

MEMORANDUM

December 19, 2002

To: Procurement Council Members

FROM: Barrett Russell

SUBJECT: Draft Minutes of the Meeting for November 21, 2002

Enclosed for your review are the draft "Minutes of the Meeting" for the subject Council meeting. If you have comments or suggestions, please call Ginny Lazzaro at (518) 486-7323 or e-mail virginia.lazzaro@ogs.state.ny.us. As was agreed at the meeting, I am also enclosing information about SUNY's statutory procurement flexibility; Greg Benson's IT procurement streamlining status report; the draft white paper on SUNY consortia purchasing and the legislative workgroup report. If you would like copies of any of the other documents referenced in the draft minutes, please contact Ginny and they will be provided

The next Council Meeting is tentatively scheduled February 13, 2003. Please let Ginny know your preference for meeting start time, 9:30 am or 11:00 am. Meeting start time will be determined by majority preference.

In addition, we have confirmed that John Kost, Vice President and Research Director, Gartner Research and former CIO for the State of Michigan, will be here on January 30, 2003. Based on his unique combination of public and private sector experience Mr. Kost is well qualified to help focus us on next steps in moving our Strategic Plan forward. OGS Commissioner Kenneth Ringler will brief attendees on the Plan prior to Mr. Kost's presentation.

I would like to thank Greg Benson, Executive Director, New York State Forum for Information Resource Management, for arranging for Mr. Kost's visit. The Strategic Plan Overview and John Kost's presentation are scheduled for 1 - 3 p.m. on January 30, in the State Museum Auditorium. Additional details will follow.

Have a safe and happy holiday season!

Enclosures

cc: Commissioner Ringler
R. Fleury
R. Reed
P. Moskowitz
A. Phillips

December 13, 2002

**Minutes of the Meeting
NYS Procurement Council
November 21, 2002 - 1:00 p.m.
41st Floor Conference Room
Corning Tower - Empire State Plaza
Albany, NY**

- I. Call to Order.** OGS First Deputy Commissioner Robert Fleury called the meeting to order and provided a brief overview of recent organizational changes in OGS. The former Deputy Commissioner for Information Technology and Procurement Services, Michael McCormack, has been named Director of the Office for Technology (OFT). The OGS Division of Telecommunications has also moved to OFT. Mr. Fleury introduced Barrett Russell, OGS Deputy Commissioner for Information Technology and Procurement Services. Mr. Russell began the meeting by inviting all present to introduce themselves.
- II. Minutes of Meeting June 27, 2002.** There being no corrections or comments, a motion was made to adopt the draft minutes dated July 17, 2002. Seconded and adopted unanimously.
- III. SUNY Consortia Pilot Program.** Joanne Fazioli informed the Council that the current approval for the Consortia Pilot Program expires on June 30, 2003. SUNY has drafted a white paper business case that was transmitted to OSC on September 3, 2002 (attachment 1). OSC has expressed concerns based on an inquiry of the business practices of Group Purchasing Organizations (GPO) by the Attorney General. GPOs are buying consortia that SUNY hospitals have worked with under the Consortia Pilot Program.

A motion was made to extend the program through June 30, 2004. Seconded and adopted.

Strategic Plan Direction. Mr. Russell congratulated the Council on the effort involved in producing the Strategic Plan. He stated that the plan is a comprehensive and valuable guide to be used as the State moves forward in the area of procurement. Paula Moskowitz indicated that OGS had not received any comments or corrections to the draft report issued in June 2002 and this document should now be considered the Council's final report.

- IV. Committee Reports**
IT Procurement (Objective III). Gregory Benson, Executive Director of the New York State Forum for Information Resources Management (NYSFIRM), provided an overview of the activities of the workgroup charged with exploring ways to advance the Strategic Plan Objective III, IT Streamlining. A copy of Mr. Benson's report is attachment 2.

Mr. Benson suggested that Council members would benefit from a presentation by John Kost, Government Research Analyst, Gartner Group. Mr. Kost, former Purchasing Director for the State of Michigan, provides a compelling case for

avoiding the pitfalls of process driven procedures. Mr. Benson indicated that Mr. Kost would be available to come to New York on January 9, 16, 23 or 30. OGS will coordinate determination of the date acceptable for the majority of Council members.

Steven Ennis asked for clarification of the Council's role with regard to committee recommendations. Mr. Russell stated that if a committee recommendation has statutory or regulatory implications, Council approval is required. The Council can also serve as a communication link among agencies with regard to agency initiatives and, whenever requested, the Council will provide direction for committee work. Susan Zeronda stated that OFT implements initiatives often in conjunction with other agencies to advance strategies consistent with Council objectives. Paula Moskowitz also stressed that ongoing activities, for example in the area of training, exist and are evolving through agency cooperative efforts.

Alternative Procurement Methods (Objective IV). Joanne Fazioli indicated that there had not been any committee activity since the last Council meeting. The co-chairperson, Robert Lee, has retired. As previously stated, a draft white paper has been prepared for consortia purchasing and will be shared with Council members. It should be noted that the white paper is a draft and will not include OSC comments. In order for this committee to achieve the expectations of the Council, which include exploring recommendations for strategic partnerships and piggybacking as well as consortia purchasing, additional participation is needed. Ms. Fazioli stated that OSC participation is critical to the committee's effectiveness. Joan Sullivan agreed that OSC should be a part of the workgroup and to the extent that resources are available for that purpose would support participation. Ms. Zeronda offered to participate on the committee. Ms. Moskowitz indicated that OGS would also provide a representative to the workgroup.

Legislative Workgroup Recommendations. Walter Bikowitz reported on the legislative recommendations under consideration that are needed to further the objectives of the Council's plan. Mr. Bikowitz' report is attachment 3. The next step for the workgroup will be to draft legislative language for those recommendations where consensus has been achieved.

Ms. Zeronda requested a briefing for Council members detailing the SUNY Flexibility model. Ms. Sullivan agreed that it would be worthwhile for the Council to see the model used and gain an understanding of the certification process. Ms. Fazioli offered to provide an outline of the SUNY Flex System.

Procurement Staffing and Training (Objective V -A, B, C). A report from this committee was presented at a previous meeting. Mr. Russell stated that the workgroup, formerly chaired by Kelly Lopez, is in need of revitalization. Lucy Roberson indicated a willingness to continue to work on the committee, as did Leon Aronowitz. Ms. Zeronda expressed interest in chairing this committee. Dixon Ross and John Dalton are also willing to participate. It was agreed that participation by the Department of Civil Service would be useful. Ms. Moskowitz offered that OGS would facilitate coordination of workgroup activity.

V. **New Business**

Strategic Plan deployment and next steps. Rebecca Meyers facilitated the discussion of the continued deployment of the Council's Strategic Plan. Ms. Meyers asked Council members to provide their assessment of the success of the plan since its adoption in June.

Mr. Russell commented about the new contract management system that OSC is implementing. He asked that information be shared about OSC's experiences with their electronic workflow system. Ms. Sullivan stated that the purpose of the system is to provide standardization and structure for the OSC review process. The targeted date for project completion is March 2003. A preview of the system could be provided to interested parties.

Ms. Zeronda stated that much has been accomplished in six months and an impressive amount of activity is ongoing.

Ms. Moskowitz mentioned that Empire State Development will implement a fully on-line version of the *New York State Contract Reporter* early in 2003. She suggested that the private sector contractor responsible for the implementation of the electronic *Contract Reporter* be invited to a future Council Meeting for the purpose of discussing potential "next steps".

Lawrence Barker recommended that the Council promote the Strategic Plan by enhancing the plan's packaging and transmitting it to the Governor, the Legislature and Agency Commissioners. Such promotion would serve as support for future legislative initiatives and inform agencies about Council's plan for the future. The cover letter used to transmit the plan could include an invitation to the January presentation by John Kost. In addition, a request for agency participation in the Council's workgroups could be included. Leon Aronowitz suggested that the plan be sent to the Chief Information Officer for New York State.

Legislative Activity - 2002. Anne Phillips outlined the 2002 legislative activity of interest to the Council (attachment 4).

Section 211-a of the Labor Law was amended to prohibit the expenditure of public funds to a contractor where any portion of those funds may be used to encourage or discourage union organization. The Attorney General is working with the Department of Labor to implement the requirements of this amendment, which becomes effective December 29, 2002.

State Finance Law and Labor Law were amended to provide for a September 11 bidder's registry. The Department of Labor will maintain a registry of clothing and textile manufacturers adversely affected by September 11. Registered manufacturers will enjoy a 15% preference in competitive procurement. Mr. Barker shared a letter that NYSID has sent to its customers to clarify the intent of the legislation and to advise purchasers about potential misrepresentation by apparel and textile suppliers.

The sunset provision of Section 162, subdivision 7 of the State Finance Law, Partnering with Preferred Sources was repealed.

Section 162-2 of the State Finance Law was amended to include veterans' workshops as preferred sources. The legislation contains flaws and inconsistencies which affect its implementation. Mr. Barker stated that NYSID is working with the Department of Education, the agency with responsibility for oversight.

Section 156-d of the Executive Law was amended with regard to the Department of State's grant program for the purchase of thermal imaging cameras by fire organizations.

Section 917 of the Education Law was amended to require the purchase of automated external defibrillators (AEDs) by school districts. OGS was able to acquire favorable pricing for AEDs to assist schools in meeting this requirement.

Preferred Source Application. Mr. Barker detailed the history of the application for Gateway Community Industries to offer pressboard folders as a preferred source item (attachment 5). Mr. Barker emphasized that the NYSID price for this item would be below market price and that 30% of the cost of this item is directly attributable to disabled labor costs. Eileen Germain expressed Empire State Development's opposition to approval because the material supplier for this item is an out of state company. Ms. Germain asked that consideration of this application be tabled until the next meeting allowing time to identify a New York State source. Mr. Barker requested Council approval at this time and agreed to continue to seek an in-state supplier. Mr. Russell asked if the currently identified supplier holds a contract with NYSID for the supply of the pressboard. Mr. Barker stated that the current arrangement is for acquisition as needed. Ms. Zeronda asked if the price quoted for this item is based on the currently identified supplier's price. It was confirmed that it is. Ms. Sullivan expressed concern that if the Council delays approval there will be missed opportunities for agencies to save money on an item currently being purchased at a higher price. Mr. Ennis stated that there may be a problem obtaining a NYS supplier. Most suppliers of this product have ceased production reacting to a major supplier that currently dominates the market.

A motion was made to approve the application with a caveat that NYSID will continue to seek a New York State supplier and when one is identified, it will obtain its materials from the New York source. Motion seconded and approved.

List of Preferred Source Offerings. Ms. Moskowitz stated that OGS will update the List of Preferred Source Offerings. The revision will include review and correction of offering designations.

- VI. **Open Discussion.** Ms. Moskowitz cautioned Council members about a practice by IT companies of communicating by e-mail to potential customers that they may purchase directly from GSA federal schedules. Although Federal legislation to grant this flexibility has passed both Houses of Congress, it had not been acted upon by the President. Also, NYS statute requires that contracts let by another governmental jurisdiction be approved by OGS and pre-audited by OSC prior to

being used for procurements over the buying agency's discretionary level. Ms. Moskowitz will update the Council on this matter at the next meeting.

Council Vacancies. Mr. Ennis asked how many Council positions are currently vacant. Ms. Moskowitz stated that there are five vacancies and that OGS communicates with the legislature to recruit members to fill vacancies.

Next Meeting. The next Council meeting is tentatively planned for the week of February 10-14. Members discussed the possibility of combining the next meeting with the presentation by Mr. Kost. Members will be polled to determine majority preference.

Att.

Attending:	Lawrence Barker	Eileen Germain	Joan Sullivan
	Frank DiDomenico	Barbara Miller	Deirdre Taylor
	Steven Ennis	Robert Reed	Susan Zeronda
	Joanne Fazioli	Lucy Roberson	
	Nanette Ferri	Barrett Russell	

Absent:	Joseph Girven
	Karen Gordon
	John Pfeifer

**NYS PROCUREMENT COUNCIL
VOTING RECORD**

Date: November 21, 2002

QUESTION, MOTION OR ISSUE: To adopt the draft Minutes of the Meeting for June 27, 2002.

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
OFFICE OF THE STATE COMPTROLLER				
Robert Attmore (Joan Sullivan)	X			
DIRECTOR OF THE BUDGET				
Deirdre Taylor	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT				
Jeffrey Boyce (Eileen Germain)	X			
AGENCY REPRESENTATIVES:				
Margaret Becker – Ag. & Mkts. (Lucy Roberson)	X			
Stewart Kidder – Corrections (Nanette Ferri)	X			
Joanne Fazioli – SUNY	X			
Al Kaplan – OMR/DD (Frank DiDomenico)	X			
Robert Reed – Health	X			
Michael McCormack - OFT (Susan Zeronda)	X			
Barbara Miller – OMH (Leon Aronowitz)	X			
AT LARGE MEMBERS:				
Steven Ennis	X			
Joseph Girven				X
Karen Gordon				X
John Pfeifer				X
COMMISSIONER OF GENERAL SERVICES				
Barrett Russell	X			

**NYS PROCUREMENT COUNCIL
VOTING RECORD**

Date: November 21, 2002

QUESTION, MOTION OR ISSUE: To extend the SUNY consortia mandatory commitment program through June 30, 2004.

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
OFFICE OF THE STATE COMPTROLLER Robert Attmore (Joan Sullivan)	X			
DIRECTOR OF THE BUDGET Deirdre Taylor	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT Jeffrey Boyce (Eileen Germain)	X			
AGENCY REPRESENTATIVES:				
Margaret Becker – Ag. & Mkts. (Lucy Roberson)	X			
Stewart Kidder – Corrections (Nanette Ferri)	X			
Joanne Fazioli – SUNY	X			
Al Kaplan – OMR/DD (Frank DiDomenico)	X			
Robert Reed – Health	X			
Michael McCormack - OFT (Susan Zeronda)	X			
Barbara Miller – OMH (Leon Aronowitz)	X			
AT LARGE MEMBERS:				
Steven Ennis	X			
Joseph Girven				X
Karen Gordon				X
John Pfeifer				X
COMMISSIONER OF GENERAL SERVICES Barrett Russell	X			

**NYS PROCUREMENT COUNCIL
VOTING RECORD**

Date: November 21, 2002

QUESTION, MOTION OR ISSUE: To approve NYSID's preferred source application for pressboard folders.

<u>MEMBER</u>	<u>VOTE</u>			
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
OFFICE OF THE STATE COMPTROLLER Robert Attmore (Joan Sullivan)	X			
DIRECTOR OF THE BUDGET Deirdre Taylor	X			
COMMISSIONER OF ECONOMIC DEVELOPMENT Jeffrey Boyce (Eileen Germain)			X	
AGENCY REPRESENTATIVES:				
Margaret Becker – Ag. & Mkts. (Lucy Roberson)	X			
Stewart Kidder – Corrections (Nanette Ferri)	X			
Joanne Fazioli – SUNY	X			
Al Kaplan – OMR/DD (Frank DiDomenico)	X			
Robert Reed – Health				X
Michael McCormack - OFT (Susan Zeronda)	X			
Barbara Miller – OMH (Leon Aronowitz)	X			
AT LARGE MEMBERS:				
Steven Ennis	X			
Joseph Girven				X
Karen Gordon				X
John Pfeifer				X
COMMISSIONER OF GENERAL SERVICES Barrett Russell	X			