Office of Operations

2010 Fall Conference

Purchasing Under Your Discretionary Threshold

Karla Ravida and John Corbett
Agenda

- Resources
- Order Of Procurement
- Requirements
- Overcoming Pitfalls
Purpose

State procurement purpose is to **facilitate** each State agency's mission while **protecting** the interests of the State and its taxpayers and **promoting** fairness in contracting with the business community.
Procurement Goals

- Guard against favoritism, fraud and corruption
- Ensure results meet agency needs
- Protect interest of the State and its taxpayers
- Make a responsible effort to administer a process with maximum opportunities for vendors to compete
Resources

- NYS Finance Law §163, §112, §165
- NYSCRR
- NYS Executive Law Article 15-A
- The Economic Development Law
- OSC A and G Bulletins, DOB Budget Bulletins
- NYS Education Law
- Agency Policies, Procedures and Guidelines
- OGS Procurement Guidelines
- Executive Orders
Ask Yourself

1. What are you looking to buy?
2. Is your purchase a Commodity, Service, or Technology Related?
3. What is the estimated cost?
4. Is your estimated cost greater than or less than your Formal Competitive Bidding Limits?
5. What process do you follow?
Order of Procurement

- Preferred Source
  - Commodities
  - Services
- OGS Centralized Commodity Contracts
- Procure on your own
Preferred Source Commodities

1. Corcraft Products

2. IBNYS

3. New York State Industries for the Disabled, Inc.

4. Department of Mental Health

Not subject to competitive procurement requirements.
Preferred Source Services

1. IBNYS

Department of Mental Health

Corecraft is not given priority and treated like any other vendor.

Not subject to competitive procurement requirements.
Centralized Commodity Contract

- PCXXXX
- Immediate agency buying and reduced administrative cost to procurement
- “OGS or Less” - Agencies may competitively procure items otherwise available on a centralized contract when the resultant price is less, in accordance with “OGS or Less” Guidelines
Centralized Technology Contract

- PSXXXX or PTXXXX

- Most use is at the option of State agencies.
  - The State Procurement Council may, however, mandate the use of certain service and technology contracts where warranted.

- 20% Rule
Did a Preferred Source or OGS Centralized Contract meet your need (form, function, and utility)?

If your answer is NO, procure on your own.
Requirements

- Reasonableness of Price
- Justification Vendor
- Competition
- Ensure the procurement process produces the best possible product at a reasonable price
- Guard against favoritism, fraud, and collusion
**Ask Yourself**

- What is the estimated cost?
- Is your estimated cost greater than or less than your Formal Competitive Bidding Limits?
- What do you think your estimated Annual cost will be?
  - One Year Rule
Changes – State Finance Law

Discretionary Purchasing Threshold

New subdivision 6-b added to Section 163:

- obligates State agencies to aggregate expected purchases for the same commodities or services within twelve months from the date of purchase to determine whether the procurement falls within the discretionary threshold.

- expressly prohibits split ordering.

- State that a change to or a renewal of a discretionary purchase shall not be permitted if the change or renewal would bring the aggregate amount of all purchases of the same commodities or services from the same provider within the twelve month period over the discretionary threshold and should have been reasonably expected prior to the date of the first purchase.
Contract Reporter

Section 142 amended to require the Department of Economic Development (DED) to:

- Publish Contract Reporter daily, rather than weekly,
- Make it available online, free of charge
- Ads must remain online for 15 days
# Advertising Limits

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<thead>
<tr>
<th></th>
<th>State Agencies</th>
<th>City University of New York (CUNY)</th>
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<td>Quarterly Ad</td>
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ADVERTISING FOR DISCRETIONARY PURCHASES BETWEEN $50,000 and $100,000 (Small Businesses and MWBE)

How To Advertise And Ensure OSC Will Accept Advertisement

- **Best Practices Language #1**
  
  [Agency X] intends to purchase [1,000 widgets] pursuant to its discretionary authority under State Finance Law Section 163(6). Interested parties should contact [agency contact person] to discuss this opportunity.
ADVERTISING FOR DISCRETIONARY PURCHASES BETWEEN $50,000 and $100,000

(Small Businesses and MWBE)

- **Best Practices Language #2**

  - [Agency X] intends to purchase [1,000 widgets] pursuant to its discretionary authority under State Finance Law Section 163(6), which authorizes purchases without a formal competitive process in certain circumstances, including purchases from New York State small businesses, from businesses certified pursuant to Article 15-A of the New York State Executive Law and, if applicable, from businesses selling commodities or technology that are recycled or remanufactured. Interested parties should contact [agency contact person] to discuss this opportunity.
Best Practices Language #3

[Agency X] intends to purchase [1,000 widgets] pursuant to its discretionary purchasing authority under State Finance Law Section 163. This procurement opportunity is limited to NYS Small Businesses, businesses certified pursuant to Article 15-A of the NYS Executive Law and, if applicable, businesses selling commodities or technology that are recycled or remanufactured.
Suggested Language for purchases up to $125,000:

- We contemplate making an award under our discretionary authority for the above noted commodity/product or service. If you are interested in providing the above commodity/product or service, please contact the appropriately designated Campus contact in this advertisement within 15 business days of this Advertisement Notice.

- For purchases greater than $125,000, SUNY procedures require 5 formal sealed bids and therefore a standard advertisement should be published in the Contract Reporter.
Do not specify a particular vendor!
Recent Changes

- MWBE Discretionary Purchasing Threshold increased from $100,000 to $200,000
# Discretionary Thresholds

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<th>State University of New York (SUNY)</th>
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<td><strong>Formal Competitive Bidding Limits</strong></td>
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<tr>
<td>Small Business</td>
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<tr>
<td><strong>Comptroller's Office Pre-approval</strong></td>
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<td>$250,000</td>
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<tr>
<td>All Purchases</td>
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<td>$50,000 if single or sole source</td>
<td>$125,000 for single or sole source</td>
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Procurement Record for Purchases Under Discretionary Thresholds

- Purchase Order
- Vendor Invoice
- Vendor’s Quotation/Bid
- Selection of Vendor
- Reasonableness of Price
- Contract Reporter Ad (if required)
- Single/Sole Source Exemption
- Notice/Waiver – Preferred Source or ‘OGS or less’
- Procurement Lobbying Documentation (if required)
Avoid Pitfalls

- Get the most from your purchases
- Be specific
- Monitoring
- Do your homework
- OGS or Less
- Talk to everyone – don’t reinvent the wheel
Questions

- New York State Procurement Council Guidelines
- [http://www.ogs.state.ny.us/procurecounc/default.asp](http://www.ogs.state.ny.us/procurecounc/default.asp)
- OSC Help Desk - 518.473.1057
Presenter Information

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