Additionally, the words “products” and “goods” are used to mean commodities (State Finance Law § 160(7)).

Unless otherwise noted, all references to named laws (e.g., State Finance Law, Economic Development Law) are to the current statutes in effect at the time these Guidelines are issued.

1.3 Application and Scope of the Procurement Guidelines

The Procurement Guidelines are designed to apply to a wide range of procurements, from the very routine to the very complex. The applicability of specific chapters, sections, and provisions will vary depending on the nature, objectives, and particular circumstances of each procurement.

The Procurement Guidelines apply only to procurements conducted under Article 11 of the State Finance Law. Various other statutes establish different procurement laws, rules, and processes for specific types of procurements. Types of procurements include, but are not limited to:

1. **Revenue contracts.**
2. The priority of vendors who are blind, licensed by the Business Enterprise Program established by the New York State Commission for the Blind, pursuant to McKinney’s Unconsolidated Laws § 8714-a, to operate newsstands and vending machines.
3. Construction contracts covered by Public Buildings Law § 8, Highway Law § 38, and Education Law § 376.
4. Grants and contracts with not-for-profit organizations covered by Article 11-B of the State Finance Law.
5. Contracts for architectural, surveying, landscape architectural, geological, or engineering services covered under State Finance Law § 136-a.

6. Leases, easements, and other transactions made in accordance with the Public Buildings Law, the Public Lands Law, or the Real Property Law.
7. Monetary thresholds and approval processes for purchases made under the SUNY Flex legislation (Education Law §§ 355(5) and 355(16)) and CUNY Flex legislation (Education Law § 6218).

1.4 Operating Principles

The State's procurement process is designed to:

1. Ensure fair and open competition.
2. Guard against favoritism, improvidence, extravagance, fraud, and corruption.
3. Ensure compliance with statutory requirements pertaining to preferred sources, State-certified MWBE, SDVOB, and NYS small businesses, promote local food growers, and protect human health and the environment.
4. Ensure that the results meet agency needs effectively, efficiently, and with integrity.
5. Provide checks and balances to regulate and oversee agency procurement activities.
6. Protect the interests of the State and its taxpayers.

Competition in the procurement process serves both State agencies and potential bidders by ensuring that the procurement process produces an optimal solution at a reasonable *price* and allowing qualified vendors an opportunity to obtain State business.

The primary responsibility for procurement decisions rests with the State agency purchasing the commodity, service, or technology. In addition to complying with existing statutory and regulatory requirements, State agencies must conduct procurements in accordance with the following general principles:

1. Define the process by which the procurement is being conducted.
2. Disclose the general process to potential bidders.
3. Make reasonable efforts to ensure that vendors, including, but not limited to, State-certified MWBEs and SDVOBs, SBEs, and NYS Textiles are aware of opportunities to compete for State business.
4. Adhere to the process while conducting the procurement.
5. Document the process, including information gathering and decisions made relating to the procurement.

1.5 Procurement Ethics

Procurements result in an expenditure of public monies, and public employees must always ensure that all procurements are conducted so as not to cause any concern that special considerations have been shown to a vendor. Actions such as providing a vendor with information that is not available to other vendors, accepting a gift, or having a meal with a potential vendor could be construed as showing favoritism to a vendor, and may violate State law. Certain meetings with existing or potential vendors may also need to be reported in the State's online **Project Sunlight** database. Questions regarding procurement ethics should be directed to the agency ethics officer and/or the Commission on Ethics and Lobbying in Government.

Information on Project Sunlight reporting is available at: <https://projectsunlight.ny.gov/>

Management may not direct an award to a specific bidder who is not the low bidder or who has not offered the **best value** in accordance with the pre-established evaluation methodology.

Information on the Commission on Ethics and Lobbying in Government is available at: <https://ethics.ny.gov/>

1.6 Procurement Lobbying Law

State Finance Law §§ 139-j and 139-k impose certain restrictions on communications between an agency and an offeror during the procurement process. An offeror is restricted from making **contacts** (defined in the law as communications intended to influence the procurement) from the date of the earliest posting of the **solicitation** through the date of the final award, and, if applicable, approval of the contract by the **Office of the State Comptroller ("OSC")**, to other than designated staff (as identified by the agency). The interval between these points is known as the **restricted period**. Certain exceptions to this restriction are set forth in State Finance Law § 139-j(3)(a), such as communication during contract negotiations.

Procurement staff are also required to obtain certain information when contacted during the restricted period and to make a finding that the offeror has not been deemed non-responsible for violating the Procurement Lobbying Law. A single finding of non-responsibility can result in rejection for a contract award. In the event of two such findings within a four-year period, the offeror will be debarred from governmental procurement contracts for four years.

Further information about these requirements can be found on the OGS website at: <https://ogs.ny.gov/acpl>

1.7 Administrative Updates to the Procurement Guidelines

To ensure the Procurement Guidelines remain consistent with current statutes, regulations, executive orders, and other actions with the force of law, changes may be made to the Guidelines administratively. The **Office of General Services (“OGS”)** Procurement Services, acting on behalf of, and as staff to the Procurement Council, is directed to:

- Update the Procurement Guidelines in order to reflect new statutes, changes to existing statutes, and executive orders relating to procurement services in New York State
- Update the document to ensure that items in the Procurement Guidelines, such as charts and web links, are current and accurate so that they may remain as a resource to procurement staff referencing the document

Updates made to the Guidelines will be made in consultation with OGS Legal Services. Any administrative updates made to the Guidelines will be reported at the following Procurement Council meeting.

Section II: Procurement Basics

2.1 Overview of Procurement Tools

State agencies purchase commodities, services, and technology to address needs or solve problems in the performance of an agency’s mission. Needs and problems vary with respect to how well they can be defined. Some are highly standardized and are common among most, if not all, agencies. Others are unique to a given agency and range from simple, routine concerns to complicated problems requiring complex solutions.

To address this array of conditions, a variety of procurement tools and techniques are available. Among the most common are preferred source offerings; SDVOB set asides; Office of General Services (“OGS”) **centralized contracts**; agency or multi-agency established contracts resulting from competitive **bids** conducted by State agencies; **sole source** contracts; **single source** contracts; **piggyback contracts**; **emergency** contracts; and **discretionary purchases**. These and other procurement tools are discussed in greater detail later in this chapter.

2.2 Contract Document Basics

Contracts are written agreements between a buyer (the State) and a seller (the vendor). These documents specify various terms and conditions to which the parties must adhere. Some types of these terms and conditions include, but are not limited to, the following:

1. Price
2. Delivery terms

3. Description of the commodity or service being procured
4. Payment terms
5. Insurance
6. Performance requirements
7. Appendix A
8. Duration of the contract
9. Liability clauses and any other requirements of either the buyer or seller
10. Agency-specific requirements

Contracts may be issued by OGS on behalf of all agencies or may be issued by one or more agencies for their unique needs.

2.3 Choosing a Procurement Method and the Order of Purchasing Priority

As noted, State agencies undertake procurements to address a wide range of needs. Before proceeding, confirm that the agency does not have a contract that will meet its needs. To meet varying needs and **form, function, and utility** requirements, an agency must first identify its specific needs, estimate **costs**, perform market research, consider relevant State requirements and goals (e.g., recycled content), and then follow the order of priority set forth below (State Finance Law § 163(3) & (4)).

NOTE: An agency may conduct an SDVOB set-aside procurement at any time after considering a preferred source without having to comply with the order of priority for selecting a procurement set forth below.

For more information see the Guidelines for the Use of Set Aside Contracts with SDVOBs on the OGS website at:

https://ogs.ny.gov/system/files/documents/2018/10/guidelines_0.pdf

First: Preferred source offerings.

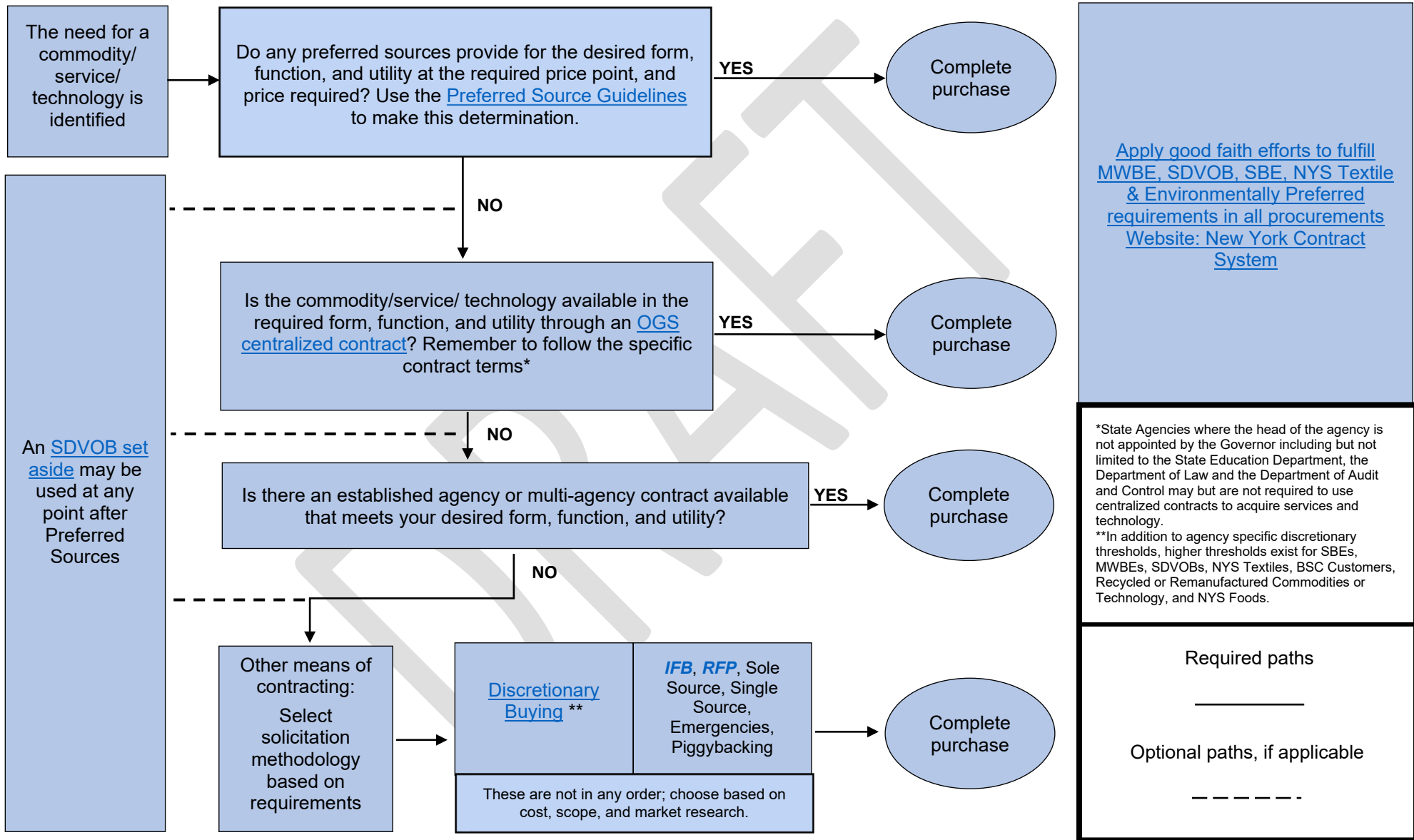
Second: OGS centralized services and technology contracts (except by State agencies where the head of the agency is not appointed by the governor, including but not limited to the State Education Department, the **Office of the Attorney General (“OAG”)**, and the Office of the State Comptroller (“OSC”); OGS centralized commodity contracts.

Third: Agency or multi-agency established contracts.

Fourth: Other means of contracting.

A flowchart titled “**Selecting a Procurement Method**” follows.

Selecting a Procurement Method



[Apply good faith efforts to fulfill MWBE, SDVOB, SBE, NYS Textile & Environmentally Preferred requirements in all procurements Website: New York Contract System](#)

*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 may but are not required to use centralized contracts to acquire services and technology.
**In addition to agency specific discretionary thresholds, higher thresholds exist for SBEs, MWBEs, SDVOBs, NYS Textiles, BSC Customers, Recycled or Remanufactured Commodities or Technology, and NYS Foods.

Required paths
—————
Optional paths, if applicable
- - - - -

2.3.1 Preferred Source Offerings

Currently, the preferred sources are (i) the Correctional Industries Program (known as “Corcraft”), which is run by the Department of Corrections and Community Supervision (“DOCCS”); (ii) the New York State Preferred Source Program for People Who are Blind (“NYSPSP”); and (iii) the New York State Industries for the Disabled, Inc. (“NYSID”).

When an approved commodity or service desired by a State agency, political subdivision, or public benefit corporation (including most public authorities) is available from a preferred source in the form, function, and utility required, and the price is no more than 15% above the prevailing market rate (or, in the case of Corcraft, the price of the commodity does not exceed a reasonable, fair market rate as determined by DOCCS), the State agency must purchase that commodity or service from a preferred source. When doing so, agencies must adhere to the priority that has been accorded to the preferred sources in State Finance Law § 162, as follows:

With respect to approved commodities, agencies must purchase from preferred sources in the following prioritized order, if available:

First: From Corcraft

Second: From NYSPSP

Third: Equal priority is accorded to NYSID and *qualified veterans’ entities*

With respect to approved services, if more than one preferred source meets the agency’s form, function, and utility requirements, equal priority shall be accorded to the services rendered and offered for sale among the approved charitable, non-profit making agencies for the blind, other disabled persons, and qualified veterans’ entities. If more than one preferred source meets the agency’s requirements, cost shall be the determining factor.

NOTE: Corcraft is not a preferred source option for the purchase of services. However, services offered by Corcraft may be obtained by a State agency through an interagency Memorandum of Understanding (“MOU”) with Corcraft as a division of DOCCS. Contact Corcraft at info.corcraft@doccs.ny.gov to discuss engaging in an MOU for Corcraft services.

More information and the list of approved preferred source offerings can be found on the OGS website at: <https://ogs.ny.gov/procurement/preferred-sources>

2.3.2 OGS Centralized Contracts

OGS establishes centralized contracts for commodities, services, and technology. There are more than 1,500 such contracts in place.

State Finance Law requires that agencies use OGS centralized contracts to purchase commodities, services, and technology that meet the agency’s requirements with respect to form, function, and utility. State agencies where the head of the agency is not appointed by

the governor, including but not limited to the State Education Department, OAG, and OSC, may, but are not required to use OGS services and technology contracts.

For the purchase of commodities, services, or technology available from an OGS centralized contract, the agency must review and follow all instructions in the centralized contract. Agencies should consider purchasing from MWBE and SDVOB contractors available on OGS contracts to meet agency goals.

Additionally, OGS establishes contracts that prequalify vendors for the provision of services. These contracts establish standard terms and conditions, set maximum not-to-exceed prices, and satisfy many legal requirements associated with State procurements, such as advertisement in the New York State Contract Reporter, vendor responsibility determination, and sales tax certification.

To use centralized contracts, the processes to be followed are set forth either in the contract or the Guidelines associated with that contract on the OGS website. Some centralized contracts may require additional competitive procurement processes at the **authorized user** level (e.g., a **mini-bid**, or request for quote). Consider including MWBE and SDVOB goals as part of the competitive process.

An authorized user and contractor cannot amend the terms and conditions of the centralized contract, but may if permitted by the contract, agree to additional terms and conditions more favorable to the authorized user only (e.g., delivery terms, longer warranty period, no-cost maintenance). Authorized users may not agree to pricing that is higher than approved by the contract and are encouraged to negotiate lower pricing. Authorized users may only negotiate changes allowed by the contract.

Useful information for authorized users can be found on the OGS website:

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

New York State eMarketplace - <https://ogs.ny.gov/procurement/emarketplace>

OGS or Less

In addition, pursuant to State Finance Law § 163(3)(a)(v), OGS centralized commodities contracts that contain a clause known as “OGS or Less” may allow an agency to obtain needed commodities from a non-contract vendor in order to take advantage of non-contract savings that may develop in the marketplace. “OGS or Less” purchases may not be made if the commodities are available from:

1. Legally established preferred sources in the form, function, and utility required.
2. State contracts based on filed requirements (e.g., fuel, oil, etc.).
3. **Agency-specific contracts.**

After determining that the needed commodity cannot be obtained from these sources, the agency must determine, and document in the **procurement record**, that the purchase price, including delivery, warranty, and other relevant terms, offered by the non-contract vendor is more economically beneficial than what is offered on OGS centralized contracts for a commodity substantially similar in form, function, and utility. Agencies must not solicit multiple offers from the same vendor and must not create a bidding war. State contractors must be allowed a minimum of two business days to match the lower non-contract price. If the State contractor provides written confirmation that it will match the lower price, the agency proceeds with the purchase in accordance with agency purchasing procedures. If the State contractor is unable or unwilling to match the lower price, the agency must document - this in the procurement record, and in lieu of purchasing the commodity from the OGS centralized contractor at the OGS centralized contract price, may procure through either a discretionary or competitive procurement, as applicable.

2.3.3 Established Agency or Multi Agency Contracts

To avoid duplication of government processes, the order of priority recognizes a State agency's ability to leverage and adopt an already existing competitive established agency or multi agency contracts. As with other forms of State procurement, contracting under this methodology remains subject to internal and external review, and must be consistent with the policies and principles of government public contracting. When using this form of procurement, the requesting agency should examine and weigh the following factors in order to determine the appropriateness of established agency or multi agency contracts as a preferred methodology over other contracting alternatives:

1. **Subject Matter Comparison:** There should be an equivalency between the product or service sought and the original contract which should reflect your agency's form, function, and utility requirements. Does the existing contract encompass the product or service sought? Did it anticipate the possibility of a contract extension? All relevant factors in the proposed extension acquisition (including but not limited to price, quality, and nature of deliverable) should be clearly identified and compared to the original acquisition.
2. **Procurement Method:** The size and scope of the new acquisition should be evaluated in comparison to the original acquisition and its method of award. Does the proposed use significantly unbalance the original scope, or change the nature, quantity, and scope of the original contract? Could a substantially different procurement response or increased bidder pool involving greater competition reasonably be expected based upon the volume of your proposed request?
3. **Notice to Originating Agency:** Where the subject of the original acquisition is a New York State agency-specific contract, the original contracting entity should be contacted and advised of the intended use. Concerns about the intended use, including the diminution of supply and contractor capacity, should be forwarded to OGS with the request. Where the requesting agency proposes using an amendment to an existing contract, consent of the originating agency must be obtained.

Notification to the originating agency is not an issue for centralized contracts open to multiple entities.

4. **Consent of Vendor & Terms of Use:** The vendor's consent to the request must be in written legal form (contract, letter agreement, etc.), separate from a purchase order, which sets forth the agreed terms of the request. A decision on whether to amend the original agreement or to execute a separate, independent contract based on the original contract must be considered based on your facts and circumstances. In either event, the legal form should set forth, not only the agreed terms of the acquisition, but also its effect on the original agreement, including liability for default, and aggregation of volume and pricing discounts for the intended acquisition as well as for subsequent acquisitions under the original agreement.
5. **Absence of Other Acceptable Established Contracting Alternatives:** Why is established agency or multi agency contracts the appropriate mechanism to use for this procurement (i.e., timing, level playing field, nature of use)? Were other procurement methodologies considered? Are there any special, unusual, or exigent market circumstances underlying this extension request?
6. **Pricing Justification:** Similar to other methods of procurement, your agency must document that the price for the proposed acquisitions is reasonable under the circumstances. You should indicate whether pricing concessions have been requested and obtained from the contractor based on the increased volume of purchases under the agreement.

2.3.4 Other Contract Methods (Agency-Specific Contracts)

These are contracts established by an agency or multiple agencies to procure commodities, services, or technology. They enumerate the specific terms and conditions binding both the vendor and the State. These contracts are usually in effect for multiple years. More guidance on establishing a contract is provided herein. An agency may also use an agency or multi-agency established contract to purchase commodities, but typically these items can be obtained using a purchase order or a purchase authorization.

1. **Competitively Bid Procurement:** A procurement awarded pursuant to a low bid or best value solicitation.
2. **Sole Source Procurement:** A sole source procurement is one in which only one bidder can supply the commodities or services required by an agency. The agency must document why the proposed bidder is the only viable source for the commodities and/or services needed by the agency. OSC approval must be obtained for a sole source procurement if the value is over the agency's discretionary threshold as set forth in State Finance Law § 112. In addition, if the agency is seeking a waiver

from advertising in the New York State Contract Reporter, OSC must approve the exemption.

3. **Single Source Procurement:** A single source procurement is one in which, although there are two or more potential bidders, the agency has determined that it is in the best interest of the State to procure from a particular bidder. State agencies shall minimize the use of single source procurements and use them only when a formal competitive process is not feasible. In accordance with State Finance Law § 163(10)(b)(ii), the term of a single source procurement shall be limited to the minimum period of time necessary to ameliorate the circumstances which created the material and substantial reasons for the single source award. OSC approval must be obtained for a single source procurement if the value is over the agency's discretionary threshold as set forth in State Finance Law § 112. In addition, if the agency is seeking a waiver from advertising in the New York State Contract Reporter, OSC must approve the exemption.
4. **Piggyback Procurement:** At times, an agency may find it more efficient to establish a contract based on another governmental entity's contract. This is known as "piggybacking" and may be used in accordance with the criteria established by OGS in the "Contract 'Piggybacking' Guidelines" State Finance Law § 163(10)(e)."

The Piggybacking Guidelines can be found on the OGS website at:
<https://ogs.ny.gov/procurement/piggybacking-using-other-existing-contracts-0>

The agency must seek approval for the use of a piggyback contract from OGS. Finally, the agency must create a New York State contract and obtain all approvals necessary for the specified contract value.

5. **Emergency Procurements:** An emergency procurement is one in which an urgent and unexpected situation occurs where health and public safety or the conservation of public resources is at risk. Where an emergency exists, an agency may issue procurement contracts without complying with formal competitive bidding requirements. However, an agency should make a reasonable attempt to obtain at least three oral quotes. An agency's failure to properly plan in advance – which then results in a situation where normal practices cannot be followed – does not constitute an emergency. OSC approval must be obtained for an emergency procurement if the value is over the agency's discretionary threshold as set forth in State Finance Law § 112. In addition, if the agency is seeking a waiver from advertising in the New York State

Contract Reporter, OSC must approve the exemption. Discretionary Purchases.

- 6. Discretionary purchases:** Procurements made below statutorily established thresholds and at the discretion of the agency, without the need for a formal competitive procurement process. The use of discretionary purchasing streamlines the procurement process. Discretionary purchasing may provide unique and significant opportunities for MWBEs, SDVOBs, SBEs, and NYS Textiles to obtain State contracts and assist an agency in achieving its MWBE or SDVOB goals. In addition, discretionary purchasing can improve opportunities for NYS small businesses to secure business with the State and promote the use of *recycled* or *remanufactured commodities* or technology and purchase of NYS grown, produced, or harvested food, including milk and milk products. For specific monetary thresholds for discretionary purchases see the guidance below.

For more information, visit the following websites:

MWBEs - <https://ny.newnycontracts.com/>

SDVOBs - <https://online.ogs.ny.gov/SDVOB/search>

Food -

https://ogs.ny.gov/system/files/documents/2019/09/NYS_FoodPurchase_Guidelines_2019_1.pdf

To determine the discretionary threshold amount, the State agency shall consider the reasonably expected aggregate amount of all purchases of the same commodities or services to be made within the 12-month period commencing on the date of purchase (State Finance Law § 163(6-b)).

If the agency anticipates it will be purchasing the same commodities and/or services for more than 12 months, consideration should be given to a multi-year competitive procurement to secure favorable pricing and/or terms and conditions.

When contemplating any discretionary purchase, the agency must first undertake an analysis to determine whether its needs can best be met by acquiring through the preferred source program. If that is not possible, the agency may consider an SDVOB set-aside contract. If the acquisition is for a commodity, the agency must make the purchase using an OGS centralized commodity contract which will meet the agency's form, function, and utility needs. If the acquisition is for a service or technology, the agency, except State agencies where the head of the agency is not appointed by the governor, including but not limited to the State Education Department, OAG, and OSC must make the purchase using an OGS centralized services or technology contract which will meet the agency's form, function, and utility needs.

For useful information regarding discretionary purchasing, visit the following websites:

BSC website -

https://bsc.ogs.ny.gov/system/files/documents/2021/10/purchasingrequirements_10-18-21.pdf
Discretionary Purchasing Guidelines - <https://ogs.ny.gov/procurement/nys-procurement-bulletin-discretionary-purchasing-guidelines>

When making a discretionary purchase, an agency must:

1. Ensure that the commodities and services acquired meet their form, function, and utility needs, including relevant State law and policy requirements.
2. Determine whether there are qualified MWBE, SDVOB, SBE, manufacturers of recycled or remanufactured commodities or technology, NYS Textiles, or NYS food or milk producers, to provide the products or services requested.
3. Document and justify the selection of the bidder.
4. Document and justify the reasonableness of the price to be paid.
5. Buy only from a responsible bidder.
6. Comply with the agency's internal policies and procedures.

2.4 Formalizing the Procurement

When formalizing a procurement, the following options may be considered.

2.4.1 Procurement Card Program

The State's Procurement Card (P-Card) Program is a credit card procurement and payment method designed to expedite purchases and payments. When properly used, the P-Card is an efficient and cost-effective alternative to a variety of traditional labor-intensive procurement and payment tools. Some purchases and payments that can be made with a P-Card include:

- 1 Commodities or services from preferred sources.
- 2 Commodities or services from an OGS centralized contract.
- 3 Commodities or services from open market purchases.

Agencies may not use the P-Card to make payments against an agency-specific contract because expenditures are not captured on the year-to-date and life-to-date amounts on the contract per Accounts Payable Advisory #47.

P-Card holders should be familiar with their agency's policies and procedures pertaining to P-Card use. Ultimately, it is the P-Card holder who is responsible for the proper use and safekeeping of a P-Card.

For useful information regarding P-cards, visit the following websites:

Accounts Payable Advisory #47 -

https://www.osc.state.ny.us/agencies/accounts_payable_advisories/apadvisory_47.htm

P-Card Contract -

<https://online.ogs.ny.gov/purchase/snt/awardnotes/7900823217can.htm>

2.4.2 Purchase Orders

A Purchase Order ("PO") is a document that comprises an agency's financial transaction with a contractor. The PO may reference an existing centralized or agency contract, including but not limited to a purchase authorization. In the case where there is already a contract the PO may specify quantity, delivery instructions, and other basic information, but a PO usually does not include terms and conditions that conflict with the contract. Where there is not a contract, such as a discretionary purchase, the PO shall also contain terms and conditions that govern the relationship with the contractor, and/or describe the goods or services being procured. If a PO governs a relationship with a contractor, it will contain all the information necessary to communicate the requirements of the procurement including MWBE and SDVOB goals if applicable. In addition to the financial and budgetary details for the purchase, Appendix A must be incorporated into or attached to the PO.

Additional information regarding POs can be found on the OSC website at:

<https://web.osc.state.ny.us/agencies/guide/MyWebHelp/#XI.A/3.htm?Highlight=purchase%20order>

2.4.3 Agency-Specific Contract

Multiple contract types are used by agencies dependent on the nature and dollar value of the procurement. The most common types are service contracts, purchase authorizations, and one-time purchases.

For detailed guidance on establishing contracts and the necessary approvals, see Section XI of the OSC's Guide to Financial Operations:

<http://www.osc.state.ny.us/agencies/guide/MyWebHelp>

2.4.4 Interagency Memorandum of Understanding ("MOU")

An MOU is an agreement (not a contract) between two or more New York State agencies that outlines matters of substance, such as budget and reporting responsibilities, but does not include formal standard contract terms. Since MOUs are not formal contracts, they do not require the approval of the OSC. An agreement between a State agency and

another governmental entity that is not a State agency is called an intergovernmental agreement and requires OSC approval when valued above the agency's discretionary purchasing authority.

For additional information on these documents, see Section XI.9 on Intergovernmental Agreements in the OSC's Guide to Financial Operations:

<http://www.osc.state.ny.us/agencies/guide/MyWebHelp>

Section III: Pre-Solicitation and Planning

3.1 Knowing the Business Needs

Know what the "end result" needs to be. Before starting the procurement process, have a good understanding of what the agency needs, what a product will be used for, whether there will be a need for modifications to existing equipment or facilities, and what is available in the marketplace. Identification of the business needs may require meeting with end-users to bring added clarity to the scope of the transaction and the various components of the transaction, such as the intended product usage, what services are needed, or site conditions.

3.2 Proper Planning

Proper planning is the single most important factor in conducting a successful procurement. Treat the process as a project and develop a timeline of events to meet the agency's programmatic needs and effectively budget staff time. Proper planning includes estimating cost, determining the award methodology, allowing adequate time for advertisement, writing a clear and concise solicitation, coordinating with other business units or agencies, and allowing sufficient time for potential bidders to ask questions, the agency to prepare responses, bidders to prepare bids/proposals (taking into account the complexity of the solicitation), reviewing the bids/proposals, and conducting internal/external reviews of the final contract. As part of planning, follow all administrative requirements, including but not limited to, B1184, Plan to Procure, and business case.

3.3 Gathering and Exchanging Information Prior to Solicitation

Procurement staff have several methods available to them for gathering and exchanging information with potential bidders, prior to issuing a solicitation or making a purchase. These methods enable information gathering while promoting openness, fairness, and transparency.

3.4 Downstream Prohibition

If a vendor prepares and furnishes *specifications* to be used in a competitive solicitation, that company is generally prohibited from participating in the procurement. See

State Finance Law § 163(2); and for technology procurements, see State Finance Law § 163-a, for guidance and exceptions.

3.5 Discussion with the Office of the State Comptroller

Prior to issuing the solicitation, consideration should be given to discussing complicated and/or sensitive solicitations or unique evaluation methodologies with the OSC Bureau of Contracts to ensure that the procurement is undertaken in an appropriate manner.

3.6 After the Scope is Finalized

After the scope is finalized the order of priority described in section 2.3 of these Guidelines must be applied. If the Agency is using discretionary spend under section 2.3 and the estimated cost is under the agency discretionary threshold, consideration should be given to a discretionary purchase including MWBEs, SDVOBs, SBEs, and NYS Textiles. If the estimated cost is above the agency discretionary threshold, but below the higher thresholds for MWBEs, SDVOBs, SBEs, and NYS Textiles, promoting local food growers, recycled or remanufactured, consideration should be given to limiting the opportunity to one or more targeted groups for the discretionary purchase. Discretionary purchases that are valued over the agency's standard discretionary limit shall be subject to the review and approval of OSC.

For additional information, refer to the Discretionary Purchasing Bulletin found on the OGS website at:

<https://ogs.ny.gov/procurement/nys-procurement-bulletin-discretionary-purchasing-guidelines>

If the agency's market research supports a non-competitive award such as a single or sole source, an award may be made, with proper justification, to the single or sole source provider. If the dollar value exceeds agency discretionary limits, a Contract Reporter Exemption Request is required and should be submitted to OSC through the Electronic Documents Submission System ("EDSS") <https://www.osc.state.ny.us/portal/edss/index.htm>. Upon approval, an advertisement must be placed in the Contract Reporter to indicate the award to the single or sole source.

The Electronic Documents Submission System can be found on the OGS website at:

<https://www.osc.state.ny.us/state-agencies/contracts/electronic-documents-submission-system-edss?redirect=legacy>

If the agency's market research indicates another State agency or governmental entity has already procured this commodity, service, or technology, there may be an option to piggyback off of an existing contract. refer to piggybacking instructions located here:

Instructions on how to piggyback can be found on the OGS website at:

<https://ogs.ny.gov/procurement/piggybacking-using-other-existing-contracts-0>

Section IV: Solicitation Development and Content

4.1 Scope of Work

A scope of work provides a thorough summary of what is being purchased, including a timeline for performance, any milestones, reports, products, or other deliverables. While there is no "one way" to write a scope of work, the fundamental principles are similar in each solicitation.

4.2 Specifications

The solicitation should specify which aspects or features of the requested deliverables are critical to the agency, and which are therefore expected to be included in the bid or proposal.

4.3 Minimum Bidder Qualifications

An agency may establish minimally acceptable qualifications that a bidder must meet in order to be deemed *responsive*. If the agency elects to establish minimum qualifications, it must disclose in the solicitation both the qualification criteria and the bidder not meeting these criteria will be eliminated without further evaluation. Minimum qualification criteria are scored on a pass/fail basis.

4.4 Submissions and Evaluations

Prior to establishing a method of award and evaluation criteria, the agency must determine whether the award will be based on lowest price or best value. For commodities, an award shall be made based on lowest price among responsible and responsive offers (State Finance Law § 163(3)(a)(ii)). In the case of services, the award must be based on "best value" (State Finance Law § 163(4)(d)). However, best value can be equated to lowest price.

4.5 Method of Award

4.5.1 Lowest Price Solicitation

The solicitation must identify all the minimum qualification requirements the vendor must meet. Among vendors who meet the qualifications, determination for an award will be made based on lowest price as calculated by the pricing pages.

4.5.2 Best Value Solicitation

Evaluation Criteria: The solicitation must present the criteria that will be used for the evaluation of proposals. At a minimum, the agency must disclose in the solicitation the relative weights that will be applied to the cost and technical components of the proposals.

Tie Bid: In the event of a tie bid, the decision as to the winning bidder must be made in accordance with the State Finance Law § 163(10)(a).

4.6 Pricing Submissions

Pricing pages must be structured in accordance with the selected pricing methodology. All bidders must provide the same pricing components and where possible, pricing should be collected from all bidders in the same format.

4.7 Estimates

The solicitation must describe how pricing will be evaluated. If there is a known or fixed quantity, provide those details in the solicitation. For estimated quantities, include language in the solicitation notifying bidders that the quantity referenced is not guaranteed and the agency will only be responsible for actual quantities ordered.

4.8 Firm Offer

Every offer is firm and not revocable for a period of 60 days from the bid opening unless a longer period of time is specified in the solicitation (State Finance Law § 163(9)(e)).

4.9 Required Document Submissions

Depending on the nature of the procurement, an agency will want to require certain documents to be submitted as part of the bid, such as the following:

Physical and Cyber Security: Identify any security or building access procedures that may affect the delivery of a submittal, as well as any cyber security terms that will govern.

References: If the agency requires a bidder to submit references as part of the response, the agency must, at a minimum, verify the references provided as part of its evaluation process. If the agency opts to score reference checks, the scoring methodology must be disclosed in the solicitation.

Certifications/Documents:

Liability, Workers' Compensation, and Disability Insurance

MWBE

SDVOB

EEO

Vendor Responsibility

State Tax Law § 5-a, Sales Tax Law Certification (ST-220)

State Finance Law §§ 139- j & 139-k, Procurement Lobbying Law

Nondiscrimination in Employment in Northern Ireland, Macbride Fair Employment Principles
Non-Collusive Bidding
Diesel Emission Reduction Act
Executive Order No.177, Non-Discrimination Requirements
State Finance Law § 139-I, Sexual Harassment Policy Requirements
Performance and Bid Bonds
Executive Order 16 (Prohibiting State Agencies and Authorities from Contracting with
Businesses Conducting Business in Russia)
Federal Funding Agency Mandatory Terms and Conditions
Supplier/Manufacturer Certificate
Reseller/Subcontractor Agreement(s)
Agency Specific Certifications

4.10 Order of Precedence/Conflict of Terms

Appendix A must be first in the order of precedence. Below is a sample:

1. Appendix A – Standard Clauses for NYS Contracts
2. Amendment(s) to the Contract/Award Document
3. Contract/Award Document
4. Clarifications and Addenda/Amendments to the solicitation
5. Solicitation, Appendices, Attachments, and Exhibits
6. Clarifications to the Bidder's Proposal
7. Bidder's Proposal

In the event of a conflict in any provisions of these documents, the order of precedence shall be as listed above from the highest to the lowest.

4.11 Timeline and Calendar of Events

This section should provide a specific timetable for the procurement process. Important milestones to be specified typically include:

1. **Solicitation Release Date:** The schedule should include the solicitation release date.
2. **Date for Pre-Bid Conference/Site Visit:** Attendance must be defined as optional or mandatory and vendor attendance must be recorded on a sign-in sheet. If attendance is mandatory, vendor attendance must be recorded on a sign-in sheet and the agency should distribute any amendments to the solicitation and other communications only to vendors attending the mandatory conference/site visit and bids may only be considered from bidders who participated.

3. **Dates for Question Submission and Agency Response:** The solicitation should provide the time frames for the submission of questions and responses to those questions. The method for submitting questions should be stated. Bidder should be notified that any requested deviations must be submitted during the question and answer (“Q&A”) period. Deviations are proposed changes to the scope, terms, and conditions, or other requirements of a solicitation. Consider providing bidders with a form or standard format to submit their questions. The Q&A process may be multiphase, allowing for questions and answers prior to, during, and/or after the pre-bid conference/site visit. If no pre-bid conference/site visit will be held, the agency should still provide for a Q&A period. Answers provided must be vendor-neutral and provided in writing to all potential bidders.
4. **Notice of Intent to Bid (optional or mandatory):** The solicitation may require a bidder to provide, by a specified date, a notice of their intent to submit a bid. This notice may be optional or mandatory, at the agency’s discretion, although agencies are encouraged to provide maximum flexibility for the receipt of bids from all interested bidders. If the notice of intent to bid is made mandatory, the agency should distribute any amendments to the solicitation and other communications only to vendors submitting the intent to bid, and bids may only be considered from bidders who submitted the intent to bid.
5. **Date for Submission of Bids:** The earliest possible due date for submission of bids is 15 business days after the advertisement appears in the New York State Contract Reporter.

4.12 Mandatory Clauses

Appendix A contains standard clauses that must be included in every State contract.

Appendix A can be found on the OGS website at:

<https://ogs.ny.gov/procurement/conducting-your-own-procurement>

Check with your agency counsel or contracts management office to ensure all applicable mandatory clauses are included. In addition, depending on the nature and dollar value of the procurement, the following may apply:

1. Procurement Lobbying Law (State Finance Law §§ 139-j & 139-k)
2. Sales tax certification
3. Vendor responsiveness and responsibility
4. Consultant disclosure

5. Reference and compliance with Executive Law Article 15-A (MWBE & EEO)
6. Reference and compliance with Executive Law Article 17-B (SDVOB);
7. Workers' Compensation and Disability Benefits Insurance (Workers Compensation Law § 57 & § 220)
8. Bidders' right to a *debriefing*
9. Freedom of Information Law (FOIL; Public Officers Law Article 6)

NOTE: The above list is not exhaustive. Some specific contracts may require additional mandatory clauses based on the nature of the procurement, (i.e., federal mandatory contracts, statements regarding Net Neutrality required of Internet service providers).

4.13 Workers' Compensation and Disability Insurance

In the context of State procurements, the solicitation must make it clear that the bidder/vendor will be required to provide proof of Workers' Compensation and Disability Insurance (or proof of exemption from such requirements) prior to being awarded a contract or receiving a contract renewal. Failure to do so will result in the bid being rejected or, in the case of contract renewals, the contract being allowed to expire.

More information regarding Workers' Compensation and Disability Insurance can be found on the Workers' Compensation Board website at: <http://www.wcb.ny.gov/>

4.14 Additional Insurance Requirements

Solicitations and contracts should require bidders/contractors to obtain insurance in accordance with the scope of the solicitation/contract. In an effort to standardize insurance requirements among State entities, the New York State Procurement Council and the New York State Council of Contracting Agencies adopted guidelines for insurance requirements which provide model insurance specifications and suggestions on how to monitor compliance with those requirements.

The guidelines for insurance requirements can be found on the OGS website at: https://ogs.ny.gov/system/files/documents/2021/10/cca_procurementcouncil_insurance_requirements_in_contracts.pdf

4.15 State Reserved Rights

In addition to mandatory clauses, there are a number of State reserved rights that are typically included to provide additional protections to the agency conducting the procurement. These should be clearly stated in the solicitation. The following is the most

common set. Depending on the nature of the procurement, there may be additional State reserved rights beyond those presented here:

New York State reserves the right to:

1. Reject any or all proposals received in response to the solicitation.
2. Withdraw the solicitation at any time, at the agency's sole discretion.
3. Make an award under the solicitation in whole or in part. *
4. Disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the solicitation.
5. Seek clarifications and revisions of proposals.*
6. Use proposal information obtained through site visits, management interviews, and the State's investigation of a bidder's qualifications, experience, ability, or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the solicitation.
7. Prior to the *bid opening*, amend the solicitation specifications to correct errors or oversights, or to supply additional information, as it becomes available.
8. Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent solicitation amendments.
9. Change any of the scheduled dates.
10. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective bidders.
11. Waive any requirements that are not material.
12. Accept and consider for contract award bids with non-material bid deviations or non-material bid defects such as errors, technicalities, irregularities, or omissions.
13. Negotiate with the successful bidder within the scope of the solicitation in the best interests of the State.
14. In the event of unsuccessful negotiations with the selected bidder, conduct contract negotiations with and/or award the contract to the next responsive and responsible bidder.
15. Utilize any and all ideas submitted in the proposals received.
16. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors, assuring a full and complete understanding of an offeror's proposal and/or to

determine an offeror's compliance with the requirements of the solicitation. *

***NOTE:** As detailed in State Finance Law § 163(9)(c), failure to include these specific reserved rights (marked with an asterisk) in the solicitation precludes their use in that procurement.

Section V: Solicitation Process

5.1 Advertising Procurement Opportunities

An agency is required to advertise a procurement opportunity in the New York State Contract Reporter ("NYSCR") when the procurement exceeds the agency's advertising threshold. If the agency seeks a waiver from this requirement, OSC must approve the exemption.

For useful information regarding procurement advertising, visit the following websites:

The NYS Contract Reporter - <https://www.nyscr.ny.gov/>

Bulletin on Advertising Thresholds and Notice Requirements -
<https://ogs.ny.gov/procurement/contract-reporter-advertising-thresholds-and-notice-requirements-0>

The intent of advertising is to promote competition. Advertisements should provide prospective bidders with an overview of the proposed procurement, including all requirements of Section 142 of the Economic Development Law. Some of the requirements are a brief description of the commodities or services sought, the contract period, the proposal due date, a description of any eligibility or qualification requirement or preference, a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture, or co-production arrangement, identification of designated contacts, and any other information deemed useful to potential contractors.

In addition, as a best practice, an agency should advertise its procurement opportunities in other sources such as trade publications, journals, newspapers, and agency websites.

Additional information on advertising can be found on the following websites:

Bulletin on Advertising Thresholds and Notice Requirements -
<https://ogs.ny.gov/procurement/contract-reporter-advertising-thresholds-and-notice-requirements-0>

Section XI.14.A: Publication of Procurement Opportunities in the OSC Guide to Financial Operations -

<https://web.osc.state.ny.us/agencies/guide/MyWebHelp/?redirect=legacy#XI/14/A.htm?TocPath=XI.%2520Procurement%2520and%2520Contract%2520Management%257C14.%2520Procurement%2520Opportunities%257C> 1

The solicitation should be distributed to all known potential bidders and any bidder that requests a copy as a result of the advertisements. Potential bidders can be identified through web searches, previous procurements, *bidder lists* maintained by the agency, the list of New York State-Certified MWBEs, and/or SDVOBs. The solicitation can be distributed via mail, e-mail, posting to an agency website, and other means.

5.2 Restricted Period/Designated Contacts

Generally, the first posting of the solicitation in the NYSCR or any other publication commences the Procurement Lobbying Law restricted period. During the restricted period, all communications related to the solicitation may be made only to the agency's designated contacts. To help vendors keep track of all solicitations in a restricted period, consider posting a list on the agency's website. Refer all potential violations of the Procurement Lobbying Law to your agency's Ethics Officer.

5.3 Conduct Site Visits and Pre-Bid Conferences

Pre-bid conferences can be conducted via a conference call, in person, or as a combination of both. The agency must document who attended, the questions raised, the location, the time, and other salient information.

The solicitation must identify the date, time, and location of such events, if planned, and whether attendance is mandatory in order to bid. All attendees should be advised that any information or answers provided are not binding on the agency. Only answers provided in the published questions and answers (Q&A) will be binding (see below).

5.4 Solicitation Instructions

Solicitation instructions should inform the potential bidder of the contract period/term and any extensions or renewals, the price structure, (hourly, per item, per-carton, square foot, etc.), the agency's *bid protest* / dispute resolution policy (if applicable), performance requirements, contract monitoring, termination rights, and any optional requirements.

Section VI: Evaluation and Award

The objective of the evaluation process is to apply the criteria set forth in the solicitation to ensure that bids are evaluated objectively, fairly, equally, and uniformly.

6.1 Administrative Review to Verify Responsiveness

The agency must ensure that the bid submission is complete and accurate. This includes, but is not limited to:

1. Ensuring that all required documents and forms, including MWBE and SDVOB utilization plans are included in the submission and signed if required.
2. Reviewing price submission for completeness and accuracy of calculations.
3. Determining on a pass/fail basis that all minimum mandatory qualifications to submit a bid (e.g., minimum experience requirements) set forth in the solicitation have been met.

NOTE: For low bid solicitations, administrative review should begin with the apparent low bid after verifying all calculations for all bidders. If the apparent low bidder is not found to be responsive, the bid must be rejected, and the next lowest price bid must be reviewed. In addition, notice should be provided to an apparent low bidder who is being rejected as non-responsive. For best value solicitations, any bids failing to meet administrative requirements should not be advanced for evaluation of technical and cost. Consider evaluating cost proposals last.

6.2 Evaluation

There are two primary methods of evaluation used for procurement in the State. The two methods of evaluation are low bid evaluation and best value evaluation.

6.2.1 Low Bid Evaluation

After administrative review, the apparent low bidder should be evaluated for any other pass-fail criteria in the solicitation. If the bidder meets all pass-fail criteria, move on to the tentative award phase. If the bidder fails the criteria, repeat with the second apparent low bidder and repeat until the final award.

Confirm the bidder understood the specifications and can perform/deliver at the bid price, particularly if there are large variances in the bid prices between the apparent low bid and the next low bid. If applicable, confirm all prices are in accordance with statutory requirements.

NOTE: In the event of a tie bid, the decision as to the winning bid must be made in accordance with the State Finance Law § 163(10)(a) and any policy stated in the solicitation.

6.2.2 Best Value Evaluation

Best value evaluations include an analysis of the technical proposals, a separate comparative analysis of the cost proposals, and a method for combining the results of the technical and cost proposal evaluations to arrive at the selection of the proposal deemed to be the best value solution for the State in accordance with the requirements set forth in the solicitation.

1. **Technical evaluation** – An examination of the non-cost elements that were not considered during the administrative review, such as the functional specifications (e.g., proposed staffing and project plan, scheduling, solution model, *diversity practices*, or *quantitative factors*).
2. **Cost evaluation** – Evaluation of the prices proposed.

6.3 Reference Checks

If performing reference checks, checks must be performed for all bidders in the same manner. It is recommended to follow a standard questionnaire for consistency.

6.4 MWBE/SDVOB Compliance Review

Confirm and verify the utilization plan meets the goals set forth in the solicitation. If applicable to the procurement, award points for either quantitative factors in accordance with State Finance Law § 163(1)(j) or diversity practices (MWBE only) in accordance with Executive Law § 313-a.

6.5 Disqualification Determination

If any bidder is deemed non-responsive because of, but not limited to, a failure to meet minimum requirements, the agency is required to notify the bidder of the disqualification in writing and provide an opportunity for a debriefing. The notification should include the reason for disqualification and be sent as soon as the disqualification determination is made.

6.6 Determination of Vendor Responsibility

Prior to making an award, State Finance Law § 163(9)(f) requires that a State agency make a determination that the apparent winning bidder is responsible. State agencies must also check the NYS Debarred List to confirm the apparent winning bidder is not listed. If

awarded, the contract must expressly obligate the contractor to maintain its responsibility throughout the term of the agreement.

The NYS Debarred List can be found on the OGS website at:
<https://ogs.ny.gov/debarred-and-non-responsible-entities>

The responsibility determination is based upon many factors, including, but not limited to:

1. Financial and organizational capacity
2. Legal authority to do business in this State
3. The integrity of the owners/officers/principals/members and contract managers
4. Past performance of the bidder on prior government contracts.

NOTE: A review of these four elements is commonly known as the “FLIP” review.

Whether a bidder is "responsible" is a question of fact to be determined on a case-by-case basis after a comprehensive weighing of all factors. An unfavorable rating in one or more areas of evaluation does not need to result in a non-responsibility determination; however, it does require the agency to make a determination that it has reasonable assurance that the proposed contractor is indeed responsible or non-responsible, as applicable.

Before finding a bidder non-responsible, a State agency must ensure that the bidder was afforded due process rights and provided with the opportunity to explain its position in writing and, in some instances, in person, at a responsibility meeting. If responsibility issues cannot be resolved or explained to the satisfaction of the agency, the agency may issue a finding of non-responsibility to the bidder. This finding must be provided in writing to the bidder. Notification of the non-responsibility determination must be submitted to OGS.

More information on how to conduct a responsibility review can be found on the OGS website at: <https://ogs.ny.gov/debarred-and-non-responsible-entities>

6.7 Recommendation and Tentative Award/Non-Award Letters

Once the agency has reviewed and verified the lowest or best value responsive and responsible bidder, the awards shall be made in accordance with the method of award in the solicitation. The agency must retain the supporting documentation as part of the procurement record.

The agency may award a contract to a bidder if only one bid was submitted, provided that the agency documents that the solicitation did not restrict competition and that the cost is reasonable.

Upon completion of the evaluation and bidder selection, the agency must send notification of award to all successful and non-successful bidders. Notification to the selected bidders (tentative award) should indicate that the award is subject to conditions (if applicable), including, but not limited to, approval by control agencies, submission of proof of insurance, or other required documents, before the contract is finalized. The agency must provide non-successful bidders the opportunity for a debriefing regarding the reasons that the bid submitted by the unsuccessful bidder was not selected for an award. Debriefings must be conducted in accordance with the NYS Procurement Council Bulletin Debriefing Guidelines.

The NYS Procurement Council Bulletin Debriefing Guidelines can be found on the OGS website at: <https://ogs.ny.gov/system/files/documents/2019/03/debriefing-guidelines-bulletin.pdf>

6.8 Negotiations

Notes should be kept of all negotiation discussions and all revisions should be tracked in writing to ensure that the contract being signed contains all agreed upon terms and conditions. Revisions must not materially alter the requirements or specifications set out in the solicitation. To assess whether a potential revision constitutes a material change, the question should be asked: "Would other bidders or non-bidders have responded differently if the term or condition to be revised as a result of negotiation had been included in the solicitation?" If the answer is "yes" or "possibly," then the provision may not be revised.

6.9 Review of Terms and Conditions and Deviations Proposed by Bidder

Carefully read all terms and conditions that are proposed by the vendor to ensure that nothing conflicts with Appendix A or the solicitation. Material conflicts or deviations must be rejected, or the bidder must be required to withdraw the conflicting terms and conditions prior to award. In addition, any terms proposed by the bidder such as limits of liability, indemnification, and warranties, or those that may be detrimental to the State, should be discussed with agency counsel.

6.10 Drafting Contract for Execution

Regardless of the format of the contract (formal contract, letter agreement, or other documents), ensure all terms and conditions from the solicitation, all negotiated terms, agreed upon pricing, accepted portions of the winning bid, an order of precedence, and any other required documents are contained or reference within the contract.

The finalized contract must be signed by a person legally authorized to bind the winning bidder and the signature must be notarized. The agency must sign the document,

and if required, it is then forwarded to OAG and OSC for approval. Electronic signatures must be consistent with New York State policy.

The NYS policy regarding electronic signatures can be found on the NYS Office of Information Technology Services website at:
<https://its.ny.gov/electronic-signatures-and-records-act-esra>

6.11 Create the Procurement Record

Documentation of all phases of the procurement, including communications with bidders or agency program staff, should be included in the procurement record.

Additional information on procurement records can be found on the following websites:

NYS Procurement Bulletin on the Procurement Record and Checklist -
<https://ogs.ny.gov/system/files/documents/2018/09/pcprocurementrecordandchecklist.pdf>
Section XI.15: Procurement Record in the OSC Guide to Financial Operations -
https://web.osc.state.ny.us/agencies/guide/MyWebHelp/?redirect=legacy#XI/15/15.htm%3FTocPath%3DXI.%2520Procurement%2520and%2520Contract%2520Management%7C15.%2520Procurement%2520Record%7C_0

6.12 Obtain Approvals

As provided for in State Finance Law § 112, procurements over certain thresholds must be approved by OSC. If the value of the procurement is below the agency's State Finance Law § 112 discretionary purchasing authority, the agency may proceed to issue the purchase order or contract. However, when the contract's value exceeds the State Finance Law § 112 discretionary threshold, the agency must prepare an award package that is subject to review and approval first by the OAG and second by the OSC. Depending on the nature of the procurement, approval from other control agencies may be required.

Generally, when OAG approval is required, only the contract itself needs to be submitted for review. As part of the OSC contract approval process, agencies must identify the intended encumbrance amount (purchase order amount) on the Single Transaction Summary (STS) / AC 340-S Form. Agencies are not required to submit paper copies of contract-related purchase orders to OSC.

Agencies are encouraged to review additional information regarding approvals and encumbering contracts in SFS, which can be found on the following websites:

Section XI: Procurement and Contract Management in the OSC Guide to Financial Operations -
https://web.osc.state.ny.us/agencies/guide/MyWebHelp/?redirect=legacy%23XI/1.htm?TocPath=XI.%2520Procurement%2520and%2520Contract%2520Management%257C1.%20#XI/1.htm?TocPath=XI.%2520Procurement%2520and%2520Contract%2520Management%257C_1
OSC Contract Advisories - <https://www.osc.state.ny.us/state-agencies/advisories/contract-advisory?redirect=legacy>

The OSC Bureau of Contracts conducts the final review and provides its determination. OSC's review includes but is not limited to ensuring that:

1. The procurement was conducted in accordance with the process established by the agency.
2. The procurement and resulting contract comply with all relevant laws.
3. The contract terms and conditions are in the best interests of the State. (State Finance Law § 112 and State Finance Law § 163(9)(g).

6.13 Contract Kickoff Meeting and Begin Performance

When the contract is fully approved, a copy must be mailed to the Contractor to begin performance. Depending on the nature of the contract, a kickoff meeting may be necessary to introduce contract managers and contractor representatives and to discuss the scheduling of the work.

Section VII: Post Award & Contract Management

7.1 Contract Administration and Monitoring

The approved contract must be administered and monitored properly for the duration of the contract. Regular, diligent oversight of all activities and actions regarding the contract is an important part of the overall life cycle of a contract. The agency should assign staff who will be responsible for ensuring that the contractor performs the requirements of the contract in accordance with the contract's terms, conditions, and specifications. Proper oversight and administration of the contract may entail educating and communicating with agency personnel who will be direct users of the goods, services, or technology acquired and who are in the best position to monitor the contractor's performance of a contract. Regular performance monitoring is critical to ensure that required performance specifications and standards are met and maintained.

The procurement record (from solicitation through contract end date or final payment, whichever occurs later) must be maintained a minimum of six years plus the balance of the calendar year, following the conclusion of the contract. Contract records must follow agency's record retention policy, which may require a longer retention period.

7.2 Effective Contract Management

Vendor Responsibility: Consult with agency counsel upon identification of contractor responsibility issues before any action is taken.

Insurance documents: Contract managers are responsible for maintaining current insurance documents as prescribed in the contract throughout the life of the contract, i.e., Workers' Compensation, Disability, General Commercial Liability, etc.

Monitoring of Contractor Performance: Contract managers are responsible to verify contract pricing periodically to ensure agencies are being billed accordingly. Proper monitoring may include the sampling of the commodity or performance of the services. Monitoring activities and sampling sizes may vary depending on the contract requirements.

Reporting: Contract managers are responsible for obtaining and verifying all required reports outlined on the contract throughout the life of the contract. Sales reports should be obtained and reviewed regularly. MWBE and SDVOB compliance reports and updated utilization plans must be submitted in accordance with contract requirements, which may include submission to the contract manager or agency compliance staff who will review MWBE and SDVOB submissions to make sure compliance is on track. Contract managers should also be tracking compliance with contract MWBE/SDVOB goals and making sure the vendor is on track to meet the goals.

NOTE: At the end of a contract, in which an agency has determined a contractor has willfully and intentionally failed to comply with the MWBE participation goals, **liquidated damages** may be assessed.

Price Lists, PPI, CPI, Escalators/De-escalators, Wage Increases: If the contract allows for price adjustments, contract managers are responsible for determining approval of revised pricing as outlined in the requirements of the contract.

Billing/Payment Issues (i.e., improper invoices, discounts, interest, etc.): Contract managers should be aware of any billing issues identified and coordinate with the contractor to resolve the issue. In addition, contract managers should ensure contractor provides maximum discounts for volume purchases and early pay discounts. Contract managers are also responsible for the timely processing of invoices to avoid interest payments.

Pricing: Contract managers should consider requesting better pricing throughout the life of the contract. Contracts with fixed pricing may have opportunities to reduce prices. For large volume purchases or if the purchase exceeds estimated contract quantities, staff should request a lower price than is listed in the contract. If using an OGS centralized contract, contract managers should request a reduction in price at the time of purchase.

Changes: Throughout the contract term, contract managers may be required to address the following:

1. Extensions/Renewals: Contracts may include the option to extend the end date of the contract.
2. Assignments: The responsibilities of the contract have been transferred to another vendor, i.e., Vendors name change, restructuring, or acquisition.
3. Amendments: There may be instances throughout the contract term that require modifications to the existing contract language. All amendments must also be assessed for MWBE goals.
4. Suspension/Termination (Cause/Convenience): Performance issues with the vendors could result in the suspension or termination of the contract.

Additional information on contract administration, management, and monitoring can be found on the following websites:

The NYS Procurement Council's Receiving Agency Inspection Guidelines -
<https://ogs.ny.gov/procurement/receiving-agency-inspection-guidelines>

Section XI.11.F: Contract Monitoring and Section XI-A.9: Receiving in the OSC Guide to Financial Operations -
https://web.osc.state.ny.us/agencies/guide/MyWebHelp/?redirect=legacy#XI/11/F.htm%3FTocPath%3DXI.%2520Procurement%2520and%2520Contract%2520Management%7C11.%2520Miscellaneous%7C_5

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Glossary

Agency (State Agency) – Includes all State departments, boards, commissions, offices, or institutions. This term excludes, however, for the purposes of Education Law § 355(5), the State University of New York, and excludes, for the purposes of Education Law § 6218(a), the City University of New York. Furthermore, the term does not include the Legislature or the Judiciary.

Agency-Specific Contract – A contract where the specifications for the product and/or service are described and defined by an agency to meet its needs.

Appendix A – The document containing standard clauses required in all New York State contracts.

Authorized User – Entities who may purchase products or services from centralized contracts, including but not limited to State agencies, political subdivisions, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. (State Finance Law § 163(1)(k))

Best Value – The basis for awarding all service and technology contracts to the bidder that optimizes quality, cost, and efficiency, among responsive and responsible bidders. Such basis shall be, wherever possible, objective and quantifiable analysis. (State Finance Law § 163(1)(j))

Bid – A bid, quotation, offer or response to a solicitation to provide commodities, services, or technology at a stated price for the stated contract term.

Bid Opening – The formal process in which sealed bids are opened, usually in the presence of one or more witnesses, at the time and place specified in the solicitation.

Bid Protest (also known as a Bid Dispute) – A formal written complaint made against the methods employed or decisions made by a State agency in the process leading to the award of a contract.

Bidder (also referred to as an offeror or proposer) – Any individual, business, vendor or other legal entity, or any employee, agent, consultant or person acting on behalf thereof, that submits a bid in response to a solicitation.

Bidder List – A list of names and addresses of bidders from whom bids, proposals, or quotations are solicited. This may also apply to a list of potential bidders that is maintained by an agency.

Centralized Contract – Any contract let by the OGS New York State Procurement Services for use by an authorized user, including but not limited to State agencies, political subdivisions, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations, for the purchase of commodities or services. Centralized contracts are established or approved by the Commissioner of General Services as meeting the State's requirements.

Commodities – Material goods, supplies, products, construction items or other standard articles of commerce (other than technology) that are the subject of any purchase or exchange (State Finance Law § 160(3)).

Contact – Any oral, written or electronic communication with an agency under circumstances where a reasonable person would infer that the communication was intended to influence the agency’s conduct or decision regarding the procurement. (State Finance Law § 139-j(1) and 139-k(1)(c)) [See Restricted Period]

Contract – A written agreement that formalizes the obligations of all parties involved.

Contractor – Any individual, business, vendor or other legal entity awarded a contract with a State agency to furnish commodities, services, or technology for an agreed-upon price.

Costs – The total dollar expenditure of a procurement. Article 11 of the State Finance Law requires costs of the given commodities, services, or technology to be quantifiable. Costs shall be quantifiable and may include, without limitation, the price of the given good or service being purchased; the administrative, training, storage, maintenance, or other overhead associated with a given good or service; the value of warranties, delivery schedules, financing costs and foregone opportunity costs associated with a given good or service; and the life span and associated life cycle costs of the given good or service being purchased. (State Finance Law § 160 (5))

Debriefing – The practice whereby, upon the request of a bidder, the State agency advises such bidder of the reasons why its bid was not selected for an award. It is viewed as a learning process for the bidder to be better prepared to participate in future procurements.

Discretionary Purchase – Purchases below an established dollar level that are authorized by law to be made without a formal competitive process.

Diversity Practices – Diversity practices are the efforts of contractors to include New York State-certified Minority- and Women-owned Business Enterprises (MWBES) in their business practices. This may include board of directors’ inclusiveness, previous successful submission of MWBE utilization plans, their participation in joint venture, mentor-protégé relationships or other activities that demonstrate a commitment to diversity within the organization, as well as past, present, or future actions and policies, and include activities of contractors on contracts other than with the State of New York. For complete definition, see 5 NYCRR § 140.1(o).

Emergency – An urgent and unexpected situation where health and public safety or the conservation of public resources are at risk. Such situations may create a need for an emergency contract (State Finance Law § 163(1)(b)). An agency’s failure to properly plan in advance, which results in a situation where normal practices cannot be followed, does not constitute an emergency.

F.O.B. Destination – As defined in U.C.C. § 2-319, “free on board (F.O.B.) destination” means there will be no additional charge for delivery to the agency’s specified location, and that the title is conveyed from the contractor to the agency at the destination of the shipment. The contractor owns the goods during transit and will file any damage claims.

F.O.B. Origin – As defined in U.C.C. § 2-319, “free on board (F.O.B.) origin” means that the receiving agency pays the delivery charges, and the title is conveyed from the contractor to the agency at the origin of the shipment. Because the agency owns the goods during transit, it will file any damage claims. This may also be referred to as “F.O.B. Shipping Point.”

Form, Function, and Utility – The minimum essential requirements that will meet the agency's needs. These requirements are defined by the agency. Requirements may include timeframe, quality, quantity, delivery terms, packaging, performance standards, and compatibility, among others.

Invitation for Bid (IFB) – A competitive solicitation generally used for the procurement when the award is based on lowest cost offered by a responsive and responsible bidder.

Liquidated Damages – A monetary amount agreed to in the contract to provide for reasonable compensation to the State for the contractor's failure to meet its contractual obligations.

Mini-Bid – An abbreviated bid process in which an authorized user develops a project definition outlining its specific requirements and solicits bids from existing prequalified contractors. When a mini-bid is required, the exact process is clearly outlined in the contract. The mini-bid award is made based on best value or lowest price.

Minority and Women Owned Business Enterprises (MWBE) – A business certified under Article 15-A of the Executive Law that is independently owned, operated and authorized to do business in New York State; and is owned and controlled by at least fifty-one percent women or minority group members who are citizens of the U.S. or permanent resident aliens. Such ownership must be real, substantial and continuing; and the minorities or women must have and exercise the authority to control independently the day-to-day business operations and decisions of the enterprise.

New York State Textiles – Animal or plant fiber products or textile products manufactured from animal or plant fiber grown or produced predominately in New York State

Office of General Services (OGS) – The agency tasked with creating statewide centralized contracts for use by an authorized user, in accordance with State Finance Law § 163.

Office of the Attorney General (OAG) – The duties of this office are set forth in Executive Law § 63. With regard to procurement, the OAG reviews contract terms to ensure that the interests of New York State are protected. This office also reviews complaints of improper conduct and may conduct examinations into the performance of a contract.

Office of the State Comptroller (OSC) – The agency tasked with reviewing and approving contractual agreements and payments, as per State Finance Law § 112, and granting exemptions from advertising requirements, in accordance with Economic Development Law § 144.

Piggyback Contract – A newly created agency contract based upon a contract awarded by the United States government, or any State or any political subdivision thereof, in accordance with the requirements of State Finance Law § 163(10) (e).

Preferred Source – In order to advance special social and economic goals, State Finance Law § 162 requires that a governmental entity purchase approved commodities and services from designated organizations when the commodities or services meet the "form, function, and utility" requirements of the governmental entity and the price meets the requirements set

forth in the statute. Under State Finance Law § 163, purchases of commodities and services from preferred sources are given the highest priority and are exempt from the competitive bidding requirements. The New York State preferred sources include: Corcraft; New York State Preferred Source Program for New Yorkers Who are Blind (NYSPSP); and New York State Industries for the Disabled, Inc. These requirements apply to a State agency, political subdivision and public benefit corporation (including most public authorities).

Prevailing Wage – The pay rate that is required to be paid to all private workers (non-government) on all New York State public works projects. Generally, prevailing wage rates apply to construction, repair or renovation of government facilities (State or local) or building service contracts. The New York State Department of Labor issues wage schedules on a county-by-county basis that contain minimum rates of pay for various job classifications (Labor Law Articles 8 and 9).

Price – Unless otherwise specified, the amount of money set as consideration for the sale of a commodity, service, or technology. When applicable and specified in the solicitation, it may include, but is not limited to, delivery charges, installation charges, and other costs (State Finance Law § 160(6)).

Procurement – The acquisition of commodities, services, or technology.

Procurement Record – Documentation of the decisions made, and the approach taken in the procurement process (State Finance Law § 163(1)(f)).

Project Sunlight – An online database where State entities must report certain meetings with vendors. Information on the specific types of meetings and other reporting requirements is available at <http://projectsunlight.ny.gov>.

Qualified Veterans' Entities – Commodities and services produced by a qualified veterans' entity providing job and employment-skills training to veterans where such a (workshop) entity is operated by the United States department of veterans affairs and is manufacturing products or performing services within this state and where such entity is approved for such purposes by the commissioner of education.

Quantitative Factor – Points are awarded as part of a technical evaluation to MWBEs, SDVOBs, SBEs, and NYS Textiles. (State Finance Law § 163(1)(j))

Recycled Commodity – A product that is manufactured from secondary materials as defined in the State Economic Development Law § 261(1) and State Finance Law § 165(3)(a). The law creates a preference for purchases of recycled commodities when they meet the form, function, and utility of the authorized user after the cost of the commodity has been considered. Environmental Conservation Law § 368.4(a) defines the specified minimum percentage by weight of post-consumer material. The unqualified use of the word "recycled" as an independent term represents that the package or product contains 100% recycled material content.

Remanufactured Commodity – A commodity that has been restored to its original performance standards and function and is thereby diverted from the solid waste stream, retaining, to the extent practicable, components that have been through at least one life cycle

and replacing consumable or normal wear components. (State Finance Law § 165(3)(a)). The law creates a preference for purchases of remanufactured commodities when they meet the form, function, and utility of the authorized user after the cost of the commodity has been considered.

Request for Proposals (RFP) – A competitive solicitation seeking proposals for a specified service or technology, pursuant to which an award is made to the responsive and responsible proposers offering the best value.

Responsible – The status afforded an individual or company based on factors such as: financial ability and organizational capacity; legal authority to conduct business in New York State; integrity as it relates to business related conduct; and past performance. (These four factors are sometimes summarized by the acronym “FLIP.”) (State Finance Law § 163(1)(d))

Responsive – Meeting the minimum specifications or requirements as prescribed in a solicitation for commodities or services by a State agency (State Finance Law § 163(d)).

Restricted Period – The period of time commencing with the earliest posting, on a governmental entity's website, in a newspaper of general circulation, or in the New York State Contract Reporter in accordance with Article 4-C of the Economic Development Law of written notice, advertisement or solicitation of a request for proposal, invitation for bids or solicitation of proposals, or any other method provided for by law or regulation for soliciting a response from bidders intending to result in a procurement contract with an agency and ending with the final contract award and approval by the agency and, where applicable, OSC (State Finance Law §§ 139-j(1)(f) and 139-k(1)(f)). State Finance Law § 139-k requires a governmental entity to collect certain information pertaining to contacts received during the restricted period.

Revenue Contract – A contract or other instrument wherein the State or any of its officers, agencies, boards or commissions agrees to give a consideration other than the payment of money or receiving money. Procurement staff should familiarize themselves with their agency's policies and procedures pertaining to revenue contracts.

Service – The performance of a task or tasks that may include a material good or a quantity of goods, and which is the subject of a purchase or other exchange. Procurements of technology are conducted in the same manner as are procurements of services.

Service-Disabled Veteran-Owned Business (SDVOB) – A business certified under Article 17-B of the Executive Law that is at least 51% owned by one or more service-disabled veterans; an enterprise in which such service-disabled veteran ownership is real, substantial and continuing; an enterprise in which such service-disabled veteran ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; an enterprise authorized to do business in the State; and is independently owned and operated; an enterprise that is a small business which has a significant business presence in the State, not dominate in its field and employs less than 300 and is certified by the Office of General Services.

Single Source – A procurement in which, although two or more bidders can supply the required commodities or services, the Commissioner or State agency, upon written findings setting forth the material and substantial reasons, therefore, may award the contract to one bidder over the other. The Commissioner or State agency shall document in the procurement record the

circumstances leading to the selection of the bidder, including the alternatives considered, the rationale for selecting the specific bidder, and the basis upon which it determined the cost was reasonable (State Finance Law § 163 (h)).

Small Business Enterprise (SBE) – A business that is resident in this State, independently owned and operated, not dominant in its field, and employs no more than one hundred people (State Finance Law § 160(8)).

Sole Source – A procurement in which only one bidder is capable of supplying the required commodities or services (State Finance Law § 163(1)(g)).

Solicitation – The document used to obtain competitive bids for specified commodities, services or technology, pursuant to which an award is made to the responsive and responsible bidders (or bidders in the case of a multiple award contract) offering the lowest price or best value.

Specifications (Requirements) – Description of the physical or functional characteristics or the nature of a commodity, the work to be performed, the service or products to be provided, the necessary qualifications of the bidder, the capacity and capability of the bidder to successfully carry out the proposed contract, the process for achieving specific results and/or anticipated outcomes, or any other requirement necessary to perform the work. Specifications may include a description of any obligatory testing, inspection, or preparation for delivery and use. They may also include federally required provisions and conditions where the eligibility for federal funds is conditioned upon the inclusion of such federally required provisions and conditions. Specifications should be designed to enhance competition, ensuring that the commodities or services of any bidder are not given preference, except where required by the State Finance Law (State Finance Law § 163(1)(e)).

State Procurement Council – The policy-making body established under State Finance Law § 161 that is responsible for the study, analysis and development of recommendations to improve State procurement policy and practices, and, for development and issuance of guidelines governing State agency procurement.

Technology – Either a good or a service, or a combination thereof, used in the application of any computer or electronic information Equipment or interconnected System that is used in the acquisition, Storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of Data including, but not limited to, hardware, Software, firmware, programs, Systems, networks, infrastructure, media, and related material used to automatically and electronically collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, inter-face, switch, or disseminate Data of any kind or form. (State Finance Law § 160(10)). Procurements of technology are conducted in the same manner as are procurements of services.

Vendor – A supplier or seller of commodities, services, or technology.

Executive Orders

Executive Order Number	Year	Governor	Title	Link
Executive Order No. 22	2022	Governor Kathy Hochul	Leading by Example: Directing State Agencies to Adopt a Sustainability and Decarbonization Program	https://www.governor.ny.gov/executive-order/no-22-leading-example-directing-state-agencies-adopt-sustainability-and
Executive Order No. 16	2022	Governor Kathy Hochul	Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia	https://www.governor.ny.gov/executive-order/no-16-prohibiting-state-agencies-and-authorities-contracting-businesses-conducting
Executive Order No. 192	2019	Governor Andrew Cuomo	Continuing Vendor Integrity Requirements in State Contracts	https://www.governor.ny.gov/sites/default/files/atoms/files/EO_192.pdf
Executive Order No. 190	2019	Governor Andrew Cuomo	Incorporating Health Across all Policies into State Agency Activities	https://www.governor.ny.gov/sites/default/files/atoms/files/EO_190.pdf
Executive Order No. 187	2018	Governor Andrew Cuomo	Ensuring Diversity and Inclusion and Combating Harassment and Discrimination in the Workplace	https://www.governor.ny.gov/sites/default/files/atoms/files/EO%20187.pdf
Executive Order No. 183	2018	Governor Andrew Cuomo	Protecting the Personal Privacy of Public Sector Workers	https://www.governor.ny.gov/sites/default/files/atoms/files/EO_183.pdf

Executive Order No. 177	2018	Governor Andrew Cuomo	Prohibiting State Contracts with Entities that Support Discrimination	https://www.governor.ny.gov/sites/default/files/atoms/files/EO177.pdf
Executive Order No. 175	2018	Governor Andrew Cuomo	Ensuring Net Neutrality Protections for New Yorkers	https://www.governor.ny.gov/sites/default/files/atoms/files/EO_175.pdf
Executive Order No. 162	2018	Governor Andrew Cuomo	Ensuring Pay Equity by State Contractors	https://esd.ny.gov/doing-business-ny/mwbe/mwbe-executive-order-162
Executive Order No. 159	2016	Governor Andrew Cuomo	Establishing a Permanent Joint Task Force to Fight Worker Exploitation and Employee Misclassification	https://www.governor.ny.gov/sites/default/files/atoms/files/EO_159.pdf
Executive Order No. 95	2013	Governor Andrew Cuomo	Using Technology to Promote Transparency, Improve Government Performance and Enhance Citizen Engagement	https://www.governor.ny.gov/sites/default/files/atoms/files/EO95_0.pdf