



# Request for Proposals (Revised August 18, 2021)

<b>BID OPENING</b> <b>DATE:</b> August 26, 2021 <b>TIME:</b> 11:00 A.M. EST <b>RFP NUMBER:</b> 23217	<b>TITLE:</b> Group 79008 – PURCHASING, TRAVEL, AND NET CARD SERVICES (STATEWIDE)  <b>Classification Codes:</b> 84	
<b>CONTRACT PERIOD:</b> Five years		
<b>DESIGNATED CONTACTS:</b> In accordance with the Procurement Lobbying Law [State Finance Law § 139-j(2)(a)], the following individuals are the Designated Contacts for this Solicitation. All questions relating to this Solicitation must be addressed to the Designated Contacts.		
Email Address: <a href="mailto:PS_SW_PCard@ogs.ny.gov">PS_SW_PCard@ogs.ny.gov</a>		
Tyler Ahlborn Contract Management Specialist Telephone No. (518) 486-6820	Shannon Prica-Kast Contract Management Specialist Telephone No. (518) 473-0482	Terri Allen Assistant Director Telephone No. (518) 474-7795

<b>Bidder's Federal Tax Identification Number:</b> (Do Not Use Social Security Number)		<b>NYS Vendor Identification Number:</b> (See New York State Vendor File Registration Clause)		
Legal Business Name of Company Bidding:				
D/B/A – Doing Business As (if applicable):				
Street	City	State	County	Zip Code
E-mail Address:		Company Web Site:		

If applicable, place an "x" in the appropriate box(es) (check all that apply)			
<input type="checkbox"/> NYS Small Business # Employees	<input type="checkbox"/> Service Disabled Veteran Owned Business	<input type="checkbox"/> NYS Minority Owned Business	<input type="checkbox"/> NYS Women Owned Business

If you are not bidding, place an "x" in the box and return this page only. <input type="checkbox"/> WE ARE NOT BIDDING AT THIS TIME BECAUSE:
---

<b>FOR PROCUREMENT SERVICES USE ONLY</b>			
LITERATURE <input type="checkbox"/>	LETTER <input type="checkbox"/>	USB FLASH DRIVE <input type="checkbox"/>	# of Binders/Packages: _____
PURC. MEMO <input type="checkbox"/>	OTHER <input type="checkbox"/> _____		Documented by: _____

---

## 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 the 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 the RFP, all appendices and attachments attached thereto, including Appendix A (Standard Clauses for New York State Contracts), Appendix B (General Specifications), and Appendix C (Federal Funding Agency Mandatory Terms and Conditions).
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 <https://ogs.ny.gov/acpl>.

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**

## Contents

<b>1. INTRODUCTION .....</b>	<b>6</b>
1.1 OVERVIEW .....	6
1.2 SCOPE .....	6
1.3 ESTIMATED QUANTITIES .....	6
1.4 KEY EVENTS/DATES .....	8
1.5 INTENT TO BID .....	8
1.6 BIDDER QUESTIONS .....	8
1.7 NYS CONTRACT REPORTER .....	8
1.8 SUMMARY OF POLICY AND PROHIBITIONS ON PROCUREMENT LOBBYING .....	9
1.9 NEW YORK COMPTROLLER APPROVAL .....	9
1.10 DEFINITIONS .....	9
1.11 APPENDICES AND ATTACHMENTS .....	12
1.12 CONFLICT OF TERMS AND CONDITIONS .....	12
<b>2. BIDDER QUALIFICATIONS .....</b>	<b>13</b>
2.1 MINIMUM QUALIFICATIONS .....	13
<b>3. SPECIFICATIONS .....</b>	<b>13</b>
3.1 MANDATORY REQUIREMENTS .....	13
3.1.1 CUSTOMER <b>SERVICE</b> , IMPLEMENTATION, AND TRAINING .....	14
3.1.2 TECHNICAL REQUIREMENTS .....	14
3.1.3 BUSINESS REQUIREMENTS .....	16
3.1.4 PROGRAM BENEFITS .....	17
3.2 DESIRABLE SPECIFICATIONS .....	17
3.3 REBATE PROCESS AND CALCULATIONS .....	18
3.4 TESTING .....	19
3.5 FRAUD PREVENTION .....	19
3.6 DATA SECURITY .....	19
3.7 PCI DSS REQUIREMENTS .....	19
3.8 TRAINING .....	21
3.9 USER MANUALS AND SYSTEM DOCUMENTATION .....	21
3.10 INTERNAL CONTROL PLAN .....	21
3.11 BILLING AND PAYMENT PROCEDURES .....	21
3.12 LIABILITY .....	22
3.13 <b>REPORTING</b> .....	22
3.14 FILE DELIVERY TIME REQUIREMENTS .....	22
3.15 CONTRACT COMPLIANCE MEETINGS .....	23
3.16 TRANSITION PLAN .....	23
3.17 VALUE ADD .....	23
<b>4. BID SUBMISSION .....</b>	<b>24</b>
4.1 PERFORMANCE AND BID BONDS .....	24
4.2 NYS VENDOR FILE REGISTRATION .....	24
4.3 BID DEVIATIONS .....	24
4.4 INCORPORATION .....	25
4.5 BID LIABILITY .....	25
4.6 FORMAT OF BID SUBMISSION .....	25
4.7 ADMINISTRATIVE PROPOSAL CONTENT .....	25
4.8 COST PROPOSAL .....	26
4.9 BID ENVELOPES AND PACKAGES .....	27
4.10 BID DELIVERY .....	27
4.11 NYS REQUIRED CERTIFICATIONS .....	28
4.12 ELECTRONIC BID OPENING RESULTS .....	28
4.13 FIRM OFFER .....	28
4.14 NYS RESERVED RIGHTS .....	28

<b>5. METHOD OF AWARD .....</b>	<b>29</b>
5.1 METHOD OF AWARD .....	29
5.2 SUBMISSION REVIEW .....	29
5.3 EVALUATION PROCESS .....	29
5.3.1 ADMINISTRATIVE EVALUATION .....	29
5.3.2 COST EVALUATION .....	29
5.4 PROPOSAL RANKING .....	30
5.5 Best and Final Offer .....	29
5.6 NOTIFICATION OF AWARD.....	30
<b>6. GENERAL TERMS AND CONDITIONS.....</b>	<b>30</b>
6.1 CONTRACT TERM AND EXTENSIONS .....	30
6.2 SHORT TERM EXTENSION .....	31
6.3 REBATES .....	31
6.4 REBATE SCHEDULE UPDATES .....	31
6.4.1 REBATE SCHEDULE FORMAT .....	31
6.4.2 CONTRACTOR'S SUBMISSION OF CONTRACT REBATE SCHEDULE UPDATES .....	31
6.5 REBATE STRUCTURE .....	32
6.6 APPENDIX B AMENDMENTS .....	32
6.7 RESPONSIBILITY FOR SUBCONTRACTORS .....	32
6.8 NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS .....	32
6.9 CONTRACT ADMINISTRATION.....	33
6.10 NEW ACCOUNTS.....	33
6.11 NYS STATEWIDE FINANCIAL SYSTEM (SFS).....	33
6.12 ACCESSIBILITY OF WEB-BASED INFORMATION AND APPLICATIONS POLICY .....	33
6.13 AMERICANS WITH DISABILITIES ACT (ADA).....	34
6.14 N.Y. STATE FINANCE LAW § 139- I.....	34
6.15 INSURANCE .....	34
6.16 RECORDS RETENTION/DATA OWNERSHIP.....	34
6.17 INFORMATION SECURITY BREACH AND NOTIFICATION ACT .....	35
6.18 CONTRACTOR REQUIREMENTS FOR PARTICIPATION BY NY STATE MWBEs .....	35
6.19 PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES .....	37
6.20 OVERLAPPING CONTRACT PRODUCTS .....	37
6.21 "OGS OR LESS" GUIDELINES .....	38
6.22 NYS VENDOR RESPONSIBILITY .....	38
6.23 NYS TAX LAW SECTION 5-A .....	39
6.24 EXTENSION OF USE .....	39
6.25 CONTRACT AMENDMENT PROCESS .....	39
6.26 CREDIT EVALUATIONS .....	39
6.27 NEW ACCOUNTS.....	40

## APPENDICES

Appendix A – Standard Clauses for NYS Contracts (October 2019)  
 Appendix B – General Specifications (April 2016)  
 Appendix C – Federal Funding Agency Mandatory Terms and Conditions (January 2021)  
 Appendix D – Historical Usage of the Purchasing, Travel and NET Cards (Revised August 4, 2021)  
 Appendix E – Business Unit Agency Code Mapping for Credit Cards  
 Appendix F – Visa Commercial Format  
 Appendix G – SUNY File Fields  
 Appendix H – Merchant Category Codes

## ATTACHMENTS

Attachment 1 – Cost Proposal (Revised August 18, 2021)

Attachment 2 – *NYS Required Certifications*

Attachment 3 – *Encouraging Use of NYS Businesses*

Attachment 4 – *Contractor's Insurance Requirements*

Attachment 5 – *Bidder Information Questionnaire (Revised July 16, 2021)*

Attachment 6 – *Bidder Submission Checklist (Revised August 4, 2021)*

Attachment 7 – *Bidder Questions Form*

Attachment 8 – *Business Automobile Liability Insurance Attestation*

## **1. INTRODUCTION**

### **1.1 Overview**

The New York State Office of General Services (“OGS”) is issuing this Request for Proposals (“RFP”) for Statewide Purchasing (“P-Card”), Travel, and NET (Non-Employee Travel) Card Services, as further described herein. This RFP will result in a single statewide, centralized Contract which will be available for use by any Authorized User, as that term is defined in State Finance Law § 163(1)(k), across the State of New York, including but not limited to: New York State agencies; public authorities; political subdivisions such as cities, towns, and villages; school districts; the State University of New York (SUNY); The City University of New York (CUNY); and certain other associations, entities and non-profit organizations designated as Authorized Users under State Finance Law § 163(1)(k).

This RFP outlines the terms and conditions and all applicable information required for submitting a Bid. Bidders should pay strict attention to the Bid submission date and time to prevent disqualification. Bidders are strongly encouraged to read the language of this RFP thoroughly and to precisely follow the instructions included in the RFP and all attachments.

### **1.2 Scope**

The purpose of this RFP is to establish a no cost Contract with a single Bidder/Contractor to provide New York State Agencies and other Authorized Users with P-Card, Travel, and NET Card Services at no cost to State Agencies or Authorized Users. This RFP outlines the procurement schedule, required qualifications of prospective Bidders, mandatory technical requirements, evaluation criteria and Contractor’s responsibilities. This RFP also includes the terms and conditions that the successful Bidder will be expected to accept upon Contract award.

It is the State’s intent to award and execute a five (5) year Contract to be exercised upon mutual agreement of OGS and the Contractor. If at any time the resulting Contract is canceled, terminated or expires, the Contractor has the affirmative obligation to extend appropriate and reasonable cooperation to assure the orderly transition of Contract services to the subsequent Contractor.

The issuing agency of this RFP is the New York State Office of General Services (OGS).

The purpose of the P-Card is to enable State employees or other Authorized User employees to do their work more efficiently while reducing the cost to purchase needed items, usually of a small dollar value. These cards are not limited to employees working in the agency’s purchasing unit. Rather, the cards are assigned to program staff who need to make purchases to carry out agency operations and to the support staff responsible for ordering goods and/or services.

The State of New York has a Travel Card program which was created to provide employees with a mechanism to pay for travel expenses. The Travel Card is generally available to all employees who are expected to travel at least once per year as part of their job. Travel Cards are to be used to pay only those expenses relating to travel costs incurred when traveling on official State business.

The Non-Employee Travel Card (NET) Card is for state employees who coordinate necessary state business-related travel for non-State employees on a regular basis (e.g., travel and lodging for University student athletes or student athletic trainers). NET Cards are issued to the assigned State Employee in his or her name, and the cards also indicate the agency and purpose. NET cards must be separate and distinct from a Travel Card that an individual State employee would use to account for his or her State business travel expense.

### **1.3 Estimated Quantities**

All dollar values and quantities quoted in this RFP are based on current P-Card, Travel Card and NET Card information and represent potential card usage only. Use of the Contract resulting from this RFP by Authorized Users is completely voluntary and, therefore, no specific quantities are represented or guaranteed. The State provides no guarantee of volume or individual Authorized User participation. The estimated total card usage shown below is based on a per fiscal year time period.

**Annual Card Usage (per 2019 / 2020 fiscal year)**

	<b>P-Cards</b>	<b>Travel Cards</b>	<b>NET Cards</b>	<b>Totals</b>
NY State Agencies	\$473,701,745.54	\$43,770,442.95	\$20,250,440.71	\$537,722,629.20
NY Poly Subs	\$17,792,133.26	\$17,653,619.21	\$5,665.89	\$35,451,418.36
Total NY Usage	\$491,493,878.80	\$61,424,062.16	\$20,256,106.60	<b>\$573,174,047.56</b>

The following is the estimated total card usage expected to be added if the New York City Department of Citywide Administrative Services (NYC DCAS) joins the Contract which is expected at this time.

**NYC DCAS Annual Card Usage (per 2019 / 2020 fiscal year)**

	<b>P-Cards</b>	<b>Travel Cards</b>	<b>NET Cards</b>	<b>Totals</b>
NYC DCAS	\$100,644,000.00	\$0.00	\$0.00	\$100,644,000.00

See Appendix D – Historical Usage of the Purchasing, Travel and Net Cards (**Revised August 4, 2021**) for more information on spending levels, Authorized Users, days to pay, and other relevant information.

All Authorized User spend is aggregated but their individual speed of pay is calculated independently by the Contractor. Rebates are to be paid quarterly, based on actual quarterly spend. **Please Note: During the term of the Contract resulting from this RFP, the State may be implementing new policy initiatives which could significantly increase usage of the P-Card by New York State Agencies.**

The Contract resulting from this RFP shall be an estimated quantity Contract. No specific quantities are represented or guaranteed, and the State provides no guarantee of volume or individual Authorized User participation. The Authorized Users eligible to use this Contract represent diverse sizes, revenue collection streams and technical capabilities and therefore, will have varying needs depending on their individual Purchasing, Travel and NET Card programs.

Numerous factors could cause the actual quantities of Products and services purchased under a Contract resulting from this RFP to vary substantially from the estimates in the RFP. Such factors include, but are not limited to, the following:

1. Such Contracts may be non-exclusive Contracts;
2. There is no guarantee of usage of services or quantities to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases;
3. The individual value of each Contract is indeterminate and will depend upon actual Authorized User demand and actual services rendered during the Contract period;
4. The State reserves the right to terminate any Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of the Contract;
5. Contract rebate pricing that is lower than anticipated could result in a lower usage by Authorized Users than anticipated; or
6. Contract rebate pricing that is higher than anticipated could result in a higher usage by Authorized Users than anticipated.

By submitting a bid proposal, Bidder acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contract could vary substantially from the estimates provided in this RFP.

#### 1.4 Key Events/Dates

Event	Date	Time
RFP Release	February 19, 2021	N/A
Deadline for Submission of Intent to Bid	February 26, 2021	5:00 PM ET
Closing Date of Bidder Inquiries	March 12, 2021	5:00 PM ET
OGS Procurement Services' Responses to Vendor Inquiries	July 16, 2021	N/A
Submission of Proposal/Bid Opening	August 26, 2021	11:00 AM ET
Bidder Tentative Award Notification (tentative)	October 6, 2021	N/A
Contract Approval Date / Award Publish Date (tentative)	December 8, 2021	N/A

#### 1.5 Intent to Bid

A Bidder is requested to indicate its intent to bid by sending an e-mail titled "INTENT TO BID-[BIDDER NAME]" to [PS\\_SW\\_PCard@ogs.ny.gov](mailto:PS_SW_PCard@ogs.ny.gov) on or before the date and time indicated in the *Key Events/Dates* section. The e-mail should include the Bidder's company name and a contact name and contact information. The intent to bid is discretionary.

#### 1.6 Bidder Questions

All questions regarding this RFP should be submitted using Attachment 7 – *Bidder Questions Form*, citing the applicable RFP document name and document section. The completed form shall be emailed to [PS\\_SW\\_PCard@ogs.ny.gov](mailto:PS_SW_PCard@ogs.ny.gov) by the date and time indicated in the *Key Events/Dates* section. Questions submitted after the deadline indicated may not be answered. A Bidder is strongly encouraged to submit questions as soon as possible. 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 to the OGS website and will not identify the Bidder asking the question. Notification of this posting will be advertised in the NYS Contract Reporter ("NYSCR"). Your company must select the "opt-in" option within the Contract Reporter ad to receive notification updates of this RFP.

If Bidder intends to submit a bid proposal that deviates from the requirements of the RFP in any way, the proposed deviations should be submitted during the Bidder Questions period so that they may be given due consideration prior to the submission of Bids. See *Bid Deviations* for additional information.

#### 1.7 NYS Contract Reporter

Bidders shall register with the New York State Contract Reporter ("NYSCR") at <https://www.nyscr.ny.gov> in order to receive notifications about this RFP. 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 shall "bookmark the ad" on the upper right-hand side of the ad, then return to your Account, view your list of bookmarked ads, and then select "send me notification updates" option listed to the right of the 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 RFP 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 RFP documents.**

Be advised that submission of responses to the RFP that do not reflect and take into account updated information may result in your Bid being deemed non-responsive to the RFP.



## 1.8 Summary of Policy and Prohibitions on Procurement Lobbying

Pursuant to State Finance Law § 139-j and § 139-k, this RFP includes and imposes certain restrictions on communications between OGS and a Bidder during the procurement process. A 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, are identified on the first page of this RFP. OGS employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Bidder pursuant to State Finance Law §139-j and §139-k. 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 Bidder is debarred from obtaining governmental Procurement Contracts for four years. Further information about these requirements can be found on the OGS website at: <https://www.ogs.ny.gov/acpl/>

## 1.9 New York Comptroller Approval

Pursuant to the Memorandum of Understanding ("MOU") dated August 15, 2019 between the Offices of the New York State Governor Andrew M. Cuomo ("Executive"), New York State Comptroller Thomas P. DiNapoli ("OSC"), the State University of New York ("SUNY"), the State University of New York Construction Fund ("SUCF"), the City University of New York ("CUNY"), and the City University of New York Construction Fund ("CUCF"), procurement documents and Contract awarded under this Solicitation shall have no force and effect and the State bears no liability unless such procurement documents and Contract awarded under this Solicitation are approved by OSC or the pertinent pre-audit review period under the MOU has elapsed.

## 1.10 Definitions

Capitalized terms used in this RFP shall be defined in accordance with Appendix B, Definitions, or as below.

**"Agency Program Administrator" or "Authorized User Program Administrator"** shall refer to an individual(s) designated by the Authorized User to administer its P-Card, Travel Card and /or NET Card service program.

**"Association Rules"** shall refer to any rules, regulations, releases, interpretations or other requirements imposed or adopted by any applicable association (e.g., Visa, MasterCard).

**"Authorized User"** shall refer to the meaning set forth in State Finance Law Section 163(1)(k) and includes, but is not limited to, New York State Agencies, political subdivisions, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations.

**"Automated Clearing House" (ACH)** shall refer to an electronic network for credit and debit financial transactions which universally connects financial institutions by moving money and information directly from one bank account to another. The ACH network allows users to easily make payments through a secure and efficient electronic payment system.

**"Best Value"** shall refer to 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)).

**"Bid Deviation"** shall refer to any variance submitted or proposed by a Bidder, which deviates from, adds extraneous terms to, conflicts with or offers an alternative to any term, condition, specification or requirement of the RFP.

**"Billing Cycle"** shall refer to the period of time from the date a Statement is generated and delivered to the Authorized User until the next Statement is generated and delivered.

**"Business Day"** shall refer to Monday through Friday from 8:00 AM – 5:00 PM ET, excluding NYS Holidays and federal holidays.

**"Business Hours"** – shall refer to 8:00 am to 5:00 pm ET on Business days.

**“Business Unit”** shall refer to a pre-determined combination of number/letters that is assigned to each NY State Agency Authorized User. In general, BUs are five alphanumeric characters in length assigned to agencies and entities using a three-character acronym of the agency/entity followed by “01” (ex. OGS01)

**“Cardholder” or “Account”** shall refer to any NYS employee or authorized non-employee of a New York State Agency or other Authorized User who is authorized to use a P-Card, Travel Card, or NET Card.

**“Card Services” or “Services”** shall refer to the Purchasing Card program, the Travel Card program and the Non-Employee Travel (NET) Card program.

**“Credit/Charge Card”** shall refer to MasterCard, Visa, Discover and American Express branded cards, as well as any other card network as required by the Authorized User, or such other new or emerging cards (e.g., Virtual Cards) as may become available and included under the Contract during the Contract term.

**“Credit Card Issuer”** shall refer to a financial institution that is capable of directly issuing either Visa, Mastercard, Discover or American Express credit cards.

**“Declining Balance Card”** shall refer to an account that has a pre-established limit, in which the limit is reduced by the amount of every purchase until the Account’s purchase value is exhausted or supplemented.

**“Dedicated”** shall refer to the individual that the State can reach out to directly for assistance who is knowledgeable about our specific contract. The State cannot call a generic customer services number for assistance and get a different person each time. The State needs people dedicated to our account. They can have other accounts in addition to ours.

**“DOB”** shall refer to the New York State Division of the Budget.

**“Executive Agency”** shall mean all state departments, offices or institutions but, for the purposes of this RFP, excludes the State University of New York and City University of New York. Furthermore, such term shall not include the legislature and judiciary. For the sake of clarity, the term “Executive Agency” does not include any public benefit corporation, public authority, or local government entity.

**“Ghost Card”** shall refer to a type of Virtual Card that is a reusable card account typically stored in a supplier’s system for use to charge payments on pre-agreed services.

**“Implementation”** shall refer to the post sales process of guiding an Authorized User. 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.

**“Level I Data”** shall refer to traditional credit card detail similar to that provided for retail cards. This data includes merchant name, purchase amount, date and place of purchase.

**“Level II Data”** shall refer to all data provided in Level I, but also breaks out sales tax paid (if any) and includes a customized purchaser code provided at point of purchase. Level II information can provide a custom code that uniquely identifies each transaction, which assists in reconciliation to a general ledger and allows for automated 3-way matching (receipt of merchandise, invoice and payment) as well as the inclusion of invoice numbers with credit card data.

**“Level III Data”** shall refer to all detail provided in Levels I and II, plus line item detail including information such as unit cost, SKU# and shipping costs. Level III data provides line item detail on exactly which items were purchased.

**“Mandatory”** shall refer 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 proposal to be considered responsive.

**“May”** shall refer to 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”.

**“Member”** shall refer to the bank or financial institution utilized to process payments, which will be a required signatory to any Contract resulting from this RFP.

**“Merchant”** shall refer to the Authorized User.

**“Merchant Category Codes” (MCCs)** shall refer to numbers that classify businesses by what they sell or the service they provide. These four-digit codes are assigned by the payment card organizations (Visa, MasterCard, Discover and American Express as well as any other card network as required by the Authorized User.)

**“MCC Blocking”** shall refer to the Contractor’s ability to block purchases of certain specified MCC codes, as designated by the State or Authorized User.

**“Must”** shall refer to the imperative in a Contract clause or specification. Means required - being determinative/mandatory, as well as imperative. Also see “Shall” and “Mandatory”.

**“MWBE”** shall refer to businesses certified as such by Empire State Development’s Division of Minority and Women’s Business Development. NOTE: Businesses eligible to participate in the program must be owned and operated by women and/or minority group members who are citizens of the United States or permanent resident aliens. Generally, they must have been in operation for at least one year.

**“N/A”** shall refer to a common abbreviation for *not applicable* or *not available*, used to indicate when information in a certain field on a table is not provided, either because it does not apply to a particular case in question or because it is not available.

**“National Automated Clearing House Association” (NACHA)** shall refer to the organization that establishes the standards and rules followed by financial institutions for transferring payments through the ACH Network. NACHA is the overseer of the ACH Network.

**“NACHA Rules”** shall refer to the set of rules issued by the NACHA that financial institutions must follow in order to process ACH payments within the ACH network.

**“Next Business Day”** shall refer to the day following a business day, which is Monday through Friday, excluding New York State or federal holidays.

**“Non-State Agencies”** shall refer to political subdivisions and other entities authorized by law to make purchases from New York State centralized Contracts other than those entities that qualify as State Agencies. This includes all entities permitted to participate in centralized Contracts per Appendix B §25(b), Non-State Agency Authorized Users and §25(c) Voluntary Extension.

**“NY Poly Subs”** shall refer to Authorized Users who are political subdivisions such as cities, towns or villages, or other Non-State Agencies.

**“NYS Holidays”** shall refer to the legal holidays for State employees in the classified service of the executive branch, as more particularly specified on the website of the NYS Department of Civil Service. This includes the following: New Year’s Day; Martin Luther King Day; Washington’s Birthday (observed); Memorial Day; Juneteenth (if applicable); Independence Day; Labor Day; Columbus Day; Veteran’s Day; Thanksgiving Day; and Christmas Day.

**“NYS Vendor File”** shall refer to a centralized repository to maintain timely and reliable information on all Contractors registered to do business with New York State. The Office of the State Comptroller’s Bureau of State Expenditures created the Vendor Management Unit (VMU) to manage this file.

**“NYS Vendor ID”** shall refer to a unique ten-character identifier issued by the NYS Office of the State Comptroller (OSC) when the vendor is registered on the Vendor File System.

**“Payment Card Industry Data Security Standards” (PCI-DSS)** shall refer to the Payment Card Industry Data Security Standards or its successor as set forth by the Payment Card Industry Security Standards Council, with more information available at <https://www.pcisecuritystandards.org>.

**“Procurement Services”** shall refer to a business unit of OGS, formerly known as New York State Procurement (“NYSPro”) and Procurement Services Group (“PSG”).

**“Purchasing Card” (P-Card), “Travel Card” and “Non-Employee Travel Card” (NET)** shall refer to the bank issued credit card(s) that are the subject of this Request for Proposal (RFP)

**“Request for Proposal” (RFP)** shall refer to this document.

**“Shall”** refers to the imperative in a Contract clause or specification. Means required - being determinative/mandatory, as well as imperative. Also see “Must” and “Mandatory”.

**“Should”** refers to 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”.

**“SDVOB”** shall refer to a NYS-certified Service-Disabled Veteran-Owned Business.

**“Single-Use Account”** shall refer to a type of Virtual Card that has a 16-digit account number generated for one-time use. The payments include “pull” (Supplier-Initiated Payment, or SIP and “push” (Buyer-Initiated Payment, or BIP)

**“Special Use Accounts”** shall refer to Central Travel Accounts (CTA's), Declining Balance Cards, Departmental Cards, Virtual Card Accounts, Meeting Cards, Cardless Accounts.

**“Virtual Card” and “Virtual Account”** are often used interchangeably and they shall refer to a non-plastic, 16-digit account numbers.

**“Visa Commercial Format” (VCF)** shall refer to the standard file format (or equal) in which the bidder will provide transaction files.

## **1.11 Appendices and Attachments**

The following appendices and attachments, attached hereto, are hereby expressly made a part of this RFP as fully as if set forth at length herein.

### **APPENDICES**

Appendix A – Standard Clauses for NYS Contracts (October 2019)

Appendix B – General Specifications (April 2016)

Appendix C – Federal Funding Agency Mandatory Terms and Conditions (January 2021)

Appendix D– Historical Usage of the Purchasing, Travel and NET Cards (Revised August 4, 2021)

Appendix E – Business Unit Agency Code Mapping for Credit Cards

Appendix F – Visa Commercial Format

Appendix G – SUNY File Fields

Appendix H – Merchant Category Codes

### **ATTACHMENTS**

Attachment 1 – Cost Proposal (Revised August 18, 2021)

Attachment 2 – NYS Required Certifications

Attachment 3 – Encouraging Use of NYS Businesses

Attachment 4 – Insurance Requirements

Attachment 5 - Bidder Information Questionnaire (Revised July 16, 2021)

Attachment 6 – Bidder Submission Checklist (Revised August 4, 2021)

Attachment 7 – Bidder Questions Form

Attachment 8 – Business Automobile Liability Insurance Attestation

## **1.12 Conflict of Terms and Conditions**

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

1. Appendix A, Standard Clauses for New York State Contracts;
2. The Request for Proposal (**Revised August 18, 2021**);
3. Appendix B, General Specifications;
4. All other appendices and attachments to the RFP

## 2. BIDDER QUALIFICATIONS

Bidder is advised that the State's intent in having the requirements listed below is to ensure that only qualified and reliable Contractor(s) perform the work of the resulting Contract. Bidder shall have the burden of demonstrating to the satisfaction of Procurement Services that it can perform the work required. Procurement Services retains the right to request any additional information pertaining to the Bidder's ability, qualifications, financial capacity, financial stability, and procedures used to accomplish all work under the resulting Contract as it deems necessary to ensure safe and satisfactory work. A Bidder must meet the following qualifications set forth below. Failure to meet any of the qualifications in Section 2, *Bidder Qualifications*, in whole or in part, shall result in rejection of the Bid and the Bidder being found non-responsive at the discretion of the State.

### 2.1 Minimum Qualifications

A Bidder may be any entity that can provide the P-Card, Travel Card and NET Card Services described herein, provided that the following qualifications are met:

1. Bidder must represent and warrant that it is an existing Credit Card Issuer that is authorized and qualified to do business in the State of New York and must provide proof, if requested, that it is chartered by either the Office of the Comptroller of the Currency or by a State. The winning Bidder will be required to remain chartered and in good standing with the Office of the Comptroller of the **Currency** or the State with which they are chartered throughout the term of the Contract. Bidder must be the entity issuing the P-Cards, Travel Cards and NET Cards and it must be capable of and authorized to issue credit cards from one of the four credit card networks (Visa, Mastercard, Discover, and American Express.);
2. The Bidder must be financially stable. If the Bidder was subject to the Dodd-Frank Stress test in 2019 or 2020 then they must provide proof of passing the stress test, if requested. The winning Bidder will be required to comply with The Federal Reserve's requirements throughout the Contract term;
3. Bidder must provide evidence or certification of compliance with **all applicable** Payment Card Industry (PCI) Data Security Standard (DSS). The winning Bidder will be required to remain in compliance with all applicable PCI-DSS standards and requirements throughout the term of the Contract. See **Section 3.7 PCI DSS Requirements** below for more information on this standard;
4. Bidder must demonstrate they can provide the Services of the scope and scale described in this RFP by submitting two (2) Contracts, **or two (2) references for contracts**, currently held by the Bidder with government entities for similar services. The Bidder can submit a copy of the Contracts or a link to them if they are posted online, **or submit contact information for their references**; and
5. Upon request, the Bidder must provide documentation establishing the legal status of the bidding entity and any proposed Subcontractor(s).

OGS reserves the right to request any additional information regarding a Bidder's abilities, qualifications and procedures as it deems necessary to ensure safe and satisfactory work under the resulting Contract.

Note: Failure by a Bidder to meet any of the above qualifications, in whole or in part, may result in a rejection of the Bidder's proposal and no further consideration for Contract award.

## 3. SPECIFICATIONS

### 3.1 Mandatory Requirements

A Bidder must agree to **all** mandatory requirements in order to be considered eligible for award under this RFP. A Bidder will be scored on a Pass/Fail basis for all mandatory requirements. A Bidder must submit Attachment 5 –



*Bidder Information Questionnaire* (Revised July 16, 2021) with its proposal, confirming its acceptance and agreement to meet all mandatory requirements

The Contractor must agree to meet the following mandatory technical requirements to be eligible for award under this RFP:

### 3.1.1 Customer Service, Implementation, and Training

1. Provide Customer Service for the Authorized User Administrator and Cardholder on a 24/7 basis including phone and on-line access.
2. Provide two dedicated Customer Service Primary Point of Contacts (this is for Authorized Users such as the Office of the State Comptroller and the OGS BSC) as well as a Cardholder Point of Contact (this is for cardholders). Dedicated means the State has an individual they can reach out to directly for assistance who is knowledgeable about our specific contract. The State can't call a generic customer services number for assistance and get a different person each time. The State needs people dedicated to our account. They can have other accounts in addition to ours.
3. Provide points of contact for escalation purposes for both card management issues as well as for ordering issues in the event that the dedicated Customer Service Primary Points of Contact are unable to address the needs of the Authorized Users.
4. Provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis. This dedicated Contract Administrator is for the Master contract, and is to handle any routine and/or issues that may arise (Contract extensions etc.) By dedicated the State means that the State has a single individual to call each time, so that the State doesn't have to call a call center. This individual can have other accounts besides ours.
5. Provide prompt attention to any critical issue that is impacting the Authorized Users ability to do their jobs, which includes providing an acknowledgment of this issue within 2 hours of notification by an Authorized User,
6. Provide prompt attention to any non-critical issue that an Authorized User needs assistance with, which includes providing a written acknowledgement (for example a ticket number) within 24 hours.
7. Provide an estimated timeline and open lines of communication with the affected Authorized Users while the issue is being resolved.
8. Provide training to Authorized Users, as necessary, to provide a smooth and seamless transition, refresher training, new product enhancements, updates on rules and regulations, etc.
9. Provide comprehensive training for all new users and new Cardholders.
10. Provide On-Demand (or pre-recorded training) is needed for the following modules:
  - a. Program Administrator set-up (this training needs to initially be provided immediately upon winning award and then on-demand thereafter.)
  - b. ordering cards (this training needs to initially be provided within a month upon winning award and then on-demand thereafter.)
  - c. card maintenance (this training needs to initially be provided within a month upon winning award and then on-demand thereafter.)
  - d. creating and using reports (this training needs to initially be provided within a month upon winning award and then on-demand thereafter.)
11. Include with the training sufficient job aids or manuals that are to be kept current. For example, if there is a software upgrade, the trainings and job aids should be updated accordingly.
12. Provide new replacement cards to our Authorized Users within 6 months of receiving Contract approval.
13. Manage access for program administrators or provide complete and accurate written instruction on managing access to all agency program administrators.
14. Provide access to errors and confirmation in real time to Authorized Users who are setting up their own parameters for program administrators, so that it's immediately known if the account was set up successfully or not.
15. Have a procedure for handling questioned or disputed charges appearing on the statement.

### 3.1.2 Technical Requirements

1. Meet all system requirements for integration with the New York State Statewide Financial System (SFS). SFS uses Oracle Peoplesoft software. Further information can be found at: [www.sfs.ny.gov](http://www.sfs.ny.gov).
2. Provide a daily transaction file including all charges.

3. Provide the transaction file in VCF (Visa Commercial Format) standard or an equal standard that is compatible with the State's Peoplesoft software. Please see Appendix F – Visa Commercial Format for specifics. This file is to be sent to our largest Authorized Users, including, OGS Business Service Center, Office of the State Comptroller, and SUNY.
4. Provide all transactional fields required by PeopleSoft Purchasing. Please see Appendix F - Visa Commercial Format for specifics. Please note the following cards need the following fields/record types:
  - a. P-Card - 2, 5, 7, 8, 9, 11, 14, 15, 16, 17, 18, 20, 21, 31
  - b. Travel Card - 3, 4, 5, 9, 14, 16
  - c. NET Card - 2, 5, 7, 8, 9, 11, 14, 15, 16, 17, 18, 20, 21, 31
5. Provide all transaction detail received from the Card Network, including Level III transactional detail when available. Level III data includes all detail provided in Levels I and II, plus line item detail including information such as unit cost, SKU# and shipping costs. Level III data provides line item detail on exactly which items were purchased.
6. Provide transactions that can be uniquely identified by PeopleSoft key fields for purchasing card charges.
7. Provide separate files for P-Card, Travel Card and NET Cards.
8. Provide these files (for the P-Card, Travel Card, and NET Card) will include the last four digits of the card number and the employee name.
9. Deliver files daily at a mutually agreed upon time.
10. To not start the clock on the Early Payment Incentives until the files are delivered to the Authorized User. Note that any bills received after 2 pm ET shall count as of the next business day. **If the Contractor's system cannot accommodate the time, then the next business day would count as day one.**
11. Provide a populated Business Unit (unique identifier for a NYS agency - see definition in RFP and Appendix E for a complete list of Business Units) field for each transaction in the file to identify the source agency that the transaction belongs to.
12. Include a Business Unit field (unique identifier for a NYS agency) for each charge in the VCF (or equal) file that is compatible with the State's Peoplesoft software.
13. To make the fields configurable for the Authorized Users, so they have the ability, for example, to have the Business Unit, Employee ID, etc. added.
14. Include a transaction number for every purchase.
15. Provide a timestamp of each transaction.
16. Provide an identifier for New York State Certified Service Disabled Veteran Owned Business's (SDVOB's) and another identifier for New York State Certified Minority/Women Owned Business Enterprise's (MWBE's) for reporting purposes.
17. Provide the **Taxpayer Identification Number (TIN)** when it is available, in the VCF daily files, **or text file**, that are received to make it easier to see the complete spend with the merchant/vendor.
18. Provide historical files, if needed.
19. To provide Virtual Cards to our Authorized Users. Currently the Statewide Financial System cannot accommodate virtual cards but the State anticipates being able to incorporate them in the future.
20. Provide for the ability to add a new data field for all billing accounts. The field should be called GLBU and contain 3 letters and 2 numbers (ex. OGS01).
21. Indicate whether a billing account is BSC hosted or not. **The BSC is a shared services center with approximately 66 different agencies, some with multiple billing accounts within each agency. The BSC provides shared services to standardize Human Resources and Finance transactions for New York State. In HR the BSC offers Benefits Administration, Payroll, Personnel Administration, and Time & Attendance services. On the Finance side, the BSC provides Accounts Payable, Accounts Receivable, Credit Card Administration, Purchasing and Travel & Expense.**
22. Provide certain Authorized Users, for example the OGS BSC Unit, with data available in a raw format with:
  - a. full billing account number,
  - b. GLBU field, and
  - c. indicator of whether account is BSC hosted or not
  - d. spend,
  - e. timeliness of payment,
  - f. total rebate earned for each billing account,
  - g. account name,
  - h. last 6 digits of the account number, and
  - i. the level 3 hierarchy of the account.
23. **Provide certain Authorized Users, for example, NYC DCAS, with data available in a raw format with:**
  - a. full billing account number
  - b. budget code (4 characters; alpha/numeric)

- c. reporting category (6 characters; alpha/numeric)
  - d. grant project code (up to 10 characters; alpha/numeric)
24. Provide the Authorized User with the ability to request a renewal card or a replacement for a lost card online and in real-time.
  25. Provide the Authorized Users with the ability to bulk ship new cards to one address while also bulk shipping renewal cards to a different address.
  26. Provide the Authorized User with the option of selecting a different mailing address (other than the billing account ship to address) at the time the card is ordered online. This should be an option that can be turned on or off by the Authorized User at both the billing account level and the individual account level.
  27. Provide the Authorized User with the tracking numbers for all expedited cards that are shipped.
  28. Make available the ability for Authorized Users to concurrently grant Program Administrator access to their employees for multiple business units.
  29. Meet all system requirements for integration with the SUNY's home grown web based finance system, known as Finance and Management System (FMS).
  30. To populate SUNY's in-house Finance and Management System web-based P-Card module in order for reconciliation, internal transactional accounting, and billing statement voucher creation to be performed.
  31. Populate SUNY's FMS system with the daily (CGI) and monthly (GBF) data elements that are in Appendix G – SUNY File Fields.
  32. Provide the transaction files to NYC DCAS via a Data Exchange, and then send an e-mail notifying NYC DCAS that the files were delivered.
  33. Provide Authorized Users the ability to perform reallocation, which is the ability to review transactions and ensure they are allocated accurately from an Authorized User's accounting perspective.
  34. Provide the Authorized User the ability to change the Accounting String Code (ASC), which is the combination of segments – i.e. budget code, reporting category, and grant project code, from cardholder's default ASC to a different ASC (different budget code, different reporting category etc.) based on internal needs.
  35. Provide Authorized Users the ability to split transactions. This is the ability to split a single transaction to have it allocated against 2 different budget codes, 2 different grant project codes etc.
  36. Provide the Authorized User the ability to customize the ACS and then add/delete new codes/categories over time if needed.
  37. Allow the Authorized User the ability to 'pay and chase', which would let the Authorized User's Program Administrator begin the process to pay their bill prior to the cardholders performing reallocation, thereby allowing the Authorized User to take advantage of the early pay incentives.

### 3.1.3 Business Requirements

1. Allow payment via ACH for all agencies that process payments through the Office of the State Comptroller (OSC) in accordance with OSC rules and guidelines.
2. Will interface with the Statewide Financial System (SFS) at no additional cost to New York State.
3. Bill individual Authorized Users. The speed of pay will not be based on the aggregate for the State. It will vary by Authorized User.
4. Work with SFS to go paperless for those Authorized Users that use SFS. For those Authorized Users that do not use SFS, hard copy approvals would still be needed.
5. Agrees that the Authorized User shall be liable for the use of the card by authorized Cardholders provided that the use is within the transaction limit as well as any control restrictions.
6. Agrees to assume liability for unauthorized third party use of credit cards or account numbers that are fraudulently used by third parties and lost or stolen cards.
7. Shall not sell or distribute a list of participating Authorized Users, Cardholders, their addresses or any other information acquired from the Authorized users.
8. Issue quarterly rebates based on the actual quarterly spend.
9. Issue rebates directly to individual agencies or Authorized Users. The speed of pay will not be based on the aggregate for the State. It will vary by Authorized User.
10. Make the bill available to the Authorized Users within 48 hours. Bidder also agrees to start the rebate clock when the bill is made available to the Authorized User.
11. Provide a clear billing statement, with the type of account (P-Card, Travel Card, or NET card) clearly indicated on the top of each bill.
12. Schedule the rebate calculations in terms of file turn days.
13. Provide MCC blocking at the agency level with override capability by either the OGS or Agency Program Administrator. See Appendix H - Merchant Category Codes for more information.



14. Allow OGS and Agency Program Administrators to make temporary credit limit changes as needed.
15. Provide a monthly report to OGS Procurement Services, OGS BSC and OSC that provides master account level access showing an overview of the P-Card, Travel Card, and NET card volumes for all Authorized Users. Also hosts a monthly conference call with the same Authorized Users to go over the report.
16. Provide a status of New/ Replacement Cards to the Office of General Services Business Service Center within one business day of ordering.
17. Provide to the OGS BSC an accurate monthly status report of all the cards due to expire the following month.
18. Provide an accurate and timely report listing the current program administrators to the OGS BSC on a monthly basis.
19. Provide the BSC the ability to run a report on all fields.
20. Provide monthly as well as ad hoc reporting to any and all of our Authorized Users. The reports will include, but are not limited to, the following:
  - a. Daily **real time activity access to Cardholder account activity**,
  - b. Monthly Billing statement,
  - c. Management reports,
  - d. Payment delinquency,
  - e. Declined transactions,
  - f. **Monthly statements broken down by budget codes**,
  - g. Any additional reports or data, if requested by and approved in writing by OGS Procurement Services, in a format and frequency as specified by OGS. Reports should be made available in a reasonable amount of time - not to exceed 30 days.
21. Bidder agrees that Authorized User's will have the ability to run reports matching the Merchant to the NYS Vendor file.
22. Bidder agrees that it will provide online access for Cardholders as well as for the OGS and Agency Program Administrators for account maintenance and reporting Capabilities.
23. Upon OGS request and approval, provide certain Authorized Users, such as the Office of the State Comptroller, with master account level access, which includes varying levels of access to reports up to and including the ability to pull reports across the program on data that pertains to other Authorized Users.

### 3.1.4 Program Benefits

1. Issue cards to anyone that the authorized Agency Program Administrator selects, without requiring credit checks for State agencies or State employees and without requiring the submission of social security numbers. Contractor may perform credit checks on non-State agency Authorized Users, however.
2. Agrees that upon notification by the authorized Administrator of card termination, temporary suspension or cancellation, or lost or stolen cards, the Contractor shall immediately take action on the Cardholder's **account or provide the Authorized User the ability to close accounts immediately themselves**.
3. Agrees that they will not cancel cards, **unless in the event of fraud concerns**, without providing at least 7 days written notice to the Authorized User.
4. Imprint the cards with a unique logo at the State's request.
5. Deliver emergency account numbers and expiration dates within 24 hours.
6. **Bidder agrees to ship routine new or replacement cards within 48 hours, with expected delivery within four to six business days.**
7. Deliver expedited new or replacement cards, when requested, within two (2) business days.
8. Agrees that access, use and disposal of Cardholder data will be safeguarded in accordance with applicable State or Federal law and/or industry standards.
9. Comply with all applicable NACHA Rules, Association Rules, and Payment Card Industry Data Security Standards (PCI DSS).
10. Agrees that all Services will be provided at no cost to the State or Authorized Users.
11. **Agrees to notify the NYS BSC before taking any action, like closing an account, on any NYS agency's delinquent accounts.**

### 3.2 Desirable Specifications

**A Bidder may agree to the following desirable specifications. Please note the following specifications are not mandatory.**

1. Deliver expedited replacement cards, when requested, within one (1) business day.

2. Provide Tracking information for all cards that are shipped out for delivery.
3. Provide the OGS BSC with an expedited way of downloading bills for multiple accounts at the same time.
4. Work with SUNY to establish a reconciliation tool for Travel Cards and NET Cards and any other types of cards as requested (i.e. Virtual Cards).

### 3.3 Rebate Process and Calculations

**Gross Standard Spend Rebate:** At the end of each quarterly rebate period, the Contractor will determine the aggregate quarterly program spend for all Authorized Users on Table A (Standard Interchange Volume) in Attachment 1 – *Cost Proposal* (Revised August 18, 2021). After locating the accurate tier, they will then note the applicable corresponding **rebate basis points** for that tier. The Contractor will then subtract out the Large Ticket Interchange Volume, **the Level III Volume, the VPP/MPP MNI Volume, and the Foreign Transaction Volume** dollar amount to arrive at the Gross Standard Spend Volume. The Contractor will take this Gross Standard Spend Volume and multiply this by the applicable **rebate basis points** previously determined to calculate the Gross Standard Spend Rebate.

**Gross Early Pay Incentive Rebate:** At the end of each quarterly period, the Contractor will calculate the number of **business file turn** days to pay for each Authorized User individually, for each month in that quarter. The number of **business file turn** days to pay from Table C on Attachment 1 – *Cost Proposal* (Revised August 18, 2021) will be used to determine the corresponding Early Pay Incentive for each individual Authorized User, for each month, **or an average of each month**, in that quarter. The Contractor will multiply the Gross Standard Spend Volume by the applicable Early Pay Incentive to determine the Gross Early Pay Incentive Rebate.

**Gross Large Ticket, Level III, VPP/MPP MNI and Foreign Transaction Rebate:** At the end of each quarterly period, the Contractor will determine the Large Ticket Interchange Volume, **the Level III Volume, the VPP/MPP MNI Volume, and the Foreign Transaction Volume** for each Authorized User, for each month, and multiply this by **number of Basis points bid (not to be below 75 Basis points)** to determine the Gross Large Ticket, **Level III, VPP/MPP MNI , and the Foreign Transaction Rebate**.

**Additional Incentive Rebates:** If applicable, additional incentive rebates will be calculated quarterly.

**Net Rebate:** At the end of each quarterly rebate period, the Contractor will take the sum of the Gross Standard Spend Rebate, the Gross Early Pay Incentive Rebate, and the Gross Large Ticket, **Level III, VPP/MPP MNI, and the Foreign Transaction Rebate** to calculate the Net Rebate. If additional incentives are given then these would be included in this calculation as well.

See Attachment 1 – *Cost Proposal* (Revised August 18, 2021), Tab 3, for an example of this calculation.

All rebate payments are to be made electronically via ACH. No physical checks are to be mailed out.

Currently, the rebates (for the P-Cards, Travel Cards, and NET Cards) going to the State Authorized Users are paid to a bank account that NYS has provided.

Currently, approximately 80% of the rebate payments for the polysub P-Card program are made directly to those authorized users. This is because these polysubs have shared bank account details with the Contractor. The remaining 20% of polysubs have not shared bank account details, and therefore their rebate is paid to New York State OGS. NYS OGS then distributes these rebates to these authorized users on an annual basis.

Currently, approximately 20% of the rebate payments for the polysub Travel Card program (Level 1 of 10647), are made directly to those Authorized Users. This is because they have shared bank account details with the Contractor. The remaining 80% of the rebate payments are to be paid to New York State OGS. Then on an annual basis the NYS OGS will distribute these rebates to the polysub authorized users.

Currently, 100% of the rebate payments for the polysub NET Card program (Level 1 11265) are paid to New York State OGS.

### 3.4 Testing

The Contractor shall provide to each Authorized User, at no additional cost, testing in the event the Authorized User transitions to a paperless approval environment. Upon request, the Contractor shall describe to the Authorized User their methodology and procedures for testing acceptance of the paperless approval process, including a description of the testing environment and data.

### 3.5 Fraud Prevention

The Contractor is responsible for establishing and maintaining methods and procedures used to detect and prevent fraud, theft, and detection of unauthorized attempts, and reporting fraudulent payments including conditions under which the Authorized User may deviate from Card Association Rules governing non-discrimination of card acceptance. Data about fraud prevention) should be provided in reports in accordance with **industry standards**. The Contractor's fraud protection procedures shall include at a minimum, Cardholder name, address, and card security code verification.

### 3.6 Data Security

The Contractor shall have a security protocol in place during the Contract term that will be utilized to ensure the anonymity of Authorized User information and that access to such information is controlled and restricted to authorized personnel only, as well as procedures to secure transactions on the Internet, transaction receipts and sale reports. Upon request from an Authorized User or OGS, Contractor shall submit any of the following:

- a. Contractor's pre-employment verification procedures, employment agency screening and security awareness training for employees and subcontractors.
- b. A list and description of relevant security software, including data encryption.
- c. Administrative rules relative to security of data.

**The use of a Non-Disclosure Agreement (NDA) is allowed under these circumstances.**

The Contractor, and its subcontractors, are responsible for Authorized Users' security needs, the security of the transaction data and processing procedures, and for compliance with all applicable federal and state laws pertaining to the security of transaction data in connection with the provision of Services hereunder; provided, however, that neither Contractor nor its subcontractors will be responsible for any security breaches or non-compliance with State law or terms of this Contract which results from any act or omission of Authorized User or a third-party unrelated to the negligence of Contractor. In addition to other remedies available under law, Contractor shall reimburse and issue payment credit to all affected Authorized Users for any expenses incurred as a result of failure to comply with all applicable federal and state laws pertaining to the security of transaction data. The imposition of the payment credit fee and requests for reimbursements are at the State's discretion.

The Contractor is also responsible for compliance with all applicable state and federal laws pertaining to the security of data, including the New York State Personal Privacy Law, (See Public Officers Law, Article 6-A). Additionally, the Contractor shall adhere to the security and confidentiality procedures of Authorized User and implement procedures sufficient to enforce such privacy for all services provided under the Contract. To that end, the Contractor's employees may be required to sign agreements to adhere to such laws, rules and/or procedures. The Contractor shall store any electronic Purchasing, Travel and NET Card data in an encrypted data format sufficient to preserve such security.

The Contractor will be required to comply with the confidentiality and security requirements of Appendix B, Clause 52. Individually identifiable material and information relating to Device User or Customer, security codes or encryption methods, or other confidential information regarding the Authorized User's business operations or data, shall be held confidential in accordance with these requirements and shall not be disclosed by the Bidder, its officers, agents or employees, subcontractors, without the prior written approval of the Authorized User and, where applicable, the Device User or Customer.

Except as directed by a court of competent jurisdiction or as necessary to comply with applicable New York State or federal law(s) or regulation(s), and with the written consent of the Device User or Customer, where applicable, no data records or other information may be otherwise used, released or sold to any third-party by the Contractor. The

Contractor is further prohibited from releasing data records or other information to its joint venture, partners, employees, agents, subcontractors either during the term of the Contract or in perpetuity thereafter, unless such party is directly processing the data or providing a service that requires access to the data. Where such party is directly processing the data or providing a service that requires access to the data, the Contractor shall be responsible for insuring such party's compliance with the provisions of this paragraph. The Contractor shall be responsible for assuring that any agreement between the Contractor and any of its joint venture, partners, officers, agents, employees, or subcontractors contains a provision that strictly conforms to these provisions.

### 3.7 PCI DSS Requirements

Payment Card Industry Data Security Standard (PCI DSS) The PCI DSS is a set of requirements for enhancing security of payment customer account data, developed by the founders of the PCI Security Standards Council, including American Express, Discover Financial Services, JCB International, MasterCard Worldwide and Visa to help facilitate global adoption of consistent data security measures. PCI DSS includes requirements for security management, policies, procedures, network architecture, software design and other critical protective measures. The Council also issued requirements called the Payment Application Data Security Standard (PA DSS) and PCI Pin Transaction Security (PCI PTS). PCI affects retailers, credit card companies, anyone handling credit card data. Currently, PCI DSS specifies 12 requirements, organized in six basic objectives:

#### Objective 1: Protect Cardholder Data

- Requirement 1: Protect stored Cardholder data
- Requirement 2: Encrypt transmission of Cardholder data across open, public networks

#### Objective 2: Maintain a Vulnerability Management Program

- Requirement 3: Use and regularly update anti-virus software
- Requirement 4: Develop and maintain secure systems and applications

#### Objective 3: Implement Strong Access Control Measures

- Requirement 5: Restrict access to Cardholder data by business need-to-know
- Requirement 6: Assign a unique ID to each person with computer access
- Requirement 7: Restrict physical access to Cardholder data

#### Objective 4: Regularly Monitor and Test Networks

- Requirement 8: Track and monitor all access to network resources and Cardholder data
- Requirement 9: Regularly test security systems and processes

#### Objective 5: Maintain an Information Security Policy

- Requirement 10: Maintain a policy that addresses information security

PCI compliance requirements, **if applicable**:

- PCI DSS [https://www.pcisecuritystandards.org/security\\_standards/documents.php](https://www.pcisecuritystandards.org/security_standards/documents.php)
- PA DSS [https://www.pcisecuritystandards.org/document\\_library?agreements=pcidss&associatio%20n=pcidss](https://www.pcisecuritystandards.org/document_library?agreements=pcidss&associatio%20n=pcidss)
- PCI PTS [https://www.pcisecuritystandards.org/security\\_standards/documents.php](https://www.pcisecuritystandards.org/security_standards/documents.php)

Contractor represents and warrants that it shall implement and maintain certification of **all applicable** Payment Card Industry ("PCI") compliance standards regarding data security and that it shall undergo independent third party quarterly system scan that audit for all known methods hackers use to access private information, in addition to vulnerabilities that would allow malicious software (i.e., viruses and worms) to gain access to or disrupt the network devices. If during the term of the Agreement, Contractor undergoes, or has reason to believe that it will undergo, an adverse change in its certification or compliance status with the **applicable** PCI DSS standards and/or other material payment card industry standards, it will promptly notify the Office of General Services of such circumstances.

Contractor agrees to promptly provide current evidence of compliance with **all applicable** PCI-DSS standards at the Office of General Services request. The form and substance of such evidence must be reasonably satisfactory to and must be certified by an authority recognized by the payment card industry for that purpose.

Contractor shall maintain and protect in accordance with all applicable laws and **all applicable** PCI regulations the security of all Cardholder data when performing the Contracted Services on behalf of the OGS.

Contractor will provide reasonable care and efforts to detect fraudulent credit card activity in connection with credit card transactions processed for the OGS.

Contractor shall indemnify and hold OGS harmless from loss or damages resulting from Contractor's failure to maintain **all applicable** PCI compliance standard in accordance with this section.

Contractor shall not be held responsible for any such loss of data if it is shown that the loss occurred as a result of the sole negligence of the OGS.

**The use of a Non-Disclosure Agreement (NDA) is allowed under these circumstances.**

#### NACHA Requirements

Contractor agrees to assist the OGS in documenting compliance with NACHA-The Electronic Payment Association provisions.

### **3.8 Training**

The Contractor shall implement specific training covering initial and follow-up training for Authorized Users. Standard on-going training is any post-implementation training made available to Authorized Users for no additional fee. Any fee for providing both implementation training or ongoing training, including materials, is presumed to be included. On-site training at locations designated by the Authorized User may also be offered and shall be provided to employees designated by the Authorized User.

Upon request, the Contractor shall provide a description of the training to be provided to Authorized Users including:

1. A thorough understanding of credit card billing as it relates to Purchasing, Travel and NET Card Services.
2. An understanding of Authorized User reports and reconciliation procedures.
3. Guidance in developing internal reports.
4. An understanding of security requirements and fraud prevention/detection.

Descriptions should include, but not be limited to, the following components: scope and length of sessions, setting (e.g., on-site, off-site, teleconferencing, video-conferencing, Internet-based), and curriculum. The Contractor shall describe any training materials that will be made available to Authorized User

### **3.9 User Manuals and System Documentation**

The Contractor shall provide each Authorized User with the necessary user manuals and system documentation related to Purchasing, Travel and NET Card Services at no additional cost.

### **3.10 Internal Control Plan**

The Contractor shall have an Internal Control Plan that includes checks and balances for all aspects of the services provided including internal controls for all automated and manual processes, and controls to protect against unauthorized access to personal information. Upon request, the Contractor shall provide its internal control plan with the Authorized User or OGS. **Confidential documents would not have to be submitted.**

### **3.11 Billing and Payment Procedures**

Invoicing and payment shall be made in accordance with the terms set forth in **Appendix B, §45 – Contract Invoicing.**

Cost centers or branch offices within 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.

- A. For each statement period that there is account activity, the Contractor will provide each Authorized User with a statement for the account, which will indicate the outstanding balance, amount due and the payment due date. In addition, it will show an itemized list of current purchases, payments and credits.



- B. Unless required by applicable law or otherwise agreed between the State and the Contractor, all account statements will be provided to each Authorized User via an electronic method. If necessary to retrieve statements, the State shall ensure that each State Agency Program Administrator or other authorized employee of the State has secure encrypted access to the Contractor's website to access and view electronic account statements.
- C. If the State or Authorized User, as the case may be, sends a payment that exceeds the amount due on an account, the Contractor will reflect the amount of the excess as a credit against future charges on the subject account. The State or Authorized User, as the case may be, may request a refund of a credit balance.
- D. The Contractor may accept late or partial payments (including, but not limited to, those marked as in settlement of a dispute or "payment in full" or with other restrictive endorsements), without losing any of its rights under this Contract. The State or Authorized User, as the case may be, is required to comply with all requirements established by the Contractor regarding procedures for remitting payments to the Contractor and required information to be included with payments. The State and each Authorized User acknowledges that a failure by the State or Authorized User, as the case may be, to comply with the Contractor's procedures for remitting payments may result in late payment of amounts due, assessment of late charges, reduction in the spending limit of the subject account(s), and/or the closing or suspension of the subject account. Notwithstanding the foregoing, in the event of termination of an Authorized User due to the Authorized User's failure to make payment, the provisions of Appendix B §63 shall apply.
- E. Each Transaction is billed directly to a Central Account. Government Entity will receive one or more central account Statements at the conclusion of each Billing Cycle for all Cardholder and/or Central Account Transactions. With respect to Transactions posted to a Cardholder Account and rolled up to a Central Account, the Cardholder receives a memo Statement showing his/her respective Transactions but with no amount due. Government Entity receives a consolidated Statement, which includes the total amount due for all Cardholder Accounts and Central Accounts and is responsible for ensuring the balance due on the Statement is paid by the Due Date.

### **3.12 Liability**

The cards issued under the resulting Contract will be Corporate Liability. Authorized Users (not individual employees) are solely liable to the Contractor for all billed Transactions.

### **3.13 ~~Service Interruption(s) or Failures Reporting~~**

Contractor will accurately capture, report, and settle all electronic transactions in a timely manner according to industry standards.

The Contractor shall maintain redundant back-up systems, including disaster recovery facilities, in order to facilitate uninterrupted services, exclusive of planned maintenance downtime. Planned maintenance downtime shall be done pursuant to a maintenance program known to the Authorized User in advance. In the event of a temporary interruption(s), partial loss or complete failure to provide service, Contractor shall use all commercially reasonable efforts to restore the system to full operation. Any temporary interruption(s), partial loss or complete failure to provide Purchasing, Travel and Net Card Services ("incident") during the preceding month shall be reported in detail, per incident, to the Authorized User. Such report shall include the date, time of incident, duration of incident, and type of service loss for each incident.

### **3.14 File Delivery Time Requirements**

Contractor shall initiate transactions to credit rebates to depository accounts designated by Authorized User within the agreed upon time frames, and in accordance with industry standards.

### 3.15 Contract Compliance Meetings

Routine Contract meetings or conference calls, as scheduled by OGS, and including key Authorized Users as designated by OGS, no more frequently than monthly, will be held with the Contractor to review issues such as recent services performed, quality of services, invoicing, or any other issue deemed appropriate by either party. The Contractor will not receive additional compensation to participate or attend these meetings.

### 3.16 Transition Plan

If requested, Contractor is required to develop and maintain a transition plan, subject to the approval of OGS, that shall provide information on the Contractor's strategy for transitioning Authorized Users to a potential new Purchasing and Travel Card Contractor either before the scheduled end of the resulting Contract term or at the end of any resulting Contract term.

The Authorized User or OGS may require the Contractor to modify the transition plan, as needed, to adhere to the terms and conditions of the resulting Contract or as otherwise determined by the Authorized User or OGS. The Authorized User or OGS may also require Contractor to modify this plan at any time during the term of the resulting Contract.

User Transition plan details are to include, at a minimum, the following information to address how Contractor will onboard Authorizes Users off the current Contract to their new Contract:

1. Contractor's willingness to waive any implementation fees for pre-existing Authorized User card programs,
2. The anticipated timeframe for conversion of new and/or existing applications, and
3. A dedicated account manager who will be the primary point of contact to address issues during rollout and beyond.

User Transition plan details are also to include, at a minimum, the following information to address how Contractor will transition to a new Contractor at the end of their Contract:

1. Transition of Authorized User information from the existing Contractor to a new Contractor upon expiration or termination of the resulting Contract;
2. Contractor's ability to transition Authorized User from their card service solution to a new Contractor's card service solution using the following phased approach which will be rolled out based by hierarchy:
  - o P-Cards
  - o Travel Cards
  - o NET Cards
3. The anticipated timeframe for conversion to a new Contractor.

Contractor shall assist with the process of transitioning current Contract users from the current Contract's Purchasing and Travel Card Services to the new awarded Contractor. It is anticipated that a reasonable transitional period be that of six months, or until a successful transition is complete. Transitional services include but may not be limited to new profile/account setup and testing in-house systems functionality. All quality assurance testing shall be conducted prior to the Contract start date to ensure that the new system is fully functional upon the Contract start date.

### 3.17 Value Add

Contractor is encouraged to provide information on any programs that are offered at no additional cost and that may add value to our Authorized Users, for example, any disaster recovery or contingency plans that may be beneficial in the event of an emergency. Any Automatic reconciliation that is done by the Contractor or an App that would assist in expense reports and that would ultimately assist the Authorized User would also be considered a value add. Other examples of value adds include any Special Use Accounts, such as Single-Use Accounts, Declining Balance Cards or Ghost Cards are considered a value add.

No technical points will be given for value add items or services.

## **4. BID SUBMISSION**

### **4.1 Performance and Bid Bonds**

There are no bonds for this Contract. 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 is required at any time during the term of the resulting Contract.

### **4.2 NYS Vendor File Registration**

Prior to being awarded a Contract pursuant to this RFP, the Bidder and any authorized resellers who accept payment directly from the State, shall 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 shall 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 shall enter its Vendor ID on the first page of this RFP. Authorized resellers already registered should list the Vendor ID number along with the authorized reseller information. (The Vendor ID number is not the same as a SOCIAL SECURITY NUMBER or a TIN/FEIN number.)

If the Bidder is not currently registered in the Vendor File, the Bidder shall request assignment of a Vendor ID from OGS. Bidder shall complete the OSC Substitute W-9 Form ([http://www.osc.state.ny.us/vendors/forms/ac3237s\\_fe.pdf](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 RFP. 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](http://www.osc.state.ny.us/vendor_management).

### **4.3 Bid Deviations**

Bids shall conform to the terms set forth in this RFP. As set forth in Bidder Questions, if Bidder intends to submit a Bid that deviates from the requirements of the RFP in any way, the proposed deviations should be submitted during the Bidder Questions period so that they may be given due consideration prior to the submission of Bids. Material deviations (including additional, inconsistent, conflicting, or alternative terms) submitted with the Bid may render the Bid non-responsive and may result in rejection of the Bid.

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

Extraneous terms 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.

Proposed revisions to contract terms and conditions, including proposed card agreements or participation agreements, should be submitted with Bidder's bid as bid deviations or extraneous terms. Upon tentative award of the contract, such requests may be accepted, rejected, or negotiated at the State's discretion. Bidders are cautioned



that while nonmaterial terms and conditions may be negotiated upon tentative award, material deviations may render a bid non-responsive and result in rejection of the bid.

#### **4.4 Incorporation**

Portions of the successful Bidder's Bid and of this RFP, shall be incorporated into a final Contract, with a separate document executed by Contractor and OGS. A final Contract will be formalized either through a separate Contract document or through a Contract award letter incorporating the Bid, each having its own provision governing conflict of terms.

#### **4.5 Bid Liability**

The State of New York will not be held liable for any cost incurred by the Contractor for work performed in the production of a Bid or for any work performed prior to the formal execution of a Contract.

#### **4.6 Format of Bid Submission**

The complete Bid package consists of a separately sealed administrative proposal and cost proposal. This separation will facilitate the review of the material requested. No information beyond that specifically requested is required, and Bidders are requested to keep their submissions to the shortest length consistent with making a complete presentation of qualifications. Evaluations of the administrative and cost proposals received in response to this RFP will be conducted separately. Bidders are therefore cautioned not to include any cost proposal information in the administrative proposal documents.

The complete Bid package shall be received by OGS Procurement Services by the date and time of the Bid opening. Late Bids shall be handled in accordance with Appendix B, *Late Bids*. Any Bid pricing or portions thereof submitted on USB 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.

Situations susceptible to Disqualification may include:

1. Submitting a bid via Email or facsimile,
2. Failure to submit Attachment 1 – *Cost Proposal (Revised August 18, 2021)*, and
3. Failure to submit Attachment 5 – *Bidder Information Questionnaire (Revised July 16, 2021)*.

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 location. Only completed files (in the specified format) should be saved to a USB flash drive for submittal.

Bidders are responsible for the accuracy of their Bids. All Bidders are directed to take extreme care in developing their Bids. Bidders are cautioned to carefully review their Bids prior to Bid submission. A Bid that fails to conform to the requirements of the RFP may be considered non-responsive and may be rejected.

Please note that in the case of discrepancies between paper copies and USB flash drive submissions of the documents required in both formats, the electronic USB flash drive copy shall take precedence over the paper copy.

A Bidder should note that any indicators or messages that have been built into the attachments are informational only and provided solely for the purpose of assisting Bidders in completing the attachments. The presence or absence of notes or indicators is not a determination by the State as to the sufficiency of the attachments with respect to the RFP requirements. Bidders remain responsible for reviewing the attachments to ensure compliance with the RFP requirements.

#### **4.7 Administrative Proposal Content**

An administrative proposal that does not provide all the information requested below may be subject to rejection. The administrative proposal shall contain sufficient information to assure the Office of General Services of its accuracy. A complete Administrative Proposal consists of the following:

1. Two (2) USB flash drives each containing:
  - a. Pages 1 and 2 of the RFP (Revised August 4, 2021) (signed and scanned) (PDF);
  - b. Completed Attachment 2 – *NYS Required Certifications* with original ink signatures (PDF);
  - c. Completed Attachment 3 – *Encouraging Use of NYS Businesses* (PDF);
  - d. Proof of New York State Workers' Compensation Insurance and Disability Benefits Insurance coverage in accordance with Attachment 4 – *Insurance Requirements* (PDF);
  - e. Completed Attachment 5 – *Bidder Information Questionnaire* (Revised July 16, 2021) (Excel);
  - f. Completed Attachment 6 – *Bidder Submission Checklist* (Revised August 4, 2021) (Excel);
  - g. Completed ST-220CA, Contractor Certification, notarized with original ink signatures (PDF);
  - h. Completed Form EEO100, Equal Employment Opportunity Staffing Plan (PDF), available at <https://ogs.ny.gov/mwbe/forms>;
  - i. Completed Appendix C - Federal Funding Agency Mandatory Terms and Conditions (January 2021) (Section 10);
  - j. Standard Vendor Responsibility Questionnaire (completed and scanned to PDF) or Certification that Questionnaire has been completed online (PDF);
  - k. Completed Bid Solicitation Updates;
  - l. Confirmation on company letterhead and signed by company official that the Bidder is an existing credit card issuer that is authorized and qualified to do business in the State of New York in accordance with Section 2.1, *Minimum Qualifications*;
  - m. If Bidder was subject to the Dodd-Frank Stress Test in either 2019 or 2020, provide proof (if requested) of passing the Dodd-Frank Stress Test in the year in which it was tested in accordance with Section 2.1, *Minimum Qualifications*;
  - n. Proof or certification of compliance with all applicable Payment Card Industry (PCI) Data Security Standard (DSS). See Section 3.11, *Data Security*, below for more information on this standard in accordance with Section 2.1, *Minimum Qualifications*; and
  - o. Provide two (2) Contracts, or two (2) references for contracts, currently held by the Bidder with government entities for similar services in accordance with Section 2.1, *Minimum Qualifications*.
2. Original paper versions of each of the following (to be placed in a loose-leaf binder and tabbed):
  - a. Pages 1 and 2 of the RFP with original ink signatures;
  - b. Completed Attachment 2 – *NYS Required Certifications* with original ink signatures;
  - c. Completed ST-220CA, Contractor Certification, notarized with original ink signatures;
  - d. Completed Form EEO100, Equal Employment Opportunity Staffing Plan, available at <https://ogs.ny.gov/mwbe/forms>;
  - e. Completed Appendix C - Federal Funding Agency Mandatory Terms and Conditions (January 2021) (Section 10);
  - f. Completed Bid Solicitation Updates; and
  - g. Standard Vendor Responsibility Questionnaire (completed and signed) or Certification that Questionnaire has been completed online.

#### 4.8 Cost Proposal

The cost proposal shall include the proposed rebate amounts in Attachment 1 – *Cost Proposal* (Revised August 18, 2021) for all Purchasing, Travel, and NET Card Services as described herein. A Bidders' cost proposal shall contain sufficient information to assure the Office of General Services of its accuracy. A complete cost proposal consists of the following:

1. Two (2) USB flash drives each containing:
  - a. Completed Attachment 1 – *Cost Proposal* (Revised August 18, 2021) for all services offered in the Bid (Excel).

This section sets forth the Cost Proposal Requirements of the RFP. A Bidder must complete Attachment 1 – *Cost Proposal* (Revised August 18, 2021), indicating the percentage rebates offered by the Bidder in basis points in each tiered category in Table A. If a Bidder is not offering a rebate in any given tier or category, the Bidder should enter zero (0) in the appropriate cell.

The Bidder must complete Table B and indicate the rebate basis points offered for Large Ticket, Level III, VPP/MPP MNI and Foreign Transactions. The rebate basis points bid must be 75 basis points or higher.

In addition to the rebates, a Bidder may also provide additional early pay incentives in Table C. The Bidder may also provide incentives such as per card rebates, per transaction rebates and/or a one-time signing bonus in Table D of Attachment 1 – *Cost Proposal (Revised August 18, 2021)*.

Any other types of rebates or incentives not enumerated above may be included in the “Other” field of Attachment 1 – *Cost Proposal (Revised August 18, 2021)*, however, *rebates or incentives offered in the “Other” field will not be scored or evaluated as part of the cost evaluation*. Details or explanation corresponding to any rebates or incentives offered in the “Other” field may be submitted with a Bidder’s extraneous terms.

A Bidder must submit rebates that will be provided quarterly for all Contract users for the P-Card, Travel Card and NET Card, should they win the Contract. Within a mutually aggregable timeframe at the end of each quarter, the winning Bidder will be required to submit the rebate for each card program, along with statistical spend data for that quarter. The rebates will be transmitted to the individual agencies or Authorized Users.

Once the Contract is awarded, the rebate amount will be based on the actual spend in the prior fiscal quarter, in addition to any early pay incentives. The Contractor shall report all Contract usage, in a form determined by the state, by Authorized User, and shall show all calculations in determining the quarterly amounts rebated to the agencies and Authorized Users. *Industry standard exclusions (e.g., fraud, returns, credits) may be excluded from the rebate calculation.*

**Note: A Bidder may not propose any card fees payable by Authorized Users. Cash Advances are not allowed under this Contract.**

#### **4.9 Bid Envelopes and Packages**

The Administrative and Cost Proposals should be submitted in two (2) separate, clearly labeled packages. The two sealed proposals may be combined in as many mailings as needed.

All Bids should have a label on the outside of the envelope or package itemizing the following information:

1. BID ENCLOSED (preferably bold, large print, all capital letters)
2. Bid number (RFP #23217)
3. Bid Opening Date and Time
4. The number of boxes or packages (e.g., 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.

#### **4.10 Bid Delivery**

Bids shall be delivered to the following address on or before 11:00 a.m. ET, on or before the Bid opening date as stated in Section 1.4, *Key Events/Dates*:

State of New York Executive Department  
Office of General Services  
Procurement Services  
Corning Tower – 38<sup>th</sup> Floor Reception Desk  
Empire State Plaza  
Albany, NY 12242

Due to COVID-19, Bids cannot be hand delivered by the Bidder, but must be delivered by common carrier (e.g. USPS, UPS, FedEx, or DHL). Bidder assumes all risks for timely, properly submitted deliveries. The time of Bid receipt is determined by OGS according to the clock at the above-noted location. A Bidder is strongly encouraged to arrange for delivery of Bids to OGS prior to the date of the Bid opening. Late Bids shall be rejected, except as provided in Appendix B, Late Bids. All Bids and accompanying documentation shall become the property of the State of New York and shall not be returned.

#### 4.11 NYS Required Certifications

A Bidder is required to submit the signed New York State Required Certifications (Attachment 2 – *NYS Required Certifications*) with its Bid.

#### 4.12 Electronic Bid Opening Results

OGS Procurement Services posts Bid information on the OGS Procurement Services web page. The web page makes available the list of bidders that responded to the RFP. Such information is anticipated to be available online within two business days after the Bid opening.

The Bid Opening Results Page is available at: <https://ogs.ny.gov/procurement/bid-opening-results-0>.

#### 4.13 Firm Offer

Bids shall remain an effective offer, firm and irrevocable, for at least 120 calendar days from the due date, unless the time for awarding the Contract is extended by mutual consent of OGS and the Bidder. A Bid shall continue to remain an effective offer, firm and irrevocable, subsequent to such 120 calendar-day period until either tentative award of the Contract by OGS is made or withdrawal of the Bid in writing by the Bidder.

#### 4.14 NYS Reserved Rights

New York State reserves the right, in its sole discretion, to:

- A. Reject any or all Bids received in response to the RFP;
- B. Withdraw the RFP at any time at the sole discretion of the State;
- C. Make an award under the RFP in whole or in part;
- D. Disqualify any Bidder whose conduct and/or Bid fails to conform to the requirements of the RFP;
- E. Seek clarifications and revisions of the Bid;
- F. Amend the RFP prior to the Bid opening to correct errors or oversights, or to supply additional information as it becomes available;
- G. Direct Bidders, prior to the Bid opening, to submit Bid modifications addressing subsequent RFP amendments;
- H. Change any of the schedule dates with notification through the NYS Contract Reporter;
- I. Eliminate any mandatory, non-material requirements 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 the Bids received;
- L. Adopt all or any part of a Bidder's Bid in selecting the optimum configuration;
- M. Negotiate with a Bidder within the RFP requirements to serve the best interests of the State. This includes requesting clarifications of any or all Bids;
- 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 Bidder's Bid and/or to determine a Bidder's compliance with the requirements of the RFP;
- O. Select and award the Contract to other than the selected Bidder in the event of unsuccessful negotiations or in other specified circumstances as detailed in the RFP;
- P. Accept and consider for Contract Award Bids with non-material Bid Deviations or non-material Bid defects such as errors, technicalities, irregularities, or omissions;
- Q. Use any information which OGS obtains or receives from any source and determines relevant, in OGS's sole discretion, for the purposes of bid evaluation and Contractor selection;
- R. Consider a proper alternative where an evidently incorrect reference/parameter/component/product/model/code number is stated by the State or the Bidder;
- S. Reject an obviously unbalanced Bid as determined by the State;
- T. Conduct Contract negotiations with the next responsible Bidder, should the Agency be unsuccessful in negotiating with the selected Bidder;

- U. Unilaterally make revisions, changes and/or updates to any templates, Appendices (excluding Appendices A and B) and/or Attachments to the proposed Contract without processing a formal amendment and/or modification; and
- V. Offer a Bidder the opportunity to provide supplemental information or clarify its Bid, including the opportunity to explain or justify the balance, realism, and/or reasonableness of its pricing.

## 5. METHOD OF AWARD

### 5.1 Method of Award

In accordance with New York State Finance Law Article 11, it is the intent of OGS to award Centralized Contracts for Purchasing and Travel Card Services based on the “Best Value” to a responsive and responsible Bidder. For the purposes of this RFP, Best Value shall be equated to the Bidder meeting or exceeding the qualifying and mandatory technical requirements established in this RFP with the highest combined dollar value of all types of rebates and incentives projected over the five (5) year term of the Contract based on New York State historical data and projected spend as further described in Section 5.3, *Evaluation Process*, as determined by OGS. OGS, at its sole discretion, will determine which proposal best satisfies its requirements. All proposals deemed responsive to the requirements of this RFP will be evaluated and scored for cost. Proposals failing to meet the requirements of this RFP may be eliminated from consideration.

The evaluation process will be conducted in a comprehensive and impartial manner, as set forth herein, by an Evaluation Committee. The Cost Proposal will be weighted 100% (100 points) of a proposal's total score. The Contract award shall be made to up to the Bidder with the highest total score. The result of each evaluation shall remain confidential until evaluations have been completed and a selection of the winning proposal is made.

### 5.2 Submission Review

OGS will examine all proposals that are received in a proper and timely manner to determine if they meet the proposal submission requirements, as described in Section 4, *Bid Submission*, and include the proper documentation, including all documentation requested for the Administrative Proposal, as stated in this RFP. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of OGS, may be rejected.

### 5.3 Evaluation Process

Proposals will consist of two (2) separate parts: an Administrative Proposal, and a Cost Proposal. Each part will be evaluated separately and independently in accordance with the RFP requirements. Below is an overview of the evaluation process. Bidders shall refer to Section 4.7, *Administrative Proposal Requirements*, and Section 4.8, *Cost Proposal Requirements*, respectively for more comprehensive information specific to each part.

#### 5.3.1 Administrative Evaluation

The Administrative Proposal evaluation is Pass/Fail and will consist of a proposal screening for completeness and conformance with stated requirements for proposal submission as set forth in Section 4.7, *Administrative Proposal Requirements*. Any proposal not meeting these requirements or deemed to be materially incomplete may be denied further consideration.

#### 5.3.2 Cost Evaluation

The Cost Proposal will be valued at 100% of the overall RFP evaluation. The cost proposal will be evaluated based on the sum of the dollar value of all types of rebates and incentives offered by the Bidder in Attachment 1 – *Cost Proposal (Revised August 18, 2021)*, with the exception of any rebates or incentives proposed in the “Other” field, which will not be evaluated or scored. The types of rebates and incentives that will be evaluated and scored are rebates on *Standard Interchange Volume* purchases, Large Ticket Interchange, *Level III, VPP/MPP MNI and Foreign Transaction Volume* Rebates, early pay incentives, per card rebates (if any), per transaction rebates (if any) and a one-time signing bonus

(if any). The responsive and responsible Bidder who offers the highest combined dollar value of these types of rebates and incentives using projections based over the initial five (5) year Contract term will be selected for Contract award.

#### **5.4 Proposal Ranking**

Scores for each of the Bidders will be totaled and the responsive and responsible Bidder having the highest combined dollar value of all types of rebates and incentives as described in the cost evaluation section will be ranked number one; and, the responsive and responsible Bidder with the second highest total will be ranked number two, and so on. The responsive and responsible Bidder who offers the highest combined dollar value of all types of rebates and incentives projected over the initial five (5) year Contract term, as described in the cost evaluation section, will be selected for Contract award.

#### **5.5 Best and Final Offer**

Prior to award, the State reserves the right to request a Best and Final Offer (BAFO), 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. Bidders are cautioned, however, to propose the best possible offer at the onset of the initial Bid as there is no guarantee that any Bidder will be allowed an opportunity to submit a BAFO. Any Bidder that is determined by the State to be insusceptible of being selected for award will receive no further consideration for award and will not be asked to participate in the BAFO. A BAFO must offer a higher rebate and/or incentive amount than the initial Bid. Bids from any Bidder participating in the BAFO will be reevaluated based on the results of the BAFO. Any Bidder who elects not to participate in the BAFO, in whole or in part, will only be evaluated based on the pricing submitted in its initial Bid, as applicable. BAFO communications will be conducted via e-mail to a susceptible Bidder's designated point of contact.

#### **5.6 Notification of Award**

Tentative award of the Contract shall consist of written notice to that effect by OGS to the selected Bidder, who shall be required to provide all required insurance as detailed in Attachment 4 - *Insurance Requirements* within three (3) business days to OGS.

Proposed revisions to contract terms and conditions, including proposed card agreements or participation agreements, should be submitted with Bidder's bid as bid deviations or extraneous terms. Upon tentative award of the contract, such requests may be accepted, rejected, or negotiated at the State's discretion. Bidders are cautioned that while nonmaterial terms and conditions may be negotiated upon tentative award, material deviations may render a bid non-responsive and result in rejection of the bid.

The selected Bidder and OGS shall execute a Contract upon a determination by OGS that the Bidder is responsive and responsible. Non-awardees will also be notified that their Bid was not selected for award.

### **6. GENERAL TERMS AND CONDITIONS**

#### **6.1 Contract Term and Extensions**

The Contract term shall be for five years. The Contract resulting from this RFP shall commence after all necessary approvals and shall become effective upon the date of OSC Approval. Purchase orders or Contractual documents issued against this Contract may survive up to one year from the date of expiration of the Contract, the terms and conditions of which will apply throughout the extended term.

The Contract term provided for in this section shall extend 6 months beyond its termination date only for Authorized Users whose Contracts shall be registered with the Office of the New York City Comptroller. During the 6-month period the definition of Authorized User shall be deemed to refer only to Authorized Users whose Contracts shall be registered with the Office of the New York City Comptroller. This extension is in addition to any other extensions available under the Contract. The extension provided for in this paragraph shall be upon the then-existing terms and conditions; provided, however, during such extension an Authorized User, as defined in this paragraph, may agree to



amend such terms and conditions solely to comply with changes in statutory requirements (e.g. changes in minimum, prevailing or living wages, or regulated services).

If at any time the Contract is canceled, terminated or expires, the Contractor has the affirmative obligation to extend appropriate and reasonable cooperation to assure the orderly transition of Contract services to the subsequent Contractor.

## 6.2 Short Term Extension

This section shall apply in addition to any rights set forth in Appendix B, *Contract Term – Extension*. 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.

## 6.3 Rebates

Rebates will be collected using Attachment 1 – *Cost Proposal (Revised August 18, 2021)* in accordance with the “Instructions” tab listed within Attachment 1.

All Rebate basis points on Attachment 1 – *Cost Proposal (Revised August 18, 2021)* shall be extended to one decimal point (e.g. 195.56 shall be rounded to 195.6) and rounded to the nearest tenth for the following tables:

- Table A;
- **Table B;**
- Table C;

All monetary values on Attachment 1 – *Cost Proposal (Revised August 18, 2021)* shall be extended to two decimal points (e.g. \$.123 shall be rounded to \$.12) and rounded to the nearest whole cent for the following table if applicable:

- Table D

Once the Contract is awarded, the rebate amount will be based on the actual spend in the prior fiscal quarter, in addition to any early pay incentives. The Contractor shall report all Contract usage, in a form determined by the state, by Authorized User, and shall show all calculations in determining the quarterly amounts rebated to the agencies and Authorized Users. **Industry standard exclusions (e.g., fraud, returns, credits) may be excluded from the rebate calculation.**

## 6.4 Rebate Schedule Updates

Contractor may increase their rebate percentage at any time during the Contract term. The Contractor may also add additional rebate tiers to the rebate charts should they be needed. The Contractor shall provide OGS with one electronic copy of the updated rebate schedule. All approved rebate schedules shall apply prospectively upon approval by OGS.

### 6.4.1 Rebate Schedule Format

Contractor is required to submit Contract rebate updates electronically in an unprotected Microsoft Excel (2016 or lower version) spreadsheet either on USB flash drive or via e-mail to the OGS Procurement Services Contract administrator. The rebate schedule shall be dated and the format shall be consistent with the format of the Contractor’s approved rebate schedule.

### 6.4.2 Contractor’s Submission of Contract Rebate Schedule Updates

In connection with any Contract rebate schedule update, OGS reserves the right to:

Request additional information;

Reject Contract updates;  
Remove Products from Contracts;  
Remove Products from Contract updates; and  
Request additional discounts for new or existing Products.

## 6.5 Rebate Structure

If, during the Contract term, the Contractor is unable or unwilling to meet Contractual requirements in whole or in part based on the rebate structure of the Contract, it shall immediately notify the Office of General Services, Procurement Services in writing. Such notification shall not relieve the Contractor of its responsibilities under the Contract.

Should the Commissioner in his or her sole discretion determine during the Contract term that (i) the Contract rebate structure is unworkable, detrimental, or injurious to the State, or (ii) the Contract rebate structure results in prices which are unreasonable, excessive, or not truly reflective of current market conditions, and no adjustment in the Contract terms and/or rebate is mutually agreeable, the State may terminate the Contract upon 10 business days written notice mailed to the Contractor.

## 6.6 Appendix B Amendments

1. Appendix B, § 15, *Purchasing Card*, is deleted in its entirety.
2. Appendix B, § 48(b), *Remedies for Breach; Withhold Payment*, is hereby deleted and replaced with the following:

In any case where a question of non-performance by Contractor arises pursuant to a material breach of this Contract by Contractor, any disputed payment may be withheld in whole or in part at the discretion of the Commissioner. Should the amount withheld be finally paid, a cash discount originally offered may be taken as if no delay in payment had occurred.

## 6.7 Responsibility for Subcontractors

The Contractor will be considered the "prime" Contractor and shall be fully responsible for all performance of the Contract, including any services performed by subcontractors or products provided by subcontractors. The Contractor shall not in any way be relieved of any responsibility under the Contract by any subcontract. The Contractor shall be solely responsible to the State and to any applicable Authorized User for the acts or defaults of any subcontractors or of such subcontractors' officers, agents, and employees, each of whom shall for this purpose be deemed to be the agent or employee of the Contractor to the extent of its subcontract. OGS reserves the right to require the Contractor to provide evidence of any subcontractor's financial stability (e.g., financial statements) and technical qualifications (e.g., resumes, references, and qualifications) at any time during the Contract term, and reserves the right to withdraw prior approval of a subcontractor in the best interest of the State or for cause, or upon a finding of non-responsibility. Contractor shall inform each subcontractor fully and completely of all provisions and requirements of the Contract, and Contractor shall require that each subcontractor pass through all terms and conditions of the Contract, including but not limited to Appendix A, to any lower tier subcontractors.

## 6.8 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 Appendix B, Participation in Centralized Contracts. 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), the terms of the Price clause shall be modified to include delivery to locations adjacent to New York State.

Upon request, all eligible non-State agencies shall furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State Contracts. A list of categories of eligible entities is available on the OGS web site (<https://online.ogs.ny.gov/purchase/snt/othersuse.asp>). Questions regarding an organization's



eligibility to purchase from New York State Contracts may also be directed to NYS Procurement Services Customer Services at 518-474-6717.

## **6.9 Contract Administration**

The Contractor shall provide a sufficient number of Customer Service employees who are knowledgeable and responsive to Authorized User needs and who can effectively service the Contract. Contractor shall also provide an Emergency Contact in the event of an emergency occurring after business hours or on weekend/holidays.

Contractor shall provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis. Information regarding the Customer Service, Emergency Contact, and Contract Administrator shall be set forth in Attachment 5 – *Bidder Information Questionnaire* (Revised July 16, 2021). Contractor shall notify OGS within five Business Days if its Contract Administrator, Emergency Contact, or Customer Service employees change, and provide an interim contact person until the position is filled. Changes shall be submitted electronically via e-mail to the OGS Purchasing, Travel and NET Card Services Contract Management Specialist.

Upon award of the Contract and prior to the start of any services to be provided, the successful Bidder shall be available for an initial services meeting with the individual Authorized User intending to make use of the Contract.

## **6.10 New Accounts**

Contractor may ask State Agencies and other Authorized Users to provide information in order to facilitate the opening of a customer account, including documentation of eligibility to use New York State Contracts, agency code, name, address, and contact person. State Agencies shall not be required to provide credit references.

## **6.11 NYS Statewide Financial System (SFS)**

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 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. Contractors 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. Additional information may be found at:

<https://ogs.ny.gov/procurement/emarketplace>.

There are no fees required for a Contractor’s participation in the catalog site development or management. Upon completion and activation of an online 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 may also be implementing additional PeopleSoft modules in the near future. Further information regarding business processes, interfaces, and file layouts currently in place may be found at: <http://www.sfs.ny.gov> and <http://www.osc.state.ny.us/agencies/guide/MyWebHelp/>.

## **6.12 Accessibility of Web-Based Information and Applications Policy**

Contractor is solely responsible for administration, content, intellectual property rights and all materials at Contractor’s website. Contractor is solely responsible for its actions and those of its agents, employees, subcontractors or assignees, and agrees that neither Contractor nor any of the foregoing has any authority to act or speak on behalf of the State. As applicable, Contractor agrees to comply with the Office of Information Technology Services policy NYS-P08-005 Accessibility of Web-Based Information and Applications, as may be amended, the stated purpose of which is to make State Agency web-based intranet and internet information accessible for persons with disabilities. The following language is incorporated into any Contract resulting from this RFP:

Any web-based information and applications development, or programming delivered pursuant to the Contract or procurement, will comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility of Web-Based

Information and Applications as such policy may be amended, modified or superseded, which requires that State Agency web-based information and applications are accessible to persons with disabilities. Web-based information and applications shall conform to New York State Enterprise IT Policy NYS-P08-005. Quality assurance testing may be conducted by the State and the results of such testing, if performed, shall be satisfactory to the State before web-based information and applications will be considered a qualified deliverable under the Contract or procurement.

### **6.13 Americans with Disabilities Act (ADA)**

The federal ADA bars employment discrimination and requires all levels of government to provide necessary and reasonable accommodations to qualified workers with disabilities. Bidder is required to identify any Products it offers that may be used or adapted for use by persons with visual, hearing, or any other physical disabilities. Although it is not mandatory for Bidder to have these Products in order to receive an award, it is necessary to identify any such Products offered that fall into the above category.

### **6.14 N.Y. State Finance Law § 139- I**

Pursuant to N.Y. State Finance Law § 139-I, every bid made on or after January 1, 2019 to the State or any public department or agency thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, and where otherwise required by such public department or agency, shall contain a certification that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of N.Y. State Labor Law § 201-g.

N.Y. State Labor Law § 201-g provides requirements for such policy and training and directs the Department of Labor, in consultation with the Division of Human Rights, to create and publish a model sexual harassment prevention guidance document, sexual harassment prevention policy and sexual harassment prevention training program that employers may utilize to meet the requirements of N.Y. State Labor Law § 201-g. The model sexual harassment prevention policy, model sexual harassment training materials, and further guidance for employers, can be found online at the following URL: <https://www.ny.gov/combating-sexual-harassment-workplace/employers>.

Pursuant to N.Y. State Finance Law § 139-I, any bid by a corporate bidder containing the certification required above shall be deemed to have been authorized by the board of directors of such bidder, and such authorization shall be deemed to include the signing and submission of such bid and the inclusion therein of such statement as the act and deed of the bidder.

If the Bidder cannot make the required certification, such Bidder shall so state and shall furnish with the bid a signed statement that sets forth in detail the reasons that the Bidder cannot make the certification. After review and consideration of such statement, OGS may reject the bid or may decide that there are sufficient reasons to accept the bid without such certification.

The certification required above can be found on Attachment 2 – *NYS Required Certifications*, which Bidder shall submit with its bid.

### **6.15 Insurance**

Each Bidder must submit New York State Workers' Compensation Insurance and Disability Benefits insurance coverage at the time of Bid submission. Upon tentative award, the awarded Bidder shall be required to procure at its sole cost and expense all **additional** required insurance as detailed in Attachment 4 - *Insurance Requirements* in accordance with Section 5.6, *Notification of Award*. The Contractor shall maintain in force at all times during the terms of the Contract, policies of insurance pursuant to the requirements outlined in Attachment 4 – *Insurance Requirements*.

### **6.16 Records Retention/Data Ownership**

In addition to the provisions of Appendix A, §10 Records, except as otherwise required by federal law, all Authorized User data collected, stored or otherwise utilized by the Contractor, shall remain the sole property of the Authorized User. If at any time this Contract between the State and the Contractor or any card by an Authorized User is

canceled, terminated or expires, the Contractor is obligated to return all such Authorized User data to the specific Authorized User and transaction-related Authorized User data that does not include “nonpublic personal information” as that term is defined in the Gramm-Leach-Bliley Act, at no additional cost and in a medium specified by the Authorized User.

## **6.17 Information Security Breach and Notification Act**

§ 208 of the State Technology Law (STL) and § 899-aa of the General Business Law (GBL) require that State entities and persons or businesses conducting business in New York who own or license computerized data which includes private information including an individual's unencrypted personal information plus one or more of the following: social security number, driver's license number or non-driver ID, account number, credit or Debit Card number plus security code, access code or password which permits access to an individual's financial account, shall disclose to a New York resident when their private information was, or is reasonably believed to have been, acquired by a person without valid authorization. Disclosure of breach of that private information to all individuals affected or potentially affected shall occur in the most expedient time possible without unreasonable delay, after necessary measures to determine the scope of the breach and to restore integrity, but with delay if law enforcement determines it impedes a criminal investigation. When notification is necessary, the State entity or person or business conducting business in New York shall also notify the following New York State agencies: the Attorney General, the Office of Cyber Security & Critical Infrastructure Coordination (CSCIC) and the Consumer Protection Board (CPB). Information relative to the law and the notification process is available at: <https://its.ny.gov/eiso>.

## **6.18 Contractor Requirements and Procedures for Participation by New York State Certified Minority-and-Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women**

### **I. New York State Law**

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations (“NYCRR”), the New York State Office of General Services (“OGS”) is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-Owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of OGS 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 and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women (“EEO”) and Contracting opportunities for 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. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, a finding of non-responsibility, breach of Contract, withholding of funds, suspension or termination of the Contract, and/or such other actions or enforcement proceedings as allowed by the Contract and applicable law.

### **III. Equal Employment Opportunity (EEO)**

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall 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. In addition, Contractor agrees to comply with the Non-Discrimination Requirements set forth in clause 5 of Appendix A.

**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](mailto: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 all subcontractors.
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 and 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 and conviction and prior arrest.**

**IV. Contract Goals**

- A. For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers, or suppliers to Contractor. Contractor is, however, encouraged to make every good faith effort to promote and assist the participation of MWBEs on this Contract for the provision of services and materials. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnyContracts.com/FrontEnd/VendorSearchPublic.asp?TN=ny&XID=2528>. Additionally, following Contract execution, Contractor is encouraged to contact the Division of Minority and Women’s Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.**

**B. Good Faith Efforts**

Pursuant to 5 NYCRR § 142.8, evidence of good faith efforts shall include, but not be limited to, the following:

1. A list of the general circulation, trade, and MWBE-oriented publications and dates of publications in which the Contractor solicited the participation of certified MWBEs as subcontractors/suppliers, copies of such solicitations, and any responses thereto.
2. A list of the certified MWBEs appearing in the Empire State Development (“ESD”) MWBE directory that were solicited for this Contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.
3. Descriptions of the Contract documents/plans/specifications made available to certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with, or obtaining supplies from, certified MWBEs.
4. A description of the negotiations between the Contractor and certified MWBEs for the purposes of complying with the MWBE goals of this Contract.
5. Dates of any pre-bid, pre-award, or other meetings attended by Contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the Contract.
6. Other information deemed relevant to the request.

#### **V. Fraud**

Any suspicion of fraud, waste, or abuse involving the Contracting or certification of MWBEs shall be immediately reported to ESD’s Division of Minority and Women’s Business Development at (855) 373-4692.

**ALL FORMS ARE AVAILABLE AT:** <https://ogs.ny.gov/MWBE>.

### **6.19 Participation Opportunities For New York State Certified Service-Disabled Veteran Owned Businesses**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. OGS recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of OGS Contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/Veterans/>

Bidder/Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or [VeteranDevelopment@ogs.ny.gov](mailto:VeteranDevelopment@ogs.ny.gov) to discuss methods of maximizing participation by SDVOBs on the Contract.

**ALL FORMS ARE AVAILABLE AT:** <https://ogs.ny.gov/Veterans/>

### **6.20 Overlapping Contract Products**

Products available under the resulting Contract may also be available from other New York State Contracts. Authorized Users will be advised to select the most cost-effective procurement alternative that meets their program requirements and to maintain a procurement record documenting the basis for this selection.



## 6.21 “OGS or Less” Guidelines

Purchases of the Products included in the Solicitation and resulting Contract are subject to the “OGS or Less” provisions of State Finance Law § 163(3)(a)(v). This means that State Agencies can purchase Products from sources other than the Contractor provided that such Products are substantially similar in form, function or utility to the Products herein and are (1) lower in price and/or (2) available under terms which are more economically efficient to the State Agency (e.g. delivery terms, warranty terms, etc.).

Agencies are reminded that they shall provide the State Contractor an opportunity to match the non-Contract savings at least two business days prior to purchase. In addition, purchases made under “OGS or Less” flexibility shall meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the Office of the State Comptroller and competitive bidding of requirements exceeding the discretionary threshold. State Agencies should refer to Procurement Council Guidelines for additional information.

## 6.22 NYS Vendor Responsibility

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 at <http://www.osc.state.ny.us/vendors/index.htm> or to enroll, go directly to the VendRep System online at <https://portal.osc.state.ny.us>.

Vendors shall provide their New York State Vendor Identification Number when enrolling. For information on how to request assignment of a Vendor ID, see the NYS Vendor File Registration section. 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 and submit 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](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 shall complete and certify (or recertify) the Questionnaire no more than six (6) 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:

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS, 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, 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 shall comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of OGS issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that 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 at the Contractor's expense where the Contractor is determined by the Commissioner of OGS to be non-responsible. In such event, the Commissioner of OGS 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.

### **6.23 NYS Tax Law Section 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 the Bid to OGS certifying that the Contractor filed the ST-220-TD with DTF. Only the Form ST-220-CA is required to be filed with OGS. The ST-220-CA can be found at [https://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](https://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf). The ST-220-TD can be found at [https://www.tax.ny.gov/pdf/current\\_forms/st/st220td\\_fill\\_in.pdf](https://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf). Contractor should complete and return the certification forms within five (5) 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. The ST-220-TD only needs to be filed once with DTF, unless the information changes for the Contractor, its affiliates, or its Subcontractors.

Vendors may call DTF at 518-485-2889 with questions or visit the DTF web site at <https://www.tax.ny.gov/> for additional information.

### **6.24 Extension of Use**

Any Contract resulting from this RFP may be extended to additional States or governmental jurisdictions upon mutual written agreement between New York 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.

### **6.25 Contract Amendment Process**

During the term of the Contract, the Contract may be amended as changes occur within the industry. OGS reserves the right to consider amendments which are not specifically covered by the terms of the Contract but are judged to be in the best interest of the State. Either party may suggest amendments. However, the Contract may only be amended by mutual written agreement of the parties and is subject to approval by OSC. Contract amendments shall take effect upon written notification by OGS.

### **6.26 Credit Evaluations**

Contractor shall not conduct credit evaluations on State Agencies. Contractor may conduct credit evaluations for non-State agencies and deny services to non-State agencies that do not meet the Contractor's standard commercial risk qualifications.

**6.27 New Accounts**

Contractor may ask State Agencies and other Authorized Users to provide information in order to facilitate the opening of a customer account, including documentation of eligibility to use New York State Contracts, agency code, name, address, and contact person. State Agency Authorized Users shall not be required to provide credit references. Contractor may not perform credit checks on State Agencies. Contractor may perform credit checks on non-State agency Authorized Users only.