



DANIEL D. HOGAN
COMMISSIONER

ROBERT J. FLEURY
FIRST DEPUTY COMMISSIONER

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

June 20, 2005

TO: Procurement Council Members

FROM: Barrett Russell

SUBJECT: Minutes of the Meeting for June 9, 2005

Enclosed for your review are draft Minutes of the Procurement Council meeting of June 9. The next meeting is tentatively scheduled for Thursday, September 29, 2005.

If you have comments or suggested changes, or would like to propose agenda items for the September 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
June 9, 2005 - 9:30 am
Meeting Room 7
Convention Center, Empire State Plaza
Albany, NY**

- I. **Call to Order.** Barrett Russell convened the meeting.
- II. **Minutes of the Meeting April 6, 2005.** Mr. Russell called for a motion to adopt the draft minutes of the meeting dated April 11, 2005. Meeting minutes were accepted unanimously.
- III. **Old Business**

Adoption of revision to Appendix A to include Sales Tax Certification language

Anne Phillips presented to the Council a draft adding a new clause 23 to the OGS version of Appendix A - standard clauses for all NYS contracts ([attachment 1](#)). The draft had been developed by the sales tax certification workgroup. Concern was expressed that the specific reference to "...contracts let under Article 11..." might be confusing to contractors whose contracts are not let under Article 11 but are still subject to sales tax certification requirements. A motion was made by Susan Zeronda and seconded by Robert Reed to adopt the revision with modified language and a preamble to be drafted by OGS and OSC subject to concurrence by the Tax Department. The motion was passed unanimously.

Standard Vendor Responsibility Questionnaire (SVRQ)

Noreen Van Doreen presented for Council endorsement the use of Council of Contracting Agencies (CCA) Standard Vendor Responsibility Questionnaire (SVRQ) ([attachment 2](#)) and to replace the NYS Procurement Bulletin - Best Practices - Determining Vendor Responsibility questionnaires on the OGS website dated 1999. A motion was made by Joan Sullivan to so adopt and was seconded by Lucy Roberson. It was approved unanimously by the Council.

After the Procurement Council voted to adopt the SVRQ, an error in the certification language was pointed out to OGS, necessitating a technical correction of the SVRQ. The certification language at issue is: "It is further acknowledged that intentional submission of false or misleading information may constitute a felony under Penal Law Section 210.40..."

This section of the Penal Law is only applicable when the document is required by statute or regulation to be sworn to under oath. While having the vendor certify the accuracy of the questionnaire under oath, was based upon

the recommendation of OSC, without a statute or regulation which requires this document be sworn to under oath, failure to do so would not constitute a felony. OGS has therefore changed the language of the certification from “.. may constitute a felony under Penal Law Section 210.40 or a misdemeanor under Penal Law Section 210.35 or Section 210.45...” to “... may constitute a felony under Penal Law Section 175.35 or may constitute a misdemeanor under Penal Law Sections 175.30, 210.35 or 210.45...”. All other aspects of the SVRQ remain the same.

IV. New Business

Procurement Review

OGS Executive Deputy Commissioner, Bob Fleury, made a presentation to the Council on behalf of OGS Commissioner Hogan seeking Council members’ commitment to join OGS in an initiative to gather information relative to the extension of the Procurement Stewardship Act (PSA). He advised that letters will soon be sent to Council members inviting them to participate in the information gathering process and he noted that conversations with the Office of the State Comptroller had taken place and OSC is conceptually supportive of this idea. OGS envisions using the services of a consultant moderator to ensure objectivity in the information gathering endeavor. Activities will include identification of stakeholders, conducting focus groups and public gatherings to elicit input. Results of these sessions will be brought to the Council for possible action to improve the procurement process in New York State.

Mr. Fleury asked the Council to adopt a resolution calling for public review of the Procurement Stewardship Act. After discussion agreement was reached on three points: (1) add a reference in the resolution to the Procurement Council’s charge of improving procurement since by doing this it was felt that it would broaden the scope of the resolution to address other than SFL § 163 in the fifth “Whereas”, (2) add the Comptroller of the State of New York in addition to the Commissioner of OGS and (3) add “...bidding statutes and public procurement...” to the “Resolved” section to also broaden the scope of the resolution. A motion was by Barbara Milano and seconded by Stewart Kidder to adopt the revised resolution ([attachment 3](#)). The Council voted unanimously to adopt the resolution.

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 April 6 ([attachment 4](#)).

Preferred Source Applications

Electronics Recycling: ([attachment 5](#))

Larry Barker stated that since the last Council meeting OGS and NYSID have worked together to address concerns that were raised at the April 6 meeting. The major concern about electronics recycling services was the issue of revenue generated by sales of electronic equipment to NYSID corporate partners. The resolution to this issue was the elimination of revenue generating transactions under this program. The application was approved unanimously by the Council.

Other Council Discussion

Susan Zeronda announced that the CIO in conjunction with the NYS Forum Procurement Subcommittee will be sponsoring a statewide training/education seminar on the federal regulatory legislation known as “Sarbanes-Oxley”. As background for that presentation, the CIO will be soliciting the input of Council members and their agencies to help identify vendors who have raised issues related to this in the context of contract negotiations in the wake of the Sarbanes-Oxley (SARBOX). A survey from the NYS Forum Fiscal Sub-Committee for Statewide Training will be sent to Council members next month. Council input and participation would be appreciated.

There being no further business, the meeting was adjourned.

VI. Next Council Meeting tentatively scheduled for September 29, 2005

Attachments

In attendance:	Timothy Holt	Barrett Russell
Larry Barker	Barbara Milano	Joan Sullivan
Frank DiDomenico	Barbara Miller	Paul Tucci
Eileen Germain	Robert Reed	Susan Zeronda
Stewart Kidder	Lucy Roberson	

Members absent: Lester Cornelius, Steven Ennis, Joseph Girven, Robert Pape, John Pfeifer, and Elliot Shaw.

**NYS PROCUREMENT COUNCIL
VOTING RECORD**

Date: June 9, 2005

QUESTION, MOTION OR ISSUE: Motion to adopt minutes of the April 6 Council Meeting

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
OFFICE OF THE STATE COMPTROLLER Lynn Canton (Joan Sullivan)	X			
DIRECTOR OF THE BUDGET Sharon Gariepy (Barbara Milano)	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT Jeffrey Boyce (Eileen Germain)	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: Lester Cornelius				X
Steven Ennis				X
Joseph Girven				X
Robert Pape				X
John Pfeifer				X
Elliot Shaw				X
Non-Voting Larry Barker Timothy Holt				
COMMISSIONER OF GENERAL SERVICES Barrett Russell	X			

NYS PROCUREMENT COUNCIL - VOTING RECORD

Date: June 9, 2005

QUESTION, MOTION OR ISSUE: Motion to adopt clause 23 for Appendix A as presented to the Council including preamble language to be drafted by OGS and OSC with concurrence by the Tax Dept.

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
OFFICE OF THE STATE COMPTROLLER Lynn Canton (Joan Sullivan)	X			
DIRECTOR OF THE BUDGET Sharon Gariepy (Barbara Milano)	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT Jeffrey Boyce (Eileen Germain)	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: Lester Cornelius				X
Steven Ennis				X
Joseph Girven				X
Robert Pape				X
John Pfeifer				X
Elliot Shaw				X
Non-Voting Larry Barker Timothy Holt				
COMMISSIONER OF GENERAL SERVICES Barrett Russell	X			

NYS PROCUREMENT COUNCIL - VOTING RECORD

Date: June 9, 2005

QUESTION, MOTION OR ISSUE: Motion to adopt Standard Vendor Responsibility Questionnaire and to replace attachment B of the Best Practices –Determining Vendor Responsibility

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
OFFICE OF THE STATE COMPTROLLER Lynn Canton (Joan Sullivan)	X			
DIRECTOR OF THE BUDGET Sharon Gariepy (Barbara Milano)	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT Jeffrey Boyce (Eileen Germain)	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: Lester Cornelius				X
Steven Ennis				X
Joseph Girven				X
Robert Pape				X
John Pfeifer				X
Elliot Shaw				X
Non-Voting Larry Barker Timothy Holt				
COMMISSIONER OF GENERAL SERVICES Barrett Russell	X			

NYS PROCUREMENT COUNCIL - VOTING RECORD

Date: June 9, 2005

QUESTION, MOTION OR ISSUE: Motion to adopt resolution for public review of Procurement Stewardship Act (PSA)

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
OFFICE OF THE STATE COMPTROLLER Lynn Canton (Joan Sullivan)	X			
DIRECTOR OF THE BUDGET Sharon Gariepy (Barbara Milano)	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT Jeffrey Boyce (Eileen Germain)	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: Lester Cornelius				X
Steven Ennis				X
Joseph Girven				X
Robert Pape				X
John Pfeifer				X
Elliot Shaw				X
Non-Voting Larry Barker Timothy Holt				
COMMISSIONER OF GENERAL SERVICES Barrett Russell	X			

NYS PROCUREMENT COUNCIL - VOTING RECORD

Date: June 9, 2005

QUESTION, MOTION OR ISSUE: Motion to approve an application for electronics recycling services by NYSID.

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
OFFICE OF THE STATE COMPTROLLER Lynn Canton (Joan Sullivan)	X			
DIRECTOR OF THE BUDGET Sharon Gariepy (Barbara Milano)	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT Jeffrey Boyce (Eileen Germain)	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: Lester Cornelius				X
Steven Ennis				X
Joseph Girven				X
Robert Pape				X
John Pfeifer				X
Elliot Shaw				X
Non-Voting Larry Barker Timothy Holt				
COMMISSIONER OF GENERAL SERVICES Barrett Russell	X			