

**NO SMALL CHANGE:
OPPORTUNITIES FOR STREAMLINING PROCUREMENT
IN NEW YORK CITY**

A Report of the
Citizens Budget Commission



February 11, 2002

FOREWORD

Founded in 1932, the Citizens Budget Commission (CBC) is a nonpartisan, nonprofit civic organization devoted to influencing constructive change in the finances and services of New York State and New York City governments. This report was prepared under the auspices of the CBC's Technology and Public Services Committee, which we co-chair. The other members of the Committee are: Alan M. Berman, Jeremiah Blitzer, Mark Brossman, Lawrence B. Bittenwieser, Morton Egol, Kenneth D. Gibbs, Daniel J. Gross, Peter C. Hein, Brian T. Horey, Jerome E. Hyman, Hugh R. Lamle, James L. Lipscomb, Stanley Litow, William F. McCarthy, Frank J. McLoughlin, John R. Miller, Steven M. Polan, Jules Polonetsky, Carol Raphael, Edward L. Sadowsky, Lee S. Saltzman, Barbara Z. Shattuck, Larry A. Silverstein, Robert W. Strickler, Robert V. Tishman, W. James Tozer, Jr., Ronald G. Weiner, and Eugene J. Keilin, ex-officio.

The Technology and Public Services Committee has a mandate to review the delivery of municipal services and recommend ways that these services can be delivered more efficiently and effectively. Since 1997 the Committee has emphasized the use of information technology to change the way government operates and improve the productivity of State and City agencies. In 1998 it issued its first report pursuing this theme, *Opportunities to Improve Municipal Revenue Collection by Using Information Technology*. That report identified ways that revenue collection could be simplified in order to save the City at least \$15 million annually in administrative costs, and provide even greater savings to private firms and households in reduced time required to file tax forms and other paperwork.

In 2000 the Committee released a review of the New York State Department of Correctional Services, *Making More Effective Use of New York State's Prisons*, that considered alternative sentencing policies as well as some technological innovations in prison management. The annual savings from the recommendations in that report were estimated at nearly \$100 million annually. Also in 2000 this Committee joined forces with the CBC's Budget Policy Committee to issue two reports focusing on the then-current round of collective bargaining between the City and its unions – *Using Collective Bargaining to Improve Public Education* and *The Citizens' Stakes in Collective Bargaining*. While examining a wide range of measures to improve productivity, these reports recommended bargaining strategies that would facilitate technological changes to make possible the Commission's goal of a smaller and better paid municipal workforce.

This report on procurement reflects the Committee's continued intention to emphasize information technology as a major vehicle for improving productivity. As this report was being completed, we initiated a new project to consider the broader application of information technology in the New York City Police Department.

Cynthia Searcy, Research Associate, prepared this report. Her diligent efforts, including completion of courses at the New York City Procurement Training Institute, went beyond traditional research methods. Charles Brecher, Director of Research, and Marcia Van Wagner, Deputy Research Director and Chief Economist, provided direction and oversight of Cynthia's efforts and editorial guidance in drafting the report. Sarah Caldwell, CBC's Interim Publications Coordinator, prepared the report for publication. An electronic version of the report is available on the CBC's website at www.cbcny.org.

Bud H. Gibbs
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February 11, 2002

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EXECUTIVE SUMMARY

Procurement of goods and services is big business for the City of New York. In fiscal year 2001, the City spent more than \$8.6 billion for construction, goods, and services. Amounting to nearly 20 percent of the City's combined capital and operating expenses, purchased commodities and services are essential to the daily delivery of most municipal services.

CURRENT PROBLEMS

The City's rules and procedures governing procurement create a challenging environment in which to deliver services. Criticism of the system resounds throughout City agencies and among vendors who do business (or refuse to do business) with the City. The emphasis on process over professional judgement also creates a culture of caution among procurement personnel who are empowered only to find fault with or "rubberstamp" documents rather than innovatively seek the best value for the City.

Perhaps the best evidence of the need for streamlining is long procurement cycles. Contract purchases typically take a minimum of three months, but more likely four to eight months when preliminary steps are included. Long procurement cycles can be traced to four underlying problems:

1. Lack of Effective Governance and Management. Municipal procurement is intended to be governed by rules set by the Procurement Policy Board (PPB), managed centrally through the Mayor's Office of Contracts (MOC), and implemented at the agency level by the Agency Chief Contracting Officer (ACCO). There are, however, problems at each level.

Procurement Policy Board. The PPB is composed of five members, three appointed by the Mayor and two appointed by the Comptroller. Only two of these members, one of the Mayor's appointees and one of the Comptroller's appointees, are required to be independent in the sense that they do not hold public employment, and all five serve at the pleasure of the appointing official. The members, therefore, reflect the views of the Mayor or the Comptroller and do not always exercise independent judgement. Consequently, rule changes are easily entangled with the political conflicts between the two elected officials. The PPB also lacks authority to change certain procurement rules, since the General Municipal Law of New York State, the City Charter, and the City Administrative Code govern procurement along with the PPB rules.

Mayor's Office of Contracts. The Mayor manages procurement through the City Chief Procurement Officer (CCPO), who heads MOC. Since its formation, however, MOC has not acted as a comprehensive manager of procurement. Instead, MOC has taken on a narrower role as gatekeeper of large contracts and those that are let through special case methods. MOC's role as the Mayor's oversight agent rather than a service, support and planning unit for citywide purchasing has resulted in no agency with the authority or mission to be a comprehensive manager of procurement. MOC's preoccupation with preventing the next procurement scandal

slows down contracts and discourages vendors from working with the City. In addition, no one agency is responsible for managing vendor relationships with the City.

Agency Chief Contracting Officers. Management of day-to-day procurement is intended to rest with the ACCO and the head of each agency. This organizational structure acknowledges that agencies know the most about how to meet their needs, and it promotes end-user satisfaction. However, ACCOs do not always have the support or authority they need to manage their agencies' contracting process. The ACCO may not have sufficient support from MOC to handle a complex, specialized contract and may require technical support from colleagues in other units or from a centralized procurement entity. Also, in practice, agency level officials are not granted sufficient autonomy to ensure procedural compliance with contracting rules. Other municipal oversight agencies must approve many key contract decisions which, in turn, delays contracts.

2. Burdensome Oversight. The City requires multiple authorizations outside of agencies before a contract can be let. Currently, oversight can involve up to 10 agencies with responsibility determined by contract type, size, method, and stage of the process. Although the process should have sufficient controls to prevent corruption and waste, the current oversight structure duplicates efforts and adds significant time to each contract cycle.

3. Excessive Paper. Multiple authorizations result in excessive paper. In this context, "paper" is a proxy for the time it takes to complete multiple forms justifying and documenting each purchase, and the physical effort it takes to move forms through the system. The latest estimate of paper produced to execute procurements is 12 million sheets.

4. Poor Use of E-Government Resources. While the City's website provides information about how to do business with City agencies, it does not allow vendors to interact with agencies online. It also fails to integrate existing automated systems. Agency procurement personnel have no automated workflow system that allows them to move documents electronically through various authorizations.

BEST PRACTICES

The City is not alone in its procurement difficulties. State and local governments across the nation have been struggling to reduce procurement cycles while getting the best value for goods and services. With advancements in information technology, governments increasingly have turned to such technology and the Internet to streamline procurement. Through electronic catalogs, electronic vendor management software, and workflow imaging systems, state and local governments are transforming procurement into an efficient e-government application. As many as 42 states are expected to have some form of e-procurement in place by 2003.

The most advanced of these new e-procurement systems automate the process from request to purchase. This involves electronic request forms, workflow management software, e-signature authorization, master contracts from which to purchase goods, and electronic payments.

Functioning examples of these sophisticated systems exist in the City of Wichita, the State of Maryland, the State of Virginia, and the State of Idaho. For each, e-procurement began as a pilot project for a few agencies and services, then expanded to become system-wide as technical expertise and vendor confidence grew. Wichita's central purchasing unit adopted the system in 2000, after completing a feasibility study. Maryland, Virginia, and Idaho have more decentralized procurement structures and began offering e-procurement services to state agencies and local governments during 2001. Detailed descriptions of these systems are presented in the Appendix to this report.

NEW YORK CITY'S PROGRESS TOWARD PROCUREMENT REFORM

New York City has been addressing its procurement problems for over 15 years. The most comprehensive effort culminated in the New York City Charter revision of 1989 with the formation of the Procurement Policy Board (PPB). Since the mid-1990s, the PPB has reduced the number of rules and cut the contract rule book in half.

In addition, the Giuliani Administration instituted several process enhancements using the City's Intranet and Internet website. Agencies now have Buy-wise, a portal for procurement professionals with links to various purchasing resources, and the *City Record* on-line, a daily listing of all contracting opportunities with City agencies for vendors to access via the Internet. The City also has introduced the use of purchasing cards for low value purchases, a program with enormous potential to reduce transaction costs for small purchases.

RECOMMENDATIONS

Significant reforms since the early 1990s have enabled the City to save time and money in procurement. However, much more remains to be done.

Procurement reform is neither glamorous nor highly visible. It requires sustained commitment over a relatively long period. Consequently, elected officials tend to neglect it. But there is now good reason to raise the level of commitment to streamline procurement within the new Bloomberg Administration. A major initiative could achieve significant savings, at a time when they are sorely needed, and enhance the morale of municipal managers who are often frustrated by outdated and time-consuming procedures.

The CBC recommends that Mayor Michael Bloomberg pursue the following three-pronged strategy.

- 1. Replace the Mayor's Office of Contracts with a new procurement entity that offers "one-stop" oversight, a central place for vendors to interact with the City, and improved agency support services.**

Oversight should be reorganized, and a new procurement entity should be created to provide better agency and vendor support. The new procurement entity should have three primary functions.

A. *“One-stop” oversight and authorization.* The current administrative reviews of MOC, the Division of Labor Services, the Department of Finance, the Department of Investigation, the Office of Operations, and the Office of Management and Budget should all be performed by professionals within the new entity. “One-stop” oversight would *not* include MOC’s current review of contracts for procedural compliance. This function would be performed on a post-audit basis by the Comptroller, thereby delegating ACCOs more authority to ensure procedural compliance with contracting rules. The central procurement entity would also promote citywide contract standards and better performance monitoring.

B. *Single point of contact for vendors wishing to do business with the City.* This requires the new entity to provides services to vendors and monitor their integrity.

C. *Support the professional development and autonomy of ACCOs.* The new entity should facilitate ACCO networking and professional development. ACCOs should be encouraged to become Certified Public Purchasing Officers through the National Institute of Government Purchasing.

2. Implement an advanced e-procurement system similar to those functioning in several other jurisdictions.

The City should develop an advanced e-procurement system by integrating existing components and establishing missing ones. This system should include the following components:

- A. *A central website through which all agencies communicate with vendors.*
- B. *The option for vendors to submit their bids, proposals, and VENDEX materials electronically.*
- C. *On-line purchasing access to requirements contracts for agency buyers.*
- D. *A central contract management system with workflow monitoring and digital authorization capabilities for all agencies.*
- E. *Annual subscription and transaction fees for vendors.*

3. Change the legal framework for procurement to give the Procurement Policy Board more independence and to permit new, cost-effective procurement techniques.

As innovative procurement techniques are developed, the laws and rules that govern procurement should be changed to permit their use. In addition, the structure of the PPB should be changed to enable it to function with more political independence.

- A. *No City employees should be PPB members, and members should have fixed terms.*
- B. *Small purchase limits for all goods and services should be increased to \$100,000.*
- C. *Public hearings for non-competitively bid purchases should be required only for procurements above \$500,000.*
- D. *Permit the use of reverse auctions for some commodities.*

COST SAVINGS

Implementation of the CBC's recommendations would yield savings of at least \$135 million annually, with a more likely payoff approaching \$200 million annually. These savings derive from two sources: (1) lower transaction costs, and (2) lower prices from vendors for goods and services.

With respect to transaction costs, the City completes about 142,000 transactions per year. Based on the experience of other jurisdictions, it is reasonable to suggest that an advanced e-procurement system in the City of New York would save approximately \$75 per transaction. At that rate, the annual savings for the City would approach \$11 million.

Even larger savings would come from the reduction in the price of goods and services. These savings result from more vendors competing for contracts, greater use of bulk purchasing, and price reductions from vendors who have to spend less time and effort preparing and submitting bids. Most analysts estimate these savings at 5 to 15 percent of current costs. In fiscal year 2001, the City spent \$549 million on contracts for goods and \$693 million on goods through small purchases and purchase orders from requirements contracts. A 10 percent price reduction for these items would save \$124 million annually.

Based on the foregoing assumptions, the City would realize a total of \$135 million in savings annually. If the price savings were 15 percent, then the City would save an additional \$62 million for a total of \$197 million annually.

It should be stressed that these are conservative estimates, because price savings are applied only to purchases of goods. In addition to the \$1.2 billion in goods reflected in the above calculations, the City spends another \$7 billion on construction, social services, and other contracts. A streamlined procurement system likely would yield significant savings from these purchases as well.

INTRODUCTION

Procurement of goods and services is big business for the City of New York. In fiscal year 2001, the City spent more than \$8.6 billion for construction, goods, and services.¹ Amounting to nearly 20 percent of the City's combined capital and operating expenses, purchased commodities and services are essential to the daily delivery of most municipal services. These purchases also provide a large market for vendors who want to sell their goods and services to the City.

The City's procurement process is governed by an intricate set of laws, rules, and administrative processes designed to promote three goals: (1) ensuring a reasonable price for the procured good or service; (2) promoting competition among a diverse set of vendors; (3) preventing favoritism or corruption. Mayoral agencies and offices of independently elected officials are bound by New York City's Charter to follow the rules developed by the Procurement Policy Board (PPB). These rules seek to simplify, clarify, and modernize the laws governing procurement and to establish uniformity for purchasing across agencies.²

Despite the PPB's efforts, the volume of New York City's purchasing and the multiple goals of public procurement create an environment that hampers efficiency. In a recent report, the latest Charter Revision Commission described the City's procurement process as "burdensome" and "overly decentralized."³ Commonly used contracting procedures can take four to eight months to complete. These lengthy cycles result in delays, low productivity, less competition, and high costs. Given these negative outcomes, the City has significant incentives to streamline procurement.

The City is not alone in facing these challenges. However, state and local governments with similar problems have been using information technology and the Internet to streamline their purchasing through electronic procurement (e-procurement). Some states and localities have automated and integrated the entire procurement process from request to purchase. As a result, these governments have achieved savings, increased competition, and enhanced accountability in procurement.

The City of New York should review its procurement system in light of the newly available technology. The City's practices have changed significantly since 1989, but still are far from state of the art. This report reviews the City's current procurement process and recommends

¹ This total includes \$8.2 billion reported in the City of New York, Mayor's Office of Operations, *Mayor's Management Report*, (NYC: MOO, October 5, 2001), p.240-279. This amount excludes small purchases, purchase orders, and encumbrances for multi-year contracts awarded prior to fiscal year 2001. An additional \$425 million was purchased through pre-negotiated contracts as reflected in intercity transfers for the Department of Citywide Administrative Services reported in the Office of the New York City Comptroller, *Comprehensive Annual Financial Report*, fiscal year 2001 edition (NYC: Office of the Comptroller, October 30, 2001), p.200.

² City of New York, *Procurement Policy Board Rules* (NYC: PPB, September 2001), notes page.

³ Charter Revision Commission of New York City, *Preliminary Recommendations for Charter Revision: Staff Report to the Members of the New York City Charter Revision Commission*, (NYC: Charter Revision Commission, July 27, 2001), p.80.

reform. CBC's recommendations are intended to promote efficiency, give City employees the support they need to deliver services, and achieve savings.

The remainder of this report is organized into five sections. They describe the City's procurement process, identify problems with the system, summarize the best procurement practices in other state and local governments, evaluate the City's recent progress in streamlining procurement, and present recommendations for continued improvement.⁴

⁴ Although much of its content applies to all City contracts, this report focuses on the procurement of commodities and basic services and gives less attention to construction or social service contracts.

BACKGROUND ON NEW YORK CITY'S PROCUREMENT PROCESS

Procurement supports all municipal programs and cuts across agency lines. Because it is a large-scale function using tax dollars, procurement is subject to rules meant to prevent corruption and waste. Public procurement also strives to promote competition among a diverse group of vendors to assure the best value for goods and services. These goals are incorporated in the City's procurement process through the General Municipal Law of New York State, the City Charter, the City Administrative Code, and rules developed by the Procurement Policy Board (PPB). While these laws and rules provide a framework for purchasing, the Mayor has authority to issue directives within this regulatory structure. In addition, City agencies have internal controls for procuring goods and services.

RECENT HISTORY

New York City's current procurement procedures are the result of nearly 15 years of reform efforts. The laws and rules in effect today were developed in response to two separate, overlapping events—the Parking Violations Bureau (PVB) scandal in the mid-1980s and a lawsuit challenging the constitutionality of the City's Board of Estimate.⁵ Prior to these events, City agencies procured goods and services under a common legal framework, yet each agency developed its own procedures interpreting these laws. In 1986, City and State investigations revealed that the PVB had violated procurement laws and ethics in letting a contract for hand-held computers.⁶ The PVB scandal led to an intense review of the City's contract approval process and revealed serious shortcomings:

- ❑ No reliable data were available on the number or dollar value of contracts awarded.
- ❑ None of the central agencies involved in the award of non-competitive contracts met acceptable standards of documentation.⁷
- ❑ No clear, central policies, regulations and standards guided the award of non-competitive contracts.⁸
- ❑ Decentralization had created severe fragmentation in procurement policy and invited corruption.⁹

⁵ The Board of Estimate included the Mayor, the New York City Comptroller, and the President of the New York City Council (each with two votes), as well as the five Borough Presidents (each with one vote.)

⁶ Frank Anechiarico and James B. Jacobs, *The Pursuit of Absolute Integrity: How Corruption Control Makes Government Ineffective* (Chicago: University of Chicago Press, 1996), p.48-49.

⁷ Contracts let by the City were characterized as competitive or non-competitive. Competitive contracts were let through competitive sealed bidding. Non-competitive contracts were primarily for professional services such as architecture, engineering, construction management, and health and human services. Although most non-competitive contracts involved some type of competition, the term "non-competitive" was used to indicate the category requiring Board of Estimate approval. The agencies working with the Board of Estimate to approve these contracts were Corporation Counsel, the Office of Operations, the Office of Management and Budget, and the Office of Intergovernmental Relations.

⁸ Office of the New York State Comptroller, Office of the Special Deputy Comptroller for the City of New York, *The Approval Process for Noncompetitive Contracts in New York City*, (NY: OSD, September 11, 1986) p.9-11.

⁹ State-City Commission on Integrity in Government, *Report and Recommendations Relating to City Procurement and Contracts*, (NYC: State-City Commission on Integrity in Government, November 19, 1986), p.67.

- Procurement administrators lacked specialized knowledge of the technical and managerial aspects of contracting.¹⁰

In 1989, the Supreme Court ruled that the City’s Board of Estimate was unconstitutional, because it violated the federal “one person, one vote” principle.¹¹ The Board of Estimate was a group of elected officials who, among other functions, authorized contracts that were not awarded based on lowest price alone. The court ruling required that the City find another means of approving these non-competitive contracts.¹²

To address these issues, Mayor Edward I. Koch established a Charter Revision Commission and requested that it incorporate contracting into its recommendations for Charter revisions. Koch also formed the Mayor’s Office of Contracts (MOC) to implement procurement changes and guard against future corruption in letting contracts.¹³ Awareness of the defects in New York City’s contracting process and the need to replace the Board of Estimate created enough political will that by November 1989, the City Charter was revised. The new Charter placed authority for contracting with the Mayor and established the Procurement Policy Board (PPB). It was charged with developing uniform, citywide rules for procurement, setting timetables for various stages of contracting, and simplifying contract language for the benefit of both agencies and vendors.¹⁴

THE PROCESS

Since the creation of the PPB, new rules governing procurement have been promulgated and apply to most municipal agencies and independently elected officials.¹⁵ The PPB Rules comply with the General Municipal Law of New York State, the City Charter, and the City Administrative Code. Rule changes are not always under the sole discretion of the PPB. At times, State or City laws first must be altered in order to permit a desirable, new PPB rule.

Under PPB rules, purchases are divided among three categories:

- Micro-purchases—procurements not exceeding \$2,500;

¹⁰ Institute of Public Administration, *Contracting in New York City Government, Final Report and Recommendations*, (NYC: Institute of Public Administration, November 1987), p. 5.

¹¹ *New York City Board of Estimate v. Morris*, 489 U.S. 688 (1989).

¹² Non-competitive contracts over \$10,000 required approval by the City’s Board of Estimate.

¹³ MOC replaced the Mayor’s Contract Review Committee that had been in place since 1986. The Contract Review Committee was formed in reaction to the PVB scandal and reviewed all non-competitive contracts prior to Board of Estimate consideration. The City of New York, *Executive Order No. 114*, April 13, 1988.

¹⁴ New York City Charter, §311 (a)(b).

¹⁵ City agencies not covered by the PPB Rules are: Health and Hospitals Corporation, Housing Authority, Board of Elections (labor & services only), public libraries, Board of Education, School Construction Authority, Water Board, Industrial Development Agency, Housing Development Corporation, Transit Authority, and not-for-profit economic development corporations. The City of New York, Department of Citywide Administrative Services, New York City Procurement Training Institute, *Advanced City-Specific Contracting Seminar*, June 2001.

- ❑ Small purchases—procurements for goods and services not exceeding \$25,000, construction or construction-related services not exceeding \$50,000, and information technology not exceeding \$100,000;¹⁶
- ❑ Open market purchases—procurements over the small purchase limits.

Agencies also may purchase commodities from other governments when it is advantageous to do so because of price or value. For example, New York City agencies can buy commodities from New York State's Office of General Services (OGS) when the City does not have a contract of its own for a specific commodity and when the OGS price is cheaper than the market price. Intergovernmental purchasing is discussed in more detail below.

Micro-Purchases

Micro-purchases require no formal competition and are done directly between the agency and a vendor. The agency's procurement staff must make sure that the price is reasonable and that the vendor is responsible. They must document the name of the supplier, the item(s) purchased, and the amount paid.¹⁷

Since June 2001, the City has been testing a new method for micro-purchases called Purchasing Cards (P-cards). P-cards enable agencies to bypass the traditional purchase order and use a credit card. The goal of the P-card initiative is to realize financial and operational benefits through the ease of using a credit card.¹⁸ The City uses American Express to administer the cards, and each agency is responsible for implementing the program and devising internal controls. The primary benefits to the agency are user convenience, simplification of traditional procurement processes, and a reduction in the paperwork that supports a purchase and its payment. P-cards also benefit vendors through speedier payment and reduced transaction costs.¹⁹

When the pilot program is expanded, agencies will be encouraged, but not required, to use P-cards. In establishing P-card usage, agencies set up their own limitations and authorizations for purchases. Agencies can set limits on how much can be spent on each transaction, what days of the week and hours of the day purchases can be made, and what types of goods or services can be purchased. Agencies monitor card usage through monthly statements and card activity reports prepared by American Express. After receiving monthly statements, agencies are expected to pay their balance in full through an encumbrance procedure using a payment voucher.²⁰

At the end of 2001, there were 40 cards in use among the Department of Juvenile Justice, the Department of Transportation, and the Parks Department. Preliminary estimates indicate that

¹⁶ A procurement can not be artificially divided in order to meet the small purchase limits.

¹⁷ *Procurement Policy Board Rules, op. cit.*, Section 3-08(ii).

¹⁸ Joseph J. Lhota, Deputy Mayor for Operations for the City of New York, *Memorandum to Agency Heads, Agency Chief Contracting Officers, and Procurement Directors Regarding Procurement Cards*, June 27, 2001.

¹⁹ Edward J. Fitzpatrick, Jr., First Deputy Comptroller, *Comptroller's Memorandum #01-1: Comptroller's Memorandum to Agency Heads and Fiscal Offices Regarding Guidelines for Use of Procurement/Purchasing Cards*, June 22, 2001.

²⁰ Agencies must use payment vouchers to pay their monthly balances until the City's Financial Management System (FMS) is modified to handle procurement card transactions. *Comptroller's Memorandum #01-1*.

the average transaction using a P-card is \$355.²¹ Credit cards also are used in the Mayor's Office of Operations, the Office of Management and Budget, and the Office of the New York City Comptroller. These offices, however, are not a part of the P-card pilot program.

Small Purchases

Figure 1 illustrates the procurement process for small purchases. As shown, they are subject to several stages of review. First, the agency must determine if the item is available as surplus or in the City's storehouse. Agencies can access information about the storehouse's inventory of about 2,200 items through the City's Intranet.²² If the commodity is available in one of these places, the agency must use this source. Agencies complete the appropriate paper request, and the commodity subsequently is delivered.

If the commodity is not available in surplus or the storehouse, agencies must determine if it is available through a requirements contract. Requirements contracts are let by the Department of Citywide Administrative Services' Division of Municipal Supply Services (DCAS/DMSS).²³ These contracts generally span two to three years and seek to optimize the City's purchasing power by setting a given price for a commodity with one vendor. For example, the City has a requirements contract with GI Tech, Inc. for Canon Type NP/20N toner cartridges through July 31, 2004.²⁴ If an agency needs this item, it requisitions it from DCAS/DMSS.

The City has approximately 1,300 requirements contracts for 10,000 items not including food, price lists and catalog items.²⁵ In fiscal year 2001, agencies purchased about \$425 million of goods via purchase orders against requirements contracts.²⁶

²¹ Data from New York City Comptroller by e-mail received July 27, 2001.

²² City of New York, Office of Management and Budget, *Executive Budget Fiscal Year 2002: Message of the Mayor*, (NYC: OMB, April 25, 2001), p.210.

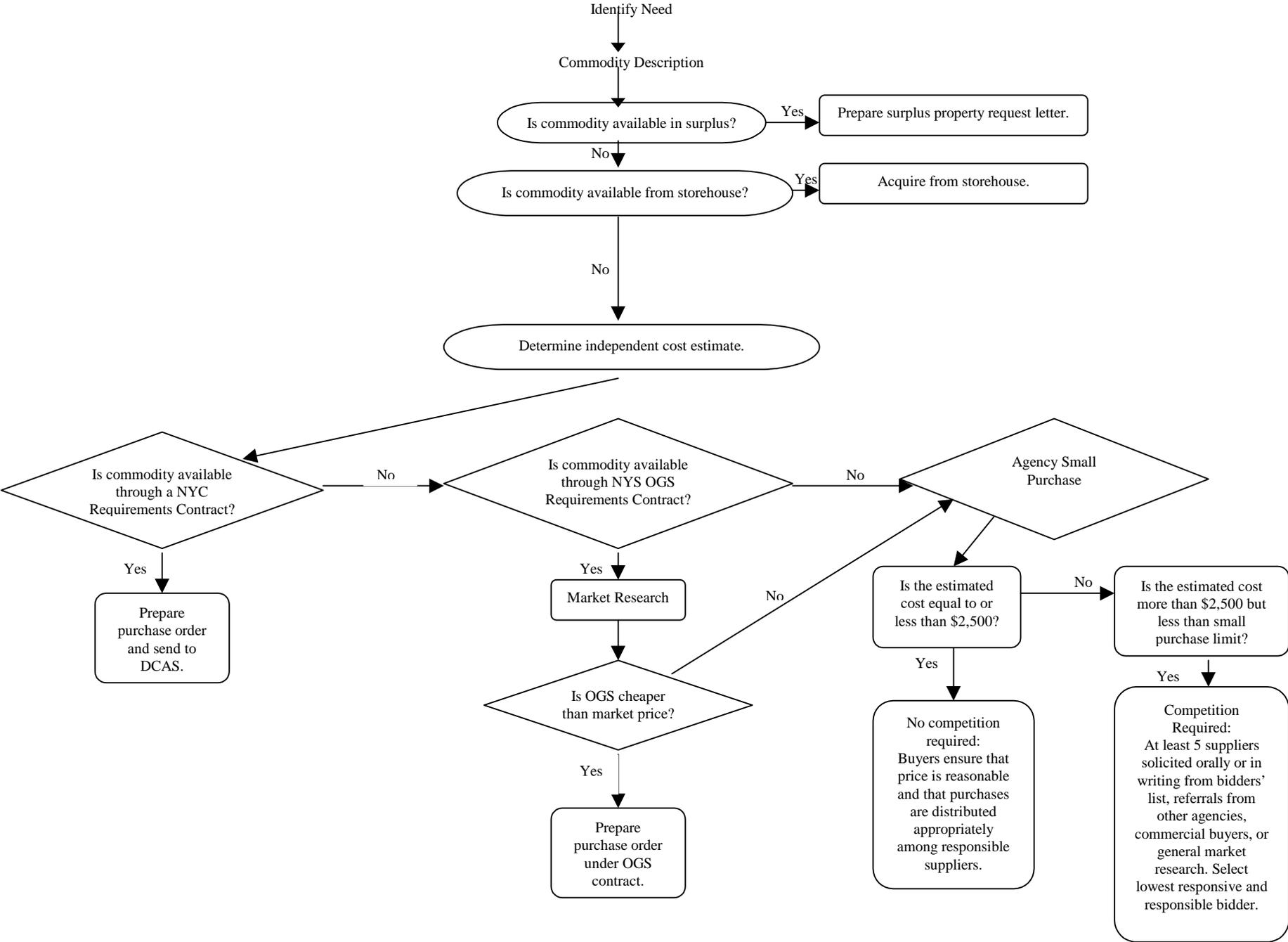
²³ DCAS/DMSS was established to streamline and consolidate municipal supply services. It distributes office supplies, food, and equipment for all City agencies and maintains a citywide vehicle fleet. DMSS centralizes commodity purchasing through requirements contracts and directs the purchase of goods above the small purchase limits.

²⁴ City of New York, Department of Citywide Administrative Services, New York City Procurement Training Institute, Information Technology Purchasing Course, Chapter II, p.4.

²⁵ Deloitte & Touche, *Final Report: Re-engineering the Procurement and Contract Management Process*, (NYC: Deloitte & Touche, June 16, 1994), p.125.

²⁶ Office of the New York City Comptroller, *Comprehensive Annual Financial Report*, fiscal year 2001 edition (NYC: Office of the Comptroller, October 30, 2001), p.200.

Figure 1
PROCUREMENT WITH ESTIMATED COST BELOW SMALL PURCHASE LIMITS



If a commodity or service is unobtainable through a City requirements contract, agencies are encouraged to use the New York State Office of General Services (OGS). OGS establishes its own requirements contracts for approximately 3,500 goods and services.²⁷ If an item or service is available through OGS, an agency must first determine that the OGS contract price is lower than the prevailing market price. If so, the item can be purchased at OGS' price directly from the vendor through a purchase order. According to PPB rules, an agency also must ensure that the State's vendor is responsible. After price and responsibility have been verified, the agency may use the OGS vendor.²⁸

Commodities that are not available through City or State requirements contracts are purchased by soliciting vendors directly. For all small purchases, agencies must solicit prices from at least five vendors selected at random from a bidders' list if one exists for the desired item. A bidders' list is a register of vendors who have contacted the City and requested to be notified of bidding opportunities for various goods and services. In addition to bidders' lists, agencies may solicit vendors used by other agencies, commercial buyers, or vendors identified by market research. Solicitation of vendors can be done orally or in writing.²⁹ Many agencies choose to telephone or FAX vendors for this type of solicitation. After the solicitation, the lowest responsive and responsible bidder is selected to supply the commodity.³⁰

In order to enhance opportunities for small, minority and women-owned businesses, the New York City Department of Business Services (DBS) has developed the Bid-Match program. Businesses that qualify may register with the DBS. They are notified by e-mail each time an agency solicits a small purchase bid for items sold by or services provided by the entity. Agency purchasing officers are encouraged, but not required, to notify DBS of a small purchase solicitation. Solicited businesses then e-mail their response to the procuring agency for consideration. As with all small purchases, the agency chooses the lowest responsive and responsible bidder.

Open Market Purchases

For procurements that exceed the small purchase limits, agencies typically use four methods:

- ❑ Competitive Sealed Bids—used when it is advantageous to purchase based on lowest bid price alone.
- ❑ Competitive Sealed Proposals—used when it is beneficial to purchase based on a combination of technical quality and price.

²⁷ Interview by Cynthia Searcy with Michael Burchett of the New York State Office of General Services, July 27, 2001.

²⁸ *Procurement Policy Board Rules, op. cit.*, Section 3-09(a)(c).

²⁹ Small purchases over \$25,000 (construction, construction-related services, and information technology) must be done in writing. *Ibid.*, Section 3-08 (c)(2)(i)(B).

³⁰ *Ibid.*, Section 3-08 (c)(1)(iii).

- ❑ Negotiated Acquisition—used when the procurement is time sensitive, there are a limited number of qualified vendors, there is a need for confidentiality, or under other special circumstances.
- ❑ Sole Source—used when only one vendor is qualified to supply the good or service.³¹

Competitive sealed bidding is the generally preferred method. Competitive sealed proposals typically are used for professional services, where technical competence is important.³² Other competitive sealed proposals, negotiated acquisition, sole source, and other methods are reserved for "special case" procurements.³³ Such circumstances are:

- ❑ Specifications (for a good or service) cannot be made sufficiently definite and certain to permit selection based on bid price or evaluated bid price alone.
- ❑ Judgement is required in evaluating competing proposals, and it is in the best interest of the City to balance price, quality, and other factors.
- ❑ There is only one available source.
- ❑ Testing, experimentation, or evaluation is required to determine the feasibility and application of an innovative product, approach, or technology not currently used by the City.
- ❑ The need for advance screening of qualifications is paramount and pre-qualification is appropriate.
- ❑ Innovative procurement methods not currently used by the City are tested and evaluated.³⁴

All open market procurements require thorough documentation regardless of method. Each must include a Presolicitation Review Report (PSRR), which is an account of an agency's need for the good or service and initial cost estimates. The PSRR also provides justification for the source selection method and a framework for the selection of the supplier. PSRRs are approved by the Agency Chief Contracting Officer (ACCO), the highest procurement specialist in each agency.³⁵

³¹ *Procurement Policy Board Rules, op. cit.*, Section 3. Exact language.

³² The City has a preference for competitive sealed proposals when procuring contracts for "information technology equipment, non-commodity data processing, architectural, engineering, client, legal, accounting, financial, training, educational, cultural, medical, managed care, employee health benefits, scientific, management, research, performing arts, and systems consultation services." *Ibid.*, Section 3-01(b)(c).

³³ Additional special case methods are demonstration projects, innovative procurements, and some government-to-government purchases.

³⁴ *Procurement Policy Board Rules, op. cit.*, Section 3-01(2).

³⁵ The presolicitation review report must include the following: "1) a description of the goods, services, or construction to be procured; 2) a statement of need in line with the agency's programmatic responsibilities; 3) a statement of the date or time period required for delivery or completion and an estimate of the length of time the proposed contract will remain in effect, including any renewals or extensions; 4) a statement of the basis for the decision to contract out for services; 5) a statement addressing the anticipated level of competition based on agency staff knowledge of the market, and any surveys performed as appropriate; 6) an estimate of the cost of the proposed contract, and a certification that sufficient funds are available or anticipated to be available when the contract is executed; 7) a statement of the method of source selection planned, together with all determinations and findings required pursuant to the rules governing that method of source selection; and 8) if life cycle costing, value analysis, or other technique is used, the result of such analysis." *Ibid.*, Section 2-02.

After completing the PSRR, an agency creates a solicitation document detailing the good or service being procured. For competitive sealed bids, the solicitation is then submitted to the Law Department to be reviewed as to form.³⁶ After approval by the Law Department, the agency mails or otherwise makes available for a fee the documents to prospective bidders. Notification of the solicitation is sent out to all vendors on a bidders' list or proposers' list and issued in the *City Record*, a daily publication listing all New York City solicitations. If material changes are made to the solicitation documents after posting, the solicitation process must be repeated.

Bids and proposals submitted by the due date are tabulated or evaluated based on predetermined criteria (price only for competitive sealed bids). A determination of responsibility must occur before a selected vendor can be awarded a contract. This involves a review of the Vendor Information Exchange System (VENDEX) and a vendor name check from the Department of Investigation and the Department of Finance. VENDEX is a database that details vendors' financial histories, prior city contracts, and performance reviews. VENDEX is maintained by the Mayor's Office of Contracts (MOC). A vendor must be able to fulfill the contract based on this information and must not have been the subject of a closed investigation within the past five years by the Department of Investigation.³⁷ The Department of Finance determines if vendors are tax compliant.³⁸ For procurements over \$100,000, a public hearing also must be held if the contract is let through any method other than competitive sealed bidding. After these procedures, if the vendor is determined to be responsive and responsible, a Recommendation for Award (RFA) is made by the ACCO. The RFA documents the contracting process, includes the date and signature of all required approvals, and states the basis for awarding the contract.³⁹

All documents preceding the RFA are then submitted to MOC's Contract Review Unit (except for contracts let by competitive sealed bidding). The Contract Review Unit ensures that the agency has complied with proper contracting procedures for solicitation and award of the contract. In addition, all procurements above \$2 million (other than competitive sealed bids or proposals) require a certificate of mayoral approval that is issued through MOC.⁴⁰

The contract file is then sent to the New York City Comptroller's Office for registration. Registration, as required by the City Charter, is neither an approval of the contract nor approval of the process by which the contract was let. Registration serves to maintain a registry of City contracts, encumber funds to ensure that money is available to pay vendors, and provide the Comptroller with a means to object to a contract if there is suspicion of corruption in the process

³⁶ The Law Department reviews contracts for competitive sealed proposals much later in the contract process. Because terms of a competitive sealed proposal may change slightly before a final contract is awarded, the Law Department approves this type of contract at the end of the procurement cycle.

³⁷ The Department of Investigation can only supply the results of a name check on closed investigations. If an investigation is pending, DOI cannot release information about the investigation or who has requested it.

³⁸ For procurements below \$100,000, an on-line vendor name check can be done through VENDEX. For procurements above this limit and for vendors whose aggregate business within the past 12 months exceeds \$100,000, a full Department of Investigation and Department of Finance name check is required.

³⁹ The RFA lists 20 items that document the basis for award and the contracting process. *Procurement Policy Board Rules, op. cit.*, Section 2-09(b).

⁴⁰ New York City Charter, §317.

or with the vendor. After registration, a notice of award is published in the *City Record* and the vendor is notified to proceed.⁴¹

Negotiated acquisition and sole source methods follow the same procedures, although MOC must approve the use of negotiated acquisition prior to any action and there are no formal solicitation documents. Public notice must be made in the *City Record* prior to negotiations.⁴² Terms of a contract then are negotiated with one vendor for sole source procurements, or for negotiated acquisition with a small group of suppliers. All documentation of the contracting process is included in the PSRR and the RFA. Table 1 summarizes the key features of the four major types of open market procurements.

In addition to these common methods of open market procurements, the City procures goods and services via renewal contracts, emergency contracts, and line-item appropriations. Even though these methods together account for about a third of all City contracts, they are rarely used as primary contracting methods. Renewals, comprising 20 percent of all contracts, are used primarily for social service contracts and extend the terms of existing contracts based on conditions set forth in the originals that were let through one of the above methods. The option to renew must be specified in the initial contract between the City and the vendor. Emergency procurements involve acquiring goods or services necessary to avoid or mitigate unforeseen danger to life, safety, or property. The need to procure quickly prevents these goods and services from being acquired through normal contracting methods. Agencies do not have to register these contracts with the Comptroller or issue a public notice until the contract has been let. Finally, line-item appropriations are allocations made during the budget process by Borough Presidents and City Council members for a contractor-specific, line-item budget appropriation. Although there are more line-item appropriation contracts than negotiated acquisition contracts, the former make up less than 1 percent of the value of all City contracts.

⁴¹ The Comptroller has 30 days to register a contract or issue an objection to the contract. If an objection is made in writing to the Mayor, two actions can take place: (1) the Mayor can override the objection and require registration within 10 days; or (2) the Mayor can agree with the objection and correct the problem. City of New York, Department of Citywide Administrative Services, New York City Procurement Training Institute, Advanced City-Specific Contracting Seminar, June 2001, Chapters 9-10.

⁴² Public notice of intent to begin negotiated acquisition may include how suppliers can express interest in the procurement or how suppliers can express interest in the future. Sole source public notice offers suppliers an opportunity to notify the agency of their ability to supply a good or service, or to express interest in future procurements of this type. *Procurement Policy Board Rules, op. cit.*, Section 3-04(d) and 3-05(c)(1).

TABLE 1
COMPARISON OF SOURCE SELECTION METHODS

Method	Circumstance for Use	Solicitation	Procedures	Award
Competitive Sealed Bid	It is practicable and advantageous to award based solely on lowest bid price.	Notices of solicitation are sent to vendors on a bidders' list or pre-qualified list. A public notice is placed in the <i>City Record</i> at least 15 days before bids are due.	Bids are publicly opened. Low bid determined. Negotiations may be conducted with low bidder for price only.	Procurement awarded to lowest responsive and responsible bidder.
Competitive Sealed Proposal	It is beneficial to award based on a combination of technical quality and price.	Notices of solicitation are sent to vendors on a proposers' list or a pre-qualified list. A public notice is placed in the <i>City Record</i> no less than 20 days before proposals are due.	Proposals are opened by evaluation committee. Committee evaluates and ranks proposals by a predetermined set of criteria. Negotiations may be conducted with finalists. A public hearing must be held for contracts over \$100,000.	Procurement awarded to the responsive and responsible proposer submitting the best combination of technical ability and price.
Negotiated Acquisition	Special conditions prevent the use of the previous two methods. (For example, time constraints, limited number of vendors, need for vendors in the middle of a project, etc.)	One or more vendors are invited to negotiate or selected from a pre-qualified list. Notice of intent to enter into negotiations must be placed in the <i>City Record</i> for five consecutive editions and 10 days before negotiations are expected to begin.	Negotiations for a fair and reasonable price are pursued. The City's Chief Procurement Officer must approve the use of negotiated acquisition method. Written records of conduct of negotiations and basis for determinations must be made for each vendor. A public hearing must be held for contracts over \$100,000.	Award granted to the responsive and responsible vendor based on negotiated terms and price. Contracts over \$2 million must get Certification of Mayoral Approval.
Sole Source	Only one vendor is available to provide a good or service. Sole source small purchases can not exceed \$2,500.	Notice of intent to enter negotiations with a sole source must be placed in the <i>City Record</i> for five consecutive editions no fewer than 10 calendar days before negotiations begin. Notice should solicit expressions of interest from suppliers qualified to compete for the procurement.	Negotiations are conducted with the identified sole source. A public hearing must be held for contracts over \$100,000.	Sole source provider must be deemed responsive and responsible. Contracts over \$2 million must get Certification of Mayoral Approval.

Table 2 summarizes the number and value of open market procurements for fiscal year 2001. The most frequently used method is competitive sealed bidding, because it is the only method other than an emergency contract that does not require extensive approvals above the ACCO, and it is the City's preferred method of source selection.

Table 2
New York City
Open Market Procurements by Method
Fiscal Year 2001
(dollars in millions)

	Volume		Value	
	Number	Percent	Amount	Percent
Competitive Sealed Bids	1,735	44%	\$3,452	42%
Special Case Procurements	2,229	56	4,698	58
Request For Proposals	692	17	1,630	20
Sole Source	43	1	1,001	12
Negotiated Acquisitions	210	5	549	7
Renewals	776	20	1,190	15
Line Item Appropriations	342	9	70	1
Emergency	60	2	19	0 ^b
Other ^a	106	3	239	3
Total	3,964	100%	\$8,150	100%

Source: City of New York, Mayor's Office of Operations, *Mayor's Management Report*, (NYC: MOO, October 5, 2001), p.240-279.

Note: ^aIncludes required or authorized source, demonstration projects, and certain government-to-government purchases. ^bDenotes less than one half of 1 percent.

As a group, however, special case methods are used in over half of all City procurements. Request for proposals and renewals are the most common of this type and have the largest value within this category. Special case procurements are subject to direct oversight by MOC.⁴³

⁴³ All special case procurements require oversight by the MOC unless authority has been delegated to the agency upon adequate assurance of the agency's capacity to comply with procedural requirements.

PROBLEMS WITH NEW YORK CITY'S PROCUREMENT PROCESS

The City's web of rules and procedures governing procurement creates a challenging environment in which to deliver services. Criticism of the system resounds throughout City agencies and among vendors who do business (or refuse to do business) with the City. Complaints are that the process is cumbersome, time-consuming, burdened with oversight, and replete with valueless procedures.⁴⁴ The City's emphasis on process over professional judgement also creates a culture of caution among procurement personnel, who are empowered only to find fault with or "rubberstamp" documents rather than innovatively seek the best value for the City.

The best evidence of the need for streamlining is long procurement cycles. Table 3 summarizes processing times for three major purchasing methods. Although cycles were reduced in fiscal year 2001 for competitive sealed bids and negotiated acquisitions, procurements still take, at a minimum, almost three months. These times are understated, however, because they do not include the planning and specification writing stages of procurement. Reports estimate that the cycles are closer to four to eight months when the preliminary steps are included.⁴⁵

Table 3
Average Number of Days to Process Contracts
Fiscal Years 1998 - 2001

<u>Type of Procurement</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>
Competitive Sealed Bid	109	110	123	82
Competitive Sealed Proposal	268	251	251	351
Negotiated Acquisition	239	176	211	150

Sources: City of New York, Mayor's Office of Operations, *Mayor's Management Report*, (NYC: MOO, fiscal years 1998 to 2001).

Notes: Figures are the average for all City agencies with contracts weighted by number of contracts.

Long procurement cycles can be traced to four underlying problems – lack of effective governance and management, burdensome oversight, excessive reliance on paper, and poor use of e-government resources.

⁴⁴ New York City Charter Revision Commission, *op. cit.*, p.83.

⁴⁵ *Ibid.*, p.83.

LACK OF EFFECTIVE GOVERNANCE AND MANAGEMENT

Municipal procurement is intended to be governed by rules set by the PPB, managed centrally through MOC, and implemented at the agency level by the ACCO. This system of governance, however, thwarts efficiency and prevents effective management.

Procurement Policy Board

The City Charter empowers the PPB to set rules governing procurement.⁴⁶ However, it is hampered in exercising this responsibility by the structure of the Board and by legal limits on its authority.

The PPB is comprised of five members, three appointed by the Mayor and two appointed by the Comptroller. However, only two of these members, one of the Mayor's appointees and one of the Comptroller's appointees, are required to be independent in the sense that they do not hold public employment, and all serve at the pleasure of the appointing official.⁴⁷ The Mayor and the Comptroller have appointed people working for them to the other positions. These members reflect the views of the Mayor or the Comptroller and do not always have the independence to make judgements outside of the interests of the Mayor or Comptroller. As a result, rule changes are easily entangled with the politics between these two parties, obstructing what is best for the City's procurement policy.

The PPB also lacks authority to change certain procurement rules. General Municipal Law of New York State, the City Charter, and the City Administrative Code govern procurement along with the PPB rules. Small purchase limits, for example, must be approved by the PPB and the City Council.⁴⁸ In 1997, the PPB passed a rule doubling small purchase limits for services to \$50,000, and construction to \$100,000 (goods remained unchanged at \$25,000). The City Council, however, has yet to pass a concurring resolution to make the change effective. Consequently, small purchase limits have not changed since 1995.⁴⁹

Mayor's Office of Contracts

The Mayor manages procurement through the City Chief Procurement Officer (CCPO) who is the head of MOC. Since its formation, however, MOC has not acted as a comprehensive manager of procurement. Instead, MOC has taken on a narrower role as gatekeeper of large contracts and those that are let through special case methods. MOC's role as the Mayor's oversight body rather than a service, support, and planning unit for citywide purchasing has resulted in no agency with the authority or mission to be a comprehensive manager of

⁴⁶ The City Charter empowers the PPB to set rules governing procurement, but the PPB cannot "exercise authority with respect to the award or administration of any particular contract." New York City Charter, §311(f).

⁴⁷ The Mayor and Comptroller have the authority to appoint an entirely independent board. The current PPB has three independent appointees and two holding public employment. *Ibid.*, §311.

⁴⁸ *Ibid.*, §314 (c).

⁴⁹ In 1999, small purchase limits for information technology were raised to \$100,000 to facilitate Y2K compliance. In 2000, this change was made a permanent PPB Rule.

procurement. In addition, no one agency is responsible for managing vendor relationships with the City.⁵⁰

MOC's narrow focus on oversight frustrates both agencies and vendors. Anecdotal complaints reveal that MOC's Contract Review Unit frequently holds up agency contracts over minor procedural details that do not affect the terms of the contract. Vendors also complain that VENDEX processing and approval is a major impediment to starting their work. MOC's preoccupation with preventing the next procurement scandal slows down countless contracts and discourages vendors from working with the City. This distrust of agency and vendor professionalism pervades City contracting and promotes inefficiency.

Agency Chief Contracting Officers

Management of day-to-day procurement is intended to rest with the ACCO and the head of each agency. This organizational structure acknowledges that agencies know the most about how to meet their needs, and it promotes end-user satisfaction. However, ACCOs do not always have the support or authority they need to manage their agencies' contracting process. As shown in Table 4, some agencies have only a limited volume of contract activity. In these circumstances, the ACCO may not have sufficient support from MOC to handle a complex, specialized contract and may require technical support from colleagues in other units or from a centralized procurement entity. Second, in practice, agency level officials are not granted sufficient autonomy to ensure compliance with contracting rules. Other municipal oversight agencies must approve many key contract decisions which, in turn, delays contracts.

BURDENSOME OVERSIGHT

The City requires multiple authorizations outside the agencies before a contract can be let. Currently, oversight involves up to 10 agencies with responsibility determined by contract type, size, and method. For example, request for proposals with an estimated cost over \$100,000 must receive authorization, at a minimum, from the Office of Management and Budget (OMB), MOC, the Law Department, the Department of Investigation (DOI), the Department of Finance (DOF), and the Department of Business Services (DBS). In addition, the agency must register the contract with the Comptroller's Office. With so many agencies involved in oversight and administration, it is not surprising that procurement cycles for requests for proposals take, on average, eight months. These multiple authorizations also distribute accountability too broadly.

The multiple sources of oversight seek not only to monitor the decisions of agency procurement personnel, they also seek to ensure the responsibility of the private vendors. Determination of vendor responsibility has two components—integrity and capability. MOC, DOI, and DOF oversee integrity, and the procuring agency reviews capability. Each ACCO

⁵⁰ Currently, vendor management is split among three agencies. The Department of Business Services helps small, women-owned, and minority-owned businesses work with the City; MOC maintains VENDEX and a centralized bidders' list; and the Department of Finance manages the Electronic Funds Transfer program for vendors who want to receive payment directly to their bank accounts. There is no single agency that a business can call to get general information about how to do business with the City or file a complaint.

reviews vendor integrity documents such as those available on VENDEX and those made available through DOI, then he or she determines whether or not a vendor is responsible. This process permits an ACCO from one agency to judge a vendor responsible while another ACCO denies a contract to the same vendor. While there may be occasion for this to occur due to the size and nature of a contract, it opens the City to potential lawsuits from disgruntled vendors. It also duplicates integrity determination efforts that could be centralized.

Table 4
Number of Contracts and Value by Agency^a
Fiscal Year 2001
(dollars in thousands)

<u>Agency</u>	<u>Number</u>	<u>Value</u>
Aging	389	\$209,243
Buildings	1	1,162
Business Services	7	768,130
Children's Services	276	1,350,432
City Planning	1	50
Citywide Administrative Services	959	624,311
Correction	30	19,118
Cultural Affairs	1	200
Design & Construction	240	905,550
Employment	42	16,105
Environmental Protection	196	1,311,408
Finance	8	111,308
Fire	24	50,004
Health	67	352,875
Homeless Services	87	350,949
Housing Preservation & Development	197	109,980
Human Resources Administration	95	252,004
Information Technology & Telecommunications	26	53,072
Juvenile Justice	10	13,478
Law	65	16,375
Mental Health	159	179,123
Parks & Recreation	302	234,142
Police	31	30,263
Probation	9	2,816
Sanitation	49	491,514
Taxi & Limousine Commission	5	690
Transportation	184	612,628
Youth & Community Development	523	79,822
Total	3,983	\$8,146,749

Source: City of New York, Office of Operations, *Mayor's Management Report*, (NYC: MOO, October 5, 2001), p.240-279.

Notes: The following agencies had no procurement awards in fiscal year 2001: Civilian Complaint Review Board, Landmarks Preservation Commission, Department of Consumer Affairs, Department of Records and Information Services, Commission on Human Rights, Department of Investigation, and the Civil Service Commission. Procurement awards for the Mayoralty are not reported.

^aExcludes small purchases, purchase orders, and the encumbrances imposed for multi-year contracts awarded prior to fiscal year 2001.

Table 5 lists the agencies involved in procurement and their functions. Although the process should have sufficient controls to prevent corruption and waste, the current oversight structure leads to multiple reviews and duplication of effort. It also adds significant time to each contract cycle, because approvals must be granted at various stages of the process before the next stage can be pursued.

Table 5
New York City
Agencies With Procurement Oversight or Administrative Functions

<u>Agency</u>	<u>Function</u>
Oversight	
Department of Business Services/Division of Labor Services	Reviews vendor compliance with Equal Employment Opportunity regulations for contracts greater than \$50,000. Administers Bid-Match program.
Department of Finance	Reviews vendor tax compliance.
Department of Investigation	Checks vendor criminal history and investigations.
Law Department	Reviews contracts as to form.
Mayor's Office of Contracts	Reviews special case procurements. Maintains VENDEX.
Office of Management and Budget	Approves expenditures and reviews information technology system plans.
Office of Operations	Authorizes procurements above \$2 million.
Office of the Comptroller	Registers contracts.
Administrative	
Department of Citywide Administrative Services/Division of Municipal Supply Services	Purchases commodities above small purchase limits or delegates this authority to agency. Processes small purchase orders from requirements contracts.
Financial Information Systems Administration	Encumbers purchase orders and payment vouchers.

Source: City of New York, Department of Citywide Administrative Services, New York City Procurement Training Institute, Advanced City-Specific Seminar, June 2001.

EXCESSIVE PAPER

The current procurement process relies excessively on “paper.” In this context, “paper” refers to the multiple forms justifying and documenting each purchase, and the physical effort it takes to move these forms through the offices that must review and approve them. Paper also adds unnecessary time to the contract processing.

In most instances, small purchase procedures are the quickest. It takes an average of approximately two weeks to process a small purchase.⁵¹ Availability is contingent upon whether the City has the item in surplus, in its storehouse, or on a requirements contract. Commodities purchased under the micro-purchase limit (\$2,500) with a P-card are acquired more quickly.⁵²

The relatively short time for a small purchase does not mean that it would not be even quicker if the process required less paper. Currently, small purchases go through several paper-based reviews. Prior to issuing a purchase order or storehouse requisition, agencies must prepare internal forms, and these forms may require several endorsements and approvals within an agency. In the case of capital purchases, they also must be reviewed internally for correct assignment of object and sub-object budget codes. After gaining appropriate authorization for a purchase, agencies must check to see if a requirements contract exists for the commodity. Despite a new system that allows agencies to check and review requirements contracts via the City's Intranet, buyers still must complete a paper requisition that is sent to DCAS if a requirements contract is used.⁵³ At some point in the future, the City's new Financial Management System (FMS) is supposed to allow agencies to submit electronic purchase orders to DCAS, but the date has not been made public and users of FMS have not been notified when this function will be operable.

Small purchases solicited via phone or fax must be documented. Although each agency is responsible for developing its own documents, this process requires time-consuming paperwork. The solicitation with specifications is prepared and issued via fax or phone; at least five vendor responses are solicited; and the vendor with the lowest responsive and responsible bid is issued a purchase order. Funds for the purchase must be encumbered through the Financial Information Services Agency (FISA), and a record of the purchase must be kept at the agency. PPB rules dictate that a procurement file for a small purchase must include 14 items.⁵⁴

Open market purchasing for commodities over the small purchase limits is under significantly more controls, increasing the amount of paper and the risk of a long procurement cycle. As discussed in the background section, open market purchases include competitive sealed bids, competitive sealed proposals, and special case procurements.

Once an agency has identified a need and completed all of the internal controls for procurement via a competitive sealed bid, at least twelve steps and four outside oversight reviews

⁵¹ New York City Charter Revision Commission, *op. cit.*, p.87.

⁵² In August 2001, DCAS/DMSS began a citywide program using Staples to enable City agencies to order office supplies over the Internet for delivery within 48 hours. Full implementation is dependent upon agencies having Internet access. See *Mayor's Management Report, Volume I: Agency Narratives* for fiscal year 2001, p.508.

⁵³ City of New York, Department of Citywide Administrative Services, New York City Procurement Training Institute, Advanced City-Specific Contracting Seminar, June 2001.

⁵⁴ The procurement file must include: "1) name of the responsible Contracting Officer; 2) date of contract award; 3) purchase order or contract number; 4) name and address of supplier; 5) invoice and receiving documents; 6) description of goods, services, construction, and construction-related services; 7) list of each supplier solicited and specific source of each supplier; 8) names of suppliers and bid amounts; 9) copy of advertisement or written solicitation (if applicable); 10) quotations and notations pertaining to oral bid solicitations (if applicable); 11) written bids and offers (if applicable); 12) all correspondence; 13) bid tabulations; and 14) written basis of award." *Procurement Policy Board Rules, op. cit.*, Section 3-08(e).

must be completed before the contract can be let. These steps are: (1) drafting the invitation for bid; (2) completing a presolicitation review report; (3) mailing the solicitation to vendors on a bidders' list; (4) publishing a notice of solicitation in the *City Record*; (5) receiving vendor bids and responding to questions about the solicitation from vendors; (6) managing the public opening of bids; (7) tabulating and identifying the lowest bid; (8) determining if the lowest bidder is responsible; (9) submitting a recommendation for award for ACCO approval; (10) submitting the contract to the Comptroller for registration; (11) advertising the award of the contract in the *City Record*; and finally 12) executing a notice to proceed to the vendor. The outside reviews are by the Mayor's Office of Contracts (VENDEX), the Department of Investigation (vendor name check), the Department of Finance (tax compliance), and the Law Department (contract form, solicitation).⁵⁵

Like competitive sealed bids, special case procurements require numerous steps and authorizations. The latter are more complicated, however, because the decision to award a contract is based on criteria other than lowest price. Such subjective review requires more extensive evaluation and documentation of reasons for selecting a specific vendor.

Negotiated acquisitions and competitive sealed proposals, on average, take five months to a year, respectively, to complete. (Refer to Table 3.) These methods involve evaluation committees, more authorizations from oversight bodies, and more cost analysis—all of which add time and paper to the procurement cycle. The requirement for a public hearing for contracts over \$100,000 alone adds up to two months to this cycle. Documentation that must be submitted to MOC for the public hearing includes four copies of no less than six different multi-page documents.⁵⁶

Except when an individual agency has created its own electronic internal forms (such as the presolicitation report and the recommendation for award), the entire process is paper driven. A study in 1994 conservatively estimated that each year approximately 3.9 million sheets of paper are submitted to the Comptroller's Office for the registration of contracts. This is matched with at least 8 million sheets of paper for documents used for internal agency controls, not including the distribution of solicitations to vendors or the paperwork involved in processing vendor payments.⁵⁷ Although no recent estimate of paper volume has been done, there is reason to believe that these numbers would apply today. The only automation of procurement forms since 1994 has been during registration of the final contract with the Office of the Comptroller and through the City's Intranet where agencies can download templates of some documents. At the Office of the Comptroller, documents are electronically imaged for review and registration. This measure to reduce paper is limited in impact, however, because the Comptroller's Office does not register purchases below the small purchase limits and it requires only one copy of the contract while other paper copies are kept with the agency and other oversight bodies.

⁵⁵ City of New York, Department of Citywide Administrative Services, New York City Procurement Training Institute, Advanced City-Specific Contracting Seminar, June 2001.

⁵⁶ Ibid.

⁵⁷ Deloitte & Touche, p.114-115.

POOR USE OF E-GOVERNMENT RESOURCES

The abundance of paper within the procurement process is a significant incentive to automate, an opportunity that many governments have addressed through the use of electronic government (e-government). E-government has two faces—the one the public sees when it accesses the Internet, and the invisible structure providing the services, often referred to as the “back-end” of government services. A major thrust of the City’s e-government initiatives has been to give citizens access to public information via the Internet. The City’s concentration on the visible face of e-government should be commended; however, electronic access to contract documents and back-end functions that allow businesses to interact with the City are lacking.⁵⁸

Most importantly, the City’s website does not allow vendors to do business directly with the City. The City’s main portal categorizes links according to topics like “Learn about doing business with NYC agencies” and “View NYC’s current contracting opportunities,” but these links require a visitor to download documents that must be mailed to and processed manually by the appropriate City agency. Although the *City Record* on-line lists solicitations for agency procurements, vendors still must contact each agency to get specifications, due date information, and any other particulars for a solicitation. This wastes vendors’ and agencies’ time attending to phone calls, copying or picking up specifications, and asking or answering questions.

One of the most burdensome tasks for vendors who want to work for the City is completing and renewing VENDEX materials. VENDEX forms come in two sections with as many as 26 pages in each section. Vendors must submit three copies of these forms to MOC. Currently, vendors can download each section of the VENDEX form from the City’s website, but they can neither submit them electronically nor access via the Internet information that the City compiles about their performance. Vendors must go to the Public Access Center in lower Manhattan to see their information in the City’s database. A vendor also must resubmit forms for relevant sections each time there is a substantive change to the company. By failing to be more vendor-friendly and interactive, the City’s website misses a huge opportunity to save time and money for agencies and vendors.

The current website also fails to provide comprehensive information to different sectors of vendors. For example, a vendor who specializes in construction services must scroll through all links to learn that there is information on various City agencies’ websites that provide, for example, requirements for getting on the Department of Housing Preservation’s pre-qualified bidders’ list, the City’s building code, and a Bonding Technical Assistance Program. In addition, not all vendors are able to find links to their services, because some agencies do not post their procedures and bidding opportunities on their sites.

The City’s procurement process does not integrate existing automated systems to enhance back-end efficiency. As noted earlier, agency buyers can access the City’s Intranet to learn if a

⁵⁸ New York City received first place in the “Best of the Web” contest for local government websites in 2001 as judged by the Center for Digital Government and *Government Technology* magazine.

requirements contract exists for a particular item, but they cannot requisition the item electronically. Buyers also can use P-cards, but they have no means to shop on-line through the City's Intranet or requirements contracts. Moreover, many buyers do not have access to outside Internet sites, a significant hindrance in performing competent market research. Finally, agency procurement officers have no automated workflow system that allows them to move documents electronically through various authorizations. All outside oversight units require written signatures that are manually transferred by the City's interoffice mail system. This alone adds days to procurement cycles and increases the risk of misplaced or lost files.

BEST PRACTICES IN STREAMLINING PROCUREMENT

The City is not alone in its procurement difficulties. State and local governments across the nation have been struggling to reduce procurement cycles while getting the best value for goods and services. With advancements in information technology, governments increasingly have turned to such technology and the Internet to streamline procurement. Through electronic catalogs, electronic vendor management software, and workflow imaging systems, state and local governments are transforming procurement into an efficient e-government application. As many as 42 states are expected to have some form of e-procurement in place by 2003.⁵⁹ As jurisdictions adopt new technology, they also have adopted new techniques such as “reverse auctioning” to get the best value for some commodities.⁶⁰

The most advanced of these new e-procurement systems automate the process from request to purchase. This involves electronic request forms, workflow management software, e-signature authorization, master contracts from which to purchase goods, and electronic payments. The key benefits of these systems are:

1. *Reduced paper transactions and associated costs*—Workflow technology replaces most paper transactions, saving time and cost for paper, printing, copying, and postage. Studies of e-procurement initiatives in a wide range of organizations indicate significant savings. Prudential Securities estimates a reduction in the cost of placing an order from \$175 to \$10; a more conservative estimate from the National Association of Purchasing Management is a reduction from \$80 to \$40 per order.⁶¹
2. *Reduced cost of goods and services*—E-procurement allows agencies to use their collective purchasing power to obtain lower prices through e-catalogs and reverse auctioning. It also creates transaction data, which can be analyzed to determine where bulk purchases or pre-negotiated contracts might be cost-effective.
3. *Enhanced vendor participation*—E-procurement makes it easier for vendors to participate, and thus for agencies to attract more bidders. Vendors receive notification of solicitations via e-mail and can respond with their bids electronically. Vendors can access specifications for solicitations on-line rather than paying a fee for a paper copy. E-procurement also eliminates the need for vendors to search through multiple sources for bidding opportunities.
4. *Greater compliance with procurement laws and regulations*—Governments using e-procurement find it easier to attain compliance with procurement laws and regulations. The

⁵⁹ William Nesh, “Companies Ditch Self-Funded Model for E-Procurement,” *Washington Technology* (April 16, 2001), <http://www.washingtontechnology.com/news/16_2/state/16418-1.html>.

⁶⁰ In a reverse auction, an agency puts a contract up for bid and gives it to the lowest bidder. However, unlike sealed bids, multiple rounds of bidding are allowed in order to allow vendors to rebid at a lower price. Internet technology permits such reverse auctions to take place more quickly and fairly than was possible before. Reverse auctions have been done on the federal level for about four years, and states have used them for the last two years.

⁶¹ Keah Choon Tan and Roy Dajalos, “Purchasing Strategy in the 21st Century: E-Procurement,” *Practix* (June 2001), p.10.

workflow system tracks appropriate authorizations and provides an instantly accessible record of all actions taken on a transaction.⁶²

COMMON FEATURES OF ADVANCED E-PROCUREMENT SYSTEMS

Sophisticated e-procurement systems provide a central point of information for agencies that need goods and services and for vendors who want to do business with the government. They also provide an interactive service, sometimes called an e-marketplace, that enables procurement transactions to occur on-line. The e-marketplace benefits both government and vendors. For agencies, it allows buyers to access pre-negotiated contracts for specific items or browse catalogs of goods and services that vendors post. Buyers can fill a “shopping cart” with items and process their orders directly to the vendor. Payment can occur through a P-card or an electronic payment. All of these transactions are recorded in a financial management system, creating records for future audits and for use in analyzing purchasing trends and patterns.

Functioning examples of these sophisticated systems exist in the City of Wichita, the State of Maryland, the State of Virginia, and the State of Idaho. For each, e-procurement began as a pilot project for a few agencies and services, then expanded to become system-wide as technical expertise and vendor confidence grew. Wichita’s central purchasing unit adopted the system in 2000, after completing a feasibility study. Maryland, Virginia, and Idaho have more decentralized procurement structures and began offering e-procurement services to state agencies and local governments during 2001. Detailed descriptions of these systems are presented in the Appendix to this report.

Maryland and Virginia use the e-catalog function to leverage their purchasing power and limit “maverick buying” that occurs when agencies buy goods on their own rather than through pre-negotiated contracts. These states have reduced their unit prices for goods by guaranteeing vendors a significant volume of purchasing through pre-negotiated contracts. Maryland estimates that limiting maverick buying saves 20 percent on items bought from these contracts and e-catalogs.⁶³

In addition, the e-marketplace functions as a centralized solicitation site for agencies that issue a competitive sealed bid or proposal. Agencies use a standard format for the solicitation and attach a specification file that can be downloaded by vendors. All responses to solicitations received from vendors are put in an electronic lock box to be opened on the due date. Results of the opening are posted for vendors to measure their margin from the lowest bid, and the lowest bidder receives electronic notification of the potential contract.

For vendors, the e-marketplace provides a central point of access for all information needed to qualify to do business with the government and opportunities to sell their goods and services. Vendors complete on-line forms to document their integrity, and they receive a unique vendor identification number. Along with an ID number, vendors receive a unique login code to

⁶² Geoffrey Segal and Matthew Taylor, “Electronic Procurement: How Technology is Changing Government Purchasing,” prepared for the Reason Public Policy Institute, <www.rppi.org/ebrief111.htm>.

⁶³ Carol Anderson, “The eBuyer Era,” *Governing* (September 2000), p.68.

use when they submit bids or proposals electronically. This login code serves as an electronic signature that is contractually binding. Vendors are notified about potential business via e-mail, and they can monitor the central website. For vendors who are new to a specific market, Wichita's system provides a history of agency purchasing, providing quantity information, unit price, and when requirements contracts expire.

In Wichita and Idaho, vendors who access the procurement website can browse solicitations by date, category of good, or soliciting agency. All solicitations list contact information for further inquiry. Wichita's site takes a vendor through a four-step process: Vendors first view a summary of the goods desired; next they read the terms of the contract; then they can enter a response to the solicitation using their vendor identification; finally, they can review their bids and change them if necessary. After bids are opened and tabulated on the due date, bid responses are posted on the web. Wichita maintains a listing of vendors' bids for each solicitation for up to six months after the opening date.

Virginia's e-marketplace offers similar services and also provides vendor support for questions about and difficulties using its system. For vendors who are new to e-procurement, Virginia's system provides a Supplier Toolkit explaining how vendors can make their goods and services available to state and local governments. Virginia also offers a toll free hotline for vendors that have technical difficulties. The jurisdictions that use e-procurement agree that vendors need a good support system and significant marketing to convince them that the new system is worthwhile. Idaho conducted a vendor survey before implementing its system and found that 92 percent of respondents were capable and ready to do business with the State electronically. Maryland supports its vendors through outreach events twice a month. Wichita identifies vendors who submit bids and proposals by paper, then approaches them individually about its electronic services.

Marketing and providing technical support to vendors are new roles for procurement officials who have traditionally pointed vendors to rule books. Officials from the jurisdictions with advanced systems agree that these roles are important to successful implementation and should be considered in the costs of an e-marketplace. Industry officials and analysts estimate that the initial cost of a statewide system can range from \$5 million to \$15 million excluding personnel training.⁶⁴ Virginia's and Maryland's start-up costs were largely funded by private companies, although Virginia's operating costs are approximately \$1.8 million annually. Due to its small scale, Wichita's initial cost was considerably less expensive--\$300,000 for a software module that connects to its financial management system.

Instead of absorbing the full costs of developing an e-procurement system, some governments use a partially self-funded model. It places some risk and reward with the company who develops the system. Vendors pay subscription fees to use various features of the site and a transaction fee for each order. Maryland charges vendors \$150 annually to register and view solicitations on-line, and \$225 each year if the vendor would like to receive e-mail notification of bidding opportunities. Virginia uses a similar fee structure, although its basic service is only \$25 per year. Virginia charges a 1 percent transaction fee for each purchase, but caps the fee at \$500

⁶⁴ Nesh, <http://www.washingtontechnology.com/news/16_2/state/16418-1.html>.

per order. These fees go directly to the company sponsoring the website. Maryland has an agreement with its vendor that once revenue from fees exceeds \$5 million, the State and company share the proceeds. This self-funding approach is claimed to have resulted in savings of \$10 million to 12 million in up-front costs.⁶⁵

The implementation of an e-procurement systems requires significant process redesign and rule modification. Virginia and Idaho's conversion to e-procurement occurred in the midst of larger reform efforts to modify antiquated procurement practices. While analyzing the benefits of creating e-marketplaces, these jurisdictions realized that their rules and procedures would need to permit new practices. Both began to permit the use of electronic files and electronic signatures. Virginia also discovered that its small purchase limits prevented agencies from procuring quickly and tied up resources that were needed for more complex purchasing. It subsequently raised purchase limits and delegated more authority to agencies.

Idaho used its process review to permit reverse auctions. Although as of the end of 2001 it had not yet held a reverse auction, experiences from other states convinced Idaho officials that it was worthwhile to have the flexibility to do so. Pennsylvania has used this technique to buy more than \$200 million of goods and services at a savings of about \$13 million. It cautions other governments that reverse auctioning can be successful only after learning what commodities are best suited for this method and working with resistant vendors.⁶⁶

⁶⁵ Interview by Cynthia Searcy with David Spitzer of e-Maryland Marketplace, January 7, 2002. He could not reveal the full cost of the system, because the vendor that supplies Maryland's service would not release it.

⁶⁶ Shane Harris, "Reverse Auctioning," *The Public Purchaser* (May/June 2001), p.15-16.

NEW YORK CITY'S PROCUREMENT PROGRESS

As noted earlier, the City of New York has been pursuing procurement reform for over 15 years. Initially these efforts focused on organizational changes aimed at averting corruption, but in the early 1990s municipal officials began to seek a more streamlined system that incorporates e-procurement techniques. Some progress has been made, but the City remains far behind the state-of-the-art implemented in other jurisdictions.

A major initiative was launched by Mayor David Dinkins in 1993 when MOC hired a consulting firm to conduct a re-engineering study for procurement. The final report, submitted to newly-elected Mayor Rudolph Giuliani in mid-1994, recommended an initial \$51 million investment in order to achieve \$725 million in savings over five years.⁶⁷ At the heart of the plan were the following initiatives:

- ❑ Procurement Cards—The controlled use of credit cards designed to support and monitor small purchases (\$41 million in savings);
- ❑ Recurring Contracts—Increased use of “catalog” contracts and just-in-time purchasing (\$330 million in savings);
- ❑ Vendor Certification—A centralized registration of all vendors who wish to do business with the City (\$1 million in annual revenue through vendor registration and fees);
- ❑ Non-Recurring Procurements—Empowerment of ACCOs to perform larger procurements unique to their agencies (\$298 million in savings);
- ❑ Central Procurement Services Entity—Consolidation of citywide oversight and management functions into a single entity (\$14 million in savings).⁶⁸

The key component of the re-engineering initiative was computerization. The report identified the basic elements as:

- ❑ A centrally maintained citywide system designed to capture all procurement and contract management transactions from point of requisition to vendor payment;
- ❑ A central database on all authorized vendors, vendor certification status and performance;
- ❑ Standardized citywide commodity and service code classifications;
- ❑ One time data entry;
- ❑ The ability to search for, locate and order electronically items on citywide requirements contracts;
- ❑ Electronic approvals;
- ❑ Electronic data interchange with vendors, including electronic requests for bids and proposals, electronic vendor responses, and purchase orders;
- ❑ Electronic bulletin board to advertise solicitations;
- ❑ Electronic funds transfer for vendor payment.⁶⁹

⁶⁷ Deloitte & Touche, executive summary, iii.

⁶⁸ *Ibid.*, p. iv.

⁶⁹ *Ibid.*, p. vi-vii.

Mayor Giuliani initially declared that his Administration was “determined to reform and streamline the City’s often complex and protracted procurement system.”⁷⁰ However, the new mayor was under tight fiscal pressures in his early years, and the Administration did not adequately fund the e-procurement initiative recommended in the consultant’s report. Instead, the Mayor established the E-Procurement Task Force. The goal of the Task Force is to develop an electronic strategy that lowers the cost of goods and services, shortens the purchasing cycle, lowers the cost of administering procurements, and reduces inventory. The task force includes representatives from MOC, the Office of Technology, DCAS, OMB, PPB, the Law Department, City Council, and the Comptroller’s Office.⁷¹

Mayor Giuliani’s procurement reforms involved rule revision, performance based contracting, information technology advancements, process re-engineering initiatives, and professional staff development.⁷² The following initiatives have been implemented.

- ❑ Procurement Rules Reform—The PPB has revised its rules. Notably, new rules permit electronic files and submissions, eliminate public hearings for renewal contracts that are substantively unchanged, expand the use of negotiated acquisition, expand government-to-government purchasing, and permit negotiations with a low bidder to reduce the price of a competitive sealed bid. These changes and many others reduced the number of pages in the PPB rule book from 288 to 134.⁷³
- ❑ *City Record* On-Line—Vendors can read the *City Record* via the Internet to learn about contract awards and agency solicitations. Information about public hearings, agency rule changes, court notices, and other procurement issues are only listed in the *City Record* printed newspaper.
- ❑ Expansion of the Procurement Training Institute (PTI)—The PTI is a division of DCAS and was expanded to offer 19 courses relating to general procurement and City specific procurement. Several of these lead to national certification in public purchasing. PTI also offers satellite seminars and videos on innovative procurement topics.
- ❑ Buy-Wise—This system is accessible to all agencies through the City’s Intranet. It enables agencies to access information about goods and services available through City requirements contracts, State requirements contracts, and the City storehouse. In the future, Buy-Wise will provide an RFP template and standard language for portions of contracts, list other agencies that have procured a particular item or service, and allow for electronic submission of a *City Record* procurement notice.
- ❑ EFT Vendor Payment System—The Department of Finance offers an electronic funds transfer program for payment to vendors directly.
- ❑ Centralized Bidders’ List—MOC, the Comptroller, and agency ACCOs have been working with the Financial Information Services Agency (FISA) to centralize all bidders’ lists. The

⁷⁰ City of New York, Mayor’s Office of Operations, *Re-engineering Municipal Services 1994-2001: Mayor’s Management Report Fiscal 2001 Supplement*, (NYC: MOO, October 5, 2001), p.280.

⁷¹ City of New York, Buy-Wise: New York City’s Intranet Homepage for Procurement Professionals.

⁷² City of New York, Mayor’s Office of Operations, *Re-engineering Municipal Services 1994-2001: Mayor’s Management Report Fiscal 2001 Supplement*, (NYC: MOO, October 5, 2001), p.280.

⁷³ Michael Stoller, “Smoothing the Way: Contract Rule Book Cut in Half,” *CityLaw*, (July/August), Vol.7, No.4, p.78.

central list offers on-line registration via the City's website and agencies can access the lists for procurements through Buy-Wise.

- Procurement Cards—A pilot program developed jointly by the Mayor's Office of Operations and the Comptroller allows agencies to issue credit cards to authorized personnel for purchases not exceeding \$2,500. P-cards replace imprest fund or petty cash transactions.⁷⁴

Other Giuliani Administration initiatives include process reform in a variety of agency-specific projects and a pilot project of automated procurement software tied to the financial management system. Details on these projects and information on their progress have not been made available.⁷⁵ While these initiatives are steps in the right direction, the Bloomberg Administration needs to give procurement reform a high priority and sustained attention in order to achieve meaningful improvement.

⁷⁴ Information on these initiatives was gathered from New York City's website <<http://www.nyc.gov>>.

⁷⁵ City of New York, Mayor's Office of Operations, *Re-engineering Municipal Services 1994-2001: Mayor's Management Report Fiscal 2001 Supplement*, (NYC: MOO, October 5, 2001), p.283-84.

RECOMMENDATIONS

Significant reforms since the early 1990s have enabled the City to save time and money in procurement. However, much more remains to be done. The City's procurement process continues to be poorly managed, burdened with oversight, and extremely dependent on paper. In addition, the City fails to use its e-government resources to manage procurement procedures and interact with vendors effectively. These problems create delays and drive up costs.

Procurement reform is neither glamorous nor highly visible. It requires sustained commitment over a relatively long period. Consequently, elected officials tend to neglect it. But there is now good reason to raise the level of commitment to streamline procurement within the new Bloomberg Administration. A major initiative could achieve significant savings, at a time when they are sorely needed, and enhance the morale of municipal managers who are often frustrated by outdated and time-consuming procedures. The CBC recommends that Mayor Michael Bloomberg pursue the following three-pronged strategy.

1. Replace the Mayor's Office of Contracts with a new procurement entity that offers "one-stop" oversight, a central place for vendors to interact with the City, and improved agency support services.

Currently, management of procurement, which is primarily the responsibility of MOC, is too focused on oversight. To realize savings and to improve service delivery, oversight should be reorganized, and a new procurement entity should be created to provide better agency and vendor support. The new procurement entity should have three primary functions: (1) centralize the oversight of agency compliance; (2) serve as a single access point for vendors who want to do business with the City, and (3) provide support services for City agencies.

A. Individual agencies should manage their contracts, but should interact with the new procurement entity for "one-stop" oversight and authorization. The current administrative reviews of MOC, the Division of Labor Services, the Department of Finance, the Department of Investigation, the Office of Operations, and the Office of Management and Budget should all be performed by professionals within the new entity. "One-stop" oversight would *not* include MOC's current review of contracts for procedural compliance. This function would be performed on a post-audit basis by the Comptroller, thereby delegating ACCOs more authority to ensure procedural compliance with contracting rules. The central procurement entity would also promote citywide contract standards and better performance monitoring.

B. The new entity should be the single point of contact for vendors wishing to do business with the City. This requires the new entity to provide services to vendors and monitor their integrity.

Currently, vendor responsibility is determined at the agency level by ACCOs. Inputs for the integrity review are provided by MOC (VENDEX), DOI (vendor name check), and DOF (tax compliance check). A centralized integrity assessment should be the responsibility of the new procurement entity. An ACCO who is considering a vendor would request this integrity

assessment, then determine responsibility based on the vendor's capacity to complete the contract. If a vendor receives a negative integrity assessment, it would not be awarded the contract regardless of capability.

Another element of the new entity's mission should be to service the vendors through a central e-marketplace. Currently, vendors must interact with each agency to market their goods and services. The new procurement entity should provide all vendor support functions, including the current Bid-Match program and phone support for vendors who have questions about doing business with the City, cannot access the Internet, or need technical assistance.

C. As a service organization, the new entity should support the professional development and autonomy of ACCOs. As knowledgeable professionals, ACCOs should be able to certify their agency's compliance with PPB rules and should be held accountable through post-audits. The new central procurement entity should facilitate ACCO networking and professional development. ACCOs should be encouraged to become Certified Public Purchasing Officers through the National Institute of Government Purchasing.

2. Implement an advanced e-procurement system similar to those functioning in several other jurisdictions.

Currently, New York City has in place several elements of an advanced e-procurement system. However, these separate functions and systems are not integrated, and other applications are not yet established. The City should develop an advanced system by integrating existing components and establishing missing ones. This system should include the following components:

A. A central website through which all agencies communicate with vendors. All agency solicitations (with specifications) in a uniform format should be posted on this website. Through this website vendors should be able to read all rules and guidelines for doing business with the city and have a centralized means of addressing their questions and problems. This website also should serve ACCOs by providing model contract documents, describing innovative contracting techniques, and answering their questions. Both vendor and buyer questions and difficulties should be logged and analyzed to learn what processes are confusing or poorly designed.

B. The option for vendors to submit their bids, proposals, and VENDEX materials electronically. This requires a unique e-signature that complies with New York State digital signature laws for each vendor. Vendors also should be notified by e-mail or fax when their VENDEX forms are about to expire and if any changes or additions are made to their files.

C. On-line purchasing access to requirements contracts for agency buyers. The system should permit agency buyers to access requirements contracts and shop on-line with P-cards. Vendor catalogs should be developed and posted for items the City does not have on requirements contracts. Vendors should be able to receive orders electronically from buyers and receive payment via P-cards or electronic funds transfer. The public and interested

vendors also should be able to view the City's requirements contracts, the price per unit for each item, and the expiration date of the contract.

D. *A central contract management system with workflow monitoring and digital authorization capabilities for all agencies.* All procurement documents and reports should be available electronically for contracting administrators to complete, review, and move to the next stage of approval. This technology will improve process management by identifying bottlenecks and expired time limits. Information generated by this system should be available to vendors so they can easily learn the stage of approval or payment of their contracts.

E. *Annual subscription and transaction fees for vendors.* These fees should be low for basic services such as downloading specifications, but should increase for e-mail notification of bidding opportunities, access to historical purchasing data, and other specialized requests. The fees should be sufficient to cover a large portion of the operating cost of the new system.

3. The legal framework for procurement should be changed to give the Procurement Policy Board more independence and to permit new, cost-effective procurement techniques.

As innovative procurement techniques are developed, the laws and rules that govern procurement should be changed to permit their use. In addition, the structure of the PPB should be changed to enable it to function with more political independence.

A. *No City employees should be PPB members, and members should have fixed terms.* The PPB members should remain appointees of the Mayor and Comptroller, but they should be private citizens with secure terms. Members who work for, and often serve at the pleasure of, the official who appoints them cannot remain independent of these elected officials. Too often, good procurement policy is defeated because of political entanglements. A board of five independent members with fixed terms would promote efficient procurement rules. Mayor Bloomberg and Comptroller Thompson should agree voluntarily to appoint an entirely independent board.

B. *Small purchase limits for all goods and services should be increased to \$100,000.* Currently, only information technology can be purchased through small purchase procedures up to this limit. Small purchase limits have not been raised since 1995. Current levels (\$25,000 for goods and services; \$50,000 for construction-related goods and services) do not provide enough flexibility to procure in the volume that many agencies need. Low limits also tie up staff resources that could better be used for more complex purchasing. It should be noted that under the Giuliani Administration, when the PPB proposed to raise small purchase limits, the City Council refused to concur. Mayor Bloomberg should work cooperatively with the new Council to raise these limits.

C. *Public hearings for non-competitively bid purchases should be required only for procurements above \$500,000.* Currently, hearings are required for such purchases above \$100,000. Public hearings add an average of two months to the procurement cycle. In fiscal

year 2001, only one in five hearings was attended by the public. Attendance at public hearings for contracts valued between \$100,000 and \$500,000 was only 1 percent of all attendees, indicating that the public usually attends hearings for larger value contracts.⁷⁶ Raising the limit would not eliminate public comment, but rather direct it toward written testimony.

D. *Permit the use of reverse auctions for many commodities.* Current laws and rules generally prohibit the multiple rounds of bidding associated with reverse auctions. However, new technology makes reverse auctions a fair and efficient method of purchase. Many state and local governments are realizing tremendous savings through this technique. Although agencies should use caution and deal with current vendor skepticism, many bulk items are ideal candidates for reverse auctions.

⁷⁶ New York City Charter Revision Commission, *op. cit.*, p.90.

COST SAVINGS

Implementation of the CBC's recommendations for streamlining procurement would yield savings of at least \$135 million annually, with a more likely payoff of \$197 million annually. These savings derive from two sources: (1) lower transaction costs, and (2) lower prices from vendors for goods and services.

Table 6 summarizes the savings estimates. With respect to transaction costs, the City completes about 142,000 transactions per year.⁷⁷ The City does not monitor or estimate the administrative costs of procurement, and few studies have been completed. A recent study of New York State procurement procedures found the average transaction cost for small purchases was \$67.20, and that use of P-cards lowered that cost by nearly \$57 to \$10.53.⁷⁸ Estimates from the State of Maryland's system for contracts of all sizes and types are \$100 per transaction.⁷⁹ Given these findings, it is reasonable to suggest that the City of New York would save approximately \$75 per transaction. At that rate, the annual savings for the City would approach \$11 million.

Table 6
Estimates of Annual Savings from CBC's Procurement Recommendations
(dollars in millions)

	<u>Low Estimate</u>	<u>High Estimate</u>
Reduction in transaction costs (142,000 transactions at \$75)	\$11	\$11
Reduction in price of goods/service^a	124	186
Goods from contracts (\$549 million)	55	82
Goods from small purchases and purchase orders (\$693 million)	69	104
Total	\$135	\$197

Sources: City of New York, Mayor's Office of Operations, *Mayor's Management Report*, (NYC: MOO, October 5, 2001), p.251. Office of the New York City Comptroller, *Comprehensive Annual Financial Report*, fiscal year 2001 edition, (NYC: Office of the Comptroller, October 30, 2001), p.205. Deloitte & Touche, *Final Report: Re-engineering the Procurement and Contract Management Process*, June 16, 1994.

Note: ^aLow estimate based on savings of 10 percent and high estimate based on 15 percent.

⁷⁷ The 1993-94 estimate was 142,000 transactions a year. Delloitte & Touche, p. 265.

⁷⁸ Office of the New York State Comptroller, *Administration of the New York State Procurement Card Program*, January 11, 2001, <<http://www.osc.state.ny.us/audits/allaudits/0930011/99s17.pdf>>.

⁷⁹ National Association of State Chief Administrators, Maryland's Application for the E-Government Award, July 2001 and interview by Cynthia Searcy with David Spitzer of the Department of General Services on January 7, 2002.

Even larger savings would come from the reduction in the price of goods and services. These savings result from more vendors competing for contracts, greater use of bulk purchasing, and price reductions from vendors who have to spend less time and effort preparing and submitting bids. Most analysts estimate these savings at 5 to 15 percent of current costs.⁸⁰ In fiscal year 2001, the City spent \$549 million on contracts for goods. A 10 percent price reduction on these goods would save \$55 million annually. The City also spent \$693 million on goods through small purchases and purchase orders from requirements contracts. A 10 percent price reduction for these items would save another \$69 million annually.

Based on the foregoing assumptions, the City would realize a total of \$135 million in savings annually. If less conservative assumptions were applied, and price savings were put at 15 percent, then the City would save an additional \$62 million for a total of \$197 million annually.

It should be stressed that these are very conservative estimates, because price savings are applied only to purchases of goods. In addition to the \$1.2 billion in goods reflected in Table 6, the City spends another \$7 billion on construction, social services, and other contracts. A streamlined procurement system likely would yield significant savings from these purchases as well.

⁸⁰ Sandi Smith, "E-Procurement Spells Savings," American Institute of Certified Public Accountants TopTech Website, <<http://www.toptentechs.com/applications/Issue9>>.

APPENDIX

This Appendix describes the advanced e-procurement systems operating in four jurisdictions. Additional information is available through the sources cited.

CITY OF WICHITA, KANSAS

In operation since August 4, 2000, Wichita's e-procurement system offers a full range of services to vendors and ties directly to the City's requisition and financial systems. Wichita's E-Procurement Network utilizes electronic requisition and workflow technology. When a buyer is authorized to purchase a commodity, he or she issues an electronic requisition form that specifies the method of procurement. If the procurement is below the small purchase limit, a bidders' list is generated based on commodity codes specified by vendors who want to be contacted. Vendors are solicited via e-mail and can respond with their quotes.

Procurements that exceed the small purchase limits must take the form of a competitive sealed bid or competitive sealed proposal. The solicitation documents for these procurements are posted on the City's E-Procurement Network for anyone to access via the World Wide Web. To view the specifications of a bid or proposal, a vendor must be registered with the City. Vendors submit their bids and proposals electronically with their private logins and passwords. After the bid or proposal deadline has expired, vendors can view the results of bid openings and proposal decisions on-line. Vendors selected for contracts can track their invoices and payment information via the network, and were scheduled to begin receiving direct deposit payments in January of 2002.⁸¹

Wichita purchased its e-procurement system as a module for their existing financial management system for \$300,000.⁸² The City's Purchasing Manager, reported that, "the time it takes to prepare a bid has been reduced, and it has cut our mailing costs, our copying charges and other support costs nearly in half."⁸³

THE STATE OF MARYLAND

In March of 2000, Maryland introduced *eMaryland Marketplace*. It consists of two main services, interactive bidding and catalog purchasing.

Interactive bidding allows the State to post solicitations and receive bids on-line. Subscribed vendors can search and bid on-line for procurement opportunities, or they can choose to be notified via e-mail when the State or local governments post solicitations. Catalog purchasing allows vendors to adapt their existing catalogs for various commodities to the State's standard format. Government buyers can search for commodities by item or code and read about

⁸¹ City of Wichita E-Procurement Network Home Page, <<http://206.53.114.15/ep.html>>. Interview by Cynthia Searcy with Melinda Walker, Purchasing Manager, City of Wichita, August 13, 2001.

⁸² Jim McKay, "Sales Pitch: Virginia and Wichita Woo Suppliers for New E-procurement Systems," *Government Technology* (June 2001), p.73.

⁸³ McKay, p.74.

vendors' goods. Buyers fill their "shopping carts" with items and process their orders electronically directly to the vendor. The system includes on-line bid tabulation, purchasing card payments, electronic purchase orders, a bid lockbox, on-line registration, and e-mail solicitation notification.⁸⁴

Maryland's system pools the needs of multiple governments to leverage buying power and offers vendors a central location to do business with the multiple purchasers. As of January 2002, *eMaryland Marketplace* had posted more than \$130 million in procurements, enrolled close to 1,500 vendors, and had 69 governmental organizations using the system.⁸⁵

eMaryland Marketplace is self-funded. Vendors are charged a subscription fee of \$150 annually to register and view solicitations on-line. For \$225 annually, vendors can purchase the premium subscription that automatically notifies them via e-mail of all bid opportunities within specified commodity codes. For e-catalog vendors, a \$3.50 transaction fee is charged each time a buyer submits an electronic order for goods.⁸⁶

Maryland developed its e-procurement system as part of an initiative to become "The Digital State." According to Major F. Riddick, Jr., the Governor's Chief of Staff and Chairman of the Maryland Information Technology Board, "One of the most compelling reasons for the State of Maryland to conduct business on-line is our bottom line. We can save money, time, and eliminate duplicated efforts and our vendors can recover many of these same costs for themselves."⁸⁷ *eMaryland Marketplace* recently was awarded the National Association of State Chief Administrators 2001 Outstanding Program Award in the procurement category⁸⁸

THE STATE OF VIRGINIA

The State of Virginia introduced its e-procurement system, known as eVA, in March of 2001. Prior to eVA, Virginia's procurement system was decentralized, forcing vendors to interact with agencies individually. In February of 2000, Virginia's Procurement Assessment Task Force recommended a centralized electronic procurement system. The primary impediments to the improvement of commodity purchasing were identified as: (1) non-value added approvals at the agency level; (2) the unavailability of statewide data to determine where bulk savings could be created, and (3) the ambiguity in the Virginia Public Procurement Act (VPPA) around the ability to make multiple awards via one procurement.⁸⁹ The recommendations included changes in the VPPA, which had not been substantially revised since 1983. The statutory changes were vital to the creation of eVA and its anticipated efficiencies.

⁸⁴ *eMaryland Marketplace* Home Page, <<http://emarylandmarketplace.com>>.

⁸⁵ E-mail from David Spitzer to Cynthia Searcy, January 8, 2002.

⁸⁶ *eMaryland Marketplace* Home Page, <<http://emarylandmarketplace.com>>.

⁸⁷ The State of Maryland, *eMaryland Marketplace 2001 Annual Report*, March 2001, p.3.

⁸⁸ National Association of State Chief Administrators, "Press Release: eMaryland Marketplace Honored for Excellence in Procurement Innovation," July 9, 2001.

⁸⁹ The State of Virginia, *Report of the Governor's Task Force on Procurement Assessment: Recommendations to Improve Virginia Government's Procurement Systems*, February 3, 2000, p. 7.

Virginia launched a government-to-business website intended to unite public purchasers with vendors for approximately \$4.5 billion of procurement business each year. eVA features core services such as an e-Mall with vendor catalogs, a central registration point for vendors, an electronic posting of goods and services, and a data warehouse that tracks purchases made through the site. The system also provides purchasing agencies with accounting data and records transaction in the proper accounting system.

eVA permits State buyers to shop from State requirements contracts and vendor catalogs. Purchasers place items in an electronic “shopping cart” and submit an electronic invoice directly to the vendor. eVa also posts agency procurement solicitations for vendors to view and bid. Vendors can submit their bids electronically and see who wins the contract on-line. In late 2002 reverse auctions for certain commodities will begin.

The eVA system also features a data warehouse that tracks public purchasing by commodity. The State can consult this data to pinpoint frequently purchased items and, in turn, initiate requirements contracts to procure these products at lower prices. Vendors can access these reports, as well, to plan for their own bid responses.

Virginia supports eVA through subscription and transaction fees. Vendors pay \$25 a year for a basic subscription and \$200 for premium service, which includes access to historical purchasing reports and e-mail notification of solicitations. Vendors also pay a 1 percent transaction fee for orders received through eVA, although this fee is capped at \$500 per order.⁹⁰ As of January 24, 2002, eVA had approximately 4,225 registered vendors, 380 vendor catalogs with 1.7 million items, and 170 participating public agencies.⁹¹ eVA costs the State \$1.8 million to operate each year, excluding the initial start-up costs of \$300,000.⁹²

THE STATE OF IDAHO

Idaho began its procurement reform in 1997 with the formation of the Procurement-Purchasing Advisory Committee led by the State’s Division of Purchasing to investigate the use of P-cards. As this program developed, it joined five states organized by the Commonwealth of Massachusetts to participate in a year-long Electronic Mall pilot project to permit on-line purchasing. The Electronic Mall provided selected State agencies an Internet venue to view and purchase goods. A review of this program revealed that Idaho saved up to 72 percent per order through Internet-bidding and electronic processing of orders.⁹³

These savings stimulated Idaho to implement its own electronic system. Officials recognized, however, that in order for the State to take advantage of the new technologies, they would have to modify or eliminate purchasing laws that had remained unchanged since 1974.

⁹⁰ Kristin M. Atwater, “Virginia Revolutionizes Virtual Sphere of Procurement,” *Government Procurement*, June 2001.

⁹¹ eVA Home Page, <www.eva.state.va.us>.

⁹² National Association of State Chief Administrators, Application for the eGovernment Award, July 2001.

⁹³ Brad Carlson, “State introduces online bidding for supply vendors,” *Idaho Business Review*, May 28, 2001, p.12A.

Working simultaneously to develop an e-procurement system, Idaho made 20 changes to 12 sections of the Idaho Code.

The changes in Idaho's purchasing code included permitting electronic submission and filing of contract documents, such as posting bid notices on-line and accepting bids electronically. Elimination of the rule that vendors pre-register with the State in order to bid on a contract permitted agencies to accept bids from any vendor who sees an invitation to bid posted on the State's website. Other changes permit multiple award contracts and reverse auctions. Multiple award contracts allow the State to set up several contracts for a particular commodity, offering more variety with a shorter procurement cycle for the agencies.⁹⁴

When Idaho's Legislature approved changes to the purchasing code, the State had entered into a contract with SYSCOM for its new purchasing system. This system uses on-line catalogs and electronic bidding management software. State agencies complete purchasing transactions electronically, and these transactions are entered into each agency's accounting system. Since it became fully operational on July 2, 2001, over 800 vendors have converted to Idaho's on-line system. Prior to developing its e-procurement network, Idaho surveyed vendors and found that 92 percent were capable and willing to do business with the State electronically.⁹⁵

The initial investment for the system was \$19,500, and annual maintenance costs the State only \$1,500. SYSCOM manages a majority of the system and recovers its cost through subscription fees. There is no charge to a vendor to register, search for bidding opportunities, and receive e-mail notification of awards and purchase orders. Vendors may respond to bids online or download non-interactive documents up to 25 times per month at no charge. Additional online bid responses or downloads cost \$2.50 each. Optional services are available for a monthly subscription fee.⁹⁶

⁹⁴ Jan Cox, "Idaho Purchasing Modernization Initiative: Application for the National Association of State Procurement Officials 2001 Cronin Club Innovation Awards," August 2001.

⁹⁵ Patrick J. Walsh, "Idaho's Rules Get in Step With Its Technology," *Civic.Com* (May 2001), p.44.

⁹⁶ Idaho Purchasing Information website, <<http://www2.state.id.us/adm/purchasing/e-purchasinginfo.htm>>.