

New York State Advisory Council on Procurement Lobbying

2011 Annual Report

November, 2011

In accordance with requirements of Legislative Law §§1-t(d) and (f)(2), the New York State Advisory Council on Procurement Lobbying (the “Council”) submits the following annual report to the Governor and Honorable Members of the Legislature. This report discusses the Council’s activities during 2011, including an update to the List of Non-Responsible Bidders, outreach conducted by the Council and membership updates.

The Council, established pursuant to §1-t of the Legislative Law, is an eleven member body, comprised of representatives from state agencies, authorities and public benefit corporations, the legislature, local government, the judiciary, the City of New York and the contracting community. The Council is responsible for examining the effects of Chapter 1 of the Laws of 2005, as amended, (the “Law”) and providing guidance to Governmental Entities and the Vendor/business community. In an effort to meet these responsibilities, the Council makes available model guidelines and Frequently Asked Questions to assist covered Governmental Entities and the Vendor/business community in their efforts to comply with the provisions of State

Finance Law §§139-j and 139-k on the Council webpage located on the New York State Office of General Services (the “OGS”) website¹.

The Council was also responsible for providing advice to the Ethics Commission and its successor, the Commission on Public Integrity (the “Commission”) regarding procurement lobbying, while the Commission retained full responsibility for the interpretation, administration and enforcement of the Lobbying Act (see Legislative Law §1-t (c) and §1-t (d)). Chapter 399 of the Laws of 2011, enacted on August 15, 2011, replaced the Commission with the Joint Commission on Public Ethics (the “Joint Commission”), and the Joint Commission is expected to be operational in December 2011. The Council looks forward to working with the Joint Commission.

2011 COUNCIL ACTIVITIES

Membership Update

The Council continues to have membership changes and vacancies. In August 2011, Michael S. Ostrander replaced Richard P. Jacobson as the Senate’s representative. Also, in November 2011, Jo Anne W. Di Stefano replaced Thomas D. Perreault as the Department of Transportation’s representative. The Assembly still needs to appoint a representative.

Update to the List of Non-Responsible Bidders

Pursuant to State Finance Law §139-j which governs procurement lobbying, OGS maintains a list of offerers determined to be non-responsible bidders due to a violation of such

¹ <http://www.ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.asp>

law. Offerers are maintained on such list for four (4) years from the date of the determination. Hewlett-Packard was placed on the list on March 7, 2007 and removed from the list effective March 7, 2011.

Outreach and Training Conducted by the Council

The Council provided trainings on the Law at the New York Information Forum's IT Procurement Day and at the Twelfth Annual Purchasing Forum sponsored by the Office of the State Comptroller and OGS. In addition, Anne Phillips, Chair of the Council, Howard Zwickel, Deputy Commissioner and General Counsel of OGS and other OGS staff presented a CLE on ethics and procurement lobbying on July 21, 2011, as part of the Attorney General's CLE program and presented a procurement lobbying training to staff in the Governor's office.

The Council posts PowerPoint presentations from some of its training sessions on its website², in an effort to increase the availability of training information to the public. The PowerPoint presentations and/or webcasts of presentations from the State Purchasing Forum can also be found on the website³. Anyone who would like to schedule a training session should contact the Council.

After the enactment of the 2010 amendments to the Law, the Council completed extensive updates to the Frequently Asked Questions and the guidance it provides to those subject to the Law's requirements. Once that process was completed, the Council determined that it only had limited matters to address that did not require immediate attention. The Council does not have statutory meeting requirements, and therefore, in an effort to save money and resources the Council chose not to meet until the fall of 2011.

² <http://www.ogs.ny.gov/aboutogs/regulations/advisoryCouncil/TrainingandOpportunities.html>

³ <http://www.ogs.ny.gov/purchase/snt/overviews/SPFpps.asp>

Conclusion

The Council continued to provide guidance on procurement lobbying in 2011. Despite limiting its meetings in an effort to conserve resources, the Council provided a number of training programs and OGS, as secretariat for the Council, answered numerous questions about the Law throughout the year.