

Appendix C – Contract Modification Procedure

These Contract Modification Procedures, which incorporate the Contract Modification Form, Attachment 1 – Administrative Information – Contact Information and Attachment 2 – Pricing, as applicable, are subject to change at the discretion of OGS. There are four types of Contract Modifications:

1. Simple Updates;
2. Complex Updates;
3. Request to Add a Lot; and
4. Request to Add a County.

Section 1. TYPES OF CONTRACT MODIFICATIONS

To expedite processing of a Contract Modification where proposed changes involve more than one update category noted below, each update must be submitted to OGS as a separate request. OGS will only process one Contract Modification request at a time. An additional request may be submitted once Contractor has received the written OGS response to the previously submitted request and, if that modification was approved, the updated documents. This will help to ensure there will not be any overlaps or discrepancies.

1.1 SIMPLE UPDATES

Simple Updates are changes that do not impact the pricing methodology established within the Contract terms and conditions for an awarded Lot. Simple Updates will typically require less documentation than the other categories of updates. Simple Updates can occur at any time during the Contract Term and will be made available to Authorized Users as soon as the change has been approved and the process is complete. Simple Updates may include:

1. Modifying Contractor's Contact Information;
2. Modifying Contractor's Designated Personnel; and
3. Certain pricelist Modifications that do not impact the pricing methodology established within the Contract terms and conditions for an awarded Lot; and
4. Reducing approved pass through rates of taxes, surcharges, fess, and other charges.

1.2 COMPLEX UPDATES

Complex Updates are changes that impact the pricing methodology established within the Contract terms and conditions for an awarded Lot. Complex Updates will typically require additional information to justify the Contractor's request. Complex Updates can occur at any time during the Contract Term, except for Price Increases. Prices shall remain in effect for a minimum of 1 year from the Bidder Submission due date. Thereafter, Contractor may request annual price increases to reflect price changes (once every 365 days). Regardless, if approved, Complex Updates will be made available to Authorized Users at the beginning of the next calendar quarter unless determined otherwise by OGS.

Complex Updates for an awarded Lot may include:

1. Annual Price Increases;
2. Pricelist Deletions; and
3. Pricelist Additions.
4. Deleting, adding, or increasing an approved pass through rates of taxes, surcharges, fess, and other charges

1.3 REQUEST TO ADD A LOT

Contractors can request to add one or more Lots to their Contract during the Contract Term. Requests to Add a Lot shall require additional information from the Contractor. A Contractor may request to add more than one Lot to their award within the same update request. This type of request will require a Contract Amendment. If awarded, the additional Lot(s) will be made available to Authorized Users at the beginning of the next calendar quarter unless determined otherwise by OGS.

1.4 REQUEST TO ADD A COUNTY

Contractors can request to add one or more counties to their Contract during the Contract Term. Requests to Add a County to a Contractor's Geographic Service Availability list shall require additional information from the Contractor. A Contractor may request to add more than one county to their award within the same update request. This type of request will require a Contract Amendment. If awarded, the additional county(ies) will be made available to Authorized Users at the beginning of the next calendar quarter unless determined otherwise by OGS.

Section 2. CONTRACTOR'S SUBMISSION OF CONTRACT MODIFICATIONS

2.1 SUBMISSION OF MODIFICATION/UPDATE REQUESTS

All Contract Modification requests must be accompanied by a completed Appendix C.1 - Contract Modification Form and required additional information. These requests must be submitted electronically, except for any required documents that must have an original "wet ink" signature. All "wet ink" signatures must be submitted in hard copy format. OGS retains the right to require the Contractor to submit a physical version of any other portions of the update request.

Contractors must submit their request to OGS for review electronically via OGS.sm.sst_telecommunications@ogs.ny.gov. All hard copy submissions, including documents with an original "wet ink" signature must be submitted to:

**State of New York Office of General Services
Procurement Services
Corning Tower – 38th Floor
Empire State Plaza
Albany, New York 12242
Attention: Contract Manager – Telecommunication Services (77017 23100)**

Contractor must submit a completed, signed and notarized Appendix C.1 – Contract Modification Request Form with all Modification Requests, regardless of its type.

Requested updates shall not be reviewed, approved, or granted to Contractors who have outstanding Sales Reports, Proof of Insurance, or any other documentation that is required under the resulting Contract.

Contractor shall not quote or offer Services that are the subject of a Contract Modification until receipt of written approval for the requested update from OGS.

In addition to OGS's reserved rights in the Contract, OGS reserves the right to:

1. Request additional information;
2. Reject Contract Modifications;
3. Remove Products/Services from Contract Modification requests;
4. Request additional discounts for new or existing Products/Services;
5. Conduct additional research and request additional information to assess the reasonableness of pricing; and
6. Require the Contractor to lower its offered pricing to that which OGS has determined to be reasonable and to remove items from Contractor's pricelist which are out of scope or for which pricing is determined not to be reasonable.

In addition to a completed, signed and notarized Appendix C.1 – Contract Modification Request Form, Contractor shall submit updated forms and additional information as listed below. The submitted forms and additional information must be provided via Microsoft Word 2010 (or newer), Microsoft Excel 2010 (or newer), or searchable PDF.

In any Microsoft Word Document Contractor shall identify deletions by making the Font color of the change **red**. In any Microsoft Word Document Contractor shall identify additions by making the Font color of the change **green**.

In any Microsoft Excel Document Contractor shall identify deletions by making the Fill color of the changed cells **red**. In any Microsoft Excel Document Contractor shall identify any additions by making the Fill color of the changed cells **green**.

2.2 SIMPLE UPDATES - REQUIRED UPDATED FORMS AND ADDITIONAL INFORMATION

The following is a list of Contract Modification Requests that would be considered Simple Updates.

2.2.1 Contractor's Contact Information

Contractor must submit an updated Attachment 1 – Administrative Information – Contractor Information Tab in Microsoft Excel format.

No additional information is required to justify the requested update.

2.2.2 Contractor's Designated Personnel

Contractor must submit an updated Attachment 1 – Administrative Information – Designated Personnel Information Tab in Microsoft Excel format.

No additional information is required to justify the requested update.

2.2.3 Pricelist Modifications – Simple Updates

Pricelist Modifications are considered a Simple Update when the changes do not impact the pricing methodology established within the Contract terms and conditions for an awarded Lot. Examples would include price decreases, promotional pricing, increases to the NYS Discount % amount, or increases to the Volume Discount % amount.

Contractor must submit an updated Attachment 2 – Pricing in Microsoft Excel format. The Contractor shall take the following steps to update the Attachment 2 – Pricing:

1. Open its current approved pricelist.
2. Make the column entitled "Modification Requested" visible.
3. Select the proper option from the dropdown menu.
4. For each SKU that is being adjusted Contractor shall select "Price Decrease," "NYS Discount Increase," "Prompt Payment Discount Modification," "Volume Discount Modification," "E-Rate Discount % Modification," "Promotional Pricing" or "Multiple," from the dropdown list available in the "Modification Requested" column.
5. For each SKU remaining the same from the current pricelist to the updated pricelist Contractor shall select "No Change" from the dropdown available in the "Modification Requested" column.
6. The Contractor should save this document as the updated pricelist.

The Contractor can then manually lower the "List Price (per Unit)" for all the SKUs that are identified as Price Decreases, manually increase the "Minimum NYS Discount %" for all the SKUs that are identified as having a NYS Discount Increase, change the Prompt Payment Discount information, adjust the Volume Discount information and/or update the E-Rate Discount % accordingly.

Unless otherwise requested, no additional information is required to justify the requested update.

2.2.4 Reducing Approved Taxes, Surcharges, Fess, and Other Charges

Contractor must submit an updated Attachment 2b – Taxes, Surcharges, Fees, and Other Charges in Microsoft Excel format. The Contractor shall take the following steps to update the Attachment 2 – Taxes, Surcharges, Fees, and Other Charges:

1. Open its current approved Attachment 2b – Taxes, Surcharges, Fess, and Other Charges.
2. Make the column entitled "Modification Requested" visible.
3. For each Tax, Surcharge, Fee, and Other Charge that is being adjusted Contractor shall select "Decrease" or from the dropdown list available in the "Modification Requested" column.
4. For each Tax, Surcharge, Fee, and Other Charge remaining the same Contractor shall select "No Change" from the dropdown available in the "Modification Requested" column.
5. The Contractor should save this document as the updated Attachment 2b – Taxes, Surcharges, Fees, and Other Charges.

The Contractor can then manually lower the "Formula Used to Calculate Charge" for all the Taxes, Surcharges, Fees, and Other Charges that are identified as "Decrease."

The Contractor can then manually remove all of the required information for all the taxes, surcharges, fees, and other charges that are identified as "Removal."

Unless otherwise requested, no additional information is required to justify the requested update.

2.3 COMPLEX UPDATES - REQUIRED UPDATED FORMS AND ADDITIONAL INFORMATION

For any pricelist update, Contractor must submit an updated Attachment 2 – Pricing in Microsoft Excel format. The Contractor shall take the following steps to update the Attachment 2 – Pricing:

1. Open its current approved pricelist.
2. Make the column entitled “Modification Requested” visible.
3. Select the proper option from the dropdown menu.
4. For each SKU that is being adjusted Contractor shall select “Deletion,” “Addition,” or “Annual Price Increase” from the dropdown list available in the “Modification Requested” column.
5. For each SKU remaining the same from the current pricelist to the updated pricelist Contractor shall select “No Change” from the dropdown available in the “Modification Requested” column.
6. The Contractor should save this document as the updated pricelist.

The Contractor can then manually delete the SKUs that are identified as “Deletion,” manually insert the SKUs and applicable information for the Additions, and manually increase the “List Price (per Unit)” for all the SKUs that are identified as “Annual Price Increase.”

The following additional information must be provided by Contractor to justify the requested pricelist update.

2.3.1 Deletions

Contractor shall only remove a Service from their pricelist when the Service is no longer available and will not be available in the future. For requested deletions Contractor must provide proof of End-of-Life (EOL) documentation as justification for removing Services. Examples of documents that may be accepted as proof of End-of-Life may include:

- a. Press Release;
- b. Customer Notification; and/or
- c. Internal Notification.

Contractor must provide notice to OGS and any affected Authorized Users of the Contractor’s decision to deem any Service End-of-Life. Once OGS and the Authorized User have been notified by a Telecommunication Provider that a Service is nearing End-of-Life, the Service will be considered Legacy and must be supported for a period no less than 18 months. Telecommunication Providers may not begin service agreements with Authorized Users within 6 months of End-of-Life.

If a Telecommunication Connectivity Service is considered Legacy, then the Contractor shall continue to provide the Service for an 18-month period. During this 18-month period Contractor must migrate the Authorized User to an equal or better Telecommunication Connectivity Service at an equal or lower price.

Once a Service has been deleted from the Contractor’s pricelist, Contractor shall not be permitted to re-add the deleted Service to their pricelist. Except, if OGS determines it is in the best interest of Authorized Users to re-add the deleted Service. Re-added Services shall only be offered with prices that are equal to or lower than the prices of the Service at the time it was deleted. Re-added Services shall only be offered with terms that are equal to or better than the terms of the Service at the time it was deleted.

2.3.2 Additions

When requesting an Addition, Contractor must provide additional information that adequately proves the requested Addition is allowed on Contractor’s current pricelist.

Contractor must provide documentation that the requested Service falls within the Scope of the Contract as set forth in Section 2 – Scope of the Solicitation; and meets Reasonableness of Price as set forth in Section 3.2.8 of the Solicitation.

OGS will review Contractor’s documentation and determine if the requested Addition is allowed.

2.3.3 Annual Price Increases

Prices shall remain in effect for a minimum of 1 year from the Bidder Submission due date. Thereafter, Contractor may request annual price increases to reflect price changes only once every 365 days.

When requesting a price increase, Contractor must provide additional information that adequately proves the requested price increase is allowed on Contractor's current pricelist.

Contractor must provide documentation that the requested price increase meets Reasonableness of Price as set forth in Section 3.2.8 of the Solicitation.

OGS will review Contractor's documentation and determine if the requested price increase is allowed.

In no event shall Contractor's NYS Net Price in Attachment 2 - Pricing exceed the Service's list price on the Contractor's MSRP, Commercial pricelist, or what is charged to other Government Entities (except for GSA mandates).

Contractor shall only charge Authorized Users the price listed on its pricelist, or a lesser amount. Contractor shall not charge Authorized Users an increased price for Services already being provided to the Authorized User pursuant to an Authorized User Agreement.

All percentage discounts shall either remain firm (unchanged) or they may increase for the duration of the Contract.

a. Maximum Price Increase

In a single year of the Contract, the maximum price increase for each individual item on contract shall not exceed the lesser of two (2%) percent of the Contractor's current NYS pricing as found in the OGS Centralized Contract or the percent increase in the latest available National Consumer Price Index - All Urban Consumers (CPI-U), Not Seasonally Adjusted, U.S. City Average, All Items (Series Id: CUUR0000SA0, CUUS0000SA0); as published by the U.S. Department of Labor, Bureau of Labor Statistics, Washington, D.C. 20212. CPI-U data may be obtained at www.bls.gov.

The following example illustrates the computation of percent change based on the National Consumer Price Index (CPI):

CPI for current period	229.000
Less CPI for previous period	225.000
Equals index point change	4.000
Divided by previous period CPI	225.000
Equals	0.017
Result multiplied by 100	0.017 x 100
Equals percent change	1.7

The "CPI for current period" shall be the index in effect at the time the Contract pricelist update request is received; "CPI for previous period" shall be the index in effect when the Contract pricelist was last updated. Increases are not cumulative. Price increases are limited to the prior year prices only.

2.3.4 Deleting, Adding, or Increasing Taxes, Surcharges, Fess, and Other Charges

Contractor must submit an updated Attachment 2b – Taxes, Surcharges, Fees, and Other Charges in Microsoft Excel format. The Contractor shall take the following steps to update the Attachment 2 – Taxes, Surcharges, Fees, and Other Charges:

1. Open its current approved Attachment 2b – Taxes, Surcharges, Fess, and Other Charges.
2. Make the column entitled "Modification Requested" visible.
3. For each tax, surcharge, fee, and other charge that is being adjusted Contractor shall select "Deletion," "Addition," or "Increase" from the dropdown list available in the "Modification Requested" column.
4. For each tax, surcharge, fee, and other charge remaining the same Contractor shall select "No Change" from the dropdown available in the "Modification Requested" column.
5. The Contractor should save this document as the updated Attachment 2b – Taxes, Surcharges, Fees, and Other Charges.

The Contractor can then manually remove all of the required information for all the taxes, surcharges, fees, and other charges that are identified as "Deletion."

The Contractor can then manually input all of the required information for all the taxes, surcharges, fees, and other charges that are identified as "Addition."

The Contractor can then manually increase the "Formula Used to Calculate Charge" for all the taxes, surcharges, fees, and other charges that are identified as "Increase."

When requesting an increase or addition, Contractor must provide additional information that adequately proves the requested increase or addition is allowed. Contractor must provide documentation that the requested increase or addition meets the conditions as set forth in Section 3.2.5.5 of the Solicitation.

OGS will review Contractor's documentation and determine if the requested increase is allowed.

Contractor shall only charge Authorized Users the tax, surcharge, fee, and other charge listed on its Attachment 2b – Taxes, Surcharges, Fees, and Other Charges, or a lesser amount.

Unless otherwise requested, no additional information is required to justify the requested update.

2.4 REQUEST TO ADD A LOT - REQUIRED UPDATED FORMS AND ADDITIONAL INFORMATION

When requesting an to add a Lot, Contractor must provide additional information that adequately proves they meet the minimum qualifications of the most recent Solicitation or Periodic Requirement (herein after referred to as "Solicitation"). A Request to Add a Lot to an existing Contract must be submitted to OGS for review and approval.

Contractor must supply OGS with all the information as set forth in Section 3 – Bidder Requirements and Qualifications of the Solicitation.

Contractor must submit an updated Attachment 2 – Pricing in Microsoft Excel format in accordance with the guidelines listed in Section 2.3 above. Contractor must submit an updated 2b – Taxes, Surcharges, Fees, and Other Charges in Microsoft Excel format in accordance with the guidelines listed in Section 2.3 above.

OGS will review Contractor's documentation and determine if the requested addition of a Lot is allowed. OGS retains the right to clarify or to request additional information as needed.

If OGS approves the addition of a Lot, a Contract Amendment will be prepared and forwarded to the Contractor for signature and will become effective upon OGS execution.

Contractor shall not quote or offer a Service that is the subject of a Request to Add a Lot to an existing Contract until receipt of a signed approval from OGS.

2.5 REQUEST TO ADD A COUNTY - REQUIRED UPDATED FORMS AND ADDITIONAL INFORMATION

When requesting an to add a county, Contractor must provide additional information that adequately proves they meet the minimum qualifications of the most recent Solicitation. A Request to Add a County to an existing Contract must be submitted to OGS for review and approval.

Contractor must supply OGS with all the information as set forth in Section 3 – Bidder Requirements and Qualifications of the Solicitation.

Contractor must submit an updated Attachment 2 – Pricing in Microsoft Excel format in accordance with the guidelines listed in Section 2.3 above. Contractor must submit an updated 2b – Taxes, Surcharges, Fees, and Other Charges in Microsoft Excel format in accordance with the guidelines listed in Section 2.3 above.

OGS will review Contractor's documentation and determine if the requested addition of a county is allowed. OGS retains the right to clarify or to request additional information as needed.

If OGS approves the addition of a county, a Contract Amendment will be prepared and forwarded to the Contractor for signature and will become effective upon OGS execution.

Contractor shall not quote or offer a Service that is the subject of a Request to Add a Lot to an existing Contract until receipt of a signed approval from OGS.

Appendix C.1 – Contract Modification Form

Contract No.	Contract Description Telecommunication Connectivity Services (Statewide and County)		
Contractor Name		Contract Period From To	Date of Submission
Contract Contact Name	Contractor Phone Number	Contractor E-Mail	

NOTE: Submission of this form does not constitute acceptance by the State of New York until approved by OGS.

INSTRUCTIONS:

1. This form is to be used for all Contract Modifications. Any submission that is not completed and signed will be returned for completion and/or signature.
2. The form is to be completed in full, signed and submitted to OGS for approval at:

State of New York Office of General Services
Procurement Services
Corning Tower – 38th Floor
Empire State Plaza
Albany, New York 12242

Attention: Contract Manager – Telecommunication Services (77017 23100)
3. Contractor shall submit additional documentation as needed for their Contract Modification request to OGS and the Telecommunication Services Contract Manager via e-mail to OGS.sm.sst_telecommunications@ogs.ny.gov .
4. Requests must be submitted in accordance with the terms and conditions herein.
5. OGS will correspond with the Contractor to resolve any issues or concerns.
6. OGS will advise Contractor of the OGS Review results in writing.

Indicate Which Lot(s) the Modification Request is For
<input type="checkbox"/> Lot 1 Voice Connectivity Services <input type="checkbox"/> Lot 2 Data Connectivity Services <input type="checkbox"/> Lot 3 Mobile Communication Connectivity Services

Request Type	Description of Request
<input type="checkbox"/> Simple Update	<input type="checkbox"/> Modifying Contractor’s Contact Information <input type="checkbox"/> Price Decrease <input type="checkbox"/> Increase of the Minimum NYS Discount % <input type="checkbox"/> Changing the Prompt Payment Discount <input type="checkbox"/> Adjust the Volume Discount <input type="checkbox"/> Amend the E-Rate Discount % <input type="checkbox"/> Reducing Taxes, Surcharges, Fess, and Other Charges
<input type="checkbox"/> Complex Update	<input type="checkbox"/> Deletion of Services <input type="checkbox"/> Addition of Services <input type="checkbox"/> Annual Price Increases <input type="checkbox"/> Deletion of taxes, surcharges, fess, and other charges <input type="checkbox"/> Addition of taxes, surcharges, fess, and other charges <input type="checkbox"/> Increasing taxes, surcharges, fess, and other charges
<input type="checkbox"/> Request to Add a Lot	<input type="checkbox"/> Lot 1 - Voice Connectivity Services <input type="checkbox"/> Lot 2 - Data Connectivity Services <input type="checkbox"/> Lot 3 - Mobile Communication Connectivity Services
<input type="checkbox"/> Request to Add a County	_____ additional counties requested (Insert Number) <input type="checkbox"/> Remain within the 2 or more counties threshold <input type="checkbox"/> Increase from 2 or more counties to statewide <input type="checkbox"/> Increase from 1 county to statewide <input type="checkbox"/> Increase from 1 county to 2 or more counties
Submitted Updated Documents and Additional Information: <input type="checkbox"/> Yes <input type="checkbox"/> No	

Attached Documentation Includes

- Revised Contact Information
- Current Pricelist
- Updated Pricelist
- Additional Information
 - Deletion – End-of-Life Documentation
 - Add/New Lot – Justification that the Service is in Scope
 - Add/Price Increase/New Lot – Proof of Price
 - Add/Increase Taxes, Surcharges, Fess, and Other Charges – Information as Required
 - Add a Lot – Information as Required
 - Add a County – Information as Required
 - Other - Please Explain:

Description and Purpose of Contract Modification

Describe the nature, purpose and necessity for the Contract Modification.

ACKNOWLEDGEMENT

By signing the following **ACKNOWLEDGEMENT statement**, you certify your express authority to sign on behalf of yourself, your company, or other entity. **The authorized Contractor representative's signature must be notarized.**

Signature of Authorized Contractor Representative

ACKNOWLEDGEMENT

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

On the ____ day of _____ in the year 20____, before me personally came: _____, to me known, who, being by me duly sworn, did depose and say that _he maintains a business in _____; that _he is the _____ of _____, the corporation/ partnership/ Limited Liability Company described in the above instrument; that, _he is authorized to execute the foregoing instrument on behalf of the corporation/ partnership/ Limited Liability Company for purposes set forth therein; and that, pursuant to that authority, _he executed the foregoing instrument in the name of and on behalf of said corporation/ partnership/ Limited Liability Company as the act and deed of said corporation/ partnership/ Limited Liability Company.

Notary Public

OGS Review

SIMPLE UPDATE:

- Approved
- Approved as Amended
- Disapproved

COMPLEX UPDATE:

- Approved
- Approved as Amended
- Disapproved

ADD LOT:

- Approved
- Approved as Amended
- Disapproved

ADD COUNTY:

- Approved
- Approved as Amended
- Disapproved

OGS Comments:

Name: _____ Date _____

Title: Contract Management Specialist

OGS Comments:

Name: _____ Date _____

Title: Contract Management Specialist 2

OGS Comments:

Name: _____ Date _____

Title: Contract Management Specialist 3