

**State of New York Executive Department**  
**Office Of General Services**  
**Procurement Services Group**  
**Corning Tower Building - 38th Floor**  
**Empire State Plaza**  
**Albany, New York 12242**  
<http://www.ogs.state.ny.us>

## CONTRACT AWARD NOTIFICATION

<b>Title :</b>	<b>Group – 76000 IBM Corp. - Software &amp; Related Services Statewide Classification Code(s): 43</b>
<b>Award Number :</b>	<b>NEG-21740</b>
<b>Contract Period :</b>	<b>12/24/08- 12/23/13, with 5 year renewal option</b>
<b>Bid Opening Date :</b>	<b>NA</b>
<b>Date of Issue :</b>	<b>December 30, 2008</b>
<b>Contractor Information :</b>	<b>Appears on Page 2 of this Award</b>

### Address Inquiries To:

State Agencies & Vendors	Political Subdivisions & Others
Name : James Jasiewicz Title : Senior Purchasing Agent Phone : 518-486-5238 Fax : 518-486-6867 E-mail : james.jasiewicz@ogs.state.ny.us	Customer Services Phone : 518-474-6717 Fax : 518-474-2437 E-mail : customer.services@ogs.state.ny.us

**The Procurement Services Group values your input.  
 Complete and return "Contract Performance Report" at end of document.**

### Description

This is a comprehensive contract for the acquisition of IBM License Software and Technical Support or Maintenance for Passport Advantage (distributed software), zSeries, iSeries, pSeries, xSeries, RSS and other software products, excluding FileNET.

The NYS price list associated with this contract is IBM's standard government price list and may contain FileNET products. However, FileNET software products and related services **ARE NOT** available on this contract, but are available on a separate NYS contract PT57022.

PR # 21740

(continued)

**CONTRACT # CONTRACTOR & ADDRESS****TELEPHONE #****FED.IDENT.#**

PT64366

International Business Machines Corporation  
 1 New Orchard Road  
 Armonk, NY 10504

13-0871985

International Business Machines Corporation  
 80 State Street  
 Albany, NY 12207

**Sales/Billing**

Software Sales  
 UPSTATE

Joe Bruno  
[jbruno@us.ibm.com](mailto:jbruno@us.ibm.com)

(518) 487-6293  
 (845) 264-6605 FAX

## DOWNSTATE

Rob McGarry  
[Robert.mcgarry@us.ibm.com](mailto:Robert.mcgarry@us.ibm.com)

(212) 745-6067  
 (845) 264-6605 FAX

**Maintenance/ Service**

Lauren Launey  
 Client Representative  
 Smyrna, GA  
[launey@us.ibm.com](mailto:launey@us.ibm.com)

(800) 426-1751  
 (770) 863-2147  
 (845) 264-6605 FAX

[www.ibm.com](http://www.ibm.com)

Cash Discount, If Shown, Should be Given Special Attention.

**INVOICES MUST BE SENT DIRECTLY TO THE ORDERING AGENCY FOR PAYMENT.**

(See "Contract Payments" and "Electronic Payments in this document.)

AGENCIES SHOULD NOTIFY THE PROCUREMENT SERVICES GROUP PROMPTLY IF THE CONTRACTOR FAILS TO MEET DELIVERY OR OTHER TERMS OF THIS CONTRACT. PRODUCTS OR SERVICES WHICH DO NOT COMPLY WITH THE SPECIFICATIONS OR ARE OTHERWISE UNSATISFACTORY TO THE AGENCY SHOULD ALSO BE REPORTED TO THE PROCUREMENT SERVICES GROUP.

**SMALL, MINORITY AND WOMEN-OWNED BUSINESSES:**

The letters **SB** listed under the Contract Number indicate the contractor is a NYS small business. Additionally, the letters **MBE** and **WBE** indicate the contractor is a Minority-owned Business Enterprise and/or Woman-owned Business Enterprise.

**RECYCLED, REMANUFACTURED AND ENERGY EFFICIENT PRODUCTS:**

The Procurement Services Group supports and encourages the purchase of recycled, remanufactured, energy efficient and "energy star" products. If one of the following codes appears as a suffix in the Award Number or is noted under the individual Contract Number(s) in this Contract Award Notification, please look at the individual awarded items for more information on products meeting the suffix description.

RS,RP,RA	Recycled
RM	Remanufactured
SW	Solid Waste Impact
EE	Energy Efficient
E*	EPA Energy Star
ES	Environmentally Sensitive

**NOTE TO AUTHORIZED USERS:**

When placing purchase orders under the contract(s), the authorized user should be familiar with and follow the terms and conditions governing its use which usually appears at the end of this document. The

authorized user is accountable and responsible for compliance with the requirements of public procurement processes. The authorized user must periodically sample the results of its procurements to determine its compliance. In sampling its procurements, an authorized user should test for reasonableness of results to ensure that such results can withstand public scrutiny.

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, particularly when using OGS multiple award contracts for the same or similar product(s)/service(s), which should include:

- a statement of need and associated requirements,
- a summary of the contract alternatives considered for the purchase,
- the reason(s) supporting the resulting purchase (e.g., show the basis for the selection among multiple contracts at the time of purchase was the most practical and economical alternative and was in the best interests of the State).

#### REQUEST FOR CHANGE:

Any request by the agency or contractor regarding changes in any part of the contract must be made in writing to the Office of General Services, Procurement Services Group prior to effectuation.

#### CONTRACT PAYMENTS:

Payments cannot be processed by State facilities until the contract products have been delivered in satisfactory condition or services have been satisfactorily performed. Payment will be based on any invoice used in the supplier's normal course of business. However, such invoice must contain sufficient data including but not limited to contract number, description of product or service, quantity, unit and price per unit as well as federal identification number.

State facilities are required to forward properly completed vouchers to the Office of the State Comptroller for audit and payment. All facilities are urged to process every completed voucher expeditiously giving particular attention to those involving cash discounts for prompt payment.

If the contract terms indicate political subdivisions and others authorized by law are allowed to participate, those entities are required to make payments directly to the contractor. Prior to processing such payment, the contractor may be required to complete the ordering non-State agency's own voucher form.

See "Contract Billings" in Appendix B, OGS General Specifications.

#### ELECTRONIC PAYMENTS:

The Office of the State Comptroller (OSC) offers an "electronic payment" option in lieu of issuing checks. To obtain an electronic payment authorization form visit the OSC website at [www.osc.state.ny.us](http://www.osc.state.ny.us) or contact them by e-mail at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us) or by phone at 518-474-4032.

#### NOTE TO CONTRACTOR:

This Contract Award Notification is not an order. Do not take any action under this contract except on the basis of purchase order(s) from the agency or agencies.

#### OVERLAPPING CONTRACT ITEMS:

Products/services available in this contract may also be available from other New York State contracts. Agencies should select the most cost effective procurement alternative that meets their program requirements and maintain a procurement record documenting the basis for the selection.

#### PSG's DISPUTE RESOLUTION POLICY:

It is the policy of the Office of General Services' Procurement Services Group (PSG) to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to PSG bid solicitations or contract awards. PSG encourages vendors to seek resolution of disputes through consultation with PSG staff. All such matters will be accorded impartial and timely consideration. Interested parties may also file formal written disputes. A copy of PSG's Dispute Resolution Procedures for Vendors may be obtained by contacting the person shown on the front of this document or through the OGS website ([www.ogs.state.ny.us](http://www.ogs.state.ny.us)).

*INSERT* Contract Performance Report at end of Award

**IMPORTANT:**

**Appropriate clauses from the bid solicitation document (modified for the Contract Award Notification) should also be included to assist our customers in the use of the contract.**

**CONTRACTOR CONSULTANT LAW REQUIREMENTS:**

It is the responsibility of each agency purchasing consultant services to ensure compliance with the requirements of Chapter 10 of the Laws of 2006 with respect to the Consultant Disclosure Legislation. Agencies must ensure that Disclosure Form A, a one time report of planned employment data for the entire term of the contract is submitted to OSC for contract approval. Contractors must submit the Consultant Disclosure Form B, the Contractor's **Annual** Employment Report of employment information by May 15<sup>th</sup> of each year for the fiscal year April 1<sup>st</sup> through March 31<sup>st</sup>. Form B is submitted annually to the contracting agency, the Office of the State Comptroller and the Department of Civil Service to report historical information, detailing actual employment data for each fiscal year (April 1 to March 31) the contract is in effect. For more information regarding this legislation and its requirements, please refer to the requirement "**Employee Information Required To Be Reported By Certain Consultant Contractors And Service Contractors**" contained in the original bid or contract template and the OSC G Bulletin 226:

<http://www.osc.state.ny.us/agencies/gbull/g-226.htm>.

**PROCUREMENT PROCEDURES:**

The following guidelines will assist State agencies in negotiating large purchases. State agencies should carefully consider all alternatives to determine which provides the best value.

Agencies are reminded that all software purchases greater than \$100,000 in value require prior approval from the NYS Office for Technology. Refer to NYS Information Technology Policy Plan to Procure NYS-P08001, which is available at OFT's web site at <http://www.oft.state.ny.us/policy/index.html>

1. Determine if more than one Contractor can provide the required equipment. If only one Contractor can fulfill the requirement, negotiate the best deal with this Contractor. The following points should be considered:

- a. When is the best time to negotiate with the Contractor (for example: market place conditions, company's fiscal year end)? Note that this may be different for each contractor. End users should seek information that enables them to properly plan the best time to negotiate.
  - b. What additional incentives would be most useful to the agency, extended warranty, training, trade in, etc. (OSC Bulletin No. G-68 is a good source for negotiation techniques.)
2. If more than one Contractor can provide the required equipment, create a short description of your requirement, being as specific as possible, and send copies to each Contractor who may be able to meet the requirements. Select the offer that provides the best value.
3. Agencies should build a procurement record that includes a memorandum "For the Record" for any order exceeding **\$150,000.00**. This record should detail the negotiating procedure used and why the equipment purchased has been determined to be the most cost-effective for current and future needs.
4. State agencies should file all orders directly with the Office of the State Comptroller in accordance with their rules and regulations. A copy of the procurement record should accompany the purchase order when forwarded to the Office of the State Comptroller for final approval.
5. No approval by the Office of General Services is required.
6. Although not under OGS purchasing authority, **political subdivisions** should exercise similar judgment when making large purchases from OGS PSG contracts.
7. These procedures may be modified in the future as needed to reflect changes in procurement law.

## **FREQUENTLY ASKED QUESTIONS:**

### **What is Passport Advantage?**

Passport Advantage is a simple, comprehensive IBM offering that covers software license acquisition including Fixed Term Licenses and Software Subscription, Support product upgrades, and technical support.

### **What type of product offerings exist?**

Currently the following IBM products are offered from the contract. However, the product offering is expected to change over time.

[Information Management Software](#)

[Lotus Software](#)

[Rational Software](#)

[Tivoli Software](#)

[Websphere Software](#)

### **What are the features and benefits?**

- Includes Software Subscription and Support (technical support and product upgrades) with each new license.
- Provides comprehensive and flexible upgrade coverage.
- Streamlines budgeting for software upgrade and migration costs.
- Provides secure access to Passport Advantage Online.
- Incorporates flexible, easy-to-access, responsive, cross-platform customer support from IBM.
- Provides access to IBM software technical support for all of a customer's designated IT staff.
- Provides 24x7 access to support resources for business-critical outages.
- Provides self help via the Internet.

### **Where might I find other IBM software products?**

Currently, IBM has Enterprise CM software under contract PT57022 that includes the former FileNet product line.

### **How does an authorized user procure via this contract?**

All purchase orders should be issued directly to:

IBM  
80 State St.,  
Albany, NY 12207

Or faxed to 1-845-264-6605

Include the following information:

- Contract number PT64366 and Commodity Group number 76000
- The name of one of the authorized agent from the approved list, only if applicable
- Requested delivery date
- Ship to address, Bill to address, and end user's email address.
- Part Number, Quantity, Unit Price and Extended Price
- Passport Advantage site number if available.

### **What are Procurement Notes and why are they important?**

It is expected that IBM will utilize Procurement Notes during the quoting/proposal and procurement process. The following notes may be included in your quote / proposal.

**Procurement Notes:**

If the software described in this proposal is the first copy of the product your agency has obtained, then this order may be subject to an acceptance period in accordance with Section 79 of the NYS Master Agreement.

If your agency has additional security rules, procedures and protocols that must be adhered to in the performance of this procurement please contact IBM at the address below before processing the purchase order for this proposal.

The Software Products being proposed do/do not [select one] contain passive or hardstop monitoring capability.

The applicable software licenses in this proposal may contain additional third party terms and conditions. You should review such additional terms and conditions prior to completing a Purchase Order and shall be responsible for determining if the additional third party terms are acceptable. Information about such terms and conditions are set forth in the associated License Information and are found at the following URL: <http://www.ibm.com/software/sla/>. If you so desire, you may request, and IBM will provide, assistance in obtaining the applicable documentation prior to your completing your order.

If you have any additional terms and conditions that must be adhered to in the performance of this procurement in accordance with Appendix B, Section 44 of the NYS Master Agreement you should contact IBM with those terms prior to issuing a Purchase Order.

**IBM Contact Information:**

Ms. Karen LaFreniere  
IBM Corporation  
80 State Street  
Albany, New York 12207

If Procurement Notes are provided they are subject to individual Authorized Users review prior to issuance of a Purchase Order (PO) and would be considered accepted upon issuance of a PO.

**Is there a list of authorized agents to sell off of this contract?**

A list of authorized agents is provided via the "Contractor Information" link. IBM or an authorized agent can quote prices. All PO's should be directed to IBM and will be fulfilled and invoiced by IBM. IBM may select an agent and request their assistance in the marketing of a particular product on their behalf based on the value the agent brings IBM and a contract user for a particular transaction. IBM may compensate the agent for their participation at no additional fee to the contract user. Compensation will not affect the contract pricing to the contract user. Please note that agents are authorized by geographic territory to sell from contract PT64366 in order to provide optimum support for customers.

**Are consulting services available on this contract?**

No. IBM services are available under OGS contract CMS1052, group 78006.

**Is operating system software available on this contract?**

No. IBM operating system software is available on the enterprise system contract PT63994, group 76200 as part of the purchase of the hardware.

**Is there any other contract where I might find IBM software offered?**

Yes. The OGS storage contract, PT63039 contains software specifically related to IBM storage systems.

**Is sub-capacity pricing available?**

Yes. Users should contact their local IBM representative for details on this offering or refer to Appendix E Submission 5.

## **Where can I find additional information on IBM Passport Advantage?**

For additional information on IBM Passport Advantage and to access your account, visit:

<http://www-01.ibm.com/software/howtobuy/passportadvantage/>

**State of New York  
Office of General Services  
PROCUREMENT SERVICES GROUP  
Contract Performance Report**

Please take a moment to let us know how this contract award has measured up to your expectations. If reporting on more than one contractor or product, please make copies as needed. This office will use the information to improve our contract award, where appropriate. **Comments should include those of the product's end user.**

**Contract No.:** \_\_\_\_\_ **Contractor:** \_\_\_\_\_

**Describe Product\* Provided (Include Item No., if available):** \_\_\_\_\_

**\*Note:** "Product" is defined as a deliverable under any Bid or Contract, which may include commodities (including printing), services and/or technology. The term "Product" includes Licensed Software.

	Excellent	Good	Acceptable	Unacceptable
• Product meets your needs				
• Product meets contract specifications				
• Pricing				

**CONTRACTOR**

	Excellent	Good	Acceptable	Unacceptable
• Timeliness of delivery				
• Completeness of order (fill rate)				
• Responsiveness to inquiries				
• Employee courtesy				
• Problem resolution				

Comments: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_ (over)

Agency: \_\_\_\_\_ Prepared by: \_\_\_\_\_

Address: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Phone: \_\_\_\_\_

\_\_\_\_\_ E-mail: \_\_\_\_\_

**Please detach or photocopy this form & return by FAX to 518/474-2437 or mail to:**

OGS PROCUREMENT SERVICES GROUP  
 Customer Services, 37th Floor  
 Corning 2<sup>nd</sup> Tower - Empire State Plaza  
 Albany, New York 12242  
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