

Procurement 101

An Annotated Timeline



NYS COMPTROLLER
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Course Description

An Annotated Timeline

This course is designed to provide new state agency procurement and contracting officials with insight into the procurement timeline for goods and services. Participants will receive a start to finish overview of how procurements progress through various stages from advertising an opportunity to executing an agreement. Each step will provide reference to State laws, the Procurement Guidelines, the Guide to Financial Operations (GFO) or other procurement-related resources.



Presenters

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Introduction to the Bureau of Contracts (BOC)

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



BOC Roles and Responsibilities

- Reviewing procurement processes for compliance with applicable laws, rules and regulations
- Reviewing agency vendor responsibility determinations
- Approving/non-approving contracts
- Reviewing bid protests for contracts subject to BOC approval
- Reviewing requests for exemptions to advertising requirements



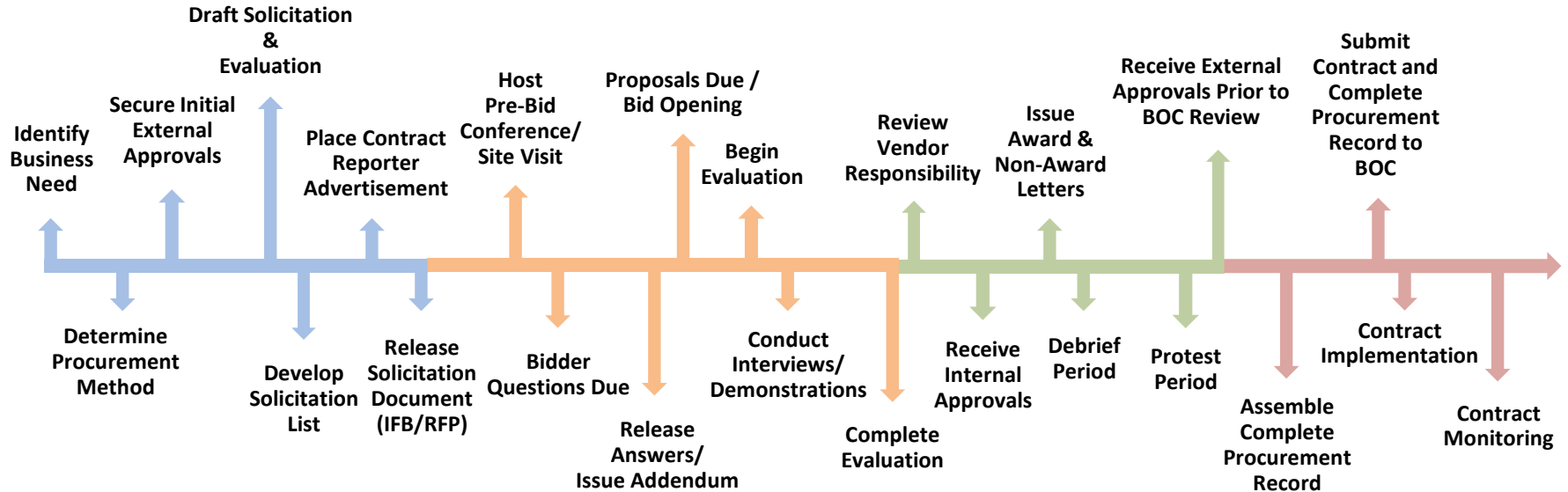
State Agencies/Authorities

Procurement Roles and Responsibilities

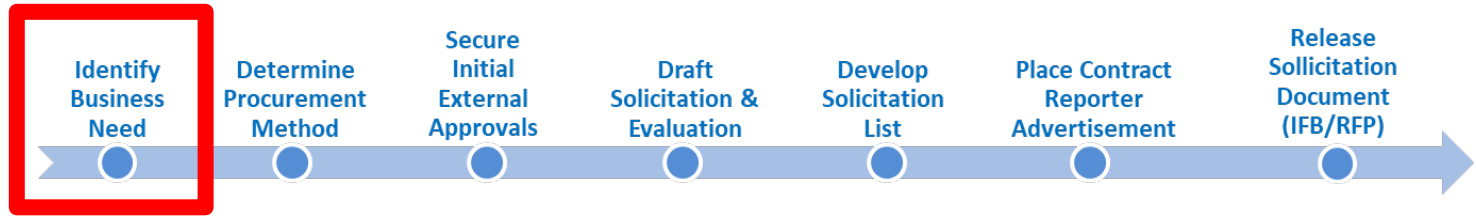
- Identifying business needs
- Developing requirements and conducting a procurement
- Securing budgetary funding
- Negotiating a contract
- Determining vendor responsibility
- Securing approval from control-agencies
- Providing ongoing contract monitoring



Sample Procurement and Contracting Process



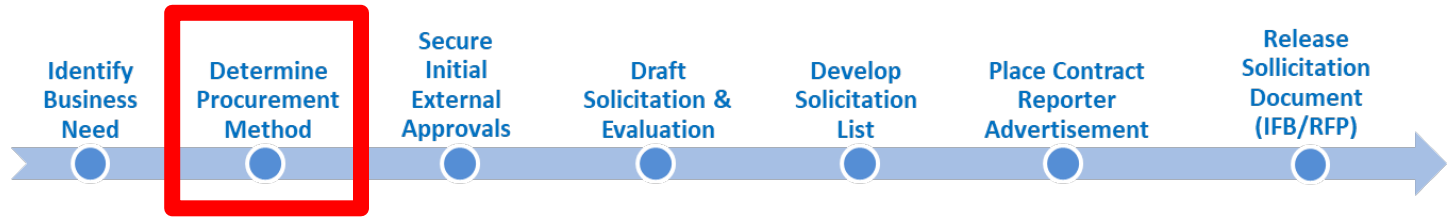
Identify Business Need



- Determine form, function and utility needs
- Define the minimal essential requirements
- Outline funding sources
- Plan timeline



Determine Procurement Method



Order of Purchasing Priority ([State Finance Law \(SFL\) Article 11, §163 3.a.i](#)):

1. [Preferred Source Offerings \(SFL Article 11, §162\)](#)
2. [Office of General Services \(OGS\) Centralized Contracts](#)
3. [Agency or multi-agency established contracts](#)
4. [Open market procurement \(discretionary or formal\) \(SFL Article 11, §163\(6\)\)](#)

State Agency Approval Thresholds

SFL Article 7, §112

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

Memorandum of Understanding dated 8/15/19

- \$250,000 or more: Certain SUNY, CUNY and Construction Funds
- \$85,000 or more: OGS Procurement Services (centralized contracts)



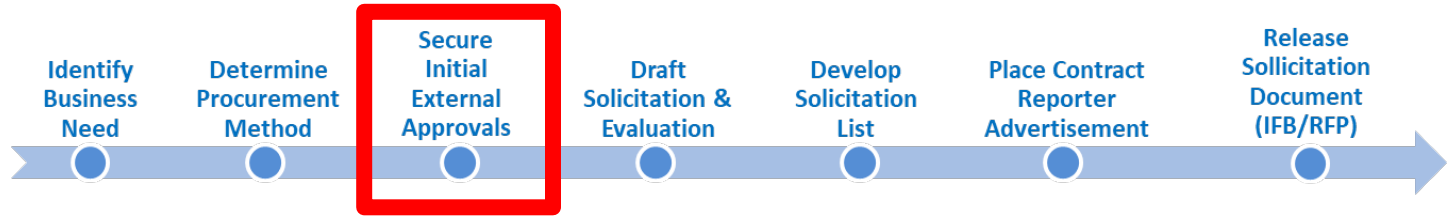
Discretionary Contracts

SFL Article 11, §163(6)

- \$500,000 or less
 - Minority- or Women-Owned Business Enterprises (M/WBEs)
 - Service-Disabled Veteran-Owned Businesses (SDVOBs)
 - New York State Small Business Enterprises (SBEs)
 - Purchases of recycled or remanufactured commodities or technology
- \$200,000 or less
 - Food commodities grown, produced or harvested in New York State



Secure Initial External Approvals

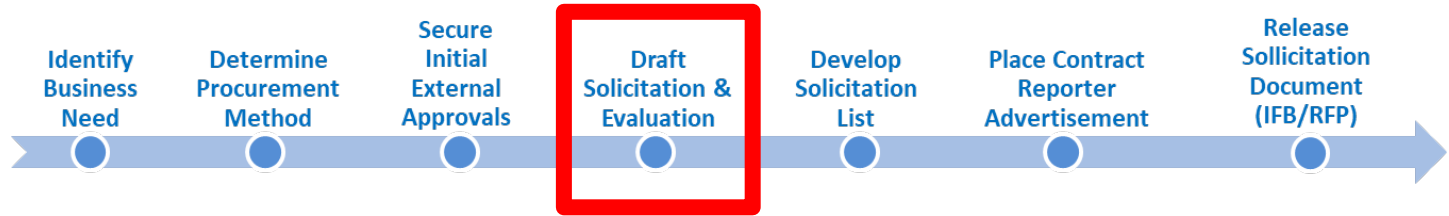


Examples include:

- [Division of the Budget \(DOB\) Bulletin B1184](#)
- [Office of Information Technology Services \(OITS\) Plan to Procure \(PTP\) Approval](#)
- [OGS Preferred Source Price Approval](#)
- [OGS Piggyback Approval](#)
- [Department of Labor \(DOL\) Prevailing Wage Schedule](#)



Draft Solicitation & Evaluation



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

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



Mandatory Requirements

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



Program Requirements

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



Program Requirements

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



Desirable Qualifications

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



Method of Award

SFL Article 11, §163(1)(i)

- Lowest Price / Invitation for Bids (IFB)

SFL Article 11, §163(1)(j)

- Best Value / Request for Proposals (RFP)



Draft Evaluation Instrument

SFL Article 11, §163(9)(a), (b)

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



Evaluation Methodology

Instructions to Evaluators:

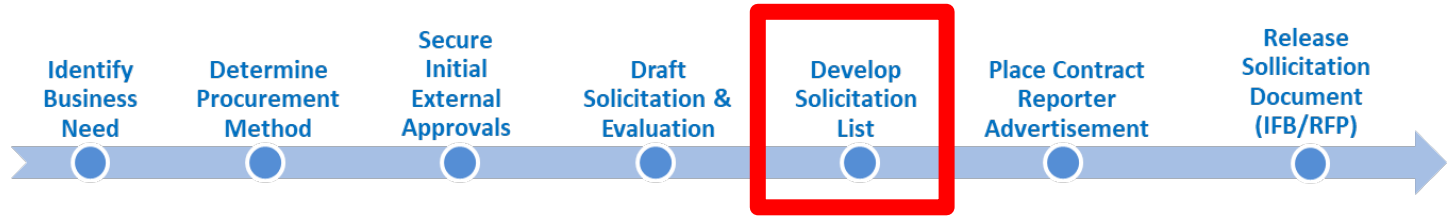
- Define decision parameters and explain expectations in the rating scale
- Define use of decimals and rounding
- Inform evaluators to include comments on their scores
- Should specify procedure for group discussion, shortlisting and interview/demonstration, if applicable
- Include the evaluation instructions with the procurement package

Evaluation Methodology

Evaluating Cost Proposal with Hourly Rates:

- Must identify staff titles for vendors to bid on
- Should require vendors to provide rates for all titles listed
- May provide estimated hours for vendors to bid equally or weigh each title separately within cost score
- Should not take simple average of all hourly rates across the board
- Must not allow vendors to bid a range of rates

Develop Solicitation List



- [Minority or Women-Owned Business Enterprises \(MWBE Directory\)](#)
- [Service-Disabled Veteran-Owned Business \(SDVOB\) Directory](#)
- [New York State Contract Reporter](#)
- [Open Book](#)
- Google searches / trade publications
- Previous solicitation lists, bidders and incumbent vendor(s)



Advertising Requirements

Economic Development Law Article 4-C, §144

Contract Reporter Advertisement

- Posted in the [New York State Contract Reporter](#) for a minimum of 15 business days
- Required for all procurements equal to or greater than \$50,000

Economic Development Law Article 4-C


Contract Reporter Exemption Request (CRER)

- Awarded on a critical or emergency basis or in an instance where publication is not feasible
- Required to be approved by BOC prior to contract execution



Place Contract Reporter Advertisement



 The New York State Contract Reporter
NYS' official source of contracting opportunities
Bringing business and government together

This document printed Wednesday, 04/27/2022

Contracting Opportunity

*** This ad has not been published. It has been reviewed and pending publication. ***

Title: [REDACTED]
Agency: [REDACTED]
Division: [REDACTED]
Contract Number: 2022-05
Contract Term: 90
Date of Issue: 05/02/2022
Due Date/Time: 06/01/2022 10:00 AM
County(ies): Suffolk
Location: [REDACTED]
Classification: [REDACTED]
Opportunity Type: General
Entered By: [REDACTED]
Description: [REDACTED]

Host Pre-Bid Conference/Site Visit



- Provide opportunities for bidders to ask questions and obtain better understanding of what is needed
- Distribute, in writing, any questions and answers to all potential bidders after the conference is conducted
- If attendance is mandatory, consider proposals only from offerers who participated



Bidder Questions Due



- Provide in the solicitation the time frames for submission of questions and agency responses to those questions
- Distribute in writing to all potential offerers
- Ensure published answers do not include the names of the vendors

Release Answers / Issue Addendum



- Include summary of pre-bid conference and/or site visits
- Publish copy of bidder questions and agency answers
- May require signed acknowledgement from bidders confirming receipt of answers/addenda

Proposals Due / Bid Opening



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

Begin Evaluation



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

Administrative Evaluation

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



RFP Technical Evaluation

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

RFP Cost Evaluation

- Must be evaluated objectively
- Ensure vendor utilizes the cost proposal/template form included with the solicitation
- Utilize recommended formula for cost scores:

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

Shortlisting

- Limits the number of proposers that are allowed to continue through the final evaluation process steps
- Should include all vendors that were susceptible to award
- Must be identified in the evaluation instrument and solicitation documents if utilized



Conduct Interviews / Demonstrations



- Should invite all vendors susceptible to award
- May be a separately scored category or used to revise previously scored criteria

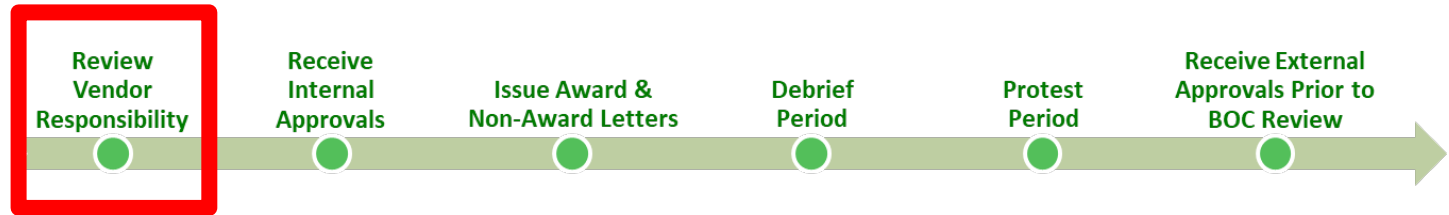


Complete Evaluation



- Verify scores match from individual evaluator sheets to summary
- Complete any normalization if included in evaluation instrument
- Add scores from all evaluation categories for all vendors and create a summary matrix

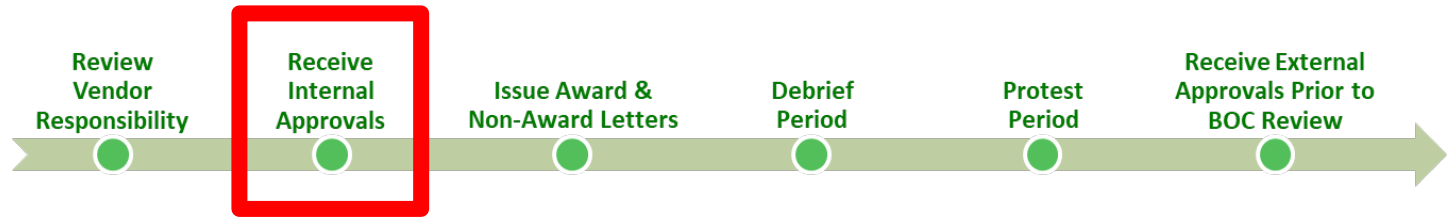
Review Vendor Responsibility



- **F**inancial and organizational capacity
- **L**egal authority
- **I**ntegrity
- **P**ast performance



Receive Internal Approvals



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



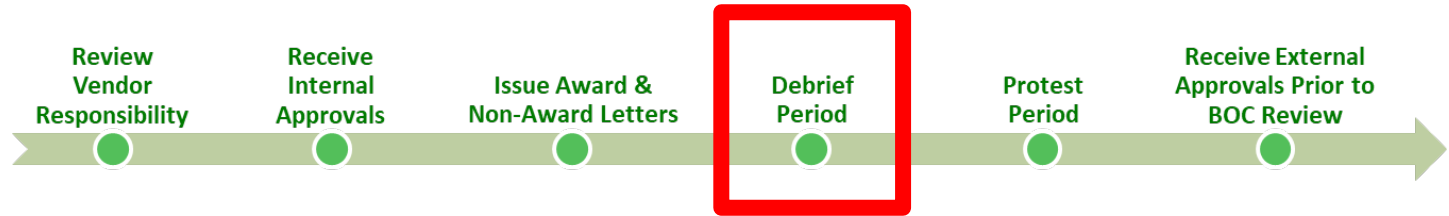
Issue Award and Non-Award Letters



SFL Article 11, §163(9)(c)

- Must send notification to all bidders
- Provide non-successful bidders an opportunity for debriefing a minimum of 15 calendar days from non-award notification
- Specify in non-award letters if a vendor is determined to be non-responsive

Debrief Period

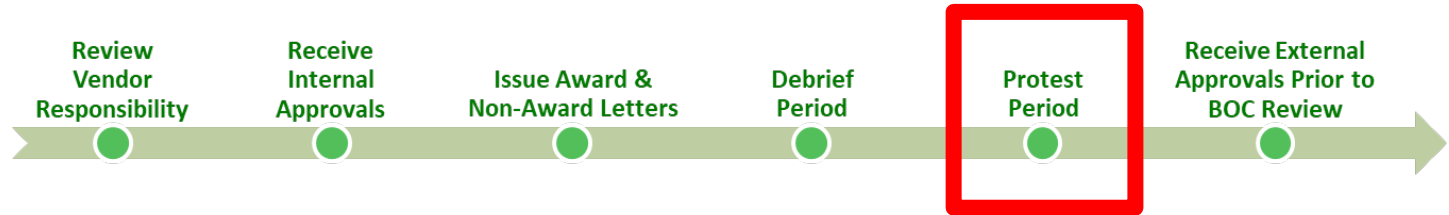


SFL Article 11, §163(9)(c)(iv)

- Ensure debriefing is conducted by agency personnel involved in the procurement and knowledgeable with the bidder selection
- Schedule the debriefing to occur within reasonable time of such request
- Discuss the bidder's unsuccessful submission



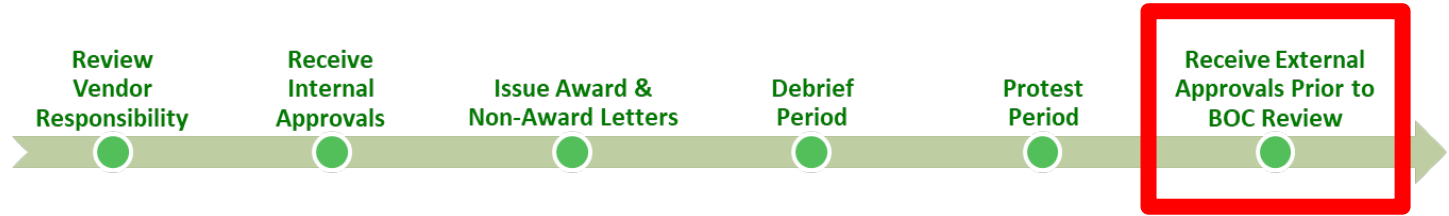
Protest Period



[New York Codes, Rules and Regulations Title 2, Part 24](#)

- Ensure protest procedures in the solicitation documents are followed
- Resolve initially at agency level (if agency has its own protest procedures and timeframes)
- File an initial protest with BOC within 10 business days of receiving contract award notice or, within 5 business days of the debriefing, whichever is later (if no agency-specified protest procedures)
- Include all documentation including complaints, protests, responses, appeals and resolutions in procurement record

Receive External Approvals Prior to BOC Review



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



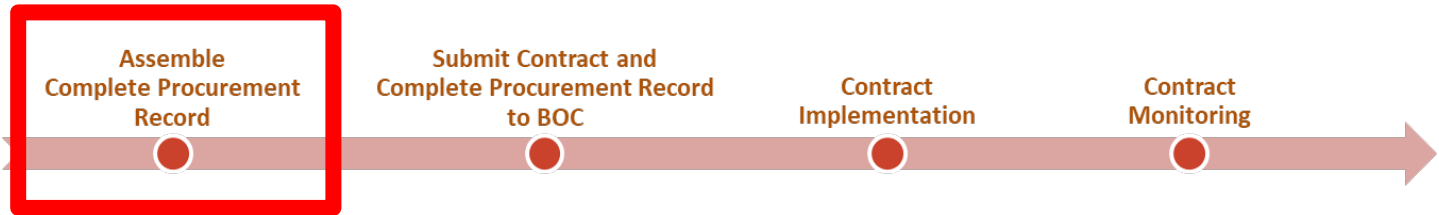
Supplemental Documents

- [Consultant Disclosure Form A \(O-Net OnLine\)](#)
- [Vendor Responsibility documents](#)
- [Contractor Certification form \(ST220-TD\) from Department of Taxation and Finance](#) & [Contractor Certification form \(ST220\)-CA from Department of Taxation and Finance](#)
- [Procurement Lobbying Law forms](#)
- Sexual Harassment Prevention Certification ([GFO Chapter XI, §18.I](#)) ([SFL Article 9, §139-I](#)) ([Labor \(LAB\) Article 7, §201-G](#))

NYS Contract Terms and Conditions

- [Appendix A](#): Standard Clauses for NYS Contracts, required for State agencies
- [Exhibit A](#): Standard Clauses for SUNY Contracts
- Standard Termination Clauses ([Guide to Financial Operations \(GFO\) Chapter XI, §2.H Multiyear Contracts](#))
- Agency or facility specific clauses
- Procurement policies, statutes & disclosures

Assemble Complete Procurement Record



- Ensure method of award is consistent from solicitation to evaluation
- Verify total contract value and vendor name are consistent from proposal to contract to SFS
- Confirm completion of debriefing and protest periods prior to BOC submission
- Review cost justification to show pricing is in the best interest of NYS
- Ensure funds are reserved for the anticipated usage in prior and current fiscal years ([GFO Chapter XI, §2.C](#))
- Review responsibility determinations



Assemble Complete Procurement Record

Absent sufficient competition, price reasonableness is required:

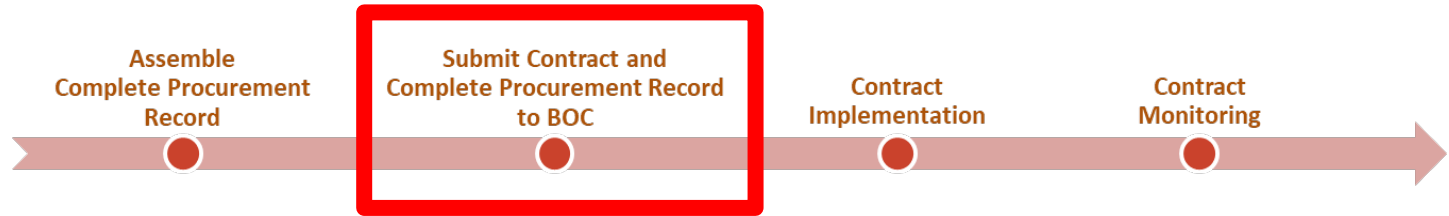
- Historical cost
- Purchases made by other government entities or similar institutions
- Discount from list prices
- Comparison to other vendors
- Verification against price indexes or market conditions



Assemble Complete Procurement Record

- Include memo or cover letter that describes issues and resolutions to problems that occurred during the process
- [Add secondary contact in EDSS](#)
- Include contract number on signature page
([GFO Chapter XI, §2.L](#))

Submit Contract and Complete Procurement Record to BOC



- Upload documents as PDF files
- Make PDFs optical character recognition (OCR) searchable
- Use consistent naming conventions

Submit Contract and Complete Procurement Record to BOC

- Include vendor names in description for evaluation or proposal documents
- Respond to BOC questions through EDSS rather than attaching separate files

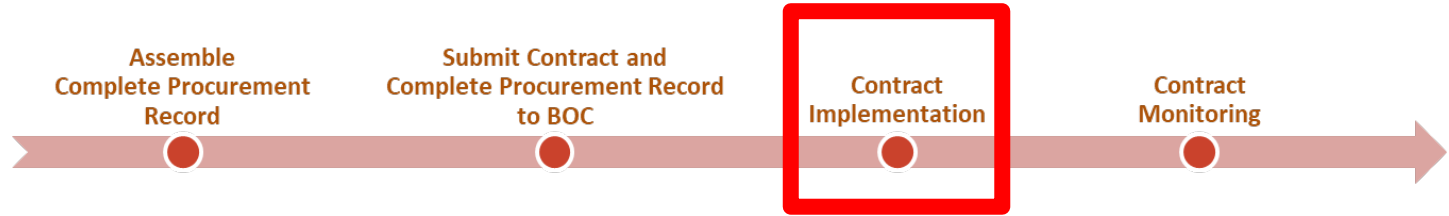


Procurement Record Categories

<u>Category #1</u>	<u>Category #2</u>	<u>Category #3</u>	<u>Category #4</u>
Transaction Identifying Documents	Contract	Procurement Record Documents	Vendor Responsibility (VR) Documents
<ul style="list-style-type: none"> • STS/AC340 • Procurement Record Checklist • Cover Letter 	<ul style="list-style-type: none"> • Contract • Signature Page • OAG Approval 	<ul style="list-style-type: none"> • Advertising Documents • IFB or RFP • Solicitation List • Certified Bid Tabulation • Evaluation Documents • Award Documents • Post Award Documents • Other Required Forms 	<ul style="list-style-type: none"> • VR Profile • VR Questionnaire • Workers' Compensation & Disability Benefit Certifications

- EDSS Submission: <https://www.osc.state.ny.us/files/state-agencies/contracts/pdf/edss-document-order-guide.pdf>

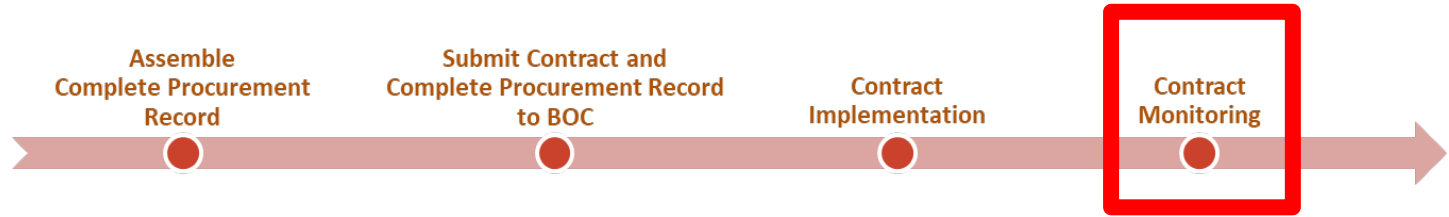
Contract Implementation



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



Contract Monitoring



GFO Chapter XI, §11.F

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



Resources

- Guide to Financial Operations (GFO): <https://web.osc.state.ny.us/agencies/guide/MyWebHelp/?redirect=legacy>
- List of Preferred Source Offerings: <https://ogs.ny.gov/procurement/preferred-sources>
- Office of General Services (OGS) Centralized List of Contracts: <https://ogs.ny.gov/procurement/ogs-centralized-contracts>
- OSC training presentations: <https://www.osc.state.ny.us/state-agencies/training>
- Open Book New York: <https://wwe2.osc.state.ny.us/transparency/contracts/contractsearch.cfm>
- ITS Plan to Procure (PTP): <https://its.ny.gov/sites/default/files/documents/nys-p08-001.pdf>
- Vendor Responsibility: <https://www.osc.state.ny.us/vendrep/index.htm>
- Sales & Compensating Use Tax (ST-220-CA):
https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf?ga=2.236005889.1807454989.1566392597-1700032307.1558708451
- NYS Procurement Guidelines: <https://ogs.ny.gov/system/files/documents/2018/08/psnys-procurement-guidelines.pdf>
- NYS Protest Procedures:
[https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I617b4b50f93211e6a9b69e5b337c796f&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I617b4b50f93211e6a9b69e5b337c796f&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))
- Prevailing Wage: <https://dol.ny.gov/public-work-and-prevailing-wage>
- Vendor Responsibility Review Process: <https://www.osc.state.ny.us/state-vendors/vendrep/vendor-responsibility-review-process>
- SDVOB Directory: <https://online.ogs.ny.gov/SDVOB/search>
- MWBE Directory: <https://ny.newnycontracts.com/FrontEnd/SearchCertifiedDirectory.asp?XID=4258&TN=ny>



Questions/Contact

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