



KATHY HOCHUL  
Governor

JEANETTE M. MOY  
Commissioner

**MEMORANDUM**

**To:** New York State Procurement Council  
**From:** OGS Preferred Sources Team (as Staff to the New York State Procurement Council)  
**Date:** March 13, 2024  
**Subject:** **OGS Application 2370-C: NYSID Commodity Application for Preferred Source Designation of Recycled 8.5" x 11" White Copy Paper-30% Post Consumer Recycled Content E5530-Zone-001**

**OVERVIEW**

New York State Industries for the Disabled ("NYSID"), in partnership with the Association for Vision Rehabilitation and Employment ("AVRE") has submitted an application to the Office of General Services ("OGS") and Empire State Development ("ESD") for preferred source designation of Recycled 8.5" x 11" White Copy Paper-30% Post Consumer Recycled Content E5530-Zone-001. The Recycled 8.5" x 11" White Copy Paper-30% Post Consumer Recycled Content is sold in a carton of 5,000 sheets containing 10 500 sheets reams. NYSID has been approved to sell Recycled 8.5" x 11" White Copy Paper-30% Post Consumer Recycled Content in Zones 2 & 3 since 2013 in less than truckload quantities. This application is to expand the sales to include Zone 1 (Western NY Region).

**BACKGROUND**

The New York State Procurement Council ("Procurement Council") delegated authority to OGS to approve applications for new commodity and service offerings meeting all of the following criteria:

- i. The Preferred Source price must be within 10% of the prevailing market,
- ii. The annual sales volume is less than \$500,000.00, and
- iii. An application review by ESD does not identify any objections from the business community.

Any application that does not meet all of the above criteria must be submitted to the full Procurement Council for review and recommendation.

On April 5, 2012, NYSID submitted its initial application to OGS for a product line extension for 30% Recycled Copy Paper, then withdrew and resubmitted the application with lower prices on April 20, 2012, following a bid opening for recycled copy paper conducted by OGS. The NYSID application was limited to Zone 2 (Central NY Region) and Zone 3 (Northeast NY Region including Capital District). On October 16, 2012, as part of the routine review process, ESD reviewed the application and advised that it neither approved nor rejected the application. ESD deferred to the Procurement Council for a decision on whether or not to add the commodity to the List.

On November 29, 2012, during a regularly scheduled Procurement Council Meeting, the Procurement Council voted to reject NYSID's application. On December 27, 2012, NYSID submitted a Notice of Appeal to the Commissioner of OGS. A copy of the appeal is attached as Attachment A. Details of the appeal included: (1) the creation of 9 full time jobs for individuals with disabilities; (2) 100% performance of the direct labor by individuals with disabilities; and (3) pricing as close to the prevailing market rate as practicable and within the statutory 15% threshold.

On February 11, 2013, Commissioner Destito issued a response to NYSID's appeal overturning the Procurement Council's decision, subject to NYSID's agreement to certain conditions. These conditions included: (1) changing the application from a "product line extension" to a "new product"; (2) adding 30% Recycled Copy Paper to the List solely for purchases in Zones 2 and 3 and making any expansion to other zones subject to a separate formal written application and review by the Procurement Council; (3) making any expansion of the offering to include other types of paper subject to a separate formal written application and review by the Procurement Council; and (4) authorizing OGS to review the pricing for 30% Recycled Copy Paper on an ongoing basis using market data, including bid pricing, but not more frequently than once per year. A copy of the Commissioner's response to NYSID's appeal is attached as Attachment B.

On February 12, 2013, NYSID agreed, in writing, to comply with all of the conditions set forth in Commissioner Destito's response to the appeal. A copy of that agreement is attached as Attachment C.

On December 5, 2023, and revised on December 18, 2023, and January 26, 2024, NYSID submitted the present application to add 30% Recycled Copy Paper in Zone 1 (Western NY) to OGS acting as staff to the Procurement Council. NYSID anticipates that the addition of Zone 1 will result in approximately 500 cartons of paper being sold per year (based on \$25,700 in annual sales), requiring approximately 64 direct labor hours of production resulting in an additional total of .0328 Full Time Equivalents ("FTEs"), of which .0328 FTEs are individuals with disabilities.

### **LEGAL AUTHORITY**

State Finance Law § 162(3)(b) provides that the Procurement Council may recommend the addition of commodities to the List of Preferred Source Offerings (the "List") based upon a review of relevant factors as determined by the Procurement Council "including costs and benefits to be derived from such addition and shall include an analysis by the Office of General Services."

In addition, the Preferred Source Guidelines adopted by the Procurement Council contain detailed requirements for applications to add commodities to the List, set forth in Section 6.4 Application Requirements. Such requirements include, among other things: (1) Commodity Specifications, including a recitation as to how the commodity is new or substantially different from the commodities already offered by the preferred source; (2) Market Information, including information on the potential market for the new commodity; (3) Client Employment, including the nature of the tasks workers with disabilities will perform; (4) Preferred Source, identifying of the specific preferred source member organizations that will provide the commodity; (5) Value Added, identifying the value added by the preferred source client labor to the commodity; (6) Direct Labor Workforce, identifying the number and hours of direct labor to be performed by people with disabilities, including the percentage of direct labor to be performed by workers with disabilities; (7) Cost/Benefit Analysis, including a summary of projected costs and benefits expected to accrue to the State and the preferred source, as well any broader social and economic impacts on client employment and government costs; (8) Cost/Price Data, providing information sufficient for OGS to approve the price data and confirm that the price of each commodity will not exceed 15% above prevailing market price; (9) Current Suppliers, identifying the current suppliers or contract holders of the proposed commodity, if known; and (10) Preferred Source Suppliers, providing the projected first year value of anticipated contracts, information on any proposed suppliers, and any information as to methods employed in selecting such suppliers.

**Note: The NYSID application was submitted before the reorganization of the section headings in the Preferred Source Guidelines updated in February 2024, and therefore references the section numbers in the prior version of the Preferred Source Guidelines (Section X.D)**

### **NYSID APPLICATION INFORMATION**

#### **1. Commodity Specifications**

Item # E5530-Zone-001: Recycled 8.5" x 11" White Copy Paper-30% Post-Consumer Recycled Content is sold in cartons of 5,000 sheets containing 10 500 sheets reams.

#### **2. Market Scope**

NYSID estimates first year sales at \$25,700.00 on previous sales volumes in Zones 2 & 3.

#### **3. Client Employment**

AVRE manufactures the copy paper from large rolls of paper. Client tasks include moving paper rolls to cutting and trimming equipment, moving cut paper to ream wrapping equipment, operating the ream wrapping equipment, gluing each ream, assembly master cartons, packing master carton, moving completed cartons to strapping machine and loading finished cartons onto pallets. The addition of Recycled 8.5" x 11" White Copy Paper-30% Post Consumer Recycled Content E5530-Zone-001 as a NYSID preferred source offering will help ensure that the disabled workforce at AVRE is provided with ongoing, meaningful, long-term employment. NYSID estimates these tasks will employ 6 clients.

#### **4. Preferred Source**

AVRE is a private, non-profit organization that creates opportunities for success and independence with people who are blind or visually impaired. They follow a hybrid business model. On one hand, AVRE clinical staff provide a range of vision rehabilitation services to people of all ages across our nine-county service territory - Broome, Chemung, Chenango, Cortland, Delaware, Otsego, Schuyler, Tioga, and Tompkins. On the other, they run a business. Their Business Division includes the manufacture of a variety of paper-based office products, customized contract packaging, and several switchboard operations.

AVRE has been serving the Southern Tier of New York for over 90 years and is a private, non-profit organization that creates opportunities for success and independence with people who are blind or visually impaired. Their downtown Binghamton facility houses their administrative and clinical staff offices, as well as the majority of their Business Division.

They also staff and manage switchboards at two VA Hospitals downstate - Castle Point and Montrose. The application states that the revenue generated from the Business Division is invested in their Vision Rehabilitation department thereby offsetting the cost of providing services. NYSID reported that, within the Business Division, over 90% of AVRE's employees are blind or visually impaired. AVRE employs people who are blind throughout the organization, including its President/CEO, Ken Fernald.

**5. Value Added**

The labor steps are as follows:

1. Inspect incoming raw materials for manufacturing defects
2. Load Rolls of Paper on Cutting & Trimming Equipment
3. Move Cut Paper to Ream Wrapping Equipment
4. Operator Ream Wrapping Equipment to Wrap 500 Sheets into a Ream
5. Apply Glue to Each Ream
6. Assembly Carton base & lid
7. Load 10 reams into each carton and move to strapping machine.
8. Load finished carton onto pallet

**6. Direct Labor Workforce**

NYSID has estimated that annual sales Recycled 8.5" x 11" White Copy Paper-30% Post-Consumer Recycled Content will generate 64 direct labor hours/.0328 FTEs; 64 of which will be direct disabled labor/.0328 FTEs. The disabled labor ratio is expected to be 100%.

**7. Cost/Benefit Analysis**

The application states the commodity will provide the State of New York with multiple benefits and that the product is priced competitively when compared to the contractor on the NYS Group 50211 - Award 23078 Recycled Copy Paper (Less Than Truckload Lots) (Statewide) contract. Additionally, NYSID offers customers the option of ordering a single box of copy paper. This application is designed to serve the small customer of under 40 cartons who have provided 68% of NYSID's previous orders. The copy paper is manufactured in NYS and 3 of the vendors involved in this application are based in NYS. This application will provide employment to 6 full-time disabled employees.

**8. Cost/Price Data**

The market comparison for this product is from the NYS Group 50211 - Award 23078 Recycled Copy Paper (Less Than Truckload Lots) (Statewide) contract. WB Mason sells this product in Zone 1 for \$44.71 with a ten (10) carton minimum order. NYSID proposes to sell this product at \$51.40 per case with no minimum order requirement. It is costlier to ship a single case than it is to ship a 10 case minimum, but it is NYSID's goal to serve the needs of all customers. In accordance with the market price set in the WB Mason contract referenced above, the price discount for single sales over 39 cases is \$50.14.

**9. Current Suppliers**

WB Mason is the awardee for the current OGS Centralized Contract NYS Group 50211 - Award 23078 Recycled Copy Paper (Less Than Truckload Lots) (Statewide).

**10. Preferred Source Suppliers**

NYSID anticipates first year sales of \$25,700.00.

NYSID Suppliers include:

R & R Sales Co.117 East Frederick Street, Binghamton, NY 13904

BCI-Syracuse Division 1203 Kinne Street-TR20, East Syracuse, NY 13057

The Pallet Shop PO Box 2827, Binghamton, NY 13902

**STAFF COMMENTS ON THE APPLICATION**

OGS, as Staff to the Procurement Council, has reviewed the NYSID application and confirmed that the application meets the requirements of State Finance Law and the Preferred Source Guidelines, as set forth above.

The application submitted to OGS by NYSID was complete and contained specific product information, comparable pricing, material costs, labor cost, value added labor details, and sufficient information to confirm that the work being performed by individuals with disabilities adds value and will support the long-term employment of 0.0328 FTEs within the disabled workforce at AVRE.

Annual sales for the NYSID Recycled 8.5" x 11" White Copy Paper-30% Post-Consumer Recycled Content referenced within this application has been estimated at \$25,700.00 and prices proposed do not exceed 15% above prevailing market price.

OGS reviewed sales reports from Award 23078 Recycled Copy Paper (Less Than Truckload Lots) (Statewide) contract for Zone 1 from September 2018 to February 2023 and identified average annual sales to authorized users of \$192,662.97 for 8.5" X 11" 30% recycled paper in Zone 1. OGS notes that the guidance in the Procurement Guidelines updated September 2023 requires EO22 requirements are to be taken into consideration by purchasers when making form, function, and utility determinations. Given this, it is likely the overall market for sales of 30% recycled paper to New York State government entities will diminish in the future.

OGS requested sales reports from NYSID from 2017 - 2023 to demonstrate they had not sold outside of Zones 2 & 3. OGS reviewed the sales reports and identified 15 occurrences totaling 200 cases where NYSID sold to zip codes in New York State outside of Zones 2 & 3 in violation of the conditions of their approval.

Lastly, OGS has confirmed there are no services included in this application.

#### **ESD REVIEW:**

Per ESD's March 4, 2024 recommendation, they have determined that they will not recommend approval of the application because a substantial number of small businesses will be greatly affected.

#### **STAFF FINDINGS:**

1. The NYSID application submitted to OGS and ESD is complete and meets the requirements of the NYS Procurement Bulletin – Preferred Source Guidelines, § 6.4.
2. Based on the labor steps described in the application, OGS has determined that the value-added labor meets the requirements of Preferred Source Guidelines, § 6.4.6.
3. OGS also finds the proposed price is within 15% of prevailing market price in comparison to OGS Centralized Contract prices.
4. This application is for one commodity. No service offerings are included in this request for approval.
5. NYSID's self-reported sales reports demonstrate that they have made sales to zip codes in New York State outside of Zones 2 & 3 in violation of the conditions of their approval.

#### **STAFF RECOMMENDATION TO THE PROCUREMENT COUNCIL**

The addition of Recycled 8.5" x 11" White Copy Paper-30% Post-Consumer Recycled Content will provide New York State government purchasers in Zone 1 with a preferred source option to meet their purchasing needs, and it will provide ongoing employment to 0.0328 FTEs at AVRE.

Based upon the foregoing, Staff recommends that the Procurement Council approve NYSID application #2370-C and designate preferred source status to Recycled 8.5" x 11" White Copy Paper-30% Post-Consumer Recycled Content under the following conditions:

1. **NYSID shall develop additional internal controls to fully prevent sales to non-approved zones and provide a report of the plan and implementation of these controls before the September 12, 2024 NYS Procurement Council meeting. Acceptance of NYSID's proposed internal control plan shall be voted on at the September 12, 2024 NYS Procurement Council meeting.**
2. **NYSID shall provide sales reports to the NYS Procurement Council to demonstrate that they have not made sales to a non-approved zone for the next four meetings subsequent to the approval of Recycled 8.5" x 11" White Copy Paper-30% Post-Consumer Recycled Content in Zone 1 and upon OGS as staff to the NYS Procurement Council request thereafter.**
3. **At the fourth meeting subsequent to the approval of Recycled 8.5" x 11" White Copy Paper-30% Post-Consumer Recycled Content in Zone 1, the NYS Procurement Council shall vote on whether to remove or continue the conditions of its approval to grant preferred source designation NYSID for sales Recycled 8.5" x 11" White Copy Paper-30% Post Consumer Recycled Content in Zone 1.**

**ATTACHMENT A**

**CORPORATE OFFICES:**

11 Columbia Circle Drive, Albany, NY 12203  
Phone: (518) 463-9706 Fax: (518) 463-9708

**NEW YORK CITY SALES OFFICE:**

352 Seventh Avenue, Suite 201, New York, NY 10001  
Phone: (212) 889-6618 Fax: (212) 545-1316

December 27, 2012  
Hand Delivered

Honorable RoAnn M. Destito  
Commissioner  
New York State Office of General Services  
Corning Tower – 41<sup>st</sup> Floor  
Albany, New York 12242

Re: Notice of Appeal: Denial of NYSID Application for  
Preferred Source Status – 30% Recycled Copy Paper in  
Less Than Truckload Lots

Dear Commissioner Destito:

On Thursday, November 29, 2012, the New York State Procurement Council denied the New York State Industries for the Disabled (NYSID) application for Preferred Source status for 30% Recycled Copy Paper in Less Than Truckload Lots for Zones 2 and 3. Please accept this letter as our Notice of Appeal of this action pursuant to New York State Finance Law Section 162(3)(b).

As detailed in the NYSID application submitted on April 20, 2012 and the NYS Office of General Services Analysis dated October 30, 2012, both of which were provided to the Procurement Council prior to the meeting, and summarized in a Power Point presentation (a copy of which is attached), this submission more than satisfies the requirements of the Preferred Source Law for adding new products, and is entirely consistent with the goals and intent of the Preferred Source Program in the State. This application is representative of NYSID's effort to reduce the significant employment gap that exists whereby individuals with disabilities are employed at less than half the rate of those without disabilities.

This application, submitted by NYSID in conjunction with its member agency, the Association for Vision Rehabilitation and Employment (AVRE) located in Binghamton, New

York seeks to provide 30% recycled copy paper in less than truck load quantities to Zones 2 and 3, as were defined in the OGS Contract Award number 22478-GR-RS (Central New York and the Northeast NYS Counties respectively). **It would create nine full time jobs for individuals with disabilities in New York State** performing steps in the paper conversion process. **These individuals would earn \$8.50 to \$8.96 per hour in wages** with a total compensation package including paid time off, health and life insurance benefits and pension benefits valued at \$13.00 per hour.

Our application and presentation highlighted that **AVRE has over 20 years of experience in the paper conversion process providing a variety of paper products to satisfied customers** including United Stationers, the General Services Administration, Office Depot, Office Max and Staples. It also included a short video which demonstrated the conversion process, which allows 100 percent of the direct labor to be performed by individuals with disabilities.

The NYS Office of General Services analysis dated October 30, 2012 confirmed that the **NYSID April 20, 2012 application was within 15% of the lowest bid price, ranging from 9.5% to 13.13% over the lowest bidder on April 10, 2012.** Data presented by NYSID to the Procurement Council on November 29, 2012 also confirms that both of **NYSID's applications of April 5, 2012 and April 20, 2012 are competitive with prevailing market prices at the time.** NYSID presented four market price comparisons (see attached Power Point pages 6-8) to the Procurement Council as follows:

#### **Average State Contract Pricing February – August 2012**

Zone 2 - NYSID comparative pricing - 1.14% below market to 5.22% above market  
Zone 3 – NYSID comparative pricing – 1.14% below market to 7.01% above market

#### **Bid Tabulation Average Pricing of April 10, 2012**

Zone 2 – NYSID comparative pricing .15% to 8.55% above market  
Zone 3 – NYSID comparative pricing .09% to 9.18% below market

**As presented to the Procurement Council, NYSID strives to be as close to market as possible.** As explained to the Procurement Council on November 29th, NYSID submitted two separate proposals (one on April 5<sup>th</sup> and one on April 20<sup>th</sup>) out of concern that its initial application would be compared to the lowest bidder on April 10<sup>th</sup>, instead of to market prices, and we wanted to be competitive with both. While there was discussion at the Council meeting of the appropriate comparison pricing to be used in Preferred Source analysis, in this application that discussion is moot—NYSID's prices satisfy the statutory criteria regardless.

Our April 20, 2012 application contained reduced material prices, increased throughput or productivity rates at which the AVRE employees will work, and consolidated several process

steps (packaging, strapping and palletizing) into one step. In doing so, AVRE purchased a new PEMCO ream wrapper at a cost approximating \$468,000 to automate this process. As a result, the number of individuals with disabilities working declined from 16 in the April 5 submission to 9 in the April 20 submission.

To summarize, the NYSID application presented to the Procurement Council demonstrated that the commodity to be provided by NYSID meets the Preferred Source Law as provided by of the State Finance Law Section 162. Specifically, the 30% Recycled Copy Paper less than truck load quantities will be produced for Zones 2 and 3 as defined above by individuals with disabilities and meet the form, function and utility required by the purchasing agencies. Further, **the application demonstrated that the Preferred Source prices for the commodity are as close to the prevailing market (both the lowest bidder and average of the responsive offerors) as practicable and within the statutory 15% threshold.** Finally, the application presented demonstrated NYSID's sensitivity to the business environment within the State specifically as it relates to small business. **The approval would not have significant impact on a substantial number of New York State businesses as it would provide Preferred Sources with less than 16% of the overall market for this commodity.** The application would create 9 full time jobs for individuals with disabilities in Binghamton, New York where as the current two awardees of the contract are located in Clifton, New Jersey and East Hanover, New Jersey. Further **the application highlighted that suppliers located in Binghamton and Victor, New York would be utilized to provide carton material valued at \$87,000 and that other required items for the conversion process** have also been sourced locally, furthering the positive impact on economic environment within New York State.

The presentation and discussion prior to the motion to approve the application was for the most part specific to the application at hand, although as a general observation it appeared that the Council did not have a complete understanding of the Preferred Source Law or application process. NYSID has not presented an application for Council approval in almost 3 years, which may help explain this observation. Once the motion for approval was made, Empire State Development representative Nancy Fisher stated that she could not vote to approve the application because of its impact on small office supply businesses, that NYSID would be able to require other entities such as municipalities, school districts and public authorities, to purchase the item, and that the commodity would be approved in perpetuity. As a result of Ms. Fisher's comments, there was further discussion much of which was unrelated to the application at hand and much of which demonstrated the relative inexperience of many council members with the Preferred Source application process. NYSID urges that the minutes of the meeting well demonstrate that this lack of experience and understanding lead directly to the negative vote and denial of the application.

Based upon facts of the application and the law, NYSID contends that none of the objections raised by Empire State Development have merit or warrant consideration in consideration of this application, and certainly do not constitute grounds for its denial.. Ms. Fisher as the representative of Empire State Development is provided the application for review at the same time as the Office of General Services which in this instance was April 20, 2012 or 7 months prior to the Procurement Council meeting. During that time Ms. Fisher did not request additional information on the application nor did she voice any concern with regard to potential



significant impact that this application might have on a substantial number of New York businesses. In the OGS analysis it is noted that Empire State Development advised on October 16, 2012 “that it neither approves nor denies the application and defers to the State Procurement Council for decision.”

In stating that the application would impact small office supply businesses at the Procurement Council meeting on November 29, 2012, Ms. Fisher offered no specifics but only general statements, and misstated the facts as small businesses offering office supplies do so under a separate and distinct centralized contract from the application at hand for 30% recycled copy paper less than truck load quantities. In addition as noted above, the application presented by NYSID requested approval for less than 16% of the anticipated market for 30% recycled copy paper in less than truck load quantities. This contract was awarded on September 13, 2012 and is held by two non-New York State multi-national companies: International Paper Company D/B/A Xpedx/Central Lewmar and Paper Mart, Inc. Finally, the estimated 16% of market associated with this application, does not take into account a separate contract, Contract Award #21427-GR-RS which currently offers copypaper in truckload quantities (840 cartons versus up to 600 cartons for less than truck load quantities).

Ms. Fisher’s second objection, that NYSID would have further impact on these small businesses because approval of this application would require entities other than state government (namely municipalities, school districts and public authorities) to purchase shows additional lack of understanding and disregard for the intent of the Preferred Source Law in advancing the social and economic goals of individuals with disabilities. Certainly, while it is the intent of the law as written to include political subdivisions and public benefit corporations, as noted by Council member Michael Hurt, there is no enforcement entity requiring utilization of Preferred Source contracts. NYSID presumes that the Procurement Council is well aware that required purchases through the Preferred Sources is often ignored. If NYSID was fortunate enough to sell its products widely to customers other than state agencies, the impact would not be detrimental to small business as the facts presented above substantiate, but rather would be positive in providing additional employment opportunities in New York State for individuals with disabilities.

Finally, the notion presented that the commodity would be approved in perpetuity therefore further harm small business opportunities is neither a valid objection to the application or accurate and again signifies lack of understanding of the Preferred Source Law. The fact that Preferred Sources are only eligible to provide a finite number of carefully considered and approved commodities and services as defined by the Preferred Source list strictly limits the impact on small business. The Preferred Source ability to offer the commodity or service does not translate into a perpetual contract. The Preferred Source must continue to meet the required form, function and utility as well as market prices while advancing the special social and economic goals provided in the statute. As NYSID noted in the Question and Answer portion of the November 29<sup>th</sup> meeting, when market prices decline without a similar reduction in Preferred Source pricing it has been our experience that customers simply stop using the Preferred Source Program.

Based upon the NYSID application provided to the Procurement Council and due to the errors in the review process identified in this letter, I respectfully request that you review and approve the application for 30% Recycled Copy Paper less than truck load quantities for addition to the list of Preferred Source Offerings.


Thank you for your consideration.

Sincerely,



Ronald Romano  
President & CEO

Attachments

cc: Mark J. McCarthy, Harris Beach PLLC  
John Traylor, OGS Chief Procurement Officer   
Robert K. Hayne, President & CEO, AVRE

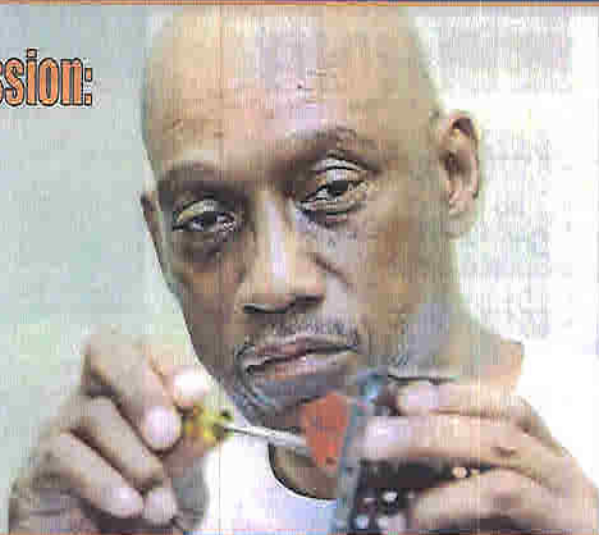


Quality · Value · Jobs

30% Recycled Copy Paper  
In Less Than Truckload Lots

### The **NYSID** Mission:

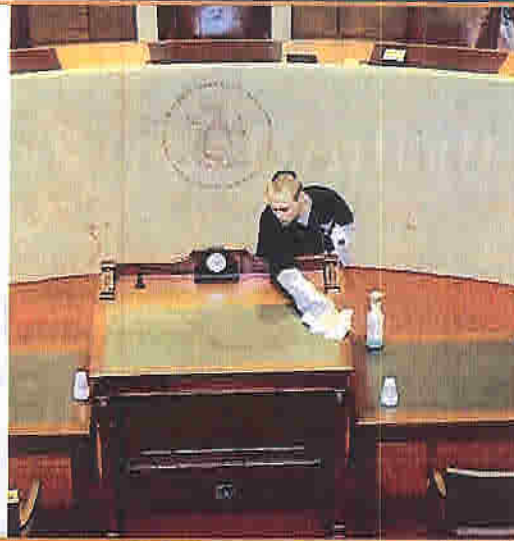
Turning  
business  
opportunities  
into **JOBS** for  
New Yorkers  
with disabilities.



[www.nysid.org](http://www.nysid.org)

## EMPLOYABILITY

A not-for-profit member agency organization, NYSID is an ever-growing partnership of 166 community rehabilitation agencies and private sector New York State businesses that provide jobs in nearly every county.



[www.nysid.org](http://www.nysid.org)

## EMPLOYABILITY

- 6,979 people employed
- 3.98 million hours of Preferred Source employment
- \$51.8 million in Preferred Source wages earned
- \$13.01 average hourly wage

[2012 figures]

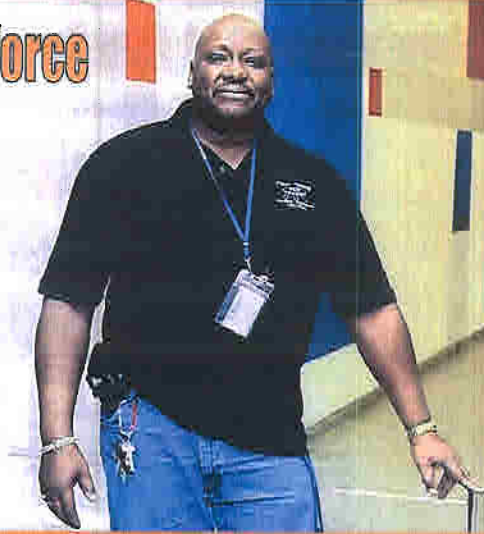


[www.nysid.org](http://www.nysid.org)

## A Diversified Workforce

### Workforce demographics

- 44% African-American & Hispanic
- 52% all minorities
- 148 veterans with 115 service disabled



[www.nysid.org](http://www.nysid.org)

## NYS Small Businesses

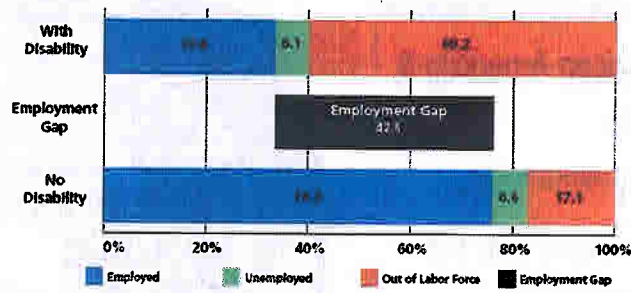
- 5 MWBE Corporate Partners with \$4.2 million in sales and 93 jobs
- Purchases of \$1.5 million from 29 MWBE & small businesses



[www.nysid.org](http://www.nysid.org)

# Employment of New Yorkers with Disabilities

Exhibit 3. The Employment Situation of New Yorkers, by Disability Status

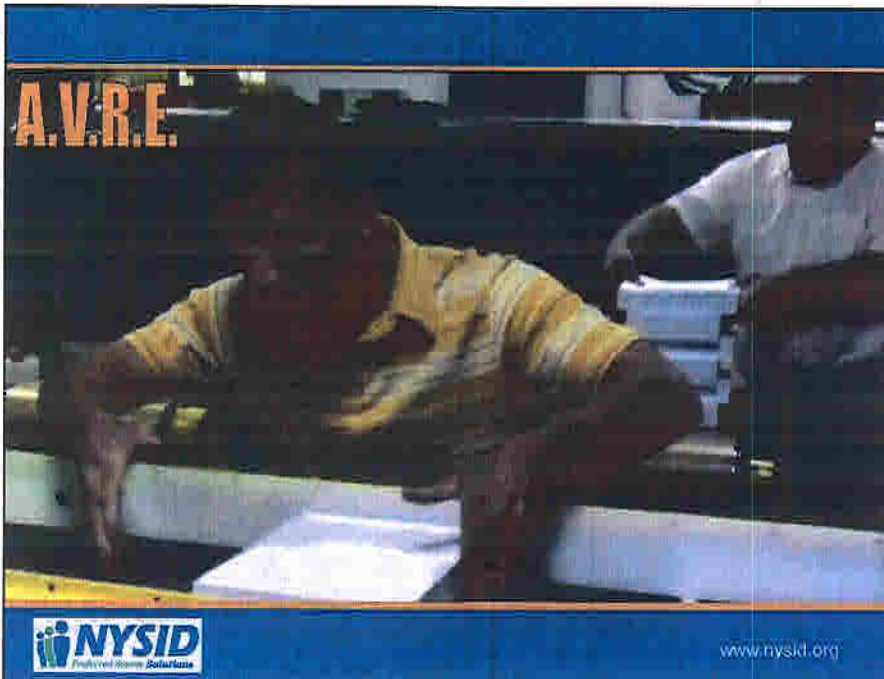


Source: Calculations by Cornell University, Employment and Disability Institute, 2009 American Community Survey, Public Use Microdata Sampler (PUMS). Estimates are for New York State working age (21-64) civilian noninstitutionalized population.

© Cornell University



www.nysid.org



www.nysid.org

## Jobs for New Yorkers with Disabilities

- 9 new full-time jobs created in Binghamton
- Improved quality of life
- \$1 spent on the federal AbilityOne program returns \$3.33 to taxpayers in savings & increased tax payments (recent study conducted by NIB)
- Additional revenues for local New York State suppliers
  - Cartons: \$87,000 over 5 years
  - Stretch wrap, Polystrapping & Pallets



[www.nysid.org](http://www.nysid.org)

## Recycled Copy Paper (Less Than Truckload Lots)

Jobs to be performed by New Yorkers with disabilities include:

- Sheeting Machine Operation: \$8.96/hour
- Ream Wrap Machine Operation: \$8.50/hour
- Packaging/Strapping/Palletizing finished product: \$8.50/hour
- Benefits include: paid holidays, vacation and sick time, life and health insurance after 90 days and a 403(b) plan
- Average overall compensation package: \$13.00/hour



[www.nysid.org](http://www.nysid.org)

## Customer Satisfaction - Form, Function & Utility



- A.V.R.E. has over 20 years of experience in the paper conversion process
- A.V.R.E. provides 30% recycled paper in desired quantities and sizes
- A.V.R.E. satisfied customers include:
  - United Stationers    - GSA
  - Office Depot        - Staples
  - S.P. Richards        - Office Max



[www.nysid.org](http://www.nysid.org)

## Competitive with Prevailing Market Prices

30% Recycled Paper, State Contract Feb.-Aug. 2012 vs. April 5, 2012 Pricing

Zone 2	Average State Contract Pricing	NYSID	NYSID % Above (Below) Average
<b>10-39 Cartons</b>			
8.5" x 11"	\$38.03	\$37.91	5.22%
8.5" x 14"	\$47.50	\$48.11	1.28%
11" x 17"	\$37.21	\$38.71	4.05%
8.5" x 11" 3 hole punch	\$38.28	\$40.05	4.68%
<b>40 - 199 Cartons</b>			
8.5" x 11"	\$34.49	\$35.52	2.99%
8.5" x 14"	\$45.58	\$46.09	1.17%
11" x 17"	\$36.60	\$36.32	-0.77%
8.5" x 11" 3 hole punch	\$36.72	\$37.65	2.55%
<b>200 - 500 Cartons</b>			
8.5" x 11"	\$34.39	\$35.27	2.56%
8.5" x 14"	\$45.40	\$45.51	0.25%
11" x 17"	\$36.49	\$36.07	-1.14%
8.5" x 11" 3 hole punch	\$36.60	\$37.40	2.19%



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## Competitive with Prevailing Market Prices

30% Recycled Paper, State Contract Feb.-Aug. 2012 vs. April 5, 2012 Pricing

Zone 3	Average State Contract Pricing	NYSID	NYSID % Above (Below) Average
<b>10-39 Cartons</b>			
8.5" x 11"	\$35.43	\$37.91	7.01%
8.5" x 14"	\$46.73	\$48.11	2.95%
11" x 17"	\$37.54	\$38.71	3.13%
8.5" x 11" 3 hole punch	\$37.65	\$40.05	6.37%
<b>40 - 199 Cartons</b>			
8.5" x 11"	\$34.49	\$35.52	2.99%
8.5" x 14"	\$45.56	\$46.09	1.17%
11" x 17"	\$36.60	\$36.32	-0.77%
8.5" x 11" 3 hole punch	\$36.72	\$37.65	2.55%
<b>200 - 899 Cartons</b>			
8.5" x 11"	\$34.36	\$35.27	2.60%
8.5" x 14"	\$45.40	\$45.51	0.25%
11" x 17"	\$36.49	\$36.07	-1.14%
8.5" x 11" 3 hole punch	\$36.60	\$37.40	2.19%



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## Competitive with Prevailing Market Prices

30% Recycled Paper, Bid Tabulation Average of April 10<sup>th</sup> vs. April 20<sup>th</sup> Pricing

Zone 2 Central NY	Average Bid Price	NYSID Proposed Pricing	Difference Between Average Bid Price and NYSID Proposed Pricing
<b>10-39 Cartons</b>			
8 1/2" x 11"	\$32.78	\$35.58	8.55%
8 1/2" x 14"	\$44.53	\$45.48	2.17%
11" x 17"	\$35.01	\$36.27	3.59%
8 1/2" x 11" 3 HP	\$35.00	\$37.20	6.28%
<b>40-199 Cartons</b>			
8 1/2" x 11"	\$31.70	\$33.21	4.76%
8 1/2" x 14"	\$43.05	\$43.48	1.03%
11" x 17"	\$33.85	\$33.90	0.15%
8 1/2" x 11" 3 HP	\$33.85	\$34.83	2.89%
<b>200-600 Cartons</b>			
8 1/2" x 11"	\$31.48	\$32.96	4.72%
8 1/2" x 14"	\$41.55	\$42.92	3.29%
11" x 17"	\$33.26	\$33.65	1.18%
8 1/2" x 11" 3 HP	\$33.26	\$34.58	3.93%



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## Competitive with Prevailing Market Prices

30% Recycled Paper, Bid Tabulation Average of April 16<sup>th</sup> vs. April 20<sup>th</sup> Pricing

Zone 3 Northeast NY	Average Bid Price	NYSID Proposed Pricing	Difference Between Average Bid Price and NYSID Proposed Pricing
<b>10-39 Cartons</b>			
8 1/2" x 11	\$36.61	\$35.58	-0.09%
8 1/2" x 14	\$47.02	\$45.49	-3.25%
11" x 17"	\$37.75	\$36.27	-3.92%
8 1/2" x 11" 3 HP	\$37.75	\$37.20	-1.46%
<b>40-199 Cartons</b>			
8 1/2" x 11	\$35.07	\$33.21	-5.32%
8 1/2" x 14	\$46.47	\$43.49	-6.41%
11" x 17"	\$37.26	\$33.90	-9.02%
8 1/2" x 11" 3 HP	\$37.26	\$34.83	-6.52%
<b>200-900 Cartons</b>			
8 1/2" x 11	\$35.00	\$32.96	-5.83%
8 1/2" x 14	\$46.23	\$42.92	-7.17%
11" x 17"	\$37.06	\$33.65	-9.18%
8 1/2" x 11" 3 HP	\$37.13	\$34.58	-6.86%



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## Summary

NYSID is requesting the approval of Recycled Copy Paper to the List of Preferred Source Offerings for the following reasons:

1. Successful experience – over 20 years
2. Competitive market pricing
3. Customer satisfaction – meets contract requirements
4. Market comprehension
5. Support NYS-based businesses
6. Proven opportunities for people with disabilities – 9 full-time jobs

**Application meets all  
New York State Finance Law requirements.**



www.nysid.org

# ATTACHMENT B



ANDREW M. CUOMO  
GOVERNOR

ROANN M. DESTITO  
COMMISSIONER

STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
OFFICE OF GENERAL SERVICES  
MAYOR ERASTUS CORNING 2ND TOWER  
THE GOVERNOR NELSON A. ROCKEFELLER EMPIRE STATE PLAZA  
ALBANY, NEW YORK 12242

February 11, 2013

Mr. Ronald Romano  
President and Chief Executive Officer  
New York State Industries for the Disabled  
11 Columbia Circle Drive  
Albany, New York 12203

NYSID

FEB 11 2013

RECEIVED

Dear Mr. Romano:

Re: Appeal of Recommendation of Denial of New York  
State Industries for the Disabled (NYSID) Application  
For Preferred Source Status - 30% Recycled Copy Paper  
Less Than Truckload Lots

This is in response to your appeal and represents a final agency determination relative to the November 29, 2012 action by the State Procurement Council (Council) denying the motion to recommend addition of 30% Recycled Copy Paper, Less Than Truckload Lots (Recycled Paper) to the preferred sources products list (List) for purchasing in Zones 2 and 3. This determination is based upon (i) the material submitted to support addition of the Recycled Paper to the List, (ii) the additional information presented to the Council by your organization's representatives, (iii) questions and discussions by Council members and involved parties at the meeting, (iv) the OGS October 30, 2012 summary of the application, its review, pricing analysis and associated information, (v) the December 27, 2012 letter of appeal by NYSID and (vi) the State Finance Law.

The application was initially submitted on April 5, 2012 as a request for a product line extension (initial pricing). At that time, OGS had released an Invitation for Bids (IFB) for Recycled Paper – Less than Truckload Lots containing 30% Post Consumer Recycled Paper. The resultant contract award based on the IFB would replace the current contract which was due to expire on August 31, 2012. Bids were opened on April 10, 2012. NYSID withdrew its original request and resubmitted it on April 20, 2012 (revised pricing). The NYSID application was limited to Zone 2 (Central NY Region) and Zone 3 (Northeast NY Region including Capital District).

An OGS centralized contract was awarded for Paper including Recycled Paper on September 23, 2012.

As part of the routine review process, Empire State Development reviewed the application and advised on October 16, 2012 that it neither approved or rejected it and deferred to the Council for a decision on whether it should recommend its addition to the List

The pricing analysis performed by OGS looked at the initial pricing offered by NYSID and the revised pricing submitted after the bid opening. NYSID's initial pricing appears to have been benchmarked against the existing contract, and NYSID's revised pricing was benchmarked against the April 2012 bid prices. The OGS summary showed that the initial pricing ranged from 17.42% to

20.54% above the amounts bid in response to the 2012 IFB. The revised pricing reduced NYSID's proposed pricing from 9.5% to 13.13% over the lower April bid prices and was within the statutorily permissible premium of up to 15% over market price.

In its appeal, NYSID noted that the OGS summary confirmed that the pricing was compliant with the law. The appeal also provided additional information about the merits of the revised pricing, but it used an average of pricing benchmarked against the prior contract and the bids offered under the 2012 IFB.

At the Council meeting, NYSID played a PowerPoint describing the benefits of their partnership with the Association for Vision Rehabilitation and Employment (AVRE), a member agency engaged in the production of the Recycled Paper. NYSID indicated that nine full time jobs would be created at AVRE with an average overall compensation package including benefits of \$13.00/hour. Also noted was the equipment investment that was made by AVRE with the purchase of a new ream wrapper at a cost of approximately \$468,000 to make production by the disabled workers more efficient.

At the meeting, Council members then responded with questions and discussion points. See below for a summary of questions:

Q. Why was application limited to Zones 2 and 3?

A. To provide a high quality product and to maintain high customer satisfaction

Q. What is percentage of this Recycled Paper bought in Zones 2 and 3?

A. Sixteen percent.

Q. Original application indicated that sixteen workers would be employed. Why did it decrease?

A. Purchase of equipment, while making production more efficient, reduced the number of workers.

Q. Reference was made to gap between employment of disabled v. non-disabled. How is the gap being addressed?

A. Through operations such as the one that would support this application.

Q. Why did NYSID target this type of Recycled Paper?

A. Because this was an existing production line which already sells this type of Recycled Paper to the federal government.

Q. Was the pricing benchmarked against prior contract?

A. NYSID indicated that it looked at the average of bidders' pricing under the 2012 IFB, not the lowest bid price. OGS indicated that they regarded the lowest bid price constituted market price. The parties disagreed on what pricing was properly considered market price.

Q. Do OGS rules establish a procedure of how to determine market price?

A. An average of available pricing is used if there is no contract which eliminates the high and low prices. OGS is working on alternative ways to determine market price.

Q. Did OGS review prices offered by preferred source to its other customers such as the federal government?

A. OGS did not ask for that information.

Q. Information was requested on what truckload and less than truckload means in terms of volume.

A. Truckload represents up to 840 cartons. Contract language relating to "Minimum Order" will be supplied in the meeting minutes.

Q. What is the estimated volume of sales?

A. \$4 to \$5 million dollars. Actual sales volume will be supplied in the meeting minutes.

Q. What was volume of sales under prior contract?

A. OGS maintains historic sales volumes. Actual sales volume will be supplied in the meeting minutes.

Q. If approved, would there be a time limited for inclusion on the List?

A. No, approval is permanent. OGS can review preferred source offering for purposes of changes in pricing.

Q. Does OGS customarily seek price adjustments?

A. No. Standardizing a process to seek price adjustments on a periodic basis is under development.

Q. Is the preferred source offering subject to minority and women-owned (M/WBE) business requirements?

A. Purchasers can establish M/WBE goals at the transaction level, but it is not part of standard purchasing practices. The paper marketplace does not lend itself to use of M/WBE goals. Concern was expressed that M/WBE requirements are not addressed in preferred source purchasing.

Q. Once a product is approved, how does the State ensure that in the future it is not paying too much for the product?

A. OGS is developing a method to assess validity of the price of the preferred source offering over time.

Q. Approval would add nine workers. How many workers are employed now?

A. Seventy workers are employed by AVRE. In the Recycled Paper area, six workers are currently employed. Approval would increase that number to fifteen workers.

Q. Is there a statutory requirement that a preferred source offering be statewide?

A. No.

A motion was then made to approve the application. Comments then were made by the representative of Economic Development regarding concerns about approval being permanent and its impact on competing small New York State businesses. NYSID was asked if they would agree to a condition that sales would be limited to Zones 2 and 3 and that expansion of the offering would require review and approval by the Council. NYSID verbally agreed to the condition.

Further discussion continued on business impact ending with Economic Development indicating that it would not support the addition of Recycled Paper. Further discussion included questions about the approval and rejection authority of the Council. One member questioned whether Economic Development's position was within the authority of the Council. The Council Chair asked that the motion be amended and tabled until the next meeting so that concerns could be addressed. This action was declined and a vote was taken on the motion. The motion to recommend approval of the application to add Recycled Paper failed and the application was rejected.

A second motion was made to investigate the impact of approval of the application on small New York State businesses with a report back to the Council. That motion passed.

In its appeal NYSID has provided detailed information regarding the Recycled Paper; employment of nine disabled workers, production details, AVRE operational experience and track record with other customers including the federal government, major investment in new equipment and justification of pricing.

It further asserts that Council members seemed to lack a complete understanding of their authority under §Section 162 of the State Finance Law which prevented them from fairly reviewing the application.

The appeal rejected the points made by Economic Development regarding the impact on New York State small businesses. It was noted that approval would only impact 16% of the historical volume of sales of Recycled Paper in Zones 2 and 3.

NYSID disagrees with using the bid price as the market price for purposes of benchmarking the premium that is allowable by law. Moreover, they felt that permanency of the addition and pricing greater than 15% of market price were irrelevant, and if applicable would merely result in buyers not buying the product as required by law. Their position is predicated on the presumption that when NYSID presents a proposal that employs disabled persons and that meets the statutory criteria regarding acceptable pricing, then the Council should approve the application. The statute, however, states that the Council is to consider "relevant factors as determined by the council including costs and benefits" leaving the Council with considerable latitude in reviewing and recommending additions.

Since its creation in 1995, the Council (which includes preferred source members) has been a supportive group for this procurement program recognizing the social and economic goals served by it. The State Finance Law sets forth an oversight role for the Council as part of its larger public procurement policy responsibilities to review and make recommendations on proposed additions to the List in order to preserve the integrity and purpose of the preferred source program, including using market price data for purposes of benchmarking the premium that is allowable by law. This oversight role provides the opportunity for member state agencies, preferred sources and other representatives of the Council to assess and balance the competing interests and missions that may be impacted by additions to the List. While historically preferred sources have benefited from favorable determinations, the Council clearly has the ability and is authorized to deny a request to recommend an addition to the List, as occurred in this instance.

As outlined herein, there was vigorous discussion by the Council about this application. The focus of that discussion, however, did not question the nature of the offering, Recycled Paper, or the pricing offered for the product. Rather, it was evident that the members were concerned about

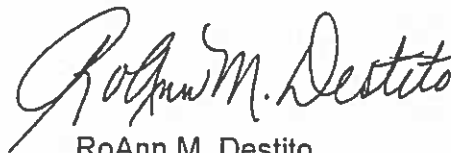
issues relating to understanding how the preferred sources program works and the limited flexibility resident in the program regarding reevaluation of preferred source offerings over time with regard to inclusion, price adjustments and the balancing of other competing procurement interests founded in other legitimate social and economic issues, including its impact on in-state small businesses. Such matters are certainly within the purview of the Council. While not adopted, the Council put a remedy on the table in raising the possibility that an approval could include certain conditions which would have, at least in part, addressed their concerns.

Based upon the record on appeal, the findings set forth herein and the vote of the Council, the NYSID application for the addition of Recycled Paper to the List for Zones 2 and 3 is approved, and the NYSID Appeal in this matter is affirmed. However, the affirmation is subject to the acceptance by NYSID of the following conditions:

1. The application refers to this addition as a "product line extension." This product category needs to be changed in the application to "new product."
2. The addition to the List should be solely for purchases in Zones 2 and 3 and any expansion to other zones would be subject to a separate formal written application and review by the Council.
3. The addition to the List should be solely for purchase of 30% Recycled Copy Paper Less Than Truckload Lots and inclusion of any other type of paper would be subject to a separate formal written application and review by the Council.
4. OGS is authorized to review the pricing for Recycled Paper on an ongoing basis using market data that may include bid pricing, but not more frequently than once per year.

Written acknowledgment from NYSID of its agreement to these conditions is required. If NYSID does not agree with these conditions, then the appeal will be reopened for further consideration and decision. This final determination is binding upon NYSID and the Council. Any administrative action that is usually associated with and carried out by OGS shall be taken including the addition of the offering to the List subject to the conditions stated herein. A summary of this determination and disposition of the appeal shall be presented at the next Council meeting.

Sincerely,



RoAnn M. Destito

c: Mark J. McCarthy, Harris Beach PLLC  
Robert K. Hayne, President & CEO, AVRE  
John Traylor, OGS Chief Procurement Officer



**ATTACHMENT C**



**Ronald P. Romano**  
President and Chief Executive Officer

**CORPORATE OFFICES:**

11 Columbia Circle Drive, Albany, NY 12203  
Phone: (518) 463-9706 Fax: (518) 463-9708

**NEW YORK CITY SALES OFFICE:**

352 Seventh Avenue, Suite 201, New York, NY 10001  
Phone: (212) 889-6618 Fax: (212) 545-1316

February 12, 2013

Honorable RoAnn M. Destito  
Commissioner  
NYS Office of General Services  
Corning Tower – 38<sup>th</sup> Floor  
Empire State Plaza  
Albany, New York 12242

RE: Appeal of Recommendation of Denial of New York State Industries  
for the Disabled (NYSID) Application for Preferred Source Status – 30%  
Recycled Copy Paper Less than Truckload Lots

Dear Commissioner Destito:

I am in receipt of your February 11, 2013 letter approving NYSID's application for addition of Recycled Paper to the Preferred Source List for Zones 2 and 3 by affirming NYSID's Appeal and hereby acknowledges agreement of the conditions set forth therein.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald P. Romano".

Ronald P. Romano  
President and Chief Executive Officer

cc: Mark J. McCarthy, Harris Beach PLLC  
Robert K. Hayne, President & CEO, AVRE  
John Traylor, OGS Chief Procurement Officer