



Office of  
General Services

# GOVBUY PROCUREMENT CONFERENCE

November 21-22, 2024

Empire State Plaza Convention Center, Albany, NY



# NYS Procurement Guidelines

Room A | 4:30 PM – 5:15 PM

## Presenters

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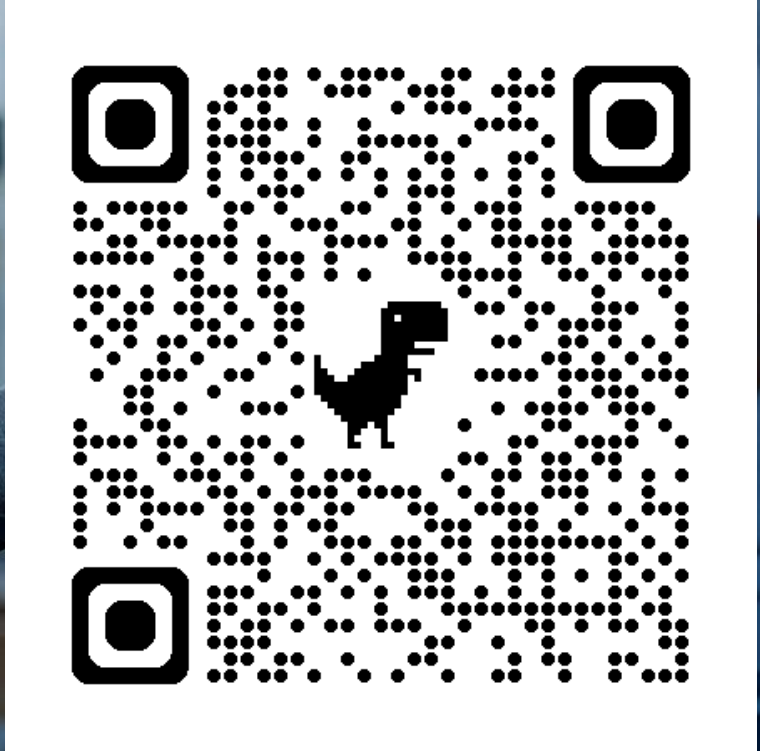


NEW  
YORK  
STATE

Office of  
General Services

# NYS Procurement Guidelines

**GOVBUY** PROCUREMENT  
CONFERENCE



# Understanding New York State's Buying Process

- Procurement involves the purchasing of goods (commodities) and services. If you are a government organization in New York State, the buying process can be understood in five steps:
  - Step 1: Identify your need and timeline.
  - Step 2: Determine your buying process & follow it.
  - Step 3: Select a vendor & make an award.
  - Step 4: Receive the goods, services, or commodities.
  - Step 5: Receive & pay the invoice.
- The buying process is different for each type of organization in New York State, and it's important that you understand which rules and regulations apply to you.
- [Procurement for State Agencies | Office of General Services](#) (link to OGS website)



# Procurement Guidelines: Background

- The current NYS Procurement Guidelines were developed by a workgroup established by the New York State Procurement Council. This workgroup included several state agencies.
- The Guidelines are designed to assist State Agencies in conducting procurements efficiently and effectively by providing Agency program and fiscal staff with a source of guidance about State procurement laws, rules, regulations, policies and practices.
- The Procurement Guidelines are primarily for State Agencies, though there may be some guidance in these documents that is beneficial for towns, counties, school districts, etc..



# Section I: Overview

- Section 1.1: Introduction and Purpose
- Section 1.2: Terminology
- Section 1.3: Application and Scope of the Procurement Guidelines
- Section 1.4: Operating Principles
- Section 1.5: Procurement Ethics
- Section 1.6: Procurement Lobbying Law



# Section I: Overview

- The NYS Procurement Guidelines are established by the NYS Procurement Council pursuant to State Finance Law section 161(2)(d).
- Per SFL 162(2)(d): “Establish and, from time to time, amend guidelines concerning state procurement and provide for the appropriate distribution and dissemination of such guidelines and other information concerning all matters relating to procurement of products, construction items or services for state agencies”
- Section I of the Procurement Guidelines also contains information on the application and scope of the Procurement Guidelines, operating principles, procurement ethics, and Procurement Lobbying Law.
- State procurement must facilitate each Agency's mission while protecting the interests of the State and its taxpayers and promoting fairness and transparency in contracting and purchasing with the business community.



# Section I: Overview

- The State’s procurement policies form a framework for conducting procurements. Policies address sufficient fair competition; establishing vendor responsibility; participation of Preferred Sources, State-certified minority- and women-owned business enterprises (“MWBES”), State-certified service-disabled veteran-owned businesses (“SDVOBs”), NYS small business enterprises (“SBEs”); promoting local food growers and local plant fiber products and textiles (“NYS Textiles”); and protecting human health and the environment.
- When conducting procurements, each Agency may have supplemental policies and requirements, in addition to the Guidelines, that should also be reviewed and followed
- New York State procurement policies and practitioners should embody the values for Public Procurement of: Accountability, Ethics, Impartiality, Professionalism, Service & Transparency.





# Section I: Overview

- The Procurement Guidelines are designed to apply to a wide range of procurements, from basic 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.
- These Procurement Guidelines apply primarily 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.



# Section II: Procurement Basics

- Section 2.1: Overview of Procurement Tools (Purchasing Priority)
- Section 2.2: Contract Document Basics
- Section 2.3: Choosing a Procurement Method and the Order of Purchasing Priority
- Section 2.4: Procurement Vehicles

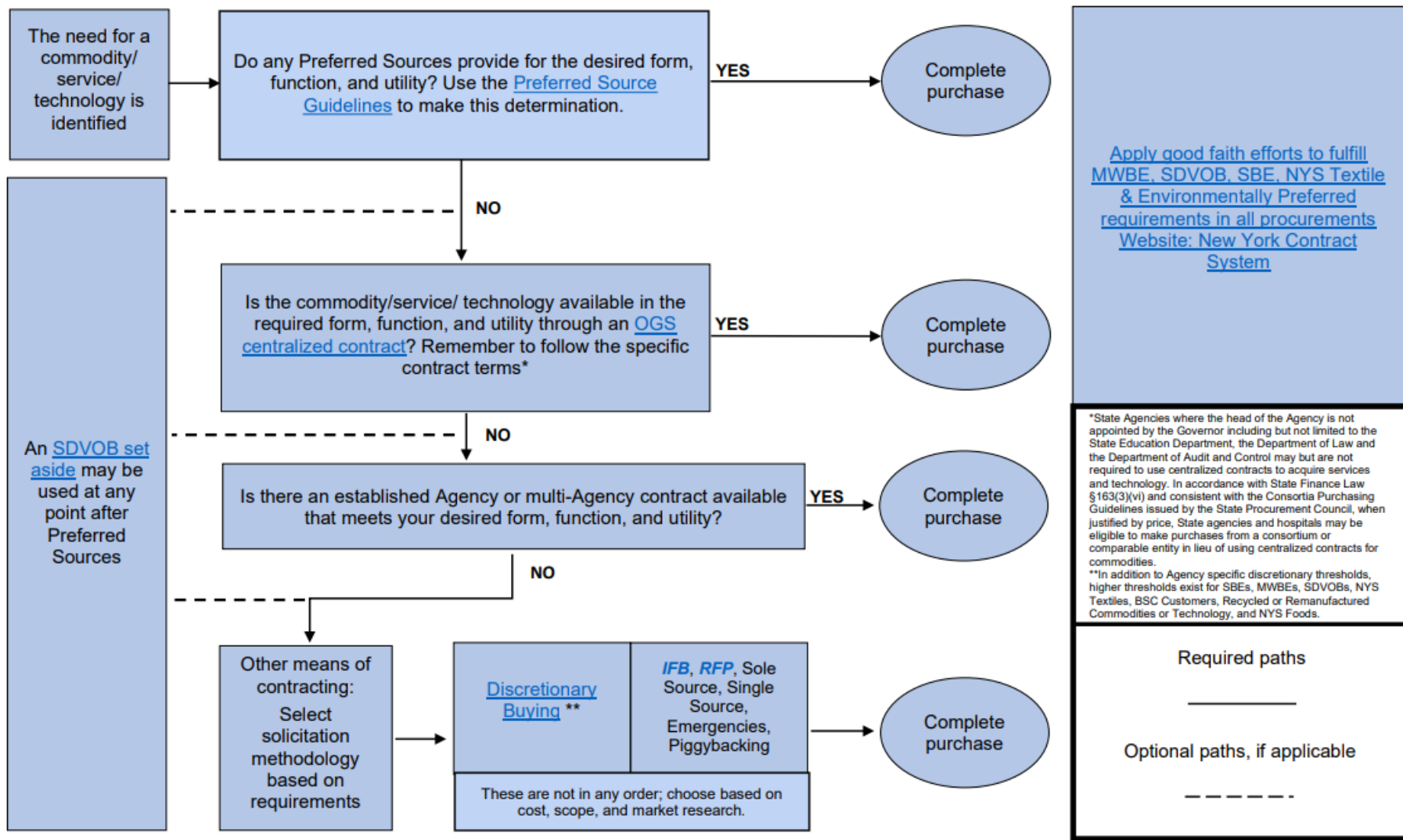


# Statutory Purchasing Priority

Statutory priority is accorded in the following order:

1. Preferred Sources
2. OGS centralized contracts
3. Agency or multi-agency established contracts
4. Other means of contracting





# 1<sup>st</sup> Priority - Preferred Sources

## Commodities:

1. Corcraft
2. NYSPSP
3. NYSID

## Services:

NYSPSP & NYSID – Equal Priority



# 2<sup>nd</sup> Priority – OGS

## Centralized Contracts

- State Finance Law requires agencies to use centralized contracts to purchase commodities and services (including technology) that meet their agencies' requirements with respect to form, function, and utility.
- **Note:** SDVOB set-aside contracts can preempt OGS centralized contracts, but not Preferred Sources



# 2<sup>nd</sup> Priority – OGS

## Centralized Contracts

- State Finance Law requires agencies to use centralized contracts to purchase commodities and services (including technology) that meet their agencies' requirements with respect to form, function, and utility.
- OGS Centralized Contracts has approximately 1,500 centralized contracts, with over 8,000 authorized users.
- Terms vary; may be awarded up to 5+ years
- Contracts may be single award, multiple award, or backdrop contracts with a request for quote (RFQ) or mini-bid
- **Note:** SDVOB set-aside contracts can preempt OGS centralized contracts, but not Preferred Sources



# 3<sup>rd</sup> Priority – Agency / Multi-Agency Contracts

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





# 4<sup>th</sup> Priority – Other Means of Contracting

- IFBs
- RFPs
- Sole Source
- Single Source
- Emergency Procurements
- Piggyback
- Discretionary Purchases



# Section III: Pre-Solicitation and Planning

- Section 3.1: Knowing Business Needs
- Section 3.2: Proper Planning
- Section 3.3: Gathering and Exchanging Information Prior to Solicitation
- Section 3.4: Downstream Prohibition
- Section 3.5: Discussion with the Office of the State Comptroller
- Section 3.6: After the Scope is Finalized



# Section III: Pre-Solicitation and Planning

- 3.1 Identify Business Specific Needs
- 3.2: Estimate Costs, Develop method of award, a clear and concise solicitation, allow sufficient time in the process.
- 3.3: Conduct RFI, RFC, Solicitation Interest etc.
- 3.4: If a vendor participates in the development of a solicitation (e.g. specifications, etc.) they are generally precluded from being able to participate as a potential bidder
- 3.5: Discussion with the Office of the State Comptroller on complicated or new solicitations
- 3.6: After the Scope is Finalized ensure you refer back to 2.3 to ensure you are using the proper procurement method.



# Section IV: Solicitation

## Solicitation and Content

- Section 4.1: Scope of Work
- Section 4.2: Specifications
- Section 4.3: Minimum Bidder Qualifications
- Section 4.4: Submissions and Evaluations
- Section 4.5: Method of Award
- Section 4.6: Pricing Submissions
- Section 4.7: Estimates
- Section 4.8: Firm Offer
- Section 4.9: Required Document Submission
- Section 4.10: Order of Precedence / Conflict of Terms



# Section IV: Pre-Solicitation and Planning

- Section 4.11: Timeline and Calendar of Events
- Section 4.12: Mandatory Clauses
- Section 4.13: Workers' Compensation and Disability Insurance
- Section 4.14: Additional Insurance Requirements
- Section 4.15: State Reserved Rights



# What is a Scope of Work?

- A detailed written description of the conceptual requirements for a project (materials, services, outcomes) contained in a competitive solicitation document
- Includes a clear description of what is required from the vendor:
  - What will be done
  - When and how it will be done, potentially by whom
  - What constitutes an acceptable result



# Specifications / Minimum Qualifications

- 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 (e.g., GreenNY specifications).
- Minimum Bidder Qualifications: An Agency shall establish minimally acceptable qualifications that a bidder must meet in order to be deemed responsive. When an Agency establishes minimum qualifications, it must disclose in the solicitation both the qualification criteria and that bidders not meeting these criteria will be eliminated without further evaluation. Minimum qualification criteria are scored on a pass/fail basis.



# Submissions and Evaluations / Method of Award

- 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)).
- Best value can be equated to lowest price.





# Additional Info in Section IV

- Pricing Submissions
- Estimates
- Firm Offer
- Required Document Submissions
- Order of Precedence / Conflict of Terms
- Timeline and Calendar of Events
- Mandatory Clauses
- Insurance Requirements
- State Reserved Rights



# Section V: Solicitation Process

- Section 5.1: Advertising Procurement Opportunities
- Section 5.2: Restricted Period / Designated Contacts
- Section 5.3: Conduct Site Visits and Pre-Bid Conferences
- Section 5.4: Solicitation Instructions



# Advertising in the NYSCR

- 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 provide prior approval of a Contract Reporter Exemption Request. Agencies are encouraged to advertise procurements below their advertising threshold to maximize competition and best pricing.



# Restricted Period

- Generally, the first publication 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 must be addressed 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.



# Section VI: Evaluation and Award

- Section 6.1: Administrative Review to Verify Responsiveness
- Section 6.2: Evaluation
- Section 6.3: Reference Checks
- Section 6.4: MWBE/SDVOB Compliance Review
- Section 6.5: Disqualification determination
- Section 6.6 : Determination of Vendor Responsibility
- Section 6.7: Recommendation and Tentative Award/Non-Award Letters
- Section 6.8: Negotiations



# Section VI: Evaluation and Award

- Section 6.9: Review of Terms and Conditions and Deviations Proposed by Bidder
- Section 6.10: Drafting Contract for Execution
- Section 6.11: Create the Procurement Record
- Section 6.12: Obtain Approvals
- Section 6.13: Contract Kickoff Meeting and Begin Performance



# Section VI: Evaluation and Award

- Administrative Review - Ensure that the bid submission is complete and accurate.
- Evaluation – Conduct low bid or best value evaluation as applicable.
- Reference Checks
- MWBE/SDVOB Compliance Review
- Disqualification determination for non-responsive offers
- Determination of Vendor Responsibility
- Make Recommendation and Tentative Award/Non-Award Letters
- Negotiations – document all discussions and non-material revisions
- Draft Agreement(s)
- Document in procurement record
- Obtain Approvals
- Contract kickoff



# Section VII: Post Award & Contract Management

- Section 7.1: Contract Administration and Monitoring
- Section 7.2: Effective Contract Management





# Section VII: Post Award & Contract Management

## 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. Ensure that the vendor performs the requirements of the contract in accordance with the contract's terms, conditions, and specifications with communication from direct contract users. The Procurement Record must be maintained for 7 years following the conclusion of the contract term.



# Section VII: Post Award & Contract Management

Effective Contract Management includes, but is not limited to, Vendor Responsibility, current insurance, monitoring vendor performance, accurate and up to date reports (sales, MWBE, SDVOB, etc.), updated pricing and offerings in accordance with contract terms.



# Glossary

- The OGS Procurement Guidelines' Glossary can be used to inform yourself on terms in NYS procurement.
- This list can be very helpful for both new procurement specialists and veteran procurement specialists.



# Use the BSC Purchasing Requirements Guide

[www.bsc.ogs.ny.gov/sites/default/files/PurchasingRequirements.pdf](http://www.bsc.ogs.ny.gov/sites/default/files/PurchasingRequirements.pdf)

## 1 Preferred Sources

Preferred Sources must be considered first. State agencies are required to purchase from a Preferred Source if it meets the agency's form, function and skills. If a Preferred Source is available and not used, the agency must document how it did not meet their form, function, or utility. Formal waivers are required. See the Preferred Sources Guidelines at: <http://www.ogs.ny.gov/bsc/contracts/bidlistdocs/invoke.cfm>

## 2 NYS Centralized Contract

State agencies must use New York State centralized contracts after consideration of Preferred Sources. Centralized contracts are administered by OGS Procurement Services and can be found on the OGS public website: <http://nysprocure.ogs.ny.gov>. Customer support is available at 518-474-6717.

What purchasing method do I use?	Procure possible
Who solicits quotes or issues bid documents? <td>Agency-price list</td>	Agency-price list
If Technology-related, is PTP approval required? <td>NO</td>	NO
Do I have to advertise in the Contract Reporter? <td>NO</td>	NO
Do I need OSC approval? <td>NO</td>	NO
Do I need a Vendor Responsibility Profile/Checklist? <td>NO</td>	NO
Do I need a Vendor Responsibility Questionsary? <td>NO</td>	NO
Do I need a Vendor Responsibility Laying Law form required? <td>NO</td>	NO
Are there any MWBE and/or SDVOB goals? <td>NO</td>	NO
Do I need DOB B-1184 approval? <td>DOB B-1184 is not applicable to this Threshold</td>	DOB B-1184 is not applicable to this Threshold

Purchasing COMMODITIES, TECHNOLOGY & SERVICES from a Centralized Contract		Purchasing SERVICES via Centralized Contracts that require a minibid	
FOR ALL DOLLAR AMOUNTS		FOR ALL DOLLAR AMOUNTS	
Agency procurement card where possible/Purchase Requested	Agency procurement card where possible or Purchase Requested	Agency procurement card where possible, contract minibid, and where required to OGS. BSC generates Purchase Order.	Agency procurement card where possible, contract minibid, and where required to OGS. BSC generates Purchase Order.
Agency issues contract price list or as defined in the contract	Agency issues contract price list or as defined in the contract	Agency issues contract price list or as defined in the contract	Agency issues contract price list or as defined in the contract
YES - If \$50,000 or more	YES - If \$50,000 or more	YES - If \$50,000 or more	YES - If \$50,000 or more
NO	NO	NO	NO
NO	NO	NO	NO
NO	NO	NO	NO
NO	NO	NO	NO
NO	NO	NO	NO
NO	NO	NO	NO
NO	NO	NO	NO
NO	NO	NO	NO
NO	NO	NO	NO
NO	NO	NO	NO
NO	NO	NO	NO

The OSC will conduct solicitations for bid (Information Technology Services) prior to processing from a responsibility evaluation if the OSC, the responsibility questionnaire and \$50,000. These will not occur until after...

What purchasing method do I use? Procure possible. Who solicits quotes or issues bid documents? Agency-price list. If Technology-related, is PTP approval required? NO. Do I have to advertise in the Contract Reporter? NO. Do I need OSC approval? NO. Do I need a Vendor Responsibility Profile/Checklist? NO. Do I need a Vendor Responsibility Questionsary? NO. Do I need a Vendor Responsibility Laying Law form required? NO. Are there any MWBE and/or SDVOB goals? NO. Do I need DOB B-1184 approval? DOB B-1184 is not applicable to this Threshold.

Is there an opportunity to use MWBE and/or SDVOB vendors on Centralized Contracts? A number of NYS Centralized Contracts are with MWBE and/or SDVOB vendors. Before selecting a contract vendor, be sure to check for an MWBE and/or SDVOB.

Are there any MWBE and/or SDVOB goals? MWBE and SDVOB policies vary by agency. Check your agency's MWBE and SDVOB policies. DOB B-1184 approval (Threshold) varies based on what is being purchased. See B-1184 Approval Thresholds (page 4).

Do I need DOB B-1184 approval? DOB B-1184 approval (Threshold) varies based on what is being purchased. See B-1184 Approval Thresholds (page 4).

The OSC will conduct solicitations for bid (Information Technology Services) prior to processing from a responsibility evaluation if the OSC, the responsibility questionnaire and \$50,000. These will not occur until after...

NEW YORK STATE OFFICE OF GENERAL SERVICES Business Services Center **New York State Purchasing Requirements for BSC Customer Agencies**

## Division of the Budget B-1184 Approval thresholds

Thresholds are subject to...

Purchase Threshold
Employee-Related Services
Membership Dues
Non-Institutional Food
In-State Travel
Promotional Items
Capital Change Order
Contracts-Assignment
Contracts-IT/AV
Local Assistance Grant
Contractual Services
Temporary Personnel
NPS Purchases
NPS Leases
Member Item Request
Centralized Contracts
Contracts - RFP/RFI/RFQ
Capital Design
Capital Construction
Classification of threshold should document its dis...

Who solicits quotes or issues bid documents?
If Technology-related, is PTP approval required?
Do I have to advertise in the Contract Reporter?
Do I need OSC approval?
Do I need a Vendor Responsibility Profile/Checklist?
Do I need a Vendor Responsibility Questionsary?
Do I need a Vendor Responsibility Laying Law form required?
Are there any MWBE and/or SDVOB goals?
Do I need DOB B-1184 approval?

## 3 Open Market

Agencies may purchase commodities, technology and services in the open market when this procurement/purchasing need cannot be met by a Preferred Source by NYS Centralized Contract.

Purchasing COMMODITIES, TECHNOLOGY & SERVICES in the Open Market			Purchasing COMMODITIES & TECHNOLOGY in the Open Market	Purchasing SERVICES in the Open Market	Purchasing with a RFP must include MWBE and/or SDVOB goals. (Required for Information Technology Services as defined in RFP.)
If Your Dollar Amount of Purchase is \$0 - \$2,500	If Your Dollar Amount of Purchase is \$2,501 - \$10,000	If Your Dollar Amount of Purchase is \$10,001 - \$49,999	If Your Dollar Amount of Purchase is \$50,000 & over	If Your Dollar Amount of Purchase is \$50,000 & over	If Your Dollar Amount of Purchase is \$50,001 - \$200,000 For purchases up to \$50,000, you must meet purchase goals.

Procurement Card where possible or Purchase Requested	Agency - 1 written quote	Agency - 3 written quotes	Contract Purchase Requested	Agency/OSC RFP	Agency/OSC Bid	Agency - 3 written quotes	Contract Purchase Requested
NO	NO	NO	YES	YES	YES	YES	YES
NO	NO	NO	YES - If over \$50,000 <sup>1</sup>	YES - If over \$50,000 <sup>2</sup>	YES - If over \$50,000 <sup>2</sup>	YES - If over \$50,000 <sup>2</sup>	YES
NO	NO	NO	YES	YES	YES	YES	YES
NO	NO	NO	YES - If over \$100,000	YES - If over \$100,000	YES - If over \$100,000	YES - If over \$100,000	YES
NO	NO	YES - If over \$5,000	YES	YES	YES	YES	YES

1. The OSC will conduct solicitations for bid (Information Technology Services) prior to processing from a responsibility evaluation if the OSC, the responsibility questionnaire and \$50,000. These will not occur until after... 2. Information Technology Services (IT) for purchase (PTP) agencies are required to issue a RFP or solicitation for a purchase or service equal to or greater than \$100,000. A waiver is also required when procuring Federal requesting permission from purchasing that they require a waiver agreement, regardless of total amount. Agencies should file their request for PTP. 3. The OSC, the responsibility questionnaire and \$50,000. These will not occur until after... 4. The OSC, the responsibility questionnaire and \$50,000. These will not occur until after... 5. The OSC, the responsibility questionnaire and \$50,000. These will not occur until after... 6. The OSC, the responsibility questionnaire and \$50,000. These will not occur until after... 7. The OSC, the responsibility questionnaire and \$50,000. These will not occur until after... 8. The OSC, the responsibility questionnaire and \$50,000. These will not occur until after...

Office of General Services

# Helpful Resources

- NYS Procurement Council Guidelines | <https://ogs.ny.gov/system/files/documents/2023/09/procurement-guidelines-september-2023-final.pdf>
- NYS OGS Procurement Services | <https://ogs.ny.gov/procurement>
- New York State Contract Reporter | [www.nyscr.ny.gov](http://www.nyscr.ny.gov)
- SAMPO | [www.nysampo.org](http://www.nysampo.org)
- NASPO | [www.naspo.org](http://www.naspo.org)
- National Institute of Gov. Purchasing | [www.nigp.org](http://www.nigp.org)



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Questions?