
CONSIDERATIONS FOR DEVELOPING
AN INTEGRATED STATE ELECTRONIC
PROCUREMENT OPPORTUNITY
NOTIFICATION SYSTEM

**A REPORT TO THE GOVERNOR, LEGISLATURE
AND DIVISION OF THE BUDGET**

BY THE

STATE PROCUREMENT COUNCIL

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EXECUTIVE SUMMARY

INTRODUCTION AND METHODOLOGY

Section 145 of the Economic Development Law, enacted in 2008, directed the State Procurement Council (the Council) to coordinate a study and make recommendations on the potential implementation of a Statewide Electronic Procurement Opportunity Notification System (SEPONS).

A SEPONS study workgroup was formed with participation from representatives of 21 state agencies, the New York State Industries for the Disabled, and the New York State Industries for the Blind. The workgroup's activities included:

- Review of current practices and systems in New York.
- Review of bidder registration/notification systems and related e-procurement systems outside of New York.
- Solicitation of stakeholder input by means of two large electronically administered surveys including both fixed-choice and open-ended questions. Responses were received from 625 representatives of government procuring entities and 2,499 business representatives. The responses were read and discussed in detail.
- Synthesis of the findings, development of draft recommendations, and compilation of the present comprehensive report.

KEY FINDINGS

Key findings from the study include:

- The business community has communicated the challenges they face in their efforts to acquire contracts for goods and services with procuring entities in New York State. Currently, a vendor must register with multiple agencies, authorities, and political subdivisions of the state, as well as the New York State Contract Reporter, in order to be notified of all possible bid opportunities. The potential bidder is sometimes confused and frustrated by having to register with each individual part of New York State government. This confusion can lead to a perception that there is a lack of transparency in the contracting process. There is overwhelming interest in the possibility of having access to more efficient and flexible bidder opportunity notification methods.
- Several other states have developed more advanced systems than the State of New York and its political subdivisions, and many companies seeking to do business with procuring entities in New York State have experienced the benefits of participating in such systems in other places in the country.

- The Procurement Opportunities Newsletter, more commonly known as the New York State Contract Reporter, is mandated by Article 4-C of the Economic Development Law. Government representatives who are familiar with the Contract Reporter generally find that it meets their procurement notification needs. However, many members of the business community do not subscribe to the Contract Reporter and some who are interested in doing business with New York procuring entities do not know what it is.
- State procuring entities are spending money transmitting notifications of opportunities for bid requests not mandated to appear in the New York State Contract Reporter. Primarily, larger agencies have developed in-house procedures for mailing invitations to bid to businesses that have been found to offer products required to satisfy the bid.
- Relatively few procuring entities actually conduct bid-related activities (including notification) electronically. Many local governments and state agencies lack resources for modernizing their procurement tools (for example, by building their own registration and notification systems). Some local entities participate in BidNet, a commercial service that gathers the information and charges businesses a fee for access.
- The New York State Financial Management System (NYFMS), when fully deployed, will provide a framework for participating agencies to use for creating, and processing electronically, invitations for bid and requests for Proposals. NYFMS will address the statute's inquiries into electronic bid submission and processing, but will not address the issue of centralized notification of opportunities for bid.
- Using free or open source software to meet the needs identified by the Council for a State Electronic Procurement Opportunity Notification System is not feasible at this time. At the present time, no free or open source systems have been identified that meet the requirements gathered through this study.

RECOMMENDATIONS

Based on the study findings, the Council offers the following six major recommendations and associated design considerations.

Recommendation 1:

The State of New York should modify and expand the New York State Contract Reporter to serve as a SEPONS.

Both procuring entities and businesses' needs would best be met by enhancing the existing features and extending the reach of the New York State Contract Reporter to serve as a one-stop integrated electronic system offering registration and notification of bid opportunities free of cost to potential bidders. A SEPONS, with the Contract Reporter as its basis, would encourage competition for public contracts. Increased competition should result in lower prices and the solicitation process will be more transparent with this integrated system.

Recommendation 2:

The SEPONS should incorporate a flexible bidder registration component to maintain a current bidder list with bidder profiles and preferences.

Centralizing the registration and moving to an all-electronic notification system will provide a method of reviewing on a regular basis the validity of the e-mail addresses housed in the system. It will also provide a platform for bidders to review and update how they have categorized their areas of interest. These features are important to all stakeholders because they help ensure matching of procurement opportunities to vendors able to fulfill them. Design of the specific features of the bidder registration function should address the following:

- Bidders, upon registration, should be allowed to indicate their interest in receiving electronic notifications of procurement opportunities and identify their areas of interest as well as some geographical constraints if desired. To limit the notifications to the areas in which they do business, the bidders should be enabled to select from high-level classifications or drill down in hierarchical fashion to very specific products or commodities and/or services they offer.
- Bidders should be provided a password-secured method to review and revise their areas of interest and the pedigree information they wish to provide to procuring entities.
- Bidders should receive, on a regular basis, reminder notifications prompting them to confirm their continued interest in participating in the notification system.
- SEPONS should include a method of collecting and trouble-shooting failed e-mail transmissions to ensure that the bidder list remains up to date.
- Bidder information should be made available for download by procuring entities as soon as the e-mail address is verified during the registration process. Bidder information should not be viewable by other bidders.
- The bidder's ability to become a vendor in New York State should not be evaluated as part of the SEPONS registration and notification process. The rationale is that establishing vendor responsibility and qualifications is sufficiently complex and more appropriately addressed downstream in the procurement process.

Recommendation 3:

The SEPONS should include a timely notification system enabling potential bidders to quickly and easily identify procurement opportunities matching their interests and geographic location.

By automating the e-mail of matching bid opportunities to the businesses that have registered to receive notifications in that area upon upload of the bid advertisement, the SEPONS system will provide daily alerts to those most likely to submit bid responses. By allowing for the bidder and the procuring entity to both be more specific with regard to the locations involved in the bid opportunity, businesses will receive fewer irrelevant notifications. Design of the specific features of the bidder interest classification and notification functions should address the following:

- The flexibility of the New York State Contract Reporter should be increased by adding a method to map commodity and service codes to the following two major global classification systems: the National Institute of Governmental Purchasing (NIGP) standard and the United Nations Standard Products and Services Code (UNSPSC).
- Within two business days of the upload of the procuring entities' bid advertisement and amendments, the system should transmit notification about the procurement opportunities to any bidders with matching areas of interest. The bid advertisements would be held for 24 hours prior to publication as part of a daily e-mail notification tailored to subscribers' interests.
- The system should allow for specification of the geographic area in which the procurement is to take place.

Recommendation 4:

The SEPONS should include notifications for auctions and reverse auctions.

While serving to disseminate notifications about these specialized types of procurements, SEPONS would not seek to support the actual conduct of electronic auctions or reverse auctions.

Recommendation 5:

The operation of the SEPONS should be funded through state budget appropriation.

The Council considered three options for funding the maintenance of a SEPONS: state budget appropriations, subscription fees, and administrative fees on state contracts. The Council concluded that SEPONS should be funded through a state budget appropriation. This has several advantages: it could create a dedicated funding stream, it would not increase the direct cost of doing business to bidders or procuring entities, and it would encourage broadest possible participation. Funding through subscription fees is not recommended because the study indicated this would discourage participation from a

broad spectrum of potential bidders. The Council also recommended against funding SEPONS through fees on contracts. For many contracts similar fees already exist; however to channel the fees to the administrative fund for the SEPONS system would be cumbersome and engender opposition from the business community.

Recommendation 6:

The SEPONS should adhere to an open data standard.

Use of an open standard provides a strict methodology by which agencies wishing to maintain certain types of bidder lists in their own electronic systems can efficiently transfer their data to the SEPONS for inclusion in a bid request. It also offers a strict methodology by which agencies could prepare their bid opportunity advertisement electronically (through a data export from NYFMS, for example) and upload it to the site for publication. The federal government's web portal for grant administration could serve as a model.

The rationale for adopting open standards is to make the system open to use by those who wish to maintain their own bidder lists for particular business reasons. Even with their own lists of contacts, they would still be able to use the SEPONS as the sole notification engine for bid opportunities. Using the SEPONS in this fashion would provide the business users with a single point at which to register for opportunity notifications and obviate the need for any other bidder registration systems in New York State.

IMPLEMENTATION

To fully implement and centralize SEPONS functions, it is necessary to mandate use of SEPONS by all state agencies, public authorities and public benefit corporations. The Department of Economic Development's current legislative mandate is limited to the publication of solicitation activity in the Procurement Opportunities Newsletter (more commonly known as the New York State Contract Reporter) by these same entities. Amending Article 4-C of Economic Development Law to expand the Contract Reporter to include the SEPONS features of e-notification and centralized bidder registry would firmly establish the Contract Reporter as the state's centralized location for state bidding activity, while encouraging transparency and participation by New York's small, minority- and women-owned business enterprises. In addition, to encourage use of the SEPONS by local government procuring entities, the General Municipal Law, the Highway Law, the Public Buildings Law, and the Education Law could be amended to deem that use of the SEPONS to advertise procurement opportunities constitutes a legally sufficient alternative to publication of such opportunities in a designated official publication, such as a newspaper of record.

As SEPONS moves forward, evaluations of thresholds should be done. These evaluations may indicate that changes to the current monetary thresholds for required advertising of procurement opportunities in the New York State Contract Reporter are advisable. Such changes would require legislation.

The Council anticipates that it would take one to two years to implement SEPONS building on the Contract Reporter as the base.

CONCLUSION

Establishing a SEPONS is an important goal for New York State, best approached incrementally, with the New York State Contract Reporter as the base from which to build and grow. Given the current economic climate, building a system that can help reduce the administrative costs of the many thousands of governmental procurements that take place every year across New York State is paramount. The move to an integrated electronic notification system would also be of great benefit to the state's business climate by facilitating dynamic connections among a vast range of public buyers and private sellers. The timing of the pursuit of the SEPONS coordinates well with the ongoing implementation of other major procurement modernization initiatives in the State of New York.

**CONSIDERATIONS FOR DEVELOPING AN INTEGRATED
STATE ELECTRONIC PROCUREMENT OPPORTUNITY
NOTIFICATION SYSTEM**

**A Report to the Governor, Legislature
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I. INTRODUCTION

This report presents the findings and recommendations of the State Procurement Council (the Council), in consultation with the Council of Contracting Agencies (CCA), concerning the advisability of pursuing a statewide, centralized system that would notify potential bidders about upcoming procurements by governmental entities in the State of New York.

These findings and recommendations are based on a substantial research effort, conducted during May – August 2009, that reviewed the current legal and technical context, examined current bidder notification practices and systems used within New York and many other jurisdictions, and gathered input from thousands of stakeholders from both the business and government sectors across the state. Also included are preliminary considerations for implementation.

This report constitutes an important first step in what promises to be an ambitious but vital undertaking on the part of New York State. As will become evident throughout the report, a well-designed centralized electronic procurement notification system has the potential to streamline governmental procurements by harnessing the ability of electronic tools to capture, target, and disseminate information about opportunities to a wide audience with extraordinary speed and efficiency. Such a system is seen as broadening competition and lowering costs for governments, vendors, and, ultimately, taxpayers.

PROBLEM STATEMENT

Across the State of New York, numerous state agencies as well as other state and local procuring entities operate discrete electronic systems—for bidder registration; for posting invitations for bid and/or requests for proposals, bid results, contract awards, and payments to general contractors; and for disseminating bid documents. These systems vary in purpose, scope, and function.

A frequent refrain of the business community has been that to receive notification for any bid opportunities of potential interest, they must register on multiple sites ranging from small county-operated notification systems to larger systems such as those run by public authorities and statewide services run by the Office of General Services (OGS), the state's primary procurement agent.

In addition, many bid notices are also statutorily placed in the New York State Contract Reporter, yet another subscription service with which bidders need to register to receive notification of bid opportunities. Finally, there are public organizations that do not utilize electronic systems at all, but rather rely on print media (newspapers) to advertise their procurements.

This broadly decentralized “network” is recognized as inefficient, costly, and less-than-maximally effective in serving the basic premise of competitive public procurement, namely, to achieve economy in public procurement through competition among vendors.

From the perspective of the business community, this decentralized approach is more of a disjointed patchwork, a costly and frustrating vestige of practices long ago abandoned by many states the size of New York.

THE CHARGE FROM THE LEGISLATURE

In recognition of these issues, the New York State Legislature determined that consideration should be given to possible consolidation and integration of these numerous systems of bidder registration and electronic procurement notification (two elements of what is often referred to as “e-procurement”) into a single statewide system.

The Laws of 2008, Chapter 137 (Section 8) provided a new §145 of the Economic Development Law, and required that the State Procurement Council, in consultation with the Council of Contracting Agencies, study and report by September 1, 2009, to the Governor, the Legislature, and the Director of the Budget, with recommendations on the implementation of a Statewide Electronic Procurement Opportunity Notification System (SEPONS).

Section 145 specifies that such study and report with recommendations shall include, but is not limited to:

- (1) Plans and a timetable for further integration of existing agency systems of bidder registration and procurement opportunity notification with the procurement opportunities newsletter established pursuant to Article 4-C of the Economic Development Law;
- (2) Electronic submission of bids and proposals; auctions and reverse auctions; electronic availability of plans and specifications;
- (3) Feasibility of using open standards software applications for a SEPONS;
- (4) Costs and funding models for a SEPONS; and
- (5) Additional information to be included to increase the transparency and utility of the system, including without limitation, notices by the Comptroller of progress payments made to prime contractors, minority- and women-owned business enterprise utilization plans, and waivers granted pursuant to Article 15-A of the Executive Law.

A NOTE ABOUT SCOPE

The statutory charge for this study, as written, implied three distinct functions that could be served by a SEPONS and thus were potential subjects for this study:

- 1) Procurement opportunity notification, whereby a procuring entity notifies potential bidders of a procurement opportunity and solicits bids;

- 2) Bidder registration, whereby potential bidders submit contact information and other information about their business and their interest in learning of procurement opportunities; and
- 3) A payment and utilization tracking function, whereby information could be obtained about payments made to prime contractors, minority and women-owned business enterprise utilization plans, and waivers granted pursuant to Executive Law, Article 15-A.

This third potential function was implied by the following language in the legislation directing the present study:

“...additional information to be included to increase the transparency and utility of the system, including without limitation, notices by the comptroller of progress payments made to prime contractors, and minority and women-owned business enterprise utilization plans and waivers granted pursuant to Article 15-A of the Executive Law.” (Economic Development Law §145(5))

The study findings and recommendations presented in this report address the functions of (1) procurement opportunities notification (as the core SEPONS function) and (2) bidder registration (as an ancillary SEPONS function). However, with regard to (3), it was determined that these matters would be best addressed outside the scope of a SEPONS.

The reporting of progress payments is an accounting function, and the inclusion of such a feature in a potential SEPONS would require integration with financial management systems administered by the Office of the State Comptroller (OSC). Moreover, many payments on contracts by local government entities are not made through the State Comptroller's Office and so information on those payments would not be available from OSC, creating a complicating design factor.

Linking payment and utilization tracking functions to a SEPONS initiative at this time would add a degree of complexity that could jeopardize successful implementation. Thus, investigation and considerations for implementation of a system to gather and incorporate such information have been deferred to a separate project.

ESTABLISHMENT OF A SEPONS STUDY WORKGROUP

Acting in its capacity as Chair of both the State Procurement Council and the Council of Contracting Agencies, the Office of General Services (OGS) solicited the nomination of representatives from the membership of these councils to form a joint workgroup to carry out the study and prepare a report with recommendations on the implementation of a SEPONS. The workgroup consisted primarily of persons representing state-level organizations. However, effort was made to ensure that the interests of local government entities as well as small businesses were also taken into consideration. A list of the participating agencies can be found in Appendix A.

METHODOLOGY

OGS convened the first meeting of the workgroup in the first quarter of Fiscal Year 2009-10. Over the following months, the full workgroup met a total of ten times and a subgroup met an additional two times to plan and carry out study activities and tasks. They accomplished the following:

- Discussed the statutory charge, in terms of scope and implications;
- Reviewed current bidder registration and e-procurement systems used or operated by member entities. These included:
 - The New York State Contract Reporter, administered by the Department of Economic Development (with over 3,700 subscribers);
 - OGS' online Bidder Registration/Notification System (with approximately 13,000 registrants)
 - The State Chief Information Officer/New York State Office for Technology (CIO/OFT)'s electronic procurement system;
 - Stony Brook University's bid calendar system;
 - The New York State Thruway Authority's bidder registration system; and
 - The New York State Department of Transportation (DOT)'s bid submission system.
- Reviewed the impact of the design and implementation of the New York State Financial Management System (NYFMS) on any bidder notification process and any necessary integration of these various systems.
- Researched and discussed registration and e-procurement systems currently operated by other states (specifically, California, Connecticut, Delaware, Florida, Georgia, Massachusetts, North Carolina, Ohio, Texas, and Virginia).
- Developed and deployed survey questionnaires for key stakeholders, namely: 1) procuring entities (government entities); and 2) prospective bidders (business entities). In all, approximately 52,500 individuals were invited to participate in these surveys and a total of 4,602 responses were received including partial responses. The surveys were conducted through the Internet, using an electronic, web-based survey tool.
- Conducted an analysis of existing bidder registration and e-procurement systems currently in use by New York State agencies and other public entities.
- Used the collective knowledge, experience, and expertise of the workgroup members to analyze, make judgments, and formulate recommendations.

The workgroup's draft report was subsequently presented to and reviewed by both the Procurement Council and the Council of Contracting Agencies.

TERMINOLOGY

Definitions of key terms used in this report can be found in Appendix B.

II. KEY FINDINGS

This chapter presents a summation of the study findings in four major areas: the legal environment for SEPONS; existing practices and systems in New York; SEPONS-like systems elsewhere; and input collected from government and business stakeholders.

REVIEW OF THE CURRENT LEGAL ENVIRONMENT

The study reviewed the current statutory context relating to the concept of a SEPONS. A few of the outstanding issues are discussed briefly here.

Currently, the advertisement of procurement opportunities by New York public entities is driven by statute, but not all procurements must be advertised. By example, state agency procurements valued at more than \$15,000 must be advertised in the New York State Contract Reporter pursuant to the provisions of State Finance Law, Article 11. Procurements by political subdivisions of the state are subject to the advertising requirements specified in the General Municipal Law, the Highway Law, the Public Buildings Law, and the Education Law. There are statutory exceptions for all such requirements.

The study found that a SEPONS would work best when participation—by both bidders and procuring entities—in such a system is broadest and the dollar value of the procurements is not a limiting factor. A SEPONS achieving sufficient prominence may tend to attract participants and users by virtue of its success. However, statutes requiring use of competing (non-electronic) advertising media (such as the publication of bids in local official newspapers, per General Municipal Law §103 (2)) and the absence of a statutory mandate requiring use of the SEPONS by all political subdivisions may have the effect of dissuading some government entities from using an electronic bid notification system.

In order to achieve optimal functioning of a SEPONS, without legislation to make use of the system compulsory, all public procuring entities would need to be strongly encouraged to use the SEPONS whenever practicable, regardless of the monetary value of the procurement. If use of the SEPONS for advertising competitive procurements by political subdivisions could be deemed to be a legally sufficient alternative to the newspaper publication requirements currently outlined in the General Municipal Law, the Highway Law, the Public Buildings Law, and the Education Law; the SEPONS could see much broader use by municipalities, and such use could result in substantial savings to these political subdivisions. This would require an amendment to these laws.

REVIEW OF CURRENT PROCUREMENT NOTIFICATION PRACTICES AND SYSTEMS IN NEW YORK

The following section summarizes the major technical solutions for bidder notification currently in use. More detail on these systems is provided in Appendix C.

Of the state agencies reviewed, OGS is presently the only agency that provides a method for bidders to register and receive electronic notifications of opportunities using internal resources.

- While the Thruway, DOT and the CIO/OFT sites allow bidders to register, they are registering only for single bid events.
- The functionality to provide notifications of bid opportunities does not exist in the current version of the New York State Contract Reporter. The Council has learned that this functionality is expected to be included in the next iteration of the New York State Contract Reporter.

Of the state agencies surveyed, most do not offer notification services but instead provide bid calendars that link to bid documents.

- The Thruway Authority and Stony Brook University post information to their sites in a bid calendar format. They do not offer a method of general registration.

Bid documents are provided electronically, but very few organizations accept them electronically.

- Some state agencies offer their potential bidders the opportunity to download invitation for bid and request for bid materials directly from their websites. These are usually constrained to simple text or spreadsheet documents containing details regarding the procurements the agency is seeking. In the case of more complex transactions, (those involving construction, where construction plans are included as part of the solicitation process), DOT has signed on with a service allowing potential bidders to download these more complex documents electronically through a third-party service. The same service allows DOT to receive bid responses electronically. The charge for this service is paid by the bidder. Entities using the New York State Contract Reporter can also upload their requests for proposals for viewing and download by potential bidders.

The New York Financial Management System will provide a framework for contracting that will automate the processing of bid creation and the electronic submission of bid documents.

- One of the challenges of this study was that many of the components of procurement for state agencies are in the process of being radically redefined by the implementation of the New York State Financial Management System (NYFMS). NYFMS will provide a framework to expedite contracting activities. While the exact details are yet to be presented by the system integrator, at the least, the system will include a library of standardized invitation for bid (IFB) and

request for procurement documents that procuring entities may use to more quickly prepare documents for what the NYFMS system calls “bid events.”

PROCUREMENT OPPORTUNITY NOTIFICATION IN OTHER JURISDICTIONS

This section provides the highlights from the review of how e-procurement and more specifically bidder registration and procurement notification are handled in other states. More detail on e-procurement solutions in other jurisdictions outside of New York is provided in Appendix D.

E-Procurement in Selected Other States – Workgroup Findings

The Council researched the vendor registration and e-procurement systems currently operated by selected other states (California, Connecticut, Delaware, Florida, Georgia, Massachusetts, North Carolina, Ohio, Texas, and Virginia). Highlights of these other states’ e-procurement systems follow.

Many of the states studied mandate the use of their e-procurement system by state agencies—sometimes including higher education institutions. Few appear to mandate use by political subdivisions.

- California, Delaware, and Texas have statutorily mandated the participation of all state agencies in their e-procurement systems. North Carolina has statutorily mandated use of its e-procurement system by all executive branch agencies. Texas provides for voluntary use of the system by political subdivisions.
- Connecticut has mandated use of its e-procurement system by all executive branch agencies and all higher education agencies and institutions by Executive Order.
- Virginia has mandated use of its e-procurement system by all state agencies and institutions by Executive directive, but the Virginia system also enjoys substantial voluntary use. Of note, as of October 8, 2008, the Virginia e-procurement system reported use by 171 state agencies, 12,600 state agency users, 490 local governments, and over 32,600 vendors.
- Massachusetts requires use of its e-procurement system for all statewide contracts and all departmental procurements valued over \$50,000. State contracts and department procurements valued under \$50,000 are not required to be posted on the site, unless funded with American Recovery and Reinvestment Act funds. The latter must be posted on the Massachusetts “Comm-PASS” system.
- Use of the Florida, Georgia, and Ohio e-procurement systems by procuring entities is not mandatory.

States use a variety of system software for e-procurement.

- A majority of the states studied (Connecticut, Delaware, Florida, Massachusetts, North Carolina, Texas, and Virginia) did not use an outside service provider and/or software application to create their online procurement site.

- The Georgia site is operated by two contractors, PeopleSoft and SciQuest. The Ohio website utilizes an Onvia software application called Demand Star. The California e-procurement system is hosted by BidSync.

Some states' e-procurement systems include ancillary features to enhance user-friendliness.

Unique and noteworthy features among the e-procurement systems studied include:

- An electronic bulletin board and bulletins (Virginia);
- Discussion forums (Georgia);
- Contract price sheets (Florida);
- Prevailing wage information (Connecticut);
- Procurement forms (Connecticut);
- A list of governmental units using the portal (Connecticut); and
- Contract management options (Georgia).

Pertinent Findings from a National Association of State Procurement Officials Study

The 2007 Survey of State Government Purchasing Practices conducted by the National Association of State Procurement Officials (NASPO) contains information relevant to this project. Pertinent findings are:

- Of the 42 states responding to the NASPO survey, 23 indicated that they currently have an e-procurement system in place. All 23 indicated that their system includes electronic bid notification.
- Eighteen states indicated that their system has the ability to receive bids electronically.
- Twelve states indicated that their system has the ability to receive electronic proposals.
- Eight states operate an e-procurement site in which all state agencies participate, but the survey responses do not indicate whether such participation is compulsory.
- Thirteen of the states identified as having e-procurement systems reported funding them through budget allocations.

STAKEHOLDER INPUT

The following are the highlights gleaned from the study's two stakeholder surveys. Further details about the survey design, implementation, and findings are provided in Appendix E.

Perspectives from Government Procuring Entities

Although government entities appear to have the necessary technology, relatively few conduct bid-related activity electronically.

- The vast majority (97%) of government survey respondents indicated that their organization has broadband Internet access.
- Well over half (55%) of government respondents said their government entity does not post the actual bid solicitation document electronically for view and download. Only 27% said their organization posts (at least sometimes) the actual documents electronically. The remainder were not sure.
- Many government procuring entities do not provide electronic documents to potential bidders. Only about half of government respondents said their organization supplies specifications, bid invitations, requests for proposals, requests for information, or requests for quotes electronically.
- Only 20% of government survey respondents said that their entity accepts bids electronically, at least sometimes. Respondents from counties and municipalities were the least likely to accept bids electronically (fewer than 10%).
- Nearly a third of government survey respondents (32%) said their organization does not supply electronic versions of any of nine types of documents listed in the survey. Respondents from municipal governments (cities, towns, and villages), school districts, and smaller entities (fire districts and public benefit corporations) were least likely to say they supply documents in electronic format.

Relatively few government survey respondents use an electronic procurement opportunity notification system.

- Less than a third (29%) use an electronic bid notification system. State agency respondents were much more likely than others to use an electronic notification system. Forty-two percent of state agency respondents said that their organization uses an electronic notification system compared to only 24% of local government respondents, 24% of educational entity respondents, and 27% of respondents from other types of government entities.

Fewer than half of government survey respondents said that they use the New York State Contract Reporter. Respondents from state agencies are much more likely to say their organization publishes in the Contract Reporter than respondents from other types of government entities.

- Forty-four percent of government survey respondents said that their organization uses the New York State Contract Reporter to publish procurement opportunities; 42% said that their organization does not use it; the remainder were unsure.

- A large majority (89%) of respondents from state agencies (including commissions and boards) said that their organization publishes in the New York State Contract Reporter, while only 32% of respondents from educational entities (school districts, CUNY, and SUNY); 22% of county and municipal respondents; and 28% of respondents from other government entities (including public authorities, public benefit corporations, and fire districts) said their organizations do so. Note, however, that many respondents were unsure of their organization's notification practices.

Government respondents who use the Contract Reporter are relatively satisfied with it.

- Of the respondents who said that their organization uses the New York State Contract Reporter to publish procurement opportunities, 83% indicated that it meets their need to notify potential bidders at least sometimes. This satisfaction is fairly consistent across respondents from different types of government entities.

Although few government respondents oppose a SEPONS, many expressed ambivalence.

- When asked whether they believed that a unified bidder notification system should be implemented, 47% said "yes," 45% said they were "not sure," and only 8% said "no." Those who said "yes" were more likely to be from state agencies.

Perspectives from the Business Community

Businesses must search extensively for bid opportunities appropriate for them. There is a great deal of frustration in the business community with the number of registration systems that bidders need to be registered with to receive a broad range of information on opportunities to do business with the state.

- Among the sources used are: Internet sites such as BidSync, BidNet, FedBizOps, stateandfederalbids.com, and other sites; newspapers; cold calls; the Dodge Report; local purchasing groups; the Builders Exchange; Onvia; the New York City Record; the New York State Contract Reporter; the OGS list; and procurement opportunity notification systems for other states.
- The lack of standardization among the procuring state entities with regard to how their procurement opportunities are categorized and presented is another source of frustration for businesses.
- Numerous respondents indicated they rely on traditional methods such as networking, newspapers, and even cold calling to learn of procurement opportunities.

When businesses use bid notification systems, they want to minimize the number of irrelevant opportunities and quickly find all of the information they need to determine whether they wish to bid.

- Respondents said they do not want to have to sort through bid notifications that are irrelevant to them. They do not want to have to hunt for bid documents (or be required to pick them up in person from the procuring agency).
- Respondents expressed interest in being able to obtain bid-related documents electronically and in being able to obtain bid results and award information online.

The New York State Contract Reporter is not receiving full use by prospective bidders.

- Approximately half (51%) of business respondents do not subscribe to the New York State Contract Reporter.
- Nearly half (49%) indicated that they “never” use the Contract Reporter to view or obtain information.
- In open-ended responses, a surprising number of respondents indicated that they do not know what the Contract Reporter is.

The top suggestions for improving the New York State Contract Reporter include:

- Make it free.
- Improve the sort and search features (by including more specific categories of products/services and/or by enabling users to sort by region).
- Provide electronic notification based on users’ interest in particular product/service categories and/or regions.
- Require all New York State government procuring entities to use the New York State Contract Reporter.
- Simplify the format.

The Bidder Notification System operated by OGS receives substantial use by prospective bidders.

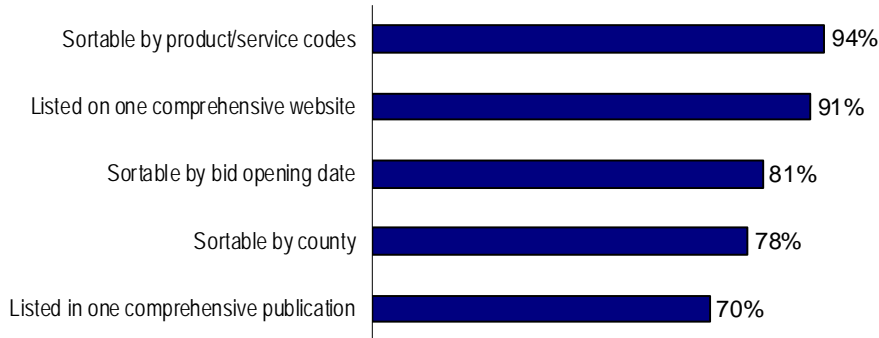
- Half (50%) of business respondents are currently registered with the OGS Bidder Notification System. This result, however, could be largely a function of the survey design, which used the OGS Bidder Notification System e-mail list to distribute the survey.

The business community would welcome a SEPONS.

- Business respondents expressed widespread support for centralizing postings of bid opportunities, either in a single publication or on a website. They also strongly support including the ability to sort opportunities by county, product/service, and bid opening date.

Chart. Business Respondent Views on SEPONS Features

Percentage Indicating Features would be "Helpful" or "Very Helpful"



- When asked in an open-ended item what features would be most useful in a bidder notification system, the most frequently mentioned features were the ability to filter by procurement type and bid date. Increased search options, and additional sorts and filters, were also desired by many. A smaller number of respondents mentioned online bid documents, an electronic notification or “push” system to the bidder, clear descriptions of the work/scope, and contract information. Keeping the system simple was also important to many respondents.
- When asked for recommendations for the vendor registration process that is part of an electronic procurement opportunity notification system, one of the most common answers was that the process is fine as it is. Other top answers were to allow bidders to identify their interests in more detailed categories of commodities and services, keep the system simple, make the registration requirements clear, and make it easy for users to update their profile and renew their registration.
- When businesses were asked to comment on the development of a SEPONS, representative remarks included:
 - “A system like this, done right, could bring some order to the chaos of public procurement.”
 - “It is a very good idea if executed well and without charge.”
 - “Keep it simple and at no charge.”
 - “Good idea—it’s too difficult to find opportunities right now—other states make it easy.”
- When asked about perceived barriers to a SEPONS, business respondents identified their top concerns as:
 - Cost;
 - Technical challenges (system failures, security, e-mail filters blocking notification messages, and ensuring the system is well adapted to users and systems with a wide range of technical capabilities);

- The time required to search through the information for relevant bid opportunities;
- Increased competition that could place small businesses at a disadvantage; and
- Lack of participation from small government entities (which would force businesses to continue using other methods for learning of procurement opportunities from these entities).

Despite these reservations, the majority of responses suggested that businesses would favor a SEPONS if it could be developed and maintained at low cost to them.

Businesses likely to use a SEPONS are equipped with broadband Internet access.

- 99% of business respondents said their business had a broadband Internet connection. Only three respondents said they had no Internet connection.

Other electronic bidder registration/procurement opportunity notification systems currently in operation are recommended by business users as models in development of a SEPONS.

- The systems most frequently recommended were: FedBizOps, the New York City Record, and systems used by Virginia, Connecticut, and North Carolina.

Business respondents expressed little enthusiasm for supporting a SEPONS through subscription fees.

- In addition to the open-ended comments where business people expressed their concerns about bearing the costs of a SEPONS, several survey items were designed to elicit quantitative information on businesses' willingness to pay for a SEPONS through annual subscription fees. The study findings indicate that funding a SEPONS through a subscription fee could generate a revenue stream that could contribute to the costs to operate the system after it was fully implemented. However, the results also suggest that such an approach to funding would discourage a significant proportion of vendors from using an electronic notification system.
- Overall, 60% of business respondents expressed a willingness to pay an annual subscription fee of some kind to view a statewide notification system. Only half (51%) would be willing to pay for e-mail notification of all procurement opportunities in a statewide system, but 62% expressed willingness to pay for e-mail notifications specific to the business' categories of interest and/or region.
- As the cost of the proposed subscription increases, the proportion of respondents expressing a willingness to pay decreases. Although many prospective bidders (40%) expressed unwillingness to pay an annual fee of any kind to view a statewide procurement opportunity notification system, 47% said they are willing to

pay a maximum of \$50 or \$100. Only 13% said they are willing to pay more than \$100.

- Some types of businesses are less willing than others to pay an annual fee to subscribe to a SEPONS. Notably, small businesses expressed less willingness to pay than other businesses. Out-of-state businesses expressed less willingness to pay than in-state businesses. However, survey respondents from minority- and women-owned businesses expressed a slightly greater willingness to pay a modest annual subscription for electronic bid notification than other businesses.

III. RECOMMENDATIONS

Foregoing chapters of this report have established that the business community and the state's procuring entities could benefit from an expanded and improved notification method. This can be accomplished without the need to encumber funds for a large new software procurement or a lengthy new software development project. The following recommendations reflect the Council's view that the best path for New York is to build upon a system that already exists and whose purpose supports the core functions of a SEPONS. In reaching these recommendations, the Council considered and rejected a number of other options. For more discussion, refer to Appendix F.

Recommendation 1:

The State of New York should modify and expand the New York State Contract Reporter to serve as a SEPONS.

Both procuring entities and businesses' needs would best be met by enhancing the existing features and extending the reach of the New York State Contract Reporter to serve as a one-stop integrated electronic system offering registration and notification of bid opportunities free of cost to potential bidders.

A SEPONS, with the Contract Reporter as its basis, would encourage competition for public contracts. Increased competition should result in lower prices and the solicitation process will be more transparent with this integrated system.

As background, the New York State Contract Reporter (statutorily referenced as the "Procurement Opportunities Newsletter") was established in the 1980s to make subscribers aware of bid opportunities from state entities and to increase competition among bidders. State agencies, public authorities, and public benefit corporations are required by law to advertise in this publication their procurements over certain monetary thresholds. It was originally a paper publication only and in 1998 it became available online. Since 2004, it has been available only online. Currently a weekly periodical, the online version is planned to transition to a daily publication schedule effective December 31, 2009. It currently operates as a subscription service. It does not register bidders nor does it contact businesses with specific bid opportunities. These functions would be the major technical modifications to the current state.

In practice, the procurement process typically requires that solicitation notices be sent to potential bidders. The paper-based methods used today are costly and inefficient. Through Executive Order 4, Governor Paterson has directed all state entities to reduce the amount of paper consumed; this objective has general application beyond state agencies for greening New York State.

Specific benefits of pursuing this recommendation include:

- The SEPONS, as a modified version of the New York State Contract Reporter, would be able to utilize data already housed in the existing version of the system. Therefore as soon as the system is launched, bidders registering on the site would begin receiving bids matching their interests on a daily basis.
- The survey responses make it clear that even in the present environment, where the New York State Contract Reporter is the primary source of information relating to bid opportunities matching the statutory requirements laid out in the Economic Development Law, there is a large swath of the business community that does not know of its existence or its features. By focusing the state's efforts on one single platform, additional opportunities to promote the New York State Contract Reporter would arise as well. For example, during the Annual Purchasing Forum, instead of promoting the OGS Bidder Registration System, OGS would instead point to the New York State Contract Reporter as the place for the business community to go to register.
- The New York Financial Management System (NYFMS) implementation team has already specified that consideration of a facility to export bid documents created in NYFMS directly to the New York State Contract Reporter is in the scope of that project. Therefore, using the Contract Reporter as the SEPONS platform would allow the state to leverage the work being done by the NYFMS team with regard to integrating procurement practices with improved electronic notification of bid opportunities.
- Amending the classification system used by the New York State Contract Reporter would make it easier for potential bidders to review procurement opportunities for suitability for a potential bid response.
- The cost to the State of New York for administering a centralized electronic notification system built upon the New York State Contract Reporter is likely to be less than the cost of continuing to administer multiple decentralized systems that rely on postage and paper products. In addition, there is an anticipated administrative savings from a centralized list of bidders that is properly categorized because individual agencies will have access to a comprehensive and more accurate list.

This recommendation raises the question of whether participation should be voluntary or mandatory for procuring entities not currently required to advertise in the New York State Contract Reporter. It is the sense of the Council that there are a number of issues to be considered and addressed in order to maximize local government participation. It is understood that the ultimate success of SEPONS depends on broad participation and the best way to achieve this goal is by not initially mandating its use but instead by "winning" participation through outreach and providing a quality product.

The recommendation also raises a question concerning whether the monetary threshold determining when procuring entities must advertise should change when the SEPONS is implemented. On the one hand, raising the threshold (from the current \$15,000) to match the discretionary purchasing limit (\$50,000) would be welcomed by many procuring

entities because of the potential to simplify the procurement process and shorten the timeline for smaller procurements. However, the vision for SEPONS would mitigate the issue of publication and posting delays. On the other hand, lowering the threshold or keeping it the same would help ensure that smaller businesses are able to learn about more procurement opportunities for which they may be able to compete. These competing objectives should be further evaluated as the SEPONS project moves forward.

Recommendation 2:

The SEPONS should incorporate a flexible bidder registration component to maintain a current bidder list with bidder profiles and preferences.

Practically all of the existing bidder lists used by procuring entities suffer from the same problem: stale data. This issue arises whether the information is street addresses kept on paper, or e-mail addresses stored electronically. Centralizing the registration and moving to an all-electronic notification system will provide a method of reviewing on a regular basis the validity of the e-mail addresses housed in the system. It will also provide a platform for bidders to review and update how they have categorized their areas of interest. These features are important to all stakeholders because they help ensure matching of procurement opportunities to vendors able to fulfill them.

Design of the specific features of the bidder registration function should address the following:

- Bidders, upon registration, should be allowed to select their interest in receiving electronic notifications of procurement opportunities and identify their areas of interest as well as some geographical constraints if desired. To limit the notifications to the areas in which they do business, the bidders should be enabled to select from high-level classifications or drill down in hierarchical fashion to very specific products, commodities, and services they offer.
- Bidders should be provided with a password-secured method to review and revise their areas of interest and the pedigree information they wish to provide to procuring entities.
- Bidders should receive, on a regular basis, reminder notifications that would prompt them to confirm their continued interest in participating in the notification system.
- SEPONS should include a method of collecting and trouble-shooting failed e-mail transmissions to ensure that the bidder list remains up to date.
- Bidder information should be made available for download by procuring entities as soon as the e-mail address is verified during the registration process. Bidder information should not be viewable by other bidders.
- The bidder's ability to become a vendor in New York State should not be evaluated by the registration process. The rationale is that establishing vendor responsibility and qualifications is sufficiently complex and more appropriately addressed downstream in the procurement process.

Recommendation 3:

The SEPONS should include a timely notification system enabling potential bidders to quickly and easily identify procurement opportunities matching their interests and geographic location.

Potential bidders are currently stymied by the difficulties they encounter in finding appropriate procurement opportunities. Participants in the study noted that the classification methods in both the OGS and the New York State Contract Reporter notification systems need improvement. The business community also expressed a desire to receive notifications of bid opportunities in a more timely fashion. They frequently find themselves with little time to reply to bid opportunities of interest because of late notification.

By automating the e-mail of matching bid opportunities to the businesses that have registered to receive notifications in that area upon upload of the bid advertisement, the SEPONS system will provide daily alerts to those most likely to submit bid responses.

The lack of geographic coding of bid opportunities also poses difficulties for potential bidders. Many bidders find that they receive bid notifications that do not interest them because the site of the bid opportunity is not in the geographic area in which they do business. By allowing for the bidder and the procuring entity to both be more specific with regard to the locations involved in the bid opportunity, this shortcoming in the current environment will be addressed.

Design of the specific features of the bidder interest classification and notification functions should address the following:

- The flexibility of the New York State Contract Reporter should be increased by adding a method to map commodity and service codes to the following two major global classification systems: the National Institute of Governmental Purchasing (NIGP) standard and the United Nations Standard Products and Services Code (UNSPSC).
- Within two business days of the upload of the procuring entities' bid advertisement and amendments, the system should transmit notification about the procurement opportunities to any bidders with matching areas of interest. The bid advertisements would be held for 24 hours prior to publication as part of a daily e-mail notification tailored to subscribers' interests.
- The system should allow for specification of the geographic area in which the procurement is to take place.

Recommendation 4:

The SEPONS should include notifications for auctions and reverse auctions.

Online auctions and reverse auctions are specific procurement and sales methods appropriate for certain state procuring entity needs. The study examined the potential relationship of a SEPONS to this specialized type of procurement and sales activity.

As background, the New York State CIO/OFT has begun administering reverse auctions for information technology purchases where the commodities and vendors are a known quantity and competition on price is the only significant variable affecting selection of a vendor. The CIO's office is offering its platform as a service to other interested parties in the state that wish to make use of it. Also, OGS uses a commercial online auction service (eBay) to sell some of the state's surplus personal property.

The envisioned SEPONS should include notifications about these types of opportunities. The SEPONS would not itself be involved with the actual conduct of these electronic auctions.

Recommendation 5:

The operation of the SEPONS should be funded through state budget appropriations.

The Council considered three options for funding the maintenance of a SEPONS: state budget appropriations, subscription fees, and administrative fees on state contracts.

The Council concluded that funding of the SEPONS should be done through a state budget appropriation. In effect, the state appropriation approach treats the SEPONS as part of the state's cost of doing business. This has several advantages: it could create a dedicated funding stream, it would not increase the direct cost of doing business to bidders or procuring entities, and it would encourage the broadest possible participation.

Broad participation in procurement bidding helps ensure that the government entities making purchases get the best value possible. Moreover, encouraging participation from small businesses and minority- and women-owned business enterprises are also important policy goals, which this approach promotes. Additionally, it is believed that the broadest use of a SEPONS will produce certain countervailing savings, for example in saved paper and postage expense.

Accordingly, the Council recommends that access to basic features of a SEPONS—including, but not limited to, e-mail notifications of bid opportunities—be made available at no cost to the bidder. Additional features could be made available on a fee schedule if necessary.

In departure from the current status of the New York State Contract Reporter, the Council recommends against funding SEPONS maintenance through a subscription fee because

the study findings clearly indicate that such a funding mechanism would discourage participation.

The Council also recommends against funding SEPONS maintenance through imposing additional administrative fees on contracts. Such a funding approach would support the service through a fee amounting to a very small percentage of the estimated amount of sales generated from the contract. Vendors would be required to remit the fee based on their contract sales. Vendors would be likely to oppose the administrative burden of calculating and remitting the fee.

Recommendation 6:

The SEPONS should adhere to an open data standard.

Use of an open standard provides a strict methodology by which agencies wishing to maintain certain types of bidder lists in their own electronic systems can efficiently transfer their data to the SEPONS for inclusion in a bid request. It also offers a strict methodology by which agencies would be able to prepare their bid opportunity advertisement electronically (through a data export from NYFMS, for example) and upload it to the site for publication.

The workgroup found that the federal government's web portal for grant administration solves many of the problems that New York State experiences with regard to the current decentralized procurement environment. Specifically, the solution adopted by the federal grant-giving agencies was to establish an open standard for data exchange between the portal system and the internal systems operated by the granting agencies.

New York State procuring entities could benefit from the establishment of such a standard for SEPONS. By adopting open standards, the system would be open to use by those who wish to maintain their own bidder lists for particular business reasons. Even with their own lists of contacts, they would still be able to use the SEPONS as the sole notification engine for bid opportunities. Using the SEPONS in this fashion would provide the business users with a single point at which to register for opportunity notifications and obviate the need for any other bidder registration systems in New York State.

IV. PRACTICAL CONSIDERATIONS REGARDING IMPLEMENTATION

Moving from recommendations to reality will require a significant commitment. The Council offers the following thoughts about how to mobilize the SEPONS project.

LEGISLATIVE ACTIONS TO IMPLEMENT SEPONS

To fully implement and centralize SEPONS functions, it is necessary to mandate the use of SEPONS by all state agencies, public authorities and public benefit corporations. The Department of Economic Development's current legislative mandate is limited to the publication of solicitation activity in the Procurement Opportunities Newsletter (also known as the New York State Contract Reporter) by these same entities. Amending Article 4-C of Economic Development Law to expand the Procurement Opportunities Newsletter to include the SEPONS features of e-notification and centralized bidder registry would firmly establish the New York State Contract Reporter as the state's centralized location for state bidding activity, while encouraging transparency and participation by New York's small, minority- and women-owned business enterprises.

Therefore, the Council has determined that no statutory changes will need to be made to authorize the implementation of a SEPONS. However, in keeping with the Council's recommendation to keep the system free to bidders and procuring entities, the Legislature is urged to include funding for SEPONS development, operation, and marketing in its budget appropriations.

The design, function, features, and promotion of a SEPONS must be sufficient to attract broad, voluntary use. Additional legislation could be instrumental for encouraging local government entities to use SEPONS. Specifically, the General Municipal Law, the Highway Law, the Public Buildings Law, and the Education Law could be amended to deem that use of the SEPONS to advertise procurement opportunities constitutes a legally sufficient alternative to publication of such opportunities in a designated official publication.

Another possible action would be to specifically mandate that existing systems operated by procuring entities be integrated within the SEPONS. However, the Council finds that its Recommendation 6, advocating the use of open data standards, may be sufficient to draw wide participation among procuring entities. Whether or not to mandate participation could be deferred until the SEPONS tool becomes operational. In the long run, proof of concept by providing a convenient, flexible, and robust system will serve as the necessary incentive to participation.

COST AND FUNDING FOR DEVELOPING THE RECOMMENDED SYSTEM

The budgetary cost to the State of New York of developing a SEPONS, starting from the existing New York State Contract Reporter could be as much as \$1 million. Providing funding for further development costs, ongoing operating costs, and marketing through a budget appropriation would help ensure the long-term success of the project. Funding these costs through a budget appropriation would also prevent the project from becoming an unfunded mandate, provide grounds for accountability to lawmakers and taxpayers, and increase the likelihood of a successful implementation.

TIME FRAME FOR IMPLEMENTATION

Implementing the recommended changes to the New York State Contract Reporter to create a SEPONS is anticipated to take one to two years. Enacting the required necessary legislative changes to create the appropriation as well as the recommended statutory change to alleviate the publishing burden of political subdivisions could take more than one legislative session. Once funding is secured, it would take approximately six months to issue a request for proposals. Three months would be needed to evaluate the responses and respond to the proposals. Implementing the successful proposal could take about a year. Consensus and cooperation between the Legislature and the Governor's Office could greatly expedite the time frame.

V. CONCLUSION

SEPONS is an important goal for New York State, best approached incrementally, with the New York State Contract Reporter as the base from which to build and grow. Given the current economic climate, building a system that can help reduce the administrative costs of the many thousands of governmental procurements that take place every year across New York State is paramount. The move to an integrated electronic notification system would also be of great benefit to the state's business climate by facilitating dynamic connections among a vast range of public buyers and private sellers. The timing of the pursuit of the SEPONS coordinates well with the ongoing implementation of other major procurement modernization initiatives in the State of New York.

APPENDICES

APPENDIX A:
ORGANIZATIONS PARTICIPATING IN THE SEPONS WORKGROUP

STATE AGENCIES, AUTHORITIES, AND OTHER GOVERNMENT ENTITIES

Agriculture and Markets, Department of
Battery Park City Authority
Budget, Division of the
Chief Information Officer/Office for Technology
Correctional Services, Department of
Dormitory Authority of the State of New York
Empire State Development
Environmental Conservation, Department of
Financial Management System, New York State
General Services, Office of
Inspector General, Office of
Insurance Fund, State
Labor, Department of
Mental Health, Office of
Mental Retardation and Developmental Disabilities, Office of
New York State Thruway Authority
Parks, Recreation and Historic Preservation, Office of
State Comptroller, Office of the
State University of New York
State University Construction Fund
Transportation, Department of

OTHER

Industries for the Blind of New York State
New York State Industries for the Disabled

APPENDIX B: DEFINITIONS OF KEY TERMS

For purposes of the SEPONS report, key terms are defined as follows.

Bidder: The term “bidder” denotes individuals or entities who may wish to offer services or products to a procuring entity, such as in response to an advertised solicitation. As such, a bidder has not necessarily been qualified with respect to vendor responsibility issues, certification as a minority- and women-owned business enterprise, or other status determinations. This concept of a bidder is distinguished from that of a vendor, which is understood to be an individual or entity that is prepared to supply goods or services to a procuring entity, and whose qualifications have been established. A further distinction can be made for the term “contractor,” which, for the purpose of this study, refers to an individual or entity that has been qualified and has been awarded a contract for a public procurement.

Bid: The term “bid” refers to an offer, tendered by a bidder or a vendor or, possibly, a contractor, of a price for which the bidder/vendor/contractor will agree to supply some specified good or service to a procuring entity. The term is used interchangeably to describe both procurements mandated to be advertised in the opportunities newsletter (the New York State Contract Reporter) and those that do not meet the dollar threshold for advertisement in the Contract Reporter.

Procurement Opportunity: The term “procurement opportunity” refers to a circumstance in which a procuring entity has established and announced its interest in acquiring some good or service, and thus presents an occasion for the submission of offers (bids) by bidders, vendors, and or contractors.

Procuring Entity: The term “procuring entity” refers to a New York State government public or quasi-public entity in the broadest possible sense. This includes executive agencies, authorities, public benefit corporations, county governments, cities, towns, villages, school districts, and fire districts.

Notification: The term “notification” refers to a positive communication, such as an e-mail issued by a SEPONS to a registered bidder advising of a procurement opportunity within the bidder’s expressed area of interest. Given the labeling of the statute as Electronic Procurement Opportunity Notification System, non-electronic notifications were excluded from consideration.

Open Standards Software Applications: Unlike the term “open source,” which refers to the practice whereby software developers make the programmatic code used to create their software product available to its users, open standards software takes the approach that competing vendors are free to maintain a shroud of privacy over their implementation of a particular software product; however the product must be able to interoperate with the products of another vendor or implementer using that same standard. A common example of open standard software products are e-mail clients: whether one uses Outlook, Yahoo!, or Gmail as one’s e-mail engine, one is clearly able to transmit an e-mail to a recipient using another product with assurance that the person will be able to receive the e-mail. That is because all of these products adhere to an open set of standards that describe the method by which e-mail is to be transmitted across the Internet.

**APPENDIX C:
DESCRIPTION OF EXISTING PRACTICES AND SYSTEMS
IN NEW YORK STATE**

OVERVIEW

The following describes systems presently in use in New York State that handle some form of communication with bidders. In addition to the fully functional systems, this document needs to consider the ongoing New York Financial Management System project (NYFMS). NYFMS is not yet in production; however, because of its scope and breadth, it is pertinent to the overall feasibility, design, and implementation of a SEPONS. Therefore, a brief description of that system is also provided.

DEPARTMENT OF ECONOMIC DEVELOPMENT

The New York State Contract Reporter, authorized by Chapter 564 of the Laws of 1988, is the official weekly newsletter for announcements of contracting opportunities in the estimated amount of \$15,000 or more with state entities, including but not limited to agencies, departments, boards, bureaus, commissions a majority of whose members are appointed by the Governor, as well as divisions, offices, councils, committees, public benefit corporations, and public authorities a majority of whose members are appointed by the Governor.

The Contract Reporter also contains announcements for the State University of New York and the City University of New York for contracts of \$20,000 or more. Notices are published only once, and—with the exception of villages, municipalities, the Port Authority of New York and New Jersey, and other organizations that are not bound by law—at least 15 business days prior to the date on which the bid or proposal is due.

The Contract Reporter publishes, on a quarterly basis, announcements of bidding opportunities of more than \$5,000 but less than \$15,000 with state agencies and with the State University and the City University of New York in amounts over \$10,000 but less than \$20,000. Projected procurements of \$200,000 or more are announced on a semi-annual basis.

At present, the New York State Contract Reporter is published electronically once a week every week of the year. Therefore, the publication has strict rules laid out regarding the due dates of the bid advertisements posted to the site. For example, a bid solicitation published during the week of January 4, 2010 would be published in the issue released on January 11, and have to post a due date of no earlier than February 1, 2010.

The Contract Reporter allows subscribers to use its classification system to set up a user profile that determines which categories of solicitations will be presented to them when they first log on to the system. Users are also allowed to request that each time a new

issue is published, an e-mail be sent to them indicating that the new document is available. Note that this is not an announcement of specific opportunities tailored to the bidder's interests, but instead a reminder that new items of interest may have been published in the week's edition of the publication.

OFFICE OF GENERAL SERVICES

The Office of General Services (OGS) awards contracts for use by state agencies, political subdivisions, and other organizations authorized by law to purchase from state contracts. OGS' Online Vendor Registration / Bidder Notification System permits vendors who are interested in selling their commodities, services, and technology to New York State and other eligible parties through OGS procurement contracts to register online. This registration provides OGS with e-mail addresses that OGS can use to notify the businesses of bid opportunities. The system enables the companies to receive notifications in the categories of interest to them. Currently there are roughly 52,000 registered companies in this system. This system has realized tremendous advantages (e.g., saving time, reducing administrative costs, and expanding the bidding pools). It also has created some new challenges that consume staff time and resources, such as maintaining current contact information, a problem shared by all such systems.

Because of OGS' role as the principal contracting agency for the state, the OGS Bidder Registration and Notification system is currently considered the primary method through which potential bidders interested in obtaining statewide contracts to provide commodities, services, and technology can be notified of opportunities.

OGS also maintains another area of interest to bidders of opportunities in the area of construction services. That site, the Empire State Builder, lists the contracting opportunities being awarded by OGS' Design and Construction business unit in a bid calendar format. Opportunities for bid for both the construction and consulting aspects are included in the Empire State Builder.

CHIEF INFORMATION OFFICER/OFFICE FOR TECHNOLOGY

The New York State Chief Information Officer and New York State Office for Technology (CIO/OFT) has an electronic procurement registration system that allows vendors to register and receive procurement information. Multiple procurement documents such as requests for proposals (RFPs), fact sheets, intent to bid forms and non-disclosure agreements can be bundled and shared in individual ZIP files posted to the site.

Vendors can register for pre-bid conferences and the system can push out notifications to registered users on the availability of questions and answers regarding specific procurement opportunities. It does not notify vendors regarding other solicitations beyond the ones for which they have registered.

The system was developed in-house using Cold Fusion for the dynamic web pages and SQL server for the database tier. The application was built using a three-tier architecture. This same architecture is used for the agency's Reverse Auction System. Access control to the system is controlled by SiteMinder.

Put in place in May 2008, the system has been used for five RFPs to date.

NEW YORK STATE THRUWAY AUTHORITY

The New York State Thruway Authority operates its own procurement opportunities website in the form of a bid calendar and an online facility for downloading bid documents. In addition, bid awards are posted to the site after the award of contract.

In addition to advertising solicitations in the New York State Contract Reporter, the Thruway Authority uses a variety of means, including newspapers and trade journals, to inform the business community of procurement opportunities.

The Thruway Authority maintains three databases of bidder lists that it uses to solicit responses to bids. The professional/consulting database contains information from firms that file federal General Services Administration SF254 and SF255 forms. The construction/rehabilitation database supports advertisement of construction-related procurement opportunities. The materials/supplies/services database is used to send invitations for bids to vendors who offer items matching those for which bids on specific materials, supplies, and services are sought.

During the course of the workgroup meetings, staff from the Thruway Authority explained that some notifications of opportunities to bid are done by means of directed mailings through the United States Postal Service to potential bidders they have identified.

NEW YORK STATE DEPARTMENT OF TRANSPORTATION

The New York State Department of Transportation (DOT) has implemented a full construction management system that includes modules dealing with planning and estimation, the development of bidding documents, letting and contract award, field record keeping, civil rights, materials testing, contractor payments, and management of construction operations. It is a software package called Trns·port, provided by the American Association of State Highway and Transportation Officials, a nonprofit organization representing highway and transportation departments in the 50 states, the District of Columbia, and Puerto Rico. In addition, DOT has contracted with a private firm (Bid Express) to serve as its online bidder solicitation and bid submission engine.

The software module of interest to this study is the module used to enable the automated receipt and replies to solicitations of bid. This module of the Trns·port system, called Expedite, allows bidders to receive electronic solicitations for bid from the Department's Internet site and produce both electronic and paper bid responses. The draw to bidders is

that the system performs many of the calculations required when submitting large construction bids. Bidders need to enter unit prices only; all other information is supplied by the software. Expedite is provided free of charge, and can be used on almost any Windows-compatible desktop computer. It integrates with many existing electronic bid preparation software applications and has import/export capability for use with database and spreadsheet systems.

DOT processes electronic bids, but fully electronic bids are not submitted directly. Instead, DOT has contracted with Bid Express to process the receipt of the files created with Expedite. Additionally, bidders are encouraged, when submitting paper bids created in Expedite, to include the electronic copy to speed up processing of the bid. Along with handling the submission of the bid, bidders can also opt to receive electronic notifications of new solicitations.

Bidders must pay a base fee of \$35 per month to receive notifications and to be able to view solicitations from any of the procuring entities contracted with Bid Express. To submit their documents electronically, an additional fee of \$15 per month per entity with which the bidder is interested in exchanging data electronically is added to the base subscription fee. Finally, there is a \$95 per month charge to view online construction design plans if the agency is one that uploads those to the service.

STONY BROOK UNIVERSITY (STATE UNIVERSITY OF NEW YORK)

Stony Brook University operates its own in-house system for bidder notification in the form of an online Procurement Calendar managed by their Procurement Office. The system was written by the university's Application Support group using a Lotus Domino platform. The majority of the bids posted in the system also appear in the New York State Contract Reporter. At present, each bid in the system includes a questionnaire used to determine how the bidder was directed to the bid opportunity.

THE HUDSON VALLEY MUNICIPAL PURCHASING GROUP

A consortium of local procuring entities centered around the lower Hudson Valley region of the state, calling themselves The Hudson Valley Municipal Purchasing Group, have opted to use a commercial bid notification system. The statement of purpose on their procurement site (<http://www.govbids.com/scripts/hvmpg/public/home1.asp>) describes this group as follows:

“The Hudson Valley Municipal Purchasing Group (HVMPG) is a group of municipal agencies located in New York's Hudson Valley Region that joined forces in March 2002 to create this Regional Bid Notification System to notify businesses of bid and contract opportunities.

Businesses can gain access to all HVMPG participating agencies bid information from this one website. This system provides instant access to all of our Bids, RFP's, Quotes, Addenda and Awards online. Government agencies from Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester Counties are welcomed to use this system. In addition to the current participating agencies, more are expected to join in the future.”

The consortium has contracted with BidNet to provide bid notifications and bid document hosting services. Bidders are permitted to create free accounts with which they can browse the site on a regular basis to determine if there are bid solicitations in which they are interested. Alternatively, they can pay a fee of \$49.95 per month to receive automated e-mail notifications. Of note is that the system is set up to use the National Institute of Governmental Purchasing (NIGP) classification codes to manage the categories of interest in which bidders will receive notifications, but with free access, use of the categories is not allowed.

NEW YORK STATE FINANCIAL MANAGEMENT SYSTEM

The New York State Financial Management System *Requirements Analysis Report* (2006), Section 3.7, entitled “Contracts,” pertains to the SEPONS concept. Specifically, this section of the requirements delineates the scope of work relating to procurement to be entered into during implementation of the new system. The envisioned functionality relevant to SEPONS has been subsequently referred to as the Contracts Management business process in the NYFMS Software Request for Proposal; Project Code DOB-FMS2007-02, issued on October 29, 2007 and the Request for Proposals for Software Integrator; Project Code NYFMS09-01, issued on January 5, 2009.

The primary goal of the Contracts Management business process of NYFMS seems to be assisting the procuring agencies by allowing for the creation of bid/RFP document templates as well as the necessary infrastructure for electronic bid review and award of a contract, with a focus on in-system bid-creation-to-award workflow. As the focus of the system seems to be with electronic workflow, the emphasis of the system is logically more on ensuring that the bid documents are made accessible to potential bidders who may or may not be registered with the state and the methods that the primary system users (state agency staff) would use to manage the process.

They defer much of the functionality of maintaining announcements and contact information for bidders on a “bidder website” whose implementation may be enabled through the selected software portal tools, but whose administration and governance have not been determined.

APPENDIX D: REVIEW OF SELECTED PROCUREMENT SYSTEMS IN OTHER JURISDICTIONS

The SEPONS workgroup, through several of its members and the staff of OGS Legal Services, conducted research on the bidder registration and electronic procurement (e-procurement) systems currently operated by several other states: California, Connecticut, Delaware, Florida, Georgia, Massachusetts, North Carolina, Ohio, Texas, and Virginia. Below are detailed findings concerning these systems. Pertinent findings from the “2007 Survey of State Government Purchasing Practices,” conducted by the National Association of State Procurement Officials are also presented here. Finally, a discussion of Grants.gov is included, too.

Maintaining the e-Procurement Sites

- In California and Virginia, maintenance is provided by the states’ Departments of General Services.
- In Connecticut, Georgia, North Carolina, and Ohio, maintenance is provided by the states’ Departments of Administrative Services.
- The Delaware website is maintained by the state’s Department of Government Services.
- The Massachusetts site and procurement process are maintained by the state’s Operational Services Division (OSD).
- The Texas site is maintained by the state’s Procurement and Support Services.

Software

- A majority of the states (Connecticut, Delaware, Florida, Massachusetts, North Carolina, Texas, and Virginia) do not use an outside service provider and/or software application to create their online procurement site. For example, Delaware’s portal was created by its Department of Information Technology.
- The Georgia site is operated by two contractors, PeopleSoft and SciQuest. The PeopleSoft system utilizes a client-user application that can be accessed and run on a web browser.
- The Ohio website utilizes an Onvia software application called Demand Star.
- The California e-procurement system is hosted by BidSync. BidSync manages all types of electronic solicitations and provides notification summaries and automated bid question-and-answer information.

Statutes, Regulations, and Policies

- Of the ten states researched, only the California procurement website is statutorily mandated. The current California system is the product of a statutorily required consolidation of several procurement services previously operated as independent systems, namely, the California State Contracts Register (CSCR), the State Contracting and Procurement Registration (SCPRS), the online Small Business and Disabled Veteran Business Enterprise (DVBE), and the Purchasing Information Network (PIN) systems. These systems can now be accessed only through the consolidated web-based procurement system. Additionally, the California system is required by statute, policy and/or regulation to produce reports concerning its operation.
- In Massachusetts, solicitations for all statewide contracts and all departmental procurements valued over \$50,000 are posted on the procurement site. State contracts and department procurements under \$50,000 are not required to be posted on the site. Massachusetts' OSD is not required to notify or mail out copies of solicitations that have been posted on the site, but an e-notification system is available for a fee.
- The Texas Administrative Code requires that the state must procure consulting services through its e-procurement system the same as it does when procuring directly.
- In North Carolina, use of an e-procurement system is required by the terms and conditions of their contracts, and vendors are required to register within two business days of notification of an award in order to receive electronic purchase orders.

Training

- Three of the ten states researched (California, Florida, and Georgia) provide training and/or training materials to aid with navigation of their e-procurement sites.
 - California has webinar training, training guides, and modules to help vendors better understand doing business with the state and how to use the site. Additionally, the California site offers reference publications and forms covering topics such as contract activity, doing business with the state, model language, general provisions, contract terms and conditions, and contract application.
 - The Florida site offers PowerPoint presentations that explain system features and present training materials.
 - The Georgia system provides technical training and a help desk.

Tracking Payments

- Four of the states allow vendors to view purchase orders electronically.
 - Texas permits the search of purchase orders only by registered users of their e-procurement system.
 - The Florida system requires that an agency or vendor register in order to access the electronic invoicing feature.
 - The Virginia system uses a web-based purchase system (“eVA”) that serves as a billing and payment portal for registration and transaction fees.
 - California has a Prompt Payment Program that studies state agencies’ payment processes and assesses the cycle time of payments to vendors. The program also provides payment assistance and advocacy services to vendors, and annually reports the number and amount of late payment interest penalty payments made to vendors each year.

Fees and Registration

- Of the states examined, only the Virginia system requires payment of a registration fee for use of its e-procurement site.
- Three states (Massachusetts, California, and Texas) require payment of a fee to complete online transactions or to subscribe to additional state procurement systems or publications.
- The Connecticut system offers an electronic newsletter (“Buy Lines”) that provides up-to-date procurement information.
- The Florida system offers free access, but requires that vendors register with My Florida Market Place (MFMP) before they may subscribe to the Vendor Bid System (VBS). MFMP is an electronic procurement system used by most Florida state agencies; VBS is a public electronic posting site for bids, notices and grants.
- The Ohio system is entirely free of charges and also supports vendor registration by phone.
- The California system offers vendors free e-notifications and contract award notification, although bids for certain procurements may require payment of a fee. California also offers an enhanced fee-based subscription.
- The Massachusetts system offers a \$275 annual subscription to its “Comm-PASS Smart Bid Program,” which allows subscribers to receive large files with great efficiency and includes features such as online bid responding and a business directory.

- The North Carolina procurement site, called the Interactive Purchase system (IAS), posts solicitations from all schools and local governments. Access to the IAS system is free, but a 1.75% transaction fee is collected on any procurements.
- Access to the Texas system is free of charge, although vendors may opt to be included in the Texas Centralized Master Bid List (CMBL) for a fee. The CMBL allows electronic bid submission for state procurements.

Solicitation Posting, Viewing, and Searching

- All of the states examined appear to allow vendors to view and/or search bid solicitations from their e-procurement sites.
 - The California site displays a bid calendar and the time remaining before bids close (i.e., time remaining in hours and minutes).
 - Users of the California and Massachusetts systems can download bid solicitations.
 - Users of the California system must be logged into the California e-procurement site before receiving access to view bid attachments. By logging in, California can track bidders who have viewed and/or downloaded the solicitation.
- Electronic submission of bids is supported by five states (i.e., California, Connecticut, Georgia, Florida, and Massachusetts).
- The Georgia and Florida e-procurement systems support bid submission directly from their websites.
- The Connecticut system requires that bids be submitted to an e-mail address, specified in the solicitation.
- For Massachusetts solicitations that accept electronic bids, vendors are provided the ability to: track the status of bids, submit bid responses online—at the discretion of the procuring entity, defer execution of original documents (i.e., “wet-ink” signatures) until the statewide contract award is issued, and withdraw a bid submission and/or resubmit right up to the bid close date. Not all Massachusetts solicitations accept electronic bids and paper bids are always accepted.
- The California, Georgia, and Delaware systems provide bid notices and announcements on their e-procurement sites.
- The Connecticut, Georgia, Massachusetts, and Texas sites permit viewing and searching of bid results.
- Other features of the examined e-procurement sites include:
 - Bidder list (Connecticut and Florida);

- Vendor search engines (Florida and Georgia);
- Preferred products list (Florida);
- Discriminatory, excluded, debarred and/or suspended vendor lists (Florida, Connecticut, and Texas);
- Vendor complaints (Florida); and
- Vendor performance information (Florida and Texas).

Similarities in the Contents of the Systems

- Almost all of the systems examined offer some form of an e-notification system (California, Delaware, Florida, Georgia, Massachusetts, North Carolina, and Ohio).
 - Ohio provides vendors with the option to receive bids by fax or e-mail.
 - The Massachusetts system provides e-notification as an optional, fee-based enhancement.
- Other common features of the systems are contract search engines (California, Connecticut, Delaware, Massachusetts, Ohio, Texas, and Virginia) and contract award search engines (California, Massachusetts, Ohio, and Texas).
 - The Delaware system is fairly new (launched in the summer of 2009) and currently does not include local government procurements. The Delaware system anticipates that there may be some local procurement contracts on the site—if for a local government that uses Delaware’s centralized contracts. Not all Delaware centralized contracts are available to their local governments.
- Another common component of certain states’ systems appears to be the solicitation of electronic quotes (Florida, Georgia, and Massachusetts).
 - By example, the Florida system’s “eQuote” function allows state agencies to specify what they want to purchase and the vendors from which they want to receive a quote. MFMP then notifies the vendors of the solicitation and, from the website, vendors are able to submit a quote and/or offer other products or information.

Differences in the Contents of the Systems

Unique and noteworthy features among the e-procurements systems studied include:

- An electronic bulletin board (Virginia);
- Contract price sheets (Florida);

- Discussion forums (Georgia);
- Bulletins (Virginia);
- Prevailing wage information (Connecticut);
- Procurement forms (Connecticut);
- A list of governmental units using the portal (Connecticut); and
- Contract management options (Georgia).

Funding

The *2007 Survey of State Government Purchasing Practices*, conducted by the National Association of State Procurement Officials (NASPO), posed the following question to states: “*What funding mechanisms are used to support e-procurement in your state (i.e., vendor registration fees, budget allocation, etc.)?*” The survey drew responses from a total of 42 states, and the aforementioned funding question drew answers from 20 states. The responses to the funding question were as follows:

- The vast majority of states (13 of 20)—Arizona, Connecticut, Illinois, Indiana, Iowa, Louisiana, Minnesota, Mississippi, Missouri, New Hampshire, Utah, and Wyoming—responded that their e-procurement systems were funded by budget allocation.
- Three of 20 states responded that their e-procurement systems were funded by transactions fees, for example, fees paid by successful vendors receiving contract awards.
- Two of 20 states responded that their e-procurement systems were funded by vendor registration fees (Colorado and South Dakota).
- Two of 20 states responded that their e-procurements were funded by other mechanisms such as, “customer agency fees” (Washington) or “agency and vendor fees” (Virginia).

GRANTS.GOV: AN EXAMPLE OF SYSTEM FEDERATION

The core mission of the federal Grants.gov initiative is to act as an aggregator for the 1,000 federal programs spread across 26 agencies that collect and distribute grant information. The Grants.gov mission statement says that:

The Grants.gov initiative aims to produce a simple, unified “Storefront” for all customers of Federal grants to electronically find opportunities, apply, and manage grants, as well as facilitate the

quality, coordination, effectiveness, and efficiency of operations for grant makers and grant recipients.

The four primary goals of the Grants.gov initiative defined by consensus among the grant-making agencies include:

1. Eliminate the burden of redundant or disparate electronic and paper-based data collection requirements.
2. Define and implement simplified standard processes and standard data definitions for Federal grant customer interactions.
3. Protect the confidentiality, availability, and integrity of data.
4. Standardize the collection of financial and progress report data in support of audit and performance measurement activities. (Grants.gov. *System Integration Document: Grants.gov System v. 2.0*, April 27, 2007, p. 5)

To the extent that New York State faces a similar situation (albeit on a smaller scale) the Grants.gov approach is a viable model for providing a statewide system that would put a single face on a federated set of data stores. This approach would allow state entities at all levels who had their own systems to continue to use those systems for managing their day-to-day operations. (State entities that did not have their own systems could use the statewide system exclusively.)

Real-Time Transmission

The Grants.gov system-to-system data exchange is a synchronous model. This means that the systems transmitting data to and from the statewide bidder repository would need to have a permanent business-grade connection to the Internet. Survey results do indicate that most respondents do have such an Internet connection. Moreover, it would seem that those that do not are probably small enough entities that they would not have in-house systems to integrate anyway.

Definition of Transmission Standards

A body would need to be established or a lead agency given authority to establish the exchange standards to be used to transfer data between the systems. Most federal and law enforcement agencies are standardizing on XML schemas as the *lingua franca* for these types of exchanges; in fact, the code available from the federal government implements an XML to relational database transfer process.

Code Usability

The federal Grants.gov project has produced a body of source code as reference implementations of their parsing and database populating code. The rules and copyright controlling access to this body of sample code would need to be evaluated to determine if New York State could make use of it.

APPENDIX E: STAKEHOLDER INPUT - SURVEY RESULTS

THE SURVEY DESIGN AND IMPLEMENTATION

The SEPONS workgroup conducted two surveys, one for individuals from procuring government entities (buyers) and another for businesses that sell (or are interested in selling) commodities and services to New York State government entities. Government entities include not only state agencies and authorities, but also local government entities such as municipalities, counties, school districts, fire districts and other types of public entities. The surveys were conducted using a web-based survey tool. The tool generated basic data summaries of the quantitative results.

Both surveys also included numerous open-ended items. Due to the large volume of responses to these open-ended items, workgroup participants divided up the questions and conducted a very informal content analysis.

A total of 141 government respondents and 1,054 business respondents provided contact information and indicated that they would be willing to participate in follow-up discussions or focus groups to provide input for the development of a SEPONS.

The Government Survey

The distribution list for the government survey was developed by the Office of General Services (OGS). It consisted of 12,995 e-mail addresses maintained in the OGS Procurement Services Group Vendor Registration for Bidder Notification System and contact information provided by the Office of the State Comptroller. In addition, links to the government survey were placed on the OGS Procurement Services Group State Procurement Council website and sent to the New York Conference of Mayors and Other Municipal Officials (NYCOM), the New York State Association of Towns, and the New York State Association of Counties. A link was also included on the business survey—for use by government entities that were erroneously sent the business link.

A total of 1,351 people began the government survey and 626 people completed it. Only completed surveys (those whose respondents clicked a button to submit their answers) were included in the quantitative analysis. The unsubmitted surveys were excluded because the respondents had not certified their answers. It is likely that many abandoned the survey because they either lacked the information requested or otherwise felt disinclined to answer. (Even among those who completed the survey, many chose “not sure” when asked about their organization’s procurement opportunity notification practices.) More than one person per governmental entity could have completed the survey. Because of the use of links, it was not possible to calculate an overall response rate. These limitations notwithstanding, 626 voices provided a substantial amount of input for the purposes of this study.

The government survey included items to elicit information about the type of governmental entity the respondent represents, the function of the respondent's office, and the frequency with which the governmental entity issues contracts. The survey also contained a number of items to gather information on the respondents' experience with and opinions of the New York State Contract Reporter as a source of information and vehicle for bid notification. In addition, the survey asked government respondents about their experiences with other electronic notification systems, and whether their organization would be interested in hosting a statewide electronic notification system. Other survey items addressed respondents' experiences with electronic auctions and reverse auctions, and their opinions on charging fees to bidders for access to notification systems.

The Business Survey

The distribution list for the business survey consisted of 39,316 e-mail addresses. It was developed by OGS using contact information maintained in the OGS Procurement Services Group Bidder Notification System (BNS). In addition to this e-mail distribution, a link to the business survey was posted on the website of the New York State Contract Reporter.

A total of 3,252 surveys were received of which 2,499 were completed (submitted). Only the 2,499 completed surveys were included in the quantitative analysis. More than one person per business may have completed the survey. Because of the use of links to distribute the survey, it was not possible to calculate a response rate.

It should be noted that the heavy reliance on the OGS BNS e-mail list to distribute the survey is a potential source of response bias. That is to say, the people who filled out the business survey are primarily those who already use the BNS. They may differ substantially from people representing organizations interested in doing business with New York State entities who do not use the BNS. For this reason it is difficult to determine whether the survey respondents are representative of businesses interested in doing business with New York State government entities (and thus whether the survey results are generalizable to that population). Curiously, 18% of the business respondents said that their business has not responded to any bids during the last five years.

The business survey contained items on characteristics of the business (whether it is located in New York State or not, number of employees, types of governmental entities with which it does business, the business' experiences using and suggestions for improving the New York State Contract Reporter and OGS' BNS). The survey also contained a number of open-ended items requesting information about respondents' experience with and opinions of other procurement opportunity notification systems. In addition, respondents were asked about what features should be included in a procurement opportunity notification system and bidder registration system and about their willingness to pay subscription fees for different features of a procurement opportunity notification system. Finally, respondents were invited to submit contact information if they would be willing to participate in follow-up discussions or focus groups to provide additional input in the design of SEPONS.

FINDINGS FROM THE SURVEY OF STATE AND LOCAL GOVERNMENT PROCURING ENTITIES

Current Use of Technology for Bid Solicitation

Although government entities appear to have the necessary technology, relatively few conduct bid-related activity electronically.

- The vast majority (97%) of government respondents indicated that their organization has broadband Internet access. However, since the survey was conducted electronically, government entities with poor or no Internet access may be under-represented in the survey.
- Only 20% of government respondents said their entity accept bids electronically at least sometimes. Nearly two thirds (64%) said “no” and the remaining 16% were unsure. Respondents from counties and municipalities were the least likely to accept bids electronically (fewer than 10%). Respondents from the State University of New York (SUNY) and the City University of New York (CUNY) were the most likely to say their organization accepts bids electronically (40%).
- Well over half (55%) of respondents said their government entity does not post the actual bid solicitation document electronically for view and download. Only 27% said their organization posts (at least sometimes) the actual documents electronically. The remainder were not sure. Respondents from state agencies were much more likely than those from other types of government entities to say their entity posts bid solicitation documents electronically.
- Many government procuring entities do not provide electronic documents to potential bidders. Only about half of respondents said their organization supplies specifications, bid invitations, requests for proposals, requests for information, or requests for quotes electronically. Approximately a quarter of respondents said their organization supplies plans and architectural drawings electronically.
- Nearly a third of respondents (32%) said their organization does not supply electronic versions of any of nine types of documents listed in the survey. Respondents from municipal governments (cities, towns, and villages), school districts, and smaller entities (fire districts and public benefit corporations) were least likely to say they supply documents in electronic format.

Relatively few respondents use an electronic procurement opportunity notification system.

- Less than a third (29%) use an electronic bid notification system. State agency respondents were much more likely than others to use an electronic notification system (42% of state agency respondents say their organization uses an electronic notification system compared to only 24% of local government respondents, 24% of educational entity respondents, and 27% of respondents from other types of government entities).

Attitudes toward the Creation of a SEPONS

Although few government respondents oppose a SEPONS, many expressed ambivalence.

- When asked whether they believed that a unified bidder notification system should be implemented, 47% said “yes,” 45% said they were “not sure,” and only 8% said “no.” Those who said “yes” were more likely to be from state agencies.
- When asked if they support the creation of a consolidated system that publishes procurement opportunities, contract awards, progress payments, and payments made to minority- and women-owned business enterprises (MWBES); slightly more than half (54%) said “yes,” while over a third (36%) said they were “not sure.” Respondents from state agencies were slightly more likely than others to say “yes.”

Respondents expressed little enthusiasm for hosting an electronic notification system.

- Only 32 of 549 respondents who answered the question thought their organization would want to host an electronic notification system.

Government respondents oppose charging potential bidders annual fees to use a SEPONS.

- A large majority (71%) of government survey respondents opposed charging potential bidders an annual fee to view electronic notifications of bid opportunities.
- 60% opposed charging potential bidders for direct e-mail notifications about procurement opportunities. Counties were the only type of government entity where a majority of respondents (63%) supported fees for direct e-mail notification of bid opportunities.
- In open-ended comments, numerous government respondents indicated that the state (through either a specific agency or a general fund appropriation), should pay for a SEPONS. Many argued that charging potential bidders annual fees would limit competition and discourage participation—especially from small businesses.

Procuring Entities’ Views on the New York State Contract Reporter

Fewer than half of government respondents said they use the New York State Contract Reporter.

- 44% of 614 said their organization uses the New York State Contract Reporter to publish procurement opportunities; 42% said their organization does not use it; the remainder were unsure.
- 45% of 577 “never” use the Contract Reporter to publish information.
- 45% of 582 “never” use the Contract Reporter to view or obtain information.

Many respondents were unsure whether the New York State Contract Reporter meets the needs of procuring entities and potential bidders.

- Nearly half (48% of 573) were “not sure” whether the Contract Reporter meets their organization’s needs to notify potential bidders of procurement opportunities.
- 62% of government respondents were “not sure” whether the Contract Reporter meets the needs of all potential bidders who may be interested in learning about their governmental entity's procurement opportunities.

Respondents from state agencies were much more likely to say their organization publishes in the Contract Reporter than respondents from other types of government entities.

- A large majority (89%) of respondents from state agencies (including commissions and boards) said their organization publishes in the Contract Reporter, while only 32% of respondents from educational entities (school districts, CUNY, and SUNY); 22% of county and municipal respondents; and 28% of respondents from other government entities (including public authorities, public benefit corporations, and fire districts) said their organizations do so. (Note, however, that many respondents were unsure of their organization’s notification practices.)

Respondents who use the Contract Reporter are relatively satisfied with it.

- Of the respondents who said their organization uses the Contract Reporter to publish procurement opportunities, 83% indicated that the Contract Reporter meets their need to notify potential bidders at least sometimes. This satisfaction is fairly consistent across respondents from different types of government entities.

It is unclear from the survey to what extent the Contract Reporter meets the needs of local governments.

One question the survey does not allow us to answer is why so many local government respondents do not use the Contract Reporter. Is it simply a lack of familiarity with it? Or is it because they use another method that they prefer to the Contract Reporter?

Auctions and Reverse Auctions

- Only 10% of government respondents said their organization conducts auctions or reverse auctions. Respondents from counties were far more likely than others to say their organization conducts auctions (42% said their county conducts auctions). This likely includes real estate auctions.

FINDINGS FROM THE BUSINESS SURVEY (BIDDERS AND POTENTIAL BIDDERS)

Frustration with the Current Situation

- There is a great deal of frustration in the business community with the large number of registration systems that bidders need to be registered with to receive a broad range of information on opportunities to do business with the state. Among the sources used: Internet sites such as BidSync, BidNet, stateandfederalbids.com, and other sites, newspapers, cold calls, the Dodge Report, local purchasing groups, the Builder's Exchange, Onvia, the New York City Record, the New York State Contract Reporter, and the OGS list.
- Where electronic systems are available, there is a great deal of frustration in the business community with the lack of standardization among the procuring state entities with regard to how their procurement opportunities are categorized and presented.
- Numerous respondents indicated they rely on traditional methods such as networking, newspapers, and even cold calling to learn of procurement opportunities.

Business Respondents' Views on the Contract Reporter

New York State Contract Reporter is not receiving full use by prospective bidders.

- Approximately half (51%) of business respondents surveyed do not subscribe to the New York State Contract Reporter. Respondents from out-of-state businesses and small businesses (those with 100 or fewer employees) were less likely than others to subscribe to the Contract Reporter. Respondents from MWBEs, however, were more likely to say that their business subscribes to the Contract Reporter (42% of MWBE respondents said their business subscribes compared to 29% of non-MWBEs).
- Nearly half (49%) indicated that they “never” use the Contract Reporter to view or obtain information. Respondents from out-of-state businesses and small businesses were more likely to say they never use the Contract Reporter (61% of out-of-state business and 52% of small business respondents). Only 38% of MWBE respondents said they never use the Contract Reporter. In open-ended responses, quite a number of respondents indicated that they do not know what the Contract Reporter is.

The top suggestions for improving the Contract Reporter (based on an open-ended item) are:

- Make it free.
- Improve the sort and search features (by including more specific categories of products/services and/or by enabling users to sort by region).
- Provide electronic notification based on users' interest in particular product/service categories and/or regions.

- Require all New York State government procuring entities to use the New York State Contract Reporter.
- Simplify the format.

Respondents also expressed interest in being able to obtain bid-related documents electronically and in being able to obtain bid results and award information online.

Other Bid Notification Systems

The Bidder Notification System operated by the OGS receives substantial use by prospective bidders.

Half (50%) of respondents said they are currently registered with the OGS Bidder Notification System. This result, however, could be largely a function of the survey design, which used the OGS BNS e-mail list to distribute the survey. Prospective bidders who use other notification systems are likely under-represented in the pool of respondents.

The top suggestions for improving the OGS' Bidder Notification System (based on an open-ended item):

- Improve the product/service coding system to allow for better matching of business interests to bid opportunities.
- The system is fine as is (no suggestion).
- Get all New York State government procuring entities into one system.
- Provide a user-friendly guide and reference information.
- Enable users to easily change their profile (the list of commodity codes of interest to them).

Respondents use a variety of other procurement opportunity notification systems.

The most frequently mentioned are: Onvia, BidSync, Virginia's eVA, FedBizOps, Connecticut's Procurement Portal, BidNet, New Jersey's eRFP, Pennsylvania's eMarketplace, and Massachusetts' Comm Pass.

Other electronic bidder registration/procurement opportunity notification systems currently in operation are recommended by users as models in development of a New York State SEPONS.

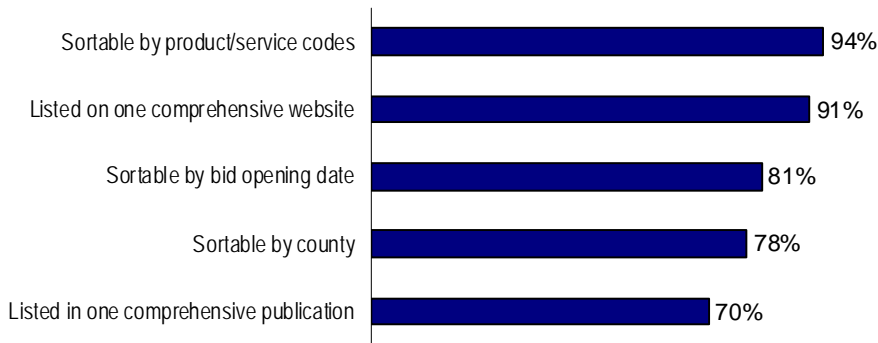
The systems most frequently recommended were: FedBizOps, the New York City Record, and systems used by Virginia, Connecticut, and North Carolina.

FINDINGS RELATING TO THE DEVELOPMENT OF A SEPONS

- Business respondents expressed widespread support for centralizing postings of bid opportunities, either in a single publication or on a website. They also strongly supported including the ability to sort opportunities by county, product/service, and bid opening date.

Chart. Business Respondent Views on SEPONS Features

Percentage Indicating Features would be "Helpful" or "Very Helpful"



-
- When asked in an open-ended item what features would be most useful in a bidder notification system, the most frequently mentioned features were the ability to filter by procurement type and bid date. Increased search options, and additional sorts and filters were also desired by many. A smaller number of respondents mentioned online bid documents, an electronic notification or “push” system to the bidder, and clear descriptions of the work/scope, and contract information. Keeping the system simple was also important to many respondents.
 - When asked in an open-ended item what features would be least useful, the location and bid opening date were most frequently mentioned. This suggests that the product codes are more important to users than the region and bid opening date sort features.
 - Respondents said they do not want to have to sort through bid notifications that are irrelevant to them. They do not want to have to hunt for bid documents (or be required to pick them up in person from the procuring agency). They do want contact information so they can get additional information if needed and they want to receive notifications early enough to allow them to prepare a response in time to meet the deadline. Some suggested making the obligatory legal boiler plate language less obtrusive.
 - When asked in an open-ended item for recommendations for the vendor registration process that is part of an electronic procurement opportunity notification system, one of the most common answers was that the process is fine

as it is. Other top answers were to allow bidders to identify their interests in more detailed categories of commodities and services, to keep the system simple, to make the registration requirements clear, to make it easy for users to update their profile and renew their registration. Less frequently mentioned suggestions included providing an e-mail confirmation of registration and profile changes, centralizing registration, and making the system free or low cost.

- When asked about perceived barriers to a SEPONS, business respondents identified their top concerns as:
 - Cost;
 - Technical challenges (system failures, security, e-mail filters blocking notification messages, ensuring the system is well adapted to users and systems with a wide range of technical capabilities);
 - The time required to search through the information for relevant bid opportunities;
 - Increased competition that could place small businesses at a disadvantage; and
 - Lack of participation from small government entities (which would force businesses to continue using other methods for learning of procurement opportunities from these entities).

Other issues mentioned were a fear of inadequate protections against various forms of favoritism in awarding contracts and too much bureaucracy. Some suggested reducing red tape by having outside mechanisms put in place to prequalify bidders. Another frequently expressed concern was ensuring vendors have enough time to respond to bids.

Despite these reservations, the majority of responses of substance suggested that businesses would favor a SEPONS if it could be done at low cost to them. Many suggested using a fee structure based on the type of business or location – either in or out of state and either in or out of the United States.

- When asked for additional comments, representative remarks included:
 - “A system like this, done right, could bring some order to the chaos of public procurement.”
 - “It is a very good idea if executed well and without charge.”
 - “Keep it simple and at no charge.”
 - “Good idea—it’s too difficult to find opportunities right now—other states make it easy.”

Business entities likely to use a SEPONS are equipped with broadband Internet access.

- 99% of business respondents said their business had a broadband Internet connection. Only three respondents said they had no Internet connection.

Business respondents expressed little enthusiasm for supporting a SEPONS through subscription fees.

- The open-ended comments reveal businesses' opposition to funding a SEPONS through subscriptions or other fees.
- Several survey items were designed to elicit quantitative information on businesses' willingness to pay for a SEPONS through annual subscription fees. Many prospective bidders (40%) expressed unwillingness to pay an annual fee of any kind to view a statewide procurement opportunity notification system; 47%, however, said they would be willing to pay a maximum of \$50 or \$100. Only 13% said they would be willing to pay more than \$100.
- As noted above, the top answer to the open-ended question asking for suggestions on how to improve the usefulness of the New York State Contract Reporter for businesses was to make the service free. When asked what they saw as potential barriers to the development of a SEPONS, cost was the most frequently mentioned concern.

APPENDIX F: ALTERNATIVES CONSIDERED AND NOT RECOMMENDED

The Procurement Council's final recommendations came after a lengthy review process by the workgroup assembled by the Council chair. In the course of the study, many options were considered and evaluated. This appendix briefly describes the primary alternatives and the reasons they were not considered the optimal path for New York State to take at this point.

ALTERNATIVE: TAKE NO ACTION

Given the current economic climate, the budgetary and staff resources required to implement a SEPONS will be subject to intense scrutiny. Any discussion of costs of a SEPONS, however, should consider the offsetting savings likely to be produced—by increased competition, and by reductions in the use of paper products and postage. Additionally, it can be said that the absence of a SEPONS actually imposes other costs upon the state's procuring entities, i.e., the costs of frustration—of both businesses and procuring entities, the costs of obscurity, and non participation.

Both business and government entities believe that the lack of centralization and standardization of data elements in existing systems are sources of frustration. Perhaps the most remarkable aspect of the existing systems is that they do not provide a comprehensive bidder registration or opportunity notification system. This is to say that a bidder who spends the considerable time and care required to find, to register with, and to routinely review the opportunities posted to all the disparate systems comprising the public procurement registration/notification systems in this state would still not be registered with every procuring entity, and would still not be apprised of all procurements announced by procuring entities in the state.

These circumstances operate to discourage businesses, especially small businesses, from seeking public procurement opportunities. As such, the existing patchwork of procurement systems effectively operates to preclude broad participation in public procurements, and may contribute to vendor favoritism or outright collusive practices. The present arrangement of procurement systems certainly fails to achieve any meaningful sense of transparency. The absence of a SEPONS has effectively given rise to privately-operated bid advertising agencies, and such bid advertising agencies have been known to misdirect prospective vendors. These circumstances indicate the need for a centralized, publicly operated SEPONS. In consideration of that extant need, the Council rejected making a recommendation that the state take no action at this point.

ALTERNATIVE: PURCHASE OR LICENSE THIRD-PARTY PRODUCT

Typically, when a clear business need arises for a new technology solution, the first response is to canvas existing electronic products and determine if there is a product that meets the requirements of the identified need. During the course of this analysis, the workgroup did such a canvas and determined that the majority of the systems available to perform the types of tasks required by a SEPONS exist only as components of integrated customer relationship management or enterprise resource planning applications.

Both of these software categories are considered non-trivial with regard to the acquisition, installation, and adoption of these software platforms. Among the issues are the ability to design a new system with the desired features and functionality, accepting that the responsibility for system operation lies with a contractor, cost and time, and future limitations implied by a commitment to a proprietary third-party product.

Costs for purchase or license of a third-party product are unknown at present, and are likely to be substantial. The time required for development or customization of a third-party system is also unknown and is likely to be substantial.

ALTERNATIVE: BUILD A NEW SYSTEM

A new system would be an interface for a confederation of procurement systems managed and run across state agencies. A new interface would allow opportunities to standardize practices and data. However, the budget climate does not favor the creation of an entirely new system. Getting users to pay for such a system may be difficult since they can access the nonintegrated systems individually.