

Responsible or Non-Responsible That Is the Question



NYS COMPTROLLER
THOMAS P. DiNAPOLI

Harvesting Knowledge

2016 Fall Conference | October 25 - 26

Office of Operations

John Traylor, Executive Deputy Comptroller

Division of Contracts & Expenditures

Margaret N. Becker, Deputy Comptroller
Charlotte Davis, Director, Bureau of Contracts



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Responsible or Non-Responsible That Is the Question

OSC Vendor Responsibility Team

Paula Shappy

Gregory Knox

Craig Coutant

Tammie Sobieraj

Renee Tilley-Goyette

Diane Welsh

Lindsay Carswell

Margie Pusatere

Shawn Tamer



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Responsible or Non-Responsible That is the Question

Agenda

- Profile Best Practices
- It's All in the Detail - Skit
- Vendor Responsibility Resources
- OSC Legal
- OGS Presentation



Profile Best Practices

Craig Coutant



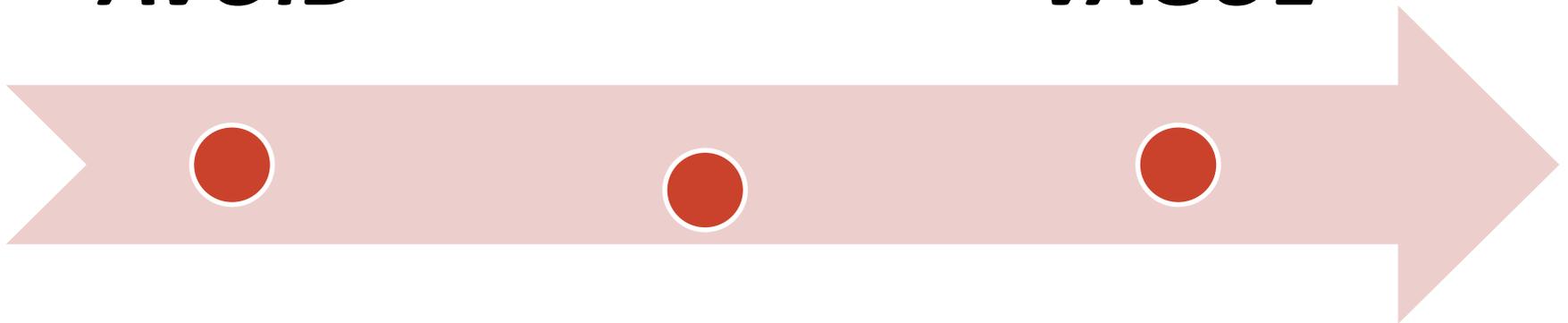
NYS COMPTROLLER

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Responsible or Non-Responsible That is the Question

AVOID

VAGUE



BEING



Let's Do the Vendor Responsibility Profile



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Standard VR Profile

AC 3273-S (Rev. 5/13) Page 1 of 2

OFFICE OF THE STATE COMPTROLLER - BUREAU OF CONTRACTS
VENDOR RESPONSIBILITY PROFILE

Part I – Contract Information - Complete for all transactions.			
1. Business Unit	2. Department ID #	3. Department Name	
4. Contract/PO #	5. Amendment Sequence #	6. Transaction Amount \$	7. Total Contract Value \$
8. Vendor Name		9. NYS Vendor ID #	10. Taxpayer ID/EIN #
11. Contractor Type: <input type="checkbox"/> Prime Contractor <input type="checkbox"/> Subcontractor			
12. Contract Description			
13. State contracting entity contact for this transaction – Name, Phone, Email			
14. Were any issues disclosed by vendor and/or found by State contracting entity? <input type="checkbox"/> Yes <input type="checkbox"/> No (If “Yes,” provide details using Attachment A, Item 1.)			
15. If this is a new contract or renewal, has the vendor’s documentation of New York State Workers’ Compensation and Disability Benefits coverage or exemption been verified as accurate, up-to-date, and included as part of the procurement package as outlined in GFO XL18.G? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A (If “No,” provide details using Attachment A, Item 2.)			
Part II – Vendor Disclosure and State Contracting Entity Process – Complete for a new contract valued at \$100,000 or more, or an amendment that brings total approved amount to \$100,000 or more for the first time.			
16. Identify disclosures used in this review that were provided by the vendor . Check all that apply and attach all pertinent items. (Information found on the VendRep System should NOT be printed for OSC.)			
<input type="checkbox"/> Online VendRep Questionnaire Date Certified:		<input type="checkbox"/> Hard Copy Questionnaire (Must attach, if used) Date Certified:	
<input type="checkbox"/> Financial Statements	<input type="checkbox"/> Solicitation Document Responses	<input type="checkbox"/> Vendor Correspondence	
<input type="checkbox"/> Other Vendor Disclosure - Describe:			
<i>All reviews must be thorough and comprehensive to mitigate any risks to public funds or services.</i>			
17. Is a description of the State contracting entity’s process included in Attachment A, Item 2? <input type="checkbox"/> Yes <input type="checkbox"/> No If “No,” explain:			
Part III – State Contracting Entity Responsibility Determination			
The above named contracting entity has undertaken an affirmative review of the proposed contractor’s responsibility and, based upon such review, has reasonable assurance that the proposed contractor is:			
<input type="checkbox"/> Responsible <input type="checkbox"/> Non-Responsible			
Signature		Date:	
Print Name:		Title:	

<http://osc.state.ny.us/vendrep/documents/vendrep/ac3273s.pdf>

Current version 05/2013



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Standard VR Profile (*continued*)

OFFICE OF THE STATE COMPTROLLER - BUREAU OF CONTRACTS
VENDOR RESPONSIBILITY PROFILE

Attachment A

Business Unit #	Department ID #
Contract/PO #	Amendment Sequence #
Vendor Name	NYS Vendor ID #

Item 1: Issue Detail

For each issue disclosed by the vendor or found by the State contracting entity, describe the issue and its resolution.

Note: In the "Resolution" field, include the State contracting entity's assessment of the issue, its relevance to the vendor's responsibility for this procurement (including any supporting reasons), and any corrective or mitigating actions taken by the State contracting entity or vendor in response to the issues (attach additional pages if necessary). **If the State contracting entity believes the issue has no impact on this transaction, state the reason(s) justifying such statement.**

Issue Description	State Contracting Entity Resolution
1.	
2.	
3.	

Item 2: State Contracting Entity Process

Describe the steps **taken by the State contracting entity** to determine vendor responsibility including consideration of the vendor disclosures and the independent State contracting entity research, including but not limited to, internet sources, contracting entity records, and internal or external communication. If a Resource Checklist was used, it is acceptable to submit the completed list in lieu of describing the process.

Note: Do **not** submit copies of website search results or information found on the VendRep System.



Attachment A

Item 1: Issue Detail



Issue Description	State Contracting Entity Resolution
1. Internal control issues	Vendor implemented corrective action plan
2. OSHA Violations	Closed
3. Question 7.0	Ongoing



Attachment A (continued)

Item 1: Issue Detail



Issue Description	State Contracting Entity Resolution
1. 2011 settlement with NY Attorney General from investigation into student loan practices.	Vendor has agreed to terms under settlement and will abide by Code of Conduct. This information has no impact on this contract BECAUSE...
2. Three serious OSHA violations with fines totaling \$8,050.	Violations corrected on site, penalties paid, and violations are closed. Vendor updated safety procedures for future. This has no impact on this contract BECAUSE...



Attachment A (*continued*)

Item 2: State Contracting Entity Process



Item 2: State Contracting Entity Process

Describe the steps *taken by the State contracting entity* to determine vendor responsibility including consideration of the vendor disclosures and the independent State contracting entity research, including but not limited to, internet sources, contracting entity records, and internal or external communication. If a Resource Checklist was used, it is acceptable to submit the completed list in lieu of describing the process.

Note: Do not submit copies of website search results or information found on the VendRep System.

Reviewed questionnaire.



Attachment A (*continued*)



Item 2: State Contracting Entity Process

Item 2: State Contracting Entity Process

Describe the steps *taken by the State contracting entity* to determine vendor responsibility including consideration of the vendor disclosures and the independent State contracting entity research, including but not limited to, internet sources, contracting entity records, and internal or external communication. If a Resource Checklist was used, it is acceptable to submit the completed list in lieu of describing the process.

Notes: Do not submit copies of website search results or information found on the VendRep System.

Reviewed questionnaire and confirmed responses by conducting searches on the following websites: Google, NYS DOS Warrants, NYS DOS Corporations, Workers' Comp Board, OSHA, NYS AG, OSC, OPWDD, and checked WCB/DOL Debarments.

In addition, our agency has worked with this vendor on numerous occasions over the past 5 years, no service concerns.



Agency Determination & Certification

Profile Part III

Part III – State Contracting Entity Responsibility Determination

The above named contracting entity has undertaken an affirmative review of the proposed contractor's responsibility and, based upon such review, has reasonable assurance that the proposed contractor is:

Responsible Non-Responsible

Signature

Date:

Print Name:

Title:



It's All in the Detail

Diane Welsh and Renee Tilley-Goyette



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Resources for All Types of Transactions

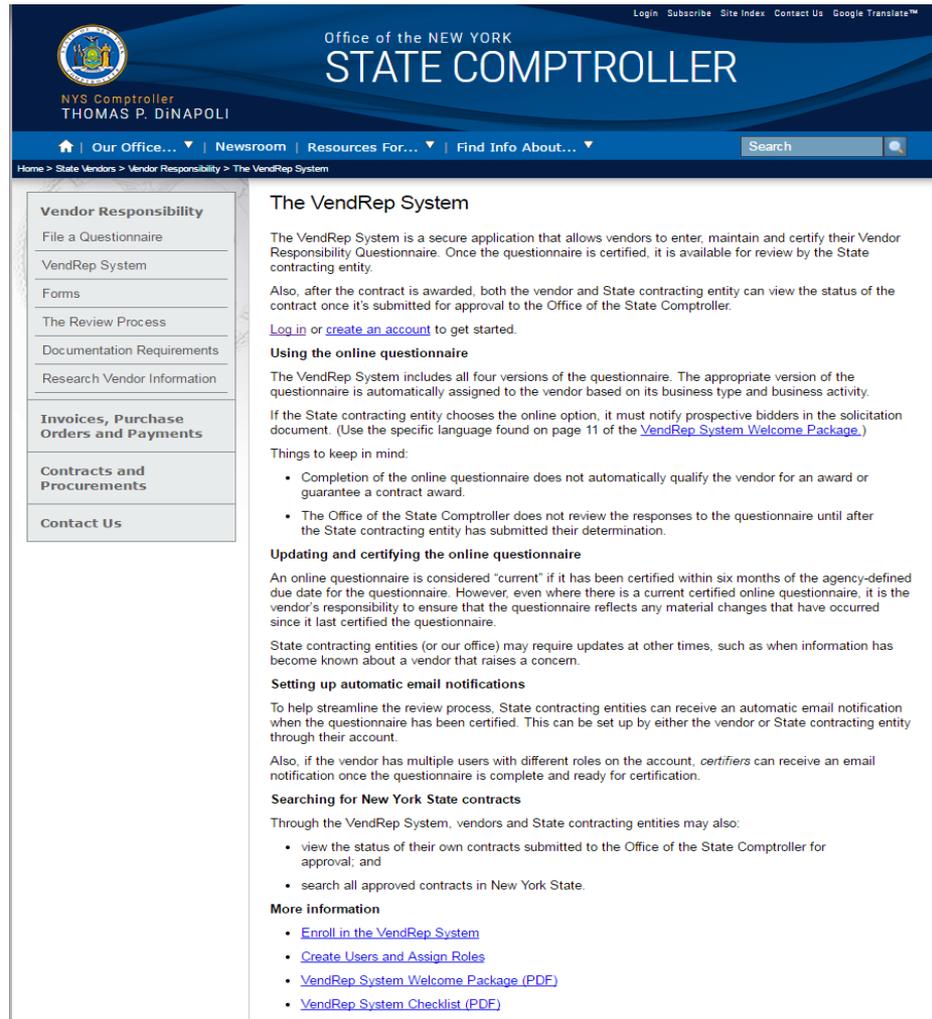
Tammie Sobieraj and Lindsay Carswell



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THOMAS P. DiNAPOLI

Resources



The screenshot shows the website for the Office of the New York State Comptroller, Thomas P. DiNapoli. The page is titled "Resources" and features a navigation menu with options like "Our Office...", "Newsroom", "Resources For...", and "Find Info About...". A search bar is also present. The main content area is titled "The VendRep System" and provides information about the system, including how to use the online questionnaire, update and certify the online questionnaire, and search for New York State contracts. A sidebar on the left contains a "Vendor Responsibility" menu with links to "File a Questionnaire", "VendRep System", "Forms", "The Review Process", "Documentation Requirements", and "Research Vendor Information". Other sidebar links include "Invoices, Purchase Orders and Payments", "Contracts and Procurements", and "Contact Us".

Office of the NEW YORK
STATE COMPTROLLER
NYS Comptroller
THOMAS P. DiNAPOLI

Home > State Vendors > Vendor Responsibility > The VendRep System

Vendor Responsibility

- File a Questionnaire
- VendRep System
- Forms
- The Review Process
- Documentation Requirements
- Research Vendor Information

Invoices, Purchase Orders and Payments

Contracts and Procurements

Contact Us

The VendRep System

The VendRep System is a secure application that allows vendors to enter, maintain and certify their Vendor Responsibility Questionnaire. Once the questionnaire is certified, it is available for review by the State contracting entity.

Also, after the contract is awarded, both the vendor and State contracting entity can view the status of the contract once it's submitted for approval to the Office of the State Comptroller.

[Log in](#) or [create an account](#) to get started.

Using the online questionnaire

The VendRep System includes all four versions of the questionnaire. The appropriate version of the questionnaire is automatically assigned to the vendor based on its business type and business activity.

If the State contracting entity chooses the online option, it must notify prospective bidders in the solicitation document. (Use the specific language found on page 11 of the [VendRep System Welcome Package](#).)

Things to keep in mind:

- Completion of the online questionnaire does not automatically qualify the vendor for an award or guarantee a contract award.
- The Office of the State Comptroller does not review the responses to the questionnaire until after the State contracting entity has submitted their determination.

Updating and certifying the online questionnaire

An online questionnaire is considered "current" if it has been certified within six months of the agency-defined due date for the questionnaire. However, even where there is a current certified online questionnaire, it is the vendor's responsibility to ensure that the questionnaire reflects any material changes that have occurred since it last certified the questionnaire.

State contracting entities (or our office) may require updates at other times, such as when information has become known about a vendor that raises a concern.

Setting up automatic email notifications

To help streamline the review process, State contracting entities can receive an automatic email notification when the questionnaire has been certified. This can be set up by either the vendor or State contracting entity through their account.

Also, if the vendor has multiple users with different roles on the account, *certifiers* can receive an email notification once the questionnaire is complete and ready for certification.

Searching for New York State contracts

Through the VendRep System, vendors and State contracting entities may also:

- view the status of their own contracts submitted to the Office of the State Comptroller for approval; and
- search all approved contracts in New York State.

More information

- [Enroll in the VendRep System](#)
- [Create Users and Assign Roles](#)
- [VendRep System Welcome Package \(PDF\)](#)
- [VendRep System Checklist \(PDF\)](#)



Google

Advanced Search

Find pages with...

all these words:

this exact word or phrase:

any of these words:

none of these words:

numbers ranging from:

to



DOS Corporation Search

DEPARTMENT OF STATE, DIVISION OF
CORPORATIONS, STATE RECORDS & UCC
ANDREW M. CUOMO, GOVERNOR ROSSANA ROSADO, SECRETARY OF STATE



DOS Home Division Home I would like to... Corporation/Business Entity Filings State Records Uniform Commercial Code Fee Schedules FAQs

Search the Corporation & Business Entity Database

The Corporation and Business Entity Database includes business and not-for-profit corporations, limited partnerships, limited liability companies and limited liability partnerships, as well as other miscellaneous businesses.

The Corporation and Business Entity Database online search is intended for status inquiries of entities already on file with the Department of State. Customers are cautioned to avoid interpreting database search information as an indication that a name is or is not available for use.

Search Criteria: *(Items marked with * are required)*

1. Business Entity Name*:

2. Status Type* 3. Search Type* 4.

Search Instructions:

1. Enter the Corporation or Business Entity Name being searched
2. Select a Status Type
3. Select a Search Type
4. Click the Search Button

News

All Division News

- Organizational tax; taxes on changes of capital

Database Searches

- **New!** Local Laws Search
- Corporation/Business Entities
- State Tax Warrant Notices
- Child Support Enforcement Notices
- Uniform Commercial Code/Lien Search
- List of Public Corporations that have filed a Certificate of Designation for Service of Notice of Claim

Select Links

- Complete Forms Listing
- Expedited Handling Services
- Faxed Filings
- **Online Filings:**



DOS State Tax Warrants

DEPARTMENT OF STATE, DIVISION OF
CORPORATIONS, STATE RECORDS & UCC
ANDREW M. CUOMO, GOVERNOR ROSSANA ROSADO, SECRETARY OF STATE

DOS Home Division Home I would like to... Corporation/Business Entity Filings State Records Uniform Commercial Code Fee Schedules FAQs

Search the New York State Tax Warrant Notice System

Search DOS Website

The New York State Department of Taxation and Finance ("DTF") files tax warrants in county clerks' offices throughout the state. Pursuant to section 6 of the Tax Law, DTF sends the New York Department of State a notice of the fact that such tax warrants have been filed. The New York Department of State maintains an electronic database of the tax warrant-related notices presented by DTF. These notices may be searched by taxpayer name, by taxpayer city, by county of tax warrant filing, or by any combination of the foregoing.

Please note that DTF first files a tax warrant in a county clerk's office, and then files a notice of such filing in this office. As a result, in most cases there will necessarily be some gap between the time of filing of the actual tax warrant in the county clerk's office and the time of filing of the notice of such filing in this office. Therefore, searchers are encouraged to search in the offices of the appropriate county clerk(s) to determine the most recent status of filing(s) against a given taxpayer.

Inquiries regarding tax warrants in general should be directed to the New York State Department of Taxation and Finance. You may wish to visit DTF's frequently asked questions page regarding tax warrants at [New York State Taxation & Finance: Frequently Asked Questions about warrants.](#)(Opens new window).

The information contained in this database is current up to September 14, 2016

Search Criteria: *(Items marked with * are required)*

1. Taxpayer Name*:
2. City specified in warrant address record:
3. County in which warrant is filed:
4. Warrant Notice Status: OPEN ALL
5. Search Type: BASE WORD (exact words) BEGINS WITH (first 3 letters)
6.

News *All Division News*

- Organizational tax; taxes on changes of capital

Database Searches

- **New!** Local Laws Search
- Corporation/Business Entities
- State Tax Warrant Notices
- Child Support Enforcement Notices
- Uniform Commercial Code/Lien Search
- List of Public Corporations that have filed a Certificate of Designation for Service of Notice of Claim

Select Links

- Complete Forms Listing
- Expedited Handling Services
- Faxed Filings
- **Online Filings:**
 - Biennial Statements
 - Business Corporation Formation
 - Benefit Corporation Formation
 - LLC Formation
 - Uniform Commercial Code Public e-Filing System
 - Certificate of Designation for Service of Notice of Claim
- Resources



DOS Federal Tax Liens

New York State Department of State
Uniform Commercial Code
Other Debtor Search Options

*Enter Name and Select Search Criteria.
(Required items are in red and marked by a trailing "**")*

Business Name *

or

Last Name *

First Name (Optional)

Middle Name(Optional)

Suffix(Optional)

City(Optional)

State(Optional)

Search Type Base Word Begins With Partial

Filing Status All Filings Unlapsed Filings

File Type All Filings Federal Tax Liens

Search Button Reset Button Help Button

Search

Reset

Help



Workers' Comp and Disability

Does Employer Have Coverage?

If you cannot find an employer or suspect an employer of operating without workers' compensation insurance, please select one of the following links to [electronically send Employer Whistleblower Form](#) or, mail a [paper copy Employer Whistleblower Form](#) (PDF).

Employer Search Criteria

Search by Employer Name

*(Enter a word or partial word of the beginning part of the name.
The search will return employers that begin EXACTLY with the portion entered.)*

For example, 'American' will return 'American Industry', but not 'Great American'

Employer Name:

Maximum Results Displayed:

Search by Federal Employer Identification Number

FEIN: (must be nine digits)

Search by Policy Number

Policy Number:

Search by NYS WCB Employer Number

Employer Number:

Enter the 6 characters
shown in the image to the right:



DOL and WCB Debarments

NEW YORK STATE

New York State Department of Labor

Click State Agency for more information:

- ▶ [Department of Labor \(DOL\)](#)
- ▶ [Workers Compensation Board \(WCB\)](#)

Search Agency: DOL WCB

FEIN:

Employer Name:

Employer DBA Name:

City:

State:

Search



SAM (Replaces EPLS)



USER NAME PASSWORD [LOG IN](#)

[Forgot Username?](#) [Forgot Password?](#) [Create an Account](#)

[HOME](#) [SEARCH RECORDS](#) [DATA ACCESS](#) [GENERAL INFO](#) [HELP](#)

Search Records

Search Tips to Get Started:

- Looking for entity registration records or entity exclusion records in SAM? Use **Quick Search** if you know an entity's Business Name, DUNS Number or CAGE Code. Use **Advanced Search** to structure your search using multiple categories and criteria.
- Are you a Federal government employee? Create a SAM user account with your government e-mail address and log into SAM before searching to see FOUO information and registrants who chose to opt out of the public search.
- Conducting small business-focused research? In addition to what is contained in SAM, small businesses can provide the Small Business Administration (SBA) supplemental information about themselves. Use the [SBA's Dynamic Small Business Search](#) to conduct further market research.
- Trying to find a contractor participating in the Disaster Response Registry? Use the **Disaster Response Registry Search** to locate contractors willing to provide debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief services in the event of a national disaster.

Choose Quick Search or Advanced Search

QUICK SEARCH:

(Example of search term includes the entity's name, etc.)

DUNS Number Search:

CAGE Code Search:

[SEARCH](#) [Need Help?](#)

ADVANCED SEARCH:
Use specific criteria in multiple categories to structure your search.

[ADVANCED SEARCH - ENTITY](#)

[ADVANCED SEARCH - EXCLUSION](#)

[DISASTER RESPONSE REGISTRY SEARCH](#)



Attorney General

The screenshot shows the homepage of the New York State Office of the Attorney General. The header features the name "Attorney General Eric T. Schneiderman" in large white text on a dark blue background, with a map of New York to the left. In the top right corner, there is a "Translate to Another Language" link and the official seal of the New York State Office of the Attorney General. Below the header is a dark blue navigation bar with white text for "OUR OFFICE", "MEDIA CENTER", "DIVISIONS", "RESOURCES", "INITIATIVES", "CONTACT US", and "SEARCH". The main content area is white and includes a "Home" link, a search bar with the text "Search ag.ny.gov", and a "Google™ Custom Search" button. On the right side, there is a "OAG Resources" section with a list of links: Charities Registry, Identity Theft, Job Opportunities, Tenant's Rights, Find an Attorney, Lemon Law Protections, Opinions, Publications, Service of Process, and Victims Rights.

Attorney General
Eric T. Schneiderman

Translate to Another Language

NEW YORK STATE OFFICE
of the
ATTORNEY
GENERAL

OUR OFFICE MEDIA CENTER DIVISIONS RESOURCES INITIATIVES CONTACT US SEARCH

Home

Search ag.ny.gov

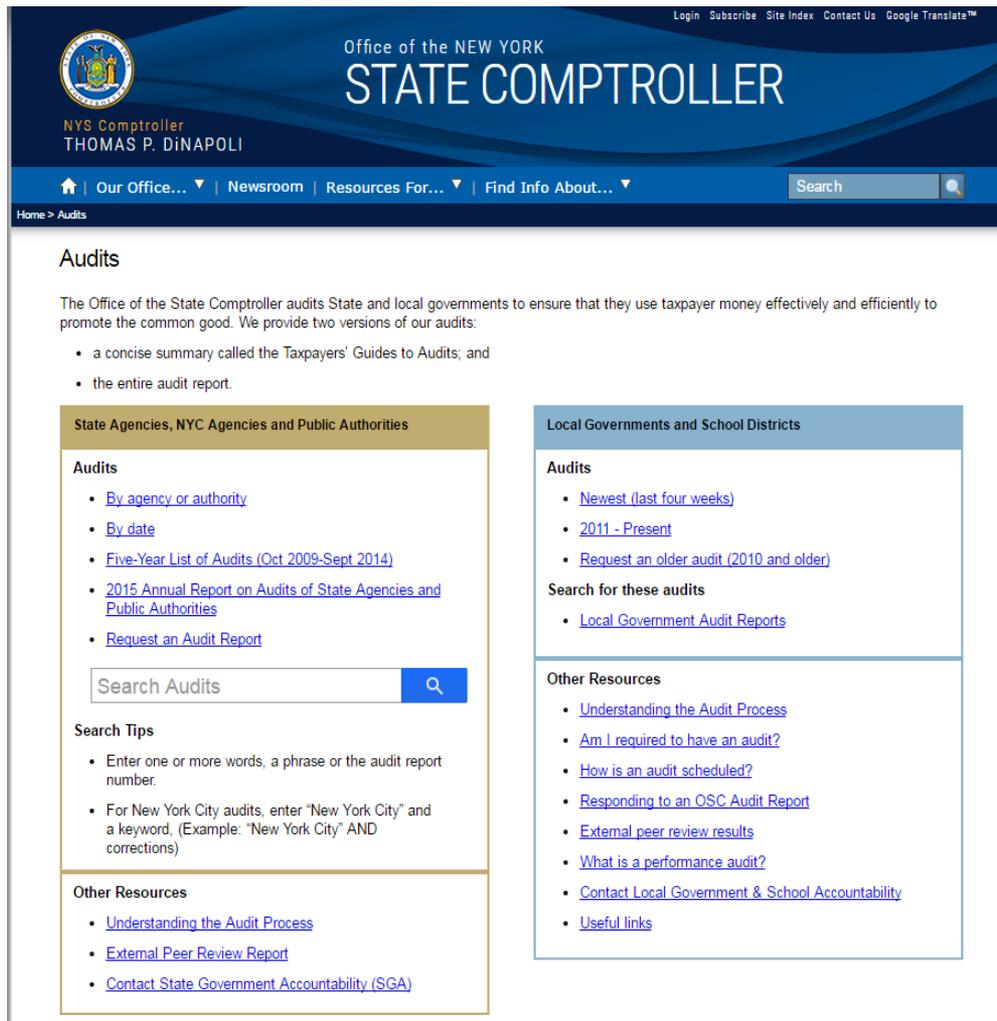
Google™ Custom Search

OAG Resources

- > Charities Registry
- > Identity Theft
- > Job Opportunities
- > Tenant's Rights
- > Find an Attorney
- > Lemon Law Protections
- > Opinions
- > Publications
- > Service of Process
- > Victims Rights



OSC Audits



The screenshot shows the website for the Office of the New York State Comptroller, Thomas P. DiNapoli. The page is titled "Audits" and provides information about the types of audits conducted. It includes a navigation menu, a search bar, and several content boxes for "State Agencies, NYC Agencies and Public Authorities", "Local Governments and School Districts", "Search Tips", and "Other Resources".

Office of the NEW YORK
STATE COMPTROLLER
NYS Comptroller
THOMAS P. DiNAPOLI

Home > Audits

Audits

The Office of the State Comptroller audits State and local governments to ensure that they use taxpayer money effectively and efficiently to promote the common good. We provide two versions of our audits:

- a concise summary called the Taxpayers' Guides to Audits; and
- the entire audit report.

State Agencies, NYC Agencies and Public Authorities

Audits

- [By agency or authority](#)
- [By date](#)
- [Five-Year List of Audits \(Oct 2009-Sept 2014\)](#)
- [2015 Annual Report on Audits of State Agencies and Public Authorities](#)
- [Request an Audit Report](#)

Search Tips

- Enter one or more words, a phrase or the audit report number.
- For New York City audits, enter "New York City" and a keyword. (Example: "New York City" AND corrections)

Other Resources

- [Understanding the Audit Process](#)
- [External Peer Review Report](#)
- [Contact State Government Accountability \(SGA\)](#)

Local Governments and School Districts

Audits

- [Newest \(last four weeks\)](#)
- [2011 - Present](#)
- [Request an older audit \(2010 and older\)](#)

Search for these audits

- [Local Government Audit Reports](#)

Other Resources

- [Understanding the Audit Process](#)
- [Am I required to have an audit?](#)
- [How is an audit scheduled?](#)
- [Responding to an OSC Audit Report](#)
- [External peer review results](#)
- [What is a performance audit?](#)
- [Contact Local Government & School Accountability](#)
- [Useful links](#)



Federal Contractor Misconduct

POGO.ORG

Federal Contractor Misconduct Database

[home](#) [about us](#) [investigations](#) [get involved](#) [donate](#)

Top 100 Contractors
by contract dollar amount

Methodology
of this ongoing effort

What's new

About POGO's Federal Contractor Misconduct Database (FCMD)

The government awards contracts to companies with histories of misconduct such as contract fraud and environmental, ethics, and labor violations. In the absence of a centralized federal database listing instances of misconduct, the Project On Government Oversight (POGO) is providing such data. We believe that it will lead to improved contracting decisions and public access to information about how the government spends hundreds of billions of taxpayer money each year on goods and services. [Report an instance of misconduct »](#)



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OSHA

[Establishment](#)

State

All States



Fed & State



OSHA Office

All Offices



[Case Status](#)



All



Closed



Open

Violation Status



All



With Violations



Without Violations

[Inspection Date](#)

Start Date

September



14



2011



End Date

September



14



2016



Submit

Reset

Can't find it?

Wildcard use %

[Basic Establishment Search Instructions](#)

[Advanced Search Syntax](#)



Debarment – Other States

Governor Chris Christie • Lt. Governor Kim Guadagno



State of New Jersey
Department of the Treasury

Search Revenue

[NJ Home](#) | [Services A to Z](#) | [Departments/Agencies](#) | [FAQs](#)

[Translate this Page](#) >>>

[Select Language](#) ▼

[Disclaimer](#)

Division of Revenue and Enterprise Services

[Treasury Home](#) [Revenue Home](#) [Registrations](#) [Certifications](#) [Tax Filings](#) [NJBGS](#) [Online Services](#) [Business Portal](#) [Contact Revenue](#)

CONSOLIDATED DEBARMENT SEARCH

Complete one or more of the search criteria below and click [Start Search](#).

To display ALL entries in the database, simply click [Start Search](#) without completing any search criteria.

Full or partial
Firm or Individual

Category

Reason

NPI Number

To view when the data was last updated, click the Start Search button with search criteria selections blank.



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Additional Resources for Not-for-Profits



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NCCCS



The national clearinghouse of data on the nonprofit sector in the United States



Login | Register

search



- ▶ FIND A NONPROFIT
- ▶ VIEW FORMS 990
- ▶ LEARN ABOUT NCCCS DATA
- ▶ THE NONPROFIT ALMANAC
- ▶ FILE YOUR FORM 990
- ▶ FILE YOUR E-POSTCARD

JOIN OUR E-MAIL LIST

Submit



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Grants Gateway



New York State
Grants Gateway



Grants Gateway Login

Grant Opportunity Portal

Welcome to the Grants Gateway

The **Grant Opportunity Portal** is online and available to the public, providing a one-stop shop for anyone interested in locating grant funding opportunities with State agencies.

Login

Username

Password

[Forgot Password?](#)



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OMIG



Services News Government Local

Office of the
Medicaid Inspector General

About Us Audit Compliance Medicaid Fraud Information R

Report Fraud



You can help stop Medicaid fraud: Call OMIG's Fraud Hotline at 1-877-87 FRAUD (1-877-873-7283), or click [here](#) to file a complaint electronically.

Check for Excluded Providers



The OMIG may sanction some providers by excluding them from participating in the Medicaid program. These providers are excluded from offering services to Medicaid enrollees and also cannot be paid with Medicaid dollars. Prior to adding new staff members, employers should check to see if prospective employees have been excluded from Medicaid. To make it easier to perform such a check, OMIG set up a [dedicated service](#) to check the status of any exclusion.

Connect With Us



Subscribe to our listserv for information on upcoming events.

Latest News

OMIG's Investigative Efforts Help Take Down Major Fraud Scheme

19 August 2016

OMIG's team of pharmacists & investigators play key role in conviction of pharmacist who masterminded [...]

CONTINUING LEGAL EDUCATION CREDITS NOW AVAILABLE FOR OMIG WEBINAR # 35

04 August 2016

CONTINUING LEGAL EDUCATION CREDITS NOW AVAILABLE FOR OMIG WEBINAR # 35: CERTIFICATION PROCESS: MANDA [...]

OMIG ISSUES COMPLIANCE ALERT 2016-01

22 July 2016

FEDERAL FALSE CLAIMS ACT CIVIL PENALTIES INCREASE The New York State Office of the Medicaid Inspector General [...]

GOVERNOR CUOMO AND LEGISLATIVE LEADERS ANNOUNCE AGREEMENT TO COMBAT HEROIN AND OPIOID ABUSE IN NEW YORK STATE

14 June 2016

Comprehensive Legislative Package Limits Opioid Prescriptions from 30 to 7 Days, Requires Mandatory [...]

GOVERNOR CUOMO ANNOUNCES RECOMMENDATIONS FROM HEROIN AND OPIOIDS TASK FORCE

10 June 2016

Taskforce Presents Twenty-five Recommendations that Serve as a Comprehensive Blueprint to Fight the [...]

Start a Self Disclosure



Anytime a health care organization discovers that it was paid more than it was due, this should be reported to OMIG. Our [Self-Disclosure](#) section provides information for health care organizations to complete the recently revamped self-disclosure process.

Get Free Language Assistance



Español (Spanish)

中文 (Chinese)

Русский (Russian)

Italiano (Italian)

Kreyòl ayisyen (Haitian-Creole)

한국어 (Korean)



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Office of Management and Budget (Single Audits)



Single Audit
Reference Information

Single Audit Data
Entry System

Search the Single
Audit Database



OMB – Single Audit Report



[Instruction Manual](#) [Federal Program Contacts](#) [FAC Home Page](#)

[Search for Single Audits](#)

[Search](#) [Clear Search Filters](#) [Return to IMS Home](#)

GENERAL INFORMATION

Fiscal Year (Required) i <input checked="" type="checkbox"/> All Years <input type="checkbox"/> 2016 <input type="checkbox"/> 2015 <input type="checkbox"/> 2014	FAC Release Date (MM/DD/YYYY) From <input type="text"/> To <input type="text"/>
Auditee EIN i <input type="text"/>	EIN Relationship Either <input type="text"/>



Additional Resources for Construction



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NYC SCA

School Construction Authority



VENDOR ACCESS SYSTEM

[Print](#) [Help](#)

Search SCA Disqualified/Suspended/Ineligible Firms

Firm Name: City: State:

MWLBE Certified: Over 1M: Wicks:

Zip Code:

[Trade Codes](#) [Remove From Trade Codes](#)

Trade Code:

The firm can have any of the selected trade codes
 The firm must have all of the selected trade codes

Disqualified Suspended Ineligible



NYS Education Department Professional License

The screenshot shows the NYS Office of Professions website. At the top, there is a navigation bar with the NYS logo, a language selection dropdown, a Google Translate Disclaimer, and the Office of Professions logo. Below this is a search bar and a menu with links for RSS, News, Online Services, Professions, State Boards, Enforcement, Corporate Entities, Consumers, and Find Answers. The main content area is titled "Verification Searches" and includes a disclaimer about the information's accuracy and a search form. The search form has a "Profession:" dropdown menu with options like "Accountant, Certified Public", "Accountant, Public", "Acupuncture", "Architect", "Athletic Trainer", "Audiologist", "Certified Behavior Analyst Assistant", and "Certified Dental Assistant". Below the dropdown is a "Licensee Name:" text input field with instructions to enter the last name first, separated by a space, not a comma. There are "Search" and "Reset" buttons at the bottom of the form.

NYSED.gov Select Language Google Translate Disclaimer **OP** OFFICE OF THE PROFESSIONS

Office of the Professions Search OP

RSS News Online Services Professions State Boards Enforcement Corporate Entities Consumers Find Answers

NYSED / OP / Online Services

Verification Searches

The information furnished at this web site is from the Office of Professions' official database and is updated daily, Monday through Friday. The Office of Professions considers this information to be a secure, primary source for license verification.

Search by name within a profession:

- Select a profession.
- Enter a minimum of 3 characters of the person's name, with the last name first (separated by a space, **not** a comma). When a last name consists of only two letters, you must also enter a space and at least the first letter of the first name.

Profession:

- Accountant, Certified Public
- Accountant, Public
- Acupuncture
- Architect
- Athletic Trainer
- Audiologist
- Certified Behavior Analyst Assistant
- Certified Dental Assistant

Licensee Name:
(last name first, separated by a space, **not** a comma)

Search Reset

Online Services

Verifications

- Licensees, by name
- Licensees, by license number
- Permits, by name
- Pharmacy Establishments
- Professional Business Entities (other than pharmacies)
- Help with Searches
- Terms of Use

Registration Renewal

- Renewal Information
- Professional Workforce Surveys
- Update Physician Profile

Written Certification or Verification of Licensure

- Information Regarding Written Certification or Verification of Licensure



Resources Reference Page

General - All Purpose Resources

Google	http://www.google.com
NYS Department of State - Authority to do Business in NY	http://www.dos.ny.gov/corps/bus_entity_search.html
NYS DOS - State Tax Warrant Notice System	http://www.dos.ny.gov/corps/tax_warrant_search.html
NYS Department of State Corporations - Financial Obligations	http://appext20.dos.ny.gov/pls/ucc_public/web_search.main_frame
NYS Workers Compensation Board	http://www.wcb.ny.gov/
NYS Workers' Compensation Board Debarment List	https://dbr.labor.state.ny.us/EDList/searchPage.do
US General Services Administration - Homeland Security/Debarment	https://www.sam.gov/portal/public/SAM/
NYS Attorney General's Office - Press releases	http://www.ag.ny.gov/press-releases
NYS Comptroller's Office - SGA audits	http://www.osc.state.ny.us/audits/index.htm
Federal Contractor Misconduct Database	http://contractormisconduct.org/
OSHA	http://www.osha.gov/pls/imis/establishment.html
Debarment NJ	http://www.state.nj.us/treasury/revenue/debarment/debarsearch.shtml
Debarment PA	https://www.dgs.internet.state.pa.us/debarment_list/
Debarment Report - CT	http://www.ctdol.state.ct.us/wgwkstnd/wgdisbar.htm
Debarment Report - MA	http://www.mass.gov/lwd/workers-compensation/investigations/swos-issued.html

Additional Resources for Not-For-Profits

National Center for Charitable Statistics	http://nccs.urban.org/
Grants Gateway	https://grantsgateway.ny.gov/IntelliGrants_NYSGG/login2.aspx
OMIG (Office of Medicaid Inspector General) Final Audit Single Audit	http://www.omig.ny.gov/index.php/audit/final-audit-reports https://harvester.census.gov/facdissem/SearchA133.aspx

Additional Resources for Construction

SCA Disqualified/Ineligible List of Firms	http://www.nycsca.org/Vendor/Prequalification-Process#Disqualified-Suspended-Ineligible-196
NYS Education Department - Applicable Licenses	http://www.op.nysed.gov/opsearches.htm



Due Process in Findings of Non-Responsibility

Office of the State Comptroller Legal Services



NYS COMPTROLLER
THOMAS P. DiNAPOLI

Due Process & Vendor Responsibility

What are the Requirements of Due Process
Prior to a Determination of Non-
Responsibility



NYS COMPTROLLER
THOMAS P. DiNAPOLI

Statutory Authority & Case Law for Responsibility Determinations

- Many New York State Procurement Statutes expressly provide that contracts be awarded only to responsive and responsible bidders/proposers. (e.g., State Finance Law Section 163; Highway Law Section 38; Public Buildings Law Section 8).
- Additionally, the Comptroller will not approve a contract under State Finance Law Section 112 unless it is awarded to a responsible vendor. (*See Konski Engineers, P.C. v. Levitt*, 69 A.D.2d 940 [3rd Dept. 1979]).



Vendor Responsibility

Four Primary Factors to Consider in Determining a Vendor's Responsibility (FLIP)

1. Financial and Organizational Ability
2. Legal Authority
3. Integrity
4. Past Performance



Constitutional Requirements

U.S. Constitution 14th Amendment

“[No State shall] deprive any person of life, liberty or property, without due process of the law.”

NYS Constitution Article I, Section 6

“...[n]o person shall be deprived of life, liberty or property without due process of law.”



Responsibility of a Vendor: Protected Interest?

A non-responsibility determination affects a vendor's "good name, reputation, honor, integrity" and ability to carry on its business. (*See LaCorte Electrical Constr. & Maintenance v. County of Rensselaer*, 80 N.Y.2d 232 [1992]).

This is a significant LIBERTY interest, thus a protected interest under the United States and New York Constitutions.



Vendor Responsibility

- Generally, there is no debarment under New York State Law; a vendor's responsibility must be assessed for each procurement. (*Callanan Industries, Inc. v. White*, 118 A.D.2d 167, 503 N.Y.S.2d 930 [3rd Dept. 1986]).
 - Limited Exceptions - where a statute provides for a debarment (See Labor Law §220-b; State Finance Law §139-j).



Vendor Responsibility

- Due Process is required every time an individual agency is prepared to render a final determination of non-responsibility.
- Due process has not been met if an agency relies exclusively upon an earlier determination of non-responsibility, arising out of a separate procurement.



Due Process Requirements

1. Notice

2. Opportunity to be heard



Due Process: Notice

Notice must be reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action.

See Mullane v. Central Hanover Bank & Trust, 339 U.S. 306 (1950).



Due Process: Notice

- Written notice should be given containing sufficient information to apprise vendor of issues related to responsibility.

See Schiavone v. Larocca, 117 A.D.2d 440 (3rd Dept. 1986);
LaCorte v. Rensselaer, 80 N.Y.2d 232 (1992).

- A notice which is “mere gesture” is not sufficient.

See New York State Asphalt Pavement Asso. v. White, 141 Misc. 2d 28 (Sup Ct. Albany County 1988).

- Agency does not have to list *every* detail or provide any evidence against the vendor in the notice, but must provide sufficient information to prepare a response/defense.



Due Process: Opportunity to be Heard

- A vendor must be given the opportunity to appear (e.g., by correspondence, meeting, etc.) and present any information or evidence prior to any final responsibility determination.

See Franbilt v. NYS Thruway Authority, 290 A.D.2d 705 (3d Dept. 2002).

- Opportunity must be afforded “at a meaningful time and in a meaningful manner”

See Mathews v. Eldridge, 424 U.S. 319 (1976), quoting *Armstrong v. Manzo*, 380 U.S. 545 (1965).



Due Process: Opportunity to be Heard

- Agency must allow vendor to contest the agency's evidence and submit any relevant documents.
- Opportunity may be given by allowing vendor to submit a writing, or attendance at a formal or informal hearing or meeting with agency.

See Schiavone Construction Co. v. Larocca, 117 A.D.2d 440 (3d Dept. 1986); *LaCorte Electrical Construction and Maintenance v. County of Rensselaer*, 80 N.Y.2d 232 (1992).

- There is no requirement for a formal hearing, in most cases.

See R.W. Granger & Sons, Inc. v. State of New York Facilities Development Corp., 207 A.D.2d 596 (3d Dept. 1994).



Recommended Practices

- **DON'T** negotiate with any other bidder, until after the responsibility determination is made.
- **DO** provide Due Process for each potential non-responsibility determination.
- **DO** prepare a written notice to a vendor. It is harder to show actual notice where the agency makes a telephone call to the vendor.



Recommended Practices (Cont.)

- **DO** provide sufficient details to allow the vendor enough information to respond, but note that you do not have to provide complete documentation and details. May be sufficient to say, for example, “Agency has serious concerns and questions concerning your responsibility related to the serious and willful OSHA citations against your company (e.g. those dated __ and __) that we have discovered.”
- **DO** use the terms “responsible” and “non-responsible” in the notice. (e.g., “...this issue may be sufficient to result in a determination of non-responsibility”)
- **DO** afford the vendor the opportunity to submit written evidence and documentation in rebuttal to the allegations contained in the notice.



Recommended Practices (Cont.)

- **DO** allow the vendor a reasonable period of time in which to respond. Stress that the vendor's failure to respond or rebut the information will likely result in a non-responsibility determination after the date to respond.
- **DON'T** make a final determination prior to receipt of the rebuttal information from the vendor. A preliminary determination that a vendor is non-responsible triggers the need for due process.
- **DO** keep all correspondence related to the determination of non-responsibility in the procurement record.



When to Hold a Hearing

- Whether to hold a hearing (formal or informal) is best determined on a case by case basis.
- Where there are substantial allegations in relation to a vendor's responsibility, not yet accompanied by final judgments, final determinations or convictions, the agency may want to consider holding a hearing. (e.g., in the case of indictments and other criminal allegations, investigations, financial statement irregularities, other irregularities etc.).
- Also, where there is a substantial factual dispute a hearing may be needed to determine the credibility of evidence and testimony.



Who Makes the Final Determination?

- Ideally, a person not involved in the preliminary determination, but fully versed in vendor responsibility, should make the final determination.



Vendor Responsibility at OGS Design and Construction

Carl Ruppert

Patricia McCrossan

Laurie Adrian



Questions



Contact Information

OSC Help Desk

Phone numbers: (866) 370-4672
(518) 408-4672

Email: itservicedesk@osc.state.ny.us





**Office of
General Services**

Vendor Responsibility at OGS Design & Construction (D&C)

An overview of vendor responsibility practices at OGS D&C, with a focus on vendor responsibility meetings and subsequent findings.

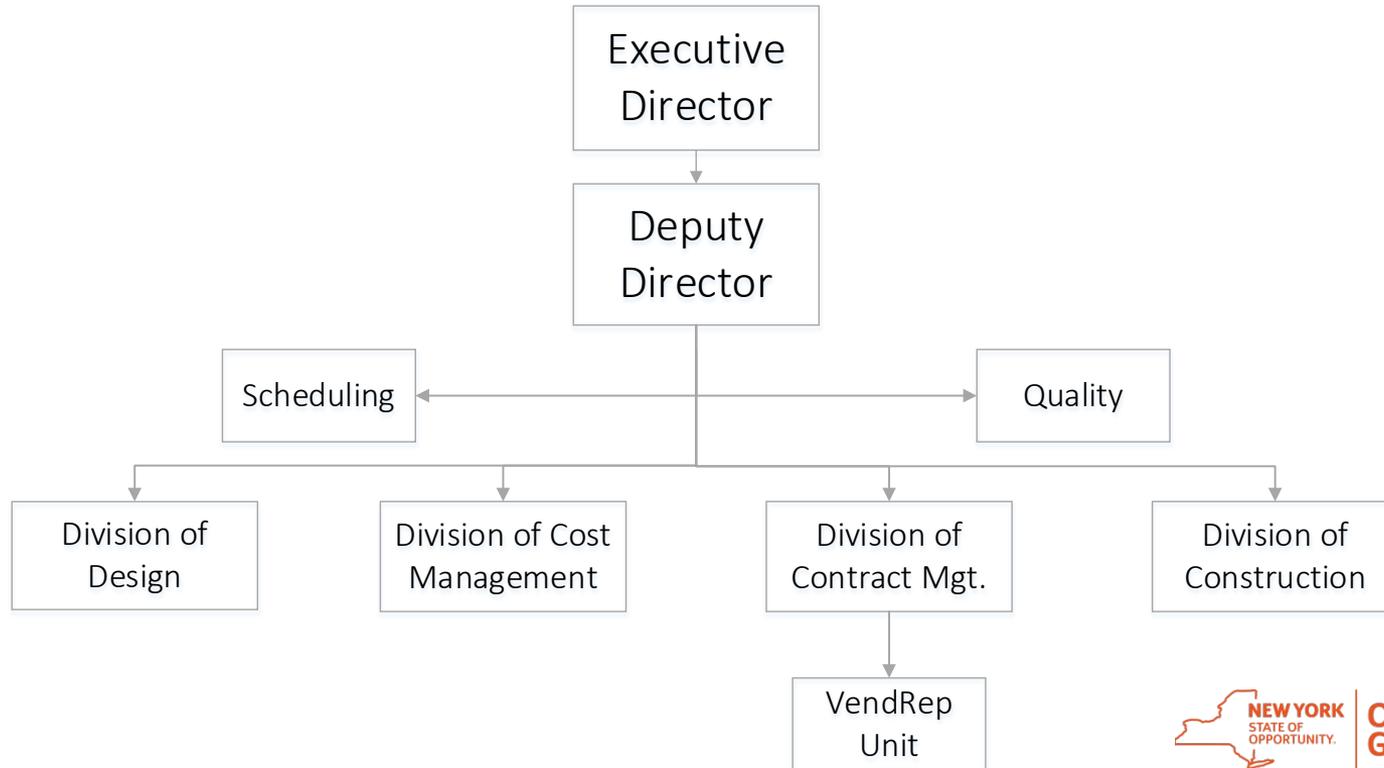
October 25, 2016

D&C Mission

- To provide a full range of high-quality architectural, engineering, contracting and construction management services to state agency clients.
- To employ an interdependent model of public and private-sector resources, enabling us to deliver services in a timely, efficient, responsive and cost-effective manner, thereby enabling client agencies to fulfill their own diverse missions on behalf of the people of New York State.



D&C Organization



A “Culture” of Vendor Responsibility at D&C

An ongoing, continuous process...

- Responsibility provisions in all D&C contracts, including requirements for continuous responsibility **after** contract award (per April 3, 2013 memo from Executive Chamber)
- Mandatory Pre-Award meetings with low bidders by D&C field staff
- Pre-Award meeting may result in non-responsive determinations
- VendRep contractor/consultant reviews and profiles before contract award
- Subcontractor, subconsultant and Emergency List vendor reviews
- Insurance compliance tracking



A “Culture” of Vendor Responsibility at D&C

(continued)

- Consultant and contractor performance evaluations
- Bi-weekly VendRep meetings among Contract Management staff
- Collaboration with other agencies on VendRep issues (OSC, Council of Contracting Agencies, CRIO reports, etc.)
- Regular meetings between D&C field staff and contractors to track job progress
- Pre-default meetings with vendor, including the bonding company, when contract performance issues arise
- ***FORMAL SHOW-CAUSE/RESPONSIBILITY MEETINGS***



D&C VendRep Statistics

- 2,464 reviews performed in FY 2015-16 (one year):
 - 537 for contracts; each review includes a profile for OSC
 - 1,658 subcontractors and subconsultants
 - 270 annual Emergency List contractor reviews
- For FY 2014-16 (two years):
 - 40 Non-Responsive Bids following Pre-Award meetings
 - 26 Responsibility meetings, including Show-Cause meetings
 - 9 Vendors found Non-Responsible



Responsive vs. Responsible

- ***Responsiveness*** relates to ***Bids or Proposals***
 - A “Responsive” bid satisfies the specifications and requirements of the procurement
 - A “Non-Responsive” bid is technically unacceptable or otherwise deficient
 - Pre-Award process considers work plan, estimated cost, subcontractor utilization, references, performance in other similar projects, etc.
 - Non-Responsive determination following Pre-Award requires due process; case involving D&C vendor whose bid was found non-responsive is cited here:
Matter of Zarco Contracting Inc. 2013 WL 5804136, 2013 N.Y. Slip Op. 32637 (Sup. Ct. Albany, 2013)



Responsive vs. Responsible

(continued)

- **Responsibility** relates to **Vendors**
 - Responsible vendor must “...have the integrity to justify the award of public dollars, and the capacity to perform the requirements of the contract fully.”
http://www.osc.state.ny.us/vendrep/info_vresp_agency.htm
 - Vendors evaluated through FLIP review
- Responsiveness **and** responsibility are considered on a **case-by-case** basis



Circumstances Leading to a Responsibility Meeting

- Issue(s) identified during VendRep review before contract award
- An incident or discovery of adverse information during the course of a project
- Poor performance on a project



Planning a Responsibility Meeting

- VendRep team meets with D&C Executives to discuss issues
- Responsibility meeting is scheduled with the vendor and D&C staff (including OGS Legal Services)
- Vendor principal is formally notified in letter sent by e-mail and certified mail
- For Show-Cause/Responsibility meetings with a potential termination, the vendor's bonding company is notified



What is a Show-Cause Meeting?

- Initiated on a project where the a vendor is failing to perform the work **or** an incident occurs calling its responsibility into question. For example:
 - The work is far behind schedule
 - There is a breach of safety or security
 - Their insurance is lapsed or deficient
- Vendor is required to **Show Cause** why their contract should **not** be terminated
- Usually follows a pre-default meeting during which the vendor was informed of the issue and was instructed, but failed, to take steps to rectify the situation.
- May result in termination of the contract, which would typically include a non-responsible determination.



Formal Letter (Notice) to Vendor

- States NYS's obligation to ensure the responsibility of its vendors.
- Lists incidents or issues prompting the meeting.
- Requests that vendor be prepared to explain issues and provide documentation.
- States date, time and place of meeting.
- Mentions that OGS Legal Services will be represented and invites vendor to bring legal counsel.
- Warns that failure to attend or to give adequate explanation may result in a finding of non-responsibility (and a termination for cause if a Show Cause/Responsibility meeting).



Meeting Participants

- Chaired by D&C Contracting Officer (Responsibility Meetings) or Director of Construction (Show-Cause/Responsibility Meetings)
- Participants typically include:
 - Vendor principals, project manager
 - Vendor's attorney
 - OGS Contracting Officer & other D&C executives
 - OGS Project Manager and/or Engineer-in-Charge (EIC)
 - VendRep staff
 - OGS attorney



Standard Meeting Agenda

- Recounting of OGS D&C's authority to review responsibility
- Explanation of the meeting process and potential outcomes
- Central issues identified, with reference to relevant documents
- Vendor's explanations (opportunity to be heard)
- Additional discussion of facts & circumstances
- Questions & answers
- Closing statements, list of action items & deliverables with deadlines



Responsibility Meeting Minutes

- Detailed written account of discussions at meeting
- Attendance sheet included with the minutes
- Circulated to all attendees for review and corrections, if needed
- Part of the procurement record and/or responsibility record



Responsibility Determination

Evaluation of vendor's information and responses:

- Did vendor give plausible explanation for what happened?
- Did vendor provide full disclosure?
- Did vendor cooperate with the review process?
- Has vendor taken corrective actions for the problems identified?
- Has vendor implemented changes to prevent future occurrences?



Possible Responsibility Meeting Outcomes

- Vendor is found responsible and awarded a pending contract
- Vendor cooperates, implements corrective action, is allowed to continue project, and is not found non-responsible.
- Stipulation and/or monitoring agreement, prepared by OGS Legal Services, may be required.
- Poor performance evaluations and liquidated damages may be imposed, even if contract is not terminated.
- Vendor is found non-responsible, and is either not awarded a pending contract or is terminated from an existing contract.

Responsibility Decision Memo

- Document prepared that summarizes the background, review of issues, and basis for the determination.
- Draft reviewed by D&C executives, amended as needed, and forwarded by Contracting Officer to OGS Legal Services for review and signature.
- Part of agency's official internal record.



Documentation/Communication of Findings

- For Responsibility Meetings – Responsibility Decision Memo (internal) followed by formal determination letter from D&C Contracting Officer to vendor
- For Show Cause/Responsibility Meetings – formal determination letter from D&C Executive Director to vendor
- Determination recorded in D&C files and becomes part of the procurement record



Documentation/Communication of Findings

(continued)

- For pending new contracts, determination reported to OSC via Profile
- OSC Lien/Offset Unit notified when a termination and/or surety takeover is involved
- Non-responsible determinations posted on the OGS website and circulated in monthly CRIO Reports
- OGS Legal Services represented in all responsibility meetings and decisions

Affording the Vendor Due Process

BENEFITS

- Fairness
- Outcome based on facts, not opinions
- Careful documentation, ensuring an accurate record
- Resolution of misunderstandings
- Improved chance of successful contract completion
- Responsibility decision not “arbitrary and capricious”



Questions?

