

## **HOW TO USE THIS CONTRACT:**

The following information is intended to guide eligible contract users to use the Power Protection Equipment contracts.

Periodic updates to these instructions may be made as needed. All questions regarding the guidelines should be addressed to the OGS contact person on the cover page of the Contract Award Notification (CAN) or, for ordering, directly with the Contractor's contract administrator.

State agencies are reminded that they must comply with all applicable control agency guidelines (e.g. Division of the Budget H-100, etc.) Specifically, State agencies are reminded of their obligation to seek Office for Technology (OFT) Plan To Procure (PTP) approval.

### **Plan to Procure (PTP) Guidelines Summary.**

Agencies are reminded of their obligation under the CIO/OFT Technology Policy P-08-001 to file a Plan to Procure document. This policy applies to "state agency" entities which by definition includes all state agencies, departments, offices, divisions, boards, bureaus, commissions and other entities over which the Governor has executive power.

Submission must be during the planning process, at the initiation or idea stage, and **prior** to any mini-bid, backdrop contract, and discretionary and/or before a competitive procurement is issued.

Note: The PTP should be submitted prior to publishing any advertisement in the Contract Reporter or any other vehicle prior to the submission of a Purchase Order to the Office of the State Comptroller (OSC).

### **Submission Requirements can be viewed at the following link**

<http://www.oft.state.ny.us/Policy/NYS-P08-001.pdf>

State Agencies should periodically view the CIO/OFT website on Policy Revisions

Questions regarding the PTP policy should be directed to the appropriate staff at the CIO/OFT.

### **Overview:**

This contract represents the negotiated Terms and Conditions (Including Pricing) that apply to all orders between the Contractor / Approved Value Added Resellers and any Authorized User that is eligible to use the contract.

The price list for each of the contracts will be available on the manufacturer's web site through a link from the OGS website. The Contractor updates the approved price lists as changes in price and product occur.

For Contractor hosted pricing at the Contractor's web site, the contract terms require the Contractor to make twelve months of historical contract pricing information available to contract users for auditing purposes.

**Prevailing Wage:**

Installation of Power Protection Equipment being done under this contract 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 17, OGS General Specifications. In determining whether a construction/installation project is a public work, two conditions must be fulfilled under the provisions of Article 8 of the Labor Law: (i) the authorized user engaged in the construction/installation project must be a public entity which involves the employment of laborers, workers, or mechanics, and (ii) the work must concern a public work project of which the project's primary objective must be to benefit the public. 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 determination of vendor non-responsibility and rejection of proposal.

Information on Prevailing Wage Rates established for this Contract may be obtained from the NYS Department of Labor website:

<http://www.labor.state.ny.us/>

(Click on Quick Links which will take you to Prevailing Wage Rates)

**The PRC reference number for Prevailing Wage Rates for this Contract is # 2007005296**

**For Non-State Agencies:**

*Non-State agencies should follow their standard local rules for use of New York State OGS contracts. However, non-State agencies are encouraged to read the instructions for State agencies*

*Non-state agencies must follow their own guidelines or legal requirements for competitive bidding and/or single/ sole source when services exceed the 20% Rule. (See, Issuing a Purchase Order)*

**For State Agencies:**

**\$100,000 or greater:**

Since there are multiple resellers and multiple contracts, competition and additional incentives may be available if you seek it. In addition to a standard Purchase Order, State Agencies are encouraged to obtain a STATEMENT OF WORK (SOW). **STATE AGENCIES ARE REQUIRED TO SOLICIT THREE (3) QUOTES FROM THE CONTRACTOR AND APPROVED VALUE ADDED RESELLERS LISTED ON THE APPROPRIATE CONTRACT.** These quotes should be kept as part of the procurement record for each transaction.

**Less than \$100,000:**

State agencies are **NOT** required to obtain three (3) quotes but are encouraged to do so. State agencies are still encouraged to complete a SOW to document the transaction. These documents should be maintained as part of the agency's procurement record supporting the transaction.

**Issuing a Purchase Order:**

State Agencies will issue a standard New York State Purchase Order to the Contractor and/or approved value added reseller as defined in the Contract Award Notification.

For orders requiring installation services\* create a Statement of Work to include but not be limited to a description of the requirement, being as specific as possible when soliciting or negotiating best and final offers with resellers and/or contractors. Be sure to include any required services such as consulting (analysis and/or design), configuration, wiring, inspections and training. Finally, indicate whether the final selection will be based on lowest price or on a best value analysis. If a best value analysis will be used, indicate what factors besides cost will be considered. Note that consulting and training services may be acquired directly from the above contracts, provided such services do not exceed 20% of the value of Product (and First Year's Maintenance, where applicable) being acquired. Where consulting and training services exceed twenty percent (20%) of the cost of the Product (and First Year's Maintenance where applicable) being acquired or where consulting and training services are being purchased alone (without Product), such services cannot be acquired under the above contracts unless the Office of the State Comptroller (OSC) has first approved the purchase of such services on a single or sole source basis. In all other circumstances, consulting and training services must be procured competitively using the OGS IT Services (also known as Computer Consulting, Systems Integration and Training) contracts or other competitive process selected by the Authorized User.

State Agencies should select the offer that represents best value in accordance with the criteria outlined in their solicitation and/or Statement of Work.

**\*Installation Requirements:** For the installation of Power Protection Equipment from this Contract, Authorized Users and the Contractor must comply with all Local and State requirements pertaining to construction permits, code compliance certificates and other regulations as deemed necessary in the location where installation occurs. For OGS Managed Buildings, approval must be obtained from the Building Manager.

**Eligibility to Use Contract:**

This statewide contract is intended for use by State Agencies and other Authorized Users Please refer to the Tables that can be found through the website listed below.

<http://www.ogs.state.ny.us/purchase/snt/othersuse.asp>