

MEMORANDUM

March 25, 2008

TO: Procurement Council Members

FROM: Carla Chiaro

SUBJECT: Minutes of the Meeting for February 14, 2008

Enclosed for your information are the draft Minutes of the Procurement Council meeting of February 14, 2008.

If you have comments or suggested changes, or would like to propose agenda items for the next meeting, please contact Jennifer Stafford at (518) 402-5846 or e-mail jennifer.stafford@ogs.state.ny.us.

Enclosures

cc: H. Zwickel
A. Phillips
C. Chiaro
J. Gerard

**Minutes of the Meeting
NYS Procurement Council
February 14, 2008, 1:00pm
NY Network Studios
South Concourse
Empire State Plaza
Albany, NY**

I. Call to Order.

Carla Chiaro convened the meeting and introduced Robert Coyner from the Office of Mental Retardation and Developmental Disabilities (OMR/DD), Amy Schoch from Empire State Development (ESD), and Rico Singleton from the Office for Technology (OFT).

II. Minutes of the October 25, 2007 Meeting.

Ms. Chiaro called for a motion to adopt the draft minutes of the meeting of October 25, 2007. The motion was made by Leon Aronowitz, and seconded by James Haggerty. The motion passed unanimously.

III. Old Business.

Procurement Council Guidelines Workgroup Report

Monica Wilkes informed the Council that the final Discretionary Purchasing Guidelines are now posted to the OGS website. The IFB and RFP Subcommittees have received excellent input from other agencies and the Preferred Sources, and have the goals of creating documents that are more user friendly and in compliance with the guidelines.

Subcommittee to Review the List of Preferred Source Offerings Report

Jerry Gerard asked for a motion to approve the removal of items as proposed by the Office of Mental Health (OMH) ([Attachment #1](#)). A motion was made by Richard Healey and seconded by Mr. Aronowitz. The motion passed. Mr. Gerard discussed Phase II of this workgroup (to improve categories, consistency, and better access) and reported that progress is being made to improve agencies' ability to utilize the document.

IV. New Business.

Executive Committee.

Ms. Chiaro announced a cooperative effort by the Office of General Services (OGS), OFT, and the Division of the Budget (DOB), specifically Rico Singleton, Susan Knapp, and Melody Mayberry-Stewart, to examine Intent to Purchase (ITP) and Annual Technology Plan (ATP) reports and identify aggregate purchasing opportunities.

Ms. Knapp discussed legislation ([Attachment #2](#)) that proposes to expand the Procurement Council's role in modernizing how procurement is done by State agencies. The proposal calls for expansion of the membership to include the Office of Court Administration and language indicating that this is a policy making body.

This is taking place now because the Procurement Stewardship Act is expiring. There is a new CIO, and several years of experience with Aggregate buy spearheaded by OGS. A shift in use of OGS contracts has occurred; state agency initiatives account for less use than previously and local government agencies are utilizing more. OGS, OFT, and DOB are working to reach consensus on how to do things in a more consolidated fashion; this is expected to result in increased opportunities for savings.

Ms. Phillips discussed the history of the Procurement Stewardship Act over the last 13 years. There have been some issues to arise with this law, some changes that need to be made, and also it is the hope that a provision can be made to make the law permanent. The opportunity is always available to go back and re-examine the law. Efforts have been made to make some aspects of Section 163, Section 112, and the Economic Development Law with regard to the New York State Contract Reporter more consistent. Work is also taking place with Agriculture and Markets to have the law reflect how we're currently doing business and to identify New York State Food Products. There are references to Environmental Conservation laws that don't exist and a program that has since gone out of business. In all there were 19 proposed amendments.

David Demarco requested a summary of all proposed changes. Ms. Phillips agreed to provide a document describing proposed changes.

Report of Preferred Source Recommendations Under OGS Standing Authority.

Mr. Gerard provided a report of Preferred Source offerings approved under OGS authority since the last Council meeting ([Attachment 3](#)).

NYSID Application – Duty Boots.

Andy Grosso requested that the Council approve an application by New York State Industries for the Disabled for the provision of Tactical Duty Boots ([Attachment 4](#)). Other companies were surveyed with regards to their national reputation, return policy, replacement policy, and a variety of other characteristics. In terms of pricing, Galls was selected. This is not a work shoe; it is a very specialized, niche market. These Tactical Duty Boots can also be utilized by police agencies, military agencies, and others.

Sandra Pettinato asked what a Tactical Duty Boot is versus a work boot. Mr. Grosso answered that the construction of the sole for a Tactical Duty Boot is strong and flexible, made of leather materials, is breathable, waterproof, and more durable than a work boot.

Mr. Aronowitz asked if each officer gets one pair of Tactical Duty Boots, are they worn only in certain circumstances, and if they need more than one pair, who funds that?

Stewart Kidder responded with some history – Department of Correctional Services (DOCS) has never supplied footwear to their employees before, however the Union (NYSCOBA) put a line item in their budget for a one time appropriation of \$1 Million for these boots. This will not happen again unless NYSCOBA is successful in lobbying for and receiving another appropriation. There are no restrictions on these boots; they can be worn at any time,

however they're primarily to be worn on the job. The boots are part of the uniform and are to be worn all the time on the job. The \$1 Million will purchase 1 pair of boots for each corrections officer.

Mr. Aronowitz asked if this would be a one time opportunity for NYSID in terms of packing and shipping the boxes. Mr. Kidder said that is correct.

Nancy Fisher said that although this is a one time opportunity for NYSID for the provision of these boots to corrections officers, these boots become a required item to agencies required to use the Preferred Sources. Right now there's a large number of New York State small businesses that enjoy providing uniform needs to various law enforcement and other agencies that receive uniform allowances for these items. It may be perceived as a requirement, but in reality there is a greater obligation for agencies to utilize NYSID.

Tim Holt confirmed that if approved, purchase from Preferred Sources will be required for counties across New York State. In many other counties there may be actual bids in place for these items.

Mr. Grosso said that this offering at first was meant to be available to only one agency, but single agency approval is not possible, so it can be made available to others should they choose to participate.

Mr. Aronowitz asked if it would be fair to say that this is an offering based on a one time appropriation by NYSCOBAs for Corrections, but other agencies can use it, so really this one purchase is separate compared to the entire scope of the offering. Mr. Grosso said this purchase initiated this particular submission.

Mr. DeMarco asked where this item would be listed; and can this be added to the list that is targeted to particular agencies. Mr. Gerard said that the statute did not have a provision to add items to the list targeted for individual agencies. In order for an item to be added to the list of Preferred Source Offerings, it must be available to multiple agencies. If approved, this item will be a Statewide offering, and agencies requiring this particular kind of boot will be required to consider the NYSID offering and make a Form, Function, and Utility determination.

Mr. Aronowitz asked if Galls retained the exclusivity to be able to market this particular boot to NYSID for the packaging, and if so, will it place others at a disadvantage. Mr. Gerard said it could be viewed that way, however there is nothing in Section 162 that requires the Office of General Services to follow any particular process with regard to who they select as their supplier for their raw materials or their supply chain.

Tim Holt said that Galls is recognized as an excellent vendor. They produce a quality boot, quality goods, and the price in this proposal looks great. But choice is being eliminated.

Mr. Grosso said that if these boots do not meet the customers' form, function, and utility, they can go to other sources to make their purchase.

Mr. Holt said that if there are two brands of boots, both match the purchaser's form, function, and utility, and the other item is not the Gall's item, but is a lower price, that option is eliminated.

Ron Romano, CFO, NYSID said that this is a great opportunity for local communities because of how competitive the price is.

Ms. Fisher said that the documentation states that pricing relates to sales that go above \$1 Million. Does this relate to subsequent sales as well? And also, what is the alternative for the Department of Corrections (DOCS) in this arrangement? Does the DOCS have to go out and conduct an open competitive bid for these boots, or is it a Union item? Mr. Kidder said that if this is not approved as a Preferred Source item, they have to follow procurement rules and use the competitive bidding process.

Mr. DeMarco asked if OGS has any idea about the impact on other agencies, for example the New York State Police (NYSP), and the State University of New York (SUNY). Mr. Gerard said OGS is required to review the application for cost and market comparison, however, in terms of the implications to current contracts or supply chains, OGS doesn't typically gather that information. If the offering gets approved, it immediately gets preference over other purchasing options.

Monica Wilkes asked if there are there availability concerns if municipalities, etc. purchase in addition to DOCS. Mr. Grosso said Gall's advantage is the availability of significant stock and sizing; they have their own warehouse and distribution center. Field individuals get involved with the boot if someone has a problem with fitting.

Ms. Chiaro asked for a motion to approve the application for Tactical Duty Boots as presented by NYSID. The motion was made by Mr. Haggerty and seconded by Mr. Kidder. The application was defeated by a vote of 6 in favor, 7 opposed, 1 member abstaining, and 2 members absent.

Ms. Chiaro said that NYSID can appeal the Council's decision regarding the application for Duty Boots to the Commissioner.

V. Open Council.

Ms. Chiaro discussed the Business Process Improvement program by the OGS Procurement Services Group (PSG); a consulting group called Smart Consultants has been hired to review PSG processes. They began the process two weeks ago. They will be reviewing NYS procurement processes. The results of the study are expected in 6 months and will be shared with Council members. She invited Council members to participate in the process, if interested.

VI. Closure.

There being no further business, the meeting was adjourned.

Attachments

Members in attendance on February 14, 2008:

Leon Aronowitz
Charlotte Breeyear
Carla Chiaro
Robert Coyner
David DeMarco

James Haggerty
Richard Healey
Timothy Holt
Stewart Kidder
Susan Knapp

Sandra Pettinato
Amy Schoch
Mindy Scott
Rico Singleton

Members Absent:

Larry Barker
Walter Edwards

George Oros
Robert Pape

Also in Attendance:

Nancy Fisher
Jerry Gerard

Andy Grosso
Anne Phillips

Ron Romano
Monica Wilkes

**NYS PROCUREMENT COUNCIL
VOTING RECORD**

Date: **February 14, 2008**

QUESTION, MOTION OR ISSUE: **Motion to approve the minutes from the October 25, 2007 meeting.**

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
COMMISSIONER OF GENERAL SERVICES Carla Chiaro			x	
OFFICE OF THE STATE COMPTROLLER John Moriarty (Charlotte Breeyear)	x			
DIRECTOR OF THE BUDGET Susan Knapp	x			
COMMISSIONER OF ECONOMIC DEVELOPMENT Amy Schoch	x			
AGENCY REPRESENTATIVES:				
Lucy Roberson – Ag. & Mkts. (Mindy Scott)	x			
Stewart Kidder – Corrections	x			
David Demarco – SUNY	x			
Frank DiDomenico – OMR/DD (Robert Coyner)	x			
Sandra Pettinato – DOH (Marybeth Hefner)	x			
Rico Singleton – OFT	x			
Barbara Miller – OMH (Leon Aronowitz)	x			
AT LARGE MEMBERS:				
Walter Edwards				x
James Haggerty	x			
Richard Healey	x			
Timothy Holt	x			
Robert Pape				x

**NYS PROCUREMENT COUNCIL
VOTING RECORD**

Date: **February 14, 2008**

QUESTION, MOTION OR ISSUE: **Motion to approve the removal of the items in the letter submitted by OMH from the List of Preferred Source Offerings.**

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
COMMISSIONER OF GENERAL SERVICES Carla Chiaro			x	
OFFICE OF THE STATE COMPTROLLER John Moriarty (Charlotte Breeyear)	x			
DIRECTOR OF THE BUDGET Susan Knapp	x			
COMMISSIONER OF ECONOMIC DEVELOPMENT Amy Schoch	x			
AGENCY REPRESENTATIVES:				
Lucy Roberson – Ag. & Mkts. (Mindy Scott)	x			
Stewart Kidder – Corrections	x			
David Demarco – SUNY	x			
Frank DiDomenico – OMR/DD (Robert Coyner)	x			
Sandra Pettinato – DOH (Marybeth Hefner)	x			
Rico Singleton – OFT	x			
Barbara Miller – OMH (Leon Aronowitz)	x			
AT LARGE MEMBERS:				
Walter Edwards				x
James Haggerty	x			
Richard Healey	x			
Timothy Holt	x			
Robert Pape				x

**NYS PROCUREMENT COUNCIL
VOTING RECORD**

Date: **February 14, 2008**

QUESTION, MOTION OR ISSUE:

Motion to approve addition of Duty Boots to the List of Preferred Source items for the New York State Industries for the Disabled.

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
COMMISSIONER OF GENERAL SERVICES Carla Chiaro			x	
OFFICE OF THE STATE COMPTROLLER John Moriarty (Charlotte Breeyear)	x			
DIRECTOR OF THE BUDGET Susan Knapp		x		
COMMISSIONER OF ECONOMIC DEVELOPMENT Amy Schoch		x		
AGENCY REPRESENTATIVES:				
Lucy Roberson – Ag. & Mkts. (Mindy Scott)		x		
Stewart Kidder – Corrections	x			
David Demarco – SUNY		x		
Frank DiDomenico – OMR/DD (Robert Coyner)	x			
Sandra Pettinato – DOH (Marybeth Hefner)		x		
Rico Singleton – OFT		x		
Barbara Miller – OMH (Leon Aronowitz)	x			
AT LARGE MEMBERS:				
Walter Edwards				x
James Haggerty	x			
Richard Healey	x			
Timothy Holt		x		
Robert Pape				x