


State of Collaboration
Grants Partnership for Success
(GPS) To Yes!



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THOMAS P. DiNAPOLI

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Welcome to

**Grants Partnerships for Success
(GPS) To Yes!**

With your hosts:
The OSC Bureau of Contracts Grants Team




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Introduction

Get your clickers ready!

- Overview of clicker use (guests anonymously answer questions)
- Review of OSC best practices
- Final questions and discussions



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In which NYS law is a grant contract defined?

- A. SFL §163
- B. SFL §112
- C. SFL Article 11-B
- D. None of the above

0% 0% 0% 0%
A B C D

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Grant Characteristics


- Not specifically defined in statute
- Mentioned in State Finance Law, Article 11-B, the Prompt Contracting Law
 - also known as Section 179
- Known as “Program” contracts
 - usually associated with work that supports the State agency mission by providing critical services
- Often have multiple contracts associated with them

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Which of these is not a primary characteristic of a grant?

- A. Services to be provided primarily to the community, not the State
- B. Contract contains advance payment language
- C. Contract requires a local match
- D. Contract is subject to Procurement Lobby Law




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Grant or Service Procurement?

Characteristic	Grant/Contract	Grant/Service
Purpose of Funds	Services are being provided to support the operations of the agency.	Services are being provided to the public at large for specific programs administered with the State agency/fund.
Matching Funds/Requirement by Client/Agency	Does not contain matching requirements.	Frequently contains matching requirements.
Duration of Cost	Typically had value.	Based on reimbursement of individual proposed and expenditures to documented activities.
Payment	Payment is made upon receipt of invoice for completed services. No advance are typically allowed.	Advances to non-profits are generally allowed up to 25%. Payments should be on a pre-determined schedule.
Additional Statutory Requirements	Subject to Various, Consultant Statutes and the Procurement Lobby Law.	Subject to Procurement Lobby Law.



Which of these is **not** an objective of an OSC procurement review?


- A. Guard against fraud, favoritism and corruption
- B. Protect the interest of the State and its taxpayers
- C. Support in-law's new business enterprise
- D. Ensure fair and open competition



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Procurement Process

State Procurement Review Objectives



- Ensure the procurement process was completed in a fair, equitable, and competitive manner
- Safeguard against favoritism, extravagance, fraud, and corruption
- Provide checks and balances to regulate and oversee agency procurement activities
- Protect the interests of the State and its taxpayers



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Which is **not required by OSC to be submitted with the procurement record?**


- A. Current State Fiscal Year Appropriation
- B. Letter from the agency's Commissioner
- C. Comprehensive award list
- D. Award or Non-award Notification/Debriefing/Protest status



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Procurement Record Review

Documents required for OSC procurement record review should include, but are not limited to:


- Enacting legislation and current appropriation
- Proof of substantial compliance with solicitation requirements
- Comprehensive applicant/awardee list
- Award/Non-Award notification/debriefing/protest status
- Boilerplate contract



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At a minimum, how many days in advance of a grant contract start date should an agency send a procurement record to OSC for review?


- A. 15 days
- B. 30 days
- C. 45 days
- D. 90 days



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Process and Documentation Preparation

OSC Guide to Financial Operations XI.15.A


- Complete Procurement Record should be sent to OSC 30 days prior to contract(s) start date
- Competitive Grants Procurement Record Checklist (AC 3270-S) identifies the documentation required
- Procurement records are to be submitted through the Electronic Documents Submission System (EDSS)



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Which is **not a criterion for a procurement amendment?**


- A. All award amounts are being increased or decreased proportionally
- B. Additional procurement funding is available
- C. There is a typographical error on the award list
- D. An awardee has declined and the procurement allows awarding to the next highest scoring applicant



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Procurement Record Amendment

Criteria for Amending a Procurement Record


- Additional funding was received and all awards are increasing proportionately.
- An awardee has declined their award and the procurement allows for funding of the next highest scoring applicant.
- There was a substantive error with the initial submission.



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What is the variance in points of an evaluation score that requires normalization?


- A. 5
- B. 7
- C. 12
- D. 20



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- A. 5
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- D. 20
- ★ E. None of these




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Evaluation Scoring Variances

Normalizing Scoring


- There is no set number, but as a best practice agencies should have a plan to normalize variances
- Risk is that review criteria can be subjective
- Same evaluators should evaluate all applications, if possible
- Training for evaluators should be consistent



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Can a State agency make an award to a vendor with issues disclosed that would appear to warrant a corrective action plan?


A. Yes
B. No



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★ A. Yes
B. No



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Vendor Award


- OSC GFO §XI.16 - Vendor Responsibility information
- SFL §112 - State contracting entities award contracts only to responsible vendors
- State agency and vendor can develop a formal corrective plan
- State agency can build in safeguards to protect taxpayers' interests



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Are there any circumstances where a State agency can waive mandatory requirements?


A. Yes
B. No



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Are there any circumstances where a State agency can waive mandatory requirements?


★ A. Yes
B. No



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Mandatory Requirement Waiver

- If they can demonstrate it, State agencies have the discretion to waive irregularities if minor, not material, nor substantial
- It is best practice to have reserved the right to do so in the solicitation document



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What is proper rationalization for use of a Contract Reporter Exemption Request?

- A. The current NFP provider has identified a successor to assume services
- B. Additional funding is available to some, but not all, previously selected awardees
- C. Two vendors/providers have legally merged
- D. The vendor has provided the needed services for the last ten years



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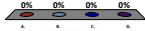
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CRER Utilization

- The State agency must make and justify selection
- Mergers - Department of State documentation supporting the merge can be provided
- Longevity of services from a particular vendor can not be the only justification for selection.
- Explanation of why some and not all contracts being modified
- Additional funding is granted in a different manner than the original procurement

What does OSC consider proper justification to support a Contract Reporter Exemption Request?

- A. None or only one respondent to a Solicitation of Interest for the program
- B. No applicants responded to a request for applications and an extension of an existing program is needed
- C. Only one vendor/provider meets the necessary program requirements
- D. All of the above



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CRER Justification

- The agency only received 1 response to their Solicitation of Interest (SOI)
- Interruption of provision of essential services would be detrimental to the community
- There are limited authorized providers of services

NOTE: Best practice is to limit the term length of awards granted through CRERs so the State agency can re-assess provider availability

What is not a characteristic of a non-competitive procurement


- A. Agency has history with selected vendors
- B. All qualified applicants awarded
- C. Funding distributed per formula
- D. Multiple contracts anticipated



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Non-competitive Procurements


- Finite pool of eligible participants
- All eligible applicants are awarded
- Funding by formula
- Multiple awardees - if only one awardee, a CRER would be used



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What minimum information would OSC expect from a direct budget line item in support of a contract?


- A. Program and the grantee are specified in the budget
- B. Grantee and funding amount are specified in the budget
- C. Program and funding amount are specified in the budget
- D. Program, grantee and funding amount are specified in the budget



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Direct Budget Line Item


- Agency is responsible for demonstrating that the contract is consistent with the purpose noted in the appropriation
- Direct line item without a named entity or clear distribution intent requires a Legislative Initiative form or Legislative Letter of Intent for clarification



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What is **not acceptable support to execute a grants contract?**


- A. Press Release
- B. Competitive/Non-competitive procurement
- C. CRER
- D. Direct line item in the budget



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What is **not acceptable support to execute a grants contract?**


- ★ A. Press Release
- B. Competitive/Non-competitive procurement
- C. CRER
- D. Direct line item in the budget



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Agency Submission of Contract


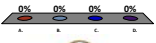
- OSC GFO §XI.2
 - Process & document preparation guidance
- NYS Procurement Rules & Guidelines
 - General policies and procedures and related legislative requirements applicable to the New York State procurement process, best practices for grant procurements
 - ogs.ny.gov/system/files/documents/2018/08/psnys-procurement-guidelines.pdf
 - its.ny.gov/nys-procurement-rules-and-guidelines



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What is the OSC encumbrance requirement for a grant contract?


- A. 25% of contract value
- B. Value of the first period
- C. Entire contract value
- D. Fiscal year obligation



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OSC Encumbrance Requirement

OSC GFO §XI.2.C – Contract Funds Reservation


- Generally, contracts should be encumbered through the current fiscal year obligation
- Exception - Limited Funding Requests



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Which fund type is eligible for an OSC encumbrance exemption?


- A. Capital Funds
- B. Federal Funds
- C. Aid to Localities Funds
- D. All State Fund Types



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Contract Funds Reservation

OSC GFO §XI.2.C – Contract Funds Reservation


–Guidance regarding OSC funds reservation policy on limited funding includes form AC 3280-S to be used for a federal fund encumbrance exception



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Which of these are important components of your contract transaction?


- A. Term
- B. Amount
- C. Signatures
- D. Inclusion of appendices
- E. All of the Above



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Critical Contract Content

OSC GFO §XI.2 – Comptroller Approval of Contracts and General Contracts Processing

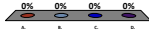
– Transaction follows all OSC approved procurement details



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Who are the correct signatories to a contract assignment agreement?

- A. The assignor, the assignee, the notary, the AG & OSC
- B. The assignor, assignee, the State agency, the notary, the AG & OSC
- C. The assignor, the State agency, the assignor's attorney, the notary, the AG & OSC
- D. None of the above



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- C. The assignor, the State agency, the assignor's attorney, the notary, the AG & OSC
- D. None of the above

Contract Assignments

- OSC GFO §XI.12.B
 - Outlines the procedures to be followed by a State agency to execute the assignment of a contract to an entity other than the original contract holder.
- SFL Article 9, §138
 - Contracts cannot be assigned without the prior written consent of the contracting agency officials.
- Lien Law, Article 2, §16
 - Contract assignments must be filed with the originating agency and the Office of the State Comptroller within 20 days of the date of the assignment.

Does an amendment transaction require the Attorney General's approval?


- A. Yes
- B. No
- C. Maybe
- D. Never



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- A. Yes
- B. No
- ★ C. Maybe
- D. Never



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Attorney General Approval of Amendments as Prescribed


- OSC GFO §XI.4.B. Standard Contract Language for Grant Contracts: Fixed Term, Multiyear Contracts and Simplified Renewals
 - Generally not required for amendments
 - State agency should contact the AG prior to making any substantive changes to a grant contract, appendix or attachment
- If there is a question, contact the AG



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What is the minimum dollar threshold for submission of the Vendor Responsibility Questionnaire and Profile for a subcontractor?


- A. \$50,000
- B. \$100,000
- C. \$125,000
- D. \$250,000



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Vendor Responsibility Requirements

OSC GFO § XI.16 – Vendor Responsibility

Submission of a Vendor Responsibility Questionnaire and a State contracting entity vendor responsibility review are required for a subcontractor where:


- subcontractor is known at the time of the contract award
- subcontract will equal or exceed \$100,000 over the life of the contract



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When does a budget modification need to be submitted to OSC?

- A. Change exceeds \$1,000
- B. Change is 5% or 10% of the total contract value
- C. Contract is greater than \$1M
- D. Budget modifications are not subject to OSC review




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OSC Budget Modification Policy

NYSFL Art 11-B § 179-ee.3

– “...where the amount of such modification is, as a portion of the total value of the contract, **equal to or greater than ten percent for contracts of less than five million dollars, or five percent for contracts of more than five million dollars**, the comptroller may require that such modification be submitted to him or her for review.”





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When will OSC request clarification of contract value or budgets for multi-year contracts?


- A. With every contract submission
- B. When there are subcontractors
- C. When federal funds are used
- D. When the annual budget increases exceed 5%



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Multi-year Contract Budgets


- Multi-year agreement is used in lieu of annual renewals when the scope/budget are expected to remain consistent
- Entire budget term and work plan should be completely presented in the initial contract submission
- If there is an increase greater than 5% between years, submit out-year budgets



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When should a No Cost Time Extension be submitted?


- A. The end of a contract term
- B. The end of a contract period
- C. Never
- D. Anytime



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- B. The end of a contract period
- C. Never
- D. Anytime



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No Cost Time Extension Submission

- Should not occur in the middle of a term
- Should only be submitted at the end of the contract term



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Help Us Help You

Please provide sufficient contact information with your transaction

- Name, phone number and email address of **primary** contact
- Name, phone number and email address of an **alternate** contact



Resources

- NYS Guide to Financial Operations
<https://www.osc.state.ny.us/agencies/guide/MyWebHelp>
- Grants Reform
<https://grantsmanagement.ny.gov>
- NYS Division of the Budget
<https://www.budget.ny.gov>
- NYS Office of General Services Procurement Services
<http://ogs.ny.gov/procurement>
- NYS Contract Reporter
<https://www.nyscr.ny.gov>
- Office of the State Comptroller Grants Team Email Box
BOCGrantsTeam@osc.ny.gov




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Questions/Discussions

Thank You!



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