Office of Operations' 2024 Virtual Fall Conference

Procurement Thresholds

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New York State Comptroller THOMAS P. DINAPOLI

Course Description

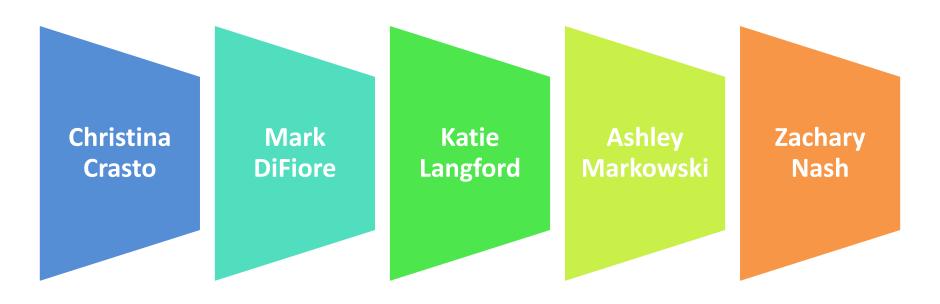
Procurement Thresholds

This course will provide an overview of the varying State Finance Law §112 contract approval thresholds and State Finance Law §163 discretionary purchasing thresholds. Attendees will gain an understanding of the differences between these two types of thresholds and how they interact in State procurement.



Presenters

From the 163 Goods & Services Team



Agenda

- Approval Requirements
- Order of Purchasing Priority
- Advertisements
- OSC Pre-Approval Thresholds
- Discretionary Purchases
- Procurement Record



Approval Requirements

Approval of Contracts

State Finance Law (SFL) Article 7, §112

- Authorizes OSC to pre-audit State agency contracts
- Establishes monetary thresholds for OSC contract pre-approval
- Specifies time frames for OSC approval determination

Bureau of Contracts (BOC)

- Ensures agency procurement processes adhere to approval requirements
- Helps detect, deter and prevent fraud and waste
- Enables information-gathering while promoting openness, fairness and transparency

Order-of Purchasing Priority

Order of Purchasing Priority

SFL Article 11, §163(3)

- Preferred Source Offerings (SFL Article 11, §162)
- 2. Office of General Services (OGS) Centralized Contracts
- 3. Agency or multi-agency established contracts
- 4. Other procurement methods

Preferred Sources

SFL Article 11, §162

- Preferred Source Providers
 - ✓ Corcraft
 - ✓ New York State Preferred Source Program for People Who are Blind (NYSPSP)
 - ✓ New York State Industries for the Disabled (NYSID)

OGS Centralized Contracts

Guide to Financial Operations (GFO) XI.8.A Centralized Contracts

- Established commodity, service and technology contracts
- Created by OGS for use by authorized users

Agency/Multi-Agency Contracts

GFO XI.8.B Multi-Agency Contracts

- Contract is one awarded with the intention to be utilized by more than one Agency or authorized user
- Applicable prefixes include:
 - ✓ CC = Combined Contracts
 - ✓ CM = Multi-Agency Contracts

Other Procurement Methods

SFL Article 11, §163

- Competitively bid procurement
- Sole or single source procurement
- Piggybacking
- Consortium contracts
- Emergency purchases
- Discretionary purchases

Aggregate Purchases

SFL Article 11, §163(6-b)

- Reasonably expected aggregate amount of all purchases of the same commodities or services to be made within the twelve-month period commencing on the date of purchase
- Purchases of services or commodities not to be artificially divided for the purpose of satisfying the discretionary buying thresholds

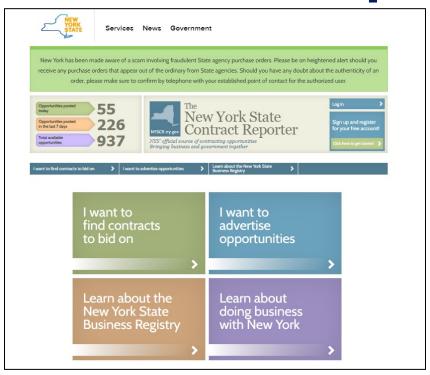


Advertising Requirements

Economic Development Law (COM) Article 4-C, §143

- Advertise for purchases equal to or greater than \$50,000
- Publish for 15 business days
- Encourage competition

NYS Contract Reporter



Example of Advertisement





OSC Pre-Approval Thresholds

Revenue & Repayment Threshold

SFL Article 7, §112(3)

 Contracts where the State agrees to give consideration other than the payment of money, is over \$25,000 for all agencies



SFL Article 7, §112(2) – Expenditure Contracts

- State Agency expenditure contracts exceeding \$50,000
- OGS Finance and Business Services Center (BSC) exceeding \$85,000

Education Law (EDN) §355, §373, §6218 and §6275

- State University Construction Fund (SUCF) and City University Construction Fund (CUCF) contracts over \$75,000
- State University of New York (SUNY) and City University of New York (CUNY) contracts for goods, services, and printing over \$75,000
- State University Health Care Facility contracts over \$150,000

SFL Article 7, §112(2)(a)(i)

 OGS Centralized Contracts over \$125,000



SFL Article 7, §112(2)(a)(i)

 State Agency purchases from OGS Centralized Contracts over \$200,000



OC Transactions

GFO XI.8.A Centralized Contracts

- State agency purchases from OGS Centralized Contracts over \$200,000
- OC prefix unless otherwise specified
- OGS Centralized Contract How to Use Guide
 - ✓ Vendor selection
 - √ Price justification
 - ✓ Transaction term

Discretionary Purchases

Discretionary Purchasing

OGS Discretionary Purchasing Guidelines

- Estimate reasonably expected aggregate amount of all purchases within the twelve-month period commencing on the date of purchase
- Ensure commodities and services meet form, function and utility needs
- Document vendor selection rationale and price reasonableness
- Assess <u>Vendor Responsibility</u>

NYS Agriculture

SFL Article 11, §163(6)(e)

- Certain agricultural commodities grown, produced, or harvested in NYS not exceeding \$200,000
- Food, including milk, milk products, animals, or plant fiber products
- Textile products manufactured from animal or plant fiber grown or produced predominantly in NYS

NYS Small Businesses

SFL Article 11, §163(6)(c)

- Small business concerns services, commodities or technology not exceeding \$500,000
- Business resides in New York State
- Independently owned and operated

Recycled or Remanufactured

SFL Article 11, §163(6)(c)

- Recycled or remanufactured commodities or technology not exceeding \$500,000
- Specified minimum percentage by weight of post-consumer material
- Restored to its original performance standards and function

MWBEs

NYS Executive Law, Article 15-A

- Minority or Women-Owned Business Enterprises (MWBEs) not exceeding \$750,000
- NYS Empire State Development (ESD) certified
- MWBE Directory

SDVOBs

NYS Veterans' Services Law, Article 3

- Certified Service-Disabled Veteran-Owned Businesses (SDVOBs) not exceeding \$750,000
- NYS Office of General Services (OGS) certified
- SDVOB Directory

Discretionary Advertisement



Discretionary Advertising Examples

Recommended Language for Contract Reporter Notification

Alternative I:

Agency X intends to purchase (insert project description, e.g., 1,000 widgets) pursuant to its
discretionary purchasing authority under State Finance Law §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, if applicable, from businesses selling
commodities or technology that are recycled or remanufactured or commodities that are
food, including milk and milk products, grown, produced or harvested in New York State.
Interested parties should contact (agency designated contact/purchasing officer) to discuss
this opportunity.

Discretionary Advertising Examples

Alternative II:

 Agency X intends to purchase (insert project description, e.g., 1,000 widgets), pursuant to its discretionary purchasing authority under State Finance Law §163(6). Interested parties should contact (agency designated contact/purchasing officer) for more details about this opportunity.

Discretionary Advertising Examples

Alternative III:

Agency X intends to procure (insert project description, e.g., 1,000 widgets) pursuant
to its discretionary purchasing authority under State Finance Law §163(6). This
procurement opportunity is limited to New York State businesses certified pursuant to
Article 15-A of the New York State Executive Law.

Discretionary Advertising Examples

Alternative IV:

Agency X intends to procure (insert project description, e.g., 1,000 widgets)
pursuant to its discretionary purchasing authority under State Finance Law §163(6).
This procurement opportunity is limited to New York State small businesses.

Discretionary Advertising Examples

Alternative V:

Agency X intends to procure (insert project description, e.g., 1,000 widgets)
pursuant to its discretionary purchasing authority under State Finance Law §163(6).
This procurement opportunity is limited to New York State small businesses,
businesses certified pursuant to Article 15-A of the New York State Executive Law, if
applicable, businesses selling commodities or technology that are recycled or
remanufactured or commodities that are food, including milk and milk products,
grown, produced or harvested in New York State.

Procurement Record

Discretionary Procurement Record

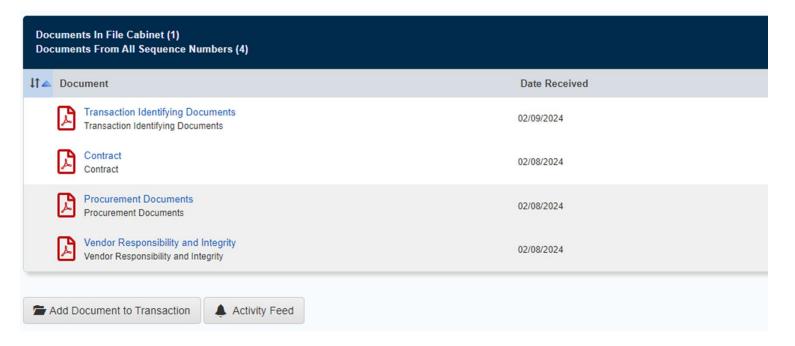
- OSC approval required based on Agency's pre-audit threshold pursuant to SFL §112
- Formal solicitation document not required
- Contract Reporter advertisement if over \$50,000
- Price reasonableness
 - ✓ Obtain informal quotes
 - ✓ Compare to other governmental entities or similar institutions
 - ✓ Review historic costs for assessment

Formal Procurement Record

<u>Documentation Order Guide for Procurement Contracts and Contract Amendments</u>

 GFO XI.2.E Submission of Agency Contracts and Amendments

Procurement Record Categories



Transaction Identifying Documents

Transaction Identifying Documents	Contract	Procurement Record Documents	Vendor Responsibility Documents
• Memo			
Procurement Record Checklist			
 Non-Approval Letter, if resubmission 			
CRER Approval Letter, if applicable			

Contract

Transaction Identifying Documents	Contract	Procurement Record Documents	Vendor Responsibility Documents
• Memo	• Contract		
Procurement Record Checklist	Office of the Attorney General Approval		
Non-Approval Letter, if resubmission			
CRER Approval Letter, if applicable			

Procurement Record Documents

Transaction Identifying Documents	Contract	Procurement Record Documents	Vendor Responsibility Documents
• Memo	Contract	Advertising Documents	
Procurement Record	Office of the Attorney General Approval	Certified Bid Tabulation	
Checklist		IFB or RFP	
 Non-Approval Letter, if resubmission 		Evaluation Documents	
CRER Approval Letter,		Award Documents	
if applicable		Post Award Documents	
		Other Required Forms	

Vendor Responsibility Documents

Transaction Identifying Documents	Contract	Procurement Record Documents	Vendor Responsibility Documents
• Memo	Contract	Advertising Documents	 Vendor Responsibility Profile Vendor Responsibility Questionnaire Workers' Compensation & Disability Benefits Certifications
Procurement Record Checklist	Office of the Attorney General Approval	Certified Bid TabulationIFB or RFP	
Non-Approval Letter, if resubmission		Evaluation Documents	
CRER Approval Letter, if applicable		Award DocumentsPost Award DocumentsOther Required Forms	

Questions?



Resources

- CUNY Procurement Policy and Procedures
- Education Law (EDN)
- Economic Development Law (COM)
- Guide to Financial Operations (GFO)
- MWBE Directory
- NYS Contract Reporter
- NYS Executive Law (EXC)
- NYS Procurement Bulletin Discretionary Purchasing Guidelines

Resources

- NYS Procurement Guidelines
- OGS Centralized List of Contracts
- Open Book New York
- OSC Training Presentations
- Preferred Source Offerings
- SDVOB Directory
- SUNY Procedure 7553
- State Finance Law (SFL)
- Veterans' Services Law (VET)

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