

**New York State Procurement Council  
Biennial Report of Significant Findings  
Calendar Years 2008 through 2011  
Prepared by: New York State Office of General Services  
Procurement Services Group**

In accordance with requirements of State Finance Law §161(2)(k), the New York State Procurement Council (Council) submits the following biennial report to the Governor, Honorable Members of the Legislature, and the Director of the Budget. The report addresses significant findings, activities and recommendations of the Council over two reporting periods. Regarding the statutory requirement to report on substantial savings generated by the Council, a number of the Council recommendations and endorsements described in this report resulted in individual agency or vendor administrative savings by streamlining processes. Due to the administrative nature of those savings, actual dollar figures are not documentable.

The Council, in accordance with its statutory obligations under State Finance Law §161, is charged “to work and improve procurement in New York State” through a variety of means. The Council is composed of representatives of state agencies, local governments, and private industry. (See Attachment A—Procurement Council Membership Roster) The activities described in this report include joint efforts of the entire Council, as well as independent efforts of several member agencies, which the Council was regularly apprised of, and that impact procurement practices on a statewide basis.

## **State Procurement Council Accomplishments**

### **DISCRETIONARY PURCHASING GUIDELINES**

The Discretionary Purchasing Guidelines were revised in October of 2008 to include new language on grouping similar products when making discretionary purchases; provide an updated link to the Empire State Development’s Minority and Women-Owned Business Enterprises database as well as sample Contract Reporter language, and language that encourages the purchase of New York State food products. These Guidelines were revised again in October of 2010 to reflect legislative changes in discretionary purchasing thresholds. The Guidelines are available on the Procurement Council website under Procurement Bulletins and Procurement Related Information at: [www.ogs.ny.gov/BU/PC/SPC.asp](http://www.ogs.ny.gov/BU/PC/SPC.asp)

### **EXECUTIVE ORDER No. 4**

In April 2008, then Governor David A. Paterson signed [Executive Order No. 4](#) (EO 4), Establishing a State Green Procurement and Agency Sustainability Program, which directs state agencies, public authorities and public benefit corporations to green their procurements and to implement sustainability initiatives. EO 4 established an Interagency Committee on Sustainability and Green Procurement, co-chaired by the Commissioner of General Services and the Commissioner of the Department of Environmental Conservation. The Interagency Committee is charged with identifying an annual list of categories and products for which specifications can be developed and issued for greener procurements. The current EO 4 specifications are available at: [www.ogs.ny.gov/EO/4/ApprovedSpecs.asp](http://www.ogs.ny.gov/EO/4/ApprovedSpecs.asp). The Interagency Committee is further charged with the establishment of goals for reductions in the amount of solid waste, and with the development and performance of training relative to sustainability efforts. A state green procurement and agency sustainability program was developed and specifications were approved for the following categories: Electronics/Appliances; Office and Building Operations; Food Service; and Transportation. Information related to EO 4 and the accomplishments of the Sustainability and Green Procurement Advisory Council may be found at: [www.ogs.ny.gov/EO/4/Default.asp](http://www.ogs.ny.gov/EO/4/Default.asp).

### **JOINT PROCUREMENT OUTREACH INITIATIVE**

Council members representing Empire State Development (ESD) and the Office of General Services (OGS) partnered in a joint initiative to provide procurement outreach and training opportunities for New York State businesses with the goal of assisting the business community in doing business with New York State. The outcome of this initiative resulted in the development of an interactive, web-based document titled: *Doing Business With New York State—A Guide to Understanding the State's Procurement Practices*. The document was well received by the business community. In November of 2010, the document was posted on the OGS website at: [www.ogs.ny.gov/BU/PC/BizInfo.asp](http://www.ogs.ny.gov/BU/PC/BizInfo.asp), and the ESD website at: [www.nyfirst.ny.gov/ResourceCenter/GovtContracting/State\\_FederalResources.html](http://www.nyfirst.ny.gov/ResourceCenter/GovtContracting/State_FederalResources.html)

### **MWBE RULES UNDER EXECUTIVE LAW – ARTICLE 15A**

As a result of the New York State Disparity Study ([www.esd.ny.gov/MWBE.html](http://www.esd.ny.gov/MWBE.html)) released May 5, 2010, landmark minority and women-owned business enterprise legislation was signed into law. Bill S.8314/A.11527 required the Director of Empire State Development's Division of Minority and Women-Owned Business Enterprises (DMWBE) to consult with the Council prior to the development of rules and regulations setting forth measures and procedures to require all state agencies, where practicable, feasible and appropriate, to assess the diversity practices of contractors submitting bids or proposals in connection with the award of a state contract. The discussion of the potential scope of the diversity practice regulations was introduced to Council members during the August 11, 2010 meeting by the DMWBE, and a list of issues and concerns surrounding the implementation of this legislation, as it relates to diversity practices of contractors submitting bids or proposals in connection with the award of a state contract, was developed. The new regulations were adopted on November 22, 2010 and are available at: <http://government.westlaw.com/linkedslice/default.asp?SP=nycrr-1000>.

The MWBE legislation also created the position of Chief Diversity Officer (CDO) to oversee the MWBE program and diversity issues in the workforce from within the Executive Chamber. The CDO was also added as an ex-officio member of the Council.

### **PROCUREMENT COUNCIL GUIDELINES**

In January of 2007, a workgroup comprised of Council representatives was established to oversee the process of revising the Guidelines and a subcommittee was formed to do the actual writing. The revision process took over two years. Two types of revisions were made: One that updated the Guidelines to include statutory revisions; and a more comprehensive revision to condense the Guidelines, making them more reader-friendly and focusing on procedures for the required procurement steps rather than the legal references for these requirements. Once the draft revisions were approved by the Council, the Guidelines were posted on the OGS website for public comment and a press release was issued to announce the posting. In addition, workgroup members reached out to agencies not represented on the workgroup to obtain input. Once all suggestions were incorporated, the edited version of the draft was redistributed to Council members for review and approval. The revised Guidelines were posted to the OGS website in July of 2009 and are currently available at: [www.ogs.ny.gov/BU/PC](http://www.ogs.ny.gov/BU/PC).

### **PROCUREMENT RECORD CHECKLIST**

*The Procurement Record and Checklist* has been updated to include questions which ensure the contracting agency has reviewed the lists of Preferred Source Offerings and determined that there are either no offerings available or that available offerings do not meet the form, function and utility needed by the agency. The Checklist also requires the inclusion of a unique vendor number assigned to the contractor, to ensure timely payment to that contractor, through the Statewide Financial System, which is anticipated to take over payment processing in January 2012.

### **RISK MANAGEMENT & INSURANCE IN PUBLIC CONTRACTING**

On December 14, 2010, the Council of Contracting Agencies (CCA) adopted a new guidance manual, titled *Procedure Manual for Insurance Requirements in Agreements*. This Manual, intended as a model template for use in developing insurance requirements for contracts, was created as a working document with input from user agencies and representatives from the insurance industry. The Manual is intended to be used as a tool to provide guidance in the development of contract documents rather than being prescriptive in nature and will be subject to change as insurance requirements change in public procurements. In June 2011, a presentation about the Manual was provided to the Council by the CCA subcommittee responsible for its creation. Following the presentation, the Council adopted the Manual as a guidance reference tool for member agencies.

### **STATEWIDE ELECTRONIC PROCUREMENT OPPORTUNITY NOTIFICATION SYSTEM (SEPONS)**

In June of 2008, Economic Development Law §145 was amended to require a study be performed relative to the implementation of a Statewide Electronic Procurement Opportunity Notification System (SEPONS). The law specified that the study and report were to be conducted by the State Procurement Council in consultation with the Council of Contracting Agencies. OGS chaired the SEPONS committee and representatives from various Council-member agencies participated in the evaluation of the feasibility of establishing a single, statewide electronic notification system for announcing procurement opportunities that exist throughout state and local governments. The study's findings and recommendations were presented in a report that was delivered to the Governor, Legislature, and the Division of the Budget in September 2009. The primary/overall recommendation to best meet the needs of procuring entities and businesses doing business in New York State was to enhance the existing features, and extend the reach of the New York State Contract Reporter to serve as a one-stop integrated electronic system offering registration and notification of bid opportunities free of cost to potential bidders. It was concluded that this would encourage and increase competition for public contracts thereby resulting in lower prices and more transparency with this integrated system. Many of these recommendations have been successfully implemented by ESD.

### **STATEWIDE FINANCIAL SYSTEM**

The Statewide Financial System (SFS) is a New York State government initiative to replace its over 25-year-old Central Accounting System and several agency financial management systems with one integrated, statewide system. SFS will implement several core financial management functions over multiple phases, with the first phase of functionality scheduled to be rolled out in January 2012.

SFS will provide financial management functions and information to all New York State agencies, while enabling New York's control agencies, the Office of the State Comptroller (OSC) and the Division of the Budget (DOB), to perform their constitutionally separate oversight functions – all within a single, integrated environment. Using Oracle PeopleSoft software, SFS is to be deployed statewide in conjunction with business process improvements and standardized best practices to reduce state costs and improve government performance, integrity and accountability.

At launch, SFS will serve more than 60 New York State agencies, encompassing nearly 10,000 core users and 75,000 travelers, plus more than 500,000 vendors doing business with New York State. When fully implemented, state agency usage will expand to include more than 15,000 core users and 90,000 travelers. More details regarding SFS will be provided in upcoming reports.

### **STRATEGIC SOURCING**

Governor Cuomo has committed his administration to implementing enterprise-wide changes that will modernize business practices in running New York State government. One cornerstone of this new direction is the Strategic Sourcing initiative that will harness the buying power of the state in a way that has never been done before.

Strategic Sourcing is a result of a four-part study of New York State operations that included the state's real estate portfolio, information technology services, customer services, and procurement. Its goal is to benchmark New York against both private and public sector practices and identify opportunities to make operational changes to improve efficiency and provide more value to the taxpayer. Accenture, a consulting firm under contract with New York State, was engaged to conduct the procurement portion of the project through a review and analysis on Strategic Sourcing. OGS has been tasked with the oversight of Strategic Sourcing. OGS is looking forward to the savings that are expected to result from the use of new technology and improved processes and by maximizing the enterprise buying power of the state. Updates on this initiative are provided to the Council at each quarterly meeting. The Council meeting minutes provide a summary of these updates and may be found at: [www.ogs.ny.gov/BU/PC/SPC.asp](http://www.ogs.ny.gov/BU/PC/SPC.asp).

### **VENDOR DEBRIEFING**

In 2008, §163(9)(c) of the State Finance Law was amended to include a specific right to vendor debriefing. This amendment requires a state agency, upon request, to provide a debriefing to any unsuccessful offerer that responds to a request for proposal or an invitation for bids, regarding the reasons that the proposal or bid submitted by the unsuccessful offerer was not selected for an award. The opportunity for an unsuccessful offerer to seek a debriefing is now stated in the solicitation, as is the reasonable time for requesting a debriefing.

The Council developed a guide for procuring agencies for use in preparing to debrief an unsuccessful offerer. Training was also provided at the 2009 State Purchasing Forum on State Finance Law updates, including a number of issues relative to debriefing such as timing of debriefing and language differences depending on the type of bid solicitation. This guide is posted as *Debriefing Language* on the Council website at: [www.ogs.ny.gov/BU/PC/SPC.asp](http://www.ogs.ny.gov/BU/PC/SPC.asp).

### **VENDOR RESPONSIBILITY**

The Council established a workgroup to assist a joint initiative of the Office of the State Comptroller (OSC) and OGS representatives to refine the Vendor Responsibility (VR) questionnaires developed in 2005, and to create a model For-Profit Business questionnaire that would be made available on the OSC Vendor Responsibility System (VendRep) to further the vision of the State Comptroller for a centralized, online system to support more effective and efficient use of information in assessing vendor responsibility. The goals of VendRep are to make it easier for the vendors to provide an appropriate level of disclosure in a central database, which could then be accessed by all agencies awarding contracts to those vendors. A key aspect of the online system is the reduction in the amount of paper being submitted to and copied by agencies for inclusion in the procurement record when submitting the contracts to OSC for approval.

After many years of meetings and information gathering sessions with vendors and state agency stakeholders, a *For-Profit Non-Construction Vendor Responsibility Questionnaire* was created and approved for use by the Council and implemented in the VendRep system in March of 2010. VendRep allows contractors to: Compile, file, access and submit the Questionnaire online; re-certify the Questionnaire with a few simple computer key strokes; reduce costs associated with paper documents including copying, delivery, and filing; ensure the questionnaire is secure by limiting online accessibility; and obtain assistance through the OSC VendRep system. OSC is continuing to provide training on the use of the VendRep database to agencies and vendors.

### **IMPROVED COMMUNICATIONS AND TRAINING**

In an ongoing effort to improve communication and training, since 2000, OGS and OSC collaborate on a two-day State Purchasing Forum and Contractor Trade Show in May of each year at the Empire State Plaza. Vendors with current OGS contracts are invited to participate in the Contractor Trade Show and their booth rental fee covers the costs to host the Forum. Attendance numbers by state and local government purchasing officers have ranged from low of 700 in 2003, to a high of 1,465 in 2007. In addition, OSC provides independent training at locations throughout the state and various times throughout the year. OSC and OGS provide joint training and outreach during local government association meetings, and participate in various other activities in response to requests from state agencies and local governments when staff and resources are available.

In an effort to foster communication with contract users, representatives from OGS and OSC continue to meet bi-annually with members of a number of local government associations through the Purchase Council for State and Local Governments. In light of resource constraints, both OGS and OSC are increasingly using electronic means to offer remote training that meets agency requests.

### **LEGISLATION**

*Extension of Procurement Lobbying Contingencies:* This legislation addresses Sections 139-j and 139-k of the State Finance Law. A bill was developed and approved extending these contingencies through July 31, 2014. This extension will provide more stability for New York State to comply with the statutes included in the legislation. The Governor signed the bill as Chapter 4 of the Laws of 2010 on March 10, 2010.

## PROCUREMENT COUNCIL MEMBERSHIP ROSTER

OCTOBER 2011

### Ex-Officio Members

**Margaret N. Becker**

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**Anne G. Phillips**

Chair – Procurement Council/Acting Deputy  
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### Legislative Appointees

**James A. Haggerty**

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Appointment by Assembly Minority Leader (Kolb)  
Term/Expiration Date: 3 yr. – 10/1/13  
Voting Member

**Richard Healey**

President & CEO  
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296 Washington Avenue Ext.  
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Appointment of Senate Minority Leader (Skelos)  
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Voting Member

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Appointment of Senate President Pro Tem  
Malcolm A. Smith  
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Local Government Representative  
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Appointment of Senate President Pro Tem (Smith)  
Term /Expiration Date: 3 yr. – 6/7/13  
Voting Member

**Gregory M. Weston, Esq.**

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1540 Broadway  
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Appointment of Senate President Pro Tem (Smith)  
Term /Expiration Date: 3 yr. – 6/1/13

**Agency Designees**

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**David Russo**

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**Thomas Hippchen**

Director of Universitywide Procurement  
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**Michael Hurt**

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**Non-Voting Observers**

**Edul Ahmad**

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Appointment of Senate President Pro Tem (Smith)  
Term/Expiration Date: 3 yr. – 1/29/13  
Non-Voting Observer

**Ronald P. Romano**

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NYS Industries for the Disabled (NYSID)  
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Appointment by Assembly Majority Leader (Smith)  
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Non-Voting Observer

**Vacancies**

**VACANT**

Appointment by Assembly Majority Leader  
(Silver)  
Term: 3 yrs.  
Voting Member

**VACANT**

Appointment by Assembly Majority Leader (Silver)  
Term: 3 yrs  
Voting Member

**VACANT**

Appointment by Assembly Majority Leader  
(Silver)  
Term: 3 yrs.  
Voting Member