DOING BUSINESS WITH NEW YORK STATE

A Guide to Understanding the State's Procurement Practices

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DOING BUSINESS WITH NEW YORK STATE

A Guide to Understanding the State's Procurement Practices

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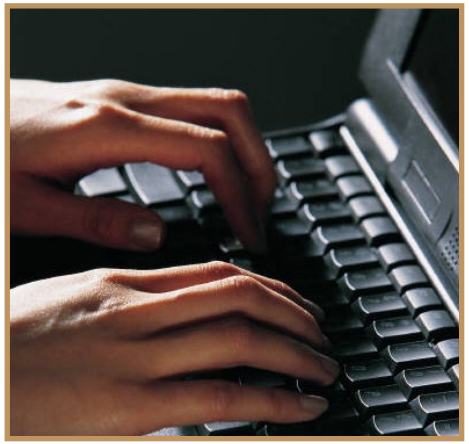
WELCOME



About This Guide

Doing Business With New York State is a tool designed for communicating valuable information on New York State's procurement practices. Users will be guided through a series of topics to understand the state's contracting system, identify bid opportunities, learn tips for successful bidding, and discover resources for technical assistance.

This guide is a PDF file with active hyperlinks. If you are reading this on a computer with open access to the Internet, clicking on the website URLs and email addresses will take you directly to the selected webpage or to an email message screen. The directory can also be printed and read as a self-contained guide.

This directory was created in 2010 as a joint venture between the Office of General Services and the Empire State Development Corporation.

NEW YORK STATE'S PROCUREMENT PROCESS

The Order of Purchasing Priority for Agencies

- *First: Preferred Sources*
- *Second: Centralized State Contracts*
- *Third: Agency or Multi-Agency Established Contracts*
- *Fourth: Agency Conducts Its Own Procurement, Including Discretionary Spending*

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NEW YORK STATE'S PROCUREMENT PROCESS

The Order of Purchasing Priority for Agencies

The state's procurement process addresses such issues as ensuring fair, open, and transparent competition, and establishing vendor responsibility. State procurement must facilitate each agency's mission while protecting the interests of the state and its taxpayers, and promoting fairness in contracting with the business community. State agencies are required to purchase commodities, services, and technologies in accordance with New York State Finance Law, Article 11. Guidance on Article 11 is set forth in the New York State Procurement Guidelines, issued by the New York State Procurement Council.

State agencies purchase commodities, services and technologies to address a wide range of needs. To meet these varying needs, agencies are mandated to make purchases in the following order:

First:	Preferred Sources
Second:	Centralized State Contracts for Commodities*
Third:	Agency-Established Contracts
Fourth:	Agency Conducts Its Own Procurement, Including Discretionary Spending

*State agencies are encouraged, but not required, to use centralized contracts for the purchase of services, technologies, and telecommunications.

NEW YORK STATE'S PROCUREMENT PROCESS

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NEW YORK STATE'S PROCUREMENT PROCESS

The Order of Purchasing Priority for Agencies

First: Preferred Sources

New York State's Preferred Sources were statutorily created to advance certain social and economic goals. State agencies, public benefit corporations (including most public authorities), municipalities, and school districts are required by law to purchase commodities and services from Preferred Sources first if a Preferred Source offering meets the agency's form, function, and utility. Commodities or services purchased from Preferred Sources are exempt from the competitive bid process. There are four Preferred Source organizations in New York State:

1. New York State Department of Correctional Services Division of Industries—Corcraft, providing employment opportunities for inmates.
2. Industries for the Blind of New York State, providing employment opportunities for blind and visually impaired New Yorkers.
3. New York State Industries for the Disabled, providing employment opportunities for both disabled New Yorkers and veterans.
4. New York State Office of Mental Health—"Buy OMH", providing employment opportunities for New Yorkers with mental illness and psychiatric disabilities.

While it is not possible for any private business to become a Preferred Source, it is possible for a business to partner with a Preferred Source. To identify these opportunities, contact the Preferred Source directly for information.

NEW YORK STATE'S PROCUREMENT PROCESS

The Order of Purchasing Priority for Agencies

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NEW YORK STATE'S PROCUREMENT PROCESS

The Order of Purchasing Priority for Agencies

Second: Centralized State Contracts (page 1 of 2)

The New York State Office of General Services (OGS) is responsible for the state's system of centralized contracts. There are presently more than 2,500 centralized contracts in place, valued at over $5 billion. Contracts meet a broad range of commodities, services, and technologies that fit the form, function, and utility requirements of contract users. Generally, a centralized contract is established through an open, competitive-bid process among eligible businesses for the purchase of commodities. Service and technology contracts are procured using best value.

In addition to state agencies, centralized contracts are also used by:

- State authorities and public benefit corporations;
- Local governments and municipalities;
- Public and private elementary and secondary schools;
- Volunteer ambulance and fire companies;
- Libraries; and
- Other authorized users.

For more information on the use of centralized contracts for purchases by non-state agencies, visit: www.ogs.state.ny.us/purchase/snt/othersuse.asp

NEW YORK STATE'S PROCUREMENT PROCESS

The Order of Purchasing Priority for Agencies

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NEW YORK STATE'S PROCUREMENT PROCESS

The Order of Purchasing Priority for Agencies

Second: Centralized State Contracts (page 2 of 2)

There are three types of centralized state contracts, including:

- Commodity Contracts*: State agencies are required to use commodity contracts that meet the agency's requirements with respect to form, function, and utility. Examples are fuel, vehicle, office supply, and food contracts.
- Service Contracts*: State agencies are encouraged, but not required, to use centralized contracts to purchase services. Examples are courier, integrated pest management, and temporary personnel services.
- Technology Contracts*: State agencies are encouraged, but not required, to use centralized contracts to purchase technology. Examples are computers, printers, software, and telecommunications contracts.

*Links bring you lists of contracts on the OGS public website.

Third: Agency or Multi-Agency Established Contracts

Agency or multi-agency contracts are contracts established by an agency or multiple agencies to procure on an ongoing basis and are usually in effect for multiple years. The purchasing agency must determine if such a contract exists that meets its form, function, and utility requirements, and if the contract is structured to allow for inter-agency use.

NEW YORK STATE'S PROCUREMENT PROCESS

The Order of Purchasing Priority for Agencies

- *First: Preferred Sources*
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NEW YORK STATE'S PROCUREMENT PROCESS

The Order of Purchasing Priority for Agencies

Fourth: Agency Conducts Its Own Procurement, Including Discretionary Spending

When agency requirements cannot be met through a Preferred Source, centralized contract, or other existing agency contract, agencies may conduct their own procurement. This type of procurement may be either a formal competitive bid process or a discretionary spending purchase, depending on the value of the procurement.

Discretionary purchases are procurements made below statutorily established monetary levels and at the discretion of the agencies. While discretionary purchases may not require a formal competitive procurement process, agencies must document and justify the selection and responsibility of the vendor, including: reasonableness of price; compliance with the internal agency policies and procedures; and assurance that purchases meet form, function, and utility requirements.

Important to know:

- Use of discretionary spending streamlines the procurement process;
- The discretionary purchasing authority threshold is $50,000 for most state agencies;
- Discretionary levels increase to $200,000 when state agencies are purchasing from a New York State Certified Minority or Women-Owned Business Enterprise or small business;
- Discretionary levels also increased to $200,000 for state agencies when purchasing commodities or technology that are recycled or remanufactured; and
- Agency purchases estimated at $15,000 or more must be advertised on the New York State Contract Reporter.

For more information on discretionary spending guidelines, view the New York State Procurement Council's Discretionary Purchasing Bulletin and a chart on discretionary spending. Both are located on the OGS website.

WHERE TO FIND BID OPPORTUNITIES

- *OGS Centralized State Contracts*
- *New York State Contract Reporter*
- *New York State Construction Opportunities*
- *Become a Construction Project Subcontractor or Supplier*
- *Direct Agency Contact*

CUSTOMER SERVICE

WHERE TO FIND BID OPPORTUNITIES

OGS Centralized State Contracts (page 1 of 2)

Businesses interested in learning about OGS centralized state contract bid opportunities should register with the OGS Online Bidder Notification Service. Registration is simple and free. The system allows businesses to create a profile with classification codes to match business types. When bid opportunities occur related to the business classification, automatic e-mail notifications are sent out. To ensure e-mail and bid updates are received, businesses should create a general business e-mail account for receipt of bid notifications, updates, and other information.

Businesses should follow these further recommendations to help in the bid process:

- Monitor the OGS Online Bid Calendar to view upcoming bid opportunities;
- Search for existing contracts that offer the same goods or services that your business supplies;
- Study related contracts to learn about the typical terms and conditions of contracts; and
- Start preparing for the next bid opportunity.

Important to know:

- Term centralized contracts may be awarded for up to five or more years;
- Certain centralized contracts may add new vendors through periodic or continuous recruitment bid opportunities;
- A centralized contract award does not guarantee sales, but provides an opportunity for sales;
- Sales are generated when state agencies or other authorized users make purchases from the centralized contract;
- Centralized contract value is based on estimated amounts of sales; and
- Businesses should market their products or services to eligible centralized contract users in order to promote sales.

WHERE TO FIND BID OPPORTUNITIES

- *OGS Centralized State Contracts*
- *New York State Contract Reporter*
- *New York State Construction Opportunities*
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WHERE TO FIND BID OPPORTUNITIES

OGS Centralized State Contracts (page 2 of 2)

A centralized state contract may allow vendors to participate as authorized resellers, dealers, distributors, or agents. This allows a manufacturer with a centralized contract award to market and support the contract statewide, creating additional sale opportunities. In addition, the use of an authorized reseller, dealer, distributor, or agent promotes and provides opportunities for New York State's small, minority, or women-owned businesses.

To learn more:

- Check existing centralized contract terms to determine if the contract authorizes reseller participation. Some common examples include centralized contracts for computer hardware and software, printers and copiers, and audio/visual equipment; and
- Contact the manufacturer or contractor directly for participation opportunities.

Remember: All sales through an authorized contract reseller, dealer, distributor, or agent must be made in compliance with the centralized contract's terms and conditions, and are limited to the commodities and services approved under the centralized contract.

WHERE TO FIND BID OPPORTUNITIES

- *OGS Centralized State Contracts*
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- *New York State Construction Opportunities*
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- *Direct Agency Contact*

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WHERE TO FIND BID OPPORTUNITIES

New York State Contract Reporter

The New York State Contract Reporter is New York State's official publication of procurement activity for all state agencies, public authorities, and public benefit corporations. Municipalities and local governments may also, but are not required to, submit ads. The Contract Reporter publishes new ads and posts bid results every business day. All ads are searchable, archived and retrievable.

www.nyscr.org

The Contract Reporter is free; however, businesses must register for general access. An enhanced "E" Alert Bid Match service is available that notifies subscribers when a bid or ad is posted in the business category of interest. The service is $79 per year. "E" Alert messages may contain the solicitation title with a link to the ad, the location of the project, the name of the agency soliciting goods or services, and the bid due date.

Important to know:

- State entities using the Contract Reporter must advertise procurements of $15,000 or more (see discretionary purchasing) when soliciting bids from the business community for goods, services and construction projects.
- State entities post bid results on the Contract Reporter—this can enable a business to market its goods or services to a prime contractor.

WHERE TO FIND BID OPPORTUNITIES

- *OGS Centralized State Contracts*
- *New York State Contract Reporter*
- *New York State Construction Opportunities*
- *Become a Construction Project Subcontractor or Supplier*
- *Direct Agency Contact*

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WHERE TO FIND BID OPPORTUNITIES

New York State Construction Opportunities (page 1 of 2)

There are two official websites where construction-related* opportunities with New York State can be found:

1. The New York State Contract Reporter: All state agencies, authorities, and public benefit corporations must advertise construction and consultant bids online in the New York State Contract Reporter. One notable exception to this requirement is the Office of General Services (OGS) Design and Construction Group.

   Below is a list of several major construction contracting state agencies that advertise in the Contract Reporter:

   - The Dormitory Authority and the State University Construction Fund for new construction and rehabilitation of existing buildings;
   - Metropolitan Transportation Authority, for capital construction, maintenance, and other transit related projects in the New York City metropolitan area;
   - The Department of Transportation and Thruway Authority for roads and highway-related construction statewide; and
   - SUNY/CUNY Facilities Management Offices (located statewide).

   *For the purposes of this document, construction-related opportunities includes professional consultant services for engineering, architecture, and land surveying.

WHERE TO FIND BID OPPORTUNITIES

- *OGS Centralized State Contracts*
- *New York State Contract Reporter*
- *New York State Construction Opportunities*
- *Become a Construction Project Subcontractor or Supplier*
- *Direct Agency Contact*

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WHERE TO FIND BID OPPORTUNITIES

New York State Construction Opportunities (page 2 of 2)

2. The Empire State Builder Newsletter: The OGS Design and Construction Group bids construction and consultant services on behalf of its state agency clients. As such, OGS is one of the state's largest contracting agencies and maintains a separate online public notification system, known as the Empire State Builder Newsletter, for posting information on all OGS construction and consultant bid opportunities. The Empire State Builder Newsletter website is linked under the "Most Requested Links" menu on the OGS website.

   The Empire State Builder Newsletter provides current information on:

   - Construction contract opportunities at least four weeks before the bid opening;
   - The process to acquire bid documents;
   - Lists of vendors that ordered bid documents, bidder questions and responses, and other addenda;
   - Recent bid and award results;
   - Consultant and construction management opportunities; and
   - Emergency contracting.

WHERE TO FIND BID OPPORTUNITIES

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WHERE TO FIND BID OPPORTUNITIES

Become a Construction Project Subcontractor or Supplier

It is important to note that there are many opportunities to become a subcontractor or supplier to a prime construction contractor.* Becoming a subcontractor is an excellent way for trade businesses, or small, minority, or women-owned businesses to gain a foothold on doing business with New York State.

Businesses that could potentially be hired by prime contract holders as a subcontractor or supplier should use the Contract Reporter and the Empire State Builder Newsletter to identify construction projects in their area and find out which companies were awarded contracts. Businesses are encouraged to market themselves directly to prime contractors.

Certified Minority or Women-Owned Business Enterprises (MWBEs) should periodically review their business information in the state's MWBE directory to ensure that all contact and product information is up to date. Prime contract holders use the directory to identify potential suppliers and subcontractors for fulfilling MWBE utilization goals.

*For the purposes of this document, construction-related opportunities includes professional consultant services for engineering, architecture, and land surveying.

Direct Agency Contact

Although procurement activity must be reported in the Contract Reporter by state agencies, it is important for businesses to identify and market to those agencies that are most likely to purchase what they sell. This is critical in order to be contacted for discretionary purchasing opportunities valued under $15,000 that will not be advertised in the Contract Reporter. Businesses can use the Contract Reporter's archived solicitations to determine state purchasing patterns and find agency matches for their goods and services. Businesses can contact those agencies directly to request to be placed on their in-house bidder list for notification of upcoming projects.

HOW TO BE A SUCCESSFUL BIDDER

- *Your Business Must Be Responsive and Responsible to Become a Contractor*
- *Preparing a Bid*
- *The Contract Award Process*
- *Marketing*

CUSTOMER SERVICE

HOW TO BE A SUCCESSFUL BIDDER

Your Business Must Be Responsive and Responsible to Become a Contractor

State Finance Law and sound procurement practice dictate that state agencies take reasonable steps to ensure that public contracts are awarded to bidders that are responsive and responsible, including the capability to meet bid requirements and fully perform contractual obligations, and possessing the integrity to justify the award of public dollars. In short, businesses must demonstrate their vendor responsibility prior to the award of the contract. Bidders must be responsive to all the bid requirements and must maintain responsibility throughout the term of the agreement. The responsibility determination is based upon the **FLIP** review:

- **F**inancial and organizational capacity;
- **L**egal authority to do business with the state;
- **I**ntegrity of the owners/officers/principals/members and contract managers; and
- **P**ast performance of the bidder on prior government contracts.

It is up to the bidder to demonstrate and maintain its responsibility as a vendor. For more information, visit the Office of the State Comptroller's Vendor Responsibility website.

HOW TO BE A SUCCESSFUL BIDDER

- *Your Business Must Be Responsive and Responsible to Become a Contractor*
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- *The Contract Award Process*
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HOW TO BE A SUCCESSFUL BIDDER

Preparing a Bid

In addition to understanding how state agencies purchase and where to find state bid opportunities, businesses should have a thorough understanding of the vocabulary of procurement. The most commonly used procurement words and phrases can be found in the Glossary of Terms in the New York State Procurement Guidelines. For example, within the state bidding process, there are two main types of bids:

- Invitation for Bid (IFB): Used in the procurement of commodities and awarded to the responsive and responsible bidder on the basis of lowest price; and
- Request for Proposals (RFP): Used for procurements when factors in addition to cost are weighed. The contract is awarded to the responsive and responsible proposer offering the best value.

Businesses should read the entire bid proposal, follow the bid instructions, and review their bid package for accuracy and completeness before submittal. Other critical points for award consideration include:

- Submitting a timely bid (by law, even one minute late may result in a bid rejection);
- Being responsive to all bid requirements;
- Submitting a signed bid package complete with all the mandatory forms;
- Pricing the bid competitively;
- Demonstrating vendor responsibility; and
- Providing proper licenses, insurance, and current references where required.

Note that during the inquiry period, businesses may submit questions for clarification to the designated contact.

HOW TO BE A SUCCESSFUL BIDDER

- *Your Business Must Be Responsive and Responsible to Become a Contractor*
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HOW TO BE A SUCCESSFUL BIDDER

The Contract Award Process

Once bids are received by the procuring agency, the award process may take several months to complete. The agency evaluates bids and makes a recommendation for award to the Office of the State Comptroller (OSC). OSC has up to 90 days to approve or reject a contract.

The following resources provide contract award information:

- The Office of the State Comptroller Open Book is a list of all agency contracts;
- The New York State Contract Reporter lists agency bid results, with the exception of OGS centralized state contracts and OGS Design and Construction contracts;
- The OGS Procurement Services Group lists awarded centralized contracts and bid results; and
- The OGS Empire State Builder Newsletter lists all OGS Design and Construction contract awards.

Businesses that were not successful may follow the specified process in the IFB or RFP to request a debriefing. A debriefing will detail the shortcomings of a bid submission. During a debriefing, businesses should take notes and ask questions.

To help businesses with the bidding process, free technical assistance is available from a Procurement Technical Assistance Center or Small Business Development Center.

HOW TO BE A SUCCESSFUL BIDDER

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HOW TO BE A SUCCESSFUL BIDDER

Marketing

Marketing is a fundamental way for businesses to be recognized by the state agencies making purchasing decisions. Many marketing strategies for vendors trying to engage in business with New York State have already been presented throughout this document. First and foremost, it is important to understand the buyer. As not all government entities are alike—state agencies, municipalities, and other entities operate under different laws and therefore have varying purchasing procedures and/or restrictions:

- New York State agencies operate under State Finance Law (see the Order of Purchasing Priority for Agencies);
- Municipalities (e.g., counties, cities, towns) operate under General Municipal Law;
- Authorities operate under Public Authority Law; and
- School districts operate under General Municipal Law and State Education Law.

For help in understanding the state's legal purchasing requirements, review the New York State Procurement Guidelines.

Another useful marketing resource is the Office of the State Comptroller's Directory of Frequently Purchased Commodities and Services by New York State Agencies. The directory, which is updated annually, includes contact information for procurement personnel in New York State agencies. This is useful for businesses that may want to engage in direct marketing to agencies that purchase the commodities or services in their business sector. For contact information, visit the State Organizational Telephone Directory on the Office for Technology website.

GUIDANCE FOR SMALL, MINORITY, OR WOMEN-OWNED BUSINESSES

- *Small Businesses*
- *Minority and Women-Owned Business Enterprises (MWBEs)*

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GUIDANCE FOR SMALL, MINORITY, OR WOMEN-OWNED BUSINESSES

Small Businesses

A "New York State Small Business" is defined as a company that is a resident to New York State, independently owned and operated, with 100 or fewer employees, and not dominant in its field. There is no certification process to be considered a New York State Small Business. The majority of businesses in New York State are small businesses; they supply over one-third of the services and commodities purchased by agencies under state centralized contracts. While some small businesses may not have the capacity to bid on a centralized contract, many are able to gain experience by:

- Participating as authorized resellers, dealers, distributors, or agents for certain centralized contracts;
- Becoming suppliers or subcontractors to prime contractors; or
- Identifying discretionary purchasing opportunities.

For more information, and to view frequently asked questions, see the OGS Guide for Small Businesses and Empire State Development's New York State Directory of Small Business Programs.

GUIDANCE FOR SMALL, MINORITY, OR WOMEN-OWNED BUSINESSES

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GUIDANCE FOR SMALL, MINORITY, OR WOMEN-OWNED BUSINESSES

Minority and Women-Owned Business Enterprises (MWBEs)

Executive Law Article 15-A, signed into law in 1988, established guidelines for state agencies to establish business and contract participation goals for certified enterprises owned by minorities and women. Article 15-A defines an MWBE as at least 51 percent owned and controlled by minority or women members. Contract spending thresholds establish goals for using New York-certified MWBEs as subcontractors or suppliers. Businesses meeting the criteria to qualify as a New York-certified MWBE firm are strongly recommended to become certified. For more information, contact Empire State Development (the certifying agency) at 800.782.8369.

New York-certified MWBEs should periodically review their business information in the state's MWBE Directory to ensure that all contact and product information is up to date. Prime construction contractors use the Directory to identify potential suppliers and subcontractors for fulfilling MWBE utilization goals.

ADDITIONAL RESOURCES
- *Empire State Development*
- *Technical Assistance*
- *Internet Resources*
- *Contact Information*

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ADDITIONAL RESOURCES

Empire State Development

Empire State Development (ESD) is charged with statutory responsibilities under the Omnibus Procurement Act to promote New York State business participation in state procurement opportunities. In addition to promoting New York State firms as prime contractors, ESD works to connect primes on state projects with New York State subcontractors and suppliers; and New York State-certified Minority and Women-Owned Business Enterprises. ESD provides procurement guidance as well as information and referral assistance to help businesses understand the government procurement process and connect them with available resources for technical assistance. ESD services include:

- Publishing the New York State Contract Reporter;
- Providing New York State MWBE certification;
- Administering business development and tax incentive programs; and
- Providing financial and technical assistance to businesses.

ESD understands that sales for New York State businesses equals jobs for New Yorkers. Visit the ESD website at: www.esd.ny.gov

Technical Assistance

Free business technical assistance is provided by a number of public and privately-funded organizations, including:

- Procurement Technical Assistance Centers (PTACs), which are funded by the US Department of Defense. There are seven PTAC locations in New York State.
- The New York State Small Business Development Center, which is administered by the State University of New York and funded by the US Small Business Association, New York State, and host campuses for Small Business Development Center locations statewide.

ADDITIONAL RESOURCES
- *Empire State Development*
- *Technical Assistance*
- *Internet Resources*
- *Contact Information*

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ADDITIONAL RESOURCES

Internet Resources (page 1 of 2)

Office of General Services: www.ogs.state.ny.us

- Office of General Services, Design and Construction, Empire State Builder Newsletter: www.ogs.state.ny.us/BU/DC
- Office of General Services, Centralized Contract Online Bid Notification System and Bid Opportunities: www.ogs.state.ny.us/purchase/seller.asp
- Office of General Services, Guide for Small Businesses, including Frequently Asked Questions: www.ogs.state.ny.us/purchase/spg/pdfdocs/NySbGuide.pdf

Empire State Development: www.esd.ny.gov

- Empire State Development Directory of Small Business Programs: www.esd.ny.gov/SmallBusiness/Data/NYSDirectorySmallBusinessProgram.pdf
- New York State Small Business website: www.esd.ny.gov/SmallBusiness.html
- New York State Division of Minority and Women-Owned Business Enterprises: www.esd.ny.gov/MWBE.html
- New York State Contract Reporter: www.nyscr.org

ADDITIONAL RESOURCES
- *Empire State Development*
- *Technical Assistance*
- *Internet Resources*
- *Contact Information*

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ADDITIONAL RESOURCES

Internet Resources (page 2 of 2)

Office of the State Comptroller: www.osc.state.ny.us

- Office of the State Comptroller, Vendor Responsibility website: www.osc.state.ny.us/vendrep/index.htm
- Office of the State Comptroller, Open Book website: www.openbooknewyork.com
- Office of the State Comptroller, Frequently Purchased Commodities and Services by New York State Agencies: www.osc.state.ny.us/reports/fiscal/directorycommodities.pdf

Preferred Sources:

- Corcraft: www.corcraft.org
- Industries for the Blind: www.ibnys.org
- New York State Industries for the Disabled: www.nysid.org
- New York State Office of Mental Health— "Buy OMH": www.omh.state.ny.us/omhweb/buyomh/

State Organizational Telephone Directory: www6.oft.state.ny.us/telecom/phones/

Procurement Technical Assistance Centers: www.dla.mil/db/procurem.htm

New York State Small Business Development Center: www.nyssbdc.org

ADDITIONAL RESOURCES

- *Empire State Development*
- *Technical Assistance*
- *Internet Resources*
- *Contact Information*

ADDITIONAL RESOURCES

Contact Information & Customer Service

NYS Office of General Services
Serving New York

Office of General Services
Procurement Services Group
518.474.6717
customer.services@ogs.state.ny.us
www.ogs.state.ny.us

Empire State Development

Empire State Development
Procurement Information Services/
New York State Contract Reporter
518.292.5100
Contact us at Empire State Development
Contact us at the Contract Reporter
www.esd.ny.gov
www.nyscr.org