

NYS Procurement Bulletin

**STRATEGIC PARTNERSHIPS
Preliminary Guidelines**

I. Purpose

The purpose of this bulletin is to define and describe a new procurement technique available to State agencies called "Strategic Partnerships." The Procurement Stewardship Act of 1995 first enabled NYS agencies to enter into Strategic Partnerships.

A Strategic Partnership is defined as a mutually advantageous, joint business venture between one or more State agencies and one or more suppliers, that (1) produces a commodity or service not otherwise available in that existing form, and/or (2) results in the sharing of expertise, resources, services or commodities among State agencies. Suppliers can include not only private sector vendors, but also public sector entities such as municipalities, other States, or the federal government.

A Strategic Partnership may result from any one of a variety of situations, including:

- a statewide strategy that may include multiple policy objectives, such as the use of electronic commerce;
- an agency-specific problem in which the solution is not obvious or readily apparent;
- an intergovernmental strategy for addressing a need; and/or
- a multi-agency approach to a common or shared problem.

A Strategic Partnership is not a vehicle for circumventing the competitive process. Rather, it is a by-product and/or a logical extension of a competitive procurement, building upon a long term relationship with a given supplier and implemented by amending an existing contract. Within the context of the above definition, a Strategic Partnership is used to achieve one or more of these benefits:

- to enhance the business interests of the State;
- to leverage an existing investment;
- to leverage expertise, reduce individual risk and foster teaming among businesses;
- to improve productivity, reduce costs, generate revenues, or improve the delivery of services;
- to take advantage of creative financing not otherwise available; and/or
- to create new solutions and/or couple existing ideas into a new solution that addresses a defined problem.

II. Scope and Applicability

This bulletin applies to all State agencies, boards, commissions, offices and institutions including the State University of New York and City University of New York. It covers the acquisition of services and/or commodities which meet the requirements set herein.

A Strategic Partnership is one of many procurement methods available to procurement officers. A strategic partnership is applicable when:

1. there is an existing, long-term contract between one or more state agencies and the supplier(s) proposed as the partner(s); **and**
2. the partnering is for the purpose of joint development of new commodities or services not otherwise available, and which are cost beneficial to the State; **or**

the partnering includes the sharing of expertise, efforts, and resources directed at providing goods and services in a manner which provides best value to the State.

A Strategic Partnership is the single method which can be effected only by a contract amendment. By contrast, a sole source procurement is an appropriate method of entering into a contract when it is documented that only one offerer is capable of providing the commodity or service. A single source procurement is appropriate when an agency justifies entering into a contract with one offerer over another when more than one vendor is capable of providing the commodity or service. As with all procurements, the agency needs to carefully consider the purpose, requirements, etc., in selecting the procurement method most appropriate to the circumstances.

III. Process

The process for designing a Strategic Partnership will be influenced by a variety of factors, including which party originates the idea, whether one or more State agencies is involved, the extent to which the idea is defined initially, whether the desired end product can be defined, and whether a "prime" contractor will be used with subcontractors. As a result, the following steps are geared towards presenting the issues which must be covered in the documentation for the contract amendment.

1. **Identify an Idea.** A need, an idea, or a project is proposed from within or outside the government.
2. **Consider a Strategic Partnership.** One or more State agencies make a determination that this particular project would be appropriate for a Strategic Partnership.

3. **Conduct Preliminary Research.** One or more State agencies and/or non-governmental potential partner(s) performs a review to determine available expertise, identify other similar ventures, identify an existing contract which could be amended to address the need, and conduct related research to determine if this idea/need fits the criteria for a Strategic Partnership.
4. **Develop a Conceptual Proposal.** Involved State agencies, either independently or in conjunction with one or more prospective partners, develop a Conceptual Proposal which includes, but is not limited to, a statement of work, proposed timeframe, potential participants, anticipated benefits and expected outcomes. It is anticipated that the State agency and the contractor could enter into an appropriate non-disclosure agreement at this stage to define the confidential treatment of any proprietary concept, material or information.
5. **Obtain Preliminary Approval.** The involved State agencies seek and receive preliminary approval from all appropriate parties. Depending on the magnitude of the project, appropriate parties might extend beyond internal agency management and may include OSC; the Governor's Task Force on Information Resource Management, if the proposed procurement is a technology related procurement covered by the Executive Chamber memorandum dated January 12, 1996 and Technology Policy 96-2a; or DOB, if the proposed procurement is covered by Budget Policy Item H-100/A (Service Contracts)/H-101 (Financed Purchases). As the agency with statutory authority to approve the use of contracts let by non New York State governmental agencies, OGS will consider partnership arrangements grounded in contracts let by the federal government or by other states or their subdivisions so long as comparable competitive practices are employed in the establishment of such contracts. At this point, the agency must be able to prove that the partnership provides the State with best value acquisitions and define the minimum expected outcomes and the allowable term of the partnership.
6. **Partners Develop Final Proposal.** The involved State agencies jointly develop the final proposal with partner(s) to include, at a minimum, the following:
 - a description of the capability and capacity of all the partners to meet their respective roles;
 - a proposed solution (which may include full production service or technology, proof of concept prototype, and/or applied research/discovery);
 - a description of the project management plan including respective roles;
 - a description of the proposed shared arrangement, including any cost sharing, capability sharing, shared risk, ownership/royalties, revenue sharing, rights of ownership, etc.;
 - a description of the conditions under which the proposed partnership provides a best value acquisition; and
 - terms and conditions with respect to the contractor's role in the mid-term review process.

7. **Conduct Reviews With External Parties.** Once the final proposal is developed, the involved State agencies conduct review/presentation(s) with appropriate external parties as identified during the preliminary approval phase as outlined in Step 5 above.
8. **Develop and Submit Contract Amendment.** The involved agencies develop a final contract amendment document for review/approval by the Attorney General and OSC. Contract amendments based on a non New York State agency contract must be reviewed by the Office of General Services prior to submission to the Attorney General and OSC. A copy of the final contract amendment document shall also be forwarded to the Procurement Council to facilitate the Council's reporting requirements. At the same time, a notice with a summary description of the strategic partnership shall be provided by the involved State agencies as a NEWS item in the *New York State Contract Reporter* for public review.

IV. Mid-Term Review

Ninety days prior to the mid-term point of each strategic partnership contract amendment, each State agency involved in the contract must submit a detailed written analysis to the Office of the State Comptroller which addresses the following:

- a) the continuing validity of the initial justification submitted with the original contract and any subsequent amendments;
- b) whether the commodities or services under contract are currently being utilized to the extent initially anticipated;
- c) a thorough analysis of changes in available technologies affecting the continuing need for the commodities or services currently being utilized;
- d) new products or services not available at the commencement of the contract which may be more compatible with the needs of the State agency(ies) involved;
- e) the non-state agency has performed in a satisfactory manner throughout the term of the contract; and
- f) a cost analysis establishing the reasonableness of continuing the contractual relationship with the non-state entity.

OSC shall have ninety (90) days to review the documentation submitted by the State agency(ies) and may request additional information during, or at the end of, such period. OSC may transmit written suggestions for possible modifications to the contract or contract amendments, to be considered by the State agency(ies).