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June 23, 2025

Dhanraj Singh
Chief Procurement Officer
New York State Procurement Council
c/o New York State Office of General Services
41st Floor Corning Tower
Empire State Plaza
Albany, NY 12242

Dear Mr. Singh:

It has been brought to the attention of the Office of the State Comptroller that the Office of General Services (OGS) Preferred Source team recently implemented a new policy regarding how prevailing market price is defined for preferred source commodities and services.

As you know, in February 2025, the Procurement Council approved¹ the latest version of the New York State Procurement Council Bulletin: Preferred Source Guidelines ("Preferred Source Guidelines"), which provide,

In approving the prices of preferred source commodities and services, OGS will seek to ensure the prices are as close to prevailing market price as practicable. Prevailing market price means the price at which a vendor of the same or equivalent commodity or service offers to sell such commodity or service under similar terms in the same market. Prices may not exceed 15% above prevailing market prices among responsive and responsible offers, for the same or equivalent commodities or services.

(Preferred Source Guidelines, at p. 5).²

¹ Pursuant to its authority under State Finance Law § 161, which provides, among other things, for the Procurement Council to "[e]stablish 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."

² The Guidelines are consistent with State Finance Law § 162(6)(b), which provides, "the prices of such products and services shall be as close to prevailing market price as practicable, but in no event greater than fifteen percent above the prevailing market prices for the same or equivalent commodities or services."

On May 28, 2025, OGS posted a "Preferred Source Checklist & Guide to Prevailing Markets" on its website, indicating, "The lowest price same or equivalent service or commodity will be used to set Prevailing Market Price utilizing the order of preference of A through H." "NYS OGS Centralized Contracts" were listed as A in the order of preference. Our Office has been informed that the OGS Preferred Source team has recently requested a Preferred Source provider to lower its previously approved pricing, to comply with this newly issued policy concerning the method of determining prevailing market price.

This OGS policy and recent request appears to diverge from State Finance Law, the Preferred Source Guidelines as approved by the Procurement Council, and is also a major change from how OGS previously established Prevailing Market Price. Accordingly, as the New York State Comptroller's representative on the New York State Procurement Council, I am requesting clarification from OGS as follows:

- 1) Please explain how the newly issued policy related to determining prevailing market price for preferred source offerings differs from the previous OGS policy;
- 2) Please provide the justification, data and/or information used to inform the issuance of the policy;
- 3) Please explain OGS' rationale for why this change, that impacts the Procurement Council-approved Preferred Source Guidelines, would not have necessitated notification to the Procurement Council members by OGS, as well as an opportunity for review, input, and approval prior to its implementation;
- 4) Please provide the analysis that was conducted to determine if, and how, this change may impact the ability of businesses to continue employing to same extent, individuals with disabilities; and
- 5) Please explain the overall impact this change will have on the disabled individuals who participate in the Preferred Source Program.

I am sure you share my appreciation for the importance of the New York State Preferred Source Program and the impact it has on our disabled community members. Therefore, I look forward to OGS' prompt response to this matter.

Sincerely,



Melody Goetz
Deputy Comptroller
Division of Contracts and Expenditures

cc: Commissioner Jeanette Moy
Michelle Heaslip
Julissa Gutierrez
Elizabeth Lusskin
Lisa Brooks
Pamela Kulyniak
Jonathan Fanning
Elaine Blanchet
Paul Murray
Marc Kleinhenz
Marie Ullrich
Steven Kasarda
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Carra Wallace
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Jaclyn Brillling
Richard Mayfield