



REQUEST FOR PROPOSAL

**IMPORTANT: SEE "NOTICE TO BIDDERS" CLAUSES HEREIN
BIDS MAY BE SENT TO THE ABOVE ADDRESS ONLY
(E-Mail or Facsimile Bid Submissions Are NOT Acceptable)**

BID OPENING DATE: October 3, 2016 TIME: 11:00AM EST	TITLE: Group 73600 Information Technology Umbrella Contract Distributor Based Software and Hardware (Statewide) Classification Codes: 14, 43, 44 and 45
REQUEST FOR PROPOSAL NUMBER: 22876	SPECIFICATION REFERENCE: As Incorporated in the Request for Proposal
CONTRACT PERIOD: See "Contract Period" Clause	

DESIGNATED CONTACTS

Dewan Bristo, Tyler Ahlborn, Marc Kleinhenz, and Karen Fowler

E-mail address: OGS.sm.Ps.DistUmbrella.Contractors@ogs.ny.gov

The Bid must be fully and properly executed by an authorized person. By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this REQUEST FOR PROPOSAL, Appendix A (Standard Clauses For New York State Contracts), Appendix B (OGS General Specifications), and State Finance Law §139-j and §139-k (Procurement Lobbying), and that all information provided is complete, true and accurate. By signing, Bidder affirms that it understands and agrees to comply with the OGS procedures relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b). Information may be accessed at:

Procurement Lobbying: <http://www.ogs.ny.gov/acpl>

Bidder's Federal Tax Identification Number: (Do Not Use Social Security Number)		NYS Vendor Identification Number: (See "New York State Vendor File Registration" clause)			
If applicable, place an "x" in the appropriate box (check all that apply):		<input type="checkbox"/> Small Business _____ #Employees	<input type="checkbox"/> Minority Owned Business	<input type="checkbox"/> Women Owned Business	<input type="checkbox"/> Service-Disabled Veteran-Owned Business
Legal Business Name of Company Bidding:					
D/B/A - Doing Business As (if applicable):					
Street	City	State	Zip	County	
If applicable, place an "x" in the appropriate box (check all that apply):		<input type="checkbox"/> Manufactured Within New York State	<input type="checkbox"/> Manufactured Outside New York State		
If you are not Bidding, place an "x" in the box and return this page only. <input type="checkbox"/> WE ARE UNABLE TO BID AT THIS TIME BECAUSE _____.					
Bidder's Signature: Title:		Printed or Typed Name: Date:			
Phone : () - ext ()	Fax : () - ext ()	Toll Free Phone : () - ext ()	Toll Free Fax : () - ext ()		
Contact E-mail Address for this RFP (required):					
P.R. #	LIT <input type="checkbox"/>	MEMO <input type="checkbox"/>	LET <input type="checkbox"/>	OTHER <input type="checkbox"/>	MISSING PAGES

INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT

STATE OF _____ }
: _____ } **SS.:**
COUNTY OF _____ }

On the _____ day of _____ in the year 20____, before me personally appeared _____, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that **he** maintains an office at _____, and further that:

[Check One]

- If an individual):** **he** executed the foregoing instrument in his/her name and on his/her own behalf.
- If a corporation):** **he** is the _____ of _____, the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, **he** is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, **he** executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
- If a partnership):** **he** is the _____ of _____, the partnership described in said instrument; that, by the terms of said partnership, **he** is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, **he** executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
- If a limited liability company):** **he** is a duly authorized member of _____ LLC, the limited liability company described in said instrument; that **he** is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, **he** executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public
Registration No.

Bidder Certification and Affirmation

Bidder certifies and affirms as follows:

1. This Bid is an irrevocable offer for 120 days from the date of submission to the New York State (“NYS”) Office of General Services (“OGS”), or for such longer period as is set forth in this Request for Proposal (RFP).
2. The Bidder can and will provide and make available, at a minimum, the Products, deliverables and/or services as described in the RFP.
3. The Bidder has read and understands the provisions of this RFP, and all appendices, attachments, and exhibits attached thereto, including Appendix A (Standard Clauses for New York State Contracts) and Appendix B (General Specifications).
4. The information contained in this Bid is complete, true, and accurate.
5. The Bidder understands and agrees to comply with the requirements of the Procurement Lobbying Law, State Finance Law § 139-j and § 139-k, and with OGS’s procedures relating to permissible contacts during a procurement as required by State Finance Law § 139-j(3) and § 139-j(6)(b). Such requirements and procedures are posted at http://ogs.ny.gov/aboutOgs/regulations/defaultSFL_139j-k.asp.

The signer affirms under penalties of perjury that he or she is duly authorized to legally bind the Bidder referenced above and that he or she signed this Bidder Certification as the legally binding act of the Bidder.

Print Full Bidder Entity Name

By:

Signature of Person Authorized to
Legally Bind the Bidder

Print Name of Signatory

Print Title of Signatory

Date

RETURN THIS PAGE AS PART OF BID

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- APPENDIX A – Standard Clauses for New York State Contracts (January 2014)
- APPENDIX B – General Specifications – Manufacturer Based
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- APPENDIX D – Contract Modification Procedure

ATTACHMENTS

- ATTACHMENT 1 – Bidder Questionnaire
- ATTACHMENT 2 – Market Basket Pricing - Software
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- ATTACHMENT 4 – General Documents
- ATTACHMENT 5 – Insurance Requirements
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- ATTACHMENT 9 – Report of Contract Sales

Section 1. Introduction and General Information

1.1 INTRODUCTION

This Request for Proposal (RFP) is issued by the New York State (NYS) Office of General Services (OGS), Procurement Services, on behalf of all Authorized Users. The awards of this RFP for Distributor based miscellaneous Software and Hardware, and related services will be established as NYS Centralized Contracts.

Multiple contracts will be executed covering each of the two Lots included within the RFP. Bidders will have the option of bidding on one or both Lots. Awards will be based on an evaluation of bids and Bidder qualifications as defined in Section 5 – Method of Awards. Bidders that are submitting a Bid for a Lot, shall bid on as many Products within that Lot that the Bidders are able to.

This RFP outlines the terms and conditions, and all applicable information required for submitting a Bid. A Bidder should pay strict attention to the Bid submission date and time to prevent disqualification. To ensure compliance with bid requirements and prevent possible disqualification, Bidder must follow the format and instructions in Section 8 - Format and Content of Bid Submittal.

1.2 SCOPE

It is the intent of this RFP to establish Contracts with Distributors of IT Products from multiple IT Manufacturers. Under awarded Lots, Distributors will have the ability to offer Authorized Users the complete catalog of products defined within the Lots included in this RFP. Authorized Users will have the ability to solicit quotes from Distributors for Software, Hardware, and related services that are not listed as excluded from this RFP (See Section 1.5 – Excluded Items).

This RFP for Distributor based Umbrella Contracts is part of a suite of Contracts that are intended to result in the award of Contracts to replace existing OGS Contracts of similar scope, such as, but not limited to, the following:

- Comprehensive Telecommunications Equipment and Services
- Microcomputer Systems and Related Services
- Software
- Enterprise Systems
- Systems and Peripherals (Storage)
- Miscellaneous Software Catalog

Under the Contract that results from this RFP, Distributor can sell Products of a Manufacturer only if the Manufacturer itself does not have an OGS contract to sell the Manufacturer's Products. Distributor cannot sell any Products of a Manufacturer that holds an OGS Contract for the sale of the Manufacturer's Products, or any Products purchased from a vendor which holds a Distributor Contract resulting from this RFP.

Individual Products cannot be bid under this Solicitation. The bidding structure for the Solicitation requires a Cost-plus or Cost-minus percentage that will be applied to all Products offered by a Manufacturer. Therefore, there will not be a need for Product additions/deletions for any Contracts that result from this Solicitation.

Attachment 6 – How to Use the Distributor Umbrella Contract provides the Authorized User instructions on how to use the Information Technology Umbrella Contract – Distributor Based (Statewide) Contract. The Authorized User transaction will be competitive, resulting in an Authorized User Agreement. IT needs will be identified by an Authorized User, and documented in a RFQ. Authorized User will then identify the corresponding Lot(s) involved. The Authorized User will then distribute the RFQ to the awarded Contractors in those Lot(s). An award will be based on Lowest Price, as specified in the RFQ.

1.3 REPLACEMENT OF EXISTING STATEWIDE CONTRACTS

The Umbrella suite of Contracts (Manufacturer, Distributor, and possible future Contracts) are intended to result in the award of Contracts for IT Products to reflect current and future IT Product needs. **Contracts resulting from this Solicitation are intended to replace existing OGS Contracts in whole or in part. Any existing Contracts within the scope of this Solicitation are subject to cancellation.** OGS has not established which Contracts will be phased out or the timing

1.4 LOT OVERVIEW

This Solicitation encompasses the following Lots:

Lot 1 – Software

This Lot provides Authorized Users with a mechanism to purchase Software commercially available and Maintenance/Support for Manufacturer’s Proprietary product line, and Related Services listed in the Manufacturer’s commercial price list.

Lot 2 – Hardware

This Lot provides Authorized Users with a mechanism to purchase Hardware products (including new, refurbished, and remanufactured Hardware), Telecommunications Hardware, Appliances, Storage and the Hardware’s Related Ancillary Products and Related Software. This lot also provides Warranties and Maintenance/Support for Manufacturer’s Proprietary product line and Related Services listed in the Manufacturer’s commercial price list.

1.5 EXCLUDED ITEMS

This RFP and the resultant awards exclude the outright purchase of the following Products:

- Distributor cannot sell any Products of a Manufacturer that holds an OGS Contract for the sale of the Manufacturer’s Products (please refer to Section 3.19, Prohibited List)
- All Cloud products (see glossary definition for “Cloud”) regardless if the Manufacturer has an OGS contract.

1.6 INQUIRIES/ISSUING OFFICE

All inquiries concerning this RFP shall be addressed to the following OGS designated contact(s) and issuing office:

DESIGNATED CONTACTS
Dewan Bristo, Marc Kleinhenz and Karen Fowler
E-mail address: OGS.sm.Ps.DistUmbrella.Contractors@ogs.ny.gov

All questions must be submitted in writing using the Inquiries Template, located in Attachment 4 – General Documents, citing the applicable RFP document name and document section. The completed Inquiries Template must be emailed to: OGS.sm.Ps.DistUmbrella.Contractors@ogs.ny.gov by closing Date for Inquiries indicated in Section 1.7, Key Events/Dates. A Bidder is strongly encouraged to submit questions at the earliest convenience. A Bidder should note that all clarifications and exceptions, including those relating to the terms and conditions of the contract, are to be resolved prior to the submission of a Bid. Answers to all questions of a substantive nature will be provided to all Prospective Bidders in the form of a question and answer document which will be posted and released through the NYS Contract Reporter. To register for the NYS Contract Reporter, or update an existing registration, visit: <https://www.nyscr.ny.gov/>

1.7 KEY EVENTS/DATES

Event	Date	Time
Solicitation Release	8/25/2016	N/A
Opening Date for Inquiries	8/25/2016	N/A
Closing Date for Inquiries	9/1/2016	11:00 AM ET
Anticipated Posting of Responses to Inquiries	9/14/2016	N/A
Proposals Due / Proposal Opening	10/3/2016	11:00 AM ET
Tentative Contract Award Notifications Commence	10/18/2016	N/A

1.8 MWBE INTEREST IN PARTICIPATING WITH BIDDERS

If a New York State certified MWBE vendor would like to indicate its interest in working with participating Bidders, please send an e-mail entitled “Solicitation 22876 MWBE INTEREST [Your company name]” to

OGS.sm.Ps.DistUmbrella.Contractors@ogs.ny.gov on or before the date and time indicated in *Key Events/Dates*.

The e-mail should include:

1. Company Name
2. Contact Name, Phone Number, Mailing Address, E-Mail Address
3. Brief description of company type (for example “Company ABC is an Authorized Dealer for XYZ”).
4. NYS Empire State Development Certification Type (Minority- and/or Women-Owned Business Enterprise)

A list of all NYS certified MWBE vendors who have expressed interest in this Solicitation through the timely submission of such e-mail, will be included in a Purchasing Memorandum posted through the New York State Contract Reporter in accordance with the *New York State Contract Reporter* section.

1.9 NYS CONTRACT REPORTER

Vendor must register with the New York State Contract Reporter (“NYSCR”) at <https://www.nyscr.ny.gov> in order to receive notifications about this Solicitation. Navigate to the “I want to find contracts to bid on” page to register for your free account. In order to receive e-mail notifications regarding updates to the content or status of a particular ad, you must choose the option “send me notification updates on this,” located in the lower right hand corner of the particular ad. Answers to all questions of a substantive nature will be posted in the form of a question and answer document and released through the NYSCR. Any updates to Solicitation documents will also be posted and released through the NYSCR. If you do not opt-in to receive notification updates regarding a particular ad, you will not receive e-mail notifications regarding updates, including e-mail notifications regarding the posting of the question and answer document and updates to Solicitation documents. Be advised that submission of responses to the Solicitation that do not reflect and take into account updated information may result in your Bid being deemed non-responsive to the Solicitation.

1.10 SUMMARY OF POLICY AND PROHIBITIONS ON PROCUREMENT LOBBYING

Pursuant to State Finance Law §§139-j and 139-k, this Solicitation includes and imposes certain restrictions on communications between OGS and a Offeror/Bidder during the procurement process. An Offeror/Bidder is restricted from making contacts from the earliest posting, on a governmental entity’s website, in a newspaper of general circulation, or in the procurement opportunities newsletter of intent to solicit offers/bids through final award and approval of the Procurement Contract by OGS and, if applicable, the Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is identified on the first page of this Solicitation. OGS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offeror/Bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the Offeror/Bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the OGS website: <http://www.ogs.ny.gov/acpl/>

1.11 CONTRACT PERIOD

The Contracts resulting from this RFP will be for a term of up to five years from the date of commencement of the first award. All Contracts awarded under this RFP shall terminate simultaneously five years from the date of commencement of the first contract awarded. The Contracts shall commence upon full execution by Procurement Services and each Contractor. Upon mutual agreement of a Contractor and Procurement Services, a Contract resulting from this RFP may be extended for one additional five year renewal for a total contract period not to exceed ten years.

1.12 SHORT TERM EXTENSION

This section shall apply in addition to any rights set forth in Appendix B, *Contract Term – Renewal*. In the event a replacement Contract has not been issued, any Contract let and awarded hereunder by the State may be extended unilaterally by the State for an additional period of up to 30 calendar days upon notice to the Contractor with the same terms and conditions as the original Contract and any approved modifications. With the concurrence of the Contractor, the extension may be for a period of up to 90 calendar days in lieu of 30 calendar days. However, this extension automatically terminates should a replacement Contract be issued in the interim.

1.13 SUBSEQUENT PERIODIC RECRUITMENT

During the term of the Contract, the State reserves the right to conduct subsequent future Periodic Recruitments. The purpose of future Periodic Recruitments will be to:

- Add new Lots for additional and/or emerging technologies
- Add new Contractors to existing and new Lots
- Add additional Lots to existing Contracts

OGS will formally announce when a Periodic Recruitment Solicitation is issued. Periodic Recruitments will be issued at the discretion of the OGS. A Contractor shall be required to submit such Submission documentation as required by OGS, which may include additional applicable statutory requirements currently in effect at the time of the Periodic Recruitment. Should a Contractor Submission for a Lot be deemed non-responsive under any Periodic Recruitment, a Contractor cannot reapply for that Contract Lot until the next Periodic Recruitment is opened.

1.14 ESTIMATED QUANTITIES

The Contracts resulting from this Solicitation will be Indefinite Delivery, Indefinite Quantity (IDIQ) Contracts. Numerous factors could cause the actual volume of Product purchased under the Contracts resulting from this Solicitation to vary substantially from any estimates in this Solicitation. Such factors include, but are not limited to, the following:

- All Contracts will be nonexclusive Contracts;
- There is no guarantee of volume to be purchased; and
- There is no guarantee that demand will continue in any manner consistent with previous purchases.

1.15 DEFINITIONS

In addition to the terms defined in Appendix B, Section 2, Definitions, the following definitions shall apply in this Solicitation.

Term	Definition
Appliance	An Appliance is a device with integrated Software (firmware), designed to provide a specific computing resource. The Hardware and Software are pre-integrated and pre-configured before delivery to customer, to provide a "turn-key" solution to a particular problem. Unlike general purpose computers, Appliances are generally not designed to allow the customers to change the Software (including the underlying operating system), or to flexibly reconfigure the Hardware. To be considered an Appliance, the (Hardware) device needs to be integrated with Software, and both are supplied as a package.
Authorized User Agreement	Authorized User Agreement shall mean the Purchase Order and/or such other documents memorializing the Contractor's obligations with respect to a given transaction resulting from an RFQ issued by an Authorized User.
Best Value	The basis for awarding all service and technology Contracts to the Bidder that optimizes quality, cost and efficiency, among responsive and responsible Bidders. (State Finance Law §163 (1) (j)).
Product Bundle	Multiple Products combined for sale as a single Product offering. In the instance where a Product Bundle is comprised of Products by multiple Manufacturers, the Product Bundle can only be offered for sale under the Contract by the Manufacturer having the largest portion of the cost of the Product Bundle based on the Manufacturer's list price for the Product Bundle components.
Business Day	Monday through Friday from 8:00 AM – 5:00 PM ET, excluding New York State or Federal holidays.
Business Entity	Any individual, business, partnership, joint venture, corporation, S-corporation, limited liability company, sole proprietorship, joint stock company, consortium, or other private legal entity recognized by statute.
Cloud	Cloud shall mean any Product, Bundles or Service sold as an "as a service" offering or in which Authorized User Data is transmitted, acted upon, or stored on non-Authorized User equipment. This may include, but is not limited to, hosted applications, managed services, and off-site Data storage. Cloud includes IaaS, PaaS, SaaS, and XaaS.

Term	Definition
Compliance	Conformity in fulfilling requirements.
Configuration	An arrangement of elements in a particular form, figure, or combination which includes minor physical or Software setting changes that can be implemented without custom physical modifications or changes to the base code.
Contract Term	The initial term of the Contract and any renewals and/or extensions.
Cost-Minus Percentage	Percentage subtracted from cost Contractor pays a Manufacturer for Products, Maintenance, and Related Services. Percentages bid become Contract pricing and will not decrease over the life of the Contract.
Cost-Plus Percentage	Percentage added to cost Contractor pays a Manufacturer for Products, Maintenance, and Related Services. Percentages bid become Contract pricing and will not increase over the life of the Contract.
Deliverable	Products, Software, Information Technology, telecommunications technology, Hardware, and other items (e.g. reports) to be delivered pursuant to this Contract, including any such items furnished within the provision of services.
Discount	An allowance, reduction or deduction from a selling price or list price extended by a seller to a buyer in order for the net price to become more competitive. More common forms of discounts include trade discounts, quantity discounts, seasonal discounts and cash discounts.
Distributor	A company or individual (merchant) that purchases a large volume of IT Hardware and Software Products from multiple manufacturers or other Distributors/resellers with the intention of selling them rather than consuming or using them. Also known as large account value added reseller (VAR), channel partner or dealer.
Distributor Published Price List	A price list published in some form by the Distributor and available to and recognized by the trade.
Equipment	An all-inclusive term which refers either to individual Machines or to a complete Data Processing System or Subsystem, including its Hardware and Operating Software (if any). See also “device,” “appliance,” “equipment” and “Hardware,” “machine.”
General Services Administration (GSA)	The department within the U.S. government that is responsible for procurement of goods and services.
Hardware	Refers to IT Equipment and is contrasted with Software. See also Equipment.
Hosted Catalog	A catalog hosted by the State on a website.
Information Technology Services (ITS)	New York State Office of Information Technology Services (http://www.its.ny.gov/). It is the responsibility of ITS to provide centralized IT services to the State and its governmental entities with the awareness that our citizens are reliant on those services.
Implementation	Refers to post sales process of guiding a client from purchase to use of the Product that was purchased. This may include but is not limited to post sales requirements analysis, scope analysis, limited customizations, systems integrations, data conversion/migration, business process analysis/improvement, user policy, customized user training, knowledge transfer, project management and system documentation.
Installation	The act or process of making Products ready to be used.
Maintenance	The upkeep of Product that neither adds to its permanent value nor prolongs its intended life appreciably, but instead keeps it in an efficient operating condition. Maintenance shall not include Cloud offerings or remote monitoring of any type.
Mandatory	Refers to items or information that the State has deemed that a Bidder must submit as compulsory, required and obligatory. These items or information are noted as such, or the requirements may be phrased in terms of “must” or “shall”. Mandatory requirements must be met by the Bidder for Bidder’s Submission to be considered responsive.

Term	Definition
Manufacturer	A person or business entity that creates, makes, processes, or fabricates a Product or something of value, which changes a raw material or commodity from one form to another or creates a new Product or commodity.
Manufacturer Authorization Letter	A document signed by an officer of a Manufacturer company who is authorized to sign on behalf of the company. The Manufacturer Authorization Letter provides proof that the Distributor has a relationship with the Manufacturer and is authorized to sell the Manufacturer's products.
Manufacturer List Price	The price for a Product contained in the Manufacturer Price List
Manufacturer Price List	A price list published in some form by the Manufacturer and available to and recognized by the trade.
May	Denotes the permissive in a contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see "Should." "Will."
Minority and/or Woman-Owned Business (MWBE)	A business certified with Empire State Development (ESD) as a Minority and/or Woman-Owned Business.
Model Number	An identification number assigned to describe a style or class of item, such as a particular design, composition or function, by the Manufacturer or Distributor of that item.
Must	Denotes the imperative in a Contract clause or specification. Means required - being determinative/mandatory, as well as imperative. Also see "Shall" and "Will."
New York State Small Business Enterprise (NYS SBE)	A "New York State Small Business" is defined as a company that is a resident to New York State, independently owned and operated, with 100 or fewer employees, and not dominant in its field. See State Finance Law §160(8).
Non-State Agencies	Political subdivisions and other entities authorized by law to make purchases from OGS Centralized Contracts other than those entities that qualify as State Agencies. This includes all entities permitted to participate in centralized contracts per Appendix B, §27(b), Non-State Agency Authorized Users and §27(c), Voluntary Extension and State Finance Law Section 163(1)(k).
Office of the State Comptroller (OSC)	The New York State Office of the State Comptroller. http://www.osc.state.ny.us/
Product	Shall mean Hardware, Software, Maintenance, and Related Services. Product does not include Cloud.
Punch-out Catalog	A catalog that allows an Authorized User to buy from a Contractor's website from within the Authorized User's own procurement application. The Authorized User leaves ("punches out") the procurement application and enters the Contractor's Web-based catalog which launches the Contractor's website within the Authorized User's browser frame.
Related Services	Related services are limited to the following items if listed in the Manufacturer's pricelist: Installation; Implementation; Configuration; Pre-packaged Training; and Volume License Agreement management. Related Services cannot exceed 20% of total purchase of Product and Maintenance.
Related Software	Software which is bundled with Hardware and is required for installation, configuration and is integral to the operation of the Hardware.
Service	The performance of a task or tasks and may include a material good or a quantity of material goods, and which is the subject of any purchase or other exchange. For the purposes of this Solicitation, technology shall be deemed a service.
Shall	Denotes the imperative in a Contract clause or specification. Means required - being determinative/mandatory, as well as imperative. Also see "Must" and "Will".
Should	Denotes the permissive in a Contract clause or specification. Refers to items or information that the State has deemed are worthy of obtaining, but not required or obligatory. Also see "May."

Term	Definition
Software	An all-inclusive term which refers to any computer programs, routines, or subroutines supplied by the Contractor, including operating Software, programming aids, application programs, and program Products.
Storage	Specific to technology, a computer memory that retains data for some period of time. Storage can be categorized in many ways such as: primary or secondary; read-only, random access and magnetic storage.
System	The complete collection of Hardware, Software and services as described in the resulting Authorized User Agreements, integrated and functioning together, and performing in accordance with this Contract.
Tallied Contract Value	The “Tallied Contract Value” is calculated by adding together the value of the three governmental contracts submitted by a Bidder.
Training	Training that is designed to meet the special requirements of an Authorized User.
Usage	The quantity of an inventory item consumed over a period of time expressed in units of quantity or of value in dollars.
Vendor	An enterprise that sells goods or services.
Vendor Submission	The complete response to this Solicitation submitted by a Vendor to provide, as applicable, the Product and services described in the Solicitation
Volume Software License Agreement	A Volume Software License Agreement can occur when there is a large quantity of Software purchased from a particular Software Manufacturer, for a specified time period, which results in additional discounting beyond the Contract discounts.
Will	Denotes the permissive in a contract clause or specification. Also see “May,” “Shall.”
Written / Written Communication	Written Communication makes use of the written word. Examples of written communications include e-mail, Internet websites, letters, proposals, and contracts.

1.16 DESIGNATED CONTACTS

OGS Procurement Services Designated Contacts are found on the Cover Page of this Solicitation. The following Designated Contacts at the OGS Bureau of Risk and Insurance Management are designated exclusively for questions related to the insurance requirements included in the Solicitation:

DESIGNATED CONTACTS
Leighann Brown Robert Marriott
All inquiries shall be submitted to the following e-mail address: OGS.sm.Ps.DistUmbrella.Contractors@ogs.ny.gov

Section 2. Bidder Qualifications

A Bidder is advised that the State’s intent in listing the following requirements is to ensure that only qualified and reliable Vendors be considered for Contract award. A Vendor submitting a Proposal shall have the burden of demonstrating to the State’s satisfaction that it meets the qualifications and can perform the work in order to be considered for Contract award.

Bidders must respond to all specifications requiring a response with respect to the Bidder’s company, rather than referencing the experience and qualifications of the Bidder’s partner(s), parent company, or subsidiary company(ies). If Bidder does not respond to specification in respect to Bidder’s company, any proposal submitted may not be consider for Contract award.

2.1 MINIMUM BIDDER QUALIFICATION

2.1.1 Years in the Industry of the Solicitation

The Bidder must attest to having at least three years of experience as a Distributor of IT Products for multiple IT Manufacturers (Hardware and/or Software). The “Bidder” is the company whose Tax Employer Identification Number (EIN) appears on the documents submitted in response to this RFP. All responses must pertain to this entity, not to a parent entity, a subsidiary company with a different EIN, or an operating division within the entity, except as described below. For example:

- Company A has been in business as a Distributor of IT Products for multiple IT Manufacturers for two years. Its parent company, company B, has been in business for more than three years but not as a Distributor. Neither company is eligible to respond to this RFP.
- Company C has been in business as a Distributor of IT Products for multiple IT Manufacturers for more than three years. Its parent company, company D, has been in business for more than three years but not as a Distributor. Company C is eligible to respond to this RFP, but company D is not.

There are two qualifications to the above. First, changes to the EIN which did not involve another organization – for example, a change in tax identification number as a result of changing from a corporation to an LLC are not considered EIN changes for the purposes of this section. Second, in the case of entities that have new EINs or who have undergone mergers or acquisitions, the State may consider the relevant experience and qualifications of the companies which combined to create the new entity. In the response to this section, bidders must provide a sufficient description of each such merger or acquisition to enable the State to easily determine the years of Distributor experience of the combined entity.

Section 3. General Terms and Conditions

3.1 APPENDIX A

Appendix A, Standard Clauses For New York State Contracts, dated January 2014, attached hereto, is hereby incorporated in, and expressly made a part of this RFP. **Please retain this document for future reference and do not return to OGS as part of the Bid submission.**

3.2 APPENDIX B

Appendix B, Office of General Services General Specifications – Manufacturer Based, attached hereto, is hereby incorporated in, and expressly made a part of this RFP. **Please retain this document for future reference and do not return to OGS as part of the Bid submission.**

3.2.1 Appendix B Amendments

Appendix B Sections 63A and 63B shall not apply to this Solicitation or the resulting Contracts.

3.3 APPENDIX C

Appendix C, Equal Employment Opportunity Staffing Plan (EEO 100), attached hereto, is hereby incorporated in, and expressly made a part of this RFP.

3.4 CONTRACT INTEGRATION, MERGER AND ORDER OF PRECEDENCE

The Contract between the Contractor and the State shall be comprised of a separate document executed by Contractor and OGS incorporating Appendix A, Appendix B, portions of the RFP, portions of the successful Bidder’s proposal and other documents as may be identified by OGS for inclusion in the Contract.

Conflicts among the documents in the RFP shall be resolved in the following order of precedence:

1. Appendix A, Standard Clauses for New York State Contracts (January 2014);
2. The Request for Proposal;
3. Appendix B, General Specifications (Umbrella Distributor Based);

4. Other Appendices and attachments as deemed necessary

3.5 SUMMARY OF POLICY AND PROHIBITIONS ON PROCUREMENT LOBBYING

Pursuant to State Finance Law §139-j and §139-k, this Solicitation includes and imposes certain restrictions on communications between OGS and a Vendor during the procurement process. A Vendor is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Procurement Contract by OGS and, if applicable, the Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j(3)(a). Designated staff, as of the date hereof, is identified on the first page and in Section 1.6. OGS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Vendor pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period; the Vendor is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the OGS website:

http://www.ogs.ny.gov/aboutOgs/regulations/defaultSFL_139j-k.asp.

3.6 MERCURY ADDED CONSUMER PRODUCTS

Contractor agrees that it will not sell or distribute fever thermometers containing mercury or any products containing elemental mercury for any purpose under the Contract resulting from this RFP.

3.7 SURPLUS/TAKE-BACK/RECYCLING

A. A State agency is reminded of its obligation to comply with the NY State Finance Law §§ 167, Transfer and Disposal of Personal Property, and 168, The Management of Surplus Computer Equipment, regarding transfer and disposal of surplus personal property before utilizing take-back, recycling, or other options for disposition of equipment that is still in operable condition.

B. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/recycling program for units transferred for disposition. Contractor shall provide documentation that the units were disposed of in an environmentally sound manner in compliance with applicable local, state and federal laws. See Section C below for specific requirements governing electronic equipment recycling.

C. The NYS Department of Environmental Conservation (DEC) Electronic Equipment Recycling and Reuse Act (“Act”) (Environmental Conservation Law, Article 27, Title 26, Electronic Equipment Recycling and Reuse), requires Manufacturers to establish a convenient system for the collection, handling, and recycling or reuse of electronic waste. If Contractor is a Manufacturer of electronic equipment covered by the Act, Contractor agrees to comply with the requirements of the Act. More information regarding the Act can be found on the DEC website at:
<http://www.dec.ny.gov/chemical/65583.html>.

D. If a Contractor offers a take-back/recycling program or offers an electronic equipment recycling program pursuant to the Act, and an Authorized User participates in same, then the Authorized User shall ensure the destruction of all data from any hard drives surrendered with the machines/covered electronic equipment. Contractor shall not require an Authorized User to surrender the hard drive, as an Authorized User may wish to retain the hard drive for security purposes. Contractor shall advise the Authorized User in advance if the retention of the hard drive results in additional fees or reduction in trade-in value. It is recommended that an Authorized User use a procedure for ensuring the destruction of confidential data stored on hard drives or other storage media that meets or exceeds the National Institute of Standards and Technology (NIST) Guidelines for Media Sanitation as found in NIST Special Publication 800-88.

3.8 NEW YORK STATE VENDOR FILE REGISTRATION

Prior to being awarded a Contract pursuant to this Solicitation, the Bidder and any authorized resellers who accept payment directly from the State, must be registered in the New York State Vendor File (Vendor File) administered by the Office of the State Comptroller (OSC). This is a central registry for all vendors who do business with New York State Agencies and the registration must be initiated by a State Agency. Following the initial registration, a unique New York State ten-digit vendor identification number (Vendor ID) will be assigned to your company and to each of your authorized resellers (if any) for use on all future transactions with New York State. Additionally, the Vendor File enables a vendor to use the Vendor Self-Service application to manage all vendor information in one central location for all transactions related to the State of New York.

If Bidder is already registered in the New York State Vendor File, the Bidder must enter its Vendor ID on the first page of this Solicitation. Authorized resellers already registered should list the Vendor ID number along with the authorized reseller information.

If the Bidder is not currently registered in the Vendor File, the Bidder must request assignment of a Vendor ID from OGS. Bidder must complete the OSC Substitute W-9 Form (http://www.osc.state.ny.us/vendors/forms/ac3237s_fe.pdf) and submit the form to OGS in advance of Bid submission. Please send this document to the Designated Contact identified in the Solicitation. In addition, if an authorized reseller is to be used that does not have a Vendor ID, an OSC Substitute W-9 form should be completed by each authorized reseller and submitted to OGS. OGS will initiate the vendor registration process for all Bidders and authorized resellers. Once the process is initiated, registrants will receive an e-mail identifying their Vendor ID and instructions on how to enroll in the online Vendor Self-Service application.

For more information on the Vendor File please visit the following website:
http://www.osc.state.ny.us/vendor_management

3.9 NEW YORK STATE VENDOR RESPONSIBILITY QUESTIONNAIRE FOR-PROFIT BUSINESS ENTITY (HEREINAFTER THE "QUESTIONNAIRE")

OGS conducts a review of prospective contractors ("Bidders") to provide reasonable assurances that the Bidder is responsive and responsible. A For-Profit Business Entity Questionnaire (hereinafter "Questionnaire") is used for non-construction contracts and is designed to provide information to assess a Bidder's responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history. By submitting a bid, Bidder agrees to fully and accurately complete the Questionnaire. The Bidder acknowledges that the State's execution of the Contract will be contingent upon the State's determination that the Bidder is responsible and that the State will be relying upon the Bidder's responses to the Questionnaire, in addition to all other information the State may obtain from other sources, when making its responsibility determination.

OGS recommends each Bidder file the required Questionnaire online via the New York State VendRep System. To enroll in and use the VendRep System, please refer to the VendRep System Instructions and User Support for Vendors available at the Office of the State Comptroller's (OSC) website, http://www.osc.state.ny.us/vendrep/vendor_index.htm or to enroll, go directly to the VendRep System online at <https://portal.osc.state.ny.us>.

OSC provides direct support for the VendRep System through user assistance, documents, online help, and a help desk. The OSC Help Desk contact information is located at <http://www.osc.state.ny.us/portal/contactbuss.htm>. Bidders opting to complete the paper questionnaire can access this form and associated definitions via the OSC website at http://www.osc.state.ny.us/vendrep/forms_vendor.htm.

In order to assist the State in determining the responsibility of the Bidder prior to Contract Award, the Bidder must complete and certify (or recertify) the Questionnaire no more than six months prior to the bid due date. A Bidder's Questionnaire cannot be viewed by OGS until the Bidder has certified the Questionnaire. It is recommended that all Bidders become familiar with all of the requirements of the Questionnaire in advance of the bid opening to provide sufficient time to complete the Questionnaire.

The Bidder agrees that if it is awarded a Contract the following shall apply:

II. The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS or her designee issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that the Contractor's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Contract may be terminated by the Commissioner of OGS or her designee at the Contractor's expense where the Contractor

is determined by the Commissioner of OGS or her designee to be non-responsible. In such event, the Commissioner of OGS or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

3.10 TAX LAW §5-A

Tax Law §5-a requires certain Contractors awarded state Contracts for commodities, services and technology valued at more than \$100,000 to certify to NYS Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to Contracts where the total amount of such Contractors' sales delivered into New York State is in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

A Contractor is required to file the completed and notarized Form ST-220-CA with OGS certifying that the Contractor filed the ST-220-TD with DTF. Note: NYS DTF receives the completed Form ST-220-TD, not OGS. OGS ONLY receives the Form ST-220-CA. Form ST-220-CA must be filed with the bid and submitted to the procuring covered Agency certifying that the Contractor filed the ST-220-TD with DTF. Contractor should complete and return the certification forms within five business days of request (if the forms are not completed and returned with bid submission). Failure to make either of these filings may render a Contractor non-responsive and non-responsible. Contractor shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

Website links to the Contractor certification forms and instructions are provided below. Form ST-220-TD must be filed with and returned directly to DTF and can be found at http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with DTF. If the information changes for the Contractor, its affiliate(s), or its subcontractor(s), a new Form ST-220-TD must be filed with DTF.

Form ST-220-CA must be submitted to OGS. This form provides the required certification that the Contractor filed the ST-220-TD with DTF. This form can be found at http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf

Vendors may call DTF at 518-485-2889 for any and all questions relating to Section 5-a of the Tax Law and relating to a company's registration status with DTF. For additional information and frequently asked questions, please refer to the DTF web site: <http://www.tax.ny.gov/>.

3.11 BULK DELIVERY AND ALTERNATE PACKAGING

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the product for the shipment of multi-unit purchases. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

3.12 ENVIRONMENTAL ATTRIBUTES AND NYS EXECUTIVE ORDER NO. 4

New York State is committed to environmental sustainability and endeavors to procure products with reduced environmental impact. One example of this commitment may be found in Executive Order No. 4 (Establishing a State Green Procurement and Agency Sustainability Program), which imposes certain requirements on State Agencies, authorities, and public benefit corporations when procuring commodities, services, and Hardware. More information on Executive Order No. 4, including specifications for offerings covered by this Contract, may be found at <http://www.ogs.ny.gov/EO/4/Default.asp>. State entities subject to Executive Order No. 4 are advised to become familiar with the specifications that have been developed in accordance with the Order, and to incorporate them, as applicable, when making purchases under this Contract.

3.13 PURCHASE ORDERS AND INVOICING

General - All orders and invoices/vouchers shall include the contract number and a line by line listing of separate charges.
Purchase Orders Involving Price Lists - Purchase Orders are to include the following information when a Product is purchased from a price list:

- Product description;
- Product code/Manufacturer number;
- Calculation of NYS net contract price per unit by quantity; and
- Specific designation of any special pricing which may be better than the NYS Contract price.

Invoicing and payment: All invoices and payments shall be made in accordance with the terms set forth in Appendix B, *Contract Invoicing*. Contractor cannot use resellers to sell Products or invoice Authorized Users under any Contract resulting from this solicitation.

The Contractor is required to provide the Authorized User with one invoice for each Purchase Order. The invoice must include detailed line item information to allow Authorized Users to verify that pricing at point of receipt matches the Contract price on the original date of order. At a minimum, the following fields must be included on each invoice:

- A. Vendor Name
- B. Vendor Billing Address
- C. Vendor Federal ID Number
- D. NYS Vendor ID Number
- E. Account Number
- F. NYS Contract Number
- G. Name of Authorized User indicated on the Purchase Order
- H. NYS Agency Unit ID (if applicable)
- I. Authorized User's Purchase Order Number
- J. Order Date
- K. Invoice Date
- L. Invoice Number
- M. Invoice Amount
- N. Product Number/Identifier
- O. Product Descriptions
- P. Unit Price
- Q. Quantity
- R. Unit of Measure
- S. Dates of Service (if applicable)

An Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of varying ordering systems in use by different Authorized Users.

3.14 CONTRACT PAYMENTS

Payments cannot be processed by Authorized Users until the Products have been delivered and accepted in accordance with Appendix B, §33, Product Delivery. Payment will be based on any invoice used in the Contractor's normal course of business. However, such invoice must contain all requirements in Section 3.13, Purchase Orders and Invoicing, including description of the Products as well as Product/SKU number.

3.15 NOTE TO AUTHORIZED USERS

ALL AUTHORIZED USERS ARE URGED TO PROCESS EVERY PAYMENT EXPEDITIOUSLY GIVING PARTICULAR ATTENTION TO THOSE INVOLVING CASH DISCOUNTS FOR PROMPT PAYMENT.

When placing purchase orders under the Contract, the Authorized User should be familiar with and follow the terms and conditions governing its use. The Authorized User is accountable and responsible for compliance with the requirements of public procurement processes. The Authorized User, when purchasing from OGS contracts, should hold the Contractor accountable for contract compliance and meeting the contract terms, conditions, specifications, and other requirements. Also, in recognition of market fluctuations over time, Authorized Users are encouraged to seek improved pricing whenever possible. Authorized Users have the responsibility to document purchases which should include:

- a statement of need and associated requirements,
- obtaining all necessary prior approvals,

3.16 NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS

New York State political subdivisions and others authorized by New York State law may participate in Centralized Contracts. These include, but are not limited to local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See "Participation in Centralized Contracts" in Appendix B, OGS General Specifications. For purchase orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have delivery locations adjacent to New York State), delivery is allowed to locations adjacent to New York State.

Upon request, all eligible non-State agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State contracts. Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to OGS Customer Services at 518-474-6717.

3.17 EXTENSION OF USE

Any contract resulting from this Bid solicitation may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York State (the lead contracting State) and the Contractor. Political subdivisions and other authorized entities within each participating State or governmental jurisdiction may also participate in any resultant contract if such State normally allows participation by such entities. New York State reserves the right to negotiate additional discounts based on any increased volume generated by such extensions.

3.18 POOR PERFORMANCE

Authorized Users should notify Procurement Services Customer Services promptly if the Contractor fails to meet the requirements of this contract. Performance which does not comply with requirements or is otherwise unsatisfactory to the Authorized User should also be reported to Customer Services:

Office of General Services	Tel: 518-474-6717
New York State Procurement	Fax: 518-474-2437
Customer Services Coordination	E-mail: customer.services@ogs.ny.gov
38th Floor Corning Tower	
Empire State Plaza	
Albany, NY 12242	

3.19 PROHIBITED LISTS

The Prohibited lists are lists of Manufacturers that are not available under Lot 1 – Software and Lot 2 – Hardware of this solicitation due to the Manufacturers having other OGS contracts or circumstances that make their Products unable to be purchased through any Contract resulting from this solicitation. A Distributor cannot sell any Products of a Manufacturer within a Lot included in this solicitation if the Manufacturer already holds an OGS Contract for the sale of the Manufacturer's Products that fall within the scope of the Lot. For example, if a Manufacturer holds another OGS contract for hardware, that Manufacturer's Products cannot be sold under Lot 2 – Hardware.

A listing of prohibited Software Manufacturers can be found through the following link:
<http://www.ogs.ny.gov/purchase/biddocument/22876Bid.asp>.

A listing of prohibited Hardware Manufacturers can be found through the following link:
<http://www.ogs.ny.gov/purchase/biddocument/22876Bid.asp>.

If a Manufacturer included in the Contract pricelist obtains an OGS Contract for Software and/or Hardware, that Manufacturer will be added to the prohibited list for Lot 1 – Software and/or Lot 2 – Hardware and the Manufacturer's Products will no longer be eligible to be sold under Lot1 and/or Lot2 of the Umbrella Distributor Contract.

In light of the frequent changes in the IT industry, an Authorized User is strongly encouraged to contact the NYS Office of General Services with any questions about whether a particular Product is produced by a prohibited Manufacturer.

3.20 GENERAL REQUIREMENTS

The State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor. For reasons of safety and public policy, in any contract resulting from this procurement, the use of illegal drugs and/or alcoholic beverages by the Contractor or its personnel shall not be permitted while performing any phase of the work herein specified.

3.21 CONTRACT MODIFICATION PROCEDURES

A. OGS, an Authorized User, or the Contractor may suggest modifications to the Centralized Contract or its Appendices. Except as specifically provided herein, modifications to the terms and conditions set forth herein may only be made with mutual written agreement of the Parties. Modifications may take the form of an update or an amendment. "Updates" are changes that do not require a change to the established Centralized Contract terms and conditions. A request to offer higher discounts or change a contractor's address are examples of updates. "Amendments" are any changes that are not specifically covered by the terms and conditions of the Centralized Contract, but inclusion is found to be in the best interest of the State. A request to change a contractual term and condition is an example of an amendment.

B. Updates to the Centralized Contract, Attachments and the Appendices may be made in accordance with the contractual terms and conditions to make price level revisions, update the Prohibited List, or to make such other updates to the established Centralized Contract terms and conditions, not resulting in a change to such terms and conditions, which are deemed to be in the best interest of the State.

C. OGS reserves the right to consider modifications which are not specifically covered by the terms of the Centralized Contract, but are judged to be in the best interest of the State. Such modifications are deemed amendments to the Centralized Contract and may require negotiations between Contractor and OGS before execution.

D. All modifications proposed by Contractor, shall be processed in accordance with Appendix D, Contract Modification Procedure. The Contractor shall submit all requests in the form and format contained in Appendix D, Contract Modification Procedure.

The form contained within Appendix D is subject to change at the sole discretion of OGS.

E. Modifications proposed by OGS or an Authorized User, including updates and amendments, shall be processed in accordance with the terms of the Centralized Contract and Appendix B, §28.

3.22 USE OF RECYCLED OR REMANUFACTURED PRODUCTS

New York State supports and encourages contractors to use recycled, remanufactured or recovered materials in the manufacture of products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the product or packaging unless such use is precluded due to health or safety requirements or product specifications contained herein. Refurbished or remanufactured components or products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this bid solicitation. Warranties on refurbished or remanufactured components or products must be identical to the Manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See "Remanufactured, Recycled, Recyclable or Recovered Materials" in Appendix B, OGS General Specifications.

3.23 PREFERRED SOURCE PRODUCTS

NYS Finance Law Section 162 requires that governmental entities afford first priority to the products/services of preferred source suppliers such as Correctional Industries (Corcraft), New York State Preferred Source Program for People who are Blind, and NYS Industries for the Disabled, when such products/services meet the form, function and utility of the Authorized User. An Authorized User must determine if a particular commodity or service is approved for a Preferred Source and follow the requirements of State Finance Law Section 162(3) or (4)(b), respectively, before engaging Contractors.

3.24 REPORT OF CONTRACT USAGE

Contractor shall furnish a report of all Products provided under the Contract on a quarterly basis, no later than the 15th of the month following the close of each prior three months. All fields of information shall be accurate and complete. OGS reserves the right to unilaterally make revisions, changes and/or updates to Attachment 9 - Report of Contract Sales or to require sales to be reported in a different format without processing a formal amendment and/or modification. Further, additional related sales information and/or detailed Authorized User purchases may be required by OGS and must be supplied upon request.

3.25 COST-PLUS/COST-MINUS PERCENTAGES

The Cost-Plus percentages will NOT increase over the life of the Contract. The Cost-Minus percentages bid will NOT decrease over the life of the Contract.

3.26 PROCUREMENT INSTRUCTIONS

Authorized Users should refer to Attachment 6 – How to Use the Distributor Umbrella Contract for specific instructions on the usage of this Contract. OGS reserves the right to unilaterally make revisions, changes and/or updates to Attachment 6 – How to Use the Distributor Umbrella Contract without processing a formal amendment and/or modification.

Section 4. Special Terms and Conditions

4.1 SPECIFICATIONS

Product shall be designed and assembled in accordance with all applicable industry standards and comply with all governmental regulations. If applicable, the appropriate decals indicating compliance shall be affixed to the Product. Product shall conform to any and all applicable New York State laws, regulations and directives, including but not limited to, New York Codes, Rules and Regulations (NYCRR) and Environmental Protection Agency (EPA) and Occupational Safety & Health Administration (OSHA) requirements.

4.2 ELECTRONIC PROCUREMENT SYSTEMS (EPROCUREMENT)

Contractor shall, in the event the State implements a Web-based system to support catalog purchasing and upon at least 120 days notice, participate as directed by Procurement Services to successfully activate and maintain a contract and technically compliant catalog.

4.3 SHIPPING DATES AND DELIVERY TIME

Delivery shall be expressed in number of calendar days required to make delivery after receipt of a Purchase Order. Delivery time will be based on timeframes specified by each Authorized User's Request for Quote at time of purchase. Pursuant to Appendix B, §35, Shipping/Receipt of Product, freight terms are FOB Destination.

The following provisions for Shipping Dates and Delivery Time shall apply:

- A. Contractor shall provide the Authorized User with written acknowledgement of orders, which will include anticipated shipping date, within two business days after receipt of order.
- B. Contractor shall provide the Authorized User with written acknowledgement of the shipping date at least five calendar days prior to shipment.
- C. If shipment will not be made within the delivery time, the Contractor shall provide Authorized User written notice as soon as a delay is anticipated, but no less than three calendar days prior to the latest date of the original delivery obligation. This notification must include the reasons for the delay and the latest date the Product will be shipped.
- D. All correspondence on shipping dates and delivery time shall be directed to the ordering Authorized User's contact person.

4.4 PERFORMANCE AND BID BONDS

There are no Bonds for this Contract. In accordance with Appendix B, §45 Performance/Bid Bond, the Commissioner of OGS has determined that no performance, payment or Bid Bond, or negotiable irrevocable letter of credit or other form of security for the faithful performance of the Contract shall be required at any time during the Term for resulting Contracts.

4.5 REQUIRED INSURANCE

Bidder shall submit proof of Worker's Compensation and Disability Benefits Insurance with bid submittal. Upon tentative award, Bidder shall be required to procure within five business days, at its sole cost and expense, all required insurance as detailed in Attachment 5 - Contractor Insurance Requirements. The Contractor shall procure at its sole cost and expense, and shall maintain in force at all times during the term of the Contract, policies of insurance pursuant to the requirements outlined. At least 30 days prior to the expiration of any policy required by the Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to OGS than the expiring policies shall be delivered to OGS in accordance with Attachment 5 - Contractor Insurance Requirements.

Section 5. Method of Award

5.1 GENERAL

Each Lot will be awarded to Bidders having the highest total points within a Lot. Point allocation will be based on a Best Value evaluation of Bidder qualifications and desirable characteristics satisfied by a Bidder, which will be assessed by using information obtained from Attachment 1 – Bidder Questionnaire and Attachment 7 – Diversity Practices Questionnaire. Point allocation will also be based on market basket pricing for each Lot, which will be assessed by using information obtained from Attachment 2 – Market Basket Pricing (Software) for Lot 1 and/or Attachment 3 – Market Basket Pricing (Hardware) for Lot 2.

Up to five contracts will be awarded per Lot, OGS reserves the right to let the centralized contract for either Lot, once three or more Bidders are eligible for contract award within a Lot.

Bidders are strongly encouraged to read the language of this RFP thoroughly and to precisely follow the instructions included in the attachment pages.

5.2 EVALUATION COMPONENTS

The following components have points assigned in the evaluation criteria:

Factor	Weight
Technical	<i>25% (as divided below)</i>
Minimum Qualification – 3 Years in industry (Pass/Fail)	0%
Manufacturer Authorization Letters and Governmental Contract Dollar Values	20.75%
Desirable Characteristics	3%
Diversity Practices	Up to 5% of the 25 Technical Points (Up to 1.25 Points)
Cost	75%

5.2.1 Technical Evaluation

Attachment 1 – Bidder Questionnaire and Attachment 7 – Diversity Practices

Attachment 1 is a questionnaire for Bidders to identify number of years in business, governmental contract (US Federal, State, or Local) dollar values, the number of Manufacturer Authorization Letters submitted, and desirable characteristics, for which a Bidder’s company will be evaluated. Attachment 7 is a questionnaire for Bidders to identify their Diversity Practices.

5.2.1.1 Minimum Qualification – Years in the Industry of the Solicitation

In order to qualify for a contract, Bidder must attest to having at least three years of experience as a Distributor of IT Products for multiple IT Manufacturers (see section 2.1 – Minimum Bidder Qualification). This qualification is a Pass/Fail qualification and if Bidder does not have the required years of experience, Bidder’s proposal will not be considered for a contract award.

5.2.1.2 Governmental Contract Dollar Values

Up to three governmental contract dollar values submitted by Bidders will be evaluated. The governmental contract dollar values submitted by Bidders will be tallied and a median Tallied Contract Value will be determined. Bids that have a Tallied Contract Value equal to or greater than the median Tallied Contract Value will proceed in the evaluation process. Bids that have a Tallied Contract Value that is less than the median Tallied Contract Value will be removed from further consideration for Contract award. However, if there are less than ten bids with Tallied Contract Values that are equal to or above the

median Tallied Contract Value within a Lot, the ten highest Tallied Contract Values for the Lot will proceed in the evaluation process.

Points will be allocated for the Bidders that move on from the evaluation process above. The Bidders with the highest combined governmental contract dollar values will receive the most points. Governmental contract dollar values are the contract values as determined by governmental entity. If a contract has not come to completion, the contract value will be the estimated value as determined by the governmental entity. If the contract has come to completion, the contract value will be the actual spend against the contract. During the evaluation phase, OGS Procurement services will contact the references, provided by Bidders in Attachment 1 – Bidder Questionnaire, to verify contract values. References will be given five business days to respond. If a reference for a contract dollar value has not responded after five business days, the contract dollar value will be excluded from inclusion in the evaluation process. A signed letter from a reference will be accepted to confirm Contract dollar values, which will allow a Bidder to secure a reference response before proposal submission.

5.2.1.3 Manufacturer Authorization Letters

If Bidders have established relationships with Manufacturers, Bidders must submit Authorization Letters from the Manufacturers. A blank Authorization Letter is included in Attachment 1 – Bidder Questionnaire. Bidders with the highest amount of Authorization Letters submitted will receive the most points. A Bidder will still be able to submit bids for Manufacturers included in Attachment 2 – Market Basket pricing (Software) and/or Attachment 3 – Market Basket Pricing (Hardware) even if Bidder did not submit an Authorization Letter for the Manufacturer. Currently effective Authorization Letters containing the information required in the Authorization Letter template included in Attachment 1, Bidder Questionnaire, will be accepted.

5.2.1.4 Desirable Characteristics

Bidders can choose to offer/meet Desirable Characteristics included in Attachment 1 – Bidder Questionnaire. Additional points will be awarded for each desirable characteristic satisfied.

5.2.1.5 Diversity Practices

OGS has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Bidders for this procurement is practical, feasible, and appropriate. Accordingly, to receive certain evaluation points, Bidders are required to complete and submit as part of their Bid, the OGS Diversity Practices Questionnaire (Attachment 7).

OGS will review Bidder's responses to the Diversity Practices Questionnaire (Attachment 7), and score them according to the Diversity Practices Scoring Matrix (Attachment 8) and in comparison to the responses of all Bidders to this Solicitation. The points received for each response will be added to achieve a Total Diversity Score of up to 100 points. The Total Diversity Score will then be weighted, to achieve a Weighted Score of 5% of the total technical score, or up to 1.25 points.

5.2.2 Cost Evaluation

Attachment 2 – Market Basket Pricing (Software) and Attachment 3 – Market Basket Pricing (Hardware)

A Bidder's Financial Proposal shall be submitted by completing Attachment 2 – Market Basket Pricing (Software) and/or Attachment 3 – Market Basket Pricing (Hardware). Bids will consist of either a Cost-Plus or Cost-Minus percentage for the Manufacturers listed in Attachment 2 and/or Attachment 3. The Cost-Plus or Cost-Minus percentage bid will apply to all Products that the Manufacturer offers commercially. The Cost-Plus percentage, Cost-Minus percentage, and the three pricing categories contained in Attachment 2 and Attachment 3 are described below.

Fixed Cost-Plus or Cost-Minus Percentages

The Cost-Plus percentage is applied to what the Bidder pays for a Product at the time of purchase, that is, the invoice amount from the Manufacturer. For example, a Product has a list price for government agencies of \$1,000. The Bidder is able to negotiate a 5% discount with the Product Manufacturer and pays \$950.

This price becomes the basis for the markup and using a 2% markup as an example, the cost to the State is $\$950 + 2\%$ or $\$969$. The cost is calculated by multiplying $(1 + \% \text{ markup}) * \text{cost to Bidder}$ – in the above example, 102% of $\$950$. The Cost-Plus percentages bid will NOT increase over the life of the Contract. Similarly, the Cost-Minus percentage is applied to what the Bidder pays for the Product at the time of purchase, that is, the invoice amount from the Manufacturer. For example, Bidder's cost (invoice amount from Manufacturer) for a Product is $\$1,000$. If the Bidder has a Cost-Minus percentage of 5%, the cost to an Authorized Contract user is calculated by multiplying $(1 - \text{cost minus } \%) * \text{cost to Bidder}$ – in this example, 95% of $\$1,000$ or $\$950$. The Cost-Minus percentages bid will NOT decrease over the life of the Contract. The Cost-Plus or Cost-Minus bid for Products will also apply to maintenance provided for the Products.

5.2.2.1 Attachment 2 and Attachment 3 Pricing Categories

Attachment 2 and Attachment 3, Pricing Category 1, contains a market basket for Software (Lot 1) and a market basket for Hardware (Lot 2), which list samplings of Manufacturers that Authorized Users commonly purchase Products from. Bidders will apply a Cost-Plus or Cost-Minus Percentage for each Manufacturer within a market basket. The Cost-Plus or Cost-Minus percentage bid will apply to all products that the Manufacturer offers commercially. A total cost will be calculated for all bids to determine point allocation based on the weight for cost in the above table under 5.2.

In Attachment 2 and Attachment 3, Pricing Category 2, Bidder should list all the Manufacturers not listed in Pricing Category 1 that Bidder currently has a business relationship with and offer a Cost-Plus or Cost-Minus percentage for each Manufacturer. The Cost-Plus or Cost-Minus percentage bid will apply to all products that the Manufacturer offers commercially. OGS will not include Pricing Category 2 in the Cost evaluation for a Lot, if all Bidders (that pass the median evaluation process described in Section 5.2.1.2) do not submit Cost-Plus or Cost-Minus percentages for at least one common Manufacturer listed in the Market Basket for the Lot.

Finally, in Attachment 2 and Attachment 3, Pricing Category 3 contains a line item for a single Cost-Plus or Cost-Minus percentage bid for all other Manufacturers not identified in Attachment 2 and Attachment 3, Pricing Categories 1 and 2. The Cost-Plus or Cost-Minus percentage bid will apply to all products that the Manufacturers offer commercially.

Each pricing category will be scored and points will be awarded to Bidders based on the most favorable Contract rates offered to the State.

After contracts are awarded, a Bidder's listed Contract rates shall be the Cost-Plus or Cost-Minus bids that were offered in Bidder's Attachment 2 and/or Attachment 3 submission. More favorable pricing can be offered to Authorized Users in the Request for Quote (RFQ) process. At time of purchase, to facilitate competition, Authorized Users will be required to solicit quotes from all awardees within a lot; Bidders are encouraged to quote the best pricing possible during the RFQ process.

5.3 COST PROPOSAL REVISION

Prior to award, the State reserves the right to request a cost proposal revision, in accordance with State Finance Law §163.9(c), from any Bidder determined by the State to be susceptible of being selected for contract award. "Susceptible of being selected for contract award" shall mean up to the five responsive Bidders that have the lowest Bids for all Products, as applicable. Any Bidder that is determined by the State to be insusceptible of being selected for contract award will receive no further consideration for award, and will not be asked to participate in the cost proposal revision process.

All Bidders are encouraged to propose the best possible offers at the onset of the initial Bid as there is no guarantee that any proposal will be allowed an opportunity to submit a revised cost proposal. Bidders are also advised that partially participating in the cost proposal revision process, or not participating at all, may result in a change in the Bidder's rank if other Bidders choose to submit a lower Cost-Plus percentage or a higher Cost-Minus percentage in the cost proposal revision process.

A Bidder who is selected to participate in a cost proposal revision process must submit the Attachment 2 – Market Basket Pricing (Software) and/or Attachment 3 – Market Basket Pricing (Hardware) provided by Procurement Services, revised with the Bidder's cost proposal revision, in accordance with the format described in Section 8, Format and Content of Bid Submittal, by the date required by Procurement Services in the cost proposal revision notice sent to the Bidder. The susceptible Bidder must also submit a notarized form provided by Procurement Services, by the date required, that certifies

that the cost proposal revision has been submitted by an individual with the express authority to sign on behalf of the Bidder, The cost proposal revision process, including information sent to the Bidder and the Bidder's submission of the revised Attachment 2 – Market Basket Pricing (Software) and/or Attachment 3 – Market Basket Pricing (Hardware), will be conducted via e-mail to a susceptible Bidder's designated point of contact, unless otherwise instructed by Procurement Services. Information about the cost proposal revision process will be sent via email to susceptible Bidders prior to release of the cost proposal revision process, and susceptible Bidders will be given the opportunity to submit questions at that time. Answers to questions will be provided to all susceptible Bidders. There will be no additional pre-Bid conference for the cost proposal revision process.

A cost proposal revision must be a lower Cost-Plus percentage or a higher Cost-Minus percentage than the initial Bid. Bidders participating in the cost proposal revision process cannot add Products that were not in the initial Bid, or remove Products that were in the initial Bid. Procurement Services shall not consider a cost proposal revision for the following: (1) Products not identified in the notice sent to the Bidder as being included in the cost proposal revision process; (2) where the cost proposal revision is a higher Cost-Plus percentage or a lower Cost-Minus percentage than the initial Bid; or (3) for a Product that was not included in the initial Bid. Pursuant to RFP Section 8.5 Proposal Validity, a Bid for a Product shall not be withdrawn during the cost proposal revision process.

The lowest Bid received for Grand Total for Bid, for Products included in the cost proposal revision process will be shared with participants in the cost proposal revision process. The company name of the Bidder with the lowest Bid will not be shared with participants in the cost proposal revision process.

Bids from susceptible Bidders participating in a cost proposal revision process will be reevaluated based on the results of the cost proposal revision process. If a susceptible Bidder participating in a cost proposal revision process does not respond to a cost proposal revision request for Product(s) it will be presumed that the susceptible Bidder elected not to participate in the cost proposal revision for the Product(s), and the susceptible Bidder will only be evaluated based on the Cost-Plus or Cost-Minus percentages submitted in their initial Bid for the Product(s), or a prior revised Attachment 2 – Market Basket Pricing (Software) and/or Attachment 3 – Market Basket Pricing (Hardware), if there had been a previous cost proposal revision request in which the susceptible Bidder participated. Any susceptible Bidder who submits a revised Attachment 2 – Market Basket Pricing (Software) and/or Attachment 3 – Market Basket Pricing (Hardware) after the date required by Procurement Services in the cost proposal revision process notice sent to the susceptible Bidder, will only be evaluated based on the Cost-Plus or Cost-Minus percentages submitted in their initial Bid, as applicable.

OGS reserves the right to conduct multiple rounds of the cost proposal revision process, if doing so is determined to be in the best interest of the State.

Section 6. Contract Requirements

6.1 TIME TO RETURN PHONE CALLS OR RESPOND TO EMAILS

Contractor must return phone calls or respond to emails within a maximum of four business hours (8:00 AM – 5:00 PM between Monday and Friday) after a phone call is placed or an email is received.

6.2 ON-LINE DISTRIBUTOR CATALOG

Contractor must maintain an on-line catalog of available Products with pricing. The catalog must be accessible via any commonly used browser, with no need to download additional Software. All awarded Lots must be included in the catalog. It must be available 24x7, except for scheduled maintenance timeframes. It must also include a mechanism for on-line ordering. The website must be ADA compliant.

It is required that the catalog allow searches by OEM, Product, Product descriptions, and Manufacturer.

The website hosting the catalog must also include information, such as contact information for customer account representatives and links (if requested) to State websites.

If the State has restricted Products that cannot be obtained from the Distributor, it is desirable that the catalog show only those Products which Authorized Users are allowed to obtain from the Distributor.

The Contractor must propose a means of making any information needed to log in to the catalog available to any Authorized User who wishes to do so, whether by assigning different codes to each Authorized User or establishing a single set of login

codes and distributing these codes to Authorized Users. This method must not require any administrative tasks on the part of OGS Procurement Services.

The Contractor shall provide logins to a production website that will meet the requirements of this section, including report generation, within 30 calendar days of award. If the Contractor fails to meet this requirement, OGS may suspend the ability to sell Products under the Contract until website is in compliance with the requirements of this section.

6.3 OBTAINING QUOTES

Contractor must provide quotes within a maximum of four business hours after receiving a request for a quote, for Product which is currently in the Contractor's catalog. The Contractor is required to honor all quotes for 30 calendar days, regardless of price increases, unless otherwise specified in Authorized User Request for Quote.

Contractor must accept requests for quotes via email, or online, and must provide quotes, via email or online as requested by the Authorized User. Quotes generated online must be guaranteed in the same manner as quotes provided through other means.

The quote must clearly indicate the method of Product delivery, and whether Software is delivered via media, download, or some other means.

6.4 MANUFACTURER WHO HAS NO PRIOR RELATIONSHIP WITH THE BIDDER

Contractor must work to establish relationships with Manufacturers who are new to them to obtain quotes and be able to deliver Product in a timely fashion. If after three business days a Contractor has been unable to obtain a quote and assurances that the Contractor will be able to provide the Product, the Contractor must contact the Authorized User with a status report. Authorized User will determine whether or not the Request for Quote period should be extended, so the Contractor can continue to pursue a quote and agreement with the Manufacturer.

If the Contractor has been unable to obtain a quote and agreement with the Manufacturer within 10 days (unless another time period is specified by Authorized User) of the request for quote, Contractor must respond "no bid", in writing, to the Request for Quote.

6.5 CONSISTENT QUOTE FORMAT

Contractor must use a standard quote format when providing best and final pricing to Authorized Users. It will be a requirement that Product terms and conditions included in the quote match the terms and conditions that are associated with the Product. If a Product or maintenance agreement attached to the quote identifies different types of licenses or maintenance, the quote must indicate which is being quoted.

6.6 RETURN OF UNUSED PRODUCT

The Contractor must allow unopened Product to be returned with no restocking fee up to 30 calendar days from the date of receipt. Return shipping and delivery costs for Product will be paid by the Authorized User. If custom orders require a restock fee mandated by the Manufacturer, the Contractor must state this information on the Quote.

6.7 DELIVERED OF SOFTWARE VIA DOWNLOAD

The Contractor must allow downloaded Software to be returned with no additional fees up to 30 days from the date of download, if allowed by the Manufacturer, provided that the Authorized User provides any certifications required by the Manufacturer concerning the Authorized User's use of the Software. If the Manufacturer has a shorter timeframe for returns or requires additional fees, this must be stated on the quote.

If the Authorized User encounters difficulty in downloading or installing the Software, the Contractor must provide or arrange for provision of assistance to the Authorized User within 8 business hours of being informed of the problem.

If requested by the Authorized User during the order process, download information, including keys if applicable, will be provided by the Contractor to a party other than the individual placing the order (the "end user"). The individual placing the order will supply contact information for the end user.

6.8 NOTIFICATION OF UPCOMING MAINTENANCE EXPIRATION

The Contractor must notify Authorized Users 60 days prior to the expiration date of any product maintenance services, and monthly thereafter until an order is placed, unless the Authorized User confirms that they do not wish to renew the maintenance services, or the expiration date has passed. If the email notification to the Authorized User is returned as undeliverable, the Contractor must notify other contacts at the Authorized User, if any, and if unable to communicate the upcoming maintenance expiration to any representative of the Authorized User, to notify the OGS Procurement Services.

6.9 MANUFACTURER UPGRADES AND/OR "PATCHES"

In cases where the Distributor is the only entity to receive Software version upgrades or patches from the Manufacturer, the Distributor must agree to ensure means of distributing these to license holders. Acceptable methods include distribution of media, provision of access to a secure website to download the upgrades or patches, or information provided to license holders which will enable them to access the appropriate area of the OEM website (refer to Appendix B, §2n.).

6.10 AUTHORIZED USER SECURITY PROCEDURES

Contractor must perform all services in accordance with all security requirements defined by the Authorized User in writing during the Request for Quote process. These may include, but are not limited to, ID badges for all service technicians, signing of an Authorized User confidentiality agreement, limitations on the number of service technicians, and procedures for ensuring the destruction of confidential data stored in memory or other storage media before removal of equipment from Authorized User's premises.

6.11 STATE SECURITY POLICIES AND PROCEDURES

The Contractor and its personnel shall review and be familiar with all State security policies, procedures and directives currently existing or implemented during the term of the Contract, including ITS Policy NYS-P03-002 Information Security Policy (or successor policy(ies)).

Contractor shall address any Security Incidents in the manner prescribed in ITS Policy NYS-P03-002 Information Security Policy (or successor policy(ies)), including the New York State Cyber Incident Reporting Procedures incorporated therein or in such successor policy(ies).

6.12 REPORTS GENERATED BY STATE OGS PROCUREMENT SERVICES

Contractor must provide Procurement Services with the ability to generate reports using a report template or other easy to use query tool such as a portal or Access. Information must be maintained and accessible for the life of the Contract. Reports must be downloadable in comma delimited format or in Excel. Available fields must at a minimum include: Customer Name, Customer Number, Customer PO #, Order #, Distributor Item #, Manufacturer Item #, Product Description, Manufacturer, Quantity Ordered, Unit Price, Extended Price, Date Ordered, Date of Invoice, Ship Date, Quantity Shipped, Product Type, Ship To: Name, Address Line 1, Address Line 2, City, State, Zip, Ship To: Name, Address Line 1, Address Line 2, City, State, Zip, Maintenance Expiration Date (if applicable).

6.13 NEW YORK STATE STATEWIDE FINANCIAL SYSTEM

New York State is currently operating on an Enterprise Resource Planning (ERP) system, Oracle PeopleSoft Software, referred to as the Statewide Financial System (SFS). SFS is currently on PeopleSoft Financials version 9.2. SFS supports requisition-to-payment processing and financial management functions.

The State is also implementing an eProcurement application that supports the requisitioning process for State Agencies to procure Products in SFS. This application provides catalog capabilities. Vendors with Centralized Contracts have the ability to provide a "hosted" or "punch-out" catalog that integrates with SFS and is available to Authorized Users via a centralized eMarketplace website. There are no fees required for a Contractor's participation in the catalog site development or management. Upon completion and activation of an on-line catalog, State Agencies will process their orders through the SFS functionality and other Authorized Users can access the catalog site to fulfill orders directly.

The State is also implementing the PeopleSoft Inventory module in the near future to track inventory items within the item master table. Further information regarding business processes, interfaces, and file layouts may be found at: www.sfs.ny.gov and <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

6.14 CONTRACT TERMINATION AND MAINTENANCE EXPIRATION

At no additional charge and at the request of the OGS Procurement Services, Contractor will provide any information and cooperation needed to facilitate the transfer of all Volume Software License Agreements to other vendors.

Section 7. Proposal Requirements

The Bidder shall submit a proposal that clearly provides **all** of the information required by this RFP. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and clarity of content. The Bidder is advised to thoroughly read and follow all instructions contained in this RFP. Proposals that do not comply with RFP instructions may be deemed non-responsive and may be denied further consideration for award.

To assist Bidders, the State has provided a Proposal Checklist in Attachment 4 – General Documents.

A complete proposal for this RFP is comprised of three separate sealed proposals:

1. Administrative
2. Technical
3. Financial

Please see below for content and submission details.

7.1 ADMINISTRATIVE PROPOSAL REQUIREMENTS

After the bid opening, each proposal will be screened for completeness and conformance with the stated requirements for bid submission as set forth herein. Any Bid not meeting these requirements may be deemed nonresponsive and may be denied further consideration for award.

A complete Administrative Proposal will consist of the following items, as further described herein:

- A. Completed and signed Pages 1 and 2 of the RFP (Cover Sheet and Acknowledgement Page)
- B. Completed Attachment 4 – General Documents
- C. Completed and signed Contractor Certification ST-220-CA
(http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)
- D. Completed Vendor Responsibility Questionnaire For-Profit Business Entity or proof of on-line submission (see Section 3.9 New York State Vendor Responsibility Questionnaire for a For-Profit Business Entity)
- E. Commitment to obtain, or proof of compliance with Workers' Compensation, Disability Benefits Coverage and Insurance Requirements in accordance with Attachment 5 - Insurance Requirements

7.2 TECHNICAL PROPOSAL REQUIREMENTS

A Bidder's Technical Proposal shall be submitted by completing Attachment 1 and Attachment 7 of this RFP. All responses must be complete, factual and as detailed as necessary to allow the State to perform a comprehensive review and evaluation of the Bidder's Technical Proposal.

Attachment 1 – Bidder Questionnaire:

Attachment 1 is a questionnaire for Bidders to identify number of years in business, the number of Manufacturer Authorization Letters submitted, governmental contract dollar values, and desirable characteristics, for which a Bidder's company will be evaluated. Components in Attachment 1 are explained below:

Minimum Qualification – Years in the Industry of the Solicitation

In order to qualify for a contract, Bidder must attest in Attachment 1 to having at least three years of experience as a Distributor of IT Products for multiple IT Manufacturers (see section 2.1 – Minimum Bidder Qualification).

Governmental Contract Dollar Values

If Bidder has had governmental contracts (Federal, State, or Local contracts within the United States) bidder should submit up to three governmental contracts as part of its technical submission in Attachment 1. In order to be considered eligible the governmental contracts must have been awarded to the Bidder within the last five years. Bidders are encouraged to submit the three governmental contracts with the highest dollar value because points are awarded for the total value of the governmental contracts submitted.

Information related to governmental contract dollar values must be submitted in Attachment 1 and includes the following:

- Governmental Entity
- Governmental Entity Contact Information for Verification
- Contract Value

OGS reserves the right to have a Bidder submit additional documentation that OGS deems necessary to demonstrate that the minimum requirements are met for validation of each governmental contract value.

Manufacturer Authorization Letters

For each Lot bid, Bidder must submit a Manufacturer Authorization Letter from each of the Software Manufacturers or Hardware Manufacturers that the Bidder has established a reseller relationship with at time of proposal submittal. The Bidder should be able to manage volume purchases for the Manufacturers within a Lot that the Bidder submits a proposal for. A blank Manufacturer Authorization Letter can be found in Attachment 1.

Desirable Characteristics

Bidders can choose to offer/meet Desirable Characteristics included in Attachment 1 – Bidder Questionnaire. Additional points will be awarded for each desirable characteristic satisfied.

Attachment 7 – Diversity Practices Questionnaire:

OGS has determined, pursuant to New York State Executive Law Article 15-A, that the assessment of the diversity practices of Bidders for this procurement is practical, feasible, and appropriate. Accordingly, to receive certain evaluation points, Bidders are required to complete and submit as part of their Bid, the OGS Diversity Practices Questionnaire (Attachment 7).

OGS will review Bidder's responses to the Diversity Practices Questionnaire (Attachment 7), and score them according to the Diversity Practices Scoring Matrix (Attachment 8) and in comparison to the responses of all Bidders to this Solicitation. The points received for each response will be added to achieve a Total Diversity Score of up to 100 points. The Total Diversity Score will then be weighted, to achieve a Weighted Score of 5% of the total technical score, or up to 1.25 points.

Important: No Cost information shall be included in the Technical Proposal submission. Such inclusion may result in immediate disqualification of proposal.

7.3 FINANCIAL PROPOSAL REQUIREMENTS

A Bidder's Financial Proposal shall be submitted by completing Attachment 2 – Market Basket Pricing - Software and/or Attachment 3 – Market Basket Pricing - Hardware. A Bidder can choose to bid one Lot or both Lots.

Attachment 2 and Attachment 3 – Market Basket Pricing:

Attachment 2 and Attachment 3, Pricing Category 1, contains a market basket for Software (Lot 1) and a market basket for Hardware (Lot 2), which list samplings of Manufacturers that Authorized Users commonly purchase Products from. Bidders will apply a Cost-Plus or Cost-Minus Percentage for each Manufacturer within a market basket. The Cost-Plus or Cost-Minus percentage bid will apply to all products that the Manufacturer offers commercially. A total cost will be calculated for all bids to determine point allocation based on the weight for cost in the table located in Section 5.2 – Evaluation Components.

In Attachment 2 and Attachment 3, Pricing Category 2, Bidder should list all the Manufacturers not listed in Pricing Category 1 that Bidder currently has a business relationship with and offer a Cost-Plus or Cost-Minus percentage for each Manufacturer. The Cost-Plus or Cost-Minus percentage bid will apply to all products that the Manufacturer offers commercially.

Finally, Attachment 2 and Attachment 3, Pricing Category 3, contains a line item for a single Cost-Plus or Cost-Minus percentage bid for all other Manufacturers not identified in Attachment 2 and Attachment 3, Pricing Categories 1 and 2. The Cost-Plus or Cost-Minus percentage bid will apply to all products that the Manufacturers offer commercially.

After contracts are awarded, a Bidder's listed Contract rates shall be the Cost-Plus or Cost-Minus bids that were offered in Bidder's Attachment 2 and/or Attachment 3 submission. More favorable pricing can be offered to Authorized Users in the Request for Quote (RFQ) process. At time of purchase, to facilitate competition, Authorized Users will be required to solicit quotes from all awardees within a lot; Bidders are encouraged to quote the best pricing possible during the RFQ process.

Discount Percentage

All discount percentage values shall not exceed two decimal places (e.g. 20.25222% shall be rounded to 20.25%).

Travel, Meals and Lodging

NYS Net Price is inclusive of all travel, meals and lodging.

MWBE

The Bidder shall also include the following as part of their Financial Proposal:

- Completed and signed Forms EEO 100 and MWBE 100 Equal Employment Opportunity Staffing Plan (Appendix C)

Section 8. Format and Content of Bid Submittal

8.1 PROPOSAL FORMAT

A Bid that fails to conform to the requirements of this Solicitation may be considered non-responsive and may be rejected. To be considered responsive, a Bidder must submit a complete proposal that satisfies and addresses all requirements stated in this RFP.

A Bidder's proposal shall be organized in **three separate parts: (1) Administrative Proposal, (2) Technical Proposal and (3) Financial Proposal** (collectively referred to herein as "Submissions"). A Table of Contents should clearly identify the location of all material within the Submissions by section and page number. Each part will be evaluated separately. Each part shall indicate its content and be labeled, as applicable: ADMINISTRATIVE, TECHNICAL or FINANCIAL PROPOSAL. Bidder should supply

TWO ORIGINAL HARD COPIES and **TWO ELECTRONIC COPIES** of each part of the bid and include the following as part of their bid:

- A. Bidders shall submit a total of two separate original hard copies for each of the Administrative, Technical and Financial Proposals, marked "ORIGINAL". Bidder shall also supply two additional hard copies of the Technical Proposal.
- B. Bidders shall submit two electronic versions for each of the Administrative, Technical and Financial Proposals. Electronic media shall be included on USB Flash Drives (2.0 or successor) and clearly labeled. A total of six USBs are required: two Administrative, two Technical, and two Financial. These electronic versions are to be sealed with the corresponding hard copy. All Technical and Financial Proposal submissions shall be stored in unlocked files in Microsoft Office products (Word or Excel) in product release 2007 or 2010. All other materials must be stored in currently available releases of either Adobe or Microsoft products
- C. **The Administrative, Technical and Financial Proposals shall be separately sealed and labeled.** The official name of the Bidder's organization(s) as well as the name and number of the RFP must appear on the outside front cover of each copy. If the Proposals are submitted in loose-leaf binders, this information should also appear on the spine of the binders.
- D. Bidder shall NOT include any cost information (Attachment 2 – Market Basket Pricing (Software) or Attachment 3 – Market Basket Pricing (Hardware)) in the Bidder's Administrative Proposal or Technical Proposal in either the hard copy or the electronic submission. Inclusion of such cost information in the Administrative or Technical proposals may result in disqualification of the proposal.
- E. The Financial Proposal must not contain any material that is applicable to the Administrative Proposal or the Technical Proposal in either the hard copy or the electronic submission. Inclusion of such information in the Financial Proposal may result in the disqualification of the proposal. NYS Minority and Women Owned Business documentation (Forms EEO 100 and MWBE 100) includes cost information and thus must be included with the Financial Proposal.

- F. In the event that there are any inconsistencies between the electronic Submissions and the hard copy Submissions, or between multiple hard copy Submissions for each of the three parts of the Proposal, the Original, wet ink, hard copy will be deemed controlling by OGS when reviewing each Proposal.
- G. **Please ensure the Administrative, Technical and Financial bid packets contain no extraneous documentation, sales literature or other documentation.** Extraneous term(s) submitted on standard, pre-printed forms (including but not limited to: product literature, order forms, license agreements, contracts or other documents) that are attached or referenced with submissions shall not be considered part of the Bid or resulting contract, but shall be deemed included for informational or promotional purposes only. This information shall be submitted in a separate sealed envelope labeled as “*Supplemental Information*”.
- All bids and accompanying documentation shall become the property of the State of New York and shall not be returned.
- H. Any Bid pricing or portions thereof submitted on flash drive that are incomplete or that cannot be opened/accessed may be rejected. With respect to any Bid documents in Excel format, only those cells provided for entering Bid pricing and information are to be accessed by the Bidder. E-mail or facsimile Bid submissions are not acceptable. It is recommended that the Bidder open, review and save/download all electronic files to the Bidder’s hard drive and/or to a secure back-up. Only completed files (in the specified format) should be saved to a flash drive.

8.2 REQUIRED DOCUMENTATION

A. Administrative Proposal

1. Completed and signed pages 1 and 2 of the RFP - Cover Sheet and Acknowledgement Page
2. Completed Attachment 4 – General Documents
3. Commitment to obtain or proof of Compliance with Workers’ Compensation, Disability Benefits Coverage and Insurance Requirements in accordance with Attachment 5 - Insurance Requirements.
4. Completed and signed Contractor Certification, ST-220-CA
(http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)
5. Completed Vendor Responsibility Questionnaire For-Profit Business Entity or proof of on-line submission

B. Technical Proposal

Attachment 1 – Bidder Questionnaire, and Attachment 7 – Diversity Practices Questionnaire

C. Financial Proposal

Attachment 2 – Market Basket Pricing (Software) and/or Attachment 3 – Market Basket Pricing (Hardware)
Appendix C - Completed and signed Forms EEO 100 and MWBE 100 Equal Employment Opportunity Staffing Plan

8.3 BID DELIVERY INSTRUCTIONS

If using a commercial delivery company that requires that their shipping package or envelope be used, Bidder’s proposal must be placed within a second sealed envelope labeled as detailed below. This will ensure that Bidder’s proposal is not prematurely opened.

Complete Bids in response to this RFP are to be packaged, sealed and submitted to the Office of General Services, Procurement Services. Responses must be addressed to:

NYS Office of General Services
Procurement Services
Corning Tower, 38th Floor Reception Desk
Empire State Plaza Albany, NY 12242

All Bids must have a label on the outside of the box or package itemizing the following information:

- A. **BID ENCLOSED** (preferably bold, large print, all capital letters)
- B. Bid number (RFP 22876)
- C. Bid Opening Date and Time (e.g., October 3, 2016, 11:00 a.m.)

D. The number of boxes or packages (i.e., 1 of 2; 2 of 2)

Failure to complete all information on the Bid envelope and/or package may necessitate the opening of the Bid prior to the scheduled Bid opening.

Bidders must allow extra time to comply with the Building Access procedures in effect at the Empire State Plaza when hand delivering bids or using deliveries by independent courier services. Bidders assume all risks for timely, properly submitted deliveries.

8.4 PROPOSAL LIABILITY AND LATE BIDS

The State of New York will not be held liable for any cost incurred by the Bidder for work performed in the preparation and production of a proposal or for any work performed prior to the formal execution of a Contract. RFP responses must be received at the location designated in this RFP at or before the date and time established in the Key Events and Dates section.

Any RFP response received at the designated location after the established time will be considered late. A late RFP response may be rejected and disqualified from award. Notwithstanding the foregoing, a late RFP response may be accepted in the Commissioner's sole discretion where (i) no timely RFP responses meeting the requirements of the RFP are received, (ii) in the case of a multiple award, an insufficient number of timely Bids are received to satisfy the multiple award, or (iii) the Bidder has demonstrated to the satisfaction of the Commissioner that the Late RFP response was caused solely by factors outside the control of the Bidder. However, in no event shall the Commissioner be under any obligation to accept a Late RFP response.

Section 9. General Information

9.1 NOTICE TO VENDORS

The Commissioner of OGS shall receive Vendor Submissions pursuant to the provisions of Article XI of the State Finance Law. All Proposals and accompanying documentation shall become the property of the State of New York and shall not be returned.

Vendors are responsible for the accuracy of their Vendor Submissions. All Vendors are directed to take extreme care in developing their Vendor Submissions. Prior to submission, Vendors are cautioned to carefully review their Vendor Submissions.

9.2 INCORPORATION

Portions of the successful Vendor's Submission and of this Solicitation shall be incorporated into a Contract to be executed by the Contractor and OGS. Therefore, the Vendor Submission must be signed by a partner, corporate officer, or other person authorized to commit the Vendor to all provisions of the Solicitation and the Vendor Submission as submitted.

9.3 IMPORTANT BUILDING ACCESS PROCEDURES

To access the Corning Tower, all visitors must check in by presenting photo identification at the information desk. Vendors are encouraged to pre-register for building access by contacting the NYS Procurement receptionist at (518) 474-6262 at least 24 hours prior to the Solicitation due date and time. Visitors who are registered can check in directly with the Security Desk. Visitors who are not pre-registered will be directed to a designated phone to call the NYS Procurement Receptionist. The Receptionist will register the visitor at that time but delays may occur. Vendors who intend to deliver Proposals or conduct NYS Procurement business should allow extra time to comply with these procedures. Building Access procedures may change or be modified at any time.

9.4 HAND DELIVERIES

A Vendor must allow extra time to comply with the building access procedures in effect at the Empire State Plaza when hand delivering Vendor Submissions or using deliveries by independent courier services (see *Important Building Access Procedures* for additional information). A Vendor assumes all risks for timely, properly submitted hand deliveries.

9.5 PUBLIC SOLICITATION OPENING AND ELECTRONIC SOLICITATION RESULTS

Due to the large volume of submissions anticipated in response to this Solicitation, there will be no public observation of the Submission opening process.

OGS posts Solicitation results on the OGS NYS Procurement web page. The web page will list the Vendors that responded to this Solicitation. The Solicitation Opening Results Page is available at:
<http://www.ogs.ny.gov/purchase/bidresults/bidresults.asp>.

9.6 INQUIRIES AND PROPOSED SOLICITATION DEVIATIONS

Vendors must use the Inquiry and Bid Deviation Template, located in Attachment 4 – General Documents, to submit any questions, comments and Solicitation deviations. Answers to all questions, comments, and bid deviations of a substantive nature will be provided to all prospective Vendors in the form of a question and answer document, which will be posted on the OGS website. The completed Inquiry and Solicitation Deviation Template shall be sent to OGS.sm.Ps.DistUmbrella.Contractors@ogs.ny.gov by the deadline stated in Section 1.7 Key Events and Dates.

Vendors are advised that OGS will not entertain any exceptions or deviations to Appendix A (New York State Standard Clauses). OGS will also not entertain exceptions or deviations to the Solicitation or Appendix B (General Specifications) that are of a material and substantive nature.

9.7 PERFORMANCE AND BID BONDS

There are no BONDS for this Solicitation. In accordance with Appendix B (General Specifications), Clause 45 “Performance/Bid Bond,” the Commissioner of OGS has determined that no performance, payment or Bid bond, or negotiable irrevocable letter of credit or other form of security for the faithful performance of the resultant Contracts shall be required in order to respond to the Solicitation.

9.8 NEW YORK STATE RIGHTS

9.8.1 New York State Reserved Rights

New York State reserves the right to:

- A. Reject any or all Solicitation Responses received in response to the Solicitation
- B. Withdraw the Solicitation at any time, in whole or in part, at the sole discretion of the Agency
- C. Make an award under the Solicitation in whole or in part
- D. Disqualify any Vendor whose conduct and/or Solicitation Response fails to conform to the requirements of the Solicitation
- E. Seek clarifications and revisions of Solicitation responses
- F. Prior to the Solicitation Responses opening, amend the Solicitation to correct errors or oversights, or to supply additional information, as it becomes available
- G. Prior to the proposal opening, direct Vendors to submit Solicitation response modifications addressing subsequent amendments
- H. Change any of the schedule dates with notification through the New York State Contract Reporter
- I. Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Bidders
- J. Waive any requirements that are not material
- K. Utilize any and all ideas submitted in a Vendor’s response to the Solicitation Document
- L. Adopt all or any part of a Bidder’s Solicitation Responses
- M. Negotiate with the Bidder responding to this Solicitation within the Solicitation requirements to serve the best interests of the State. This includes requesting clarifications of any or all Vendors’ Solicitation Responses
- N. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Vendor’s Solicitation Responses and/or to determine a Vendor’s compliance with the requirements of the Solicitation

- O. Unilaterally make non-material revisions, changes and/or updates to any templates and/or Attachments to the OGS Centralized Contract without processing a formal amendment and/or modification.
- P. To exclude any price lists or individual Products and services that do not fall within the scope of the Solicitation.
- Q. To use on-line processes, such as reverse auction, to make acquisitions under the resulting Contracts. Bidder agrees that if awarded a Contract, it will participate in these on-line processes established by OGS.
- R. To incorporate an electronic workflow system that may include elements of the Authorized User RFQ process.
- S. To post Authorized User Contract usage of Centralized Contracts.
- T. Upon discovery of non-material completeness or conformance issues with a Vendor's Submission, contact the Vendor to attempt to cure the issue prior to completion of the evaluation of the Vendor's Submission.
- U. Remove specific Manufacturers or Products as determined by OGS.

9.8.2 Authorized User Reserved Rights

In addition to the above reserved rights, the Authorized User shall have the following additional reserved rights:

- A. To add requirements to the RFQ and resulting Authorized User Agreement that are more advantageous than the terms and conditions established with the Contract.
- B. To require the Contractor to identify any sub-contractors, and to approve such sub-contractors.
- C. To request the Contractor's insurance policy language for purposes of substantiating Vendor's compliance with Attachment 5 - Vendor Insurance Requirements, or such other Insurance Requirements as required by the Authorized User as part of a RFQ.

9.9 CONTRACTOR REQUIREMENTS AND PROCEDURES FOR EQUAL EMPLOYMENT AND BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES

I. Policy Statement

The New York State Office of General Services ("OGS"), as part of its responsibility, recognizes the need to promote the employment of minority group members and women and to ensure that certified minority- and women-owned business enterprises have opportunities for maximum feasible participation in the performance of OGS contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority- and women-owned business enterprises had a full and fair opportunity to participate in State contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority- and Women-Owned Business Enterprises: Evidence from New York" (the "Disparity Study"). The Disparity Study found evidence of statistically significant disparities between the level of participation of minority- and women-owned business enterprises in State procurement contracting versus the number of minority- and women-owned business enterprises that were ready, willing and able to participate in State procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the Statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that OGS establish goals for maximum feasible participation of New York State certified minority- and women-owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

II. General Provisions

- A. OGS is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to OGS, to fully comply and cooperate with OGS in the implementation of New York State

Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State Certified minority- and women-owned business enterprises (“MWBEs”). Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable Federal, State or local laws.

- C. The Contractor further agrees to be bound by the provisions of Article 15-A and the MWBE Regulations. If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.
- D. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility, breach of contract, withholding of funds, liquidated damages pursuant to clause IX of this section and/or enforcement proceedings as allowed by the Contract.

III. Equal Employment Opportunity (EEO)

- A. Contractor shall comply with the provisions of Article 15-A set forth below. These provisions apply to all Contractors, and any subcontractors, awarded a subcontract over \$25,000, for labor, services, including legal, financial and other professional services, travel, supplies, equipment, materials, or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting State agency (the “Work”) except where the Work is for the beneficial use of the Contractor.
 - 1. Contractor and subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation. This requirement does not apply to: (i) the performance of work or the provision of services or any other activity that is unrelated, separate or distinct from the Contract; or (ii) employment outside New York State.
 - 2. By entering into this Contract, Contractor certifies that the text set forth in clause 12 of Appendix A, attached hereto and made a part hereof, is Contractor’s equal employment opportunity policy.
- B. Form EEO 100 - Staffing Plan.

To ensure compliance with this section, the Contractor agrees to submit or has submitted with the Bid a staffing plan on Form EEO 100 to OGS to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and federal occupational categories.
- C. Form EEO 101 - Workforce Utilization Reporting Form (Commodities and Services) (“Form EEO-101-Commodities and Services”)
 - 1. The Contractor shall submit, and shall require each of its subcontractors to submit, a Form EEO-101-Commodities and Services to OGS to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Form EEO-101-Commodities and Services must be submitted electronically to OGS at EEO_CentCon@ogs.ny.gov on a quarterly basis during the term of the Contract by the 10th day of April, July, October, and January.
 - 2. Separate forms shall be completed by Contractor and any subcontractor.
 - 3. In limited instances, the Contractor or subcontractor may not be able to separate out the workforce utilized in the performance of the Contract from its total workforce. When a separation can be made, the Contractor or subcontractor shall submit the Form EEO-101-Commodities and Services and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract cannot be separated out from the Contractor’s or subcontractor’s total workforce, the Contractor or subcontractor shall submit the Form EEO-101-Commodities and Services and indicate that the information provided is the Contractor’s or subcontractor’s total workforce during the subject time frame, not limited to work specifically performed under the Contract.
- D. Contractor shall comply with the provisions of the Human Rights Law, all other State and federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual

orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

IV. Contract Goals

OGS hereby establishes an overall goal of 0% for MWBE participation, 0% for Minority-Owned Business Enterprises (“MBE”) participation and 0% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).

9.10 DEBRIEFING

Pursuant to Section 163(9)(c) of the State Finance Law, any unsuccessful Bidder may request a debriefing regarding the reasons that the Bid submitted by the Bidder was not selected for award. Requests for a debriefing must be made within 15 calendar days of notification by OGS that the Bid submitted by the Bidder was not selected for award. Requests should be submitted in writing to a designated contact identified in the Solicitation.

9.11 VENDOR SUBMISSION VALIDITY

A Vendor Submission shall be an effective offer, firm and irrevocable, for 120 days from the Submission opening date, unless the time for awarding the Contract is extended by mutual consent of OGS and the Vendor. A Vendor Submission shall continue to remain an effective offer, firm and irrevocable, subsequent to such 120 day period until either tentative award of a Contract by OGS is made or withdrawal of the Vendor Submission in writing by the Vendor. Tentative award of the Contract shall consist of written notice to that effect by OGS to a successful Vendor, who shall thereupon be obligated to execute a formal Contract.

9.12 LIVING WAGE

An Authorized User subject to a local law establishing a “living wage”, such as Section 6-109 of the New York City Administrative Code, is required to ensure the Contractor sought to be hired complies with such local law. If the pay rate(s) for a job title(s), as allowed for through contract rates, are less than the local law “living wage” than Authorized User subject to such local law cannot use this Contract for such job title(s). Local laws, however, are not a term and condition of the OGS Contract.

9.13 PREVAILING WAGE RATES - PUBLIC WORKS AND BUILDING SERVICES CONTRACTS

Work being done under a resulting Authorized User Agreement may be subject to the prevailing wage rate provisions of the New York State Labor Law. Such work will be identified by the Authorized User within the RFQ. See “Prevailing Wage Rates – Public Works and Building Services Contracts” in Appendix B, Clause 10, OGS General Specifications. Any federal or State determination of a violation of any public works law or regulation, or labor law or regulation, or any OSHA violation deemed “serious or willful” may be grounds for a determination of vendor non-responsibility and rejection of proposal.

The Prevailing Wage Case Number for this Contract is PRC# 2016007939.

The Prevailing Wage Rates for various occupations and General Provisions of Laws Covering Workers on Article 8 Public Work Contract can be accessed at the following NYS Department of Labor website:

<http://wpp.labor.state.ny.us/wpp/showFindProject.do?method=showlt>

- Insert PRC# 2016007939 in the box provided and click Submit.
- Click Wage Schedule located underneath the main header of this page. The PDF file may be searched to obtain the Prevailing Wage Rate for a specific occupation.