

**Office of Operations
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Partners In Excellence

Request For Proposals for Beginners

Angelina Cadena & Melanie Young



Office of the New York State Comptroller
Thomas P. DiNapoli, Comptroller

Office of Operations

John Traylor, Executive Deputy Comptroller

Division of Contracts and Expenditures

Margaret Becker, Deputy Comptroller

Charlotte Breeyear, Director, Bureau of Contracts



REQUEST FOR PROPOSALS FOR BEGINNERS

RECIPE FOR
PROCUREMENT SUCCESS



Recipe for RFP Procurement Success



AGENDA

- RFP Introduction
- RFP Planning & Development
- RFP Evaluation & Award
- RFP Procurement Record



RFP

INTRODUCTION



STATUTORY PREFERENCE

- Statutory preference is accorded in the following order:
 - 1st Preferred Sources
 - 2nd OGS Centralized Contracts
 - 3rd Agency or Multi-Agency Contracts
 - 4th Procurement Methods Prescribed by State Finance Law (SFL)



OFFICE OF THE STATE COMPTROLLER (OSC) CONTRACT PRIOR APPROVAL THRESHOLDS

- **State Finance Law §112**

Before any contract shall be executed or become effective, it shall first be approved by the comptroller when it exceeds:

- \$50,000: State agency, department, board, officer, commission, or institution
- \$85,000: Office of General Services
- \$10,000: Revenue contract
- Except new centralized contract through OGS, purchase orders issued under centralized contract and SUNY/CUNY Flex



REQUEST FOR PROPOSALS (RFP)

Request For Proposals (RFP) is generally used for the procurement of services or technology in situations where price is not the sole determining factor and the award will be based on a combination of cost and technical factors (Best Value).



WHAT IS BEST VALUE?

- **State Finance Law §163**

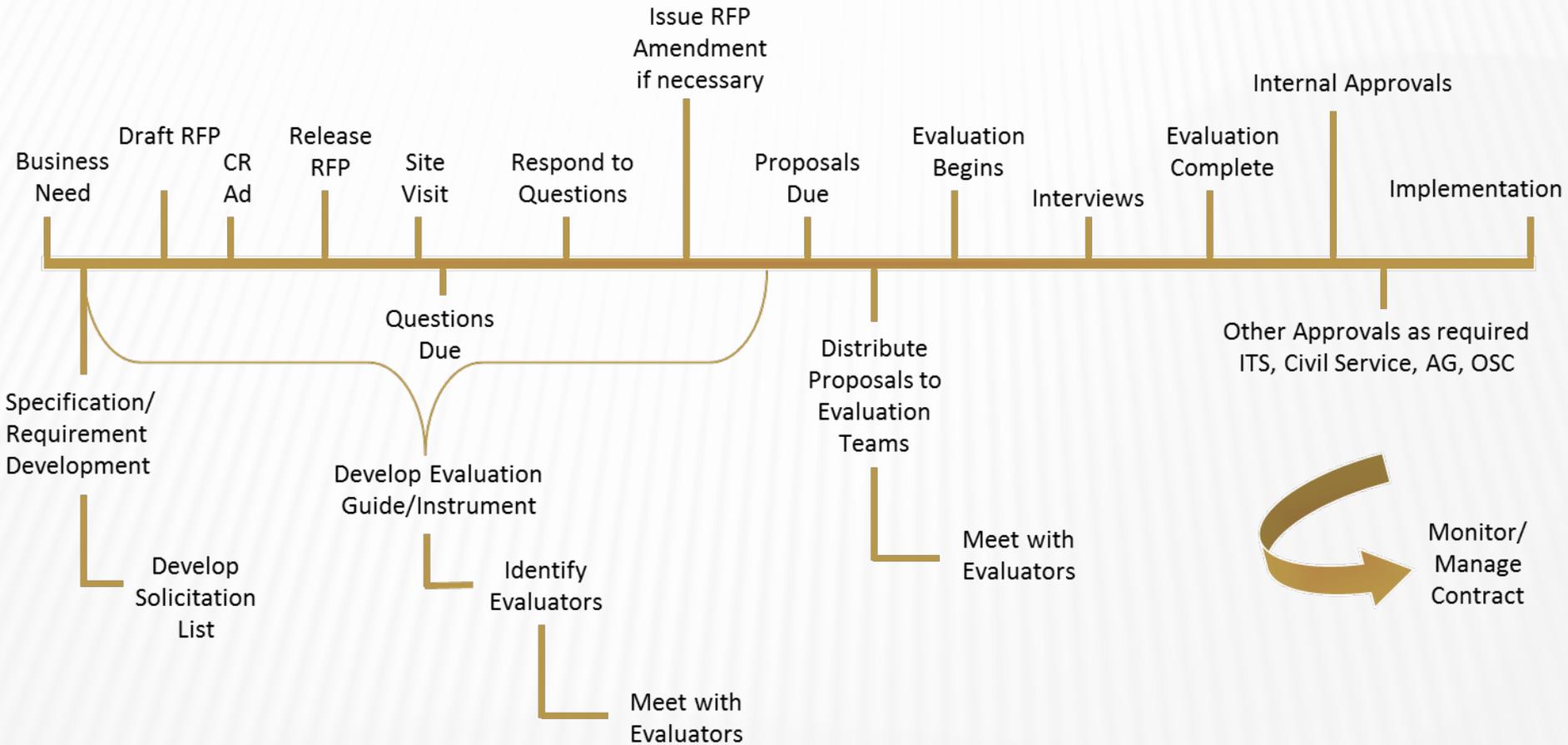
“A best value award is one which optimizes quality, cost, and efficiency and typically applies to complex services and technology contracts.”



RFP PLANNING & DEVELOPMENT



RFP PROCUREMENT PLANNING - EVENTS



RFP PLANNING

- **Develop a Procurement Strategy**
 - Define the service to be procured
 - Determine what need(s) exist(s) for a particular service
 - Develop a timeline
 - Identify procurement events
 - Plan and allocate time effectively
 - Keep it updated as you move forward through the process



RFP PLANNING

- **Elements of Procurement Process**
 - Specifications
 - Requirements
 - Site Visits
 - Interviews / Demonstrations
 - Reference Checks
 - Pool of Vendors
 - Funding Stream(s)
 - Evaluation (Evaluators, Instructions, Execution)
 - Forms (e.g., Cost Sheet)
 - Other Special Events (e.g., Pre-Bid Conference)
 - Procurement Rules and Regulations



RFP DOCUMENT COMPONENTS

- Administrative Process
 - Timeline
 - Technical Proposal submission requirements
 - Cost Proposal submission requirements
 - Single award/multiple awards
- Criteria
 - Minimum qualifications
 - Service Specifications
 - Additional information
 - References
- Contract Terms and Conditions
- Questions and Answers
 - Make any necessary change(s) via an addendum
 - Distribute to entire potential vendor pool



RFP DOCUMENT COMPONENTS

- **Procurement Policies, Statutes & Disclosures**
 - Appendix A
 - Vendor Responsibility
(Guide to Financial Operations (GFO). XI.16.)
 - Procurement Lobbying law (GFO. XI.18.B.)
 - Sales and Compensating Use Tax (GFO. XI.18.D.)
 - Debriefing Language
 - Protest Procedures (GFO. XI.17.)
 - Minority/Women Owned Business Enterprise (MWBE)
 - Service-Disabled Veteran-Owned Business (SDVOB) Act



RFP DOCUMENT COMPONENTS

- **Procurement Policies, Statutes & Disclosures, if applicable:**
 - Health Information Portability and Accountability Act (HIPAA)
 - Agency Specific Appendices
 - Consultant Disclosure Legislation (GFO. XI.18.C.)
 - Form A
 - Form B
 - ITS Security Policies
(<http://www.its.ny.gov/ieso/policies/security>)
 - Prevailing Wage
(<http://www.labor.state.ny.us/workerprotection/publicwork/PWReqforOWS.shtm>)



RFP DOCUMENT COMPONENTS



- **Contracting with Cloud Services**
 - **Data Security:**
 - 3 “W’s”...Where, Who, What?
 - Location of data being hosted, who can access data, what happens to data when contract ends.
 - Beware of “Follow the Sun” policies
 - Facility Audits
 - Multi-tenant platform vs. private platform
 - Data classification
 - Alerting customers of a breach



RFP DOCUMENT COMPONENTS

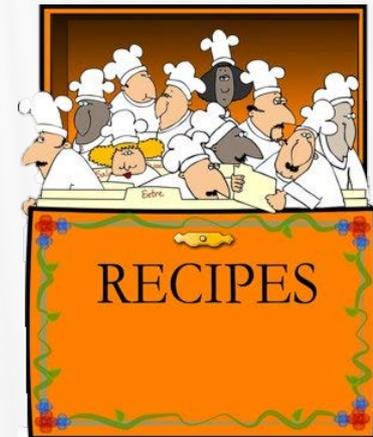


- **Contracting with Cloud Services (cont.)**
 - **Terms & Conditions:**
 - Provisions to allow OSC to audit
 - Include data security clauses (FedRAMP certs, HIPAA laws)
 - Ensure Appendix A takes precedence
 - Renewal & escalation provisions
 - No provisions allowing provider to change terms without approval
 - Cost should be inclusive
 - Service Level Agreement?



RFP DOCUMENT LANGUAGE

- RFP language should:
 - Allow agency to reject any and all bids
 - Allow agency to waive a mandatory requirement
 - If unmet by ALL proposers and non-material
 - Establish a minimum period of proposal validity (e.g., price firm for 180 days and/or proposal irrevocable for 60 days)



RFP DOCUMENT LANGUAGE



- **Questions & Answers**
 - Issues raised may result in the issuance of an addendum to the RFP.
 - Review all evaluation criteria
 - Make any necessary change(s) to the Evaluation Instructions, Evaluation Instrument and Score Sheets

- **Clarifications**
 - Must reserve the right in the RFP
 - Cannot result in a material change to the proposal
 - If cost proposal is extremely low, agency can seek verification from the vendor that they understood the intent or scope of the services.



RFP DOCUMENT LANGUAGE – EVALUATION CRITERIA

■ Evaluation Criteria

- Minimum qualifications (pass/fail)
- Technical criteria
- Cost criteria
- Relative importance – cost vs. technical

RFP must disclose the relative importance and/or weight



RFP DOCUMENT LANGUAGE – METHOD OF AWARD



- **Method of Award**
 - **Single Award**
 - Upon completion of the evaluation process, a contract will be awarded to the proposer whose proposal met all mandatory requirements and obtained the highest composite score, inclusive of both cost and technical.
 - **Multiple Award**
 - Reserve the right to make multiple awards.
 - Specify the number or “up to” number of awards to be made and how work will be allocated among the vendors.
 - Determine the award criteria prior to receipt of proposals and document in the Evaluation Instrument.



RFP RECIPE GAME 1



RFP RECIPE CHEF



RFP RECIPE GAME 1 – RFP LANGUAGE



Select the appropriate RFP procurement ingredient:



RFP allowed a vendor to negotiate the terms and conditions included in the Appendix A.



RFP did not allow a vendor the right to terminate the contract for convenience.



RFP specified an optional pre-bid conference. Agency sent the responses to the questions received to all the vendors who attended the pre-bid conference.



RFP must define any price increase to be allowed in the contract.



RFP PROCUREMENT ADVERTISEMENT

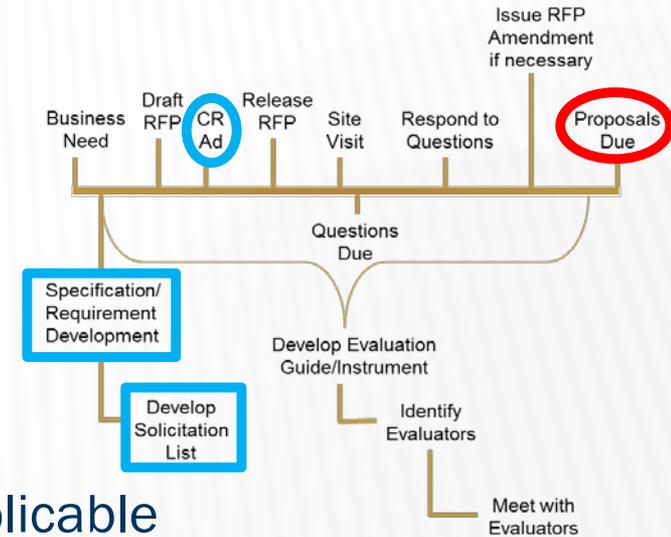
■ Develop Solicitation Specifications

- Procurement Description
- Contract Period
- Proposal Due Date
- Designated Contact Person
- Questions and Answers Due Date if applicable
- Site Visit or Pre-Bid Conference information if applicable

■ Contract Reporter

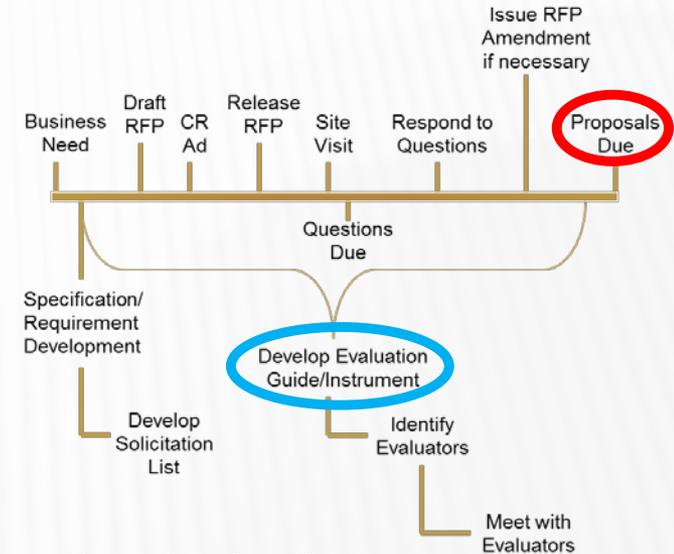
- Procurement must appear in Contract Reporter at least 15 business days prior to the due date of proposals.

■ Additional Advertising/Outreach



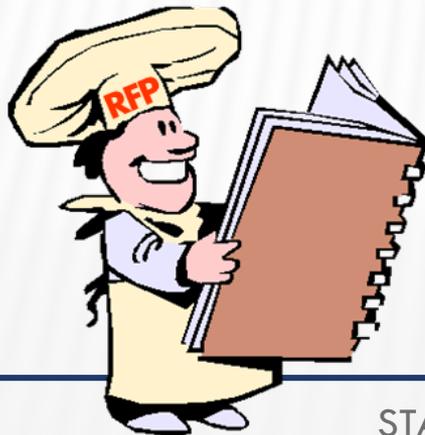
RFP EVALUATION INSTRUMENT

- **Develop RFP Evaluation Instrument prior to receipt of bids**
- **Specify:**
 - Summary/scope of the project
 - General instructions to evaluators
 - Forms and how to use them
 - Evaluation steps, responsibilities, and timeline including:
 - Indicate scoring methodology
 - Determine distribution of points among criteria
 - Create key for assigning points within criteria
 - Define how interview and references will be used, if applicable
 - Discuss how to distribute work in case of multi-award procurement



RFP INSTRUCTIONS TO EVALUATORS

- **Instructions to Evaluators must:**
 - Define decision parameters and explain expectations
 - Evaluate proposals according to standards set in the RFP
 - Define the use of decimals if they will be allowed
 - Be submitted to OSC with procurement package
 - Inform evaluators to include comments on their scores



RFP RECIPE GAME 2



RFP

Unwrapped



RFP RECIPE GAME 2 – RFP LANGUAGE



Select the appropriate RFP procurement ingredient:



RFP reserved the State's right to clarify information in the vendors' proposals.



RFP identified designated agency contact personnel throughout the procurement process.



RFP specified that optional costs requested by the agency would not be included in the cost evaluation but may be awarded by the agency.



RFP must disclose a relative weight of technical and cost evaluation.





RFP EVALUATION & AWARD



RFP EVALUATION & AWARD PROCESS – MANDATORY REQUIREMENTS

- **Mandatory Qualifications Checklist**
 - Pass/Fail – Yes/No
 - If not met, disqualify
 - Disqualified proposals:
 - Both Technical and Cost proposals must be submitted to OSC for all disqualified vendors.



RFP EVALUATION & AWARD PROCESS – TECHNICAL EVALUATION

- A technical evaluation is used to rate bidders on how well their proposals meet the technical and performance specifications as listed in the RFP.
 - Scores should be consistent with the relative weight for the technical proposal as indicated in the RFP.
 - Scores should reflect how well the proposal satisfies each criterion based on the selected range of points identified by an agency.



RFP EVALUATION & AWARD PROCESS – TECHNICAL EVALUATION

Criteria Matrix/Score Key:

Example of a pre-established scale of points for one criterion

- Similarity of previous experience to RFP scope= 5 points

Previous experience is not as extensive as RFP scope = 1 - 2 points

Previous experience is similar in material aspects= 3 points

Previous experience is greater than RFP scope = 4 - 5 points



RFP RECIPE GAME 3



RFP
Hello Kitchen

A silver fork is positioned vertically, with its tines pointing upwards. It is placed between the words 'Hello' and 'Kitchen' in the stylized text.

RFP RECIPE GAME 3 – RFP TECHNICAL



Technical Evaluation Case Study :

- RFP is for assessment services.
- Relative weight for evaluation is 60% Technical / 40% Cost.
- RFP stated that a vendor must have sufficient experience.
- RFP mandated ten references from each vendor.
- RFP identified the following criteria to be evaluated:
 - Plan of operation
 - Staffing Plan
 - References
 - Cost



RFP RECIPE GAME 3 – RFP TECHNICAL



Technical Evaluation Case Study :

- Evaluation instrument specified the evaluation scoring matrix as follows:
 - Plan of operation: Maximum of 25 points
 - Staffing Plan: Maximum of 20 points
 - References: Maximum of 10 points
 - Experience: Maximum of 5 points
 - Cost: 40 points
- Two vendors provided a proposal.
 - Vendor A has three year experience in conducting similar assessments.
 - Vendor B has ten years experience in the assessment field.



RFP RECIPE GAME 3 – RFP TECHNICAL



What ingredients can make this recipe successful?

- Mandatory requirements must be specific and measurable. (i.e. avoid words such as “sufficient,” “good” and “relevant”)
- Avoid using unnecessarily restrictive mandatory requirements as they will limit competition.
- Evaluation tool must be consistent with the evaluation criteria. (This case, RFP did not list Experience as an evaluation criteria.)
- A guide/breakdown of points that instructs the evaluators how to apply the maximum allowable points for each criteria.



RFP EVALUATION & AWARD PROCESS – COST

- RFP must have a cost form.
 - Cost comparisons must be equal among all proposals.
 - Costs submitted must be complete.
 - All cost components must be evaluated (including optional costs)



RFP EVALUATION & AWARD PROCESS – COST

- Cost score is a calculation, not an analysis.
- Recommended formula for cost scores:

Points = (Lowest Bid ÷ Bid Being Evaluated) x Cost Points



RFP RECIPE GAME 4



RFP's

TEST KITCHEN

Let's Get Cooking



RFP RECIPE GAME 4 – RFP COST

ROUND 1



What will be the cost score for each vendor?

- 70% Technical / 30% Cost

Vendor	Hourly Rate	Cost Score
A	\$95	?
B	\$110	?
C	\$115	?

- Points = (Lowest Bid ÷ Bid Being Evaluated) x Cost Points



RFP RECIPE GAME 4 – RFP COST

ROUND 1



What will be the cost score for each vendor?

70% Technical / 30% Cost

Vendor	Hourly Rate	Cost Score
A	\$95	30.00
B	\$110	25.90
C	\$115	24.78

Points = (Lowest Bid ÷ Bid Being Evaluated) x Cost Points

1. Vendor A's cost is the lowest at \$95/hour.
Vendor A Cost Score = $(95 \div 95) \times 30 = 30.00$
2. Vendor B Cost Score = $(95 \div 110) \times 30 = 25.90$
3. Vendor C Cost Score = $(95 \div 115) \times 30 = 24.78$



RFP RECIPE GAME 4 – RFP COST

ROUND 2



Is this the proper recipe for cost evaluation?

- Cost Evaluation Tool

Program Development	
<input type="checkbox"/>	Over \$2,700
<input type="checkbox"/>	5 Points – \$2,500 - \$2,700
<input type="checkbox"/>	10 Points – \$1,500 - \$2,500
<input type="checkbox"/>	15 Points – \$1,300 - \$1,500
<input type="checkbox"/>	20 Points – \$1,000 - \$1,300
<input type="checkbox"/>	25 Points – \$901 - \$1,000
<input type="checkbox"/>	30 Points – Under \$900



RFP RECIPE GAME 4 – RFP COST

ROUND 2



No.

- This is a fatally flawed cost evaluation method as the cost will be evaluated using the score points scale. The cost proposals should be objectively evaluated through a comparison of the lowest price proposed to the prices and costs of other competing proposals.
- The cost evaluation is a calculation not an analysis.



RFP EVALUATION & AWARD PROCESS

- **Only one proposal received**
 - Evaluate the proposal
 - Verify cost reasonableness
 - Justify limited response
 - Canvass non-responding vendors



- **Ties**
 - If two offers' composite scores are tied, the award shall go to bidder with the highest cost score (lowest price).
 - If technical and cost scores are both the same, agency must have a pre-defined tie-breaking mechanism. May have different mechanisms for different types of procurements.



RFP RECIPE GAME 5



RFP RECIPE GAME 5 – RFP TIE PROPOSALS



RFP RECIPE GAME 5 – RFP TIE PROPOSALS

ROUND 1



Which vendor will be awarded?

RFP proposals were evaluated on a 70% Technical and 30% Cost basis. The following are the results:

Vendor	Technical Score	Cost Score	Total Score
A	65	22	87
B	49	30	79
C	60	27	87



RFP RECIPE GAME 5 – RFP TIE PROPOSALS

ROUND 1



Vendor C

Vendor	Technical Score	Cost Score	Total Score
A	65	22	87
B	49	30	79
C	60	27	87

- State Finance Law §163.10.a:

“Selection and award shall be a written determination in the procurement record made by the commissioner or a state agency in a manner consistent with the provisions of the solicitation. In the event two offers are found to be substantially equivalent, price shall be the basis for determining the award recipient.”



RFP RECIPE GAME 5 – RFP TIE PROPOSALS

ROUND 2



Which vendor will be awarded now?

RFP proposals were evaluated on a 70% Technical and 30% Cost basis. The following are the results:

Vendor	Technical Score	Cost Score	Total Score
A	65	22	87
B	49	30	79
C	65	22	87



RFP RECIPE GAME 5 – RFP TIE PROPOSALS

ROUND 2



Vendor should be awarded as documented in the procurement record.

Vendor	Technical Score	Price Score	Total Score
A	65	22	87
B	49	30	79
C	65	22	87



- A tie breaking procedure should always be documented in the evaluation instrument.
- State Finance Law §163.10.a:
“..... when price and other factors are found to be substantially equivalent, the determination of the commissioner or agency head to award a contract to one or more of such bidders shall be final.
The basis for determining the award shall be documented in the procurement record.”



RFP PROCUREMENT RECORD



RFP PROCUREMENT RECORD

- **New York State Finance Law, Article 11, §163.9.g.**

A procurement record shall be maintained for each procurement identifying, with supporting documentation, decisions made by the commissioner or state agency during the procurement process.

The procurement record shall include, but not be limited to each contract amendment and the justification for each.



RFP PROCUREMENT RECORD

- **If applicable:**
 - Office of the Attorney General (OAG) approval
 - Civil Service approval
 - Information Technology Services (ITS) approval



REFERENCES

- **Open Book NY:** <http://www.openbooknewyork.com/>

New York State Comptroller Thomas P. DiNapoli

Open Book New York Video

Office of the State Comptroller

OPEN BOOK NEW YORK

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REFERENCES

- OSC Internet Site
<http://www.osc.state.ny.us>
- Guide to Financial Operations
<http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>
- Procurement Council Guidelines
<http://www.ogs.ny.gov/BU/PC/Docs/Guidelines.pdf>
- Advisory Council on Procurement Lobbying Model Forms/Language
<http://www.ogs.ny.gov/acpl/regulations/advisoryCouncil/ModelLang.html>
- NYS Department of Taxation and Finance
<http://www.tax.ny.gov>
- O*NET OnLine
<http://online.onetcenter.org/>





*Bon
Appétit*

