#### Office of Operations' 2024 Virtual Fall Conference

# The Procurement Timeline and Electronic Procurement Record

Amanda Colomb, Danielle LaRose, Jami Olander, Danielle Kozaczuk, Kimberly Wintergerst, Fran Montanye, Natasha Nolan, Jamie Hockey-Barrett, Nicole Maguire, Kyla Alexander, Linsay Scribner and Robin Dillon



New York State Comptroller THOMAS P. DINAPOLI

### **Course Description**

Staff from the Office of the State Comptroller's Bureau of Contracts (BOC) will provide an overview of a typical procurement timeline and an in-depth review of key procurement events. Best practices for how to document these key events in an electronic procurement record will also be provided.

#### **BOC Presenters**

163 Goods & Services Team

Amanda Colomb Danielle LaRose Jami Olander Business Analysis & Reporting

<u>Team</u>

Danielle Kozaczuk Kimberly Wintergerst

Construction and Real Property & Negotiated

<u>Team</u>

Nicole Maguire

Grants Team Natasha Nolan Vendor Responsibility Team
Jamie Hockey-Barrett

Knowledge Management & Audit Support Team Frances Montanye



### **Agenda**

Introduction to the BOC

Roles & Responsibilities

**Pre-Solicitation** 

**Procurement Process** 

Break

**Post Award** 

**Contract Submission** 

**Best Practices** 



### Introduction to the Bureau of Contracts (BOC)

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

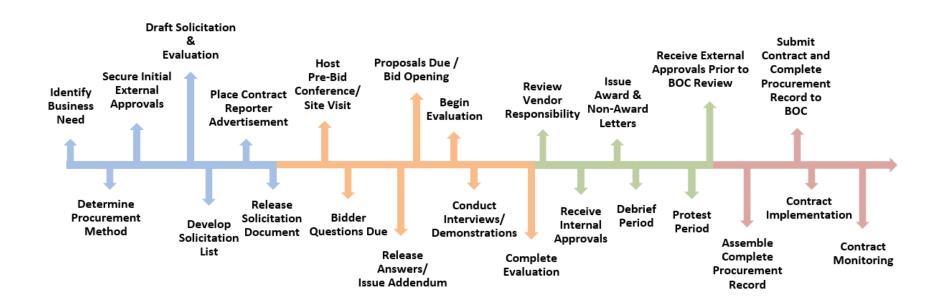
### **BOC Roles & Responsibilities**

- Reviewing procurement processes for compliance with applicable laws, rules and regulations
- Reviewing agency vendor responsibility determinations
- Ensuring sufficient funds reservations for proposed agreements
- Approving/non-approving contracts
- Reviewing bid protests for contracts subject to OSC approval
- Reviewing requests for exemptions to advertising requirements

# State Agencies/Authorities Procurement Roles & Responsibilities

- Identifying business needs
- Developing requirements and conducting a procurement
- Securing budgetary funding
- Negotiating a contract
- Determining vendor responsibility
- Securing approval from control-agencies
- Providing ongoing contract monitoring

### Sample Procurement and Contracting Process





### **Identify Business Need**



- Determine form, function and utility needs
- Define the minimal essential requirements
- Outline funding sources
- Plan timeline
- Identify all internal stakeholders and SMEs

#### **Determine Procurement Method**



- Grant
- Commodity
- Service
- Technology
- Architecture and Engineering
- Construction

#### **Determine Procurement Method**

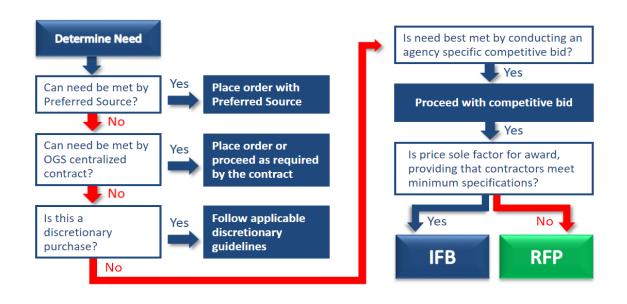
- Preferred Sources
- OGS Contracts
- Competitive Procurement
- Non-Competitive Grant Procurement
- Single/Sole Source Procurement

### Determine Procurement Method Service vs. Grant Procurement

Component	Service Contract	<b>Grant Contract</b>
Purpose of Funds	Services are being provided to support the operations of the agency.	Services are being provided to the public at large for a specific purpose which aligns with the State agency's mission.
Matching Requirements by Contractor	Does not contain matching requirements.	Frequently contains a matching requirement.
Evaluation of Cost	Best value.	Based on reasonableness of individual proposal and responsiveness to documented cost criteria.
Payment	Payment is made upon receipt of invoice for completed services. No advances are typically allowed.	Advances to non-profits are generally allowed up to 25%. Payments should be on a pre-defined schedule.
Additional Statutory Requirements	Consultant Disclosure and the Procurement Lobbying Law, etc.	Subject to Prompt Contracting Law.

#### **Determine Procurement Method:**

#### SFL 163 Goods and Services



### Determine Procurement Method: SFL 163 Goods and Services

- Must meet agency's form, function and utility needs
- OGS or less
- Backdrop contracts
- Mini-bids

For more information:

https://ogs.ny.gov/procurement/ogs-centralized-contracts



### Determine Procurement Method: SFL 163 Goods and Services

#### GFO XI.8.A

- Purchases from OGS Centralized Contracts over \$200,000 require OSC approval
- Must contain OC Prefix
- OGS Centralized Contract How to Use Guide
- Vendor Selection
- Price justification
- OC transaction term

# OSC Pre-Approval Thresholds

#### SFL Article 7, §112

- Greater than \$50,000: State agency, department, board, officer, commission or institution
- Greater than \$85,000: OGS agency-specific and Business Services
   Center processed agreements
- OGS centralized contracts \$125,000
- State Agency purchases from OGS centralized contracts \$200,000
- Greater than \$25,000: Revenue contract

## OSC Pre-Approval Thresholds

#### Education Law § 355, § 373, § 6218 and § 6275

- SUNY purchase of goods and services \$75,000
- SUNY healthcare facilities purchase of goods and services \$150,000
- CUNY purchase of goods and services \$75,000
- SUNY & CUNY Construction Fund \$75,000

# **Determine Procurement Method Discretionary (Informal Selection) Thresholds**

#### SFL Article 11, §163(6)

- \$750,000 or less
  - Minority and Women-Owned Business Enterprises (M/WBEs)
  - Service-Disabled Veteran-Owned Businesses (SDVOBs)
- \$500,000 or less
  - New York State Small Business Enterprises (SBEs)
  - Purchases of recycled or remanufactured commodities or technology
- \$200,000 or less
  - Food commodities, including milk and milk products, grown, produced or harvested in New York State
  - Textile products manufactured from animal or plant fiber grown or produced predominantly in New York State

### **Determine Procurement Method**

**State Finance Law Thresholds** 

#### SFL Article 9, §136a

 Greater than \$25,000: A/E procurements and amendments

### **Secure Initial External Approvals**



#### Examples include:

- Agency Spending Control Application (ASCA)
- OGS Preferred Source Price Approval
- OGS Piggyback Approval

#### **Draft Solicitation & Evaluation**

Secure Place Release Identify Determine Initial Draft Develop Contract Solicitation Solicitation Business Procurement External Solicitation & Reporter **Approvals Evaluation** Advertisement Document Need Method List

- Program background
- Objectives
- Timeline of events
- Term and renewal options
- Contacts
- Mandatory requirements
- Program requirements
- Desirable qualifications
- Prequalification requirement

- Method of award
- Clarifications/reserved rights
- Evaluation methodology
- Scope of work
- Ordering mechanism
- Delivery schedule
- Reporting requirements
- Payment terms

# Draft Solicitation & Evaluation Mandatory Requirements

- Ensure all are quantifiable or measurable
- Evaluate as pass/fail
- Must be met without alteration
- Match evaluation instrument

# Draft Solicitation & Evaluation Program Requirements

- Describe minimum specifications or requirements that must be met in order to be considered responsive
- Detail the physical and functional characteristics or the nature of a commodity
- Describe the work to be performed, services required or products to be provided

# Draft Solicitation & Evaluation Program Requirements

- State the necessary experience and qualifications of the offeror and key project staff
- Articulate the process for achieving specific results, anticipated outcomes or any other requirement necessary to perform the work
- Design specifications to enhance competition

## Draft Solicitation & Evaluation Desirable Qualifications

- Include preferred capabilities, features, experience, etc.
- Scored through technical evaluation
- Does not have to be included in offeror proposals
  - Consider requiring a vendor to include in their proposal a confirmation they
    have nothing to offer in the desirable qualifications section
  - Choosing not to offer a desirable may result in a lower technical score, but would not preclude a contractor from award

### Draft Solicitation & Evaluation Method of Award

#### SFL Article 11, §163(1)(i)

Lowest Price / Invitation for Bids (IFB)

#### SFL Article 11, §163(1)(j)

Best Value / Request for Proposals (RFP)

#### SFL Article 9, §136-A

Most Qualified / Request for Qualifications (RFQ)

### Draft Solicitation & Evaluation Draft Evaluation Instrument

#### SFL Article 11, §163(9)(a), (b)

- Summary/scope of the project
- General instructions to evaluators
- Evaluation steps, responsibilities, and timeline
- Scoring methodology, distribution of points among technical criteria and relative importance/weight of cost
- Key/scale for assigning points within criteria
- Effect of interview and references on scoring, if applicable
- Work distribution for multi-award procurement

### **Develop Solicitation List**



- Minority or Women-Owned Business Enterprises (MWBE Directory)
- Service-Disabled Veteran-Owned Business (SDVOB) Directory
- New York State Contract Reporter
- Open Book
- Internet search engines / trade publications
- Previous solicitation lists, bidders and incumbent vendor(s)

Place Contract Reporter Advertisement & Release Solicitation Document





# Place Contract Reporter Advertisement Advertising Requirements

#### Economic Development Law Article 4-C, §142

- Contract Reporter Advertisement
- Post in the <u>New York State Contract Reporter</u> a minimum of 15 business days
- Required for all procurements equal to or greater than \$50,000

# Place Contract Reporter Advertisement Advertising Requirements

#### Economic Development Law Article 4-C, §144

- Contract Reporter Exemption Request (CRER)
- Awarded on a critical or emergency basis or in an instance where publication is not feasible
- Required to be approved by BOC prior to contract execution
- Agencies must still publish notice of either the letting or award of the contract and their reasons for any such exemption

# Place Contract Reporter Advertisement Advertising Requirements for Construction Contracts

#### State Finance Law §135

- WICKS Law
- Requires State and local governments to issue multiple construction contracts for most public works projects, will be increased to \$3 million in New York City, \$1.5 million in the downstate suburbs, and \$500,000 Upstate.

#### Public Building Law Article 2 Section 8.2

Newspaper advertising requirements

# **Q&A**

#### **Host Pre-Bid Conference / Site Visit**



- Provide opportunities for bidders to ask questions and obtain better understanding of what is required
- Distribute, in writing, all questions and answers, to every potential bidder after the conference / site visit has concluded
- If attendance is mandatory, only offerors who participated may be considered

# Bidder Questions Due & Release Answers / Issue Addendum



- Distribute, in writing, to every potential bidder
- Publish copy of bidder questions and agency answers
- Ensure published answers do not include the vendor names
- Agency may choose to require signed acknowledgement from bidders confirming receipt of answers / addenda

### **Proposals Due / Bid Opening**



- Conduct at the location and time stated in the solicitation
- Document all timely bids / proposals received
- A bid tabulation should be signed and certified by the agency staff responsible for opening and recording bids

### **Begin Evaluation**



- Separate administrative, technical, and cost evaluations
- Distribute proposals to evaluators
- Provide evaluators with clear expectations
- Evaluate proposals according to standards set in the evaluation instrument and solicitation

## Begin Administrative Evaluation: SFL 163 Goods and Services

- Ensure the bid submission is complete
- Ascertain that all required materials have been submitted, and appendices are signed / notarized, as required
- Validate all mandatory pass / fail criteria have been met

## Begin Technical Evaluation: SFL 163 Goods and Services

- Verify procedure for score changes, if applicable
- Format individual evaluation sheets to include adequate space for comments and scores
- Confirm individual evaluator comments are legible, detailed, appropriate and relevant
- Ensure individual evaluation sheets are signed and dated with names of the vendor and evaluator

## **Begin Cost Evaluation:**SFL 163 Goods and Services

- Ensure vendor completed the cost proposal / template form included with the solicitation and did not make additions or changes
- Must be evaluated objectively and separately
- Utilize recommended formula for cost scores:

Cost Score = (Lowest Bid ÷ Bid Being Evaluated) X Maximum Cost Points Available

#### **Conduct Interviews / Demonstrations Shortlisting** Host Pre-Bid **Proposals** Conduct Bidder Release Conference/ Due/ **Begin** Interviews/ Complete Questions Answers/ **Evaluation** Site Visit Issue Addendum **Bid Opening Evaluation Demonstrations**

- Limits the number of offerors that are allowed to continue through the final evaluation process
- Must be identified in the evaluation instrument and solicitation documents if utilized
- All vendors that were susceptible to award should be included
- May be scored separately on evaluation sheet or used to revise previously scored criteria

### **Complete Evaluation**



- Calculate each evaluator's scores
- Complete the normalization of scores, if needed
- Using each evaluation category, create a scoring summary sheet
- Determine the tentative awardee based on the applicable method of award

# **Q&A**

# BREAK

## Review Vendor Responsibility

Review Vendor Responsibility

Receive Internal Approvals

Issue Award & Non-Award Letters Debrief Period Protest Period Receive External Approvals Prior to BOC Review

- Financial and organizational capacity
- Legal authority
- Integrity
- Past performance

## Review Vendor Responsibility Documentation Requirements

- Vendor Responsibility Profile
- Vendor Responsibility Questionnaire (valued at \$100,000 or more)
- Workers' Compensation (WC) & Disability (DB) Certificates
- NYS Charity Registration Bureau Status Confirmation (Not-For-Profits only)
- See <u>OSC website</u> for documentation exemptions

# Review Vendor Responsibility Subcontractor Requirements

- Known at the time of award & valued at \$100,000 or more
- Subject to the same vendor review requirements
- WC and DB coverage required if vendors perform work in NYS
- WC and DB Certificates not required to be submitted
- Documentation exemptions to Prime Vendor do not apply to Subcontractors unless they are also exempt

# Review Vendor Responsibility Vendor Responsibility Profile

- Profiles should be completed and current for each transaction
- Signed & dated by approved signatory
- Provide an independent detailed assessment of issues
- Include assessment of all adverse VRQ disclosures
- Outline your organizations VR process

# Review Vendor Responsibility Vendor Responsibility Profile

Part I – Contract Info	rmation - Co	mplete for all transa	ctions.			
. Business Unit	2. Depo	artment ID #	3. Department Name			
4. Contract/PO #	5. Ame	endment Sequence #	6. Transaction Amoun		7. Total Contract Valu	e
8. Vendor Name			9. NYS Vendor ID#		10. Taxpayer ID/EIN	-
11. Contractor Type:	Prime Contrac	tor Subcontract	or			
12. Contract Description						
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13. State contracting entity	y contact for th	us transaction - Name,	Phone, Email			
14. Were any issues discle (If "Yes," provide det			contracting entity? Ye	s No	0	
				a Workers'	Compensation and Di	hiti
15. If this is a new contract						
	exemption beer	verified as accurate, u	p-to-date, and included as			
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Business Unit #	Department ID #
Contract/PO #	Amendment Sequence #
Vendor Name	NYS Vendor ID#
resolution.  Note: In the "Resolution" field, include the vendor's responsibility for this procumitigating actions taken by the State con	und by the State contracting entity, describe the issue and its the State contracting entity's assessment of the issue, its relevance to terement (including any supporting reasons), and any corrective or tracting entity ovendor in response to the issues, datach additional ting entity believes the issue has no impact on this transaction, stat
Issue Description	State Contracting Entity Resolution
2.	
consideration of the vendor disclosures and t limited to, internet sources, contracting entity Checklist was used, it is acceptable to submi	cting entity to determine vendor responsibility including the independent State contracting entity research, including but not records, and internal or external communication. If a Resource the completed its in fieu of describing the process, such results or information found on the VendRep System.

## Review Vendor Responsibility Workers' Compensation & Disability Insurance

#### **Workers' Compensation:**

### **Disability Insurance:**

**Not Acceptable:** 

1.) Private Carrier: C-105.2

2.) State Inc Fund: U-26.3

3.) Self- Insurance: SI-12

4.) Group Self Inc: GSI-105.2

1.) Private Carrier: DB-120.1

2.) Self Insurance: DB-155

### **Coverage Exemptions:**

1.) CE-200

1.) ACORD Form



# Review Vendor Responsibility Workers' Compensation & Disability Insurance

- Vendor name & FEIN should match the contract and procurement documentation
- Period of coverage must be current
- Forms must be signed

### **Receive Internal Approvals**



- Follow any internal or agency-specific procedures
- Verify proposal is within budget
- Review vendor and agency terms and conditions with counsel, if applicable

### **Issue Award and Non-Award Letters**



- Must send notification to all bidders
- Provide non-successful bidders with information for requesting a debriefing
- Specify in non-award letters if a vendor is determined to be non-responsive

### **Debrief Period**



### SFL Article 11, §163(9)(c)

- Unsuccessful bidders may request a debriefing within 15 calendar days of notification of non-award
- Schedule the debriefing to occur within a reasonable time of such request
- Ensure debriefing is conducted by agency personnel involved in the procurement and is knowledgeable with the bidder selection
- Discuss the bidder's unsuccessful submission

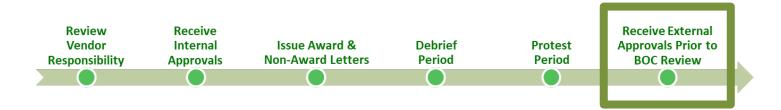
### **Protest Period**



### New York Codes, Rules and Regulations Title 2, Part 24

- Resolve initially at agency level, if applicable
- File an initial protest with BOC within 10 business days of receiving contract award notice or, within 5 business days of the debriefing, whichever is later
- File a protest appeal to BOC within 10 business days of receipt of an agency protest determination
- Retain all documentation including complaints, protests, responses, appeals and resolutions for the procurement record

## Receive External Approvals Prior to OSC Review



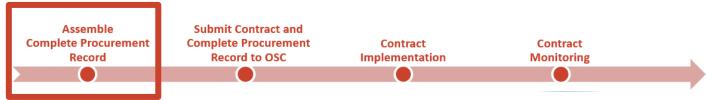
- Department of Civil Service (S-contracts)
- Office of the Attorney General (OAG)
- Bureau of State Accounting Operations Cash Management Unit (BSAO CMU) for banking services (<u>SFL Article 7, §106</u>) (<u>GFO Chapter XI, §11.C</u>)

## OSC Review NYS Contract Terms and Conditions

- Appendix A: Standard Clauses for NYS Contracts, required for State agencies dated June 2023
- <u>Exhibit A</u>: Standard Clauses for SUNY Contracts, dated June 2023
- Standard Termination Clauses (<u>Guide to Financial Operations (GFO)</u>
   <u>Chapter XI, §2.H Multiyear Contracts</u>)
- Agency or facility specific clauses
- Procurement policies, statutes & disclosures
- State of New York Contract for Grants

# **Q&A**

## **Assemble Complete Procurement Record**



- EDSS accepts major file types: Word, Excel and PDF
- Scanned documents (PDFs) must be Optical Character Recognition (OCR) searchable
- Individual file size limit of 25MBs No limit on number of documents
- Files sizes larger than 25MBs will need to be split or compressed
- Password protected documents, zip files, and PDF portfolios are not accepted
- Save documents to one folder on your desktop to easily drag & drop into EDSS

## **Submitting A Grant Procurement Record (GPR)**

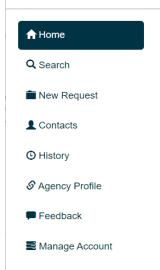


### **Submitting a Contract/Amendment to OSC**

Assemble Complete Procurement Record Submit Contract and Complete Procurement Record to OSC

Contract Implementation Contract Monitoring

### **Electronic Documents Submission System**



Help

#### Home

Home /

The Electronic Documents Submission System (EDSS) allows users to easily and securely submit data and documents to the NYS Office of the State Comptroller (OSC) Bureau of Contracts (BOC).

Users are able to view results real-time, keep information and documents centrally organized, and benefit from using electronic documents (rather than hard copy).

#### Grant Procurement Record

Submit New Procurement Record
Submit Procurement Record Amendment
Submit Limited Funding Request

#### Exemption Request

Submit Contract Reporter
Exemption Request (CRER)

### Contract Documents

Submit Procurement Contract / Amendment Submit Revenue Contract / Amendment

Transactions In Draft

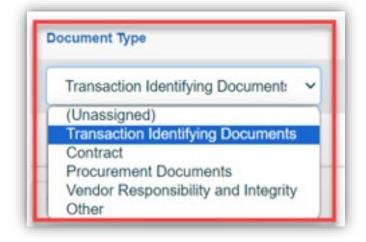
All Submissions



### **Submitting a Contract/Amendment to OSC**

### **Document Type – "Categories"**

- Transaction Identifying Documents
- Contract or Amendment
- Procurement Documents or Supporting Documents
- Vendor Responsibility and Integrity

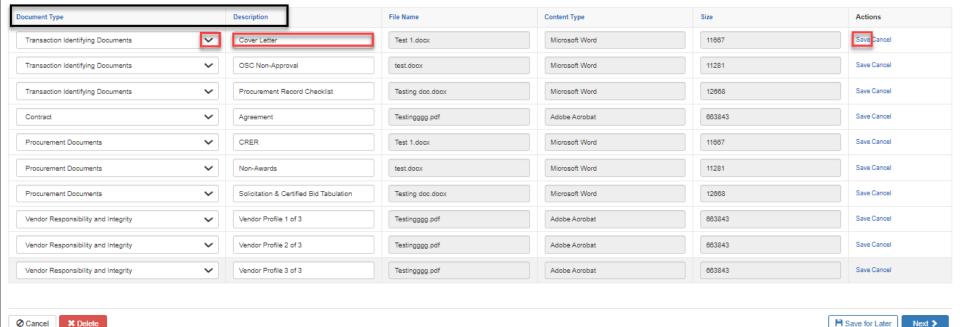


# Submitting a Contract/Amendment to OSC Select the Appropriate Document Type

Transaction Identifying Documents	Contract	Procurement Record  Documents	Vendor Responsibility Documents
<ul> <li>Memo</li> <li>Procurement Record Checklist</li> <li>Non-Approval Letter, if resubmission</li> <li>CRER Approval Letter, if applicable</li> </ul>	Contract     Office of the     Attorney General     Approval	<ul> <li>Advertising Documents</li> <li>Certified Bid Tabulation</li> <li>IFB or RFP</li> <li>Evaluation Documents</li> <li>Award Documents</li> <li>Post Award Documents</li> <li>Other Required Forms</li> </ul>	<ul> <li>Vendor Responsibility Profile</li> <li>Vendor Responsibility Questionnaire</li> <li>Workers' Compensation &amp; Disability Benefits Certifications</li> </ul>

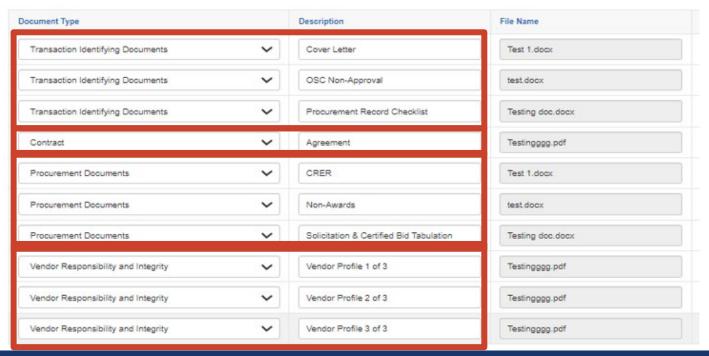
### Submitting a Contract/Amendment to OSC

### **Document Type and Description**





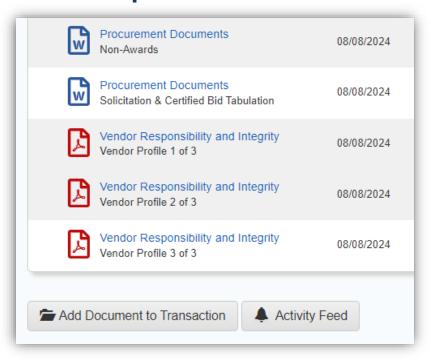
# Submitting a Contract/Amendment to OSC Document Type and Description



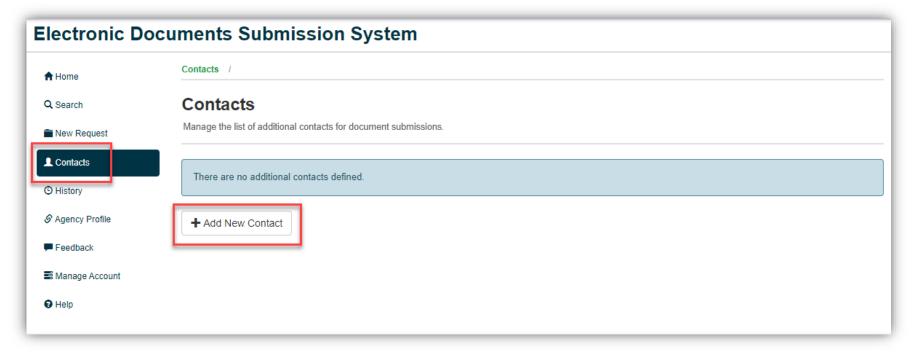


# **Submitting a Contract/Amendment to OSC Example of Document Descriptions**

	Documents In File Cabinet (0) Documents From All Sequence Numbers (10)				
<b>↓↑</b>	Document		Date Received		
		ransaction Identifying Documents SC Non-Approval	08/08/2024		
	200	ransaction Identifying Documents over Letter	08/08/2024		
		ransaction Identifying Documents rocurement Record Checklist	08/08/2024		
	X	ontract greement	08/08/2024		
	307	rocurement Documents RER	08/08/2024		



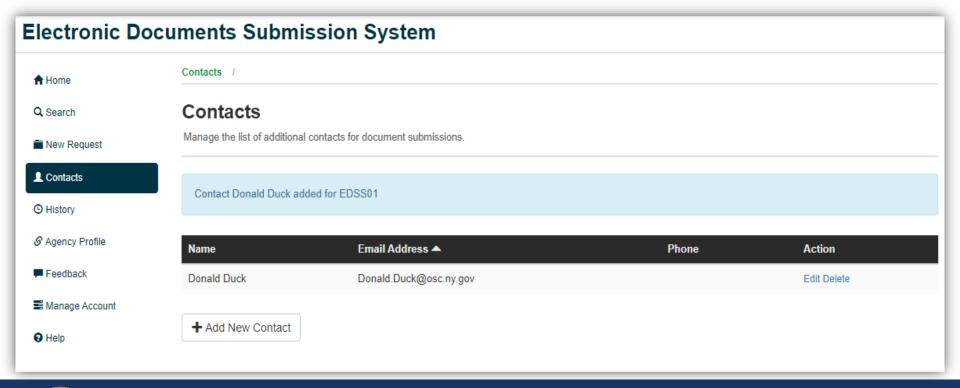
# **Submitting a Contract/Amendment to OSC**Adding Additional Contacts in EDSS



# **Submitting a Contract/Amendment to OSC**Adding Additional Contacts in EDSS

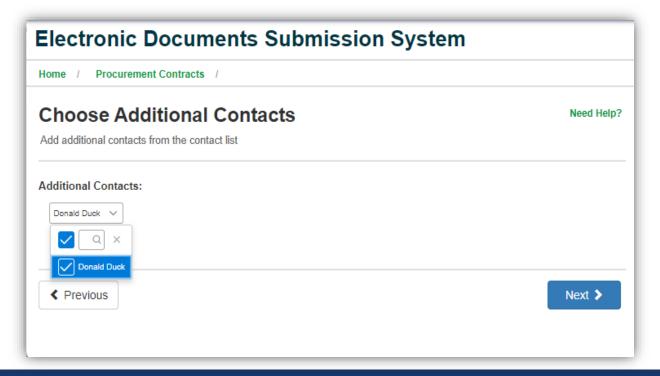
<b>↑</b> Home	Contacts / Add New Contact /		
Q Search	Add New Contact		
New Request	Add a new contact to the additional contact list.		
<b>■</b> Contacts	First Name *	Last Name *	
O History	Donald	Duck	
S Agency Profile	Email Address *	Phone Number	
<b>F</b> Feedback	Donald.Duck@osc.ny.gov		
Manage Account	<b>⊘</b> Cancel		
<b>€</b> Help			

# Submitting a Contract/Amendment to OSC Contacts List in EDSS



### **Submitting a Contract/Amendment to OSC**

### **Choose Additional Contacts**



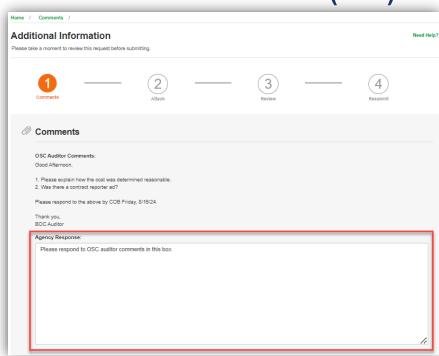
# Submitting a Contract/Amendment to OSC Additional Contacts Best Practices

- Add additional contacts to your Contact list before starting a submission
- Include at least one additional contact on each submission.
- Additional contacts receive email notifications when there is an update to a submission by an OSC auditor or agency user
- If a transaction does not include an additional contact, agency users who share an EDSS dashboard can log in to view or make updates to a transaction

## **Submitting a Contract/Amendment to OSC**

Responding to OSC's Request for More Information (RMI)

- Respond to OSC via EDSS
  - Keep all documents and communication within EDSS
  - Respond using comments box



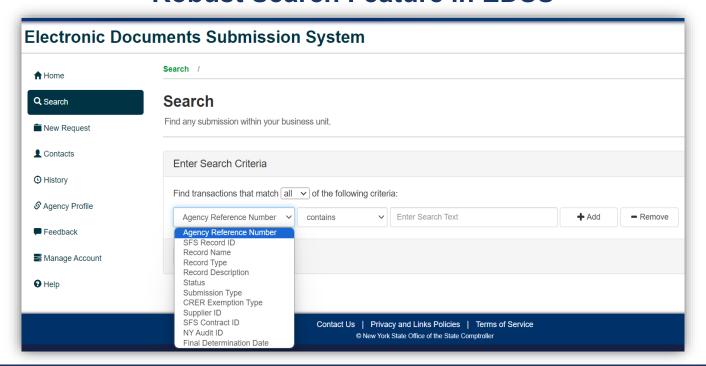
## Submitting a Contract/Amendment to OSC

#### Recent Activity/Activity Feed

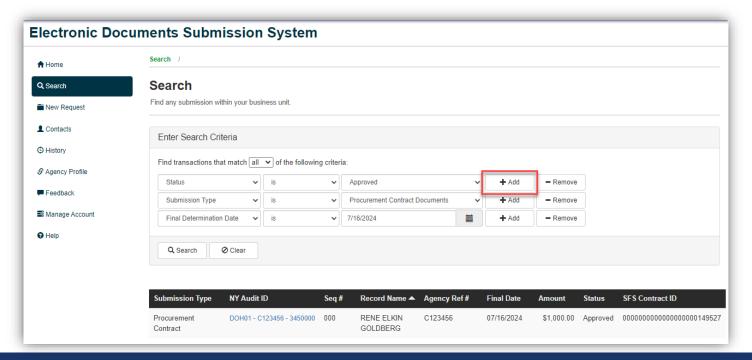




## Submitting a Contract/Amendment to OSC Robust Search Feature in EDSS

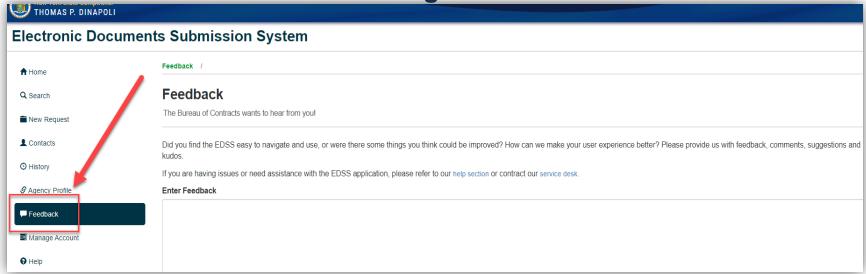


## Submitting a Contract/Amendment to OSC Robust Search Feature in EDSS



## **Submitting a Contract/Amendment to OSC**

**Submitting Feedback** 



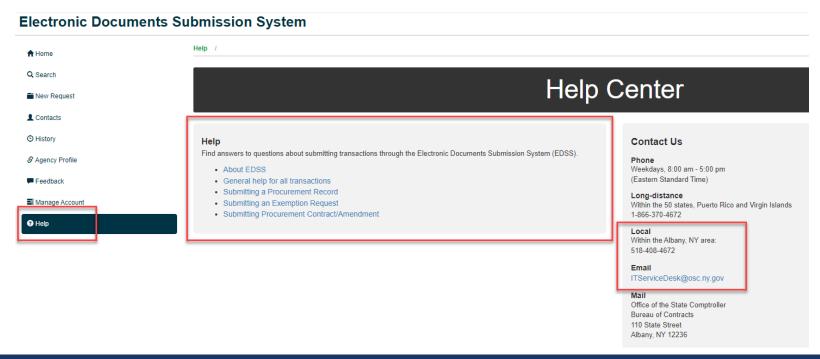
\*We encourage you to provide us with feedback, comments and suggestions.

#### Resource:

**EDSS Feedback** 



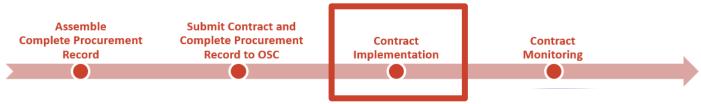
# Submitting a Contract/Amendment to OSC Help with EDSS



# **Submitting a Contract/Amendment to OSC**Suggestions for Smooth EDSS Submissions

- Follow the Documentation Order Guide on the EDSS Help page
- Files should be clearly and accurately named
- Select the appropriate Document Types
- Include additional contacts on all submissions
- Respond via EDSS to auditor questions
- Refer to EDSS help pages or call/email the OSC Helpdesk if you have a question

## **Contract Implementation**



- Send the approved agreement to contractor
- Initiate work in accordance with contract terms
- Order needed items or products
- Update bid results in Contract Reporter advertisement
- Ensure work does not commence until the contract is approved

## **Contract Monitoring**

Assemble Complete Procurement Record Submit Contract and Complete Procurement Record to OSC

Contract Implementation Contract Monitoring

#### GFO Chapter XI, §11.F

- Assess vendor's compliance with contract documents
- Routinely check vendor responsibility
- Track spending / invoice reconciliation
- Evaluate optional renewals
- Monitor escalation
- Review vendor performance

#### Resources

- GFO: XI.17 Protest Procedures
- EDSS Feedback
- EDSS Documentation Order Guide
- EDSS Procurement Contract and Amendment Help
- Acrobat User Guide: Splitting or Compressing PDFs
- Documentation Order Guide
- <u>Documentation Order Guide for Construction Contracts, Contract</u>
   <u>Amendments / Change Orders</u>

### **Resources Continued**

- EDSS: General Help for All Transactions
- GFO XI.2.E Submission of Agency Contracts and Amendments
- Vendor Responsibility Profile PDF
- Vendor Responsibility Profile Instructions
- GFO: XI.2.K Authorized Signatures
- Workers Compensation Board Website
- Vendor Responsibility Documentation Requirements Chart
- XI.4 Overview XI. Procurement and Contract Management
- Grants Management System Prequalification Process

# **Q&A**

# OSC Bureau Contact Information BOC General Information (518) 474-6494

# Thank You!!!