

Vendor Responsibility for Subcontractors

Follow the State's Money

Craig Coutant

Danial Small



NYS COMPTROLLER
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Agenda

- Why is a subcontractor review important?
- Who is considered a subcontractor?
- What should you look for when reviewing a subcontractor and what options are available if you find issues?
- How can the VendRep System aid in your review?



Michael Martin and D. Scott Henzel



Indicted July 2018



- Martin and Henzel were general contractors who were indicted for illegally obtaining millions of dollars worth of State projects that required a portion of funds be awarded to MWBEs.
- They allegedly took over the daily operations of two MWBE companies, including staffing, bidding, banking and other financial matters.

Nichter Construction & McClendon Asphalt Paving

Staff Arrested July 2018

- Nichter and McClendon falsely claimed that McClendon's business did subcontract work on a project to satisfy a requirement that some of the work be done by a minority-owned business.
- In reality, Nichter contracted with other subcontractors to perform the work and agreed to pay a fee to McClendon while his company provided none of the work on the project.



Why Do We Care?

Subcontractors Must Be Responsible

- Subcontractors are often the ultimate recipients of State money
- State money should go to responsible vendors



Who is considered a subcontractor?

A subcontractor includes any entity that receives funds from the vendor to perform work on a contract awarded by the State. Contracts subject to this include:

- Contracts where the contractor is normally exempt from VR, such as municipalities and preferred source member agencies and their corporate partners
- Grant contracts



Documents OSC Requires for Subcontractor Review

Submission of questionnaire and a Vendor Responsibility Profile are required for a subcontractor when:

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



When to Review a Subcontractor

IMPORTANT!

A vendor responsibility review should be performed for all subcontractors – even those not sent to OSC for approval.



Where to Look



The screenshot shows the website for the Office of the New York State Comptroller, Thomas P. DiNapoli. The page is titled "File Your Vendor Responsibility Questionnaire". The left sidebar contains a menu with the following items: "Vendor Responsibility", "File a Questionnaire", "VendRep System", "Forms", "The Review Process", "Documentation Requirements", and "Research Vendor Information". A red arrow points to the "Research Vendor Information" link. The main content area includes a description of the questionnaire, a list of benefits of filing online, and a note about the secure online service.

Office of the NEW YORK
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Home > State Vendors > File Your Vendor Responsibility Questionnaire

File Your Vendor Responsibility Questionnaire

Complete or update your Vendor Responsibility Questionnaire online. Filing online is the easiest and fastest way to inform State contracting entities of your business's qualifications.

Benefits of filing online

- Complete only *one* questionnaire for all future bids.
- Update your questionnaire at any time.
- View the status of your contract review.
- Delegate user roles to employees.

Our secure online service includes all four types of questionnaires.

What to Review for a Subcontractor

Same as the review of the prime

- Financial and Organizational Capacity
 - Sufficient staff and financial resources to complete the job
- Legal Authority
 - Authority to do business
 - Debarments
 - » DOL, WC, NYS Reciprocal Debarment
 - Licensing Requirements
 - » Architects, Engineers, etc.



What to Review for a Subcontractor

Same as the review of the prime

- Integrity
 - Criminal indictments or convictions
 - Outstanding tax liabilities
 - Liens & judgments
 - Prior finding of non-responsibility
 - Front page news



What to Review for a Subcontractor

Same as the review of the prime

- Past Performance
 - State agency's experience
 - Early contract termination for cause
 - Contract abandonment
 - Better Business Bureau complaints



What to Review for a Subcontractor

Other Things to Look for

- **Affiliated entities and addresses**
 - use the VendRep System or Accurint/Relavint to look for relationships between the prime and sub
- **Bidders List**
 - look to see if the subcontractor or an affiliate bid on the original contract
- **Certifications**
 - ensure the subcontractor has the certification it claims to have (MWBE/DBE, etc.)

Potential Red Flags

- Subcontractor had a sudden drop in revenue or net income
- Subcontractor name consists of the initials of an officer or board members of prime contractor
- Prime contractor and subcontractor share staff or officers
- Prime contractor and subcontractor share phone, fax, business address or email addresses



Potential Red Flags

Matching emails - Example

Additional Business Entity Identities

Type:	Previously Enrolled As	Explanation:
Name:	<u>Eastern Building & Restoration, Inc.</u>	
Vendor ID:	[Redacted]	
Status:	Active	

Authorized Contacts

Name:	Michael Martin	Address:	[Redacted]
Title:	President		
Telephone:	[Redacted]		
Fax:	[Redacted]		
Email:	<u>mmartin@easternbuildinginc.com</u>		



Potential Red Flags

Matching emails - Example

Entity Information

**Legal Business
Entity Name:**

PRECISION ENVIRONMENTAL SOLUTIONS INC

TIN (EIN or SSN):

Vendor ID:

**Principal Place of
Business:**

Telephone:

Fax:

Email:



Mmartin@precisionenviron.com

Business Entity Information

Business Type:

For-Profit

Business Activity:

Construction



What has OSC found?

Real World Findings

- Issues involving the Vendor Responsibility factors
- Fraud with associated entities
- Abuse of MWBE goals
- Issues with Preferred Source partners



Example 1 – VR Issues

Bus Rapid Transit System

- Staffing company 1
 - \$170,000 State and Federal tax liens
- Staffing company 2
 - Debarred by the Workers Compensation Board



Example 2 – Preferred Source Issues

- Textile Company
 - Out of business
 - Undisclosed bankruptcy
- Linen Service
 - Debarred by Workers Comp



Example 3 – Preferred Source Issues

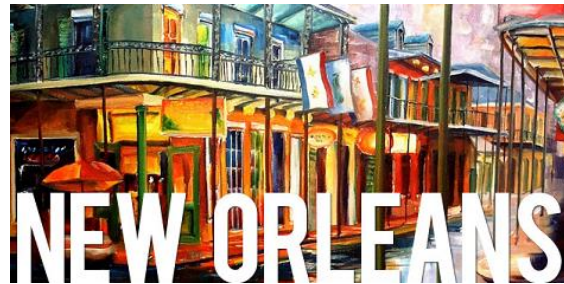
- The Preferred Source partnered with a corporate entity whose COO was charged with stealing over \$1 million from the organization.
- OSC non-approved the contract to enable the agency to re-evaluate the subcontractor.
- The contract was resubmitted with a different corporate partner and approved.



Example 4 - Fraud

Contracts with Controlled Entities

Cancer Services Network/ JLJ Consulting Group



Recap of Subcontractor Review

- Perform a vendor responsibility review on all subcontractors
- Use the same standards for a subcontractor review that you would for the prime contractor
- Address with the prime contractor any vendor responsibility issues found with the sub
- Look for potential red flags, including inappropriate relationships between the prime and sub



QUESTIONS?



The OSC VendRep System

- Convenient electronic filing of Vendor Responsibility Questionnaire (VRQ) online
- Standardized database of current information for state contracting entity users to make responsibility determinations



Vendor Benefits

- Secure application
- Easy to file, access, and submit VRQ
- Efficient: once certified, only updated information must be entered
- Versatile: contract search functionality for vendor's own contracts and all statewide approved contracts



State Contracting Entity Benefits

- Allows direct, easy access to vendor disclosures
- Eliminates State entity development of the VRQ
- Reduces administrative time and cost of paper document production
- Improves consistency, accuracy and timeliness of the information used in the vendor responsibility review
- Provides options for:
 - Email notification of vendors' VRQ certifications/changes
 - Contract search functionality for state entity's contracts submitted for OSC approval and all statewide approved contracts



Vendor Requirements

- Legal business name
- Vendor ID – contact ITServiceDesk@osc.ny.gov

Vendor Enrollment

- <https://portal.osc.state.ny.us>
- Information available at
<https://www.osc.state.ny.us/vendrep>



State Entity Access Requirements

- Entity must submit contracts to OSC for approval in order to enroll
- Contact ITServiceDesk@osc.ny.gov for assistance



VendRep System Information

- General information:
http://www.osc.state.ny.us/vendrep/info_vrsystem.htm
- Welcome Package:
http://www.osc.state.ny.us/vendrep/documents/system/welcome_package.pdf



Use of the Vend Rep System (VRS)

Online Services

Login

*User ID [I forgot my User ID](#)

*Password [I forgot my Password](#)

[Need an account ? Enroll Now](#)
[Learn more about our Online Services.](#)

Announcements

No announcements to report.

Use of the VendRep System

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Online Services Apps ▾


VIEW

- Dashboard
- Announcements
- User Profile


Welcome to Online Services

Online Services Applications

You are currently subscribed to the following applications:

-  VendRep System


Announcements

 No announcements to report.

Use of the VendRep System

VRQ

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Logout

Contract Search My Apps

OSC-Internal
Home > Vendor Search Results

New York State VendRep System

The VendRep System is a secure application which allows vendors to enter, maintain and certify their Vendor Responsibility Questionnaires. Once the questionnaire is certified, it is available for review by authorized New York State contracting entity users. Access to New York State contract data is also available through the VendRep System.

[Read More...](#)

News

[View All News](#)
Aug 13, 2018
▶ Scheduled Outage, Sunday, August 19

VendRep SYSTEM

- HOME
- SEARCH VENDORS
- NOTIFICATION
- VIEW USERS
- GENERAL HELP
- FEEDBACK

Search Vendors:

Type: Options: Text:


[What is Questionnaire Status?](#)

One item found.

Vendors	Questionnaire Status
VALHALLA CUSTOM BUILDING AND SUPPLY, INC. Previously Enrolled As: Valhalla Custom Building and Supply, Inc.	Certified by Vendor



Use of the VendRep System



- HOME
- SEARCH VENDORS
- NOTIFICATION
- VIEW USERS
- GENERAL HELP
- FEEDBACK

OSC-Internal
[Home](#) > [Vendor Search Results](#) > Vendor Summary

[VALHALLA CUSTOM BUILDING AND SUPPLY, INC.](#) [Contract Data](#)

Vendor Summary

Legal Business Entity: VALHALLA CUSTOM BUILDING AND SUPPLY, INC.

Entity Information:

Legal Name: VALHALLA CUSTOM BUILDING AND SUPPLY, INC.
TIN (EIN or SSN): 129746329
Vendor ID: PRD0002841
Principal Place of Business: 1245 Western Avenue
Albany, NY 12206
United States
Telephone: (518)555-1234
Fax: (518)555-9999
Website: www.....
Email:

Form Information:

Business Type: Not-For-Profit
Business Activity: Non-Construction

Forms: [History](#)

Active Certified Form:


Form Name	Date Certified	Action
Vendor Responsibility NFP	Nov 27, 2017	View

Certified Form History:

Form Name	Date Certified	Action
Vendor Responsibility For-Profit Construction (CCA-2)	Jul 30, 2014	View
Vendor Responsibility For-Profit Construction (CCA-2)	Jul 28, 2014	View
Vendor Responsibility For-Profit Construction (CCA-2)	Jun 25, 2014	View



Use of the VendRep System





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- FEEDBACK

OSC-Internal
[Home](#) > [Vendor Search Results](#) > [Vendor Summary](#) > [Form Overview](#)

[VALHALLA CUSTOM BUILDING AND SUPPLY, INC.](#) [Contract Data](#)


Form Overview

Form: Vendor Responsibility NFP
Status: [Certified](#)
Date Certified: Nov 27, 2017
Certified By:
Certifier's Title: XXX
Entity Information: [Basic Vendor Data](#)

Section	Modified	Modified By	Action
 I. Business Characteristics	Jan 10, 2017	Craig Coutant	View
II. Affiliates and Joint Venture Relationships	Jan 9, 2013	VendRep Trainer	View
III. Contract History	Nov 27, 2017	Craig Coutant	View
IV. Integrity - Contract Bidding	Jun 27, 2013	Irene Waldorf	View
V. Integrity - Contract Award	Feb 1, 2013	VendRep Trainer	View
VI. Certifications/Licenses	Jan 9, 2013	VendRep Trainer	View
 VII. Legal Proceedings	Nov 27, 2017	Craig Coutant	View
VIII. Leadership Integrity	Jan 9, 2013	VendRep Trainer	View
IX. Financial and Organizational Capacity	May 31, 2013	Irene Waldorf	View
X. Freedom of Information Law (FOIL)	May 31, 2013	Irene Waldorf	View



Use of the VendRep System



- HOME
- SEARCH VENDORS
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- GENERAL HELP
- FEEDBACK

OSC-Internal

Home > Vendor Search Results > Vendor Summary > Form Overview > Form

[VALHALLA CUSTOM BUILDING AND SUPPLY, INC.](#) [Contract Data](#)

Form Overview Next -->

Form: Vendor Responsibility NFP
Status: Certified

I. Business Characteristics

1.0 [Business Entity](#) type - Please check appropriate box and provide additional information:

- [Corporation](#) (including [PC](#))
- [Limited Liability Co.](#) (LLC or PLLC)
- [Limited Liability Partnership](#)
- [Limited Partnership](#)
- [General Partnership](#)
- [Sole Proprietor](#)
- [Unincorporated Association](#)
- Other - Specify


Date of Incorporation

1.1 Was the [Business Entity](#) formed in New York State?




Use of the VendRep System

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OSC-Internal
[Home](#) > [Vendor Search Results](#) > [Vendor Summary](#) > [Form Overview](#) > Attachment List

Attachment List

To view any attached document contained within a questionnaire, "click" the hyperlink found in the "File Name" column that corresponds to that related section and question within a specific questionnaire.

2 items found, displaying all items.


Section	Question	File Name
IX. Financial and Organizational Capacity	9.6	Supporting Document.doc
IX. Financial and Organizational Capacity	9.7	attachment(1).xls

Back



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Contract Search

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OSC-Internal
[Home](#) > [Vendor Search Results](#) > [Vendor Summary](#)

Contract Search

Match ▼ of the following:


▼ ▼

[Department List](#)
[Online Help](#)

Use of the VendRep System


Notifications

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- VIEW USERS
- GENERAL HELP

OSC-Internal
Notification

Notification

 VALHALLA CUSTOM BUILDING AND SUPPLY, INC. has been added successfully. 

A notification will be sent to your primary email address each time a vendor listed below certifies a form.


Entity	Questionnaire Status	Action
VALHALLA CUSTOM BUILDING AND SUPPLY, INC.	Certified by Vendor	Remove

Click 'Add Vendor' to search for vendors to add to the notification list.

Use of the VendRep System


Notifications

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- HOME
- SEARCH VENDORS
- NOTIFICATION
- VIEW USERS
- GENERAL HELP
- FEEDBACK

OSC-Internal
Notification > Add Vendor Notification

Add Vendor Notification

Search Vendors:

Type: Name Options: contains Text: valhalla custom Search Clear

One item found.


	Vendor Name	Match
<input checked="" type="checkbox"/>	VALHALLA CUSTOM BUILDING AND SUPPLY, INC.	VALHALLA CUSTOM BUILDING AND SUPPLY, INC.

Add Cancel

Use of the VendRep System


Notifications

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QUESTIONS?



Thank you!

