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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

BARRETT RUSSELL
DEPUTY COMMISSIONER
INFORMATION TECHNOLOGY
AND PROCUREMENT SERVICES

MEMORANDUM

February 9, 2006

TO: Procurement Council Members

FROM: Barrett Russell

SUBJECT: Minutes of the Meeting for January 19, 2006

Enclosed for your review are draft Minutes of the Procurement Council meeting of January 19.

If you have comments or suggested changes, or would like to propose agenda items for the next meeting, please contact Ginny Lazzaro at (518) 486-7323 or e-mail virginia.lazzaro@ogs.state.ny.us.

Enclosures

cc: D. Hogan
R. Fleury
R. Reed
A. Phillips
W. Bikowitz

**Minutes of the Meeting
NYS Procurement Council
January 19, 2006 – 10:00 am
Meeting Room 7
Convention Center, Empire State Plaza
Albany, NY**

- I. Call to Order.** Barrett Russell convened the meeting and introduced Susan Knapp of the Division of the Budget.
- II. Minutes of the Meeting June 9, 2005.** Mr. Russell called for a motion to adopt the draft minutes of the meeting held on September 29, 2005. Barabara Miller made the motion and Lucy Roberson seconded the motion to adopt the meeting minutes with the corrections as noted by the Office of the State Comptroller ([attachment 1](#)). Meeting minutes, with corrections, were accepted unanimously.
- III. Old Business**

Procurement Review

Michael Cassidy of the Albany Law School Government Law Center (GLC) addressed the Council describing 4 group sessions focusing on the procurement process. The sessions were conducted at the following locations.

October 14 – Harlem State Office Building

October 21 – Syracuse State Office Building

October 31 – Albany Convention Center, Empire State Plaza

November 7 – Albany Convention Center, Empire State Plaza

A total of 43 participants and 65 observers attended the focus groups.

Participants of the focus groups were asked to comment on six procurement topics:

- procurement thresholds;
- preferred sources, minority and women-owned business enterprises, small businesses and recycled and remanufactured products;
- state contract process;
- vendor responsibility;
- debriefing and dispute resolution; and
- the Procurement Stewardship Act.

The draft report The Procurement Stewardship Act Opportunities for Reform – Focus Group Report ([attachment 2](#)) elaborates on the main points of discussion from the various sessions. The draft report will be circulated to participants for feedback. A final report should be complete in a few weeks. Mr. Cassidy also stated that Council Member input would be considered in the development of the final report.

Joan Sullivan stated that although the report resulting from the focus groups contains useful anecdotal information it should not be used for the purpose of decision making. Ms. Sullivan stated that the efforts of the Office of the State Comptroller in producing its Procurement Reform proposal in April 2005 utilized input from over 350 participants compared with only 43 for the focus group sessions. Anne Phillips responded that the focus group activity was not intended to duplicate the review conducted by the Office of the State Comptroller. Ms. Phillips stated that recommendations made as a result of the focus group report are equally valid. Elliott Shaw noted that each member of the focus groups represented a larger constituency. He remarked that he participated at one of the groups and had brought to the session the representative concerns of the New York State business community. Larry Barker asked if there were substantial differences between the reports. Ms. Sullivan stated that the reports were very different, providing the example that OSC's review of the Procurement Stewardship Act was a broader review. Mr. Russell commented that every important topic of the Comptroller's report was addressed by the focus groups. He expressed surprise about the OSC reaction to the draft report.

Ms. Sullivan asked why recent letters between OSC and OGS and the GLC had not been shared with Council members. Ms. Phillips answered that it was preferred that Council members review the report without the distraction of the correspondence, but that the letters are available for Council information. Copies of the letters were distributed to Council members at the meeting ([attachment 3](#)).

Barbara Miller asked what the next step will be. Ms. Phillips answered that the next step is to prepare the final report. Ms. Miller asked if she would be able to comment on the report before it is finalized. Ms. Phillips stated that Council member comments are welcomed. Mr. Russell announced that the Council will meet on March 3 for the purpose of further discussion on this matter. Ms. Miller made a motion to have Council members provide their written comments to OGS on the focus group report in advance of the next meeting. Lucy Roberson seconded the motion. The motion was passed unanimously.

Larry Barker encouraged OGS and OSC to involve the Council. Council members have experience in the legislative process. A true spirit of commitment by the Council can be a valuable asset in the process.

Joan Sullivan made a motion that the OSC report ([attachment 4](#)) and proposed legislation ([attachment 5](#)) be circulated to Council members for review and comment. Lucy Roberson seconded the motion which was passed unanimously.

Ms. Roberson asked if the GLC could be asked to reconcile the two reports and provide a comparative analysis. Ms. Phillips stated that such a comparison will be requested.

IV. New Business

Legislative Activity

Ms. Phillips talked briefly about proposed 2006/07 Executive Budget Article VII Legislation ([attachment 6](#)) and shared copies with Council members. Ms. Phillips mentioned that there were some carry over bills with procurement implications. The bill to create additional Public Authority accountability was signed.

Ms. Phillips shared a presentation about the new restrictions with respect to Procurement Lobbying ([attachment 7](#)). Ms. Sullivan asked if inquiries about Procurement Lobbying can be referred to OGS. Ms. Phillips stated that inquiries could be directed to her attention. Ms. Phillips informed Council members that OGS Legal Services is conducting training. Guidance and FAQ's are available on the OGS website. A report of preliminary issues was done in December 2005, a follow up report will be prepared this year with the final report due in October 2007. Ms. Phillips encouraged agencies to discuss Procurement Lobbying within their agencies especially with their legal offices. The Lobbying Commission has conducted a hearing to elicit input from the vendor community. Mr. Russell remarked that EO 127 is still in effect. Ms. Phillips cautioned Council members that the starting point for EO127 is usually earlier than the restricted period starting point for Procurement Lobbying.

Barbara Miller stated that she learned about the Procurement Lobbying requirement at the end of December for procurements beginning on January 1. Shouldn't more notice have been given? Ms. Sullivan agreed that this is a common complaint among agencies and that OSC is working to assist agencies to achieve compliance. Ms. Phillips commented that the legislation charged the Temporary Commission on Lobbying with responsibility for distributing instruction for compliance. She also stated that procurements that were initiated before January 1, 2006 are not subject to the Procurement Lobbying provisions.

Ms. Phillips informed Council members that draft language which can be used as a model will be available on the OGS website soon.

Elliot Shaw raised a question about the exclusion from the provisions of the Procurement Lobbying Act for commission sales. Ms. Phillips stated that commission sales are exempted from the provisions of the Law but there are lengthy qualifications to meet the definition of "commission sales." Ms. Miller asked if NYSID is exempted. Ms. Phillips said they were not exempted and suggested that agencies direct questions about exemptions to OGS Legal Services for opinions on specific situations. Mr. Barker added that NYSID is working to obtain clarification on their exemption.

Report of Preferred Source Recommendations under OGS Standing Authority

Jerry Gerard informed the Council of applications that were approved by OGS under its standing authority since the Council meeting of Sept. 29 ([attachment 8](#)). OGS has approved applications for pregnancy and ovulation kits, mopping items, fire extinguishers and wall mounts, peroxide cleaner, and tyvek clothing. Ms. Miller asked if more detail for specific products could be provided with this report. Stewart Kidder made a motion that OGS provide additional summary detail in future reports and that reports be distributed in advance for review. Frank DiDomenico seconded the motion. The motion was passed unanimously.

Annual Report of Preferred Source approvals/denials

Walter Bikowitz presented a draft report of Preferred Source approvals and denials for calendar year 2005. Mr. Bikowitz stated that OGS will add an additional paragraph to the report detailing the number of price reviews conducted by the Office of General Services. Ms. Miller questioned the completeness of the report and recalled that the Council approved an application by NYSID for the provision of laundry services. Mr. Barker asked for an opportunity to review the report prior to its finalization. Robert Reed made a motion to approve the report with corrections as noted. Ms. Miller seconded the motion. The Council passed the motion unanimously.

NOTE: OGS review of records after the meeting showed that Laundry Services were approved in November of 2004 and were reported last year. The final letters were sent on January 31, 2006 ([attachment 9](#)).

There being no further business, the meeting was adjourned.

Attachments

Members in attendance:	Sharon Gariepy	Lucy Roberson
David Ahl	Stewart Kidder	Barrett Russell
Larry Barker	Barbara Miller	Elliott Shaw
Lynn Canton	Robert Pape	Paul Tucci
Frank DiDomenico	Robert Reed	

Members absent: Joseph Girven, Timothy Holt, John Pfeifer and Susan Zeronda.

Also in attendance: Walter Bikowitz, Michael Cassidy, Jerry Gerard, Susan Knapp, Anne Phillips and Joan Sullivan.

NYS PROCUREMENT COUNCIL - VOTING RECORD

Date: January 19, 2006

QUESTION, MOTION OR ISSUE: Minutes of Meeting September 29, 2005 as corrected.

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
COMMISSIONER OF GENERAL SERVICES Barrett Russell	X			
OFFICE OF THE STATE COMPTROLLER Lynn Canton	X			
DIRECTOR OF THE BUDGET Sharon Gariepy	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT David Ahl	X			
AGENCY REPRESENTATIVES:				
Thomas Lindberg – Ag. & Mkts. (Lucy Roberson)	X			
Stewart Kidder – Corrections	X			
Paul Tucci – SUNY	X			
Frank DiDomenico – OMR/DD	X			
Robert Reed – Health	X			
Susan Zeronda-OFT				X
Barbara Miller – OMH	X			
AT LARGE MEMBERS:				
Joseph Girven				X
Robert Pape	X			
John Pfeifer				X
Elliot Shaw	X			
Non-Voting Larry Barker Timothy Holt				

NYS PROCUREMENT COUNCIL - VOTING RECORD

Date: January 19, 2006

QUESTION, MOTION OR ISSUE: Motion for distribution of Procurement Review material including OSC report and legislative proposal for discussion at March 3 meeting.

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
COMMISSIONER OF GENERAL SERVICES Barrett Russell	X			
OFFICE OF THE STATE COMPTROLLER Lynn Canton	X			
DIRECTOR OF THE BUDGET Sharon Gariepy	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT David Ahl	X			
AGENCY REPRESENTATIVES:				
Thomas Lindberg – Ag. & Mkts. (Lucy Roberson)	X			
Stewart Kidder – Corrections	X			
Paul Tucci – SUNY	X			
Frank DiDomenico – OMR/DD	X			
Robert Reed – Health	X			
Susan Zeronda-OFT				X
Barbara Miller – OMH	X			
AT LARGE MEMBERS:				
Joseph Girven				X
Robert Pape	X			
John Pfeifer				X
Elliot Shaw	X			
Non-Voting Larry Barker Timothy Holt				

NYS PROCUREMENT COUNCIL - VOTING RECORD

Date: January 19, 2006

QUESTION, MOTION OR ISSUE: Motion for OGS to distribute detailed summary information for Preferred Source approvals made under the OGS delegated authority.

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
COMMISSIONER OF GENERAL SERVICES Barrett Russell	X			
OFFICE OF THE STATE COMPTROLLER Lynn Canton	X			
DIRECTOR OF THE BUDGET Sharon Gariepy	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT David Ahl	X			
AGENCY REPRESENTATIVES:				
Thomas Lindberg – Ag. & Mkts. (Lucy Roberson)	X			
Stewart Kidder – Corrections	X			
Paul Tucci – SUNY	X			
Frank DiDomenico – OMR/DD	X			
Robert Reed – Health	X			
Susan Zeronda-OFT				X
Barbara Miller – OMH	X			
AT LARGE MEMBERS:				
Joseph Girven				X
Robert Pape	X			
John Pfeifer				X
Elliot Shaw	X			
Non-Voting Larry Barker Timothy Holt				

NYS PROCUREMENT COUNCIL - VOTING RECORD

Date: January 19, 2006

QUESTION, MOTION OR ISSUE: Motion to approve the report of Preferred Source approvals/denials for calendar year 2005 after review by NYSID.

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
COMMISSIONER OF GENERAL SERVICES Barrett Russell	X			
OFFICE OF THE STATE COMPTROLLER Lynn Canton	X			
DIRECTOR OF THE BUDGET Sharon Gariepy	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT David Ahl	X			
AGENCY REPRESENTATIVES:				
Thomas Lindberg – Ag. & Mkts. (Lucy Roberson)	X			
Stewart Kidder – Corrections	X			
Paul Tucci – SUNY	X			
Frank DiDomenico – OMR/DD	X			
Robert Reed – Health	X			
Susan Zeronda-OFT				X
Barbara Miller – OMH	X			
AT LARGE MEMBERS:				
Joseph Girven				X
Robert Pape	X			
John Pfeifer				X
Elliot Shaw	X			
Non-Voting Larry Barker Timothy Holt				