

How to Use the Manufacturer Umbrella Contract

Revised 10-20-16

This document provides the Authorized User with instructions on how to use the Information Technology Umbrella Contract – Manufacturer Based (Statewide) Contract. An Authorized User must familiarize itself with the Contract terms and conditions. An Authorized User must adhere to the terms and conditions of the Contract. Authorized User must follow these How to Use the Manufacturer Umbrella Contract procedures, and use approved RFQ template when procuring Products from Award 22802. Additional general procurement information is available at the New York State Procurement website. (<http://www.ogs.ny.gov/purchase/snt/awardnotes/7360022802can.HTM>).

For entities described in State Finance Law §139-j(1)(a), the requirements of the New York State Procurement Lobbying Law (State Finance Law §§139-j and 139-k) may apply to transactions under these contracts. A bidder is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Authorized User Agreement. Refer to the following information resources for more detail on the requirements of the Procurement Lobbying Law: <http://ogs.ny.gov/acpl/>

Authorized Users are cautioned that at-risk work is strictly prohibited. No work is to be undertaken by the Vendor prior to receipt of the executed Authorized User Agreement (e.g. Purchase Order).

Authorized Users should not hesitate to contact the OGS Contract managers (<http://www.ogs.ny.gov/purchase/snt/awardnotes/7360022802can.HTM>) with any questions, concerns, or clarifications.

Section 1. General Contract Information

1.1 CONTRACT SCOPE

The intent of these Contracts is to streamline the procurement of Information Technology (IT) needs for Authorized Users of OGS Centralized Contracts. These Contracts provide for the procurement of Software, Hardware, Cloud-based Products and related Implementation services, based on a Manufacturer's Products. A competitive Request for Quote (RFQ) process is required for all Authorized User transactions. The Contract sets forth base terms and conditions and permits the Authorized User to customize a RFQ based on the specific need or transaction. The RFQ process requires the Authorized User to solicit the Manufacturer(s) and/or all their Resellers.

- The Authorized User must distribute the Request for Quote (RFQ) and the Financial Response via email, addressing the email "TO" all Manufacturer(s) and /or all their Resellers, as applicable, for the Lot(s) identified in the RFQ. State Agencies that are serviced by OGS Business Service Center (BSC) must copy "CC" the OGS Business Service Center (BSC) at contractpos@ogs.ny.gov. Failure to do so may result in delays in the BSC executing finance transactions on behalf of state agency customers. Due to possible size restrictions on the number of emails that can be sent in one batch email, it is recommended that when emailing all manufacturers and all of their approved Resellers of each Product Lot it is done in two or more separate emails.
- Manufacturer and Reseller (as applicable) e-mail addresses should be copied and pasted from the list at the "Listing of Contractors and Resellers" link below.
<http://www.ogs.ny.gov/purchase/snt/awardnotes/7360022802ContractorsResellers.xlsx>

See Section 2 for example procurement scenarios.

1.2 LOTS

Individual Manufacturer Umbrella Contracts may include one or more of the following four (4) lots:

Lot Number	Description
1	Software
2	Hardware
3	Cloud
4	Implementation of Products sold under Lots 1, 2 and 3

1.3 OGS CENTRALIZED CONTRACT TERMS AND CONDITIONS

The Contractual terms and conditions are available at: <http://ogs.ny.gov/purchase/snt/awardnotes/7360022802can.HTM>
An Authorized User must familiarize itself with these terms and conditions prior to scoping the transaction.

1.4 NEW YORK STATE OFFICE OF INFORMATION TECHNOLOGY SERVICES POLICIES

Authorized Users are to review all applicable ITS Security policies found at:
<http://www.its.ny.gov/tables/technologypolicyindex.htm/security>.

Section 2. Request for Quote Development

The Authorized User transaction shall be competitive, based on the development of a specific project by the Authorized User in accordance with the Contractual terms. Authorized User will then identify the corresponding Lots involved and distribute the RFQ to the Contractors and their designated Resellers in those Lots. The Authorized User will document and justify within its procurement record the basis for selection of procurement scenario as well as justification for Basis of Award.

The Authorized User will develop an RFQ with enough specificity to allow a Contractor to prepare a responsive Bid.

- The Authorized User must distribute the Request for Quote (RFQ) and the Financial Response via email addressing the e-mail “TO” all Manufacturer(s) and /or all their Resellers, as applicable, for the Lot(s) identified in the RFQ. State Agencies that are serviced by OGS Business Service Center (BSC) must copy “CC” the OGS Business Service Center (BSC) at contractpos@ogs.ny.gov. Failure to do so may result in delays in the BSC executing finance transactions on behalf of state agency customers. Due to possible size restrictions on the number of emails that can be sent in one batch email, it is recommended that when emailing all manufacturers and all of their approved Resellers of each Product Lot it is done in two or more separate emails.
- Manufacturer and Reseller (as applicable) e-mail addresses should be copied and pasted from the list at the “Listing of Contractors and Resellers” link below.
<http://www.ogs.ny.gov/purchase/snt/awardnotes/7360022802ContractorsResellers.xlsx>

2.1 CHOOSING A PROCUREMENT SCENARIO

Before developing an RFQ, the Authorized User will decide which procurement scenario best fits its procurement need.

2.2 TEMPLATES TO BE USED WHEN CONDUCTING AN RFQ

The procurement scenarios indicate which RFQ Template and RFQ Financial Response to use. Those templates are:

2.2.1 Request for Quote Templates

There are two separate RFQ templates that can be used to procure from this Contract, depending on the complexity of the procurement:

- This “**Basic Request for Quote**” should be used when the RFQ is basic and does not require additional information such as a Statement of Work or Question Period.
- This “**Complex Request for Quote**” should be used when the RFQ is complex and requires additional information such as a Statement of Work, Question Period, or method of award is other than lowest cost.

2.2.2 RFQ Financial Response Templates

There are two separate RFQ Financial Response templates that can be used to procure from this Contract, depending on the complexity of the procurement:

- The “**Basic RFQ Financial Response**” (Excel)

- The “**Complex RFQ Financial Response**” (Excel) - used when the RFQ requires a fixed-price deliverable-based solution.

2.3 BASIS FOR AWARD

Based on the Authorized User’s business need, the following basis for award financial/technical weighting options might be considered when developing the RFQ:

Basis for Award	Minimum Requirement
Lowest Price Meeting Specified Technical Requirements	<ul style="list-style-type: none"> • The Product must meet the stated specifications.
Lowest Price Meeting Specified Technical Requirements and Mandatory Pass/Fail Requirements	<ul style="list-style-type: none"> • The Product must meet the stated specifications • Mandatory pass/fail requirements must be met
Best Value with Technical and Financial Score	<ul style="list-style-type: none"> • The Product must meet the stated specifications • There may be mandatory pass/fail requirements • There is technical weighting and a financial score <p>Technical weighting may not exceed 70% including consideration whether to use the quantitative factor set forth in State Finance Law section 163(1)(j), for small or MWBE businesses.</p>

2.4 SCOPE/MINIMUM REQUIREMENTS

The Authorized User shall complete the RFQ Template, including, as applicable, such factors as:

- Contract SKUs
- Delivery requirements, including Product delivery date
- Necessary qualifications, training, licenses, and permits
- Hardware and Software environment
- Installation date
- Systems to integrate with
- Fiscal year budget/legislative deadlines
- Quote due date

2.5 OTHER SCOPE/MANDATORY REQUIREMENTS TO CONSIDER

2.5.1 Service Reports for Maintenance and Warranty Work

If requested by the Authorized User, the Contractor shall furnish the Authorized User with service reports for any or all maintenance and warranty work upon completion of the services. The service reports may include the following information in either electronic or hard copy form as designated by the Authorized User:

1. Date and time Contractor was notified
2. Date and time of Contractor’s arrival
3. Make and model of Production Printer
4. Description of malfunction reported by Authorized User
5. Diagnosis of failure and/or work performed by Contractor
6. Date and time failure was corrected by Contractor
7. Type of service – Maintenance or warranty
8. Charges, if any, for the service

2.5.2 Additional Insurance (Lots 3 and 4 Only)

Depending upon risk, Authorized User may require Contractor to provide additional insurance and/or increased insurance coverages. Authorized User must define these requirements in the RFQ. Contractors, however, may not exceed Contract pricing in response to the RFQ.

2.5.3 Cloud Requirements (Lot 3)

Authorized Users may require, as part of an RFQ, Contractor compliance with applicable ITS policies found at: <http://www.its.ny.gov/tables/technologypolicyindex.htm>.

2.5.3.1 Cloud Risk Assessment by Authorized Users

Due to the nature of Cloud services, there is an inherent risk in placing Authorized User Data off-premise. Each Authorized User environment and project is unique and requires risk analysis and customized risk mitigation strategies, developed and implemented at the Authorized User level.

The NYS Office of Information Technology Services (ITS) advises that the acquisition of all forms of Cloud computing, including SaaS, are governed by the Secure System Development Life Cycle requirements as set forth in NYS-S13-001 or successor. Accordingly, in order for an Authorized User that is supported by ITS to acquire any product under Lot 3 - Cloud, it must first work collaboratively with ITS and the ITS Enterprise Information Security Office to ensure that such Executive Agency has complied with the Secure System Development Life Cycle requirements as set forth in NYS-S13-001 or successor and any other requirements so designated by such office.

2.5.3.2 Data Categorization Study

It is REQUIRED that prior to a Request for Quote, the Authorized User complete a Data categorization study, consistent with NYS-S14-002 Information Classification Standard (or successor standard) available at <http://www.its.ny.gov/tables/technologypolicyindex.htm> to determine the following:

- the level of Data risk;
- the required Breach Notification Procedures; and
- the required Cloud service security measures for incorporation.

Authorized User must make a business decision, based on their Data categorization results, as to the appropriateness of a Cloud solution. The Authorized User must include, as part of the RFQ process:

- the Data categorization elements (not actual Data);
- the overall risk determination; and
- applicable statutory requirements (See Contract Appendix F – Primary Security and Privacy Mandates).

2.5.3.3 Attestation of Cloud Service Types and Description

It is essential that Authorized Users fully understand the nature of the Product being offered or provided by Contractors under the Contract prior to issuing an RFQ. Accordingly, Contractor is required to fully answer any questions an Authorized User may have regarding the services and upon request in a RFQ, provide a full written description of the services to be provided.

2.5.3.4 Data Transfer

If Data Transfer is required by the Authorized User it must be stated in the Authorized User RFQ. Contractors may bid for transfer services as long as a SKU for Data transfer costs is included in the Contractors Price Pages

2.5.3.5 Disaster Recovery and/or Business Continuity Services

If required by the Authorized User, Disaster Recovery and/or Business Continuity Services may be included in the Authorized User RFQ. Contractor may bid for Disaster Recovery and/or Business Continuity Services as long as a SKU for services is included in the Contractors Price Pages.

2.5.4 Implementation Services (Lot 4)

2.5.4.1 Conditions on the Contractor

The Authorized User may place conditions on the Contractor as to key personnel change, project management documentation, change management, or other administrative functions.

2.5.4.2 Retainage

If retainage is going to be utilized, the Authorized User must provide details in the SOW, including the percentage to be withheld, which could vary by deliverable. The maximum retainage cannot exceed twenty five (25) percent of a deliverable cost. In addition the Authorized Users are encouraged to also include provisions in the SOW to reduce retainage based on Contractor performance exceeding deliverable expectations. The maximum reduction cannot exceed five (5) percent of a deliverable cost.

2.5.4.3 Unanticipated Enhancements

When agreed to by the Authorized User and as budgeted, unanticipated enhancements to the services procured must not exceed a cumulative twenty (20) percent of the total negotiated quoted project cost. This will result in a formal Authorized User Agreement revision, which for NYS Agency Authorized Users will include an amended Purchase Order. Any changes that will result in exceeding this twenty (20) percent will require a new competitive RFQ. It is incumbent upon the Contractor to notify the Authorized User in writing when a requested scope change will exceed the cumulative twenty (20) percent total value of the project. Contractor's failure to do so may be deemed failure to manage the project and may result in administrative action against the Contractor.

2.5.4.4 Kick-Off Meeting/Project Plan Discussion

The Authorized User may require a kick-off meeting with the selected Contractor to discuss the project plan.

2.5.4.5 Maximum 36 Month Time Period

Time periods will vary based on the complexity of the Authorized User's requirements. Under no circumstances will the project time period, including approved enhancement requests, exceed a maximum 36 month time period.

2.6 STATEMENT OF WORK

In addition to the RFQ Scope / Mandatory Requirements, more complex RFQs require a SOW. A SOW may include, but is not limited to, such factors as:

- Project Plan
 - milestones/timeframes
 - dependencies
 - roles and responsibilities
 - Knowledge Transfer
 - Other decision points
- Project Timeline, (e.g. site visits, question and answer period)
- Background checks
- Deliverables/payment points
- Key personnel interviews
- Location where work will be performed
- Risk projections and mitigation strategies based on the presented RFQ
- Uptime
- Response time
- Security conditions
- Disaster Recovery/Business Continuity
- Data Transfer Services

- Chargebacks, liquidated damages and/or penalties for not meeting service levels

2.7 AUTHORIZED USER TERMS AND CONDITIONS

In accordance with Appendix B, Section 28, Modification of Contract Terms, an Authorized User may add additional required terms and conditions to the RFQ and resultant Authorized User Agreement if they are more favorable to the Authorized User and do not conflict with or supersede the OGS Centralized Contract terms and conditions. Examples of additional terms and conditions include:

- Inclusion of the NYS Department of Labor Prevailing Rate Schedule when utilizing a telecommunications worker to install cable;
- Expedited delivery timeframe;
- Additional incentives, such as discount for expedited payment/Procurement Card use; and
- Any additional requirements imposed by the funding source.

2.8 OTHER CONTRACT TERMS AND CONDITIONS THAT MAY BE APPLICABLE TO THE RFQ

2.8.1 Prevailing Wage Rates - Public Works and Building Services Contracts

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

The Prevailing Wage Case Number for this Contract is PRC# 2014011745.

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

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

- Insert PRC# 2014011745 in the box provided and click Submit.
- Click Wage Schedule located underneath the main header of this page. The PDF file may be searched to obtain the Prevailing Wage Rate for a specific occupation.

2.8.2 Living Wage

An Authorized User subject to a local law establishing a "living wage", such as Section 6-109 of the New York City Administrative Code, is required to ensure the Contractor sought to be hired complies with such local law. If the pay rate(s) for a job title(s) as set forth in Appendix E – Price Pages is less than the local law "living wage," then the Authorized User subject to such local law cannot use this Contract for such job title(s). See Appendix B, Paragraph 60 for Legal Compliance.

2.9 DOWNSTREAM PROHIBITION

Any and all work from these Contracts that involves developing specifications, establishing a base for other applications or otherwise gaining information that would give a Contractor an unfair competitive advantage in a future procurement may result in the Contractor being precluded from further work (downstream prohibition) due to conflicts of interest. Authorized User shall provide notification of any downstream prohibitions known at the time the RFQ is released. It is in the interest of the Authorized User and the Contractor to explore these issues during the pre-award negotiations and review as the project progresses. See State Finance Law section 163-a and section 163 (2) for additional information on the statutory prohibitions. Non-State agency Authorized Users may have additional statutory prohibitions.

Section 3. Example Procurement Scenarios (Not all-inclusive)

The following are examples of possible RFQ scenarios and associated requirements.

3.1 RFQ Involving Multiple Manufacturers

Use this scenario when:

- the Authorized User has not predefined the Manufacturer or
- the Authorized User has predefined a Manufacturer, but the Manufacturer has less than five (5) approved Resellers

RFQ Involving Multiple Manufactures	
Lot(s)	Lot 1 – Software, Lot 2 – Hardware, Lot 3 – Cloud No Lot 4 – Implementation
Minimum Requirements	Authorized User must include Minimum Requirements such as: <ul style="list-style-type: none"> • Description of Hardware (i.e. processor specification, memory specification, compatibility) • Description of Software (i.e. minimum hardware specification, functionality, compatibility)
Templates to Use	<ul style="list-style-type: none"> • Basic Request for Quote • Basic RFQ Financial Response
Contractor Pool for Procurement	All Manufacturers and all of their approved Resellers of each Product Lot
Basis for Award (Select One)	<ul style="list-style-type: none"> • Lowest Price Meeting Specified Technical Requirements • Lowest Price Meeting Specified Technical Requirements and Mandatory Pass/Fail Requirements

RFQ Involving Multiple Manufacturers With Implementation	
Lot(s)	Lot 1 – Software, Lot 2 – Hardware, Lot 3 – Cloud, Plus Lot 4 – Implementation
Minimum Requirements	Authorized User must include Minimum Requirements such as: <ul style="list-style-type: none"> • Description of Hardware (i.e. processor specification, memory specification, compatibility) • Description of Software (i.e. minimum hardware specification, functionality, compatibility)
Templates to Use	<ul style="list-style-type: none"> • Complex Request for Quote • Basic RFQ Financial Response OR • Complex RFQ Financial Response
Contractor Pool for Procurement	All Manufacturers and all of their approved Resellers of each Product Lot.
Basis for Award (Select One)	<ul style="list-style-type: none"> • Lowest Price Meeting Specified Technical Requirements • Lowest Price Meeting Specified Technical Requirements and Mandatory Pass/Fail Requirements • Best Value with Technical and Financial Score

3.2 RFQ Involving a Single Manufacturer

This scenario is used when only a single Manufacturer can satisfy the Authorized User's need. **This scenario may only be used when the Manufacturer has identified five (5) or more Resellers.**

RFQ Involving a Single Manufacturer	
Lot(s)	Lot 1 – Software, Lot 2 – Hardware, Lot 3 - Cloud No Lot 4 – Implementation
Minimum Requirements	Authorized User may: <ul style="list-style-type: none"> • include pre-defined product description, SKUs and quantity • require a Vendor to provide suggested SKUs and Products to meet a defined need • include pre-packaged Installation and Maintenance
Templates to Use	<ul style="list-style-type: none"> • Basic Request for Quote • Basic RFQ Financial Response

RFQ Involving a Single Manufacturer	
Contractor Pool for Procurement	Manufacturer and all of its approved Resellers of each Product Lot
Basis for Award (Select One)	<ul style="list-style-type: none"> • Lowest Price Meeting Specified Technical Requirements • Lowest Price Meeting Specified Technical Requirements and Mandatory Pass/Fail Requirements

RFQ Involving a Single Manufacturer with Implementation	
Lot(s)	Lot 1 – Software, Lot 2 – Hardware, Lot 3 – Cloud, Lot 4 – Implementation
Minimum Requirements	Authorized User may: <ul style="list-style-type: none"> • include pre-defined product description, SKUs and quantity • require a Vendor to provide suggested SKUs and Products to meet a defined need • include pre-packaged Installation and Maintenance
Templates to Use	<ul style="list-style-type: none"> • Complex Request for Quote • Basic RFQ Financial Response OR • Complex RFQ Financial Response
Contractor Pool for Procurement	Manufacturer and all of its approved Resellers of each Product Lot, plus the Manufacturer and all of its approved Resellers of Lot 4 Implementation Services
Basis for Award (Select One)	<ul style="list-style-type: none"> • Lowest Price Meeting Specified Technical Requirements • Lowest Price Meeting Specified Technical Requirements and Mandatory Pass/Fail Requirements • Best Value with Technical and Financial Score

3.3 Implementation Services Only

This scenario is used when the Authorized User requires only Lot 4 Implementation Services.

- Implementation services may be procured to implement a Product purchased from Lots 1, 2 or 3
- Implementation services may be procured to implement a Product purchased prior to the Umbrella Contract if the Product is included within Lots 1, 2 or 3

This scenario may only be used when the Manufacturer has at least five (5) approved Resellers.

Implementation Services Only	
Lot	Lot 4 - Implementation
Minimum Requirements	Limited to Implementation of items available from Contractor's Lot 1, 2 or 3. (e.g. need might be to procure business analysts, customized training) Rates cannot exceed Contract Price List
Templates to Use	<ul style="list-style-type: none"> • Complex Request for Quote • Complex RFQ Financial Response
Contractor Pool for Procurement	Manufacturer and all of its approved Resellers, only if the Manufacturer has at least five (5) approved Resellers
Basis for Award	<ul style="list-style-type: none"> • Best Value with Technical and Financial Score

3.4 Total Cost of Ownership

The price of a Product is not always reflective of the actual costs that will be incurred to own and operate the product throughout its life cycle. Total Cost of Ownership (TCO) analysis attempts to uncover both the obvious costs and not so obvious costs of ownership. Authorized Users need to research possible long term costs for IT purchases and build them into their procurement to achieve the best solution for their business need.

A TCO solution may cross multiple Lots, and may or may not include Lot 4 – Implementation Services.

Total Cost of Ownership	
Lot(s)	Lot 1 Software, Lot 2 Hardware, Lot 3 Cloud, Lot 4 – Implementation Services
Minimum Requirements	Develop Minimum Requirements with a detailed SOW. These requirements may include, but are not limited to: <ul style="list-style-type: none"> • Power or cooling requirements • Maintenance or anticipated upgrade costs • Licenses • Warranties • Impact on operations • Personnel requirements • Other operational costs
Templates to Use	<ul style="list-style-type: none"> • Complex Request for Quote • Complex RFQ Financial Response
Contractor Pool for Procurement	<ul style="list-style-type: none"> • All Manufacturers and all of approved their Resellers of each Lot OR • Specific Manufacturer and all of its approved Resellers of each Lot , only if the Manufacturer has at least five (5) approved Resellers
Basis for Award	<ul style="list-style-type: none"> • Best Value with Technical and Financial Score

3.5 Performance Based

This scenario is a results-oriented method that focuses on the outputs, quality or outcomes for the achievement of specific, measureable performance standards and requirements. The work is described in terms of the required results rather than “how” the work is to be accomplished. For Example:

An Authorized User has a need for raw computing power for the next 3 years of 1 billion MIPS per hour. The Authorized User has space available with power and cooling, if required. The Authorized User releases an RFQ detailing its needs to all Contractors and their Resellers in all applicable Lots. However, Authorized Users are reminded that all solutions must be based on offerings from Lots 1, 2 and/or 3.

A performance based model would allow for the Authorized User to evaluate the best value options received for the one that best fits its business needs

Three viable options may include, but are not limited to:

- traditional Authorized User on premise server/Software units
- Platform as a Service model
- Infrastructure as a Service model.

Please note that the Authorized User, in this example is requesting proposals for the computing capacity, not for the method of delivery. The best value option that best fits the needs stated on the RFQ should be chosen as the selected awardee.

A Performance-Based solution may cross multiple Lots, and may or may not include Lot 4 – Implementation Services

Performance Based	
Lot(s)	Lot 1 Software, Lot 2 Hardware, Lot 3 Cloud, Lot 4 – Implementation Services
Minimum Requirements	Develop Minimum Requirements with a detailed SOW
Templates to Use	<ul style="list-style-type: none"> • Complex Request for Quote • Complex RFQ Financial Response
Contractor Pool for Procurement	<ul style="list-style-type: none"> • All Manufacturers and all of their Resellers of each Lot OR • Specific Manufacturer and all of their Resellers of each Lot only if the Manufacturer has identified five (5) or more Resellers
Basis for Award	<ul style="list-style-type: none"> • Best Value with Technical and Financial Score

Section 5. Additional RFQ Considerations for the Authorized User

5.1 EVALUATION TOOLS, CRITERIA AND WEIGHTING

The evaluation tools, criteria and weighting must be finalized prior to the Bid opening date. Best practice dictates that evaluation tools, criteria and weighting be finalized prior to RFQ release.

5.2 EVALUATION OF QUOTES

The RFQ must be evaluated based on the Authorized User's pre-defined methodology. Evaluation tools cannot be altered any time after Bid opening. All evaluation tool notes and extraneous items must be included in the Authorized User's procurement record.

5.3 LESS THAN THREE RESPONSIVE PROPOSALS RECEIVED

If less than three (3) responsive proposals are received, an Authorized User must canvass all the no-bid responses and no-replies for the reasons that the vendors did not participate and document the results of such canvass in the procurement record. Depending on the feedback of the canvass, an Authorized User will need to determine whether the RFQ specifications were drawn too narrowly so as to exclude potential responsive bidders, and whether modifications to the RFQ, along with a revised solicitation, would result in a larger pool of qualified bidders and better value to the Authorized User. The feedback may also serve to support the Authorized User's decision to proceed with making an award.

5.4 NEGOTIATION WITH TENTATIVE AWARDEE

Based on the specifics of the Authorized User's transaction, if desired, once tentative award has been made based on lowest cost or Best Value, the Authorized User should enter into negotiations to obtain the best price possible, or to obtain additional savings.

If the Authorized User and the Contractor enter into negotiations, those negotiations must be in good faith, including, for example, realistic timeframes.

5.5 NOTIFICATION OF QUOTE RESULTS

The Authorized User shall notify the non-awardees of RFQ results in a timely manner after notifying the awardee.

5.6 Bid Protests and Disputes under an Authorized User Agreement

Should a protest be submitted by a Contractor regarding an RFQ, the protest will be considered and decided by the Authorized User. Disputes under an Authorized User Agreement will also be handled by the Authorized User.

5.7 OFFICE OF THE STATE COMPTROLLER

For purchases available from this Contract, the Authorized User may issue a purchase order/Authorized User Agreement directly to the Contractor without prior approval by the Office of the State Comptroller (OSC).

The State retains the right to post-audit any procurement, including those executed from this Contract. Authorized Users are reminded to follow all procurement guidelines.

5.8 PROCUREMENT RECORD / New York STATE PROCUREMENT COUNCIL GUIDELINES

An Authorized User is reminded that it must adhere to the procedures of this Contract, its own internal procurement policies and procedures and all federal, State and/or local statutes, when applicable.

The following link to the New York State Procurement Council Guidelines provides additional procurement information and examples of documentation that should be created and maintained by the Authorized User as part of a procurement record:

<http://nyspro.ogs.ny.gov/sites/default/files/uploaded/NYS%20Procurement%20Guidelines.pdf>