

New York State Procurement Council Meeting | Minutes of the Meeting

October 16, 2024 | 11:30 a.m.

Meeting Room 6 | North Concourse | Empire State Plaza | Albany, NY

Call to Order

Welcome and Introductions

Dhanraj Singh, New York State Office of General Services (“OGS”) Chief Procurement Officer (“CPO”) and Chair of the New York State Procurement Council (“Procurement Council”) as the designee of the Commissioner of General Services (“OGS”), called the meeting to order.

Mr. Singh opened the meeting and took attendance. He also welcomed two new Council members: Pamela Kulyniak with the Department of Corrections and Community Supervision (“DOCCS”), and Earl Thomason Jr. with Empire State Development (“ESD”).

Mr. Singh informed the Procurement Council that the meeting agenda had been updated to remove the Preferred Source Modernization Report, providing the Council members with more time to review the materials. Mr. Singh stated that there is a possibility of a Special Session to consider the report that was on the initial agenda.

Old Business

Meeting Minutes: Mr. Singh called for a motion to adopt the draft minutes of the August 14, 2024, meeting as presented. The motion to approve the minutes was made by Jonathan Fanning and seconded by Paul Murray. The Council approved the minutes unanimously.

Legislative Updates

Tyler Feane, OGS, reported:

There are a number of procurement related bills, and some passed both houses that OGS is continuing to monitor. Currently, there have not been any new ones delivered to the Governor for action. OGS expects that there may be additional legislation to report at the next Procurement Council Meeting.

Approval of Preferred Source Designation Applications Under OGS Standing Authority

David Keneston, OGS reported on:

Preferred Source Commodity Applications for New Offerings Approved Under OGS Standing Authority

Under OGS standing authority, OGS has not authorized any preferred source applications for new commodities since the last Procurement Council meeting on August 14, 2024.

New Applications

1. Starting with the NYSID Application for 8 ½ x 11 white copy paper 100% post-consumer recycled content in Zones 1, 2, and 3, OGS, as staff for 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.

The application submitted to OGS by NYSID was complete, contained specific product information, comparable pricing, material costs, labor costs, value added labor details, and sufficient information to confirm that the work being performed by Individuals with Disability adds value to, and will support the long-term employment of .183 Full-Time Employees (“FTEs”) within the disabled workforce at AVRE. NYSID estimated annual sales to their proposed commodity in Zones 1, 2, and 3, to be \$176,256. OGS reviewed the sales reports from our Centralized Contract for 100% recycled copy paper in Zones 1, 2, and 3, from March 2019 to February 2024, and identified average annual sales to Authorized Users of \$453,108.27. Additionally, OGS reports that on July 1st and October 1st, 2024, the OGS Centralized Contract price for the 100% post-consumer recycled contract for recycled 8 ½ x 11 white copy paper was revised following NYSID’s application submission.

On October 1st, 2024, the Centralized Contract prices per carton in Zones 1, 2, and 3 were \$53.77 for less than 40 cartons and \$52.41 for 40 to 600 cartons. NYSID’s proposed per carton price of \$57.60 is within 15% of prevailing market price for all volumes less than truckloads and is statutorily compliant. OGS has also confirmed that there are no services included in this application. A recommendation is that the addition of recycled 8 ½ x 11 white copy paper 100% post-consumer recycled content will provide New York State government purchasers in Zones 1, 2, and 3 with a preferred source option to meet their purchasing needs and will provide ongoing employment to .183 FTEs at AVRE. Based on the foregoing, OGS staff recommends that the Council approve NYSID application 2490C and designate Preferred Source Status to recycled 8 ½ x 11 white copy paper 100% post-consumer recycled content under the following conditions:

- a. NYSID shall adhere to the internal control plan approved by the New York State Procurement Council on August 14th, 2024, for application 2370C. For the Councils reference, a copy of the approved NYSID internal control plan was attached to our recommendation memo as attachment D; and
- b. For the next four (4) sessions, NYSID will provide sales reports to the Procurement Council proving that they haven’t sold to an unapproved zone following any approval of recycled 8 ½ x 11 white copy paper with 100% post-consumer recycled content in Zones 1, 2, and 3. and in response to requests made by OGS’s staff to the NYS Procurement Council; and

- c. At the fourth meeting after the approval of the copy paper, the Procurement Council shall vote on whether to remove or continue the conditions of its approval to grant preferred source designation to NYSID for sales of recycled 8 ½ x 11 white copy paper 100% post-consumer recycled content in Zones 1, 2, and 3.

Earl Thomason Jr. with ESD responded:

Regarding NYSID application 8.5 x 11 white copy paper 100% post-consumer recycled content Zones 1, 2, 3 following amended review and as detailed in our memo, ESD does not object to the sale of 100% recycled copy paper. The change in purchasing method for a Centralized Contract to a preferred source offering does not directly impact current businesses when considering the order of purchasing priority.

Mr. Singh opened the floor for discussion and there was none; therefore, he entertained a motion to adopt the recommendation outlined by OGS. A motion to adopt was made from Thomas Hippchen and seconded by Marc Kleinhenz. Application was unanimously adopted.

2. The second application was presented by NYSPSP for the Catch Master 72 MB Glue Boards 8 ½ x 5 ¼, 30 boards per case. OGS's staff to the Procurement Council confirmed the application meets the requirements of State Finance Law and the preferred source guidelines. The application submitted to OGS by NYSPSP was complete, contained specific product information, comparable pricing, materials costs, labor costs, value added labor details, and sufficient information to confirm that the work being performed by individuals who are blind or visually impaired adds value and will support the long-term employment of 0.133 FTEs within the blind workforce at VIA. NYSPSP estimated sales for Catch Master 72 MB Glue Boards to be \$6,966. OGS reviewed sales reports from the Centralized Contract for industrial commercial supplies and equipment. The Contract is a statewide contract, effective from May 2019 to March 2024, and OGS identified an average annual sale to Authorized Users of \$6,234.66 for Glue Boards. OGS confirmed that NYSPSP's proposed case price of \$13.93 is within 15% of prevailing market price and is statutorily compliant. OGS also confirmed that there are no services included in this application. OGS recommended to the Procurement Council that the addition of Catch Master 72 MB Glue Boards will provide New York State government purchases statewide with a preferred source option to meet their purchasing needs and will provide ongoing employment to the 0.133 FTEs at VIA. Based on the foregoing, staff recommended that the Procurement Council approve NYSPSP application 2501C and approve the preferred source status of the Catch Master Glue Boards.

Earl Thomason Jr with ESD replied:

Regarding New York State Preferred Source Program Application, Catch Master 72 MB Glue Boards 8.5 x 5 ¼, 30 boards per case, ESD objected due to the negative impact on New York State's small businesses. This recommendation aims to support these small businesses by helping them maintain their service offerings to New York State government entities.

Chair opened the floor for discussion and questions:

Jackie Brillig responded:

The objection that was noted by ESD is an apples to oranges objection. The proposal for the PSP is to consider is for the commodity, glue boards. The objection from ESD, is for a small business pest control service. The data that was proposed by ESD is a \$25,000 data purchase that was a onetime purchase, and it was 14 years ago. So, based on that, I would ask ESD to reconsider their objection.

Earl Thomason referred to his colleague, Gerardo Rodriguez.

Gerardo Rodriguez: So, _____ (not talking near mic) that Catch Master Glue Boards decisions are highly correlated with the pest control services. Because every time they do their job, they are going to do an initial assessment, and then they are going to decide whether a mouse trap or a glue board are going to needed to install for the pest control. So, we are voicing out those small businesses that say that their opportunities will be limited. _____ (not near mic).

Paul Murray responded:

Speaking on behalf of Office of Mental Health ("OMH"), Mr. Murray agreed with Jackie's assessment. There are a number of pest control contracts where OMH would be relying on the vendor to procure glue traps. They are not purchasing them separately from the pest control service provider, so he does see the correlation of the impact on the small businesses vs. the ability of agencies to purchase glue traps. He asked ESD to reconsider their position.

Thomas Hippchen responded:

Mr. Hippchen asked legal counsel and the Procurement Council members the question that if there is a separate service that would include an approved commodity, could they still buy the service? He believed that was what ESD was concerned about when completing their recommendation. His understanding, referencing to Paul's point, OMH does pest services, and glue boards may be a part of that service. However, they can still use those services. If they are going to go out and buy the boards separately, then you have to go to PSP for approval. He asked if his understanding of the approval process, and what the Procurement Council is committing the state to in terms of voting Yes, that they are not limiting any services that are procured, and may include these as part of the service.

Dhanraj Singh commented:

Mr. Hippchen wanted to clarify what the application is for, the commodity, which is the glue board, or whether the application is for the commodity and the services.

Thomas Hippchen responded:

Mr. Hippchen responded that he understood that it is just for the commodities. His question was, when they approve the proposed commodity as a preferred source item, are they somehow restricting services that agencies purchase, which may include the use of glue boards?

Tyler Feane responded:

Mr. Feane confirmed that Mr. Hippchen's understanding was correct, and the application is only for the commodity, so that doesn't impact how an agency purchases services.

Michelle Heaslip commented:

Ms. Heaslip asked for clarification whether it was the agency, or the small business that can offer a pest control service inclusive of them purchasing and providing the glue traps, even though they are on the preferred source list as a stand-alone commodity.

Tyler Feane responded:

It is each agency's form, function, utility determination when they make the purchase, but there is nothing preventing a small business from offering both.

Dhanraj Singh added:

Mr. Singh further clarified that the application that was before the Council for consideration, would not prevent an agency from procuring pest control services from a small business which may include the use of the said item that is on the application.

Carra Wallace questioned:

Ms. Wallace asked if the Procurement Council was stating that a small business that provides this service will need to buy the glue boards, or do they have the opportunity to buy them from NYSID if the price is lower than if they purchased from someplace else?

Dhanraj Singh responded:

If small businesses can, or must purchase the glue board from the preferred source, should the application be approved? Will the approval require, or allow small businesses to buy the commodity from the preferred sources?

Tyler Feane answered:

Small businesses would not be subject to the preferred source requirements in the State Finance Law. The law would only impact the state agencies. The small businesses, as private businesses, are free to procure their commodities however they want. This approval would not mandate the small businesses to do anything.

Shawn Cullinane motioned to table the application:

Because there were several questions from members of the Council, and the possibility that ESD would reconsider their recommendation, Mr. Cullinane motioned to table the application from consideration at this meeting.

Dhanraj Singh responded:

The comment from Shawn is, given the questions that are associated with this application, he is asking if the Council would consider holding the application for, you said a specific period of time, or hold it until ESD would have had a chance to respond to those questions?

Shawn Cullinane responded:

Give them an opportunity to review it and bring it up at the next meeting.

Dhanraj Singh responded:

That would be a decision that the Council would have to take.

Tyler Feane added:

The Council is free to vote on it despite ESD's recommendation, or to say that you want more time, and we'll consider it again at another time.

Shawn Cullinane responded:

If it's a motion that's required, I'll make that motion that this application be held for further review.

Dhanraj Singh responded:

There is a motion before the Council to hold this application and not consider it at this session. Mr. Singh asked if anybody had any thoughts or comments regarding the motion.

Michelle Heaslip questioned:

Ms. Heaslip asked if ESD wants to go back and _____ (not speaking loud enough) for discussion and reconsider?

Earl Thomason Jr responded:

Mr. Thomason stated that they were open to that.

Dhanraj Singh explained:

The question is whether ESD wants to take some time to go back and reconsider its analysis and recommendation, and the comment from ESD is that it's open to that. Any other questions or comments?

Marc Kleinhenz responded:

My suggestion would be that ESD _____ (not talking into mic).

Dhanraj Singh recognized Jaclyn Brilling:

Jaclyn Brilling responded:

She was confused as to where the Council was at, because her understanding was that OGS implied, based on their answers, that small businesses would not be impacted. This would be because they would be allowed to purchase the glue traps wherever they choose to, so the small businesses wouldn't be impacted. As a result, she asked why there was an objection.

Tyler Feane clarified:

Mr. Feane clarified that he did not mean that small businesses would not necessarily be impacted, but that they would not be subject to the preferred source requirements in the State Finance Law. It is ESD's role to assess the impact on small businesses, not OGS, and that small businesses are not subject to the same rules as the state agencies for purchasing from preferred sources.

Motion to hold application for discussion and review, and not vote on approval during the current meeting:

Shawn Cullinane motioned to hold the application, and not have the Council decide on approval of the application in this meeting. Earl Thomas Jr. seconded the motion. The motion was not approved. With 7 in favor, and 7 against.

Motion to Approve Application Catch Master 72 MB Glue Boards 8 ½ x 5 ¼, 30 boards per case:

Mr. Singh entertained a motion to vote on approval of the application. Shawn Cullinane wanted to clarify the Procurement Council voting rules. A motion to pass must receive approval by a majority of the total number of Procurement Council members, at least 11. Tyler Feane confirmed that was correct. Paul Murray motioned to approve the application, and Carra Wallace seconded the motion. The motion was passed with 12 ayes and 2 nays.

Guidelines

Tyler Feane reported:

There were no updates to report.

Open Council Discussion

Mr. Singh opened the floor for discussion.

Mr. Feane asked if he had heard that today is Tom Hippchen's last Procurement council meeting. Mr. Feane and Mr. Singh congratulated him on his retirement and thanked him for his service to the Procurement Council.

Mr. Rickards noted that February 12, 2025, is a holiday as this is the alternate date to the February 5, 2025, Procurement Council meeting. Mr. Singh said it was noted.

Next Meeting

The next meeting is February 5, 2025, and the alternate date is Wednesday, February 12, 2025.

Meeting Closure

The Chair welcomed a motion to close the meeting. Motion made by Marc Kleinhenz and seconded by Thomas Hippchen. Vote was unanimous.

Also, in Attendance

Tyler Feane - OGS

Brett Bush - OGS

Dave Keneston – OGS

Webcast Location

<https://ogs.ny.gov/event/nys-procurement-council-meeting-october-16-2024>

ATTENDANCE FOR THE NYS PROCUREMENT COUNCIL MEETING HELD OCTOBER 16, 2024				
ORGANIZATION	ROLE	NAME	IN ATTENDANCE	NOT IN ATTENDANCE
Office of General Services (OGS)	Council Chair	Dhanraj Singh	X	
Office of the State Comptroller (OSC)	Primary	Melody Goetz	X	
Division of the Budget (DOB)	Primary	Michelle Heaslip	X	
Office of Governor Kathy Hochul	Primary	Julissa Gutierrez		X
Office of Governor Kathy Hochul	Alternate 1	Priya Nair	X	
Empire State Development (ESD)	Primary	Elizabeth Lusskin		X
Empire State Development (ESD)	Alternate 1	Earl Thomason Jr.	X	
Department of Agriculture & Markets (Ag & Mkts)	Primary	Lisa Brooks		X
Department of Corrections & Community Supervision (DOCCS)	Primary	Pamela Kulyniak	X	
Department of Health (DOH)	Primary	Jonathan Fanning	X	
Information Technology Services (ITS)	Primary	Elaine Blanchet		X
Information Technology Services (ITS)	Alternate 1	Clinton Rickards	X	
Office of Mental Health (OMH)	Primary	Paul Murray	X	
Office for People with Developmental Disabilities (OPWDD)	Primary	Marc Kleinhenz	X	
State University of New York (SUNY)	Primary	Thomas Hippchen	X	
Village of Lindenhurst Business Improvement District Executive Board	Primary	Shawn Cullinane	X	
Optimized Diversity Solutions, LLC	Primary	Carra Wallace	X	
The Kasarda Law Group, LLC	Primary	Steven Kasarda		X
Interagency Council of Developmental Disability Agencies, Inc	Primary	Winifred Schiff		X
Jaclyn A. Brillling, Esq	Primary	Jaclyn A. Brillling	X	
Central Services Dutchess County	Primary	Richard Mayfield	X	

Total in Attendance 15

VOTE TO APPROVE THE MEETING MINUTES AT THE PROCUREMENT COUNCIL MEETING HELD AUGUST 14, 2024							
ORGANIZATION	ROLE	NAME	MOTION	2ND	AYE	NAY	ABSTAIN/ RECUSE
Office of the State Comptroller (OSC)	Primary	Melody Goetz			X		
Division of the Budget (DOB)	Primary	Michelle Heaslip			X		
Office of Governor Kathy Hochul	Alternate 1	Priya Nair			X		
Empire State Development (ESD)	Alternate 1	Earl Thomason Jr.			X		
Department of Corrections & Community Supervision (DOCCS)	Primary	Pamela Kulyniak			X		
Department of Health (DOH)	Primary	Jonathan Fanning	X		X		
Information Technology Services (ITS)	Primary	Clinton Rickards			X		
Office of Mental Health (OMH)	Primary	Paul Murray		X	X		
Office for People with Developmental Disabilities (OPWDD)	Primary	Marc Kleinhenz			X		
State University of New York (SUNY)	Primary	Thomas Hippchen			X		
Village of Lindenhurst Business Improvement District Executive Board	Primary	Shawn Cullinane			X		
Jaclyn A. Brillling, Esq	Primary	Jacqueline Brillling			X		
Optimized Diversity Solutions LLC	Primary	Carra Wallace			X		
Central Services Dutchess County	Primary	Richard Mayfield			X		
Office of General Services (OGS)	Council Chair	Dhanraj Singh					A
				Totals	14	0	1

VOTE TO APPROVE NYSID 8 ½ X 11 WHITE COPY PAPER 100% POST-CONSUMER RECYCLED CONTENTS IN ZONES 1, 2 & 3 AT THE PROCUREMENT COUNCIL MEETING HELD OCTOBER 16, 2024							
ORGANIZATION	ROLE	NAME	MOTION	2ND	AYE	NAY	ABSTAIN/RECUSE
Office of the State Comptroller (OSC)	Primary	Melody Goetz			X		
Division of the Budget (DOB)	Primary	Michelle Heaslip			X		
Office of Governor Kathy Hochul	Alternate 1	Priya Nair			X		
Empire State Development (ESD)	Alternate 1	Earl Thomason Jr.			X		
Department of Corrections & Community Supervision (DOCCS)	Primary	Pamela Kulyniak			X		
Department of Health (DOH)	Primary	Jonathan Fanning			X		
Information Technology Services (ITS)	Alternate 1	Clinton Rickards			X		
Office of Mental Health (OMH)	Primary	Paul Murray			X		
Office for People with Developmental Disabilities (OPWDD)	Primary	Marc Kleinhenz		X	X		
State University of New York (SUNY)	Primary	Thomas Hippchen	X		X		
Village of Lindenhurst Business Improvement District Executive Board	Primary	Shawn Cullinane			X		
Optimized Diversity Solutions LLC	Primary	Carra Wallace			X		
Jaclyn A. Brillling, Esq	Primary	Jacqueline Brillling			X		
Central Services Dutchess County	Primary	Richard Mayfield			X		
Office of General Services (OGS)	Council Chair	Dhanraj Singh					A
Totals					14	0	1

VOTE MOTION TO HOLD APPLICATION AND NOT CONSIDER NYSPSP CATCH MASTER 72 MB GLUE BOARDS 8 ½ X 5 ¼, 30 BOARDS PER CASE AT THE PROCUREMENT COUNCIL MEETING HELD OCTOBER 16, 2024							
ORGANIZATION	ROLE	NAME	MOTION	2ND	AYE	NAY	ABSTAIN/ RECUSE
Office of the State Comptroller (OSC)	Primary	Melody Goetz				X	
Division of the Budget (DOB)	Primary	Michelle Heaslip			X		
Office of Governor Kathy Hochul	Alternate 1	Priya Nair			X		
Empire State Development (ESD)	Alternate 1	Earl Thomason Jr.		X	X		
Department of Corrections & Community Supervision (DOCCS)	Primary	Pamela Kulyniak			X		
Department of Health (DOH)	Primary	Jonathan Fanning			X		
Information Technology Services (ITS)	Alternate 1	Clinton Rickards			X		
Office of Mental Health (OMH)	Primary	Paul Murray				X	
Office for People with Developmental Disabilities (OPWDD)	Primary	Marc Kleinhenz				X	
State University of New York (SUNY)	Primary	Thomas Hippchen				X	
Village of Lindenhurst Business Improvement District Executive Board	Primary	Shawn Cullinane	X		X		
Optimized Diversity Solutions LLC	Primary	Carra Wallace				X	
Jaclyn A. Brillling, Esq	Primary	Jacqueline Brillling				X	
Central Services Dutchess County	Primary	Richard Mayfield				X	
Office of General Services (OGS)	Council Chair	Dhanraj Singh					A
Totals					7	7	1

VOTE TO APPROVE NYSPSP CATCH MASTER 72 MB GLUE BOARDS 8 ½ X 5 ¼, 30 BOARDS PER CASE AT THE PROCUREMENT COUNCIL MEETING HELD OCTOBER 16, 2024								
ORGANIZATION	ROLE	NAME	MOTION	2ND	AYE	NAY	ABSTAIN/ RECUSE	
Office of the State Comptroller (OSC)	Primary	Melody Goetz			X			
Division of the Budget (DOB)	Primary	Michelle Heaslip			X			
Office of Governor Kathy Hochul	Alternate 1	Priya Nair			X			
Empire State Development (ESD)	Alternate 1	Earl Thomason Jr.				X		
Department of Corrections & Community Supervision (DOCCS)	Primary	Pamela Kulyniak			X			
Department of Health (DOH)	Primary	Jonathan Fanning			X			
Information Technology Services (ITS)	Alternate 1	Clinton Rickards			X			
Office of Mental Health (OMH)	Primary	Paul Murray	X		X			
Office for People with Developmental Disabilities (OPWDD)	Primary	Marc Kleinhenz			X			
State University of New York (SUNY)	Primary	Thomas Hippchen			X			
Village of Lindenhurst Business Improvement District Executive Board	Primary	Shawn Cullinane				X		
Optimized Diversity Solutions LLC	Primary	Carra Wallace		X	X			
Jaclyn A. Brillling, Esq	Primary	Jacqueline Brillling			X			
Central Services Dutchess County	Primary	Richard Mayfield			X			
Office of General Services (OGS)	Council Chair	Dhanraj Singh					A	
					Totals	12	2	1

VOTE TO APPROVE MEETING CLOSURE AT THE PROCUREMENT COUNCIL MEETING HELD OCTOBER 16, 2024							
ORGANIZATION	ROLE	NAME	MOTION	2ND	AYE	NAY	ABSTAIN/ RECUSE
Office of the State Comptroller (OSC)	Primary	Melody Goetz			X		
Division of the Budget (DOB)	Primary	Michelle Heaslip			X		
Office of Governor Kathy Hochul	Primary	Julissa Gutierrez			X		
Empire State Development (ESD)	Primary	Elizabeth Lusskin			X		
Department of Agriculture & Markets (Ag & Mkts)	Primary	Lisa Brooks			X		
Department of Corrections & Community Supervision (DOCCS)	Primary	Paul Guenette			X		
Department of Health (DOH)	Primary	Jonathan Fanning			X		
Information Technology Services (ITS)	Primary	Clinton Rickards			X		
Office of Mental Health (OMH)	Primary	Paul Murray			X		
Office for People with Developmental Disabilities (OPWDD)	Primary	Marc Kleinhenz	X				
State University of New York (SUNY)	Primary	Thomas Hippchen		X	X		
Village of Lindenhurst Business Improvement District Executive Board	Primary	Shawn Cullinane					
The Kasarda Law Group, LLC	Primary	Steven Kasarda			X		
Interagency Council of Developmental Disability Agencies, Inc	Primary	Winifred Schiff			X		
Jaclyn A. Brilling, Esq	Primary	Jacqueline Brilling		X	X		
Central Services Dutchess County	Primary	Richard Mayfield			X		
Office of General Services (OGS)	Council Chair	Dhanraj Singh					A
Totals					14	0	1