

From: Ernie Dodge <ernied@jmmurray.com>

Sent: Friday, May 30, 2025 2:08 PM

To: 'Anna Kelles' <kellesa@nyassembly.gov>; 'leawebb@nysenate.gov' <leawebb@nysenate.gov>

Subject: FW: OGS Preferred Source Pricing Policy Change

Importance: High

Good afternoon Assemblymember Kelles and Senator Webb:

Below was received earlier today from the New York State Industries for the Disabled (NYSID). JM Murray, like providers across NYS are members and are the subcontractors to NYSID for various commodities and service contracts held by NYSID to support jobs for individuals with disabilities. The formal policy change announced by OGS effectively kills the commodity sales and every hour of work held by individuals with disabilities that produce the commodities sold. At JM Murray every hour of this work is paid above the NYS minimum wage as we are in full compliance of Executive Order 40. This new policy change is in direct conflict with EO 40 and does nothing but eliminate work opportunities for individuals with disabilities.

The Preferred Source Program was created to provide work opportunities for individuals with disabilities in NYS. 100% of every paid hour of these commodity contracts by every provider in NYS is paid at or above the NYS minimum wage. The reality is no provider of commodities in NYS can compete with products produced from other states or countries that have far less wages or costs of doing business. We have neighboring states with much lower minimum wages. We can't compete with foreign countries costs of business.

We understand NYS's desire to cut costs but we are asking to consider the consequences of this action. To cut costs at the expense of jobs for individuals with disabilities can't be the solution. There has to be a better way.

I would be happy to discuss further at your convenience. Thank you for your valuable time, service and consideration of our concern.

Kind regards,

Ernie



Ernest Dodge
President / CEO
ernied@jmmurray.com
607-758-1904

823 NYS Route 13, Cortland, NY 13045

June 2, 2025

Dhanraj Singh
Chief Procurement Officer
New York State OGS
41st Floor Corning Tower Empire State Plaza
Albany, N.Y. 12242

Dear Dhanraj:

It was brought to our attention that OGS issued a "policy change/clarification" last week regarding the market price for the Preferred Source Program. The policy states that 'the lowest priced same or equivalent service or commodity will be used to set Prevailing Market Price.' As you know, centralized contracts bid through OGS continue to be the preferred method of comparison for market price for the Preferred Sources.

Any policy changes regarding procurement, particularly one of this magnitude with the significant ramifications that it may cause for the Preferred Sources, should have been discussed with the Procurement Council.

This is because the Council is charged with:

"SFL 1a. continuously striv(ing) to improve the state's procurement process.

h. Establish and, from time to time, amend guidelines for purchases of commodities, by the commissioner or state agencies. Such guidelines shall ensure the wise and prudent use of public money in the best interest of the taxpayers of the state; and guard against favoritism,

i. Establish and, from time to time, amend guidelines for the procurement of services ...in accordance with the provisions of this article. Such guidelines shall ensure the wise and prudent use of public money in the best interest of the taxpayers of the state; guard against favoritism, improvidence...; and ensure that service contracts are awarded on the basis of best value, ..."

In the February 2024 Preferred Source Guidelines market price was defined:

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. Section 3.2.2

To make this unilateral change without discussion with the Procurement Council is inconsistent with the Council's enabling legislation, particularly when this issue is addressed in the Preferred Source Guidelines.

We have seen much correspondence between OGS and the Preferred Sources and we fear the advancement of special social and economic goals is lost in the over-reaching of this program.

We respectfully request an immediate stay of the policy, the formation a working group, including the Preferred Sources, to garner input from them on OGS Preferred Source policies to ensure that OGS and

the Council are treating the Program fairly, and working in conjunction with the Governor's Employment First and model employer goals.

Sincerely,

Wini Schiff

Jaclyn A. Brillig

Procurement Council Members

CC: Jeanette Moy, Commissioner OGS
Kim Hill, Chief Disability Officer
Assembly Member John McDonald, Chair Governmental Operations
Assembly Member Angelo Santabarbara, Chair People with Disabilities
Senator James Skoufis, Chair Investigations and Government Operations
Senator Patricia Fahy, Chair People with Disabilities
Procurement Council



Center for
Disability Services

June 5, 2025

Dear Assembly Member McDonald,

As a Board Member of the New York State Industries for the Disabled (NYSID), and a provider of employment services to individuals with disabilities, I am writing to express my dismay and concern with the most recent "formal policy change" issued by the Office of General Services, involving items covered under the Preferred Source Program. By issuing this policy change, rather than the pre-established practice of Procurement Council advisement and approval, it removes any public notice, discussion, or comment period, on a policy that will absolutely impact employment for individuals with disabilities in the State of New York.

The policy change, which has lowest bids identified as market price on centralized contracts, opens the door for OGS to use loss leaders in bid comparisons with Preferred Source employers. NYSID Member Agencies under the Preferred Source Program do not have loss leaders, they have employment goals for a population of disabled individuals that are already loss leaders in terms of employment, with an unemployment rate of close to 70% in New York State.

The legislature created the Preferred Source language and purposely and did not define market price in the hopes that more individuals with disabilities could get to work. OGS's policy change clearly steps over the legislature's intent. One can only wonder why the policy was issued in the waning days of the 2025 legislative session.

This change holds the employers of individuals with disabilities through Preferred Source to a more burdensome pricing standard than any other entity doing business with New York State. This is patently discriminatory. Preferred Source providers create goods in services where nearly all of the materials, components and employment are based in New York State. Now, OGS wants these providers, that account for less than 2% of the total NYS procurement budget to compete with multinational companies.

Had OGS engaged the Procurement Council properly perhaps a fair discussion of the guidelines and an accounting for the accommodations necessary to allow the people supported under the Preferred Source Program would have taken place. Numerous reports, including most recently the Rockefeller Institute of Government, has proven that a level playing field for individuals with disabilities, creates jobs that are meaningful, productive, and saves New York dollars. I would also mention that this policy change is in direct conflict with the Governor's Employment First and Model Employer Initiatives.

There is no question that state policy should be reviewed as a matter of good government; however policy changes that are done in a vacuum, avoiding public disclosure and discussion, and impacting

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thousands of individuals, that are already at a tremendous disadvantage in the workforce, is not good practice, and is certainly in consideration to be discriminatory.

I would ask that you please review this policy change, and the process with which a far-reaching policy can be changed, without the oversight of the Procurement Council, and without the opportunity of organizations like the New York State Industries for the Disabled to comment on its merits and impact.

Sincerely,



Gregory J. Sorrentino

President and CEO CFDS and NYSID Board Member

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Randi L. Rios-Castro, MS
Executive Director/CEO
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June 6, 2025

Assemblyman Patrick J. Carroll
151 N. Main St. Suite 204
New City, NY 10956

Dear Assemblyman Carroll:

As you know, Governor Hochul and the New York State Legislature have made it a priority to ensure that people with disabilities are employed and are paid a living wage. Jawonio continues to make this goal a reality for the people with disabilities that we support through the Preferred Source Program. The program demonstrates the New York State commitment to equitable employment for people with disabilities. However, this program is now threatened along with the jobs that have been created.

I reach out to you as a Board Member at New York State Industries for Disabled, Inc. (NYSID); an employer of individuals with disabilities and a service provider of vocational and rehabilitative services for individuals with disabilities through OPWDD, OMH and OASES. I have significant concerns regarding NYS OGS's price review of the Preferred Source Program and strongly encourage the legislature to appoint a monitor to oversee that process.

The Preferred Source Program constitutes less than 2% of the total state procurement budget. OGS has implemented a variety of new policies and procedures that fall outside of their delegated authority through the NYS Finance Law.

Last week OGS issued a "policy change/clarification" in regard to market price for the Preferred Source Program. The policy is a market pricing checklist that now states that 'the lowest priced same or equivalent service or commodity will be used to set Prevailing Market Price.' Centralized contracts bid through OGS continue to be the preferred method of comparison for market price for the Preferred Sources.

If the lowest bid is market price, particularly with loss leaders on centralized contracts, this policy change effectively shuts Preferred Sources out of the market. The lowest price is not the Prevailing Market.

Rather, in the February 2024 bulletin issued by the NYS Procurement Council, the Preferred Source Guidelines prevailing market price is defined as "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." In essence, this change will require social enterprises that have social and economic employment goals and deliver products and services wholly in New York State to compete with multinational corporations.

A policy change of this magnitude, with the significant ramifications that it may cause for the Preferred Sources should have been discussed with the Procurement Council and would need to be a revision of the Preferred Source Guidelines. There was no public discussion of any kind regarding this change and when OGS was asked about this, the response was, "this update would not have been discussed or voted on by the Procurement Council because the Guide to Prevailing Markets is an OGS agency policy document."

Finally, OGS's actions are inapposite to the employment first and model employer principles espoused by the Governor and the Legislature, and do not embody the spirit of cooperation necessary to develop a meaningful Preferred Source Program. **This policy creates a higher bar for the Preferred Sources and the social enterprises that employ individuals with disabilities. It is patently discriminatory.** This surely was not the intent of the legislature in creating this program. Nowhere in the Preferred Source Law is it indicated that OGS shall develop a market pricing check list and decide the priority of that check list. Rather, the law's purpose states, "to advance special social and economic goals." I have reviewed correspondence between OGS and the Preferred Sources and frankly I fear the advancement of special social and economic goals is lost in the over-reaching operationalization of this program.

I respectfully request your assistance and ask that the legislature appoint a monitor to oversee OGS Preferred Source price review. I also ask for an immediate stay of this most recent policy and the formation a working group that includes the Preferred Sources' input on this and other OGS Preferred Source policies to ensure that the program is administered as the legislature intended.

Sincerely,



Randi Rios-Castro, CEO
Jawonio, Inc.

CC: Jeanette Moy, Commissioner OGS
Kim Hill, Chief Disability Officer
Assembly Member John McDonald, Chair Governmental Operations
Assembly Member Angelo Santabarbara, Chair, People with Disabilities
Senator James Skoufis, Chair Investigations and Government Operations
Senator Patricia Fahy, Chair People with Disabilities



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June 6, 2025

The Honorable Ari Brown
New York State Assembly District 20
525 Chestnut Street, Suite 212
Cedarhurst, NY 11516

Via Email: browna@nvassembly.gov

Dear Assemblymember Brown:

In each of your districts, significant NYS policy challenges have arisen that could undermine future employment opportunities for New Yorkers with disabilities, including the more than 4,000 people with developmental disabilities and families served by AHRC Nassau, Citizens Options Unlimited, and Brookville Center for Children's Services. As CEO of these agencies and a Board Member of New York State Industries for the Disabled, Inc. (NYSID)— an employer of people with disabilities as well as a provider of vocational and rehabilitative services through OPWDD, OMH, and OASES —I am requesting your leadership and support.

Alongside fellow NYSID Board Members, I have significant concerns regarding NYS OGS's price review of the Preferred Source Program and strongly encourage the legislature to appoint a monitor to oversee that process. The Preferred Source Program constitutes less than 2% of the total state procurement budget. OGS has implemented a variety of new policies and procedures that fall outside of their delegated authority through the NYS Finance Law.

Last week OGS issued a "policy change/clarification" in regards to market price for the Preferred Source Program. The policy is a market pricing checklist that now states that "the lowest priced same or equivalent service or commodity will be used to set Prevailing Market Price." Centralized contracts bid through OGS continue to be the preferred method of comparison for market price for the Preferred Sources.

If the lowest bid is market price, particularly with loss leaders on centralized contracts, this policy change effectively shuts Preferred Sources out of the market. Lowest price is not Prevailing Market.

Rather, in the February 2024 bulletin issued by the NYS Procurement Council, the Preferred Source Guidelines prevailing market price is defined as "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." In essence, this change will require social enterprises that have social and economic employment goals and deliver products and services wholly in New York State to compete with multinational corporations.



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Finally, OGS's actions are inapposite to the employment first and model employer principles espoused by the Governor and the Legislature, and do not embody the spirit of cooperation necessary to develop a meaningful Preferred Source Program. This policy creates a higher bar for the Preferred Sources and the social enterprises that employ individuals with disabilities. It is patently discriminatory.

This surely was not the intent of the legislature in creating this program. Nowhere in the Preferred Source Law is it indicated that OGS shall develop a market pricing check list and decide the priority of that check list. Rather, the law's purpose states, "to advance special social and economic goals." I have reviewed correspondence between OGS and the Preferred Sources and frankly I fear the advancement of special social and economic goals is lost in the over-reaching operationalization of this program.

I respectfully request your assistance and ask that the legislature appoint a monitor to oversee OGS Preferred Source price review. I also ask for an immediate stay of this most recent policy and the formation a working group that includes the Preferred Sources' input on this and other OGS Preferred Source policies to ensure that the program is administered as the legislature intended.

Sincerely,



Stanford J. Perry

CEO, AHRC Nassau | Citizens Options Unlimited | Brookville Center for Children's Services

CC: Jeanette Moy, Commissioner OGS
Kim Hill, Chief Disability Officer
Assembly Member John McDonald, Chair Governmental Operations
Assembly Member Angelo Santabarbara, Chair People with Disabilities
Senator James Skoufis, Chair Investigations and Government Operations
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June 12, 2025

Assemblyman Daniel Norber
44 South Bayles Avenue
Suite 200
Port Washington, NY 11050

Dear Assemblyman Norber,

As you know, Governor Hochul and the New York State Legislature have made it a priority to ensure that people with disabilities are employed and are paid a living wage. Spectrum Designs Foundation continues to make this goal a reality for the people with disabilities that we support through the Preferred Source Program. The program demonstrates the New York State commitment to equitable employment for people with disabilities. However, this program is now threatened along with the jobs that have been created. I reach out to you as Chairman of the Board at New York State Industries for Disabled, Inc. (NYSID); an employer of individuals with disabilities and a service provider of vocational and rehabilitative services for individuals with disabilities through OPWDD, OMH and OASES.

I have significant concerns regarding NYS OGS's price review of the Preferred Source Program and strongly encourage the legislature to appoint a monitor to oversee that process. The Preferred Source Program constitutes less than 2% of the total state procurement budget. OGS has implemented a variety of new policies and procedures that fall outside of their delegated authority through the NYS Finance Law.

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Patrick Bardsley
Co-Founder & CEO, Spectrum Designs Foundation